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

7848

I N S E N A T E

September 21, 2012

Introduced by Sens. SAVINO, VALESKY, KLEIN, CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the penal law and the correction law, in relation to aggravated sexual contact in the first degree

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 130.73 to read as follows:

S 130.73 AGGRAVATED SEXUAL CONTACT IN THE FIRST DEGREE.

A PERSON IS GUILTY OF AGGRAVATED SEXUAL CONTACT IN THE FIRST DEGREE WHEN HE OR SHE TOUCHES, RUBS, OR IS IN CLOSE PHYSICAL CONTACT, CLOTHED OR UNCLOTHED, TO ANOTHER PERSON FOR THE PURPOSE OF GRATIFYING SEXUAL DESIRE BY THE ACTOR, AS WELL AS THE EMISSION OF EJACULATE BY THE ACTOR UPON ANY PART OF THE VICTIM:

1. WHEN THE OTHER PERSON IS INCAPABLE OF CONSENT BY REASON OF BEING PHYSICALLY HELPLESS, POWERLESS TO MOVE OR WHILE A PASSENGER ON PUBLIC TRANSPORTATION; OR

2. WHEN THE OTHER PERSON IS LESS THAN ELEVEN YEARS OLD.

AGGRAVATED SEXUAL CONTACT IN THE FIRST DEGREE IS A CLASS B FELONY.

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, 130.73, 230.34, 250.50, 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 sixtieth day after it shall have become a law.

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

LBD16518-01-2