

5862--A

2011-2012 Regular Sessions

I N S E N A T E

July 20, 2011

Introduced by Sens. GRISANTI, SALAND, LANZA, BALL, FUSCHILLO, GOLDEN, SKELOS, LITTLE, YOUNG, O'MARA, MAZIARZ, DeFRANCISCO, LIBOUS, ALESI, FLANAGAN, ZELDIN, MARTINS, MARCELLINO, JOHNSON, ROBACH, FARLEY, BONACIC, LARKIN, GALLIVAN, McDONALD, GRIFFO, NOZZOLIO, HANNON, SEWARD, LAVALLE, RITCHIE, RANZENHOFER, CARLUCCI, SAVINO, KLEIN, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- recommitted to the Committee on Codes in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, the criminal procedure law, the vehicle and traffic law, the estates, powers and trusts law, the executive law and the social services law, in relation to establishing the offenses of aggravated murder of a child, aggravated abuse of a child in the third degree, aggravated abuse of a child in the second degree, aggravated abuse of a child in the first degree, aggravated manslaughter of a child, aggravated endangering the welfare of a child, aggravated murder of a child, obstruction the location of a missing child, and concealment of a death; and to repeal subdivision 5 of section 125.25 of the penal law relating to the murder of a person under 14 years of age while in the course of committing certain sex offenses

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 "protect our children act".
3 S 2. Section 10.00 of the penal law is amended by adding two new
4 subdivisions 21 and 22 to read as follows:
5 21. "PERSON IN A POSITION OF TRUST" MEANS ANY PERSON WHO IS CHARGED
6 WITH ANY DUTY OR RESPONSIBILITY FOR THE HEALTH, EDUCATION, WELFARE,
7 SUPERVISION OR CARE OF ANOTHER PERSON, EITHER INDEPENDENTLY OR THROUGH
8 ANOTHER PERSON, NO MATTER HOW BRIEF.

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

LBD13286-02-2

22. "CHILD ABUSE OFFENSE" MEANS:

(A) PATRONIZING A PROSTITUTE IN THE SECOND DEGREE AS DEFINED IN SECTION 230.05; PATRONIZING A PROSTITUTE IN THE FIRST DEGREE AS DEFINED IN SECTION 230.06; PROMOTING PROSTITUTION IN THE SECOND DEGREE AS DEFINED IN SUBDIVISION TWO OF SECTION 230.30; PROMOTING PROSTITUTION IN THE FIRST DEGREE AS DEFINED IN SECTION 230.32; DISSEMINATING INDECENT MATERIALS TO MINORS IN THE SECOND DEGREE AS DEFINED IN SECTION 235.21; DISSEMINATING INDECENT MATERIALS TO MINORS IN THE FIRST DEGREE AS DEFINED IN SECTION 235.22; ABANDONMENT OF A CHILD AS DEFINED IN SECTION 260.00; NON-SUPPORT OF A CHILD IN THE SECOND DEGREE AS DEFINED IN SECTION 260.05; NON-SUPPORT OF A CHILD IN THE FIRST DEGREE AS DEFINED IN SECTION 260.06; AGGRAVATED ENDANGERING THE WELFARE OF A CHILD AS DEFINED IN SECTION 260.09; ENDANGERING THE WELFARE OF A CHILD AS DEFINED IN SECTION 260.10; UNLAWFULLY DEALING WITH A CHILD IN THE FIRST DEGREE AS DEFINED IN SECTION 260.20; UNLAWFULLY DEALING WITH A CHILD IN THE SECOND DEGREE AS DEFINED IN SECTION 260.21; OR AN OFFENSE DEFINED IN ARTICLE TWO HUNDRED SIXTY-THREE OF THIS CHAPTER; OR

(B) AN OFFENSE DEFINED IN ARTICLE ONE HUNDRED TWENTY, ONE HUNDRED TWENTY-FIVE, ONE HUNDRED THIRTY OR ONE HUNDRED THIRTY-FIVE OF THIS CHAPTER PROVIDED THE VICTIM OF SUCH OFFENSE IS LESS THAN FOURTEEN YEARS OF AGE; OR

(C) AN ATTEMPT TO COMMIT AN OFFENSE LISTED IN PARAGRAPH (A) OR (B) OF THIS SUBDIVISION; OR

(D) AN OFFENSE IN ANY OTHER JURISDICTION WHICH INCLUDES ALL OF THE ESSENTIAL ELEMENTS OF ANY SUCH CRIME LISTED IN PARAGRAPH (A), (B) OR (C) OF THIS SUBDIVISION.

S 3. Section 60.06 of the penal law, as amended by chapter 482 of the laws of 2009, is amended to read as follows:

S 60.06 Authorized disposition; murder in the first degree offenders; aggravated murder offenders; AGGRAVATED MURDER OF A CHILD OFFENDERS; certain murder in the second degree offenders; certain terrorism offenders; criminal possession of a chemical weapon or biological weapon offenders; criminal use of a chemical weapon or biological weapon offenders.

When a defendant is convicted of murder in the first degree as defined in section 125.27 of this chapter, the court shall, in accordance with the provisions of section 400.27 of the criminal procedure law, sentence the defendant to death, to life imprisonment without parole in accordance with subdivision five of section 70.00 of this title, or to a term of imprisonment for a class A-I felony other than a sentence of life imprisonment without parole, in accordance with subdivisions one through three of section 70.00 of this title. When a person is convicted [of murder in the second degree as defined in subdivision five of section 125.25 of this chapter or] of the crime of aggravated murder as defined in subdivision one of section 125.26 of this chapter OR OF THE CRIME OF AGGRAVATED MURDER OF A CHILD AS DEFINED IN SECTION 125.28 OF THIS CHAPTER, the court shall sentence the defendant to life imprisonment without parole in accordance with subdivision five of section 70.00 of this title. When a defendant is convicted of the crime of terrorism as defined in section 490.25 of this chapter, and the specified offense the defendant committed is a class A-I felony offense, or when a defendant is convicted of the crime of criminal possession of a chemical weapon or biological weapon in the first degree as defined in section 490.45 of this chapter, or when a defendant is convicted of the crime of criminal use of a chemical weapon or biological weapon in the first degree as defined in section 490.55 of this chapter, the court shall sentence the

1 defendant to life imprisonment without parole in accordance with subdi-
2 vision five of section 70.00 of this title; provided, however, that
3 nothing in this section shall preclude or prevent a sentence of death
4 when the defendant is also convicted of murder in the first degree as
5 defined in section 125.27 of this chapter. When a defendant is convicted
6 of aggravated murder as defined in subdivision two of section 125.26 of
7 this chapter, the court shall sentence the defendant to life imprison-
8 ment without parole or to a term of imprisonment for a class A-I felony
9 other than a sentence of life imprisonment without parole, in accordance
10 with subdivisions one through three of section 70.00 of this title.

