STATE OF NEW YORK

4046

2023-2024 Regular Sessions

IN SENATE

February 2, 2023

Introduced by Sen. FERNANDEZ -- 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 including instances of sexual conduct against a child less than seventeen years of age to certain sex offenses

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

Section 1. Subdivisions 1 and 2 of section 130.75 of the penal law, as amended by chapter 1 of the laws of 2000, paragraphs (a) and (b) of subdivision 1 as amended by chapter 264 of the laws of 2003, are amended to read as follows:

[~~1.~~] A person is guilty of course of sexual conduct against a child in the first degree when, over a period of time not less than three months in duration:

[~~(a)~~] **1.** he or she engages in two or more acts of sexual conduct, which includes at least one act of sexual intercourse, oral sexual conduct, anal sexual conduct or aggravated sexual contact, with a child less than eleven years old**; and includes at least one additional act of sexual conduct with the child when that child is less than seventeen years old**; or

[~~(b)~~] **2.** he or she, being eighteen years old or more, **at the commencement of the course of sexual conduct,** engages in two or more acts of sexual conduct, which include at least one act of sexual intercourse, oral sexual conduct, anal sexual conduct or aggravated sexual contact, with a child less than thirteen years old**; and includes at least one additional act of sexual conduct with the child when that child is less than seventeen years old**.

[~~2. A person may not be subsequently prosecuted for any other sexual offense involving the same victim unless the other charged offense occurred outside the time period charged under this section.~~]

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

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§ 2. Subdivisions 1 and 2 of section 130.80 of the penal law, as amended by chapter 1 of the laws of 2000, are amended to read as follows:

[~~1.~~] A person is guilty of course of sexual conduct against a child in the second degree when, over a period of time not less than three months in duration:

[~~(a)~~] 1. he or she engages in two or more acts of sexual conduct with a child, which includes at least one act of sexual conduct with the child when the child is less than eleven years old; and includes at least one additional act of sexual conduct with such child when the child is less than seventeen years old; or

[~~(b)~~] 2. he or she, being eighteen years old or more, at the commencement of the course of sexual conduct, engages in two or more acts of sexual conduct with a child, which includes at least one act of sexual conduct with the child when the child is less than thirteen years old; and includes at least one additional act of sexual conduct with such child when the child is less than seventeen years old.

[~~2. A person may not be subsequently prosecuted for any other sexual offense involving the same victim unless the other charged offense occurred outside the time period charged under this section.~~]

§ 3. Section 130.96 of the penal law, as added by chapter 107 of the laws of 2006, is amended to read as follows:

§ 130.96 Predatory sexual assault against a child.

A person is guilty of predatory sexual assault against a child when, being eighteen years old or more, he or she commits:

1. the crime of rape in the first degree, criminal sexual act in the first degree, or aggravated sexual abuse in the first degree, [~~or course of sexual conduct against a child in the first degree,~~] as defined in this article, and the victim is less than thirteen years old[~~.~~]; or

2. the crime of a course of sexual conduct against a child in the first degree, as defined in this article, and the person was eighteen years old or more and the victim was less than thirteen years old when the conduct commenced.

Predatory sexual assault against a child is a class A-II felony.

§ 4. This act shall take effect immediately.