

STATE OF NEW YORK

714--A

2017-2018 Regular Sessions

IN SENATE

January 4, 2017

Introduced by Sens. ORTT, AKSHAR, AVELLA, DeFRANCISCO, GALLIVAN, LARKIN, RITCHIE, ROBACH, SEWARD, YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- 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 § 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 person for prostitution in the second degree as
11 defined in section 230.05; patronizing a person for prostitution in the
12 first degree as defined in section 230.06; promoting prostitution in the

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

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second degree as defined in subdivision two of section 230.30; promoting prostitution in the first degree as defined in section 230.32; disseminating indecent material to minors in the second degree as defined in section 235.21; disseminating indecent material to minors in the first degree as defined in section 235.22; abandonment of a child as defined in section 260.00; non-support of a child in the second degree as defined in section 260.05; non-support of a child in the first degree as defined in section 260.06; aggravated endangering the welfare of a child as defined in section 260.09; endangering the welfare of a child as defined in section 260.10; unlawfully dealing with a child in the first degree as defined in section 260.20; unlawfully dealing with a child in the second degree as defined in section 260.21; or an offense defined in article two hundred sixty-three of this chapter; or

(b) an offense defined in article one hundred twenty, one hundred twenty-five, one hundred thirty or one hundred thirty-five of this chapter provided the victim of such offense is less than fourteen years of age; or

(c) an attempt to commit an offense listed in paragraph (a) or (b) of this subdivision; or

(d) an offense in any other jurisdiction which includes all of the essential elements of any such crime listed in paragraph (a), (b) or (c) of this subdivision.

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

§ 60.06 Authorized disposition; murder in the first degree offenders; aggravated murder offenders; aggravated murder of a child offenders; certain murder in the second degree offenders; certain terrorism offenders; criminal possession of a chemical weapon or biological weapon offenders; criminal use of a chemical weapon or biological weapon offenders.

When a defendant is convicted of murder in the first degree as defined in section 125.27 of this chapter, the court shall, in accordance with the provisions of section 400.27 of the criminal procedure law, sentence the defendant to death, to life imprisonment without parole in accordance with subdivision five of section 70.00 of this title, or to a term of imprisonment for a class A-I felony other than a sentence of life imprisonment without parole, in accordance with subdivisions one through three of section 70.00 of this title. When a person is convicted ~~of murder in the second degree as defined in subdivision five of section 125.25 of this chapter or~~ of the crime of aggravated murder as defined in subdivision one of section 125.26 of this chapter or of the crime of aggravated murder of a child as defined in section 125.28 of this chapter, the court shall sentence the defendant to life imprisonment without parole in accordance with subdivision five of section 70.00 of this title. When a defendant is convicted of the crime of terrorism as defined in section 490.25 of this chapter, and the specified offense the defendant committed is a class A-I felony offense, or when a defendant is convicted of the crime of criminal possession of a chemical weapon or biological weapon in the first degree as defined in section 490.45 of this chapter, or when a defendant is convicted of the crime of criminal use of a chemical weapon or biological weapon in the first degree as defined in section 490.55 of this chapter, the court shall sentence the defendant to life imprisonment without parole in accordance with subdivision five of section 70.00 of this title; provided, however, that nothing in this section shall preclude or prevent a sentence of death when the defendant is also convicted of murder in the first degree as

