



NEW YORK STATE SENATOR

Ruben Diaz

## Open Letter to Senate Majority Leader and President Pro-Tempore Dean Skelos

RUBEN DIAZ April 18, 2011

| ISSUE: **CRIME, EDUCATION, CHILDREN, YOUTH**

April 18, 2011

Senator Dean G. Skelos

Senate Majority Leader and President Pro-Tempore

330 CAP

Albany, New York 12247

Dear Majority Leader Skelos:

I am enclosing for your information an article that was published in the [Daily News on Friday, April 15, 2011](#), regarding the serious problem of public prostitution that is taking place near an elementary school in the Bronx.

My bill (S.1313), which I have discussed with you, creates felonies for the crime of prostitution within 1,000 feet of a school in order to combat this most serious issue. The bill is sponsored in the Assembly by Assemblyman Marcos Crespo (A.2264).

I am requesting your intervention to move this bill through the legislative process so that it comes to the Senate floor for a vote. Once it passes the Senate, I am sure that the Assembly will act on it as well before session adjourns in June.

Thank you again for your assistance in this most urgent matter. I look forward to working with you so that together we may provide our children with the protection they deserve. Please do not hesitate to contact me if I can be of further assistance to you.

Sincerely,

Senator Rev. Rubén Díaz  
32nd Senatorial District

Encl.

## STATE OF NEW YORK

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1313 2011-2012

Regular Sessions **IN SENATE** January 6, 2011 \_\_\_\_\_ Introduced by Sen. DIAZ --  
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 establishing the offenses of patronizing  
a prostitute within one thousand feet of school grounds, promoting prostitution within one  
thousand feet of school grounds, compelling prostitution within one thousand feet of school  
grounds and permitting prostitution within one thousand feet of school grounds. **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 230.06-a 2 to read as follows: 3 **§ 230.06-a**

Patronizing a prostitute within one thousand feet of school 4 grounds. 5 1. Any person who  
patronizes a prostitute within one thousand feet of 6 school grounds, shall be guilty of a class E  
felony. 7 2. Any person over eighteen years of age, who patronizes a prostitute 8 within one thousand  
feet of school grounds, and the person patronized is 9 less than fourteen years of age is guilty of a  
class D felony. 10 3. Any person who patronizes a prostitute within one thousand feet of 11 school  
grounds and the person patronized is less than eleven years of 12 age is guilty of a class C felony. 13  
4. For purposes of this section, "school grounds" shall have the same 14 meaning as in subdivision  
fourteen of section 220.00 of this chapter. 15 § 2. The penal law is amended by adding a new  
section 230.32-a to read 16 as follows: 17 § 230.32-a Promoting prostitution within one thousand  
feet of school 18 grounds. 19 1. Any person who knowingly advances or profits from prostitution 20  
occurring within one thousand feet of school grounds is guilty of a 21 class E felony.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [ ] is old law to be  
omitted. LBD07305-02-1

S. 1313

2

- 1 2. Any person, who knowingly advances or profits from: (a) prostitu-  
2 tion occurring within one thousand feet of school grounds, by managing,  
3 supervising, controlling or owning, either alone or in association with  
4 others, a house of prostitution or a prostitution business or enter-  
5 prise, located within one thousand feet of school grounds, involving  
6 prostitution activity by two or more prostitutes, or a business, that  
7 sells travel-related services knowing that such services include or are  
8 intended to facilitate travel for the purpose of patronizing a prosti-  
9 tute within one thousand feet of school grounds, including to a foreign  
10 jurisdiction and regardless of the legality of prostitution in said  
11 foreign jurisdiction; or (b) advances or profits from prostitution of a  
12 person less than nineteen years old within one thousand feet of school  
13 grounds, is guilty of a class C felony.
- 14 3. Any person who knowingly (a) advances prostitution, within one  
15 thousand feet of school grounds, by compelling a person by force or  
16 intimidation to engage in prostitution, within one thousand feet of

17 school grounds, or profits from such coercive conduct by another within  
18 one thousand feet of school grounds; or (b) advances or profits from  
19 prostitution, occurring within one thousand feet of school grounds, of a  
20 person less than sixteen years old, is guilty of a class B felony.

21 4. Any person who knowingly advances or profits from prostitution,  
22 occurring within one thousand feet of school grounds, of a person less  
23 than eleven years old is guilty of a class A felony.

24 5. For purposes of this section, "school grounds" shall have the same  
25 meaning as in subdivision fourteen of section 220.00 of this chapter.

26 § 3. The penal law is amended by adding a new section 230.33-  
a to read

27 as follows:

28 § 230.33-a Compelling prostitution within one thousand feet of school  
29 grounds.

30 1. A person is guilty of compelling prostitution within one thousand  
31 feet of school grounds, when such person is twenty-one years of age or  
32 older, and he or she knowingly advances prostitution within one thousand  
33 feet of school grounds by compelling a person less than sixteen years  
34 old, by force or intimidation, to engage in prostitution within one  
35 thousand feet of school grounds.

