STATE OF NEW YORK

6872--C

2023-2024 Regular Sessions

IN ASSEMBLY

May 8, 2023

Introduced by M. of A. CRUZ, GIBBS, SANTABARBARA, LUNSFORD, McMAHON, ZACCARO, CONRAD, RAMOS, COLTON, JEAN-PIERRE, GUNTHER, L. ROSENTHAL, SIMONE, HEVESI -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, in relation to criminalizing the harassment of a child; and to amend the civil rights law, in relation to establishing a private right of action for harassment of a child

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 260.16 to read as follows:

§ 260.16 Criminal harassment of a child.

1. A person is guilty of criminal harassment of a child when he or she intentionally harasses, annoys or alarms the child of any other person by knowingly and willfully engaging in conduct directed at a specific child that seriously alarms, annoys, torments or terrorizes the child, serves no legitimate purpose, would cause a reasonable child to suffer substantial emotional distress, and actually causes the child to suffer substantial emotional distress. Such conduct includes, but is not limited to:

a. striking, shoving, kicking, or otherwise subjecting such child to physical contact, or attempting or threatening to do the same;

b. following or lying in wait of a child, provided that for the purposes of this section, "lying in wait" means holding oneself in a concealed position to watch and wait for a child;

c. recording or attempting to record a child's image or voice, after the child, or, if the child is younger than fourteen years old, the parent or legal guardian of the child has expressed that they do not

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

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consent to the child being recorded, unless the person acts in a reasonable manner and the recording is of the child:

(i) engaging in public speech or demonstration; or

(ii) attending or participating in a newsworthy public event;

d. engaging in a course of conduct or repeatedly committing acts which alarm, seriously annoy, or cause emotional distress of a child which serve no legitimate purpose; or

e. publishing identifying or contact information about the child without the express consent of the parent or legal guardian of the child, or, if the child is fourteen years old or older, the express consent of the child.

2. The provisions of this section shall not apply with respect to any law enforcement personnel engaged in the conduct of their authorized duties or to any person engaged in otherwise legally mandated activities.

Criminal harassment of a child is a class A misdemeanor.

§ 2. The civil rights law is amended by adding a new section 52-e to read as follows:

§ 52-e. Private right of action for harassment of a child. 1. A parent or legal guardian whose child was subject to conduct which constitutes harassment pursuant to subdivision two of this section, may bring a civil action against the individual that engaged in such conduct on behalf of the child. The remedies in that civil action shall be limited to one or more of the following: actual damages, punitive damages, reasonable attorney's fees, costs, discouragement of any compensation from the sale, license, or dissemination of the child's image or voice received by the individual, and injunctive relief. The rights and remedies conferred in this section shall be cumulative and in addition to and not in lieu of any other rights or remedies available under law.

2. For the purposes of this section, a person, other than law enforcement personnel engaged in the conduct of their authorized duties or a person engaged in otherwise legally mandated activity, harasses a child when he or she intentionally or knowingly harasses, annoys or alarms a child or a child's parent or guardian by:

a. striking, shoving, kicking, or otherwise subjecting such child to physical contact, or attempting or threatening to do the same;

b. following or lying in wait of a child, provided that for the purposes of this section, "lying in wait" means holding oneself in a concealed position to watch and wait for a child;

c. recording or attempting to record a child's image or voice, after the child, or, if the child is younger than fourteen years old, the parent or legal guardian of the child has expressed that they do not consent to the child being recorded, unless the person acts in a reasonable manner and the recording is of the child:

(i) engaging in public speech or demonstration; or

(ii) attending or participating in a newsworthy public event;

d. engaging in a course of conduct or repeatedly committing acts which alarm, seriously annoy, or cause emotional distress of a child which serve no legitimate purpose; or

e. publishing identifying or contact information about the child without the express consent of the parent or legal guardian of the child, or, if the child is fourteen years old or older, the express consent of the child.

§ 3. This act shall take effect on the thirtieth day after it shall have become a law.