11 S. 4. Subparagraph (i) of paragraph (a) of subdivision 3 of section
12 70.00 of the penal law, as amended by chapter 107 of the laws of 2006,
13 is amended to read as follows:

14 (i) For a class A-I felony, such minimum period shall not be less than
15 fifteen years nor more than twenty-five years; provided, however, that
16 (A) where a sentence, other than a sentence of death or life imprison-
17 ment without parole, is imposed upon a defendant convicted of murder in
18 the first degree as defined in section 125.27 of this chapter such mini-
19 mum period shall be not less than twenty years nor more than twenty-five
20 years, and, (B) where a sentence is imposed upon a defendant [convicted
21 of murder in the second degree as defined in subdivision five of section
22 125.25 of this chapter or] convicted of aggravated murder as defined in
23 section 125.26 of this chapter OR CONVICTED OF AGGRAVATED MURDER OF A
24 CHILD AS DEFINED IN SECTION 125.28 OF THIS CHAPTER, the sentence shall
25 be life imprisonment without parole, and, (C) where a sentence is
26 imposed upon a defendant convicted of attempted murder in the first
27 degree as defined in article one hundred ten of this chapter and subpar-
28 agraph (i), (ii) or (iii) of paragraph (a) of subdivision one and para-
29 graph (b) of subdivision one of section 125.27 of this chapter or
30 attempted aggravated murder as defined in article one hundred ten of
31 this chapter and section 125.26 of this chapter OR ATTEMPTED AGGRAVATED
32 MURDER OF A CHILD AS DEFINED IN ARTICLE ONE HUNDRED TEN OF THIS CHAPTER
33 AND SECTION 125.28 OF THIS CHAPTER such minimum period shall be not less
34 than twenty years nor more than forty years.

35 S. 5. Subdivision 5 of section 70.00 of the penal law, as amended by
36 chapter 482 of the laws of 2009, is amended to read as follows:

37 5. Life imprisonment without parole. Notwithstanding any other
38 provision of law, a defendant sentenced to life imprisonment without
39 parole shall not be or become eligible for parole or conditional
40 release. For purposes of commitment and custody, other than parole and
41 conditional release, such sentence shall be deemed to be an indetermi-
42 nate sentence. A defendant may be sentenced to life imprisonment with-
43 out parole upon conviction for the crime of murder in the first degree
44 as defined in section 125.27 of this chapter and in accordance with the
45 procedures provided by law for imposing a sentence for such crime. A
46 defendant must be sentenced to life imprisonment without parole upon
47 conviction for the crime of terrorism as defined in section 490.25 of
48 this chapter, where the specified offense the defendant committed is a
49 class A-I felony; the crime of criminal possession of a chemical weapon
50 or biological weapon in the first degree as defined in section 490.45 of
51 this chapter; or the crime of criminal use of a chemical weapon or
52 biological weapon in the first degree as defined in section 490.55 of
53 this chapter; provided, however, that nothing in this subdivision shall
54 preclude or prevent a sentence of death when the defendant is also
55 convicted of the crime of murder in the first degree as defined in
56 section 125.27 of this chapter. A defendant must be sentenced to life

1 imprisonment without parole upon conviction [for the crime of murder in
2 the second degree as defined in subdivision five of section 125.25 of
3 this chapter or] for the crime of aggravated murder as defined in subdivi-
4 sion one of section 125.26 of this chapter OR FOR THE CRIME OF AGGRA-
5 VATED MURDER OF A CHILD AS DEFINED IN SECTION 125.28 OF THIS CHAPTER. A
6 defendant may be sentenced to life imprisonment without parole upon
7 conviction for the crime of aggravated murder as defined in subdivision
8 two of section 125.26 of this chapter.

9 S 6. Paragraphs (a), (b) and (c) of subdivision 1 of section 70.02 of
10 the penal law, paragraph (a) as amended by chapter 320 of the laws of
11 2006, paragraph (b) as amended by chapter 148 of the laws of 2011 and
12 paragraph (c) as amended by chapter 405 of the laws of 2010, are amended
13 to read as follows:

14 (a) Class B violent felony offenses: an attempt to commit the class
15 A-I felonies of murder in the second degree as defined in section
16 125.25, kidnapping in the first degree as defined in section 135.25, and
17 arson in the first degree as defined in section 150.20; manslaughter in
18 the first degree as defined in section 125.20, aggravated manslaughter
19 in the first degree as defined in section 125.22, AGGRAVATED MANSLAUGHT-
20 ER OF A CHILD AS DEFINED IN SECTION 125.23, rape in the first degree as
21 defined in section 130.35, criminal sexual act in the first degree as
22 defined in section 130.50, aggravated sexual abuse in the first degree
23 as defined in section 130.70, course of sexual conduct against a child
24 in the first degree as defined in section 130.75; assault in the first
25 degree as defined in section 120.10, kidnapping in the second degree as
26 defined in section 135.20, burglary in the first degree as defined in
27 section 140.30, arson in the second degree as defined in section 150.15,
28 robbery in the first degree as defined in section 160.15, incest in the
29 first degree as defined in section 255.27, criminal possession of a
30 weapon in the first degree as defined in section 265.04, criminal use of
31 a firearm in the first degree as defined in section 265.09, criminal
32 sale of a firearm in the first degree as defined in section 265.13,
33 aggravated assault upon a police officer or a peace officer as defined
34 in section 120.11, gang assault in the first degree as defined in
35 section 120.07, intimidating a victim or witness in the first degree as
36 defined in section 215.17, hindering prosecution of terrorism in the
37 first degree as defined in section 490.35, criminal possession of a
38 chemical weapon or biological weapon in the second degree as defined in
39 section 490.40, and criminal use of a chemical weapon or biological
40 weapon in the third degree as defined in section 490.47.

