

# STATE OF NEW YORK

3453

2025-2026 Regular Sessions

## IN SENATE

January 27, 2025

Introduced by Sens. HELMING, OBERACKER, PALUMBO -- 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 enhancing punishment for crimes involving domestic violence; and to amend the criminal procedure law, in relation to the consideration of certain factors when determining the issuance of an order of recognizance or bail

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

1 Section 1. Subdivision 5 of section 240.30 of the penal law, as  
2 amended by chapter 188 of the laws of 2014, is amended to read as  
3 follows:

4 5. [~~he or she~~] Such person commits the crime of harassment in the  
5 first degree or second degree and has previously been convicted of the  
6 crime of harassment in the first degree or second degree as defined by  
7 section 240.25 or 240.26 of this article within the preceding ten years.

8 § 2. The section heading, opening paragraph and closing paragraph of  
9 section 240.31 of the penal law, the section heading and closing para-  
10 graph as amended by chapter 49 of the laws of 2006 and the opening para-  
11 graph as amended by chapter 8 of the laws of 2019, are amended to read  
12 as follows:

13 [~~Aggravated~~] Bias related aggravated harassment [~~in the first degree~~].

14 A person is guilty of bias related aggravated harassment [~~in the first~~  
15 ~~degree~~] when with intent to harass, annoy, threaten or alarm another  
16 person, because of a belief or perception regarding such person's race,  
17 color, national origin, ancestry, gender, gender identity or expression,  
18 religion, religious practice, age, disability or sexual orientation,  
19 regardless of whether the belief or perception is correct, [~~he or she~~  
20 such person]:

21 [~~Aggravated~~] Bias related aggravated harassment [~~in the first degree~~]  
22 is a class E felony.

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

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1 § 3. The penal law is amended by adding a new section 240.29 to read  
2 as follows:

3 § 240.29 Aggravated harassment in the first degree.

4 A person is guilty of a aggravated harassment in the first degree when  
5 with intent to harass, annoy, threaten, or alarm another person, such  
6 person commits the crime of aggravated harassment in the second degree  
7 in the manner proscribed by the provisions of subdivision one, two or  
8 five of section 240.30 of this article and has previously been convicted  
9 of the crime of aggravated harassment in the second degree for the  
10 commission of conduct proscribed by the provisions of subdivision one,  
11 two or five of section 240.30 of this article within the preceding ten  
12 years and such person is a member of the same family or household as the  
13 person upon whom the present offense is committed. For the purposes of  
14 this section "members of the same family or household" shall have the  
15 same meaning as is defined in section 530.11 of the criminal procedure  
16 law.

17 Aggravated harassment in the first degree is a class E felony.

18 § 4. Section 120.05 of the penal law is amended by adding a new subdi-  
19 vision 15 to read as follows:

20 15. Such person commits the crime of assault in the third degree as  
21 defined in section 120.00 of this article against another person and  
22 such person has been previously convicted of any offense defined by any  
23 of the following provisions of this chapter: section 120.00 (assault in  
24 the third degree); section 120.05 (assault in the second degree);  
25 section 120.10 (assault in the first degree); section 120.12 (aggravated  
26 assault upon a person less than eleven years old); section 120.13  
27 (menacing in the first degree); section 120.14 (menacing in the second  
28 degree); section 120.15 (menacing in the third degree); section 120.20  
29 (reckless endangerment in the second degree); section 120.25 (reckless  
30 endangerment in the first degree); section 121.12 (strangulation in the  
31 second degree); section 121.13 (strangulation in the first degree);  
32 subdivision one of section 125.15 (manslaughter in the second degree);  
33 subdivision one, two or four of section 125.20 (manslaughter in the  
34 first degree); section 125.25 (murder in the second degree); section  
35 120.45 (stalking in the fourth degree); section 120.50 (stalking in the  
36 third degree); section 120.55 (stalking in the second degree); section  
37 120.60 (stalking in the first degree); subdivision one of section 130.35  
38 (rape in the first degree); subdivision one of section 130.50 (criminal  
39 sexual act in the first degree); subdivision one of section 130.65  
40 (sexual abuse in the first degree); paragraph (a) of subdivision one of  
41 section 130.67 (aggravated sexual abuse in the second degree); paragraph  
42 (a) of subdivision one of section 130.70 (aggravated sexual abuse in the  
43 first degree); section 135.05 (unlawful imprisonment in the second  
44 degree); section 135.10 (unlawful imprisonment in the first degree);  
45 section 135.20 (kidnapping in the second degree); section 135.25  
46 (kidnapping in the first degree); section 135.60 (coercion in the third  
47 degree); section 135.61 (coercion in the second degree); section 135.65  
48 (coercion in the first degree); section 140.10 (criminal trespass in the  
49 third degree); section 140.15 (criminal trespass in the second degree);  
50 section 140.17 (criminal trespass in the first degree); section 140.20  
51 (burglary in the third degree); section 140.25 (burglary in the second  
52 degree); section 140.30 (burglary in the first degree); section 145.00  
53 (criminal mischief in the fourth degree); section 145.05 (criminal  
54 mischief in the third degree); section 145.10 (criminal mischief in the  
55 second degree); section 145.12 (criminal mischief in the first degree);  
56 section 150.05 (arson in the fourth degree); section 150.10 (arson in