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

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

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

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

33 5. Life imprisonment without parole. Notwithstanding any other
34 provision of law, a defendant sentenced to life imprisonment without
35 parole shall not be or become eligible for parole or conditional
36 release. For purposes of commitment and custody, other than parole and
37 conditional release, such sentence shall be deemed to be an indetermi-
38 nate sentence. A defendant may be sentenced to life imprisonment with-
39 out parole upon conviction for the crime of murder in the first degree
40 as defined in section 125.27 of this chapter and in accordance with the
41 procedures provided by law for imposing a sentence for such crime. A
42 defendant must be sentenced to life imprisonment without parole upon
43 conviction for the crime of terrorism as defined in section 490.25 of
44 this chapter, where the specified offense the defendant committed is a
45 class A-I felony; the crime of criminal possession of a chemical weapon
46 or biological weapon in the first degree as defined in section 490.45 of
47 this chapter; or the crime of criminal use of a chemical weapon or
48 biological weapon in the first degree as defined in section 490.55 of
49 this chapter; provided, however, that nothing in this subdivision shall
50 preclude or prevent a sentence of death when the defendant is also
51 convicted of the crime of murder in the first degree as defined in
52 section 125.27 of this chapter. A defendant must be sentenced to life
53 imprisonment without parole upon conviction [~~for the crime of murder in~~
54 ~~the second degree as defined in subdivision five of section 125.25 of~~
55 ~~this chapter or~~] for the crime of aggravated murder as defined in subdi-
56 vision one of section 125.26 of this chapter or for the crime of aggra-

1 vated murder of a child as defined in section 125.28 of this chapter. A
2 defendant may be sentenced to life imprisonment without parole upon
3 conviction for the crime of aggravated murder as defined in subdivision
4 two of section 125.26 of this chapter.

5 § 5-a. Subdivision 5 of section 70.00 of the penal law, as amended by
6 section 40-a of part WWW of chapter 59 of the laws of 2017, is amended
7 to read as follows:

8 5. Life imprisonment without parole. Notwithstanding any other
9 provision of law, a defendant sentenced to life imprisonment without
10 parole shall not be or become eligible for parole or conditional
11 release. For purposes of commitment and custody, other than parole and
12 conditional release, such sentence shall be deemed to be an indetermi-
13 nate sentence. A defendant may be sentenced to life imprisonment without
14 parole upon conviction for the crime of murder in the first degree as
15 defined in section 125.27 of this chapter and in accordance with the
16 procedures provided by law for imposing a sentence for such crime. A
17 defendant who was eighteen years of age or older at the time of the
18 commission of the crime must be sentenced to life imprisonment without
19 parole upon conviction for the crime of terrorism as defined in section
20 490.25 of this chapter, where the specified offense the defendant
21 committed is a class A-I felony; the crime of criminal possession of a
22 chemical weapon or biological weapon in the first degree as defined in
23 section 490.45 of this chapter; or the crime of criminal use of a chemi-
24 cal weapon or biological weapon in the first degree as defined in
25 section 490.55 of this chapter; provided, however, that nothing in this
26 subdivision shall preclude or prevent a sentence of death when the
27 defendant is also convicted of the crime of murder in the first degree
28 as defined in section 125.27 of this chapter. A defendant who was seven-
29 teen years of age or younger at the time of the commission of the crime
30 may be sentenced, in accordance with law, to the applicable indetermi-
31 nate sentence with a maximum term of life imprisonment. A defendant must
32 be sentenced to life imprisonment without parole upon conviction for the
33 crime of murder in the second degree as defined in subdivision five of
34 section 125.25 of this chapter ~~[or]~~, for the crime of aggravated murder
35 as defined in subdivision one of section 125.26 of this chapter or for
36 the crime of aggravated murder of a child as defined in section 125.28
37 of this chapter. A defendant may be sentenced to life imprisonment
38 without parole upon conviction for the crime of aggravated murder as
39 defined in subdivision two of section 125.26 of this chapter.

40 § 6. Paragraphs (a), (b) and (c) of subdivision 1 of section 70.02 of
41 the penal law, paragraphs (a) and (c) as amended by chapter 368 of the
42 laws of 2015 and paragraph (b) as amended by chapter 1 of the laws of
43 2013, are amended to read as follows:

44 (a) Class B violent felony offenses: an attempt to commit the class
45 A-I felonies of murder in the second degree as defined in section
46 125.25, kidnapping in the first degree as defined in section 135.25, and
47 arson in the first degree as defined in section 150.20; manslaughter in
48 the first degree as defined in section 125.20, aggravated manslaughter
49 in the first degree as defined in section 125.22, aggravated manslaught-
50 er of a child as defined in section 125.23, rape in the first degree as
51 defined in section 130.35, criminal sexual act in the first degree as
52 defined in section 130.50, aggravated sexual abuse in the first degree
53 as defined in section 130.70, course of sexual conduct against a child
54 in the first degree as defined in section 130.75; assault in the first
55 degree as defined in section 120.10, kidnapping in the second degree as
56 defined in section 135.20, burglary in the first degree as defined in

