

STATE OF NEW YORK

5511

2023-2024 Regular Sessions

IN SENATE

March 6, 2023

Introduced by Sen. SCARCELLA-SPANTON -- read twice and ordered printed,
and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to sexual abuse in the first degree where a person is incapable of consent while a passenger on public transportation; in relation to public lewdness while a passenger on public transportation; in relation to establishing enhanced penalties for offenses committed while in or upon a building, facility, property, vehicle or train owned, leased or operated by the metropolitan transportation authority; and to amend the criminal procedure law, in relation to the suspension or revocation of the use of a facility, property, vehicle or train owned, leased or operated by the metropolitan transportation authority

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

1 Section 1. Section 130.65 of the penal law is amended by adding a new
2 subdivision 2-a to read as follows:

3 2-a. Intentionally, and with the sole purpose of sexual gratification,
4 and without the consent of the other person while a passenger on public
5 transportation; or

6 § 2. Subdivision 2 of section 245.03 of the penal law, as added by
7 chapter 186 of the laws of 2014, is amended and a new subdivision 3 is
8 added to read as follows:

9 2. he or she commits the crime of public lewdness, as defined in
10 section 245.00 of this article, and within the preceding year has been
11 convicted of an offense defined in such section 245.00 or this
12 section~~[-]~~; or

13 3. he or she commits the crime of public lewdness, as defined in
14 section 245.00 of this article, while a passenger on public transporta-
15 tion.

16 § 3. The penal law is amended by adding a new section 70.11 to read as
17 follows:

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

LBD07948-01-3

§ 70.11 Sentences of imprisonment for offenses committed while in or upon a building, facility, property, vehicle or train owned, leased or operated by the metropolitan transportation authority; aggravating factors.

Matters occurring while in or upon a building, facility, property, vehicle or train owned, leased or operated by the metropolitan transportation authority, shall result in the following enhancement of such sentence:

1. For offenses committed under section 120.00 of this chapter, the sentence shall reflect a class E felony;

2. For offenses committed under section 120.01 of this chapter, the sentence shall reflect a class D felony;

3. For offenses committed under section 120.02 of this chapter, the sentence shall reflect a class C felony;

4. For offenses committed under section 120.05 of this chapter, the sentence shall reflect a class C felony;

5. For offenses committed under section 120.06 of this chapter, the sentence shall reflect a class B felony;

6. For offenses committed under section 120.07 of this chapter, the sentence shall reflect a class A felony;

7. For offenses committed under section 120.08 of this chapter, the sentence shall reflect a class B felony;

8. For offenses committed under section 120.09 of this chapter, the sentence shall reflect a class B felony;

9. For offenses committed under section 120.10 of this chapter, the sentence shall reflect a class A felony;

10. For offenses committed under section 120.11 of this chapter, the sentence shall reflect a class A felony;

11. For offenses committed under section 120.12 of this chapter, the sentence shall reflect a class D felony;

12. For offenses committed under section 120.13 of this chapter, the sentence shall reflect a class D felony;

13. For offenses committed under section 120.14 of this chapter, the sentence shall reflect a class E felony;

14. For offenses committed under section 120.15 of this chapter, the sentence shall reflect a class A misdemeanor;

15. For offenses committed under section 120.16 of this chapter, the sentence shall reflect a class E felony;

16. For offenses committed under section 120.17 of this chapter, the sentence shall reflect a class B misdemeanor;

17. For offenses committed under section 120.18 of this chapter, the sentence shall reflect a class C felony;

18. For offenses committed under section 120.20 of this chapter, the sentence shall reflect a class E felony;

19. For offenses committed under section 120.25 of this chapter, the sentence shall reflect a class C felony;

20. For offenses committed under section 120.30 of this chapter, the sentence shall reflect a class D felony;

21. For offenses committed under section 120.45 of this chapter, the sentence shall reflect a class A misdemeanor;

22. For offenses committed under section 120.50 of this chapter, the sentence shall reflect a class E felony;

23. For offenses committed under section 120.55 of this chapter, the sentence shall reflect a class D felony;

24. For offenses committed under section 120.60 of this chapter, the sentence shall reflect a class C felony;

1 25. For offenses committed under section 120.70 of this chapter, the
2 sentence shall reflect a class D felony;

3 26. For offenses committed under section 121.11 of this chapter, the
4 sentence shall reflect a class E felony;

5 27. For offenses committed under section 121.12 of this chapter, the
6 sentence shall reflect a class C felony;

