

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

8801

2009-2010 Regular Sessions

I N A S S E M B L Y

June 9, 2009

Introduced by M. of A. TEDISCO -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, the executive law, the family court act, the general business law, and the social services law, in relation to enacting the "child assault reform act" (CARE)

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 "child assault reform act" (CARE).
3 S 2. Legislative findings and intent. The purpose of this act is to
4 provide local law enforcement officials with a comprehensive statutory
5 framework to combat crimes committed against children less than twelve
6 years of age. Children under the age of twelve are some of the most
7 vulnerable members of society and have increasingly become the targets
8 of violence in cities throughout the state of New York. The child
9 assault reform act, known as CARE, will help protect the children of the
10 state by increasing the penalties for assaults and unlawful killings of
11 children less than twelve years of age.
12 S 3. The penal law is amended by adding a new section 120.05-a to read
13 as follows:
14 S 120.05-A AGGRAVATED ASSAULT UPON A PERSON LESS THAN TWELVE YEARS OLD
15 IN THE SECOND DEGREE.
16 A PERSON IS GUILTY OF AGGRAVATED ASSAULT UPON A PERSON LESS THAN
17 TWELVE YEARS OLD IN THE SECOND DEGREE WHEN BEING EIGHTEEN YEARS OLD OR
18 MORE THE DEFENDANT:
19 1. WITH INTENT TO CAUSE SERIOUS PHYSICAL INJURY TO ANOTHER PERSON,
20 LESS THAN TWELVE YEARS OLD, HE CAUSES SUCH INJURY TO SUCH PERSON OR TO A
21 THIRD PERSON; OR
22 2. WITH INTENT TO CAUSE PHYSICAL INJURY TO ANOTHER PERSON, HE CAUSES
23 SUCH INJURY TO SUCH PERSON, LESS THAN TWELVE YEARS OF AGE, OR TO A THIRD

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

LBD11815-01-9

PERSON, LESS THAN TWELVE YEARS OF AGE BY MEANS OF A DEADLY WEAPON OR A DANGEROUS INSTRUMENT; OR

3. HE RECKLESSLY CAUSES SERIOUS PHYSICAL INJURY TO ANOTHER PERSON, LESS THAN TWELVE YEARS OF AGE, BY MEANS OF A DEADLY WEAPON OR A DANGEROUS INSTRUMENT; OR

4. FOR A PURPOSE OTHER THAN LAWFUL MEDICAL OR THERAPEUTIC TREATMENT, HE INTENTIONALLY CAUSES STUPOR, UNCONSCIOUSNESS OR OTHER PHYSICAL IMPAIRMENT OR INJURY TO ANOTHER PERSON, LESS THAN TWELVE YEARS OF AGE, BY ADMINISTERING TO HIM, WITHOUT HIS CONSENT, A DRUG, SUBSTANCE OR PREPARATION CAPABLE OF PRODUCING THE SAME; OR

5. IN THE COURSE OF AND IN FURTHERANCE OF THE COMMISSION OR ATTEMPTED COMMISSION OF A FELONY, OTHER THAN A FELONY DEFINED IN ARTICLE ONE HUNDRED THIRTY WHICH REQUIRES CORROBORATION FOR CONVICTION, OR OF IMMEDIATE FLIGHT THEREFROM, HE, OR ANOTHER PARTICIPANT IF THERE BE ANY, CAUSES PHYSICAL INJURY TO A PERSON, UNDER TWELVE YEARS OF AGE, OTHER THAN ONE OF THE PARTICIPANTS; OR

6. ACTING AT A PLACE THE PERSON KNOWS, OR REASONABLY SHOULD KNOW, IS ON SCHOOL GROUNDS AND WITH INTENT TO CAUSE PHYSICAL INJURY, HE OR SHE NOT BEING A STUDENT OF SUCH SCHOOL OR PUBLIC SCHOOL DISTRICT, CAUSES PHYSICAL INJURY TO ANOTHER, UNDER TWELVE YEARS OF AGE, AND SUCH OTHER PERSON IS A STUDENT OF SUCH SCHOOL WHO IS ATTENDING OR PRESENT FOR EDUCATIONAL PURPOSES. FOR PURPOSES OF THIS SUBDIVISION THE TERM "SCHOOL GROUNDS" SHALL HAVE THE MEANING SET FORTH IN SUBDIVISION FOURTEEN OF SECTION 220.00 OF THIS CHAPTER.

AGGRAVATED ASSAULT UPON A PERSON LESS THAN TWELVE YEARS OLD IN THE SECOND DEGREE IS A CLASS C FELONY.

S 4. Section 120.11 of the penal law, as amended by chapter 283 of the laws of 1993, is amended to read as follows:

S 120.11 Aggravated assault upon a police officer or a peace officer.

A person is guilty of aggravated assault upon a police officer or a peace officer when, with intent to cause serious physical injury to a person whom he knows or reasonably should know to be a police officer or a peace officer engaged in the course of performing his official duties, he causes such injury by means of a deadly weapon or dangerous instrument.

Aggravated assault upon a police officer or a peace officer is a class [B] A felony.

S 5. The penal law is amended by adding a new section 120.11-a to read as follows:

S 120.11-A AGGRAVATED ASSAULT UPON A PERSON LESS THAN TWELVE YEARS OLD IN THE FIRST DEGREE.

