STATE OF NEW YORK

7984

2019-2020 Regular Sessions

IN ASSEMBLY

May 30, 2019

Introduced by M. of A. O'DONNELL, WEPRIN, AUBRY, OTIS, WALKER, BRONSON, JAFFEE, BICHOTTE, TAYLOR, STECK, D'URSO, SIMOTAS, ORTIZ, SIMON, GLICK, SEAWRIGHT, BLAKE, BUCHWALD -- Multi-Sponsored by -- M. of A. FAHY, PERRY, RICHARDSON -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to enacting the "domestic violence escalation prevention act"; and to repeal certain provisions of such law relating thereto

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

Section 1. Short title. This act shall be known and may be cited as the "domestic violence escalation prevention act".

§ 2. Paragraph (b) of subdivision 17 of section 265.00 of the penal law, as added by section 2 of chapter 232 of the laws of 2010, is REPEALED.

§ 3. Subdivision 17 of section 265.00 of the penal law, as added by chapter 1041 of the laws of 1974, paragraph (a) as amended by chapter 264 of the laws of 2003, paragraph (b) as amended by chapter 232 of the laws of 2010, and paragraph (c) as added by chapter 60 of the laws of 2018, is amended to read as follows:

17. "Serious offense" means (a) any of the following offenses defined in the former penal law as in force and effect immediately prior to September first, nineteen hundred sixty-seven: illegally using, carrying or possessing a pistol or other dangerous weapon; making or possessing burglar's instruments; buying or receiving stolen property; unlawful entry of a building; aiding escape from prison; that kind of disorderly conduct defined in subdivisions six and eight of section seven hundred twenty-two of such former penal law; violations of sections four hundred eighty-three, four hundred eighty-three-b, four hundred eighty-four-h and article one hundred six of such former penal law; that kind of criminal sexual act or rape which was designated as a misdemeanor; violation of section seventeen hundred forty-seven-d and seventeen hundred forty-

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

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seven-e of such former penal law; any violation of any provision of article thirty-three of the public health law relating to narcotic drugs which was defined as a misdemeanor by section seventeen hundred fifty-one-a of such former penal law, and any violation of any provision of article thirty-three-A of the public health law relating to depressant and stimulant drugs which was defined as a misdemeanor by section seventeen hundred forty-seven-b of such former penal law[~~.~~]**;**

(b) any of the following offenses defined in the penal law: illegally using, carrying or possessing a pistol or other dangerous weapon; possession of burglar's tools; criminal possession of stolen property in the third degree; escape in the third degree; jostling; fraudulent accosting; endangering the welfare of a child; the offenses defined in article two hundred thirty-five; issuing abortional articles; permitting prostitution; promoting prostitution in the third degree; stalking in the third degree; stalking in the fourth degree; the offenses defined in article one hundred thirty; the offenses defined in article two hundred twenty[~~.~~]**;**

(c) any of the following offenses, where the defendant and the person against whom the offense was committed were members of the same family or household as defined in subdivision one of section 530.11 of the criminal procedure law and as established pursuant to section 370.15 of the criminal procedure law: assault in the third degree; menacing in the third degree; menacing in the second degree; criminal obstruction of breathing or blood circulation; unlawful imprisonment in the second degree; coercion in the third degree; criminal tampering in the third degree; criminal contempt in the second degree; harassment in the first degree; aggravated harassment in the second degree; criminal trespass in the third degree; criminal trespass in the second degree; arson in the fifth degree; or attempt to commit any of the above-listed offenses[~~.~~]**;**

or

(d) an offense set forth in section 370.15 of the criminal procedure law in which the court makes a specific written determination that the defendant is related or situated to the victim of the crime in the manner specified in 18 U.S.C. 921(a)(33)(A)(ii) as provided in section 370.15 of the criminal procedure law, provided, however that no such written determination shall be required for an offense included in paragraph (a) or (b) of this subdivision.

§ 4. This act shall take effect immediately.