

STATE OF NEW YORK

474

2025-2026 Regular Sessions

IN SENATE

(Prefiled)

January 8, 2025

Introduced by Sen. TEDISCO -- 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 crimes against vulnerable elderly or disabled persons

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

1 Section 1. Section 260.31 of the penal law, as added by chapter 381 of
2 the laws of 1998, subdivision 1 as amended, subdivision 4 as added and
3 such section as renumbered by chapter 14 of the laws of 2010, and subdi-
4 vision 2 as amended by chapter 193 of the laws of 2010, is amended to
5 read as follows:

6 § 260.31 Vulnerable elderly persons; definitions.

7 For the purpose of sections 260.32 and 260.34 of this article, the
8 following definitions shall apply:

9 1. [~~"Caregiver" means a person who (i) assumes responsibility for the
10 care of a vulnerable elderly person, or an incompetent or physically
11 disabled person pursuant to a court order, or (ii) receives monetary or
12 other valuable consideration for providing care for a vulnerable elderly
13 person, or an incompetent or physically disabled person.~~

14 ~~2.~~] "Sexual contact" means any touching of the sexual or other inti-
15 mate parts of a person for the purpose of gratifying sexual desire of
16 either party. It includes the touching of the actor by the victim, as
17 well as the touching of the victim by the actor, whether directly or
18 through clothing, as well as the emission of ejaculate by the actor upon
19 any part of the victim, clothed or unclothed.

20 [~~3.~~ 2.] "Vulnerable elderly person" means a person sixty years of age
21 or older who is suffering from a disease or infirmity associated with
22 advanced age and manifested by demonstrable physical, mental or
23 emotional dysfunction to the extent that the person is incapable of

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

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1 adequately providing for [~~his or her~~] their own health or personal care
2 or a person seventy years of age or older.

3 [~~4.~~] 3. "Incompetent or physically disabled person" means an individ-
4 ual who is unable to care for [~~himself or herself~~] themselves because of
5 physical disability, mental disease or defect.

6 § 2. The opening paragraph and subdivision 4 of section 260.32 of the
7 penal law, as amended by chapter 14 of the laws of 2010, are amended to
8 read as follows:

9 A person is guilty of endangering the welfare of a vulnerable elderly
10 person, or an incompetent or physically disabled person in the second
11 degree when[~~, being a caregiver for a vulnerable elderly person, or an~~
12 ~~incompetent or physically disabled person~~]:

13 4. [~~He or she~~] The person subjects such vulnerable elderly person, or
14 an incompetent or physically disabled person to sexual contact without
15 the latter's consent. Lack of consent under this subdivision results
16 from forcible compulsion or incapacity to consent, as those terms are
17 defined in article one hundred thirty of this [~~chapter~~] part, or any
18 other circumstances in which the vulnerable elderly person, or an incom-
19 petent or physically disabled person does not expressly or impliedly
20 acquiesce [~~in the caregiver's conduct~~]. In any prosecution under this
21 subdivision in which the victim's alleged lack of consent results solely
22 from incapacity to consent because of the victim's mental disability or
23 mental incapacity, the provisions of section 130.16 of this [~~chapter~~]
24 part shall apply. In addition, in any prosecution under this subdivision
25 in which the victim's lack of consent is based solely upon [~~his or her~~]
26 the victim's incapacity to consent because [~~he or she~~] the victim was
27 mentally disabled, mentally incapacitated or physically helpless, it is
28 an affirmative defense that the defendant, at the time [~~he or she~~] the
29 defendant engaged in the conduct constituting the offense, did not know
30 of the facts or conditions responsible for such incapacity to consent.

31 § 3. The opening paragraph of section 260.34 of the penal law, as
32 amended by chapter 14 of the laws of 2010, is amended to read as
33 follows:

34 A person is guilty of endangering the welfare of a vulnerable elderly
35 person, or an incompetent or physically disabled person in the first
36 degree when[~~, being a caregiver for a vulnerable elderly person, or an~~
37 ~~incompetent or physically disabled person~~]:

38 § 4. Paragraphs (c) and (d) of subdivision 1 of section 70.02 of the
39 penal law, paragraph (c) as amended by chapter 23 of the laws of 2024
40 and paragraph (d) as amended by chapter 7 of the laws of 2007, are
41 amended to read as follows:

