

6773

I N S E N A T E

March 21, 2012

Introduced by Sens. SALAND, GOLDEN, LANZA -- 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 enhancing punishment for crimes involving domestic violence; and to amend the criminal procedure law, in relation to the consideration of certain factors when determining the issuance of an order of recognizance or bail

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

1 Section 1. Subdivision 4 of section 240.30 of the penal law, as
2 amended by chapter 510 of the laws of 2008, is amended to read as
3 follows:
4 4. Commits the crime of harassment in the first degree OR SECOND
5 DEGREE and has previously been convicted of the crime of harassment in
6 the first degree OR SECOND DEGREE as defined by section 240.25 OR 240.26
7 of this article within the preceding ten years.
8 S 2. The section heading, opening paragraph and closing paragraph of
9 section 240.31 of the penal law, as amended by chapter 49 of the laws of
10 2006, are amended to read as follows:
11 [Aggravated] BIAS RELATED AGGRAVATED harassment [in the first degree].
12 A person is guilty of BIAS RELATED aggravated harassment [in the first
13 degree] when with intent to harass, annoy, threaten or alarm another
14 person, because of a belief or perception regarding such person's race,
15 color, national origin, ancestry, gender, religion, religious practice,
16 age, disability or sexual orientation, regardless of whether the belief
17 or perception is correct, he or she:
18 [Aggravated] BIAS RELATED AGGRAVATED harassment [in the first degree]
19 is a class E felony.
20 S 3. The penal law is amended by adding a new section 240.29 to read
21 as follows:
22 S 240.29 AGGRAVATED HARASSMENT IN THE FIRST DEGREE.
23 A PERSON IS GUILTY OF A AGGRAVATED HARASSMENT IN THE FIRST DEGREE WHEN
24 WITH INTENT TO HARASS, ANNOY, THREATEN, OR ALARM ANOTHER PERSON, HE OR
25 SHE COMMITS THE CRIME OF AGGRAVATED HARASSMENT IN THE SECOND DEGREE IN
26 THE MANNER PROSCRIBED BY THE PROVISIONS OF SUBDIVISION ONE, TWO OR FOUR

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

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1 OF SECTION 240.30 OF THIS ARTICLE AND HAS PREVIOUSLY BEEN CONVICTED OF
2 THE CRIME OF AGGRAVATED HARASSMENT IN THE SECOND DEGREE FOR THE COMMIS-
3 SION OF CONDUCT PROSCRIBED BY THE PROVISIONS OF SUBDIVISION ONE, TWO OR
4 FOUR OF SECTION 240.30 OF THIS ARTICLE WITHIN THE PRECEDING TEN YEARS
5 AND SUCH PERSON IS A MEMBER OF THE SAME FAMILY OR HOUSEHOLD AS THE
6 PERSON UPON WHOM THE PRESENT OFFENSE IS COMMITTED. FOR THE PURPOSES OF
7 THIS SUBDIVISION "MEMBERS OF THE SAME FAMILY OR HOUSEHOLD" SHALL HAVE
8 THE SAME MEANING AS IS DEFINED IN SECTION 530.11 OF THE CRIMINAL PROCE-
9 DURE LAW.

