

2208

2011-2012 Regular Sessions

I N S E N A T E

January 18, 2011

Introduced by Sen. GOLDEN -- 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, as amended by chapter 447 of the
4 laws of 2010, is amended to read as follows:
5 S 260.10 Endangering the welfare of a child IN THE SECOND DEGREE.
6 A person is guilty of endangering the welfare of a child IN THE SECOND
7 DEGREE when:
8 1. He or she knowingly acts in a manner likely to be injurious to the
9 physical, mental, EMOTIONAL or moral welfare of a child less than seven-
10 teen years old or directs or authorizes such child to engage in an occu-
11 pation involving a substantial risk of danger to [his or her] THE
12 CHILD'S life or health; or
13 2. Being a parent, guardian or other person legally charged with the
14 care or custody of a child less than eighteen years old, he or she fails
15 or refuses to exercise reasonable diligence in the control of such child
16 to prevent him or her from becoming an "abused child," a "neglected
17 child," a "juvenile delinquent" or a "person in need of supervision," as
18 those terms are defined in articles ten, three and seven of the family
19 court act[.]; OR
20 3. BEING A PARENT, GUARDIAN OR OTHER PERSON LEGALLY CHARGED WITH THE
21 CARE OR CUSTODY OF A CHILD LESS THAN EIGHTEEN YEARS OLD, HE OR SHE
22 INTENTIONALLY CAUSES, OR ATTEMPTS TO CAUSE, PHYSICAL INJURY TO ANOTHER
23 PERSON WHILE IN THE PRESENCE OF SUCH CHILD. NOTHING CONTAINED IN THIS
24 SUBDIVISION SHALL BE DEEMED TO REQUIRE THE ARREST OF ANY PERSON WHEN A

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

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POLICE OFFICER REASONABLY BELIEVES THE PERSON'S CONDUCT IS JUSTIFIABLE UNDER ARTICLE THIRTY-FIVE OF THIS CHAPTER; OR

4. A person is not guilty of the provisions of this section when he or she engages in the conduct described in subdivision one of section 260.00 of this article: (a) with the intent to wholly abandon the child by relinquishing responsibility for and right to the care and custody of such child; (b) with the intent that the child be safe from physical injury and cared for in an appropriate manner; (c) the child is left with an appropriate person, or in a suitable location and the person who leaves the child promptly notifies an appropriate person of the child's location; and (d) the child is not more than thirty days old.

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

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

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

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

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

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

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

3. HE OR SHE HAS BEEN PREVIOUSLY CONVICTED OF ANY OF THE FOLLOWING CRIMES: ENDANGERING THE WELFARE OF A CHILD IN THE SECOND DEGREE AS DEFINED IN SECTION 260.10; ENDANGERING THE WELFARE OF A CHILD IN THE FIRST DEGREE AS DEFINED IN THIS SECTION; ABANDONMENT OF A CHILD AS DEFINED IN SECTION 260.00; RECKLESS ASSAULT OF A CHILD BY A CHILD DAY CARE PROVIDER AS DEFINED IN SECTION 120.01; ASSAULT IN THE SECOND DEGREE AS DEFINED IN SUBDIVISION EIGHT OR NINE OF SECTION 120.05; AGGRAVATED ASSAULT UPON A PERSON LESS THAN ELEVEN YEARS OLD AS DEFINED IN SECTION 120.12; MANSLAUGHTER IN THE FIRST DEGREE AS DEFINED IN SUBDIVISION FOUR OF SECTION 125.20; MURDER IN THE SECOND DEGREE AS DEFINED IN SUBDIVISION FOUR OF SECTION 125.25; RAPE IN THE THIRD DEGREE AS DEFINED IN SUBDIVISION TWO OF SECTION 130.25; RAPE IN THE SECOND DEGREE AS DEFINED IN SECTION 130.30; RAPE IN THE FIRST DEGREE AS DEFINED IN SUBDIVISION THREE OR FOUR OF SECTION 130.35; CRIMINAL SEXUAL ACT IN THE THIRD DEGREE AS DEFINED IN SUBDIVISION TWO OF SECTION 130.40; CRIMINAL SEXUAL ACT IN THE SECOND DEGREE AS DEFINED IN SECTION 130.45; CRIMINAL SEXUAL ACT IN THE FIRST DEGREE AS DEFINED IN SUBDIVISION THREE OR FOUR OF SECTION 130.50; PERSISTENT SEXUAL ABUSE AS DEFINED IN SECTION 130.53; SEXUAL ABUSE IN THE SECOND DEGREE AS DEFINED IN SUBDIVISION TWO OF SECTION 130.60; SEXUAL ABUSE IN THE FIRST DEGREE AS DEFINED IN SUBDIVISION THREE OF SECTION 130.65; AGGRAVATED SEXUAL ABUSE IN THE THIRD DEGREE AS DEFINED IN PARAGRAPH (C) OF SUBDIVISION ONE OR SUBDIVISION TWO OF SECTION 130.66; AGGRAVATED SEXUAL ABUSE IN THE SECOND DEGREE AS DEFINED IN PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION 130.67; AGGRAVATED SEXUAL ABUSE IN THE FIRST DEGREE AS DEFINED IN PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION 130.70; COURSE OF SEXUAL CONDUCT AGAINST A CHILD IN THE FIRST DEGREE AS DEFINED IN SECTION 130.75; COURSE OF SEXUAL CONDUCT AGAINST A CHILD IN THE SECOND DEGREE AS DEFINED IN SECTION 130.80; DISSEMINATING INDECENT MATERIAL TO MINORS IN THE SECOND DEGREE AS DEFINED IN SECTION 235.21; 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; POSSESSING AN OBSCENE SEXUAL PERFORMANCE BY A

1 CHILD AS DEFINED IN SECTION 263.11; PROMOTING A SEXUAL PERFORMANCE BY A
2 CHILD AS DEFINED IN SECTION 263.15; POSSESSING A SEXUAL PERFORMANCE BY A
3 CHILD AS DEFINED IN SECTION 263.16; OR A SIMILAR OFFENSE AGAINST A CHILD
4 IN ANY OTHER JURISDICTION.

5 ENDANGERING THE WELFARE OF A CHILD IN THE FIRST DEGREE IS A CLASS E
6 FELONY.

7 S 5. Section 260.15 of the penal law, as amended by chapter 447 of the
8 laws of 2010, is amended to read as follows:

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

10 In any prosecution for endangering the welfare of a child, pursuant to
11 section 260.10 OR 260.11 of this article, based upon an alleged failure
12 or refusal to provide proper medical care or treatment to an ill child,
13 it is an affirmative defense that the defendant (a) is a parent, guardi-
14 an or other person legally charged with the care or custody of such
15 child; and (b) is a member or adherent of an organized church or reli-
16 gious group the tenets of which prescribe prayer as the principal treat-
17 ment for illness; and (c) treated or caused such ill child to be treated
18 in accordance with such tenets.

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.