

2964--B

2015-2016 Regular Sessions

I N S E N A T E

January 30, 2015

Introduced by Sens. ORTT, AVELLA, DeFRANCISCO, LARKIN, 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 committee -- recommitted to the Committee on Codes in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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, and obstructing the location of a missing child; 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

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

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

15 (B) AN OFFENSE DEFINED IN ARTICLE ONE HUNDRED TWENTY, ONE HUNDRED
16 TWENTY-FIVE, ONE HUNDRED THIRTY OR ONE HUNDRED THIRTY-FIVE OF THIS CHAP-
17 TER PROVIDED THE VICTIM OF SUCH OFFENSE IS LESS THAN FOURTEEN YEARS OF
18 AGE; OR

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

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

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

26 S 60.06 Authorized disposition; murder in the first degree offenders;
27 aggravated murder offenders; AGGRAVATED MURDER OF A CHILD
28 OFFENDERS; certain murder in the second degree offenders;
29 certain terrorism offenders; criminal possession of a chemical
30 weapon or biological weapon offenders; criminal use of a chem-
31 ical weapon or biological weapon offenders.

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

1 when the defendant is also convicted of murder in the first degree as
2 defined in section 125.27 of this chapter. When a defendant is convicted
3 of aggravated murder as defined in subdivision two of section 125.26 of
4 this chapter, the court shall sentence the defendant to life imprison-
5 ment without parole or to a term of imprisonment for a class A-I felony
6 other than a sentence of life imprisonment without parole, in accordance
7 with subdivisions one through three of section 70.00 of this title.

8 S 4. Subparagraph (i) of paragraph (a) of subdivision 3 of section
9 70.00 of the penal law, as amended by chapter 107 of the laws of 2006,
10 is amended to read as follows:

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

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

34 5. Life imprisonment without parole. Notwithstanding any other
35 provision of law, a defendant sentenced to life imprisonment without
36 parole shall not be or become eligible for parole or conditional
37 release. For purposes of commitment and custody, other than parole and
38 conditional release, such sentence shall be deemed to be an indetermi-
39 nate sentence. A defendant may be sentenced to life imprisonment with-
40 out parole upon conviction for the crime of murder in the first degree
41 as defined in section 125.27 of this chapter and in accordance with the
42 procedures provided by law for imposing a sentence for such crime. A
43 defendant must be sentenced to life imprisonment without parole upon
44 conviction for the crime of terrorism as defined in section 490.25 of
45 this chapter, where the specified offense the defendant committed is a
46 class A-I felony; the crime of criminal possession of a chemical weapon
47 or biological weapon in the first degree as defined in section 490.45 of
48 this chapter; or the crime of criminal use of a chemical weapon or
49 biological weapon in the first degree as defined in section 490.55 of
50 this chapter; provided, however, that nothing in this subdivision shall
51 preclude or prevent a sentence of death when the defendant is also
52 convicted of the crime of murder in the first degree as defined in
53 section 125.27 of this chapter. A defendant must be sentenced to life
54 imprisonment without parole upon conviction [for the crime of murder in
55 the second degree as defined in subdivision five of section 125.25 of
56 this chapter or] for the crime of aggravated murder as defined in subdi-

vision one of section 125.26 of this chapter OR FOR THE CRIME OF AGGRAVATED MURDER OF A CHILD AS DEFINED IN SECTION 125.28 OF THIS CHAPTER. A defendant may be sentenced to life imprisonment without parole upon conviction for the crime of aggravated murder as defined in subdivision two of section 125.26 of this chapter.

S 6. Paragraphs (a), (b) and (c) of subdivision 1 of section 70.02 of the penal law, paragraphs (a) and (c) as amended by chapter 368 of the laws of 2015 and paragraph (b) as amended by chapter 1 of the laws of 2013, are amended to read as follows:

