STATE OF NEW YORK

2129

2021-2022 Regular Sessions

IN SENATE

January 19, 2021

Introduced by Sens. JORDAN, HELMING, AKSHAR, BOYLE, GALLIVAN, GRIFFO, O'MARA, ORTT, SERINO, TEDISCO -- 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 individual

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 individual.

A person is guilty of assault on a pregnant individual when he or she intentionally or knowingly causes injury to an individual he or she knows or has reason to know is pregnant.

1. For the purposes of this section, "injury" includes bodily injury that results in the termination of a pregnancy.

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

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

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

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 individual is a class D felony.

§ 3. Paragraph (c) of subdivision 1 of section 70.02 of the penal law, as amended by chapter 134 of the laws of 2019, is amended to read as follows:

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

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(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 individual 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, aggravated unpermitted use of indoor pyrotechnics in the first degree as defined in section 405.18, and criminal manufacture, sale, or transport of an undetectable firearm, rifle or shotgun as defined in section 265.50.

§ 4. This act shall take effect immediately.