S T A T E O F N E W Y O R K

3137

2009-2010 Regular Sessions

I N A S S E M B L Y

January 23, 2009

Introduced by M. of A. CHRISTENSEN, JAFFEE, MILLMAN, GREENE, GUNTHER, GALEF, WEISENBERG, MAYERSOHN, DelMONTE, PAULIN, BENEDETTO, BING, FIELDS, ORTIZ, PHEFFER, SCARBOROUGH, KOON, COOK, CLARK, O'DONNELL, TITONE, LANCMAN, MAGNARELLI, WRIGHT, EDDINGTON, MAISEL, ALESSI, LUPARDO, ZEBROWSKI -- Multi-Sponsored by -- M. of A. ABBATE, BENJAMIN, BRADLEY, BROOK-KRASNY, CAMARA, COLTON, DESTITO, DINOWITZ, ESPAILLAT, GORDON, GOTTFRIED, HEASTIE, HYER-SPENCER, JEFFRIES, V. LOPEZ, MAGEE, MARKEY, PERALTA, REILLY, N. RIVERA, ROBINSON, ROSENTHAL, SALADINO, SWEENEY, TOWNS -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to the infant protection program

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

Section 1. Section 260.03 of the penal law, as added by chapter 156 of the laws of 2000, is amended to read as follows:

S 260.03 Abandonment of a child; defense.

In any prosecution for abandonment of a child, pursuant to section 260.00 of this article, based upon an alleged desertion of a child not more than [five] THIRTY days old with an intent to wholly abandon such child, it is an affirmative defense that, with the intent that the child be safe from physical injury and cared for in an appropriate manner, the defendant left the child with an appropriate person or in a suitable location and promptly notified an appropriate person of the child's location.

S 2. Section 260.15 of the penal law, as amended by chapter 156 of the laws of 2000, is amended to read as follows:

S 260.15 Endangering the welfare of a child; defense.

In any prosecution for endangering the welfare of a child, pursuant to section 260.10 OF THIS ARTICLE:

1. based upon an alleged failure or refusal to provide proper medical care or treatment to an ill child, it is an affirmative defense that the

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

LBD05501-01-9

defendant (a) is a parent, guardian or other person legally charged with the care or custody of such child; and (b) is a member or adherent of an organized church or religious group the tenets of which prescribe prayer as the principal treatment for illness; and (c) treated or caused such ill child to be treated in accordance with such tenets; or

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

S 3. This act shall take effect immediately.