

2950--D

2009-2010 Regular Sessions

I N   S E N A T E

March 6, 2009

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Introduced by Sens. KLEIN, BRESLIN, DILAN, HASSELL-THOMPSON, KRUEGER, ONORATO, SAMPSON, SAVINO, THOMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee and committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Children and Families in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee and committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, in relation to abandoned infants; and to repeal section 260.03 of the penal law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1.     Section 260.00 of the penal law is amended to read as  
2 follows:  
3     S 260.00 Abandonment of a child.  
4     1. A person is guilty of abandonment of a child when, being a parent,  
5 guardian or other person legally charged with the care or custody of a  
6 child less than fourteen years old, he OR SHE deserts such child in any  
7 place with intent to wholly abandon [it] SUCH CHILD.  
8     2. A PERSON IS NOT GUILTY OF THE PROVISIONS OF THIS SECTION WHEN HE OR  
9 SHE ENGAGES IN THE CONDUCT DESCRIBED IN SUBDIVISION ONE OF THIS SECTION:  
10 (A) WITH THE INTENT THAT THE CHILD BE SAFE FROM PHYSICAL INJURY AND  
11 CARED FOR IN AN APPROPRIATE MANNER; (B) THE CHILD IS LEFT WITH AN APPRO-  
12 PRIATE PERSON, OR IN A SUITABLE LOCATION AND THE PERSON WHO LEAVES THE  
13 CHILD PROMPTLY NOTIFIES AN APPROPRIATE PERSON OF THE CHILD'S LOCATION;  
14 AND (C) THE CHILD IS NOT MORE THAN THIRTY DAYS OLD.

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

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1 Abandonment of a child is a class E felony.

2 S 2. Section 260.10 of the penal law, subdivision 1 as amended by  
3 chapter 476 of the laws of 1990 and subdivision 2 as amended by chapter  
4 920 of the laws of 1982, is amended to read as follows:

5 S 260.10 Endangering the welfare of a child.

6 A person is guilty of endangering the welfare of a child when:

7 1. He OR SHE knowingly acts in a manner likely to be injurious to the  
8 physical, mental or moral welfare of a child less than seventeen years  
9 old or directs or authorizes such child to engage in an occupation  
10 involving a substantial risk of danger to his OR HER life or health; or

11 2. Being a parent, guardian or other person legally charged with the  
12 care or custody of a child less than eighteen years old, he OR SHE fails  
13 or refuses to exercise reasonable diligence in the control of such child  
14 to prevent him OR HER from becoming an "abused child," a "neglected  
15 child," a "juvenile delinquent" or a "person in need of supervision," as  
16 those terms are defined in articles ten, three and seven of the family  
17 court act.

18 3. A PERSON IS NOT GUILTY OF THE PROVISIONS OF THIS SECTION WHEN HE OR  
19 SHE ENGAGES IN THE CONDUCT DESCRIBED IN SUBDIVISION ONE OF SECTION  
20 260.00 OF THIS ARTICLE: (A) WITH THE INTENT TO WHOLLY ABANDON THE CHILD  
21 BY RELINQUISHING RESPONSIBILITY FOR AND RIGHT TO THE CARE AND CUSTODY OF  
22 SUCH CHILD; (B) WITH THE INTENT THAT THE CHILD BE SAFE FROM PHYSICAL  
23 INJURY AND CARED FOR IN AN APPROPRIATE MANNER; (C) THE CHILD IS LEFT  
24 WITH AN APPROPRIATE PERSON, OR IN A SUITABLE LOCATION AND THE PERSON WHO  
25 LEAVES THE CHILD PROMPTLY NOTIFIES AN APPROPRIATE PERSON OF THE CHILD'S  
26 LOCATION; AND (D) THE CHILD IS NOT MORE THAN THIRTY DAYS OLD.

27 Endangering the welfare of a child is a class A misdemeanor.

28 S 3. Section 260.15 of the penal law, as amended by chapter 156 of the  
29 laws of 2000, is amended to read as follows:

30 S 260.15 Endangering the welfare of a child; defense.

31 In any prosecution for endangering the welfare of a child, pursuant to  
32 section 260.10[:

33 1.] OF THIS ARTICLE, based upon an alleged failure or refusal to  
34 provide proper medical care or treatment to an ill child, it is an  
35 affirmative defense that the defendant (a) is a parent, guardian or  
36 other person legally charged with the care or custody of such child; and  
37 (b) is a member or adherent of an organized church or religious group  
38 the tenets of which prescribe prayer as the principal treatment for  
39 illness; and (c) treated or caused such ill child to be treated in  
40 accordance with such tenets[; or

41 2. based upon an alleged desertion of a child not more than five days  
42 old, it is an affirmative defense that, with the intent that the child  
43 be safe from physical injury and cared for in an appropriate manner, the  
44 defendant left the child with an appropriate person or in a suitable  
45 location and promptly notified an appropriate person of the child's  
46 location].

47 S 4. Section 260.03 of the penal law is REPEALED.

48 S 5. This act shall take effect immediately.