

8622

2009-2010 Regular Sessions

I N   A S S E M B L Y

May 29, 2009

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Introduced by M. of A. ZEBROWSKI, KOON, BURLING, FIELDS, RAIA, CHRISTEN-SEN, GABRYSZAK, STIRPE, DelMONTE, GUNTHER -- Multi-Sponsored by -- M. of A. CAMARA, CROUCH, DUPREY, GIGLIO, HEASTIE, McENENY, MENG, RUSSELL, WALKER, WEISENBERG -- read once and referred to the Committee on Codes

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:

1     Section 1. Subdivision 16 of section 501 of the executive law, as  
2     renumbered by chapter 170 of the laws of 1994, is renumbered subdivision  
3     17 and a new subdivision 16 is added to read as follows:  
4     16. TO ESTABLISH AN EDUCATIONAL OUTREACH PROGRAM FOR TEXT MESSAGE,  
5     EMAIL AND INTERNET POSTING AWARENESS BY PROVIDING FOR AN ONGOING PUBLIC  
6     INFORMATION AND EDUCATIONAL CAMPAIGN ABOUT THE HARM THAT MAY ARISE FROM  
7     ADOLESCENTS SENDING, RECEIVING OR POSTING ON THE INTERNET MESSAGES THAT  
8     MAY INCLUDE, BUT ARE NOT LIMITED TO, PROVOCATIVE OR NUDE IMAGES AND  
9     PHOTOGRAPHS OF THEMSELVES.  
10     (A) SUCH PROGRAM SHALL BE DESIGNED TO PROMOTE (I) INCREASED AWARENESS  
11     OF THE POTENTIAL LONG-TERM HARM TO PRIVACY INTERESTS ASSOCIATED WITH THE  
12     SENDING, RECEIVING OR POSTING OF SUCH IMAGES AND PHOTOGRAPHS; AND (II)  
13     COORDINATION OF PUBLIC AND PRIVATE EFFORTS, INCLUDING BUT NOT LIMITED TO  
14     EFFORTS OF EDUCATORS, COMMUNITY ORGANIZATIONS AND OTHER GROUPS, TO  
15     PROVIDE EDUCATIONAL OUTREACH PROGRAMS TO ADOLESCENTS AND THEIR PARENTS  
16     AND CAREGIVERS, EMPHASIZING SUCH POTENTIAL LONG-TERM HARM.  
17     (B) THE FOLLOWING STRATEGIES, AMONG OTHERS, MAY BE USED TO PROMOTE  
18     AWARENESS OF THE POTENTIAL LONG-TERM HARM TO ADOLESCENTS' PRIVACY INTER-  
19     ESTS BY THE SENDING, RECEIVING OR POSTING OF SUCH IMAGES AND PHOTO-  
20     GRAPHS: (I) OUTREACH CAMPAIGNS BY MEANS OF PRINT, RADIO AND TELEVISION  
21     PUBLIC SERVICE ANNOUNCEMENTS, ADVERTISEMENTS, POSTERS, INTERNET POSTINGS  
22     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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1 DISTRIBUTION OF INFORMATION THROUGH EDUCATORS, MENTORS, AND COMMUNITY  
2 MEMBERS.

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

5 S 40.20 CERTAIN ACTS BY A YOUNG PERSON.

6 IN ANY PROSECUTION PURSUANT TO SECTION 235.21 OR 235.22 OR SECTION  
7 263.10, 263.11, 263.15 OR 263.16 OF THIS CHAPTER, IT IS AN AFFIRMATIVE  
8 DEFENSE THAT THE DEFENDANT WAS LESS THAN FOUR YEARS OLDER THAN THE OTHER  
9 PERSON AT THE TIME OF THE ACT, THE DEPICTION OR DESCRIPTION WAS NOT  
10 OBTAINED IN VIOLATION OF SECTION 250.45 OR 250.50 OF THIS CHAPTER, SUCH  
11 OTHER PERSON EXPRESSLY OR IMPLIEDLY ACQUIESCED IN THE DEFENDANT'S  
12 CONDUCT, AND THE DEFENDANT DID NOT INTEND TO OR PROFIT FROM SUCH  
13 CONDUCT.

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