

S. 1178

A. 3334

2009-2010 Regular Sessions

S E N A T E - A S S E M B L Y

January 27, 2009

IN SENATE -- Introduced by Sens. PERKINS, DIAZ, C. JOHNSON, ONORATO, SMITH, THOMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

IN ASSEMBLY -- Introduced by M. of A. MAYERSOHN, FIELDS -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to crimes against persons under sixteen years of age

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

1 Section 1. Section 120.05 of the penal law is amended by adding a new
2 subdivision 13 to read as follows:
3 13. BEING EIGHTEEN YEARS OF AGE OR OLDER AND WITH INTENT TO CAUSE
4 PHYSICAL INJURY TO ANOTHER PERSON, HE OR SHE CAUSES PHYSICAL INJURY TO A
5 PERSON UNDER SIXTEEN YEARS OF AGE.
6 S 2. Subdivision 4 of section 120.10 of the penal law, as amended by
7 chapter 791 of the laws of 1967, is amended and two new subdivisions 5
8 and 6 are added to read as follows:
9 4. In the course of and in furtherance of the commission or attempted
10 commission of a felony or of immediate flight therefrom, he, or another
11 participant if there be any, causes serious physical injury to a person
12 other than one of the participants[.]; OR
13 5. BEING EIGHTEEN YEARS OF AGE OR OLDER AND WITH INTENT TO CAUSE PHYS-
14 ICAL INJURY TO ANOTHER PERSON, HE OR SHE CAUSES SERIOUS PHYSICAL INJURY
15 TO A PERSON UNDER SIXTEEN YEARS OF AGE; OR
16 6. BEING EIGHTEEN YEARS OF AGE OR OLDER AND WITH INTENT TO CAUSE PHYS-
17 ICAL INJURY TO ANOTHER PERSON, HE OR SHE CAUSES PHYSICAL INJURY TO A
18 PERSON UNDER SIXTEEN YEARS OF AGE BY MEANS OF A DEADLY WEAPON, A DANGER-
19 OUS INSTRUMENT, OR OTHERWISE WITH DEADLY FORCE.
20 S 3. The penal law is amended by adding a new section 120.19 to read
21 as follows:

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

LBD04499-01-9

S 120.19 AGGRAVATED ASSAULT UPON A PERSON UNDER SIXTEEN YEARS OF AGE.

A PERSON BEING EIGHTEEN YEARS OF AGE OR OLDER IS GUILTY OF AGGRAVATED ASSAULT UPON A PERSON UNDER SIXTEEN YEARS OF AGE WHEN, WITH INTENT TO CAUSE SERIOUS PHYSICAL INJURY TO A PERSON WHOM HE OR SHE KNOWS OR REASONABLY SHOULD KNOW TO BE UNDER SIXTEEN YEARS OF AGE, HE OR SHE CAUSES SUCH INJURY BY MEANS OF A DEADLY WEAPON, A DANGEROUS INSTRUMENT, OR OTHERWISE WITH DEADLY FORCE.

AGGRAVATED ASSAULT UPON A PERSON UNDER SIXTEEN YEARS OF AGE IS A CLASS B FELONY.

S 4. Section 120.25 of the penal law is amended to read as follows:

S 120.25 Reckless endangerment in the first degree.

A person is guilty of reckless endangerment in the first degree when[,]:

1. under circumstances evincing a depraved indifference to human life, he OR SHE recklessly engages in conduct which creates a grave risk of death to another person; OR

2. HE OR SHE, BEING EIGHTEEN YEARS OF AGE OR OLDER, RECKLESSLY ENGAGES IN CONDUCT WHICH CREATES A SUBSTANTIAL RISK OF SERIOUS PHYSICAL INJURY TO ANOTHER PERSON UNDER SIXTEEN YEARS OF AGE.

Reckless endangerment in the first degree is a class D felony.

S 5. Subdivision 4 of section 125.20 of the penal law, as added by chapter 477 of the laws of 1990, is amended and a new subdivision 5 is added to read as follows:

4. Being eighteen years old or more and with intent to cause physical injury to a person less than eleven years old, the defendant recklessly engages in conduct which creates a grave risk of serious physical injury to such person and thereby causes the death of such person[.]; OR

5. BEING EIGHTEEN YEARS OF AGE OR OLDER AND WITH INTENT TO CAUSE PHYSICAL INJURY TO ANOTHER PERSON, HE OR SHE CAUSES THE DEATH OF A PERSON UNDER SIXTEEN YEARS OF AGE.

S 6. Section 260.10 of the penal law, subdivision 1 as amended by chapter 476 of the laws of 1990 and subdivision 2 as amended by chapter 920 of the laws of 1982, is amended to read as follows:

S 260.10 Endangering the welfare of a child IN THE SECOND DEGREE.

A person is guilty of endangering the welfare of a child IN THE SECOND DEGREE when[:]

1. He] HE OR SHE knowingly acts in a manner likely to be injurious to the physical, mental or moral welfare of a child less than seventeen years old or directs or authorizes such child to engage in an occupation involving a substantial risk of danger to his life or health[; or

2. Being a parent, guardian or other person legally charged with the care or custody of a child less than eighteen years old, he fails or refuses to exercise reasonable diligence in the control of such child to prevent him from becoming an "abused child," a "neglected child," a "juvenile delinquent" or a "person in need of supervision," as those terms are defined in articles ten, three and seven of the family court act].

Endangering the welfare of a child IN THE SECOND DEGREE is a class A misdemeanor.

S 7. The penal law is amended by adding a new section 260.12 to read as follows:

S 260.12 ENDANGERING THE WELFARE OF A CHILD IN THE FIRST DEGREE.

A PERSON IS GUILTY OF ENDANGERING THE WELFARE OF A CHILD IN THE FIRST DEGREE WHEN, BEING A PARENT, GUARDIAN OR OTHER PERSON LEGALLY CHARGED WITH THE CARE OR CUSTODY OF A CHILD LESS THAN EIGHTEEN YEARS OLD, HE OR SHE FAILS OR REFUSES TO EXERCISE REASONABLE DILIGENCE IN THE CONTROL OF

1 SUCH CHILD TO PREVENT HIM OR HER FROM BECOMING AN "ABUSED CHILD", A
2 "NEGLECTED CHILD", A "JUVENILE DELINQUENT" OR A "PERSON IN NEED OF
3 SUPERVISION", AS THOSE TERMS ARE DEFINED IN ARTICLES THREE, SEVEN AND
4 TEN OF THE FAMILY COURT ACT.

5 ENDANGERING THE WELFARE OF A CHILD IN THE FIRST DEGREE IS A CLASS E
6 FELONY.

7 S 8. This act shall take effect on the first of November next succeed-
8 ing the date on which it shall have become a law.