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Cal. No. 270

I N S E N A T E

March 3, 2010

Introduced by Sens. SCHNEIDERMAN, ADDABBO, AUBERTINE, BONACIC, DILAN, ESPADA, FOLEY, HASSELL-THOMPSON, KRUEGER, LANZA, PERKINS, SAMPSON, SAVINO, SQUADRON, STACHOWSKI, STAVISKY, VALESKY, VOLKER, YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the penal law, the criminal procedure law, the domestic relations law, the executive law, the family court act, the social services law, the mental hygiene law and the vehicle and traffic law, in relation to criminal obstruction of breathing or blood circulation and strangulation

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

1 Section 1. Paragraphs (b) and (c) of subdivision 1 of section 70.02 of
2 the penal law, paragraph (b) as separately amended by chapters 764 and
3 765 of the laws of 2005 and paragraph (c) as amended by chapter 7 of the
4 laws of 2007, are 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) OF THIS SUBDIVISION; aggra-
7 vated criminally negligent homicide as defined in section 125.11, aggra-
8 vated manslaughter in the second degree as defined in section 125.21,
9 aggravated sexual abuse in the second degree as defined in section
10 130.67, assault on a peace officer, police officer, fireman or emergency
11 medical services professional as defined in section 120.08, gang assault
12 in the second degree as defined in section 120.06, STRANGULATION IN THE
13 FIRST DEGREE AS DEFINED IN SECTION 121.13, burglary in the second degree
14 as defined in section 140.25, robbery in the second degree as defined in
15 section 160.10, criminal possession of a weapon in the second degree as
16 defined in section 265.03, criminal use of a firearm in the second
17 degree as defined in section 265.08, criminal sale of a firearm in the
18 second degree as defined in section 265.12, criminal sale of a firearm
19 with the aid of a minor as defined in section 265.14, soliciting or
20 providing support for an act of terrorism in the first degree as defined

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

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1 in section 490.15, hindering prosecution of terrorism in the second
 2 degree as defined in section 490.30, and criminal possession of a chemi-
 3 cal weapon or biological weapon in the third degree as defined in
 4 section 490.37.

5 (c) Class D violent felony offenses: an attempt to commit any of the
 6 class C felonies set forth in paragraph (b); reckless assault of a child
 7 as defined in section 120.02, assault in the second degree as defined in
 8 section 120.05, menacing a police officer or peace officer as defined in
 9 section 120.18, stalking in the first degree, as defined in subdivision
 10 one of section 120.60, STRANGULATION IN THE SECOND DEGREE AS DEFINED IN
 11 SECTION 121.12, rape in the second degree as defined in section 130.30,
 12 criminal sexual act in the second degree as defined in section 130.45,
 13 sexual abuse in the first degree as defined in section 130.65, course of
 14 sexual conduct against a child in the second degree as defined in
 15 section 130.80, aggravated sexual abuse in the third degree as defined
 16 in section 130.66, facilitating a sex offense with a controlled
 17 substance as defined in section 130.90, criminal possession of a weapon
 18 in the third degree as defined in subdivision five, six, seven or eight
 19 of section 265.02, criminal sale of a firearm in the third degree as
 20 defined in section 265.11, intimidating a victim or witness in the
 21 second degree as defined in section 215.16, soliciting or providing
 22 support for an act of terrorism in the second degree as defined in
 23 section 490.10, and making a terroristic threat as defined in section
 24 490.20, falsely reporting an incident in the first degree as defined in
 25 section 240.60, placing a false bomb or hazardous substance in the first
 26 degree as defined in section 240.62, placing a false bomb or hazardous
 27 substance in a sports stadium or arena, mass transportation facility or
 28 enclosed shopping mall as defined in section 240.63, and aggravated
 29 unpermitted use of indoor pyrotechnics in the first degree as defined in
 30 section 405.18.

31 S 2. The penal law is amended by adding a new article 121 to read as
 32 follows:

33 ARTICLE 121

34 STRANGULATION AND RELATED OFFENSES

35 SECTION 121.11 CRIMINAL OBSTRUCTION OF BREATHING OR BLOOD CIRCULATION.

36 121.12 STRANGULATION IN THE SECOND DEGREE.

37 121.13 STRANGULATION IN THE FIRST DEGREE.

38 121.14 MEDICAL OR DENTAL PURPOSE.