10 AGGRAVATED HARASSMENT IN THE FIRST DEGREE IS A CLASS E FELONY.

11 S 4. Section 120.05 of the penal law is amended by adding a new subdi-
12 vision 13 to read as follows:

13 13. SUCH PERSON COMMITS THE CRIME OF ASSAULT IN THE THIRD DEGREE AS
14 DEFINED IN SECTION 120.00 AGAINST ANOTHER PERSON AND SUCH PERSON HAS
15 BEEN PREVIOUSLY CONVICTED OF ANY OFFENSE DEFINED BY ANY OF THE FOLLOWING
16 PROVISIONS OF THIS CHAPTER: SECTION 120.00 (ASSAULT IN THE THIRD
17 DEGREE); SECTION 120.05 (ASSAULT IN THE SECOND DEGREE); SECTION 120.10
18 (ASSAULT IN THE FIRST DEGREE); SECTION 120.12 (AGGRAVATED ASSAULT UPON A
19 PERSON LESS THAN ELEVEN YEARS OLD); SECTION 120.13 (MENACING IN THE
20 FIRST DEGREE); SECTION 120.14 (MENACING IN THE SECOND DEGREE); SECTION
21 120.15 (MENACING IN THE THIRD DEGREE); SECTION 120.20 (RECKLESS ENDAN-
22 GERMENT IN THE SECOND DEGREE); SECTION 120.25 (RECKLESS ENDANGERMENT IN
23 THE FIRST DEGREE); SECTION 121.12 (STRANGULATION IN THE SECOND DEGREE);
24 SECTION 121.13 (STRANGULATION IN THE FIRST DEGREE); SUBDIVISION ONE OF
25 SECTION 125.15 (MANSLAUGHTER IN THE SECOND DEGREE); SUBDIVISION ONE, TWO
26 OR FOUR OF SECTION 125.20 (MANSLAUGHTER IN THE FIRST DEGREE); SECTION
27 125.25 (MURDER IN THE SECOND DEGREE); SECTION 120.45 (STALKING IN THE
28 FOURTH DEGREE); SECTION 120.50 (STALKING IN THE THIRD DEGREE); SECTION
29 120.55 (STALKING IN THE SECOND DEGREE); SECTION 120.60 (STALKING IN THE
30 FIRST DEGREE); SUBDIVISION ONE OF SECTION 130.35 (RAPE IN THE FIRST
31 DEGREE); SUBDIVISION ONE OF SECTION 130.50 (CRIMINAL SEXUAL ACT IN THE
32 FIRST DEGREE); SUBDIVISION ONE OF SECTION 130.65 (SEXUAL ABUSE IN THE
33 FIRST DEGREE); PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION 130.67
34 (AGGRAVATED SEXUAL ABUSE IN THE SECOND DEGREE); PARAGRAPH (A) OF SUBDI-
35 VISION ONE OF SECTION 130.70 (AGGRAVATED SEXUAL ABUSE IN THE FIRST
36 DEGREE); SECTION 135.05 (UNLAWFUL IMPRISONMENT IN THE SECOND DEGREE);
37 SECTION 135.10 (UNLAWFUL IMPRISONMENT IN THE FIRST DEGREE); SECTION
38 135.20 (KIDNAPPING IN THE SECOND DEGREE); SECTION 135.25 (KIDNAPPING IN
39 THE FIRST DEGREE); SECTION 135.60 (COERCION IN THE SECOND DEGREE);
40 SECTION 135.65 (COERCION IN THE FIRST DEGREE); SECTION 140.10 (CRIMINAL
41 TRESPASS IN THE THIRD DEGREE); SECTION 140.15 (CRIMINAL TRESPASS IN THE
42 SECOND DEGREE); SECTION 140.17 (CRIMINAL TRESPASS IN THE FIRST DEGREE);
43 SECTION 140.20 (BURGLARY IN THE THIRD DEGREE); SECTION 140.25 (BURGLARY
44 IN THE SECOND DEGREE); SECTION 140.30 (BURGLARY IN THE FIRST DEGREE);
45 SECTION 145.00 (CRIMINAL MISCHIEF IN THE FOURTH DEGREE); SECTION 145.05
46 (CRIMINAL MISCHIEF IN THE THIRD DEGREE); SECTION 145.10 (CRIMINAL
47 MISCHIEF IN THE SECOND DEGREE); SECTION 145.12 (CRIMINAL MISCHIEF IN THE
48 FIRST DEGREE); SECTION 150.05 (ARSON IN THE FOURTH DEGREE); SECTION
49 150.10 (ARSON IN THE THIRD DEGREE); SECTION 150.15 (ARSON IN THE SECOND
50 DEGREE); SECTION 150.20 (ARSON IN THE FIRST DEGREE); SECTION 155.25
51 (PETIT LARCENY); SECTION 155.30 (GRAND LARCENY IN THE FOURTH DEGREE);
52 SECTION 155.35 (GRAND LARCENY IN THE THIRD DEGREE); SECTION 155.40
53 (GRAND LARCENY IN THE SECOND DEGREE); SECTION 155.42 (GRAND LARCENY IN
54 THE FIRST DEGREE); SECTION 160.05 (ROBBERY IN THE THIRD DEGREE); SECTION
55 160.10 (ROBBERY IN THE SECOND DEGREE); SECTION 160.15 (ROBBERY IN THE
56 FIRST DEGREE); SECTION 240.25 (HARASSMENT IN THE FIRST DEGREE); SUBDIVI-

