

STATE OF NEW YORK

8901--B

IN ASSEMBLY

January 26, 2024

Introduced by M. of A. LUNSFORD -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, the criminal procedure law and the executive law, in relation to establishing domestic violence crimes

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

1 Section 1. Title O of the penal law is amended by adding a new article
2 256 to read as follows:

3 ARTICLE 256
4 DOMESTIC VIOLENCE CRIMES

5 Section 256.00 Domestic violence crimes.

6 § 256.00 Domestic violence crimes.

7 1. A person commits a domestic violence crime when such person intentionally commits or intends to commit a specified offense against a
8 member of the same family or household.

9 2. A "specified offense" is an offense defined by any of the following
10 provisions of this chapter: section 120.00 (assault in the third
11 degree); section 120.02 (reckless assault of a child); section 120.05
12 (assault in the second degree); section 120.10 (assault in the first
13 degree); section 120.13 (menacing in the first degree); section 120.14
14 (menacing in the second degree); section 120.15 (menacing in the third
15 degree); section 120.20 (reckless endangerment in the second degree);
16 section 120.25 (reckless endangerment in the first degree); section
17 120.30 (promoting a suicide attempt); section 120.45 (stalking in the
18 fourth degree); section 120.50 (stalking in the third degree); section
19 120.55 (stalking in the second degree); section 120.60 (stalking in the
20 first degree); section 121.11 (criminal obstruction of breathing or
21 blood circulation); section 121.12 (strangulation in the second degree);
22 section 121.13 (strangulation in the first degree); section 125.10
23

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

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1 (criminally negligent homicide); section 125.15 (manslaughter in the
2 second degree); section 125.20 (manslaughter in the first degree);
3 section 125.25 (murder in the second degree); section 130.20 (sexual
4 misconduct); section 130.25 (rape in the third degree); section 130.30
5 (rape in the second degree); section 130.35 (rape in the first degree);
6 section 130.52 (forcible touching); section 130.53 (persistent sexual
7 abuse); section 130.55 (sexual abuse in the third degree); section
8 130.60 (sexual abuse in the second degree); section 130.65 (sexual abuse
9 in the first degree); section 130.65-a (aggravated sexual abuse in the
10 fourth degree); section 130.66 (aggravated sexual abuse in the third
11 degree); section 130.67 (aggravated sexual abuse in the second degree);
12 section 130.70 (aggravated sexual abuse in the first degree); section
13 130.75 (course of sexual conduct against a child in the first degree);
14 section 130.80 (course of sexual conduct against a child in the second
15 degree); section 130.85 (female genital mutilation); section 130.90
16 (facilitating a sex offense with a controlled substance); section 130.91
17 (sexually motivated felony); section 130.95 (predatory sexual assault);
18 section 130.96 (predatory sexual assault against a child); section
19 135.05 (unlawful imprisonment in the second degree); section 135.10
20 (unlawful imprisonment in the first degree); section 135.20 (kidnapping
21 in the second degree); section 135.25 (kidnapping in the first degree);
22 section 135.60 (coercion in the third degree); section 135.61 (coercion
23 in the second degree); section 135.65 (coercion in the first degree);
24 section 140.05 (trespass); section 140.15 (criminal trespass in the
25 second degree); section 140.17 (criminal trespass in the first degree);
26 section 140.20 (burglary in the third degree); section 140.25 (burglary
27 in the second degree); section 140.30 (burglary in the first degree);
28 section 145.00 (criminal mischief in the fourth degree); section 145.05
29 (criminal mischief in the third degree); section 145.10 (criminal
30 mischief in the second degree); section 145.12 (criminal mischief in the
31 first degree); section 145.14 (criminal tampering in the third degree);
32 section 215.50 (criminal contempt in the second degree); section 215.51
33 (criminal contempt in the first degree); section 215.52 (aggravated
34 criminal contempt); section 240.20 (disorderly conduct); section 240.25
35 (harassment in the first degree); section 240.26 (harassment in the
36 second degree); subdivision one, two or four of section 240.30 (aggra-
37 vated harassment in the second degree); section 240.70 (criminal inter-
38 ference with health care services or religious worship in the second
39 degree); section 240.72 (aggravated interference with health care
40 services in the second degree); section 240.73 (aggravated interference
41 with health care services in the first degree); section 240.75 (aggra-
42 vated family offense); or any attempt or conspiracy to commit any of the
43 foregoing offenses where the defendant and the person against whom the
44 offense was committed were members of the same family or household as
45 defined in subdivision three of this section. A "specified offense"
46 shall also be an offense defined by any of the following provisions of
47 this chapter: section 242.05 (interference, harassment or intimidation
48 of a service animal) and section 242.10 (harming a service animal in the
49 second degree) when such service animal is owned by members of the same
50 family or household as defined in subdivision three of this section.

