STATE OF NEW YORK

2922

2023-2024 Regular Sessions

IN SENATE

January 25, 2023

Introduced by Sen. CLEARE -- 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 Assembly, do enact as follows:

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

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

§ 2. This act shall take effect on the first of November next succeeding 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.

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