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Cal. No. 384

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sens. GRISANTI, AVELLA, BONACIC, FLANAGAN, GALLIVAN, GOLD-  
EN, GRIFFO, HASSELL-THOMPSON, LARKIN, LIBOUS, MARTINS, MAZIARZ, VALE-  
SKY, YOUNG -- read twice and ordered printed, and when printed to be  
committed to the Committee on Codes -- committee discharged, bill  
amended, ordered reprinted as amended and recommitted to said commit-  
tee -- reported favorably from said committee and committed to the  
Committee on Rules -- reported favorably from said committee, ordered  
to a third reading, passed by Senate and delivered to the Assembly,  
recalled, vote reconsidered, restored to third reading, amended and  
ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the penal law, the criminal procedure law, the vehicle  
and traffic law, the estates, powers and trusts 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, obstructing 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 ASSEM-  
BLY, 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 22 and 23 to read as follows:

5 22. "PERSON IN A POSITION OF TRUST" MEANS ANY PERSON WHO IS CHARGED  
6 WITH ANY DUTY OR RESPONSIBILITY FOR THE HEALTH, EDUCATION, WELFARE,

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

LBD04973-04-3

1 SUPERVISION OR CARE OF ANOTHER PERSON, EITHER INDEPENDENTLY OR THROUGH  
2 ANOTHER PERSON, NO MATTER HOW BRIEF.

3 23. "CHILD ABUSE OFFENSE" MEANS:

4 (A) PATRONIZING A PROSTITUTE IN THE SECOND DEGREE AS DEFINED IN  
5 SECTION 230.05; PATRONIZING A PROSTITUTE IN THE FIRST DEGREE AS DEFINED  
6 IN SECTION 230.06; PROMOTING PROSTITUTION IN THE SECOND DEGREE AS  
7 DEFINED IN SUBDIVISION TWO OF SECTION 230.30; PROMOTING PROSTITUTION IN  
8 THE FIRST DEGREE AS DEFINED IN SECTION 230.32; DISSEMINATING INDECENT  
9 MATERIAL TO MINORS IN THE SECOND DEGREE AS DEFINED IN SECTION 235.21;  
10 DISSEMINATING INDECENT MATERIAL TO MINORS IN THE FIRST DEGREE AS DEFINED  
11 IN SECTION 235.22; ABANDONMENT OF A CHILD AS DEFINED IN SECTION 260.00;  
12 NON-SUPPORT OF A CHILD IN THE SECOND DEGREE AS DEFINED IN SECTION  
13 260.05; NON-SUPPORT OF A CHILD IN THE FIRST DEGREE AS DEFINED IN SECTION  
14 260.06; AGGRAVATED ENDANGERING THE WELFARE OF A CHILD AS DEFINED IN  
15 SECTION 260.09; ENDANGERING THE WELFARE OF A CHILD AS DEFINED IN SECTION  
16 260.10; UNLAWFULLY DEALING WITH A CHILD IN THE FIRST DEGREE AS DEFINED  
17 IN SECTION 260.20; UNLAWFULLY DEALING WITH A CHILD IN THE SECOND DEGREE  
18 AS DEFINED IN SECTION 260.21; OR AN OFFENSE DEFINED IN ARTICLE TWO  
19 HUNDRED SIXTY-THREE OF THIS CHAPTER; OR

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

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

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

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

31 S 60.06 Authorized disposition; murder in the first degree offenders;  
32 aggravated murder offenders; AGGRAVATED MURDER OF A CHILD  
33 OFFENDERS; certain murder in the second degree offenders;  
34 certain terrorism offenders; criminal possession of a chemical  
35 weapon or biological weapon offenders; criminal use of a chem-  
36 ical weapon or biological weapon offenders.

