

# STATE OF NEW YORK

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7170

2019-2020 Regular Sessions

## IN ASSEMBLY

April 10, 2019

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

AN ACT to amend the penal law, in relation to criminalizing the act of stalking a police officer or peace officer

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

1     Section 1. Section 120.40 of the penal law, as added by chapter 635 of  
2 the laws of 1999, paragraph b of subdivision 5 as amended by chapter 320  
3 of the laws of 2006 and paragraph c of subdivision 5 as amended by  
4 section 7 of part NN of chapter 55 of the laws of 2018, is amended to  
5 read as follows:

6     § 120.40 Definitions.

7     For purposes of sections 120.45, 120.50, 120.55 [~~and~~], 120.60, **120.80,**  
8 **120.85, and 120.90** of this article:

9       1. "Kidnapping" shall mean a kidnapping crime defined in article one  
10 hundred thirty-five of this chapter.

11       2. "Unlawful imprisonment" shall mean an unlawful imprisonment felony  
12 crime defined in article one hundred thirty-five of this chapter.

13       3. "Sex offense" shall mean a felony defined in article one hundred  
14 thirty of this chapter, sexual misconduct, as defined in section 130.20  
15 of this chapter, sexual abuse in the third degree as defined in section  
16 130.55 of this chapter or sexual abuse in the second degree as defined  
17 in section 130.60 of this chapter.

18       4. "Immediate family" means the spouse, former spouse, parent, child,  
19 sibling, or any other person who regularly resides or has regularly  
20 resided in the household of a person.

21       5. "Specified predicate crime" means:

22           a. a violent felony offense;

23           b. a crime defined in section 130.20, 130.25, 130.30, 130.40, 130.45,  
24 130.55, 130.60, 130.70, 255.25, 255.26 or 255.27;

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

LBD07572-01-9

1       c. assault in the third degree, as defined in section 120.00; menacing  
2       in the first degree, as defined in section 120.13; menacing in the  
3       second degree, as defined in section 120.14; coercion in the first  
4       degree, as defined in section 135.65; coercion in the second degree, as  
5       defined in section 135.61; coercion in the third degree, as defined in  
6       section 135.60; aggravated harassment in the second degree, as defined  
7       in section 240.30; harassment in the first degree, as defined in section  
8       240.25; menacing in the third degree, as defined in section 120.15;  
9       criminal mischief in the third degree, as defined in section 145.05;  
10      criminal mischief in the second degree, as defined in section 145.10,  
11      criminal mischief in the first degree, as defined in section 145.12;  
12      criminal tampering in the first degree, as defined in section 145.20;  
13      arson in the fourth degree, as defined in section 150.05; arson in the  
14      third degree, as defined in section 150.10; criminal contempt in the  
15      first degree, as defined in section 215.51; endangering the welfare of a  
16      child, as defined in section 260.10; or

17       d. stalking in the fourth degree, as defined in section 120.45; stalk-  
18       ing in the third degree, as defined in section 120.50; stalking in the  
19       second degree, as defined in section 120.55; stalking a police officer  
20       or peace officer in the third degree, as defined in section 120.80;  
21       stalking a police officer or peace officer in the second degree, as  
22       defined in section 120.85; or

23       e. an offense in any other jurisdiction which includes all of the  
24       essential elements of any such crime for which a sentence to a term of  
25       imprisonment in excess of one year or a sentence of death was authorized  
26       and is authorized in this state irrespective of whether such sentence  
27       was imposed.

