S T A T E   O F   N E W   Y O R K
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I N   S E N A T E

March 12, 2012
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Introduced by Sens. LITTLE, SALAND -- 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 providing that an elemen-
tary or secondary school student shall be incapable of consenting to
sexual conduct with a school employee

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

 1   Section 1. Section 130.00 of the penal law is amended by adding a new
 2 subdivision 14 to read as follows:
 3   14. "SCHOOL EMPLOYEE" SHALL MEAN ANY PERSON DEFINED AS AN   "EMPLOYEE"
 4 OR "VOLUNTEER" PURSUANT TO SECTION ELEVEN HUNDRED TWENTY-FIVE OF THE
 5 EDUCATION LAW.
 6   S 2. Paragraph (h) of subdivision 3 of section 130.05 of the penal
 7 law, as amended by chapter 264 of the laws of 2003, is amended and a new
 8 paragraph (i) is added to read as follows:
 9   (h) a client or patient and the actor is a health care provider or
10 mental health care provider charged with rape in the third degree as
11 defined in section 130.25, criminal sexual act in the third degree as
12 defined in section 130.40, aggravated sexual abuse in the fourth degree
13 as defined in section 130.65-a, or sexual abuse in the third degree as
14 defined in section 130.55, and the act of sexual conduct occurs during a
15 treatment session, consultation, interview, or examination[.]; OR
16   (I) A STUDENT AT AN ELEMENTARY OR SECONDARY SCHOOL, AND THE ACTOR:
17   (I) IS A SCHOOL EMPLOYEE AT THE SAME SCHOOL SUCH STUDENT ATTENDS, AND
18   (II) IS EIGHTEEN YEARS OF AGE OR OLDER AND MORE THAN FOUR YEARS OLDER
19 THAN SUCH STUDENT AT THE TIME OF THE ACT, AND
20   (III) IS NOT MARRIED TO SUCH STUDENT, AND
21   (IV) KNOWS OR REASONABLY SHOULD KNOW THAT SUCH PERSON IS A STUDENT AT
22 SUCH SCHOOL, AND
23   (V) HE OR SHE IS NOT A STUDENT AT THE SAME SCHOOL.
24   S 3. This act shall take effect on the first of November next succeed-
25 ing the date on which it shall have become a law.

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