STATE OF NEW YORK

2177

2019-2020 Regular Sessions

IN SENATE

January 23, 2019

Introduced by Sen. BAILEY -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to burglary in the second degree

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

Section 1. Subdivision 2 of section 140.25 of the penal law, as amended by chapter 361 of the laws of 1981, is amended and a new subdivision 3 is added to read as follows:

2. The building is a dwelling[~~.~~]**; or**

3. The building is a dwelling which, at the time of the commission of the crime, is occupied by a person who is not a participant in the crime.

§ 2. Paragraph (b) of subdivision 1 of section 70.02 of the penal law, as amended by chapter 476 of the laws of 2018, is amended to read as follows:

(b) Class C violent felony offenses: an attempt to commit any of the class B felonies set forth in paragraph (a) of this subdivision; aggravated criminally negligent homicide as defined in section 125.11, aggravated manslaughter in the second degree as defined in section 125.21, aggravated sexual abuse in the second degree as defined in section 130.67, assault on a peace officer, police officer, firefighter or emergency medical services professional as defined in section 120.08, assault on a judge as defined in section 120.09, gang assault in the second degree as defined in section 120.06, strangulation in the first degree as defined in section 121.13, burglary in the second degree as defined in **subdivisions one and three of** section 140.25, robbery in the second degree as defined in section 160.10, criminal possession of a weapon in the second degree as defined in section 265.03, criminal use of a firearm in the second degree as defined in section 265.08, criminal sale of a firearm in the second degree as defined in section 265.12,

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

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criminal sale of a firearm with the aid of a minor as defined in section 265.14, aggravated criminal possession of a weapon as defined in section 265.19, soliciting or providing support for an act of terrorism in the first degree as defined in section 490.15, hindering prosecution of terrorism in the second degree as defined in section 490.30, and criminal possession of a chemical weapon or biological weapon in the third degree as defined in section 490.37.

§ 3. This act shall take effect immediately.