41 (b) Class C violent felony offenses: an attempt to commit any of the
42 class B felonies set forth in paragraph (a) of this subdivision; aggra-
43 vated criminally negligent homicide as defined in section 125.11, aggra-
44 vated manslaughter in the second degree as defined in section 125.21,
45 aggravated sexual abuse in the second degree as defined in section
46 130.67, assault on a peace officer, police officer, fireman or emergency
47 medical services professional as defined in section 120.08, assault on a
48 judge as defined in section 120.09, gang assault in the second degree as
49 defined in section 120.06, AGGRAVATED ABUSE OF A CHILD IN THE FIRST
50 DEGREE AS DEFINED IN SECTION 120.19-A, strangulation in the first degree
51 as defined in section 121.13, burglary in the second degree as defined
52 in section 140.25, robbery in the second degree as defined in section
53 160.10, criminal possession of a weapon in the second degree as defined
54 in section 265.03, criminal use of a firearm in the second degree as
55 defined in section 265.08, criminal sale of a firearm in the second
56 degree as defined in section 265.12, criminal sale of a firearm with the

1 aid of a minor as defined in section 265.14, soliciting or providing
2 support for an act of terrorism in the first degree as defined in
3 section 490.15, hindering prosecution of terrorism in the second degree
4 as defined in section 490.30, and criminal possession of a chemical
5 weapon or biological weapon in the third degree as defined in section
6 490.37.

7 (c) Class D violent felony offenses: an attempt to commit any of the
8 class C felonies set forth in paragraph (b); reckless assault of a child
9 as defined in section 120.02, assault in the second degree as defined in
10 section 120.05, AGGRAVATED ABUSE OF A CHILD IN THE SECOND DEGREE AS
11 DEFINED IN SECTION 120.19, menacing a police officer or peace officer as
12 defined in section 120.18, stalking in the first degree, as defined in
13 subdivision one of section 120.60, strangulation in the second degree as
14 defined in section 121.12, rape in the second degree as defined in
15 section 130.30, criminal sexual act in the second degree as defined in
16 section 130.45, sexual abuse in the first degree as defined in section
17 130.65, course of sexual conduct against a child in the second degree as
18 defined in section 130.80, aggravated sexual abuse in the third degree
19 as defined in section 130.66, facilitating a sex offense with a
20 controlled substance as defined in section 130.90, criminal possession
21 of a weapon in the third degree as defined in subdivision five, six,
22 seven or eight of section 265.02, criminal sale of a firearm in the
23 third degree as defined in section 265.11, intimidating a victim or
24 witness in the second degree as defined in section 215.16, soliciting or
25 providing support for an act of terrorism in the second degree as
26 defined in section 490.10, and making a terroristic threat as defined in
27 section 490.20, falsely reporting an incident in the first degree as
28 defined in section 240.60, placing a false bomb or hazardous substance
29 in the first degree as defined in section 240.62, placing a false bomb
30 or hazardous substance in a sports stadium or arena, mass transportation
31 facility or enclosed shopping mall as defined in section 240.63, and
32 aggravated unpermitted use of indoor pyrotechnics in the first degree as
33 defined in section 405.18.

34 S 7. Subdivision 1 of section 110.05 of the penal law, as amended by
35 chapter 93 of the laws of 2006, is amended to read as follows:

36 1. Class A-I felony when the crime attempted is the A-I felony of
37 murder in the first degree, aggravated murder as defined in subdivision
38 one of section 125.26 of this chapter, AGGRAVATED MURDER OF A CHILD,
39 criminal possession of a controlled substance in the first degree, crim-
40 inal sale of a controlled substance in the first degree, criminal
41 possession of a chemical or biological weapon in the first degree or
42 criminal use of a chemical or biological weapon in the first degree;

43 S 8. Section 120.01 of the penal law, as added by chapter 600 of the
44 laws of 1998, is amended to read as follows:

45 S 120.01 [Reckless assault] AGGRAVATED ABUSE of a child [by a child day
46 care provider] IN THE THIRD DEGREE.

47 A person is guilty of [reckless assault] AGGRAVATED ABUSE of a child
48 IN THE THIRD DEGREE when, being [a child day care provider or an employ-
49 ee thereof] EIGHTEEN YEARS OLD OR MORE, AND BEING A PARENT, GUARDIAN OR
50 OTHER PERSON LEGALLY CHARGED WITH THE CUSTODY OF, OR LEGALLY RESPONSIBLE
51 FOR THE CARE OF, A CHILD LESS THAN FOURTEEN YEARS OLD, OR BEING A PERSON
52 IN A POSITION OF TRUST OF A CHILD LESS THAN FOURTEEN YEARS OLD, he or
53 she recklessly causes [serious] physical injury to [a] SUCH child [under
54 the care of such provider or employee who is less than eleven years of
55 age].

1 [Reckless assault] AGGRAVATED ABUSE of a child [by a child day care
2 provider] IN THE THIRD DEGREE is a class E felony.

3 S 9. The penal law is amended by adding two new sections 120.19 and
4 120.19-a to read as follows:

5 S 120.19 AGGRAVATED ABUSE OF A CHILD IN THE SECOND DEGREE.

6 A PERSON IS GUILTY OF AGGRAVATED ABUSE OF A CHILD IN THE SECOND DEGREE
7 WHEN BEING EIGHTEEN YEARS OLD OR MORE, AND BEING A PARENT, GUARDIAN OR
8 OTHER PERSON LEGALLY CHARGED WITH THE CUSTODY OF, OR LEGALLY RESPONSIBLE
9 FOR THE CARE OF, A CHILD LESS THAN FOURTEEN YEARS OLD, OR BEING A PERSON
10 IN A POSITION OF TRUST OF A CHILD LESS THAN FOURTEEN YEARS OLD, HE OR
11 SHE:

12 1. WITH INTENT TO CAUSE PHYSICAL INJURY TO ANOTHER PERSON, CAUSES
13 PHYSICAL INJURY TO SUCH CHILD; OR

14 2. RECKLESSLY ENGAGES IN CONDUCT WHICH CREATES A GRAVE RISK OF SERIOUS
15 PHYSICAL INJURY OR DEATH TO SUCH CHILD AND THEREBY CAUSES SERIOUS PHYS-
16 ICAL INJURY TO SUCH CHILD; OR

17 3. COMMITS THE CRIME OF AGGRAVATED ABUSE OF A CHILD IN THE THIRD
18 DEGREE AS DEFINED IN SECTION 120.01 OF THIS ARTICLE AND PREVIOUSLY HAS
19 BEEN CONVICTED OF A CHILD ABUSE OFFENSE.

