

STATE OF NEW YORK

1182

2017-2018 Regular Sessions

IN SENATE

January 6, 2017

Introduced by Sen. MARCELLINO -- read twice and ordered printed, and
when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to increasing penalties for
first, second, third and fourth degree stalking

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

1 Section 1. The closing paragraph of section 120.45 of the penal law,
2 as amended by chapter 184 of the laws of 2014, is amended to read as
3 follows:

4 Stalking in the fourth degree is a class [~~B~~] **A** misdemeanor.

5 § 2. The closing paragraph of section 120.50 of the penal law, as
6 added by chapter 635 of the laws of 1999, is amended to read as follows:

7 Stalking in the third degree is a class [~~A-misdemeanor~~] **E felony**.

8 § 3. The closing paragraph of section 120.55 of the penal law, as
9 added by chapter 635 of the laws of 1999, is amended to read as follows:

10 Stalking in the second degree is a class [~~E~~] **D** felony.

11 § 4. The closing paragraph of section 120.60 of the penal law, as
12 amended by chapter 434 of the laws of 2000, is amended to read as
13 follows:

14 Stalking in the first degree is a class [~~D~~] **C** felony.

15 § 5. Paragraphs (b), (c) and (d) of subdivision 1 of section 70.02 of
16 the penal law, paragraph (b) as amended by chapter 1 of the laws of
17 2013, paragraph (c) as amended by chapter 368 of the laws of 2015 and
18 paragraph (d) as amended by chapter 7 of the laws of 2007, are amended
19 to read as follows:

20 (b) Class C violent felony offenses: an attempt to commit any of the
21 class B felonies set forth in paragraph (a) of this subdivision; aggra-
22 vated criminally negligent homicide as defined in section 125.11, aggra-
23 vated manslaughter in the second degree as defined in section 125.21,
24 aggravated sexual abuse in the second degree as defined in section
25 130.67, assault on a peace officer, police officer, fireman or emergency

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

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1 medical services professional as defined in section 120.08, assault on a
2 judge as defined in section 120.09, gang assault in the second degree as
3 defined in section 120.06, stalking in the first degree as defined in
4 subdivision one of section 120.60, strangulation in the first degree as
5 defined in section 121.13, burglary in the second degree as defined in
6 section 140.25, robbery in the second degree as defined in section
7 160.10, criminal possession of a weapon in the second degree as defined
8 in section 265.03, criminal use of a firearm in the second degree as
9 defined in section 265.08, criminal sale of a firearm in the second
10 degree as defined in section 265.12, criminal sale of a firearm with the
11 aid of a minor as defined in section 265.14, aggravated criminal
12 possession of a weapon as defined in section 265.19, soliciting or
13 providing support for an act of terrorism in the first degree as defined
14 in section 490.15, hindering prosecution of terrorism in the second
15 degree as defined in section 490.30, and criminal possession of a chemi-
16 cal weapon or biological weapon in the third degree as defined in
17 section 490.37.

18 (c) Class D violent felony offenses: an attempt to commit any of the
19 class C felonies set forth in paragraph (b); reckless assault of a child
20 as defined in section 120.02, assault in the second degree as defined in
21 section 120.05, menacing a police officer or peace officer as defined in
22 section 120.18, stalking in the ~~[first]~~ second degree, as defined in
23 subdivision one of section ~~[120.60]~~ 120.55, strangulation in the second
24 degree as defined in section 121.12, rape in the second degree as
25 defined in section 130.30, criminal sexual act in the second degree as
26 defined in section 130.45, sexual abuse in the first degree as defined
27 in section 130.65, course of sexual conduct against a child in the
28 second degree as defined in section 130.80, aggravated sexual abuse in
29 the third degree as defined in section 130.66, facilitating a sex
30 offense with a controlled substance as defined in section 130.90, labor
31 trafficking as defined in paragraphs (a) and (b) of subdivision three of
32 section 135.35, criminal possession of a weapon in the third degree as
33 defined in subdivision five, six, seven, eight, nine or ten of section
34 265.02, criminal sale of a firearm in the third degree as defined in
35 section 265.11, intimidating a victim or witness in the second degree as
36 defined in section 215.16, soliciting or providing support for an act of
37 terrorism in the second degree as defined in section 490.10, and making
38 a terroristic threat as defined in section 490.20, falsely reporting an
39 incident in the first degree as defined in section 240.60, placing a
40 false bomb or hazardous substance in the first degree as defined in
41 section 240.62, placing a false bomb or hazardous substance in a sports
42 stadium or arena, mass transportation facility or enclosed shopping mall
43 as defined in section 240.63, and aggravated unpermitted use of indoor
44 pyrotechnics in the first degree as defined in section 405.18.

45 (d) Class E violent felony offenses: stalking in the third degree as
46 defined in section 120.50, an attempt to commit any of the felonies of
47 criminal possession of a weapon in the third degree as defined in subdi-
48 vision five, six, seven or eight of section 265.02 as a lesser included
49 offense of that section as defined in section 220.20 of the criminal
50 procedure law, persistent sexual abuse as defined in section 130.53,
51 aggravated sexual abuse in the fourth degree as defined in section
52 130.65-a, falsely reporting an incident in the second degree as defined
53 in section 240.55 and placing a false bomb or hazardous substance in the
54 second degree as defined in section 240.61.

55 § 6. This act shall take effect on the first of November next succeed-
56 ing the date on which it shall have become a law.