

5164

2009-2010 Regular Sessions

I N A S S E M B L Y

February 10, 2009

Introduced by M. of A. GABRYSZAK, DeLMONTE, EDDINGTON, GUNTHER, JAFFEE, PAULIN, ROSENTHAL, SPANO -- Multi-Sponsored by -- M. of A. BARCLAY, BRENNAN, BURLING, CROUCH, GORDON, HYER-SPENCER, KELLNER, MARKEY, PHEFFER, RAIA, SEMINERIO, SWEENEY, TOWNSEND, WALKER, WEISENBERG -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, the criminal procedure law, the domestic relations law, the executive law, the family court act, the general business law, the labor law, the mental hygiene law, the social services law and the vehicle and traffic law, in relation to strangulation

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

1 Section 1. Subdivision 13 of section 10.00 of the penal law, as
2 amended by chapter 791 of the laws of 1967, is amended to read as
3 follows:
4 13. "Dangerous instrument" means: (I) any instrument, article or
5 substance, including a "vehicle" as that term is defined in this
6 section, which, under the circumstances in which it is used, attempted
7 to be used or threatened to be used, is readily capable of causing death
8 or other serious physical injury; OR (II) HANDS OR OTHER OBJECTS WHEN
9 USED TO IMPEDE NORMAL BREATHING OR CIRCULATION OF BLOOD BY APPLYING
10 PRESSURE ON THE THROAT OR NECK OR OBSTRUCTING THE NOSE OR MOUTH.
11 S 2. The penal law is amended by adding a new section 120.09 to read
12 as follows:
13 S 120.09 STRANGULATION.
14 1. A PERSON IS GUILTY OF STRANGULATION WHEN, WITH INTENT TO CAUSE
15 PHYSICAL INJURY TO ANOTHER PERSON, HE OR SHE INTENTIONALLY IMPEDES THE
16 NORMAL BREATHING OR CIRCULATION OF THE BLOOD OF SUCH PERSON BY APPLYING
17 PRESSURE ON THE THROAT OR NECK OF SUCH PERSON OR BY BLOCKING THE NOSE OR
18 MOUTH OF SUCH PERSON.

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

LBD05198-01-9

1 2. WHEN A CRIMINAL ACTION IS PENDING INVOLVING A COMPLAINT CHARGING
2 STRANGULATION, AN ORDER OF PROTECTION SHALL BE ISSUED PURSUANT TO
3 SECTION 530.12 OR 530.13 OF THE CRIMINAL PROCEDURE LAW.

4 3. THE DEFENDANT SHALL BE SENTENCED TO A MINIMUM OF TEN YEARS, IF IT
5 IS ESTABLISHED THAT THE PERSON INTENDING TO CAUSE PHYSICAL INJURY BY
6 STRANGULATION CAUSED SUCH STRANGULATION:

7 (I) WHILE IN THE PRESENCE OF A MINOR CHILD; OR

8 (II) WHILE THE DEFENDANT WAS IN THE COURSE OF AND IN FURTHERANCE OF
9 THE COMMISSION OR ATTEMPTED COMMISSION OF A FELONY; OR

10 (III) THE DEFENDANT HAS BEEN PREVIOUSLY CONVICTED OF THE CRIME OF
11 STRANGULATION.

12 STRANGULATION IS A CLASS B FELONY.

13 S 3. Subdivision 42 of section 1.20 of the criminal procedure law, as
14 amended by chapter 7 of the laws of 2007, is amended to read as follows:

15 42. "Juvenile offender" means (1) a person, thirteen years old who is
16 criminally responsible for acts constituting murder in the second degree
17 as defined in subdivisions one and two of section 125.25 of the penal
18 law, or such conduct as a sexually motivated felony, where authorized
19 pursuant to section 130.91 of the penal law; and (2) a person fourteen
20 or fifteen years old who is criminally responsible for acts constituting
21 the crimes defined in subdivisions one and two of section 125.25 (murder
22 in the second degree) and in subdivision three of such section provided
23 that the underlying crime for the murder charge is one for which such
24 person is criminally responsible; section 135.25 (kidnapping in the
25 first degree); 150.20 (arson in the first degree); SECTION 120.09
26 (STRANGULATION); subdivisions one and two of section 120.10 (assault in
27 the first degree); 125.20 (manslaughter in the first degree); subdivi-
28 sions one and two of section 130.35 (rape in the first degree); subdivi-
29 sions one and two of section 130.50 (criminal sexual act in the first
30 degree); 130.70 (aggravated sexual abuse in the first degree); 140.30
31 (burglary in the first degree); subdivision one of section 140.25
32 (burglary in the second degree); 150.15 (arson in the second degree);
33 160.15 (robbery in the first degree); subdivision two of section 160.10
34 (robbery in the second degree) of the penal law; or section 265.03 of
35 the penal law, where such machine gun or such firearm is possessed on
36 school grounds, as that phrase is defined in subdivision fourteen of
37 section 220.00 of the penal law; or defined in the penal law as an
38 attempt to commit murder in the second degree or kidnapping in the first
39 degree, or such conduct as a sexually motivated felony, where authorized
40 pursuant to section 130.91 of the penal law.

41 S 4. Paragraph (h) of subdivision 3 of section 190.25 of the criminal
42 procedure law, as separately amended by chapters 93 and 320 of the laws
43 of 2006, is amended to read as follows:

44 (h) A social worker, rape crisis counselor, psychologist or other
45 professional providing emotional support to a child witness twelve years
46 old or younger who is called to give evidence in a grand jury proceeding
47 concerning a crime defined in article one hundred thirty, article two
48 hundred sixty, section 120.09, 120.10, 125.10, 125.15, 125.20, 125.25,
49 125.26, 125.27, 255.25, 255.26 or 255.27 of the penal law provided that
50 the district attorney consents. Such support person shall not provide
51 the witness with an answer to any question or otherwise participate in
52 such proceeding and shall first take an oath before the grand jury that
53 he or she will keep secret all matters before such grand jury within his
54 or her knowledge.