1 the third degree); section 150.15 (arson in the second degree); section  
2 150.20 (arson in the first degree); section 155.25 (petit larceny);  
3 section 155.30 (grand larceny in the fourth degree); section 155.35  
4 (grand larceny in the third degree); section 155.40 (grand larceny in  
5 the second degree); section 155.42 (grand larceny in the first degree);  
6 section 160.05 (robbery in the third degree); section 160.10 (robbery in  
7 the second degree); section 160.15 (robbery in the first degree);  
8 section 240.25 (harassment in the first degree); subdivision one, two or  
9 five of section 240.30 (aggravated harassment in the second degree); or  
10 any attempt or conspiracy to commit any of the foregoing offenses, with-  
11 in the preceding ten years and such person is a member of the same fami-  
12 ly or household as the person upon whom the present offense is commit-  
13 ted. For the purposes of this subdivision "members of the same family or  
14 household" shall have the same meaning as is defined in section 530.11  
15 of the criminal procedure law.

16 § 5. Section 121.12 of the penal law, as added by chapter 405 of the  
17 laws of 2010, is amended to read as follows:

18 § 121.12 Strangulation in the second degree.

19 A person is guilty of strangulation in the second degree when [~~he or~~  
20 ~~she~~] such person: (1) commits the crime of criminal obstruction of  
21 breathing or blood circulation, as defined in section 121.11 of this  
22 article, and thereby causes stupor, loss of consciousness for any period  
23 of time, or any other physical injury or impairment[~~+~~]; or

24 (2) commits the crime of criminal obstruction of breathing or blood  
25 circulation as defined in section 121.11 of this article and such person  
26 has previously been convicted within the preceding ten years of criminal  
27 obstruction of breathing or blood circulation; and such person is a  
28 member of the same family or household as the person upon whom the pres-  
29 ent crime of criminal obstruction of breathing or blood circulation is  
30 committed. For the purposes of this subdivision "members of the same  
31 family or household" shall have the same meaning as is defined in  
32 section 530.11 of the criminal procedure law.

33 Strangulation in the second degree is a class D felony.

34 § 6. Section 120.13 of the penal law, as amended by chapter 765 of the  
35 laws of 2005, is amended to read as follows:

36 § 120.13 Menacing in the first degree.

37 A person is guilty of menacing in the first degree when [~~he or she~~]  
38 such person commits the crime of menacing in the second degree and has  
39 been previously convicted of the crime of menacing in the second degree  
40 or the crime of menacing a police officer or peace officer within the  
41 preceding ten years.