36 2. For purposes of this section, "school grounds" shall have the same  
37 meaning as in subdivision fourteen of section 220.00 of this chapter.

38 Compelling prostitution within one thousand feet of school grounds is  
39 a class A felony.

40 § 4. The penal law is amended by adding a new section  
230.41 to read

41 as follows:

42 § 230.41 Permitting prostitution within one thousand feet of school  
43 grounds.

44 1. A person is guilty of permitting prostitution within one thousand  
45 feet of school grounds, when having possession or control of premises  
46 located within one thousand feet of school grounds which he knows are  
47 being used for prostitution purposes, he or she fails to make a reason-  
48 able effort to halt or abate such use.

49 2. For purposes of this section, "school grounds" shall have the same  
50 meaning as in subdivision fourteen of section 220.00 of this chapter.

51 Permitting prostitution within one thousand feet of school grounds is

52 a class A misdemeanor.

53 § 5. This act shall take effect on the first of November next  
succeed-

54 ing the date on which it shall have become a law.

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## **SPONSORS MEMO:**

### **NEW YORK STATE SENATE**

### **INTRODUCER'S MEMORANDUM IN SUPPORT**

**submitted in accordance with Senate Rule VI. Sec 1**

**BILL NUMBER:** S1313

**SPONSOR:** DIAZ

### **TITLE OF BILL:**

An act to amend the penal law, in relation to establishing the offenses of patronizing a prostitute within one thousand feet of school grounds, promoting prostitution within one thousand feet of school grounds, compelling prostitution within one thousand feet of school grounds and permitting prostitution within one thousand feet of school grounds.

### **PURPOSE OR GENERAL IDEA OF BILL:**

Enhances criminal sanctions for prostitution crimes committed within 1,000 feet of school grounds. Criminal sanction impact.

### **SUMMARY OF SPECIFIC PROVISIONS:**

Section 1. Amends the Penal Law, by adding a new section 230.06-a. Creates the crime of patronizing a prostitute within one thousand feet of school grounds. Defines school grounds as having the same meaning as in subdivision 14, Section 220.00 of this chapter.

Section 2. Amends the Penal Law by adding a new section 230.32-a. Creates the crime of promoting prostitution within one thousand feet of

school grounds. Defines school grounds as having the same meaning as in subdivision 14, Section 220.00 of this chapter.

Section 3. Amends the Penal Law by adding a new section 230.33-a. Creates the crime of compelling prostitution within one thousand feet of school grounds. Defines school grounds as having the same meaning as in subdivision 14, Section 220.00 of this chapter.

Section 4. Amends the penal law by adding a new section 230.41. Creates the crime of permitting prostitution within one thousand feet of school grounds. Defines school grounds as having the same meaning as in subdivision 14, Section 220.00 of this chapter.

Section 5. Effective Date

#### **EXISTING LAW:**

Penal Law; Title M; Offenses Against Public Health and Morals; Article 230; Prostitution Offenses.

#### **JUSTIFICATION:**

While there are enhanced criminal penalties for certain crimes committed near schools, prostitution is not one of them. State statute must reflect the current reality that prostitution can and does take place in any environment, even in areas that are visible to the public.

The New York Times published a shocking article on January 2, 2011 entitled "A Bronx Elementary School, Surrounded by Prostitutes (Yardena Schwartz)." Ms. Schwartz, in her expose, reported in great detail how students who attend the West Farms Elementary School located in the Bronx, NY, are subjected to this illicit sexual activity. "At all hours of the day, prostitutes roam the streets around the school, waiting for cars entering and leaving the Cross Bronx Expressway. They bend over car windows and climb inside, in plain view of students walking to and from

the school. "

The activity is so brazen that according to the article, 'The prostitutes also have sex inside a tent on top of a boulder directly below the school's playground. Students, from prekindergartners to fifth graders, can see mattresses, cushions and sheets strewn about the rock. Custodians often have to sweep condoms and hypodermic needles from the school grounds before students arrive in the morning.'

We must do more to protect our children and to ensure that they are not subjected to crimes of this nature. They should be safe at all times, but especially when they are going to and from school. Likewise, local enforcement, from the police to the district attorney, must be given the appropriate tools to fight these crimes.

This legislation creates the following new crimes: patronizing a prostitute within one thousand feet of school grounds; promoting prostitution within one thousand feet of school grounds; compelling prostitution within one thousand feet of school grounds; and permitting prostitution within one thousand feet of school grounds and provides for enhanced criminal sanctions. Furthermore, the definition of "school grounds" is consistent with that of the current definition in the Penal Law.

**PRIOR LEGISLATIVE HISTORY:**

New Bill.

**FISCAL IMPLICATIONS:**

None to State.

**EFFECTIVE DATE:**

The first of November next succeeding the date on which it shall have become law.

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