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

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2009-2010 Regular Sessions

I N S E N A T E

March 4, 2009

Introduced by Sen. SAMPSON -- (at request of the Office of Court Administration) -- 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 tampering with the judicial process

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

Section 1. The penal law is amended by adding six new sections 215.85, 215.86, 215.87, 215.88, 215.89 and 215.90 to read as follows:

S 215.85 TAMPERING WITH THE JUDICIAL PROCESS; DEFINITIONS.

AS USED IN SECTIONS 215.86, 215.87, 215.88, 215.89 AND 215.90 OF THIS ARTICLE:

(1) "INTERFERE" MEANS OBSTRUCT, DELAY, PREVENT, IMPEDE, INFLUENCE OR RETALIATE;

(2) "JUDICIAL ACTION" MEANS THE CONDUCT OR OUTCOME OF ONE OR MORE JUDICIAL PROCEEDINGS, THE ISSUANCE OR IMPLEMENTATION OF ONE OR MORE JUDICIAL ORDERS OR MANDATES;

(3) "OFFICER OF THE JUDICIARY" MEANS A JUDGE, JUSTICE OR OTHER EMPLOYEE OF A FEDERAL COURT OR THE UNIFIED COURT SYSTEM, A JUDICIAL HEARING OFFICER DESIGNATED PURSUANT TO SECTION EIGHT HUNDRED FIFTY-ONE OF THE JUDICIARY LAW, OR A COUNTY CLERK OR EMPLOYEE THEREOF; AND

(4) "IMMEDIATE FAMILY MEMBER" MEANS A SPOUSE, PARENT, FATHER-IN-LAW, MOTHER-IN-LAW, SIBLING, CHILD, STEP-CHILD, SON-IN-LAW, DAUGHTER-IN-LAW, GRANDPARENT OR GRANDCHILD.

S 215.86 TAMPERING WITH THE JUDICIAL PROCESS IN THE FIFTH DEGREE.

A PERSON IS GUILTY OF TAMPERING WITH THE JUDICIAL PROCESS IN THE FIFTH DEGREE WHEN WITH INTENT TO INTERFERE WITH JUDICIAL ACTION OR WHAT HE OR SHE BELIEVES TO BE JUDICIAL ACTION, HE OR SHE COMMITS THE CRIME OF MENACING IN THE THIRD DEGREE AS DEFINED IN SECTION 120.15 OF THIS CHAPTER, STALKING IN THE FOURTH DEGREE AS DEFINED IN SECTION 120.45 OF THIS CHAPTER OR HARASSMENT IN THE FIRST DEGREE AS DEFINED IN SECTION 240.25

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

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OF THIS CHAPTER, AND HE OR SHE KNOWS, AT THE TIME OF THE COMMISSION OF SUCH CRIME, THAT THE INTENDED VICTIM OF SUCH CRIME IS AN OFFICER OF THE JUDICIARY OR AN IMMEDIATE FAMILY MEMBER OF SUCH PERSON.

TAMPERING WITH THE JUDICIAL PROCESS IN THE FIFTH DEGREE IS A CLASS A MISDEMEANOR.

S 215.87 TAMPERING WITH THE JUDICIAL PROCESS IN THE FOURTH DEGREE.

A PERSON IS GUILTY OF TAMPERING WITH THE JUDICIAL PROCESS IN THE FOURTH DEGREE WHEN WITH INTENT TO INTERFERE WITH JUDICIAL ACTION OR WHAT HE OR SHE BELIEVES TO BE JUDICIAL ACTION, HE OR SHE COMMITS THE CRIME OF ASSAULT IN THE THIRD DEGREE AS DEFINED IN SUBDIVISION ONE OF SECTION 120.00 OF THIS CHAPTER, MENACING IN THE SECOND DEGREE AS DEFINED IN SECTION 120.14 OF THIS CHAPTER, STALKING IN THE THIRD DEGREE AS DEFINED IN SUBDIVISION THREE OF SECTION 120.50 OF THIS CHAPTER, CRIMINAL MISCHIEF IN THE FOURTH DEGREE AS DEFINED IN SUBDIVISION ONE OF SECTION 145.00 OF THIS CHAPTER OR AGGRAVATED HARASSMENT IN THE SECOND DEGREE AS DEFINED IN SUBDIVISION ONE OR TWO OF SECTION 240.30 OF THIS CHAPTER, AND HE OR SHE KNOWS, AT THE TIME OF THE COMMISSION OF SUCH CRIME, THAT THE INTENDED VICTIM OF SUCH CRIME IS AN OFFICER OF THE JUDICIARY OR AN IMMEDIATE FAMILY MEMBER OF SUCH PERSON.

TAMPERING WITH THE JUDICIAL PROCESS IN THE FOURTH DEGREE IS A CLASS E FELONY.

S 215.88 TAMPERING WITH THE JUDICIAL PROCESS IN THE THIRD DEGREE.

