

# STATE OF NEW YORK

6670--B

2019-2020 Regular Sessions

## IN SENATE

August 26, 2019

Introduced by Sens. BENJAMIN, BRESLIN, CARLUCCI, GOUNARDES, HOYLMAN, JACKSON, KAVANAGH, LIU, SALAZAR, SANDERS, SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Codes in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, in relation to establishing the crime of aggravated strangulation

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

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "Eric Garner anti-chokehold act".

3 § 2. The penal law is amended by adding a new section 121.13-a to read  
4 as follows:

5 § 121.13-a Aggravated strangulation.

6 A person is guilty of aggravated strangulation when, being a police  
7 officer as defined in subdivision thirty-four of section 1.20 of the  
8 criminal procedure law or a peace officer as defined in section 2.10 of  
9 the criminal procedure law, he or she commits the crime of criminal  
10 obstruction of breathing or blood circulation, as defined in section  
11 121.11 of this article, or uses a chokehold or similar restraint, as  
12 described in paragraph b of subdivision one of section eight hundred  
13 thirty-seven-t of the executive law, and thereby causes serious physical  
14 injury or death to another person.

15 Aggravated strangulation is a class C felony.

16 § 3. Section 121.14 of the penal law, as added by chapter 405 of the  
17 laws of 2010, is amended to read as follows:

18 § 121.14 Medical or dental purpose.

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

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1 For purposes of [~~sections~~ section 121.11, 121.12 [~~and~~], 121.13 or  
2 121.13-a of this article, it shall be an affirmative defense that the  
3 defendant performed such conduct for a valid medical or dental purpose.

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

7 (b) Class C violent felony offenses: an attempt to commit any of the  
8 class B felonies set forth in paragraph (a) of this subdivision; aggra-  
9 vated criminally negligent homicide as defined in section 125.11, aggra-  
10 vated manslaughter in the second degree as defined in section 125.21,  
11 aggravated sexual abuse in the second degree as defined in section  
12 130.67, assault on a peace officer, police officer, firefighter or emer-  
13 gency medical services professional as defined in section 120.08,  
14 assault on a judge as defined in section 120.09, gang assault in the  
15 second degree as defined in section 120.06, strangulation in the first  
16 degree as defined in section 121.13, aggravated strangulation as defined  
17 in section 121.13-a, burglary in the second degree as defined in section  
18 140.25, robbery in the second degree as defined in section 160.10, crim-  
19 inal possession of a weapon in the second degree as defined in section  
20 265.03, criminal use of a firearm in the second degree as defined in  
21 section 265.08, criminal sale of a firearm in the second degree as  
22 defined in section 265.12, criminal sale of a firearm with the aid of a  
23 minor as defined in section 265.14, aggravated criminal possession of a  
24 weapon as defined in section 265.19, soliciting or providing support for  
25 an act of terrorism in the first degree as defined in section 490.15,  
26 hindering prosecution of terrorism in the second degree as defined in  
27 section 490.30, and criminal possession of a chemical weapon or biolog-  
28 ical weapon in the third degree as defined in section 490.37.

29 § 5. This act shall take effect immediately.