

STATE OF NEW YORK

5146

2025-2026 Regular Sessions

IN ASSEMBLY

February 12, 2025

Introduced by M. of A. DeSTEFANO, JENSEN, CHANG, NOVAKHOV -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to establishing the offenses of menacing a police officer or peace officer in the first degree and menacing a police officer or peace officer in the second degree; to amend the criminal procedure law, in relation to circumstances under which an officer is not required to issue an appearance ticket; and to amend the penal law, the criminal procedure law and the administrative code of the city of New York, in relation to making conforming changes

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

1 Section 1. Section 120.18 of the penal law, as added by chapter 765 of
2 the laws of 2005, is amended to read as follows:

3 § [~~120.18~~] 120.19 Menacing a police officer or peace officer in the
4 first degree.

5 A person is guilty of menacing a police officer or peace officer in
6 the first degree when [~~he or she~~] such person intentionally places or
7 attempts to place a police officer or peace officer in reasonable fear
8 of physical injury, serious physical injury or death by displaying a
9 deadly weapon, knife, pistol, revolver, rifle, shotgun, machine gun or
10 other firearm, whether operable or not, where such officer was in the
11 course of performing [~~his or her~~] their official duties and the defend-
12 ant knew or reasonably should have known that such victim was a police
13 officer or peace officer.

14 Menacing a police officer or peace officer in the first degree is a
15 class [~~D~~] C felony.

16 § 2. The penal law is amended by adding a new section 120.18 to read
17 as follows:

18 § 120.18 Menacing a police officer or peace officer in the second
19 degree.

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

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1 A person is guilty of menacing a police officer or peace officer in
2 the second degree when such person intentionally assaults a police offi-
3 cer or peace officer by throwing or spraying water, urine, or any other
4 substance where such officer was in the course of performing their offi-
5 cial duties and the defendant knew or reasonably should have known that
6 such victim was a police officer or peace officer.

7 Menacing a police officer or peace officer in the second degree is a
8 class D felony.

9 § 3. Subparagraphs (x) and (xi) of paragraph (b) of subdivision 1 of
10 section 150.20 of the criminal procedure law, as added by section 1 of
11 subpart B of part UU of chapter 56 of the laws of 2022, are amended and
12 a new subparagraph (xii) is added to read as follows:

13 (x) the person is eighteen years of age or older and charged with a
14 hate crime as defined in section 485.05 of the penal law; ~~[ex]~~

15 (xi) the offense is a qualifying offense pursuant to paragraph (t) of
16 subdivision four of section 510.10 of this chapter, or pursuant to para-
17 graph (t) of subdivision four of section 530.40 of this chapter~~[-]~~; or

18 (xii) the person is charged with menacing a police officer or peace
19 officer in the second degree as defined in section 120.18 of the penal
20 law.

21 § 4. Subdivision 20 of section 10.00 of the penal law, as added by
22 chapter 765 of the laws of 2005, is amended to read as follows:

23 20. For purposes of sections 120.13, 120.18, 120.19, 125.11, 125.21
24 and 125.22 of this chapter, the term "peace officer" means a peace offi-
25 cer as defined in subdivision one, two, three, four, six, twelve, thir-
26 teen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-
27 one, twenty-three, twenty-three-a, twenty-four, twenty-five, twenty-six,
28 twenty-eight, twenty-nine, thirty, thirty-one, thirty-two, thirty-four,
29 thirty-five, thirty-six, forty-three, forty-five, forty-seven, forty-
30 eight, forty-nine, fifty-one, fifty-two, fifty-eight, sixty-one, as
31 added by chapter two hundred fifty-seven of the laws of nineteen hundred
32 ninety-two, ~~[sixty-one, as added by chapter three hundred twenty-one of~~
33 ~~the laws of nineteen hundred ninety-two,~~] sixty-two, as added by chapter
34 two hundred four of the laws of nineteen hundred ninety-three, sixty-
35 two, as added by chapter six hundred eighty-seven of the laws of nine-
36 teen hundred ninety-three, sixty-three, as amended by chapter six
37 hundred thirty-eight of the laws of two thousand three, sixty-four,
38 sixty-five, sixty-eight, as added by chapter one hundred sixty-eight of
39 the laws of two thousand, sixty-eight, as added by chapter three hundred
40 eighty-one of the laws of two thousand, seventy, seventy-one, seventy-
41 four, as added by chapter five hundred forty-eight of the laws of two
42 thousand one, seventy-five, as added by chapter three hundred twenty-one
43 of the laws of two thousand two, seventy-five, as added by chapter six
44 hundred twenty-three of the laws of two thousand two, seventy-seven, as
45 added by chapter three hundred sixty-seven of the laws of two thousand
46 four, seventy-eight or seventy-nine, as added by chapter two hundred
47 forty-one of the laws of two thousand four, of section 2.10 of the crim-
48 inal procedure law, as well as any federal law enforcement officer
49 defined in section 2.15 of the criminal procedure law.