1 S 5. Subdivision (a) of section 190.71 of the criminal procedure law,
2 as amended by chapter 7 of the laws of 2007, is amended to read as
3 follows:

4 (a) Except as provided in subdivision six of section 200.20 of this
5 chapter, a grand jury may not indict (i) a person thirteen years of age
6 for any conduct or crime other than conduct constituting a crime defined
7 in subdivisions one and two of section 125.25 (murder in the second
8 degree) or such conduct as a sexually motivated felony, where authorized
9 pursuant to section 130.91 of the penal law; (ii) a person fourteen or
10 fifteen years of age for any conduct or crime other than conduct consti-
11 tuting a crime defined in subdivisions one and two of section 125.25
12 (murder in the second degree) and in subdivision three of such section
13 provided that the underlying crime for the murder charge is one for
14 which such person is criminally responsible; 135.25 (kidnapping in the
15 first degree); 150.20 (arson in the first degree); SECTION 120.09
16 (STRANGULATION); subdivisions one and two of section 120.10 (assault in
17 the first degree); 125.20 (manslaughter in the first degree); subdivi-
18 sions one and two of section 130.35 (rape in the first degree); subdivi-
19 sions one and two of section 130.50 (criminal sexual act in the first
20 degree); 130.70 (aggravated sexual abuse in the first degree); 140.30
21 (burglary in the first degree); subdivision one of section 140.25
22 (burglary in the second degree); 150.15 (arson in the second degree);
23 160.15 (robbery in the first degree); subdivision two of section 160.10
24 (robbery in the second degree) of the penal law; subdivision four of
25 section 265.02 of the penal law, where such firearm is possessed on
26 school grounds, as that phrase is defined in subdivision fourteen of
27 section 220.00 of the penal law; or section 265.03 of the penal law,
28 where such machine gun or such firearm is possessed on school grounds,
29 as that phrase is defined in subdivision fourteen of section 220.00 of
30 the penal law; or defined in the penal law as an attempt to commit
31 murder in the second degree or kidnapping in the first degree, or such
32 conduct as a sexually motivated felony, where authorized pursuant to
33 section 130.91 of the penal law.

34 S 6. Paragraph (b) of subdivision 8 of section 700.05 of the criminal
35 procedure law, as amended by chapter 472 of the laws of 2008, is amended
36 to read as follows:

37 (b) Any of the following felonies: assault in the second degree as
38 defined in section 120.05 of the penal law, STRANGULATION AS DEFINED IN
39 SECTION 120.09 OF THE PENAL LAW, assault in the first degree as defined
40 in section 120.10 of the penal law, reckless endangerment in the first
41 degree as defined in section 120.25 of the penal law, promoting a
42 suicide attempt as defined in section 120.30 of the penal law, criminal-
43 ly negligent homicide as defined in section 125.10 of the penal law,
44 manslaughter in the second degree as defined in section 125.15 of the
45 penal law, manslaughter in the first degree as defined in section 125.20
46 of the penal law, murder in the second degree as defined in section
47 125.25 of the penal law, murder in the first degree as defined in
48 section 125.27 of the penal law, abortion in the second degree as
49 defined in section 125.40 of the penal law, abortion in the first degree
50 as defined in section 125.45 of the penal law, rape in the third degree
51 as defined in section 130.25 of the penal law, rape in the second degree
52 as defined in section 130.30 of the penal law, rape in the first degree
53 as defined in section 130.35 of the penal law, criminal sexual act in
54 the third degree as defined in section 130.40 of the penal law, criminal
55 sexual act in the second degree as defined in section 130.45 of the
56 penal law, criminal sexual act in the first degree as defined in section

1 130.50 of the penal law, sexual abuse in the first degree as defined in
2 section 130.65 of the penal law, unlawful imprisonment in the first
3 degree as defined in section 135.10 of the penal law, kidnapping in the
4 second degree as defined in section 135.20 of the penal law, kidnapping
5 in the first degree as defined in section 135.25 of the penal law, labor
6 trafficking as defined in section 135.35 of the penal law, custodial
7 interference in the first degree as defined in section 135.50 of the
8 penal law, coercion in the first degree as defined in section 135.65 of
9 the penal law, criminal trespass in the first degree as defined in
10 section 140.17 of the penal law, burglary in the third degree as defined
11 in section 140.20 of the penal law, burglary in the second degree as
12 defined in section 140.25 of the penal law, burglary in the first degree
13 as defined in section 140.30 of the penal law, criminal mischief in the
14 third degree as defined in section 145.05 of the penal law, criminal
15 mischief in the second degree as defined in section 145.10 of the penal
16 law, criminal mischief in the first degree as defined in section 145.12
17 of the penal law, criminal tampering in the first degree as defined in
18 section 145.20 of the penal law, arson in the fourth degree as defined
19 in section 150.05 of the penal law, arson in the third degree as defined
20 in section 150.10 of the penal law, arson in the second degree as
21 defined in section 150.15 of the penal law, arson in the first degree as
22 defined in section 150.20 of the penal law, grand larceny in the fourth
23 degree as defined in section 155.30 of the penal law, grand larceny in
24 the third degree as defined in section 155.35 of the penal law, grand
25 larceny in the second degree as defined in section 155.40 of the penal
26 law, grand larceny in the first degree as defined in section 155.42 of
27 the penal law, health care fraud in the fourth degree as defined in
28 section 177.10 of the penal law, health care fraud in the third degree
29 as defined in section 177.15 of the penal law, health care fraud in the
30 second degree as defined in section 177.20 of the penal law, health care
31 fraud in the first degree as defined in section 177.25 of the penal law,
32 robbery in the third degree as defined in section 160.05 of the penal
33 law, robbery in the second degree as defined in section 160.10 of the
34 penal law, robbery in the first degree as defined in section 160.15 of
35 the penal law, unlawful use of secret scientific material as defined in
36 section 165.07 of the penal law, criminal possession of stolen property
37 in the fourth degree as defined in section 165.45 of the penal law,
38 criminal possession of stolen property in the third degree as defined in
39 section 165.50 of the penal law, criminal possession of stolen property
40 in the second degree as defined by section 165.52 of the penal law,
41 criminal possession of stolen property in the first degree as defined by
42 section 165.54 of the penal law, trademark counterfeiting in the second
43 degree as defined in section 165.72 of the penal law, trademark counter-
44 feiting in the first degree as defined in section 165.73 of the penal
45 law, forgery in the second degree as defined in section 170.10 of the
46 penal law, forgery in the first degree as defined in section 170.15 of
47 the penal law, criminal possession of a forged instrument in the second
48 degree as defined in section 170.25 of the penal law, criminal
49 possession of a forged instrument in the first degree as defined in
50 section 170.30 of the penal law, criminal possession of forgery devices
51 as defined in section 170.40 of the penal law, falsifying business
52 records in the first degree as defined in section 175.10 of the penal
53 law, tampering with public records in the first degree as defined in
54 section 175.25 of the penal law, offering a false instrument for filing
55 in the first degree as defined in section 175.35 of the penal law, issu-
56 ing a false certificate as defined in section 175.40 of the penal law,

