

# STATE OF NEW YORK

82

2023-2024 Regular Sessions

## IN SENATE

(Prefiled)

January 4, 2023

Introduced by Sens. GALLIVAN, BORRELLO, GRIFFO, HELMING, LANZA, MATTERA, OBERACKER, O'MARA, ORTT, PALUMBO, STEC, TEDISCO, WEIK -- read twice and ordered printed, and when printed to be committed 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 accusation against a police officer

The People of the State of New York, represented in Senate and Assembly, 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

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

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

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

46 (xxi) criminal possession of a weapon in the third degree as defined  
47 in subdivision three of section 265.02 of the penal law or criminal sale  
48 of a firearm to a minor as defined in section 265.16 of the penal  
49 law~~[+]~~; or

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

52 § 4. Paragraphs (t) and (u) of subdivision 4 of section 530.40 of the  
53 criminal procedure law, paragraph (t) as amended and paragraph (u) as  
54 added by section 4 of subpart B of part UU of chapter 56 of the laws of  
55 2022, are amended and a new paragraph (v) is added to read as follows:

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

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

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

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