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

6328

2009-2010 Regular Sessions

I N A S S E M B L Y

March 2, 2009

Introduced by M. of A. TOWNS, WALKER, FIELDS, ALFANO, MARKEY, BOYLAND, ZEBROWSKI, ESPAILLAT -- Multi-Sponsored by -- M. of A. CHRISTENSEN, CONTE, DelMONTE, ERRIGO, GORDON, MAISEL, MILLER, TOWNSEND, WEISENBERG -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to deeming students who engage in sexual conduct with an employee or volunteer of the school such student attends as being incapable of consent

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

Section 1. Paragraph (h) of subdivision 3 of section 130.05 of the penal law, as amended by chapter 264 of the laws of 2003, is amended and a new paragraph (i) is added to read as follows:

(h) a client or patient and the actor is a health care provider or mental health care provider charged with rape in the third degree as defined in section 130.25, criminal sexual act in the third degree as defined in section 130.40, aggravated sexual abuse in the fourth degree as defined in section 130.65-a, or sexual abuse in the third degree as defined in section 130.55, and the act of sexual conduct occurs during a treatment session, consultation, interview, or examination[.]; OR

(I) A STUDENT ENROLLED IN THE EDUCATIONAL SYSTEM IN THIS STATE, REGARDLESS OF AGE, WHO IS ENGAGED IN SEXUAL CONDUCT AS DEFINED IN SUBDIVISION TEN OF SECTION 130.00 WITH AN EMPLOYEE OR VOLUNTEER OF SAID EDUCATIONAL SYSTEM. FOR PURPOSES OF THIS PARAGRAPH, "EMPLOYEE" MEANS ANY PERSON RECEIVING COMPENSATION TO PROVIDE SERVICES TO SUCH SCHOOL, WHEREBY SUCH SERVICES PERFORMED BY SUCH PERSON INVOLVE DIRECT STUDENT CONTACT. "VOLUNTEER" MEANS ANY PERSON, OTHER THAN AN EMPLOYEE, WHO PROVIDES SERVICES TO SUCH SCHOOL, WHICH INVOLVES DIRECT STUDENT CONTACT.

S 2. This act shall take effect on the thirtieth day after it shall have become a law.

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

LBD01976-02-9