SION ONE, TWO OR FOUR OF SECTION 240.30 (AGGRAVATED HARASSMENT IN THE SECOND DEGREE); OR ANY ATTEMPT OR CONSPIRACY TO COMMIT ANY OF THE FOREGOING OFFENSES, WITHIN THE PRECEDING TEN YEARS AND SUCH PERSON IS A MEMBER OF THE SAME FAMILY OR HOUSEHOLD AS THE PERSON UPON WHOM THE PRESENT OFFENSE IS COMMITTED. FOR THE PURPOSES OF THIS SUBDIVISION "MEMBERS OF THE SAME FAMILY OR HOUSEHOLD" SHALL HAVE THE SAME MEANING AS IS DEFINED IN SECTION 530.11 OF THE CRIMINAL PROCEDURE LAW.

S 5. Section 121.12 of the penal law, as added by chapter 405 of the laws of 2010, is amended to read as follows:

S 121.12 Strangulation in the second degree.

A person is guilty of strangulation in the second degree when he or she: (1) commits the crime of criminal obstruction of breathing or blood circulation, as defined in section 121.11 of this article, and thereby causes stupor, loss of consciousness for any period of time, or any other physical injury or impairment[.]; OR

(2) COMMITS THE CRIME OF CRIMINAL OBSTRUCTION OF BREATHING OR BLOOD CIRCULATION AS DEFINED IN SECTION 121.11 OF THIS ARTICLE AND SUCH PERSON HAS PREVIOUSLY BEEN CONVICTED WITHIN THE PRECEDING TEN YEARS OF CRIMINAL OBSTRUCTION OF BREATHING OR BLOOD CIRCULATION; AND SUCH PERSON IS A MEMBER OF THE SAME FAMILY OR HOUSEHOLD AS THE PERSON UPON WHOM THE PRESENT CRIME OF CRIMINAL OBSTRUCTION OF BREATHING OR BLOOD CIRCULATION IS COMMITTED. FOR THE PURPOSES OF THIS SUBDIVISION "MEMBERS OF THE SAME FAMILY OR HOUSEHOLD" SHALL HAVE THE SAME MEANING AS IS DEFINED IN SECTION 530.11 OF THE CRIMINAL PROCEDURE LAW.

Strangulation in the second degree is a class D felony.

S 6. Section 120.13 of the penal law, as amended by chapter 765 of the laws of 2005, is amended to read as follows:

S 120.13 Menacing in the first degree.

A person is guilty of menacing in the first degree when he or she commits the crime of menacing in the second degree and has been previously convicted of the crime of menacing in the second degree or the crime of menacing a police officer or peace officer within the preceding ten years.

Menacing in the first degree is a class [E] D felony.

S 7. Subdivision (c) of section 215.51 of the penal law, as amended by chapter 349 of the laws of 2006, is amended to read as follows:

(c) he or she commits the crime of criminal contempt in the second degree as defined in subdivision three of section 215.50 of this article by violating [that part of] a duly served order of protection, or such order of which the defendant has actual knowledge because he or she was present in court when such order was issued, under sections two hundred forty and two hundred fifty-two of the domestic relations law, articles four, five, six and eight of the family court act and section 530.12 of the criminal procedure law, or an order of protection issued by a court of competent jurisdiction in another state, territorial or tribal jurisdiction, [which requires the respondent or defendant to stay away from the person or persons on whose behalf the order was issued,] and where the defendant has been previously convicted of the crime of aggravated criminal contempt or criminal contempt in the first or second degree for violating an order of protection [as described herein] within the preceding [five] TEN years; or

S 8. The closing paragraph of section 215.51 of the penal law, as amended by chapter 222 of the laws of 1994, is amended to read as follows:

Criminal contempt in the first degree is a class [E] D felony.