42 (c) Class D violent felony offenses: an attempt to commit any of the
43 class C felonies set forth in paragraph (b); reckless assault of a child
44 as defined in section 120.02, assault in the second degree as defined in
45 section 120.05, menacing a police officer or peace officer as defined in
46 section 120.18, stalking in the first degree, as defined in subdivision
47 one of section 120.60, strangulation in the second degree as defined in
48 section 121.12, rape in the second degree as defined in section 130.30,
49 a crime formerly defined in section 130.45, sexual abuse in the first
50 degree as defined in section 130.65, course of sexual conduct against a
51 child in the second degree as defined in section 130.80, aggravated
52 sexual abuse in the third degree as defined in section 130.66, facili-
53 tating a sex offense with a controlled substance as defined in section
54 130.90, labor trafficking as defined in paragraphs (a) and (b) of subdi-
55 vision three of section 135.35, criminal possession of a weapon in the
56 third degree as defined in subdivision five, six, seven, eight, nine or

1 ten of section 265.02, criminal sale of a firearm in the third degree as
 2 defined in section 265.11, intimidating a victim or witness in the
 3 second degree as defined in section 215.16, endangering the welfare of a
 4 vulnerable elderly person, or an incompetent or physically disabled
 5 person in the first degree as defined in section 260.34, soliciting or
 6 providing support for an act of terrorism in the second degree as
 7 defined in section 490.10, and making a terroristic threat as defined in
 8 section 490.20, falsely reporting an incident in the first degree as
 9 defined in section 240.60, placing a false bomb or hazardous substance
 10 in the first degree as defined in section 240.62, placing a false bomb
 11 or hazardous substance in a sports stadium or arena, mass transportation
 12 facility or enclosed shopping mall as defined in section 240.63, aggra-
 13 vated unpermitted use of indoor pyrotechnics in the first degree as
 14 defined in section 405.18, and criminal manufacture, sale, or transport
 15 of an undetectable firearm, rifle or shotgun as defined in section
 16 265.50.

17 (d) Class E violent felony offenses: endangering the welfare of a
 18 vulnerable elderly person, or an incompetent or physically disabled
 19 person in the second degree as defined in section 260.32, an attempt to
 20 commit any of the felonies of criminal possession of a weapon in the
 21 third degree as defined in subdivision five, six, seven or eight of
 22 section 265.02 as a lesser included offense of that section as defined
 23 in section 220.20 of the criminal procedure law, persistent sexual abuse
 24 as defined in section 130.53, aggravated sexual abuse in the fourth
 25 degree as defined in section 130.65-a, falsely reporting an incident in
 26 the second degree as defined in section 240.55 and placing a false bomb
 27 or hazardous substance in the second degree as defined in section
 28 240.61.

29 § 5. Part 4 of the penal law is amended by adding a new title Y-3 to
 30 read as follows:

31 TITLE Y-3
 32 CRIMES AGAINST THE
 33 ELDERLY OR DISABLED
 34 ARTICLE 497
 35 CRIMES AGAINST THE
 36 ELDERLY OR DISABLED

37 Section 497.00 Crimes against the elderly or disabled.

38 497.05 Sentencing.

39 § 497.00 Crimes against the elderly or disabled.

40 1. A person commits a crime against the elderly or disabled when such
 41 person commits a specified offense and either:

42 (a) intentionally selects the person against whom the offense is
 43 committed or intended to be committed in whole or in substantial part
 44 because of a belief or perception regarding the disability status or age
 45 related infirmity or disease of a person, regardless of whether the
 46 belief or perception is correct; or

47 (b) intentionally commits the act or acts constituting the offense in
 48 whole or in substantial part because of a belief or perception regarding
 49 disability status or age related infirmity or disease of a person,
 50 regardless of whether the belief or perception is correct.

51 2. For the purpose of this section: (a) when a person reasonably
 52 appears to have a disability or an age related infirmity or disease,
 53 there shall be a rebuttable presumption the defendant selected the
 54 person against whom the offense or act is committed or intended to be
 55 committed, in whole or in part because of a belief or perception regard-
 56 ing the disability status or age related infirmity or disease of such

1 person; and (b) when a person is seventy years old or more, there shall
2 be a rebuttable presumption that such person appears to have a disabili-
3 ty or an age related infirmity.

