

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

10026

I N A S S E M B L Y

June 9, 2014

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Clark) --
read once and referred to the Committee on Codes

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 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 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,
7 SUPERVISION OR CARE OF ANOTHER PERSON, EITHER INDEPENDENTLY OR THROUGH
8 ANOTHER PERSON, NO MATTER HOW BRIEF.
9 23. "CHILD ABUSE OFFENSE" MEANS:
10 (A) PATRONIZING A PROSTITUTE IN THE SECOND DEGREE AS DEFINED IN
11 SECTION 230.05; PATRONIZING A PROSTITUTE IN THE FIRST DEGREE AS DEFINED
12 IN SECTION 230.06; PROMOTING PROSTITUTION IN THE SECOND DEGREE AS
13 DEFINED IN SUBDIVISION TWO OF SECTION 230.30; PROMOTING PROSTITUTION IN
14 THE FIRST DEGREE AS DEFINED IN SECTION 230.32; DISSEMINATING INDECENT
15 MATERIAL TO MINORS IN THE SECOND DEGREE AS DEFINED IN SECTION 235.21;
16 DISSEMINATING INDECENT MATERIAL TO MINORS IN THE FIRST DEGREE AS DEFINED
17 IN SECTION 235.22; ABANDONMENT OF A CHILD AS DEFINED IN SECTION 260.00;
18 NON-SUPPORT OF A CHILD IN THE SECOND DEGREE AS DEFINED IN SECTION
19 260.05; NON-SUPPORT OF A CHILD IN THE FIRST DEGREE AS DEFINED IN SECTION

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

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1 260.06; AGGRAVATED ENDANGERING THE WELFARE OF A CHILD AS DEFINED IN
2 SECTION 260.09; ENDANGERING THE WELFARE OF A CHILD AS DEFINED IN SECTION
3 260.10; UNLAWFULLY DEALING WITH A CHILD IN THE FIRST DEGREE AS DEFINED
4 IN SECTION 260.20; UNLAWFULLY DEALING WITH A CHILD IN THE SECOND DEGREE
5 AS DEFINED IN SECTION 260.21; OR AN OFFENSE DEFINED IN ARTICLE TWO
6 HUNDRED SIXTY-THREE OF THIS CHAPTER; OR

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

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

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

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

18 S 60.06 Authorized disposition; murder in the first degree offenders;
19 aggravated murder offenders; AGGRAVATED MURDER OF A CHILD
20 OFFENDERS; certain murder in the second degree offenders;
21 certain terrorism offenders; criminal possession of a chemical
22 weapon or biological weapon offenders; criminal use of a chem-
23 ical weapon or biological weapon offenders.

24 When a defendant is convicted of murder in the first degree as defined
25 in section 125.27 of this chapter, the court shall, in accordance with
26 the provisions of section 400.27 of the criminal procedure law, sentence
27 the defendant to death, to life imprisonment without parole in accord-
28 ance with subdivision five of section 70.00 of this title, or to a term
29 of imprisonment for a class A-I felony other than a sentence of life
30 imprisonment without parole, in accordance with subdivisions one through
31 three of section 70.00 of this title. When a person is convicted [of
32 murder in the second degree as defined in subdivision five of section
33 125.25 of this chapter or] of the crime of aggravated murder as defined
34 in subdivision one of section 125.26 of this chapter OR OF THE CRIME OF
35 AGGRAVATED MURDER OF A CHILD AS DEFINED IN SECTION 125.28 OF THIS CHAP-
36 TER, the court shall sentence the defendant to life imprisonment without
37 parole in accordance with subdivision five of section 70.00 of this
38 title. When a defendant is convicted of the crime of terrorism as
39 defined in section 490.25 of this chapter, and the specified offense the
40 defendant committed is a class A-I felony offense, or when a defendant
41 is convicted of the crime of criminal possession of a chemical weapon or
42 biological weapon in the first degree as defined in section 490.45 of
43 this chapter, or when a defendant is convicted of the crime of criminal
44 use of a chemical weapon or biological weapon in the first degree as
45 defined in section 490.55 of this chapter, the court shall sentence the
46 defendant to life imprisonment without parole in accordance with subdivi-
47 sion five of section 70.00 of this title; provided, however, that
48 nothing in this section shall preclude or prevent a sentence of death
49 when the defendant is also convicted of murder in the first degree as
50 defined in section 125.27 of this chapter. When a defendant is convicted
51 of aggravated murder as defined in subdivision two of section 125.26 of
52 this chapter, the court shall sentence the defendant to life imprison-
53 ment without parole or to a term of imprisonment for a class A-I felony
54 other than a sentence of life imprisonment without parole, in accordance
55 with subdivisions one through three of section 70.00 of this title.