1 section 140.30, arson in the second degree as defined in section 150.15,
2 robbery in the first degree as defined in section 160.15, sex traffick-
3 ing as defined in paragraphs (a) and (b) of subdivision five of section
4 230.34, incest in the first degree as defined in section 255.27, crimi-
5 nal possession of a weapon in the first degree as defined in section
6 265.04, criminal use of a firearm in the first degree as defined in
7 section 265.09, criminal sale of a firearm in the first degree as
8 defined in section 265.13, aggravated assault upon a police officer or a
9 peace officer as defined in section 120.11, gang assault in the first
10 degree as defined in section 120.07, intimidating a victim or witness in
11 the first degree as defined in section 215.17, hindering prosecution of
12 terrorism in the first degree as defined in section 490.35, criminal
13 possession of a chemical weapon or biological weapon in the second
14 degree as defined in section 490.40, and criminal use of a chemical
15 weapon or biological weapon in the third degree as defined in section
16 490.47.

17 (b) Class C violent felony offenses: an attempt to commit any of the
18 class B felonies set forth in paragraph (a) of this subdivision; aggra-
19 vated criminally negligent homicide as defined in section 125.11, aggra-
20 vated manslaughter in the second degree as defined in section 125.21,
21 aggravated sexual abuse in the second degree as defined in section
22 130.67, assault on a peace officer, police officer, fireman or emergency
23 medical services professional as defined in section 120.08, assault on a
24 judge as defined in section 120.09, gang assault in the second degree as
25 defined in section 120.06, aggravated abuse of a child in the first
26 degree as defined in section 120.19-a, strangulation in the first degree
27 as defined in section 121.13, burglary in the second degree as defined
28 in section 140.25, robbery in the second degree as defined in section
29 160.10, criminal possession of a weapon in the second degree as defined
30 in section 265.03, criminal use of a firearm in the second degree as
31 defined in section 265.08, criminal sale of a firearm in the second
32 degree as defined in section 265.12, criminal sale of a firearm with the
33 aid of a minor as defined in section 265.14, aggravated criminal
34 possession of a weapon as defined in section 265.19, soliciting or
35 providing support for an act of terrorism in the first degree as defined
36 in section 490.15, hindering prosecution of terrorism in the second
37 degree as defined in section 490.30, and criminal possession of a chemi-
38 cal weapon or biological weapon in the third degree as defined in
39 section 490.37.

40 (c) Class D violent felony offenses: an attempt to commit any of the
41 class C felonies set forth in paragraph (b); reckless assault of a child
42 as defined in section 120.02, assault in the second degree as defined in
43 section 120.05, aggravated abuse of a child in the second degree as
44 defined in section 120.19, menacing a police officer or peace officer as
45 defined in section 120.18, stalking in the first degree, as defined in
46 subdivision one of section 120.60, strangulation in the second degree as
47 defined in section 121.12, rape in the second degree as defined in
48 section 130.30, criminal sexual act in the second degree as defined in
49 section 130.45, sexual abuse in the first degree as defined in section
50 130.65, course of sexual conduct against a child in the second degree as
51 defined in section 130.80, aggravated sexual abuse in the third degree
52 as defined in section 130.66, facilitating a sex offense with a
53 controlled substance as defined in section 130.90, labor trafficking as
54 defined in paragraphs (a) and (b) of subdivision three of section
55 135.35, criminal possession of a weapon in the third degree as defined
56 in subdivision five, six, seven, eight, nine or ten of section 265.02,

criminal sale of a firearm in the third degree as defined in section 265.11, intimidating a victim or witness in the second degree as defined in section 215.16, soliciting or providing support for an act of terrorism in the second degree as defined in section 490.10, and making a terroristic threat as defined in section 490.20, falsely reporting an incident in the first degree as defined in section 240.60, placing a false bomb or hazardous substance in the first degree as defined in section 240.62, placing a false bomb or hazardous substance in a sports stadium or arena, mass transportation facility or enclosed shopping mall as defined in section 240.63, and aggravated unpermitted use of indoor pyrotechnics in the first degree as defined in section 405.18.