50 § 5. Paragraphs (b) and (c) of subdivision 1, paragraph (b-1) of
51 subdivision 2 and paragraph (c) of subdivision 3 of section 70.02 of the
52 penal law, paragraph (b) of subdivision 1 as amended by chapter 94 of
53 the laws of 2020, paragraph (c) of subdivision 1 as amended by chapter
54 23 of the laws of 2024, paragraph (b-1) of subdivision 2 as added by
55 chapter 765 of the laws of 2005, and paragraph (c) of subdivision 3 as

1 amended by chapter 1 of the laws of 2013, are amended to read as
2 follows:

3 (b) Class C violent felony offenses: an attempt to commit any of the
4 class B felonies set forth in paragraph (a) of this subdivision; menac-
5 ing a police officer or peace officer in the first degree as defined in
6 section 120.19, aggravated criminally negligent homicide as defined in
7 section 125.11, aggravated manslaughter in the second degree as defined
8 in section 125.21, aggravated sexual abuse in the second degree as
9 defined in section 130.67, assault on a peace officer, police officer,
10 firefighter or emergency medical services professional as defined in
11 section 120.08, assault on a judge as defined in section 120.09, gang
12 assault in the second degree as defined in section 120.06, strangulation
13 in the first degree as defined in section 121.13, aggravated strangula-
14 tion as defined in section 121.13-a, burglary in the second degree as
15 defined in section 140.25, robbery in the second degree as defined in
16 section 160.10, criminal possession of a weapon in the second degree as
17 defined in section 265.03, criminal use of a firearm in the second
18 degree as defined in section 265.08, criminal sale of a firearm in the
19 second degree as defined in section 265.12, criminal sale of a firearm
20 with the aid of a minor as defined in section 265.14, aggravated crimi-
21 nal possession of a weapon as defined in section 265.19, soliciting or
22 providing support for an act of terrorism in the first degree as defined
23 in section 490.15, hindering prosecution of terrorism in the second
24 degree as defined in section 490.30, and criminal possession of a chemi-
25 cal weapon or biological weapon in the third degree as defined in
26 section 490.37.

27 (c) Class D violent felony offenses: an attempt to commit any of the
28 class C felonies set forth in paragraph (b); reckless assault of a child
29 as defined in section 120.02, assault in the second degree as defined in
30 section 120.05, menacing a police officer or peace officer in the second
31 degree as defined in section 120.18, stalking in the first degree, as
32 defined in subdivision one of section 120.60, strangulation in the
33 second degree as defined in section 121.12, rape in the second degree as
34 defined in section 130.30, a crime formerly defined in section 130.45,
35 sexual abuse in the first degree as defined in section 130.65, course of
36 sexual conduct against a child in the second degree as defined in
37 section 130.80, aggravated sexual abuse in the third degree as defined
38 in section 130.66, facilitating a sex offense with a controlled
39 substance as defined in section 130.90, labor trafficking as defined in
40 paragraphs (a) and (b) of subdivision three of section 135.35, criminal
41 possession of a weapon in the third degree as defined in subdivision
42 five, six, seven, eight, nine or ten of section 265.02, criminal sale of
43 a firearm in the third degree as defined in section 265.11, intimidating
44 a victim or witness in the second degree as defined in section 215.16,
45 soliciting or providing support for an act of terrorism in the second
46 degree as defined in section 490.10, and making a terroristic threat as
47 defined in section 490.20, falsely reporting an incident in the first
48 degree as defined in section 240.60, placing a false bomb or hazardous
49 substance in the first degree as defined in section 240.62, placing a
50 false bomb or hazardous substance in a sports stadium or arena, mass
51 transportation facility or enclosed shopping mall as defined in section
52 240.63, aggravated unpermitted use of indoor pyrotechnics in the first
53 degree as defined in section 405.18, and criminal manufacture, sale, or
54 transport of an undetectable firearm, rifle or shotgun as defined in
55 section 265.50.

1 (b-1) Except as provided in subdivision six of section 60.05, the
2 sentence imposed upon a person who stands convicted of the class D
3 violent felony offense of menacing a police officer or peace officer in
4 the second degree as defined in section 120.18 of this chapter must be a
5 determinate sentence of imprisonment.

6 (c) For a class D felony, the term must be at least two years and must
7 not exceed seven years, provided, however, that the term must be: (i) at
8 least two years and must not exceed eight years where the sentence is
9 for the crime of menacing a police officer or peace officer in the
10 second degree as defined in section 120.18 of this chapter; and (ii) at
11 least three and one-half years and must not exceed seven years where the
12 sentence is imposed for the crime of criminal possession of a weapon in
13 the third degree as defined in subdivision ten of section 265.02 of this
14 chapter;

15 § 6. Paragraph (t) of subdivision 8 of section 700.05 of the criminal
16 procedure law, as added by chapter 765 of the laws of 2005, is amended
17 to read as follows:

18 (t) Menacing a police officer or peace officer in the second degree as
19 defined in section 120.18 of the penal law; menacing a police officer or
20 peace officer in the first degree as defined in section 120.19 of the
21 penal law; aggravated criminally negligent homicide as defined in
22 section 125.11 of the penal law; aggravated manslaughter in the second
23 degree as defined in section 125.21 of the penal law; aggravated
24 manslaughter in the first degree as defined in section 125.22 of the
25 penal law; aggravated murder as defined in section 125.26 of the penal
26 law.