1 S 4. Subparagraph (i) of paragraph (a) of subdivision 3 of section
2 70.00 of the penal law, as amended by chapter 107 of the laws of 2006,
3 is amended to read as follows:

4 (i) For a class A-I felony, such minimum period shall not be less than
5 fifteen years nor more than twenty-five years; provided, however, that
6 (A) where a sentence, other than a sentence of death or life imprison-
7 ment without parole, is imposed upon a defendant convicted of murder in
8 the first degree as defined in section 125.27 of this chapter such mini-
9 mum period shall be not less than twenty years nor more than twenty-five
10 years, and, (B) where a sentence is imposed upon a defendant [convicted
11 of murder in the second degree as defined in subdivision five of section
12 125.25 of this chapter or] convicted of aggravated murder as defined in
13 section 125.26 of this chapter OR CONVICTED OF AGGRAVATED MURDER OF A
14 CHILD AS DEFINED IN SECTION 125.28 OF THIS CHAPTER, the sentence shall
15 be life imprisonment without parole, and, (C) where a sentence is
16 imposed upon a defendant convicted of attempted murder in the first
17 degree as defined in article one hundred ten of this chapter and subpar-
18 agraph (i), (ii) or (iii) of paragraph (a) of subdivision one and para-
19 graph (b) of subdivision one of section 125.27 of this chapter or
20 attempted aggravated murder as defined in article one hundred ten of
21 this chapter and section 125.26 of this chapter OR ATTEMPTED AGGRAVATED
22 MURDER OF A CHILD AS DEFINED IN ARTICLE ONE HUNDRED TEN OF THIS CHAPTER
23 AND SECTION 125.28 OF THIS CHAPTER such minimum period shall be not less
24 than twenty years nor more than forty years.

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

27 5. Life imprisonment without parole. Notwithstanding any other
28 provision of law, a defendant sentenced to life imprisonment without
29 parole shall not be or become eligible for parole or conditional
30 release. For purposes of commitment and custody, other than parole and
31 conditional release, such sentence shall be deemed to be an indetermi-
32 nate sentence. A defendant may be sentenced to life imprisonment with-
33 out parole upon conviction for the crime of murder in the first degree
34 as defined in section 125.27 of this chapter and in accordance with the
35 procedures provided by law for imposing a sentence for such crime. A
36 defendant must be sentenced to life imprisonment without parole upon
37 conviction for the crime of terrorism as defined in section 490.25 of
38 this chapter, where the specified offense the defendant committed is a
39 class A-I felony; the crime of criminal possession of a chemical weapon
40 or biological weapon in the first degree as defined in section 490.45 of
41 this chapter; or the crime of criminal use of a chemical weapon or
42 biological weapon in the first degree as defined in section 490.55 of
43 this chapter; provided, however, that nothing in this subdivision shall
44 preclude or prevent a sentence of death when the defendant is also
45 convicted of the crime of murder in the first degree as defined in
46 section 125.27 of this chapter. A defendant must be sentenced to life
47 imprisonment without parole upon conviction [for the crime of murder in
48 the second degree as defined in subdivision five of section 125.25 of
49 this chapter or] for the crime of aggravated murder as defined in subdivi-
50 sion one of section 125.26 of this chapter OR FOR THE CRIME OF AGGRA-
51 VATED MURDER OF A CHILD AS DEFINED IN SECTION 125.28 OF THIS CHAPTER. A
52 defendant may be sentenced to life imprisonment without parole upon
53 conviction for the crime of aggravated murder as defined in subdivision
54 two of section 125.26 of this chapter.

