## STATE OF NEW YORK

2658

2021-2022 Regular Sessions

## IN SENATE

January 22, 2021

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	<u>§ 120.05-a Assault on a pregnant woman in the second degree.</u>
5	A person is guilty of assault on a pregnant woman in the second degree
б	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	<u>to her unborn child.</u>
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 <u>italics</u> (underscored) is new; matter in brackets [-] is old law to be omitted.

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S. 2658

<ul> <li>unborn child.</li> <li>1. This section shall not apply to acts committed by:         <ol> <li>a. a pregnant woman or any person providing treatment relating to an abortion for which the consent of the pregnant woman, for 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</li> <li>b. any person providing any medical treatment of a pregnant woman.</li> <li>2. This section shall be construed and applied consistent with article twenty-five of the public health law and applied by laws and regulations governing health procedures.</li> </ol> </li> <li>Assault on a pregnant woman in the first degree is a class C felony.</li> <li>8 4. Paragraphs (b) and (c) of subdivision 1 of section 70.02 of the penal law, paragraph (b) as amended by chapter 134 of the laws of 2020 and paragraph (c) as amended by chapter 134 of the laws of 2019, are amended to read as follows:         <ol> <li>(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 exual abuse in the second degree as defined in section 125.21, aggravated sexual abuse in the second degree as defined in section 120.08, assault on a judge as defined in section 120.09, assault on a peace officer, police officer, firefighter or emergency medical services professional as defined in section 120.08, trangulation and the first degree as defined in section 120.10-a, gang assault</li> </ol> </li> <li>the second degree as defined in section 120.06, strangulation as defined in section 140.25, robbery in the second degree as defined in section 140.01, criminal possession of a weapon in the second degree as defined in section 120.10, strangulation as defined in section 285.08, criminal sale of a firearm in the second degree as defined in section 120.05, strangulation as defined in section 120.05, strangulation as de</li></ul>	1	knows or has reason to know is pregnant or causes the death of her
<ul> <li>a. a preenant woman or any person providing treatment relating to a bachton 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</li> <li>b. any person providing any medical treatment of a presmant woman.</li> <li>2. This section shall be construed and applied consistent with article twenty-five of the public healt haw and applicable laws and regulations governing health procedures.</li> <li>Assult on a pregnant woman in the first degree is a class C felony.</li> <li>§ 4. Paragraphs (b) and (c) of subdivision 1 of section 70.02 of the penal law, paragraph (b) as amended by chapter 94 of the laws of 2020 and paragraph (c) as amended by chapter 134 of the laws of 2020, are amended to read as follows:</li> <li>(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 exinual hymegingent homicide as defined in section 125.21, aggravated sexual abuse in the second degree as defined in section 120.08, 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 120.10-a, gang assault in the second degree as defined in section 120.08, assault on a pregnant woman in the first degree as defined in section 120.10-a, gang assault in section 26.03, criminal possession of a weapon in the second degree as defined in section 160.10, criminal possession of a weapon in the second degree as defined in section 162.14, aggravated criminal possession of a weapon in the second degree as defined in section 26.19, soliciting or providing support for an act of terrorism in the second degree as defined in section 26.03, criminal sale of a firearm in the second degree as defined in section 120.05, assault on a weapon in the third degree as defined in section 120.05, assault or a weapon in the second degree as d</li></ul>	2	
<ul> <li>5 abortion for which the consent of the pregnant woman. or a person obtained or for which such consent is implied by law: or</li> <li>8 b. any person providing any medical treatment of a pregnant woman.</li> <li>2. This section shall be construed and applied consistent with article twenty-five of the public health law and applied consistent with article streatment of a pregnant woman in the first degree is a class C felony.</li> <li>8 4. Paragraphs (b) and (c) of subdivision 1 of section 70.02 of the penal law, paragraph (b) as amended by chapter 94 of the laws of 2020 and paragraph (c) as amended by chapter 134 of the laws of 2019, are amended to read as follows:</li> <li>(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 sexual abuse in the second degree as defined in section 126.21, aggravated sexual abuse in the second degree as defined in section 120.08, 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 word degree as defined in section 120.08, trangulation in the first degree as defined in section 120.04, strangulation as defined in section 140.25, robbery in the second degree as defined in section 120.08, assault on a judge as defined in section 120.10-a, gang assault in section 140.25, robbery in the second degree as defined in section 130.67.3, soliciting or for infinal possession of a weapon in the second degree as defined in section 120.09, assault on a peace as defined in section 265.14, aggravated strangulation as defined in section 265.03, criminal sale of a firearm with the aid effined in section 265.04, criminal sale of a firearm with the addere as defined in section 265.19, assuit of a firearm with the addere as defined in section 120.05, assault of a degree as defined in section 265.19, assault of a dimed in section 120.05, assault on the second</li></ul>	3	