A PERSON IS GUILTY OF AGGRAVATED ASSAULT UPON A PERSON LESS THAN TWELVE YEARS OLD IN THE FIRST DEGREE WHEN BEING EIGHTEEN YEARS OLD OR MORE, WITH INTENT TO CAUSE SERIOUS PHYSICAL INJURY TO A PERSON LESS THAN TWELVE YEARS OF AGE, HE CAUSES SUCH INJURY BY MEANS OF A DEADLY WEAPON OR DANGEROUS INSTRUMENT.

AGGRAVATED ASSAULT UPON A PERSON LESS THAN TWELVE YEARS OLD IN THE FIRST DEGREE IS A CLASS A FELONY.

S 6. Section 120.12 of the penal law, as added by chapter 477 of the laws of 1990, is amended to read as follows:

S 120.12 Aggravated assault upon a person less than [eleven] TWELVE years old.

A person is guilty of aggravated assault upon a person less than [eleven] TWELVE years old when being eighteen years old or more the defendant commits the crime of assault in the third degree as defined in section 120.00 of this article upon a person less than [eleven] TWELVE

1 years old [and has been previously convicted of such crime upon a person
2 less than eleven years old within the preceding three years].

3 Aggravated assault upon a person less than [eleven] TWELVE years old
4 is a class E felony.

5 S 7. The penal law is amended by adding a new section 125.11-a to read
6 as follows:

7 S 125.11-A AGGRAVATED CRIMINALLY NEGLIGENT HOMICIDE UPON A PERSON LESS
8 THAN TWELVE YEARS OLD.

9 A PERSON IS GUILTY OF AGGRAVATED CRIMINALLY NEGLIGENT HOMICIDE UPON A
10 PERSON LESS THAN TWELVE YEARS OLD WHEN BEING EIGHTEEN YEARS OLD OR MORE,
11 WITH CRIMINAL NEGLIGENCE, HE OR SHE CAUSES THE DEATH OF A CHILD UNDER
12 TWELVE YEARS OLD.

13 AGGRAVATED CRIMINALLY NEGLIGENT HOMICIDE UPON A PERSON LESS THAN
14 TWELVE YEARS OLD IS A CLASS C FELONY.

15 S 8. The penal law is amended by adding a new section 125.21-a to read
16 as follows:

17 S 125.21-A AGGRAVATED MANSLAUGHTER UPON A PERSON LESS THAN TWELVE YEARS
18 OLD IN THE SECOND DEGREE.

19 A PERSON IS GUILTY OF AGGRAVATED MANSLAUGHTER UPON A PERSON LESS THAN
20 TWELVE YEARS OLD IN THE SECOND DEGREE WHEN BEING EIGHTEEN YEARS OLD OR
21 MORE, HE OR SHE RECKLESSLY CAUSES THE DEATH OF A CHILD LESS THAN TWELVE
22 YEARS OF AGE.

23 AGGRAVATED MANSLAUGHTER UPON A PERSON LESS THAN TWELVE YEARS OLD IN
24 THE SECOND DEGREE IS A CLASS C FELONY.

25 S 9. The penal law is amended by adding a new section 125.21-b to read
26 as follows:

27 S 125.21-B AGGRAVATED MANSLAUGHTER UPON A PERSON LESS THAN TWELVE YEARS
28 OLD IN THE FIRST DEGREE.

29 A PERSON IS GUILTY OF AGGRAVATED MANSLAUGHTER UPON A PERSON LESS THAN
30 TWELVE YEARS OLD IN THE FIRST DEGREE WHEN BEING EIGHTEEN YEARS OLD OR
31 MORE:

32 1. WITH INTENT TO CAUSE SERIOUS PHYSICAL INJURY TO A PERSON LESS THAN
33 TWELVE YEARS OF AGE, HE CAUSES THE DEATH OF SUCH PERSON; OR

34 2. WITH INTENT TO CAUSE THE DEATH OF A PERSON LESS THAN TWELVE YEARS
35 OF AGE, HE OR SHE CAUSES THE DEATH OF SUCH PERSON UNDER CIRCUMSTANCES
36 WHICH DO NOT CONSTITUTE MURDER BECAUSE HE OR SHE ACTS UNDER THE INFLU-
37 ENCE OF EXTREME EMOTIONAL DISTURBANCE, AS DEFINED IN PARAGRAPH (A) OF
38 SUBDIVISION ONE OF SECTION 125.25 OF THIS ARTICLE. THE FACT THAT HOMI-
39 CIDE WAS COMMITTED UNDER THE INFLUENCE OF EXTREME EMOTIONAL DISTURBANCE
40 CONSTITUTES A MITIGATING CIRCUMSTANCE REDUCING MURDER TO AGGRAVATED
41 MANSLAUGHTER IN THE FIRST DEGREE OR MANSLAUGHTER IN THE FIRST DEGREE AND
42 NEED NOT BE PROVED IN ANY PROSECUTION INITIATED UNDER THIS SUBDIVISION.