39 S 121.11 CRIMINAL OBSTRUCTION OF BREATHING OR BLOOD CIRCULATION.

40 A PERSON IS GUILTY OF CRIMINAL OBSTRUCTION OF BREATHING OR BLOOD
 41 CIRCULATION WHEN, WITH INTENT TO IMPEDE THE NORMAL BREATHING OR CIRCU-
 42 LATION OF THE BLOOD OF ANOTHER PERSON, HE OR SHE:

43 A. APPLIES PRESSURE ON THE THROAT OR NECK OF SUCH PERSON; OR

44 B. BLOCKS THE NOSE OR MOUTH OF SUCH PERSON.

45 CRIMINAL OBSTRUCTION OF BREATHING OR BLOOD CIRCULATION IS A CLASS A
 46 MISDEMEANOR.

47 S 121.12 STRANGULATION IN THE SECOND DEGREE.

48 A PERSON IS GUILTY OF STRANGULATION IN THE SECOND DEGREE WHEN HE OR
 49 SHE COMMITS THE CRIME OF CRIMINAL OBSTRUCTION OF BREATHING OR BLOOD
 50 CIRCULATION, AS DEFINED IN SECTION 121.11 OF THIS ARTICLE, AND THEREBY
 51 CAUSES STUPOR, LOSS OF CONSCIOUSNESS FOR ANY PERIOD OF TIME, OR ANY
 52 OTHER PHYSICAL INJURY OR IMPAIRMENT.

53 STRANGULATION IN THE SECOND DEGREE IS A CLASS D FELONY.

54 S 121.13 STRANGULATION IN THE FIRST DEGREE.

55 A PERSON IS GUILTY OF STRANGULATION IN THE FIRST DEGREE WHEN HE OR SHE
 56 COMMITS THE CRIME OF CRIMINAL OBSTRUCTION OF BREATHING OR BLOOD CIRCU-

1 LATION, AS DEFINED IN SECTION 121.11 OF THIS ARTICLE, AND THEREBY CAUSES
2 SERIOUS PHYSICAL INJURY TO SUCH OTHER PERSON.

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

4 S 121.14 MEDICAL OR DENTAL PURPOSE.

5 FOR PURPOSES OF SECTIONS 121.11, 121.12 AND 121.13 OF THIS ARTICLE, IT
6 SHALL BE AN AFFIRMATIVE DEFENSE THAT THE DEFENDANT PERFORMED SUCH
7 CONDUCT FOR A VALID MEDICAL OR DENTAL PURPOSE.

8 S 3. Paragraph (h) of subdivision 3 of section 190.25 of the criminal
9 procedure law, as separately amended by chapters 93 and 320 of the laws
10 of 2006, is amended to read as follows:

11 (h) A social worker, rape crisis counselor, psychologist or other
12 professional providing emotional support to a child witness twelve years
13 old or younger who is called to give evidence in a grand jury proceeding
14 concerning a crime defined in article ONE HUNDRED TWENTY-ONE, ARTICLE
15 one hundred thirty, article two hundred sixty, section 120.10, 125.10,
16 125.15, 125.20, 125.25, 125.26, 125.27, 255.25, 255.26 or 255.27 of the
17 penal law provided that the district attorney consents. Such support
18 person shall not provide the witness with an answer to any question or
19 otherwise participate in such proceeding and shall first take an oath
20 before the grand jury that he or she will keep secret all matters before
21 such grand jury within his or her knowledge.

22 S 4. Paragraph (b) of subdivision 8 of section 700.05 of the criminal
23 procedure law, as amended by chapter 472 of the laws of 2008, is amended
24 to read as follows:

