

STATE OF NEW YORK

S. 2983

A. 2342

2017-2018 Regular Sessions

SENATE - ASSEMBLY

January 18, 2017

IN SENATE -- Introduced by Sens. GOLDEN, YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

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

AN ACT to amend the penal law, in relation to promoting prostitution, patronizing a prostitute and permitting prostitution; and to amend the correction law, in relation to designating permitting prostitution in the first degree as a sex offense for the purposes of the sex offender registration act

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraphs (a), (b), (c) and (d) of subdivision 1 of
2 section 70.02 of the penal law, paragraphs (a) and (c) as amended by
3 chapter 368 of the laws of 2015, paragraph (b) as amended by chapter 1
4 of the laws of 2013, and paragraph (d) as amended by chapter 7 of the
5 laws of 2007, are amended to read as follows:
6 (a) Class B violent felony offenses: an attempt to commit the class
7 A-I felonies of murder in the second degree as defined in section
8 125.25, kidnapping in the first degree as defined in section 135.25, and
9 arson in the first degree as defined in section 150.20; manslaughter in
10 the first degree as defined in section 125.20, aggravated manslaughter
11 in the first degree as defined in section 125.22, rape in the first
12 degree as defined in section 130.35, criminal sexual act in the first
13 degree as defined in section 130.50, aggravated sexual abuse in the
14 first degree as defined in section 130.70, course of sexual conduct
15 against a child in the first degree as defined in section 130.75[+],
16 promoting prostitution in the first degree as defined in section 230.32,
17 assault in the first degree as defined in section 120.10, kidnapping in
18 the second degree as defined in section 135.20, burglary in the first
19 degree as defined in section 140.30, arson in the second degree as

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

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1 defined in section 150.15, robbery in the first degree as defined in
2 section 160.15, sex trafficking as defined in paragraphs (a) and (b) of
3 subdivision five of section 230.34, incest in the first degree as
4 defined in section 255.27, criminal possession of a weapon in the first
5 degree as defined in section 265.04, criminal use of a firearm in the
6 first degree as defined in section 265.09, criminal sale of a firearm in
7 the first degree as defined in section 265.13, aggravated assault upon a
8 police officer or a peace officer as defined in section 120.11, gang
9 assault in the first degree as defined in section 120.07, intimidating a
10 victim or witness in the first degree as defined in section 215.17,
11 hindering prosecution of terrorism in the first degree as defined in
12 section 490.35, criminal possession of a chemical weapon or biological
13 weapon in the second degree as defined in section 490.40, and criminal
14 use of a chemical weapon or biological weapon in the third degree as
15 defined in section 490.47.

16 (b) Class C violent felony offenses: an attempt to commit any of the
17 class B felonies set forth in paragraph (a) of this subdivision; aggra-
18 vated criminally negligent homicide as defined in section 125.11, aggra-
19 vated manslaughter in the second degree as defined in section 125.21,
20 aggravated sexual abuse in the second degree as defined in section
21 130.67, patronizing a person for prostitution in the first degree as
22 defined in section 230.06, promoting prostitution in the second degree
23 as defined in subdivision two of section 230.30, assault on a peace
24 officer, police officer, fireman or emergency medical services profes-
25 sional as defined in section 120.08, assault on a judge as defined in
26 section 120.09, gang assault in the second degree as defined in section
27 120.06, strangulation in the first degree as defined in section 121.13,
28 burglary in the second degree as defined in section 140.25, robbery in
29 the second degree as defined in section 160.10, criminal possession of a
30 weapon in the second degree as defined in section 265.03, criminal use
31 of a firearm in the second degree as defined in section 265.08, criminal
32 sale of a firearm in the second degree as defined in section 265.12,
33 criminal sale of a firearm with the aid of a minor as defined in section
34 265.14, aggravated criminal possession of a weapon as defined in section
35 265.19, soliciting or providing support for an act of terrorism in the
36 first degree as defined in section 490.15, hindering prosecution of
37 terrorism in the second degree as defined in section 490.30, and crimi-
38 nal possession of a chemical weapon or biological weapon in the third
39 degree as defined in section 490.37.

40 (c) Class D violent felony offenses: an attempt to commit any of the
41 class C felonies set forth in paragraph (b); reckless assault of a child
42 as defined in section 120.02, assault in the second degree as defined in
43 section 120.05, menacing a police officer or peace officer as defined in
44 section 120.18, stalking in the first degree, as defined in subdivision
45 one of section 120.60, strangulation in the second degree as defined in
46 section 121.12, rape in the second degree as defined in section 130.30,
47 criminal sexual act in the second degree as defined in section 130.45,
48 sexual abuse in the first degree as defined in section 130.65, course of
49 sexual conduct against a child in the second degree as defined in
50 section 130.80, aggravated sexual abuse in the third degree as defined
51 in section 130.66, facilitating a sex offense with a controlled
52 substance as defined in section 130.90, labor trafficking as defined in
53 paragraphs (a) and (b) of subdivision three of section 135.35, patroniz-
54 ing a person for prostitution in the second degree as defined in section
55 230.05, promoting prostitution in the third degree as defined in subdi-
56 vision two of section 230.25, criminal possession of a weapon in the