(a) Class B violent felony offenses: an attempt to commit the class A-I felonies of murder in the second degree as defined in section 125.25, kidnapping in the first degree as defined in section 135.25, and arson in the first degree as defined in section 150.20; manslaughter in the first degree as defined in section 125.20, aggravated manslaughter in the first degree as defined in section 125.22, AGGRAVATED MANSLAUGHTER OF A CHILD AS DEFINED IN SECTION 125.23, rape in the first degree as defined in section 130.35, criminal sexual act in the first degree as defined in section 130.50, aggravated sexual abuse in the first degree as defined in section 130.70, course of sexual conduct against a child in the first degree as defined in section 130.75; assault in the first degree as defined in section 120.10, kidnapping in the second degree as defined in section 135.20, burglary in the first degree as defined in section 140.30, arson in the second degree as defined in section 150.15, robbery in the first degree as defined in section 160.15, sex trafficking as defined in paragraphs (a) and (b) of subdivision five of section 230.34, incest in the first degree as defined in section 255.27, criminal possession of a weapon in the first degree as defined in section 265.04, criminal use of a firearm in the first degree as defined in section 265.09, criminal sale of a firearm in the first degree as defined in section 265.13, aggravated assault upon a police officer or a peace officer as defined in section 120.11, gang assault in the first degree as defined in section 120.07, intimidating a victim or witness in the first degree as defined in section 215.17, hindering prosecution of terrorism in the first degree as defined in section 490.35, criminal possession of a chemical weapon or biological weapon in the second degree as defined in section 490.40, and criminal use of a chemical weapon or biological weapon in the third degree as defined in section 490.47.

(b) Class C violent felony offenses: an attempt to commit any of the class B felonies set forth in paragraph (a) of this subdivision; aggravated criminally negligent homicide as defined in section 125.11, aggravated manslaughter in the second degree as defined in section 125.21, aggravated sexual abuse in the second degree as defined in section 130.67, assault on a peace officer, police officer, fireman or emergency medical services professional as defined in section 120.08, assault on a judge as defined in section 120.09, gang assault in the second degree as defined in section 120.06, AGGRAVATED ABUSE OF A CHILD IN THE FIRST DEGREE AS DEFINED IN SECTION 120.19-A, strangulation in the first degree as defined in section 121.13, burglary in the second degree as defined in section 140.25, robbery in the second degree as defined in section 160.10, criminal possession of a weapon in the second degree as defined in section 265.03, criminal use of a firearm in the second degree as defined in section 265.08, criminal sale of a firearm in the second degree as defined in section 265.12, criminal sale of a firearm with the aid of a minor as defined in section 265.14, aggravated criminal possession of a weapon as defined in section 265.19, soliciting or

1 providing support for an act of terrorism in the first degree as defined
2 in section 490.15, hindering prosecution of terrorism in the second
3 degree as defined in section 490.30, and criminal possession of a chemi-
4 cal weapon or biological weapon in the third degree as defined in
5 section 490.37.

6 (c) Class D violent felony offenses: an attempt to commit any of the
7 class C felonies set forth in paragraph (b); reckless assault of a child
8 as defined in section 120.02, assault in the second degree as defined in
9 section 120.05, AGGRAVATED ABUSE OF A CHILD IN THE SECOND DEGREE AS
10 DEFINED IN SECTION 120.19, menacing a police officer or peace officer as
11 defined in section 120.18, stalking in the first degree, as defined in
12 subdivision one of section 120.60, strangulation in the second degree as
13 defined in section 121.12, rape in the second degree as defined in
14 section 130.30, criminal sexual act in the second degree as defined in
15 section 130.45, sexual abuse in the first degree as defined in section
16 130.65, course of sexual conduct against a child in the second degree as
17 defined in section 130.80, aggravated sexual abuse in the third degree
18 as defined in section 130.66, facilitating a sex offense with a
19 controlled substance as defined in section 130.90, labor trafficking as
20 defined in paragraphs (a) and (b) of subdivision three of section
21 135.35, criminal possession of a weapon in the third degree as defined
22 in subdivision five, six, seven, eight, nine or ten of section 265.02,
23 criminal sale of a firearm in the third degree as defined in section
24 265.11, intimidating a victim or witness in the second degree as defined
25 in section 215.16, soliciting or providing support for an act of terror-
26 ism in the second degree as defined in section 490.10, and making a
27 terroristic threat as defined in section 490.20, falsely reporting an
28 incident in the first degree as defined in section 240.60, placing a
29 false bomb or hazardous substance in the first degree as defined in
30 section 240.62, placing a false bomb or hazardous substance in a sports
31 stadium or arena, mass transportation facility or enclosed shopping mall
32 as defined in section 240.63, and aggravated unpermitted use of indoor
33 pyrotechnics in the first degree as defined in section 405.18.

