

# STATE OF NEW YORK

3604

2023-2024 Regular Sessions

## IN ASSEMBLY

February 3, 2023

Introduced by M. of A. MANKTELOW, REILLY, GOODELL, DeSTEFANO, BRABENEC, BLANKENBUSH, J. M. GIGLIO, BYRNES, FRIEND, MORINELLO, DiPIETRO, MIKULIN, McDONOUGH, HAWLEY, WALSH, PALMESANO, MILLER, BARCLAY, COOK, DURSO, TANNOUSIS, SMULLEN, ANGELINO -- read once and referred to the Committee on Codes

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 a 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.

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

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1 A person is guilty of assault on a pregnant woman in the first degree  
2 when he or she intentionally causes serious injury to a woman he or she  
3 knows or has reason to know is pregnant or causes the death of her  
4 unborn child.

5 1. This section shall not apply to acts committed by:

6 a. a pregnant woman or any person providing treatment relating to an  
7 abortion for which the consent of the pregnant woman, or a person  
8 authorized by law to act on behalf of the pregnant woman, has been  
9 obtained or for which such consent is implied by law; or

10 b. any person providing any medical treatment of a pregnant woman.

11 2. This section shall be construed and applied consistent with article  
12 twenty-five of the public health law and applicable laws and regulations  
13 governing health procedures.

14 Assault on a pregnant woman in the first degree is a class C felony.

15 § 4. Paragraphs (b) and (c) of subdivision 1 of section 70.02 of the  
16 penal law, paragraph (b) as amended by chapter 94 of the laws of 2020  
17 and paragraph (c) as amended by chapter 134 of the laws of 2019, are  
18 amended to read as follows:

19 (b) Class C violent felony offenses: an attempt to commit any of the  
20 class B felonies set forth in paragraph (a) of this subdivision; aggra-  
21 vated criminally negligent homicide as defined in section 125.11, aggra-  
22 vated manslaughter in the second degree as defined in section 125.21,  
23 aggravated sexual abuse in the second degree as defined in section  
24 130.67, assault on a peace officer, police officer, firefighter or emer-  
25 gency medical services professional as defined in section 120.08,  
26 assault on a judge as defined in section 120.09, assault on a pregnant  
27 woman in the first degree as defined in section 120.10-a, gang assault  
28 in the second degree as defined in section 120.06, strangulation in the  
29 first degree as defined in section 121.13, aggravated strangulation as  
30 defined in section 121.13-a, burglary in the second degree as defined in  
31 section 140.25, robbery in the second degree as defined in section  
32 160.10, criminal possession of a weapon in the second degree as defined  
33 in section 265.03, criminal use of a firearm in the second degree as  
34 defined in section 265.08, criminal sale of a firearm in the second  
35 degree as defined in section 265.12, criminal sale of a firearm with the  
36 aid of a minor as defined in section 265.14, aggravated criminal  
37 possession of a weapon as defined in section 265.19, soliciting or  
38 providing support for an act of terrorism in the first degree as defined  
39 in section 490.15, hindering prosecution of terrorism in the second  
40 degree as defined in section 490.30, and criminal possession of a chemi-  
41 cal weapon or biological weapon in the third degree as defined in  
42 section 490.37 of this chapter.

43 (c) Class D violent felony offenses: an attempt to commit any of the  
44 class C felonies set forth in paragraph (b); reckless assault of a child  
45 as defined in section 120.02, assault in the second degree as defined in  
46 section 120.05, assault on a pregnant woman in the second degree as  
47 defined in section 120.05-a, menacing a police officer or peace officer  
48 as defined in section 120.18, stalking in the first degree[7] as defined  
49 in subdivision one of section 120.60, strangulation in the second degree  
50 as defined in section 121.12, rape in the second degree as defined in  
51 section 130.30, criminal sexual act in the second degree as defined in  
52 section 130.45, sexual abuse in the first degree as defined in section  
53 130.65, course of sexual conduct against a child in the second degree as  
54 defined in section 130.80, aggravated sexual abuse in the third degree  
55 as defined in section 130.66, facilitating a sex offense with a  
56 controlled substance as defined in section 130.90, labor trafficking as

1 defined in paragraphs (a) and (b) of subdivision three of section  
2 135.35, criminal possession of a weapon in the third degree as defined  
3 in subdivision five, six, seven, eight, nine or ten of section 265.02,  
4 criminal sale of a firearm in the third degree as defined in section  
5 265.11, intimidating a victim or witness in the second degree as defined  
6 in section 215.16, soliciting or providing support for an act of terror-  
7 ism in the second degree as defined in section 490.10, [~~and~~] making a  
8 terroristic threat as defined in section 490.20, falsely reporting an  
9 incident in the first degree as defined in section 240.60, placing a  
10 false bomb or hazardous substance in the first degree as defined in  
11 section 240.62, placing a false bomb or hazardous substance in a sports  
12 stadium or arena, mass transportation facility or enclosed shopping mall  
13 as defined in section 240.63, aggravated unpermitted use of indoor pyro-  
14 technics in the first degree as defined in section 405.18, and criminal  
15 manufacture, sale, or transport of an undetectable firearm, rifle or  
16 shotgun as defined in section 265.50 of this chapter.  
17 § 5. This act shall take effect immediately.