

1494

2011-2012 Regular Sessions

I N   A S S E M B L Y

January 10, 2011

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

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.

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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 405 of the laws of 2010, 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 121.12 (strangulation in the second degree); section 121.13 (strangulation 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

1 155.42 (grand larceny in the first degree); section 160.05 (robbery in  
2 the third degree); section 160.10 (robbery in the second degree);  
3 section 160.15 (robbery in the first degree); section 240.25 (harassment  
4 in the first degree); subdivision one, two or four of section 240.30  
5 (aggravated harassment in the second degree); or any attempt or conspir-  
6 acy to commit any of the foregoing offenses.

7 S 12. Subdivision 7 of section 995 of the executive law, as amended by  
8 chapter 2 of the laws of 2006, paragraph (a) as separately amended by  
9 chapter 320 of the laws of 2006 and paragraph (f) as amended by chapter  
10 405 of the laws of 2010, is amended to read as follows:

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

1 a sex offense with a controlled substance, as defined in section 130.90  
2 of the penal law; unlawful imprisonment in the first degree, as defined  
3 in section 135.10 of the penal law; custodial interference in the first  
4 degree, as defined in section 135.50 of the penal law; criminal trespass  
5 in the first degree, as defined in section 140.17 of the penal law;  
6 criminal tampering in the first degree, as defined in section 145.20 of  
7 the penal law; tampering with a consumer product in the first degree, as  
8 defined in section 145.45 of the penal law; robbery in the third degree  
9 as defined in section 160.05 of the penal law; identity theft in the  
10 second degree, as defined in section 190.79 of the penal law; identity  
11 theft in the first degree, as defined in section 190.80 of the penal  
12 law; promoting prison contraband in the first degree, as defined in  
13 section 205.25 of the penal law; tampering with a witness in the third  
14 degree, as defined in section 215.11 of the penal law; tampering with a  
15 witness in the second degree, as defined in section 215.12 of the penal  
16 law; tampering with a witness in the first degree, as defined in section  
17 215.13 of the penal law; criminal contempt in the first degree, as  
18 defined in subdivisions (b), (c) and (d) of section 215.51 of the penal  
19 law; aggravated criminal contempt, as defined in section 215.52 of the  
20 penal law; bail jumping in the second degree, as defined in section  
21 215.56 of the penal law; bail jumping in the first degree, as defined in  
22 section 215.57 of the penal law; patronizing a prostitute in the second  
23 degree, as defined in section 230.05 of the penal law; patronizing a  
24 prostitute in the first degree, as defined in section 230.06 of the  
25 penal law; promoting prostitution in the second degree, as defined in  
26 section 230.30 of the penal law; promoting prostitution in the first  
27 degree, as defined in section 230.32 of the penal law; compelling pros-  
28 titution, as defined in section 230.33 of the penal law; disseminating  
29 indecent materials to minors in the second degree, as defined in section  
30 235.21 of the penal law; disseminating indecent materials to minors in  
31 the first degree, as defined in section 235.22 of the penal law; riot in  
32 the first degree, as defined in section 240.06 of the penal law; crimi-  
33 nal anarchy, as defined in section 240.15 of the penal law; aggravated  
34 harassment of an employee by an inmate, as defined in section 240.32 of  
35 the penal law; unlawful surveillance in the second degree, as defined in  
36 section 250.45 of the penal law; unlawful surveillance in the first  
37 degree, as defined in section 250.50 of the penal law; endangering the  
38 welfare of a vulnerable elderly person in the second degree, as defined  
39 in section 260.32 of the penal law; endangering the welfare of a vulner-  
40 able elderly person in the first degree, as defined in section 260.34 of  
41 the penal law; use of a child in a sexual performance, as defined in  
42 section 263.05 of the penal law; promoting an obscene sexual performance  
43 by a child, as defined in section 263.10 of the penal law; possessing an  
44 obscene sexual performance by a child, as defined in section 263.11 of  
45 the penal law; promoting a sexual performance by a child, as defined in  
46 section 263.15 of the penal law; possessing a sexual performance by a  
47 child, as defined in section 263.16 of the penal law; criminal  
48 possession of a weapon in the third degree, as defined in section 265.02  
49 of the penal law; criminal sale of a firearm in the third degree, as  
50 defined in section 265.11 of the penal law; criminal sale of a firearm  
51 to a minor, as defined in section 265.16 of the penal law; unlawful  
52 wearing of a body vest, as defined in section 270.20 of the penal law;  
53 hate crimes as defined in section 485.05 of the penal law; and crime of  
54 terrorism, as defined in section 490.25 of the penal law; or (e) a felo-  
55 ny defined in the penal law or an attempt thereof where such attempt is  
56 a felony; or (f) any of the following misdemeanors: assault in the third

