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

(PREFILED)

January 7, 2009

Introduced by M. of A. McDONOUGH, CROUCH, ERRIGO, WALKER, TEDISCO, FITZPATRICK -- Multi-Sponsored by -- M. of A. ALFANO, BACALLES, BARCLAY, BARRA, BURLING, CONTE, GIGLIO, MILLER, OAKS, O'MARA, QUINN, RABBITT, RAIA, SAYWARD, SCOZZAFAVA, SPANO, THIELE -- read once and referred to the Committee on Codes

AN ACT to amend the penal law and the correction law, in relation to establishing the crimes of unlawful intentional viewing in the third, second and first degrees

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 four new sections 250.70, 250.75, 250.80 and 250.85 to read as follows:

S 250.70 UNLAWFUL INTENTIONAL VIEWING IN THE THIRD DEGREE.

A PERSON IS GUILTY OF UNLAWFUL INTENTIONAL VIEWING IN THE THIRD DEGREE WHEN, FOR HIS OR HER OWN SEXUAL AROUSAL AND SEXUAL GRATIFICATION, HE OR SHE INTENTIONALLY VIEWS A PERSON DRESSING OR UNDRESSING OR VIEWS THE SEXUAL OR OTHER INTIMATE PARTS OF A PERSON AT A PLACE, INCLUDING BUT NOT LIMITED TO THAT PERSON'S DWELLING, AND AT A TIME WHEN SUCH PERSON HAS A REASONABLE EXPECTATION OF PRIVACY, AND THE VIEWING IS WITHOUT SUCH PERSON'S KNOWLEDGE OR CONSENT. FOR THE PURPOSE OF THIS SECTION, "SEXUAL OR OTHER INTIMATE PARTS" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION 250.40 OF THIS ARTICLE.

UNLAWFUL INTENTIONAL VIEWING IN THE THIRD DEGREE IS A CLASS B MISDEMEANOR.

S 250.75 UNLAWFUL INTENTIONAL VIEWING IN THE SECOND DEGREE.

A PERSON IS GUILTY OF UNLAWFUL INTENTIONAL VIEWING IN THE SECOND DEGREE WHEN, FOR HIS OR HER OWN SEXUAL AROUSAL OR SEXUAL GRATIFICATION, HE OR SHE INTENTIONALLY VIEWS A PERSON DRESSING OR UNDRESSING OR VIEWS THE SEXUAL OR OTHER INTIMATE PARTS OF A PERSON AT A PLACE, INCLUDING BUT NOT LIMITED TO THAT PERSON'S DWELLING, AND AT A TIME WHEN SUCH PERSON

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

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HAS A REASONABLE EXPECTATION OF PRIVACY, AND THE VIEWING IS WITHOUT SUCH PERSON'S KNOWLEDGE OR CONSENT, AND THE PERPETRATOR HAS PREVIOUSLY BEEN CONVICTED OF UNLAWFUL INTENTIONAL VIEWING IN THE THIRD DEGREE WITHIN THE PRIOR EIGHTEEN MONTHS. FOR THE PURPOSE OF THIS SECTION, "SEXUAL OR OTHER INTIMATE PARTS" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION 250.40 OF THIS ARTICLE.

UNLAWFUL INTENTIONAL VIEWING IN THE SECOND DEGREE IS A CLASS A MISDEMEANOR.

S 250.80 UNLAWFUL INTENTIONAL VIEWING IN THE FIRST DEGREE.

A PERSON IS GUILTY OF UNLAWFUL INTENTIONAL VIEWING IN THE FIRST DEGREE WHEN, FOR HIS OR HER OWN SEXUAL AROUSAL OR SEXUAL GRATIFICATION, HE OR SHE INTENTIONALLY VIEWS A PERSON DRESSING OR UNDRESSING OR VIEWS THE SEXUAL OR OTHER INTIMATE PARTS OF A PERSON AT A PLACE, INCLUDING BUT NOT LIMITED TO THAT PERSON'S DWELLING, AND AT A TIME WHEN SUCH PERSON HAS A REASONABLE EXPECTATION OF PRIVACY, AND THE VIEWING IS WITHOUT SUCH PERSON'S KNOWLEDGE OR CONSENT, AND THE PERPETRATOR HAS PREVIOUSLY BEEN CONVICTED OF UNLAWFUL INTENTIONAL VIEWING IN THE SECOND DEGREE WITHIN THE PRIOR EIGHTEEN MONTHS. FOR THE PURPOSE OF THIS SECTION, "SEXUAL OR OTHER INTIMATE PARTS" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION 250.40 OF THIS ARTICLE.

UNLAWFUL INTENTIONAL VIEWING IN THE FIRST DEGREE IS A CLASS E FELONY.

S 250.85 MANDATORY PSYCHOLOGICAL EVALUATION; UNLAWFUL INTENTIONAL VIEWING.

WHEN A PERSON IS TO BE SENTENCED UPON A CONVICTION OF THE CRIME OF UNLAWFUL INTENTIONAL VIEWING IN THE THIRD DEGREE AS DEFINED IN SECTION 250.70 OF THIS ARTICLE, UNLAWFUL INTENTIONAL VIEWING IN THE SECOND DEGREE AS DEFINED IN SECTION 250.75 OF THIS ARTICLE OR UNLAWFUL INTENTIONAL VIEWING IN THE FIRST DEGREE AS DEFINED IN SECTION 250.80 OF THIS ARTICLE, THE COURT SHALL ORDER THE DEFENDANT TO UNDERGO A MANDATORY PSYCHOLOGICAL EVALUATION PRIOR TO SENTENCING.

S 2. Subparagraph (i) of paragraph (a) of subdivision 2 of section 168-a of the correction law, as amended by chapter 405 of the laws of 2008, is amended to read as follows:

(i) a conviction of or a conviction for an attempt to commit any of the provisions of sections 120.70, 130.20, 130.25, 130.30, 130.40, 130.45, 130.60, 230.34, 250.50, 250.80, 255.25, 255.26 and 255.27 or article two hundred sixty-three of the penal law, or section 135.05, 135.10, 135.20 or 135.25 of such law relating to kidnapping offenses, provided the victim of such kidnapping or related offense is less than seventeen years old and the offender is not the parent of the victim, or section 230.04, where the person patronized is in fact less than seventeen years of age, 230.05 or 230.06, or subdivision two of section 230.30, or section 230.32 or 230.33 of the penal law, or

S 3. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.