1 criminal diversion of prescription medications and prescriptions in the
2 second degree as defined in section 178.20 of the penal law, criminal
3 diversion of prescription medications and prescriptions in the first
4 degree as defined in section 178.25 of the penal law, residential mort-
5 gage fraud in the fourth degree as defined in section 187.10 of the
6 penal law, residential mortgage fraud in the third degree as defined in
7 section 187.15 of the penal law, residential mortgage fraud in the
8 second degree as defined in section 187.20 of the penal law, residential
9 mortgage fraud in the first degree as defined in section 187.25 of the
10 penal law, escape in the second degree as defined in section 205.10 of
11 the penal law, escape in the first degree as defined in section 205.15
12 of the penal law, absconding from temporary release in the first degree
13 as defined in section 205.17 of the penal law, promoting prison contra-
14 band in the first degree as defined in section 205.25 of the penal law,
15 hindering prosecution in the second degree as defined in section 205.60
16 of the penal law, hindering prosecution in the first degree as defined
17 in section 205.65 of the penal law, sex trafficking as defined in
18 section 230.34 of the penal law, criminal possession of a weapon in the
19 third degree as defined in subdivisions two, three and five of section
20 265.02 of the penal law, criminal possession of a weapon in the second
21 degree as defined in section 265.03 of the penal law, criminal
22 possession of a weapon in the first degree as defined in section 265.04
23 of the penal law, manufacture, transport, disposition and defacement of
24 weapons and dangerous instruments and appliances defined as felonies in
25 subdivisions one, two, and three of section 265.10 of the penal law,
26 sections 265.11, 265.12 and 265.13 of the penal law, or prohibited use
27 of weapons as defined in subdivision two of section 265.35 of the penal
28 law, relating to firearms and other dangerous weapons, or failure to
29 disclose the origin of a recording in the first degree as defined in
30 section 275.40 of the penal law;

31 S 7. Paragraph (c) of subdivision 3-a of section 115-d of the domestic
32 relations law, as added by chapter 7 of the laws of 1999, is amended to
33 read as follows:

34 (c) For the purposes of this subdivision, "spousal abuse" is an
35 offense defined in section 120.05, 120.09 or 120.10 of the penal law
36 where the victim of such offense was the defendant's spouse; provided,
37 however, spousal abuse shall not include a crime in which the applicant
38 was the defendant, and the court finds in accordance with this subdivi-
39 sion that he or she was the victim of physical, sexual or psychological
40 abuse by the victim of such offense and such abuse was a factor in caus-
41 ing the applicant to commit such offense.

42 S 8. Paragraph (a) of subdivision 7 of section 995 of the executive
43 law, as separately amended by chapters 2 and 320 of the laws of 2006, is
44 amended to read as follows:

45 (a) sections 120.05, 120.10, and 120.11, relating to assault; SECTION
46 120.09, RELATING TO STRANGULATION; sections 125.15 through 125.27 relat-
47 ing to homicide; sections 130.25, 130.30, 130.35, 130.40, 130.45,
48 130.50, 130.65, 130.67 and 130.70, relating to sex offenses; sections
49 205.10, 205.15, 205.17 and 205.19, relating to escape and other
50 offenses, where the offender has been convicted within the previous five
51 years of one of the other felonies specified in this subdivision; or
52 sections 255.25, 255.26 and 255.27, relating to incest, a violent felony
53 offense as defined in subdivision one of section 70.02 of the penal law,
54 attempted murder in the first degree, as defined in section 110.00 and
55 section 125.27 of the penal law, kidnapping in the first degree, as
56 defined in section 135.25 of the penal law, arson in the first degree,

1 as defined in section 150.20 of the penal law, burglary in the third
2 degree, as defined in section 140.20 of the penal law, attempted
3 burglary in the third degree, as defined in section 110.00 and section
4 140.20 of the penal law, a felony defined in article four hundred ninety
5 of the penal law relating to terrorism or any attempt to commit an
6 offense defined in such article relating to terrorism which is a felony;
7 or

8 S 9. Subdivision (b) of section 117 of the family court act, as
9 amended by chapter 7 of the laws of 2007, is amended to read as follows:

10 (b) For every juvenile delinquency proceeding under article three
11 involving an allegation of an act committed by a person which, if done
12 by an adult, would be a crime (i) defined in sections 125.27 (murder in
13 the first degree); 125.25 (murder in the second degree); 135.25 (kidnap-
14 ping in the first degree); or 150.20 (arson in the first degree) of the
15 penal law committed by a person thirteen, fourteen or fifteen years of
16 age; or such conduct committed as a sexually motivated felony, where
17 authorized pursuant to section 130.91 of the penal law; (ii) defined in
18 sections 120.09 (STRANGULATION); 120.10 (assault in the first degree);
19 125.20 (manslaughter in the first degree); 130.35 (rape in the first
20 degree); 130.50 (criminal sexual act in the first degree); 135.20
21 (kidnapping in the second degree), but only where the abduction involved
22 the use or threat of use of deadly physical force; 150.15 (arson in the
23 second degree); or 160.15 (robbery in the first degree) of the penal law
24 committed by a person thirteen, fourteen or fifteen years of age; or
25 such conduct committed as a sexually motivated felony, where authorized
26 pursuant to section 130.91 of the penal law; (iii) defined in the penal
27 law as an attempt to commit murder in the first or second degree or
28 kidnapping in the first degree committed by a person thirteen, fourteen
29 or fifteen years of age; or such conduct committed as a sexually moti-
30 vated felony, where authorized pursuant to section 130.91 of the penal
31 law; (iv) defined in section 140.30 (burglary in the first degree);
32 subdivision one of section 140.25 (burglary in the second degree);
33 subdivision two of section 160.10 (robbery in the second degree) of the
34 penal law; or section 265.03 of the penal law, where such machine gun or
35 such firearm is possessed on school grounds, as that phrase is defined
36 in subdivision fourteen of section 220.00 of the penal law committed by
37 a person fourteen or fifteen years of age; or such conduct committed as
38 a sexually motivated felony, where authorized pursuant to section 130.91
39 of the penal law; (v) defined in section 120.05 (assault in the second
40 degree) or 160.10 (robbery in the second degree) of the penal law
41 committed by a person fourteen or fifteen years of age but only where
42 there has been a prior finding by a court that such person has previous-
43 ly committed an act which, if committed by an adult, would be the crime
44 of assault in the second degree, robbery in the second degree or any
45 designated felony act specified in clause (i), (ii) or (iii) of this
46 subdivision regardless of the age of such person at the time of the
47 commission of the prior act; or (vi) other than a misdemeanor, committed
48 by a person at least seven but less than sixteen years of age, but only
49 where there has been two prior findings by the court that such person
50 has committed a prior act which, if committed by an adult would be a
51 felony:

52 (i) There is hereby established in the family court in the city of New
53 York at least one "designated felony act part." Such part or parts shall
54 be held separate from all other proceedings of the court, and shall have
55 jurisdiction over all proceedings involving such an allegation. All such

1 proceedings shall be originated in or be transferred to this part from
2 other parts as they are made known to the court.

3 (ii) Outside the city of New York, all proceedings involving such an
4 allegation shall have a hearing preference over every other proceeding
5 in the court, except proceedings under article ten.

6 S 10. Subdivision 8 of section 301.2 of the family court act, as
7 amended by chapter 7 of the laws of 2007, is amended to read as follows:

8 8. "Designated felony act" means an act which, if done by an adult,
9 would be a crime: (i) defined in sections 125.27 (murder in the first
10 degree); 125.25 (murder in the second degree); 135.25 (kidnapping in the
11 first degree); or 150.20 (arson in the first degree) of the penal law
12 committed by a person thirteen, fourteen or fifteen years of age; or
13 such conduct committed as a sexually motivated felony, where authorized
14 pursuant to section 130.91 of the penal law; (ii) defined in sections
15 120.09 (STRANGULATION); 120.10 (assault in the first degree); 125.20
16 (manslaughter in the first degree); 130.35 (rape in the first degree);
17 130.50 (criminal sexual act in the first degree); 130.70 (aggravated
18 sexual abuse in the first degree); 135.20 (kidnapping in the second
19 degree) but only where the abduction involved the use or threat of use
20 of deadly physical force; 150.15 (arson in the second degree) or 160.15
21 (robbery in the first degree) of the penal law committed by a person
22 thirteen, fourteen or fifteen years of age; or such conduct committed as
23 a sexually motivated felony, where authorized pursuant to section 130.91
24 of the penal law; (iii) defined in the penal law as an attempt to commit
25 murder in the first or second degree or kidnapping in the first degree
26 committed by a person thirteen, fourteen or fifteen years of age; or
27 such conduct committed as a sexually motivated felony, where authorized
28 pursuant to section 130.91 of the penal law; (iv) defined in section
29 140.30 (burglary in the first degree); subdivision one of section 140.25
30 (burglary in the second degree); subdivision two of section 160.10
31 (robbery in the second degree) of the penal law; or section 265.03 of
32 the penal law, where such machine gun or such firearm is possessed on
33 school grounds, as that phrase is defined in subdivision fourteen of
34 section 220.00 of the penal law committed by a person fourteen or
35 fifteen years of age; or such conduct committed as a sexually motivated
36 felony, where authorized pursuant to section 130.91 of the penal law;
37 (v) defined in section 120.05 (assault in the second degree) or 160.10
38 (robbery in the second degree) of the penal law committed by a person
39 fourteen or fifteen years of age but only where there has been a prior
40 finding by a court that such person has previously committed an act
41 which, if committed by an adult, would be the crime of assault in the
42 second degree, robbery in the second degree or any designated felony act
43 specified in paragraph (i), (ii), or (iii) of this subdivision regard-
44 less of the age of such person at the time of the commission of the
45 prior act; or (vi) other than a misdemeanor committed by a person at
46 least seven but less than sixteen years of age, but only where there has
47 been two prior findings by the court that such person has committed a
48 prior felony.

