

STATE OF NEW YORK

3952

2017-2018 Regular Sessions

IN ASSEMBLY

January 30, 2017

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

AN ACT to amend the penal law, in relation to establishing the crime of home invasion

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

1 Section 1. The penal law is amended by adding three new sections
2 140.45, 140.50 and 140.55 to read as follows:

3 § 140.45 Home invasion in the third degree.

4 A person is guilty of home invasion in the third degree when he or she
5 commits the crime of burglary in the third degree and also commits a
6 violent act during the commission of such crime.

7 Home invasion in the third degree is a class D felony.

8 § 140.50 Home invasion in the second degree.

9 A person is guilty of home invasion in the second degree when he or
10 she commits the crime of burglary in the second degree and also commits
11 a violent act during the commission of such crime.

12 Home invasion in the second degree is a class C felony.

13 § 140.55 Home invasion in the first degree.

14 A person is guilty of home invasion in the first degree when he or she
15 commits the crime of burglary in the first degree and also commits a
16 violent act during the commission of such crime.

17 Home invasion in the first degree is a class B felony.

18 § 2. Subdivision 1 of section 70.02 of the penal law, as separately
19 amended by chapters 764 and 765 of the laws of 2005, paragraphs (a) and
20 (c) as amended by chapter 368 of the laws of 2015, paragraph (b) as
21 amended by chapter 1 of the laws of 2013, and paragraph (d) as amended
22 by chapter 7 of the laws of 2007, is amended to read as follows:

23 1. Definition of a violent felony offense. A violent felony offense is
24 a class B violent felony offense, a class C violent felony offense, a

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

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1 class D violent felony offense, or a class E violent felony offense,
2 defined as follows:

3 (a) Class B violent felony offenses: an attempt to commit the class
4 A-I felonies of murder in the second degree as defined in section
5 125.25, kidnapping in the first degree as defined in section 135.25, and
6 arson in the first degree as defined in section 150.20; manslaughter
7 in the first degree as defined in section 125.20, aggravated manslaughter
8 in the first degree as defined in section 125.22, rape in the first
9 degree as defined in section 130.35, criminal sexual act in the first
10 degree as defined in section 130.50, aggravated sexual abuse in the
11 first degree as defined in section 130.70, course of sexual conduct
12 against a child in the first degree as defined in section 130.75;
13 assault in the first degree as defined in section 120.10, kidnapping in
14 the second degree as defined in section 135.20, burglary in the first
15 degree as defined in section 140.30, home invasion in the first degree
16 as defined in section 140.55, arson in the second degree as defined in
17 section 150.15, robbery in the first degree as defined in section
18 160.15, sex trafficking as defined in paragraphs (a) and (b) of subdivi-
19 sion five of section 230.34, incest in the first degree as defined in
20 section 255.27, criminal possession of a weapon in the first degree as
21 defined in section 265.04, criminal use of a firearm in the first degree
22 as defined in section 265.09, criminal sale of a firearm in the first
23 degree as defined in section 265.13, aggravated assault upon a police
24 officer or a peace officer as defined in section 120.11, gang assault in
25 the first degree as defined in section 120.07, intimidating a victim or
26 witness in the first degree as defined in section 215.17, hindering
27 prosecution of terrorism in the first degree as defined in section
28 490.35, criminal possession of a chemical weapon or biological weapon in
29 the second degree as defined in section 490.40, and criminal use of a
30 chemical weapon or biological weapon in the third degree as defined in
31 section 490.47.

32 (b) Class C violent felony offenses: an attempt to commit any of the
33 class B felonies set forth in paragraph (a) of this subdivision; aggra-
34 vated criminally negligent homicide as defined in section 125.11, aggra-
35 vated manslaughter in the second degree as defined in section 125.21,
36 aggravated sexual abuse in the second degree as defined in section
37 130.67, assault on a peace officer, police officer, fireman or emergency
38 medical services professional as defined in section 120.08, assault on a
39 judge as defined in section 120.09, gang assault in the second degree as
40 defined in section 120.06, strangulation in the first degree as defined
41 in section 121.13, burglary in the second degree as defined in section
42 140.25, home invasion in the second degree as defined in section 140.50,
43 robbery in the second degree as defined in section 160.10, criminal
44 possession of a weapon in the second degree as defined in section
45 265.03, criminal use of a firearm in the second degree as defined in
46 section 265.08, criminal sale of a firearm in the second degree as
47 defined in section 265.12, criminal sale of a firearm with the aid of a
48 minor as defined in section 265.14, aggravated criminal possession of a
49 weapon as defined in section 265.19, soliciting or providing support for
50 an act of terrorism in the first degree as defined in section 490.15,
51 hindering prosecution of terrorism in the second degree as defined in
52 section 490.30, and criminal possession of a chemical weapon or biolog-
53 ical weapon in the third degree as defined in section 490.37.

54 (c) Class D violent felony offenses: an attempt to commit any of the
55 class C felonies set forth in paragraph (b); reckless assault of a child
56 as defined in section 120.02, assault in the second degree as defined in

1 section 120.05, menacing a police officer or peace officer as defined in
2 section 120.18, stalking in the first degree, as defined in subdivision
3 one of section 120.60, strangulation in the second degree as defined in
4 section 121.12, rape in the second degree as defined in section 130.30,
5 criminal sexual act in the second degree as defined in section 130.45,
6 sexual abuse in the first degree as defined in section 130.65, course of
7 sexual conduct against a child in the second degree as defined in
8 section 130.80, aggravated sexual abuse in the third degree as defined
9 in section 130.66, facilitating a sex offense with a controlled
10 substance as defined in section 130.90, labor trafficking as defined in
11 paragraphs (a) and (b) of subdivision three of section 135.35, home
12 invasion in the third degree as defined in section 140.45, criminal
13 possession of a weapon in the third degree as defined in subdivision
14 five, six, seven, eight, nine or ten of section 265.02, criminal sale of
15 a firearm in the third degree as defined in section 265.11, intimidating
16 a victim or witness in the second degree as defined in section 215.16,
17 soliciting or providing support for an act of terrorism in the second
18 degree as defined in section 490.10, and making a terroristic threat as
19 defined in section 490.20, falsely reporting an incident in the first
20 degree as defined in section 240.60, placing a false bomb or hazardous
21 substance in the first degree as defined in section 240.62, placing a
22 false bomb or hazardous substance in a sports stadium or arena, mass
23 transportation facility or enclosed shopping mall as defined in section
24 240.63, and aggravated unpermitted use of indoor pyrotechnics in the
25 first degree as defined in section 405.18.

26 (d) Class E violent felony offenses: an attempt to commit any of the
27 felonies of criminal possession of a weapon in the third degree as
28 defined in subdivision five, six, seven or eight of section 265.02 as a
29 lesser included offense of that section as defined in section 220.20 of
30 the criminal procedure law, persistent sexual abuse as defined in
31 section 130.53, aggravated sexual abuse in the fourth degree as defined
32 in section 130.65-a, falsely reporting an incident in the second degree
33 as defined in section 240.55 and placing a false bomb or hazardous
34 substance in the second degree as defined in section 240.61.

35 § 3. This act shall take effect on the first of November next succeed-
36 ing the date on which it shall have become a law.