43 AGGRAVATED MANSLAUGHTER UPON A PERSON LESS THAN TWELVE YEARS OLD IN
44 THE FIRST DEGREE IS A CLASS B FELONY.

45 S 10. The penal law is amended by adding a new section 125.26-a to
46 read as follows:

47 S 125.26-A AGGRAVATED MURDER UPON A PERSON LESS THAN TWELVE YEARS OLD.

48 A PERSON IS GUILTY OF AGGRAVATED MURDER UPON A PERSON LESS THAN TWELVE
49 YEARS OLD WHEN BEING EIGHTEEN YEARS OLD OR MORE:

50 1. WITH INTENT TO CAUSE THE DEATH OF A PERSON, HE OR SHE CAUSES THE
51 DEATH OF A PERSON WHO WAS LESS THAN TWELVE YEARS OF AGE.

52 2. IN ANY PROSECUTION UNDER SUBDIVISION ONE OF THIS SECTION, IT IS AN
53 AFFIRMATIVE DEFENSE THAT THE DEFENDANT ACTED UNDER THE INFLUENCE OF
54 EXTREME EMOTIONAL DISTURBANCE FOR WHICH THERE WAS A REASONABLE EXPLANA-
55 TION OR EXCUSE, THE REASONABLENESS OF WHICH IS TO BE DETERMINED FROM THE
56 VIEWPOINT OF A PERSON IN THE DEFENDANT'S SITUATION UNDER THE CIRCUM-

STANCES AS THE DEFENDANT BELIEVED THEM TO BE. NOTHING CONTAINED IN THIS SUBDIVISION SHALL CONSTITUTE A DEFENSE TO A PROSECUTION FOR, OR PRECLUDE A CONVICTION OF, AGGRAVATED MANSLAUGHTER IN THE FIRST DEGREE, MANSLAUGHTER IN THE FIRST DEGREE OR ANY OTHER CRIME EXCEPT MURDER IN THE SECOND DEGREE.

AGGRAVATED MURDER UPON A PERSON LESS THAN TWELVE YEARS OLD IS A CLASS A-I FELONY.

S 11. Subdivision 3 of section 485.05 of the penal law, as amended by chapter 264 of the laws of 2003, is amended to read as follows:

3. A "specified offense" is an offense defined by any of the following provisions of this chapter: section 120.00 (assault in the third degree); section 120.05 (assault in the second degree); SECTION 120.05-A (AGGRAVATED ASSAULT UPON A PERSON LESS THAN TWELVE YEARS OLD IN THE SECOND DEGREE); section 120.10 (assault in the first degree); SECTION 120.11-A (AGGRAVATED ASSAULT UPON A PERSON LESS THAN TWELVE YEARS OLD IN THE FIRST DEGREE); section 120.12 (aggravated assault upon a person less than [eleven] TWELVE years old); section 120.13 (menacing in the first degree); section 120.14 (menacing in the second degree); section 120.15 (menacing in the third degree); section 120.20 (reckless endangerment in the second degree); section 120.25 (reckless endangerment in the first degree); SECTION 125.11-A (AGGRAVATED CRIMINALLY NEGLIGENT HOMICIDE UPON A PERSON LESS THAN TWELVE YEARS OLD); subdivision one of section 125.15 (manslaughter in the second degree); subdivision one, two or four of section 125.20 (manslaughter in the first degree); SECTION 125.21-A (AGGRAVATED MANSLAUGHTER UPON A PERSON LESS THAN TWELVE YEARS OLD IN THE SECOND DEGREE); SECTION 125.21-B (AGGRAVATED MANSLAUGHTER UPON A PERSON LESS THAN TWELVE YEARS OLD IN THE FIRST DEGREE); section 125.25 (murder in the second degree); SECTION 125.26-A (AGGRAVATED MURDER UPON A PERSON LESS THAN TWELVE YEARS OLD); section 120.45 (stalking in the fourth degree); section 120.50 (stalking in the third degree); section 120.55 (stalking in the second degree); section 120.60 (stalking in the first degree); subdivision one of section 130.35 (rape in the first degree); subdivision one of section 130.50 (criminal sexual act in the first degree); subdivision one of section 130.65 (sexual abuse in the first degree); paragraph (a) of subdivision one of section 130.67 (aggravated sexual abuse in the second degree); paragraph (a) of subdivision one of section 130.70 (aggravated sexual abuse in the first degree); section 135.05 (unlawful imprisonment in the second degree); section 135.10 (unlawful imprisonment in the first degree); section 135.20 (kidnapping in the second degree); section 135.25 (kidnapping in the first degree); section 135.60 (coercion in the second degree); section 135.65 (coercion in the first degree); section 140.10 (criminal trespass in the third degree); section 140.15 (criminal trespass in the second degree); section 140.17 (criminal trespass in the first degree); section 140.20 (burglary in the third degree); section 140.25 (burglary in the second degree); section 140.30 (burglary in the first degree); section 145.00 (criminal mischief in the fourth degree); section 145.05 (criminal mischief in the third degree); section 145.10 (criminal mischief in the second degree); section 145.12 (criminal mischief in the first degree); section 150.05 (arson in the fourth degree); section 150.10 (arson in the third degree); section 150.15 (arson in the second degree); section 150.20 (arson in the first degree); section 155.25 (petit larceny); section 155.30 (grand larceny in the fourth degree); section 155.35 (grand larceny in the third degree); section 155.40 (grand larceny in the second degree); section 155.42 (grand larceny in the first degree); section 160.05 (robbery in the third degree); section 160.10 (robbery in