42 Menacing in the first degree is a class [~~E~~] D felony.

43 § 7. Subdivision (c) of section 215.51 of the penal law, as amended by  
44 chapter 349 of the laws of 2006, is amended to read as follows:

45 (c) [~~he or she~~] such person commits the crime of criminal contempt in  
46 the second degree as defined in subdivision three of section 215.50 of  
47 this article by violating [~~that part of~~] a duly served order of  
48 protection, or such order of which the defendant has actual knowledge  
49 because [~~he or she was~~] they were present in court when such order was  
50 issued, under sections two hundred forty and two hundred fifty-two of  
51 the domestic relations law, articles four, five, six and eight of the  
52 family court act and section 530.12 of the criminal procedure law, or an  
53 order of protection issued by a court of competent jurisdiction in  
54 another state, territorial or tribal jurisdiction, [~~which requires the~~  
55 ~~respondent or defendant to stay away from the person or persons on whose~~  
56 ~~behalf the order was issued,~~] and where the defendant has been previous-

1 ly convicted of the crime of aggravated criminal contempt or criminal  
2 contempt in the first or second degree for violating an order of  
3 protection [~~as described herein~~] within the preceding [~~five~~] ten years;  
4 or

5 § 8. The closing paragraph of section 215.51 of the penal law, as  
6 amended by chapter 222 of the laws of 1994, is amended to read as  
7 follows:

8 Criminal contempt in the first degree is a class [~~E~~] D felony.

9 § 9. Subdivisions 1, 2 and 3 of section 60.35 of the penal law, as  
10 amended by section 1 of part E of chapter 56 of the laws of 2004,  
11 subparagraphs (i), (ii) and (iii) of paragraph (a) of subdivision 1 as  
12 amended by section 1 of part DD of chapter 56 of the laws of 2008 and  
13 paragraph (b) of subdivision 1 as amended by chapter 320 of the laws of  
14 2006, are amended to read as follows:

15 1. (a) Except as provided in section eighteen hundred nine of the  
16 vehicle and traffic law and section 27.12 of the parks, recreation and  
17 historic preservation law, whenever proceedings in an administrative  
18 tribunal or a court of this state result in a conviction for a felony, a  
19 misdemeanor, or a violation, as these terms are defined in section 10.00  
20 of this chapter, there shall be levied at sentencing a mandatory  
21 surcharge, sex offender registration fee, DNA databank fee [~~and~~], a  
22 crime victim assistance fee and a domestic violence victim assistance  
23 fee in addition to any sentence required or permitted by law, in accord-  
24 ance with the following schedule:

25 (i) a person convicted of a felony shall pay a mandatory surcharge of  
26 three hundred dollars and a crime victim assistance fee of twenty-five  
27 dollars;

28 (ii) a person convicted of a misdemeanor shall pay a mandatory  
29 surcharge of one hundred seventy-five dollars and a crime victim assist-  
30 ance fee of twenty-five dollars;

31 (iii) a person convicted of a violation shall pay a mandatory  
32 surcharge of ninety-five dollars and a crime victim assistance fee of  
33 twenty-five dollars;

34 (iv) a person convicted of a sex offense as defined by subdivision two  
35 of section one hundred sixty-eight-a of the correction law or a sexually  
36 violent offense as defined by subdivision three of section one hundred  
37 sixty-eight-a of the correction law shall, in addition to a mandatory  
38 surcharge and crime victim assistance fee, pay a sex offender registra-  
39 tion fee of fifty dollars[~~+~~];

40 (v) a person convicted of a designated offense as defined by subdivi-  
41 sion seven of section nine hundred ninety-five of the executive law  
42 shall, in addition to a mandatory surcharge and crime victim assistance  
43 fee, pay a DNA databank fee of fifty dollars[~~+~~];

44 (vi) a person convicted of any offense where the complainant of such  
45 offense is a member of the same family or household as the convicted  
46 person shall, in addition to a mandatory surcharge and crime victim  
47 assistance fee, pay any other fee required by this article, and pay a  
48 domestic violence victim assistance fee in the amount of two hundred  
49 fifty dollars. For the purposes of this subdivision, "member of the same  
50 family or household" shall have the same meaning as defined in section  
51 530.11 of the criminal procedure law.

