STATE OF NEW YORK

7945

IN SENATE

January 4, 2024

Introduced by Sen. WEBER -- 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 prohibiting falsely reporting an incident and/or making a terroristic threat which include claims of a deadly weapon or dangerous instrument being involved or which threaten a school or place of worship

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

Section 1. Section 240.55 of the penal law, as amended by chapter 477 of the laws of 1989, subdivisions 1 and 2 as amended by chapter 561 of the laws of 1999, subdivision 3 as added by chapter 301 of the laws of 2001 and as renumbered by chapter 302 of the laws of 2001, and the closing paragraph as amended by chapter 301 of the laws of 2001, is amended to read as follows:

§ 240.55 Falsely reporting an incident in the second degree.

A person is guilty of falsely reporting an incident in the second degree when, knowing the information reported, conveyed or circulated to be false or baseless, he or she:

1. Initiates or circulates a false report or warning of an alleged occurrence or impending occurrence of a fire, explosion, **the use or possession of a deadly weapon or dangerous instrument by an individual,** or the release of a hazardous substance under circumstances in which it is not unlikely that public alarm or inconvenience will result;

2. Reports, by word or action, to any official or quasi-official agency or organization having the function of dealing with emergencies involving danger to life or property, an alleged occurrence or impending occurrence of a fire, explosion, **the use or possession of a deadly weapon or dangerous instrument by an individual or individuals,** or the release of a hazardous substance which did not in fact occur or does not in fact exist; or

3. Knowing the information reported, conveyed or circulated to be false or baseless and under circumstances in which it is likely public alarm or inconvenience will result, he or she initiates or circulates a report or warning of an alleged occurrence or an impending occurrence of

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

LBD13936-01-3

a fire, an explosion, **the use or possession of a deadly weapon or dangerous instrument by an individual or individuals,** or the release of a hazardous substance upon any private premises.

Falsely reporting an incident in the second degree is a class E felony.

§ 2. The penal law is amended by adding a new section 240.60-a to read as follows:

§ 240.60-a Falsely reporting an incident at a school or place of worship.

1. A person is guilty of falsely reporting an incident at a school or place of worship when he or she, knowing the information reported, conveyed or circulated to be false or baseless and under circumstances in which it is likely public alarm or inconvenience will result, he or she initiates or circulates a report or warning of an alleged occurrence or impending occurrence of a fire, explosion, the use or possession of a deadly weapon or dangerous instrument by an individual or individuals in or upon school or a place of worship.

2. For the purposes of this section, the term "school" includes any building or grounds, owned or leased, of any educational institutions, colleges and universities, licensed private career schools, school districts, public schools, private schools licensed under article one hundred one of the education law, charter schools, non-public schools, board of cooperative educational services, special act schools, preschool special education programs, private residential or non-residential schools for the education of students with disabilities, and any state-operated or state-supported schools.

Falsely reporting an incident at a school or place of worship is a class C felony.

§ 3. Section 490.20 of the penal law, as added by chapter 300 of the laws of 2001, is amended to read as follows:

§ 490.20 Making a terroristic threat **in the second degree**.

1. A person is guilty of making a terroristic threat **in the second degree** when with intent to intimidate or coerce a civilian population, influence the policy of a unit of government by intimidation or coercion, or affect the conduct of a unit of government by murder, assassination or kidnapping, he or she threatens to commit or cause to be committed a specified offense and thereby causes a reasonable expectation or fear of the imminent commission of such offense.

2. It shall be no defense to a prosecution pursuant to this section that the defendant did not have the intent or capability of committing the specified offense or that the threat was not made to a person who was a subject thereof.

Making a terroristic threat **in the second degree** is a class D felony.

§ 4. The penal law is amended by adding a new section 490.22 to read as follows:

§ 490.22 Making a terroristic threat in the first degree.

1. A person is guilty of making a terroristic threat in the first degree when with intent to intimidate, coerce, threaten or alarm a civilian population, he or she threatens to commit or cause to be committed a specified offense upon school grounds or a place of worship, and thereby causes a reasonable expectation or fear of the imminent commission of such offense.

2. For the purposes of this section, the term "school" includes any building or grounds, owned or leased, of any educational institutions, colleges and universities, licensed private career schools, school districts, public schools, private schools licensed under article one

hundred one of the education law, charter schools, non-public schools, board of cooperative educational services, special act schools, preschool special education programs, private residential or non-residential schools for the education of students with disabilities, and any state-operated or state-supported schools.

3. It shall be no defense to a prosecution pursuant to this section that the defendant did not have the intent or capability of committing the specified offense.

Making a terroristic threat in the first degree is a class C felony.

§ 5. 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; aggravated criminally negligent homicide as defined in section 125.11, aggravated manslaughter in the second degree as defined in section 125.21, aggravated sexual abuse in the second degree as defined in section 130.67, 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, gang assault in the second degree as defined in section 120.06, strangulation in the first degree as defined in section 121.13, aggravated strangulation as defined in section 121.13-a, burglary in the second degree as defined in section 140.25, robbery in the second degree as defined in section 160.10, falsely reporting an incident at a school or place of worship as defined in section 240.60-a, criminal possession of a weapon in the second degree as defined in section 265.03, criminal use of a firearm in the second degree as 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, making a terroristic threat in the first degree as defined in section 490.22, hindering prosecution of terrorism in the second degree as defined in section 490.30, and criminal possession of a chemical 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) of this subdivision; reckless assault of a child as defined in section 120.02, assault in the second degree as defined in section 120.05, menacing a police officer or peace officer as defined in section 120.18, 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 130.65, course of sexual conduct against a child in the second degree as defined in section 130.80, aggravated sexual abuse in the third degree as defined in section 130.66, facilitating a sex offense with a controlled substance as defined in section 130.90, labor trafficking as defined in paragraphs (a) and (b) of subdivision three of section 135.35, criminal possession of a weapon in the third degree as defined in subdivision five, six, seven, eight, nine or ten of section 265.02, 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 in section 215.16, soliciting or providing support for an act of terrorism in the second degree as defined in section 490.10, and making a terroristic threat **in the second degree** as defined in section 490.20, falsely reporting an incident in the first degree as defined in section 240.60, placing a false bomb or hazardous substance in the first degree as defined in section 240.62, placing a false bomb or hazardous substance in a sports stadium or arena, mass transportation facility or enclosed shopping mall as defined in section 240.63, aggravated unpermitted use of indoor pyrotechnics in the first degree as defined in section 405.18, and criminal manufacture, sale, or transport of an undetectable firearm, rifle or shotgun as defined in section 265.50.

§ 6. This act shall take effect on the one hundred eightieth day after it shall have become a law.