1 the second degree); section 160.15 (robbery in the first degree);
2 section 240.25 (harassment in the first degree); subdivision one, two or
3 four of section 240.30 (aggravated harassment in the second degree); or
4 any attempt or conspiracy to commit any of the foregoing offenses.
5 S 12. Subdivision 7 of section 995 of the executive law, as amended by
6 chapter 2 of the laws of 2006 and paragraph (a) as separately amended by
7 chapter 320 of the laws of 2006, is amended to read as follows:
8 7. "Designated offender" means a person convicted of and sentenced for
9 any one or more of the following provisions of the penal law (a)
10 sections 120.05, 120.05-A, 120.10, and 120.11, relating to assault;
11 sections 125.15 through 125.27 relating to homicide; sections 130.25,
12 130.30, 130.35, 130.40, 130.45, 130.50, 130.65, 130.67 and 130.70,
13 relating to sex offenses; sections 205.10, 205.15, 205.17 and 205.19,
14 relating to escape and other offenses, where the offender has been
15 convicted within the previous five years of one of the other felonies
16 specified in this subdivision; or sections 255.25, 255.26 and 255.27,
17 relating to incest, a violent felony offense as defined in subdivision
18 one of section 70.02 of the penal law, attempted murder in the first
19 degree, as defined in section 110.00 and section 125.27 of the penal
20 law, kidnapping in the first degree, as defined in section 135.25 of the
21 penal law, arson in the first degree, as defined in section 150.20 of
22 the penal law, burglary in the third degree, as defined in section
23 140.20 of the penal law, attempted burglary in the third degree, as
24 defined in section 110.00 and section 140.20 of the penal law, a felony
25 defined in article four hundred ninety of the penal law relating to
26 terrorism or any attempt to commit an offense defined in such article
27 relating to terrorism which is a felony; or (b) criminal possession of a
28 controlled substance in the first degree, as defined in section 220.21
29 of the penal law; criminal possession of a controlled substance in the
30 second degree, as defined in section 220.18 of the penal law; criminal
31 sale of a controlled substance, as defined in article 220 of the penal
32 law; or grand larceny in the fourth degree, as defined in subdivision
33 five of section 155.30 of the penal law; or (c) any misdemeanor or felo-
34 ny defined as a sex offense or sexually violent offense pursuant to
35 paragraph (a), (b) or (c) of subdivision two or paragraph (a) of subdi-
36 vision three of section one hundred sixty-eight-a of the correction law;
37 or (d) any of the following felonies, or an attempt thereof where such
38 attempt is a felony offense: AGGRAVATED ASSAULT UPON A PERSON LESS THAN
39 TWELVE YEARS OLD IN THE FIRST DEGREE, AS DEFINED IN SECTION 120.11-A;
40 aggravated assault upon a person less than [eleven] TWELVE years old, as
41 defined in section 120.12 of the penal law; menacing in the first
42 degree, as defined in section 120.13 of the penal law; reckless endan-
43 germent in the first degree, as defined in section 120.25 of the penal
44 law; stalking in the second degree, as defined in section 120.55 of the
45 penal law; criminally negligent homicide, as defined in section 125.10
46 of the penal law; AGGRAVATED CRIMINALLY NEGLIGENT HOMICIDE UPON A PERSON
47 LESS THAN TWELVE YEARS OLD, AS DEFINED IN SECTION 125.11-A; vehicular
48 manslaughter in the second degree, as defined in section 125.12 of the
49 penal law; vehicular manslaughter in the first degree, as defined in
50 section 125.13 of the penal law; persistent sexual abuse, as defined in
51 section 130.53 of the penal law; aggravated sexual abuse in the fourth
52 degree, as defined in section 130.65-a of the penal law; female genital
53 mutilation, as defined in section 130.85 of the penal law; facilitating
54 a sex offense with a controlled substance, as defined in section 130.90
55 of the penal law; unlawful imprisonment in the first degree, as defined
56 in section 135.10 of the penal law; custodial interference in the first