28       § 2. The penal law is amended by adding a new section 120.80 to read  
29       as follows:

30       **§ 120.80 Stalking a police officer or peace officer in the third degree.**  
31       A person is guilty of stalking a police officer or peace officer in  
32       the third degree when he or she intentionally, and for no legitimate  
33       purpose, engages in a course of conduct directed at a specific police  
34       officer, peace officer or a person who he or she knows or reasonably  
35       should know is a member of such officer's immediate family, and knows or  
36       reasonably should know that such conduct:

37       1. is likely to cause reasonable fear of material harm to the physical  
38       health, safety or property of such officer or member of such officer's  
39       immediate family; or

40       2. causes material harm to the mental or emotional health of such  
41       officer or member of such officer's immediate family, where such conduct  
42       consists of the following, telephoning or initiating communication or  
43       contact with such officer or a member of such officer's immediate fami-  
44       ly, and the actor was previously clearly informed to cease that conduct.

45       For purposes of subdivision two of this section, "following" shall  
46       include the unauthorized tracking of a police officer, peace officer, or  
47       immediate family member of such officer's movements or location through  
48       the use of a global positioning system or other device.

49       **Stalking a police officer or peace officer in the third degree is a**  
50       **class E felony.**

51       § 3. The penal law is amended by adding a new section 120.85 to read  
52       as follows:

53       **§ 120.85 Stalking a police officer or peace officer in the second**  
54       **degree.**

55       **A person is guilty of stalking a police officer or peace officer in**  
56       **the second degree when he or she:**

1     1. Commits the crime of stalking a police officer or peace officer in  
2     the third degree in violation of section 120.80 of this article against  
3     two or more police officers, peace officers, or a person who he or she  
4     knows or reasonably should know is a member of any such officer's imme-  
5     diate family, in two or more separate transactions, for which the actor  
6     has not been previously convicted; or

7     2. Commits the crime of stalking a police officer or peace officer in  
8     the third degree in violation of section 120.80 of this article against  
9     any police officer or peace officer, or a person who he or she knows or  
10     reasonably should know is a member of such officer's immediate family,  
11     and has previously been convicted, within the preceding ten years of a  
12     specified predicate crime, as defined in subdivision five of section  
13     120.40 of this article, and the victim of such predicate crime is the  
14     victim police officer, peace officer, or a person who he or she knows or  
15     reasonably should know is a member of such officer's immediate family;  
16     or

17     3. With intent to harass, annoy or alarm a specific police officer,  
18     peace officer, or a person who he or she knows or reasonably should know  
19     is a member of such officer's immediate family, intentionally engages in  
20     a course of conduct directed at such police officer, peace officer or a  
21     person who he or she knows or reasonably should know is a member of such  
22     officer's immediate family, which is likely to cause a specific police  
23     officer, peace officer or a person who he or she knows or reasonably  
24     should know is a member of such officer's immediate family to reasonably  
25     fear physical injury or serious physical injury, the commission of a sex  
26     offense against, or the kidnapping, unlawful imprisonment or death of a  
27     specific police officer, peace officer or person he or she knows or  
28     reasonably should know is a member of such officer's immediate family;  
29     or

30     4. Commits the crime of stalking a police officer or peace officer in  
31     the third degree in violation of section 120.80 of this article and has  
32     previously been convicted within the preceding ten years of stalking a  
33     police officer or peace officer in the third degree.

34     Stalking a police officer or peace officer in the second degree is a  
35     class D felony.

36     § 4. The penal law is amended by adding a new section 120.90 to read  
37     as follows:

38     **S 120.90 Stalking a police officer or peace officer in the first degree.**  
39     A person is guilty of stalking a police officer or peace officer in  
40     the first degree when he or she commits the crime of stalking a police  
41     officer or peace officer in the third degree as defined in section  
42     120.80 of this article or stalking a police officer or peace officer in  
43     the second degree as defined in section 120.85 of this article and, in  
44     the course and furtherance thereof, he or she:

45     1. Intentionally or recklessly causes physical injury to the victim of  
46     such crime; or

47     2. Commits a class A misdemeanor defined in article one hundred thirty  
48     of this chapter, or a class E felony defined in section 130.25, 130.40  
49     or 130.85 of this chapter, or a class D felony defined in section 130.30  
50     or 130.45 of this chapter.

51     Stalking a police officer or peace officer in the first degree is a  
52     class C felony.

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