

2131

2015-2016 Regular Sessions

I N S E N A T E

January 21, 2015

Introduced by Sen. SKELOS -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law and the criminal procedure law, in relation to criminalizing acting as a runner or soliciting or employing a runner to procure patients or clients

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

- 1 Section 1. Section 176.00 of the penal law is amended by adding four
2 new subdivisions 6, 7, 8 and 9 to read as follows:
- 3 6. "PROVIDER" MEANS AN ATTORNEY, A HEALTH CARE PROFESSIONAL, AN OWNER
4 OR OPERATOR OF A HEALTH CARE PRACTICE OR FACILITY, ANY PERSON WHO
5 CREATES THE IMPRESSION THAT HE OR SHE, OR HIS OR HER PRACTICE CAN
6 PROVIDE LEGAL OR HEALTH CARE SERVICES, ANY PERSON EMPLOYED OR ACTING ON
7 BEHALF OF ANY SUCH PERSON, OR ANY PERSON PROVIDING MANAGEMENT OR
8 CONSULTING SERVICES TO ANY SUCH PERSON.
- 9 7. "PUBLIC MEDIA" MEANS TELEPHONE DIRECTORIES, PROFESSIONAL DIRECTO-
10 RIES, NEWSPAPERS AND OTHER PERIODICALS, RADIO AND TELEVISION, BILL-
11 BOARDS, AND MAILED OR ELECTRONICALLY TRANSMITTED WRITTEN COMMUNICATIONS
12 THAT DO NOT INVOLVE DIRECT CONTACT WITH A SPECIFIC PROSPECTIVE CLIENT,
13 PATIENT, OR CUSTOMER.
- 14 8. "RUNNER" MEANS A PERSON WHO, FOR A PECUNIARY BENEFIT, PROCURES OR
15 ATTEMPTS TO PROCURE A CLIENT, PATIENT OR CUSTOMER AT THE DIRECTION OF,
16 REQUEST OF OR IN COOPERATION WITH A PROVIDER WHOSE PURPOSE IS TO SEEK TO
17 OBTAIN BENEFITS UNDER A CONTRACT OF INSURANCE OR ASSERT A CLAIM AGAINST
18 AN INSURED OR AN INSURANCE CARRIER FOR PROVIDING SERVICES TO THE CLIENT,
19 PATIENT OR CUSTOMER, OR TO OBTAIN BENEFITS UNDER OR ASSERT A CLAIM
20 AGAINST A STATE OR FEDERAL HEALTH CARE BENEFITS PROGRAM OR PRESCRIPTION
21 DRUG ASSISTANCE PROGRAM. "RUNNER" SHALL NOT INCLUDE (A) A PERSON WHO
22 PROCURES OR ATTEMPTS TO PROCURE CLIENTS, PATIENTS OR CUSTOMERS FOR A
23 PROVIDER THROUGH PUBLIC MEDIA; (B) A PERSON WHO REFERS CLIENTS, PATIENTS
24 OR CUSTOMERS AS OTHERWISE AUTHORIZED BY LAW; OR (C) A PERSON WHO, AS AN

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

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AGENT, BROKER OR EMPLOYEE OF A HEALTH MAINTENANCE ORGANIZATION AS DEFINED IN SECTION FORTY-FOUR HUNDRED ONE OF THE PUBLIC HEALTH LAW, SEEKS TO SELL HEALTH MAINTENANCE ORGANIZATION COVERAGE OR HEALTH INSURANCE COVERAGE TO AN INDIVIDUAL OR GROUP.

9. "PECUNIARY BENEFIT" MEANS GOODS, MONEY, PROPERTY, SERVICES OR ANYTHING OF VALUE, OR AN AGREEMENT TO CONFER OR RECEIVE ANY SUCH GOODS, MONEY, PROPERTY, SERVICES, OR THING OF VALUE.

S 2. The penal law is amended by adding three new sections 176.75, 176.80 and 176.85 to read as follows:

S 176.75 UNLAWFUL PROCUREMENT OF CLIENTS, PATIENTS OR CUSTOMERS IN THE THIRD DEGREE.

A PERSON IS GUILTY OF UNLAWFUL PROCUREMENT OF CLIENTS, PATIENTS OR CUSTOMERS IN THE THIRD DEGREE WHEN HE OR SHE KNOWINGLY:

1. ACTS AS A RUNNER ON ONE OR MORE OCCASIONS; OR

2. USES, SOLICITS, DIRECTS, HIRES OR EMPLOYS ANOTHER PERSON TO ACT AS A RUNNER ON ONE OR MORE OCCASIONS.

UNLAWFUL PROCUREMENT OF CLIENTS, PATIENTS OR CUSTOMERS IN THE THIRD DEGREE IS A CLASS A MISDEMEANOR.

