

3582--A

2011-2012 Regular Sessions

I N   S E N A T E

February 25, 2011

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Introduced by Sens. DeFRANCISCO, BONACIC, JOHNSON, LARKIN, MAZIARZ, O'MARA, RITCHIE -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, the criminal procedure law, the vehicle and traffic law, the estates, powers and trusts law, the executive law and the social services law, in relation to establishing the offense of aggravated murder of a child; to amend the penal law, the criminal procedure law, the vehicle and traffic law and the executive law, in relation to establishing the offenses of aggravated abuse of a child in the third degree, aggravated abuse of a child in the second degree, aggravated abuse of a child in the first degree and aggravated manslaughter of a child; to amend the penal law, the criminal procedure law, the vehicle and traffic law and the executive law, in relation to establishing the offense of aggravated endangering the welfare of a child; to amend the social services law, in relation to aggravated manslaughter of a child; to amend the social services law, in relation to requiring the recording of calls to the statewide central register of child abuse and maltreatment made by persons required by law to report child abuse, requiring the office of children and family services to investigate the prior history of the subject of a report of child abuse or maltreatment and requiring such office to inform a caller if a report cannot be taken; requiring increased scrutiny and the presence of law enforcement during the investigation of a child abuse or maltreatment report with prior history of such reports; to amend the family court act, in relation to the definition of the term "neglected child"; and to repeal subdivision 5 of section 125.25 of the penal law relating to the murder of a person under 14 years of age while in the course of committing certain sex offenses

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

LBD09420-02-1

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

1 Section 1. Short title. This act shall be known and may be cited as  
2 "Erin's law".

3 S 2. Section 10.00 of the penal law is amended by adding two new  
4 subdivisions 21 and 22 to read as follows:

5 21. "PERSON IN A POSITION OF TRUST" MEANS ANY PERSON WHO IS CHARGED  
6 WITH ANY DUTY OR RESPONSIBILITY FOR THE HEALTH, EDUCATION, WELFARE,  
7 SUPERVISION OR CARE OF ANOTHER PERSON, EITHER INDEPENDENTLY OR THROUGH  
8 ANOTHER PERSON, NO MATTER HOW BRIEF.

9 22. "CHILD ABUSE OFFENSE" MEANS:

10 (A) PATRONIZING A PROSTITUTE IN THE SECOND DEGREE AS DEFINED IN  
11 SECTION 230.05; PATRONIZING A PROSTITUTE IN THE FIRST DEGREE AS DEFINED  
12 IN SECTION 230.06; PROMOTING PROSTITUTION IN THE SECOND DEGREE AS  
13 DEFINED IN SUBDIVISION TWO OF SECTION 230.30; PROMOTING PROSTITUTION IN  
14 THE FIRST DEGREE AS DEFINED IN SECTION 230.32; DISSEMINATING INDECENT  
15 MATERIALS TO MINORS IN THE SECOND DEGREE AS DEFINED IN SECTION 235.21;  
16 DISSEMINATING INDECENT MATERIALS TO MINORS IN THE FIRST DEGREE AS  
17 DEFINED IN SECTION 235.22; ABANDONMENT OF A CHILD AS DEFINED IN SECTION  
18 260.00; NON-SUPPORT OF A CHILD IN THE SECOND DEGREE AS DEFINED IN  
19 SECTION 260.05; NON-SUPPORT OF A CHILD IN THE FIRST DEGREE AS DEFINED IN  
20 SECTION 260.06; ENDANGERING THE WELFARE OF A CHILD AS DEFINED IN SECTION  
21 260.10; AGGRAVATED ENDANGERING THE WELFARE OF A CHILD AS DEFINED IN  
22 SECTION 260.09; UNLAWFULLY DEALING WITH A CHILD IN THE FIRST DEGREE AS  
23 DEFINED IN SECTION 260.20; UNLAWFULLY DEALING WITH A CHILD IN THE SECOND  
24 DEGREE AS DEFINED IN SECTION 260.21; OR AN OFFENSE DEFINED IN ARTICLE  
25 TWO HUNDRED SIXTY-THREE OF THIS CHAPTER; OR

26 (B) AN OFFENSE DEFINED IN ARTICLE ONE HUNDRED TWENTY, ONE HUNDRED  
27 TWENTY-FIVE, ONE HUNDRED THIRTY OR ONE HUNDRED THIRTY-FIVE OF THIS CHAP-  
28 TER PROVIDED THE VICTIM OF SUCH OFFENSE IS LESS THAN FOURTEEN YEARS OF  
29 AGE; OR

30 (C) AN ATTEMPT TO COMMIT AN OFFENSE LISTED IN PARAGRAPH (A) OR (B) OF  
31 THIS SUBDIVISION; OR

32 (D) AN OFFENSE IN ANY OTHER JURISDICTION WHICH INCLUDES ALL OF THE  
33 ESSENTIAL ELEMENTS OF ANY SUCH CRIME LISTED IN PARAGRAPH (A), (B) OR (C)  
34 OF THIS SUBDIVISION.

35 S 3. Section 60.06 of the penal law, as amended by chapter 482 of the  
36 laws of 2009, is amended to read as follows:

37 S 60.06 Authorized disposition; murder in the first degree offenders;  
38 aggravated murder offenders; AGGRAVATED MURDER OF A CHILD  
39 OFFENDERS certain murder in the second degree offenders;  
40 certain terrorism offenders; criminal possession of a chemical  
41 weapon or biological weapon offenders; criminal use of a chem-  
42 ical weapon or biological weapon offenders.

43 When a defendant is convicted of murder in the first degree as defined  
44 in section 125.27 of this chapter, the court shall, in accordance with  
45 the provisions of section 400.27 of the criminal procedure law, sentence  
46 the defendant to death, to life imprisonment without parole in accord-  
47 ance with subdivision five of section 70.00 of this title, or to a term  
48 of imprisonment for a class A-I felony other than a sentence of life  
49 imprisonment without parole, in accordance with subdivisions one through  
50 three of section 70.00 of this title. When a person is convicted [of  
51 murder in the second degree as defined in subdivision five of section  
52 125.25 of this chapter or] of the crime of aggravated murder as defined  
53 in subdivision one of section 125.26 of this chapter OR OF THE CRIME OF

1 AGGRAVATED MURDER OF A CHILD AS DEFINED IN SECTION 125.28 OF THIS CHAP-  
2 TER, the court shall sentence the defendant to life imprisonment without  
3 parole in accordance with subdivision five of section 70.00 of this  
4 title. When a defendant is convicted of the crime of terrorism as  
5 defined in section 490.25 of this chapter, and the specified offense the  
6 defendant committed is a class A-I felony offense, or when a defendant  
7 is convicted of the crime of criminal possession of a chemical weapon or  
8 biological weapon in the first degree as defined in section 490.45 of  
9 this chapter, or when a defendant is convicted of the crime of criminal  
10 use of a chemical weapon or biological weapon in the first degree as  
11 defined in section 490.55 of this chapter, the court shall sentence the  
12 defendant to life imprisonment without parole in accordance with subdi-  
13 vision five of section 70.00 of this title; provided, however, that  
14 nothing in this section shall preclude or prevent a sentence of death  
15 when the defendant is also convicted of murder in the first degree as  
16 defined in section 125.27 of this chapter. When a defendant is convicted  
17 of aggravated murder as defined in subdivision two of section 125.26 of  
18 this chapter, the court shall sentence the defendant to life imprison-  
19 ment without parole or to a term of imprisonment for a class A-I felony  
20 other than a sentence of life imprisonment without parole, in accordance  
21 with subdivisions one through three of section 70.00 of this title.

