

# STATE OF NEW YORK

3525

2019-2020 Regular Sessions

## IN ASSEMBLY

January 29, 2019

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, paragraph (a) as  
20 amended by chapter 189 of the laws of 2018, paragraph (b) as amended by  
21 chapter 476 of the laws of 2018, paragraph (c) as amended by chapter 368  
22 of the laws of 2015, and paragraph (d) as amended by chapter 7 of the  
23 laws of 2007, is amended to read as follows:

24 1. Definition of a violent felony offense. A violent felony offense is  
25 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.

LBD04642-02-9

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, sex trafficking of a child as defined in  
20 section 230.34-a, incest in the first degree as defined in section  
21 255.27, criminal possession of a weapon in the first degree as defined  
22 in section 265.04, criminal use of a firearm in the first degree as  
23 defined in section 265.09, criminal sale of a firearm in the first  
24 degree as defined in section 265.13, aggravated assault upon a police  
25 officer or a peace officer as defined in section 120.11, gang assault in  
26 the first degree as defined in section 120.07, intimidating a victim or  
27 witness in the first degree as defined in section 215.17, hindering  
28 prosecution of terrorism in the first degree as defined in section  
29 490.35, criminal possession of a chemical weapon or biological weapon in  
30 the second degree as defined in section 490.40, and criminal use of a  
31 chemical weapon or biological weapon in the third degree as defined in  
32 section 490.47.

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

1 (c) Class D violent felony offenses: an attempt to commit any of the  
2 class C felonies set forth in paragraph (b); reckless assault of a child  
3 as defined in section 120.02, assault in the second degree as defined in  
4 section 120.05, menacing a police officer or peace officer as defined in  
5 section 120.18, stalking in the first degree, as defined in subdivision  
6 one of section 120.60, strangulation in the second degree as defined in  
7 section 121.12, rape in the second degree as defined in section 130.30,  
8 criminal sexual act in the second degree as defined in section 130.45,  
9 sexual abuse in the first degree as defined in section 130.65, course of  
10 sexual conduct against a child in the second degree as defined in  
11 section 130.80, aggravated sexual abuse in the third degree as defined  
12 in section 130.66, facilitating a sex offense with a controlled  
13 substance as defined in section 130.90, labor trafficking as defined in  
14 paragraphs (a) and (b) of subdivision three of section 135.35, home  
15 invasion in the third degree as defined in section 140.45, criminal  
16 possession of a weapon in the third degree as defined in subdivision  
17 five, six, seven, eight, nine or ten of section 265.02, criminal sale of  
18 a firearm in the third degree as defined in section 265.11, intimidating  
19 a victim or witness in the second degree as defined in section 215.16,  
20 soliciting or providing support for an act of terrorism in the second  
21 degree as defined in section 490.10, and making a terroristic threat as  
22 defined in section 490.20, falsely reporting an incident in the first  
23 degree as defined in section 240.60, placing a false bomb or hazardous  
24 substance in the first degree as defined in section 240.62, placing a  
25 false bomb or hazardous substance in a sports stadium or arena, mass  
26 transportation facility or enclosed shopping mall as defined in section  
27 240.63, and aggravated unpermitted use of indoor pyrotechnics in the  
28 first degree as defined in section 405.18.

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

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