

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sens. MARCELLINO, LARKIN, MAZIARZ, RANZENHOFER -- 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 increasing penalties for first, second, third and fourth degree stalking

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

1 Section 1. The closing paragraph of section 120.45 of the penal law,
2 as added by chapter 635 of the laws of 1999, is amended to read as
3 follows:
4 Stalking in the fourth degree is a class [B] A misdemeanor.
5 S 2. The closing paragraph of section 120.50 of the penal law, as
6 added by chapter 635 of the laws of 1999, is amended to read as follows:
7 Stalking in the third degree is a class [A misdemeanor] E FELONY.
8 S 3. The closing paragraph of section 120.55 of the penal law, as
9 added by chapter 635 of the laws of 1999, is amended to read as follows:
10 Stalking in the second degree is a class [E] D felony.
11 S 4. The closing paragraph of section 120.60 of the penal law, as
12 amended by chapter 434 of the laws of 2000, is amended to read as
13 follows:
14 Stalking in the first degree is a class [D] C felony.
15 S 5. Paragraphs (b), (c) and (d) of subdivision 1 of section 70.02 of
16 the penal law, paragraphs (b) and (c) as amended by chapter 405 of the
17 laws of 2010 and paragraph (d) as amended by chapter 7 of the laws of
18 2007, are amended to read as follows:
19 (b) Class C violent felony offenses: an attempt to commit any of the
20 class B felonies set forth in paragraph (a) of this subdivision; aggra-
21 vated criminally negligent homicide as defined in section 125.11, aggra-
22 vated manslaughter in the second degree as defined in section 125.21,
23 aggravated sexual abuse in the second degree as defined in section

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

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1 130.67, assault on a peace officer, police officer, fireman or emergency
2 medical services professional as defined in section 120.08, gang assault
3 in the second degree as defined in section 120.06, STALKING IN THE FIRST
4 DEGREE AS DEFINED IN SUBDIVISION ONE OF SECTION 120.60, strangulation in
5 the first degree as defined in section 121.13, burglary in the second
6 degree as defined in section 140.25, robbery in the second degree as
7 defined in section 160.10, criminal possession of a weapon in the second
8 degree as defined in section 265.03, criminal use of a firearm in the
9 second degree as defined in section 265.08, criminal sale of a firearm
10 in the second degree as defined in section 265.12, criminal sale of a
11 firearm with the aid of a minor as defined in section 265.14, soliciting
12 or providing support for an act of terrorism in the first degree as
13 defined in section 490.15, hindering prosecution of terrorism in the
14 second degree as defined in section 490.30, and criminal possession of a
15 chemical weapon or biological weapon in the third degree as defined in
16 section 490.37.

17 (c) Class D violent felony offenses: an attempt to commit any of the
18 class C felonies set forth in paragraph (b); reckless assault of a child
19 as defined in section 120.02, assault in the second degree as defined in
20 section 120.05, menacing a police officer or peace officer as defined in
21 section 120.18, stalking in the [first] SECOND degree, as defined in
22 subdivision one of section [120.60] 120.55, strangulation in the second
23 degree as defined in section 121.12, rape in the second degree as
24 defined in section 130.30, criminal sexual act in the second degree as
25 defined in section 130.45, sexual abuse in the first degree as defined
26 in section 130.65, course of sexual conduct against a child in the
27 second degree as defined in section 130.80, aggravated sexual abuse in
28 the third degree as defined in section 130.66, facilitating a sex
29 offense with a controlled substance as defined in section 130.90, crimi-
30 nal possession of a weapon in the third degree as defined in subdivision
31 five, six, seven or eight of section 265.02, criminal sale of a firearm
32 in the third degree as defined in section 265.11, intimidating a victim
33 or witness in the second degree as defined in section 215.16, soliciting
34 or providing support for an act of terrorism in the second degree as
35 defined in section 490.10, and making a terroristic threat as defined in
36 section 490.20, falsely reporting an incident in the first degree as
37 defined in section 240.60, placing a false bomb or hazardous substance
38 in the first degree as defined in section 240.62, placing a false bomb
39 or hazardous substance in a sports stadium or arena, mass transportation
40 facility or enclosed shopping mall as defined in section 240.63, and
41 aggravated unpermitted use of indoor pyrotechnics in the first degree as
42 defined in section 405.18.

43 (d) Class E violent felony offenses: STALKING IN THE THIRD DEGREE AS
44 DEFINED IN SECTION 120.50, an attempt to commit any of the felonies of
45 criminal possession of a weapon in the third degree as defined in subdi-
46 vision five, six, seven or eight of section 265.02 as a lesser included
47 offense of that section as defined in section 220.20 of the criminal
48 procedure law, persistent sexual abuse as defined in section 130.53,
49 aggravated sexual abuse in the fourth degree as defined in section
50 130.65-a, falsely reporting an incident in the second degree as defined
51 in section 240.55 and placing a false bomb or hazardous substance in the
52 second degree as defined in section 240.61.

53 S 6. This act shall take effect on the first of November next succeed-
54 ing the date on which it shall have become a law.