

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:

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 woman in the second degree.

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

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

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

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

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

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

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

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

22 § 120.10-a Assault on a pregnant woman in the first degree.

23 A person is guilty of assault on a pregnant woman in the first degree
24 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.

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

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

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

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

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

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

13 § 4. Paragraphs (b) and (c) of subdivision 1 of section 70.02 of the
14 penal law, paragraph (b) as amended by chapter 476 of the laws of 2018
15 and paragraph (c) as amended by chapter 368 of the laws of 2015, are
16 amended to read as follows:

17 (b) Class C violent felony offenses: an attempt to commit any of the
18 class B felonies set forth in paragraph (a) of this subdivision; aggra-
19 vated criminally negligent homicide as defined in section 125.11, aggra-
20 vated manslaughter in the second degree as defined in section 125.21,
21 aggravated sexual abuse in the second degree as defined in section
22 130.67, assault on a peace officer, police officer, firefighter or emer-
23 gency medical services professional as defined in section 120.08,
24 assault on a judge as defined in section 120.09, assault on a pregnant
25 woman in the first degree as defined in section 120.10-a, gang assault
26 in the second degree as defined in section 120.06, strangulation in the
27 first degree as defined in section 121.13, burglary in the second degree
28 as defined in section 140.25, robbery in the second degree as defined in
29 section 160.10, criminal possession of a weapon in the second degree as
30 defined in section 265.03, criminal use of a firearm in the second
31 degree as defined in section 265.08, criminal sale of a firearm in the
32 second degree as defined in section 265.12, criminal sale of a firearm
33 with the aid of a minor as defined in section 265.14, aggravated crimi-
34 nal possession of a weapon as defined in section 265.19, soliciting or
35 providing support for an act of terrorism in the first degree as defined
36 in section 490.15, hindering prosecution of terrorism in the second
37 degree as defined in section 490.30, and criminal possession of a chemi-
38 cal weapon or biological weapon in the third degree as defined in
39 section 490.37.

40 (c) Class D violent felony offenses: an attempt to commit any of the
41 class C felonies set forth in paragraph (b); reckless assault of a child
42 as defined in section 120.02, assault in the second degree as defined in
43 section 120.05, assault on a pregnant woman in the second degree as
44 defined in section 120.05-a, menacing a police officer or peace officer
45 as defined in section 120.18, stalking in the first degree, as defined
46 in subdivision one of section 120.60, strangulation in the second degree
47 as defined in section 121.12, rape in the second degree as defined in
48 section 130.30, criminal sexual act in the second degree as defined in
49 section 130.45, sexual abuse in the first degree as defined in section
50 130.65, course of sexual conduct against a child in the second degree as
51 defined in section 130.80, aggravated sexual abuse in the third degree
52 as defined in section 130.66, facilitating a sex offense with a
53 controlled substance as defined in section 130.90, labor trafficking as
54 defined in paragraphs (a) and (b) of subdivision three of section
55 135.35, criminal possession of a weapon in the third degree as defined
56 in subdivision five, six, seven, eight, nine or ten of section 265.02,

1 criminal sale of a firearm in the third degree as defined in section
2 265.11, intimidating a victim or witness in the second degree as defined
3 in section 215.16, soliciting or providing support for an act of terror-
4 ism in the second degree as defined in section 490.10, and making a
5 terroristic threat as defined in section 490.20, falsely reporting an
6 incident in the first degree as defined in section 240.60, placing a
7 false bomb or hazardous substance in the first degree as defined in
8 section 240.62, placing a false bomb or hazardous substance in a sports
9 stadium or arena, mass transportation facility or enclosed shopping mall
10 as defined in section 240.63, and aggravated unpermitted use of indoor
11 pyrotechnics in the first degree as defined in section 405.18.
12 § 5. This act shall take effect immediately.