

# STATE OF NEW YORK

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9319

## IN ASSEMBLY

February 23, 2022

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Introduced by M. of A. ZEBROWSKI -- read once and referred 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  
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The People of the State of New York, represented in Senate and Assem-  
bly, do enact as follows:

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

3 § 40.20 Certain acts by a young person.

4 In any prosecution pursuant to section 235.21 or 235.22 or section  
5 263.10, 263.11, 263.15 or 263.16 of this chapter, it is an affirmative  
6 defense that the defendant was less than eighteen years old, that there  
7 was a less than four year age difference between the defendant and the  
8 recipient at the time of the act, that the recipient was at least thir-  
9 teen years old at the time of the act, and the depiction or description  
10 was not obtained in violation of section 250.45 or 250.50 of this chap-  
11 ter, and both the defendant and the recipient expressly or impliedly  
12 acquiesced in the conduct, and the defendant did not intend to or profit  
13 from such conduct.

14 § 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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