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

8597

2011-2012 Regular Sessions

I N A S S E M B L Y

September 21, 2011

Introduced by M. of A. ORTIZ, SWEENEY, P. RIVERA, JOHNS, LATIMER -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to making it a felony to knowingly and intentionally fail to report the death or disappearance of a child

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

Section 1. The penal law is amended by adding a new section 260.35 to read as follows:

S 260.35 FAILURE TO REPORT THE DEATH OR DISAPPEARANCE OF A CHILD.

A PERSON IS GUILTY OF FAILURE TO REPORT THE DEATH OR DISAPPEARANCE OF A CHILD WHEN:

1. HE OR SHE IS THE PARENT, GUARDIAN OR OTHER PERSON LEGALLY CHARGED WITH THE CARE OR CUSTODY OF A CHILD LESS THAN SIXTEEN YEARS OLD AND KNOWINGLY OR INTENTIONALLY FAILS TO REPORT THE DEATH OF SUCH CHILD TO PROPER AUTHORITIES OR NOTIFY LAW ENFORCEMENT IMMEDIATELY UPON THE DISCOVERY OF THE DEATH OF SUCH CHILD, REGARDLESS OF WHETHER SUCH DEATH WAS ACCIDENTAL OR INTENTIONAL.

2. HE OR SHE IS THE PARENT, GUARDIAN OR OTHER PERSON LEGALLY CHARGED WITH THE CARE OR CUSTODY OF A CHILD LESS THAN SIXTEEN YEARS OLD AND KNOWINGLY OR INTENTIONALLY FAILS TO NOTIFY LAW ENFORCEMENT IN A TIMELY MANNER NOT TO EXCEED TWENTY-FOUR HOURS, UPON THE DISCOVERY OF THE DISAPPEARANCE OF SUCH CHILD.

3. AN INDIVIDUAL SHALL NOT BE PROSECUTED UNDER THIS SECTION IF THE FAILURE TO REPORT TO PROPER AUTHORITIES OR TO NOTIFY LAW ENFORCEMENT WAS THE DIRECT RESULT OF PHYSICAL THREATS, FEAR THAT THE CHILD MAY BE HARMED IF LAW ENFORCEMENT WERE NOTIFIED OR IF THE PERSON IN PHYSICAL POSSESSION OF THE CHILD IS THE NON-CUSTODIAL PARENT.

FAILURE TO REPORT THE DEATH OR DISAPPEARANCE OF A CHILD IS A CLASS D FELONY.

S 2. This act shall take effect immediately.

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

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