S 176.80 UNLAWFUL PROCUREMENT OF CLIENTS, PATIENTS OR CUSTOMERS IN THE SECOND DEGREE.

A PERSON IS GUILTY OF UNLAWFUL PROCUREMENT OF CLIENTS, PATIENTS OR CUSTOMERS IN THE SECOND DEGREE WHEN HE OR SHE KNOWINGLY:

1. ACTS AS A RUNNER ON ONE OR MORE OCCASIONS FOR A PECUNIARY BENEFIT THAT IN THE AGGREGATE EXCEEDS TWO THOUSAND FIVE HUNDRED DOLLARS IN VALUE OR ACTS AS A RUNNER ON FIVE OR MORE OCCASIONS; OR

2. USES, SOLICITS, DIRECTS, HIRES OR EMPLOYS ONE OR MORE PERSONS TO ACT AS A RUNNER ON ONE OR MORE OCCASIONS FOR A PECUNIARY BENEFIT THAT IN THE AGGREGATE EXCEEDS TWO THOUSAND FIVE HUNDRED DOLLARS IN VALUE OR USES, SOLICITS, DIRECTS, HIRES OR EMPLOYS ONE OR MORE PERSONS TO ACT AS A RUNNER ON FIVE OR MORE OCCASIONS.

UNLAWFUL PROCUREMENT OF CLIENTS, PATIENTS OR CUSTOMERS IN THE SECOND DEGREE IS A CLASS E FELONY.

S 176.85 UNLAWFUL PROCUREMENT OF CLIENTS, PATIENTS OR CUSTOMERS IN THE FIRST DEGREE.

A PERSON IS GUILTY OF UNLAWFUL PROCUREMENT OF CLIENTS, PATIENTS OR CUSTOMERS IN THE FIRST DEGREE WHEN HE OR SHE KNOWINGLY:

1. ACTS AS A RUNNER ON ONE OR MORE OCCASIONS FOR A PECUNIARY BENEFIT THAT IN THE AGGREGATE EXCEEDS FIVE THOUSAND DOLLARS IN VALUE OR ACTS AS A RUNNER ON TEN OR MORE OCCASIONS; OR

2. USES, SOLICITS, DIRECTS, HIRES OR EMPLOYS ONE OR MORE PERSONS TO ACT AS A RUNNER ON ONE OR MORE OCCASIONS FOR A PECUNIARY BENEFIT THAT IN THE AGGREGATE EXCEEDS FIVE THOUSAND DOLLARS OR USES, SOLICITS, DIRECTS, HIRES OR EMPLOYS ONE OR MORE PERSONS TO ACT AS A RUNNER ON TEN OR MORE OCCASIONS.

UNLAWFUL PROCUREMENT OF CLIENTS, PATIENTS OR CUSTOMERS IN THE FIRST DEGREE IS A CLASS D FELONY.

S 3. Paragraph (a) of subdivision 1 of section 460.10 of the penal law, as amended by chapter 37 of the laws of 2014, is amended to read as follows:

(a) Any of the felonies set forth in this chapter: sections 120.05, 120.10 and 120.11 relating to assault; sections 121.12 and 121.13 relating to strangulation; sections 125.10 to 125.27 relating to homicide; sections 130.25, 130.30 and 130.35 relating to rape; sections 135.20 and 135.25 relating to kidnapping; section 135.35 relating to labor trafficking; section 135.65 relating to coercion; sections 140.20, 140.25 and 140.30 relating to burglary; sections 145.05, 145.10 and 145.12