20 AGGRAVATED ABUSE OF A CHILD IN THE SECOND DEGREE IS A CLASS D FELONY.

21 S 120.19-A AGGRAVATED ABUSE OF A CHILD IN THE FIRST DEGREE.

22 A PERSON IS GUILTY OF AGGRAVATED ABUSE OF A CHILD IN THE FIRST DEGREE
23 WHEN BEING EIGHTEEN YEARS OLD OR MORE, AND BEING A PARENT, GUARDIAN OR
24 OTHER PERSON LEGALLY CHARGED WITH THE CUSTODY OF, OR LEGALLY RESPONSIBLE
25 FOR THE CARE OF, A CHILD LESS THAN FOURTEEN YEARS OLD, OR BEING A PERSON
26 IN A POSITION OF TRUST OF A CHILD LESS THAN FOURTEEN YEARS OLD, HE OR
27 SHE:

28 1. WITH INTENT TO CAUSE SERIOUS PHYSICAL INJURY TO ANOTHER PERSON,
29 CAUSES SERIOUS PHYSICAL INJURY TO SUCH CHILD; OR

30 2. RECKLESSLY ENGAGES IN VIOLENT SHAKING OF SUCH CHILD AND THEREBY
31 CAUSES SERIOUS PHYSICAL INJURY TO SUCH CHILD AND SUCH CHILD IS LESS THAN
32 FIVE YEARS OLD; OR

33 3. RECKLESSLY ENGAGES IN CONDUCT WHICH CREATES A GRAVE RISK OF SERIOUS
34 PHYSICAL INJURY OR DEATH TO SUCH CHILD AND THEREBY CAUSES SERIOUS PHYS-
35 ICAL INJURY TO SUCH CHILD, AND:

36 (A) HAS PREVIOUSLY BEEN CONVICTED OF A CHILD ABUSE OFFENSE; OR

37 (B) AS PART OF THE SAME TRANSACTION, RECKLESSLY ENGAGES IN CONDUCT
38 WHICH CREATES A GRAVE RISK OF SERIOUS PHYSICAL INJURY OR DEATH TO ANOTH-
39 ER CHILD LESS THAN FOURTEEN YEARS OLD AND THEREBY CAUSES SERIOUS PHYS-
40 ICAL INJURY TO SUCH OTHER CHILD; OR

41 (C) CAUSES SUCH INJURY BY MEANS OF A DEADLY WEAPON OR DANGEROUS
42 INSTRUMENT; OR

43 (D) ON AT LEAST ONE OTHER OCCASION, RECKLESSLY ENGAGED IN CONDUCT
44 WHICH CREATED A GRAVE RISK OF SERIOUS PHYSICAL INJURY OR DEATH TO A
45 CHILD LESS THAN FOURTEEN YEARS OLD AND THEREBY CAUSED SERIOUS PHYSICAL
46 INJURY TO SUCH CHILD.

47 AGGRAVATED ABUSE OF A CHILD IN THE FIRST DEGREE IS A CLASS C FELONY.

48 S 10. The penal law is amended by adding two new sections 125.23 and
49 125.28 to read as follows:

50 S 125.23 AGGRAVATED MANSLAUGHTER OF A CHILD.

51 A PERSON IS GUILTY OF AGGRAVATED MANSLAUGHTER OF A CHILD WHEN, BEING
52 EIGHTEEN YEARS OLD OR MORE, AND BEING A PARENT, GUARDIAN OR OTHER PERSON
53 LEGALLY CHARGED WITH THE CUSTODY OF, OR LEGALLY RESPONSIBLE FOR THE CARE
54 OF, A CHILD LESS THAN FOURTEEN YEARS OLD, OR BEING A PERSON IN A POSI-
55 TION OF TRUST OF A CHILD LESS THAN FOURTEEN YEARS OLD, HE OR SHE RECK-
56 LESSLY ENGAGES IN CONDUCT WHICH CREATES A GRAVE RISK OF SERIOUS PHYSICAL

1 INJURY OR DEATH TO SUCH CHILD AND THEREBY CAUSES THE DEATH OF SUCH
2 CHILD.

3 AGGRAVATED MANSLAUGHTER OF A CHILD IS A CLASS B FELONY.

4 S 125.28 AGGRAVATED MURDER OF A CHILD.

5 A PERSON IS GUILTY OF AGGRAVATED MURDER OF A CHILD WHEN:

6 1. WITH INTENT TO CAUSE THE DEATH OF A CHILD LESS THAN FOURTEEN YEARS
7 OLD, AND BEING EIGHTEEN YEARS OLD OR MORE, AND BEING THE PARENT, GUARDI-
8 AN OR OTHER PERSON LEGALLY CHARGED WITH THE CUSTODY OF, OR LEGALLY
9 RESPONSIBLE FOR THE CARE OF, SUCH CHILD, OR BEING A PERSON IN A POSITION
10 OF TRUST OF A CHILD LESS THAN FOURTEEN YEARS OLD, HE OR SHE CAUSES THE
11 DEATH OF SUCH CHILD; OR

12 2. UNDER CIRCUMSTANCES EVINCING A DEPRAVED INDIFFERENCE TO HUMAN LIFE,
13 AND BEING EIGHTEEN YEARS OLD OR MORE, AND BEING THE PARENT, GUARDIAN OR
14 OTHER PERSON LEGALLY CHARGED WITH THE CUSTODY OF, OR LEGALLY RESPONSIBLE
15 FOR THE CARE OF, A CHILD LESS THAN FOURTEEN YEARS OLD, OR BEING A PERSON
16 IN A POSITION OF TRUST OF A CHILD LESS THAN FOURTEEN YEARS OLD, HE OR
17 SHE RECKLESSLY ENGAGES IN CONDUCT WHICH CREATES A GRAVE RISK OF SERIOUS
18 PHYSICAL INJURY OR DEATH TO SUCH CHILD AND THEREBY CAUSES THE DEATH OF
19 SUCH CHILD; OR

20 3. BEING EIGHTEEN YEARS OLD OR MORE, WHILE IN THE COURSE OF COMMITTING
21 RAPE IN THE FIRST, SECOND OR THIRD DEGREE, CRIMINAL SEXUAL ACT IN THE
22 FIRST, SECOND OR THIRD DEGREE, AGGRAVATED SEXUAL ABUSE IN THE FIRST,
23 SECOND, THIRD OR FOURTH DEGREE, OR INCEST AGAINST A CHILD LESS THAN
24 FOURTEEN YEARS OLD, HE OR SHE INTENTIONALLY CAUSES THE DEATH OF SUCH
25 CHILD.

26 AGGRAVATED MURDER OF A CHILD IS A CLASS A-I FELONY.

27 S 11. Subdivision 4 of section 125.25 of the penal law, as amended by
28 chapter 459 of the laws of 2004, is amended to read as follows:

29 4. Under circumstances evincing a depraved indifference to human life,
30 and being eighteen years old or more the defendant recklessly engages in
31 conduct which creates a grave risk of serious physical injury or death
32 to another person less than eleven years old and thereby causes the
33 death of such person[; or].

