

STATE OF NEW YORK

1575

2017-2018 Regular Sessions

IN ASSEMBLY

January 12, 2017

Introduced by M. of A. HAWLEY, KOLB, McDONOUGH, GIGLIO, FINCH, PALMESANO
-- Multi-Sponsored by -- M. of A. BARCLAY, CROUCH, CURRAN, McKEVITT,
THIELE -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to establishing the crimes of assaulting a child in the first and second degree and the crime of aggravated assault on a child; and to repeal subdivisions 8 and 9 of section 120.05 of such law relating to assault in the second degree

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

Section 1. The penal law is amended by adding three new sections 120.26, 120.27 and 120.28 to read as follows:

§ 120.26 Assaulting a child in the first degree.

A person is guilty of assaulting a child in the first degree when, he or she being eighteen years old or older and with intent to cause serious physical injury to a person less than eleven years old, causes such injury to such person.

Assaulting a child in the first degree is a class B felony.

§ 120.27 Assaulting a child in the second degree.

A person is guilty of assaulting a child in the second degree when:

1. Being eighteen years old or older and with the intent to cause physical injury to a person less than eleven years old, he or she recklessly causes serious physical injury to such person; or

2. Being eighteen years old or older and with intent to cause physical injury to a person less than seven years old, he or she causes such injury to such person.

Assaulting a child in the second degree is a class C felony.

§ 120.28 Aggravated assault on a child.

A person is guilty of aggravated assault on a child when he or she commits the offense of assaulting a child in the first degree or assaulting a child in the second degree and has previously been convicted of either such offense within the preceding five years.

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

LBD02277-01-7

1 Aggravated assault on a child is a class A-II felony.

2 § 2. Paragraphs (a) and (b) of subdivision 1 of section 70.02 of the
3 penal law, paragraph (a) as amended by chapter 368 of the laws of 2015
4 and paragraph (b) as amended by chapter 1 of the laws of 2013, are
5 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 assault in the first degree as defined in section 120.10, kidnapping in
17 the second degree as defined in section 135.20, burglary in the first
18 degree as defined in section 140.30, arson in the second degree as
19 defined in section 150.15, robbery in the first degree as defined in
20 section 160.15, sex trafficking as defined in paragraphs (a) and (b) of
21 subdivision five of section 230.34, incest in the first degree as
22 defined in section 255.27, criminal possession of a weapon in the first
23 degree as defined in section 265.04, criminal use of a firearm in the
24 first degree as defined in section 265.09, criminal sale of a firearm in
25 the first degree as defined in section 265.13, aggravated assault upon a
26 police officer or a peace officer as defined in section 120.11, gang
27 assault in the first degree as defined in section 120.07, assaulting a
28 child in the first degree as defined in section 120.26, intimidating a
29 victim or witness in the first degree as defined in section 215.17,
30 hindering prosecution of terrorism in the first degree as defined in
31 section 490.35, criminal possession of a chemical weapon or biological
32 weapon in the second degree as defined in section 490.40, and criminal
33 use of a chemical weapon or biological weapon in the third degree as
34 defined in section 490.47.

35 (b) Class C violent felony offenses: an attempt to commit any of the
36 class B felonies set forth in paragraph (a) of this subdivision; aggra-
37 vated criminally negligent homicide as defined in section 125.11, aggra-
38 vated manslaughter in the second degree as defined in section 125.21,
39 aggravated sexual abuse in the second degree as defined in section
40 130.67, assault on a peace officer, police officer, fireman or emergency
41 medical services professional as defined in section 120.08, assault on a
42 judge as defined in section 120.09, gang assault in the second degree as
43 defined in section 120.06, assaulting a child in the second degree as
44 defined in section 120.27, strangulation in the first degree as defined
45 in section 121.13, burglary in the second degree as defined in section
46 140.25, robbery in the second degree as defined in section 160.10, crim-
47 inal possession of a weapon in the second degree as defined in section
48 265.03, criminal use of a firearm in the second degree as defined in
49 section 265.08, criminal sale of a firearm in the second degree as
50 defined in section 265.12, criminal sale of a firearm with the aid of a
51 minor as defined in section 265.14, aggravated criminal possession of a
52 weapon as defined in section 265.19, soliciting or providing support for
53 an act of terrorism in the first degree as defined in section 490.15,
54 hindering prosecution of terrorism in the second degree as defined in
55 section 490.30, and criminal possession of a chemical weapon or biolog-
56 ical weapon in the third degree as defined in section 490.37.

1 § 3. Subdivisions 8 and 9 of section 120.05 of the penal law are
2 REPEALED.
3 § 4. This act shall take effect on the first of November next succeed-
4 ing the date on which it shall have become a law.