1 S 9. Subdivisions 1, 2 and 3 of section 60.35 of the penal law, as
2 amended by section 1 of part E of chapter 56 of the laws of 2004,
3 subparagraphs (i), (ii) and (iii) of paragraph (a) of subdivision 1 as
4 amended by section 1 of part DD of chapter 56 of the laws of 2008 and
5 paragraph (b) of subdivision 1 as amended by chapter 320 of the laws of
6 2006, are amended to read as follows:

7 1. (a) Except as provided in section eighteen hundred nine of the
8 vehicle and traffic law and section 27.12 of the parks, recreation and
9 historic preservation law, whenever proceedings in an administrative
10 tribunal or a court of this state result in a conviction for a felony, a
11 misdemeanor, or a violation, as these terms are defined in section 10.00
12 of this chapter, there shall be levied at sentencing a mandatory
13 surcharge, sex offender registration fee, DNA databank fee [and], a
14 crime victim assistance fee AND A DOMESTIC VIOLENCE VICTIM ASSISTANCE
15 FEE in addition to any sentence required or permitted by law, in accord-
16 ance with the following schedule:

17 (i) a person convicted of a felony shall pay a mandatory surcharge of
18 three hundred dollars and a crime victim assistance fee of twenty-five
19 dollars;

20 (ii) a person convicted of a misdemeanor shall pay a mandatory
21 surcharge of one hundred seventy-five dollars and a crime victim assist-
22 ance fee of twenty-five dollars;

23 (iii) a person convicted of a violation shall pay a mandatory
24 surcharge of ninety-five dollars and a crime victim assistance fee of
25 twenty-five dollars;

26 (iv) a person convicted of a sex offense as defined by subdivision two
27 of section one hundred sixty-eight-a of the correction law or a sexually
28 violent offense as defined by subdivision three of section one hundred
29 sixty-eight-a of the correction law shall, in addition to a mandatory
30 surcharge and crime victim assistance fee, pay a sex offender registra-
31 tion fee of fifty dollars[.];

32 (v) a person convicted of a designated offense as defined by subdivi-
33 sion seven of section nine hundred ninety-five of the executive law
34 shall, in addition to a mandatory surcharge and crime victim assistance
35 fee, pay a DNA databank fee of fifty dollars[.];

36 (VI) A PERSON CONVICTED OF ANY OFFENSE WHERE THE COMPLAINANT OF SUCH
37 OFFENSE IS A MEMBER OF THE SAME FAMILY OR HOUSEHOLD AS THE CONVICTED
38 PERSON SHALL, IN ADDITION TO A MANDATORY SURCHARGE AND CRIME VICTIM
39 ASSISTANCE FEE, PAY ANY OTHER FEE REQUIRED BY THIS ARTICLE, AND PAY A
40 DOMESTIC VIOLENCE VICTIM ASSISTANCE FEE IN THE AMOUNT OF TWO HUNDRED
41 FIFTY DOLLARS. FOR THE PURPOSES OF THIS SUBDIVISION, "MEMBER OF THE SAME
42 FAMILY OR HOUSEHOLD" SHALL HAVE THE SAME MEANING AS DEFINED IN SECTION
43 530.11 OF THE CRIMINAL PROCEDURE LAW.

44 (b) When the felony or misdemeanor conviction in subparagraphs (i),
45 (ii) or (iv) of paragraph (a) of this subdivision results from an
46 offense contained in article one hundred thirty of this chapter, incest
47 in the third, second or first degree as defined in sections 255.25,
48 255.26 and 255.27 of this chapter or an offense contained in article two
49 hundred sixty-three of this chapter, the person convicted shall pay a
50 supplemental sex offender victim fee of one thousand dollars in addition
51 to the mandatory surcharge and any other fee.

52 2. Where a person is convicted of two or more crimes or violations
53 committed through a single act or omission, or through an act or omis-
54 sion which in itself constituted one of the crimes or violations and
55 also was a material element of the other, the court shall impose a
56 mandatory surcharge and a crime victim assistance fee, and where appro-