1 degree as defined in section 120.00 of the penal law; attempted aggra-  
2 vated assault upon a person less than [eleven] TWELVE years old, as  
3 defined in section 110.00 and section 120.12 of the penal law; attempted  
4 menacing in the first degree, as defined in section 110.00 and section  
5 120.13 of the penal law; menacing in the second degree as defined in  
6 section 120.14 of the penal law; menacing in the third degree as defined  
7 in section 120.15 of the penal law; reckless endangerment in the second  
8 degree as defined in section 120.20 of the penal law; stalking in the  
9 fourth degree as defined in section 120.45 of the penal law; stalking in  
10 the third degree as defined in section 120.50 of the penal law;  
11 attempted stalking in the second degree, as defined in section 110.00  
12 and section 120.55 of the penal law; criminal obstruction of breathing  
13 or blood circulation as defined in section 121.11 of the penal law;  
14 forcible touching as defined in section 130.52 of the penal law regard-  
15 less of the age of the victim; sexual abuse in the third degree as  
16 defined in section 130.55 of the penal law regardless of the age of the  
17 victim; unlawful imprisonment in the second degree as defined in section  
18 135.05 of the penal law regardless of the age of the victim; attempted  
19 unlawful imprisonment in the first degree, as defined in section 110.00  
20 and section 135.10 of the penal law regardless of the age of the victim;  
21 criminal trespass in the second degree as defined in section 140.15 of  
22 the penal law; possession of burglar's tools as defined in section  
23 140.35 of the penal law; petit larceny as defined in section 155.25 of  
24 the penal law; endangering the welfare of a child as defined in section  
25 260.10 of the penal law; endangering the welfare of an incompetent or  
26 physically disabled person as defined in section 260.25 of the penal  
27 law.

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

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

45 (4) the parent of such respondent has been convicted of assault in the  
46 second degree as defined in section 120.05, AGGRAVATED ASSAULT UPON A  
47 PERSON LESS THAN TWELVE YEARS OLD IN THE SECOND DEGREE AS DEFINED IN  
48 SECTION 120.05-A, assault in the first degree as defined in section  
49 120.10, AGGRAVATED ASSAULT UPON A PERSON LESS THAN TWELVE YEARS OLD IN  
50 THE FIRST DEGREE, AS DEFINED IN SECTION 120.11-A, or aggravated assault  
51 upon a person less than [eleven] TWELVE years old as defined in section  
52 120.12 of the penal law, and the commission of one of the foregoing  
53 crimes resulted in serious physical injury to the respondent or another  
54 child of the parent;

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

4 (ii) the parent of such child has been convicted of (A) 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 (B) 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 (iv) 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 15. Paragraphs 2 and 4 of subdivision (b) of section 1039-b of the  
29 family court act, as added by chapter 7 of the laws of 1999, are amended  
30 to read as follows:

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

45 (4) the parent of such child has been convicted of assault in the  
46 second degree as defined in section 120.05, AGGRAVATED ASSAULT UPON A  
47 PERSON LESS THAN TWELVE YEARS OLD IN THE SECOND DEGREE AS DEFINED IN  
48 SECTION 120.05-A, assault in the first degree as defined in section  
49 120.10, AGGRAVATED ASSAULT UPON A PERSON LESS THAN TWELVE YEARS OLD IN  
50 THE FIRST DEGREE, AS DEFINED IN SECTION 120.11-A or aggravated assault  
51 upon a person less than [eleven] TWELVE years old as defined in section  
52 120.12 of the penal law, and the commission of one of the foregoing  
53 crimes resulted in serious physical injury to the child or another child  
54 of the parent;

1 S 16. Clauses 2 and 4 of subparagraph (A) of paragraph (i) of subdivi-  
2 sion (b) of section 1052 of the family court act, as amended by chapter  
3 7 of the 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 17. Paragraph f of subdivision 1 of section 410 of the general busi-  
29 ness law, as added by chapter 509 of the laws of 1992, is amended to  
30 read as follows:

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

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

3 In lieu of or in conjunction with the suspension or revocation of a  
4 license, or the imposition of a fine pursuant to this section, the  
5 secretary may issue a reprimand. When a license issued pursuant to this  
6 article is revoked, such license shall not be reinstated or reissued  
7 until after the expiration of a period of one year from the date of such  
8 revocation. No license shall be issued after a second revocation.

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

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

26 (4) the parent of such child has been convicted of assault in the  
27 second degree as defined in section 120.05, AGGRAVATED ASSAULT UPON A  
28 PERSON LESS THAN TWELVE YEARS OLD IN THE SECOND DEGREE AS DEFINED IN  
29 SECTION 120.05-A, assault in the first degree as defined in section  
30 120.10, AGGRAVATED ASSAULT UPON A PERSON LESS THAN TWELVE YEARS OLD IN  
31 THE FIRST DEGREE, AS DEFINED IN SECTION 120.11-A or aggravated assault  
32 upon a person less than [eleven] TWELVE years old as defined in section  
33 120.12 of the penal law, and the commission of one of the foregoing  
34 crimes resulted in serious physical injury to the child or another child  
35 of the parent;

36 S 19. Subparagraph (iii) of paragraph (a) of subdivision 8 of section  
37 384-b of the social services law, as added by chapter 7 of the laws of  
38 1999, clause (A) as amended by chapter 460 of the laws of 2006, is  
39 amended to read as follows:

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

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