

8231

I N S E N A T E

June 17, 2010

Introduced by Sen. SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the penal law, in relation to clarifying the definition of physical injury and serious physical injury; and the culpable state of mind necessary for the commission of assault in the second degree when a serious physical injury is caused to another person

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

1 Section 1. Subdivisions 9 and 10 of section 10.00 of the penal law, as
2 amended by chapter 791 of the laws of 1967, are amended to read as
3 follows:

4 9. "Physical injury" means impairment of physical condition or
5 [substantial] PHYSICAL pain, ILLNESS OR THE PRESENCE OF A PALPABLE
6 CONTUSION, LACERATION, SCALDING OR WOUND. PHYSICAL INJURY MAY BE ESTAB-
7 LISHED BY THE TESTIMONY OF THE VICTIM ALONE. PHYSICAL PAIN MAY BE ESTAB-
8 LISHED BY EVIDENCE OF THE INJURIES INFLICTED IN THE LIGHT OF COMMON
9 EXPERIENCE.

10 10. "Serious physical injury" means physical injury which creates a
11 [substantial] risk of death, or which causes death or [serious and
12 protracted disfigurement, protracted] impairment of health or
13 [protracted] loss or impairment of the function of any bodily organ OR
14 MEMBER, OR THE LOSS OR IMPAIRMENT OF ANY MENTAL FACULTY, OR EXTREME
15 PHYSICAL PAIN. SERIOUS PHYSICAL INJURY MAY BE ESTABLISHED BY PROOF THAT
16 THE VICTIM REQUIRED SURGERY, OR A COURSE OF MEDICAL TREATMENT OR PHYS-
17 ICAL REHABILITATION, OR WAS ADMITTED TO A HOSPITAL AS A PATIENT FOR
18 MEDICAL TREATMENT.

19 S 2. Subdivision 1 of section 120.05 of the penal law is amended to
20 read as follows:

21 1. With intent to cause [serious] physical injury to another person,
22 he OR SHE causes [such] SERIOUS PHYSICAL injury to such person or to a
23 third person; or

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

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

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