

1721

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sens. GRISANTI, FLANAGAN, GALLIVAN, GOLDEN, HASSELL-THOMPSON, LARKIN, LIBOUS, MARTINS, MAZIARZ -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, the criminal procedure law, the vehicle and traffic law, the estates, powers and trusts law and the social services law, in relation to establishing the offenses of aggravated murder of a child, 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, aggravated manslaughter of a child, aggravated endangering the welfare of a child, aggravated murder of a child, obstructing the location of a missing child, and concealment of a death; 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

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 the "protect our children act".
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

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

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1 MATERIAL TO MINORS IN THE SECOND DEGREE AS DEFINED IN SECTION 235.21;
2 DISSEMINATING INDECENT MATERIAL TO MINORS IN THE FIRST DEGREE AS DEFINED
3 IN SECTION 235.22; ABANDONMENT OF A CHILD AS DEFINED IN SECTION 260.00;
4 NON-SUPPORT OF A CHILD IN THE SECOND DEGREE AS DEFINED IN SECTION
5 260.05; NON-SUPPORT OF A CHILD IN THE FIRST DEGREE AS DEFINED IN SECTION
6 260.06; AGGRAVATED ENDANGERING THE WELFARE OF A CHILD AS DEFINED IN
7 SECTION 260.09; ENDANGERING THE WELFARE OF A CHILD AS DEFINED IN SECTION
8 260.10; UNLAWFULLY DEALING WITH A CHILD IN THE FIRST DEGREE AS DEFINED
9 IN SECTION 260.20; UNLAWFULLY DEALING WITH A CHILD IN THE SECOND DEGREE
10 AS DEFINED IN SECTION 260.21; OR AN OFFENSE DEFINED IN ARTICLE TWO
11 HUNDRED SIXTY-THREE OF THIS CHAPTER; OR

12 (B) AN OFFENSE DEFINED IN ARTICLE ONE HUNDRED TWENTY, ONE HUNDRED
13 TWENTY-FIVE, ONE HUNDRED THIRTY OR ONE HUNDRED THIRTY-FIVE OF THIS CHAP-
14 TER PROVIDED THE VICTIM OF SUCH OFFENSE IS LESS THAN FOURTEEN YEARS OF
15 AGE; OR

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

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

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

23 S 60.06 Authorized disposition; murder in the first degree offenders;
24 aggravated murder offenders; AGGRAVATED MURDER OF A CHILD
25 OFFENDERS; certain murder in the second degree offenders;
26 certain terrorism offenders; criminal possession of a chemical
27 weapon or biological weapon offenders; criminal use of a chem-
28 ical weapon or biological weapon offenders.

29 When a defendant is convicted of murder in the first degree as defined
30 in section 125.27 of this chapter, the court shall, in accordance with
31 the provisions of section 400.27 of the criminal procedure law, sentence
32 the defendant to death, to life imprisonment without parole in accord-
33 ance with subdivision five of section 70.00 of this title, or to a term
34 of imprisonment for a class A-I felony other than a sentence of life
35 imprisonment without parole, in accordance with subdivisions one through
36 three of section 70.00 of this title. When a person is convicted [of
37 murder in the second degree as defined in subdivision five of section
38 125.25 of this chapter or] of the crime of aggravated murder as defined
39 in subdivision one of section 125.26 of this chapter OR OF THE CRIME OF
40 AGGRAVATED MURDER OF A CHILD AS DEFINED IN SECTION 125.28 OF THIS CHAP-
41 TER, the court shall sentence the defendant to life imprisonment without
42 parole in accordance with subdivision five of section 70.00 of this
43 title. When a defendant is convicted of the crime of terrorism as
44 defined in section 490.25 of this chapter, and the specified offense the
45 defendant committed is a class A-I felony offense, or when a defendant
46 is convicted of the crime of criminal possession of a chemical weapon or
47 biological weapon in the first degree as defined in section 490.45 of
48 this chapter, or when a defendant is convicted of the crime of criminal
49 use of a chemical weapon or biological weapon in the first degree as
50 defined in section 490.55 of this chapter, the court shall sentence the
51 defendant to life imprisonment without parole in accordance with subdi-
52 vision five of section 70.00 of this title; provided, however, that
53 nothing in this section shall preclude or prevent a sentence of death
54 when the defendant is also convicted of murder in the first degree as
55 defined in section 125.27 of this chapter. When a defendant is convicted
56 of aggravated murder as defined in subdivision two of section 125.26 of

1 this chapter, the court shall sentence the defendant to life imprison-
2 ment without parole or to a term of imprisonment for a class A-I felony
3 other than a sentence of life imprisonment without parole, in accordance
4 with subdivisions one through three of section 70.00 of this title.

