

1689

2009-2010 Regular Sessions

I N S E N A T E

February 5, 2009

Introduced by Sen. KRUGER -- 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 redefining assault in the second degree so as to include intent to cause physical injury where such injury results and in consequence of such injury further serious injury or death occurs

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

1 Section 1. Section 120.05 of the penal law, subdivisions 3 and 11 as
2 amended by chapter 45 of the laws of 2008, subdivision 5 as amended by
3 chapter 134 of the laws of 1975, subdivision 6 as amended by chapter 372
4 of the laws of 1981, subdivision 7 as amended by chapter 477 of the laws
5 of 1990, subdivision 8 as amended by chapter 122 of the laws of 1996,
6 subdivision 9 as amended and subdivision 10 as added by chapter 181 of
7 the laws of 2000 and subdivision 12 as added by chapter 68 of the laws
8 of 2008, is amended to read as follows:
9 S 120.05 Assault in the second degree.
10 A person is guilty of assault in the second degree when:
11 1. With intent to cause serious physical injury to another person, he
12 OR SHE causes such injury to such person or to a third person; or
13 2. With intent to cause physical injury to another person, he OR SHE
14 causes such injury to such person or to a third person by means of a
15 deadly weapon or a dangerous instrument; or
16 3. With intent to prevent a peace officer, a police officer, a fire-
17 fighter, including a firefighter acting as a paramedic or emergency
18 medical technician administering first aid in the course of performance
19 of duty as such firefighter, an emergency medical service paramedic or
20 emergency medical service technician, or medical or related personnel in
21 a hospital emergency department, a city marshal, a traffic enforcement
22 officer or traffic enforcement agent, from performing a lawful duty, by
23 means including releasing or failing to control an animal under circum-

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

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stances evincing the actor's intent that the animal obstruct the lawful activity of such peace officer, police officer, firefighter, paramedic, technician, city marshal, traffic enforcement officer or traffic enforcement agent, he or she causes physical injury to such peace officer, police officer, firefighter, paramedic, technician or medical or related personnel in a hospital emergency department, city marshal, traffic enforcement officer or traffic enforcement agent; or

4. He OR SHE recklessly causes serious physical injury to another person by means of a deadly weapon or a dangerous instrument; or

5. For a purpose other than lawful medical or therapeutic treatment, he OR SHE intentionally causes stupor, unconsciousness or other physical impairment or injury to another person by administering to him OR HER, without his OR HER consent, a drug, substance or preparation capable of producing the same; or

6. In the course of and in furtherance of the commission or attempted commission of a felony, other than a felony defined in article one hundred thirty which requires corroboration for conviction, or of immediate flight therefrom, he OR SHE, or another participant if there be any, causes physical injury to a person other than one of the participants; or

7. Having been charged with or convicted of a crime and while confined in a correctional facility, as defined in subdivision three of section forty of the correction law, pursuant to such charge or conviction, with intent to cause physical injury to another person, he OR SHE causes such injury to such person or to a third person; or

8. Being eighteen years old or more and with intent to cause physical injury to a person less than eleven years old, the defendant recklessly causes serious physical injury to such person; or

9. Being eighteen years old or more and with intent to cause physical injury to a person less than seven years old, the defendant causes such injury to such person; or

10. Acting at a place the person knows, or reasonably should know, is on school grounds and with intent to cause physical injury, he or she:

(a) causes such injury to an employee of a school or public school district; or

(b) not being a student of such school or public school district, causes physical injury to another, and such other person is a student of such school who is attending or present for educational purposes. For purposes of this subdivision the term "school grounds" shall have the meaning set forth in subdivision fourteen of section 220.00 of this chapter[.]; OR

11. With intent to cause physical injury to a train operator, ticket inspector, conductor, signalperson, bus operator or station agent employed by any transit agency, authority or company, public or private, whose operation is authorized by New York state or any of its political subdivisions, a city marshal, a traffic enforcement officer or traffic enforcement agent, he or she causes physical injury to such train operator, ticket inspector, conductor, signalperson, bus operator or station agent, city marshal, traffic enforcement officer or traffic enforcement agent while such employee is performing an assigned duty on, or directly related to, the operation of a train or bus, or such city marshal, traffic enforcement officer or traffic enforcement agent is performing an assigned duty[.]; OR

12. With intent to cause physical injury to a person who is sixty-five years of age or older, he or she causes such injury to such person, and the actor is more than ten years younger than such person[.]; OR

1 13. WITH INTENT TO CAUSE PHYSICAL INJURY TO ANOTHER PERSON, HE OR SHE
2 CAUSES SUCH INJURY TO SUCH PERSON OR TO A THIRD PERSON AND AS A CONSE-
3 QUENCE OF THE INJURY CAUSED, FURTHER SERIOUS PHYSICAL INJURY OR THE
4 DEATH OF SUCH PERSON OR THE THIRD PERSON OCCURS.

5 Assault in the second degree is a class D felony.

6 S 2. This act shall take effect on the first of November next succeed-
7 ing the date on which it shall have become a law.