

# STATE OF NEW YORK

1304

2025-2026 Regular Sessions

## IN SENATE

January 9, 2025

Introduced by Sen. GALLIVAN -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to establishing the crime of criminal use of weapons; firing into a crowded space

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

1 Section 1. Paragraph (a) of subdivision 1 of section 70.02 of the  
2 penal law, as amended by chapter 23 of the laws of 2024, is amended to  
3 read as follows:  
4 (a) Class B violent felony offenses: an attempt to commit the class  
5 A-I felonies of murder in the second degree as defined in section  
6 125.25, kidnapping in the first degree as defined in section 135.25, and  
7 arson in the first degree as defined in section 150.20; manslaughter in  
8 the first degree as defined in section 125.20, aggravated manslaughter  
9 in the first degree as defined in section 125.22, rape in the first  
10 degree as defined in section 130.35, a crime formerly defined in section  
11 130.50, aggravated sexual abuse in the first degree as defined in  
12 section 130.70, course of sexual conduct against a child in the first  
13 degree as defined in section 130.75, assault in the first degree as  
14 defined in section 120.10, kidnapping in the second degree as defined in  
15 section 135.20, burglary in the first degree as defined in section  
16 140.30, arson in the second degree as defined in section 150.15, robbery  
17 in the first degree as defined in section 160.15, sex trafficking as  
18 defined in paragraphs (a) and (b) of subdivision five of section 230.34,  
19 sex trafficking of a child as defined in section 230.34-a, incest in the  
20 first degree as defined in section 255.27, criminal possession of a  
21 weapon in the first degree as defined in section 265.04, criminal use of  
22 a firearm in the first degree as defined in section 265.09, criminal  
23 sale of a firearm in the first degree as defined in section 265.13,  
24 aggravated assault upon a police officer or a peace officer as defined  
25 in section 120.11, gang assault in the first degree as defined in

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

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1 section 120.07, intimidating a victim or witness in the first degree as  
2 defined in section 215.17, criminal use of weapons; firing into a crowd-  
3 ed space as defined in section 265.34, hindering prosecution of terror-  
4 ism in the first degree as defined in section 490.35, criminal  
5 possession of a chemical weapon or biological weapon in the second  
6 degree as defined in section 490.40, and criminal use of a chemical  
7 weapon or biological weapon in the third degree as defined in section  
8 490.47.

9 § 2. Paragraph (a) of subdivision 3 of section 70.02 of the penal law,  
10 as amended by chapter 765 of the laws of 2005, is amended to read as  
11 follows:

12 (a) For a class B felony, the term must be at least five years and  
13 must not exceed twenty-five years, provided, however, that the term must  
14 be: (i) at least ten years and must not exceed thirty years where the  
15 sentence is for the crime of aggravated assault upon a police officer or  
16 peace officer as defined in section 120.11 of this chapter; [~~and~~] (ii)  
17 at least ten years and must not exceed thirty years where the sentence  
18 is for the crime of aggravated manslaughter in the first degree as  
19 defined in section 125.22 of this chapter; and (iii) at least twenty  
20 years where the sentence is for the crime of criminal use of weapons;  
21 firing into a crowded space as defined in section 265.34 of this chap-  
22 ter;

23 § 3. The penal law is amended by adding a new section 265.34 to read  
24 as follows:

25 § 265.34 Criminal use of weapons; firing into a crowded space.

26 A person is guilty of criminal use of weapons; firing into a crowded  
27 space when, being eighteen years old or older, with intent to cause  
28 physical injury to another person, such person fires a firearm into a  
29 crowded space with the intent to harm or absent the intent to harm when  
30 such an act creates a great risk of death to one or more people within  
31 the crowded space.

32 (i) For the purposes of this paragraph, "crowded space" shall mean a  
33 space consisting of three or more people within one general or specific  
34 area.

35 (ii) For the purposes of this paragraph, "great risk" shall mean  
36 consisting of wanton or reckless behavior that evinces depraved indif-  
37 ference to human life within such crowded space.

38 Criminal use of weapons; firing into a crowded space is a class B  
39 felony.

40 § 4. This act shall take effect on the first of November next succeed-  
41 ing the date on which it shall have become a law.