

2357

2009-2010 Regular Sessions

I N S E N A T E

February 18, 2009

Introduced by Sen. STACHOWSKI -- read twice and ordered printed, and
when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, the criminal procedure law, the 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.
19 2. WHEN A CRIMINAL ACTION IS PENDING INVOLVING A COMPLAINT CHARGING
20 STRANGULATION, AN ORDER OF PROTECTION SHALL BE ISSUED PURSUANT TO
21 SECTION 530.12 OR 530.13 OF THE CRIMINAL PROCEDURE LAW.

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

LBD05198-01-9

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

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

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

7 (III) THE DEFENDANT HAS BEEN PREVIOUSLY CONVICTED OF THE CRIME OF
8 STRANGULATION.

9 STRANGULATION IS A CLASS B FELONY.

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

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

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

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

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

55 (a) Except as provided in subdivision six of section 200.20 of this
56 chapter, a grand jury may not indict (i) a person thirteen years of age

1 for any conduct or crime other than conduct constituting a crime defined
2 in subdivisions one and two of section 125.25 (murder in the second
3 degree) or such conduct as a sexually motivated felony, where authorized
4 pursuant to section 130.91 of the penal law; (ii) a person fourteen or
5 fifteen years of age for any conduct or crime other than conduct consti-
6 tuting a crime defined in subdivisions one and two of section 125.25
7 (murder in the second degree) and in subdivision three of such section
8 provided that the underlying crime for the murder charge is one for
9 which such person is criminally responsible; 135.25 (kidnapping in the
10 first degree); 150.20 (arson in the first degree); SECTION 120.09
11 (STRANGULATION); subdivisions one and two of section 120.10 (assault in
12 the first degree); 125.20 (manslaughter in the first degree); subdivi-
13 sions one and two of section 130.35 (rape in the first degree); subdivi-
14 sions one and two of section 130.50 (criminal sexual act in the first
15 degree); 130.70 (aggravated sexual abuse in the first degree); 140.30
16 (burglary in the first degree); subdivision one of section 140.25
17 (burglary in the second degree); 150.15 (arson in the second degree);
18 160.15 (robbery in the first degree); subdivision two of section 160.10
19 (robbery in the second degree) of the penal law; subdivision four of
20 section 265.02 of the penal law, where such firearm is possessed on
21 school grounds, as that phrase is defined in subdivision fourteen of
22 section 220.00 of the penal law; or section 265.03 of the penal law,
23 where such machine gun or such firearm is possessed on school grounds,
24 as that phrase is defined in subdivision fourteen of section 220.00 of
25 the penal law; or defined in the penal law as an attempt to commit
26 murder in the second degree or kidnapping in the first degree, or such
27 conduct as a sexually motivated felony, where authorized pursuant to
28 section 130.91 of the penal law.

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

32 (b) Any of the following felonies: assault in the second degree as
33 defined in section 120.05 of the penal law, STRANGULATION AS DEFINED IN
34 SECTION 120.09 OF THE PENAL LAW, assault in the first degree as defined
35 in section 120.10 of the penal law, reckless endangerment in the first
36 degree as defined in section 120.25 of the penal law, promoting a
37 suicide attempt as defined in section 120.30 of the penal law, criminal-
38 ly negligent homicide as defined in section 125.10 of the penal law,
39 manslaughter in the second degree as defined in section 125.15 of the
40 penal law, manslaughter in the first degree as defined in section 125.20
41 of the penal law, murder in the second degree as defined in section
42 125.25 of the penal law, murder in the first degree as defined in
43 section 125.27 of the penal law, abortion in the second degree as
44 defined in section 125.40 of the penal law, abortion in the first degree
45 as defined in section 125.45 of the penal law, rape in the third degree
46 as defined in section 130.25 of the penal law, rape in the second degree
47 as defined in section 130.30 of the penal law, rape in the first degree
48 as defined in section 130.35 of the penal law, criminal sexual act in
49 the third degree as defined in section 130.40 of the penal law, criminal
50 sexual act in the second degree as defined in section 130.45 of the
51 penal law, criminal sexual act in the first degree as defined in section
52 130.50 of the penal law, sexual abuse in the first degree as defined in
53 section 130.65 of the penal law, unlawful imprisonment in the first
54 degree as defined in section 135.10 of the penal law, kidnapping in the
55 second degree as defined in section 135.20 of the penal law, kidnapping
56 in the first degree as defined in section 135.25 of the penal law, labor