51 3. For purposes of this section, a member of the same family or house-
52 hold shall mean the following individuals:

- 53 (a) persons related by consanguinity or affinity;
- 54 (b) persons legally married to one another;
- 55 (c) persons formerly married to one another regardless of whether they
56 still reside in the same household;

1 (d) persons who have a child in common regardless of whether such
2 persons are married or have lived together at any time; or

3 (e) unrelated persons who are continually or at regular intervals
4 living in the same household or who have in the past continually or at
5 regular intervals lived in the same household.

6 § 2. The penal law is amended by adding a new section 60.38 to read as
7 follows:

8 § 60.38 Authorized disposition; domestic violence crimes.

9 1. When a person is convicted of a domestic violence crime pursuant to
10 section 256.00 of this chapter, and the specified offense is a violent
11 felony offense, as defined in section 70.02 of this title, the domestic
12 violence crime may be deemed a violent felony offense.

13 2. When a person is convicted of a domestic violence crime pursuant to
14 section 256.00 of this chapter and the specified offense is a misdemea-
15 nor or a class C, D or E felony, the domestic violence crime may be
16 deemed to be one category higher than the specified offense the defend-
17 ant committed, or one category higher than the offense level applicable
18 to the defendant's conviction for an attempt or conspiracy to commit a
19 specified offense, whichever is applicable.

20 3. When a person is convicted of a domestic violence crime pursuant to
21 section 256.00 of this chapter and the specified offense is a violation,
22 the domestic violence crime may be deemed an unclassified misdemeanor.

23 4. In addition to any of the dispositions authorized by this chapter,
24 the court may require as part of the sentence imposed upon a person
25 convicted of a domestic violence crime pursuant to this article, that
26 the defendant complete an accountability program for persons who cause
27 harm certified by the office for the prevention of domestic violence in
28 accordance with paragraph (m) of subdivision three of section five
29 hundred seventy-five of the executive law.

30 § 3. Paragraphs (t) and (u) of subdivision 4 of section 510.10 of the
31 criminal procedure law, paragraph (t) as amended and paragraph (u) as
32 added by section 2 of subpart B of part UU of chapter 56 of the laws of
33 2022, are amended and a new paragraph (v) is added to read as follows:

34 (t) any felony or class A misdemeanor involving harm to an identifi-
35 able person or property, or any charge of criminal possession of a
36 firearm as defined in section 265.01-b of the penal law, where such
37 charge arose from conduct occurring while the defendant was released on
38 [~~his or her own~~] such principal's recognizance, released under condi-
39 tions, or had yet to be arraigned after the issuance of a desk appear-
40 ance ticket for a separate felony or class A misdemeanor involving harm
41 to an identifiable person or property, or any charge of criminal
42 possession of a firearm as defined in section 265.01-b of the penal law,
43 provided, however, that the prosecutor must show reasonable cause to
44 believe that the defendant committed the instant crime and any underly-
45 ing crime. For the purposes of this subparagraph, any of the underlying
46 crimes need not be a qualifying offense as defined in this subdivision.
47 For the purposes of this paragraph, "harm to an identifiable person or
48 property" shall include but not be limited to theft of or damage to
49 property. However, based upon a review of the facts alleged in the accu-
50 satory instrument, if the court determines that such theft is negligible
51 and does not appear to be in furtherance of other criminal activity, the
52 principal shall be released on [~~his or her~~] such principal's own recog-
53 nizance or under appropriate non-monetary conditions; [~~or~~]

54 (u) criminal possession of a weapon in the third degree as defined in
55 subdivision three of section 265.02 of the penal law or criminal sale of

1 a firearm to a minor as defined in section 265.16 of the penal law[~~+~~];
2 or
3 (v) a domestic violence crime as defined in section 256.00 of the
4 penal law.

5 § 4. Paragraph (m) of subdivision 3 of section 575 of the executive
6 law, as amended by section 1 of part B of chapter 55 of the laws of
7 2021, is amended to read as follows:

8 (m) [~~promoting best practices for abusive partner intervention~~] Devel-
9 oping standards, rules, and regulations for accountability programs for
10 persons who cause harm and certifying programs that meet such standards,
11 rules, and regulations;

12 § 5. This act shall take effect on the ninetieth day after it shall
13 have become a law.