25 (b) Any of the following felonies: assault in the second degree as
26 defined in section 120.05 of the penal law, assault in the first degree
27 as defined in section 120.10 of the penal law, reckless endangerment in
28 the first degree as defined in section 120.25 of the penal law, promot-
29 ing a suicide attempt as defined in section 120.30 of the penal law,
30 STRANGULATION IN THE SECOND DEGREE AS DEFINED IN SECTION 121.12 OF THE
31 PENAL LAW, STRANGULATION IN THE FIRST DEGREE AS DEFINED IN SECTION
32 121.13 OF THE PENAL LAW, criminally negligent homicide as defined in
33 section 125.10 of the penal law, manslaughter in the second degree as
34 defined in section 125.15 of the penal law, manslaughter in the first
35 degree as defined in section 125.20 of the penal law, murder in the
36 second degree as defined in section 125.25 of the penal law, murder in
37 the first degree as defined in section 125.27 of the penal law, abortion
38 in the second degree as defined in section 125.40 of the penal law,
39 abortion in the first degree as defined in section 125.45 of the penal
40 law, rape in the third degree as defined in section 130.25 of the penal
41 law, rape in the second degree as defined in section 130.30 of the penal
42 law, rape in the first degree as defined in section 130.35 of the penal
43 law, criminal sexual act in the third degree as defined in section
44 130.40 of the penal law, criminal sexual act in the second degree as
45 defined in section 130.45 of the penal law, criminal sexual act in the
46 first degree as defined in section 130.50 of the penal law, sexual abuse
47 in the first degree as defined in section 130.65 of the penal law,
48 unlawful imprisonment in the first degree as defined in section 135.10
49 of the penal law, kidnapping in the second degree as defined in section
50 135.20 of the penal law, kidnapping in the first degree as defined in
51 section 135.25 of the penal law, labor trafficking as defined in section
52 135.35 of the penal law, custodial interference in the first degree as
53 defined in section 135.50 of the penal law, coercion in the first degree
54 as defined in section 135.65 of the penal law, criminal trespass in the
55 first degree as defined in section 140.17 of the penal law, burglary in
56 the third degree as defined in section 140.20 of the penal law, burglary

1 in the second degree as defined in section 140.25 of the penal law,
2 burglary in the first degree as defined in section 140.30 of the penal
3 law, criminal mischief in the third degree as defined in section 145.05
4 of the penal law, criminal mischief in the second degree as defined in
5 section 145.10 of the penal law, criminal mischief in the first degree
6 as defined in section 145.12 of the penal law, criminal tampering in the
7 first degree as defined in section 145.20 of the penal law, arson in the
8 fourth degree as defined in section 150.05 of the penal law, arson in
9 the third degree as defined in section 150.10 of the penal law, arson in
10 the second degree as defined in section 150.15 of the penal law, arson
11 in the first degree as defined in section 150.20 of the penal law, grand
12 larceny in the fourth degree as defined in section 155.30 of the penal
13 law, grand larceny in the third degree as defined in section 155.35 of
14 the penal law, grand larceny in the second degree as defined in section
15 155.40 of the penal law, grand larceny in the first degree as defined in
16 section 155.42 of the penal law, health care fraud in the fourth degree
17 as defined in section 177.10 of the penal law, health care fraud in the
18 third degree as defined in section 177.15 of the penal law, health care
19 fraud in the second degree as defined in section 177.20 of the penal
20 law, health care fraud in the first degree as defined in section 177.25
21 of the penal law, robbery in the third degree as defined in section
22 160.05 of the penal law, robbery in the second degree as defined in
23 section 160.10 of the penal law, robbery in the first degree as defined
24 in section 160.15 of the penal law, unlawful use of secret scientific
25 material as defined in section 165.07 of the penal law, criminal
26 possession of stolen property in the fourth degree as defined in section
27 165.45 of the penal law, criminal possession of stolen property in the
28 third degree as defined in section 165.50 of the penal law, criminal
29 possession of stolen property in the second degree as defined by section
30 165.52 of the penal law, criminal possession of stolen property in the
31 first degree as defined by section 165.54 of the penal law, trademark
32 counterfeiting in the second degree as defined in section 165.72 of the
33 penal law, trademark counterfeiting in the first degree as defined in
34 section 165.73 of the penal law, forgery in the second degree as defined
35 in section 170.10 of the penal law, forgery in the first degree as
36 defined in section 170.15 of the penal law, criminal possession of a
37 forged instrument in the second degree as defined in section 170.25 of
38 the penal law, criminal possession of a forged instrument in the first
39 degree as defined in section 170.30 of the penal law, criminal
40 possession of forgery devices as defined in section 170.40 of the penal
41 law, falsifying business records in the first degree as defined in
42 section 175.10 of the penal law, tampering with public records in the
43 first degree as defined in section 175.25 of the penal law, offering a
44 false instrument for filing in the first degree as defined in section
45 175.35 of the penal law, issuing a false certificate as defined in
46 section 175.40 of the penal law, criminal diversion of prescription
47 medications and prescriptions in the second degree as defined in section
48 178.20 of the penal law, criminal diversion of prescription medications
49 and prescriptions in the first degree as defined in section 178.25 of
50 the penal law, residential mortgage fraud in the fourth degree as
51 defined in section 187.10 of the penal law, residential mortgage fraud
52 in the third degree as defined in section 187.15 of the penal law, resi-
53 dential mortgage fraud in the second degree as defined in section 187.20
54 of the penal law, residential mortgage fraud in the first degree as
55 defined in section 187.25 of the penal law, escape in the second degree
56 as defined in section 205.10 of the penal law, escape in the first