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

1. Class A-I felony when the crime attempted is the A-I felony of murder in the first degree, aggravated murder as defined in subdivision one of section 125.26 of this chapter, aggravated murder of a child, criminal possession of a controlled substance in the first degree, criminal sale of a controlled substance in the first degree, criminal possession of a chemical or biological weapon in the first degree or criminal use of a chemical or biological weapon in the first degree;

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

§ 120.01 [~~Reckless assault~~] Aggravated abuse of a child [~~by a child day care provider~~] in the third degree.

A person is guilty of [~~reckless assault~~] aggravated abuse of a child in the third degree when, being [~~a child day care provider or an employee thereof~~] 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 than fourteen years old, he or she recklessly causes [~~serious~~] physical injury to [~~a~~] such child [~~under the care of such provider or employee who is less than eleven years of age~~].

[~~Reckless assault~~] Aggravated abuse of a child [~~by a child day care provider~~] in the third degree is a class E felony.

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

§ 120.19 Aggravated abuse of a child in the second degree.

A person is guilty of aggravated abuse of a child in the second degree 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 than fourteen years old, he or she:

1. with intent to cause physical injury to another person, causes physical injury to such child; or

2. recklessly engages in conduct which creates a grave risk of serious physical injury or death to such child and thereby causes serious physical injury to such child; or

3. commits the crime of aggravated abuse of a child in the third degree as defined in section 120.01 of this article and previously has been convicted of a child abuse offense.

Aggravated abuse of a child in the second degree is a class D felony.

§ 120.19-a Aggravated abuse of a child in the first degree.

1 A person is guilty of aggravated abuse of a child in the first degree
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 than fourteen years old, he or
6 she:

7 1. with intent to cause serious physical injury to another person,
8 causes serious physical injury to such child; or

9 2. recklessly engages in violent shaking of such child and thereby
10 causes serious physical injury to such child and such child is less than
11 five years old; or

12 3. recklessly engages in conduct which creates a grave risk of serious
13 physical injury or death to such child and thereby causes serious phys-
14 ical injury to such child, and:

15 (a) has previously been convicted of a child abuse offense; or

16 (b) as part of the same transaction, recklessly engages in conduct
17 which creates a grave risk of serious physical injury or death to anoth-
18 er child less than fourteen years old and thereby causes serious phys-
19 ical injury to such other child; or

20 (c) causes such injury by means of a deadly weapon or dangerous
21 instrument; or

22 (d) on at least one other occasion, recklessly engaged in conduct
23 which created a grave risk of serious physical injury or death to a
24 child less than fourteen years old and thereby caused serious physical
25 injury to such child.

26 Aggravated abuse of a child in the first degree is a class C felony.

27 § 10. The penal law is amended by adding two new sections 125.23 and
28 125.28 to read as follows:

29 § 125.23 Aggravated manslaughter of a child.

30 A person is guilty of aggravated manslaughter of a child when, being
31 eighteen years old or more, and being a parent, guardian or other person
32 legally charged with the custody of, or legally responsible for the care
33 of, a child less than fourteen years old, or being a person in a posi-
34 tion of trust of a child less than fourteen years old, he or she reck-
35 lessly engages in conduct which creates a grave risk of serious physical
36 injury or death to such child and thereby causes the death of such
37 child.

38 Aggravated manslaughter of a child is a class B felony.

39 § 125.28 Aggravated murder of a child.

