STATE OF NEW YORK

6144--B

2019-2020 Regular Sessions

IN ASSEMBLY

February 28, 2019

Introduced by M. of A. MOSLEY, REYES, BLAKE, OTIS, CARROLL, L. ROSENTHAL, PICHARDO, EPSTEIN, HUNTER, NIOU, SIMON, RICHARDSON, CRESPO, RODRIGUEZ, LIFTON, JOYNER, SIMOTAS, BICHOTTE, GLICK, DAVILA, VANEL, ORTIZ -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- 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:

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

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

§ 121.13-a Aggravated strangulation.

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

Aggravated strangulation is a class C felony.

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

§ 121.14 Medical or dental purpose.

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

LBD10132-06-0

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

§ 4. 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, aggravated strangulation as defined in section 121.13-a, burglary in the second degree as defined in 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, 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.

§ 5. This act shall take effect immediately.