55 S 6. Paragraphs (a), (b) and (c) of subdivision 1 of section 70.02 of
56 the penal law, paragraph (a) as amended by chapter 320 of the laws of

1 2006 and paragraphs (b) and (c) as amended by chapter 1 of the laws of
2 2013, are amended to read as follows:

3 (a) Class B violent felony offenses: an attempt to commit the class
4 A-I felonies of murder in the second degree as defined in section
5 125.25, kidnapping in the first degree as defined in section 135.25, and
6 arson in the first degree as defined in section 150.20; manslaughter in
7 the first degree as defined in section 125.20, aggravated manslaughter
8 in the first degree as defined in section 125.22, AGGRAVATED MANSLAUGHTER
9 OF A CHILD AS DEFINED IN SECTION 125.23, rape in the first degree as
10 defined in section 130.35, criminal sexual act in the first degree as
11 defined in section 130.50, aggravated sexual abuse in the first degree
12 as defined in section 130.70, course of sexual conduct against a child
13 in the first degree as defined in section 130.75; assault in the first
14 degree as defined in section 120.10, kidnapping in the second degree as
15 defined in section 135.20, burglary in the first degree as defined in
16 section 140.30, arson in the second degree as defined in section 150.15,
17 robbery in the first degree as defined in section 160.15, incest in the
18 first degree as defined in section 255.27, criminal possession of a
19 weapon in the first degree as defined in section 265.04, criminal use of
20 a firearm in the first degree as defined in section 265.09, criminal
21 sale of a firearm in the first degree as defined in section 265.13,
22 aggravated assault upon a police officer or a peace officer as defined
23 in section 120.11, gang assault in the first degree as defined in
24 section 120.07, intimidating a victim or witness in the first degree as
25 defined in section 215.17, hindering prosecution of terrorism in the
26 first degree as defined in section 490.35, criminal possession of a
27 chemical weapon or biological weapon in the second degree as defined in
28 section 490.40, and criminal use of a chemical weapon or biological
29 weapon in the third degree as defined in section 490.47.

30 (b) Class C violent felony offenses: an attempt to commit any of the
31 class B felonies set forth in paragraph (a) of this subdivision; aggra-
32 vated criminally negligent homicide as defined in section 125.11, aggra-
33 vated manslaughter in the second degree as defined in section 125.21,
34 aggravated sexual abuse in the second degree as defined in section
35 130.67, assault on a peace officer, police officer, fireman or emergency
36 medical services professional as defined in section 120.08, assault on a
37 judge as defined in section 120.09, gang assault in the second degree as
38 defined in section 120.06, AGGRAVATED ABUSE OF A CHILD IN THE FIRST
39 DEGREE AS DEFINED IN SECTION 120.19-A, strangulation in the first degree
40 as defined in section 121.13, burglary in the second degree as defined
41 in section 140.25, robbery in the second degree as defined in section
42 160.10, criminal possession of a weapon in the second degree as defined
43 in section 265.03, criminal use of a firearm in the second degree as
44 defined in section 265.08, criminal sale of a firearm in the second
45 degree as defined in section 265.12, criminal sale of a firearm with the
46 aid of a minor as defined in section 265.14, aggravated criminal
47 possession of a weapon as defined in section 265.19, soliciting or
48 providing support for an act of terrorism in the first degree as defined
49 in section 490.15, hindering prosecution of terrorism in the second
50 degree as defined in section 490.30, and criminal possession of a chemi-
51 cal weapon or biological weapon in the third degree as defined in
52 section 490.37.

