STATE OF NEW YORK

8742

2019-2020 Regular Sessions

IN ASSEMBLY

November 25, 2019

Introduced by M. of A. SOLAGES, GOTTFRIED -- read once and referred to the Committee on Health

AN ACT to amend the public health law, the education law and the penal law, in relation to prohibiting virginity examinations

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The public health law is amended by adding two new sections 230-f and 267-a to read as follows:

§ 230-f. Unauthorized virginity examinations. For the purposes of this title, professional misconduct shall include the performance of virginity examinations or supervising the performance of virginity examinations in violation of section two hundred sixty-seven-a of this article.

§ 267-a. Prohibition of virginity examinations. 1. For purposes of this section, the following terms shall have the following meanings:

(a) "Virginity examination" shall mean any practice or procedure used to determine whether a female has previously had sexual intercourse.

(b) "Medical setting" shall mean any location where licensed medical practitioners are authorized to provide health care to individuals, including, but not limited to, hospitals, long-term care facilities, physician's offices, urgent-care centers and outpatient clinics.

2. No licensed medical practitioner shall perform a virginity examination or supervise the performance of a virginity examination on a patient.

3. (a) Any licensed medical practitioner who performs a virginity examination in violation of this section shall be subject to penalties for professional misconduct pursuant to subarticle three of article one hundred thirty of the education law.

(b) Any licensed medical practitioner who performs or supervises the performance of a virginity examination on an individual in a non-medical setting shall be subject to penalties for sexual abuse in the first

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

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degree pursuant to section 130.65 if the penal law, in addition to the penalties described in paragraph (a) of this subdivision.

§ 2. Section 6509 of the education law is amended by adding a new subdivision 15 to read as follows:

(15) A violation of section two hundred sixty-seven-a of the public health law.

§ 3. Section 130.65 of the penal law, as amended by chapter 26 of the laws of 2011, is amended to read as follows:

§ 130.65 Sexual abuse in the first degree.

1. A person is guilty of sexual abuse in the first degree when he or she subjects another person to sexual contact:

[~~1.~~] (a) By forcible compulsion; or

[~~2.~~] (b) When the other person is incapable of consent by reason of being physically helpless; or

[~~3.~~] (c) When the other person is less than eleven years old; or

[~~4.~~] (d) When the other person is less than thirteen years old and the actor is twenty-one years old or older.

2. A person is also guilty of sexual abuse in the first degree when he or she is in violation of paragraph (b) of subdivision three of section two hundred sixty-seven-a of the public health law.

Sexual abuse in the first degree is a class D felony.

§ 4. Subdivision 3 of section 485.05 of the penal law, as amended by section 9 of part NN of chapter 55 of the laws of 2018, is amended to read as follows:

3. A "specified offense" is an offense defined by any of the following provisions of this chapter: section 120.00 (assault in the third degree); section 120.05 (assault in the second degree); section 120.10 (assault in the first degree); section 120.12 (aggravated assault upon a person less than eleven years old); section 120.13 (menacing in the first degree); section 120.14 (menacing in the second degree); section 120.15 (menacing in the third degree); section 120.20 (reckless endangerment in the second degree); section 120.25 (reckless endangerment in the first degree); section 121.12 (strangulation in the second degree); section 121.13 (strangulation in the first degree); subdivision one of section 125.15 (manslaughter in the second degree); subdivision one, two or four of section 125.20 (manslaughter in the first degree); section 125.25 (murder in the second degree); section 120.45 (stalking in the fourth degree); section 120.50 (stalking in the third degree); section 120.55 (stalking in the second degree); section 120.60 (stalking in the first degree); subdivision one of section 130.35 (rape in the first degree); subdivision one of section 130.50 (criminal sexual act in the first degree); paragraph (a) of subdivision one of section 130.65 (sexual abuse in the first degree); paragraph (a) of subdivision one of section 130.67 (aggravated sexual abuse in the second degree); paragraph (a) of subdivision one of section 130.70 (aggravated sexual abuse in the first degree); section 135.05 (unlawful imprisonment in the second degree); section 135.10 (unlawful imprisonment in the first degree); section 135.20 (kidnapping in the second degree); section 135.25 (kidnapping in the first degree); section 135.60 (coercion in the third degree); section 135.61 (coercion in the second degree); section 135.65 (coercion in the first degree); section 140.10 (criminal trespass in the third degree); section 140.15 (criminal trespass in the second degree); section 140.17 (criminal trespass in the first degree); section 140.20 (burglary in the third degree); section 140.25 (burglary in the second degree); section 140.30 (burglary in the first degree); section 145.00 (criminal mischief in the fourth degree); section 145.05 (criminal

mischief in the third degree); section 145.10 (criminal mischief in the second degree); section 145.12 (criminal mischief in the first degree); section 150.05 (arson in the fourth degree); section 150.10 (arson in the third degree); section 150.15 (arson in the second degree); section 150.20 (arson in the first degree); section 155.25 (petit larceny); section 155.30 (grand larceny in the fourth degree); section 155.35 (grand larceny in the third degree); section 155.40 (grand larceny in the second degree); section 155.42 (grand larceny in the first degree); section 160.05 (robbery in the third degree); section 160.10 (robbery in the second degree); section 160.15 (robbery in the first degree); section 240.25 (harassment in the first degree); subdivision one, two or four of section 240.30 (aggravated harassment in the second degree); or any attempt or conspiracy to commit any of the foregoing offenses.

§ 5. This act shall take effect immediately.