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

1095

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. KOLB, BURLING, McKEVITT, MOLINARO, BARCLAY -- Multi-Sponsored by -- M. of A. BUTLER, CROUCH, DUPREY, FINCH, GIGLIO, JORDAN, OAKS, RAIA, TOBACCO -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to the crimes of manslaughter in the first degree and murder in the second degree

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

Section 1. 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. THE DEFENDANT RECKLESSLY CAUSES THE DEATH OF ANOTHER PERSON BY MEANS OF A DEADLY WEAPON OR DANGEROUS INSTRUMENT.

S 2. Subdivision 2 of section 125.25 of the penal law, as amended by chapter 791 of the laws of 1967, is amended to read as follows:

2. Under circumstances evincing a depraved indifference to [human] THE life OF ANOTHER PERSON, he INTENTIONALLY OR recklessly engages in conduct which creates a grave risk of death to another person, and thereby causes the death of another person; or

S 3. The penal law is amended by adding a new section 125.24 to read as follows:

S 125.24 MURDER IN THE SECOND DEGREE; NO DEFENSE.

THE CRIMES DEFINED IN SUBDIVISIONS ONE AND TWO OF SECTION 125.25 OF THIS ARTICLE ARE NOT MUTUALLY EXCLUSIVE, AND IT IS NO DEFENSE TO A PROSECUTION FOR MURDER IN THE SECOND DEGREE UNDER SUBDIVISION TWO OF SECTION 125.25 OF THIS ARTICLE THAT, BY REASON OF THE SAME CONDUCT, THE DEFEND-

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

ANT ALSO COMMITTED MURDER IN THE SECOND DEGREE UNDER SUBDIVISION ONE OF SECTION 125.25 OF THIS ARTICLE.

S 4. This act shall take effect on the ninetieth day after it shall have become a law.