49 S 11. Subparagraph 4 of paragraph (c) of subdivision 2 of section
50 352.2 of the family court act, as added by chapter 7 of the laws of
51 1999, is amended to read as follows:

52 (4) the parent of such respondent has been convicted of assault in the
53 second degree as defined in section 120.05, STRANGULATION AS DEFINED IN
54 SECTION 120.09, assault in the first degree as defined in section 120.10
55 or aggravated assault upon a person less than eleven years old as
56 defined in section 120.12 of the penal law, and the commission of one of

1 the foregoing crimes resulted in serious physical injury to the
2 respondent or another child of the parent;

3 S 12. Subparagraph (iv) of paragraph (b) of subdivision 2 of section
4 754 of the family court act, as added by chapter 7 of the laws of 1999,
5 is amended to read as follows:

6 (iv) the parent of such child has been convicted of assault in the
7 second degree as defined in section 120.05, STRANGULATION AS DEFINED IN
8 SECTION 120.09, assault in the first degree as defined in section 120.10
9 or aggravated assault upon a person less than eleven years old as
10 defined in section 120.12 of the penal law, and the commission of one of
11 the foregoing crimes resulted in serious physical injury to the child or
12 another child of the parent;

13 S 13. Paragraph 4 of subdivision (b) of section 1039-b of the family
14 court act, as added by chapter 7 of the laws of 1999, is amended to read
15 as follows:

16 (4) the parent of such child has been convicted of assault in the
17 second degree as defined in section 120.05, STRANGULATION AS DEFINED IN
18 SECTION 120.09, assault in the first degree as defined in section 120.10
19 or aggravated assault upon a person less than eleven years old as
20 defined in section 120.12 of the penal law, and the commission of one of
21 the foregoing crimes resulted in serious physical injury to the child or
22 another child of the parent;

23 S 14. Clause 4 of subparagraph (A) of paragraph (i) of subdivision (b)
24 of section 1052 of the family court act, as amended by chapter 7 of the
25 laws of 1999, is amended to read as follows:

26 (4) the parent of such child has been convicted of assault in the
27 second degree as defined in section 120.05, STRANGULATION AS DEFINED IN
28 SECTION 120.09, assault in the first degree as defined in section 120.10
29 or aggravated assault upon a person less than eleven years old as
30 defined in section 120.12 of the penal law, and the commission of one of
31 the foregoing crimes resulted in serious physical injury to the child or
32 another child of the parent;

33 S 15. Paragraph f of subdivision 1 of section 410 of the general busi-
34 ness law, as added by chapter 509 of the laws of 1992, is amended to
35 read as follows:

36 f. Conviction of any of the following crimes subsequent to the issu-
37 ance of a license pursuant to this article: fraud pursuant to sections
38 170.10, 170.15, 176.15, 176.20, 176.25, 176.30 and 190.65; falsifying
39 business records pursuant to section 175.10; grand larceny pursuant to
40 article [155] ONE HUNDRED FIFTY-FIVE; bribery pursuant to sections
41 180.03, 180.08, 180.15, 180.25, 200.00, 200.03, 200.04, 200.10, 200.11,
42 200.12, 200.45, 200.50; perjury pursuant to sections 210.10, 210.15,
43 210.40; assault pursuant to sections 120.05, 120.10, 120.11, 120.12;
44 STRANGULATION AS DEFINED IN SECTION 120.09; robbery pursuant to article
45 [160] ONE HUNDRED SIXTY; homicide pursuant to sections 125.25 and
46 125.27; manslaughter pursuant to sections 125.15 and 125.20; kidnapping
47 and unlawful imprisonment pursuant to sections 135.10, 135.20 and
48 135.25; unlawful weapons possession pursuant to sections 265.02, 265.03
49 and 265.04; criminal use of a weapon pursuant to sections 265.08 and
50 265.09; criminal sale of a weapon pursuant to sections 265.11 and
51 265.12; and sex offenses pursuant to article [130] ONE HUNDRED THIRTY of
52 the penal law. Provided, however, that for the purposes of this article,
53 none of the following shall be considered criminal convictions or
54 reported as such: (i) a conviction for which an executive pardon has
55 been issued pursuant to the executive law; (ii) a conviction which has
56 been vacated and replaced by a youthful offender finding pursuant to

1 article seven hundred twenty of the criminal procedure law, or the
2 applicable provisions of law of any other jurisdiction; or (iii) a
3 conviction the records of which have been expunged or sealed pursuant to
4 the applicable provisions of the laws of this state or of any other
5 jurisdiction; and (iv) a conviction for which other evidence of success-
6 ful rehabilitation to remove the disability has been issued.

7 S 16. Clause (v) of subparagraph 2 of paragraph b of subdivision 3 of
8 section 220-b of the labor law, as amended by chapter 7 of the laws of
9 2008, is amended to read as follows:

10 (v) assault in the second degree as defined in section 120.05 of the
11 penal law, STRANGULATION AS DEFINED IN SECTION 120.09 OF THE PENAL LAW,
12 assault in the first degree as defined in section 120.10 of the penal
13 law, reckless endangerment in the first degree as defined in section
14 120.25 of the penal law, criminally negligent homicide as defined in
15 section 125.10 of the penal law, manslaughter in the second degree as
16 defined in section 125.15 of the penal law, manslaughter in the first
17 degree as defined in section 125.20 of the penal law and murder in the
18 second degree as defined in section 125.25 of the penal law, provided
19 that the victim was an employee of such person or corporation and
20 further provided that such offense arose from actions or matters related
21 to the protection of the health or safety of employees at a work site;
22 such person shall be ineligible to submit a bid on or be awarded any
23 public works contract with the state, any municipal corporation, public
24 benefit corporation or public body for a period of five years from the
25 date of conviction.