5 S 4. Subparagraph (i) of paragraph (a) of subdivision 3 of section
6 70.00 of the penal law, as amended by chapter 107 of the laws of 2006,
7 is amended to read as follows:

8 (i) For a class A-I felony, such minimum period shall not be less than
9 fifteen years nor more than twenty-five years; provided, however, that
10 (A) where a sentence, other than a sentence of death or life imprison-
11 ment without parole, is imposed upon a defendant convicted of murder in
12 the first degree as defined in section 125.27 of this chapter such mini-
13 mum period shall be not less than twenty years nor more than twenty-five
14 years, and, (B) where a sentence is imposed upon a defendant [convicted
15 of murder in the second degree as defined in subdivision five of section
16 125.25 of this chapter or] convicted of aggravated murder as defined in
17 section 125.26 of this chapter OR CONVICTED OF AGGRAVATED MURDER OF A
18 CHILD AS DEFINED IN SECTION 125.28 OF THIS CHAPTER, the sentence shall
19 be life imprisonment without parole, and, (C) where a sentence is
20 imposed upon a defendant convicted of attempted murder in the first
21 degree as defined in article one hundred ten of this chapter and subpar-
22 agraph (i), (ii) or (iii) of paragraph (a) of subdivision one and para-
23 graph (b) of subdivision one of section 125.27 of this chapter or
24 attempted aggravated murder as defined in article one hundred ten of
25 this chapter and section 125.26 of this chapter OR ATTEMPTED AGGRAVATED
26 MURDER OF A CHILD AS DEFINED IN ARTICLE ONE HUNDRED TEN OF THIS CHAPTER
27 AND SECTION 125.28 OF THIS CHAPTER such minimum period shall be not less
28 than twenty years nor more than forty years.

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

31 5. Life imprisonment without parole. Notwithstanding any other
32 provision of law, a defendant sentenced to life imprisonment without
33 parole shall not be or become eligible for parole or conditional
34 release. For purposes of commitment and custody, other than parole and
35 conditional release, such sentence shall be deemed to be an indetermi-
36 nate sentence. A defendant may be sentenced to life imprisonment with-
37 out parole upon conviction for the crime of murder in the first degree
38 as defined in section 125.27 of this chapter and in accordance with the
39 procedures provided by law for imposing a sentence for such crime. A
40 defendant must be sentenced to life imprisonment without parole upon
41 conviction for the crime of terrorism as defined in section 490.25 of
42 this chapter, where the specified offense the defendant committed is a
43 class A-I felony; the crime of criminal possession of a chemical weapon
44 or biological weapon in the first degree as defined in section 490.45 of
45 this chapter; or the crime of criminal use of a chemical weapon or
46 biological weapon in the first degree as defined in section 490.55 of
47 this chapter; provided, however, that nothing in this subdivision shall
48 preclude or prevent a sentence of death when the defendant is also
49 convicted of the crime of murder in the first degree as defined in
50 section 125.27 of this chapter. A defendant must be sentenced to life
51 imprisonment without parole upon conviction [for the crime of murder in
52 the second degree as defined in subdivision five of section 125.25 of
53 this chapter or] for the crime of aggravated murder as defined in subdi-
54 vision one of section 125.26 of this chapter OR FOR THE CRIME OF AGGRA-
55 VATED MURDER OF A CHILD AS DEFINED IN SECTION 125.28 OF THIS CHAPTER. A
56 defendant may be sentenced to life imprisonment without parole upon

conviction for the crime of aggravated murder as defined in subdivision two of section 125.26 of this chapter.