4 3. A "specified offense" is an offense defined by any of the following
5 provisions of this chapter: section 120.00 (assault in the third
6 degree); section 120.05 (assault in the second degree); section 120.10
7 (assault in the first degree); section 120.12 (aggravated assault upon a
8 person less than eleven years old); section 120.13 (menacing in the
9 first degree); section 120.14 (menacing in the second degree); section
10 120.15 (menacing in the third degree); section 120.20 (reckless endan-
11 germent in the second degree); section 120.25 (reckless endangerment in
12 the first degree); section 120.45 (stalking in the fourth degree);
13 section 120.50 (stalking in the third degree); section 120.55 (stalking
14 in the second degree); section 120.60 (stalking in the first degree);
15 subdivision one of section 125.15 (manslaughter in the second degree);
16 subdivision one, two or four of section 125.20 (manslaughter in the
17 first degree); section 125.25 (murder in the second degree); subdivision
18 one of section 130.35 (rape in the first degree); subdivision one of
19 section 130.50 (criminal sexual act in the first degree); subdivision
20 one of section 130.65 (sexual abuse in the first degree); paragraph (a)
21 of subdivision one of section 130.67 (aggravated sexual abuse in the
22 second degree); paragraph (a) of subdivision one of section 130.70
23 (aggravated sexual abuse in the first degree); section 135.05 (unlawful
24 imprisonment in the second degree); section 135.10 (unlawful imprison-
25 ment in the first degree); section 135.20 (kidnapping in the second
26 degree); section 135.25 (kidnapping in the first degree); section 135.60
27 (coercion in the second degree); section 135.65 (coercion in the first
28 degree); section 140.10 (criminal trespass in the third degree); section
29 140.15 (criminal trespass in the second degree); section 140.17 (crimi-
30 nal trespass in the first degree); section 140.20 (burglary in the third
31 degree); section 140.25 (burglary in the second degree); section 140.30
32 (burglary in the first degree); section 145.00 (criminal mischief in the
33 fourth degree); section 145.05 (criminal mischief in the third degree);
34 section 145.10 (criminal mischief in the second degree); section 145.12
35 (criminal mischief in the first degree); section 150.05 (arson in the
36 fourth degree); section 150.10 (arson in the third degree); section
37 150.15 (arson in the second degree); section 150.20 (arson in the first
38 degree); section 155.25 (petit larceny); section 155.30 (grand larceny
39 in the fourth degree); section 155.35 (grand larceny in the third
40 degree); section 155.40 (grand larceny in the second degree); section
41 155.42 (grand larceny in the first degree); section 160.05 (robbery in
42 the third degree); section 160.10 (robbery in the second degree);
43 section 160.15 (robbery in the first degree); section 240.25 (harassment
44 in the first degree); subdivision one, two or four of section 240.30
45 (aggravated harassment in the second degree); or any attempt or conspir-
46 acy to commit any of the foregoing offenses.

47 4. For the purposes of this section:

48 (a) A person has an age related infirmity or disease when, being sixty
49 years old or more, such person has a physical or mental disease or
50 infirmity, typically associated with advanced age, which substantially
51 limits a major life activity;

52 (b) The term "substantial part" includes but is not limited to circum-
53 stances in which a defendant selects a person against whom to commit or
54 attempt to commit a crime due to a belief or perception that such person
55 is less likely to resist or be able to resist such crime due to their

1 disability or age related infirmity or disease, regardless of whether
2 such belief or perception is correct;

3 (c) The term "disability" means a physical or mental impairment that
4 substantially limits a major life activity; and

5 (d) The term "resist" includes, in addition to its regular meaning,
6 reporting such crime to law enforcement, observing, recalling, or
7 reporting key features of any act or characteristic of a defendant
8 related to such crime, or providing evidence to aid in the investigation
9 or prosecution of such crime.

10 § 497.05 Sentencing.

11 1. When a person is convicted of a crime against the elderly or disa-
12 bled pursuant to this article, and the specified offense is a violent
13 felony offense, as defined in section 70.02 of this chapter, the crime
14 against the elderly or disabled shall be deemed a violent felony
15 offense.

16 2. When a person is convicted of a crime against the elderly or disa-
17 bled pursuant to this article and the specified offense is a misdemeanor
18 or a class C, D or E felony, the crime against the elderly or disabled
19 shall be deemed to be one category higher than the specified offense the
20 defendant committed, or one category higher than the offense level
21 applicable to the defendant's conviction for an attempt or conspiracy to
22 commit a specified offense, whichever is applicable.

