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

3800

2013-2014 Regular Sessions

I N A S S E M B L Y

January 29, 2013

Introduced by M. of A. LENTOL, SCHIMMINGER -- Multi-Sponsored by -- M. of A. ABBATE, ARROYO, CASTRO, COLTON, CYMBROWITZ, ENGLEBRIGHT, GUNTHER, LAVINE, MAGEE, MAISEL, MARKEY, MILLER, MILLMAN, ORTIZ, PERRY, ROBERTS, SCHIMEL, SWEENEY, THIELE -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to establishing the crime of failing to make a required report

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

Section 1. The penal law is amended by adding a new section 260.28 to read as follows:

S 260.28 FAILING TO MAKE A REQUIRED REPORT.

1. A PERSON IS GUILTY OF FAILING TO MAKE A REQUIRED REPORT WHEN, BEING THE PARENT OR CAREGIVER OF A CHILD LESS THAN SIX YEARS OF AGE AND KNOWING THAT SUCH CHILD:

(A) HAS DIED, HE OR SHE INTENTIONALLY FAILS TO REPORT SUCH DEATH TO A LAW ENFORCEMENT OFFICIAL, HEALTH CARE PRACTITIONER OR FUNERAL DIRECTOR PROMPTLY UNDER THE CIRCUMSTANCES; OR

(B) IS MISSING, HE OR SHE INTENTIONALLY FAILS TO REPORT THAT SUCH CHILD IS MISSING TO A LAW ENFORCEMENT OFFICIAL PROMPTLY UNDER THE CIRCUMSTANCES.

2. A PERSON SHALL NOT BE PROSECUTED UNDER THIS SECTION IF A FAILURE TO TIMELY REPORT WAS THE RESULT OF PHYSICAL THREATS OR A FEAR THAT THE PERSON, THE CHILD OR A THIRD PERSON WOULD BE PHYSICALLY HARMED IF THE REPORT WAS MADE OR IF, AS THE CASE MAY BE, A LAW ENFORCEMENT OFFICIAL, HEALTH CARE PRACTITIONER OR FUNERAL DIRECTOR WAS ALREADY AWARE OF SUCH OCCURRENCE.

3. FOR PURPOSES OF THIS SECTION:

(A) "CAREGIVER" MEANS A PERSON WHO (I) ASSUMES RESPONSIBILITY FOR THE CARE OF A CHILD PURSUANT TO A COURT ORDER; OR (II) RECEIVES MONETARY OR OTHER VALUABLE CONSIDERATION FOR PROVIDING CARE FOR A CHILD;

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

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(B) "MISSING" MEANS NOT IN THE IMMEDIATE CARE OF ANOTHER PARENT, WHEN THE WHEREABOUTS OF SUCH CHILD ARE UNKNOWN TO THE CHILD'S PARENT OR CAREGIVER AND SUCH PARENT OR CAREGIVER, UNDER THE CIRCUMSTANCES, HAS A REASONABLE FEAR OF IMMINENT RISK TO THE HEALTH OR SAFETY OF SUCH CHILD.

FAILING TO MAKE A REQUIRED REPORT IS A CLASS E FELONY.

S 2. This act shall take effect on the thirtieth day after it shall have become a law and shall apply to events occurring on or after such effective date.