



NEW YORK STATE SENATOR

David J. Valesky

## Senate Passes Legislation to Mandate Tough Sentencing for Intentional Death

DAVID J. VALESKY June 25, 2010

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SYRACUSE, N.Y.—On the heels of an unprecedented week of tragedy in Central New York, the New York State Senate has passed some of the strongest laws in the country making those responsible for the intentional death of a child punishable to the very fullest extent of the law-life without the opportunity for parole.

Passage of this legislation, co-sponsored by Senator Valesky, is timely in Central New York, with two children losing their lives in violent incidents in the past week. State Police witnessed a three-month-old child shot to death by his father in Blossvale, and a 13-year-old was charged in the death of a two-year-old he was babysitting in Yorkville.

“The murder or harm of a child, especially at the hand of the people who are supposed to protect them, is inconceivable, but unfortunately still occurs,” Senator Valesky said. “Though nothing can bring the victims back, this legislation will ensure that families and victims get justice, and that those who cause harm to the vulnerable and defenseless children will get the harsh punishment they deserve.”

The legislation, the Child Protection Act of 2010 (S.7705), establishes the class A-I felony of aggravated murder of a child; under this charge the sentence is life imprisonment without parole. Aggravated murder includes:

- Intentional killing of a person under 14 while in the course of committing rape, criminal sexual acts, aggravated sexual abuse or incest against such child.
- Depraved indifference or intentional killing of a person under 14 while being legally responsible for the care of such child.

The law also strengthens other parts of the state's penal law, establishing the offenses of aggravated manslaughter of a child, aggravated abuse of a child in the first, second and third degrees, and aggravated endangering the welfare of a child. Additionally, the law:

- Defines a new class D violent felony of aggravated abuse of a child in the second degree and a new class C violent felony of aggravated abuse of a child in the first degree.
- Provide that a prosecution for aggravated murder of a child or aggravated manslaughter of a child cannot be terminated upon the consent of the parties.
- Provides that a child witness called to testify before the grand jury may be accompanied by a social worker, psychologist, or other professional to provide emotional support when giving testimony regarding a charge of aggravated murder of a child, aggravated manslaughter of a child, aggravated abuse of a child in the first, second or third degree or aggravated endangering the welfare of a child.
- Provides that a person convicted of the new crimes of aggravated murder of a child, aggravated manslaughter of a child, aggravated abuse of a child in the first, second or third degree or aggravated endangering the welfare of a child must give a DNA sample for

inclusion in the DNA database.

- Renames the crime reckless assault of a child by a child day care provider to aggravated abuse of a child in the third degree. This E felony, which formerly only applied to day care providers, now would apply to a parent, guardian or person in a position of trust who recklessly causes physical injury to a child under age 14.

For more information visit

<http://open.nysenate.gov/legislation/api/1.0/html/bill/S7705>