

760

2009-2010 Regular Sessions

I N   A S S E M B L Y

(PREFILED)

January 7, 2009

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Introduced by M. of A. PAULIN, HOYT, GUNTHER, CHRISTENSEN, JOHN, AUBRY, SCHIMMINGER, ZEBROWSKI, GALEF, ROBINSON, N. RIVERA, ENGLEBRIGHT, FIELDS, BENEDETTO, EDDINGTON, HYER-SPENCER, PHEFFER, ARROYO, DelMONTE, SCHROEDER, SPANO -- Multi-Sponsored by -- M. of A. ALFANO, CARROZZA, COLTON, DESTITO, DINOWITZ, HOOPER, KOON, MAGEE, MAGNARELLI, MAISEL, MARKEY, MAYERSOHN, SCHIMEL, SEMINERIO, SWEENEY, WEISENBERG -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to promoting an obscene sexual performance by a child in the first degree

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 263.09 to  
2     read as follows:  
3     S 263.09 PROMOTING AN OBSCENE SEXUAL PERFORMANCE BY A CHILD IN THE FIRST  
4     DEGREE.  
5     A PERSON IS GUILTY OF PROMOTING AN OBSCENE SEXUAL PERFORMANCE BY A  
6     CHILD IN THE FIRST DEGREE WHEN, KNOWING THE CHARACTER AND CONTENT THERE-  
7     OF, HE OR SHE PRODUCES OR DIRECTS TEN OR MORE OBSCENE PERFORMANCES, EACH  
8     OF WHICH INCLUDES SEXUAL CONDUCT BY A CHILD LESS THAN SEVENTEEN YEARS OF  
9     AGE. NOTWITHSTANDING SUBDIVISION FOUR OF SECTION 263.00 OF THIS ARTI-  
10    CLE, FOR PURPOSES OF THIS SECTION, A "PERFORMANCE" SHALL MEAN A PLAY,  
11    MOTION PICTURE OR DANCE, OR A PHOTOGRAPHIC SESSION AT WHICH MULTIPLE  
12    PHOTOGRAPHS ARE TAKEN.  
13    PROMOTING AN OBSCENE SEXUAL PERFORMANCE BY A CHILD IN THE FIRST DEGREE  
14    IS A CLASS C FELONY.  
15    S 2. Section 263.10 of the penal law, as amended by chapter 1 of the  
16    laws of 2000, is amended to read as follows:  
17    S 263.10 Promoting an obscene sexual performance by a child IN THE  
18    SECOND DEGREE.

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

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1 A person is guilty of promoting an obscene sexual performance by a  
2 child IN THE SECOND DEGREE when, knowing the character and content ther-  
3 eof, he produces, directs or promotes any obscene performance which  
4 includes sexual conduct by a child less than seventeen years of age.

5 Promoting an obscene sexual performance by a child IN THE SECOND  
6 DEGREE is a class D felony.

7 S 3. This act shall take effect on the first of November next succeed-  
8 ing the date on which it shall have become a law.