34 S 7. Subdivision 1 of section 110.05 of the penal law, as amended by
35 section 8 of subpart A of part H of chapter 55 of the laws of 2014, is
36 amended to read as follows:

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

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

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

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

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

3 S 9. The penal law is amended by adding two new sections 120.19 and
4 120.19-a to read as follows:

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

6 A PERSON IS GUILTY OF AGGRAVATED ABUSE OF A CHILD IN THE SECOND DEGREE
7 WHEN BEING EIGHTEEN YEARS OLD OR MORE, AND BEING A PARENT, GUARDIAN OR
8 OTHER PERSON LEGALLY CHARGED WITH THE CUSTODY OF, OR LEGALLY RESPONSIBLE
9 FOR THE CARE OF, A CHILD LESS THAN FOURTEEN YEARS OLD, OR BEING A PERSON
10 IN A POSITION OF TRUST OF A CHILD LESS THAN FOURTEEN YEARS OLD, HE OR
11 SHE:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

48 S 10. The penal law is amended by adding two new sections 125.23 and
49 125.28 to read as follows:

50 S 125.23 AGGRAVATED MANSLAUGHTER OF A CHILD.

51 A PERSON IS GUILTY OF AGGRAVATED MANSLAUGHTER OF A CHILD WHEN, BEING
52 EIGHTEEN YEARS OLD OR MORE, AND BEING A PARENT, GUARDIAN OR OTHER PERSON
53 LEGALLY CHARGED WITH THE CUSTODY OF, OR LEGALLY RESPONSIBLE FOR THE CARE
54 OF, A CHILD LESS THAN FOURTEEN YEARS OLD, OR BEING A PERSON IN A POSI-
55 TION OF TRUST OF A CHILD LESS THAN FOURTEEN YEARS OLD, HE OR SHE RECK-
56 LESSLY ENGAGES IN CONDUCT WHICH CREATES A GRAVE RISK OF SERIOUS PHYSICAL

1 INJURY OR DEATH TO SUCH CHILD AND THEREBY CAUSES THE DEATH OF SUCH
2 CHILD.

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

4 S 125.28 AGGRAVATED MURDER OF A CHILD.

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

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

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

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

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

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

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

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

35 S 13. Subparagraph (ix) of paragraph (a) of subdivision 1 of section
36 125.27 of the penal law, as added by chapter 1 of the laws of 1995, is
37 amended to read as follows:

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

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

46 S 190.17 OBSTRUCTING THE LOCATION OF A MISSING CHILD.

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

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

53 S 15. The penal law is amended by adding a new section 260.09 to read
54 as follows:

55 S 260.09 AGGRAVATED ENDANGERING THE WELFARE OF A CHILD.

1 A PERSON IS GUILTY OF AGGRAVATED ENDANGERING THE WELFARE OF A CHILD
2 WHEN, BEING EIGHTEEN YEARS OLD OR MORE, AND BEING A PARENT, GUARDIAN OR
3 OTHER PERSON LEGALLY CHARGED WITH THE CUSTODY OF, OR LEGALLY RESPONSIBLE
4 FOR THE CARE OF, A CHILD LESS THAN FOURTEEN YEARS OLD, OR BEING A PERSON
5 IN A POSITION OF TRUST OF A CHILD LESS THEN FOURTEEN YEARS OLD, HE OR
6 SHE KNOWINGLY ACTS IN A MANNER LIKELY TO BE INJURIOUS TO THE PHYSICAL,
7 MENTAL OR MORAL WELFARE OF SUCH CHILD, AND:

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

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

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

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

22 S 16. Paragraph (a) of subdivision 3 of section 30.30 of the criminal
23 procedure law, as amended by chapter 93 of the laws of 2006, is amended
24 to read as follows:

25 (a) Subdivisions one and two do not apply to a criminal action wherein
26 the defendant is accused of an offense defined in sections 125.10,
27 125.15, 125.20, 125.25, 125.26 [and], 125.27 AND 125.28 of the penal
28 law.

29 S 17. Subdivision 1 of section 180.85 of the criminal procedure law,
30 as amended by chapter 93 of the laws of 2006, is amended to read as
31 follows:

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

40 S 18. Paragraph (h) of subdivision 3 of section 190.25 of the criminal
41 procedure law, as amended by chapter 347 of the laws of 2014, is amended
42 to read as follows:

43 (h) A social worker, rape crisis counselor, psychologist or other
44 professional providing emotional support to a child witness twelve years
45 old or younger, or a social worker or informal caregiver, as provided in
46 subdivision two of section two hundred six of the elder law, for a
47 vulnerable elderly person as provided in subdivision three of section
48 260.31 of the penal law, who is called to give evidence in a grand jury
49 proceeding concerning a crime defined in article one hundred twenty-one,
50 article one hundred thirty, article two hundred sixty, section 120.01,
51 120.10, 120.19, 120.19-A, 125.10, 125.15, 125.20, 125.23, 125.25,
52 125.26, 125.27, 125.28, 255.25, 255.26 [or], 255.27 OR 260.09 of the
53 penal law provided that the district attorney consents. Such support
54 person shall not provide the witness with an answer to any question or
55 otherwise participate in such proceeding and shall first take an oath

1 before the grand jury that he or she will keep secret all matters before
2 such grand jury within his or her knowledge.