1 trafficking as defined in section 135.35 of the penal law, custodial
2 interference in the first degree as defined in section 135.50 of the
3 penal law, coercion in the first degree as defined in section 135.65 of
4 the penal law, criminal trespass in the first degree as defined in
5 section 140.17 of the penal law, burglary in the third degree as defined
6 in section 140.20 of the penal law, burglary in the second degree as
7 defined in section 140.25 of the penal law, burglary in the first degree
8 as defined in section 140.30 of the penal law, criminal mischief in the
9 third degree as defined in section 145.05 of the penal law, criminal
10 mischief in the second degree as defined in section 145.10 of the penal
11 law, criminal mischief in the first degree as defined in section 145.12
12 of the penal law, criminal tampering in the first degree as defined in
13 section 145.20 of the penal law, arson in the fourth degree as defined
14 in section 150.05 of the penal law, arson in the third degree as defined
15 in section 150.10 of the penal law, arson in the second degree as
16 defined in section 150.15 of the penal law, arson in the first degree as
17 defined in section 150.20 of the penal law, grand larceny in the fourth
18 degree as defined in section 155.30 of the penal law, grand larceny in
19 the third degree as defined in section 155.35 of the penal law, grand
20 larceny in the second degree as defined in section 155.40 of the penal
21 law, grand larceny in the first degree as defined in section 155.42 of
22 the penal law, health care fraud in the fourth degree as defined in
23 section 177.10 of the penal law, health care fraud in the third degree
24 as defined in section 177.15 of the penal law, health care fraud in the
25 second degree as defined in section 177.20 of the penal law, health care
26 fraud in the first degree as defined in section 177.25 of the penal law,
27 robbery in the third degree as defined in section 160.05 of the penal
28 law, robbery in the second degree as defined in section 160.10 of the
29 penal law, robbery in the first degree as defined in section 160.15 of
30 the penal law, unlawful use of secret scientific material as defined in
31 section 165.07 of the penal law, criminal possession of stolen property
32 in the fourth degree as defined in section 165.45 of the penal law,
33 criminal possession of stolen property in the third degree as defined in
34 section 165.50 of the penal law, criminal possession of stolen property
35 in the second degree as defined by section 165.52 of the penal law,
36 criminal possession of stolen property in the first degree as defined by
37 section 165.54 of the penal law, trademark counterfeiting in the second
38 degree as defined in section 165.72 of the penal law, trademark counter-
39 feiting in the first degree as defined in section 165.73 of the penal
40 law, forgery in the second degree as defined in section 170.10 of the
41 penal law, forgery in the first degree as defined in section 170.15 of
42 the penal law, criminal possession of a forged instrument in the second
43 degree as defined in section 170.25 of the penal law, criminal
44 possession of a forged instrument in the first degree as defined in
45 section 170.30 of the penal law, criminal possession of forgery devices
46 as defined in section 170.40 of the penal law, falsifying business
47 records in the first degree as defined in section 175.10 of the penal
48 law, tampering with public records in the first degree as defined in
49 section 175.25 of the penal law, offering a false instrument for filing
50 in the first degree as defined in section 175.35 of the penal law, issu-
51 ing a false certificate as defined in section 175.40 of the penal law,
52 criminal diversion of prescription medications and prescriptions in the
53 second degree as defined in section 178.20 of the penal law, criminal
54 diversion of prescription medications and prescriptions in the first
55 degree as defined in section 178.25 of the penal law, residential mort-
56 gage fraud in the fourth degree as defined in section 187.10 of the

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

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

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

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

40 (a) sections 120.05, 120.10, and 120.11, relating to assault; SECTION
41 120.09, RELATING TO STRANGULATION; sections 125.15 through 125.27 relat-
42 ing to homicide; sections 130.25, 130.30, 130.35, 130.40, 130.45,
43 130.50, 130.65, 130.67 and 130.70, relating to sex offenses; sections
44 205.10, 205.15, 205.17 and 205.19, relating to escape and other
45 offenses, where the offender has been convicted within the previous five
46 years of one of the other felonies specified in this subdivision; or
47 sections 255.25, 255.26 and 255.27, relating to incest, a violent felony
48 offense as defined in subdivision one of section 70.02 of the penal law,
49 attempted murder in the first degree, as defined in section 110.00 and
50 section 125.27 of the penal law, kidnapping in the first degree, as
51 defined in section 135.25 of the penal law, arson in the first degree,
52 as defined in section 150.20 of the penal law, burglary in the third
53 degree, as defined in section 140.20 of the penal law, attempted
54 burglary in the third degree, as defined in section 110.00 and section
55 140.20 of the penal law, a felony defined in article four hundred ninety
56 of the penal law relating to terrorism or any attempt to commit an

1 offense defined in such article relating to terrorism which is a felony;
2 or

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

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

47 (i) There is hereby established in the family court in the city of New
48 York at least one "designated felony act part." Such part or parts shall
49 be held separate from all other proceedings of the court, and shall have
50 jurisdiction over all proceedings involving such an allegation. All such
51 proceedings shall be originated in or be transferred to this part from
52 other parts as they are made known to the court.

