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

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2009-2010 Regular Sessions

I N S E N A T E

February 5, 2009

Introduced by Sens. FLANAGAN, LITTLE -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the civil rights law, in relation to a private right of action for the intentional disclosure of the identity of a victim of a sex crime

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 1 of section 50-b of the civil rights law, as amended by chapter 320 of the laws of 2006, is amended to read as follows:

1. The identity of any victim of a sex offense, as defined in article one hundred thirty or section 255.25, 255.26 or 255.27 of the penal law, or of an offense involving the alleged transmission of the human immunodeficiency virus, shall be confidential. No report, paper, picture, photograph, court file or other documents, in the custody or possession of any public officer or employee, which identifies such a victim shall be made available for public inspection. No such public officer or employee shall disclose any portion of any police report, court file, or other document, which tends to identify such a victim except as provided in subdivision two of this section. WHERE ANY REPORT, PAPER, PICTURE, PHOTOGRAPH, COURT FILE, POLICE REPORT OR OTHER DOCUMENT WHICH IDENTIFIES OR TENDS TO IDENTIFY SUCH VICTIM MAY BE SUFFICIENTLY REDACTED TO INSURE SUCH VICTIM IS NOT IDENTIFIED SUCH DOCUMENT MAY BE DISCLOSED ONLY TO ASSIST LAW ENFORCEMENT AUTHORITIES IN INVESTIGATING AND PROSECUTING SUCH OFFENSE.

S 2. The opening paragraph of section 50-c of the civil rights law is designated subdivision 1 and a new subdivision 2 is added to read as follows:

2. IF THE IDENTITY OF THE VICTIM OF A SEX OFFENSE IS INTENTIONALLY DISCLOSED IN VIOLATION OF SECTION FIFTY-B OF THIS ARTICLE AND HAS NOT

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

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OTHERWISE BEEN DISCLOSED, THE VICTIM, OR IF THE VICTIM IS DECEASED THE VICTIM'S FAMILY, WHOSE IDENTITY WAS DISCLOSED MAY BRING AN ACTION TO RECOVER DAMAGES ACTUALLY SUFFERED BY REASON OF SUCH WRONGFUL DISCLOSURE. IN ANY ACTION BROUGHT UNDER THIS SECTION, THE COURT MAY AWARD REASONABLE ATTORNEY'S FEES TO A PREVAILING PLAINTIFF.

S 3. This act shall take effect immediately.