

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:

1 Section 1. The penal law is amended by adding a new section 260.16 to
2 read as follows:

3 § 260.16 Criminal harassment of a child.

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

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

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

17 c. recording or attempting to record a child's image or voice, after
18 the child, or, if the child is younger than fourteen years old, the
19 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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1 consent to the child being recorded, unless the person acts in a reason-
2 able manner and the recording is of the child;

3 (i) engaging in public speech or demonstration; or

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

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

8 e. publishing identifying or contact information about the child with-
9 out the express consent of the parent or legal guardian of the child,
10 or, if the child is fourteen years old or older, the express consent of
11 the child.

12 2. The provisions of this section shall not apply with respect to any
13 law enforcement personnel engaged in the conduct of their authorized
14 duties or to any person engaged in otherwise legally mandated activ-
15 ities.

16 Criminal harassment of a child is a class A misdemeanor.

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

19 § 52-e. Private right of action for harassment of a child. 1. A
20 parent or legal guardian whose child was subject to conduct which
21 constitutes harassment pursuant to subdivision two of this section, may
22 bring a civil action against the individual that engaged in such conduct
23 on behalf of the child. The remedies in that civil action shall be
24 limited to one or more of the following: actual damages, punitive
25 damages, reasonable attorney's fees, costs, discouragement of any
26 compensation from the sale, license, or dissemination of the child's
27 image or voice received by the individual, and injunctive relief. The
28 rights and remedies conferred in this section shall be cumulative and in
29 addition to and not in lieu of any other rights or remedies available
30 under law.

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

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

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

41 c. recording or attempting to record a child's image or voice, after
42 the child, or, if the child is younger than fourteen years old, the
43 parent or legal guardian of the child has expressed that they do not
44 consent to the child being recorded, unless the person acts in a reason-
45 able manner and the recording is of the child;

46 (i) engaging in public speech or demonstration; or

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

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

51 e. publishing identifying or contact information about the child with-
52 out the express consent of the parent or legal guardian of the child,
53 or, if the child is fourteen years old or older, the express consent of
54 the child.

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