22 S 4. Subparagraph (i) of paragraph (a) of subdivision 3 of section  
23 70.00 of the penal law, as amended by chapter 107 of the laws of 2006,  
24 is amended to read as follows:

25 (i) For a class A-I felony, such minimum period shall not be less than  
26 fifteen years nor more than twenty-five years; provided, however, that  
27 (A) where a sentence, other than a sentence of death or life imprison-  
28 ment without parole, is imposed upon a defendant convicted of murder in  
29 the first degree as defined in section 125.27 of this chapter such mini-  
30 mum period shall be not less than twenty years nor more than twenty-five  
31 years, and, (B) where a sentence is imposed upon a defendant [convicted  
32 of murder in the second degree as defined in subdivision five of section  
33 125.25 of this chapter or] convicted of aggravated murder as defined in  
34 section 125.26 of this chapter OR CONVICTED OF AGGRAVATED MURDER OF A  
35 CHILD AS DEFINED IN SECTION 125.28 OF THIS CHAPTER, the sentence shall  
36 be life imprisonment without parole, and, (C) where a sentence is  
37 imposed upon a defendant convicted of attempted murder in the first  
38 degree as defined in article one hundred ten of this chapter and subpar-  
39 agraph (i), (ii) or (iii) of paragraph (a) of subdivision one and para-  
40 graph (b) of subdivision one of section 125.27 of this chapter or  
41 attempted aggravated murder as defined in article one hundred ten of  
42 this chapter and section 125.26 of this chapter OR ATTEMPTED AGGRAVATED  
43 MURDER OF A CHILD AS DEFINED IN ARTICLE ONE HUNDRED TEN OF THIS CHAPTER  
44 AND SECTION 125.28 OF THIS CHAPTER such minimum period shall be not less  
45 than twenty years nor more than forty years.

46 S 5. Subdivision 5 of section 70.00 of the penal law, as amended by  
47 chapter 482 of the laws of 2009, is amended to read as follows:

48 5. Life imprisonment without parole. Notwithstanding any other  
49 provision of law, a defendant sentenced to life imprisonment without  
50 parole shall not be or become eligible for parole or conditional  
51 release. For purposes of commitment and custody, other than parole and  
52 conditional release, such sentence shall be deemed to be an indetermi-  
53 nate sentence. A defendant may be sentenced to life imprisonment with-  
54 out parole upon conviction for the crime of murder in the first degree  
55 as defined in section 125.27 of this chapter and in accordance with the  
56 procedures provided by law for imposing a sentence for such crime. A

1 defendant must be sentenced to life imprisonment without parole upon  
2 conviction for the crime of terrorism as defined in section 490.25 of  
3 this chapter, where the specified offense the defendant committed is a  
4 class A-I felony; the crime of criminal possession of a chemical weapon  
5 or biological weapon in the first degree as defined in section 490.45 of  
6 this chapter; or the crime of criminal use of a chemical weapon or  
7 biological weapon in the first degree as defined in section 490.55 of  
8 this chapter; provided, however, that nothing in this subdivision shall  
9 preclude or prevent a sentence of death when the defendant is also  
10 convicted of the crime of murder in the first degree as defined in  
11 section 125.27 of this chapter. A defendant must be sentenced to life  
12 imprisonment without parole upon conviction [for the crime of murder in  
13 the second degree as defined in subdivision five of section 125.25 of  
14 this chapter or] for the crime of aggravated murder as defined in subdi-  
15 vision one of section 125.26 of this chapter OR FOR THE CRIME OF AGGRA-  
16 VATED MURDER OF A CHILD AS DEFINED IN SECTION 125.28 OF THIS CHAPTER. A  
17 defendant may be sentenced to life imprisonment without parole upon  
18 conviction for the crime of aggravated murder as defined in subdivision  
19 two of section 125.26 of this chapter.

20 S 6. Paragraphs (a), (b) and (c) of subdivision 1 of section 70.02 of  
21 the penal law, paragraph (a) as amended by chapter 320 of the laws of  
22 2006, paragraph (b) as amended by chapter 148 of the laws of 2011 and  
23 paragraph (c) as amended by chapter 405 of the laws of 2010, are amended  
24 to read as follows:

25 (a) Class B violent felony offenses: an attempt to commit the class  
26 A-I felonies of murder in the second degree as defined in section  
27 125.25, kidnapping in the first degree as defined in section 135.25, and  
28 arson in the first degree as defined in section 150.20; manslaughter in  
29 the first degree as defined in section 125.20, aggravated manslaughter  
30 in the first degree as defined in section 125.22, AGGRAVATED MANSLAUGHT-  
31 ER OF A CHILD AS DEFINED IN SECTION 125.23, rape in the first degree as  
32 defined in section 130.35, criminal sexual act in the first degree as  
33 defined in section 130.50, aggravated sexual abuse in the first degree  
34 as defined in section 130.70, course of sexual conduct against a child  
35 in the first degree as defined in section 130.75; assault in the first  
36 degree as defined in section 120.10, kidnapping in the second degree as  
37 defined in section 135.20, burglary in the first degree as defined in  
38 section 140.30, arson in the second degree as defined in section 150.15,  
39 robbery in the first degree as defined in section 160.15, incest in the  
40 first degree as defined in section 255.27, criminal possession of a  
41 weapon in the first degree as defined in section 265.04, criminal use of  
42 a firearm in the first degree as defined in section 265.09, criminal  
43 sale of a firearm in the first degree as defined in section 265.13,  
44 aggravated assault upon a police officer or a peace officer as defined  
45 in section 120.11, gang assault in the first degree as defined in  
46 section 120.07, intimidating a victim or witness in the first degree as  
47 defined in section 215.17, hindering prosecution of terrorism in the  
48 first degree as defined in section 490.35, criminal possession of a  
49 chemical weapon or biological weapon in the second degree as defined in  
50 section 490.40, and criminal use of a chemical weapon or biological  
51 weapon in the third degree as defined in section 490.47.

52 (b) Class C violent felony offenses: an attempt to commit any of the  
53 class B felonies set forth in paragraph (a) of this subdivision; aggra-  
54 vated criminally negligent homicide as defined in section 125.11, aggra-  
55 vated manslaughter in the second degree as defined in section 125.21,  
56 aggravated sexual abuse in the second degree as defined in section

1 130.67, assault on a peace officer, police officer, fireman or emergency  
2 medical services professional as defined in section 120.08, assault on a  
3 judge as defined in section 120.09, gang assault in the second degree as  
4 defined in section 120.06, AGGRAVATED ABUSE OF A CHILD IN THE FIRST  
5 DEGREE AS DEFINED IN SECTION 120.19-A, strangulation in the first degree  
6 as defined in section 121.13, burglary in the second degree as defined  
7 in section 140.25, robbery in the second degree as defined in section  
8 160.10, criminal possession of a weapon in the second degree as defined  
9 in section 265.03, criminal use of a firearm in the second degree as  
10 defined in section 265.08, criminal sale of a firearm in the second  
11 degree as defined in section 265.12, criminal sale of a firearm with the  
12 aid of a minor as defined in section 265.14, soliciting or providing  
13 support for an act of terrorism in the first degree as defined in  
14 section 490.15, hindering prosecution of terrorism in the second degree  
15 as defined in section 490.30, and criminal possession of a chemical  
16 weapon or biological weapon in the third degree as defined in section  
17 490.37.

18 (c) Class D violent felony offenses: an attempt to commit any of the  
19 class C felonies set forth in paragraph (b); reckless assault of a child  
20 as defined in section 120.02, assault in the second degree as defined in  
21 section 120.05, AGGRAVATED ABUSE OF A CHILD IN THE SECOND DEGREE AS  
22 DEFINED IN SECTION 120.19 menacing a police officer or peace officer as  
23 defined in section 120.18, stalking in the first degree, as defined in  
24 subdivision one of section 120.60, strangulation in the second degree as  
25 defined in section 121.12, rape in the second degree as defined in  
26 section 130.30, criminal sexual act in the second degree as defined in  
27 section 130.45, sexual abuse in the first degree as defined in section  
28 130.65, course of sexual conduct against a child in the second degree as  
29 defined in section 130.80, aggravated sexual abuse in the third degree  
30 as defined in section 130.66, facilitating a sex offense with a  
31 controlled substance as defined in section 130.90, criminal possession  
32 of a weapon in the third degree as defined in subdivision five, six,  
33 seven or eight of section 265.02, criminal sale of a firearm in the  
34 third degree as defined in section 265.11, intimidating a victim or  
35 witness in the second degree as defined in section 215.16, soliciting or  
36 providing support for an act of terrorism in the second degree as  
37 defined in section 490.10, and making a terroristic threat as defined in  
38 section 490.20, falsely reporting an incident in the first degree as  
39 defined in section 240.60, placing a false bomb or hazardous substance  
40 in the first degree as defined in section 240.62, placing a false bomb  
41 or hazardous substance in a sports stadium or arena, mass transportation  
42 facility or enclosed shopping mall as defined in section 240.63, and  
43 aggravated unpermitted use of indoor pyrotechnics in the first degree as  
44 defined in section 405.18.