40 A person is guilty of aggravated murder of a child when:

41 1. with intent to cause the death of a child less than fourteen years
42 old, and being eighteen years old or more, and being the parent, guardi-
43 an or other person legally charged with the custody of, or legally
44 responsible for the care of, such child, or being a person in a position
45 of trust of a child less than fourteen years old, he or she causes the
46 death of such child; or

47 2. under circumstances evincing a depraved indifference to human life,
48 and being eighteen years old or more, and being the parent, guardian or
49 other person legally charged with the custody of, or legally responsible
50 for the care of, a child less than fourteen years old, or being a person
51 in a position of trust of a child less than fourteen years old, he or
52 she recklessly engages in conduct which creates a grave risk of serious
53 physical injury or death to such child and thereby causes the death of
54 such child; or

55 3. being eighteen years old or more, while in the course of committing
56 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.

§ 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~~].

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

§ 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

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

§ 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.

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

§ 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 than fourteen years old, he or she knowingly acts in a manner likely to be injurious to the physical, mental or moral welfare of such child, and:

1. previously has been convicted of a child abuse offense; or

2. such conduct consists of two or more acts of cruelty against such child. For purposes of this subdivision, "cruelty" means conduct which (a) causes extreme physical pain, or (b) which is carried out in an especially vicious or sadistic manner; or

3. such conduct consists of failing to report to law enforcement when the whereabouts of such child has been unknown by such person for more than twenty-four hours. For the purposes of this section, a parent, guardian or other person legally charged with the custody of, or legally responsible for the care of a child under the age of eleven is deemed to be acting in a manner likely to be injurious to the physical, mental or moral welfare of such child if such child's whereabouts is unknown by such person for more than twenty-four hours.

Aggravated endangering the welfare of a child is a class E felony.

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

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

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

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

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

(h) A social worker, rape crisis counselor, psychologist or other professional providing emotional support to a child witness twelve years old or younger, or a social worker or informal caregiver, as provided in subdivision two of section two hundred six of the elder law, for a vulnerable elderly person as provided in subdivision three of section 260.31 of the penal law, who is called to give evidence in a grand jury proceeding concerning a crime defined in article one hundred twenty-one, article one hundred thirty, article two hundred sixty, section 120.01, 120.10, 120.19, 120.19-a, 125.10, 125.15, 125.20, 125.23, 125.25, 125.26, 125.27, 125.28, 255.25, 255.26 ~~[or]~~, 255.27 or 260.09 of the penal law provided that the district attorney consents. Such support person shall not provide the witness with an answer to any question or otherwise participate in such proceeding and shall first take an oath before the grand jury that he or she will keep secret all matters before such grand jury within his or her knowledge.

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

(b) Any of the following felonies: assault in the second degree as defined in section 120.05 of the penal law, aggravated abuse of a child in the third degree as defined in section 120.01 of the penal law, aggravated abuse of a child in the second degree as defined in section 120.19 of the penal law, aggravated abuse of a child in the first degree as defined in section 120.19-a of the penal law, assault in the first degree as defined in section 120.10 of the penal law, reckless endangerment in the first degree as defined in section 120.25 of the penal law, promoting a suicide attempt as defined in section 120.30 of the penal law, strangulation in the second degree as defined in section 121.12 of the penal law, strangulation in the first degree as defined in section 121.13 of the penal law, criminally negligent homicide as defined in section 125.10 of the penal law, manslaughter in the second degree as defined in section 125.15 of the penal law, manslaughter in the first degree as defined in section 125.20 of the penal law, aggravated manslaughter of a child as defined in section 125.23 of the penal law, murder in the second degree as defined in section 125.25 of the penal

