

STATE OF NEW YORK

424

2017-2018 Regular Sessions

IN SENATE

(Prefiled)

January 4, 2017

Introduced by Sen. SEWARD -- 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

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

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1 or customers as otherwise authorized by law; or (c) a person who, as an
2 agent, broker or employee of a health maintenance organization as
3 defined in section forty-four hundred one of the public health law,
4 seeks to sell health maintenance organization coverage or health insur-
5 ance coverage to an individual or group.

6 9. "Pecuniary benefit" means goods, money, property, services or
7 anything of value, or an agreement to confer or receive any such goods,
8 money, property, services, or thing of value.

9 § 2. The penal law is amended by adding three new sections 176.75,
10 176.80 and 176.85 to read as follows:

11 § 176.75 Unlawful procurement of clients, patients or customers in the
12 third degree.

13 A person is guilty of unlawful procurement of clients, patients or
14 customers in the third degree when he or she knowingly:

15 1. acts as a runner on one or more occasions; or
16 2. uses, solicits, directs, hires or employs another person to act as
17 a runner on one or more occasions.

18 Unlawful procurement of clients, patients or customers in the third
19 degree is a class A misdemeanor.

20 § 176.80 Unlawful procurement of clients, patients or customers in the
21 second degree.

22 A person is guilty of unlawful procurement of clients, patients or
23 customers in the second degree when he or she knowingly:

24 1. acts as a runner on one or more occasions for a pecuniary benefit
25 that in the aggregate exceeds two thousand five hundred dollars in value
26 or acts as a runner on five or more occasions; or

27 2. uses, solicits, directs, hires or employs one or more persons to
28 act as a runner on one or more occasions for a pecuniary benefit that in
29 the aggregate exceeds two thousand five hundred dollars in value or
30 uses, solicits, directs, hires or employs one or more persons to act as
31 a runner on five or more occasions.

32 Unlawful procurement of clients, patients or customers in the second
33 degree is a class E felony.

34 § 176.85 Unlawful procurement of clients, patients or customers in the
35 first degree.

36 A person is guilty of unlawful procurement of clients, patients or
37 customers in the first degree when he or she knowingly:

38 1. acts as a runner on one or more occasions for a pecuniary benefit
39 that in the aggregate exceeds five thousand dollars in value or acts as
40 a runner on ten or more occasions; or

41 2. uses, solicits, directs, hires or employs one or more persons to
42 act as a runner on one or more occasions for a pecuniary benefit that in
43 the aggregate exceeds five thousand dollars or uses, solicits, directs,
44 hires or employs one or more persons to act as a runner on ten or more
45 occasions.

46 Unlawful procurement of clients, patients or customers in the first
47 degree is a class D felony.

48 § 3. Paragraph (a) of subdivision 1 of section 460.10 of the penal
49 law, as amended by chapter 368 of the laws of 2015, is amended to read
50 as follows:

51 (a) Any of the felonies set forth in this chapter: sections 120.05,
52 120.10 and 120.11 relating to assault; sections 121.12 and 121.13 relat-
53 ing to strangulation; sections 125.10 to 125.27 relating to homicide;
54 sections 130.25, 130.30 and 130.35 relating to rape; sections 135.20 and
55 135.25 relating to kidnapping; sections 135.35 and 135.37 relating to
56 labor trafficking; section 135.65 relating to coercion; sections 140.20,