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

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

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

44 S 11. Subparagraph 4 of paragraph (c) of subdivision 2 of section
45 352.2 of the family court act, as added by chapter 7 of the laws of
46 1999, is amended to read as follows:

47 (4) the parent of such respondent has been convicted of assault in the
48 second degree as defined in section 120.05, STRANGULATION AS DEFINED IN
49 SECTION 120.09, assault in the first degree as defined in section 120.10
50 or aggravated assault upon a person less than eleven years old as
51 defined in section 120.12 of the penal law, and the commission of one of
52 the foregoing crimes resulted in serious physical injury to the
53 respondent or another child of the parent;

54 S 12. Subparagraph (iv) of paragraph (b) of subdivision 2 of section
55 754 of the family court act, as added by chapter 7 of the laws of 1999,
56 is amended to read as follows:

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

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

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

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

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

S 15. Paragraph f of subdivision 1 of section 410 of the general business law, as added by chapter 509 of the laws of 1992, is amended to read as follows:

f. Conviction of any of the following crimes subsequent to the issuance of a license pursuant to this article: fraud pursuant to sections 170.10, 170.15, 176.15, 176.20, 176.25, 176.30 and 190.65; falsifying business records pursuant to section 175.10; grand larceny pursuant to article [155] ONE HUNDRED FIFTY-FIVE; bribery pursuant to sections 180.03, 180.08, 180.15, 180.25, 200.00, 200.03, 200.04, 200.10, 200.11, 200.12, 200.45, 200.50; perjury pursuant to sections 210.10, 210.15, 210.40; assault pursuant to sections 120.05, 120.10, 120.11, 120.12; STRANGULATION AS DEFINED IN SECTION 120.09; robbery pursuant to article [160] ONE HUNDRED SIXTY; homicide pursuant to sections 125.25 and 125.27; manslaughter pursuant to sections 125.15 and 125.20; kidnapping and unlawful imprisonment pursuant to sections 135.10, 135.20 and 135.25; unlawful weapons possession pursuant to sections 265.02, 265.03 and 265.04; criminal use of a weapon pursuant to sections 265.08 and 265.09; criminal sale of a weapon pursuant to sections 265.11 and 265.12; and sex offenses pursuant to article [130] ONE HUNDRED THIRTY of the penal law. Provided, however, that for the purposes of this article, none of the following shall be considered criminal convictions or reported as such: (i) a conviction for which an executive pardon has been issued pursuant to the executive law; (ii) a conviction which has been vacated and replaced by a youthful offender finding pursuant to article seven hundred twenty of the criminal procedure law, or the applicable provisions of law of any other jurisdiction; or (iii) a conviction the records of which have been expunged or sealed pursuant to the applicable provisions of the laws of this state or of any other

jurisdiction; and (iv) a conviction for which other evidence of successful rehabilitation to remove the disability has been issued.

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

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

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

(f) "Designated felony" means any felony offense defined by any of the following provisions of the penal law: assault in the second degree as defined in section 120.05, STRANGULATION AS DEFINED IN SECTION 120.09, assault in the first degree as defined in section 120.10, gang assault in the second degree as defined in section 120.06, gang assault in the first degree as defined in section 120.07, stalking in the first degree as defined in section 120.60, manslaughter in the second degree as defined in subdivision one of section 125.15, manslaughter in the first degree as defined in section 125.20, murder in the second degree as defined in section 125.25, aggravated murder as defined in section 125.26, murder in the first degree as defined in section 125.27, kidnapping in the second degree as defined in section 135.20, kidnapping in the first degree as defined in section 135.25, burglary in the third degree as defined in section 140.20, burglary in the second degree as defined in section 140.25, burglary in the first degree as defined in section 140.30, arson in the second degree as defined in section 150.15, arson in the first degree as defined in section 150.20, robbery in the third degree as defined in section 160.05, robbery in the second degree as defined in section 160.10, robbery in the first degree as defined in section 160.15, promoting prostitution in the second degree as defined in section 230.30, promoting prostitution in the first degree as defined in section 230.32, compelling prostitution as defined in section 230.33, disseminating indecent material to minors in the first degree as defined in section 235.22, use of a child in a sexual performance as defined in section 263.05, promoting an obscene sexual performance by a child as defined in section 263.10, promoting a sexual performance by a child as defined in section 263.15, or any felony attempt or conspiracy to commit any of the foregoing offenses.