52 (b) When the felony or misdemeanor conviction in subparagraphs (i),  
53 (ii) or (iv) of paragraph (a) of this subdivision results from an  
54 offense contained in article one hundred thirty of this chapter, incest  
55 in the third, second or first degree as defined in sections 255.25,  
56 255.26 and 255.27 of this chapter or an offense contained in article two

1 hundred sixty-three of this chapter, the person convicted shall pay a  
2 supplemental sex offender victim fee of one thousand dollars in addition  
3 to the mandatory surcharge and any other fee.

4 2. Where a person is convicted of two or more crimes or violations  
5 committed through a single act or omission, or through an act or omis-  
6 sion which in itself constituted one of the crimes or violations and  
7 also was a material element of the other, the court shall impose a  
8 mandatory surcharge and a crime victim assistance fee, and where appro-  
9 priate a supplemental sex offender victim fee or domestic violence  
10 victim assistance fee, in accordance with the provisions of this section  
11 for the crime or violation which carries the highest classification, and  
12 no other sentence to pay a mandatory surcharge, crime victim assistance  
13 fee [~~or~~], supplemental sex offender victim fee or domestic violence  
14 victim assistance fee required by this section shall be imposed. Where a  
15 person is convicted of two or more sex offenses or sexually violent  
16 offenses, as defined by subdivisions two and three of section one  
17 hundred sixty-eight-a of the correction law, committed through a single  
18 act or omission, or through an act or omission which in itself consti-  
19 tuted one of the offenses and also was a material element of the other,  
20 the court shall impose only one sex offender registration fee. Where a  
21 person is convicted of two or more designated offenses, as defined by  
22 subdivision seven of section nine hundred ninety-five of the executive  
23 law, committed through a single act or omission, or through an act or  
24 omission which in itself constituted one of the offenses and also was a  
25 material element of the other, the court shall impose only one DNA data-  
26 bank fee.

27 3. The mandatory surcharge, sex offender registration fee, DNA data-  
28 bank fee, crime victim assistance fee, [~~and~~] supplemental sex offender  
29 victim fee and domestic violence victim assistance fee provided for in  
30 subdivision one of this section shall be paid to the clerk of the court  
31 or administrative tribunal that rendered the conviction. Within the  
32 first ten days of the month following collection of the mandatory  
33 surcharge, crime victim assistance fee, and supplemental sex offender  
34 victim fee, the collecting authority shall determine the amount of  
35 mandatory surcharge, crime victim assistance fee, [~~and~~] supplemental sex  
36 offender victim fee and domestic violence victim assistance fee  
37 collected and, if it is an administrative tribunal, or a town or village  
38 justice court, it shall then pay such money to the state comptroller who  
39 shall deposit such money in the state treasury pursuant to section one  
40 hundred twenty-one of the state finance law to the credit of the crimi-  
41 nal justice improvement account established by section ninety-seven-bb  
42 of the state finance law. Within the first ten days of the month follow-  
43 ing collection of the sex offender registration fee and DNA databank  
44 fee, the collecting authority shall determine the amount of the sex  
45 offender registration fee and DNA databank fee collected and, if it is  
46 an administrative tribunal, or a town or village justice court, it shall  
47 then pay such money to the state comptroller who shall deposit such  
48 money in the state treasury pursuant to section one hundred twenty-one  
49 of the state finance law to the credit of the general fund. If such  
50 collecting authority is any other court of the unified court system, it  
51 shall, within such period, pay such money attributable to the mandatory  
52 surcharge or crime victim assistance fee to the state commissioner of  
53 taxation and finance to the credit of the criminal justice improvement  
54 account established by section ninety-seven-bb of the state finance law.  
55 If such collecting authority is any other court of the unified court  
56 system, it shall, within such period, pay such money attributable to the

1 sex offender registration fee and the DNA databank fee to the state  
2 commissioner of taxation and finance to the credit of the general fund.  
3 Notwithstanding any other provision of this subdivision, all monies paid  
4 to the state comptroller or to the commissioner of taxation and finance  
5 which are attributable to monies collected for the domestic violence  
6 victim assistance fee shall be credited to the office for the prevention  
7 of domestic violence and shall be used for training of law enforcement  
8 personnel in issues involving domestic violence.

