

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

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Introduced by Sens. GOLDEN, ALESI, DeFRANCISCO, O. JOHNSON, LANZA, LAVALLE, MORAHAN, PADAVAN, ROBACH, SEWARD, SKELOS -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to endangering the welfare of a child

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

1 Section 1. This act shall be known and may be cited as "Laura Mae's
2 Law".
3 S 2. Section 260.10 of the penal law, subdivision 1 as amended by
4 chapter 476 of the laws of 1990 and subdivision 2 as amended by chapter
5 920 of the laws of 1982, is amended to read as follows:
6 S 260.10 Endangering the welfare of a child IN THE SECOND DEGREE.
7 A person is guilty of endangering the welfare of a child IN THE SECOND
8 DEGREE when:
9 1. He OR SHE knowingly acts in a manner likely to be injurious to the
10 physical, mental, EMOTIONAL or moral welfare of a child less than seven-
11 teen years old or directs or authorizes such child to engage in an occu-
12 pation involving a substantial risk of danger to [his] THE CHILD'S life
13 or health; or
14 2. Being a parent, guardian or other person legally charged with the
15 care or custody of a child less than eighteen years old, he OR SHE fails
16 or refuses to exercise reasonable diligence in the control of such child
17 to prevent him OR HER from becoming an "abused child," a "neglected
18 child," a "juvenile delinquent" or a "person in need of supervision," as
19 those terms are defined in articles ten, three and seven of the family
20 court act; OR
21 3. BEING A PARENT, GUARDIAN OR OTHER PERSON LEGALLY CHARGED WITH THE
22 CARE OR CUSTODY OF A CHILD LESS THAN EIGHTEEN YEARS OLD, HE OR SHE
23 INTENTIONALLY CAUSES, OR ATTEMPTS TO CAUSE, PHYSICAL INJURY TO ANOTHER

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

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1 PERSON WHILE IN THE PRESENCE OF SUCH CHILD. NOTHING CONTAINED IN THIS
2 SUBDIVISION SHALL BE DEEMED TO REQUIRE THE ARREST OF ANY PERSON WHEN A
3 POLICE OFFICER REASONABLY BELIEVES THE PERSON'S CONDUCT IS JUSTIFIABLE
4 UNDER ARTICLE THIRTY-FIVE OF THIS CHAPTER.

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

7 S 3. Section 260.11 of the penal law is renumbered section 260.12.

8 S 4. The penal law is amended by adding a new section 260.11 to read
9 as follows:

10 S 260.11 ENDANGERING THE WELFARE OF A CHILD IN THE FIRST DEGREE.

11 A PERSON IS GUILTY OF ENDANGERING THE WELFARE OF A CHILD IN THE FIRST
12 DEGREE WHEN HE OR SHE COMMITS THE CRIME OF ENDANGERING THE WELFARE OF A
13 CHILD IN THE SECOND DEGREE AND:

14 1. SUCH CHILD IS LESS THAN THIRTEEN YEARS OLD; OR

15 2. SUCH CHILD SUFFERED PHYSICAL INJURY, SERIOUS PHYSICAL INJURY OR
16 DEATH; OR

17 3. HE OR SHE HAS BEEN PREVIOUSLY CONVICTED OF ANY OF THE FOLLOWING
18 CRIMES: ENDANGERING THE WELFARE OF A CHILD IN THE SECOND DEGREE AS
19 DEFINED IN SECTION 260.10; ENDANGERING THE WELFARE OF A CHILD IN THE
20 FIRST DEGREE AS DEFINED IN THIS SECTION; ABANDONMENT OF A CHILD AS
21 DEFINED IN SECTION 260.00; RECKLESS ASSAULT OF A CHILD BY A CHILD DAY
22 CARE PROVIDER AS DEFINED IN SECTION 120.01; ASSAULT IN THE SECOND DEGREE
23 AS DEFINED IN SUBDIVISION EIGHT OR NINE OF SECTION 120.05; AGGRAVATED
24 ASSAULT UPON A PERSON LESS THAN ELEVEN YEARS OLD AS DEFINED IN SECTION
25 120.12; MANSLAUGHTER IN THE FIRST DEGREE AS DEFINED IN SUBDIVISION FOUR
26 OF SECTION 125.20; MURDER IN THE SECOND DEGREE AS DEFINED IN SUBDIVISION
27 FOUR OF SECTION 125.25; RAPE IN THE THIRD DEGREE AS DEFINED IN SUBDIVI-
28 SION TWO OF SECTION 130.25; RAPE IN THE SECOND DEGREE AS DEFINED IN
29 SECTION 130.30; RAPE IN THE FIRST DEGREE AS DEFINED IN SUBDIVISION THREE
30 OR FOUR OF SECTION 130.35; CRIMINAL SEXUAL ACT IN THE THIRD DEGREE AS
31 DEFINED IN SUBDIVISION TWO OF SECTION 130.40; CRIMINAL SEXUAL ACT IN THE
32 SECOND DEGREE AS DEFINED IN SECTION 130.45; CRIMINAL SEXUAL ACT IN THE
33 FIRST DEGREE AS DEFINED IN SUBDIVISION THREE OR FOUR OF SECTION 130.50;
34 PERSISTENT SEXUAL ABUSE AS DEFINED IN SECTION 130.53; SEXUAL ABUSE IN
35 THE SECOND DEGREE AS DEFINED IN SUBDIVISION TWO OF SECTION 130.60; SEXU-
36 AL ABUSE IN THE FIRST DEGREE AS DEFINED IN SUBDIVISION THREE OF SECTION
37 130.65; AGGRAVATED SEXUAL ABUSE IN THE THIRD DEGREE AS DEFINED IN PARA-
38 GRAPH (C) OF SUBDIVISION ONE OR SUBDIVISION TWO OF SECTION 130.66;
39 AGGRAVATED SEXUAL ABUSE IN THE SECOND DEGREE AS DEFINED IN PARAGRAPH (C)
40 OF SUBDIVISION ONE OF SECTION 130.67; AGGRAVATED SEXUAL ABUSE IN THE
41 FIRST DEGREE AS DEFINED IN PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION
42 130.70; COURSE OF SEXUAL CONDUCT AGAINST A CHILD IN THE FIRST DEGREE AS
43 DEFINED IN SECTION 130.75; COURSE OF SEXUAL CONDUCT AGAINST A CHILD IN
44 THE SECOND DEGREE AS DEFINED IN SECTION 130.80; DISSEMINATING INDECENT
45 MATERIAL TO MINORS IN THE SECOND DEGREE AS DEFINED IN SECTION 235.21;
46 DISSEMINATING INDECENT MATERIAL TO MINORS IN THE FIRST DEGREE AS DEFINED
47 IN SECTION 235.22; USE OF A CHILD IN A SEXUAL PERFORMANCE AS DEFINED IN
48 SECTION 263.05; PROMOTING AN OBSCENE SEXUAL PERFORMANCE BY A CHILD AS
49 DEFINED IN SECTION 263.10; POSSESSING AN OBSCENE SEXUAL PERFORMANCE BY A
50 CHILD AS DEFINED IN SECTION 263.11; PROMOTING A SEXUAL PERFORMANCE BY A
51 CHILD AS DEFINED IN SECTION 263.15; POSSESSING A SEXUAL PERFORMANCE BY A
52 CHILD AS DEFINED IN SECTION 263.16; OR A SIMILAR OFFENSE AGAINST A CHILD
53 IN ANY OTHER JURISDICTION.

54 ENDANGERING THE WELFARE OF A CHILD IN THE FIRST DEGREE IS A CLASS E
55 FELONY.

1 S 5. Section 260.15 of the penal law, as amended by chapter 156 of the
2 laws of 2000, is amended to read as follows:

3 S 260.15 Endangering the welfare of a child; defense.

4 In any prosecution for endangering the welfare of a child, pursuant to
5 section 260.10 OR 260.11:

6 1. based upon an alleged failure or refusal to provide proper medical
7 care or treatment to an ill child, it is an affirmative defense that the
8 defendant (a) is a parent, guardian or other person legally charged with
9 the care or custody of such child; and (b) is a member or adherent of an
10 organized church or religious group the tenets of which prescribe prayer
11 as the principal treatment for illness; and (c) treated or caused such
12 ill child to be treated in accordance with such tenets; or

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

19 S 6. This act shall take effect on the first of November next succeed-
20 ing the date on which it shall have become a law.