1 degree, as defined in section 135.50 of the penal law; criminal trespass
2 in the first degree, as defined in section 140.17 of the penal law;
3 criminal tampering in the first degree, as defined in section 145.20 of
4 the penal law; tampering with a consumer product in the first degree, as
5 defined in section 145.45 of the penal law; robbery in the third degree
6 as defined in section 160.05 of the penal law; identity theft in the
7 second degree, as defined in section 190.79 of the penal law; identity
8 theft in the first degree, as defined in section 190.80 of the penal
9 law; promoting prison contraband in the first degree, as defined in
10 section 205.25 of the penal law; tampering with a witness in the third
11 degree, as defined in section 215.11 of the penal law; tampering with a
12 witness in the second degree, as defined in section 215.12 of the penal
13 law; tampering with a witness in the first degree, as defined in section
14 215.13 of the penal law; criminal contempt in the first degree, as
15 defined in subdivisions (b), (c) and (d) of section 215.51 of the penal
16 law; aggravated criminal contempt, as defined in section 215.52 of the
17 penal law; bail jumping in the second degree, as defined in section
18 215.56 of the penal law; bail jumping in the first degree, as defined in
19 section 215.57 of the penal law; patronizing a prostitute in the second
20 degree, as defined in section 230.05 of the penal law; patronizing a
21 prostitute in the first degree, as defined in section 230.06 of the
22 penal law; promoting prostitution in the second degree, as defined in
23 section 230.30 of the penal law; promoting prostitution in the first
24 degree, as defined in section 230.32 of the penal law; compelling pros-
25 titution, as defined in section 230.33 of the penal law; disseminating
26 indecent materials to minors in the second degree, as defined in section
27 235.21 of the penal law; disseminating indecent materials to minors in
28 the first degree, as defined in section 235.22 of the penal law; riot in
29 the first degree, as defined in section 240.06 of the penal law; crimi-
30 nal anarchy, as defined in section 240.15 of the penal law; aggravated
31 harassment of an employee by an inmate, as defined in section 240.32 of
32 the penal law; unlawful surveillance in the second degree, as defined in
33 section 250.45 of the penal law; unlawful surveillance in the first
34 degree, as defined in section 250.50 of the penal law; endangering the
35 welfare of a vulnerable elderly person in the second degree, as defined
36 in section 260.32 of the penal law; endangering the welfare of a vulner-
37 able elderly person in the first degree, as defined in section 260.34 of
38 the penal law; use of a child in a sexual performance, as defined in
39 section 263.05 of the penal law; promoting an obscene sexual performance
40 by a child, as defined in section 263.10 of the penal law; possessing an
41 obscene sexual performance by a child, as defined in section 263.11 of
42 the penal law; promoting a sexual performance by a child, as defined in
43 section 263.15 of the penal law; possessing a sexual performance by a
44 child, as defined in section 263.16 of the penal law; criminal
45 possession of a weapon in the third degree, as defined in section 265.02
46 of the penal law; criminal sale of a firearm in the third degree, as
47 defined in section 265.11 of the penal law; criminal sale of a firearm
48 to a minor, as defined in section 265.16 of the penal law; unlawful
49 wearing of a body vest, as defined in section 270.20 of the penal law;
50 hate crimes as defined in section 485.05 of the penal law; and crime of
51 terrorism, as defined in section 490.25 of the penal law; or (e) a felo-
52 ny defined in the penal law or an attempt thereof where such attempt is
53 a felony; or (f) any of the following misdemeanors: assault in the third
54 degree as defined in section 120.00 of the penal law; attempted aggra-
55 vated assault upon a person less than [eleven] TWELVE years old, as
56 defined in section 110.00 and section 120.12 of the penal law; attempted

1 menacing in the first degree, as defined in section 110.00 and section
2 120.13 of the penal law; menacing in the second degree as defined in
3 section 120.14 of the penal law; menacing in the third degree as defined
4 in section 120.15 of the penal law; reckless endangerment in the second
5 degree as defined in section 120.20 of the penal law; stalking in the
6 fourth degree as defined in section 120.45 of the penal law; stalking in
7 the third degree as defined in section 120.50 of the penal law;
8 attempted stalking in the second degree, as defined in section 110.00
9 and section 120.55 of the penal law; forcible touching as defined in
10 section 130.52 of the penal law regardless of the age of the victim;
11 sexual abuse in the third degree as defined in section 130.55 of the
12 penal law regardless of the age of the victim; unlawful imprisonment in
13 the second degree as defined in section 135.05 of the penal law regard-
14 less of the age of the victim; attempted unlawful imprisonment in the
15 first degree, as defined in section 110.00 and section 135.10 of the
16 penal law regardless of the age of the victim; criminal trespass in the
17 second degree as defined in section 140.15 of the penal law; possession
18 of burglar's tools as defined in section 140.35 of the penal law; petit
19 larceny as defined in section 155.25 of the penal law; endangering the
20 welfare of a child as defined in section 260.10 of the penal law; endan-
21 gering the welfare of an incompetent or physically disabled person as
22 defined in section 260.25.

23 S 13. Subparagraphs 2 and 4 of paragraph (c) of subdivision 2 of
24 section 352.2 of the family court act, as added by chapter 7 of the laws
25 of 1999, are amended to read as follows:

26 (2) the parent of such child has been convicted of (i) murder in the
27 first degree as defined in section 125.27, AGGRAVATED MURDER UPON A
28 PERSON LESS THAN TWELVE YEARS OLD AS DEFINED IN SECTION 125.26-A or
29 murder in the second degree as defined in section 125.25 of the penal
30 law and the victim was another child of the parent; or (ii) manslaughter
31 in the first degree as defined in section 125.20, AGGRAVATED CRIMINALLY
32 NEGLIGENT HOMICIDE UPON A PERSON LESS THAN TWELVE YEARS OLD AS DEFINED
33 IN SECTION 125.11-A, AGGRAVATED MANSLAUGHTER UPON A PERSON LESS THAN
34 TWELVE YEARS OLD IN THE SECOND DEGREE AS DEFINED IN SECTION 125.21-A,
35 AGGRAVATED MANSLAUGHTER UPON A PERSON LESS THAN TWELVE YEARS OLD IN THE
36 FIRST DEGREE AS DEFINED IN SECTION 125.21-B or manslaughter in the
37 second degree as defined in section 125.15 of the penal law and the
38 victim was another child of the parent, provided, however, that the
39 parent must have acted voluntarily in committing such crime;

