

# STATE OF NEW YORK

8488

2019-2020 Regular Sessions

## IN ASSEMBLY

August 7, 2019

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

AN ACT to amend the penal law, in relation to establishing the crime of aggravated sexual assault against a child

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 a new section 130.81 to  
2 read as follows:

3 § 130.81 Aggravated sexual assault against a child.

4 1. A person is guilty of aggravated sexual assault against a child  
5 when such person, while being eighteen years old or more:

6 (a) commits a specified offense with a child less than thirteen years  
7 old;

8 (b) while knowingly being infected with a sexually transmitted  
9 disease; and

10 (c) actually transmits such sexually transmitted disease to such  
11 child.

12 2. A "specified offense" is any of the following offenses defined in  
13 this article: rape in the first degree as defined in section 130.35,  
14 criminal sexual act in the first degree as defined in section 130.50,  
15 aggravated sexual abuse in the first degree as defined in section  
16 130.70, course of sexual conduct against a child in the first degree as  
17 defined in section 130.75, or predatory sexual assault against a child  
18 as defined in section 130.96 of this article.

19 3. A "sexually transmitted disease" includes any disease or infection  
20 identified in the list promulgated by the commissioner of health pursu-  
21 ant to section twenty-three hundred eleven of the public health law.

22 Aggravated sexual assault against a child is a class E felony.  
23 Notwithstanding any other provision of law to the contrary, any sentence  
24 imposed pursuant to a conviction under this section is to be served

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

LBD13493-02-9

1 consecutive to any sentence imposed for the underlying specified  
2 offense.

3 § 2. Paragraph (d) of subdivision 1 of section 70.02 of the penal law,  
4 as amended by chapter 7 of the laws of 2007, is amended to read as  
5 follows:

6 (d) Class E violent felony offenses: an attempt to commit any of the  
7 felonies of criminal possession of a weapon in the third degree as  
8 defined in subdivision five, six, seven or eight of section 265.02 of  
9 this chapter as a lesser included offense of that section as defined in  
10 section 220.20 of the criminal procedure law, persistent sexual abuse as  
11 defined in section 130.53, aggravated sexual abuse in the fourth degree  
12 as defined in section 130.65-a, aggravated sexual assault against a  
13 child as defined in section 130.81, falsely reporting an incident in the  
14 second degree as defined in section 240.55 and placing a false bomb or  
15 hazardous substance in the second degree as defined in section 240.61 of  
16 this chapter.

17 § 3. Subdivision 2 of section 70.25 of the penal law, as amended by  
18 chapter 56 of the laws of 1984, is amended to read as follows:

19 2. When more than one sentence of imprisonment is imposed on a person  
20 for two or more offenses committed through a single act or omission, or  
21 through an act or omission which in itself constituted one of the  
22 offenses and also was a material element of the other, the sentences,  
23 except if one or more of such sentences is for a violation of section  
24 270.20 or 130.81 of this chapter, must run concurrently.

25 § 4. This act shall take effect on the ninetieth day after it shall  
26 have become a law.