45 S 7. Subdivision 1 of section 110.05 of the penal law, as amended by  
46 chapter 93 of the laws of 2006, is amended to read as follows:

47 1. Class A-I felony when the crime attempted is the A-I felony of  
48 murder in the first degree, aggravated murder as defined in subdivision  
49 one of section 125.26 of this chapter, AGGRAVATED MURDER OF A CHILD,  
50 criminal possession of a controlled substance in the first degree, crim-  
51 inal sale of a controlled substance in the first degree, criminal  
52 possession of a chemical or biological weapon in the first degree or  
53 criminal use of a chemical or biological weapon in the first degree;

54 S 8. Section 120.01 of the penal law, as added by chapter 600 of the  
55 laws of 1998, is amended to read as follows:

S 120.01 [Reckless assault] AGGRAVATED ABUSE of a child [by a child day care provider] IN THE THIRD DEGREE.

A person is guilty of [reckless assault] AGGRAVATED ABUSE of a child IN THE THIRD DEGREE when, being [a child day care provider or an employee thereof] EIGHTEEN YEARS OLD OR MORE, AND BEING A PARENT, GUARDIAN OR OTHER PERSON LEGALLY CHARGED WITH THE CUSTODY OF, OR LEGALLY RESPONSIBLE FOR THE CARE OF, A CHILD LESS THAN FOURTEEN YEARS OLD, OR BEING A PERSON IN A POSITION OF TRUST OF A CHILD LESS THAN FOURTEEN YEARS OLD, he or she recklessly causes [serious] physical injury to [a] SUCH child [under the care of such provider or employee who is less than eleven years of age].

[Reckless assault] AGGRAVATED ABUSE of a child [by a child day care provider] IN THE THIRD DEGREE is a class E felony.

S 9. The penal law is amended by adding two new sections 120.19 and 120.19-a to read as follows:

S 120.19 AGGRAVATED ABUSE OF A CHILD IN THE SECOND DEGREE.

A PERSON IS GUILTY OF AGGRAVATED ABUSE OF A CHILD IN THE SECOND DEGREE WHEN BEING EIGHTEEN YEARS OLD OR MORE, AND BEING A PARENT, GUARDIAN OR OTHER PERSON LEGALLY CHARGED WITH THE CUSTODY OF, OR LEGALLY RESPONSIBLE FOR THE CARE OF, A CHILD LESS THAN FOURTEEN YEARS OLD, OR BEING A PERSON IN A POSITION OF TRUST OF A CHILD LESS THAN FOURTEEN YEARS OLD, HE OR SHE:

1. WITH INTENT TO CAUSE PHYSICAL INJURY TO ANOTHER PERSON, CAUSES PHYSICAL INJURY TO SUCH CHILD; OR

2. RECKLESSLY ENGAGES IN CONDUCT WHICH CREATES A GRAVE RISK OF SERIOUS PHYSICAL INJURY OR DEATH TO SUCH CHILD AND THEREBY CAUSES SERIOUS PHYSICAL INJURY TO SUCH CHILD; OR

3. COMMITS THE CRIME OF AGGRAVATED ABUSE OF A CHILD IN THE THIRD DEGREE AS DEFINED IN SECTION 120.01 OF THIS ARTICLE AND PREVIOUSLY HAS BEEN CONVICTED OF A CHILD ABUSE OFFENSE.

AGGRAVATED ABUSE OF A CHILD IN THE SECOND DEGREE IS A CLASS D FELONY.

S 120.19-A AGGRAVATED ABUSE OF A CHILD IN THE FIRST DEGREE.

A PERSON IS GUILTY OF AGGRAVATED ABUSE OF A CHILD IN THE FIRST DEGREE WHEN BEING EIGHTEEN YEARS OLD OR MORE, AND BEING A PARENT, GUARDIAN OR OTHER PERSON LEGALLY CHARGED WITH THE CUSTODY OF, OR LEGALLY RESPONSIBLE FOR THE CARE OF, A CHILD LESS THAN FOURTEEN YEARS OLD, OR BEING A PERSON IN A POSITION OF TRUST OF A CHILD LESS THAN FOURTEEN YEARS OLD, HE OR SHE:

1. WITH INTENT TO CAUSE SERIOUS PHYSICAL INJURY TO ANOTHER PERSON, CAUSES SERIOUS PHYSICAL INJURY TO SUCH CHILD; OR

2. RECKLESSLY ENGAGES IN VIOLENT SHAKING OF SUCH CHILD AND THEREBY CAUSES SERIOUS PHYSICAL INJURY TO SUCH CHILD AND SUCH CHILD IS LESS THAN FIVE YEARS OLD; OR

3. RECKLESSLY ENGAGES IN CONDUCT WHICH CREATES A GRAVE RISK OF SERIOUS PHYSICAL INJURY OR DEATH TO SUCH CHILD AND THEREBY CAUSES SERIOUS PHYSICAL INJURY TO SUCH CHILD, AND:

(A) HAS PREVIOUSLY BEEN CONVICTED OF A CHILD ABUSE OFFENSE; OR

(B) AS PART OF THE SAME TRANSACTION, RECKLESSLY ENGAGES IN CONDUCT WHICH CREATES A GRAVE RISK OF SERIOUS PHYSICAL INJURY OR DEATH TO ANOTHER CHILD LESS THAN FOURTEEN YEARS OLD AND THEREBY CAUSES SERIOUS PHYSICAL INJURY TO SUCH OTHER CHILD; OR

(C) CAUSES SUCH INJURY BY MEANS OF A DEADLY WEAPON OR DANGEROUS INSTRUMENT; OR

(D) ON AT LEAST ONE OTHER OCCASION, RECKLESSLY ENGAGED IN CONDUCT WHICH CREATED A GRAVE RISK OF SERIOUS PHYSICAL INJURY OR DEATH TO A

CHILD LESS THAN FOURTEEN YEARS OLD AND THEREBY CAUSED SERIOUS PHYSICAL INJURY TO SUCH CHILD.

AGGRAVATED ABUSE OF A CHILD IN THE FIRST DEGREE IS A CLASS C FELONY.

S 10. The penal law is amended by adding two new sections 125.23 and 125.28 to read as follows:

S 125.23 AGGRAVATED MANSLAUGHTER OF A CHILD.

A PERSON IS GUILTY OF AGGRAVATED MANSLAUGHTER OF A CHILD WHEN, BEING EIGHTEEN YEARS OLD OR MORE, AND BEING A PARENT, GUARDIAN OR OTHER PERSON LEGALLY CHARGED WITH THE CUSTODY OF, OR LEGALLY RESPONSIBLE FOR THE CARE OF, A CHILD LESS THAN FOURTEEN YEARS OLD, OR IS A PERSON IN A POSITION OF TRUST OF A CHILD LESS THAN FOURTEEN YEARS OLD, HE OR SHE RECKLESSLY ENGAGES IN CONDUCT WHICH CREATES A GRAVE RISK OF SERIOUS PHYSICAL INJURY OR DEATH TO SUCH CHILD AND THEREBY CAUSES THE DEATH OF SUCH CHILD.

AGGRAVATED MANSLAUGHTER OF A CHILD IS A CLASS B FELONY.

S 125.28 AGGRAVATED MURDER OF A CHILD.