7 28. For offenses committed under section 121.13 of this chapter, the
8 sentence shall reflect a class B felony;

9 29. For offenses committed under section 125.10 of this chapter, the
10 sentence shall reflect a class D felony;

11 29-a. For offenses committed under section 125.11 of this chapter, the
12 sentence shall reflect a class B felony;

13 30. For offenses committed under section 125.15 of this chapter, the
14 sentence shall reflect a class B felony;

15 31. For offenses committed under section 125.20 of this chapter, the
16 sentence shall reflect a class A felony;

17 32. For offenses committed under section 125.21 of this chapter, the
18 sentence shall reflect a class B felony;

19 33. For offenses committed under section 125.22 of this chapter, the
20 sentence shall reflect a class A-II felony;

21 34. For offenses committed under section 125.26 of this chapter, the
22 sentence shall reflect a class A-II felony;

23 35. For offenses committed under section 125.27 of this chapter, the
24 sentence shall reflect a class A-II felony;

25 36. For offenses committed under section 130.20 of this chapter, the
26 sentence shall reflect a class E felony;

27 37. For offenses committed under section 130.25 of this chapter, the
28 sentence shall reflect a class D felony;

29 38. For offenses committed under section 130.30 of this chapter, the
30 sentence shall reflect a class C felony;

31 39. For offenses committed under section 130.35 of this chapter, the
32 sentence shall reflect a class A felony;

33 40. For offenses committed under section 130.40 of this chapter, the
34 sentence shall reflect a class D felony;

35 41. For offenses committed under section 130.45 of this chapter, the
36 sentence shall reflect a class C felony;

37 42. For offenses committed under section 130.50 of this chapter, the
38 sentence shall reflect a class A felony;

39 43. For offenses committed under section 130.52 of this chapter, the
40 sentence shall reflect a class E felony;

41 44. For offenses committed under section 130.53 of this chapter, the
42 sentence shall reflect a class D felony;

43 45. For offenses committed under section 130.55 of this chapter, the
44 sentence shall reflect a class A misdemeanor;

45 46. For offenses committed under section 130.60 of this chapter, the
46 sentence shall reflect a class E felony;

47 47. For offenses committed under section 130.65 of this chapter, the
48 sentence shall reflect a class C felony;

49 48. For offenses committed under section 130.65-a of this chapter, the
50 sentence shall reflect a class D felony;

51 49. For offenses committed under section 130.66 of this chapter, the
52 sentence shall reflect a class C felony;

53 50. For offenses committed under under section 130.67 of this chapter,
54 the sentence shall reflect a class B felony;

55 51. For offenses committed under under section 130.70 of this chapter,
56 the sentence shall reflect a class A felony;

1 52. For offenses committed under under section 130.75 of this chapter,
2 the sentence shall reflect a class A felony;

3 53. For offenses committed under under section 130.80 of this chapter,
4 the sentence shall reflect a class D felony;

5 54. For offenses committed under under section 130.90 of this chapter,
6 the sentence shall reflect a class C felony;

7 55. For offenses committed under under section 135.05 of this chapter,
8 the sentence shall reflect a class E felony;

9 56. For offenses committed under section 135.10 of this chapter, the
10 sentence shall reflect a class D felony;

11 57. For offenses committed under section 135.20 of this chapter, the
12 sentence shall reflect a class A felony;

13 58. For offenses committed under section 135.45 of this chapter, the
14 sentence shall reflect a class E felony;

15 59. For offenses committed under section 135.50 of this chapter, the
16 sentence shall reflect a class D felony;

17 60. For offenses committed under section 140.05 of this chapter, the
18 sentence shall reflect a class B misdemeanor;

19 61. For offenses committed under section 140.10 of this chapter, the
20 sentence shall reflect a class A misdemeanor;

21 62. For offenses committed under subdivision one of section 140.15 of
22 this chapter, the sentence shall reflect a class E felony;

23 63. For offenses committed under section 140.17 of this chapter, the
24 sentence shall reflect a class C felony;

25 64. For offenses committed under section 140.20 of this chapter, the
26 sentence shall reflect a class C felony;

27 65. For offenses committed under section 140.25 of this chapter, the
28 sentence shall reflect a class B felony;

29 66. For offenses committed under section 140.30 of this chapter, the
30 sentence shall reflect a class A felony;

31 67. For offenses committed under section 140.35 of this chapter, the
32 sentence shall reflect a class E felony;

33 68. For offenses committed under section 140.40 of this chapter, the
34 sentence shall reflect a class A misdemeanor;

