

9467

I N   A S S E M B L Y

May 1, 2014

---

Introduced by M. of A. MALLIOTAKIS -- read once and referred to the  
Committee on Codes

AN ACT to amend the penal law, in relation to luring a child

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

1     Section 1. Section 120.70 of the penal law, as added by chapter 405 of  
2     the laws of 2008, is amended to read as follows:  
3     S 120.70 Luring a child.  
4     1. A person is guilty of luring a child when [he]:  
5     (A) HE or she lures a child into a motor vehicle, aircraft, water-  
6     craft, isolated area, building, or part thereof, for the purpose of  
7     committing against such child any of the following offenses:  
8     [an] (1) A VIOLENT FELONY offense as defined in section 70.02 of this  
9     chapter;  
10    [an] (2) AN offense as defined in section 125.25 or 125.27 of this  
11    chapter;  
12    [a] (3) A felony offense that is a violation of article one hundred  
13    thirty of this chapter;  
14    [an] (4) AN offense as defined in section 135.25 of this chapter;  
15    [an] (5) AN offense as defined in sections 230.19, 230.25, 230.30,  
16    230.32, 230.33 or 230.34 of this chapter;  
17    [an] (6) AN offense as defined in sections 255.25, 255.26, or 255.27  
18    of this chapter; or  
19    [an] (7) AN offense as defined in sections 263.05, 263.10, or 263.15  
20    of this chapter[. For purposes of this subdivision "child" means a  
21    person less than seventeen years of age. Nothing in this section shall  
22    be deemed to preclude, if the evidence warrants, a conviction for the  
23    commission or attempted commission of any crime, including but not  
24    limited to a crime defined in article one hundred thirty-five of this  
25    chapter.  
26    2.]; OR  
27    (B) BEING EIGHTEEN YEARS OLD OR MORE AND WITH INTENT TO LURE, ENTICE,  
28    PERSUADE, CONVINCE, HARASS, ANNOY, THREATEN OR ALARM A CHILD, HE OR SHE,

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

LBD07399-03-3

1 BY MEANS OF A COMPUTER, COMMUNICATES OR CAUSES A COMMUNICATION TO BE  
2 INITIATED PURPORTING TO SOLICIT:

3 (1) SEXUAL INTERCOURSE, ORAL SEXUAL CONDUCT, ANAL SEXUAL CONDUCT OR  
4 SEXUAL CONTACT WITH A CHILD WHOM HE OR SHE KNOWS OR REASONABLY SHOULD  
5 KNOW IS LESS THAN SEVENTEEN YEARS OLD; OR

6 (2) A SEXUAL PERFORMANCE BY A CHILD WHOM HE OR SHE KNOWS OR REASONABLY  
7 SHOULD KNOW IS LESS THAN SEVENTEEN YEARS OLD; OR

8 (3) ANY IN-PERSON CONTACT WITH A CHILD THAT RESULTS IN THE COMMISSION  
9 OR ATTEMPTED COMMISSION OF ANY OF THE FOLLOWING OFFENSES AGAINST THE  
10 CHILD:

11 (I) A VIOLENT FELONY OFFENSE AS DEFINED IN SECTION 70.02 OF THIS CHAP-  
12 TER;

13 (II) AN OFFENSE AS DEFINED IN SECTION 125.25 OR 125.27 OF THIS CHAP-  
14 TER;

15 (III) A FELONY OFFENSE THAT IS A VIOLATION OF ARTICLE ONE HUNDRED  
16 THIRTY OF THIS CHAPTER;

17 (IV) AN OFFENSE AS DEFINED IN SECTION 135.25 OF THIS CHAPTER;

18 (V) AN OFFENSE AS DEFINED IN SECTION 230.19, 230.25, 230.30, 230.32,  
19 230.33 OR 230.34 OF THIS CHAPTER;

20 (VI) AN OFFENSE AS DEFINED IN SECTION 255.25, 255.26, OR 255.27 OF  
21 THIS CHAPTER; OR

22 (VII) AN OFFENSE AS DEFINED IN SECTION 263.05, 263.10, OR 263.15 OF  
23 THIS CHAPTER.

24 2. FOR PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE  
25 FOLLOWING MEANINGS:

26 (A) "ANAL SEXUAL CONDUCT" SHALL HAVE THE SAME MEANING AS THAT TERM IS  
27 DEFINED IN PARAGRAPH (B) OF SUBDIVISION TWO OF SECTION 130.00 OF THIS  
28 CHAPTER.

29 (B) "BUILDING" IN ADDITION TO ITS ORDINARY MEANING, INCLUDES ANY  
30 STRUCTURE, VEHICLE, AIRCRAFT OR WATERCRAFT USED FOR OVERNIGHT LODGING OF  
31 PERSONS, OR USED BY PERSONS FOR CARRYING ON BUSINESS THEREIN, OR AN  
32 ENCLOSED MOTOR TRUCK, OR AN ENCLOSED MOTOR TRUCK TRAILER.

33 (C) "CHILD" MEANS A PERSON LESS THAN SEVENTEEN YEARS OF AGE.

34 (D) "COMMUNICATE" SHALL, IN ADDITION TO ITS ORDINARY MEANING, INCLUDE  
35 ORAL AND VISUAL COMMUNICATION. VISUAL COMMUNICATION INCLUDES, BUT IS NOT  
36 LIMITED TO, ELECTRONIC TEXT MESSAGES, ELECTRONIC MAIL MESSAGES,  
37 PICTURES, ILLUSTRATIONS OR GRAPHICS.

38 (E) "COMPUTER" SHALL HAVE THE SAME MEANING AS THAT TERM IS DEFINED BY  
39 SECTION 156.00 OF THIS CHAPTER.

40 (F) "COMPUTER PROGRAM" SHALL HAVE THE SAME MEANING AS THAT TERM IS  
41 DEFINED BY SECTION 156.00 OF THIS CHAPTER.

42 (G) "ORAL SEXUAL CONDUCT" SHALL HAVE THE SAME MEANING AS THAT TERM IS  
43 DEFINED IN PARAGRAPH (A) OF SUBDIVISION TWO OF SECTION 130.00 OF THIS  
44 CHAPTER.

45 (H) "SEXUAL CONTACT" SHALL HAVE THE SAME MEANING AS ASCRIBED TO SUCH  
46 TERM BY SUBDIVISION THREE OF SECTION 130.00 OF THIS CHAPTER.

47 (I) "SEXUAL INTERCOURSE" SHALL HAVE THE SAME MEANING AS THAT TERM IS  
48 DEFINED IN SUBDIVISION ONE OF SECTION 130.00 OF THIS CHAPTER.

49 (J) "SEXUAL PERFORMANCE" SHALL HAVE THE SAME MEANING AS THAT TERM IS  
50 DEFINED IN SECTION 263.00 OF THIS CHAPTER.

51 3. NOTHING IN THIS SECTION SHALL BE DEEMED TO PRECLUDE, IF THE  
52 EVIDENCE SO WARRANTS, AN INDICTMENT AND CONVICTION FOR ATTEMPTED KIDNAP-  
53 PING UNDER THE PROVISIONS OF SECTIONS 110.00 AND 135.00 OF THIS CHAPTER.

54 4. Luring a child is a class [E] D felony, provided, however, that if  
55 the underlying offense the actor intended to commit against such child  
56 constituted a class A or a class B felony, then the offense of luring a

1 child in violation of this section shall be deemed respectively, a class  
2 [C] B felony or class [D] C felony.  
3 S 2. This act shall take effect on the first of November next succeed-  
4 ing the date on which it shall have become a law.