

STATE OF NEW YORK

8901

IN ASSEMBLY

January 26, 2024

Introduced by M. of A. LUNSFORD -- read once and referred to the Committee on Codes

AN ACT to amend the penal law and the criminal procedure law, in relation to establishing domestic violence crimes

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

1 Section 1. Title O of the penal law is amended by adding a new article
2 256 to read as follows:

3 ARTICLE 256
4 DOMESTIC VIOLENCE CRIMES

5 Section 256.00 Domestic violence crimes.

6 § 256.00 Domestic violence crimes.

7 1. A person commits a domestic violence crime when he or she intentionally commits or intends to commit a specified offense against a
8 member of the same family or household.

9
10 2. A "specified offense" is an offense defined by any of the following
11 provisions of this chapter: section 120.00 (assault in the third
12 degree); section 120.02 (reckless assault of a child); section 120.05
13 (assault in the second degree); section 120.10 (assault in the first
14 degree); section 120.13 (menacing in the first degree); section 120.14
15 (menacing in the second degree); section 120.15 (menacing in the third
16 degree); section 120.20 (reckless endangerment in the second degree);
17 section 120.25 (reckless endangerment in the first degree); section
18 120.30 (promoting a suicide attempt); section 120.45 (stalking in the
19 fourth degree); section 120.50 (stalking in the third degree); section
20 120.55 (stalking in the second degree); section 120.60 (stalking in the
21 first degree); section 121.11 (criminal obstruction of breathing or
22 blood circulation); section 121.12 (strangulation in the second degree);
23 section 121.13 (strangulation in the first degree); section 125.10
24 (criminally negligent homicide); section 125.15 (manslaughter in the
25 second degree); section 125.20 (manslaughter in the first degree);
26 section 125.25 (murder in the second degree); section 130.20 (sexual

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

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1 misconduct); section 130.25 (rape in the third degree); section 130.30
2 (rape in the second degree); section 130.35 (rape in the first degree);
3 section 130.40 (criminal sexual act in the third degree); section 130.45
4 (criminal sexual act in the second degree); section 130.50 (criminal
5 sexual act in the first degree); section 130.52 (forcible touching);
6 section 130.53 (persistent sexual abuse); section 130.55 (sexual abuse
7 in the third degree); section 130.60 (sexual abuse in the second
8 degree); section 130.65 (sexual abuse in the first degree); section
9 130.65-a (aggravated sexual abuse in the fourth degree); section 130.66
10 (aggravated sexual abuse in the third degree); section 130.67 (aggra-
11 vated sexual abuse in the second degree); section 130.70 (aggravated
12 sexual abuse in the first degree); section 130.75 (course of sexual
13 conduct against a child in the first degree); section 130.80 (course of
14 sexual conduct against a child in the second degree); section 130.85
15 (female genital mutilation); section 130.90 (facilitating a sex offense
16 with a controlled substance); section 130.91 (sexually motivated felo-
17 ny); section 130.95 (predatory sexual assault); section 130.96 (predato-
18 ry sexual assault against a child); section 135.05 (unlawful imprison-
19 ment in the second degree); section 135.10 (unlawful imprisonment in the
20 first degree); section 135.20 (kidnapping in the second degree); section
21 135.25 (kidnapping in the first degree); section 135.60 (coercion in the
22 third degree); section 135.61 (coercion in the second degree); section
23 135.65 (coercion in the first degree); section 140.05 (trespass);
24 section 140.15 (criminal trespass in the second degree); section 140.17
25 (criminal trespass in the first degree); section 140.20 (burglary in the
26 third degree); section 140.25 (burglary in the second degree); section
27 140.30 (burglary in the first degree); section 145.00 (criminal mischief
28 in the fourth degree); section 145.05 (criminal mischief in the third
29 degree); section 145.10 (criminal mischief in the second degree);
30 section 145.12 (criminal mischief in the first degree); section 145.14
31 (criminal tampering in the third degree); section 215.50 (criminal
32 contempt in the second degree); section 215.51 (criminal contempt in the
33 first degree); section 215.52 (aggravated criminal contempt); section
34 240.20 (disorderly conduct); section 240.25 (harassment in the first
35 degree); section 240.26 (harassment in the second degree); subdivision
36 one, two or four of section 240.30 (aggravated harassment in the second
37 degree); section 240.70 (criminal interference with health care services
38 or religious worship in the second degree); section 240.72 (aggravated
39 interference with health care services in the second degree); section
40 240.73 (aggravated interference with health care services in the first
41 degree); section 240.75 (aggravated family offense); or any attempt or
42 conspiracy to commit any of the foregoing offenses where the defendant
43 and the person against whom the offense was committed were members of
44 the same family or household as defined in subdivision three of this
45 section. A "specified offense" shall also be an offense defined by any
46 of the following provisions of this chapter: section 242.05 (interfer-
47 ence, harassment or intimidation of a service animal) and section 242.10
48 (harming a service animal in the second degree) when such service animal
49 is owned by members of the same family or household as defined in subdi-
50 vision three of this section.

