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2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

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, DeMONTE, 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.