

924--A

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 -- recommitted to the Committee on Codes in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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, paragraph (b) as amended by chapter 148 of the laws of
17 2011, paragraph (c) as amended by chapter 405 of the laws of 2010 and
18 paragraph (d) as amended by chapter 7 of the laws of 2007, are amended
19 to read as follows:
20 (b) Class C violent felony offenses: an attempt to commit any of the
21 class B felonies set forth in paragraph (a) of this subdivision; aggra-
22 vated criminally negligent homicide as defined in section 125.11, aggra-
23 vated manslaughter in the second degree as defined in section 125.21,
24 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, assault on a
3 judge as defined in section 120.09, gang assault in the second degree as
4 defined in section 120.06, STALKING IN THE FIRST DEGREE AS DEFINED IN
5 SUBDIVISION ONE OF SECTION 120.60, strangulation in the first degree as
6 defined in section 121.13, burglary in the second degree as defined in
7 section 140.25, robbery in the second degree as defined in section
8 160.10, criminal possession of a weapon in the second degree as defined
9 in section 265.03, criminal use of a firearm in the second degree as
10 defined in section 265.08, criminal sale of a firearm in the second
11 degree as defined in section 265.12, criminal sale of a firearm with the
12 aid of a minor as defined in section 265.14, soliciting or providing
13 support for an act of terrorism in the first degree as defined in
14 section 490.15, hindering prosecution of terrorism in the second degree
15 as defined in section 490.30, and criminal possession of a chemical
16 weapon or biological weapon in the third degree as defined in section
17 490.37.

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

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

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