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

(a) Class B violent felony offenses: an attempt to commit the class A-I felonies of murder in the second degree as defined in section 125.25, kidnapping in the first degree as defined in section 135.25, and arson in the first degree as defined in section 150.20; manslaughter in the first degree as defined in section 125.20, aggravated manslaughter in the first degree as defined in section 125.22, AGGRAVATED MANSLAUGHTER OF A CHILD AS DEFINED IN SECTION 125.23, rape in the first degree as defined in section 130.35, criminal sexual act in the first degree as defined in section 130.50, aggravated sexual abuse in the first degree as defined in section 130.70, course of sexual conduct against a child in the first degree as defined in section 130.75; assault in the first degree as defined in section 120.10, kidnapping in the second degree as defined in section 135.20, burglary in the first degree as defined in section 140.30, arson in the second degree as defined in section 150.15, robbery in the first degree as defined in section 160.15, incest in the first degree as defined in section 255.27, criminal possession of a weapon in the first degree as defined in section 265.04, criminal use of a firearm in the first degree as defined in section 265.09, criminal sale of a firearm in the first degree as defined in section 265.13, aggravated assault upon a police officer or a peace officer as defined in section 120.11, gang assault in the first degree as defined in section 120.07, intimidating a victim or witness in the first degree as defined in section 215.17, hindering prosecution of terrorism in the first degree as defined in section 490.35, criminal possession of a chemical weapon or biological weapon in the second degree as defined in section 490.40, and criminal use of a chemical weapon or biological weapon in the third degree as defined in section 490.47.

(b) Class C violent felony offenses: an attempt to commit any of the class B felonies set forth in paragraph (a) of this subdivision; aggravated criminally negligent homicide as defined in section 125.11, aggravated manslaughter in the second degree as defined in section 125.21, aggravated sexual abuse in the second degree as defined in section 130.67, assault on a peace officer, police officer, fireman or emergency medical services professional as defined in section 120.08, assault on a judge as defined in section 120.09, gang assault in the second degree as defined in section 120.06, AGGRAVATED ABUSE OF A CHILD IN THE FIRST DEGREE AS DEFINED IN SECTION 120.19-A, strangulation in the first degree as defined in section 121.13, burglary in the second degree as defined in section 140.25, robbery in the second degree as defined in section 160.10, criminal possession of a weapon in the second degree as defined in section 265.03, criminal use of a firearm in the second degree as defined in section 265.08, criminal sale of a firearm in the second degree as defined in section 265.12, criminal sale of a firearm with the aid of a minor as defined in section 265.14, soliciting or providing support for an act of terrorism in the first degree as defined in section 490.15, hindering prosecution of terrorism in the second degree as defined in section 490.30, and criminal possession of a chemical weapon or biological weapon in the third degree as defined in section 490.37.

1 (c) Class D violent felony offenses: an attempt to commit any of the
2 class C felonies set forth in paragraph (b); reckless assault of a child
3 as defined in section 120.02, assault in the second degree as defined in
4 section 120.05, AGGRAVATED ABUSE OF A CHILD IN THE SECOND DEGREE AS
5 DEFINED IN SECTION 120.19, menacing a police officer or peace officer as
6 defined in section 120.18, stalking in the first degree, as defined in
7 subdivision one of section 120.60, strangulation in the second degree as
8 defined in section 121.12, rape in the second degree as defined in
9 section 130.30, criminal sexual act in the second degree as defined in
10 section 130.45, sexual abuse in the first degree as defined in section
11 130.65, course of sexual conduct against a child in the second degree as
12 defined in section 130.80, aggravated sexual abuse in the third degree
13 as defined in section 130.66, facilitating a sex offense with a
14 controlled substance as defined in section 130.90, criminal possession
15 of a weapon in the third degree as defined in subdivision five, six,
16 seven or eight of section 265.02, criminal sale of a firearm in the
17 third degree as defined in section 265.11, intimidating a victim or
18 witness in the second degree as defined in section 215.16, soliciting or
19 providing support for an act of terrorism in the second degree as
20 defined in section 490.10, and making a terroristic threat as defined in
21 section 490.20, falsely reporting an incident in the first degree as
22 defined in section 240.60, placing a false bomb or hazardous substance
23 in the first degree as defined in section 240.62, placing a false bomb
24 or hazardous substance in a sports stadium or arena, mass transportation
25 facility or enclosed shopping mall as defined in section 240.63, and
26 aggravated unpermitted use of indoor pyrotechnics in the first degree as
27 defined in section 405.18.