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

(2) a person fourteen or fifteen years old who is criminally responsible for acts constituting the crimes defined in subdivisions one and two

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

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

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

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

50 (a) the term "specified offense" shall mean an attempt to commit
51 murder in the second degree as defined in section 125.25 of this chap-
52 ter, gang assault in the first degree as defined in section 120.07 of
53 this chapter, gang assault in the second degree as defined in section
54 120.06 of this chapter, STRANGULATION AS DEFINED IN SECTION 120.09 OF
55 THIS CHAPTER, assault in the first degree as defined in section 120.10
56 of this chapter, manslaughter in the first degree as defined in section

1 125.20 of this chapter, manslaughter in the second degree as defined in
2 section 125.15 of this chapter, robbery in the first degree as defined
3 in section 160.15 of this chapter, robbery in the second degree as
4 defined in section 160.10 of this chapter, or the attempted commission
5 of any of the following offenses: gang assault in the first degree as
6 defined in section 120.07, assault in the first degree as defined in
7 section 120.10, manslaughter in the first degree as defined in section
8 125.20 or robbery in the first degree as defined in section 160.15;
9 S 21. Paragraph (a) of subdivision 1 of section 70.02 of the penal
10 law, as amended by chapter 320 of the laws of 2006, is amended to read
11 as follows:

12 (a) Class B violent felony offenses: an attempt to commit the class
13 A-I felonies of murder in the second degree as defined in section
14 125.25, kidnapping in the first degree as defined in section 135.25, and
15 arson in the first degree as defined in section 150.20; manslaughter in
16 the first degree as defined in section 125.20, aggravated manslaughter
17 in the first degree as defined in section 125.22, rape in the first
18 degree as defined in section 130.35, criminal sexual act in the first
19 degree as defined in section 130.50, aggravated sexual abuse in the
20 first degree as defined in section 130.70, course of sexual conduct
21 against a child in the first degree as defined in section 130.75; STRAN-
22 GULATION AS DEFINED IN SECTION 120.09, assault in the first degree as
23 defined in section 120.10, kidnapping in the second degree as defined in
24 section 135.20, burglary in the first degree as defined in section
25 140.30, arson in the second degree as defined in section 150.15, robbery
26 in the first degree as defined in section 160.15, incest in the first
27 degree as defined in section 255.27, criminal possession of a weapon in
28 the first degree as defined in section 265.04, criminal use of a firearm
29 in the first degree as defined in section 265.09, criminal sale of a
30 firearm in the first degree as defined in section 265.13, aggravated
31 assault upon a police officer or a peace officer as defined in section
32 120.11, gang assault in the first degree as defined in section 120.07,
33 intimidating a victim or witness in the first degree as defined in
34 section 215.17, hindering prosecution of terrorism in the first degree
35 as defined in section 490.35, criminal possession of a chemical weapon
36 or biological weapon in the second degree as defined in section 490.40,
37 and criminal use of a chemical weapon or biological weapon in the third
38 degree as defined in section 490.47.

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

41 2. A "specified offense" is a felony offense defined by any of the
42 following provisions of this chapter: assault in the second degree as
43 defined in section 120.05, STRANGULATION AS DEFINED IN SECTION 120.09,
44 assault in the first degree as defined in section 120.10, gang assault
45 in the second degree as defined in section 120.06, gang assault in the
46 first degree as defined in section 120.07, stalking in the first degree
47 as defined in section 120.60, manslaughter in the second degree as
48 defined in subdivision one of section 125.15, manslaughter in the first
49 degree as defined in section 125.20, murder in the second degree as
50 defined in section 125.25, aggravated murder as defined in section
51 125.26, murder in the first degree as defined in section 125.27, kidnap-
52 ping in the second degree as defined in section 135.20, kidnapping in
53 the first degree as defined in section 135.25, burglary in the third
54 degree as defined in section 140.20, burglary in the second degree as
55 defined in section 140.25, burglary in the first degree as defined in
56 section 140.30, arson in the second degree as defined in section 150.15,

