

6575

I N   S E N A T E

February 7, 2014

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Introduced by Sen. RITCHIE -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law and the vehicle and traffic law, in relation to reckless assault of a child by a parent, guardian or other person legally charged with the child's care and endangering the welfare of a child

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

1     Section 1. Section 120.01 of the penal law, as added by chapter 600 of  
2     the laws of 1998, is amended to read as follows:  
3     S 120.01 Reckless assault of a child by a child day care provider,  
4             PARENT, GUARDIAN OR OTHER PERSON LEGALLY CHARGED WITH THE  
5             CHILD'S CARE.  
6     A person is guilty of reckless assault of a child BY A CHILD DAY CARE  
7     PROVIDER, PARENT, GUARDIAN OR OTHER PERSON LEGALLY CHARGED WITH THE  
8     CHILD'S CARE when[,]:  
9     1. being a child day care provider or an employee thereof, he or she  
10    recklessly causes serious physical injury to a child under the care of  
11    such provider or employee who is less than eleven years of age[.]; OR  
12    2. BEING A PARENT, GUARDIAN OR OTHER PERSON LEGALLY CHARGED WITH THE  
13    CARE OF A CHILD LESS THAN ELEVEN YEARS OF AGE, HE OR SHE RECKLESSLY  
14    CAUSES SERIOUS PHYSICAL INJURY TO SUCH CHILD.  
15    Reckless assault of a child by a child day care provider, PARENT,  
16    GUARDIAN OR OTHER PERSON LEGALLY CHARGED WITH THE CHILD'S CARE is a  
17    class E felony.  
18    S 2. Paragraph c of subdivision 5 of section 120.40 of the penal law,  
19    as added by chapter 635 of the laws of 1999, is amended to read as  
20    follows:  
21    c. assault in the third degree, as defined in section 120.00; menacing  
22    in the first degree, as defined in section 120.13; menacing in the  
23    second degree, as defined in section 120.14; coercion in the first  
24    degree, as defined in section 135.65; coercion in the second degree, as  
25    defined in section 135.60; aggravated harassment in the second degree,  
26    as defined in section 240.30; harassment in the first degree, as defined

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

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1 in section 240.25; menacing in the third degree, as defined in section  
2 120.15; criminal mischief in the third degree, as defined in section  
3 145.05; criminal mischief in the second degree, as defined in section  
4 145.10, criminal mischief in the first degree, as defined in section  
5 145.12; criminal tampering in the first degree, as defined in section  
6 145.20; arson in the fourth degree, as defined in section 150.05; arson  
7 in the third degree, as defined in section 150.10; criminal contempt in  
8 the first degree, as defined in section 215.51; endangering the welfare  
9 of a child IN THE SECOND DEGREE, as defined in section 260.10; ENDANGER-  
10 ING THE WELFARE OF A CHILD IN THE FIRST DEGREE, AS DEFINED IN SECTION  
11 260.09; or

12 S 3. The penal law is amended by adding a new section 260.09 to read  
13 as follows:

14 S 260.09 ENDANGERING THE WELFARE OF A CHILD IN THE FIRST DEGREE.

15 A PERSON IS GUILTY OF ENDANGERING THE WELFARE OF A CHILD IN THE FIRST  
16 DEGREE WHEN, BEING EIGHTEEN YEARS OF AGE OR OLDER, HE OR SHE KNOWINGLY  
17 ACTS IN A MANNER LIKELY TO BE INJURIOUS TO THE PHYSICAL, MENTAL OR MORAL  
18 WELFARE OF A CHILD LESS THAN THIRTEEN YEARS OLD, AND HE OR SHE, WITHIN  
19 THE PREVIOUS FIVE YEARS, HAS BEEN CONVICTED OF ENDANGERING THE WELFARE  
20 OF A CHILD IN THE SECOND DEGREE, IN VIOLATION OF SECTION 260.10 OF THIS  
21 ARTICLE OR THIS SECTION.

22 ENDANGERING THE WELFARE OF A CHILD IN THE FIRST DEGREE IS A CLASS E  
23 FELONY.

24 S 4. The section heading, the opening paragraph and the closing para-  
25 graph of section 260.10 of the penal law, as amended by chapter 447 of  
26 the laws of 2010, are amended to read as follows:

27 Endangering the welfare of a child IN THE SECOND DEGREE.

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

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

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

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

35 In any prosecution for endangering the welfare of a child[, pursuant  
36 to section 260.10 of this article,] based upon an alleged failure or  
37 refusal to provide proper medical care or treatment to an ill child, it  
38 is an affirmative defense that the defendant (a) is a parent, guardian  
39 or other person legally charged with the care or custody of such child;  
40 and (b) is a member or adherent of an organized church or religious  
41 group the tenets of which prescribe prayer as the principal treatment  
42 for illness; and (c) treated or caused such ill child to be treated in  
43 accordance with such tenets.

44 S 6. Paragraph (c) of subdivision 4 of section 509-cc of the vehicle  
45 and traffic law, as amended by chapter 400 of the laws of 2011, is  
46 amended to read as follows:

47 (c) The offenses referred to in subparagraph (i) of paragraph (b) of  
48 subdivision one and subparagraph (i) of paragraph (c) of subdivision two  
49 of this section that result in disqualification for a period of five  
50 years shall include a conviction under sections 100.10, 105.13, 115.05,  
51 120.03, 120.04, 120.04-a, 120.05, 120.10, 120.25, 121.12, 121.13,  
52 125.40, 125.45, 130.20, 130.25, 130.52, 130.55, 135.10, 135.55, 140.17,  
53 140.25, 140.30, 145.12, 150.10, 150.15, 160.05, 160.10, 220.06, 220.09,  
54 220.16, 220.31, 220.34, 220.60, 220.65, 221.30, 221.50, 221.55, 230.00,  
55 230.05, 230.06, 230.20, 235.05, 235.06, 235.07, 235.21, 240.06, 245.00,  
56 260.09, 260.10, subdivision two of section 260.20 and sections 260.25,

1 265.02, 265.03, 265.08, 265.09, 265.10, 265.12, 265.35 of the penal law  
2 or an attempt to commit any of the aforesaid offenses under section  
3 110.00 of the penal law, or any similar offenses committed under a  
4 former section of the penal law, or any offenses committed under a  
5 former section of the penal law which would constitute violations of the  
6 aforesaid sections of the penal law, or any offenses committed outside  
7 this state which would constitute violations of the aforesaid sections  
8 of the penal law.  
9 S 7. This act shall take effect on the ninetieth day after it shall  
10 have become a law.