STATE OF NEW YORK

1238--A

2023-2024 Regular Sessions

IN ASSEMBLY

January 13, 2023

Introduced by M. of A. McMAHON, WOERNER, SIMON, BUTTENSCHON, CONRAD, HUNTER, WALLACE, SILLITTI, STIRPE, SANTABARBARA, JENSEN, SMULLEN, TAGUE, DeSTEFANO, McDONOUGH, ANGELINO -- read once and referred to the Committee on Local Governments -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general municipal law, the penal law, and the arts and cultural affairs law, in relation to participants in youth programs sponsored by fire departments

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivisions 5 and 7 of section 204-b of the general municipal law, as added by chapter 386 of the laws of 1978, are amended to read as follows:

5. All activities of participants in such program shall be approved in advance by the chief, or his **or her** designee. [~~**No activities may include emergency duties in connection with fire department or fire company operations or any other hazardous activity.**~~] **Participants may respond to an emergency or hazardous activity, but shall remain in an appropriate and safe designated area that has been established by the chief or officer in charge. The chief or officer in charge shall determine if any such participant is allowed to respond to an emergency in a vehicle using lights and/or sirens. Furthermore, such participants may not enter a burning structure nor shall participants in a youth program pursuant to this section fall under the definition of active volunteer firefighter as defined in section three of the volunteer firefighters' benefit law.**

7. Volunteer fire departments and fire companies may purchase accident insurance to insure participants in such programs against injury or death resulting from bodily injuries sustained in performance of approved activities. In addition, they may purchase insurance to protect against liability arising from approved activities. The insurance

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

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purchased pursuant to this subdivision may include medical and hospital coverage. **A volunteer fire department or fire company shall not allow participants in such program to ride in any vehicle owned or operated by such volunteer fire department or fire company, unless such volunteer fire department or fire company has purchased insurance protecting against liability that could arise from such participant being injured in an accident while riding in such vehicle.**

§ 2. Section 260.10 of the penal law, as amended by chapter 447 of the laws of 2010, is amended to read as follows:

§ 260.10 Endangering the welfare of a child.

1. A person is guilty of endangering the welfare of a child when:

[~~1.~~] **(a)** He or she knowingly acts in a manner likely to be injurious to the physical, mental or moral welfare of a child less than seventeen years old or directs or authorizes such child to engage in an occupation involving a substantial risk of danger to his or her life or health; or

[~~2.~~] **(b)** Being a parent, guardian or other person legally charged with the care or custody of a child less than eighteen years old, he or she fails or refuses to exercise reasonable diligence in the control of such child to prevent him or her from becoming an "abused child," a "neglected child," a "juvenile delinquent" or a "person in need of supervision," as those terms are defined in articles ten, three and seven of the family court act.

[~~3.~~] **2.** A person is not guilty of the provisions of this section when he or she engages in the conduct described in subdivision one of section 260.00 of this article: (a) with the intent to wholly abandon the child by relinquishing responsibility for and right to the care and custody of such child; (b) with the intent that the child be safe from physical injury and cared for in an appropriate manner; (c) the child is left with an appropriate person, or in a suitable location and the person who leaves the child promptly notifies an appropriate person of the child's location; and (d) the child is not more than thirty days old.

3. A volunteer fire department or fire company or a member thereof shall not be guilty of a violation of this section for engaging in actions authorized under section two hundred four-b of the general municipal law as part of a youth program.

Endangering the welfare of a child is a class A misdemeanor.

§ 3. Paragraph (e) of subdivision 1 of section 35.07 of the arts and cultural affairs law is amended to read as follows:

(e) In any practice or exhibition or place dangerous or injurious to the life, limb, health or morals of such child provided, however, that the provisions of this paragraph shall not apply to**: (i)** service as a member of a certified volunteer ambulance service under the supervision of an emergency medical technician as provided in article thirty of the public health law by youthful volunteers at least fifteen years of age who hold a current American Red Cross advanced first aid and emergency care card**; or (ii) participation in activities authorized under section two hundred four-b of the general municipal law as part of a youth program or as an active volunteer member of a fire department**.

§ 4. This act shall take effect immediately.