23 3. Notwithstanding any other provision of law, when a person is
24 convicted of a crime against the elderly or disabled pursuant to this
25 article and the specified offense is a class B felony offense:

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

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

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

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

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

39 4. Notwithstanding any other provision of law, when a person is
40 convicted of crime against the elderly or disabled pursuant to this
41 article and the specified offense is a class A-1 felony, the minimum
42 period of the indeterminate sentence shall be not less than twenty
43 years.

44 § 6. Subdivisions 4 and 7 of section 200.50 of the criminal procedure
45 law, subdivision 4 as amended by section 15 of subpart A of part H of
46 chapter 55 of the laws of 2014, subdivision 7 as amended by chapter 7 of
47 the laws of 2007, and paragraph (c) of subdivision 7 as amended by chap-
48 ter 8 of the laws of 2019, are amended to read as follows:

49 4. A statement in each count that the grand jury, or, where the accu-
50 satory instrument is a superior court information, the district attor-
51 ney, accuses the defendant or defendants of a designated offense,
52 provided that in any prosecution under article four hundred eighty-five
53 of the penal law, the designated offense shall be the specified offense,
54 as defined in subdivision three of section 485.05 of the penal law,
55 followed by the phrase "as a hate crime", and provided further that in
56 any prosecution under section 490.25 of the penal law, the designated

1 offense shall be the specified offense, as defined in subdivision three
2 of section 490.05 of the penal law, followed by the phrase "as a crime
3 of terrorism"; and provided further that in any prosecution under
4 section 130.91 of the penal law, the designated offense shall be the
5 specified offense, as defined in subdivision two of section 130.91 of
6 the penal law, followed by the phrase "as a sexually motivated felony";
7 and provided further that in any prosecution under section 497.00 of the
8 penal law, the designated offense shall be the specified offense, as
9 defined in subdivision three of section 497.00 of the penal law,
10 followed by the phrase "as a crime against the elderly or disabled"; and
11 provided further that in any prosecution under section 496.06 of the
12 penal law, the designated offense shall be the specified offense, as
13 defined in subdivision two of such section, followed by the phrase "as a
14 public corruption crime"; and

15 7. A plain and concise factual statement in each count which, without
16 allegations of an evidentiary nature,

17 (a) asserts facts supporting every element of the offense charged and
18 the defendant's or defendants' commission thereof with sufficient preci-
19 sion to clearly apprise the defendant or defendants of the conduct which
20 is the subject of the accusation; and

21 (b) in the case of any armed felony, as defined in subdivision forty-
22 one of section 1.20, states that such offense is an armed felony and
23 specifies the particular implement the defendant or defendants
24 possessed, were armed with, used or displayed or, in the case of an
25 implement displayed, specifies what the implement appeared to be; and

26 (c) in the case of any hate crime, as defined in section 485.05 of the
27 penal law, specifies, as applicable, that the defendant or defendants
28 intentionally selected the person against whom the offense was committed
29 or intended to be committed; or intentionally committed the act or acts
30 constituting the offense, in whole or in substantial part because of a
31 belief or perception regarding the race, color, national origin, ances-
32 try, gender, gender identity or expression, religion, religious prac-
33 tice, age, disability or sexual orientation of a person; and

34 (d) in the case of a crime of terrorism, as defined in section 490.25
35 of the penal law, specifies, as applicable, that the defendant or
36 defendants acted with intent to intimidate or coerce a civilian popu-
37 lation, influence the policy of a unit of government by intimidation or
38 coercion, or affect the conduct of a unit of government by murder,
39 assassination or kidnapping; and

40 (e) in the case of a sexually motivated felony, as defined in section
41 130.91 of the penal law, asserts facts supporting the allegation that
42 the offense was sexually motivated; and

43 (f) in the case of any crime against the elderly or disabled, as
44 defined in section 497.00 of the penal law, specifies, as applicable,
45 that the defendant or defendants intentionally selected the person
46 against whom the offense was committed or intended to be committed; or
47 intentionally committed the act or acts constituting the offense, in
48 whole or in substantial part because of a belief or perception regarding
49 the disability status or age related infirmity or disease of a person;
50 and

51 § 7. This act shall take effect on the first of November next succeed-
52 ing the date on which it shall have become a law.