

STATE OF NEW YORK

8901--A

IN ASSEMBLY

January 26, 2024

Introduced by M. of A. LUNSFORD -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, the criminal procedure law and the executive 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);

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

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1 section 125.25 (murder in the second degree); section 130.20 (sexual
2 misconduct); section 130.25 (rape in the third degree); section 130.30
3 (rape in the second degree); section 130.35 (rape in the first degree);
4 section 130.40 (criminal sexual act in the third degree); section 130.45
5 (criminal sexual act in the second degree); section 130.50 (criminal
6 sexual act in the first degree); section 130.52 (forcible touching);
7 section 130.53 (persistent sexual abuse); section 130.55 (sexual abuse
8 in the third degree); section 130.60 (sexual abuse in the second
9 degree); section 130.65 (sexual abuse in the first degree); section
10 130.65-a (aggravated sexual abuse in the fourth degree); section 130.66
11 (aggravated sexual abuse in the third degree); section 130.67 (aggra-
12 vated sexual abuse in the second degree); section 130.70 (aggravated
13 sexual abuse in the first degree); section 130.75 (course of sexual
14 conduct against a child in the first degree); section 130.80 (course of
15 sexual conduct against a child in the second degree); section 130.85
16 (female genital mutilation); section 130.90 (facilitating a sex offense
17 with a controlled substance); section 130.91 (sexually motivated felo-
18 ny); section 130.95 (predatory sexual assault); section 130.96 (predato-
19 ry sexual assault against a child); section 135.05 (unlawful imprison-
20 ment in the second degree); section 135.10 (unlawful imprisonment in the
21 first degree); section 135.20 (kidnapping in the second degree); section
22 135.25 (kidnapping in the first degree); section 135.60 (coercion in the
23 third degree); section 135.61 (coercion in the second degree); section
24 135.65 (coercion in the first degree); section 140.05 (trespass);
25 section 140.15 (criminal trespass in the second degree); section 140.17
26 (criminal trespass in the first degree); section 140.20 (burglary in the
27 third degree); section 140.25 (burglary in the second degree); section
28 140.30 (burglary in the first degree); section 145.00 (criminal mischief
29 in the fourth degree); section 145.05 (criminal mischief in the third
30 degree); section 145.10 (criminal mischief in the second degree);
31 section 145.12 (criminal mischief in the first degree); section 145.14
32 (criminal tampering in the third degree); section 215.50 (criminal
33 contempt in the second degree); section 215.51 (criminal contempt in the
34 first degree); section 215.52 (aggravated criminal contempt); section
35 240.20 (disorderly conduct); section 240.25 (harassment in the first
36 degree); section 240.26 (harassment in the second degree); subdivision
37 one, two or four of section 240.30 (aggravated harassment in the second
38 degree); section 240.70 (criminal interference with health care services
39 or religious worship in the second degree); section 240.72 (aggravated
40 interference with health care services in the second degree); section
41 240.73 (aggravated interference with health care services in the first
42 degree); section 240.75 (aggravated family offense); or any attempt or
43 conspiracy to commit any of the foregoing offenses where the defendant
44 and the person against whom the offense was committed were members of
45 the same family or household as defined in subdivision three of this
46 section. A "specified offense" shall also be an offense defined by any
47 of the following provisions of this chapter: section 242.05 (interfer-
48 ence, harassment or intimidation of a service animal) and section 242.10
49 (harming a service animal in the second degree) when such service animal
50 is owned by members of the same family or household as defined in subdi-
51 vision three of this section.

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

54 (a) persons related by consanguinity or affinity;

55 (b) persons legally married to one another;

1 (c) persons formerly married to one another regardless of whether they
2 still reside in the same household;

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

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

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

10 § 60.38 Authorized disposition; domestic violence crimes.

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

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

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

25 4. In addition to any of the dispositions authorized by this chapter,
26 the court may require as part of the sentence imposed upon a person
27 convicted of a domestic violence crime pursuant to this article, that
28 the defendant complete an accountability program for persons who cause
29 harm certified by the office for the prevention of domestic violence in
30 accordance with paragraph (m) of subdivision three of section five
31 hundred seventy-five of the executive law.

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. Paragraph (m) of subdivision 3 of section 575 of the executive
8 law, as amended by section 1 of part B of chapter 55 of the laws of
9 2021, is amended to read as follows:

10 (m) [~~promoting best practices for abusive partner intervention~~] Devel-
11 oping standards, rules, and regulations for accountability programs for
12 persons who cause harm and certifying programs that meet such standards,
13 rules, and regulations;

14 § 5. This act shall take effect on the ninetieth day after it shall
15 have become a law.