

STATE OF NEW YORK

4696

2019-2020 Regular Sessions

IN ASSEMBLY

February 5, 2019

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, subdivision 1 as amended by chapter 189 of the laws of
3 2018, is amended to read as follows:

4 § 120.70 Luring a child.

5 1. A person is guilty of luring a child when [~~he~~]:

6 (a) He or she lures a child into a motor vehicle, aircraft, water-
7 craft, isolated area, building, or part thereof, for the purpose of
8 committing against such child any of the following offenses: [~~an~~]

9 (1) A violent felony offense as defined in section 70.02 of this chap-
10 ter; [~~an~~]

11 (2) An offense as defined in section 125.25 or 125.27 of this chapter;
12 [~~a~~]

13 (3) A felony offense that is a violation of article one hundred thirty
14 of this chapter; [~~an~~]

15 (4) An offense as defined in section 135.25 of this chapter; [~~an~~]

16 (5) An offense as defined in sections 230.19, 230.25, 230.30, 230.32,
17 230.33, 230.34 or 230.34-a of this chapter; [~~an~~]

18 (6) An offense as defined in sections 255.25, 255.26, or 255.27 of
19 this chapter; or [~~an~~]

20 (7) An offense as defined in sections 263.05, 263.10, or 263.15 of
21 this chapter[~~. For purposes of this subdivision "child" means a person~~

22 ~~less than seventeen years of age. Nothing in this section shall be~~
23 ~~deemed to preclude, if the evidence warrants, a conviction for the~~
24 ~~commission or attempted commission of any crime, including but not~~
25 ~~limited to a crime defined in article one hundred thirty-five of this~~
26 ~~chapter.~~

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

LBD08672-01-9

1 ~~2-~~] ; or

2 (b) Being eighteen years old or more and with intent to lure, entice,
3 persuade, convince, harass, annoy, threaten or alarm a child, he or she,
4 by means of a computer, communicates with such child or causes a commu-
5 nication to be initiated with such child and such communication purports
6 to solicit;

7 (1) Sexual intercourse, oral sexual conduct, anal sexual conduct or
8 sexual contact with such child whom he or she knows or reasonably should
9 know is less than seventeen years old; or

10 (2) A sexual performance by such child whom he or she knows or reason-
11 ably should know is less than seventeen years old; or

12 (3) Any in-person contact with such child that results in the commis-
13 sion or attempted commission of any of the following offenses against
14 the child:

15 (i) A violent felony offense as defined in section 70.02 of this chap-
16 ter;

17 (ii) An offense as defined in section 125.25 or 125.27 of this chap-
18 ter;

19 (iii) A felony offense that is a violation of article one hundred
20 thirty of this chapter;

21 (iv) An offense as defined in section 135.25 of this chapter;

22 (v) An offense as defined in section 230.19, 230.25, 230.30, 230.32,
23 230.33, 230.34 or 230.34-a of this chapter;

24 (vi) An offense as defined in section 255.25, 255.26, or 255.27 of
25 this chapter; or

26 (vii) An offense as defined in section 263.05, 263.10, or 263.15 of
27 this chapter.

28 2. For purposes of this section, the following terms shall have the
29 following meanings:

30 (a) "Anal sexual conduct" shall have the same meaning as that term is
31 defined in paragraph (b) of subdivision two of section 130.00 of this
32 chapter.

33 (b) "Building" in addition to its ordinary meaning, includes any
34 structure, vehicle, aircraft or watercraft used for overnight lodging of
35 persons, or used by persons for carrying on business therein, or an
36 enclosed motor truck, or an enclosed motor truck trailer.

37 (c) "Child" means a person less than seventeen years of age.

38 (d) "Communicate" shall, in addition to its ordinary meaning, include
39 oral and visual communication. Visual communication includes, but is not
40 limited to, electronic text messages, electronic mail messages,
41 pictures, illustrations or graphics.

42 (e) "Computer" shall have the same meaning as that term is defined by
43 section 156.00 of this chapter.

44 (f) "Computer program" shall have the same meaning as that term is
45 defined by section 156.00 of this chapter.

46 (g) "Oral sexual conduct" shall have the same meaning as that term is
47 defined in paragraph (a) of subdivision two of section 130.00 of this
48 chapter.

49 (h) "Sexual contact" shall have the same meaning as ascribed to such
50 term by subdivision three of section 130.00 of this chapter.

51 (i) "Sexual intercourse" shall have the same meaning as that term is
52 defined in subdivision one of section 130.00 of this chapter.

53 (j) "Sexual performance" shall have the same meaning as that term is
54 defined in section 263.00 of this chapter.

1 3. Nothing in this section shall be deemed to preclude, if the
2 evidence so warrants, an indictment and conviction for attempted kidnap-
3 ping under the provisions of sections 110.00 and 135.00 of this chapter.

4 Luring a child is a class [E] D felony, provided, however, that if the
5 underlying offense the actor intended to commit against such child
6 constituted a class A or a class B felony, then the offense of luring a
7 child in violation of this section shall be deemed respectively, a class
8 [C] B felony or class [D] C felony.

9 § 2. This act shall take effect on the first of November next succeed-
10 ing the date on which it shall have become a law.