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

30 1. Class A-I felony when the crime attempted is the A-I felony of
31 murder in the first degree, aggravated murder as defined in subdivision
32 one of section 125.26 of this chapter, AGGRAVATED MURDER OF A CHILD,
33 criminal possession of a controlled substance in the first degree, crim-
34 inal sale of a controlled substance in the first degree, criminal
35 possession of a chemical or biological weapon in the first degree or
36 criminal use of a chemical or biological weapon in the first degree;

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

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

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

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

52 S 9. The penal law is amended by adding two new sections 120.19 and
53 120.19-a to read as follows:

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

55 A PERSON IS GUILTY OF AGGRAVATED ABUSE OF A CHILD IN THE SECOND DEGREE
56 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 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.

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, GUARDI-

1 AN OR OTHER PERSON LEGALLY CHARGED WITH THE CUSTODY OF, OR LEGALLY
2 RESPONSIBLE FOR THE CARE OF, SUCH CHILD, OR BEING A PERSON IN A POSITION
3 OF TRUST OF A CHILD LESS THAN FOURTEEN YEARS OLD, HE OR SHE CAUSES THE
4 DEATH OF SUCH CHILD; OR

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

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

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

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

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

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

28 S 13. Subparagraph (ix) of paragraph (a) of subdivision 1 of section
29 125.27 of the penal law, as added by chapter 1 of the laws of 1995, is
30 amended to read as follows:

31 (ix) prior to committing the killing, the defendant had been convicted
32 of murder as defined in this section or section 125.25 of this article
33 OR CONVICTED OF AGGRAVATED MURDER OF A CHILD AS DEFINED IN SECTION
34 125.28 OF THIS ARTICLE, or had been convicted in another jurisdiction of
35 an offense which, if committed in this state, would constitute a
36 violation of [either of such] THE AFOREMENTIONED sections; or

37 S 14. The penal law is amended by adding a new section 190.17 to read
38 as follows:

39 S 190.17 OBSTRUCTING THE LOCATION OF A MISSING CHILD.

40 A PERSON IS GUILTY OF OBSTRUCTING THE LOCATION OF A MISSING CHILD
41 WHEN HE OR SHE KNOWINGLY PROVIDES FALSE INFORMATION TO LAW ENFORCEMENT
42 OFFICIALS AS TO THE WHEREABOUTS OF A CHILD LESS THAN FOURTEEN YEARS OLD
43 WHO HAS BEEN REPORTED MISSING, OR WHOSE WHEREABOUTS HAS BEEN UNKNOWN FOR
44 MORE THAN TWENTY-FOUR HOURS.

45 OBSTRUCTING THE LOCATION OF A MISSING CHILD IS A CLASS E FELONY.

46 S 15. The penal law is amended by adding a new section 190.18 to read
47 as follows:

48 S 190.18 CONCEALMENT OF A DEATH.

49 A PERSON IS GUILTY OF CONCEALMENT OF A DEATH WHEN HE OR SHE KNOWINGLY
50 MOVES OR OTHERWISE CONCEALS A HUMAN CORPSE SO THAT DISCOVERY OF THE
51 DEATH OF SUCH PERSON WILL BE HINDERED.

52 CONCEALMENT OF A DEATH IS A CLASS D FELONY.

53 S 16. The penal law is amended by adding a new section 260.09 to read
54 as follows:

55 S 260.09 AGGRAVATED ENDANGERING THE WELFARE OF A CHILD.

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

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

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

13 3. SUCH CONDUCT CONSISTS OF FAILING TO REPORT TO LAW ENFORCEMENT WHEN
14 THE WHEREABOUTS OF SUCH CHILD HAS BEEN UNKNOWN BY SUCH PERSON FOR MORE
15 THAN TWENTY-FOUR HOURS. FOR THE PURPOSES OF THIS SECTION, A PARENT,
16 GUARDIAN OR OTHER PERSON LEGALLY CHARGED WITH THE CUSTODY OF, OR LEGALLY
17 RESPONSIBLE FOR THE CARE OF A CHILD UNDER THE AGE OF ELEVEN IS DEEMED TO
18 BE ACTING IN A MANNER LIKELY TO BE INJURIOUS TO THE PHYSICAL, MENTAL OR
19 MORAL WELFARE OF SUCH CHILD IF SUCH CHILD'S WHEREABOUTS IS UNKNOWN BY
20 SUCH PERSON FOR MORE THAN TWENTY-FOUR HOURS.