1 140.25 and 140.30 relating to burglary; sections 145.05, 145.10 and
2 145.12 relating to criminal mischief; article one hundred fifty relating
3 to arson; sections 155.30, 155.35, 155.40 and 155.42 relating to grand
4 larceny; sections 177.10, 177.15, 177.20 and 177.25 relating to health
5 care fraud; article one hundred sixty relating to robbery; sections
6 165.45, 165.50, 165.52 and 165.54 relating to criminal possession of
7 stolen property; sections 165.72 and 165.73 relating to trademark coun-
8 terfeiting; sections 170.10, 170.15, 170.25, 170.30, 170.40, 170.65 and
9 170.70 relating to forgery; sections 175.10, 175.25, 175.35, 175.40 and
10 210.40 relating to false statements; sections 176.15, 176.20, 176.25 and
11 176.30 relating to insurance fraud; sections 176.80 and 176.85 relating
12 to unlawful procurement of clients, patients and customers; sections
13 178.20 and 178.25 relating to criminal diversion of prescription medica-
14 tions and prescriptions; sections 180.03, 180.08, 180.15, 180.25,
15 180.40, 180.45, 200.00, 200.03, 200.04, 200.10, 200.11, 200.12, 200.20,
16 200.22, 200.25, 200.27, 200.56, 215.00, 215.05 and 215.19; sections
17 187.10, 187.15, 187.20 and 187.25 relating to residential mortgage
18 fraud, sections 190.40 and 190.42 relating to criminal usury; section
19 190.65 relating to schemes to defraud; any felony defined in article
20 four hundred ninety-six; sections 205.60 and 205.65 relating to hinder-
21 ing prosecution; sections 210.10, 210.15, and 215.51 relating to perjury
22 and contempt; section 215.40 relating to tampering with physical
23 evidence; sections 220.06, 220.09, 220.16, 220.18, 220.21, 220.31,
24 220.34, 220.39, 220.41, 220.43, 220.46, 220.55, 220.60, 220.65 and
25 220.77 relating to controlled substances; sections 225.10 and 225.20
26 relating to gambling; sections 230.25, 230.30, and 230.32 relating to
27 promoting prostitution; section 230.34 relating to sex trafficking;
28 sections 235.06, 235.07, 235.21 and 235.22 relating to obscenity;
29 sections 263.10 and 263.15 relating to promoting a sexual performance by
30 a child; sections 265.02, 265.03, 265.04, 265.11, 265.12, 265.13 and the
31 provisions of section 265.10 which constitute a felony relating to
32 firearms and other dangerous weapons; sections 265.14 and 265.16 relat-
33 ing to criminal sale of a firearm; section 275.10, 275.20, 275.30, or
34 275.40 relating to unauthorized recordings; and sections 470.05, 470.10,
35 470.15 and 470.20 relating to money laundering; or

36 § 4. Paragraph (b) of subdivision 8 of section 700.05 of the criminal
37 procedure law, as amended by chapter 368 of the laws of 2015, is amended
38 to read as follows:

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

1 law, criminal sexual act in the third degree as defined in section
2 130.40 of the penal law, criminal sexual act in the second degree as
3 defined in section 130.45 of the penal law, criminal sexual act in the
4 first degree as defined in section 130.50 of the penal law, sexual abuse
5 in the first degree as defined in section 130.65 of the penal law,
6 unlawful imprisonment in the first degree as defined in section 135.10
7 of the penal law, kidnapping in the second degree as defined in section
8 135.20 of the penal law, kidnapping in the first degree as defined in
9 section 135.25 of the penal law, labor trafficking as defined in section
10 135.35 of the penal law, aggravated labor trafficking as defined in
11 section 135.37 of the penal law, custodial interference in the first
12 degree as defined in section 135.50 of the penal law, coercion in the
13 first degree as defined in section 135.65 of the penal law, criminal
14 trespass in the first degree as defined in section 140.17 of the penal
15 law, burglary in the third degree as defined in section 140.20 of the
16 penal law, burglary in the second degree as defined in section 140.25 of
17 the penal law, burglary in the first degree as defined in section 140.30
18 of the penal law, criminal mischief in the third degree as defined in
19 section 145.05 of the penal law, criminal mischief in the second degree
20 as defined in section 145.10 of the penal law, criminal mischief in the
21 first degree as defined in section 145.12 of the penal law, criminal
22 tampering in the first degree as defined in section 145.20 of the penal
23 law, arson in the fourth degree as defined in section 150.05 of the
24 penal law, arson in the third degree as defined in section 150.10 of the
25 penal law, arson in the second degree as defined in section 150.15 of
26 the penal law, arson in the first degree as defined in section 150.20 of
27 the penal law, grand larceny in the fourth degree as defined in section
28 155.30 of the penal law, grand larceny in the third degree as defined in
29 section 155.35 of the penal law, grand larceny in the second degree as
30 defined in section 155.40 of the penal law, grand larceny in the first
31 degree as defined in section 155.42 of the penal law, health care fraud
32 in the fourth degree as defined in section 177.10 of the penal law,
33 health care fraud in the third degree as defined in section 177.15 of
34 the penal law, health care fraud in the second degree as defined in
35 section 177.20 of the penal law, health care fraud in the first degree
36 as defined in section 177.25 of the penal law, robbery in the third
37 degree as defined in section 160.05 of the penal law, robbery in the
38 second degree as defined in section 160.10 of the penal law, robbery in
39 the first degree as defined in section 160.15 of the penal law, unlawful
40 use of secret scientific material as defined in section 165.07 of the
41 penal law, criminal possession of stolen property in the fourth degree
42 as defined in section 165.45 of the penal law, criminal possession of
43 stolen property in the third degree as defined in section 165.50 of the
44 penal law, criminal possession of stolen property in the second degree
45 as defined by section 165.52 of the penal law, criminal possession of
46 stolen property in the first degree as defined by section 165.54 of the
47 penal law, trademark counterfeiting in the second degree as defined in
48 section 165.72 of the penal law, trademark counterfeiting in the first
49 degree as defined in section 165.73 of the penal law, forgery in the
50 second degree as defined in section 170.10 of the penal law, forgery in
51 the first degree as defined in section 170.15 of the penal law, criminal
52 possession of a forged instrument in the second degree as defined in
53 section 170.25 of the penal law, criminal possession of a forged instru-
54 ment in the first degree as defined in section 170.30 of the penal law,
55 criminal possession of forgery devices as defined in section 170.40 of
56 the penal law, falsifying business records in the first degree as

