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2015-2016 Regular Sessions

I N   S E N A T E

(PREFILED)

January 7, 2015

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Introduced by Sens. KENNEDY, ADDABBO, AVELLA, GALLIVAN, GOLDEN, HASSELL-THOMPSON, SAMPSON, SQUADRON, STAVISKY, YOUNG -- read twice and ordered printed, and when printed to be committed 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.     Subdivision 4 of section 120.10 of the penal law, as  
2 amended by chapter 791 of the laws of 1967, is amended and a new subdi-  
3 vision 5 is added to read as follows:  
4     4. In the course of and in furtherance of the commission or attempted  
5 commission of a felony or of immediate flight therefrom, he, or another  
6 participant if there be any, causes serious physical injury to a person  
7 other than one of the participants[.]; OR  
8     5. BEING EIGHTEEN YEARS OLD OR MORE AND WITH INTENT TO CAUSE PHYSICAL  
9 INJURY TO A PERSON LESS THAN ELEVEN YEARS OLD, HE OR SHE RECKLESSLY  
10 CAUSES SERIOUS PHYSICAL INJURY TO SUCH PERSON; AND HAS PREVIOUSLY BEEN  
11 CONVICTED OF ASSAULT IN THE FIRST DEGREE, SECOND DEGREE, OR THIRD DEGREE  
12 AGAINST A PERSON LESS THAN ELEVEN YEARS OLD; OR HAS BEEN CONVICTED OF  
13 ATTEMPTED ASSAULT IN THE FIRST DEGREE, SECOND DEGREE, OR THIRD DEGREE  
14 AGAINST A PERSON LESS THAN ELEVEN YEARS OLD; OR HAS BEEN CONVICTED OF  
15 RECKLESS ASSAULT OF A CHILD; OR ATTEMPTED RECKLESS ASSAULT OF A CHILD.  
16     S 2. Section 120.12 of the penal law, as amended by chapter 172 of the  
17 laws of 2013, is amended to read as follows:  
18 S 120.12 Aggravated assault upon a person less than eleven years old.  
19     1. A person is guilty of aggravated assault upon a person less than  
20 eleven years old when being eighteen years old or more the defendant  
21 commits the crime of assault in the third degree as defined in section  
22 120.00 of this article upon a person less than eleven years old and has

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

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1 been previously convicted of such crime upon a person less than eleven  
2 years old within the preceding ten years.

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

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

9 S 3. This act shall take effect immediately.