53 (c) Class D violent felony offenses: an attempt to commit any of the
54 class C felonies set forth in paragraph (b); reckless assault of a child
55 as defined in section 120.02, assault in the second degree as defined in
56 section 120.05, AGGRAVATED ABUSE OF A CHILD IN THE SECOND DEGREE AS

1 DEFINED IN SECTION 120.19, menacing a police officer or peace officer as
2 defined in section 120.18, stalking in the first degree, as defined in
3 subdivision one of section 120.60, strangulation in the second degree as
4 defined in section 121.12, rape in the second degree as defined in
5 section 130.30, criminal sexual act in the second degree as defined in
6 section 130.45, sexual abuse in the first degree as defined in section
7 130.65, course of sexual conduct against a child in the second degree as
8 defined in section 130.80, aggravated sexual abuse in the third degree
9 as defined in section 130.66, facilitating a sex offense with a
10 controlled substance as defined in section 130.90, criminal possession
11 of a weapon in the third degree as defined in subdivision five, six,
12 seven, eight, nine or ten of section 265.02, criminal sale of a firearm
13 in the third degree as defined in section 265.11, intimidating a victim
14 or witness in the second degree as defined in section 215.16, soliciting
15 or providing support for an act of terrorism in the second degree as
16 defined in section 490.10, and making a terroristic threat as defined in
17 section 490.20, falsely reporting an incident in the first degree as
18 defined in section 240.60, placing a false bomb or hazardous substance
19 in the first degree as defined in section 240.62, placing a false bomb
20 or hazardous substance in a sports stadium or arena, mass transportation
21 facility or enclosed shopping mall as defined in section 240.63, and
22 aggravated unpermitted use of indoor pyrotechnics in the first degree as
23 defined in section 405.18.

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

26 1. Class A-I felony when the crime attempted is the A-I felony of
27 murder in the first degree, aggravated murder as defined in subdivision
28 one of section 125.26 of this chapter, AGGRAVATED MURDER OF A CHILD,
29 criminal possession of a controlled substance in the first degree, crim-
30 inal sale of a controlled substance in the first degree, criminal
31 possession of a chemical or biological weapon in the first degree or
32 criminal use of a chemical or biological weapon in the first degree;

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

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

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

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

48 S 9. The penal law is amended by adding two new sections 120.19 and
49 120.19-a to read as follows:

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

51 A PERSON IS GUILTY OF AGGRAVATED ABUSE OF A CHILD IN THE SECOND DEGREE
52 WHEN BEING EIGHTEEN YEARS OLD OR MORE, AND BEING A PARENT, GUARDIAN OR
53 OTHER PERSON LEGALLY CHARGED WITH THE CUSTODY OF, OR LEGALLY RESPONSIBLE
54 FOR THE CARE OF, A CHILD LESS THAN FOURTEEN YEARS OLD, OR BEING A PERSON
55 IN A POSITION OF TRUST OF A CHILD LESS THAN FOURTEEN YEARS OLD, HE OR
56 SHE:

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

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

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

9 AGGRAVATED ABUSE OF A CHILD IN THE SECOND DEGREE IS A CLASS D FELONY.
10 S 120.19-A AGGRAVATED ABUSE OF A CHILD IN THE FIRST DEGREE.

11 A PERSON IS GUILTY OF AGGRAVATED ABUSE OF A CHILD IN THE FIRST DEGREE
12 WHEN BEING EIGHTEEN YEARS OLD OR MORE, AND BEING A PARENT, GUARDIAN OR
13 OTHER PERSON LEGALLY CHARGED WITH THE CUSTODY OF, OR LEGALLY RESPONSIBLE
14 FOR THE CARE OF, A CHILD LESS THAN FOURTEEN YEARS OLD, OR BEING A PERSON
15 IN A POSITION OF TRUST OF A CHILD LESS THAN FOURTEEN YEARS OLD, HE OR
16 SHE:

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

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

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

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

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

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

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

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

37 S 10. The penal law is amended by adding two new sections 125.23 and
38 125.28 to read as follows:

39 S 125.23 AGGRAVATED MANSLAUGHTER OF A CHILD.

40 A PERSON IS GUILTY OF AGGRAVATED MANSLAUGHTER OF A CHILD WHEN, BEING
41 EIGHTEEN YEARS OLD OR MORE, AND BEING A PARENT, GUARDIAN OR OTHER PERSON
42 LEGALLY CHARGED WITH THE CUSTODY OF, OR LEGALLY RESPONSIBLE FOR THE CARE
43 OF, A CHILD LESS THAN FOURTEEN YEARS OLD, OR BEING A PERSON IN A POSI-
44 TION OF TRUST OF A CHILD LESS THAN FOURTEEN YEARS OLD, HE OR SHE RECK-
45 LESSLY ENGAGES IN CONDUCT WHICH CREATES A GRAVE RISK OF SERIOUS PHYSICAL
46 INJURY OR DEATH TO SUCH CHILD AND THEREBY CAUSES THE DEATH OF SUCH
47 CHILD.

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

49 S 125.28 AGGRAVATED MURDER OF A CHILD.

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

51 1. WITH INTENT TO CAUSE THE DEATH OF A CHILD LESS THAN FOURTEEN YEARS
52 OLD, AND BEING EIGHTEEN YEARS OLD OR MORE, AND BEING THE PARENT, GUARDI-
53 AN OR OTHER PERSON LEGALLY CHARGED WITH THE CUSTODY OF, OR LEGALLY
54 RESPONSIBLE FOR THE CARE OF, SUCH CHILD, OR BEING A PERSON IN A POSITION
55 OF TRUST OF A CHILD LESS THAN FOURTEEN YEARS OLD, HE OR SHE CAUSES THE
56 DEATH OF SUCH CHILD; OR

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

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

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

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

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

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

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

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

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

S 190.17 OBSTRUCTING THE LOCATION OF A MISSING CHILD.

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

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

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

S 190.18 CONCEALMENT OF A DEATH.

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

CONCEALMENT OF A DEATH IS A CLASS D FELONY.

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

S 260.09 AGGRAVATED ENDANGERING THE WELFARE OF A CHILD.

A PERSON IS GUILTY OF AGGRAVATED ENDANGERING THE WELFARE OF A CHILD WHEN, BEING EIGHTEEN YEARS OLD OR MORE, AND BEING A PARENT, GUARDIAN OR OTHER PERSON LEGALLY CHARGED WITH THE CUSTODY OF, OR LEGALLY RESPONSIBLE FOR THE CARE OF, A CHILD LESS THAN FOURTEEN YEARS OLD, OR BEING A PERSON IN A POSITION OF TRUST OF A CHILD LESS THEN FOURTEEN YEARS OLD, HE OR

1 SHE KNOWINGLY ACTS IN A MANNER LIKELY TO BE INJURIOUS TO THE PHYSICAL,
2 MENTAL OR MORAL WELFARE OF SUCH CHILD, AND:

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

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

8 3. SUCH CONDUCT CONSISTS OF FAILING TO REPORT TO LAW ENFORCEMENT WHEN
9 THE WHEREABOUTS OF SUCH CHILD HAS BEEN UNKNOWN BY SUCH PERSON FOR MORE
10 THAN TWENTY-FOUR HOURS. FOR THE PURPOSES OF THIS SECTION, A PARENT,
11 GUARDIAN OR OTHER PERSON LEGALLY CHARGED WITH THE CUSTODY OF, OR LEGALLY
12 RESPONSIBLE FOR THE CARE OF A CHILD UNDER THE AGE OF ELEVEN IS DEEMED TO
13 BE ACTING IN A MANNER LIKELY TO BE INJURIOUS TO THE PHYSICAL, MENTAL OR
14 MORAL WELFARE OF SUCH CHILD IF SUCH CHILD'S WHEREABOUTS IS UNKNOWN BY
15 SUCH PERSON FOR MORE THAN TWENTY-FOUR HOURS.