1 relating to criminal mischief; article one hundred fifty relating to
2 arson; sections 155.30, 155.35, 155.40 and 155.42 relating to grand
3 larceny; sections 177.10, 177.15, 177.20 and 177.25 relating to health
4 care fraud; article one hundred sixty relating to robbery; sections
5 165.45, 165.50, 165.52 and 165.54 relating to criminal possession of
6 stolen property; sections 165.72 and 165.73 relating to trademark coun-
7 terfeiting; sections 170.10, 170.15, 170.25, 170.30, 170.40, 170.65 and
8 170.70 relating to forgery; sections 175.10, 175.25, 175.35, 175.40 and
9 210.40 relating to false statements; sections 176.15, 176.20, 176.25 and
10 176.30 relating to insurance fraud; SECTIONS 176.80 AND 176.85 RELATING
11 TO UNLAWFUL PROCUREMENT OF CLIENTS, PATIENTS AND CUSTOMERS; sections
12 178.20 and 178.25 relating to criminal diversion of prescription medica-
13 tions and prescriptions; sections 180.03, 180.08, 180.15, 180.25,
14 180.40, 180.45, 200.00, 200.03, 200.04, 200.10, 200.11, 200.12, 200.20,
15 200.22, 200.25, 200.27, 200.56, 215.00, 215.05 and 215.19; sections
16 187.10, 187.15, 187.20 and 187.25 relating to residential mortgage
17 fraud, sections 190.40 and 190.42 relating to criminal usury; section
18 190.65 relating to schemes to defraud; any felony defined in article
19 four hundred ninety-six; sections 205.60 and 205.65 relating to hinder-
20 ing prosecution; sections 210.10, 210.15, and 215.51 relating to perjury
21 and contempt; section 215.40 relating to tampering with physical
22 evidence; sections 220.06, 220.09, 220.16, 220.18, 220.21, 220.31,
23 220.34, 220.39, 220.41, 220.43, 220.46, 220.55, 220.60, 220.65 and
24 220.77 relating to controlled substances; sections 225.10 and 225.20
25 relating to gambling; sections 230.25, 230.30, and 230.32 relating to
26 promoting prostitution; section 230.34 relating to sex trafficking;
27 sections 235.06, 235.07, 235.21 and 235.22 relating to obscenity;
28 sections 263.10 and 263.15 relating to promoting a sexual performance by
29 a child; sections 265.02, 265.03, 265.04, 265.11, 265.12, 265.13 and the
30 provisions of section 265.10 which constitute a felony relating to
31 firearms and other dangerous weapons; sections 265.14 and 265.16 relat-
32 ing to criminal sale of a firearm; section 275.10, 275.20, 275.30, or
33 275.40 relating to unauthorized recordings; and sections 470.05, 470.10,
34 470.15 and 470.20 relating to money laundering; or

35 S. 4. Paragraph (b) of subdivision 8 of section 700.05 of the criminal
36 procedure law, as amended by chapter 405 of the laws of 2010, is amended
37 to read as follows:

38 (b) Any of the following felonies: assault in the second degree as
39 defined in section 120.05 of the penal law, assault in the first degree
40 as defined in section 120.10 of the penal law, reckless endangerment in
41 the first degree as defined in section 120.25 of the penal law, promot-
42 ing a suicide attempt as defined in section 120.30 of the penal law,
43 strangulation in the second degree as defined in section 121.12 of the
44 penal law, strangulation in the first degree as defined in section
45 121.13 of the penal law, criminally negligent homicide as defined in
46 section 125.10 of the penal law, manslaughter in the second degree as
47 defined in section 125.15 of the penal law, manslaughter in the first
48 degree as defined in section 125.20 of the penal law, murder in the
49 second degree as defined in section 125.25 of the penal law, murder in
50 the first degree as defined in section 125.27 of the penal law, abortion
51 in the second degree as defined in section 125.40 of the penal law,
52 abortion in the first degree as defined in section 125.45 of the penal
53 law, rape in the third degree as defined in section 130.25 of the penal
54 law, rape in the second degree as defined in section 130.30 of the penal
55 law, rape in the first degree as defined in section 130.35 of the penal
56 law, criminal sexual act in the third degree as defined in section