1 law, murder in the first degree as defined in section 125.27 of the
2 penal law, aggravated murder of a child as defined in section 125.28 of
3 the penal law, abortion in the second degree as defined in section
4 125.40 of the penal law, abortion in the first degree as defined in
5 section 125.45 of the penal law, rape in the third degree as defined in
6 section 130.25 of the penal law, rape in the second degree as defined in
7 section 130.30 of the penal law, rape in the first degree as defined in
8 section 130.35 of the penal law, criminal sexual act in the third degree
9 as defined in section 130.40 of the penal law, criminal sexual act in
10 the second degree as defined in section 130.45 of the penal law, criminal
11 sexual act in the first degree as defined in section 130.50 of the
12 penal law, sexual abuse in the first degree as defined in section 130.65
13 of the penal law, unlawful imprisonment in the first degree as defined
14 in section 135.10 of the penal law, kidnapping in the second degree as
15 defined in section 135.20 of the penal law, kidnapping in the first
16 degree as defined in section 135.25 of the penal law, labor trafficking
17 as defined in section 135.35 of the penal law, aggravated labor traf-
18 ficking as defined in section 135.37 of the penal law, custodial inter-
19 ference in the first degree as defined in section 135.50 of the penal
20 law, coercion in the first degree as defined in section 135.65 of the
21 penal law, criminal trespass in the first degree as defined in section
22 140.17 of the penal law, burglary in the third degree as defined in
23 section 140.20 of the penal law, burglary in the second degree as
24 defined in section 140.25 of the penal law, burglary in the first degree
25 as defined in section 140.30 of the penal law, criminal mischief in the
26 third degree as defined in section 145.05 of the penal law, criminal
27 mischief in the second degree as defined in section 145.10 of the penal
28 law, criminal mischief in the first degree as defined in section 145.12
29 of the penal law, criminal tampering in the first degree as defined in
30 section 145.20 of the penal law, arson in the fourth degree as defined
31 in section 150.05 of the penal law, arson in the third degree as defined
32 in section 150.10 of the penal law, arson in the second degree as
33 defined in section 150.15 of the penal law, arson in the first degree as
34 defined in section 150.20 of the penal law, grand larceny in the fourth
35 degree as defined in section 155.30 of the penal law, grand larceny in
36 the third degree as defined in section 155.35 of the penal law, grand
37 larceny in the second degree as defined in section 155.40 of the penal
38 law, grand larceny in the first degree as defined in section 155.42 of
39 the penal law, health care fraud in the fourth degree as defined in
40 section 177.10 of the penal law, health care fraud in the third degree
41 as defined in section 177.15 of the penal law, health care fraud in the
42 second degree as defined in section 177.20 of the penal law, health care
43 fraud in the first degree as defined in section 177.25 of the penal law,
44 robbery in the third degree as defined in section 160.05 of the penal
45 law, robbery in the second degree as defined in section 160.10 of the
46 penal law, robbery in the first degree as defined in section 160.15 of
47 the penal law, unlawful use of secret scientific material as defined in
48 section 165.07 of the penal law, criminal possession of stolen property
49 in the fourth degree as defined in section 165.45 of the penal law,
50 criminal possession of stolen property in the third degree as defined in
51 section 165.50 of the penal law, criminal possession of stolen property
52 in the second degree as defined by section 165.52 of the penal law,
53 criminal possession of stolen property in the first degree as defined by
54 section 165.54 of the penal law, trademark counterfeiting in the second
55 degree as defined in section 165.72 of the penal law, trademark counter-
56 feiting in the first degree as defined in section 165.73 of the penal

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

43 § 20. Paragraph (a) of subdivision 4 of section 509-cc of the vehicle
44 and traffic law, as amended by chapter 400 of the laws of 2011, is
45 amended to read as follows:

46 (a) The offenses referred to in subparagraph (ii) of paragraph (a) of
47 subdivision one and paragraph (a) of subdivision two of this section
48 that result in permanent disqualification shall include a conviction
49 under sections 125.12, 125.13, 125.14, 125.15, 125.20, 125.21, 125.22,
50 125.25, 125.26, 125.27, 130.30, 130.35, 130.45, 130.50, 130.65, 130.66,
51 130.67, 130.70, 130.75, 130.80, 130.90, 130.95, 130.96, 135.25, 150.20,
52 230.30, 230.32, 230.34, 235.22, 263.05, 263.10, 263.11, 263.15, 263.16
53 of the penal law or an attempt to commit any of the aforesaid offenses
54 under section 110.00 of the penal law, or a child abuse offense as
55 defined in subdivision twenty-three of section 10.00 of the penal law,
56 or any offenses committed under a former section of the penal law which

1 would constitute violations of the aforesaid sections of the penal law,
2 or any offenses committed outside this state which would constitute
3 violations of the aforesaid sections of the penal law.