1 degree as defined in section 205.15 of the penal law, absconding from
2 temporary release in the first degree as defined in section 205.17 of
3 the penal law, promoting prison contraband in the first degree as
4 defined in section 205.25 of the penal law, hindering prosecution in the
5 second degree as defined in section 205.60 of the penal law, hindering
6 prosecution in the first degree as defined in section 205.65 of the
7 penal law, sex trafficking as defined in section 230.34 of the penal
8 law, criminal possession of a weapon in the third degree as defined in
9 subdivisions two, three and five of section 265.02 of the penal law,
10 criminal possession of a weapon in the second degree as defined in
11 section 265.03 of the penal law, criminal possession of a weapon in the
12 first degree as defined in section 265.04 of the penal law, manufacture,
13 transport, disposition and defacement of weapons and dangerous instru-
14 ments and appliances defined as felonies in subdivisions one, two, and
15 three of section 265.10 of the penal law, sections 265.11, 265.12 and
16 265.13 of the penal law, or prohibited use of weapons as defined in
17 subdivision two of section 265.35 of the penal law, relating to firearms
18 and other dangerous weapons, or failure to disclose the origin of a
19 recording in the first degree as defined in section 275.40 of the penal
20 law;

21 S 5. Paragraph (c) of subdivision 3-a of section 115-d of the domestic
22 relations law, as added by chapter 7 of the laws of 1999, is amended to
23 read as follows:

24 (c) For the purposes of this subdivision, "spousal abuse" is an
25 offense defined in section 120.05 [or], 120.10, 121.12, OR 121.13 of the
26 penal law where the victim of such offense was the defendant's spouse;
27 provided, however, spousal abuse shall not include a crime in which the
28 applicant was the defendant, and the court finds in accordance with this
29 subdivision that he or she was the victim of physical, sexual or psycho-
30 logical abuse by the victim of such offense and such abuse was a factor
31 in causing the applicant to commit such offense.

32 S 6. Paragraph (f) of subdivision 7 of section 995 of the executive
33 law, as amended by chapter 2 of the laws of 2006, is amended to read as
34 follows:

35 (f) any of the following misdemeanors: assault in the third degree as
36 defined in section 120.00 of the penal law; attempted aggravated assault
37 upon a person less than eleven years old, as defined in section 110.00
38 and section 120.12 of the penal law; attempted menacing in the first
39 degree, as defined in section 110.00 and section 120.13 of the penal
40 law; menacing in the second degree as defined in section 120.14 of the
41 penal law; menacing in the third degree as defined in section 120.15 of
42 the penal law; reckless endangerment in the second degree as defined in
43 section 120.20 of the penal law; stalking in the fourth degree as
44 defined in section 120.45 of the penal law; stalking in the third degree
45 as defined in section 120.50 of the penal law; attempted stalking in the
46 second degree, as defined in section 110.00 and section 120.55 of the
47 penal law; CRIMINAL OBSTRUCTION OF BREATHING OR BLOOD CIRCULATION AS
48 DEFINED IN SECTION 121.11 OF THE PENAL LAW; forcible touching as defined
49 in section 130.52 of the penal law regardless of the age of the victim;
50 sexual abuse in the third degree as defined in section 130.55 of the
51 penal law regardless of the age of the victim; unlawful imprisonment in
52 the second degree as defined in section 135.05 of the penal law regard-
53 less of the age of the victim; attempted unlawful imprisonment in the
54 first degree, as defined in section 110.00 and section 135.10 of the
55 penal law regardless of the age of the victim; criminal trespass in the
56 second degree as defined in section 140.15 of the penal law; possession

1 of burglar's tools as defined in section 140.35 of the penal law; petit
2 larceny as defined in section 155.25 of the penal law; endangering the
3 welfare of a child as defined in section 260.10 of the penal law; endan-
4 gering the welfare of an incompetent or physically disabled person as
5 defined in section 260.25 OF THE PENAL LAW.