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

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

20 (a) Subdivisions one and two do not apply to a criminal action wherein
21 the defendant is accused of an offense defined in sections 125.10,
22 125.15, 125.20, 125.25, 125.26 [and], 125.27 AND 125.28 of the penal
23 law.

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

27 1. After arraignment of a defendant upon a felony complaint, other
28 than a felony complaint charging an offense defined in section 125.10,
29 125.15, 125.20, 125.23, 125.25, 125.26 [or], 125.27 OR 125.28 of the
30 penal law, either party or the local criminal court or superior court
31 before which the action is pending, on its own motion, may move in
32 accordance with the provisions of this section for an order terminating
33 prosecution of the charges contained in such felony complaint on consent
34 of the parties.

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

38 (h) A social worker, rape crisis counselor, psychologist or other
39 professional providing emotional support to a child witness twelve years
40 old or younger who is called to give evidence in a grand jury proceeding
41 concerning a crime defined in article one hundred twenty-one, article
42 one hundred thirty, article two hundred sixty, section 120.01, 120.10,
43 120.19, 120.19-A, 125.10, 125.15, 125.20, 125.23, 125.25, 125.26,
44 125.27, 125.28, 255.25, 255.26 [or], 255.27 OR 260.09 of the penal law
45 provided that the district attorney consents. Such support person shall
46 not provide the witness with an answer to any question or otherwise
47 participate in such proceeding and shall first take an oath before the
48 grand jury that he or she will keep secret all matters before such grand
49 jury within his or her knowledge.

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

53 (b) Any of the following felonies: assault in the second degree as
54 defined in section 120.05 of the penal law, AGGRAVATED ABUSE OF A CHILD
55 IN THE THIRD DEGREE AS DEFINED IN SECTION 120.01 OF THE PENAL LAW,
56 AGGRAVATED ABUSE OF A CHILD IN THE SECOND DEGREE AS DEFINED IN SECTION

