STATE OF NEW YORK

9891

IN SENATE

August 19, 2024

Introduced by Sens. MURRAY, CANZONERI-FITZPATRICK, OBERACKER, RHOADS, TEDISCO -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the penal law, in relation to establishing the crime of aggravated concealment of identity

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

Section 1. The penal law is amended by adding a new title Y-3 to read as follows:

TITLE Y-3
CRIMINAL CONCEALMENT OF IDENTITY

ARTICLE 498
CRIMINAL CONCEALMENT OF IDENTITY

Section 498.00 Aggravated criminal concealment of identity.
498.05 Sentencing.

§ 498.00 Aggravated criminal concealment of identity.

1. A person commits the crime of aggravated criminal concealment of identity when such person commits a specified offense while wearing a mask or face covering.

2. A "specified offense" is an offense defined by any of the following provisions of this chapter: section 120.00 (assault in the third degree); section 120.05 (assault in the second degree); section 120.06 (gang assault in the second degree); section 120.07 (gang assault in the first degree); section 120.10 (assault in the first degree); section 120.12 (aggravated assault upon a person less than eleven years old); section 120.13 (menacing in the first degree); section 120.14 (menacing in the second degree); section 120.15 (menacing in the third degree); section 120.20 (reckless endangerment in the second degree); section 120.25 (reckless endangerment in the first degree); section 121.11 (criminal obstruction of breathing or blood circulation); section 121.12 (strangulation in the second degree); section 121.13 (strangulation in the first degree); subdivision one of section 125.15 (manslaughter in the second degree); subdivision one, two or four of section 125.20

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

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(manslaughter in the first degree); section 125.25 (murder in the second degree); section 125.26 (aggravated murder); section 125.27 (murder in the first degree); section 120.45 (stalking in the fourth degree); section 120.50 (stalking in the third degree); section 120.55 (stalking in the second degree); section 120.60 (stalking in the first degree); section 130.20 (sexual misconduct); section 130.25 (rape in the third degree); section 130.30 (rape in the second degree); section 130.35 (rape in the first degree); former section 130.40; former section 130.45; former section 130.50; section 130.52 (forcible touching); section 130.53 (persistent sexual abuse); section 130.55 (sexual abuse in the third degree); section 130.60 (sexual abuse in the second degree); section 130.65 (sexual abuse in the first degree); section 130.65-a (aggravated sexual abuse in the fourth degree); section 130.66 (aggravated sexual abuse in the third degree); section 130.67 (aggravated sexual abuse in the second degree); section 130.70 (aggravated sexual abuse in the first degree); section 135.05 (unlawful imprisonment in the second degree); section 135.10 (unlawful imprisonment in the first degree); section 135.20 (kidnapping in the second degree); section 135.25 (kidnapping in the first degree); section 135.60 (coercion in the third degree); section 135.61 (coercion in the second degree); section 135.65 (coercion in the first degree); section 140.10 (criminal trespass in the third degree); section 140.15 (criminal trespass in the second degree); section 140.17 (criminal trespass in the first degree); section 140.20 (burglary in the third degree); section 140.25 (burglary in the second degree); section 140.30 (burglary in the first degree); section 145.00 (criminal mischief in the fourth degree); section 145.05 (criminal mischief in the third degree); section 145.10 (criminal mischief in the second degree); section 145.12 (criminal mischief in the first degree); section 150.05 (arson in the fourth degree); section 150.10 (arson in the third degree); section 150.15 (arson in the second degree); section 150.20 (arson in the first degree); section 155.25 (petit larceny); section 155.30 (grand larceny in the fourth degree); section 155.35 (grand larceny in the third degree); section 155.40 (grand larceny in the second degree); section 155.42 (grand larceny in the first degree); section 160.05 (robbery in the third degree); section 160.10 (robbery in the second degree); section 160.15 (robbery in the first degree); section 230.34 (sex trafficking); section 230.34-a (sex trafficking of a child); section 240.25 (harassment in the first degree); subdivision one, two or four of section 240.30 (aggravated harassment in the second degree); section 240.50 (falsely reporting an incident in the third degree); section 240.55 (falsely reporting an incident in the second degree); section 240.60 (falsely reporting an incident in the first degree); subdivision one of section 265.03 (criminal possession of a weapon in the second degree); subdivision one of section 265.04 (criminal possession of a weapon in the first degree); section 490.10 (soliciting or providing support for an act of terrorism in the second degree); section 490.15 (soliciting or providing support for an act of terrorism in the first degree); section 490.20 (making a terroristic threat); section 490.25 (crime of terrorism); section 490.30 (hindering prosecution of terrorism in the second degree); section 490.35 (hindering prosecution of terrorism in the first degree); section 490.37 (criminal possession of a chemical weapon or biological weapon in the third degree); section 490.40 (criminal possession of a chemical weapon or biological weapon in the second degree); section 490.45 (criminal possession of a chemical weapon or biological weapon in the first degree); section 490.47 (criminal use of a chemical weapon or biological

weapon in the third degree); section 490.50 (criminal use of a chemical weapon or biological weapon in the second degree); section 490.55 (criminal use of a chemical weapon or biological weapon in the first degree); or any attempt or conspiracy to commit any of the foregoing offenses.

3. For the purposes of this section, the term "mask or face covering" shall mean any face covering, face mask, face shield, or other material worn whether standalone or part of another item of clothing or equipment that conceals a person's identity, either partially or wholly, whereby the face or voice is disguised by being masked or in any manner is disguised by unusual or unnatural attire or facial alteration.

§ 498.05 Sentencing.

1. When a person is convicted of the crime of aggravated criminal concealment of identity pursuant to this article, and the specified offense is a violent felony offense, as defined in section 70.02 of this chapter, the crime of aggravated criminal concealment of identity shall be deemed a violent felony offense.

2. When a person is convicted of the crime of aggravated criminal concealment of identity pursuant to this article and the specified offense is a misdemeanor or a class C, D or E felony, the crime shall be deemed to be one category higher than the specified offense the defendant committed, or one category higher than the offense level applicable to the defendant's conviction for an attempt or conspiracy to commit a specified offense, whichever is applicable.

3. Notwithstanding any other provision of law, when a person is convicted of the crime of aggravated criminal concealment of identity pursuant to this article and the specified offense is a class B felony:

(a) the maximum term of the indeterminate sentence must be at least six years if the defendant is sentenced pursuant to section 70.00 of this chapter;

(b) the term of the determinate sentence must be at least eight years if the defendant is sentenced pursuant to section 70.02 of this chapter;

(c) the term of the determinate sentence must be at least twelve years if the defendant is sentenced pursuant to section 70.04 of this chapter;

(d) the maximum term of the indeterminate sentence must be at least four years if the defendant is sentenced pursuant to section 70.05 of this chapter; and

(e) the maximum term of the indeterminate sentence or the term of the determinate sentence must be at least ten years if the defendant is sentenced pursuant to section 70.06 of this chapter.

4. Notwithstanding any other provision of law, when a person is convicted of the crime of aggravated criminal concealment of identity pursuant to this article and the specified offense is a class A-1 felony, the minimum period of the indeterminate sentence shall be not less than twenty years.

§ 2. This act shall take effect immediately.