1 priate a supplemental sex offender victim fee OR DOMESTIC VIOLENCE
2 VICTIM ASSISTANCE FEE, in accordance with the provisions of this section
3 for the crime or violation which carries the highest classification, and
4 no other sentence to pay a mandatory surcharge, crime victim assistance
5 fee [or], supplemental sex offender victim fee OR DOMESTIC VIOLENCE
6 VICTIM ASSISTANCE FEE required by this section shall be imposed. Where a
7 person is convicted of two or more sex offenses or sexually violent
8 offenses, as defined by subdivisions two and three of section one
9 hundred sixty-eight-a of the correction law, committed through a single
10 act or omission, or through an act or omission which in itself consti-
11 tuted one of the offenses and also was a material element of the other,
12 the court shall impose only one sex offender registration fee. Where a
13 person is convicted of two or more designated offenses, as defined by
14 subdivision seven of section nine hundred ninety-five of the executive
15 law, committed through a single act or omission, or through an act or
16 omission which in itself constituted one of the offenses and also was a
17 material element of the other, the court shall impose only one DNA data-
18 bank fee.

19 3. The mandatory surcharge, sex offender registration fee, DNA data-
20 bank fee, crime victim assistance fee, [and] supplemental sex offender
21 victim fee AND DOMESTIC VIOLENCE VICTIM ASSISTANCE FEE provided for in
22 subdivision one of this section shall be paid to the clerk of the court
23 or administrative tribunal that rendered the conviction. Within the
24 first ten days of the month following collection of the mandatory
25 surcharge, crime victim assistance fee, and supplemental sex offender
26 victim fee, the collecting authority shall determine the amount of
27 mandatory surcharge, crime victim assistance fee, [and] supplemental sex
28 offender victim fee AND DOMESTIC VIOLENCE VICTIM ASSISTANCE FEE
29 collected and, if it is an administrative tribunal, or a town or village
30 justice court, it shall then pay such money to the state comptroller who
31 shall deposit such money in the state treasury pursuant to section one
32 hundred twenty-one of the state finance law to the credit of the crimi-
33 nal justice improvement account established by section ninety-seven-bb
34 of the state finance law. Within the first ten days of the month follow-
35 ing collection of the sex offender registration fee and DNA databank
36 fee, the collecting authority shall determine the amount of the sex
37 offender registration fee and DNA databank fee collected and, if it is
38 an administrative tribunal, or a town or village justice court, it shall
39 then pay such money to the state comptroller who shall deposit such
40 money in the state treasury pursuant to section one hundred twenty-one
41 of the state finance law to the credit of the general fund. If such
42 collecting authority is any other court of the unified court system, it
43 shall, within such period, pay such money attributable to the mandatory
44 surcharge or crime victim assistance fee to the state commissioner of
45 taxation and finance to the credit of the criminal justice improvement
46 account established by section ninety-seven-bb of the state finance law.
47 If such collecting authority is any other court of the unified court
48 system, it shall, within such period, pay such money attributable to the
49 sex offender registration fee and the DNA databank fee to the state
50 commissioner of taxation and finance to the credit of the general fund.
51 NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBDIVISION, ALL MONIES PAID
52 TO THE STATE COMPTROLLER OR TO THE COMMISSIONER OF TAXATION AND FINANCE
53 WHICH ARE ATTRIBUTABLE TO MONIES COLLECTED FOR THE DOMESTIC VIOLENCE
54 VICTIMS ASSISTANCE FEE SHALL BE CREDITED TO THE OFFICE FOR THE
55 PREVENTION OF DOMESTIC VIOLENCE AND SHALL BE USED FOR TRAINING OF LAW
56 ENFORCEMENT PERSONNEL IN ISSUES INVOLVING DOMESTIC VIOLENCE.

1 S 10. Subdivisions 8 and 10 of section 60.35 of the penal law, subdi-
2 vision 8 as amended by section 121 of subpart B of part C of chapter 62
3 of the laws of 2011 and subdivision 10 as amended by section 2 of part Y
4 of chapter 56 of the laws of 2008, are amended to read as follows:

5 8. Subdivision one of section 130.10 of the criminal procedure law
6 notwithstanding, at the time that the mandatory surcharge, sex offender
7 registration fee or DNA databank fee, crime victim assistance fee,
8 DOMESTIC VIOLENCE VICTIM ASSISTANCE FEE or supplemental sex offender
9 victim fee is imposed a town or village court may, and all other courts
10 shall, issue and cause to be served upon the person required to pay the
11 mandatory surcharge, sex offender registration fee or DNA databank fee,
12 crime victim assistance fee, DOMESTIC VIOLENCE VICTIM ASSISTANCE FEE or
13 supplemental sex offender victim fee, a summons directing that such
14 person appear before the court regarding the payment of the mandatory
15 surcharge, sex offender registration fee or DNA databank fee, crime
16 victim assistance fee, DOMESTIC VIOLENCE VICTIM ASSISTANCE FEE or
17 supplemental sex offender victim fee, if after sixty days from the date
18 it was imposed it remains unpaid. The designated date of appearance on
19 the summons shall be set for the first day court is in session falling
20 after the sixtieth day from the imposition of the mandatory surcharge,
21 sex offender registration fee or DNA databank fee, crime victim assist-
22 ance fee or supplemental sex offender victim fee. The summons shall
23 contain the information required by subdivision two of section 130.10 of
24 the criminal procedure law except that in substitution for the require-
25 ment of paragraph (c) of such subdivision the summons shall state that
26 the person served must appear at a date, time and specific location
27 specified in the summons if after sixty days from the date of issuance
28 the mandatory surcharge, sex offender registration fee or DNA databank
29 fee, crime victim assistance fee, DOMESTIC VIOLENCE VICTIM ASSISTANCE
30 FEE or supplemental sex offender victim fee remains unpaid. The court
31 shall not issue a summons under this subdivision to a person who is
32 being sentenced to a term of confinement in excess of sixty days in jail
33 or in the department of corrections and community supervision. The
34 mandatory surcharges, sex offender registration fee and DNA databank
35 fees, crime victim assistance fees, DOMESTIC VIOLENCE VICTIM ASSISTANCE
36 FEES and supplemental sex offender victim fees for those persons shall
37 be governed by the provisions of section 60.30 of this article.

38 10. The provisions of this section shall apply to sentences imposed
39 upon a youthful offender finding; provided, however that the court shall
40 not impose the sex offender registration fee, DNA databank fee [or],
41 supplemental sex offender victim fee, OR DOMESTIC VIOLENCE VICTIM
42 ASSISTANCE FEE as defined in subparagraphs (iv) [and], (v) AND (VI) of
43 paragraph (a) and paragraph (b) of subdivision one of this section, for
44 an offense in which the conviction was substituted with a youthful
45 offender finding.

46 S 11. Subdivision 3 and the closing paragraph of section 215.52 of the
47 penal law, subdivision 3 as added and the closing paragraph as amended
48 by chapter 350 of the laws of 2006, are amended to read as follows:

49 3. he or she commits the crime of criminal contempt in the first
50 degree, as defined in paragraph (i), (ii), (iii), (v) or (vi) of subdi-
51 vision (b) or subdivision (c) of section 215.51 of this article, and has
52 been previously convicted of the crime of criminal contempt in the first
53 degree, as defined in such subdivision (b), (c) or (d) of section 215.51
54 of this article, within the preceding [five] TEN years.

55 Aggravated criminal contempt is a class [D] C felony.

1 S 12. Paragraphs (b) and (c) of subdivision 1 of section 70.02 of the
2 penal law, paragraph (b) as amended by chapter 148 of the laws of 2011,
3 paragraph (c) as amended by chapter 405 of the laws of 2010, are amended
4 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, assault on a
12 judge as defined in section 120.09, gang assault in the second degree as
13 defined in section 120.06, strangulation in the first degree as defined
14 in section 121.13, burglary in the second degree as defined in section
15 140.25, robbery in the second degree as defined in section 160.10,
16 AGGRAVATED CRIMINAL CONTEMPT AS DEFINED IN SECTION 215.52, criminal
17 possession of a weapon in the second degree as defined in section
18 265.03, criminal use of a firearm in the second degree as defined in
19 section 265.08, criminal sale of a firearm in the second degree as
20 defined in section 265.12, criminal sale of a firearm with the aid of a
21 minor as defined in section 265.14, soliciting or providing support for
22 an act of terrorism in the first degree as defined in section 490.15,
23 hindering prosecution of terrorism in the second degree as defined in
24 section 490.30, and criminal possession of a chemical weapon or biolog-
25 ical weapon in the third degree as defined in section 490.37.