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

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

25 (a) Subdivisions one and two do not apply to a criminal action wherein
26 the defendant is accused of an offense defined in sections 125.10,
27 125.15, 125.20, 125.25, 125.26 [and], 125.27 AND 125.28 of the penal
28 law.

29 S 18. Subdivision 1 of section 180.85 of the criminal procedure law,
30 as amended by chapter 93 of the laws of 2006, is amended to read as
31 follows:

32 1. After arraignment of a defendant upon a felony complaint, other
33 than a felony complaint charging an offense defined in section 125.10,
34 125.15, 125.20, 125.23, 125.25, 125.26 [or], 125.27 OR 125.28 of the
35 penal law, either party or the local criminal court or superior court
36 before which the action is pending, on its own motion, may move in
37 accordance with the provisions of this section for an order terminating
38 prosecution of the charges contained in such felony complaint on consent
39 of the parties.

40 S 19. Paragraph (h) of subdivision 3 of section 190.25 of the criminal
41 procedure law, as amended by chapter 405 of the laws of 2010, is amended
42 to read as follows:

43 (h) A social worker, rape crisis counselor, psychologist or other
44 professional providing emotional support to a child witness twelve years
45 old or younger who is called to give evidence in a grand jury proceeding
46 concerning a crime defined in article one hundred twenty-one, article
47 one hundred thirty, article two hundred sixty, section 120.01, 120.10,
48 120.19, 120.19-A, 125.10, 125.15, 125.20, 125.23, 125.25, 125.26,
49 125.27, 125.28, 255.25, 255.26 [or], 255.27 OR 260.09 of the penal law
50 provided that the district attorney consents. Such support person shall
51 not provide the witness with an answer to any question or otherwise
52 participate in such proceeding and shall first take an oath before the
53 grand jury that he or she will keep secret all matters before such grand
54 jury within his or her knowledge.

1 S 20. Paragraph (b) of subdivision 8 of section 700.05 of the criminal
2 procedure law, as amended by chapter 405 of the laws of 2010, is amended
3 to read as follows:

4 (b) Any of the following felonies: assault in the second degree as
5 defined in section 120.05 of the penal law, AGGRAVATED ABUSE OF A CHILD
6 IN THE THIRD DEGREE AS DEFINED IN SECTION 120.01 OF THE PENAL LAW,
7 AGGRAVATED ABUSE OF A CHILD IN THE SECOND DEGREE AS DEFINED IN SECTION
8 120.19 OF THE PENAL LAW, AGGRAVATED ABUSE OF A CHILD IN THE FIRST DEGREE
9 AS DEFINED IN SECTION 120.19-A OF THE PENAL LAW, assault in the first
10 degree as defined in section 120.10 of the penal law, reckless endanger-
11 ment in the first degree as defined in section 120.25 of the penal law,
12 promoting a suicide attempt as defined in section 120.30 of the penal
13 law, strangulation in the second degree as defined in section 121.12 of
14 the penal law, strangulation in the first degree as defined in section
15 121.13 of the penal law, criminally negligent homicide as defined in
16 section 125.10 of the penal law, manslaughter in the second degree as
17 defined in section 125.15 of the penal law, manslaughter in the first
18 degree as defined in section 125.20 of the penal law, AGGRAVATED
19 MANSLAUGHTER OF A CHILD AS DEFINED IN SECTION 125.23 OF THE PENAL LAW,
20 murder in the second degree as defined in section 125.25 of the penal
21 law, murder in the first degree as defined in section 125.27 of the
22 penal law, AGGRAVATED MURDER OF A CHILD AS DEFINED IN SECTION 125.28 OF
23 THE PENAL LAW, abortion in the second degree as defined in section
24 125.40 of the penal law, abortion in the first degree as defined in
25 section 125.45 of the penal law, rape in the third degree as defined in
26 section 130.25 of the penal law, rape in the second degree as defined in
27 section 130.30 of the penal law, rape in the first degree as defined in
28 section 130.35 of the penal law, criminal sexual act in the third degree
29 as defined in section 130.40 of the penal law, criminal sexual act in
30 the second degree as defined in section 130.45 of the penal law, crimi-
31 nal sexual act in the first degree as defined in section 130.50 of the
32 penal law, sexual abuse in the first degree as defined in section 130.65
33 of the penal law, unlawful imprisonment in the first degree as defined
34 in section 135.10 of the penal law, kidnapping in the second degree as
35 defined in section 135.20 of the penal law, kidnapping in the first
36 degree as defined in section 135.25 of the penal law, labor trafficking
37 as defined in section 135.35 of the penal law, custodial interference in
38 the first degree as defined in section 135.50 of the penal law, coercion
39 in the first degree as defined in section 135.65 of the penal law, crim-
40 inal trespass in the first degree as defined in section 140.17 of the
41 penal law, burglary in the third degree as defined in section 140.20 of
42 the penal law, burglary in the second degree as defined in section
43 140.25 of the penal law, burglary in the first degree as defined in
44 section 140.30 of the penal law, criminal mischief in the third degree
45 as defined in section 145.05 of the penal law, criminal mischief in the
46 second degree as defined in section 145.10 of the penal law, criminal
47 mischief in the first degree as defined in section 145.12 of the penal
48 law, criminal tampering in the first degree as defined in section 145.20
49 of the penal law, arson in the fourth degree as defined in section
50 150.05 of the penal law, arson in the third degree as defined in section
51 150.10 of the penal law, arson in the second degree as defined in
52 section 150.15 of the penal law, arson in the first degree as defined in
53 section 150.20 of the penal law, grand larceny in the fourth degree as
54 defined in section 155.30 of the penal law, grand larceny in the third
55 degree as defined in section 155.35 of the penal law, grand larceny in
56 the second degree as defined in section 155.40 of the penal law, grand

