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

155

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

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

AN ACT to amend the penal law and the executive law, in relation to restricting internet use by individuals who are convicted of promoting prostitution, compelling prostitution or sex trafficking where the internet was used to facilitate the commission of such crime

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

Section 1. Section 65.10 of the penal law is amended by adding a new subdivision 6 to read as follows:

6. CONDITIONS RELATING TO CONVICTIONS FOR PROMOTING PROSTITUTION, COMPELLING PROSTITUTION OR SEX TRAFFICKING. (A) WHEN IMPOSING A SENTENCE OF PROBATION OR CONDITIONAL DISCHARGE UPON A PERSON CONVICTED OF SECTION 230.20, 230.25, 230.30, 230.32, 230.33 OR 230.34 OF THIS CHAPTER AND THE INTERNET WAS USED TO FACILITATE THE COMMISSION OF THE CRIME, THE COURT SHALL REQUIRE, AS MANDATORY CONDITIONS OF SUCH SENTENCE, THAT THE DEFENDANT BE PROHIBITED FROM USING THE INTERNET TO ACCESS A COMMERCIAL SOCIAL NETWORKING WEBSITE, ACCESS AN ONLINE COMMUNITY, AND COMMUNICATE ON THE WEB WITH OTHER INDIVIDUALS OR GROUPS FOR THE PURPOSE OF PROMOTING PROSTITUTION, COMPELLING PROSTITUTION OR SEX TRAFFICKING. NOTHING IN THIS SUBDIVISION SHALL BE CONSTRUED AS RESTRICTING ANY OTHER LAWFUL CONDITION OF SUPERVISION THAT MAY BE IMPOSED ON SUCH DEFENDANT.

(B) IN ADDITION TO ANY CONDITIONS REQUIRED UNDER PARAGRAPH (A) OF THIS SUBDIVISION OR ANY OTHER LAWFUL CONDITION OF SUPERVISION THAT MAY BE IMPOSED ON THE DEFENDANT, THE COURT MAY REQUIRE THAT THE DEFENDANT COMPLY WITH A REASONABLE LIMITATION ON HIS OR HER USE OF THE INTERNET THAT THE COURT DETERMINES TO BE NECESSARY OR APPROPRIATE TO AMELIORATE THE CONDUCT WHICH GAVE RISE TO THE OFFENSE OR TO PROTECT PUBLIC SAFETY, PROVIDED THAT THE COURT SHALL NOT PROHIBIT SUCH DEFENDANT FROM USING THE

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

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INTERNET IN CONNECTION WITH EDUCATION, LAWFUL EMPLOYMENT OR SEARCH FOR LAWFUL EMPLOYMENT.

(C) AS USED IN THIS SUBDIVISION:

(I) "COMMERCIAL SOCIAL NETWORKING WEBSITE" SHALL MEAN ANY BUSINESS, ORGANIZATION OR OTHER ENTITY OPERATING A WEBSITE THAT PERMITS PERSONS TO BE REGISTERED USERS FOR THE PURPOSE OF ESTABLISHING PERSONAL RELATIONSHIPS WITH OTHER USERS, WHERE SUCH PERSONS MAY: (1) CREATE WEB PAGES OR PROFILES THAT PROVIDE INFORMATION ABOUT THEMSELVES WHERE SUCH WEB PAGES OR PROFILES ARE AVAILABLE TO THE PUBLIC OR TO OTHER USERS; (2) ENGAGE IN DIRECT OR REAL TIME COMMUNICATION WITH OTHER USERS, SUCH AS CHAT ROOM OR INSTANT MESSENGER; AND (3) COMMUNICATE WITH THE PUBLIC OR OTHER USERS.

(II) "ONLINE COMMUNITY" SHALL MEAN AN INFORMATION SYSTEM WHERE CONTENT MAY BE POSTED AND MAY OR MAY NOT RESTRICT TO PARTICULAR USERS. THIS SHALL INCLUDE BUT NOT BE LIMITED TO BLOGS, INTERNET CLASSIFIED SITES, AND WEB BULLETIN-BOARDS.

S 2. Subdivisions 16 and 17 of section 259-c of the executive law are renumbered subdivisions 17 and 18 and a new subdivision 16 is added to read as follows:

16. (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, WHERE A PERSON IS SERVING A SENTENCE FOR A VIOLATION OF SECTION 230.20, 230.25, 230.30, 230.32, 230.33 OR 230.34 OF THE PENAL LAW AND THE INTERNET WAS USED TO FACILITATE THE COMMISSION OF THE CRIME, IF SUCH PERSON IS RELEASED ON PAROLE OR CONDITIONALLY RELEASED PURSUANT TO SUBDIVISION ONE OR TWO OF THIS SECTION, THE BOARD SHALL REQUIRE, AS MANDATORY CONDITIONS OF SUCH RELEASE, THAT THE DEFENDANT BE PROHIBITED FROM USING THE INTERNET TO ACCESS A COMMERCIAL SOCIAL NETWORKING WEBSITE, ACCESS AN ONLINE COMMUNITY, AND COMMUNICATE ON THE WEB WITH OTHER INDIVIDUALS OR GROUPS FOR THE PURPOSE OF PROMOTING PROSTITUTION, COMPELLING PROSTITUTION OR SEX TRAFFICKING. NOTHING IN THIS SUBDIVISION SHALL BE CONSTRUED AS RESTRICTING ANY OTHER LAWFUL CONDITION OF SUPERVISION THAT MAY BE IMPOSED ON SUCH DEFENDANT.

(B) AS USED IN THIS SUBDIVISION:

(I) "COMMERCIAL SOCIAL NETWORKING WEBSITE" SHALL MEAN ANY BUSINESS, ORGANIZATION OR OTHER ENTITY OPERATING A WEBSITE THAT PERMITS PERSONS TO BE REGISTERED USERS FOR THE PURPOSE OF ESTABLISHING PERSONAL RELATIONSHIPS WITH OTHER USERS, WHERE SUCH PERSONS MAY: (1) CREATE WEB PAGES OR PROFILES THAT PROVIDE INFORMATION ABOUT THEMSELVES WHERE SUCH WEB PAGES OR PROFILES ARE AVAILABLE TO THE PUBLIC OR TO OTHER USERS; (2) ENGAGE IN DIRECT OR REAL TIME COMMUNICATION WITH OTHER USERS, SUCH AS CHAT ROOM OR INSTANT MESSENGER; AND (3) COMMUNICATE WITH THE PUBLIC OR OTHER USERS.

(II) "ONLINE COMMUNITY" SHALL MEAN AN INFORMATION SYSTEM WHERE CONTENT MAY BE POSTED AND MAY OR MAY NOT RESTRICT TO PARTICULAR USERS. THIS SHALL INCLUDE BUT NOT BE LIMITED TO BLOGS, INTERNET CLASSIFIED SITES, AND WEB BULLETIN-BOARDS.

S 3. This act shall take effect on the one hundred eightieth day after it shall have become a law.