26 S 17. Subdivision (f) of section 10.03 of the mental hygiene law, as
27 added by chapter 7 of the laws of 2007, is amended to read as follows:

28 (f) "Designated felony" means any felony offense defined by any of the
29 following provisions of the penal law: assault in the second degree as
30 defined in section 120.05, STRANGULATION AS DEFINED IN SECTION 120.09,
31 assault in the first degree as defined in section 120.10, gang assault
32 in the second degree as defined in section 120.06, gang assault in the
33 first degree as defined in section 120.07, stalking in the first degree
34 as defined in section 120.60, manslaughter in the second degree as
35 defined in subdivision one of section 125.15, manslaughter in the first
36 degree as defined in section 125.20, murder in the second degree as
37 defined in section 125.25, aggravated murder as defined in section
38 125.26, murder in the first degree as defined in section 125.27, kidnap-
39 ping in the second degree as defined in section 135.20, kidnapping in
40 the first degree as defined in section 135.25, burglary in the third
41 degree as defined in section 140.20, burglary in the second degree as
42 defined in section 140.25, burglary in the first degree as defined in
43 section 140.30, arson in the second degree as defined in section 150.15,
44 arson in the first degree as defined in section 150.20, robbery in the
45 third degree as defined in section 160.05, robbery in the second degree
46 as defined in section 160.10, robbery in the first degree as defined in
47 section 160.15, promoting prostitution in the second degree as defined
48 in section 230.30, promoting prostitution in the first degree as defined
49 in section 230.32, compelling prostitution as defined in section 230.33,
50 disseminating indecent material to minors in the first degree as defined
51 in section 235.22, use of a child in a sexual performance as defined in
52 section 263.05, promoting an obscene sexual performance by a child as
53 defined in section 263.10, promoting a sexual performance by a child as
54 defined in section 263.15, or any felony attempt or conspiracy to commit
55 any of the foregoing offenses.

1 S 18. Paragraph 2 of subdivision 18 of section 10.00 of the penal law,
2 as amended by chapter 7 of the laws of 2007, is amended to read as
3 follows:

4 (2) a person fourteen or fifteen years old who is criminally responsi-
5 ble for acts constituting the crimes defined in subdivisions one and two
6 of section 125.25 (murder in the second degree) and in subdivision three
7 of such section provided that the underlying crime for the murder charge
8 is one for which such person is criminally responsible; section 135.25
9 (kidnapping in the first degree); 150.20 (arson in the first degree);
10 SECTION 120.09 (STRANGULATION); subdivisions one and two of section
11 120.10 (assault in the first degree); 125.20 (manslaughter in the first
12 degree); subdivisions one and two of section 130.35 (rape in the first
13 degree); subdivisions one and two of section 130.50 (criminal sexual act
14 in the first degree); 130.70 (aggravated sexual abuse in the first
15 degree); 140.30 (burglary in the first degree); subdivision one of
16 section 140.25 (burglary in the second degree); 150.15 (arson in the
17 second degree); 160.15 (robbery in the first degree); subdivision two of
18 section 160.10 (robbery in the second degree) of this chapter; or
19 section 265.03 of this chapter, where such machine gun or such firearm
20 is possessed on school grounds, as that phrase is defined in subdivision
21 fourteen of section 220.00 of this chapter; or defined in this chapter
22 as an attempt to commit murder in the second degree or kidnapping in the
23 first degree, or such conduct as a sexually motivated felony, where
24 authorized pursuant to section 130.91 of the penal law.

25 S 19. Subdivision 2 of section 30.00 of the penal law, as amended by
26 chapter 7 of the laws of 2007, is amended to read as follows:

27 2. A person thirteen, fourteen or fifteen years of age is criminally
28 responsible for acts constituting murder in the second degree as defined
29 in subdivisions one and two of section 125.25 and in subdivision three
30 of such section provided that the underlying crime for the murder charge
31 is one for which such person is criminally responsible or for such
32 conduct as a sexually motivated felony, where authorized pursuant to
33 section 130.91 of the penal law; and a person fourteen or fifteen years
34 of age is criminally responsible for acts constituting the crimes
35 defined in section 135.25 (kidnapping in the first degree); 150.20
36 (arson in the first degree); 120.09 (STRANGULATION); subdivisions one
37 and two of section 120.10 (assault in the first degree); 125.20
38 (manslaughter in the first degree); subdivisions one and two of section
39 130.35 (rape in the first degree); subdivisions one and two of section
40 130.50 (criminal sexual act in the first degree); 130.70 (aggravated
41 sexual abuse in the first degree); 140.30 (burglary in the first
42 degree); subdivision one of section 140.25 (burglary in the second
43 degree); 150.15 (arson in the second degree); 160.15 (robbery in the
44 first degree); subdivision two of section 160.10 (robbery in the second
45 degree) of this chapter; or section 265.03 of this chapter, where such
46 machine gun or such firearm is possessed on school grounds, as that
47 phrase is defined in subdivision fourteen of section 220.00 of this
48 chapter; or defined in this chapter as an attempt to commit murder in
49 the second degree or kidnapping in the first degree, or for such conduct
50 as a sexually motivated felony, where authorized pursuant to section
51 130.91 of the penal law.

