STATE OF NEW YORK

8527

2019-2020 Regular Sessions

IN ASSEMBLY

August 7, 2019

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

AN ACT to amend the penal law and the criminal procedure law, in relation to menacing a police officer or peace officer

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

Section 1. Section 120.18 of the penal law, as added by chapter 765 of the laws of 2005, is amended to read as follows:

§ 120.18 Menacing a police officer or peace officer **in the first degree**.

A person is guilty of menacing a police officer or peace officer **in the first degree** when he or she intentionally places or attempts to place a police officer or peace officer in reasonable fear of physical injury, serious physical injury or death by displaying a deadly weapon, knife, pistol, revolver, rifle, shotgun, machine gun or other firearm, whether operable or not, where such officer was in the course of performing his or her official duties and the defendant knew or reasonably should have known that such victim was a police officer or peace officer.

Menacing a police officer or peace officer **in the first degree** is a class D felony.

§ 2. The penal law is amended by adding a new section 120.19 to read as follows:

§ 120.19 Menacing a police officer or peace officer in the second degree.

A person is guilty of menacing a police officer or peace officer in the second degree when he or she intentionally assaults a police officer or peace officer by throwing or spraying water or any other substance where such officer was in the course of performing his or her official duties and the defendant knew or reasonably should have known that such victim was a police officer or peace officer.

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

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Menacing a police officer or peace officer in the second degree is a class E felony.

§ 3. Subparagraph (viii) of paragraph (b) of subdivision 1 of section 150.20 of the criminal procedure law, as added by section 1-a of part JJJ of chapter 59 of the laws of 2019, is amended to read as follows:

(viii) it reasonably appears to the officer, based on the observed behavior of the individual in the present contact with the officer and facts regarding the person's condition that indicates a sign of distress to such a degree that the person would face harm without immediate medical or mental health care, that bringing the person before the court would be in such person's interest in addressing that need; provided, however, that before making the arrest, the officer shall make all reasonable efforts to assist the person in securing appropriate services**;**

(ix) the person is charged with menacing a police officer or peace officer in the second degree as defined in section 120.19 of the penal law.

§ 4. This act shall take effect on the first of November next succeeding the date on which it shall have become a law provided, however, that if section 1-a of part JJJ of chapter 59 of the laws of 2019 shall not have taken effect on or before such date then section three of this act shall take effect on the same date and in the same manner as such chapter of the laws of 2019, takes effect.