27 § 7. Subparagraph i of paragraph 7 of subdivision a of section 9-131
28 of the administrative code of the city of New York, as amended by chap-
29 ter 189 of the laws of 2018, is amended to read as follows:

30 i. a felony defined in any of the following sections of the penal law:
31 120.01, 120.02, 120.03, 120.04, 120.04-a(4), 120.05, 120.06, 120.07,
32 120.08, 120.09, 120.10, 120.11, 120.12, 120.13, 120.18, 120.19, 120.25,
33 120.55, 120.60, 120.70, 121.12, 121.13, 125.10, 125.11, 125.12, 125.13,
34 125.14, 125.15, 125.20, 125.21, 125.22, 125.25, 125.26, 125.27, [~~125.40,~~
35 ~~125.45,~~] 130.25, 130.30, 130.35, [~~130.40,~~ ~~130.45,~~ ~~130.50,~~] 130.53,
36 130.65, 130.65-a, 130.66, 130.67, 130.70, 130.75, 130.80, 130.85,
37 130.90, 130.95, 130.96, 135.10, 135.20, 135.25, 135.35, 135.50,
38 135.65(2)(b), 140.17, 140.25, 140.30, 145.12, 150.05, 150.10, 150.15,
39 150.20, 160.05, 160.10, 160.15, 195.07, 195.08, 195.17, 215.11, 215.12,
40 215.13, 215.15, 215.16, 215.17, 215.51, 215.52, 220.18, 220.21, 220.28,
41 220.41, 220.43, 220.44, 220.48, 220.77, 230.05, 230.06, 230.19,
42 230.25(2), 230.30, 230.32, 230.33, 230.34, 230.34-a, 235.22, 240.06,
43 240.55, 240.60, 240.61, 240.62, 240.63, 240.75, 241.05, 255.26, 255.27,
44 260.25, 260.32, 260.34, 263.05, 263.10, 263.11, 263.15, 263.16, 263.30,
45 265.01-a, 265.01-b, 265.02(2) through (8), 265.03, 265.04, 265.08,
46 265.09, 265.10, 265.11, 265.12, 265.13, 265.14, 265.16, 265.17, 265.19,
47 265.35(2), 270.30, 270.35, 405.16(1), 405.18, 460.22, 470.21, 470.22,
48 470.23, 470.24, 490.10, 490.15, 490.20, 490.25, 490.30, 490.35, 490.37,
49 490.40, 490.45, 490.47, 490.50, or 490.55;

50 § 8. Subparagraph i of paragraph 6 of subdivision a of section 14-154
51 of the administrative code of the city of New York, as amended by chap-
52 ter 189 of the laws of 2018, is amended to read as follows:

53 i. a felony defined in any of the following sections of the penal law:
54 120.01, 120.02, 120.03, 120.04, 120.04-a(4), 120.05, 120.06, 120.07,
55 120.08, 120.09, 120.10, 120.11, 120.12, 120.13, 120.18, 120.19, 120.25,
56 120.55, 120.60, 120.70, 121.12, 121.13, 125.10, 125.11, 125.12, 125.13,

1 125.14, 125.15, 125.20, 125.21, 125.22, 125.25, 125.26, 125.27, [~~125.40,~~
2 ~~125.45,~~] 130.25, 130.30, 130.35, [~~130.40, 130.45, 130.50,~~] 130.53,
3 130.65, 130.65-a, 130.66, 130.67, 130.70, 130.75, 130.80, 130.85,
4 130.90, 130.95, 130.96, 135.10, 135.20, 135.25, 135.35, 135.50,
5 135.65(2)(b), 140.17, 140.25, 140.30, 145.12, 150.05, 150.10, 150.15,
6 150.20, 160.05, 160.10, 160.15, 195.07, 195.08, 195.17, 215.11, 215.12,
7 215.13, 215.15, 215.16, 215.17, 215.51, 215.52, 220.18, 220.21, 220.28,
8 220.41, 220.43, 220.44, 220.48, 220.77, 230.05, 230.06, 230.19,
9 230.25(2), 230.30, 230.32, 230.33, 230.34, 230.34-a, 235.22, 240.06,
10 240.55, 240.60, 240.61, 240.62, 240.63, 240.75, 241.05, 255.26, 255.27,
11 260.25, 260.32, 260.34, 263.05, 263.10, 263.11, 263.15, 263.16, 263.30,
12 265.01-a, 265.01-b, 265.02 (2) through (8), 265.03, 265.04, 265.08,
13 265.09, 265.10, 265.11, 265.12, 265.13, 265.14, 265.16, 265.17, 265.19,
14 265.35(2), 270.30, 270.35, 405.16(1), 405.18, 460.22, 470.21, 470.22,
15 470.23, 470.24, 490.10, 490.15, 490.20, 490.25, 490.30, 490.35, 490.37,
16 490.40, 490.45, 490.47, 490.50, or 490.55;
17 § 9. This act shall take effect on the first of January next succeed-
18 ing the date upon which it shall have become a law.