<ul> <li>6 authorized by law to act on behalf of the premnant woman, has been obtained or for which such consent is implied by law; or</li> <li>8 b. any person providing any medical treatment of a premnant woman.</li> <li>2. This section shall be construed and applied consistent with article twenty-five of the public health law and applied consistent with article soverning health procedures.</li> <li>Assult on a premnant woman in the first decree is a class C felony.</li> <li>8 4. Paragraphs (b) as amended by chapter 134 of the laws of 2019, are amended to read as follows:</li> <li>(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 armingly negligent homicide as defined in section 125.11, aggravated sexual abuse in the second degree as defined in section 125.21, aggravated sexual abuse in the second degree as defined in section 120.08, assult on a pace officer, police officer, firelighter or emergency medical services professional as defined in section 120.08, assult on a pace officer, police officer, firelighter or a premant woman in the first degree as defined in section 120.09, assult on a pace of a defined in section 120.00, assult on a pacemant woman in the first degree as defined in section 120.01, aggravated strangulation as defined in section 120.05, strangulation in the first degree as defined in section 120.06, strangulation as defined in section 120.05, strangulation as defined in section 265.08, criminal sale of a firearm with the aid of a minor as defined in section 265.14, aggravated criminal possession of a weapon in the second degree as defined in section 400.51, hindering prosecution of terrorism in the second degree as defined in section 265.14, aggravated criminal possession of a weapon in the third degree as defined in section 120.05, strangulation as defined in section 120.05, assult on a pace of ficer or pace officer or pace officer or pace officer is second degree as defined in section 265.14, ag</li></ul>		
obtained or for which such consent is implied by law or b. any person providing any medical treatment of a presmant woman. 2. This section shall be construed and applied consistent with article twenty-five of the public health law and applied laws and regulations governing health procedures. Assault on a pregnant woman in the first degree is a class C felony. 5 4. Paragraphs (b) and (c) of subdivision 1 of section 70.02 of the penal law, paragraph (b) as amended by chapter 94 of the laws of 2020 and paragraph (c) as amended by chapter 134 of the laws of 2019, 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; aggra- vated manslaughter in the second degree as defined in section 125.11, aggra- vated manslaughter in the second degree as defined in section 120.08, assault on a judge as defined in section 120.10-a, gang assault in the second degree as defined in section 120.08, assault on a judge as defined in section 120.10-a, gang assault in the first degree as defined in section 120.10-a, gang assault first degree as defined in section 120.06, strangulation in the first degree as defined in section 120.10-a, gang assault 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 265.08, criminal sale of a firearm in the second degree as defined in section 25.1.4, aggravated criminal possession of a weapon as defined in section 26.8, dimension of 1.00, soliciting or providing support for an act of terrorism in the first 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 assult of a chmi- 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 assult of a chmi- section 130.30, criminal sexual act in the seccond degree	5	abortion for which the consent of the pregnant woman, or a person
<ul> <li>b. any person providing any medical treatment of a pregnant woman.</li> <li>2. This section shall be construed and applied consistent with article twenty-five of the public health law and applied laws and regulations (overning health procedures.</li> <li>Assult on a pregnant woman in the first degree is a class C felony.</li> <li>§ 4. Paragraphs (b) and (c) of subdivision 1 of section 70.02 of the penal law, paragraph (b) as amended by chapter 94 of the laws of 2019, are amended to read as follows:</li> <li>(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 sexual abuse in the second degree as defined in section 125.12, aggravated sexual abuse in the second degree as defined in section 120.08, assult on a judge as defined in section 120.09, assult on a judge as defined in section 120.09, assult on a judge as defined in section 120.09, assult on a judge as defined in section 120.09, assult on a first degree as defined in section 120.09, assult on a first degree as defined in section 120.09, assult on a first degree as defined in section 120.09, assult on a first degree as defined in section 120.09, assult on a first degree as defined in section 120.09, assult on a first degree as defined in section 120.09, assult on a first degree as defined in section 120.09, assult on a section 121.13, apgravated strangulation as defined in section 265.03, criminal use of a firearm in the second degree as defined in section 120.00, assult on a section 120.10, criminal possession of a weapon in the second degree as defined in section 265.10, criminal sale of a firearm in the second degree as defined in section 265.10, criminal sale of a firearm in the second degree as defined in section 120.02, assult on a pregnant woman in the second degree as defined in section 120.02, assult on 400.03, and criminal possession of a chemication 490.03.&lt;</li></ul>	б	authorized by law to act on behalf of the pregnant woman, has been
