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

2187

2009-2010 Regular Sessions

I N A S S E M B L Y

January 15, 2009

Introduced by M. of A. BALL, TEDISCO, TOWNSEND, ERRIGO, OAKS, CALHOUN -- Multi-Sponsored by -- M. of A. ALFANO, BACALLES, BARCLAY, BARRA, BOYLE, BURLING, BUTLER, CONTE, CROUCH, DUPREY, FINCH, FITZPATRICK, GIGLIO, HAWLEY, HAYES, KOLB, P. LOPEZ, McDONOUGH, McKEVITT, MILLER, MOLINARO, O'MARA, QUINN, RABBITT, RAIA, REILICH, SALADINO, SAYWARD, SCOZZAFAVA, SPANO, THIELE -- read once and referred to the Committee on Codes

AN ACT to amend the penal law and the correction law, in relation to establishing the crime of endangering the welfare of a child in a sexual manner, a class E felony

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

Section 1. The penal law is amended by adding a new section 260.09 to read as follows:

S 260.09 ENDANGERING THE WELFARE OF A CHILD IN A SEXUAL MANNER.

A PERSON IS GUILTY OF ENDANGERING THE WELFARE OF A CHILD IN A SEXUAL MANNER WHEN HE OR SHE COMMITS THE OFFENSE OF ENDANGERING THE WELFARE OF A CHILD AND THE INJURIOUS MANNER IN WHICH HE OR SHE ACTED, OR THE OCCUPATION THE CHILD WAS DIRECTED OR AUTHORIZED TO ENGAGE IN, OR THE REASON FOR THE CHILD BEING DEEMED AN "ABUSED CHILD", A "NEGLECTED CHILD", A "JUVENILE DELINQUENT" AND/OR A "PERSON IN NEED OF SUPERVISION" IS OF A SEXUAL NATURE.

ENDANGERING THE WELFARE OF A CHILD IS A CLASS E FELONY.

S 2. Section 260.11 of the penal law, as amended by chapter 89 of the laws of 1984, is amended to read as follows:

S 260.11 Endangering the welfare of a child; corroboration.

A person shall not be convicted of endangering the welfare of a child OR ENDANGERING THE WELFARE OF A CHILD IN A SEXUAL MANNER, or of an attempt to commit the same, upon the testimony of a victim who is incapable of consent because of mental defect or mental incapacity as to conduct that constitutes an offense or an attempt to commit an offense

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

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referred to in section 130.16, without additional evidence sufficient pursuant to section 130.16 to sustain a conviction of an offense referred to in section 130.16, or of an attempt to commit the same.

S 3. Subparagraph (i) of paragraph (a) of subdivision 2 of section 168-a of the correction law, as amended by chapter 405 of the laws of 2008, is amended to read as follows:

(i) a conviction of or a conviction for an attempt to commit any of the provisions of sections 120.70, 130.20, 130.25, 130.30, 130.40, 130.45, 130.60, 230.34, 250.50, 255.25, 255.26 [and], 255.27 AND 260.09 or article two hundred sixty-three of the penal law, or section 135.05, 135.10, 135.20 or 135.25 of such law relating to kidnapping offenses, provided the victim of such kidnapping or related offense is less than seventeen years old and the offender is not the parent of the victim, or section 230.04, where the person patronized is in fact less than seventeen years of age, 230.05 or 230.06, or subdivision two of section 230.30, or section 230.32 or 230.33 of the penal law, or (ii) a conviction of or a conviction for an attempt to commit any of the provisions of section 235.22 of the penal law, or (iii) a conviction of or a conviction for an attempt to commit any provisions of the foregoing sections committed or attempted as a hate crime defined in section 485.05 of the penal law or as a crime of terrorism defined in section 490.25 of such law or as a sexually motivated felony defined in section 130.91 of such law; or

S 4. This act shall take effect immediately.