

2850

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:

1 Section 1. The penal law is amended by adding six new sections 215.85,
2 215.86, 215.87, 215.88, 215.89 and 215.90 to read as follows:
3 S 215.85 TAMPERING WITH THE JUDICIAL PROCESS; DEFINITIONS.
4 AS USED IN SECTIONS 215.86, 215.87, 215.88, 215.89 AND 215.90 OF THIS
5 ARTICLE:
6 (1) "INTERFERE" MEANS OBSTRUCT, DELAY, PREVENT, IMPEDE, INFLUENCE OR
7 RETALIATE;
8 (2) "JUDICIAL ACTION" MEANS THE CONDUCT OR OUTCOME OF ONE OR MORE
9 JUDICIAL PROCEEDINGS, THE ISSUANCE OR IMPLEMENTATION OF ONE OR MORE
10 JUDICIAL ORDERS OR MANDATES;
11 (3) "OFFICER OF THE JUDICIARY" MEANS A JUDGE, JUSTICE OR OTHER EMPLOY-
12 EE OF A FEDERAL COURT OR THE UNIFIED COURT SYSTEM, A JUDICIAL HEARING
13 OFFICER DESIGNATED PURSUANT TO SECTION EIGHT HUNDRED FIFTY-ONE OF THE
14 JUDICIARY LAW, OR A COUNTY CLERK OR EMPLOYEE THEREOF; AND
15 (4) "IMMEDIATE FAMILY MEMBER" MEANS A SPOUSE, PARENT, FATHER-IN-LAW,
16 MOTHER-IN-LAW, SIBLING, CHILD, STEP-CHILD, SON-IN-LAW, DAUGHTER-IN-LAW,
17 GRANDPARENT OR GRANDCHILD.
18 S 215.86 TAMPERING WITH THE JUDICIAL PROCESS IN THE FIFTH DEGREE.
19 A PERSON IS GUILTY OF TAMPERING WITH THE JUDICIAL PROCESS IN THE FIFTH
20 DEGREE WHEN WITH INTENT TO INTERFERE WITH JUDICIAL ACTION OR WHAT HE OR
21 SHE BELIEVES TO BE JUDICIAL ACTION, HE OR SHE COMMITS THE CRIME OF
22 MENACING IN THE THIRD DEGREE AS DEFINED IN SECTION 120.15 OF THIS CHAP-
23 TER, STALKING IN THE FOURTH DEGREE AS DEFINED IN SECTION 120.45 OF THIS
24 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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1 OF THIS CHAPTER, AND HE OR SHE KNOWS, AT THE TIME OF THE COMMISSION OF
2 SUCH CRIME, THAT THE INTENDED VICTIM OF SUCH CRIME IS AN OFFICER OF THE
3 JUDICIARY OR AN IMMEDIATE FAMILY MEMBER OF SUCH PERSON.

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

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

7 A PERSON IS GUILTY OF TAMPERING WITH THE JUDICIAL PROCESS IN THE
8 FOURTH DEGREE WHEN WITH INTENT TO INTERFERE WITH JUDICIAL ACTION OR WHAT
9 HE OR SHE BELIEVES TO BE JUDICIAL ACTION, HE OR SHE COMMITS THE CRIME OF
10 ASSAULT IN THE THIRD DEGREE AS DEFINED IN SUBDIVISION ONE OF SECTION
11 120.00 OF THIS CHAPTER, MENACING IN THE SECOND DEGREE AS DEFINED IN
12 SECTION 120.14 OF THIS CHAPTER, STALKING IN THE THIRD DEGREE AS DEFINED
13 IN SUBDIVISION THREE OF SECTION 120.50 OF THIS CHAPTER, CRIMINAL
14 MISCHIEF IN THE FOURTH DEGREE AS DEFINED IN SUBDIVISION ONE OF SECTION
15 145.00 OF THIS CHAPTER OR AGGRAVATED HARASSMENT IN THE SECOND DEGREE AS
16 DEFINED IN SUBDIVISION ONE OR TWO OF SECTION 240.30 OF THIS CHAPTER, AND
17 HE OR SHE KNOWS, AT THE TIME OF THE COMMISSION OF SUCH CRIME, THAT THE
18 INTENDED VICTIM OF SUCH CRIME IS AN OFFICER OF THE JUDICIARY OR AN IMME-
19 DIATE FAMILY MEMBER OF SUCH PERSON.

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

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

23 A PERSON IS GUILTY OF TAMPERING WITH THE JUDICIAL PROCESS IN THE THIRD
24 DEGREE WHEN WITH INTENT TO INTERFERE WITH JUDICIAL ACTION OR WHAT HE OR
25 SHE BELIEVES TO BE JUDICIAL ACTION, HE OR SHE COMMITS THE CRIME OF
26 STALKING IN THE SECOND DEGREE AS DEFINED IN SUBDIVISION ONE OF SECTION
27 120.55 OF THIS CHAPTER OR CRIMINAL MISCHIEF IN THE THIRD DEGREE AS
28 DEFINED IN SUBDIVISION TWO OF SECTION 145.05 OF THIS CHAPTER, AND HE OR
29 SHE KNOWS, AT THE TIME OF THE COMMISSION OF SUCH CRIME, THAT THE
30 INTENDED VICTIM OF SUCH CRIME IS AN OFFICER OF THE JUDICIARY OR AN IMME-
31 DIATE FAMILY MEMBER OF SUCH PERSON.

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

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

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

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

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

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

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

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

6 (a) Class B violent felony offenses: an attempt to commit the class
7 A-I felonies of murder in the second degree as defined in section
8 125.25, kidnapping in the first degree as defined in section 135.25, and
9 arson in the first degree as defined in section 150.20; manslaughter in
10 the first degree as defined in section 125.20, aggravated manslaughter
11 in the first degree as defined in section 125.22, rape in the first
12 degree as defined in section 130.35, criminal sexual act in the first
13 degree as defined in section 130.50, aggravated sexual abuse in the
14 first degree as defined in section 130.70, course of sexual conduct
15 against a child in the first degree as defined in section 130.75;
16 assault in the first degree as defined in section 120.10, kidnapping in
17 the second degree as defined in section 135.20, burglary in the first
18 degree as defined in section 140.30, arson in the second degree as
19 defined in section 150.15, robbery in the first degree as defined in
20 section 160.15, incest in the first degree as defined in section 255.27,
21 criminal possession of a weapon in the first degree as defined in
22 section 265.04, criminal use of a firearm in the first degree as defined
23 in section 265.09, criminal sale of a firearm in the first degree as
24 defined in section 265.13, aggravated assault upon a police officer or a
25 peace officer as defined in section 120.11, gang assault in the first
26 degree as defined in section 120.07, intimidating a victim or witness in
27 the first degree as defined in section 215.17, TAMPERING WITH THE JUDI-
28 CIAL PROCESS IN THE FIRST DEGREE AS DEFINED IN SECTION 215.90, hindering
29 prosecution of terrorism in the first degree as defined in section
30 490.35, criminal possession of a chemical weapon or biological weapon in
31 the second degree as defined in section 490.40, and criminal use of a
32 chemical weapon or biological weapon in the third degree as defined in
33 section 490.47.

34 S 3. This act shall take effect on the first of November next succeed-
35 ing the date on which it shall have become a law.