52 S 20. Paragraph (a) of subdivision 2 of section 60.07 of the penal
53 law, as added by chapter 148 of the laws of 2000, is amended to read as
54 follows:

55 (a) the term "specified offense" shall mean an attempt to commit
56 murder in the second degree as defined in section 125.25 of this chap-

1 ter, gang assault in the first degree as defined in section 120.07 of
2 this chapter, gang assault in the second degree as defined in section
3 120.06 of this chapter, STRANGULATION AS DEFINED IN SECTION 120.09 OF
4 THIS CHAPTER, assault in the first degree as defined in section 120.10
5 of this chapter, manslaughter in the first degree as defined in section
6 125.20 of this chapter, manslaughter in the second degree as defined in
7 section 125.15 of this chapter, robbery in the first degree as defined
8 in section 160.15 of this chapter, robbery in the second degree as
9 defined in section 160.10 of this chapter, or the attempted commission
10 of any of the following offenses: gang assault in the first degree as
11 defined in section 120.07, assault in the first degree as defined in
12 section 120.10, manslaughter in the first degree as defined in section
13 125.20 or robbery in the first degree as defined in section 160.15;

14 S 21. Paragraph (a) of subdivision 1 of section 70.02 of the penal
15 law, as amended by chapter 320 of the laws of 2006, is amended to read
16 as follows:

17 (a) Class B violent felony offenses: an attempt to commit the class
18 A-I felonies of murder in the second degree as defined in section
19 125.25, kidnapping in the first degree as defined in section 135.25, and
20 arson in the first degree as defined in section 150.20; manslaughter in
21 the first degree as defined in section 125.20, aggravated manslaughter
22 in the first degree as defined in section 125.22, rape in the first
23 degree as defined in section 130.35, criminal sexual act in the first
24 degree as defined in section 130.50, aggravated sexual abuse in the
25 first degree as defined in section 130.70, course of sexual conduct
26 against a child in the first degree as defined in section 130.75; STRAN-
27 GULATION AS DEFINED IN SECTION 120.09, assault in the first degree as
28 defined in section 120.10, kidnapping in the second degree as defined in
29 section 135.20, burglary in the first degree as defined in section
30 140.30, arson in the second degree as defined in section 150.15, robbery
31 in the first degree as defined in section 160.15, incest in the first
32 degree as defined in section 255.27, criminal possession of a weapon in
33 the first degree as defined in section 265.04, criminal use of a firearm
34 in the first degree as defined in section 265.09, criminal sale of a
35 firearm in the first degree as defined in section 265.13, aggravated
36 assault upon a police officer or a peace officer as defined in section
37 120.11, gang assault in the first degree as defined in section 120.07,
38 intimidating a victim or witness in the first degree as defined in
39 section 215.17, hindering prosecution of terrorism in the first degree
40 as defined in section 490.35, criminal possession of a chemical weapon
41 or biological weapon in the second degree as defined in section 490.40,
42 and criminal use of a chemical weapon or biological weapon in the third
43 degree as defined in section 490.47.

44 S 22. Subdivision 2 of section 130.91 of the penal law, as added by
45 chapter 7 of the laws of 2007, is amended to read as follows:

46 2. A "specified offense" is a felony offense defined by any of the
47 following provisions of this chapter: assault in the second degree as
48 defined in section 120.05, STRANGULATION AS DEFINED IN SECTION 120.09,
49 assault in the first degree as defined in section 120.10, gang assault
50 in the second degree as defined in section 120.06, gang assault in the
51 first degree as defined in section 120.07, stalking in the first degree
52 as defined in section 120.60, manslaughter in the second degree as
53 defined in subdivision one of section 125.15, manslaughter in the first
54 degree as defined in section 125.20, murder in the second degree as
55 defined in section 125.25, aggravated murder as defined in section
56 125.26, murder in the first degree as defined in section 125.27, kidnap-

1 ping in the second degree as defined in section 135.20, kidnapping in
2 the first degree as defined in section 135.25, burglary in the third
3 degree as defined in section 140.20, burglary in the second degree as
4 defined in section 140.25, burglary in the first degree as defined in
5 section 140.30, arson in the second degree as defined in section 150.15,
6 arson in the first degree as defined in section 150.20, robbery in the
7 third degree as defined in section 160.05, robbery in the second degree
8 as defined in section 160.10, robbery in the first degree as defined in
9 section 160.15, promoting prostitution in the second degree as defined
10 in section 230.30, promoting prostitution in the first degree as defined
11 in section 230.32, compelling prostitution as defined in section 230.33,
12 disseminating indecent material to minors in the first degree as defined
13 in section 235.22, use of a child in a sexual performance as defined in
14 section 263.05, promoting an obscene sexual performance by a child as
15 defined in section 263.10, promoting a sexual performance by a child as
16 defined in section 263.15, or any felony attempt or conspiracy to commit
17 any of the foregoing offenses.

18 S 23. Paragraph (a) of subdivision 1 of section 460.10 of the penal
19 law, as separately amended by chapters 312 and 472 of the laws of 2008,
20 is amended to read as follows:

21 (a) Any of the felonies set forth in this chapter: sections 120.05,
22 120.10 and 120.11 relating to assault; SECTION 120.09 RELATING TO STRAN-
23 GULATION; sections 125.10 to 125.27 relating to homicide; sections
24 130.25, 130.30 and 130.35 relating to rape; sections 135.20 and 135.25
25 relating to kidnapping; section 135.35 relating to labor trafficking;
26 section 135.65 relating to coercion; sections 140.20, 140.25 and 140.30
27 relating to burglary; sections 145.05, 145.10 and 145.12 relating to
28 criminal mischief; article one hundred fifty relating to arson; sections
29 155.30, 155.35, 155.40 and 155.42 relating to grand larceny; sections
30 177.10, 177.15, 177.20 and 177.25 relating to health care fraud; article
31 one hundred sixty relating to robbery; sections 165.45, 165.50, 165.52
32 and 165.54 relating to criminal possession of stolen property; sections
33 165.72 and 165.73 relating to trademark counterfeiting; sections 170.10,
34 170.15, 170.25, 170.30, 170.40, 170.65 and 170.70 relating to forgery;
35 sections 175.10, 175.25, 175.35, 175.40 and 210.40 relating to false
36 statements; sections 176.15, 176.20, 176.25 and 176.30 relating to
37 insurance fraud; sections 178.20 and 178.25 relating to criminal diver-
38 sion of prescription medications and prescriptions; sections 180.03,
39 180.08, 180.15, 180.25, 180.40, 180.45, 200.00, 200.03, 200.04, 200.10,
40 200.11, 200.12, 200.20, 200.22, 200.25, 200.27, 215.00, 215.05 and
41 215.19 relating to bribery; sections 187.10, 187.15, 187.20 and 187.25
42 relating to residential mortgage fraud, sections 190.40 and 190.42
43 relating to criminal usury; section 190.65 relating to schemes to
44 defraud; sections 205.60 and 205.65 relating to hindering prosecution;
45 sections 210.10, 210.15, and 215.51 relating to perjury and contempt;
46 section 215.40 relating to tampering with physical evidence; sections
47 220.06, 220.09, 220.16, 220.18, 220.21, 220.31, 220.34, 220.39, 220.41,
48 220.43, 220.46, 220.55 and 220.60 relating to controlled substances;
49 sections 225.10 and 225.20 relating to gambling; sections 230.25,
50 230.30, and 230.32 relating to promoting prostitution; section 230.34
51 relating to sex trafficking; sections 235.06, 235.07, 235.21 and 235.22
52 relating to obscenity; sections 263.10 and 263.15 relating to promoting
53 a sexual performance by a child; sections 265.02, 265.03, 265.04,
54 265.11, 265.12, 265.13 and the provisions of section 265.10 which
55 constitute a felony relating to firearms and other dangerous weapons;
56 and sections 265.14 and 265.16 relating to criminal sale of a firearm;

1 and section 275.10, 275.20, 275.30, or 275.40 relating to unauthorized
2 recordings; and sections 470.05, 470.10, 470.15 and 470.20 relating to
3 money laundering; or

4 S 24. Subparagraph 4 of paragraph (b) of subdivision 3 of section
5 358-a of the social services law, as added by chapter 7 of the laws of
6 1999, is amended to read as follows:

7 (4) the parent of such child has been convicted of assault in the
8 second degree as defined in section 120.05, STRANGULATION AS DEFINED IN
9 SECTION 120.09, assault in the first degree as defined in section 120.10
10 or aggravated assault upon a person less than eleven years old as
11 defined in section 120.12 of the penal law, and the commission of one of
12 the foregoing crimes resulted in serious physical injury to the child or
13 another child of the parent;

14 S 25. Paragraph (j) of subdivision 2 of section 378-a of the social
15 services law, as added by chapter 7 of the laws of 1999, is amended to
16 read as follows:

17 (j) For the purposes of this subdivision "spousal abuse" is an offense
18 defined in section 120.05, 120.09 or 120.10 of the penal law where the
19 victim of such offense was the defendant's spouse; provided, however,
20 spousal abuse shall not include a crime in which the prospective foster
21 parent or prospective adoptive parent, who was the defendant, has
22 received notice pursuant to paragraph (g) of this subdivision and the
23 office of children and family services finds after a fair hearing held
24 pursuant to section twenty-two of this chapter, that he or she was the
25 victim of physical, sexual or psychological abuse by the victim of such
26 offense and such abuse was a factor in causing the prospective foster
27 parent or prospective adoptive parent to commit such offense.

28 S 26. Clause (C) of subparagraph (iii) of paragraph (a) of subdivision
29 8 of section 384-b of the social services law, as added by chapter 7 of
30 the laws of 1999, is amended to read as follows:

31 (C) the parent of such child has been convicted of assault in the
32 second degree as defined in section 120.05, STRANGULATION AS DEFINED IN
33 SECTION 120.09, assault in the first degree as defined in section 120.10
34 or aggravated assault upon a person less than eleven years old as
35 defined in section 120.12 of the penal law, and the victim of any such
36 crime was the child or another child of the parent or another child for
37 whose care such parent is or has been legally responsible; or has been
38 convicted of an attempt to commit any of the foregoing crimes, and the
39 victim or intended victim was the child or another child of the parent
40 or another child for whose care such parent is or has been legally
41 responsible; or

42 S 27. Paragraph (c) of subdivision 4 of section 509-cc of the vehicle
43 and traffic law, as amended by chapter 345 of the laws of 2007, is
44 amended to read as follows:

45 (c) The offenses referred to in subparagraph (i) of paragraph (b) of
46 subdivision one and subparagraph (i) of paragraph (c) of subdivision two
47 of this section that result in disqualification for a period of five
48 years shall include a conviction under sections 100.10, 105.13, 115.05,
49 120.03, 120.04, 120.04-a, 120.05, 120.09, 120.10, 120.25, 125.13,
50 125.14, 125.40, 125.45, 130.20, 130.25, 130.55, 135.10, 135.55, 140.17,
51 140.25, 140.30, 145.12, 150.10, 150.15, 160.05, 160.10, 220.06, 220.09,
52 220.16, 220.31, 220.34, 220.60, 221.30, 221.50, 221.55, 230.00, 230.05,
53 230.06, 230.20, 230.25, 230.30, 230.32, 235.05, 235.06, 235.07, 235.21,
54 240.06, 245.00, 260.10, subdivision two of section 260.20 and sections
55 260.25, 265.02, 265.03, 265.08, 265.09, 265.10, 265.12, 265.35 of the
56 penal law or an attempt to commit any of the aforesaid offenses under

1 section 110.00 of the penal law, or any similar offenses committed under
2 a former section of the penal law, or any offenses committed under a
3 former section of the penal law which would constitute violations of the
4 aforesaid sections of the penal law, or any offenses committed outside
5 this state which would constitute violations of the aforesaid sections
6 of the penal law.

7 S 28. This act shall take effect on the ninetieth day after it shall
8 have become a law.