9 § 10. Subdivision 8 of section 60.35 of the penal law, as amended by  
10 section 121 of subpart B of part C of chapter 62 of the laws of 2011, is  
11 amended to read as follows:

12 8. Subdivision one of section 130.10 of the criminal procedure law  
13 notwithstanding, at the time that the mandatory surcharge, sex offender  
14 registration fee or DNA databank fee, crime victim assistance fee,  
15 domestic violence victim assistance fee or supplemental sex offender  
16 victim fee is imposed a town or village court may, and all other courts  
17 shall, issue and cause to be served upon the person required to pay the  
18 mandatory surcharge, sex offender registration fee or DNA databank fee,  
19 crime victim assistance fee, domestic violence victim assistance fee or  
20 supplemental sex offender victim fee, a summons directing that such  
21 person appear before the court regarding the payment of the mandatory  
22 surcharge, sex offender registration fee or DNA databank fee, crime  
23 victim assistance fee, domestic violence victim assistance fee or  
24 supplemental sex offender victim fee, if after sixty days from the date  
25 it was imposed it remains unpaid. The designated date of appearance on  
26 the summons shall be set for the first day court is in session falling  
27 after the sixtieth day from the imposition of the mandatory surcharge,  
28 sex offender registration fee or DNA databank fee, crime victim assist-  
29 ance fee, domestic violence victim assistance fee or supplemental sex  
30 offender victim fee. The summons shall contain the information required  
31 by subdivision two of section 130.10 of the criminal procedure law  
32 except that in substitution for the requirement of paragraph (c) of such  
33 subdivision the summons shall state that the person served must appear  
34 at a date, time and specific location specified in the summons if after  
35 sixty days from the date of issuance the mandatory surcharge, sex offen-  
36 der registration fee or DNA databank fee, crime victim assistance fee,  
37 domestic violence victim assistance fee or supplemental sex offender  
38 victim fee remains unpaid. The court shall not issue a summons under  
39 this subdivision to a person who is being sentenced to a term of  
40 confinement in excess of sixty days in jail or in the department of  
41 corrections and community supervision. The mandatory surcharges, sex  
42 offender registration fee and DNA databank fees, crime victim assistance  
43 fees, domestic violence victim assistance fees and supplemental sex  
44 offender victim fees for those persons shall be governed by the  
45 provisions of section 60.30 of this article.

46 § 11. Subdivision 3 and the closing paragraph of section 215.52 of the  
47 penal law, subdivision 3 as added and the closing paragraph as amended  
48 by chapter 350 of the laws of 2006, are amended to read as follows:

49 3. [~~he or she~~] such person commits the crime of criminal contempt in  
50 the first degree, as defined in paragraph (i), (ii), (iii), (v) or (vi)  
51 of subdivision (b) or subdivision (c) of section 215.51 of this article,  
52 and has been previously convicted of the crime of criminal contempt in  
53 the first degree, as defined in such subdivision (b), (c) or (d) of  
54 section 215.51 of this article, within the preceding [~~five~~] ten years.

55 Aggravated criminal contempt is a class [~~D~~] C felony.

1 § 12. Paragraphs (b) and (c) of subdivision 1 of section 70.02 of the  
2 penal law, paragraph (b) as amended by chapter 94 of the laws of 2020  
3 and paragraph (c) as amended by chapter 23 of the laws of 2024, are  
4 amended to read as follows:

5 (b) Class C violent felony offenses: an attempt to commit any of the  
6 class B felonies set forth in paragraph (a) of this subdivision; aggra-  
7 vated criminally negligent homicide as defined in section 125.11, aggra-  
8 vated manslaughter in the second degree as defined in section 125.21,  
9 aggravated sexual abuse in the second degree as defined in section  
10 130.67, assault on a peace officer, police officer, firefighter or emer-  
11 gency medical services professional as defined in section 120.08,  
12 assault on a judge as defined in section 120.09, gang assault in the  
13 second degree as defined in section 120.06, strangulation in the first  
14 degree as defined in section 121.13, aggravated strangulation as defined  
15 in section 121.13-a, burglary in the second degree as defined in section  
16 140.25, robbery in the second degree as defined in section 160.10,  
17 aggravated criminal contempt as defined in section 215.52, criminal  
18 possession of a weapon in the second degree as defined in section  
19 265.03, criminal use of a firearm in the second degree as defined in  
20 section 265.08, criminal sale of a firearm in the second degree as  
21 defined in section 265.12, criminal sale of a firearm with the aid of a  
22 minor as defined in section 265.14, aggravated criminal possession of a  
23 weapon as defined in section 265.19, soliciting or providing support for  
24 an act of terrorism in the first degree as defined in section 490.15,  
25 hindering prosecution of terrorism in the second degree as defined in  
26 section 490.30, and criminal possession of a chemical weapon or biolog-  
27 ical weapon in the third degree as defined in section 490.37.

28 (c) Class D violent felony offenses: an attempt to commit any of the  
29 class C felonies set forth in paragraph (b); reckless assault of a child  
30 as defined in section 120.02, assault in the second degree as defined in  
31 section 120.05, menacing a police officer or peace officer as defined in  
32 section 120.18, stalking in the first degree, as defined in subdivision  
33 one of section 120.60, strangulation in the second degree as defined in  
34 section 121.12, rape in the second degree as defined in section 130.30,  
35 a crime formerly defined in section 130.45, sexual abuse in the first  
36 degree as defined in section 130.65, course of sexual conduct against a  
37 child in the second degree as defined in section 130.80, aggravated  
38 sexual abuse in the third degree as defined in section 130.66, facili-  
39 tating a sex offense with a controlled substance as defined in section  
40 130.90, labor trafficking as defined in paragraphs (a) and (b) of subdi-  
41 vision three of section 135.35, criminal contempt in the first degree as  
42 defined in subdivision (b), (c) or (d) of section 215.51, criminal  
43 possession of a weapon in the third degree as defined in subdivision  
44 five, six, seven, eight, nine or ten of section 265.02, criminal sale of  
45 a firearm in the third degree as defined in section 265.11, intimidating  
46 a victim or witness in the second degree as defined in section 215.16,  
47 soliciting or providing support for an act of terrorism in the second  
48 degree as defined in section 490.10, and making a terroristic threat as  
49 defined in section 490.20, falsely reporting an incident in the first  
50 degree as defined in section 240.60, placing a false bomb or hazardous  
51 substance in the first degree as defined in section 240.62, placing a  
52 false bomb or hazardous substance in a sports stadium or arena, mass  
53 transportation facility or enclosed shopping mall as defined in section  
54 240.63, aggravated unpermitted use of indoor pyrotechnics in the first  
55 degree as defined in section 405.18, and criminal manufacture, sale, or

1 transport of an undetectable firearm, rifle or shotgun as defined in  
2 section 265.50.

3 § 13. The opening paragraph of subdivision 2 of section 510.30 of the  
4 criminal procedure law is designated paragraph (a) and a new paragraph  
5 (b) is added to read as follows:

6 (b) Where the principal is charged with a crime or crimes against a  
7 member or members of the same family or household as that term is  
8 defined in subdivision one of section 530.11 of this title, the court  
9 must, on the basis of available information, consider and take into  
10 account the danger of intimidation or injury by the principal to a  
11 witness in the case, including the following factors:

12 (i) any history of prior acts of violence or threats of violence  
13 against a witness in the pending criminal action; and

14 (ii) any order of protection issued by any court against the principal  
15 for the protection of a member or members of the same family or house-  
16 hold as that term is defined in subdivision one of section 530.11 of  
17 this title, whether or not such order is currently in effect; and

18 (iii) any prior arrest or conviction for a crime or violation against  
19 a member or members of the same family or household as that term is  
20 defined in subdivision one of section 530.11 of this title; and

21 (iv) any violation of an order of protection issued by any court  
22 against the principal for the protection of a member or members of the  
23 same family or household as that term is defined in subdivision one of  
24 section 530.11 of this title; and

25 (v) the principal's history of use or possession of a firearm.

26 § 14. This act shall take effect on the first of November next  
27 succeeding the date on which it shall have become a law.