

# STATE OF NEW YORK

4205

2023-2024 Regular Sessions

## IN ASSEMBLY

February 13, 2023

Introduced by M. of A. MORINELLO -- read once and referred to the  
Committee on Codes

AN ACT to amend the penal law and the criminal procedure law, in  
relation to creating the crime of aggravated offering of a false accu-  
sation against a police officer

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

1 Section 1. The penal law is amended by adding a new section 240.64 to  
2 read as follows:

3 § 240.64 Aggravated offering of a false accusation against a police  
4 officer or peace officer.

5 A person is guilty of aggravated offering of a false accusation  
6 against a police officer or peace officer when, knowing the information  
7 reported to be false or baseless, he or she reports, by word or action,  
8 to a law enforcement officer or agency, the wrongdoing by a police offi-  
9 cer or peace officer in the performance of his or her duties. Under  
10 this section, police officer and peace officer are as defined under  
11 section 1.20 of the criminal procedure law.

12 Aggravated offering of a false accusation against a police officer or  
13 peace officer is a class D felony.

14 § 2. Paragraphs (t) and (u) of subdivision 4 of section 510.10 of the  
15 criminal procedure law, paragraph (t) as amended and paragraph (u) as  
16 added by section 2 of subpart B of part UU of chapter 56 of the laws of  
17 2022, are amended and a new paragraph (v) is added to read as follows:

18 (t) any felony or class A misdemeanor involving harm to an identifi-  
19 able person or property, or any charge of criminal possession of a  
20 firearm as defined in section 265.01-b of the penal law, where such  
21 charge arose from conduct occurring while the defendant was released on  
22 his or her own recognizance, released under conditions, or had yet to be  
23 arraigned after the issuance of a desk appearance ticket for a separate  
24 felony or class A misdemeanor involving harm to an identifiable person

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

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1 or property, or any charge of criminal possession of a firearm as  
2 defined in section 265.01-b of the penal law, provided, however, that  
3 the prosecutor must show reasonable cause to believe that the defendant  
4 committed the instant crime and any underlying crime. For the purposes  
5 of this subparagraph, any of the underlying crimes need not be a quali-  
6 fying offense as defined in this subdivision. For the purposes of this  
7 paragraph, "harm to an identifiable person or property" shall include  
8 but not be limited to theft of or damage to property. However, based  
9 upon a review of the facts alleged in the accusatory instrument, if the  
10 court determines that such theft is negligible and does not appear to be  
11 in furtherance of other criminal activity, the principal shall be  
12 released on his or her own recognizance or under appropriate non-mone-  
13 tary conditions; [ex]

14 (u) criminal possession of a weapon in the third degree as defined in  
15 subdivision three of section 265.02 of the penal law or criminal sale of  
16 a firearm to a minor as defined in section 265.16 of the penal law[.];  
17 or

18 (v) aggravated offering of a false accusation against a police officer  
19 or peace officer as defined in section 240.64 of the penal law.

20 § 3. Subparagraphs (xx) and (xxi) of paragraph (b) of subdivision 1 of  
21 section 530.20 of the criminal procedure law, subparagraph (xx) as  
22 amended and subparagraph (xxi) as added by section 4 of subpart C of  
23 part UU of chapter 56 of the laws of 2022, are amended and a new subpar-  
24 agraph (xxii) is added to read as follows:

25 (xx) any felony or class A misdemeanor involving harm to an identifi-  
26 able person or property, or any charge of criminal possession of a  
27 firearm as defined in section 265.01-b of the penal law where such  
28 charge arose from conduct occurring while the defendant was released on  
29 his or her own recognizance, released under conditions, or had yet to be  
30 arraigned after the issuance of a desk appearance ticket for a separate  
31 felony or class A misdemeanor involving harm to an identifiable person  
32 or property, provided, however, that the prosecutor must show reasonable  
33 cause to believe that the defendant committed the instant crime and any  
34 underlying crime. For the purposes of this subparagraph, any of the  
35 underlying crimes need not be a qualifying offense as defined in this  
36 subdivision. For the purposes of this paragraph, "harm to an identifi-  
37 able person or property" shall include but not be limited to theft of or  
38 damage to property. However, based upon a review of the facts alleged in  
39 the accusatory instrument, if the court determines that such theft is  
40 negligible and does not appear to be in furtherance of other criminal  
41 activity, the principal shall be released on his or her own recognizance  
42 or under appropriate non-monetary conditions; [ex]

43 (xxi) criminal possession of a weapon in the third degree as defined  
44 in subdivision three of section 265.02 of the penal law or criminal sale  
45 of a firearm to a minor as defined in section 265.16 of the penal  
46 law[.]; or

47 (xxii) aggravated offering of a false accusation against a police  
48 officer or peace officer as defined in section 240.64 of the penal law.

49 § 4. Paragraphs (t) and (u) of subdivision 4 of section 530.40 of the  
50 criminal procedure law, paragraph (t) as amended and paragraph (u) as  
51 added by section 4 of subpart B of part UU of chapter 56 of the laws of  
52 2022, are amended and a new paragraph (v) is added to read as follows:

53 (t) any felony or class A misdemeanor involving harm to an identifi-  
54 able person or property, or any charge of criminal possession of a  
55 firearm as defined in section 265.01-b of the penal law, where such  
56 charge arose from conduct occurring while the defendant was released on

1 his or her own recognizance, released under conditions, or had yet to be  
2 arraigned after the issuance of a desk appearance ticket for a separate  
3 felony or class A misdemeanor involving harm to an identifiable person  
4 or property, or any charge of criminal possession of a firearm as  
5 defined in section 265.01-b of the penal law, provided, however, that  
6 the prosecutor must show reasonable cause to believe that the defendant  
7 committed the instant crime and any underlying crime. For the purposes  
8 of this subparagraph, any of the underlying crimes need not be a quali-  
9 fying offense as defined in this subdivision. For the purposes of this  
10 paragraph, "harm to an identifiable person or property" shall include  
11 but not be limited to theft of or damage to property. However, based  
12 upon a review of the facts alleged in the accusatory instrument, if the  
13 court determines that such theft is negligible and does not appear to be  
14 in furtherance of other criminal activity, the principal shall be  
15 released on his or her own recognizance or under appropriate non-mone-  
16 tary conditions; ~~[ex]~~

17 (u) criminal possession of a weapon in the third degree as defined in  
18 subdivision three of section 265.02 of the penal law or criminal sale of  
19 a firearm to a minor as defined in section 265.16 of the penal law~~[+]~~;  
20 or

21 (v) aggravated offering of a false accusation against a police officer  
22 or peace officer as defined in section 240.64 of the penal law.

23 § 5. This act shall take effect on the thirtieth day after it shall  
24 have become a law.