

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 § 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.

LBD01535-02-1

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 94 of the laws of 2020
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
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, 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
30 160.10, criminal possession of a weapon in the second degree as defined
31 in section 265.03, criminal use of a firearm in the second degree as
32 defined in section 265.08, criminal sale of a firearm in the second
33 degree as defined in section 265.12, 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
37 in section 490.15, hindering prosecution of terrorism in the second
38 degree as defined in section 490.30, and criminal possession of a chemi-
39 cal weapon or biological weapon in the third degree as defined in
40 section 490.37.

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

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
3 265.11, intimidating a victim or witness in the second degree as defined
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.