

2066

2011-2012 Regular Sessions

I N S E N A T E

January 18, 2011

Introduced by Sen. KRUGER -- 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 redefining assault in the second degree so as to include intent to cause physical injury where such injury results and in consequence of such injury further serious injury or death occurs

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

1 Section 1. Section 120.05 of the penal law, subdivisions 3 and 11 as
2 separately amended by chapters 318 and 345 of the laws of 2010, subdivi-
3 sion 5 as amended by chapter 134 of the laws of 1975, subdivision 6 as
4 amended by chapter 372 of the laws of 1981, subdivision 7 as amended by
5 chapter 477 of the laws of 1990, subdivision 8 as amended by chapter 122
6 of the laws of 1996, subdivision 9 as amended and subdivision 10 as
7 added by chapter 181 of the laws of 2000 and subdivision 12 as added by
8 chapter 68 of the laws of 2008, is amended to read as follows:
9 S 120.05 Assault in the second degree.
10 A person is guilty of assault in the second degree when:
11 1. With intent to cause serious physical injury to another person, he
12 OR SHE causes such injury to such person or to a third person; or
13 2. With intent to cause physical injury to another person, he OR SHE
14 causes such injury to such person or to a third person by means of a
15 deadly weapon or a dangerous instrument; or
16 3. With intent to prevent a peace officer, a police officer, regis-
17 tered nurse, licensed practical nurse, sanitation enforcement agent, a
18 firefighter, including a firefighter acting as a paramedic or emergency
19 medical technician administering first aid in the course of performance
20 of duty as such firefighter, an emergency medical service paramedic or
21 emergency medical service technician, or medical or related personnel in
22 a hospital emergency department, a city marshal, a traffic enforcement
23 officer or traffic enforcement agent, from performing a lawful duty, by

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

LBD06694-01-1

1 means including releasing or failing to control an animal under circum-
2 stances evincing the actor's intent that the animal obstruct the lawful
3 activity of such peace officer, police officer, registered nurse,
4 licensed practical nurse, sanitation enforcement agent, firefighter,
5 paramedic, technician, city marshal, traffic enforcement officer or
6 traffic enforcement agent, he or she causes physical injury to such
7 peace officer, police officer, registered nurse, licensed practical
8 nurse, sanitation enforcement agent, firefighter, paramedic, technician
9 or medical or related personnel in a hospital emergency department, city
10 marshal, traffic enforcement officer or traffic enforcement agent; or

11 4. He OR SHE recklessly causes serious physical injury to another
12 person by means of a deadly weapon or a dangerous instrument; or

13 5. For a purpose other than lawful medical or therapeutic treatment,
14 he OR SHE intentionally causes stupor, unconsciousness or other physical
15 impairment or injury to another person by administering to him OR HER,
16 without his OR HER consent, a drug, substance or preparation capable of
17 producing the same; or

18 6. In the course of and in furtherance of the commission or attempted
19 commission of a felony, other than a felony defined in article one
20 hundred thirty which requires corroboration for conviction, or of imme-
21 diate flight therefrom, he OR SHE, or another participant if there be
22 any, causes physical injury to a person other than one of the partic-
23 ipants; or

24 7. Having been charged with or convicted of a crime and while confined
25 in a correctional facility, as defined in subdivision three of section
26 forty of the correction law, pursuant to such charge or conviction, with
27 intent to cause physical injury to another person, he OR SHE causes such
28 injury to such person or to a third person; or

29 8. Being eighteen years old or more and with intent to cause physical
30 injury to a person less than eleven years old, the defendant recklessly
31 causes serious physical injury to such person; or

32 9. Being eighteen years old or more and with intent to cause physical
33 injury to a person less than seven years old, the defendant causes such
34 injury to such person; or

35 10. Acting at a place the person knows, or reasonably should know, is
36 on school grounds and with intent to cause physical injury, he or she:

37 (a) causes such injury to an employee of a school or public school
38 district; or

39 (b) not being a student of such school or public school district,
40 causes physical injury to another, and such other person is a student of
41 such school who is attending or present for educational purposes. For
42 purposes of this subdivision the term "school grounds" shall have the
43 meaning set forth in subdivision fourteen of section 220.00 of this
44 chapter[.]; OR

45 11. With intent to cause physical injury to a train operator, ticket
46 inspector, conductor, signalperson, bus operator or station agent
47 employed by any transit agency, authority or company, public or private,
48 whose operation is authorized by New York state or any of its political
49 subdivisions, a city marshal, a traffic enforcement officer, traffic
50 enforcement agent or sanitation enforcement agent, registered nurse or
51 licensed practical nurse he or she causes physical injury to such train
52 operator, ticket inspector, conductor, signalperson, bus operator or
53 station agent, city marshal, traffic enforcement officer, traffic
54 enforcement agent, registered nurse or licensed practical nurse or sani-
55 tation enforcement agent, while such employee is performing an assigned
56 duty on, or directly related to, the operation of a train or bus, or

1 such city marshal, traffic enforcement officer, traffic enforcement
2 agent, registered nurse or licensed practical nurse or sanitation
3 enforcement agent is performing an assigned duty[.]; OR
4 12. With intent to cause physical injury to a person who is sixty-five
5 years of age or older, he or she causes such injury to such person, and
6 the actor is more than ten years younger than such person[.]; OR
7 13. WITH INTENT TO CAUSE PHYSICAL INJURY TO ANOTHER PERSON, HE OR SHE
8 CAUSES SUCH INJURY TO SUCH PERSON OR TO A THIRD PERSON AND AS A CONSE-
9 QUENCE OF THE INJURY CAUSED, FURTHER SERIOUS PHYSICAL INJURY OR THE
10 DEATH OF SUCH PERSON OR THE THIRD PERSON OCCURS.
11 Assault in the second degree is a class D felony.
12 S 2. This act shall take effect on the first of November next succeed-
13 ing the date on which it shall have become a law.