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

10347

I N A S S E M B L Y

May 23, 2016

Introduced by M. of A. LAVINE -- read once and referred to the Committee on Judiciary

AN ACT to amend the general obligations law, in relation to liability of parents and legal guardians for bullying offenses of minors

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

Section 1. The general obligations law is amended by adding a new section 3-113 to read as follows:

S 3-113. LIABILITY OF PARENTS AND LEGAL GUARDIANS FOR BULLYING OFFENSES OF MINORS. 1. THE PARENT OR LEGAL GUARDIAN, OTHER THAN THE STATE, A LOCAL SOCIAL SERVICES DEPARTMENT OR A FOSTER PARENT, OF A MINOR OVER TEN AND LESS THAN EIGHTEEN YEARS OF AGE, SHALL BE LIABLE FOR PENALTIES IMPOSED FOR VIOLATIONS OF THIS SECTION.

2. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS, UNLESS THE CONTEXT CLEARLY INDICATES THAT A DIFFERENT MEANING IS INTENDED:

(A) "BULLYING" SHALL MEAN AN INTENTIONAL COURSE OF CONDUCT WHICH IS REASONABLY LIKELY TO INTIMIDATE, EMOTIONALLY ABUSE, SLANDER OR THREATEN ANOTHER PERSON AND WHICH SERVES NO LEGITIMATE PURPOSE.

(B) "COURSE OF CONDUCT" SHALL MEAN A PATTERN OF CONDUCT COMPOSED OF A SERIES OF ACTS OVER A PERIOD OF TIME HOWEVER SHORT, EVIDENCING A CONTINUITY OF PURPOSE.

(C) "HARASSMENT" IS DEFINED AS ANY CONDUCT, WHETHER VERBAL, PHYSICAL, WRITTEN, OR BY MEANS OF ANY MODE OF COMMUNICATION, WHICH IS PROHIBITED AS HARASSMENT OR AGGRAVATED HARASSMENT AS DEFINED IN ARTICLE TWO HUNDRED FORTY OF THE PENAL LAW OR IS ANY INTENTIONAL COURSE OF CONDUCT WHICH IS LIKELY TO CREATE AN INTIMIDATING, HOSTILE OR OFFENSIVE ENVIRONMENT, AND WHICH SERVES NO LEGITIMATE PURPOSE.

3. IT SHALL BE A VIOLATION FOR ANY PERSON TO ENGAGE IN BULLYING OR HARASSMENT OF ANY PERSON OR TO INDUCE ANOTHER PERSON TO ENGAGE IN SUCH BULLYING OR HARASSMENT.

4. NO PERSON SHALL RETALIATE AGAINST ANY PERSON WHO REPORTS ANY CONDUCT WHICH IS PROHIBITED BY THIS SECTION.

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

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5. THIS SECTION SHALL NOT BE CONSTRUED TO APPLY TO ANY CONSTITUTIONALLY PROTECTED ACTIVITY OR SPEECH.

6. IT SHALL BE A VIOLATION FOR ANY CUSTODIAL PARENT OR GUARDIAN OF ANY UN-EMANCIPATED MINOR UNDER EIGHTEEN YEARS OF AGE TO ALLOW OR PERMIT SUCH MINOR TO VIOLATE THE PROVISIONS OF SUBDIVISION THREE OF THIS SECTION. THE FACT THAT PRIOR TO THE PRESENT OFFENSE A PARENT, GUARDIAN OR CUSTODIAN WAS INFORMED IN WRITING BY A LAW ENFORCEMENT OFFICER OF A SEPARATE VIOLATION OF SUBDIVISION THREE OF THIS SECTION BY THE SAME MINOR OCCURRING WITHIN NINETY DAYS PRIOR TO THE PRESENT OFFENSE SHALL CONSTITUTE A REBUTTABLE PRESUMPTION THAT SUCH PARENT, GUARDIAN OR CUSTODIAN ALLOWED OR PERMITTED THE PRESENT VIOLATION.

7. EXCEPT WHERE ANOTHER PENALTY IS PRESCRIBED BY LAW, ANY PERSON WHO SHALL VIOLATE ANY PROVISION OF THIS SECTION SHALL BE SUBJECT, UPON CONVICTION THEREOF, TO A FINE OF NOT LESS THAN FIFTY DOLLARS NOR MORE THAN ONE THOUSAND DOLLARS, TOGETHER WITH THE COSTS OF PROSECUTION. UPON A SUBSEQUENT VIOLATION OF THIS SECTION WITHIN ONE YEAR SUCH PERSON SHALL BE SUBJECT TO A FINE OF NOT LESS THAN ONE HUNDRED DOLLARS NOR MORE THAN TWO THOUSAND DOLLARS FOR EACH SUCH OFFENSE, TOGETHER WITH COSTS OF PROSECUTION. EACH VIOLATION AND EACH DAY A VIOLATION CONTINUES OR OCCURS SHALL CONSTITUTE A SEPARATE OFFENSE.

S 2. This act shall take effect immediately.