

STATE OF NEW YORK

403

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sens. BIAGGI, GOUNARDES, MYRIE, SEPULVEDA -- read twice
and ordered printed, and when printed to be committed to the Committee
on Codes

AN ACT to amend the penal law, in relation to deeming a person who
engages in sexual conduct during the period of their probation with
his or her supervising probation officer as being incapable of consent

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

1 Section 1. Subdivision 3 of section 130.05 of the penal law is amended
2 by adding a new paragraph (k) to read as follows:

3 (k) under the supervision of a local probation department, pursuant to
4 section two hundred seventy-two of the correction law, or another local
5 department or agency which fulfills a similar function and the actor is
6 an employee who knows or reasonably should know that such person is
7 committed to the supervision of a local probation department. For
8 purposes of this paragraph, "employee" means an employee of such local
9 probation department or agency who, as part of his or her employment,
10 supervises the victim at the time of the offense or has supervised the
11 victim and the victim is still under supervision of a local probation
12 department or agency at the time of the offense.

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

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

LBD00367-01-1