

STATE OF NEW YORK

6597

2017-2018 Regular Sessions

IN ASSEMBLY

March 9, 2017

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

AN ACT to amend the penal law, in relation to aggravated assault upon a police officer

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

Section 1. Section 120.11 of the penal law, as amended by chapter 283 of the laws of 1993, is amended to read as follows:

§ 120.11 Aggravated assault upon a police officer or a peace officer in the first degree.

1. A person is guilty of aggravated assault upon a police officer or a peace officer in the first degree when, with intent to cause serious physical injury to a person whom he or she knows or reasonably should know to be a police officer or a peace officer engaged in the course of performing his or her official duties, he or she causes such injury by means of a deadly weapon or dangerous instrument; or

2. A person is guilty of aggravated assault upon a police officer or a peace officer in the first degree when, with intent to cause serious physical injury to a person whom he or she knows or reasonably should know to be a police officer or a peace officer engaged in the course of performing his or her official duties, and when such person is aided by one or more other persons actually present, at an assembly in a public place as defined by article two hundred forty of this part, he or she causes serious physical injury to such police officer or peace officer.

Aggravated assault upon a police officer or a peace officer in the first degree is a class B felony.

§ 2. The penal law is amended by adding a new section 120.11-a to read as follows:

§ 120.11-a Aggravated assault upon a police officer or a peace officer in the second degree.

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

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1 A person is guilty of aggravated assault upon a police officer or a
2 peace officer in the second degree when, with intent to cause physical
3 injury to a person whom he or she knows or reasonably should know to be
4 a police officer or a peace officer engaged in the course of performing
5 his or her official duties, and when such person is aided by one or more
6 other persons actually present, at an assembly in a public place as
7 defined by article two hundred forty of this part, he or she causes
8 physical injury to such police officer or peace officer.

9 Aggravated assault upon a police officer or a peace officer in the
10 second degree is a class C felony.

11 § 3. Paragraph (b) of subdivision 1 of section 70.02 of the penal law,
12 as amended by chapter 1 of the laws of 2013, is amended to read as
13 follows:

14 (b) Class C violent felony offenses: an attempt to commit any of the
15 class B felonies set forth in paragraph (a) of this subdivision; aggra-
16 vated assault upon a police officer or a peace officer in the second
17 degree as defined in section 120.11-a, aggravated criminally negligent
18 homicide as defined in section 125.11, aggravated manslaughter in the
19 second degree as defined in section 125.21, aggravated sexual abuse in
20 the second degree as defined in section 130.67, assault on a peace offi-
21 cer, police officer, fireman or emergency medical services professional
22 as defined in section 120.08, assault on a judge as defined in section
23 120.09, gang assault in the second degree as defined in section 120.06,
24 strangulation in the first degree as defined in section 121.13, burglary
25 in the second degree as defined in section 140.25, robbery in the second
26 degree as defined in section 160.10, criminal possession of a weapon in
27 the second degree as defined in section 265.03, criminal use of a
28 firearm in the second degree as defined in section 265.08, criminal sale
29 of a firearm in the second degree as defined in section 265.12, criminal
30 sale of a firearm with the aid of a minor as defined in section 265.14,
31 aggravated criminal possession of a weapon as defined in section 265.19,
32 soliciting or providing support for an act of terrorism in the first
33 degree as defined in section 490.15, hindering prosecution of terrorism
34 in the second degree as defined in section 490.30, and criminal
35 possession of a chemical weapon or biological weapon in the third degree
36 as defined in section 490.37.

37 § 4. Paragraph (a) of subdivision 1 of section 70.02 of the penal law,
38 as amended by chapter 368 of the laws of 2015, is amended to read as
39 follows:

40 (a) Class B violent felony offenses: an attempt to commit the class
41 A-I felonies of murder in the second degree as defined in section
42 125.25, kidnapping in the first degree as defined in section 135.25, and
43 arson in the first degree as defined in section 150.20; manslaughter in
44 the first degree as defined in section 125.20, aggravated manslaughter
45 in the first degree as defined in section 125.22, rape in the first
46 degree as defined in section 130.35, criminal sexual act in the first
47 degree as defined in section 130.50, aggravated sexual abuse in the
48 first degree as defined in section 130.70, course of sexual conduct
49 against a child in the first degree as defined in section 130.75;
50 assault in the first degree as defined in section 120.10, kidnapping in
51 the second degree as defined in section 135.20, burglary in the first
52 degree as defined in section 140.30, arson in the second degree as
53 defined in section 150.15, robbery in the first degree as defined in
54 section 160.15, sex trafficking as defined in paragraphs (a) and (b) of
55 subdivision five of section 230.34, incest in the first degree as
56 defined in section 255.27, criminal possession of a weapon in the first

1 degree as defined in section 265.04, criminal use of a firearm in the
2 first degree as defined in section 265.09, criminal sale of a firearm in
3 the first degree as defined in section 265.13, aggravated assault upon a
4 police officer or a peace officer in the first degree as defined in
5 section 120.11, gang assault in the first degree as defined in section
6 120.07, intimidating a victim or witness in the first degree as defined
7 in section 215.17, hindering prosecution of terrorism in the first
8 degree as defined in section 490.35, criminal possession of a chemical
9 weapon or biological weapon in the second degree as defined in section
10 490.40, and criminal use of a chemical weapon or biological weapon in
11 the third degree as defined in section 490.47.

12 § 5. This act shall take effect on the ninetieth day after it shall
13 have become a law.