A PERSON IS GUILTY OF AGGRAVATED MURDER OF A CHILD WHEN:

1. WITH INTENT TO CAUSE THE DEATH OF A CHILD LESS THAN FOURTEEN YEARS OLD, AND BEING EIGHTEEN YEARS OLD OR MORE, AND BEING THE PARENT, GUARDIAN OR OTHER PERSON LEGALLY CHARGED WITH THE CUSTODY OF, OR LEGALLY RESPONSIBLE FOR THE CARE OF, SUCH CHILD, OR BEING A PERSON IN A POSITION OF TRUST OF A CHILD LESS THAN FOURTEEN YEARS OLD, HE OR SHE CAUSES THE DEATH OF SUCH CHILD; OR

2. UNDER CIRCUMSTANCES EVINCING A DEPRAVED INDIFFERENCE TO HUMAN LIFE, AND BEING EIGHTEEN YEARS OLD OR MORE, AND BEING THE PARENT, GUARDIAN OR OTHER PERSON LEGALLY CHARGED WITH THE CUSTODY OF, OR LEGALLY RESPONSIBLE FOR THE CARE OF, A CHILD LESS THAN FOURTEEN YEARS OLD, OR BEING A PERSON IN A POSITION OF TRUST OF A CHILD LESS THAN FOURTEEN YEARS OLD, HE OR SHE RECKLESSLY ENGAGES IN CONDUCT WHICH CREATES A GRAVE RISK OF SERIOUS PHYSICAL INJURY OR DEATH TO SUCH CHILD AND THEREBY CAUSES THE DEATH OF SUCH CHILD; OR

3. BEING EIGHTEEN YEARS OLD OR MORE, WHILE IN THE COURSE OF COMMITTING RAPE IN THE FIRST, SECOND OR THIRD DEGREE, CRIMINAL SEXUAL ACT IN THE FIRST, SECOND OR THIRD DEGREE, AGGRAVATED SEXUAL ABUSE IN THE FIRST, SECOND, THIRD OR FOURTH DEGREE, OR INCEST AGAINST A CHILD LESS THAN FOURTEEN YEARS OLD, HE OR SHE INTENTIONALLY CAUSES THE DEATH OF SUCH CHILD.

AGGRAVATED MURDER OF A CHILD IS A CLASS A-I FELONY.

S 11. Subdivision 4 of section 125.25 of the penal law, as amended by chapter 459 of the laws of 2004, is amended to read as follows:

4. Under circumstances evincing a depraved indifference to human life, and being eighteen years old or more the defendant recklessly engages in conduct which creates a grave risk of serious physical injury or death to another person less than eleven years old and thereby causes the death of such person[; or].

S 12. Subdivision 5 of section 125.25 of the penal law is REPEALED.

S 13. Subparagraph (ix) of paragraph (a) of subdivision 1 of section 125.27 of the penal law, as added by chapter 1 of the laws of 1995, is amended to read as follows:

(ix) prior to committing the killing, the defendant had been convicted of murder as defined in this section or section 125.25 of this article OR CONVICTED OF AGGRAVATED MURDER OF A CHILD AS DEFINED IN SECTION 125.28 OF THIS ARTICLE, or had been convicted in another jurisdiction of an offense which, if committed in this state, would constitute a violation of [either of such] THE AFOREMENTIONED sections; or

S 14. The penal law is amended by adding a new section 260.09 to read as follows:

1 S 260.09 AGGRAVATED ENDANGERING THE WELFARE OF A CHILD.

2 A PERSON IS GUILTY OF AGGRAVATED ENDANGERING THE WELFARE OF A CHILD  
3 WHEN, BEING EIGHTEEN YEARS OLD OR MORE, AND BEING A PARENT, GUARDIAN OR  
4 OTHER PERSON LEGALLY CHARGED WITH THE CUSTODY OF, OR LEGALLY RESPONSIBLE  
5 FOR THE CARE OF, A CHILD LESS THAN FOURTEEN YEARS OLD, OR BEING A PERSON  
6 IN A POSITION OF TRUST OF A CHILD LESS THAN FOURTEEN YEARS OLD, HE OR  
7 SHE KNOWINGLY ACTS IN A MANNER LIKELY TO BE INJURIOUS TO THE PHYSICAL,  
8 MENTAL OR MORAL WELFARE OF SUCH CHILD, AND:

9 1. PREVIOUSLY HAS BEEN CONVICTED OF A CHILD ABUSE OFFENSE; OR

10 2. SUCH CONDUCT CONSISTS OF TWO OR MORE ACTS OF CRUELTY AGAINST SUCH  
11 CHILD. FOR PURPOSES OF THIS SUBDIVISION, "CRUELTY" MEANS CONDUCT WHICH  
12 (A) CAUSES EXTREME PHYSICAL PAIN, OR (B) WHICH IS CARRIED OUT IN AN  
13 ESPECIALLY VICIOUS OR SADISTIC MANNER.

14 AGGRAVATED ENDANGERING THE WELFARE OF A CHILD IS A CLASS E FELONY.

15 S 15. Paragraph (a) of subdivision 3 of section 30.30 of the criminal  
16 procedure law, as amended by chapter 93 of the laws of 2006, is amended  
17 to read as follows:

18 (a) Subdivisions one and two do not apply to a criminal action wherein  
19 the defendant is accused of an offense defined in sections 125.10,  
20 125.15, 125.20, 125.25, 125.26 [and], 125.27 AND 125.28 of the penal  
21 law.

22 S 16. Subdivision 1 of section 180.85 of the criminal procedure law,  
23 as amended by chapter 93 of the laws of 2006, is amended to read as  
24 follows:

25 1. After arraignment of a defendant upon a felony complaint, other  
26 than a felony complaint charging an offense defined in section 125.10,  
27 125.15, 125.20, 125.23, 125.25, 125.26 [or], 125.27 OR 125.28 of the  
28 penal law, either party or the local criminal court or superior court  
29 before which the action is pending, on its own motion, may move in  
30 accordance with the provisions of this section for an order terminating  
31 prosecution of the charges contained in such felony complaint on consent  
32 of the parties.

33 S 17. Paragraph (h) of subdivision 3 of section 190.25 of the criminal  
34 procedure law, as amended by chapter 405 of the laws of 2010, is amended  
35 to read as follows:

36 (h) A social worker, rape crisis counselor, psychologist or other  
37 professional providing emotional support to a child witness twelve years  
38 old or younger who is called to give evidence in a grand jury proceeding  
39 concerning a crime defined in article one hundred twenty-one, article  
40 one hundred thirty, article two hundred sixty, section 120.01, 120.19,  
41 120.19-A, 120.10, 125.10, 125.15, 125.20, 125.25, 125.26, 125.27,  
42 125.28, 255.25, 255.26 [or], 255.27 OR 260.09 of the penal law provided  
43 that the district attorney consents. Such support person shall not  
44 provide the witness with an answer to any question or otherwise partic-  
45 ipate in such proceeding and shall first take an oath before the grand  
46 jury that he or she will keep secret all matters before such grand jury  
47 within his or her knowledge.