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

6 § 4-1.6 Disqualification of joint tenant in certain instances

7 Notwithstanding any other provision of law to the contrary, a joint
8 tenant convicted of murder in the second degree as defined in section
9 125.25 of the penal law or murder in the first degree as defined in
10 section 125.27 of the penal law or aggravated murder of a child as
11 defined in section 125.28 of the penal law of another joint tenant shall
12 not be entitled to the distribution of any monies in a joint bank
13 account created or contributed to by the deceased joint tenant, except
14 for those monies contributed by the convicted joint tenant.

15 Upon the conviction of such joint tenant of first or second degree
16 murder and upon application by the prosecuting attorney, the court, as
17 part of its sentence, shall issue an order directing the amount of any
18 joint bank account to be distributed pursuant to the provisions of this
19 section from the convicted joint tenant and to the deceased joint
20 tenant's estate. The court and the prosecuting attorney shall each have
21 the power to subpoena records of a banking institution to determine the
22 amount of money in such bank account and by whom deposits were made. The
23 court shall also have the power to freeze such account upon application
24 by the prosecuting attorney during the pendency of a trial for first or
25 second degree murder. If, upon receipt of such court orders described in
26 this section, the banking institution holding monies in such joint
27 account complies with the terms of the order, such banking institution
28 shall be held free from all liability for the distribution of such funds
29 as were in such joint account. In the absence of actual or constructive
30 notice of such order, the banking institution holding monies in such
31 account shall be held harmless for distributing the money according to
32 its ordinary course of business.

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

36 § 22. Subparagraph 2 of paragraph (b) of subdivision 3 of section
37 358-a of the social services law, as added by chapter 7 of the laws of
38 1999, is amended to read as follows:

39 (2) the parent of such child has been convicted of (i) aggravated
40 manslaughter of a child as defined in section 125.23 or aggravated
41 murder of a child as defined in section 125.28 or murder in the first
42 degree as defined in section 125.27 or murder in the second degree as
43 defined in section 125.25 of the penal law and the victim was another
44 child of the parent; or (ii) manslaughter in the first degree as defined
45 in section 125.20 or manslaughter in the second degree as defined in
46 section 125.15 of the penal law and the victim was another child of the
47 parent, provided, however, that the parent must have acted voluntarily
48 in committing such crime;

49 § 23. Clause (A) of subparagraph (iii) of paragraph (a) of subdivision
50 8 of section 384-b of the social services law, as amended by chapter 460
51 of the laws of 2006, is amended to read as follows:

52 (A) the parent of such child has been convicted of aggravated
53 manslaughter of a child as defined in section 125.23, aggravated murder
54 of a child as defined in section 125.28, murder in the first degree as
55 defined in section 125.27, murder in the second degree as defined in
56 section 125.25, manslaughter in the first degree as defined in section

1 125.20, or manslaughter in the second degree as defined in section
2 125.15 of the penal law, and the victim of any such crime was another
3 child of the parent or another child for whose care such parent is or
4 has been legally responsible as defined in subdivision (g) of section
5 one thousand twelve of the family court act, or another parent of the
6 child, unless the convicted parent was a victim of physical, sexual or
7 psychological abuse by the decedent parent and such abuse was a factor
8 in causing the homicide; or has been convicted of an attempt to commit
9 any of the foregoing crimes, and the victim or intended victim was the
10 child or another child of the parent or another child for whose care
11 such parent is or has been legally responsible as defined in subdivision
12 (g) of section one thousand twelve of the family court act, or another
13 parent of the child, unless the convicted parent was a victim of phys-
14 ical, sexual or psychological abuse by the decedent parent and such
15 abuse was a factor in causing the attempted homicide;

16 § 24. This act shall take effect on the sixtieth day after it shall
17 have become a law; provided, however, that if section 40-a of part WWW
18 of chapter 59 of the laws of 2017 shall not have taken effect on or
19 before such date then section five-a of this act shall take effect on
20 the same date and in the same manner as such section of such chapter of
21 the laws of 2017, takes effect.