26 (c) Class D violent felony offenses: an attempt to commit any of the
27 class C felonies set forth in paragraph (b); reckless assault of a child
28 as defined in section 120.02, assault in the second degree as defined in
29 section 120.05, menacing a police officer or peace officer as defined in
30 section 120.18, stalking in the first degree, as defined in subdivision
31 one of section 120.60, strangulation in the second degree as defined in
32 section 121.12, rape in the second degree as defined in section 130.30,
33 criminal sexual act in the second degree as defined in section 130.45,
34 sexual abuse in the first degree as defined in section 130.65, course of
35 sexual conduct against a child in the second degree as defined in
36 section 130.80, aggravated sexual abuse in the third degree as defined
37 in section 130.66, facilitating a sex offense with a controlled
38 substance as defined in section 130.90, CRIMINAL CONTEMPT IN THE FIRST
39 DEGREE AS DEFINED IN SUBDIVISION (B), (C) OR (D) OF SECTION 215.51,
40 criminal possession of a weapon in the third degree as defined in subdi-
41 vision five, six, seven or eight of section 265.02, criminal sale of a
42 firearm in the third degree as defined in section 265.11, intimidating a
43 victim or witness in the second degree as defined in section 215.16,
44 soliciting or providing support for an act of terrorism in the second
45 degree as defined in section 490.10, and making a terroristic threat as
46 defined in section 490.20, falsely reporting an incident in the first
47 degree as defined in section 240.60, placing a false bomb or hazardous
48 substance in the first degree as defined in section 240.62, placing a
49 false bomb or hazardous substance in a sports stadium or arena, mass
50 transportation facility or enclosed shopping mall as defined in section
51 240.63, and aggravated unpermitted use of indoor pyrotechnics in the
52 first degree as defined in section 405.18.

53 S 13. Paragraph (b) of subdivision 2 of section 510.30 of the criminal
54 procedure law is relettered paragraph (c) and a new paragraph (b) is
55 added to read as follows:

1 (B) WHERE THE PRINCIPAL IS CHARGED WITH A CRIME OR CRIMES AGAINST A
2 MEMBER OR MEMBERS OF THE SAME FAMILY OR HOUSEHOLD AS THAT TERM IS
3 DEFINED IN SUBDIVISION ONE OF SECTION 530.11 OF THIS TITLE, THE COURT
4 MUST, ON THE BASIS OF AVAILABLE INFORMATION, CONSIDER AND TAKE INTO
5 ACCOUNT THE DANGER OF INTIMIDATION OR INJURY BY THE PRINCIPAL TO A
6 WITNESS IN THE CASE, INCLUDING THE FOLLOWING FACTORS:

7 (I) ANY HISTORY OF PRIOR ACTS OF VIOLENCE OR THREATS OF VIOLENCE
8 AGAINST A WITNESS IN THE PENDING CRIMINAL ACTION; AND

9 (II) ANY ORDER OF PROTECTION ISSUED BY ANY COURT AGAINST THE PRINCIPAL
10 FOR THE PROTECTION OF A MEMBER OR MEMBERS OF THE SAME FAMILY OR HOUSE-
11 HOLD AS THAT TERM IS DEFINED IN SUBDIVISION ONE OF SECTION 530.11 OF
12 THIS TITLE, WHETHER OR NOT SUCH ORDER IS CURRENTLY IN EFFECT; AND

13 (III) ANY PRIOR ARREST OR CONVICTION FOR A CRIME OR VIOLATION AGAINST
14 A MEMBER OR MEMBERS OF THE SAME FAMILY OR HOUSEHOLD AS THAT TERM IS
15 DEFINED IN SUBDIVISION ONE OF SECTION 530.11 OF THIS TITLE; AND

16 (IV) ANY VIOLATION OF AN ORDER OF PROTECTION ISSUED BY ANY COURT
17 AGAINST THE PRINCIPAL FOR THE PROTECTION OF A MEMBER OR MEMBERS OF THE
18 SAME FAMILY OR HOUSEHOLD AS THAT TERM IS DEFINED IN SUBDIVISION ONE OF
19 SECTION 530.11 OF THIS TITLE; AND

20 (V) THE PRINCIPAL'S HISTORY OF USE OR POSSESSION OF A FIREARM.

21 S 14. This act shall take effect on the first of November next
22 succeeding the date on which it shall have become a law.