48 S 18. Paragraph (b) of subdivision 8 of section 700.05 of the criminal  
49 procedure law, as amended by chapter 405 of the laws of 2010, is amended  
50 to read as follows:

51 (b) Any of the following felonies: assault in the second degree as  
52 defined in section 120.05 of the penal law, AGGRAVATED ABUSE OF A CHILD  
53 IN THE THIRD DEGREE AS DEFINED IN SECTION 120.01 OF THE PENAL LAW,  
54 AGGRAVATED ABUSE OF A CHILD IN THE SECOND DEGREE AS DEFINED IN SECTION  
55 120.19 OF THE PENAL LAW, AGGRAVATED ABUSE OF A CHILD IN THE FIRST DEGREE  
56 AS DEFINED IN SECTION 120.19-A OF THE PENAL LAW, assault in the first



1 degree as defined in section 120.10 of the penal law, reckless endanger-  
2 ment in the first degree as defined in section 120.25 of the penal law,  
3 promoting a suicide attempt as defined in section 120.30 of the penal  
4 law, strangulation in the second degree as defined in section 121.12 of  
5 the penal law, strangulation in the first degree as defined in section  
6 121.13 of the penal law, criminally negligent homicide as defined in  
7 section 125.10 of the penal law, manslaughter in the second degree as  
8 defined in section 125.15 of the penal law, manslaughter in the first  
9 degree as defined in section 125.20 of the penal law, AGGRAVATED  
10 MANSLAUGHTER OF A CHILD AS DEFINED IN SECTION 125.23 OF THE PENAL LAW,  
11 murder in the second degree as defined in section 125.25 of the penal  
12 law, murder in the first degree as defined in section 125.27 of the  
13 penal law, AGGRAVATED MURDER OF A CHILD AS DEFINED IN SECTION 125.28 OF  
14 THE PENAL LAW, abortion in the second degree as defined in section  
15 125.40 of the penal law, abortion in the first degree as defined in  
16 section 125.45 of the penal law, rape in the third degree as defined in  
17 section 130.25 of the penal law, rape in the second degree as defined in  
18 section 130.30 of the penal law, rape in the first degree as defined in  
19 section 130.35 of the penal law, criminal sexual act in the third degree  
20 as defined in section 130.40 of the penal law, criminal sexual act in  
21 the second degree as defined in section 130.45 of the penal law, crimi-  
22 nal sexual act in the first degree as defined in section 130.50 of the  
23 penal law, sexual abuse in the first degree as defined in section 130.65  
24 of the penal law, unlawful imprisonment in the first degree as defined  
25 in section 135.10 of the penal law, kidnapping in the second degree as  
26 defined in section 135.20 of the penal law, kidnapping in the first  
27 degree as defined in section 135.25 of the penal law, labor trafficking  
28 as defined in section 135.35 of the penal law, custodial interference in  
29 the first degree as defined in section 135.50 of the penal law, coercion  
30 in the first degree as defined in section 135.65 of the penal law, crim-  
31 inal trespass in the first degree as defined in section 140.17 of the  
32 penal law, burglary in the third degree as defined in section 140.20 of  
33 the penal law, burglary in the second degree as defined in section  
34 140.25 of the penal law, burglary in the first degree as defined in  
35 section 140.30 of the penal law, criminal mischief in the third degree  
36 as defined in section 145.05 of the penal law, criminal mischief in the  
37 second degree as defined in section 145.10 of the penal law, criminal  
38 mischief in the first degree as defined in section 145.12 of the penal  
39 law, criminal tampering in the first degree as defined in section 145.20  
40 of the penal law, arson in the fourth degree as defined in section  
41 150.05 of the penal law, arson in the third degree as defined in section  
42 150.10 of the penal law, arson in the second degree as defined in  
43 section 150.15 of the penal law, arson in the first degree as defined in  
44 section 150.20 of the penal law, grand larceny in the fourth degree as  
45 defined in section 155.30 of the penal law, grand larceny in the third  
46 degree as defined in section 155.35 of the penal law, grand larceny in  
47 the second degree as defined in section 155.40 of the penal law, grand  
48 larceny in the first degree as defined in section 155.42 of the penal  
49 law, health care fraud in the fourth degree as defined in section 177.10  
50 of the penal law, health care fraud in the third degree as defined in  
51 section 177.15 of the penal law, health care fraud in the second degree  
52 as defined in section 177.20 of the penal law, health care fraud in the  
53 first degree as defined in section 177.25 of the penal law, robbery in  
54 the third degree as defined in section 160.05 of the penal law, robbery  
55 in the second degree as defined in section 160.10 of the penal law,  
56 robbery in the first degree as defined in section 160.15 of the penal

1 law, unlawful use of secret scientific material as defined in section  
2 165.07 of the penal law, criminal possession of stolen property in the  
3 fourth degree as defined in section 165.45 of the penal law, criminal  
4 possession of stolen property in the third degree as defined in section  
5 165.50 of the penal law, criminal possession of stolen property in the  
6 second degree as defined by section 165.52 of the penal law, criminal  
7 possession of stolen property in the first degree as defined by section  
8 165.54 of the penal law, trademark counterfeiting in the second degree  
9 as defined in section 165.72 of the penal law, trademark counterfeiting  
10 in the first degree as defined in section 165.73 of the penal law,  
11 forgery in the second degree as defined in section 170.10 of the penal  
12 law, forgery in the first degree as defined in section 170.15 of the  
13 penal law, criminal possession of a forged instrument in the second  
14 degree as defined in section 170.25 of the penal law, criminal  
15 possession of a forged instrument in the first degree as defined in  
16 section 170.30 of the penal law, criminal possession of forgery devices  
17 as defined in section 170.40 of the penal law, falsifying business  
18 records in the first degree as defined in section 175.10 of the penal  
19 law, tampering with public records in the first degree as defined in  
20 section 175.25 of the penal law, offering a false instrument for filing  
21 in the first degree as defined in section 175.35 of the penal law, issu-  
22 ing a false certificate as defined in section 175.40 of the penal law,  
23 criminal diversion of prescription medications and prescriptions in the  
24 second degree as defined in section 178.20 of the penal law, criminal  
25 diversion of prescription medications and prescriptions in the first  
26 degree as defined in section 178.25 of the penal law, residential mort-  
27 gage fraud in the fourth degree as defined in section 187.10 of the  
28 penal law, residential mortgage fraud in the third degree as defined in  
29 section 187.15 of the penal law, residential mortgage fraud in the  
30 second degree as defined in section 187.20 of the penal law, residential  
31 mortgage fraud in the first degree as defined in section 187.25 of the  
32 penal law, escape in the second degree as defined in section 205.10 of  
33 the penal law, escape in the first degree as defined in section 205.15  
34 of the penal law, absconding from temporary release in the first degree  
35 as defined in section 205.17 of the penal law, promoting prison contra-  
36 band in the first degree as defined in section 205.25 of the penal law,  
37 hindering prosecution in the second degree as defined in section 205.60  
38 of the penal law, hindering prosecution in the first degree as defined  
39 in section 205.65 of the penal law, sex trafficking as defined in  
40 section 230.34 of the penal law, AGGRAVATED ENDANGERING THE WELFARE OF A  
41 CHILD AS DEFINED IN SECTION 260.09 OF THE PENAL LAW, criminal possession  
42 of a weapon in the third degree as defined in subdivisions two, three  
43 and five of section 265.02 of the penal law, criminal possession of a  
44 weapon in the second degree as defined in section 265.03 of the penal  
45 law, criminal possession of a weapon in the first degree as defined in  
46 section 265.04 of the penal law, manufacture, transport, disposition and  
47 defacement of weapons and dangerous instruments and appliances defined  
48 as felonies in subdivisions one, two, and three of section 265.10 of the  
49 penal law, sections 265.11, 265.12 and 265.13 of the penal law, or  
50 prohibited use of weapons as defined in subdivision two of section  
51 265.35 of the penal law, relating to firearms and other dangerous weap-  
52 ons, or failure to disclose the origin of a recording in the first  
53 degree as defined in section 275.40 of the penal law;

54 S 19. Paragraph (a) of subdivision 4 of section 509-cc of the vehicle  
55 and traffic law, as amended by chapter 400 of the laws of 2011, is  
56 amended to read as follows:

1 (a) The offenses referred to in subparagraph (ii) of paragraph (a) of  
2 subdivision one and paragraph (a) of subdivision two of this section  
3 that result in permanent disqualification shall include a conviction  
4 under sections 125.12, 125.13, 125.14, 125.15, 125.20, 125.21, 125.22,  
5 125.25, 125.26, 125.27, 130.30, 130.35, 130.45, 130.50, 130.65, 130.66,  
6 130.67, 130.70, 130.75, 130.80, 130.90, 130.95, 130.96, 135.25, 150.20,  
7 230.30, 230.32, 230.34, 235.22, 263.05, 263.10, 263.11, 263.15, 263.16  
8 of the penal law or an attempt to commit any of the aforesaid offenses  
9 under section 110.00 of the penal law, OR A CHILD ABUSE OFFENSE AS  
10 DEFINED IN SUBDIVISION TWENTY-TWO OF SECTION 10.00 OF THE PENAL LAW, or  
11 any offenses committed under a former section of the penal law which  
12 would constitute violations of the aforesaid sections of the penal law,  
13 or any offenses committed outside this state which would constitute  
14 violations of the aforesaid sections of the penal law.

