

# STATE OF NEW YORK

4085--A

2023-2024 Regular Sessions

## IN ASSEMBLY

February 9, 2023

Introduced by M. of A. DURSO, E. BROWN, BENDETT, GALLAHAN, K. BROWN, McDONOUGH, SLATER, CURRAN, DeSTEFANO, FLOOD, MCGOWAN, BYRNES, BRABEC, REILLY, TAGUE, JENSEN, DiPIETRO, BEEPHAN, NOVAKHOV, GRAY -- 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, in relation to including exposing a first responder or correction officer to fentanyl, fentanyl derivatives or opiates containing fentanyl or fentanyl derivatives in the definition of the offense of assault in the first degree

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

1 Section 1. Section 120.10 of the penal law, subdivision 4 as amended  
2 by chapter 791 of the laws of 1967 and the closing paragraph as amended  
3 by chapter 646 of the laws of 1996, is amended to read as follows:  
4 § 120.10 Assault in the first degree.  
5 A person is guilty of assault in the first degree when:  
6 1. With intent to cause serious physical injury to another person, he  
7 or she causes such injury to such person or to a third person by means  
8 of a deadly weapon or a dangerous instrument; or  
9 2. With intent to disfigure another person seriously and permanently,  
10 or to destroy, amputate or disable permanently a member or organ of his  
11 or her body, he or she causes such injury to such person or to a third  
12 person; or  
13 3. Under circumstances evincing a depraved indifference to human life,  
14 he or she recklessly engages in conduct which creates a grave risk of  
15 death to another person, and thereby causes serious physical injury to  
16 another person; or  
17 4. In the course of and in furtherance of the commission or attempted  
18 commission of a felony or of immediate flight therefrom, he or she, or

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

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1 another participant if there be any, causes serious physical injury to a  
2 person other than one of the participants; or

3 5. With intent to cause serious physical injury to a first responder  
4 as defined in section three thousand one of the public health law, or a  
5 correction officer, he or she causes such injury to such first responder  
6 or correction officer by exposing such first responder or correction  
7 officer to fentanyl, a fentanyl derivative or an opiate containing  
8 fentanyl or a fentanyl derivative by any means, including, but not  
9 limited to, throwing or tossing at or injecting such first responder or  
10 correction officer with any such substance.

11 Assault in the first degree is a class B felony.

12 § 2. This act shall take effect on the first of November next succeed-  
13 ing the date upon which it shall have become a law and shall apply to  
14 offenses committed on or after such effective date. Effective immediate-  
15 ly the addition, amendment or repeal of any rule or regulation necessary  
16 for the implementation of this act on its effective date are authorized  
17 to be made and completed on or before such date.