37 When a defendant is convicted of murder in the first degree as defined  
38 in section 125.27 of this chapter, the court shall, in accordance with  
39 the provisions of section 400.27 of the criminal procedure law, sentence  
40 the defendant to death, to life imprisonment without parole in accord-  
41 ance with subdivision five of section 70.00 of this title, or to a term  
42 of imprisonment for a class A-I felony other than a sentence of life  
43 imprisonment without parole, in accordance with subdivisions one through  
44 three of section 70.00 of this title. When a person is convicted [of  
45 murder in the second degree as defined in subdivision five of section  
46 125.25 of this chapter or] of the crime of aggravated murder as defined  
47 in subdivision one of section 125.26 of this chapter OR OF THE CRIME OF  
48 AGGRAVATED MURDER OF A CHILD AS DEFINED IN SECTION 125.28 OF THIS CHAP-  
49 TER, the court shall sentence the defendant to life imprisonment without  
50 parole in accordance with subdivision five of section 70.00 of this  
51 title. When a defendant is convicted of the crime of terrorism as  
52 defined in section 490.25 of this chapter, and the specified offense the  
53 defendant committed is a class A-I felony offense, or when a defendant  
54 is convicted of the crime of criminal possession of a chemical weapon or  
55 biological weapon in the first degree as defined in section 490.45 of  
56 this chapter, or when a defendant is convicted of the crime of criminal

1 use of a chemical weapon or biological weapon in the first degree as  
2 defined in section 490.55 of this chapter, the court shall sentence the  
3 defendant to life imprisonment without parole in accordance with subdi-  
4 vision five of section 70.00 of this title; provided, however, that  
5 nothing in this section shall preclude or prevent a sentence of death  
6 when the defendant is also convicted of murder in the first degree as  
7 defined in section 125.27 of this chapter. When a defendant is convicted  
8 of aggravated murder as defined in subdivision two of section 125.26 of  
9 this chapter, the court shall sentence the defendant to life imprison-  
10 ment without parole or to a term of imprisonment for a class A-I felony  
11 other than a sentence of life imprisonment without parole, in accordance  
12 with subdivisions one through three of section 70.00 of this title.

13 S 4. Subparagraph (i) of paragraph (a) of subdivision 3 of section  
14 70.00 of the penal law, as amended by chapter 107 of the laws of 2006,  
15 is amended to read as follows:

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

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

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

1 convicted of the crime of murder in the first degree as defined in  
2 section 125.27 of this chapter. A defendant must be sentenced to life  
3 imprisonment without parole upon conviction [for the crime of murder in  
4 the second degree as defined in subdivision five of section 125.25 of  
5 this chapter or] for the crime of aggravated murder as defined in subdi-  
6 vision one of section 125.26 of this chapter OR FOR THE CRIME OF AGGRA-  
7 VATED MURDER OF A CHILD AS DEFINED IN SECTION 125.28 OF THIS CHAPTER. A  
8 defendant may be sentenced to life imprisonment without parole upon  
9 conviction for the crime of aggravated murder as defined in subdivision  
10 two of section 125.26 of this chapter.

11 S 6. Paragraphs (a), (b) and (c) of subdivision 1 of section 70.02 of  
12 the penal law, paragraph (a) as amended by chapter 320 of the laws of  
13 2006 and paragraphs (b) and (c) as amended by chapter 1 of the laws of  
14 2013, are amended to read as follows:

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

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

1 degree as defined in section 265.12, criminal sale of a firearm with the  
2 aid of a minor as defined in section 265.14, aggravated criminal  
3 possession of a weapon as defined in section 265.19, soliciting or  
4 providing support for an act of terrorism in the first degree as defined  
5 in section 490.15, hindering prosecution of terrorism in the second  
6 degree as defined in section 490.30, and criminal possession of a chemi-  
7 cal weapon or biological weapon in the third degree as defined in  
8 section 490.37.

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

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

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

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

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

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

1 the care of such provider or employee who is less than eleven years of  
2 age].

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

5 S 9. The penal law is amended by adding two new sections 120.19 and  
6 120.19-a to read as follows:

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

8 A PERSON IS GUILTY OF AGGRAVATED ABUSE OF A CHILD IN THE SECOND DEGREE  
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 THAN FOURTEEN YEARS OLD, HE OR  
13 SHE:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

50 S 10. The penal law is amended by adding two new sections 125.23 and  
51 125.28 to read as follows:

52 S 125.23 AGGRAVATED MANSLAUGHTER OF A CHILD.

53 A PERSON IS GUILTY OF AGGRAVATED MANSLAUGHTER OF A CHILD WHEN, BEING  
54 EIGHTEEN YEARS OLD OR MORE, AND BEING A PARENT, GUARDIAN OR OTHER PERSON  
55 LEGALLY CHARGED WITH THE CUSTODY OF, OR LEGALLY RESPONSIBLE FOR THE CARE  
56 OF, A CHILD LESS THAN FOURTEEN YEARS OLD, OR BEING A PERSON IN A POSI-

1 TION OF TRUST OF A CHILD LESS THAN FOURTEEN YEARS OLD, HE OR SHE RECK-  
2 LESSLY ENGAGES IN CONDUCT WHICH CREATES A GRAVE RISK OF SERIOUS PHYSICAL  
3 INJURY OR DEATH TO SUCH CHILD AND THEREBY CAUSES THE DEATH OF SUCH  
4 CHILD.