6 S 7. Paragraph (a) of subdivision 1 of section 460.10 of the penal
7 law, as amended by section 30 of part AAA of chapter 56 of the laws of
8 2009, is amended to read as follows:

9 (a) Any of the felonies set forth in this chapter: sections 120.05,
10 120.10 and 120.11 relating to assault; SECTIONS 121.12 AND 121.13 RELAT-
11 ING TO STRANGULATION; sections 125.10 to 125.27 relating to homicide;
12 sections 130.25, 130.30 and 130.35 relating to rape; sections 135.20 and
13 135.25 relating to kidnapping; section 135.35 relating to labor traf-
14 ficking; section 135.65 relating to coercion; sections 140.20, 140.25
15 and 140.30 relating to burglary; sections 145.05, 145.10 and 145.12
16 relating to criminal mischief; article one hundred fifty relating to
17 arson; sections 155.30, 155.35, 155.40 and 155.42 relating to grand
18 larceny; sections 177.10, 177.15, 177.20 and 177.25 relating to health
19 care fraud; article one hundred sixty relating to robbery; sections
20 165.45, 165.50, 165.52 and 165.54 relating to criminal possession of
21 stolen property; sections 165.72 and 165.73 relating to trademark coun-
22 terfeiting; sections 170.10, 170.15, 170.25, 170.30, 170.40, 170.65 and
23 170.70 relating to forgery; sections 175.10, 175.25, 175.35, 175.40 and
24 210.40 relating to false statements; sections 176.15, 176.20, 176.25 and
25 176.30 relating to insurance fraud; sections 178.20 and 178.25 relating
26 to criminal diversion of prescription medications and prescriptions;
27 sections 180.03, 180.08, 180.15, 180.25, 180.40, 180.45, 200.00, 200.03,
28 200.04, 200.10, 200.11, 200.12, 200.20, 200.22, 200.25, 200.27, 215.00,
29 215.05 and 215.19 relating to bribery; sections 187.10, 187.15, 187.20
30 and 187.25 relating to residential mortgage fraud, sections 190.40 and
31 190.42 relating to criminal usury; section 190.65 relating to schemes to
32 defraud; sections 205.60 and 205.65 relating to hindering prosecution;
33 sections 210.10, 210.15, and 215.51 relating to perjury and contempt;
34 section 215.40 relating to tampering with physical evidence; sections
35 220.06, 220.09, 220.16, 220.18, 220.21, 220.31, 220.34, 220.39, 220.41,
36 220.43, 220.46, 220.55, 220.60 and 220.77 relating to controlled
37 substances; sections 225.10 and 225.20 relating to gambling; sections
38 230.25, 230.30, and 230.32 relating to promoting prostitution; section
39 230.34 relating to sex trafficking; sections 235.06, 235.07, 235.21 and
40 235.22 relating to obscenity; sections 263.10 and 263.15 relating to
41 promoting a sexual performance by a child; sections 265.02, 265.03,
42 265.04, 265.11, 265.12, 265.13 and the provisions of section 265.10
43 which constitute a felony relating to firearms and other dangerous weap-
44 ons; and sections 265.14 and 265.16 relating to criminal sale of a
45 firearm; and section 275.10, 275.20, 275.30, or 275.40 relating to unau-
46 thorized recordings; and sections 470.05, 470.10, 470.15 and 470.20
47 relating to money laundering; or

48 S 8. Paragraph (j) of subdivision 2 of section 378-a of the social
49 services law, as added by chapter 7 of the laws of 1999, is amended to
50 read as follows:

51 (j) For the purposes of this subdivision "spousal abuse" is an offense
52 defined in section 120.05 [or], 120.10, 121.12 OR 121.13 of the penal
53 law where the victim of such offense was the defendant's spouse;
54 provided, however, spousal abuse shall not include a crime in which the
55 prospective foster parent or prospective adoptive parent, who was the
56 defendant, has received notice pursuant to paragraph (g) of this subdi-

1 vision and the office of children and family services finds after a fair
2 hearing held pursuant to section twenty-two of this chapter, that he or
3 she was the victim of physical, sexual or psychological abuse by the
4 victim of such offense and such abuse was a factor in causing the
5 prospective foster parent or prospective adoptive parent to commit such
6 offense.