3 S 19. Paragraph (b) of subdivision 8 of section 700.05 of the criminal
4 procedure law, as amended by chapter 368 of the laws of 2015, is amended
5 to read as follows:

6 (b) Any of the following felonies: assault in the second degree as
7 defined in section 120.05 of the penal law, AGGRAVATED ABUSE OF A CHILD
8 IN THE THIRD DEGREE AS DEFINED IN SECTION 120.01 OF THE PENAL LAW,
9 AGGRAVATED ABUSE OF A CHILD IN THE SECOND DEGREE AS DEFINED IN SECTION
10 120.19 OF THE PENAL LAW, AGGRAVATED ABUSE OF A CHILD IN THE FIRST DEGREE
11 AS DEFINED IN SECTION 120.19-A OF THE PENAL LAW, assault in the first
12 degree as defined in section 120.10 of the penal law, reckless endanger-
13 ment in the first degree as defined in section 120.25 of the penal law,
14 promoting a suicide attempt as defined in section 120.30 of the penal
15 law, strangulation in the second degree as defined in section 121.12 of
16 the penal law, strangulation in the first degree as defined in section
17 121.13 of the penal law, criminally negligent homicide as defined in
18 section 125.10 of the penal law, manslaughter in the second degree as
19 defined in section 125.15 of the penal law, manslaughter in the first
20 degree as defined in section 125.20 of the penal law, AGGRAVATED
21 MANSLAUGHTER OF A CHILD AS DEFINED IN SECTION 125.23 OF THE PENAL LAW,
22 murder in the second degree as defined in section 125.25 of the penal
23 law, murder in the first degree as defined in section 125.27 of the
24 penal law, AGGRAVATED MURDER OF A CHILD AS DEFINED IN SECTION 125.28 OF
25 THE PENAL LAW, abortion in the second degree as defined in section
26 125.40 of the penal law, abortion in the first degree as defined in
27 section 125.45 of the penal law, rape in the third degree as defined in
28 section 130.25 of the penal law, rape in the second degree as defined in
29 section 130.30 of the penal law, rape in the first degree as defined in
30 section 130.35 of the penal law, criminal sexual act in the third degree
31 as defined in section 130.40 of the penal law, criminal sexual act in
32 the second degree as defined in section 130.45 of the penal law, crimi-
33 nal sexual act in the first degree as defined in section 130.50 of the
34 penal law, sexual abuse in the first degree as defined in section 130.65
35 of the penal law, unlawful imprisonment in the first degree as defined
36 in section 135.10 of the penal law, kidnapping in the second degree as
37 defined in section 135.20 of the penal law, kidnapping in the first
38 degree as defined in section 135.25 of the penal law, labor trafficking
39 as defined in section 135.35 of the penal law, aggravated labor traf-
40 ficking as defined in section 135.37 of the penal law, custodial inter-
41 ference in the first degree as defined in section 135.50 of the penal
42 law, coercion in the first degree as defined in section 135.65 of the
43 penal law, criminal trespass in the first degree as defined in section
44 140.17 of the penal law, burglary in the third degree as defined in
45 section 140.20 of the penal law, burglary in the second degree as
46 defined in section 140.25 of the penal law, burglary in the first degree
47 as defined in section 140.30 of the penal law, criminal mischief in the
48 third degree as defined in section 145.05 of the penal law, criminal
49 mischief in the second degree as defined in section 145.10 of the penal
50 law, criminal mischief in the first degree as defined in section 145.12
51 of the penal law, criminal tampering in the first degree as defined in
52 section 145.20 of the penal law, arson in the fourth degree as defined
53 in section 150.05 of the penal law, arson in the third degree as defined
54 in section 150.10 of the penal law, arson in the second degree as
55 defined in section 150.15 of the penal law, arson in the first degree as
56 defined in section 150.20 of the penal law, grand larceny in the fourth

