STATE OF NEW YORK

4740

2019-2020 Regular Sessions

IN SENATE

March 22, 2019

Introduced by Sen. HELMING -- 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 woman

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

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

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

§ 120.05-a Assault on a pregnant woman in the second degree.

A person is guilty of assault on a pregnant woman in the second degree when he or she intentionally causes injury to a woman he or she knows or has reason to know is pregnant or causes injury to her unborn child.

1. For the purposes of this section, "injury" includes bodily injury to her unborn child.

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

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

b. any person providing any medical treatment of a pregnant woman.

3. This section shall be construed and applied consistent with article twenty-five of the public health law and applicable laws and regulations governing health procedures.

Assault on a pregnant woman in the second degree is a class D felony.

§ 3. The penal law is amended by adding a new section 120.10-a to read as follows:

§ 120.10-a Assault on a pregnant woman in the first degree.

A person is guilty of assault on a pregnant woman in the first degree when he or she intentionally causes serious injury to a woman he or she

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

LBD08661-05-9

knows or has reason to know is pregnant or causes the death of her unborn child.

1. This section shall not apply to acts committed by:

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

b. any person providing any medical treatment of a pregnant woman.

2. This section shall be construed and applied consistent with article twenty-five of the public health law and applicable laws and regulations governing health procedures.

Assault on a pregnant woman in the first degree is a class C felony.

§ 4. Paragraphs (b) and (c) of subdivision 1 of section 70.02 of the penal law, paragraph (b) as amended by chapter 476 of the laws of 2018 and paragraph (c) as amended by chapter 368 of the laws of 2015, are 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, assault on a pregnant woman in the first degree as defined in section 120.10-a, 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 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.

(c) Class D violent felony offenses: an attempt to commit any of the class C felonies set forth in paragraph (b); reckless assault of a child as defined in section 120.02, assault in the second degree as defined in section 120.05, assault on a pregnant woman in the second degree as defined in section 120.05-a, menacing a police officer or peace officer as defined in section 120.18, stalking in the first degree, as defined in subdivision one of section 120.60, strangulation in the second degree as defined in section 121.12, rape in the second degree as defined in section 130.30, criminal sexual act in the second degree as defined in section 130.45, sexual abuse in the first degree as defined in section 130.65, course of sexual conduct against a child in the second degree as defined in section 130.80, aggravated sexual abuse in the third degree as defined in section 130.66, facilitating a sex offense with a controlled substance as defined in section 130.90, labor trafficking as defined in paragraphs (a) and (b) of subdivision three of section 135.35, criminal possession of a weapon in the third degree as defined in subdivision five, six, seven, eight, nine or ten of section 265.02,

criminal sale of a firearm in the third degree as defined in section 265.11, intimidating a victim or witness in the second degree as defined in section 215.16, soliciting or providing support for an act of terrorism in the second degree as defined in section 490.10, and making a terroristic threat as defined in section 490.20, falsely reporting an incident in the first degree as defined in section 240.60, placing a false bomb or hazardous substance in the first degree as defined in section 240.62, placing a false bomb or hazardous substance in a sports stadium or arena, mass transportation facility or enclosed shopping mall as defined in section 240.63, and aggravated unpermitted use of indoor pyrotechnics in the first degree as defined in section 405.18.

§ 5. This act shall take effect immediately.