

2417

2011-2012 Regular Sessions

I N S E N A T E

January 20, 2011

Introduced by Sens. PERKINS, DIAZ, HASSELL-THOMPSON, SMITH -- 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 crimes against persons
under sixteen years of age

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

1 Section 1. Section 120.05 of the penal law is amended by adding a new
2 subdivision 13 to read as follows:
3 13. BEING EIGHTEEN YEARS OF AGE OR OLDER AND WITH INTENT TO CAUSE
4 PHYSICAL INJURY TO ANOTHER PERSON, HE OR SHE CAUSES PHYSICAL INJURY TO A
5 PERSON UNDER SIXTEEN YEARS OF AGE.
6 S 2. Subdivision 4 of section 120.10 of the penal law, as amended by
7 chapter 791 of the laws of 1967, is amended and two new subdivisions 5
8 and 6 are added to read as follows:
9 4. In the course of and in furtherance of the commission or attempted
10 commission of a felony or of immediate flight therefrom, he, or another
11 participant if there be any, causes serious physical injury to a person
12 other than one of the participants[.]; OR
13 5. BEING EIGHTEEN YEARS OF AGE OR OLDER AND WITH INTENT TO CAUSE PHYS-
14 ICAL INJURY TO ANOTHER PERSON, HE OR SHE CAUSES SERIOUS PHYSICAL INJURY
15 TO A PERSON UNDER SIXTEEN YEARS OF AGE; OR
16 6. BEING EIGHTEEN YEARS OF AGE OR OLDER AND WITH INTENT TO CAUSE PHYS-
17 ICAL INJURY TO ANOTHER PERSON, HE OR SHE CAUSES PHYSICAL INJURY TO A
18 PERSON UNDER SIXTEEN YEARS OF AGE BY MEANS OF A DEADLY WEAPON, A DANGER-
19 OUS INSTRUMENT, OR OTHERWISE WITH DEADLY FORCE.
20 S 3. The penal law is amended by adding a new section 120.19 to read
21 as follows:
22 S 120.19 AGGRAVATED ASSAULT UPON A PERSON UNDER SIXTEEN YEARS OF AGE.
23 A PERSON BEING EIGHTEEN YEARS OF AGE OR OLDER IS GUILTY OF AGGRAVATED
24 ASSAULT UPON A PERSON UNDER SIXTEEN YEARS OF AGE WHEN, WITH INTENT TO

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

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1 CAUSE SERIOUS PHYSICAL INJURY TO A PERSON WHOM HE OR SHE KNOWS OR
2 REASONABLY SHOULD KNOW TO BE UNDER SIXTEEN YEARS OF AGE, HE OR SHE CAUS-
3 ES SUCH INJURY BY MEANS OF A DEADLY WEAPON, A DANGEROUS INSTRUMENT, OR
4 OTHERWISE WITH DEADLY FORCE.

5 AGGRAVATED ASSAULT UPON A PERSON UNDER SIXTEEN YEARS OF AGE IS A CLASS
6 B FELONY.

7 S 4. Section 120.25 of the penal law is amended to read as follows:

8 S 120.25 Reckless endangerment in the first degree.

9 A person is guilty of reckless endangerment in the first degree
10 when[,]:

11 1. under circumstances evincing a depraved indifference to human life,
12 he OR SHE recklessly engages in conduct which creates a grave risk of
13 death to another person; OR

14 2. HE OR SHE, BEING EIGHTEEN YEARS OF AGE OR OLDER, RECKLESSLY ENGAGES
15 IN CONDUCT WHICH CREATES A SUBSTANTIAL RISK OF SERIOUS PHYSICAL INJURY
16 TO ANOTHER PERSON UNDER SIXTEEN YEARS OF AGE.

17 Reckless endangerment in the first degree is a class D felony.

18 S 5. Subdivision 4 of section 125.20 of the penal law, as added by
19 chapter 477 of the laws of 1990, is amended and a new subdivision 5 is
20 added to read as follows:

21 4. Being eighteen years old or more and with intent to cause physical
22 injury to a person less than eleven years old, the defendant recklessly
23 engages in conduct which creates a grave risk of serious physical injury
24 to such person and thereby causes the death of such person[.]; OR

25 5. BEING EIGHTEEN YEARS OF AGE OR OLDER AND WITH INTENT TO CAUSE PHYS-
26 ICAL INJURY TO ANOTHER PERSON, HE OR SHE CAUSES THE DEATH OF A PERSON
27 UNDER SIXTEEN YEARS OF AGE.

28 S 6. Section 260.10 of the penal law, as amended by chapter 447 of the
29 laws of 2010, is amended to read as follows:

30 S 260.10 Endangering the welfare of a child IN THE SECOND DEGREE.

31 A person is guilty of endangering the welfare of a child IN THE SECOND
32 DEGREE when:

33 1. He or she knowingly acts in a manner likely to be injurious to the
34 physical, mental or moral welfare of a child less than seventeen years
35 old or directs or authorizes such child to engage in an occupation
36 involving a substantial risk of danger to his or her life or health; or

37 2. Being a parent, guardian or other person legally charged with the
38 care or custody of a child less than eighteen years old, he or she fails
39 or refuses to exercise reasonable diligence in the control of such child
40 to prevent him or her from becoming an "abused child," a "neglected
41 child," a "juvenile delinquent" or a "person in need of supervision," as
42 those terms are defined in articles ten, three and seven of the family
43 court act.

44 3. A person is not guilty of the provisions of this section when he or
45 she engages in the conduct described in subdivision one of section
46 260.00 of this article: (a) with the intent to wholly abandon the child
47 by relinquishing responsibility for and right to the care and custody of
48 such child; (b) with the intent that the child be safe from physical
49 injury and cared for in an appropriate manner; (c) the child is left
50 with an appropriate person, or in a suitable location and the person who
51 leaves the child promptly notifies an appropriate person of the child's
52 location; and (d) the child is not more than thirty days old.

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

55 S 7. The penal law is amended by adding a new section 260.12 to read
56 as follows:

1 S 260.12 ENDANGERING THE WELFARE OF A CHILD IN THE FIRST DEGREE.
2 A PERSON IS GUILTY OF ENDANGERING THE WELFARE OF A CHILD IN THE FIRST
3 DEGREE WHEN, BEING A PARENT, GUARDIAN OR OTHER PERSON LEGALLY CHARGED
4 WITH THE CARE OR CUSTODY OF A CHILD LESS THAN EIGHTEEN YEARS OLD, HE OR
5 SHE FAILS OR REFUSES TO EXERCISE REASONABLE DILIGENCE IN THE CONTROL OF
6 SUCH CHILD TO PREVENT HIM OR HER FROM BECOMING AN "ABUSED CHILD", A
7 "NEGLECTED CHILD", A "JUVENILE DELINQUENT" OR A "PERSON IN NEED OF
8 SUPERVISION", AS THOSE TERMS ARE DEFINED IN ARTICLES THREE, SEVEN AND
9 TEN OF THE FAMILY COURT ACT.
10 ENDANGERING THE WELFARE OF A CHILD IN THE FIRST DEGREE IS A CLASS E
11 FELONY.
12 S 8. This act shall take effect on the first of November next succeed-
13 ing the date on which it shall have become a law.