34 S 12. Subdivision 5 of section 125.25 of the penal law is REPEALED.

35 S 13. Subparagraph (ix) of paragraph (a) of subdivision 1 of section
36 125.27 of the penal law, as added by chapter 1 of the laws of 1995, is
37 amended to read as follows:

38 (ix) prior to committing the killing, the defendant had been convicted
39 of murder as defined in this section or section 125.25 of this article
40 OR CONVICTED OF AGGRAVATED MURDER OF A CHILD AS DEFINED IN SECTION
41 125.28 OF THIS ARTICLE, or had been convicted in another jurisdiction of
42 an offense which, if committed in this state, would constitute a
43 violation of [either of such] THE AFOREMENTIONED sections; or

44 S 14. The penal law is amended by adding a new section 190.17 to read
45 as follows:

46 S 190.17 OBSTRUCTING THE LOCATION OF A MISSING CHILD.

47 A PERSON IS GUILTY OF OBSTRUCTING THE LOCATION OF A MISSING CHILD
48 WHEN HE OR SHE KNOWINGLY PROVIDES FALSE INFORMATION TO LAW ENFORCEMENT
49 OFFICIALS AS TO THE WHEREABOUTS OF A CHILD LESS THAN FOURTEEN YEARS OLD
50 WHO HAS BEEN REPORTED MISSING, OR WHOSE WHEREABOUTS HAS BEEN UNKNOWN FOR
51 MORE THAN TWENTY-FOUR HOURS.

52 OBSTRUCTING THE LOCATION OF A MISSING CHILD IS A CLASS E FELONY.

53 S 15. The penal law is amended by adding a new section 190.18 to read
54 as follows:

55 S 190.18 CONCEALMENT OF A DEATH.

1 A PERSON IS GUILTY OF CONCEALMENT OF A DEATH WHEN HE OR SHE KNOWINGLY
2 MOVES OR OTHERWISE CONCEALS A HUMAN CORPSE SO THAT DISCOVERY OF THE
3 DEATH OF SUCH PERSON WILL BE HINDERED.

4 CONCEALMENT OF A DEATH IS A CLASS D FELONY.

5 S 16. The penal law is amended by adding a new section 260.09 to read
6 as follows:

7 S 260.09 AGGRAVATED ENDANGERING THE WELFARE OF A CHILD.

8 A PERSON IS GUILTY OF AGGRAVATED ENDANGERING THE WELFARE OF A CHILD
9 WHEN, BEING EIGHTEEN YEARS OLD OR MORE, AND BEING A PARENT, GUARDIAN OR
10 OTHER PERSON LEGALLY CHARGED WITH THE CUSTODY OF, OR LEGALLY RESPONSIBLE
11 FOR THE CARE OF, A CHILD LESS THAN FOURTEEN YEARS OLD, OR BEING A PERSON
12 IN A POSITION OF TRUST OF A CHILD LESS THEN FOURTEEN YEARS OLD, HE OR
13 SHE KNOWINGLY ACTS IN A MANNER LIKELY TO BE INJURIOUS TO THE PHYSICAL,
14 MENTAL OR MORAL WELFARE OF SUCH CHILD, AND:

15 1. PREVIOUSLY HAS BEEN CONVICTED OF A CHILD ABUSE OFFENSE; OR

16 2. SUCH CONDUCT CONSISTS OF TWO OR MORE ACTS OF CRUELTY AGAINST SUCH
17 CHILD. FOR PURPOSES OF THIS SUBDIVISION, "CRUELTY" MEANS CONDUCT WHICH
18 (A) CAUSES EXTREME PHYSICAL PAIN, OR (B) WHICH IS CARRIED OUT IN AN
19 ESPECIALLY VICIOUS OR SADISTIC MANNER; OR

20 3. SUCH CONDUCT CONSISTS OF FAILING TO REPORT TO LAW ENFORCEMENT WHEN
21 THE WHEREABOUTS OF SUCH CHILD HAS BEEN UNKNOWN BY SUCH PERSON FOR MORE
22 THAN TWENTY-FOUR HOURS. FOR THE PURPOSES OF THIS SECTION, A PARENT,
23 GUARDIAN OR OTHER PERSON LEGALLY CHARGED WITH THE CUSTODY OF, OR LEGALLY
24 RESPONSIBLE FOR THE CARE OF A CHILD UNDER THE AGE OF ELEVEN IS DEEMED TO
25 BE ACTING IN A MANNER LIKELY TO BE INJURIOUS TO THE PHYSICAL, MENTAL OR
26 MORAL WELFARE OF SUCH CHILD IF SUCH CHILD'S WHEREABOUTS IS UNKNOWN BY
27 SUCH PERSON FOR MORE THAN TWENTY-FOUR HOURS.

28 AGGRAVATED ENDANGERING THE WELFARE OF A CHILD IS A CLASS E FELONY.

29 S 17. Paragraph (a) of subdivision 3 of section 30.30 of the criminal
30 procedure law, as amended by chapter 93 of the laws of 2006, is amended
31 to read as follows:

32 (a) Subdivisions one and two do not apply to a criminal action wherein
33 the defendant is accused of an offense defined in sections 125.10,
34 125.15, 125.20, 125.25, 125.26 [and], 125.27 AND 125.28 of the penal
35 law.

36 S 18. Subdivision 1 of section 180.85 of the criminal procedure law,
37 as amended by chapter 93 of the laws of 2006, is amended to read as
38 follows:

39 1. After arraignment of a defendant upon a felony complaint, other
40 than a felony complaint charging an offense defined in section 125.10,
41 125.15, 125.20, 125.23, 125.25, 125.26 [or], 125.27 OR 125.28 of the
42 penal law, either party or the local criminal court or superior court
43 before which the action is pending, on its own motion, may move in
44 accordance with the provisions of this section for an order terminating
45 prosecution of the charges contained in such felony complaint on consent
46 of the parties.

47 S 19. Paragraph (h) of subdivision 3 of section 190.25 of the criminal
48 procedure law, as amended by chapter 405 of the laws of 2010, is amended
49 to read as follows:

50 (h) A social worker, rape crisis counselor, psychologist or other
51 professional providing emotional support to a child witness twelve years
52 old or younger who is called to give evidence in a grand jury proceeding
53 concerning a crime defined in article one hundred twenty-one, article
54 one hundred thirty, article two hundred sixty, section 120.01, 120.10,
55 120.19, 120.19-A, 125.10, 125.15, 125.20, 125.23, 125.25, 125.26,
56 125.27, 125.28, 255.25, 255.26 [or], 255.27 OR 260.09 of the penal law

1 provided that the district attorney consents. Such support person shall
2 not provide the witness with an answer to any question or otherwise
3 participate in such proceeding and shall first take an oath before the
4 grand jury that he or she will keep secret all matters before such grand
5 jury within his or her knowledge.

