

6328

2009-2010 Regular Sessions

I N   S E N A T E

December 7, 2009

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Introduced by Sen. KLEIN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

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.

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

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

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

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

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