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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 (c) as amended by chapter 94 of the laws of 2020 2019 and paragraph (c) as amended by chapter 134 of the laws of 2019, 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 125.21, aggravated sexual abuse in the second degree as defined in section 125.21, 21 aggravated sexual abuse in the second degree as defined in section 120.08, 24 assault on a judge as defined in section 120.09, assault on a judge as defined in section 120.10-a, gang assault 26 in the second degree as defined in section 120.10-a, gang assault 27 medical services professional as defined in section 120.08, 28 assault on a judge as defined in section 120.06, strangulation as 29 defined in section 121.13-a, burglary in the second degree as defined in 29 section 140.25, robbery in the second degree as defined in section 160.10, criminal possession of a veapon in the second degree as defined in section 265.03, criminal sale of a firearm in the second degree as defined in section 265.14, aggravated criminal 20 providing support for an act of terrorism in the first degree as defined in section 490.37. 21 (c) Class D violent felony offenses: an attempt to commit any of the 21 weapon or biological weapon in the second degree as defined in section 490.37. 21 (c) Class D violent felony offenses: an attempt to commit any of the 22 adefined in section 120.02, assault of a child 33 as defined in section 120.02, assault of a child 34 as defined in section 120.02, assault in the second degree as defined in 35 defin	9	2. This section shall be construed and applied consistent with article
Assult 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 94 of the laws of 2020 and paragraph (c) as amended by chapter 134 of the laws of 2019, 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; aggra- vated criminally negligent homicide as defined in section 125.11, aggravated sexual abuse in the second degree as defined in section 130.67, assault on a peace officer, police officer, firefighter or emer- gency 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 120.00, 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 120.10, strangulation as defined in section 121.13, aggravated strangulation as defined in section 121.13, aggravated strangulation as defined in section 125.08, criminal sale of a firearm in the second degree as defined in section 265.12, aggravated criminal soction 265.03, criminal use of a firearm in the second degree as defined in section 265.04, criminal sale of a firearm with the aid of a minor as defined in section 265.19, soliciting or providing support for an act of terrorism in the first 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 120.02, assault in the second degree as defined in section 120.05, assault on a pregnant woman in the second degree as defined in section 120.12, against a child in the second degree as defined	10	twenty-five of the public health law and applicable laws and regulations
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15 and paragraph (c) as amended by chapter 134 of the laws of 2019, 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 120.02, 21 aggravated sexual abuse in the second degree as defined in section 120.08, 23 assault on a judge as defined in section 120.09, assault on a preemant 24 yoman in the first degree as defined in section 120.10.a, gang assult 25 woman in the first degree as defined in section 120.06, strangulation in the 27 first degree as defined in section 121.13, aggravated strangulation as 28 defined in section 121.13-a, burglary in the second degree as defined in 29 section 140.25, robbery in the second degree as defined in section 26 16.10, criminal possession of a weapon in the second degree as defined 20 in section 265.03, criminal use of a firearm in the second degree as 20 defined in section 265.10, criminal sale of a firearm with the 34 aid of a minor as defined in section 265.14, aggravated criminal 35 possession of a weapon as defined in section 265.19, soliciting or 36 providing support for an act of terrorism in the first degree as defined in 37 section 490.37. 30 (c) Class D violent felony offenses: an attempt to commit any of the 41 section 120.05, assault on a pregnant woman in the second degree as 34 defined in section 120.18, stalking in the first degree, as defined in 35 section 120.05, assault on a pregnant woman in the second degree 36 adefined in section 120.18, stalking in the first degree, as defined in 37 section 130.05, criminal sub of a firearm with the second degree as 35 defined in section 120.18, stalking in the first degree as defined in 36 section 130.45, sexual abuse in the first degree as defined i	14	penal law, paragraph (b) as amended by chapter 94 of the laws of 2020