1 130.40 of the penal law, criminal sexual act in the second degree as
2 defined in section 130.45 of the penal law, criminal sexual act in the
3 first degree as defined in section 130.50 of the penal law, sexual abuse
4 in the first degree as defined in section 130.65 of the penal law,
5 unlawful imprisonment in the first degree as defined in section 135.10
6 of the penal law, kidnapping in the second degree as defined in section
7 135.20 of the penal law, kidnapping in the first degree as defined in
8 section 135.25 of the penal law, labor trafficking as defined in section
9 135.35 of the penal law, custodial interference in the first degree as
10 defined in section 135.50 of the penal law, coercion in the first degree
11 as defined in section 135.65 of the penal law, criminal trespass in the
12 first degree as defined in section 140.17 of the penal law, burglary in
13 the third degree as defined in section 140.20 of the penal law, burglary
14 in the second degree as defined in section 140.25 of the penal law,
15 burglary in the first degree as defined in section 140.30 of the penal
16 law, criminal mischief in the third degree as defined in section 145.05
17 of the penal law, criminal mischief in the second degree as defined in
18 section 145.10 of the penal law, criminal mischief in the first degree
19 as defined in section 145.12 of the penal law, criminal tampering in the
20 first degree as defined in section 145.20 of the penal law, arson in the
21 fourth degree as defined in section 150.05 of the penal law, arson in
22 the third degree as defined in section 150.10 of the penal law, arson in
23 the second degree as defined in section 150.15 of the penal law, arson
24 in the first degree as defined in section 150.20 of the penal law, grand
25 larceny in the fourth degree as defined in section 155.30 of the penal
26 law, grand larceny in the third degree as defined in section 155.35 of
27 the penal law, grand larceny in the second degree as defined in section
28 155.40 of the penal law, grand larceny in the first degree as defined in
29 section 155.42 of the penal law, health care fraud in the fourth degree
30 as defined in section 177.10 of the penal law, health care fraud in the
31 third degree as defined in section 177.15 of the penal law, health care
32 fraud in the second degree as defined in section 177.20 of the penal
33 law, health care fraud in the first degree as defined in section 177.25
34 of the penal law, robbery in the third degree as defined in section
35 160.05 of the penal law, robbery in the second degree as defined in
36 section 160.10 of the penal law, robbery in the first degree as defined
37 in section 160.15 of the penal law, unlawful use of secret scientific
38 material as defined in section 165.07 of the penal law, criminal
39 possession of stolen property in the fourth degree as defined in section
40 165.45 of the penal law, criminal possession of stolen property in the
41 third degree as defined in section 165.50 of the penal law, criminal
42 possession of stolen property in the second degree as defined by section
43 165.52 of the penal law, criminal possession of stolen property in the
44 first degree as defined by section 165.54 of the penal law, trademark
45 counterfeiting in the second degree as defined in section 165.72 of the
46 penal law, trademark counterfeiting in the first degree as defined in
47 section 165.73 of the penal law, forgery in the second degree as defined
48 in section 170.10 of the penal law, forgery in the first degree as
49 defined in section 170.15 of the penal law, criminal possession of a
50 forged instrument in the second degree as defined in section 170.25 of
51 the penal law, criminal possession of a forged instrument in the first
52 degree as defined in section 170.30 of the penal law, criminal
53 possession of forgery devices as defined in section 170.40 of the penal
54 law, falsifying business records in the first degree as defined in
55 section 175.10 of the penal law, tampering with public records in the
56 first degree as defined in section 175.25 of the penal law, offering a

1 false instrument for filing in the first degree as defined in section
2 175.35 of the penal law, issuing a false certificate as defined in
3 section 175.40 of the penal law, UNLAWFUL PROCUREMENT OF CLIENTS,
4 PATIENTS OR CUSTOMERS IN THE SECOND DEGREE AS DEFINED IN SECTION 176.80
5 OF THE PENAL LAW, UNLAWFUL PROCUREMENT OF CLIENTS, PATIENTS OR CUSTOMERS
6 IN THE FIRST DEGREE AS DEFINED IN SECTION 176.85 OF THE PENAL LAW, crim-
7 inal diversion of prescription medications and prescriptions in the
8 second degree as defined in section 178.20 of the penal law, criminal
9 diversion of prescription medications and prescriptions in the first
10 degree as defined in section 178.25 of the penal law, residential mort-
11 gage fraud in the fourth degree as defined in section 187.10 of the
12 penal law, residential mortgage fraud in the third degree as defined in
13 section 187.15 of the penal law, residential mortgage fraud in the
14 second degree as defined in section 187.20 of the penal law, residential
15 mortgage fraud in the first degree as defined in section 187.25 of the
16 penal law, escape in the second degree as defined in section 205.10 of
17 the penal law, escape in the first degree as defined in section 205.15
18 of the penal law, absconding from temporary release in the first degree
19 as defined in section 205.17 of the penal law, promoting prison contra-
20 band in the first degree as defined in section 205.25 of the penal law,
21 hindering prosecution in the second degree as defined in section 205.60
22 of the penal law, hindering prosecution in the first degree as defined
23 in section 205.65 of the penal law, sex trafficking as defined in
24 section 230.34 of the penal law, criminal possession of a weapon in the
25 third degree as defined in subdivisions two, three and five of section
26 265.02 of the penal law, criminal possession of a weapon in the second
27 degree as defined in section 265.03 of the penal law, criminal
28 possession of a weapon in the first degree as defined in section 265.04
29 of the penal law, manufacture, transport, disposition and defacement of
30 weapons and dangerous instruments and appliances defined as felonies in
31 subdivisions one, two, and three of section 265.10 of the penal law,
32 sections 265.11, 265.12 and 265.13 of the penal law, or prohibited use
33 of weapons as defined in subdivision two of section 265.35 of the penal
34 law, relating to firearms and other dangerous weapons, or failure to
35 disclose the origin of a recording in the first degree as defined in
36 section 275.40 of the penal law;

37 S 5. This act shall take effect on the first of November next succeed-
38 ing the date upon which it shall have become a law.