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

9177

I N A S S E M B L Y

February 1, 2012

Introduced by M. of A. LUPARDO -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to establishing penalties for failure to seek necessary medical or emergency assistance

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 a new section 240.75 to read as follows:

S 240.75 FAILURE TO SEEK NECESSARY MEDICAL OR EMERGENCY ASSISTANCE.

A PERSON IS GUILTY OF FAILURE TO SEEK NECESSARY MEDICAL OR EMERGENCY ASSISTANCE WHEN, HAVING RECKLESSLY OR WITH CRIMINAL NEGLIGENCE CAUSED SERIOUS PHYSICAL INJURY TO ANOTHER PERSON IN VIOLATION OF ARTICLE ONE HUNDRED TWENTY OR ONE HUNDRED TWENTY-FIVE OF THIS CHAPTER, HE OR SHE:

1. KNOWINGLY FAILS TO SEEK NECESSARY MEDICAL OR EMERGENCY ASSISTANCE FOR SUCH PERSON WITHIN A REASONABLE PERIOD OF TIME, ALTHOUGH REASONABLY ABLE TO DO SO; AND

2. SUCH INJURY IS NOT OTHERWISE REPORTED FOR NECESSARY MEDICAL OR EMERGENCY ASSISTANCE WITHIN A REASONABLE PERIOD OF TIME.

FAILURE TO SEEK NECESSARY MEDICAL OR EMERGENCY ASSISTANCE IS A CLASS A MISDEMEANOR.

S 2. Paragraph (b) of subdivision 5 of section 70.25 of the penal law, as amended by chapter 3 of the laws of 1995, is amended to read as follows:

(b)(I) Except as provided in paragraph (c) of this subdivision, when a person is convicted of assault in the second degree, as defined in subdivision seven of section 120.05 of this chapter, any definite, indeterminate or determinate term of imprisonment which may be imposed as a sentence upon such conviction shall run consecutively to any term of imprisonment which was previously imposed or which may be prospectively imposed where the person was confined within a detention facility at the time of the assault upon a charge which culminated in such sentence of imprisonment.

(II) EXCEPT AS PROVIDED IN PARAGRAPH (C) OF THIS SUBDIVISION, WHEN A PERSON IS CONVICTED OF FAILURE TO SEEK NECESSARY MEDICAL OR EMERGENCY

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

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ASSISTANCE, AS DEFINED IN SECTION 240.75 OF THIS CHAPTER, ANY DEFINITE TERM OF IMPRISONMENT WHICH MAY BE IMPOSED AS A SENTENCE UPON SUCH CONVICTION SHALL RUN CONSECUTIVELY TO ANY TERM OF IMPRISONMENT IMPOSED FOR A CRIME ARISING FROM THE SAME CRIMINAL TRANSACTION.

S 3. Paragraph (b) of subdivision 5 of section 70.25 of the penal law, as added by chapter 372 of the laws of 1981, is amended to read as follows:

(b)(I) Except as provided in paragraph (c) of this subdivision, when a person is convicted of assault in the second degree, as defined in subdivision seven of section 120.05 of this chapter, any definite or indeterminate term of imprisonment which may be imposed as a sentence upon such conviction shall run consecutively to any term of imprisonment which was previously imposed or which may be prospectively imposed where the person was confined within a detention facility at the time of the assault upon a charge which culminated in such sentence of imprisonment.

(II) EXCEPT AS PROVIDED IN PARAGRAPH (C) OF THIS SUBDIVISION, WHEN A PERSON IS CONVICTED OF FAILURE TO SEEK NECESSARY MEDICAL OR EMERGENCY ASSISTANCE, AS DEFINED IN SECTION 240.75 OF THIS CHAPTER, ANY DEFINITE TERM OF IMPRISONMENT WHICH MAY BE IMPOSED AS A SENTENCE UPON SUCH CONVICTION SHALL RUN CONSECUTIVELY TO ANY TERM OF IMPRISONMENT IMPOSED FOR A CRIME ARISING FROM THE SAME CRIMINAL TRANSACTION.

S 4. This act shall take effect on the ninetieth day after it shall have become a law, provided that the amendments to paragraph (b) of subdivision 5 of section 70.25 of the penal law made by section two of this act shall be subject to the expiration and reversion of such paragraph pursuant to subdivision d of section 74 of chapter 3 of the laws of 1995, as amended, when upon such date the provisions of section three of this act shall take effect.