15 S 20. Section 4-1.6 of the estates, powers and trusts law, as added by  
16 chapter 481 of the laws of 1994, is amended to read as follows:  
17 S 4-1.6 Disqualification of joint tenant in certain instances

18 Notwithstanding any other provision of law to the contrary, a joint  
19 tenant convicted of murder in the second degree as defined in section  
20 125.25 of the penal law or murder in the first degree as defined in  
21 section 125.27 of the penal law OR AGGRAVATED MURDER OF A CHILD AS  
22 DEFINED IN SECTION 125.28 OF THE PENAL LAW of another joint tenant shall  
23 not be entitled to the distribution of any monies in a joint bank  
24 account created or contributed to by the deceased joint tenant, except  
25 for those monies contributed by the convicted joint tenant.

26 Upon the conviction of such joint tenant of first or second degree  
27 murder and upon application by the prosecuting attorney, the court, as  
28 part of its sentence, shall issue an order directing the amount of any  
29 joint bank account to be distributed pursuant to the provisions of this  
30 section from the convicted joint tenant and to the deceased joint  
31 tenant's estate. The court and the prosecuting attorney shall each have  
32 the power to subpoena records of a banking institution to determine the  
33 amount of money in such bank account and by whom deposits were made. The  
34 court shall also have the power to freeze such account upon application  
35 by the prosecuting attorney during the pendency of a trial for first or  
36 second degree murder. If, upon receipt of such court orders described in  
37 this section, the banking institution holding monies in such joint  
38 account complies with the terms of the order, such banking institution  
39 shall be held free from all liability for the distribution of such funds  
40 as were in such joint account. In the absence of actual or constructive  
41 notice of such order, the banking institution holding monies in such  
42 account shall be held harmless for distributing the money according to  
43 its ordinary course of business.

44 For purposes of this section, the term banking institution shall have  
45 the same meaning as provided for in paragraph (b) of subdivision three  
46 of section nine-f of the banking law.

47 S 21. Paragraphs (a) and (d) of subdivision 7 of section 995 of the  
48 executive law, paragraph (a) as separately amended by chapters 2 and 320  
49 of the laws of 2006 and paragraph (d) as amended by chapter 2 of the  
50 laws of 2006, are amended to read as follows:

51 (a) sections 120.05, 120.10, and 120.11, relating to assault; sections  
52 125.15 through [125.27] 125.28 relating to homicide; sections 130.25,  
53 130.30, 130.35, 130.40, 130.45, 130.50, 130.65, 130.67 and 130.70,  
54 relating to sex offenses; sections 205.10, 205.15, 205.17 and 205.19,  
55 relating to escape and other offenses, where the offender has been  
56 convicted within the previous five years of one of the other felonies

1 specified in this subdivision; or sections 255.25, 255.26 and 255.27,  
2 relating to incest, a violent felony offense as defined in subdivision  
3 one of section 70.02 of the penal law, attempted murder in the first  
4 degree, as defined in section 110.00 and section 125.27 of the penal  
5 law, kidnapping in the first degree, as defined in section 135.25 of the  
6 penal law, arson in the first degree, as defined in section 150.20 of  
7 the penal law, burglary in the third degree, as defined in section  
8 140.20 of the penal law, attempted burglary in the third degree, as  
9 defined in section 110.00 and section 140.20 of the penal law, a felony  
10 defined in article four hundred ninety of the penal law relating to  
11 terrorism or any attempt to commit an offense defined in such article  
12 relating to terrorism which is a felony; or

13 (d) any of the following felonies, or an attempt thereof where such  
14 attempt is a felony offense:

15 AGGRAVATED ABUSE OF A CHILD IN THE THIRD DEGREE, AS DEFINED IN SECTION  
16 120.01 OF THE PENAL LAW; AGGRAVATED ABUSE OF A CHILD IN THE SECOND  
17 DEGREE, AS DEFINED IN SECTION 120.19 OF THE PENAL LAW; AGGRAVATED ABUSE  
18 OF A CHILD IN THE FIRST DEGREE, AS DEFINED IN SECTION 120.19-A OF THE  
19 PENAL LAW; aggravated assault upon a person less than eleven years old,  
20 as defined in section 120.12 of the penal law; menacing in the first  
21 degree, as defined in section 120.13 of the penal law; reckless endan-  
22 germent in the first degree, as defined in section 120.25 of the penal  
23 law; stalking in the second degree, as defined in section 120.55 of the  
24 penal law; criminally negligent homicide, as defined in section 125.10  
25 of the penal law; vehicular manslaughter in the second degree, as  
26 defined in section 125.12 of the penal law; vehicular manslaughter in  
27 the first degree, as defined in section 125.13 of the penal law;  
28 persistent sexual abuse, as defined in section 130.53 of the penal law;  
29 aggravated sexual abuse in the fourth degree, as defined in section  
30 130.65-a of the penal law; female genital mutilation, as defined in  
31 section 130.85 of the penal law; facilitating a sex offense with a  
32 controlled substance, as defined in section 130.90 of the penal law;  
33 unlawful imprisonment in the first degree, as defined in section 135.10  
34 of the penal law; custodial interference in the first degree, as defined  
35 in section 135.50 of the penal law; criminal trespass in the first  
36 degree, as defined in section 140.17 of the penal law; criminal tamper-  
37 ing in the first degree, as defined in section 145.20 of the penal law;  
38 tampering with a consumer product in the first degree, as defined in  
39 section 145.45 of the penal law; robbery in the third degree as defined  
40 in section 160.05 of the penal law; identity theft in the second degree,  
41 as defined in section 190.79 of the penal law; identity theft in the  
42 first degree, as defined in section 190.80 of the penal law; promoting  
43 prison contraband in the first degree, as defined in section 205.25 of  
44 the penal law; tampering with a witness in the third degree, as defined  
45 in section 215.11 of the penal law; tampering with a witness in the  
46 second degree, as defined in section 215.12 of the penal law; tampering  
47 with a witness in the first degree, as defined in section 215.13 of the  
48 penal law; criminal contempt in the first degree, as defined in subdivi-  
49 sions (b), (c) and (d) of section 215.51 of the penal law; aggravated  
50 criminal contempt, as defined in section 215.52 of the penal law; bail  
51 jumping in the second degree, as defined in section 215.56 of the penal  
52 law; bail jumping in the first degree, as defined in section 215.57 of  
53 the penal law; patronizing a prostitute in the second degree, as defined  
54 in section 230.05 of the penal law; patronizing a prostitute in the  
55 first degree, as defined in section 230.06 of the penal law; promoting  
56 prostitution in the second degree, as defined in section 230.30 of the

