STATE OF NEW YORK

9018

IN SENATE

October 2, 2020

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

AN ACT to amend the penal law and the criminal procedure law, in relation to creating the crime of unlawful dissemination or publication of discovery material

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

Section 1. The penal law is amended by adding a new section 215.09 to read as follows:

§ 215.09 Unlawful dissemination or publication of discovery material.

1. A person is guilty of unlawful dissemination or publication of discovery material, when he or she:

a. Intentionally disseminates or publishes material defined under section 245.20 of the criminal procedure law with the intent of intimidating or harassing another person; or

b. Intentionally disseminates or publishes material defined under section 245.20 of the criminal procedure law to another person and he or she knew or reasonably should have known that the person intended to use the discovery material to intimidate or harass another person.

2. A person who is the defense counsel to a defendant in a legal proceeding shall not be guilty of an offense under paragraph b of subdivision one of this section, when communicating directly with the defendant in accordance with article two hundred forty-five of the criminal procedure law.

3. Under this section, "disseminates" and "publishes" shall have the same meanings as under section 250.40 of this part.

Unlawful dissemination or publication of discovery material is a class E felony.

§ 2. Paragraphs (s) and (t) of subdivision 4 of section 510.10 of the criminal procedure law, as added by section 2 of part UU of chapter 56 of the laws of 2020, are amended and a new paragraph (u) is added to read as follows:

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

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(s) a felony, where the defendant qualifies for sentencing on such charge as a persistent felony offender pursuant to section 70.10 of the penal law; [~~or~~]

(t) any felony or class A misdemeanor involving harm to an identifiable person or property, where such charge arose from conduct occurring while the defendant was released on his or her own recognizance or released under conditions for a separate felony or class A misdemeanor involving harm to an identifiable person or property, provided, however, that the prosecutor must show reasonable cause to believe that the defendant committed the instant crime and any underlying crime. For the purposes of this [~~subparagraph~~] **paragraph**, any of the underlying crimes need not be a qualifying offense as defined in this subdivision[~~.~~]**; or**

(u) unlawful dissemination or publication of discovery material as defined in section 215.09 of the penal law.

§ 3. Subparagraphs (xix) and (xx) of paragraph (b) of subdivision 1 of section 530.20 of the criminal procedure law, as amended by section 3 of part UU of chapter 56 of the laws of 2020, are amended and a new subparagraph (xxi) is added to read as follows:

(xix) a felony, where the defendant qualifies for sentencing on such charge as a persistent felony offender pursuant to section 70.10 of the penal law; [~~or~~]

(xx) any felony or class A misdemeanor involving harm to an identifiable person or property, where such charge arose from conduct occurring while the defendant was released on his or her own recognizance or released under conditions for a separate felony or class A misdemeanor involving harm to an identifiable person or property, provided, however, that the prosecutor must show reasonable cause to believe that the defendant committed the instant crime and any underlying crime. For the purposes of this subparagraph, any of the underlying crimes need not be a qualifying offense as defined in this subdivision[~~.~~]**; or**

(xxi) unlawful dissemination or publication of discovery material as defined in section 215.09 of the penal law.

§ 4. Paragraphs (s) and (t) of subdivision 4 of section 530.40 of the criminal procedure law, as added by section 4 of part UU of chapter 56 of the laws of 2020, are amended and a new paragraph (u) is added to read as follows:

(s) a felony, where the defendant qualifies for sentencing on such charge as a persistent felony offender pursuant to section 70.10 of the penal law; [~~or~~]

(t) any felony or class A misdemeanor involving harm to an identifiable person or property, where such charge arose from conduct occurring while the defendant was released on his or her own recognizance or released under conditions for a separate felony or class A misdemeanor involving harm to an identifiable person or property, provided, however, that the prosecutor must show reasonable cause to believe that the defendant committed the instant crime and any underlying crime. For the purposes of this [~~subparagraph~~] **paragraph**, any of the underlying crimes need not be a qualifying offense as defined in this subdivision[~~.~~]**; or**

(u) unlawful dissemination or publication of discovery material as defined in section 215.09 of the penal law.

§ 5. This act shall take effect immediately.