

10161

I N   A S S E M B L Y

March 8, 2010

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Introduced by M. of A. LENTOL -- read once and referred to the Committee  
on Codes

AN ACT to amend the penal law, in relation to establishing the "strangulation prevention act of 2010"

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

1     Section 1. This act shall be known and may be cited as the "strangulation prevention act of 2010."

2     S 2. Paragraph (b) of subdivision 1 of section 70.02 of the penal law,  
3 as separately amended by chapters 764 and 765 of the laws of 2005, is  
4 amended to read as follows:

5     (b) Class C violent felony offenses: an attempt to commit any of the  
6 class B felonies set forth in paragraph (a); aggravated criminally  
7 negligent homicide as defined in section 125.11, aggravated manslaughter  
8 in the second degree as defined in section 125.21, aggravated sexual  
9 abuse in the second degree as defined in section 130.67, STRANGULATION  
10 IN THE FIRST DEGREE AS DEFINED IN SECTION 120.73, assault on a peace  
11 officer, police officer, fireman or emergency medical services profes-  
12 sional as defined in section 120.08, gang assault in the second degree  
13 as defined in section 120.06, burglary in the second degree as defined  
14 in section 140.25, robbery in the second degree as defined in section  
15 160.10, criminal possession of a weapon in the second degree as defined  
16 in section 265.03, criminal use of a firearm in the second degree as  
17 defined in section 265.08, criminal sale of a firearm in the second  
18 degree as defined in section 265.12, criminal sale of a firearm with the  
19 aid of a minor as defined in section 265.14, soliciting or providing  
20 support for an act of terrorism in the first degree as defined in  
21 section 490.15, hindering prosecution of terrorism in the second degree  
22 as defined in section 490.30, and criminal possession of a chemical  
23 weapon or biological weapon in the third degree as defined in section  
24 490.37.

25     S 3. The penal law is amended by adding three new sections 120.71,  
26 120.72 and 120.73 to read as follows:  
27 S 120.71 STRANGULATION IN THE THIRD DEGREE.  
28

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

LBD16268-02-0

1 1. A PERSON IS GUILTY OF STRANGULATION IN THE THIRD DEGREE WHEN, WITH  
2 INTENT TO IMPAIR, IMPEDE OR OTHERWISE INTERFERE WITH THE NORMAL BREATH-  
3 ING OR BLOOD CIRCULATION OF ANOTHER PERSON, HE OR SHE APPLIES PRESSURE  
4 ON THE THROAT OR NECK OF SUCH OTHER PERSON OR BLOCKS THE NOSE OR MOUTH  
5 OF SUCH OTHER PERSON, OR BOTH, IN A MANNER THAT IMPAIRS OR IMPEDES, FOR  
6 ANY PERIOD OF TIME, THE NORMAL BREATHING OR BLOOD CIRCULATION OF SUCH  
7 OTHER PERSON.

8 2. CONDUCT PERFORMED FOR A VALID MEDICAL OR DENTAL PURPOSE SHALL NOT  
9 CONSTITUTE A VIOLATION OF SUBDIVISION ONE OF THIS SECTION.

10 STRANGULATION IN THE THIRD DEGREE IS A CLASS A MISDEMEANOR.

11 S 120.72 STRANGULATION IN THE SECOND DEGREE.

12 A PERSON IS GUILTY OF STRANGULATION IN THE SECOND DEGREE WHEN HE OR  
13 SHE INTENTIONALLY PLACES OR ATTEMPTS TO PLACE ANOTHER PERSON IN REASON-  
14 ABLE FEAR OF PHYSICAL INJURY, SERIOUS PHYSICAL INJURY OR DEATH BY  
15 IMPAIRING OR IMPEDING, FOR ANY PERIOD OF TIME, THE NORMAL BREATHING OR  
16 BLOOD CIRCULATION OF SUCH OTHER PERSON BY MEANS OF INTENTIONALLY APPLY-  
17 ING PRESSURE ON THE THROAT OR NECK OF SUCH OTHER PERSON, OR BY MEANS OF  
18 INTENTIONALLY BLOCKING THE NOSE OR MOUTH OF SUCH OTHER PERSON, OR BY ANY  
19 COMBINATION OF SUCH MEANS.

20 STRANGULATION IN THE SECOND DEGREE IS A CLASS E FELONY.

21 S 120.73 STRANGULATION IN THE FIRST DEGREE.

22 A PERSON IS GUILTY OF STRANGULATION IN THE FIRST DEGREE WHEN, WITH  
23 INTENT TO CAUSE PHYSICAL INJURY TO ANOTHER PERSON OR TO PLACE SUCH OTHER  
24 PERSON IN REASONABLE FEAR OF PHYSICAL INJURY, SERIOUS PHYSICAL INJURY OR  
25 DEATH, HE OR SHE CAUSES PHYSICAL INJURY TO SUCH OTHER PERSON OR CAUSES  
26 SUCH OTHER PERSON TO LOSE CONSCIOUSNESS FOR ANY PERIOD OF TIME BY MEANS  
27 OF APPLYING PRESSURE ON THE THROAT OR NECK OF SUCH OTHER PERSON OR BY  
28 MEANS OF BLOCKING THE NOSE OR MOUTH OF SUCH OTHER PERSON, OR BY ANY  
29 COMBINATION OF SUCH MEANS.

30 STRANGULATION IN THE FIRST DEGREE IS A CLASS C FELONY.

31 S 4. This act shall take effect on the one hundred eightieth day after  
32 it shall have become a law.