16 amended to read as follows: 17 (b) Class C violent felony offenses: an attempt to commit any of the 17 (c) 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 oriminally negligent homicide as defined in section 125.11, aggravated sexual abuse in the second degree as defined in section 130.67, assault on a peace officer, police officer, firefighter or emer- 23 gency medical services professional as defined in section 120.08, 4 assault on a judge as defined in section 120.09, <u>assault on a pregnant</u> 24 woman in the first degree as defined in section 120.10-a, gang assault 25 in the second degree as defined in section 120.06, strangulation in the 27 first degree as defined in section 121.13, aggravated strangulation as 28 defined in section 121.13-a, burglary in the second degree as defined in 29 section 140.25, robbery in the second degree as defined in section 20 160.10, criminal possession of a weapon in the second degree as 29 defined in section 255.08, criminal sale of a firearm with the 30 ad a minor as defined in section 265.14, aggravated criminal 31 possession of a weapon as defined in section 265.19, soliciting or 32 or providing support for an act of terrorism in the first degree as defined 33 in section 490.15, hindering prosecution of terrorism in the second 34 degree as defined in section 265.08, and criminal possession of a chemi- 35 cal weapon or biological weapon in the third degree as defined in 34 section 120.05, <u>assault on a pregnant woman in the second degree as</u> 34 defined in section 120.02, assault in the second degree as defined 35 adefined in section 120.02, assault on the first degree, as defined 36 in section 120.05, <u>assault on a pregnant woman in the second degree</u> 37 adefined in section 120.05, assault on the first degree, as defined 36 in section 120.12, rape in the second degree as defined in 36 section 130.45, sexual abuse in the first degree as defined in	15	
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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 chemi- cal 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, <u>assault on a pregnant woman in the second degree as</u> <u>defined in section 120.18</u> , 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 130.45, sexual abuse in the first degree as defined in section 130.45, sexual abuse in the first degree as defined in section 130.45, sexual abuse in the first degree as defined in section 130.45, sexual abuse in the first degree as defined in section 130.45, sexual abuse in the first degree as defined in section 130.45, sexual abuse in the first degree as defined in section 130.45, sexual abuse in the first degree as defined in section 130.45, sexual abuse in the first degree as defined in section 130.45, sexual abuse in the first degree as defined in section 130.45, sexual abuse in the first degree as defined in section 130.66, facilitating a sex offense with a formed in section 130.66, facilitating a sex offense with a set defined in paragraphs (a) and (b) of subdivision three of section	30	160.10, criminal possession of a weapon in the second degree as defined
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<ul> <li>34 aid of a minor as defined in section 265.14, aggravated criminal</li> <li>35 possession of a weapon as defined in section 265.19, soliciting or</li> <li>36 providing support for an act of terrorism in the first degree as defined</li> <li>37 in section 490.15, hindering prosecution of terrorism in the second</li> <li>38 degree as defined in section 490.30, and criminal possession of a chemi-</li> <li>39 cal weapon or biological weapon in the third degree as defined in</li> <li>40 section 490.37.</li> <li>41 (c) Class D violent felony offenses: an attempt to commit any of the</li> <li>42 class C felonies set forth in paragraph (b); reckless assault of a child</li> <li>43 as defined in section 120.02, assault in the second degree as defined in</li> <li>44 section 120.05, <u>assault on a pregnant woman in the second degree as</u></li> <li>45 <u>defined in section 120.18</u>, stalking in the first degree, as defined</li> <li>47 in subdivision one of section 120.60, strangulation in the second degree</li> <li>48 as defined in section 121.12, rape in the second degree as defined in</li> <li>49 section 130.30, criminal sexual act in the second degree as defined in</li> <li>50 section 130.45, sexual abuse in the first degree as defined in</li> <li>51 130.65, course of sexual conduct against a child in the third degree</li> <li>52 as defined in section 130.80, aggravated sexual abuse in the third degree</li> <li>53 as defined in section 130.66, facilitating a sex offense with a</li> <li>54 controlled substance as defined in section 130.90, labor trafficking as</li> <li>55 defined in paragraphs (a) and (b) of subdivision three of section</li> </ul>	32	defined in section 265.08, criminal sale of a firearm in the second
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56 135.35, criminal possession of a weapon in the third degree as defined		
	56	135.35, criminal possession of a weapon in the third degree as defined

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1 in subdivision five, six, seven, eight, nine or ten of section 265.02, 2 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 3 4 in section 215.16, soliciting or providing support for an act of terror-5 ism in the second degree as defined in section 490.10, and making a 6 terroristic threat as defined in section 490.20, falsely reporting an 7 incident in the first degree as defined in section 240.60, placing a 8 false bomb or hazardous substance in the first degree as defined in 9 section 240.62, placing a false bomb or hazardous substance in a sports 10 stadium or arena, mass transportation facility or enclosed shopping mall 11 as defined in section 240.63, aggravated unpermitted use of indoor pyro-12 technics in the first degree as defined in section 405.18, and criminal 13 manufacture, sale, or transport of an undetectable firearm, rifle or 14 shotgun as defined in section 265.50.

15 § 5. This act shall take effect immediately.