1 defined in section 175.10 of the penal law, tampering with public
2 records in the first degree as defined in section 175.25 of the penal
3 law, offering a false instrument for filing in the first degree as
4 defined in section 175.35 of the penal law, issuing a false certificate
5 as defined in section 175.40 of the penal law, unlawful procurement of
6 clients, patients or customers in the second degree as defined in
7 section 176.80 of the penal law, unlawful procurement of clients,
8 patients or customers in the first degree as defined in section 176.85
9 of the penal law, criminal diversion of prescription medications and
10 prescriptions in the second degree as defined in section 178.20 of the
11 penal law, criminal diversion of prescription medications and
12 prescriptions in the first degree as defined in section 178.25 of the
13 penal law, residential mortgage fraud in the fourth degree as defined in
14 section 187.10 of the penal law, residential mortgage fraud in the third
15 degree as defined in section 187.15 of the penal law, residential mort-
16 gage fraud in the second degree as defined in section 187.20 of the
17 penal law, residential mortgage fraud in the first degree as defined in
18 section 187.25 of the penal law, escape in the second degree as defined
19 in section 205.10 of the penal law, escape in the first degree as
20 defined in section 205.15 of the penal law, absconding from temporary
21 release in the first degree as defined in section 205.17 of the penal
22 law, promoting prison contraband in the first degree as defined in
23 section 205.25 of the penal law, hindering prosecution in the second
24 degree as defined in section 205.60 of the penal law, hindering prose-
25 cution in the first degree as defined in section 205.65 of the penal
26 law, sex trafficking as defined in section 230.34 of the penal law,
27 criminal possession of a weapon in the third degree as defined in subdi-
28 visions two, three and five of section 265.02 of the penal law, criminal
29 possession of a weapon in the second degree as defined in section 265.03
30 of the penal law, criminal possession of a weapon in the first degree as
31 defined in section 265.04 of the penal law, manufacture, transport,
32 disposition and defacement of weapons and dangerous instruments and
33 appliances defined as felonies in subdivisions one, two, and three of
34 section 265.10 of the penal law, sections 265.11, 265.12 and 265.13 of
35 the penal law, or prohibited use of weapons as defined in subdivision
36 two of section 265.35 of the penal law, relating to firearms and other
37 dangerous weapons, or failure to disclose the origin of a recording in
38 the first degree as defined in section 275.40 of the penal law;

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