1 120.19 OF THE PENAL LAW, AGGRAVATED ABUSE OF A CHILD IN THE FIRST DEGREE
2 AS DEFINED IN SECTION 120.19-A OF THE PENAL LAW, assault in the first
3 degree as defined in section 120.10 of the penal law, reckless endanger-
4 ment in the first degree as defined in section 120.25 of the penal law,
5 promoting a suicide attempt as defined in section 120.30 of the penal
6 law, strangulation in the second degree as defined in section 121.12 of
7 the penal law, strangulation in the first degree as defined in section
8 121.13 of the penal law, criminally negligent homicide as defined in
9 section 125.10 of the penal law, manslaughter in the second degree as
10 defined in section 125.15 of the penal law, manslaughter in the first
11 degree as defined in section 125.20 of the penal law, AGGRAVATED
12 MANSLAUGHTER OF A CHILD AS DEFINED IN SECTION 125.23 OF THE PENAL LAW,
13 murder in the second degree as defined in section 125.25 of the penal
14 law, murder in the first degree as defined in section 125.27 of the
15 penal law, AGGRAVATED MURDER OF A CHILD AS DEFINED IN SECTION 125.28 OF
16 THE PENAL LAW, abortion in the second degree as defined in section
17 125.40 of the penal law, abortion in the first degree as defined in
18 section 125.45 of the penal law, rape in the third degree as defined in
19 section 130.25 of the penal law, rape in the second degree as defined in
20 section 130.30 of the penal law, rape in the first degree as defined in
21 section 130.35 of the penal law, criminal sexual act in the third degree
22 as defined in section 130.40 of the penal law, criminal sexual act in
23 the second degree as defined in section 130.45 of the penal law, crimi-
24 nal sexual act in the first degree as defined in section 130.50 of the
25 penal law, sexual abuse in the first degree as defined in section 130.65
26 of the penal law, unlawful imprisonment in the first degree as defined
27 in section 135.10 of the penal law, kidnapping in the second degree as
28 defined in section 135.20 of the penal law, kidnapping in the first
29 degree as defined in section 135.25 of the penal law, labor trafficking
30 as defined in section 135.35 of the penal law, custodial interference in
31 the first degree as defined in section 135.50 of the penal law, coercion
32 in the first degree as defined in section 135.65 of the penal law, crim-
33 inal trespass in the first degree as defined in section 140.17 of the
34 penal law, burglary in the third degree as defined in section 140.20 of
35 the penal law, burglary in the second degree as defined in section
36 140.25 of the penal law, burglary in the first degree as defined in
37 section 140.30 of the penal law, criminal mischief in the third degree
38 as defined in section 145.05 of the penal law, criminal mischief in the
39 second degree as defined in section 145.10 of the penal law, criminal
40 mischief in the first degree as defined in section 145.12 of the penal
41 law, criminal tampering in the first degree as defined in section 145.20
42 of the penal law, arson in the fourth degree as defined in section
43 150.05 of the penal law, arson in the third degree as defined in section
44 150.10 of the penal law, arson in the second degree as defined in
45 section 150.15 of the penal law, arson in the first degree as defined in
46 section 150.20 of the penal law, grand larceny in the fourth degree as
47 defined in section 155.30 of the penal law, grand larceny in the third
48 degree as defined in section 155.35 of the penal law, grand larceny in
49 the second degree as defined in section 155.40 of the penal law, grand
50 larceny in the first degree as defined in section 155.42 of the penal
51 law, health care fraud in the fourth degree as defined in section 177.10
52 of the penal law, health care fraud in the third degree as defined in
53 section 177.15 of the penal law, health care fraud in the second degree
54 as defined in section 177.20 of the penal law, health care fraud in the
55 first degree as defined in section 177.25 of the penal law, robbery in
56 the third degree as defined in section 160.05 of the penal law, robbery

1 in the second degree as defined in section 160.10 of the penal law,
2 robbery in the first degree as defined in section 160.15 of the penal
3 law, unlawful use of secret scientific material as defined in section
4 165.07 of the penal law, criminal possession of stolen property in the
5 fourth degree as defined in section 165.45 of the penal law, criminal
6 possession of stolen property in the third degree as defined in section
7 165.50 of the penal law, criminal possession of stolen property in the
8 second degree as defined by section 165.52 of the penal law, criminal
9 possession of stolen property in the first degree as defined by section
10 165.54 of the penal law, trademark counterfeiting in the second degree
11 as defined in section 165.72 of the penal law, trademark counterfeiting
12 in the first degree as defined in section 165.73 of the penal law,
13 forgery in the second degree as defined in section 170.10 of the penal
14 law, forgery in the first degree as defined in section 170.15 of the
15 penal law, criminal possession of a forged instrument in the second
16 degree as defined in section 170.25 of the penal law, criminal
17 possession of a forged instrument in the first degree as defined in
18 section 170.30 of the penal law, criminal possession of forgery devices
19 as defined in section 170.40 of the penal law, falsifying business
20 records in the first degree as defined in section 175.10 of the penal
21 law, tampering with public records in the first degree as defined in
22 section 175.25 of the penal law, offering a false instrument for filing
23 in the first degree as defined in section 175.35 of the penal law, issu-
24 ing a false certificate as defined in section 175.40 of the penal law,
25 criminal diversion of prescription medications and prescriptions in the
26 second degree as defined in section 178.20 of the penal law, criminal
27 diversion of prescription medications and prescriptions in the first
28 degree as defined in section 178.25 of the penal law, residential mort-
29 gage fraud in the fourth degree as defined in section 187.10 of the
30 penal law, residential mortgage fraud in the third degree as defined in
31 section 187.15 of the penal law, residential mortgage fraud in the
32 second degree as defined in section 187.20 of the penal law, residential
33 mortgage fraud in the first degree as defined in section 187.25 of the
34 penal law, escape in the second degree as defined in section 205.10 of
35 the penal law, escape in the first degree as defined in section 205.15
36 of the penal law, absconding from temporary release in the first degree
37 as defined in section 205.17 of the penal law, promoting prison contra-
38 band in the first degree as defined in section 205.25 of the penal law,
39 hindering prosecution in the second degree as defined in section 205.60
40 of the penal law, hindering prosecution in the first degree as defined
41 in section 205.65 of the penal law, sex trafficking as defined in
42 section 230.34 of the penal law, criminal possession of a weapon in the
43 third degree as defined in subdivisions two, three and five of section
44 265.02 of the penal law, criminal possession of a weapon in the second
45 degree as defined in section 265.03 of the penal law, criminal
46 possession of a weapon in the first degree as defined in section 265.04
47 of the penal law, manufacture, transport, disposition and defacement of
48 weapons and dangerous instruments and appliances defined as felonies in
49 subdivisions one, two, and three of section 265.10 of the penal law,
50 sections 265.11, 265.12 and 265.13 of the penal law, or prohibited use
51 of weapons as defined in subdivision two of section 265.35 of the penal
52 law, relating to firearms and other dangerous weapons, or failure to
53 disclose the origin of a recording in the first degree as defined in
54 section 275.40 of the penal law;

