

STATE OF NEW YORK

6341--B

Cal. No. 871

2023-2024 Regular Sessions

IN SENATE

April 17, 2023

Introduced by Sens. HOYLMAN-SIGAL, BROUK, CHU, COMRIE, FERNANDEZ, GIANARIS, PARKER, SCARCELLA-SPANTON, SKOUFIS, THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the penal law, in relation to criminalizing the harassment of a child; and to amend the civil rights law, in relation to establishing a private right of action for harassment of a child

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

1 Section 1. The penal law is amended by adding a new section 260.16 to
2 read as follows:

3 § 260.16 Harassment of a child.

4 1. A person is guilty of harassment of a child when he or she inten-
5 tionally or knowingly harasses, annoys or alarms a child or a child's
6 parent or guardian by:

7 a. striking, shoving, kicking, or otherwise subjecting such child to
8 physical contact, or attempting or threatening to do the same;

9 b. following or lying in wait of a child, provided that for the
10 purposes of this section, "lying in wait" means holding oneself in a
11 concealed position to watch and wait for a child;

12 c. recording or attempting to record a child's image or voice, after
13 the child, or, if the child is younger than fourteen years old, the
14 parent or legal guardian of the child has expressed that they do not
15 consent to the child being recorded, unless the person acts in a reason-
16 able manner and the recording is of the child;

17 (i) engaging in public speech or demonstration; or

18 (ii) attending or participating in a newsworthy public event;

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

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1 d. engaging in a course of conduct or repeatedly committing acts which
2 alarm, seriously annoy, or cause emotional distress of a child which
3 serve no legitimate purpose; or

4 e. publishing identifying or contact information about the child with-
5 out the express consent of the parent or legal guardian of the child,
6 or, if the child is fourteen years old or older, the express consent of
7 the child.

8 2. The provisions of this section shall not apply with respect to any
9 law enforcement personnel engaged in the conduct of their authorized
10 duties or to any person engaged in otherwise legally mandated activ-
11 ities.

12 Harassment of a child is a class A misdemeanor.

13 § 2. The civil rights law is amended by adding a new section 52-e to
14 read as follows:

15 § 52-e. Private right of action for harassment of a child. A parent or
16 legal guardian whose child was subject to conduct which, if proven,
17 would constitute a violation of section 260.16 of the penal law, may
18 bring a civil action against the individual that engaged in such conduct
19 on behalf of the child. The remedies in that civil action shall be
20 limited to one or more of the following: actual damages, punitive
21 damages, reasonable attorney's fees, costs, disgorgement of any compen-
22 sation from the sale, license, or dissemination of the child's image or
23 voice received by the individual, and injunctive relief. The rights and
24 remedies conferred in this section shall be cumulative and in addition
25 to and not in lieu of any other rights or remedies available under law.

26 § 3. This act shall take effect on the thirtieth day after it shall
27 have become a law.