51 3. For purposes of this section, a member of the same family or house-
52 hold shall mean the following individuals:

- 53 (a) persons related by consanguinity or affinity;
- 54 (b) persons legally married to one another;
- 55 (c) persons formerly married to one another regardless of whether they
56 still reside in the same household;

1 (d) persons who have a child in common regardless of whether such
2 persons are married or have lived together at any time; or

3 (e) unrelated persons who are continually or at regular intervals
4 living in the same household or who have in the past continually or at
5 regular intervals lived in the same household.

6 § 2. The penal law is amended by adding a new section 60.38 to read as
7 follows:

8 § 60.38 Authorized disposition; domestic violence crimes.

9 1. When a person is convicted of a domestic violence crime pursuant to
10 section 256.00 of this chapter, and the specified offense is a violent
11 felony offense, as defined in section 70.02 of this title, the domestic
12 violence crime may be deemed a violent felony offense.

13 2. When a person is convicted of a domestic violence crime pursuant to
14 section 256.00 of this chapter and the specified offense is a misdemea-
15 nor or a class C, D or E felony, the domestic violence crime may be
16 deemed to be one category higher than the specified offense the defend-
17 ant committed, or one category higher than the offense level applicable
18 to the defendant's conviction for an attempt or conspiracy to commit a
19 specified offense, whichever is applicable.

20 3. When a person is convicted of a domestic violence crime pursuant to
21 section 256.00 of this chapter and the specified offense is a violation,
22 the domestic violence crime may be deemed an unclassified misdemeanor.

23 4. In addition to any of the dispositions authorized by this chapter,
24 the court may require as part of the sentence imposed upon a person
25 convicted of a domestic violence crime pursuant to this article, that
26 the defendant complete a program, training session or counseling session
27 directed at domestic violence crime prevention and education, where the
28 court determines such program, training session or counseling session is
29 appropriate, available and was developed or authorized by the court or
30 local agencies in cooperation with organizations serving the affected
31 community.

32 § 3. Paragraphs (t) and (u) of subdivision 4 of section 510.10 of the
33 criminal procedure law, paragraph (t) as amended and paragraph (u) as
34 added by section 2 of subpart B of part UU of chapter 56 of the laws of
35 2022, are amended and a new paragraph (v) is added to read as follows:

36 (t) any felony or class A misdemeanor involving harm to an identifi-
37 able person or property, or any charge of criminal possession of a
38 firearm as defined in section 265.01-b of the penal law, where such
39 charge arose from conduct occurring while the defendant was released on
40 his or her own recognizance, released under conditions, or had yet to be
41 arraigned after the issuance of a desk appearance ticket for a separate
42 felony or class A misdemeanor involving harm to an identifiable person
43 or property, or any charge of criminal possession of a firearm as
44 defined in section 265.01-b of the penal law, provided, however, that
45 the prosecutor must show reasonable cause to believe that the defendant
46 committed the instant crime and any underlying crime. For the purposes
47 of this subparagraph, any of the underlying crimes need not be a quali-
48 fying offense as defined in this subdivision. For the purposes of this
49 paragraph, "harm to an identifiable person or property" shall include
50 but not be limited to theft of or damage to property. However, based
51 upon a review of the facts alleged in the accusatory instrument, if the
52 court determines that such theft is negligible and does not appear to be
53 in furtherance of other criminal activity, the principal shall be
54 released on his or her own recognizance or under appropriate non-mone-
55 tary conditions; [ex]

1 (u) criminal possession of a weapon in the third degree as defined in
2 subdivision three of section 265.02 of the penal law or criminal sale of
3 a firearm to a minor as defined in section 265.16 of the penal law~~[-];~~
4 or
5 (v) a domestic violence crime as defined in section 256.00 of the
6 penal law.

7 § 4. This act shall take effect on the ninetieth day after it shall
8 have become a law.