7 S 9. The opening paragraph of subdivision 1 of section 812 of the
8 family court act, as amended by chapter 476 of the laws of 2009, is
9 amended to read as follows:

10 The family court and the criminal courts shall have concurrent juris-
11 diction over any proceeding concerning acts which would constitute
12 disorderly conduct, harassment in the first degree, harassment in the
13 second degree, aggravated harassment in the second degree, sexual
14 misconduct, forcible touching, sexual abuse in the third degree, sexual
15 abuse in the second degree as set forth in subdivision one of section
16 130.60 of the penal law, stalking in the first degree, stalking in the
17 second degree, stalking in the third degree, stalking in the fourth
18 degree, criminal mischief, menacing in the second degree, menacing in
19 the third degree, reckless endangerment, CRIMINAL OBSTRUCTION OF BREATH-
20 ING OR BLOOD CIRCULATION, STRANGULATION IN THE SECOND DEGREE, STRANGULA-
21 TION IN THE FIRST DEGREE, assault in the second degree, assault in the
22 third degree or an attempted assault, CRIMINAL OBSTRUCTION OF BREATHING
23 OR BLOOD CIRCULATION OR STRANGULATION between spouses or former spouses,
24 or between parent and child or between members of the same family or
25 household except that if the respondent would not be criminally respon-
26 sible by reason of age pursuant to section 30.00 of the penal law, then
27 the family court shall have exclusive jurisdiction over such proceeding.
28 Notwithstanding a complainant's election to proceed in family court, the
29 criminal court shall not be divested of jurisdiction to hear a family
30 offense proceeding pursuant to this section. For purposes of this arti-
31 cle, "disorderly conduct" includes disorderly conduct not in a public
32 place. For purposes of this article, "members of the same family or
33 household" shall mean the following:

34 S 10. Subdivision (f) of section 10.03 of the mental hygiene law, as
35 added by chapter 7 of the laws of 2007, is amended to read as follows:

36 (f) "Designated felony" means any felony offense defined by any of the
37 following provisions of the penal law: assault in the second degree as
38 defined in section 120.05, assault in the first degree as defined in
39 section 120.10, gang assault in the second degree as defined in section
40 120.06, gang assault in the first degree as defined in section 120.07,
41 stalking in the first degree as defined in section 120.60, STRANGULATION
42 IN THE SECOND DEGREE AS DEFINED IN SECTION 121.12, STRANGULATION IN THE
43 FIRST DEGREE AS DEFINED IN SECTION 121.13, manslaughter in the second
44 degree as defined in subdivision one of section 125.15, manslaughter in
45 the first degree as defined in section 125.20, murder in the second
46 degree as defined in section 125.25, aggravated murder as defined in
47 section 125.26, murder in the first degree as defined in section 125.27,
48 kidnapping in the second degree as defined in section 135.20, kidnapping
49 in the first degree as defined in section 135.25, burglary in the third
50 degree as defined in section 140.20, burglary in the second degree as
51 defined in section 140.25, burglary in the first degree as defined in
52 section 140.30, arson in the second degree as defined in section 150.15,
53 arson in the first degree as defined in section 150.20, robbery in the
54 third degree as defined in section 160.05, robbery in the second degree
55 as defined in section 160.10, robbery in the first degree as defined in
56 section 160.15, promoting prostitution in the second degree as defined

1 in section 230.30, promoting prostitution in the first degree as defined
2 in section 230.32, compelling prostitution as defined in section 230.33,
3 disseminating indecent material to minors in the first degree as defined
4 in section 235.22, use of a child in a sexual performance as defined in
5 section 263.05, promoting an obscene sexual performance by a child as
6 defined in section 263.10, promoting a sexual performance by a child as
7 defined in section 263.15, or any felony attempt or conspiracy to commit
8 any of the foregoing offenses.