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

6 S 125.28 AGGRAVATED MURDER OF A CHILD.

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

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

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

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

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

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

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

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

37 S 13. Subparagraph (ix) of paragraph (a) of subdivision 1 of section  
38 125.27 of the penal law, as added by chapter 1 of the laws of 1995, is  
39 amended to read as follows:

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

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

48 S 190.17 OBSTRUCTING THE LOCATION OF A MISSING CHILD.

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

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

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

1 S 190.18 CONCEALMENT OF A DEATH.

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

5 CONCEALMENT OF A DEATH IS A CLASS D FELONY.

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

8 S 260.09 AGGRAVATED ENDANGERING THE WELFARE OF A CHILD.

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

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

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

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

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

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

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

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

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

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

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

1 125.27, 125.28, 255.25, 255.26 [or], 255.27 OR 260.09 of the penal law  
2 provided that the district attorney consents. Such support person shall  
3 not provide the witness with an answer to any question or otherwise  
4 participate in such proceeding and shall first take an oath before the  
5 grand jury that he or she will keep secret all matters before such grand  
6 jury within his or her knowledge.

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

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

1 150.10 of the penal law, arson in the second degree as defined in  
2 section 150.15 of the penal law, arson in the first degree as defined in  
3 section 150.20 of the penal law, grand larceny in the fourth degree as  
4 defined in section 155.30 of the penal law, grand larceny in the third  
5 degree as defined in section 155.35 of the penal law, grand larceny in  
6 the second degree as defined in section 155.40 of the penal law, grand  
7 larceny in the first degree as defined in section 155.42 of the penal  
8 law, health care fraud in the fourth degree as defined in section 177.10  
9 of the penal law, health care fraud in the third degree as defined in  
10 section 177.15 of the penal law, health care fraud in the second degree  
11 as defined in section 177.20 of the penal law, health care fraud in the  
12 first degree as defined in section 177.25 of the penal law, robbery in  
13 the third degree as defined in section 160.05 of the penal law, robbery  
14 in the second degree as defined in section 160.10 of the penal law,  
15 robbery in the first degree as defined in section 160.15 of the penal  
16 law, unlawful use of secret scientific material as defined in section  
17 165.07 of the penal law, criminal possession of stolen property in the  
18 fourth degree as defined in section 165.45 of the penal law, criminal  
19 possession of stolen property in the third degree as defined in section  
20 165.50 of the penal law, criminal possession of stolen property in the  
21 second degree as defined by section 165.52 of the penal law, criminal  
22 possession of stolen property in the first degree as defined by section  
23 165.54 of the penal law, trademark counterfeiting in the second degree  
24 as defined in section 165.72 of the penal law, trademark counterfeiting  
25 in the first degree as defined in section 165.73 of the penal law,  
26 forgery in the second degree as defined in section 170.10 of the penal  
27 law, forgery in the first degree as defined in section 170.15 of the  
28 penal law, criminal possession of a forged instrument in the second  
29 degree as defined in section 170.25 of the penal law, criminal  
30 possession of a forged instrument in the first degree as defined in  
31 section 170.30 of the penal law, criminal possession of forgery devices  
32 as defined in section 170.40 of the penal law, falsifying business  
33 records in the first degree as defined in section 175.10 of the penal  
34 law, tampering with public records in the first degree as defined in  
35 section 175.25 of the penal law, offering a false instrument for filing  
36 in the first degree as defined in section 175.35 of the penal law, issu-  
37 ing a false certificate as defined in section 175.40 of the penal law,  
38 criminal diversion of prescription medications and prescriptions in the  
39 second degree as defined in section 178.20 of the penal law, criminal  
40 diversion of prescription medications and prescriptions in the first  
41 degree as defined in section 178.25 of the penal law, residential mort-  
42 gage fraud in the fourth degree as defined in section 187.10 of the  
43 penal law, residential mortgage fraud in the third degree as defined in  
44 section 187.15 of the penal law, residential mortgage fraud in the  
45 second degree as defined in section 187.20 of the penal law, residential  
46 mortgage fraud in the first degree as defined in section 187.25 of the  
47 penal law, escape in the second degree as defined in section 205.10 of  
48 the penal law, escape in the first degree as defined in section 205.15  
49 of the penal law, absconding from temporary release in the first degree  
50 as defined in section 205.17 of the penal law, promoting prison contra-  
51 band in the first degree as defined in section 205.25 of the penal law,  
52 hindering prosecution in the second degree as defined in section 205.60  
53 of the penal law, hindering prosecution in the first degree as defined  
54 in section 205.65 of the penal law, sex trafficking as defined in  
55 section 230.34 of the penal law, criminal possession of a weapon in the  
56 third degree as defined in subdivisions two, three and five of section