6 S 20. Paragraph (b) of subdivision 8 of section 700.05 of the criminal
7 procedure law, as amended by chapter 405 of the laws of 2010, is amended
8 to read as follows:

9 (b) Any of the following felonies: assault in the second degree as
10 defined in section 120.05 of the penal law, AGGRAVATED ABUSE OF A CHILD
11 IN THE THIRD DEGREE AS DEFINED IN SECTION 120.01 OF THE PENAL LAW,
12 AGGRAVATED ABUSE OF A CHILD IN THE SECOND DEGREE AS DEFINED IN SECTION
13 120.19 OF THE PENAL LAW, AGGRAVATED ABUSE OF A CHILD IN THE FIRST DEGREE
14 AS DEFINED IN SECTION 120.19-A OF THE PENAL LAW, assault in the first
15 degree as defined in section 120.10 of the penal law, reckless endanger-
16 ment in the first degree as defined in section 120.25 of the penal law,
17 promoting a suicide attempt as defined in section 120.30 of the penal
18 law, strangulation in the second degree as defined in section 121.12 of
19 the penal law, strangulation in the first degree as defined in section
20 121.13 of the penal law, criminally negligent homicide as defined in
21 section 125.10 of the penal law, manslaughter in the second degree as
22 defined in section 125.15 of the penal law, manslaughter in the first
23 degree as defined in section 125.20 of the penal law, AGGRAVATED
24 MANSLAUGHTER OF A CHILD AS DEFINED IN SECTION 125.23 OF THE PENAL LAW,
25 murder in the second degree as defined in section 125.25 of the penal
26 law, murder in the first degree as defined in section 125.27 of the
27 penal law, AGGRAVATED MURDER OF A CHILD AS DEFINED IN SECTION 125.28 OF
28 THE PENAL LAW, abortion in the second degree as defined in section
29 125.40 of the penal law, abortion in the first degree as defined in
30 section 125.45 of the penal law, rape in the third degree as defined in
31 section 130.25 of the penal law, rape in the second degree as defined in
32 section 130.30 of the penal law, rape in the first degree as defined in
33 section 130.35 of the penal law, criminal sexual act in the third degree
34 as defined in section 130.40 of the penal law, criminal sexual act in
35 the second degree as defined in section 130.45 of the penal law, crimi-
36 nal sexual act in the first degree as defined in section 130.50 of the
37 penal law, sexual abuse in the first degree as defined in section 130.65
38 of the penal law, unlawful imprisonment in the first degree as defined
39 in section 135.10 of the penal law, kidnapping in the second degree as
40 defined in section 135.20 of the penal law, kidnapping in the first
41 degree as defined in section 135.25 of the penal law, labor trafficking
42 as defined in section 135.35 of the penal law, custodial interference in
43 the first degree as defined in section 135.50 of the penal law, coercion
44 in the first degree as defined in section 135.65 of the penal law, crim-
45 inal trespass in the first degree as defined in section 140.17 of the
46 penal law, burglary in the third degree as defined in section 140.20 of
47 the penal law, burglary in the second degree as defined in section
48 140.25 of the penal law, burglary in the first degree as defined in
49 section 140.30 of the penal law, criminal mischief in the third degree
50 as defined in section 145.05 of the penal law, criminal mischief in the
51 second degree as defined in section 145.10 of the penal law, criminal
52 mischief in the first degree as defined in section 145.12 of the penal
53 law, criminal tampering in the first degree as defined in section 145.20
54 of the penal law, arson in the fourth degree as defined in section
55 150.05 of the penal law, arson in the third degree as defined in section
56 150.10 of the penal law, arson in the second degree as defined in

1 section 150.15 of the penal law, arson in the first degree as defined in
2 section 150.20 of the penal law, grand larceny in the fourth degree as
3 defined in section 155.30 of the penal law, grand larceny in the third
4 degree as defined in section 155.35 of the penal law, grand larceny in
5 the second degree as defined in section 155.40 of the penal law, grand
6 larceny in the first degree as defined in section 155.42 of the penal
7 law, health care fraud in the fourth degree as defined in section 177.10
8 of the penal law, health care fraud in the third degree as defined in
9 section 177.15 of the penal law, health care fraud in the second degree
10 as defined in section 177.20 of the penal law, health care fraud in the
11 first degree as defined in section 177.25 of the penal law, robbery in
12 the third degree as defined in section 160.05 of the penal law, robbery
13 in the second degree as defined in section 160.10 of the penal law,
14 robbery in the first degree as defined in section 160.15 of the penal
15 law, unlawful use of secret scientific material as defined in section
16 165.07 of the penal law, criminal possession of stolen property in the
17 fourth degree as defined in section 165.45 of the penal law, criminal
18 possession of stolen property in the third degree as defined in section
19 165.50 of the penal law, criminal possession of stolen property in the
20 second degree as defined by section 165.52 of the penal law, criminal
21 possession of stolen property in the first degree as defined by section
22 165.54 of the penal law, trademark counterfeiting in the second degree
23 as defined in section 165.72 of the penal law, trademark counterfeiting
24 in the first degree as defined in section 165.73 of the penal law,
25 forgery in the second degree as defined in section 170.10 of the penal
26 law, forgery in the first degree as defined in section 170.15 of the
27 penal law, criminal possession of a forged instrument in the second
28 degree as defined in section 170.25 of the penal law, criminal
29 possession of a forged instrument in the first degree as defined in
30 section 170.30 of the penal law, criminal possession of forgery devices
31 as defined in section 170.40 of the penal law, falsifying business
32 records in the first degree as defined in section 175.10 of the penal
33 law, tampering with public records in the first degree as defined in
34 section 175.25 of the penal law, offering a false instrument for filing
35 in the first degree as defined in section 175.35 of the penal law, issu-
36 ing a false certificate as defined in section 175.40 of the penal law,
37 criminal diversion of prescription medications and prescriptions in the
38 second degree as defined in section 178.20 of the penal law, criminal
39 diversion of prescription medications and prescriptions in the first
40 degree as defined in section 178.25 of the penal law, residential mort-
41 gage fraud in the fourth degree as defined in section 187.10 of the
42 penal law, residential mortgage fraud in the third degree as defined in
43 section 187.15 of the penal law, residential mortgage fraud in the
44 second degree as defined in section 187.20 of the penal law, residential
45 mortgage fraud in the first degree as defined in section 187.25 of the
46 penal law, escape in the second degree as defined in section 205.10 of
47 the penal law, escape in the first degree as defined in section 205.15
48 of the penal law, absconding from temporary release in the first degree
49 as defined in section 205.17 of the penal law, promoting prison contra-
50 band in the first degree as defined in section 205.25 of the penal law,
51 hindering prosecution in the second degree as defined in section 205.60
52 of the penal law, hindering prosecution in the first degree as defined
53 in section 205.65 of the penal law, sex trafficking as defined in
54 section 230.34 of the penal law, criminal possession of a weapon in the
55 third degree as defined in subdivisions two, three and five of section
56 265.02 of the penal law, criminal possession of a weapon in the second