9 S 11. The opening paragraph of subdivision 1 of section 530.11 of the
10 criminal procedure law, as amended by chapter 476 of the laws of 2009,
11 is amended to read as follows:

12 The family court and the criminal courts shall have concurrent juris-
13 diction over any proceeding concerning acts which would constitute
14 disorderly conduct, harassment in the first degree, harassment in the
15 second degree, aggravated harassment in the second degree, sexual
16 misconduct, forcible touching, sexual abuse in the third degree, sexual
17 abuse in the second degree as set forth in subdivision one of section
18 130.60 of the penal law, stalking in the first degree, stalking in the
19 second degree, stalking in the third degree, stalking in the fourth
20 degree, criminal mischief, menacing in the second degree, menacing in
21 the third degree, reckless endangerment, STRANGULATION IN THE FIRST
22 DEGREE, STRANGULATION IN THE SECOND DEGREE, CRIMINAL OBSTRUCTION OF
23 BREATHING OR BLOOD CIRCULATION, assault in the second degree, assault in
24 the third degree or an attempted assault between spouses or former
25 spouses, or between parent and child or between members of the same
26 family or household except that if the respondent would not be criminal-
27 ly responsible by reason of age pursuant to section 30.00 of the penal
28 law, then the family court shall have exclusive jurisdiction over such
29 proceeding. Notwithstanding a complainant's election to proceed in fami-
30 ly court, the criminal court shall not be divested of jurisdiction to
31 hear a family offense proceeding pursuant to this section. For purposes
32 of this section, "disorderly conduct" includes disorderly conduct not in
33 a public place. For purposes of this section, "members of the same
34 family or household" with respect to a proceeding in the criminal courts
35 shall mean the following:

36 S 12. Subdivision 5 of section 60.05 of the penal law, as amended by
37 chapter 738 of the laws of 2004, is amended to read as follows:

38 5. Certain class D felonies. Except as provided in subdivision six of
39 this section, every person convicted of the class D felonies of assault
40 in the second degree as defined in section 120.05, STRANGULATION IN THE
41 SECOND DEGREE AS DEFINED IN SECTION 121.12 or attempt to commit a class
42 C felony as defined in section 230.30 of this chapter, must be sentenced
43 in accordance with section 70.00 or 85.00 of this title.

44 S 13. Subdivision 3 of section 485.05 of the penal law, as amended by
45 chapter 264 of the laws of 2003, is amended to read as follows:

46 3. A "specified offense" is an offense defined by any of the following
47 provisions of this chapter: section 120.00 (assault in the third
48 degree); section 120.05 (assault in the second degree); section 120.10
49 (assault in the first degree); section 120.12 (aggravated assault upon a
50 person less than eleven years old); section 120.13 (menacing in the
51 first degree); section 120.14 (menacing in the second degree); section
52 120.15 (menacing in the third degree); section 120.20 (reckless endan-
53 germent in the second degree); section 120.25 (reckless endangerment in
54 the first degree); SECTION 121.12 (STRANGULATION IN THE SECOND DEGREE);
55 SECTION 121.13 (STRANGULATION IN THE FIRST DEGREE); subdivision one of
56 section 125.15 (manslaughter in the second degree); subdivision one, two

1 or four of section 125.20 (manslaughter in the first degree); section
2 125.25 (murder in the second degree); section 120.45 (stalking in the
3 fourth degree); section 120.50 (stalking in the third degree); section
4 120.55 (stalking in the second degree); section 120.60 (stalking in the
5 first degree); subdivision one of section 130.35 (rape in the first
6 degree); subdivision one of section 130.50 (criminal sexual act in the
7 first degree); subdivision one of section 130.65 (sexual abuse in the
8 first degree); paragraph (a) of subdivision one of section 130.67
9 (aggravated sexual abuse in the second degree); paragraph (a) of subdivi-
10 sion one of section 130.70 (aggravated sexual abuse in the first
11 degree); section 135.05 (unlawful imprisonment in the second degree);
12 section 135.10 (unlawful imprisonment in the first degree); section
13 135.20 (kidnapping in the second degree); section 135.25 (kidnapping in
14 the first degree); section 135.60 (coercion in the second degree);
15 section 135.65 (coercion in the first degree); section 140.10 (criminal
16 trespass in the third degree); section 140.15 (criminal trespass in the
17 second degree); section 140.17 (criminal trespass in the first degree);
18 section 140.20 (burglary in the third degree); section 140.25 (burglary
19 in the second degree); section 140.30 (burglary in the first degree);
20 section 145.00 (criminal mischief in the fourth degree); section 145.05
21 (criminal mischief in the third degree); section 145.10 (criminal
22 mischief in the second degree); section 145.12 (criminal mischief in the
23 first degree); section 150.05 (arson in the fourth degree); section
24 150.10 (arson in the third degree); section 150.15 (arson in the second
25 degree); section 150.20 (arson in the first degree); section 155.25
26 (petit larceny); section 155.30 (grand larceny in the fourth degree);
27 section 155.35 (grand larceny in the third degree); section 155.40
28 (grand larceny in the second degree); section 155.42 (grand larceny in
29 the first degree); section 160.05 (robbery in the third degree); section
30 160.10 (robbery in the second degree); section 160.15 (robbery in the
31 first degree); section 240.25 (harassment in the first degree); subdivi-
32 sion one, two or four of section 240.30 (aggravated harassment in the
33 second degree); or any attempt or conspiracy to commit any of the fore-
34 going offenses.

