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

463

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sen. STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families

AN ACT to amend the executive law and the penal law, in relation to educating children on the electronic sending and posting of certain images

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

Section 1. Subdivision 16 of section 501 of the executive law, as renumbered by chapter 170 of the laws of 1994, is renumbered subdivision 17 and a new subdivision 16 is added to read as follows:

16. TO ESTABLISH AN EDUCATIONAL OUTREACH PROGRAM FOR TEXT MESSAGE, EMAIL AND INTERNET POSTING AWARENESS BY PROVIDING FOR AN ONGOING PUBLIC INFORMATION AND EDUCATIONAL CAMPAIGN ABOUT THE HARM THAT MAY ARISE FROM ADOLESCENTS SENDING, RECEIVING OR POSTING ON THE INTERNET MESSAGES THAT MAY INCLUDE, BUT ARE NOT LIMITED TO, PROVOCATIVE OR NUDE IMAGES AND PHOTOGRAPHS OF THEMSELVES.

(A) SUCH PROGRAM SHALL BE DESIGNED TO PROMOTE (I) INCREASED AWARENESS OF THE POTENTIAL LONG-TERM HARM TO PRIVACY INTERESTS ASSOCIATED WITH THE SENDING, RECEIVING OR POSTING OF SUCH IMAGES AND PHOTOGRAPHS; AND (II) COORDINATION OF PUBLIC AND PRIVATE EFFORTS, INCLUDING BUT NOT LIMITED TO EFFORTS OF EDUCATORS, COMMUNITY ORGANIZATIONS AND OTHER GROUPS, TO PROVIDE EDUCATIONAL OUTREACH PROGRAMS TO ADOLESCENTS AND THEIR PARENTS AND CAREGIVERS, EMPHASIZING SUCH POTENTIAL LONG-TERM HARM.

(B) THE FOLLOWING STRATEGIES, AMONG OTHERS, MAY BE USED TO PROMOTE AWARENESS OF THE POTENTIAL LONG-TERM HARM TO ADOLESCENTS' PRIVACY INTERESTS BY THE SENDING, RECEIVING OR POSTING OF SUCH IMAGES AND PHOTOGRAPHS: (I) OUTREACH CAMPAIGNS BY MEANS OF PRINT, RADIO AND TELEVISION PUBLIC SERVICE ANNOUNCEMENTS, ADVERTISEMENTS, POSTERS, INTERNET POSTINGS AND OTHER MATERIALS; (II) COMMUNITY INFORMATIONAL FORUMS; AND (III)

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

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DISTRIBUTION OF INFORMATION THROUGH EDUCATORS, MENTORS, AND COMMUNITY MEMBERS.

S 2. The penal law is amended by adding a new section 40.20 to read as follows:

S 40.20 CERTAIN ACTS BY A YOUNG PERSON.

IN ANY PROSECUTION PURSUANT TO SECTION 235.21 OR 235.22 OR SECTION 263.10, 263.11, 263.15 OR 263.16 OF THIS CHAPTER, IT IS AN AFFIRMATIVE DEFENSE THAT THE DEFENDANT WAS LESS THAN EIGHTEEN YEARS OLD, AND THAT THERE IS A LESS THAN FOUR YEARS AGE DIFFERENCE BETWEEN THE DEFENDANT AND THE RECIPIENT AT THE TIME OF THE ACT, AND THE DEPICTION OR DESCRIPTION WAS NOT OBTAINED IN VIOLATION OF SECTION 250.45 OR 250.50 OF THIS CHAPTER, AND BOTH THE DEFENDANT AND THE RECIPIENT EXPRESSLY OR IMPLIEDLY ACQUIESCED IN THE CONDUCT, AND THE DEFENDANT DID NOT INTEND TO OR PROFIT FROM SUCH CONDUCT.

S 3. This act shall take effect immediately; provided, however, that section one of this act shall take effect on the ninetieth day after it shall have become a law.