S T A T E O F N E W Y O R K

7100

2015-2016 Regular Sessions

I N A S S E M B L Y

April 23, 2015

Introduced by M. of A. McDONALD -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to expanding the description of burglary in the first degree; and to amend the correction law, in relation to expanding the definition of "sex offense"

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

Section 1. Subdivision 4 of section 140.30 of the penal law, as amended by chapter 374 of the laws of 1973, is amended and a new subdivision 5 is added to read as follows:

4. Displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; except that in any prosecution under this subdivision, it is an affirmative defense that such pistol, revolver, rifle, shotgun, machine gun or other firearm was not a loaded weapon from which a shot, readily capable of producing death or other serious physical injury, could be discharged. Nothing contained in this subdivision shall constitute a defense to a prosecution for, or preclude a conviction of, burglary in the second degree, burglary in the third degree or any other crime; OR

5. IS CONVICTED OF BURGLARY IN THE SECOND DEGREE AND DURING THE COURSE OF THE CRIME OR THE IMMEDIATE FLIGHT THEREFROM COMMITS ANY FELONY PURSUANT TO ARTICLE ONE HUNDRED THIRTY OF THIS CHAPTER.

S 2. Paragraph (a) of subdivision 2 of section 168-a of the correction law, as amended by chapter 405 of the laws of 2008, is amended to read as follows:

(a) (i) a conviction of or a conviction for an attempt to commit any of the provisions of sections 120.70, 130.20, 130.25, 130.30, 130.40, 130.45, 130.60, 230.34, 250.50, 255.25, 255.26 and 255.27 or article two hundred sixty-three of the penal law, or section 135.05, 135.10, 135.20 or 135.25 of such law relating to kidnapping offenses, provided the victim of such kidnapping or related offense is less than seventeen

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

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years old and the offender is not the parent of the victim, or section 230.04, where the person patronized is in fact less than seventeen years of age, 230.05 or 230.06, or subdivision two of section 230.30, or section 230.32 or 230.33 of the penal law, OR SUBDIVISION FIVE OF SECTION 140.30 OF THE PENAL LAW, or (ii) a conviction of or a conviction for an attempt to commit any of the provisions of section 235.22 of the penal law, or (iii) a conviction of or a conviction for an attempt to commit any provisions of the foregoing sections committed or attempted as a hate crime defined in section 485.05 of the penal law or as a crime of terrorism defined in section 490.25 of such law or as a sexually motivated felony defined in section 130.91 of such law; or

S 3. This act shall take effect immediately.