STATE OF NEW YORK

681

2017-2018 Regular Sessions

IN SENATE

January 4, 2017

Introduced by Sens. KENNEDY, ADDABBO, AVELLA, GALLIVAN, GOLDEN, SQUADRON, STAVISKY, YOUNG -- 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 assault of a child

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

Section 1. Subdivision 4 of section 120.10 of the penal law, as amended by chapter 791 of the laws of 1967, is amended and a new subdivision 5 is added to read as follows:

4. In the course of and in furtherance of the commission or attempted commission of a felony or of immediate flight therefrom, he, or another participant if there be any, causes serious physical injury to a person other than one of the participants[~~.~~]**; or**

5. Being eighteen years old or more and with intent to cause physical injury to a person less than eleven years old, he or she recklessly causes serious physical injury to such person; and has previously been convicted of assault in the first degree, second degree, or third degree against a person less than eleven years old; or has been convicted of attempted assault in the first degree, second degree, or third degree against a person less than eleven years old; or has been convicted of reckless assault of a child; or attempted reckless assault of a child.

§ 2. Section 120.12 of the penal law, as amended by chapter 172 of the laws of 2013, is amended to read as follows:

§ 120.12 Aggravated assault upon a person less than eleven years old.

1. A person is guilty of aggravated assault upon a person less than eleven years old when being eighteen years old or more the defendant commits the crime of assault in the third degree as defined in section 120.00 of this article upon a person less than eleven years old and has been previously convicted of such crime upon a person less than eleven years old within the preceding ten years.

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

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2. Aggravated assault upon a person less than eleven years old as defined in subdivision one of this section shall be a class B felony when the person so convicted has previously been convicted of such crime as defined in subdivision one of this section.

Aggravated assault upon a person less than eleven years old is a class [~~E~~] **D** felony.

§ 3. This act shall take effect immediately.