

2483

2011-2012 Regular Sessions

I N   A S S E M B L Y

January 19, 2011

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Introduced by M. of A. COLTON, ZEBROWSKI, LANCMAN, BENEDETTO, ROBINSON, GIGLIO, SCHIMEL, JAFFEE, MAISEL, CLARK, SCHROEDER, PHEFFER, PERRY, GABRYSZAK, REILLY, GUNTHER, SPANO, CASTRO, DESTITO, DenDEKKER, MENG, ORTIZ, SCHIMMINGER, GALEF, MAYERSOHN, BARRON, ENGLEBRIGHT, TITONE, HOOPER, MOLINARO, RAIA, TOBACCO -- Multi-Sponsored by -- M. of A. ABBATE, BURLING, CONTE, COOK, CROUCH, LATIMER, P. LOPEZ, MARKEY, McDO- NOUGH, McKEVITT, SALADINO, THIELE, WEISENBERG -- read once and referred 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:

1     Section 1. The penal law is amended by adding a new section 260.09 to  
2     read as follows:  
3     S 260.09 CRIMINAL LURING OR ENTICING OF A CHILD ON THE INTERNET.  
4     1. WHENEVER SUCH TERM IS USED IN THIS SECTION:  
5     (A) "CHILD" SHALL MEAN SOMEONE UNDER THE AGE OF EIGHTEEN YEARS; AND  
6     (B) "MISREPRESENTATION" SHALL MEAN ANY COMMUNICATION BY WORDS OR ANY  
7     OTHER MEANS MADE BY A PERSON, HAVING THE INTENT OF DECEIVING OR HAVING  
8     THE KNOWLEDGE THAT SUCH COMMUNICATION IS FALSE, TO A CHILD FOR THE  
9     PURPOSE OF INDUCING AN ACT OR AN OMISSION BY SUCH CHILD; AND  
10    (C) "PERSON" SHALL MEAN SOMEONE TWENTY-ONE YEARS OF AGE AND OLDER; OR  
11    SOMEONE UNDER TWENTY-ONE YEARS OF AGE AND AT LEAST FOUR YEARS OLDER THAN  
12    A CHILD.  
13    2. A PERSON IS GUILTY OF CRIMINAL LURING OR ENTICING OF A CHILD ON THE  
14    INTERNET WHEN HE OR SHE INTENTIONALLY OR KNOWINGLY ENGAGES A CHILD IN  
15    CONVERSATION ON THE INTERNET OR SOME OTHER ELECTRONIC DEVICE, AND LURES  
16    OR ATTEMPTS TO LURE A CHILD INTO AN AREA AND ENTICES, BY MISREPRESENTATION  
17    OF THEIR IDENTITY, AGE, INTENT OR PURPOSE, OR ATTEMPTS TO ENTICE  
18    SUCH CHILD INTO AN ACTIVITY BY, INCLUDING BUT NOT LIMITED TO, FALSELY  
19    REQUESTING HELP OR PROMISING A REWARD, WHERE SUCH ACTIVITY OR SUCH AREA

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

LBD01611-01-1

1 IS LIKELY TO LEAD TO AN INJURY TO THE PHYSICAL, MENTAL OR MORAL WELFARE  
2 OF SUCH CHILD.  
3 3. IT IS NOT AN AFFIRMATIVE DEFENSE TO A PROSECUTION FOR A VIOLATION  
4 OF THIS SECTION THAT:  
5 (A) THE CHILD WAS ACTUALLY A LAW ENFORCEMENT OFFICER POSING AS A  
6 CHILD; OR  
7 (B) A MEETING DID NOT OCCUR.  
8 CRIMINAL LURING OR ENTICING OF A CHILD ON THE INTERNET IS A CLASS C  
9 FELONY.  
10 S 2. This act shall take effect on the first of November next succeed-  
11 ing the date on which it shall have become a law.