

2623

2013-2014 Regular Sessions

I N A S S E M B L Y

January 17, 2013

Introduced by M. of A. GABRYSZAK, SCHIMMINGER, CERETTO, GRAF, RAIA, GUNTHER, BROOK-KRASNY, CLARK, SWEENEY, CASTRO, GIBSON, JAFFEE, WEPRIN, PERRY, MAISEL, McLAUGHLIN, WALTER, McDONOUGH, CROUCH, CORWIN, KOLB, LOSQUADRO, GIGLIO, KATZ, SALADINO, FINCH, ROBERTS, KEARNS, TENNEY, RYAN, GOODELL, TEDISCO -- Multi-Sponsored by -- M. of A. BARCLAY, BOYLAND, CURRAN, DUPREY, GALEF, GLICK, HAWLEY, HIKIND, JACOBS, LAVINE, LUPARDO, MAGEE, MARKEY, McKEVITT, ORTIZ, PALMESANO, PEOPLES-STOKES, RA, RUSSELL, SCHIMEL, SIMANOWITZ, STEVENSON, THIELE, WEISENBERG -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to assault of a child

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

1 Section 1. This act shall be known and may be cited as "Jay J's law".

2 S 2. Subdivision 4 of section 120.10 of the penal law, as amended by  
3 chapter 791 of the laws of 1967, is amended and a new subdivision 5 is  
4 added to read as follows:

5 4. In the course of and in furtherance of the commission or attempted  
6 commission of a felony or of immediate flight therefrom, he, or another  
7 participant if there be any, causes serious physical injury to a person  
8 other than one of the participants[.]; OR

9 5. BEING EIGHTEEN YEARS OLD OR MORE AND WITH INTENT TO CAUSE PHYSICAL  
10 INJURY TO A PERSON LESS THAN ELEVEN YEARS OLD, HE OR SHE RECKLESSLY  
11 CAUSES SERIOUS PHYSICAL INJURY TO SUCH PERSON; AND HAS PREVIOUSLY BEEN  
12 CONVICTED OF ASSAULT IN THE FIRST DEGREE, SECOND DEGREE, OR THIRD DEGREE  
13 AGAINST A PERSON LESS THAN ELEVEN YEARS OLD; OR HAS BEEN CONVICTED OF  
14 ATTEMPTED ASSAULT IN THE FIRST DEGREE, SECOND DEGREE, OR THIRD DEGREE  
15 AGAINST A PERSON LESS THAN ELEVEN YEARS OLD; OR HAS BEEN CONVICTED OF  
16 RECKLESS ASSAULT OF A CHILD; OR ATTEMPTED RECKLESS ASSAULT OF A CHILD.

17 S 3. Section 120.12 of the penal law, as added by chapter 477 of the  
18 laws of 1990, is amended to read as follows:

19 S 120.12 Aggravated assault upon a person less than eleven years old.

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

LBD02438-01-3

1 1. A person is guilty of aggravated assault upon a person less than  
2 eleven years old when being eighteen years old or more the defendant  
3 commits the crime of assault in the third degree as defined in section  
4 120.00 of this article upon a person less than eleven years old and has  
5 been previously convicted of such crime upon a person less than eleven  
6 years old within the preceding [three] TEN years.

7 2. AGGRAVATED ASSAULT UPON A PERSON LESS THAN ELEVEN YEARS OLD AS  
8 DEFINED IN SUBDIVISION ONE OF THIS SECTION SHALL BE A CLASS B FELONY  
9 WHEN THE PERSON SO CONVICTED HAS PREVIOUSLY BEEN CONVICTED OF SUCH CRIME  
10 AS DEFINED IN SUBDIVISION ONE OF THIS SECTION.

11 Aggravated assault upon a person less than eleven years old is a class  
12 [E] D felony.

13 S 4. This act shall take effect immediately.