1 penal law; promoting prostitution in the first degree, as defined in  
2 section 230.32 of the penal law; compelling prostitution, as defined in  
3 section 230.33 of the penal law; disseminating indecent materials to  
4 minors in the second degree, as defined in section 235.21 of the penal  
5 law; disseminating indecent materials to minors in the first degree, as  
6 defined in section 235.22 of the penal law; riot in the first degree, as  
7 defined in section 240.06 of the penal law; criminal anarchy, as defined  
8 in section 240.15 of the penal law; aggravated harassment of an employee  
9 by an inmate, as defined in section 240.32 of the penal law; unlawful  
10 surveillance in the second degree, as defined in section 250.45 of the  
11 penal law; unlawful surveillance in the first degree, as defined in  
12 section 250.50 of the penal law; AGGRAVATED ENDANGERING THE WELFARE OF A  
13 CHILD, AS DEFINED IN SECTION 260.09 OF THE PENAL LAW; endangering the  
14 welfare of a vulnerable elderly person, OR AN INCOMPETENT OR PHYSICALLY  
15 DISABLED PERSON in the second degree, as defined in section 260.32 of  
16 the penal law; endangering the welfare of a vulnerable elderly person,  
17 OR AN INCOMPETENT OR PHYSICALLY DISABLED PERSON in the first degree, as  
18 defined in section 260.34 of the penal law; use of a child in a sexual  
19 performance, as defined in section 263.05 of the penal law; promoting an  
20 obscene sexual performance by a child, as defined in section 263.10 of  
21 the penal law; possessing an obscene sexual performance by a child, as  
22 defined in section 263.11 of the penal law; promoting a sexual perform-  
23 ance by a child, as defined in section 263.15 of the penal law; possess-  
24 ing a sexual performance by a child, as defined in section 263.16 of the  
25 penal law; criminal possession of a weapon in the third degree, as  
26 defined in section 265.02 of the penal law; criminal sale of a firearm  
27 in the third degree, as defined in section 265.11 of the penal law;  
28 criminal sale of a firearm to a minor, as defined in section 265.16 of  
29 the penal law; unlawful wearing of a body vest, as defined in section  
30 270.20 of the penal law; hate crimes as defined in section 485.05 of the  
31 penal law; and crime of terrorism, as defined in section 490.25 of the  
32 penal law; or

33 S 22. Subparagraph 2 of paragraph (b) of subdivision 3 of section  
34 358-a of the social services law, as added by chapter 7 of the laws of  
35 1999, is amended to read as follows:

36 (2) the parent of such child has been convicted of (i) AGGRAVATED  
37 MANSLAUGHTER OF A CHILD AS DEFINED IN SECTION 125.23 OR AGGRAVATED  
38 MURDER OF A CHILD AS DEFINED IN SECTION 125.28 OR murder in the first  
39 degree as defined in section 125.27 or murder in the second degree as  
40 defined in section 125.25 of the penal law and the victim was another  
41 child of the parent; or (ii) manslaughter in the first degree as defined  
42 in section 125.20 or manslaughter in the second degree as defined in  
43 section 125.15 of the penal law and the victim was another child of the  
44 parent, provided, however, that the parent must have acted voluntarily  
45 in committing such crime;

46 S 23. Clause (A) of subparagraph (iii) of paragraph (a) of subdivision  
47 8 of section 384-b of the social services law, as amended by chapter 460  
48 of the laws of 2006, is amended to read as follows:

49 (A) the parent of such child has been convicted of AGGRAVATED  
50 MANSLAUGHTER OF A CHILD AS DEFINED IN SECTION 125.23, AGGRAVATED MURDER  
51 OF A CHILD AS DEFINED IN SECTION 125.28, murder in the first degree as  
52 defined in section 125.27, murder in the second degree as defined in  
53 section 125.25, manslaughter in the first degree as defined in section  
54 125.20, or manslaughter in the second degree as defined in section  
55 125.15, and the victim of any such crime was another child of the parent  
56 or another child for whose care such parent is or has been legally

1 responsible as defined in subdivision (g) of section one thousand twelve  
2 of the family court act, or another parent of the child, unless the  
3 convicted parent was a victim of physical, sexual or psychological abuse  
4 by the decedent parent and such abuse was a factor in causing the homi-  
5 cide; or has been convicted of an attempt to commit any of the foregoing  
6 crimes, and the victim or intended victim was the child or another child  
7 of the parent or another child for whose care such parent is or has been  
8 legally responsible as defined in subdivision (g) of section one thou-  
9 sand twelve of the family court act, or another parent of the child,  
10 unless the convicted parent was a victim of physical, sexual or psycho-  
11 logical abuse by the decedent parent and such abuse was a factor in  
12 causing the attempted homicide;

13 S 24. Paragraph (a) of subdivision 2 of section 422 of the social  
14 services law, as amended by chapter 574 of the laws of 2008, is amended  
15 to read as follows:

16 (a) The central register shall be capable of receiving telephone calls  
17 alleging child abuse or maltreatment and of immediately identifying  
18 prior reports of child abuse or maltreatment and capable of monitoring  
19 the provision of child protective service twenty-four hours a day, seven  
20 days a week. To effectuate this purpose, but subject to the provisions  
21 of the appropriate local plan for the provision of child protective  
22 services, there shall be a single statewide telephone number that all  
23 persons, whether mandated by the law or not, may use to make telephone  
24 calls alleging child abuse or maltreatment and that all persons so  
25 authorized by this title may use for determining the existence of prior  
26 reports in order to evaluate the condition or circumstances of a child.  
27 In addition to the single statewide telephone number, there shall be a  
28 special unlisted express telephone number and a telephone facsimile  
29 number for use only by persons mandated by law to make telephone calls,  
30 WHICH SHALL BE RECORDED, or to transmit telephone facsimile information  
31 on a form provided by the commissioner OF CHILDREN AND FAMILY SERVICES,  
32 alleging child abuse or maltreatment, and for use by all persons so  
33 authorized by this title for determining the existence of prior reports  
34 in order to evaluate the condition or circumstances of a child. FOR ANY  
35 TELEPHONE CALL THAT CONSTITUTES A REPORT, SUCH RECORDING SHALL BE MAIN-  
36 TAINED FOR THE LENGTH OF TIME OTHERWISE REQUIRED BY THIS SECTION FOR  
37 MAINTENANCE OF ALL RECORDS THAT RELATE TO SUCH REPORT. FOR ANY TELEPHONE  
38 CALL THAT DOES NOT CONSTITUTE A REPORT, SUCH RECORDING SHALL BE MAIN-  
39 TAINED FOR TWO YEARS. SUCH RECORDINGS SHALL BE CONFIDENTIAL AND SHALL  
40 ONLY BE AVAILABLE TO THE STATEWIDE CENTRAL REGISTER OF CHILD ABUSE AND  
41 MALTREATMENT FOR THE PURPOSES OF QUALITY ASSURANCE AND ENHANCED CHILD  
42 SAFETY. PROVIDED, HOWEVER, THAT A WRITTEN TRANSCRIPT OF SUCH RECORDING  
43 MAY ONLY BE OBTAINED VIA JUDICIAL SUBPOENA BASED UPON THE JUDICIAL  
44 DETERMINATION THAT SUCH TRANSCRIPT IS NECESSARY EVIDENCE IN A CRIMINAL  
45 OR FAMILY COURT PROCEEDING PROVIDED FURTHER, THAT ANY INFORMATION RELAT-  
46 ING TO THE IDENTITY OF THE CALLER OR WHICH REASONABLY COULD LEAD TO THE  
47 IDENTIFICATION OF THE CALLER SHALL BE EXCLUDED FROM SUCH TRANSCRIPT.  
48 When any allegations contained in such telephone calls could reasonably  
49 constitute a report of child abuse or maltreatment, such allegations  
50 shall be immediately transmitted orally or electronically by the office  
51 of children and family services to the appropriate local child protec-  
52 tive service for investigation. The inability of the person calling the  
53 register to identify the alleged perpetrator shall, in no circumstance,  
54 constitute the sole cause for the register to reject such allegation or  
55 fail to transmit such allegation for investigation. WHEN DETERMINING IF  
56 THE ALLEGATIONS CONTAINED IN A TELEPHONE CALL COULD REASONABLY CONSTI-

1 TUTE A REPORT OF CHILD ABUSE OR MALTREATMENT, SUCH OFFICE SHALL EXAMINE  
2 THE PRIOR HISTORY OF THE SUBJECT AND ANY OTHER PERSON NAMED IN THE ALLE-  
3 GATION, SPECIFICALLY INCLUDING ALL PREVIOUS CALLS PLACED TO THE CENTRAL  
4 REGISTER RELATING TO THE SUBJECT OR ANY OTHER PERSON NAMED IN THE ALLE-  
5 GATION REGARDLESS OF WHETHER SUCH CALLS RESULTED IN A REPORT. If the  
6 records indicate a previous report concerning a subject of the report,  
7 the child alleged to be abused or maltreated, a sibling, other children  
8 in the household, other persons named in the report or other pertinent  
9 information, the appropriate local child protective service shall be  
10 immediately notified of the fact, except as provided in subdivision  
11 eleven of this section. If the report involves either (i) an allegation  
12 of an abused child described in paragraph (i), (ii) or (iii) of subdivi-  
13 sion (e) of section one thousand twelve of the family court act or sexu-  
14 al abuse of a child or the death of a child or (ii) suspected maltreat-  
15 ment which alleges any physical harm when the report is made by a person  
16 required to report pursuant to section four hundred thirteen of this  
17 title within six months of any other two reports that were indicated, or  
18 may still be pending, involving the same child, sibling, or other chil-  
19 dren in the household or the subject of the report, the office of chil-  
20 dren and family services shall identify the report as such and note any  
21 prior reports when transmitting the report to the local child protective  
22 services for investigation.

