

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.