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

3455

2011-2012 Regular Sessions

I N  A S S E M B L Y

January 25, 2011

Introduced by M. of A. GABRYSZAK -- Multi-Sponsored by -- M. of A. BARCLAY, BROOK-KRASNY, CALHOUN, CROUCH, DUPREY, GALEF, GUNTHER, KOLB, McKEVITT, MOLINARO, OAKS, RAIA, SAYWARD, TITONE, WEISENBERG -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to recklessly causing the death of another person by means of a deadly weapon or dangerous instrument

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 OR SHE 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 125.25-a to read as follows:

S 125.25-A 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.

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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 first of November next succeeding the date on which it shall have become a law.