1 265.02 of the penal law, criminal possession of a weapon in the second  
2 degree as defined in section 265.03 of the penal law, criminal  
3 possession of a weapon in the first degree as defined in section 265.04  
4 of the penal law, manufacture, transport, disposition and defacement of  
5 weapons and dangerous instruments and appliances defined as felonies in  
6 subdivisions one, two, and three of section 265.10 of the penal law,  
7 sections 265.11, 265.12 and 265.13 of the penal law, or prohibited use  
8 of weapons as defined in subdivision two of section 265.35 of the penal  
9 law, relating to firearms and other dangerous weapons, or failure to  
10 disclose the origin of a recording in the first degree as defined in  
11 section 275.40 of the penal law;

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

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

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

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

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

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

1 account shall be held harmless for distributing the money according to  
2 its ordinary course of business.

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

6 S 23. Subparagraph 2 of paragraph (b) of subdivision 3 of section  
7 358-a of the social services law, as added by chapter 7 of the laws of  
8 1999, is amended to read as follows:

9 (2) the parent of such child has been convicted of (i) AGGRAVATED  
10 MANSLAUGHTER OF A CHILD AS DEFINED IN SECTION 125.23 OR AGGRAVATED  
11 MURDER OF A CHILD AS DEFINED IN SECTION 125.28 OR murder in the first  
12 degree as defined in section 125.27 or murder in the second degree as  
13 defined in section 125.25 of the penal law and the victim was another  
14 child of the parent; or (ii) manslaughter in the first degree as defined  
15 in section 125.20 or manslaughter in the second degree as defined in  
16 section 125.15 of the penal law and the victim was another child of the  
17 parent, provided, however, that the parent must have acted voluntarily  
18 in committing such crime;

19 S 24. Clause (A) of subparagraph (iii) of paragraph (a) of subdivision  
20 8 of section 384-b of the social services law, as amended by chapter 460  
21 of the laws of 2006, is amended to read as follows:

22 (A) the parent of such child has been convicted of AGGRAVATED  
23 MANSLAUGHTER OF A CHILD AS DEFINED IN SECTION 125.23, AGGRAVATED MURDER  
24 OF A CHILD AS DEFINED IN SECTION 125.28, murder in the first degree as  
25 defined in section 125.27, murder in the second degree as defined in  
26 section 125.25, manslaughter in the first degree as defined in section  
27 125.20, or manslaughter in the second degree as defined in section  
28 125.15 OF THE PENAL LAW, and the victim of any such crime was another  
29 child of the parent or another child for whose care such parent is or  
30 has been legally responsible as defined in subdivision (g) of section  
31 one thousand twelve of the family court act, or another parent of the  
32 child, unless the convicted parent was a victim of physical, sexual or  
33 psychological abuse by the decedent parent and such abuse was a factor  
34 in causing the homicide; or has been convicted of an attempt to commit  
35 any of the foregoing crimes, and the victim or intended victim was the  
36 child or another child of the parent or another child for whose care  
37 such parent is or has been legally responsible as defined in subdivision  
38 (g) of section one thousand twelve of the family court act, or another  
39 parent of the child, unless the convicted parent was a victim of phys-  
40 ical, sexual or psychological abuse by the decedent parent and such  
41 abuse was a factor in causing the attempted homicide;

42 S 25. This act shall take effect on the sixtieth day after it shall  
43 have become a law.