1 larceny in the first degree as defined in section 155.42 of the penal
2 law, health care fraud in the fourth degree as defined in section 177.10
3 of the penal law, health care fraud in the third degree as defined in
4 section 177.15 of the penal law, health care fraud in the second degree
5 as defined in section 177.20 of the penal law, health care fraud in the
6 first degree as defined in section 177.25 of the penal law, robbery in
7 the third degree as defined in section 160.05 of the penal law, robbery
8 in the second degree as defined in section 160.10 of the penal law,
9 robbery in the first degree as defined in section 160.15 of the penal
10 law, unlawful use of secret scientific material as defined in section
11 165.07 of the penal law, criminal possession of stolen property in the
12 fourth degree as defined in section 165.45 of the penal law, criminal
13 possession of stolen property in the third degree as defined in section
14 165.50 of the penal law, criminal possession of stolen property in the
15 second degree as defined by section 165.52 of the penal law, criminal
16 possession of stolen property in the first degree as defined by section
17 165.54 of the penal law, trademark counterfeiting in the second degree
18 as defined in section 165.72 of the penal law, trademark counterfeiting
19 in the first degree as defined in section 165.73 of the penal law,
20 forgery in the second degree as defined in section 170.10 of the penal
21 law, forgery in the first degree as defined in section 170.15 of the
22 penal law, criminal possession of a forged instrument in the second
23 degree as defined in section 170.25 of the penal law, criminal
24 possession of a forged instrument in the first degree as defined in
25 section 170.30 of the penal law, criminal possession of forgery devices
26 as defined in section 170.40 of the penal law, falsifying business
27 records in the first degree as defined in section 175.10 of the penal
28 law, tampering with public records in the first degree as defined in
29 section 175.25 of the penal law, offering a false instrument for filing
30 in the first degree as defined in section 175.35 of the penal law, issu-
31 ing a false certificate as defined in section 175.40 of the penal law,
32 criminal diversion of prescription medications and prescriptions in the
33 second degree as defined in section 178.20 of the penal law, criminal
34 diversion of prescription medications and prescriptions in the first
35 degree as defined in section 178.25 of the penal law, residential mort-
36 gage fraud in the fourth degree as defined in section 187.10 of the
37 penal law, residential mortgage fraud in the third degree as defined in
38 section 187.15 of the penal law, residential mortgage fraud in the
39 second degree as defined in section 187.20 of the penal law, residential
40 mortgage fraud in the first degree as defined in section 187.25 of the
41 penal law, escape in the second degree as defined in section 205.10 of
42 the penal law, escape in the first degree as defined in section 205.15
43 of the penal law, absconding from temporary release in the first degree
44 as defined in section 205.17 of the penal law, promoting prison contra-
45 band in the first degree as defined in section 205.25 of the penal law,
46 hindering prosecution in the second degree as defined in section 205.60
47 of the penal law, hindering prosecution in the first degree as defined
48 in section 205.65 of the penal law, sex trafficking as defined in
49 section 230.34 of the penal law, criminal possession of a weapon in the
50 third degree as defined in subdivisions two, three and five of section
51 265.02 of the penal law, criminal possession of a weapon in the second
52 degree as defined in section 265.03 of the penal law, criminal
53 possession of a weapon in the first degree as defined in section 265.04
54 of the penal law, manufacture, transport, disposition and defacement of
55 weapons and dangerous instruments and appliances defined as felonies in
56 subdivisions one, two, and three of section 265.10 of the penal law,

