S T A T E O F N E W Y O R K

576

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:

Section 1. The closing paragraph of section 120.45 of the penal law, as added by chapter 635 of the laws of 1999, is amended to read as follows:

Stalking in the fourth degree is a class [B] A misdemeanor.

S 2. The closing paragraph of section 120.50 of the penal law, as added by chapter 635 of the laws of 1999, is amended to read as follows:

Stalking in the third degree is a class [A misdemeanor] E FELONY.

S 3. The closing paragraph of section 120.55 of the penal law, as added by chapter 635 of the laws of 1999, is amended to read as follows:

Stalking in the second degree is a class [E] D felony.

S 4. The closing paragraph of section 120.60 of the penal law, as amended by chapter 434 of the laws of 2000, is amended to read as follows:

Stalking in the first degree is a class [D] C felony.

S 5. Paragraphs (b), (c) and (d) of subdivision 1 of section 70.02 of the penal law, paragraph (b) as separately amended by chapters 764 and 765 of the laws of 2005 and paragraphs (c) and (d) as amended by chapter 7 of the laws of 2007, are amended to read as follows:

(b) Class C violent felony offenses: an attempt to commit any of the class B felonies set forth in paragraph (a); aggravated criminally negligent homicide as defined in section 125.11, aggravated manslaughter in the second degree as defined in section 125.21, aggravated sexual abuse in the second degree as defined in section 130.67, assault on a peace officer, police officer, fireman or emergency medical services 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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degree as defined in section 120.06, STALKING IN THE FIRST DEGREE AS DEFINED IN SUBDIVISION ONE OF SECTION 120.60, burglary in the second degree as defined in section 140.25, robbery in the second degree as defined in section 160.10, criminal possession of a weapon in the second degree as defined in section 265.03, criminal use of a firearm in the second degree as defined in section 265.08, criminal sale of a firearm in the second degree as defined in section 265.12, criminal sale of a firearm with the aid of a minor as defined in section 265.14, soliciting or providing support for an act of terrorism in the first degree as defined in section 490.15, hindering prosecution of terrorism in the second degree as defined in section 490.30, and criminal possession of a chemical weapon or biological weapon in the third degree as defined in section 490.37.

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

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

S 6. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.