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

4432

2009-2010 Regular Sessions

I N S E N A T E

April 23, 2009

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

AN ACT to amend the penal law, in relation to creating the crime of criminal luring or enticing of a child on the internet

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 a new section 260.09 to read as follows:

S 260.09 CRIMINAL LURING OR ENTICING OF A CHILD ON THE INTERNET.

1. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL MEAN:

(A) "CHILD", SOMEONE UNDER THE AGE OF EIGHTEEN YEARS; AND

(B) "MISREPRESENTATION", ANY COMMUNICATION BY WORDS OR ANY OTHER MEANS MADE BY A PERSON, HAVING THE INTENT OF DECEIVING OR HAVING THE KNOWLEDGE THAT SUCH COMMUNICATION IS FALSE, TO A CHILD FOR THE PURPOSE OF INDUCING AN ACT OR AN OMISSION BY SUCH CHILD; AND

(C) "PERSON", SOMEONE TWENTY-ONE YEARS OF AGE AND OLDER; OR SOMEONE UNDER TWENTY-ONE YEARS OF AGE AND AT LEAST FOUR YEARS OLDER THAN A CHILD.

2. A PERSON IS GUILTY OF CRIMINAL LURING OR ENTICING OF A CHILD ON THE INTERNET WHEN HE OR SHE INTENTIONALLY OR KNOWINGLY ENGAGES A CHILD IN CONVERSATION ON THE INTERNET OR SOME OTHER ELECTRONIC DEVICE, AND LURES OR ATTEMPTS TO LURE A CHILD INTO AN AREA AND ENTICES, BY MISREPRESENTATION OF THEIR IDENTITY, AGE, INTENT OR PURPOSE, OR ATTEMPTS TO ENTICE SUCH CHILD INTO AN ACTIVITY BY, INCLUDING BY NOT LIMITED TO, FALSELY REQUESTING HELP OR PROMISING A REWARD, WHERE SUCH ACTIVITY OR SUCH AREA IS LIKELY TO LEAD TO AN INJURY TO THE PHYSICAL, MENTAL OR MORAL WELFARE OF SUCH CHILD.

3. IT IS NOT AN AFFIRMATIVE DEFENSE TO A PROSECUTION FOR A VIOLATION OF THIS SECTION THAT:

(A) THE CHILD WAS ACTUALLY A LAW ENFORCEMENT OFFICER POSING AS A CHILD; OR

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

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(B) A MEETING DID NOT OCCUR.

CRIMINAL LURING OR ENTICING OF A CHILD ON THE INTERNET IS A CLASS C 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.