1 degree as defined in section 265.03 of the penal law, criminal
2 possession of a weapon in the first degree as defined in section 265.04
3 of the penal law, manufacture, transport, disposition and defacement of
4 weapons and dangerous instruments and appliances defined as felonies in
5 subdivisions one, two, and three of section 265.10 of the penal law,
6 sections 265.11, 265.12 and 265.13 of the penal law, or prohibited use
7 of weapons as defined in subdivision two of section 265.35 of the penal
8 law, relating to firearms and other dangerous weapons, or failure to
9 disclose the origin of a recording in the first degree as defined in
10 section 275.40 of the penal law;

11 S 21. Paragraph (a) of subdivision 4 of section 509-cc of the vehicle
12 and traffic law, as amended by chapter 400 of the laws of 2011, is
13 amended to read as follows:

14 (a) The offenses referred to in subparagraph (ii) of paragraph (a) of
15 subdivision one and paragraph (a) of subdivision two of this section
16 that result in permanent disqualification shall include a conviction
17 under sections 125.12, 125.13, 125.14, 125.15, 125.20, 125.21, 125.22,
18 125.25, 125.26, 125.27, 130.30, 130.35, 130.45, 130.50, 130.65, 130.66,
19 130.67, 130.70, 130.75, 130.80, 130.90, 130.95, 130.96, 135.25, 150.20,
20 230.30, 230.32, 230.34, 235.22, 263.05, 263.10, 263.11, 263.15, 263.16
21 of the penal law or an attempt to commit any of the aforesaid offenses
22 under section 110.00 of the penal law, OR A CHILD ABUSE OFFENSE AS
23 DEFINED IN SUBDIVISION TWENTY-TWO OF SECTION 10.00 OF THE PENAL LAW, or
24 any offenses committed under a former section of the penal law which
25 would constitute violations of the aforesaid sections of the penal law,
26 or any offenses committed outside this state which would constitute
27 violations of the aforesaid sections of the penal law.

28 S 22. Section 4-1.6 of the estates, powers and trusts law, as added by
29 chapter 481 of the laws of 1994, is amended to read as follows:

30 S 4-1.6 Disqualification of joint tenant in certain instances

31 Notwithstanding any other provision of law to the contrary, a joint
32 tenant convicted of murder in the second degree as defined in section
33 125.25 of the penal law or murder in the first degree as defined in
34 section 125.27 of the penal law OR AGGRAVATED MURDER OF A CHILD AS
35 DEFINED IN SECTION 125.28 OF THE PENAL LAW of another joint tenant shall
36 not be entitled to the distribution of any monies in a joint bank
37 account created or contributed to by the deceased joint tenant, except
38 for those monies contributed by the convicted joint tenant.

39 Upon the conviction of such joint tenant of first or second degree
40 murder and upon application by the prosecuting attorney, the court, as
41 part of its sentence, shall issue an order directing the amount of any
42 joint bank account to be distributed pursuant to the provisions of this
43 section from the convicted joint tenant and to the deceased joint
44 tenant's estate. The court and the prosecuting attorney shall each have
45 the power to subpoena records of a banking institution to determine the
46 amount of money in such bank account and by whom deposits were made. The
47 court shall also have the power to freeze such account upon application
48 by the prosecuting attorney during the pendency of a trial for first or
49 second degree murder. If, upon receipt of such court orders described in
50 this section, the banking institution holding monies in such joint
51 account complies with the terms of the order, such banking institution
52 shall be held free from all liability for the distribution of such funds
53 as were in such joint account. In the absence of actual or constructive
54 notice of such order, the banking institution holding monies in such
55 account shall be held harmless for distributing the money according to
56 its ordinary course of business.

1 For purposes of this section, the term banking institution shall have
2 the same meaning as provided for in paragraph (b) of subdivision three
3 of section nine-f of the banking law.

4 S 23. Paragraphs (a) and (d) of subdivision 7 of section 995 of the
5 executive law, paragraph (a) as separately amended by chapters 2 and 320
6 of the laws of 2006 and paragraph (d) as amended by chapter 2 of the
7 laws of 2006, are amended to read as follows:

8 (a) sections 120.05, 120.10, and 120.11, relating to assault; sections
9 125.15 through [125.27] 125.28 relating to homicide; sections 130.25,
10 130.30, 130.35, 130.40, 130.45, 130.50, 130.65, 130.67 and 130.70,
11 relating to sex offenses; sections 205.10, 205.15, 205.17 and 205.19,
12 relating to escape and other offenses, where the offender has been
13 convicted within the previous five years of one of the other felonies
14 specified in this subdivision; or sections 255.25, 255.26 and 255.27,
15 relating to incest, a violent felony offense as defined in subdivision
16 one of section 70.02 of the penal law, attempted murder in the first
17 degree, as defined in section 110.00 and section 125.27 of the penal
18 law, kidnapping in the first degree, as defined in section 135.25 of the
19 penal law, arson in the first degree, as defined in section 150.20 of
20 the penal law, burglary in the third degree, as defined in section
21 140.20 of the penal law, attempted burglary in the third degree, as
22 defined in section 110.00 and section 140.20 of the penal law, a felony
23 defined in article four hundred ninety of the penal law relating to
24 terrorism or any attempt to commit an offense defined in such article
25 relating to terrorism which is a felony; or

26 (d) any of the following felonies, or an attempt thereof where such
27 attempt is a felony offense:

28 AGGRAVATED ABUSE OF A CHILD IN THE THIRD DEGREE, AS DEFINED IN SECTION
29 120.01 OF THE PENAL LAW; AGGRAVATED ABUSE OF A CHILD IN THE SECOND
30 DEGREE, AS DEFINED IN SECTION 120.19 OF THE PENAL LAW; AGGRAVATED ABUSE
31 OF A CHILD IN THE FIRST DEGREE, AS DEFINED IN SECTION 120.19-A OF THE
32 PENAL LAW; aggravated assault upon a person less than eleven years old,
33 as defined in section 120.12 of the penal law; menacing in the first
34 degree, as defined in section 120.13 of the penal law; reckless endan-
35 germent in the first degree, as defined in section 120.25 of the penal
36 law; stalking in the second degree, as defined in section 120.55 of the
37 penal law; criminally negligent homicide, as defined in section 125.10
38 of the penal law; vehicular manslaughter in the second degree, as
39 defined in section 125.12 of the penal law; vehicular manslaughter in
40 the first degree, as defined in section 125.13 of the penal law;
41 persistent sexual abuse, as defined in section 130.53 of the penal law;
42 aggravated sexual abuse in the fourth degree, as defined in section
43 130.65-a of the penal law; female genital mutilation, as defined in
44 section 130.85 of the penal law; facilitating a sex offense with a
45 controlled substance, as defined in section 130.90 of the penal law;
46 unlawful imprisonment in the first degree, as defined in section 135.10
47 of the penal law; custodial interference in the first degree, as defined
48 in section 135.50 of the penal law; criminal trespass in the first
49 degree, as defined in section 140.17 of the penal law; criminal tamper-
50 ing in the first degree, as defined in section 145.20 of the penal law;
51 tampering with a consumer product in the first degree, as defined in
52 section 145.45 of the penal law; robbery in the third degree as defined
53 in section 160.05 of the penal law; identity theft in the second degree,
54 as defined in section 190.79 of the penal law; identity theft in the
55 first degree, as defined in section 190.80 of the penal law; promoting
56 prison contraband in the first degree, as defined in section 205.25 of

1 the penal law; tampering with a witness in the third degree, as defined
2 in section 215.11 of the penal law; tampering with a witness in the
3 second degree, as defined in section 215.12 of the penal law; tampering
4 with a witness in the first degree, as defined in section 215.13 of the
5 penal law; criminal contempt in the first degree, as defined in subdivi-
6 sions (b), (c) and (d) of section 215.51 of the penal law; aggravated
7 criminal contempt, as defined in section 215.52 of the penal law; bail
8 jumping in the second degree, as defined in section 215.56 of the penal
9 law; bail jumping in the first degree, as defined in section 215.57 of
10 the penal law; patronizing a prostitute in the second degree, as defined
11 in section 230.05 of the penal law; patronizing a prostitute in the
12 first degree, as defined in section 230.06 of the penal law; promoting
13 prostitution in the second degree, as defined in section 230.30 of the
14 penal law; promoting prostitution in the first degree, as defined in
15 section 230.32 of the penal law; compelling prostitution, as defined in
16 section 230.33 of the penal law; disseminating indecent materials to
17 minors in the second degree, as defined in section 235.21 of the penal
18 law; disseminating indecent materials to minors in the first degree, as
19 defined in section 235.22 of the penal law; riot in the first degree, as
20 defined in section 240.06 of the penal law; criminal anarchy, as defined
21 in section 240.15 of the penal law; aggravated harassment of an employee
22 by an inmate, as defined in section 240.32 of the penal law; unlawful
23 surveillance in the second degree, as defined in section 250.45 of the
24 penal law; unlawful surveillance in the first degree, as defined in
25 section 250.50 of the penal law; AGGRAVATED ENDANGERING THE WELFARE OF A
26 CHILD, AS DEFINED IN SECTION 260.09 OF THE PENAL LAW; endangering the
27 welfare of a vulnerable elderly person in the second degree, as defined
28 in section 260.32 of the penal law; endangering the welfare of a vulner-
29 able elderly person in the first degree, as defined in section 260.34 of
30 the penal law; use of a child in a sexual performance, as defined in
31 section 263.05 of the penal law; promoting an obscene sexual performance
32 by a child, as defined in section 263.10 of the penal law; possessing an
33 obscene sexual performance by a child, as defined in section 263.11 of
34 the penal law; promoting a sexual performance by a child, as defined in
35 section 263.15 of the penal law; possessing a sexual performance by a
36 child, as defined in section 263.16 of the penal law; criminal
37 possession of a weapon in the third degree, as defined in section 265.02
38 of the penal law; criminal sale of a firearm in the third degree, as
39 defined in section 265.11 of the penal law; criminal sale of a firearm
40 to a minor, as defined in section 265.16 of the penal law; unlawful
41 wearing of a body vest, as defined in section 270.20 of the penal law;
42 hate crimes as defined in section 485.05 of the penal law; and crime of
43 terrorism, as defined in section 490.25 of the penal law;

44 S 24. Subparagraph 2 of paragraph (b) of subdivision 3 of section
45 358-a of the social services law, as added by chapter 7 of the laws of
46 1999, is amended to read as follows:

47 (2) the parent of such child has been convicted of (i) AGGRAVATED
48 MANSLAUGHTER OF A CHILD AS DEFINED IN SECTION 125.23 OR AGGRAVATED
49 MURDER OF A CHILD AS DEFINED IN SECTION 125.28 OR murder in the first
50 degree as defined in section 125.27 or murder in the second degree as
51 defined in section 125.25 of the penal law and the victim was another
52 child of the parent; or (ii) manslaughter in the first degree as defined
53 in section 125.20 or manslaughter in the second degree as defined in
54 section 125.15 of the penal law and the victim was another child of the
55 parent, provided, however, that the parent must have acted voluntarily
56 in committing such crime;

1 S 25. Clause (A) of subparagraph (iii) of paragraph (a) of subdivision
2 8 of section 384-b of the social services law, as amended by chapter 460
3 of the laws of 2006, is amended to read as follows:

4 (A) the parent of such child has been convicted of AGGRAVATED
5 MANSLAUGHTER OF A CHILD AS DEFINED IN SECTION 125.23, AGGRAVATED MURDER
6 OF A CHILD AS DEFINED IN SECTION 125.28, murder in the first degree as
7 defined in section 125.27, murder in the second degree as defined in
8 section 125.25, manslaughter in the first degree as defined in section
9 125.20, or manslaughter in the second degree as defined in section
10 125.15, and the victim of any such crime was another child of the parent
11 or another child for whose care such parent is or has been legally
12 responsible as defined in subdivision (g) of section one thousand twelve
13 of the family court act, or another parent of the child, unless the
14 convicted parent was a victim of physical, sexual or psychological abuse
15 by the decedent parent and such abuse was a factor in causing the homi-
16 cide; or has been convicted of an attempt to commit any of the foregoing
17 crimes, and the victim or intended victim was the child or another child
18 of the parent or another child for whose care such parent is or has been
19 legally responsible as defined in subdivision (g) of section one thou-
20 sand twelve of the family court act, or another parent of the child,
21 unless the convicted parent was a victim of physical, sexual or psycho-
22 logical abuse by the decedent parent and such abuse was a factor in
23 causing the attempted homicide;

24 S 26. This act shall take effect on the sixtieth day after it shall
25 have become a law; provided however that if chapter 400 of the laws of
26 2011 shall not have taken effect on or before such date then section
27 twenty-one of this act shall take effect on the same date and in the
28 same manner as such chapter of the laws of 2011 takes effect.