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

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

16 (a) Any of the felonies set forth in this chapter: sections 120.05,
17 120.10 and 120.11 relating to assault; SECTION 120.09 RELATING TO STRAN-
18 GULATION; sections 125.10 to 125.27 relating to homicide; sections
19 130.25, 130.30 and 130.35 relating to rape; sections 135.20 and 135.25
20 relating to kidnapping; section 135.35 relating to labor trafficking;
21 section 135.65 relating to coercion; sections 140.20, 140.25 and 140.30
22 relating to burglary; sections 145.05, 145.10 and 145.12 relating to
23 criminal mischief; article one hundred fifty relating to arson; sections
24 155.30, 155.35, 155.40 and 155.42 relating to grand larceny; sections
25 177.10, 177.15, 177.20 and 177.25 relating to health care fraud; article
26 one hundred sixty relating to robbery; sections 165.45, 165.50, 165.52
27 and 165.54 relating to criminal possession of stolen property; sections
28 165.72 and 165.73 relating to trademark counterfeiting; sections 170.10,
29 170.15, 170.25, 170.30, 170.40, 170.65 and 170.70 relating to forgery;
30 sections 175.10, 175.25, 175.35, 175.40 and 210.40 relating to false
31 statements; sections 176.15, 176.20, 176.25 and 176.30 relating to
32 insurance fraud; sections 178.20 and 178.25 relating to criminal diver-
33 sion of prescription medications and prescriptions; sections 180.03,
34 180.08, 180.15, 180.25, 180.40, 180.45, 200.00, 200.03, 200.04, 200.10,
35 200.11, 200.12, 200.20, 200.22, 200.25, 200.27, 215.00, 215.05 and
36 215.19 relating to bribery; sections 187.10, 187.15, 187.20 and 187.25
37 relating to residential mortgage fraud, sections 190.40 and 190.42
38 relating to criminal usury; section 190.65 relating to schemes to
39 defraud; sections 205.60 and 205.65 relating to hindering prosecution;
40 sections 210.10, 210.15, and 215.51 relating to perjury and contempt;
41 section 215.40 relating to tampering with physical evidence; sections
42 220.06, 220.09, 220.16, 220.18, 220.21, 220.31, 220.34, 220.39, 220.41,
43 220.43, 220.46, 220.55 and 220.60 relating to controlled substances;
44 sections 225.10 and 225.20 relating to gambling; sections 230.25,
45 230.30, and 230.32 relating to promoting prostitution; section 230.34
46 relating to sex trafficking; sections 235.06, 235.07, 235.21 and 235.22
47 relating to obscenity; sections 263.10 and 263.15 relating to promoting
48 a sexual performance by a child; sections 265.02, 265.03, 265.04,
49 265.11, 265.12, 265.13 and the provisions of section 265.10 which
50 constitute a felony relating to firearms and other dangerous weapons;
51 and sections 265.14 and 265.16 relating to criminal sale of a firearm;
52 and section 275.10, 275.20, 275.30, or 275.40 relating to unauthorized
53 recordings; and sections 470.05, 470.10, 470.15 and 470.20 relating to
54 money laundering; or

1 S 24. Subparagraph 4 of paragraph (b) of subdivision 3 of section
2 358-a of the social services law, as added by chapter 7 of the laws of
3 1999, is amended to read as follows:

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

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

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

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

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

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

42 (c) The offenses referred to in subparagraph (i) of paragraph (b) of
43 subdivision one and subparagraph (i) of paragraph (c) of subdivision two
44 of this section that result in disqualification for a period of five
45 years shall include a conviction under sections 100.10, 105.13, 115.05,
46 120.03, 120.04, 120.04-a, 120.05, 120.09, 120.10, 120.25, 125.13,
47 125.14, 125.40, 125.45, 130.20, 130.25, 130.55, 135.10, 135.55, 140.17,
48 140.25, 140.30, 145.12, 150.10, 150.15, 160.05, 160.10, 220.06, 220.09,
49 220.16, 220.31, 220.34, 220.60, 221.30, 221.50, 221.55, 230.00, 230.05,
50 230.06, 230.20, 230.25, 230.30, 230.32, 235.05, 235.06, 235.07, 235.21,
51 240.06, 245.00, 260.10, subdivision two of section 260.20 and sections
52 260.25, 265.02, 265.03, 265.08, 265.09, 265.10, 265.12, 265.35 of the
53 penal law or an attempt to commit any of the aforesaid offenses under
54 section 110.00 of the penal law, or any similar offenses committed under
55 a former section of the penal law, or any offenses committed under a
56 former section of the penal law which would constitute violations of the

1 aforesaid sections of the penal law, or any offenses committed outside
2 this state which would constitute violations of the aforesaid sections
3 of the penal law.
4 S 28. This act shall take effect on the ninetieth day after it shall
5 have become a law.