

1579

2011-2012 Regular Sessions

I N A S S E M B L Y

January 10, 2011

Introduced by M. of A. TEDISCO, BARCLAY, CROUCH, KOLB, RAIA -- Multi-Sponsored by -- M. of A. CONTE, DUPREY, FINCH, HAWLEY, McKEVITT, J. MILLER, OAKS, REILICH, SAYWARD, SPANO, THIELE -- 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:

1 Section 1. The penal law is amended by adding two new sections 130.82  
2 and 130.83 to read as follows:

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

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

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

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

LBD02041-01-1

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

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

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

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

13 S 2. This act shall take effect on the first of November next succeed-  
14 ing the date on which it shall have become a law.