40 (4) the parent of such respondent has been convicted of assault in the
41 second degree as defined in section 120.05, AGGRAVATED ASSAULT UPON A
42 PERSON LESS THAN TWELVE YEARS OLD IN THE SECOND DEGREE AS DEFINED IN
43 SECTION 120.05-A, assault in the first degree as defined in section
44 120.10, AGGRAVATED ASSAULT UPON A PERSON LESS THAN TWELVE YEARS OLD IN
45 THE FIRST DEGREE, AS DEFINED IN SECTION 120.11-A, or aggravated assault
46 upon a person less than [eleven] TWELVE years old as defined in section
47 120.12 of the penal law, and the commission of one of the foregoing
48 crimes resulted in serious physical injury to the respondent or another
49 child of the parent;

50 S 14. Subparagraphs (ii) and (iv) of paragraph (b) of subdivision 2 of
51 section 754 of the family court act, as added by chapter 7 of the laws
52 of 1999, are amended to read as follows:

53 (ii) the parent of such child has been convicted of (A) murder in the
54 first degree as defined in section 125.27, AGGRAVATED MURDER UPON A
55 PERSON LESS THAN TWELVE YEARS OLD AS DEFINED IN SECTION 125.26-A or
56 murder in the second degree as defined in section 125.25 of the penal

1 law and the victim was another child of the parent; or (B) manslaughter
2 in the first degree as defined in section 125.20, AGGRAVATED CRIMINALLY
3 NEGLIGENT HOMICIDE UPON A PERSON LESS THAN TWELVE YEARS OLD AS DEFINED
4 IN SECTION 125.11-A, AGGRAVATED MANSLAUGHTER UPON A PERSON LESS THAN
5 TWELVE YEARS OLD IN THE SECOND DEGREE AS DEFINED IN SECTION 125.21-A,
6 AGGRAVATED MANSLAUGHTER UPON A PERSON LESS THAN TWELVE YEARS OLD IN THE
7 FIRST DEGREE AS DEFINED IN SECTION 125.21-B or manslaughter in the
8 second degree as defined in section 125.15 of the penal law and the
9 victim was another child of the parent, provided, however, that the
10 parent must have acted voluntarily in committing such crime;

11 (iv) the parent of such child has been convicted of assault in the
12 second degree as defined in section 120.05, AGGRAVATED ASSAULT UPON A
13 PERSON LESS THAN TWELVE YEARS OLD IN THE SECOND DEGREE AS DEFINED IN
14 SECTION 120.05-A, assault in the first degree as defined in section
15 120.10, AGGRAVATED ASSAULT UPON A PERSON LESS THAN TWELVE YEARS OLD IN
16 THE FIRST DEGREE, AS DEFINED IN SECTION 120.11-A or aggravated assault
17 upon a person less than [eleven] TWELVE years old as defined in section
18 120.12 of the penal law, and the commission of one of the foregoing
19 crimes resulted in serious physical injury to the child or another child
20 of the parent;

21 S 15. Paragraphs 2 and 4 of subdivision (b) of section 1039-b of the
22 family court act, as added by chapter 7 of the laws of 1999, are amended
23 to read as follows:

24 (2) the parent of such child has been convicted of (i) murder in the
25 first degree as defined in section 125.27, AGGRAVATED MURDER UPON A
26 PERSON LESS THAN TWELVE YEARS OLD AS DEFINED IN SECTION 125.26-A or
27 murder in the second degree as defined in section 125.25 of the penal
28 law and the victim was another child of the parent; or (ii) manslaughter
29 in the first degree as defined in section 125.20, AGGRAVATED CRIMINALLY
30 NEGLIGENT HOMICIDE UPON A PERSON LESS THAN TWELVE YEARS OLD AS DEFINED
31 IN SECTION 125.11-A, AGGRAVATED MANSLAUGHTER UPON A PERSON LESS THAN
32 TWELVE YEARS OLD IN THE SECOND DEGREE AS DEFINED IN SECTION 125.21-A,
33 AGGRAVATED MANSLAUGHTER UPON A PERSON LESS THAN TWELVE YEARS OLD IN THE
34 FIRST DEGREE AS DEFINED IN SECTION 125.21-B or manslaughter in the
35 second degree as defined in section 125.15 of the penal law and the
36 victim was another child of the parent, provided, however, that the
37 parent must have acted voluntarily in committing such crime;

38 (4) the parent of such child has been convicted of assault in the
39 second degree as defined in section 120.05, AGGRAVATED ASSAULT UPON A
40 PERSON LESS THAN TWELVE YEARS OLD IN THE SECOND DEGREE AS DEFINED IN
41 SECTION 120.05-A, assault in the first degree as defined in section
42 120.10, AGGRAVATED ASSAULT UPON A PERSON LESS THAN TWELVE YEARS OLD IN
43 THE FIRST DEGREE, AS DEFINED IN SECTION 120.11-A or aggravated assault
44 upon a person less than [eleven] TWELVE years old as defined in section
45 120.12 of the penal law, and the commission of one of the foregoing
46 crimes resulted in serious physical injury to the child or another child
47 of the parent;

48 S 16. Clauses 2 and 4 of subparagraph (A) of paragraph (i) of subdivi-
49 sion (b) of section 1052 of the family court act, as amended by chapter
50 7 of the laws of 1999, are amended to read as follows:

