

S 1882 GRIFFO Same as A 788 Destito (MS) ON FILE: 01/18/11 Penal Law TITLE....Relates to the offense of sexual abuse in the first degree 01/13/11REFERRED TO CODES 01/25/111ST REPORT CAL.33 01/31/112ND REPORT CAL. 02/01/11ADVANCED TO THIRD READING 02/08/11PASSED SENATE 02/08/11DELIVERED TO ASSEMBLY 02/08/11referred to codes	A788 Destito (MS) Same as S 1882 GRIFFO Penal Law TITLE....Relates to the offense of sexual abuse in the first degree 01/05/11 referred to codes
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SUMMARY:

GRIFFO, AVELLA, LARKIN, LIBOUS, MAZIARZ, RANZENHOFER, RITCHIE, SAVINO, SEWARD, ZELDIN

Amd S130.65, Pen L

Provides that sexual contact upon a person under the age of 13 by a person 21 years of age or older shall be sexual abuse in the first degree.

CRIMINAL SANCTION IMPACT.

BILL TEXT:

STATE OF NEW YORK

1882

2011-2012 Regular Sessions

IN SENATE

January 13, 2011

Introduced by Sens. GRIFFO, LARKIN, MAZIARZ, RANZENHOFER, RITCHIE, SEWARD, ZELDIN -- 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 sexual abuse of a person under the age of thirteen

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

1 Section 1. Section 130.65 of the penal law, as amended by chapter 1 of
2 the laws of 2000, is amended to read as follows:
3 § 130.65 Sexual abuse in the first degree.
4 A person is guilty of sexual abuse in the first degree when he or she
5 subjects another person to sexual contact:
6 1. By forcible compulsion; or
7 2. When the other person is incapable of consent by reason of being
8 physically helpless; or
9 3. When the other person is less than eleven years old; or
10 4. When the other person is less than thirteen years old and the actor
11 is twenty-one years old or older.
12 Sexual abuse in the first degree is a class D felony.
13 § 2. This act shall take effect on the first of November next succeed-
14 ing 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.

LBD01672-01-1

SPONSORS MEMO:

**NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S1882

SPONSOR: GRIFFO

TITLE OF BILL:

An act to amend the penal law, in relation to sexual abuse of a person
under the age of thirteen

PURPOSE OR GENERAL IDEA OF BILL:

This bill would strengthen New York State's criminal laws that relate to
adults who sexually abuse children.

SUMMARY OF SPECIFIC PROVISIONS:

Section one of this bill would amend Penal Law §130.65 as amended by
Chapter 1 of the Laws of 2000, by providing that a person is guilty of
sexual abuse in the first degree when he or she is twenty-one years old
or older and subjects another person to sexual contact who is less than
thirteen years old. Section two of this bill would provide for the
effective date.

JUSTIFICATION:

In 2001, the New York State Legislature enacted the Sexual Assault
Reform Act (SARA). Among other amendments, SARA amended Rape in the
First Degree, Penal Law §130.35(4) and Criminal Sexual Act (formerly

Sodomy) in the First Degree, Penal Law §130.50(4). Pursuant to SARA, it is a class B violent felony when a perpetrator over the age of eighteen has sexual intercourse or anal or oral contact with a victim under the age of thirteen.

No similar crime was made at that time or later to the crime of Sexual Abuse in the First Degree, Penal Law §130.65 pursuant to which it is a class D violent felony only when the victim is under the age of eleven. Consequently, if a child who is eleven or twelve years old is subjected to sexual contact by an individual who is eighteen or older, the defendant would be guilty of only a class A misdemeanor.

This legislation would add a subdivision four to Sexual Abuse in the First Degree making it a class D violent felony offense for a child under thirteen to be subjected to sexual contact by a person who is twenty-one or older. Besides protecting these vulnerable victims, this legislation would bring the Sexual Abuse in the First Degree statute in line with Rape and Criminal Sexual Act in the First Degree. As the law stands in New York, a person who puts their hand down the pants of an eleven or twelve year old is subjected to the same penalty as a person who steals a pack of gum from a convenience store; this is unacceptable, and this measure seeks to correct that seeming inequity. Connecticut, New Jersey, Rhode Island. and Indiana provide that similar sexual contact with an individual who is eleven or twelve years old is a felony.

PRIOR LEGISLATIVE HISTORY:

2010: A.1067A - Passed Assembly/S.1989A Died in Senate

2009: A.1067 - Referred to the Assembly Codes Committee/S.1989
Held in Rules

FISCAL IMPLICATIONS:

None.

EFFECTIVE DATE:

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