

STATE OF NEW YORK

2659

2019-2020 Regular Sessions

IN ASSEMBLY

January 24, 2019

Introduced by M. of A. RODRIGUEZ, ARROYO, MOSLEY -- Multi-Sponsored by
-- M. of A. COOK, GIGLIO, McDONOUGH, SIMON -- read once and referred
to the Committee on Codes

AN ACT to amend the penal law, in relation to deeming students who
engage in sexual conduct with an employee or volunteer of the school
such student attends as being incapable of consent

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

Section 1. Paragraph (j) of subdivision 3 of section 130.05 of the
penal law, as added by section 1 of part JJ of chapter 55 of the laws of
2018, is amended and a new paragraph (k) is added to read as follows:

(j) detained or otherwise in the custody of a police officer, peace
officer, or other law enforcement official and the actor is a police
officer, peace officer or other law enforcement official who either: (i)
is detaining or maintaining custody of such person; or (ii) knows, or
reasonably should know, that at the time of the offense, such person was
detained or in custody~~[-]~~; or

(k) a student enrolled in an elementary or secondary school in this
state, regardless of age, who is engaged in sexual conduct as defined in
subdivision ten of section 130.00 of this article with an employee or
volunteer of the school attended by such student. For purposes of this
paragraph, "employee" means any person receiving compensation to provide
services to such school, whereby such services performed by such person
involve direct student contact. "Volunteer" means any person, other than
an employee, who provides services to such school, which involves direct
student contact.

§ 2. This act shall take effect on the thirtieth day after it shall
have become a law.

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

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