1 degree as defined in section 155.30 of the penal law, grand larceny in
2 the third degree as defined in section 155.35 of the penal law, grand
3 larceny in the second degree as defined in section 155.40 of the penal
4 law, grand larceny in the first degree as defined in section 155.42 of
5 the penal law, health care fraud in the fourth degree as defined in
6 section 177.10 of the penal law, health care fraud in the third degree
7 as defined in section 177.15 of the penal law, health care fraud in the
8 second degree as defined in section 177.20 of the penal law, health care
9 fraud in the first degree as defined in section 177.25 of the penal law,
10 robbery in the third degree as defined in section 160.05 of the penal
11 law, robbery in the second degree as defined in section 160.10 of the
12 penal law, robbery in the first degree as defined in section 160.15 of
13 the penal law, unlawful use of secret scientific material as defined in
14 section 165.07 of the penal law, criminal possession of stolen property
15 in the fourth degree as defined in section 165.45 of the penal law,
16 criminal possession of stolen property in the third degree as defined in
17 section 165.50 of the penal law, criminal possession of stolen property
18 in the second degree as defined by section 165.52 of the penal law,
19 criminal possession of stolen property in the first degree as defined by
20 section 165.54 of the penal law, trademark counterfeiting in the second
21 degree as defined in section 165.72 of the penal law, trademark counter-
22 feiting in the first degree as defined in section 165.73 of the penal
23 law, forgery in the second degree as defined in section 170.10 of the
24 penal law, forgery in the first degree as defined in section 170.15 of
25 the penal law, criminal possession of a forged instrument in the second
26 degree as defined in section 170.25 of the penal law, criminal
27 possession of a forged instrument in the first degree as defined in
28 section 170.30 of the penal law, criminal possession of forgery devices
29 as defined in section 170.40 of the penal law, falsifying business
30 records in the first degree as defined in section 175.10 of the penal
31 law, tampering with public records in the first degree as defined in
32 section 175.25 of the penal law, offering a false instrument for filing
33 in the first degree as defined in section 175.35 of the penal law, issu-
34 ing a false certificate as defined in section 175.40 of the penal law,
35 criminal diversion of prescription medications and prescriptions in the
36 second degree as defined in section 178.20 of the penal law, criminal
37 diversion of prescription medications and prescriptions in the first
38 degree as defined in section 178.25 of the penal law, residential mort-
39 gage fraud in the fourth degree as defined in section 187.10 of the
40 penal law, residential mortgage fraud in the third degree as defined in
41 section 187.15 of the penal law, residential mortgage fraud in the
42 second degree as defined in section 187.20 of the penal law, residential
43 mortgage fraud in the first degree as defined in section 187.25 of the
44 penal law, escape in the second degree as defined in section 205.10 of
45 the penal law, escape in the first degree as defined in section 205.15
46 of the penal law, absconding from temporary release in the first degree
47 as defined in section 205.17 of the penal law, promoting prison contra-
48 band in the first degree as defined in section 205.25 of the penal law,
49 hindering prosecution in the second degree as defined in section 205.60
50 of the penal law, hindering prosecution in the first degree as defined
51 in section 205.65 of the penal law, sex trafficking as defined in
52 section 230.34 of the penal law, criminal possession of a weapon in the
53 third degree as defined in subdivisions two, three and five of section
54 265.02 of the penal law, criminal possession of a weapon in the second
55 degree as defined in section 265.03 of the penal law, criminal
56 possession of a weapon in the first degree as defined in section 265.04

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

9 S 20. Paragraph (a) of subdivision 4 of section 509-cc of the vehicle
10 and traffic law, as amended by chapter 400 of the laws of 2011, is
11 amended to read as follows:

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

26 S 21. Section 4-1.6 of the estates, powers and trusts law, as added by
27 chapter 481 of the laws of 1994, is amended to read as follows:

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

29 Notwithstanding any other provision of law to the contrary, a joint
30 tenant convicted of murder in the second degree as defined in section
31 125.25 of the penal law or murder in the first degree as defined in
32 section 125.27 of the penal law OR AGGRAVATED MURDER OF A CHILD AS
33 DEFINED IN SECTION 125.28 OF THE PENAL LAW of another joint tenant shall
34 not be entitled to the distribution of any monies in a joint bank
35 account created or contributed to by the deceased joint tenant, except
36 for those monies contributed by the convicted joint tenant.

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

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

4 S 22. Subparagraph 2 of paragraph (b) of subdivision 3 of section
5 358-a of the social services law, as added by chapter 7 of the laws of
6 1999, is amended to read as follows:

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

17 S 23. Clause (A) of subparagraph (iii) of paragraph (a) of subdivision
18 8 of section 384-b of the social services law, as amended by chapter 460
19 of the laws of 2006, is amended to read as follows:

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

40 S 24. This act shall take effect on the sixtieth day after it shall
41 have become a law.