51 (2) the parent of such child has been convicted of (i) murder in the
52 first degree as defined in section 125.27, AGGRAVATED MURDER UPON A
53 PERSON LESS THAN TWELVE YEARS OLD AS DEFINED IN SECTION 125.26-A or
54 murder in the second degree as defined in section 125.25 of the penal
55 law and the victim was another child of the parent; or (ii) manslaughter
56 in the first degree as defined in section 125.20, AGGRAVATED CRIMINALLY

1 NEGLIGENT HOMICIDE UPON A PERSON LESS THAN TWELVE YEARS OLD AS DEFINED
2 IN SECTION 125.11-A, AGGRAVATED MANSLAUGHTER UPON A PERSON LESS THAN
3 TWELVE YEARS OLD IN THE SECOND DEGREE AS DEFINED IN SECTION 125.21-A,
4 AGGRAVATED MANSLAUGHTER UPON A PERSON LESS THAN TWELVE YEARS OLD IN THE
5 FIRST DEGREE AS DEFINED IN SECTION 125.21-B or manslaughter in the
6 second degree as defined in section 125.15 of the penal law and the
7 victim was another child of the parent, provided, however, that the
8 parent must have acted voluntarily in committing such crime;

9 (4) the parent of such child has been convicted of assault in the
10 second degree as defined in section 120.05, AGGRAVATED ASSAULT UPON A
11 PERSON LESS THAN TWELVE YEARS OLD IN THE SECOND DEGREE AS DEFINED IN
12 SECTION 120.05-A, assault in the first degree as defined in section
13 120.10, AGGRAVATED ASSAULT UPON A PERSON LESS THAN TWELVE YEARS OLD IN
14 THE FIRST DEGREE, AS DEFINED IN SECTION 120.11-A or aggravated assault
15 upon a person less than [eleven] TWELVE years old as defined in section
16 120.12 of the penal law, and the commission of one of the foregoing
17 crimes resulted in serious physical injury to the child or another child
18 of the parent;

19 S 17. Paragraph f of subdivision 1 of section 410 of the general busi-
20 ness law, as added by chapter 509 of the laws of 1992, is amended to
21 read as follows:

22 f. Conviction of any of the following crimes subsequent to the issu-
23 ance of a license pursuant to this article: fraud pursuant to sections
24 170.10, 170.15, 176.15, 176.20, 176.25, 176.30 and 190.65; falsifying
25 business records pursuant to section 175.10; grand larceny pursuant to
26 article 155; bribery pursuant to sections 180.03, 180.08, 180.15,
27 180.25, 200.00, 200.03, 200.04, 200.10, 200.11, 200.12, 200.45, 200.50;
28 perjury pursuant to sections 210.10, 210.15, 210.40; assault pursuant to
29 sections 120.05, 120.05-A, 120.10, 120.11, 120.11-A, 120.12; robbery
30 pursuant to article 160; homicide pursuant to sections 125.11-A, 125.25,
31 125.26-A and 125.27; manslaughter pursuant to sections 125.15 [and],
32 125.20, 125.21-A AND 125.21-B; kidnapping and unlawful imprisonment
33 pursuant to sections 135.10, 135.20 and 135.25; unlawful weapons
34 possession pursuant to sections 265.02, 265.03 and 265.04; criminal use
35 of a weapon pursuant to sections 265.08 and 265.09; criminal sale of a
36 weapon pursuant to sections 265.11 and 265.12; and sex offenses pursuant
37 to article 130 of the penal law. Provided, however, that for the
38 purposes of this article, none of the following shall be considered
39 criminal convictions or reported as such: (i) a conviction for which an
40 executive pardon has been issued pursuant to the executive law; (ii) a
41 conviction which has been vacated and replaced by a youthful offender
42 finding pursuant to article seven hundred twenty of the criminal proce-
43 dure law, or the applicable provisions of law of any other jurisdiction;
44 or (iii) a conviction the records of which have been expunged or sealed
45 pursuant to the applicable provisions of the laws of this state or of
46 any other jurisdiction; and (iv) a conviction for which other evidence
47 of successful rehabilitation to remove the disability has been issued.

48 Provided, however, a fine shall not be imposed for the causes speci-
49 fied in paragraph f of this subdivision.

50 In lieu of or in conjunction with the suspension or revocation of a
51 license, or the imposition of a fine pursuant to this section, the
52 secretary may issue a reprimand. When a license issued pursuant to this
53 article is revoked, such license shall not be reinstated or reissued
54 until after the expiration of a period of one year from the date of such
55 revocation. No license shall be issued after a second revocation.

