STATE OF NEW YORK

4161

2021-2022 Regular Sessions

IN ASSEMBLY

February 1, 2021

Introduced by M. of A. RODRIGUEZ -- 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 Assembly, 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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