

STATE OF NEW YORK

4712

2019-2020 Regular Sessions

IN SENATE

March 21, 2019

Introduced by Sens. JORDAN, HELMING, AKSHAR, AMEDORE, ANTONACCI, BOYLE, FLANAGAN, FUNKE, GALLIVAN, GRIFFO, JACOBS, LITTLE, O'MARA, ORTT, RANZENHOFER, ROBACH, SERINO, TEDISCO -- read twice and ordered printed, and when printed to be committed to the Committee on Women's Issues

AN ACT to amend the penal law, in relation to establishing the crime of assault on a pregnant individual

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

1 Section 1. This act shall be known and may be cited as the "Liv Act."

2 § 2. The penal law is amended by adding new section 120.05-a to read
3 as follows:

4 § 120.05-a Assault on a pregnant individual.

5 A person is guilty of assault on a pregnant individual when he or she
6 intentionally or knowingly causes injury to an individual he or she
7 knows or has reason to know is pregnant.

8 1. For the purposes of this section, "injury" includes bodily injury
9 that results in the termination of a pregnancy.

10 2. This section shall not apply to acts committed by:

11 a. a pregnant individual or any person providing treatment relating to
12 an abortion for which the consent of the pregnant individual, or a
13 person authorized by law to act on behalf of the pregnant individual,
14 has been obtained or for which such consent is implied by law; or

15 b. any person providing any medical treatment of a pregnant individ-
16 ual.

17 3. This section shall be construed and applied consistent with article
18 twenty-five of the public health law and applicable laws and regulations
19 governing health procedures. Assault on a pregnant individual is a
20 class D felony.

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

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1 § 3. Paragraph (c) of subdivision 1 of section 70.02 of the penal law,
2 as amended by chapter 368 of the laws of 2015, is amended to read as
3 follows:

4 (c) Class D violent felony offenses: an attempt to commit any of the
5 class C felonies set forth in paragraph (b); reckless assault of a child
6 as defined in section 120.02, assault in the second degree as defined in
7 section 120.05, assault on a pregnant individual as defined in section
8 120.05-a, menacing a police officer or peace officer as defined in
9 section 120.18, stalking in the first degree, as defined in subdivision
10 one of section 120.60, strangulation in the second degree as defined in
11 section 121.12, rape in the second degree as defined in section 130.30,
12 criminal sexual act in the second degree as defined in section 130.45,
13 sexual abuse in the first degree as defined in section 130.65, course of
14 sexual conduct against a child in the second degree as defined in
15 section 130.80, aggravated sexual abuse in the third degree as defined
16 in section 130.66, facilitating a sex offense with a controlled
17 substance as defined in section 130.90, labor trafficking as defined in
18 paragraphs (a) and (b) of subdivision three of section 135.35, criminal
19 possession of a weapon in the third degree as defined in subdivision
20 five, six, seven, eight, nine or ten of section 265.02, criminal sale of
21 a firearm in the third degree as defined in section 265.11, intimidating
22 a victim or witness in the second degree as defined in section 215.16,
23 soliciting or providing support for an act of terrorism in the second
24 degree as defined in section 490.10, and making a terroristic threat as
25 defined in section 490.20, falsely reporting an incident in the first
26 degree as defined in section 240.60, placing a false bomb or hazardous
27 substance in the first degree as defined in section 240.62, placing a
28 false bomb or hazardous substance in a sports stadium or arena, mass
29 transportation facility or enclosed shopping mall as defined in section
30 240.63, and aggravated unpermitted use of indoor pyrotechnics in the
31 first degree as defined in section 405.18.

32 § 4. This act shall take effect immediately.