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

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I N A S S E M B L Y

April 2, 2010

Introduced by M. of A. TEDISCO, BARCLAY, CROUCH, KOLB, QUINN, RAIA -- Multi-Sponsored by -- M. of A. ALFANO, BACALLES, BALL, CONTE, DUPREY, FINCH, HAWLEY, McKEVITT, J. MILLER, OAKS, O'MARA, REILICH, SAYWARD, SPANO, THIELE, TOWNSEND -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to establishing the offense of unlawfully residing or entering upon school grounds

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 two new sections 130.82 and 130.83 to read as follows:

S 130.82 UNLAWFULLY RESIDING OR ENTERING UPON SCHOOL GROUNDS IN THE SECOND DEGREE.

A PERSON IS GUILTY OF UNLAWFULLY RESIDING OR ENTERING UPON SCHOOL GROUNDS IN THE SECOND DEGREE WHEN, HAVING BEEN CONVICTED OF AN OFFENSE DEFINED IN ARTICLE ONE HUNDRED THIRTY, TWO HUNDRED THIRTY-FIVE OR TWO HUNDRED SIXTY-THREE OF THIS CHAPTER OR SECTION 255.25, 255.26 OR 255.27 OF THIS CHAPTER, AND THE VICTIM OF SUCH OFFENSE WAS UNDER THE AGE OF EIGHTEEN AT THE TIME OF SUCH OFFENSE OR SUCH PERSON HAS BEEN DESIGNATED A LEVEL THREE SEX OFFENDER PURSUANT TO SUBDIVISION SIX OF SECTION ONE HUNDRED SIXTY-EIGHT-L OF THE CORRECTION LAW, HE OR SHE KNOWINGLY RESIDES WITHIN, OR ENTERS INTO OR UPON ANY SCHOOL GROUNDS, AS DEFINED IN SUBDIVISION FOURTEEN OF SECTION 220.00 OF THIS CHAPTER, DURING THE PERIOD OF TIME HE OR SHE IS REQUIRED TO REGISTER AND VERIFY PURSUANT TO SECTION ONE HUNDRED SIXTY-EIGHT-H OF THE CORRECTION LAW.

IT SHALL BE AN AFFIRMATIVE DEFENSE TO THE CRIME OF UNLAWFULLY RESIDING OR ENTERING UPON SCHOOL GROUNDS IN THE SECOND DEGREE THAT THE DEFENDANT (1) IS A REGISTERED STUDENT OR AN EMPLOYEE OF A SCHOOL UPON SUCH SCHOOL GROUNDS, OR HAS A FAMILY MEMBER ENROLLED IN A SCHOOL UPON SUCH SCHOOL GROUNDS, AND (2) ENTERED UPON SUCH SCHOOL GROUNDS FOR THE LIMITED PURPOSES AUTHORIZED BY THE SUPERINTENDENT OR CHIEF ADMINISTRATOR OF SUCH SCHOOL.

UNLAWFULLY RESIDING OR ENTERING UPON SCHOOL GROUNDS IN THE SECOND DEGREE IS A CLASS A MISDEMEANOR.

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

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S 130.83 UNLAWFULLY RESIDING OR ENTERING UPON SCHOOL GROUNDS IN THE FIRST DEGREE.

A PERSON IS GUILTY OF UNLAWFULLY RESIDING OR ENTERING UPON SCHOOL GROUNDS IN THE FIRST DEGREE WHEN HE OR SHE COMMITS THE OFFENSE OF UNLAWFULLY RESIDING OR ENTERING UPON SCHOOL GROUNDS IN THE SECOND DEGREE, AS DEFINED IN SECTION 130.82 OF THIS ARTICLE, AND HAS BEEN CONVICTED OF UNLAWFULLY RESIDING OR ENTERING UPON SCHOOL GROUNDS IN THE FIRST OR SECOND DEGREE IN THE PREVIOUS FIVE YEARS.

UNLAWFULLY RESIDING OR ENTERING UPON SCHOOL GROUNDS IN THE FIRST DEGREE IS A CLASS E FELONY.

S 2. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.