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

7102

2015-2016 Regular Sessions

I N A S S E M B L Y

April 23, 2015

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

AN ACT to amend the penal law and the correction law, in relation to establishing the offense of sexually aggravated offense

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 130.97 to read as follows:

S 130.97 SEXUALLY AGGRAVATED OFFENSE.

1. A PERSON COMMITS A SEXUALLY AGGRAVATED OFFENSE WHEN HE OR SHE COMMITS A SPECIFIED OFFENSE FOR THE PURPOSE, IN WHOLE OR SUBSTANTIAL PART, OF HIS OR HER OWN DIRECT SEXUAL GRATIFICATION.

2. A "SPECIFIED OFFENSE" IS AN OFFENSE DEFINED BY ANY OF THE FOLLOWING PROVISIONS OF THIS PART: OBSCENITY IN THE THIRD DEGREE, AS DEFINED IN SECTION 235.05 OF THIS PART, HARASSMENT IN THE FIRST DEGREE, AS DEFINED IN SECTION 240.25 OF THIS PART, HARASSMENT IN THE SECOND DEGREE, AS DEFINED IN SECTION 240.30 OF THIS PART, DISSEMINATING A FALSE REGISTERED SEX OFFENDER NOTE, AS DEFINED IN SECTION 240.48 OF THIS PART, PUBLIC LEWDNESS, AS DEFINED IN SECTION 245.00 OF THIS PART, EXPOSURE, AS DEFINED IN SECTION 245.01 OF THIS PART, PROMOTING THE EXPOSURE OF A PERSON, AS DEFINED IN SECTION 245.02 OF THIS PART, PUBLIC DISPLAY OF OFFENSIVE SEXUAL MATERIAL, AS DEFINED IN SECTION 245.11 OF THIS PART, ENDANGERING THE WELFARE OF A CHILD, AS DEFINED IN SECTION 260.10 OF THIS PART, UNLAWFULLY DEALING WITH A CHILD IN THE FIRST DEGREE, AS DEFINED IN SECTION 260.20 OF THIS PART, UNLAWFULLY DEALING WITH A CHILD IN THE SECOND DEGREE, AS DEFINED IN SECTION 260.21 OF THIS PART, ENDANGERING THE WELFARE OF AN INCOMPETENT OR PHYSICALLY DISABLED PERSON IN THE SECOND DEGREE, AS DEFINED IN SECTION 260.24 OF THIS PART, MISREPRESENTATION BY A CHILD DAY CARE PROVIDER, AS DEFINED IN SECTION 260.31 OF THIS PART OR ANY ATTEMPT OR CONSPIRACY TO COMMIT ANY OF THE FOREGOING OFFENSES.

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

LBD10543-01-5

S 2. Paragraph (a) of subdivision 2 of section 168-a of the correction law, as amended by part 405 of the laws of 2008, is amended to read as follows:

(a) (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, 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 (ii) a conviction of or a conviction for an attempt to commit any of the provisions of section 235.22 of the penal law, or (iii) a conviction of or a conviction for an attempt to commit any provisions of the foregoing sections committed or attempted as a hate crime defined in section 485.05 of the penal law or as a crime of terrorism defined in section 490.25 of such law or as a sexually motivated felony defined in section 130.91 of such law, OR AS A SEXUALLY AGGRAVATED OFFENSE AS DEFINED IN SECTION 130.97 OF SUCH LAW; or

S 3. This act shall take effect immediately.