35 69. For offenses committed under section 145.05 of this chapter, the
36 sentence shall reflect a class D felony;

37 70. For offenses committed under section 145.10 of this chapter, the
38 sentence shall reflect a class C felony;

39 71. For offenses committed under section 145.12 of this chapter, the
40 sentence shall reflect a class A felony;

41 72. For offenses committed under section 145.14 of this chapter, the
42 sentence shall reflect a class A misdemeanor;

43 73. For offenses committed under section 145.15 of this chapter, the
44 sentence shall reflect a class E felony;

45 74. For offenses committed under section 145.20 of this chapter, the
46 sentence shall reflect a class D felony;

47 75. For offenses committed under section 145.30 of this chapter, the
48 sentence shall reflect a class B misdemeanor;

49 76. For offenses committed under section 145.60 of this chapter, the
50 sentence shall reflect a class E felony;

51 77. For offenses committed under section 145.70 of this chapter, the
52 sentence shall reflect a class E felony;

53 78. For offenses committed under section 150.01 of this chapter, the
54 sentence shall reflect a class E felony;

55 79. For offenses committed under section 150.05 of this chapter, the
56 sentence shall reflect a class D felony;

1 80. For offenses committed under section 150.10 of this chapter, the
2 sentence shall reflect a class B felony;

3 81. For offenses committed under section 150.15 of this chapter, the
4 sentence shall reflect a class A felony;

5 82. For offenses committed under section 150.20 of this chapter, the
6 sentence shall reflect a class A-II felony;

7 83. For offenses committed under section 160.05 of this chapter, the
8 sentence shall reflect a class C felony;

9 84. For offenses committed under section 160.10 of this chapter, the
10 sentence shall reflect a class B felony;

11 85. For offenses committed under section 160.15 of this chapter, the
12 sentence shall reflect a class A felony;

13 86. For offenses committed under section 490.10 of this chapter, the
14 sentence shall reflect a class C felony;

15 87. For offenses committed under section 490.15 of this chapter, the
16 sentence shall reflect a class B felony;

17 88. For offenses committed under section 490.20 of this chapter, the
18 sentence shall reflect a class C felony;

19 89. For offenses committed under section 490.30 of this chapter, the
20 sentence shall reflect a class B felony;

21 90. For offenses committed under section 490.35 of this chapter, the
22 sentence shall reflect a class A-II felony;

23 91. For offenses committed under section 490.37 of this chapter, the
24 sentence shall reflect a class B felony;

25 92. For offenses committed under section 490.40 of this chapter, the
26 sentence shall reflect a class A-II felony;

27 93. For offenses committed under section 490.45 of this chapter, the
28 sentence shall reflect a class A-II felony; and

29 94. For offenses committed under section 490.50 of this chapter, the
30 sentence shall reflect a class A-I felony.

31 § 4. Subdivision 3 of section 140.17 of the penal law, as added by
32 chapter 341 of the laws of 1969, is amended and a new subdivision 4 is
33 added to read as follows:

34 3. Knows that another participant in the crime possesses a firearm,
35 rifle or shotgun under circumstances described in subdivision two[~~2~~] of
36 this section; or

37 4. Was previously convicted of any provision of this article and was
38 served with notice that his or her privileges to utilize buildings,
39 facilities or transportation services owned, leased or operated by the
40 metropolitan transportation authority were suspended or revoked.

41 § 5. The criminal procedure law is amended by adding a new section
42 380.67 to read as follows:

43 § 380.67 Offense which is committed in or upon a building, facility,
44 property, vehicle or train owned, leased or operated by the
45 metropolitan transportation authority; suspension or revoca-
46 tion.

47 1. Upon conviction of any provisions specified in article 120, 121,
48 125, 130, 135, 140, 145, 150, 160, or 490 of the penal law and where
49 matter occurred while in or upon a building, facility, property, vehicle
50 or train owned, leased or operated by the metropolitan transportation
51 authority and such conviction resulted in the enhancement of such
52 sentence pursuant to section 70.11 of the penal law, the metropolitan
53 transportation authority may prevent entry and usage of its services by
54 serving notice upon the convicted person that his or her privileges to
55 utilize the authority's buildings, facilities or transportation services
56 are suspended or revoked.

1 2. The metropolitan transportation authority shall promulgate rules
2 and regulations for the notice required pursuant to subdivision one of
3 this section and shall provide for an administrative appeal process to
4 review its actions upon request from the person denied access.

5 § 6. This act shall take effect on the sixtieth day after it shall
6 have become a law.