23 S 25. Subdivision 2 of section 422 of the social services law is  
24 amended by adding a new paragraph (d) to read as follows:

25 (D) WHENEVER A TELEPHONE CALL TO THE STATEWIDE CENTRAL REGISTER  
26 DESCRIBED IN THIS SECTION IS RECEIVED BY THE OFFICE OF CHILDREN AND  
27 FAMILY SERVICES AND NOT REGISTERED AS A REPORT, THE OFFICE OF CHILDREN  
28 AND FAMILY SERVICES SHALL CONVEY TO THE CALLER THAT HE OR SHE HAS THE  
29 ABILITY TO DISCUSS WITH A SUPERVISOR THE REASONS FOR THE DECISION NOT TO  
30 REGISTER THE REPORT.

31 S 26. Paragraph (a) of subdivision 6 of section 424 of the social  
32 services law, as amended by chapter 602 of the laws of 2008, is amended  
33 to read as follows:

34 (a) upon receipt of such report, commence or cause the appropriate  
35 society for the prevention of cruelty to children to commence, within  
36 twenty-four hours, an appropriate investigation which shall include an  
37 evaluation of the environment of the child named in the report and any  
38 other children in the same home and a determination of the risk to such  
39 children if they continue to remain in the existing home environment, as  
40 well as a determination of the nature, extent and cause of any condition  
41 enumerated in such report and the name, age and condition of other chil-  
42 dren in the home, and, after seeing to the safety of the child or chil-  
43 dren, forthwith notify the subjects of the report and other persons  
44 named in the report in writing of the existence of the report and their  
45 respective rights pursuant to this title in regard to amendment. SUCH  
46 INVESTIGATION SHALL ALSO INCLUDE INCREASED SCRUTINY GIVEN TO THE EVALU-  
47 ATION OF ANY REPORT RECEIVED WITHIN SIX MONTHS OF ANY OTHER TWO REPORTS  
48 THAT WERE INDICATED OR MAY STILL BE PENDING INVOLVING THE SAME CHILD,  
49 SIBLING, OR OTHER CHILDREN IN THE HOUSEHOLD.

50 S 27. Section 424 of the social services law is amended by adding a  
51 new subdivision 6-c to read as follows:

52 6-C. UPON RECEIPT OF A REPORT WHICH IS RECEIVED WITHIN SIX MONTHS OF  
53 ANY OTHER TWO REPORTS THAT WERE INDICATED OR MAY STILL BE PENDING  
54 INVOLVING THE SAME CHILD, SIBLING, OR OTHER CHILD IN THE HOUSEHOLD, A  
55 CHILD PROTECTIVE INVESTIGATOR SHALL CONTACT LAW ENFORCEMENT TO ACCOMPANY  
56 SUCH INVESTIGATOR TO THE CHILD, CHILDREN AND/OR HOME AND LAW ENFORCEMENT

1 SHALL REMAIN WHERE THE CHILD OR CHILDREN ARE OR ARE BELIEVED TO BE PRES-  
2 ENT DURING THE COURSE OF THE INVESTIGATION.

3 S 28. Section 420 of the social services law is amended by adding a  
4 new subdivision 3 to read as follows:

5 3. A PERSON WHO IS CONVICTED OF A SECOND OR SUBSEQUENT OFFENSE UNDER  
6 THIS SECTION WITHIN TWO YEARS OF THE PRIOR CONVICTION SHALL BE GUILTY OF  
7 A CLASS E FELONY.

8 S 29. Subdivision (f) of section 1012 of the family court act, as  
9 added by chapter 962 of the laws of 1970, subparagraph (A) of paragraph  
10 (i) as amended by chapter 469 of the laws of 1971, subparagraph (B) of  
11 paragraph (i) as amended by chapter 984 of the laws of 1981 and para-  
12 graph (ii) as amended by chapter 666 of the laws of 1976, is amended to  
13 read as follows:

14 (f) "Neglected child" means a child less than eighteen years of age

15 (i) whose physical, mental or emotional condition has been impaired or  
16 is in [imminent] danger of becoming impaired as a result of the failure  
17 of his OR HER parent or other person legally responsible for his OR HER  
18 care to exercise a minimum degree of care

19 (A) in supplying the child with adequate food, clothing, shelter [or],  
20 A SANITARY LIVING ENVIRONMENT, PROPER SUPERVISION, WARMTH, SUSTENANCE  
21 AND education in accordance with the provisions of part one of article  
22 sixty-five of the education law OR ANY OTHER BASIC NECESSITY OF LIFE, or  
23 medical, dental, optometrical or surgical care, INCLUDING, BUT NOT  
24 LIMITED TO, PREVENTIVE CARE SUCH AS IMMUNIZATIONS, REMEDIAL CARE, AND  
25 PSYCHOLOGICAL AND/OR PSYCHIATRIC CARE, though financially able to do so  
26 or offered financial or other reasonable means to do so; or

27 (B) in providing the child with proper supervision [or], guardianship,  
28 MORAL SUPERVISION, EMOTIONAL SUPPORT, AND INSTRUCTION by unreasonably  
29 inflicting or allowing to be inflicted harm, or a substantial risk ther-  
30 eof, including the infliction of excessive corporal punishment; or by  
31 misusing a drug or drugs; or by misusing alcoholic beverages to the  
32 extent that he loses self-control of his actions; OR BY ALLOWING SUCH  
33 CHILD MULTIPLE UNEXCUSED ABSENCES FROM SCHOOL; OR BY SUFFERING FROM  
34 AGGRESSIVENESS, POOR IMPULSE CONTROL, OR PARANOIA; or by any other acts  
35 of a similarly serious nature requiring the aid of the court; provided,  
36 however, that where the respondent is voluntarily and regularly partic-  
37 ipating in a rehabilitative program, evidence that the respondent has  
38 repeatedly misused a drug or drugs or alcoholic beverages to the extent  
39 that he loses self-control of his actions shall not establish that the  
40 child is a neglected child in the absence of evidence establishing that  
41 the child's physical, mental or emotional condition has been impaired or  
42 is in [imminent] danger of becoming impaired as set forth in paragraph  
43 (i) of this subdivision; or

44 (C) TO KEEP SUCH CHILD FREE FROM DISEASE AND NOT IN A STATE OF  
45 SUBSTANTIALLY DIMINISHED PHYSICAL GROWTH; OR

46 (ii) who has been abandoned, in accordance with the definition and  
47 other criteria set forth in subdivision five of section three hundred  
48 eighty-four-b of the social services law, by his parents or other person  
49 legally responsible for his care.

50 S 30. This act shall take effect immediately; provided that:

51 (a) sections twenty-four and twenty-five of this act shall take effect  
52 on the one hundred eightieth day after it shall have become a law;

53 (b) section nineteen of this act shall take effect on the same date  
54 and in the same manner as section 1 of chapter 400 of the laws of 2011,  
55 takes effect; and



1       (c) effective immediately, the addition, amendment and/or repeal of  
2 any rule or regulation necessary for the implementation of this act on  
3 its effective date are authorized and directed to be made and completed  
4 on or before such effective date.