STATE OF NEW YORK

4144

2021-2022 Regular Sessions

IN SENATE

February 2, 2021

Introduced by Sen. STAVISKY -- 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 creating an affirmative defense in certain cases involving sexting by persons under the age of 18

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

Section 1. The penal law is amended by adding a new section 40.20 to read as follows:

§ 40.20 Certain acts by a young person.

In any prosecution pursuant to section 235.21 or 235.22 or section 263.10, 263.11, 263.15 or 263.16 of this chapter, it is an affirmative defense that the defendant was less than eighteen years old, that there was a less than four year age difference between the defendant and the recipient at the time of the act, that the recipient was at least thirteen years old at the time of the act, and the depiction or description was not obtained in violation of section 250.45 or 250.50 of this chapter, and both the defendant and the recipient expressly or impliedly acquiesced in the conduct, and the defendant did not intend to or profit from such conduct.

§ 2. This act shall take effect immediately.

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

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