

2009-2010 Regular Sessions

I N S E N A T E

January 9, 2009

Introduced by Sen. MARCELLINO -- read twice and ordered printed, and
when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to increasing penalties for
first, second, third and fourth degree stalking

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY,
DO ENACT AS FOLLOWS:

1 Section 1. The closing paragraph of section 120.45 of the penal law,
2 as added by chapter 635 of the laws of 1999, is amended to read as
3 follows:
4 Stalking in the fourth degree is a class [B] A misdemeanor.
5 S 2. The closing paragraph of section 120.50 of the penal law, as
6 added by chapter 635 of the laws of 1999, is amended to read as follows:
7 Stalking in the third degree is a class [A misdemeanor] E FELONY.
8 S 3. The closing paragraph of section 120.55 of the penal law, as
9 added by chapter 635 of the laws of 1999, is amended to read as follows:
10 Stalking in the second degree is a class [E] D felony.
11 S 4. The closing paragraph of section 120.60 of the penal law, as
12 amended by chapter 434 of the laws of 2000, is amended to read as
13 follows:
14 Stalking in the first degree is a class [D] C felony.
15 S 5. Paragraphs (b), (c) and (d) of subdivision 1 of section 70.02 of
16 the penal law, paragraph (b) as separately amended by chapters 764 and
17 765 of the laws of 2005 and paragraphs (c) and (d) as amended by chapter
18 7 of the laws of 2007, are amended to read as follows:
19 (b) Class C violent felony offenses: an attempt to commit any of the
20 class B felonies set forth in paragraph (a); aggravated criminally
21 negligent homicide as defined in section 125.11, aggravated manslaughter
22 in the second degree as defined in section 125.21, aggravated sexual
23 abuse in the second degree as defined in section 130.67, assault on a
24 peace officer, police officer, fireman or emergency medical services
25 professional as defined in section 120.08, gang assault in the second

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 degree as defined in section 120.06, STALKING IN THE FIRST DEGREE AS
2 DEFINED IN SUBDIVISION ONE OF SECTION 120.60, burglary in the second
3 degree as defined in section 140.25, robbery in the second degree as
4 defined in section 160.10, criminal possession of a weapon in the second
5 degree as defined in section 265.03, criminal use of a firearm in the
6 second degree as defined in section 265.08, criminal sale of a firearm
7 in the second degree as defined in section 265.12, criminal sale of a
8 firearm with the aid of a minor as defined in section 265.14, soliciting
9 or providing support for an act of terrorism in the first degree as
10 defined in section 490.15, hindering prosecution of terrorism in the
11 second degree as defined in section 490.30, and criminal possession of a
12 chemical weapon or biological weapon in the third degree as defined in
13 section 490.37.

14 (c) Class D violent felony offenses: an attempt to commit any of the
15 class C felonies set forth in paragraph (b); reckless assault of a child
16 as defined in section 120.02, assault in the second degree as defined in
17 section 120.05, menacing a police officer or peace officer as defined in
18 section 120.18, stalking in the [first] SECOND degree, as defined in
19 subdivision one of section [120.60] 120.55, rape in the second degree as
20 defined in section 130.30, criminal sexual act in the second degree as
21 defined in section 130.45, sexual abuse in the first degree as defined
22 in section 130.65, course of sexual conduct against a child in the
23 second degree as defined in section 130.80, aggravated sexual abuse in
24 the third degree as defined in section 130.66, facilitating a sex
25 offense with a controlled substance as defined in section 130.90, crimi-
26 nal possession of a weapon in the third degree as defined in subdivision
27 five, six, seven or eight of section 265.02, criminal sale of a firearm
28 in the third degree as defined in section 265.11, intimidating a victim
29 or witness in the second degree as defined in section 215.16, soliciting
30 or providing support for an act of terrorism in the second degree as
31 defined in section 490.10, and making a terroristic threat as defined in
32 section 490.20, falsely reporting an incident in the first degree as
33 defined in section 240.60, placing a false bomb or hazardous substance
34 in the first degree as defined in section 240.62, placing a false bomb
35 or hazardous substance in a sports stadium or arena, mass transportation
36 facility or enclosed shopping mall as defined in section 240.63, and
37 aggravated unpermitted use of indoor pyrotechnics in the first degree as
38 defined in section 405.18.

39 (d) Class E violent felony offenses: STALKING IN THE THIRD DEGREE AS
40 DEFINED IN SECTION 120.50, an attempt to commit any of the felonies of
41 criminal possession of a weapon in the third degree as defined in subdi-
42 vision five, six, seven or eight of section 265.02 as a lesser included
43 offense of that section as defined in section 220.20 of the criminal
44 procedure law, persistent sexual abuse as defined in section 130.53,
45 aggravated sexual abuse in the fourth degree as defined in section
46 130.65-a, falsely reporting an incident in the second degree as defined
47 in section 240.55 and placing a false bomb or hazardous substance in the
48 second degree as defined in section 240.61.

49 S 6. This act shall take effect on the first of November next succeed-
50 ing the date on which it shall have become a law.