sections 265.11, 265.12 and 265.13 of the penal law, or prohibited use of weapons as defined in subdivision two of section 265.35 of the penal law, relating to firearms and other dangerous weapons, or failure to disclose the origin of a recording in the first degree as defined in section 275.40 of the penal law;

S 21. Paragraph (a) of subdivision 4 of section 509-cc of the vehicle and traffic law, as amended by chapter 400 of the laws of 2011, is amended to read as follows:

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

S 22. Section 4-1.6 of the estates, powers and trusts law, as added by chapter 481 of the laws of 1994, is amended to read as follows:

S 4-1.6 Disqualification of joint tenant in certain instances

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

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

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

1 S 23. Subparagraph 2 of paragraph (b) of subdivision 3 of section
2 358-a of the social services law, as added by chapter 7 of the laws of
3 1999, is amended to read as follows:

4 (2) the parent of such child has been convicted of (i) AGGRAVATED
5 MANSLAUGHTER OF A CHILD AS DEFINED IN SECTION 125.23 OR AGGRAVATED
6 MURDER OF A CHILD AS DEFINED IN SECTION 125.28 OR murder in the first
7 degree as defined in section 125.27 or murder in the second degree as
8 defined in section 125.25 of the penal law and the victim was another
9 child of the parent; or (ii) manslaughter in the first degree as defined
10 in section 125.20 or manslaughter in the second degree as defined in
11 section 125.15 of the penal law and the victim was another child of the
12 parent, provided, however, that the parent must have acted voluntarily
13 in committing such crime;

14 S 24. Clause (A) of subparagraph (iii) of paragraph (a) of subdivision
15 8 of section 384-b of the social services law, as amended by chapter 460
16 of the laws of 2006, is amended to read as follows:

17 (A) the parent of such child has been convicted of AGGRAVATED
18 MANSLAUGHTER OF A CHILD AS DEFINED IN SECTION 125.23, AGGRAVATED MURDER
19 OF A CHILD AS DEFINED IN SECTION 125.28, murder in the first degree as
20 defined in section 125.27, murder in the second degree as defined in
21 section 125.25, manslaughter in the first degree as defined in section
22 125.20, or manslaughter in the second degree as defined in section
23 125.15 OF THE PENAL LAW, and the victim of any such crime was another
24 child of the parent or another child for whose care such parent is or
25 has been legally responsible as defined in subdivision (g) of section
26 one thousand twelve of the family court act, or another parent of the
27 child, unless the convicted parent was a victim of physical, sexual or
28 psychological abuse by the decedent parent and such abuse was a factor
29 in causing the homicide; or has been convicted of an attempt to commit
30 any of the foregoing crimes, and the victim or intended victim was the
31 child or another child of the parent or another child for whose care
32 such parent is or has been legally responsible as defined in subdivision
33 (g) of section one thousand twelve of the family court act, or another
34 parent of the child, unless the convicted parent was a victim of phys-
35 ical, sexual or psychological abuse by the decedent parent and such
36 abuse was a factor in causing the attempted homicide;

37 S 25. This act shall take effect on the sixtieth day after it shall
38 have become a law.