1 third degree as defined in subdivision five, six, seven, eight, nine or
2 ten of section 265.02, criminal sale of a firearm in the third degree as
3 defined in section 265.11, intimidating a victim or witness in the
4 second degree as defined in section 215.16, soliciting or providing
5 support for an act of terrorism in the second degree as defined in
6 section 490.10, and making a terroristic threat as defined in section
7 490.20, falsely reporting an incident in the first degree as defined in
8 section 240.60, placing a false bomb or hazardous substance in the first
9 degree as defined in section 240.62, placing a false bomb or hazardous
10 substance in a sports stadium or arena, mass transportation facility or
11 enclosed shopping mall as defined in section 240.63, and aggravated
12 unpermitted use of indoor pyrotechnics in the first degree as defined in
13 section 405.18.

14 (d) Class E violent felony offenses: an attempt to commit any of the
15 felonies of criminal possession of a weapon in the third degree as
16 defined in subdivision five, six, seven or eight of section 265.02 as a
17 lesser included offense of that section as defined in section 220.20 of
18 the criminal procedure law, persistent sexual abuse as defined in
19 section 130.53, aggravated sexual abuse in the fourth degree as defined
20 in section 130.65-a, patronizing a person for prostitution in the third
21 degree as defined in section 230.04, falsely reporting an incident in
22 the second degree as defined in section 240.55 and placing a false bomb
23 or hazardous substance in the second degree as defined in section
24 240.61.

25 § 2. Subdivision 5 of section 60.05 of the penal law, as amended by
26 chapter 405 of the laws of 2010, is amended to read as follows:

27 5. Certain class D felonies. Except as provided in subdivision six of
28 this section, every person convicted of the class D felonies of assault
29 in the second degree as defined in section 120.05, strangulation in the
30 second degree as defined in section 121.12 [~~or attempt to commit a class~~
31 ~~C felony as defined in section 230.30 of this chapter,~~] must be
32 sentenced in accordance with section 70.00 or 85.00 of this title.

33 § 3. The closing paragraph of section 230.04 of the penal law, as
34 amended by chapter 368 of the laws of 2015, is amended to read as
35 follows:

36 Patronizing a person for prostitution in the third degree is a class
37 [~~A misdemeanor~~] E felony.

38 § 4. The closing paragraph of section 230.05 of the penal law, as
39 amended by chapter 368 of the laws of 2015, is amended to read as
40 follows:

41 Patronizing a person for prostitution in the second degree is a class
42 [~~E~~] D felony.

43 § 5. The closing paragraph of section 230.06 of the penal law, as
44 amended by chapter 368 of the laws of 2015, is amended to read as
45 follows:

46 Patronizing a person for prostitution in the first degree is a class
47 [~~D~~] C felony.

48 § 6. Section 230.40 of the penal law, the opening paragraph as amended
49 by chapter 368 of the laws of 2015, is amended to read as follows:

50 § 230.40 Permitting prostitution in the second degree.

51 A person is guilty of permitting prostitution in the second degree
52 when, having possession or control of premises or vehicle which he or
53 she knows are being used for prostitution purposes or for the purpose of
54 advancing prostitution, he or she fails to make reasonable effort to
55 halt or abate such use.

1 Permitting prostitution in the second degree is a class [B] A misde-
2 meanor.

3 § 7. The penal law is amended by adding a new section 230.45 to read
4 as follows:

5 § 230.45 Permitting prostitution in the first degree.

6 A person is guilty of permitting prostitution in the first degree when
7 having possession or control of premises which he or she knows are being
8 used for prostitution purposes including the prostitution of a child
9 less than seventeen years of age, he or she fails to make reasonable
10 effort to halt or abate such use.

11 Permitting prostitution in the first degree is a class E felony.

12 § 8. Subparagraph (i) of paragraph (a) of subdivision 2 of section
13 168-a of the correction law, as amended by chapter 368 of the laws of
14 2015, is amended to read as follows:

15 (i) a conviction of or a conviction for an attempt to commit any [~~of~~
16 ~~the provisions~~] provision of [~~sections~~] section 120.70, 130.20, 130.25,
17 130.30, 130.40, 130.45, 130.60, 230.34, 250.50, 255.25, 255.26 and
18 255.27 or article two hundred sixty-three of the penal law, or section
19 135.05, 135.10, 135.20 or 135.25 of such law relating to kidnapping
20 offenses, provided the victim of such kidnapping or related offense is
21 less than seventeen years old and the offender is not the parent of the
22 victim, or section 230.04, where the person patronized is in fact less
23 than seventeen years of age, 230.05, 230.06, 230.11, 230.12, 230.13,
24 subdivision two of section 230.30, section 230.32, 230.33, [~~or~~] 230.34,
25 or 230.45 of the penal law, or section 230.25 of the penal law where the
26 person prostituted is in fact less than seventeen years old, or

27 § 9. This act shall take effect on the first of November next succeed-
28 ing the date on which it shall have become a law.