A PERSON IS GUILTY OF TAMPERING WITH THE JUDICIAL PROCESS IN THE THIRD DEGREE WHEN WITH INTENT TO INTERFERE WITH JUDICIAL ACTION OR WHAT HE OR SHE BELIEVES TO BE JUDICIAL ACTION, HE OR SHE COMMITS THE CRIME OF STALKING IN THE SECOND DEGREE AS DEFINED IN SUBDIVISION ONE OF SECTION 120.55 OF THIS CHAPTER OR CRIMINAL MISCHIEF IN THE THIRD DEGREE AS DEFINED IN SUBDIVISION TWO OF SECTION 145.05 OF THIS CHAPTER, AND HE OR SHE KNOWS, AT THE TIME OF THE COMMISSION OF SUCH CRIME, THAT THE INTENDED VICTIM OF SUCH CRIME IS AN OFFICER OF THE JUDICIARY OR AN IMMEDIATE FAMILY MEMBER OF SUCH PERSON.

TAMPERING WITH THE JUDICIAL PROCESS IN THE THIRD DEGREE IS A CLASS D FELONY.

S 215.89 TAMPERING WITH THE JUDICIAL PROCESS IN THE SECOND DEGREE.

A PERSON IS GUILTY OF TAMPERING WITH THE JUDICIAL PROCESS IN THE SECOND DEGREE WHEN WITH INTENT TO INTERFERE WITH JUDICIAL ACTION OR WHAT HE OR SHE BELIEVES TO BE JUDICIAL ACTION, HE OR SHE COMMITS THE CRIME OF CRIMINAL MISCHIEF IN THE SECOND DEGREE AS DEFINED IN SECTION 145.10 OF THIS CHAPTER, AND HE OR SHE KNOWS, AT THE TIME OF THE COMMISSION OF SUCH CRIME, THAT THE INTENDED VICTIM OF SUCH CRIME IS AN OFFICER OF THE JUDICIARY OR AN IMMEDIATE FAMILY MEMBER OF SUCH PERSON.

TAMPERING WITH THE JUDICIAL PROCESS IN THE SECOND DEGREE IS A CLASS C FELONY.

S 215.90 TAMPERING WITH THE JUDICIAL PROCESS IN THE FIRST DEGREE.

A PERSON IS GUILTY OF TAMPERING WITH THE JUDICIAL PROCESS IN THE FIRST DEGREE WHEN WITH INTENT TO INTERFERE WITH JUDICIAL ACTION OR WHAT HE OR SHE BELIEVES TO BE JUDICIAL ACTION, HE OR SHE COMMITS THE CRIME OF ASSAULT IN THE SECOND DEGREE AS DEFINED IN SUBDIVISION ONE OR TWO OF SECTION 120.05 OF THIS CHAPTER, OR STALKING IN THE FIRST DEGREE AS DEFINED IN SUBDIVISION ONE OF SECTION 120.60 OF THIS CHAPTER BY MEANS OF COMMITTING THE CRIME OF STALKING IN THE THIRD DEGREE AS DEFINED IN SUBDIVISION THREE OF SECTION 120.50 OF THIS CHAPTER, AND HE OR SHE KNOWS, AT THE TIME OF THE COMMISSION OF SUCH CRIME, THAT THE INTENDED VICTIM OF SUCH CRIME IS AN OFFICER OF THE JUDICIARY OR AN IMMEDIATE FAMILY MEMBER OF SUCH PERSON.

TAMPERING WITH THE JUDICIAL PROCESS IN THE FIRST DEGREE IS CLASS B FELONY.

S 2. Paragraph (a) of subdivision 1 of section 70.02 of the penal law, as amended by chapter 320 of the laws of 2006, is amended to read as follows:

(a) Class B violent felony offenses: an attempt to commit the class A-I felonies of murder in the second degree as defined in section 125.25, kidnapping in the first degree as defined in section 135.25, and arson in the first degree as defined in section 150.20; manslaughter in the first degree as defined in section 125.20, aggravated manslaughter in the first degree as defined in section 125.22, rape in the first degree as defined in section 130.35, criminal sexual act in the first degree as defined in section 130.50, aggravated sexual abuse in the first degree as defined in section 130.70, course of sexual conduct against a child in the first degree as defined in section 130.75; assault in the first degree as defined in section 120.10, kidnapping in the second degree as defined in section 135.20, burglary in the first degree as defined in section 140.30, arson in the second degree as defined in section 150.15, robbery in the first degree as defined in section 160.15, incest in the first degree as defined in section 255.27, criminal possession of a weapon in the first degree as defined in section 265.04, criminal use of a firearm in the first degree as defined in section 265.09, criminal sale of a firearm in the first degree as defined in section 265.13, aggravated assault upon a police officer or a peace officer as defined in section 120.11, gang assault in the first degree as defined in section 120.07, intimidating a victim or witness in the first degree as defined in section 215.17, TAMPERING WITH THE JUDICIAL PROCESS IN THE FIRST DEGREE AS DEFINED IN SECTION 215.90, hindering prosecution of terrorism in the first degree as defined in section 490.35, criminal possession of a chemical weapon or biological weapon in the second degree as defined in section 490.40, and criminal use of a chemical weapon or biological weapon in the third degree as defined in section 490.47.

S 3. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.