35 S 14. Subdivision 2 of section 130.91 of the penal law, as added by
36 chapter 7 of the laws of 2007, is amended to read as follows:

37 2. A "specified offense" is a felony offense defined by any of the
38 following provisions of this chapter: assault in the second degree as
39 defined in section 120.05, assault in the first degree as defined in
40 section 120.10, gang assault in the second degree as defined in section
41 120.06, gang assault in the first degree as defined in section 120.07,
42 stalking in the first degree as defined in section 120.60, STRANGULATION
43 IN THE SECOND DEGREE AS DEFINED IN SECTION 121.12, STRANGULATION IN THE
44 FIRST DEGREE AS DEFINED IN SECTION 121.13, manslaughter in the second
45 degree as defined in subdivision one of section 125.15, manslaughter in
46 the first degree as defined in section 125.20, murder in the second
47 degree as defined in section 125.25, aggravated murder as defined in
48 section 125.26, murder in the first degree as defined in section 125.27,
49 kidnapping in the second degree as defined in section 135.20, kidnapping
50 in the first degree as defined in section 135.25, burglary in the third
51 degree as defined in section 140.20, burglary in the second degree as
52 defined in section 140.25, burglary in the first degree as defined in
53 section 140.30, arson in the second degree as defined in section 150.15,
54 arson in the first degree as defined in section 150.20, robbery in the
55 third degree as defined in section 160.05, robbery in the second degree
56 as defined in section 160.10, robbery in the first degree as defined in

1 section 160.15, promoting prostitution in the second degree as defined
2 in section 230.30, promoting prostitution in the first degree as defined
3 in section 230.32, compelling prostitution as defined in section 230.33,
4 disseminating indecent material to minors in the first degree as defined
5 in section 235.22, use of a child in a sexual performance as defined in
6 section 263.05, promoting an obscene sexual performance by a child as
7 defined in section 263.10, promoting a sexual performance by a child as
8 defined in section 263.15, or any felony attempt or conspiracy to commit
9 any of the foregoing offenses.

10 S 15. Paragraph (c) of subdivision 4 of section 509-cc of the vehicle
11 and traffic law, as amended by chapter 345 of the laws of 2007, is
12 amended to read as follows:

13 (c) The offenses referred to in subparagraph (i) of paragraph (b) of
14 subdivision one and subparagraph (i) of paragraph (c) of subdivision two
15 of this section that result in disqualification for a period of five
16 years shall include a conviction under sections 100.10, 105.13, 115.05,
17 120.03, 120.04, 120.04-a, 120.05, 120.10, 120.25, 121.12, 121.13,
18 125.13, 125.14, 125.40, 125.45, 130.20, 130.25, 130.55, 135.10, 135.55,
19 140.17, 140.25, 140.30, 145.12, 150.10, 150.15, 160.05, 160.10, 220.06,
20 220.09, 220.16, 220.31, 220.34, 220.60, 221.30, 221.50, 221.55, 230.00,
21 230.05, 230.06, 230.20, 230.25, 230.30, 230.32, 235.05, 235.06, 235.07,
22 235.21, 240.06, 245.00, 260.10, subdivision two of section 260.20 and
23 sections 260.25, 265.02, 265.03, 265.08, 265.09, 265.10, 265.12, 265.35
24 of the penal law or an attempt to commit any of the aforesaid offenses
25 under section 110.00 of the penal law, or any similar offenses committed
26 under a former section of the penal law, or any offenses committed under
27 a former section of the penal law which would constitute violations of
28 the aforesaid sections of the penal law, or any offenses committed
29 outside this state which would constitute violations of the aforesaid
30 sections of the penal law.

31 S 16. This act shall take effect on the ninetieth day after it shall
32 have become a law.