

6328

I N   S E N A T E

January 14, 2014

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Introduced by Sen. MAZIARZ -- 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 assault on a member of an auxiliary police program

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

1     Section 1. This act shall be known and may be cited as the "auxiliary  
2     police officer protection act".

3     S 2. Paragraph (b) of subdivision 1 of section 70.02 of the penal law,  
4     as amended by chapter 1 of the laws of 2013, is amended to read as  
5     follows:

6     (b) Class C violent felony offenses: an attempt to commit any of the  
7     class B felonies set forth in paragraph (a) of this subdivision; aggra-  
8     vated criminally negligent homicide as defined in section 125.11, aggra-  
9     vated manslaughter in the second degree as defined in section 125.21,  
10    aggravated sexual abuse in the second degree as defined in section  
11    130.67, assault on a peace officer, police officer, [fireman or] FIRE-  
12    FIGHTER, emergency medical services professional, OR MEMBER OF AN AUXIL-  
13    IARY POLICE PROGRAM, WHILE ON DUTY, as defined in section 120.08,  
14    assault on a judge as defined in section 120.09, gang assault in the  
15    second degree as defined in section 120.06, strangulation in the first  
16    degree as defined in section 121.13, burglary in the second degree as  
17    defined in section 140.25, robbery in the second degree as defined in  
18    section 160.10, criminal possession of a weapon in the second degree as  
19    defined in section 265.03, criminal use of a firearm in the second  
20    degree as defined in section 265.08, criminal sale of a firearm in the  
21    second degree as defined in section 265.12, criminal sale of a firearm  
22    with the aid of a minor as defined in section 265.14, aggravated crimi-  
23    nal possession of a weapon as defined in section 265.19, soliciting or  
24    providing support for an act of terrorism in the first degree as defined  
25    in section 490.15, hindering prosecution of terrorism in the second  
26    degree as defined in section 490.30, and criminal possession of a chemi-  
27    cal weapon or biological weapon in the third degree as defined in  
28    section 490.37.

29     S 3. Subdivision 3 of section 120.05 of the penal law, as amended by  
30     chapter 259 of the laws of 2013, is amended to read as follows:

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

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1 3. With intent to prevent a peace officer, a police officer, prosecu-  
2 tor as defined in subdivision thirty-one of section 1.20 of the criminal  
3 procedure law, registered nurse, licensed practical nurse, sanitation  
4 enforcement agent, New York city sanitation worker, a firefighter,  
5 including a firefighter acting as a paramedic or emergency medical tech-  
6 nician administering first aid in the course of performance of duty as  
7 such firefighter, an emergency medical service paramedic or emergency  
8 medical service technician, or medical or related personnel in a hospi-  
9 tal emergency department, a city marshal, a traffic enforcement officer  
10 or traffic enforcement agent, OR A MEMBER OF AN AUXILIARY POLICE PROGRAM  
11 ORGANIZED AND MAINTAINED BY A STATE OR LOCAL POLICE DEPARTMENT WHILE  
12 PERFORMING HIS OR HER DUTIES AS SUCH AUXILIARY POLICE OFFICER, from  
13 performing a lawful duty, by means including releasing or failing to  
14 control an animal under circumstances evincing the actor's intent that  
15 the animal obstruct the lawful activity of such peace officer, police  
16 officer, prosecutor as defined in subdivision thirty-one of section 1.20  
17 of the criminal procedure law, registered nurse, licensed practical  
18 nurse, sanitation enforcement agent, New York city sanitation worker,  
19 firefighter, paramedic, technician, city marshal, traffic enforcement  
20 officer or traffic enforcement agent, OR MEMBER OF AN AUXILIARY POLICE  
21 PROGRAM, he or she causes physical injury to such peace officer, police  
22 officer, prosecutor as defined in subdivision thirty-one of section 1.20  
23 of the criminal procedure law, registered nurse, licensed practical  
24 nurse, sanitation enforcement agent, New York city sanitation worker,  
25 firefighter, paramedic, technician or medical or related personnel in a  
26 hospital emergency department, city marshal, traffic enforcement officer  
27 or traffic enforcement agent, OR ON-DUTY MEMBER OF AN AUXILIARY POLICE  
28 PROGRAM; or

29 S 4. Section 120.08 of the penal law, as added by chapter 632 of the  
30 laws of 1996, is amended to read as follows:

31 S 120.08 Assault on a peace officer, police officer, [fireman or] FIRE-  
32 FIGHTER, emergency medical services professional, OR ON-DUTY  
33 MEMBER OF AN AUXILIARY POLICE PROGRAM.

34 A person is guilty of assault on a peace officer, police officer,  
35 [fireman or] FIREFIGHTER, emergency medical services professional, OR  
36 ON-DUTY MEMBER OF AN AUXILIARY POLICE PROGRAM when, with intent to  
37 prevent a peace officer, A police officer, a [fireman] FIREFIGHTER,  
38 including a [fireman] FIREFIGHTER acting as a paramedic or emergency  
39 medical technician administering first aid in the course of performance  
40 of duty as such [fireman] FIREFIGHTER, [or] an emergency medical service  
41 paramedic [or], AN emergency medical service technician, OR A MEMBER OF  
42 AN AUXILIARY POLICE PROGRAM ORGANIZED AND MAINTAINED BY A STATE OR LOCAL  
43 POLICE DEPARTMENT WHILE PERFORMING HIS OR HER DUTIES AS SUCH AUXILIARY  
44 POLICE OFFICER, from performing a lawful duty, he OR SHE causes serious  
45 physical injury to such peace officer, police officer, [fireman] FIRE-  
46 FIGHTER, paramedic [or], technician, OR ON-DUTY MEMBER OF AN AUXILIARY  
47 POLICE PROGRAM.

48 Assault on a peace officer, police officer, [fireman or] FIREFIGHTER,  
49 emergency medical services professional, OR ON-DUTY MEMBER OF AN AUXIL-  
50 IARY POLICE PROGRAM is a class C felony.

51 S 5. This act shall take effect on the ninetieth day after it shall  
52 have become a law provided that if the provisions of chapter 259 of the  
53 laws of 2013 shall not have become a law on or before such date then the  
54 provisions of section three of this act shall take effect on the same  
55 date and same manner as chapter 259 of the laws of 2013 takes effect.