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

4 (a) The offenses referred to in subparagraph (ii) of paragraph (a) of
5 subdivision one and paragraph (a) of subdivision two of this section
6 that result in permanent disqualification shall include a conviction
7 under sections 125.12, 125.13, 125.14, 125.15, 125.20, 125.21, 125.22,
8 125.25, 125.26, 125.27, 130.30, 130.35, 130.45, 130.50, 130.65, 130.66,
9 130.67, 130.70, 130.75, 130.80, 130.90, 130.95, 130.96, 135.25, 150.20,
10 230.30, 230.32, 230.34, 235.22, 263.05, 263.10, 263.11, 263.15, 263.16
11 of the penal law or an attempt to commit any of the aforesaid offenses
12 under section 110.00 of the penal law, OR A CHILD ABUSE OFFENSE AS
13 DEFINED IN SUBDIVISION TWENTY-THREE OF SECTION 10.00 OF THE PENAL LAW,
14 or any offenses committed under a former section of the penal law which
15 would constitute violations of the aforesaid sections of the penal law,
16 or any offenses committed outside this state which would constitute
17 violations of the aforesaid sections of the penal law.

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

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

21 Notwithstanding any other provision of law to the contrary, a joint
22 tenant convicted of murder in the second degree as defined in section
23 125.25 of the penal law or murder in the first degree as defined in
24 section 125.27 of the penal law OR AGGRAVATED MURDER OF A CHILD AS
25 DEFINED IN SECTION 125.28 OF THE PENAL LAW of another joint tenant shall
26 not be entitled to the distribution of any monies in a joint bank
27 account created or contributed to by the deceased joint tenant, except
28 for those monies contributed by the convicted joint tenant.

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

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

50 S 23. Subparagraph 2 of paragraph (b) of subdivision 3 of section
51 358-a of the social services law, as added by chapter 7 of the laws of
52 1999, is amended to read as follows:

53 (2) the parent of such child has been convicted of (i) AGGRAVATED
54 MANSLAUGHTER OF A CHILD AS DEFINED IN SECTION 125.23 OR AGGRAVATED
55 MURDER OF A CHILD AS DEFINED IN SECTION 125.28 OR murder in the first
56 degree as defined in section 125.27 or murder in the second degree as

1 defined in section 125.25 of the penal law and the victim was another
2 child of the parent; or (ii) manslaughter in the first degree as defined
3 in section 125.20 or manslaughter in the second degree as defined in
4 section 125.15 of the penal law and the victim was another child of the
5 parent, provided, however, that the parent must have acted voluntarily
6 in committing such crime;

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

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

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