1 S 18. Subparagraphs 2 and 4 of paragraph (b) of subdivision 3 of
2 section 358-a of the social services law, as added by chapter 7 of the
3 laws of 1999, are amended to read as follows:

4 (2) the parent of such child has been convicted of (i) murder in the
5 first degree as defined in section 125.27, AGGRAVATED MURDER UPON A
6 PERSON LESS THAN TWELVE YEARS OLD AS DEFINED IN SECTION 125.26-A or
7 murder in the second degree as defined in section 125.25 of the penal
8 law and the victim was another child of the parent; or (ii) manslaughter
9 in the first degree as defined in section 125.20, AGGRAVATED CRIMINALLY
10 NEGLIGENT HOMICIDE UPON A PERSON LESS THAN TWELVE YEARS OLD AS DEFINED
11 IN SECTION 125.11-A, AGGRAVATED MANSLAUGHTER UPON A PERSON LESS THAN
12 TWELVE YEARS OLD IN THE SECOND DEGREE AS DEFINED IN SECTION 125.21-A,
13 AGGRAVATED MANSLAUGHTER UPON A PERSON LESS THAN TWELVE YEARS OLD IN THE
14 FIRST DEGREE AS DEFINED IN SECTION 125.21-B or manslaughter in the
15 second degree as defined in section 125.15 of the penal law and the
16 victim was another child of the parent, provided, however, that the
17 parent must have acted voluntarily in committing such crime;

18 (4) the parent of such child has been convicted of assault in the
19 second degree as defined in section 120.05, AGGRAVATED ASSAULT UPON A
20 PERSON LESS THAN TWELVE YEARS OLD IN THE SECOND DEGREE AS DEFINED IN
21 SECTION 120.05-A, assault in the first degree as defined in section
22 120.10, AGGRAVATED ASSAULT UPON A PERSON LESS THAN TWELVE YEARS OLD IN
23 THE FIRST DEGREE, AS DEFINED IN SECTION 120.11-A or aggravated assault
24 upon a person less than [eleven] TWELVE years old as defined in section
25 120.12 of the penal law, and the commission of one of the foregoing
26 crimes resulted in serious physical injury to the child or another child
27 of the parent;

28 S 19. Subparagraph (iii) of paragraph (a) of subdivision 8 of section
29 384-b of the social services law, as added by chapter 7 of the laws of
30 1999, clause (A) as amended by chapter 460 of the laws of 2006, is
31 amended to read as follows:

32 (iii) (A) the parent of such child has been convicted of murder in the
33 first degree as defined in section 125.27, AGGRAVATED MURDER UPON A
34 PERSON LESS THAN TWELVE YEARS OLD AS DEFINED IN SECTION 125.26-A, murder
35 in the second degree as defined in section 125.25, manslaughter in the
36 first degree as defined in section 125.20, AGGRAVATED CRIMINALLY NEGLI-
37 GENT HOMICIDE UPON A PERSON LESS THAN TWELVE YEARS OLD AS DEFINED IN
38 SECTION 125.11-A, AGGRAVATED MANSLAUGHTER UPON A PERSON LESS THAN TWELVE
39 YEARS OLD IN THE SECOND DEGREE AS DEFINED IN SECTION 125.21-A, AGGRA-
40 VATED MANSLAUGHTER UPON A PERSON LESS THAN TWELVE YEARS OLD IN THE FIRST
41 DEGREE AS DEFINED IN SECTION 125.21-B or manslaughter in the second
42 degree as defined in section 125.15, and the victim of any such crime
43 was another child of the parent or another child for whose care such
44 parent is or has been legally responsible as defined in subdivision (g)
45 of section one thousand twelve of the family court act, or another
46 parent of the child, unless the convicted parent was a victim of phys-
47 ical, sexual or psychological abuse by the decedent parent and such
48 abuse was a factor in causing the homicide; or has been convicted of an
49 attempt to commit any of the foregoing crimes, and the victim or
50 intended victim was the child or another child of the parent or another
51 child for whose care such parent is or has been legally responsible as
52 defined in subdivision (g) of section one thousand twelve of the family
53 court act, or another parent of the child, unless the convicted parent
54 was a victim of physical, sexual or psychological abuse by the decedent
55 parent and such abuse was a factor in causing the attempted homicide;
56 (B) the parent of such child has been convicted of criminal solicitation

1 as defined in article one hundred, conspiracy as defined in article one
2 hundred five or criminal facilitation as defined in article one hundred
3 fifteen of the penal law for conspiring, soliciting or facilitating any
4 of the foregoing crimes, and the victim or intended victim was the child
5 or another child of the parent or another child for whose care such
6 parent is or has been legally responsible; (C) the parent of such child
7 has been convicted of assault in the second degree as defined in section
8 120.05, AGGRAVATED ASSAULT UPON A PERSON LESS THAN TWELVE YEARS OLD IN
9 THE SECOND DEGREE AS DEFINED IN SECTION 120.05-A, assault in the first
10 degree as defined in section 120.10, AGGRAVATED ASSAULT UPON A PERSON
11 LESS THAN TWELVE YEARS OLD IN THE FIRST DEGREE, AS DEFINED IN SECTION
12 120.11-A or aggravated assault upon a person less than [eleven] TWELVE
13 years old as defined in section 120.12 of the penal law, and the victim
14 of any such crime was the child or another child of the parent or another
15 child for whose care such parent is or has been legally responsible;
16 or has been convicted of an attempt to commit any of the foregoing
17 crimes, and the victim or intended victim was the child or another child
18 of the parent or another child for whose care such parent is or has been
19 legally responsible; or (D) the parent of such child has been convicted
20 under the law in any other jurisdiction of an offense which includes all
21 of the essential elements of any crime specified in clause (A), (B) or
22 (C) of this subparagraph; and
23 S 20. This act shall take effect on the ninetieth day after it shall
24 have become a law.