

2010 -- H 7486

LC00917

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO CRIMINAL OFFENSES - CHILDREN

Introduced By: Representatives Giannini, Kilmartin, Lima, and Brien

Date Introduced: February 11, 2010

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 11-9-5.3 of the General Laws in Chapter 11-9 entitled "Children" is
2 hereby amended to read as follows:

3 **11-9-5.3. Child abuse -- Brendan's Law. --** (a) This section shall be known and may be
4 referred to as "Brendan's Law".

5 (b) Whenever a person having care of a child, as defined by section 40-11-2(2), whether
6 assumed voluntarily or because of a legal obligation, including any instance where a child has
7 been placed by his or her parents, caretaker, or licensed or governmental child placement agency
8 for care or treatment, knowingly or intentionally:

9 (1) Inflicts upon a child serious bodily injury, shall be guilty of first degree child abuse.

10 (2) Inflicts upon a child any other ~~serious~~ physical injury, shall be guilty of second
11 degree child abuse.

12 (c) For the purposes of this section, "serious bodily injury" means physical injury that:

13 (1) Creates a substantial risk of death;

14 (2) Causes protracted loss or impairment of the function of any bodily parts, member or
15 organ, including any fractures of any bones;

16 (3) Causes serious disfigurement; or

17 (4) Evidences subdural hematoma, intercranial hemorrhage and/or retinal hemorrhages
18 as signs of "shaken baby syndrome" and/or "abusive head trauma."

19 (d) For the purpose of this section, "other physical injury" is defined as any injury, other

1 than a serious bodily injury, which arises other than from the imposition of nonexcessive corporal
2 punishment.

3 (e) Any person who commits first degree child abuse shall be imprisoned for not more
4 than twenty (20) years, nor less than ten (10) years and fined not more than ten thousand dollars
5 (\$10,000). Any person who is convicted of second degree child abuse shall be imprisoned for not
6 more than ten (10) years, nor less than five (5) years and fined not more than five thousand
7 dollars (\$5,000).

8 (f) Any person who commits first degree child abuse on a child age five (5) or under
9 shall not on the first ten (10) years of his or her sentence be afforded the benefit of suspension or
10 deferment of sentence nor of probation for penalties provided in this section; and provided
11 further, that the court shall order the defendant to serve a minimum of eight and one-half (8 1/2)
12 years or more of the sentence before he or she becomes eligible for parole.

13 (g) Any person who has been previously convicted of first or second degree child abuse
14 under this section and thereafter commits first degree child abuse shall be imprisoned for not
15 more than forty (40) years, nor less than twenty (20) years and fined not more than twenty
16 thousand (\$20,000) dollars and shall be subject to subsection (f) of this section if applicable. Any
17 person who has been previously convicted of first or second degree child abuse under this section
18 and thereafter commits second degree child abuse shall be imprisoned for not more than twenty
19 (20) years, nor less than ten (10) years and fined not more than ten thousand (\$10,000) dollars.

20 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
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1 This act would amend the definition of second-degree child abuse by eliminating the
2 word “serious” therefrom.

3 This act would take effect upon passage.

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