

S1882 GRIFFO Same as [A 788](#) Destito (MS)

Penal Law

TITLE....Relates to the offense of sexual abuse in the first degree

01/13/11 REFERRED TO CODES

01/25/11 1ST REPORT CAL.33

01/31/11 2ND REPORT CAL.

02/01/11 ADVANCED TO THIRD READING

02/08/11 PASSED SENATE

02/08/11 DELIVERED TO ASSEMBLY

02/08/11 referred to codes

04/12/11 substituted for a788

04/12/11 ordered to third reading rules cal.20

04/12/11 passed assembly

04/12/11 returned to senate

05/06/11 DELIVERED TO GOVERNOR

05/17/11 SIGNED CHAP.26

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.

VOTING:

[02/08/11](#)

S1882

Senate Vote

Aye: 60

Nay: 1

Floor Votes:

02/08/11 S1882 Senate Vote Aye: 60 Nay: 1

Aye Adams

Aye Addabbo

Aye Alesi

Aye Avella

Aye Ball

Aye Bonacic

Aye Breslin

Aye Carlucci

Aye DeFrancisco

Aye Diaz

Aye Dilan

Nay Duane

Aye Espailat

Aye Farley

Aye Flanagan

Aye Fuschillo

Aye Gallivan

Aye Gianaris

Aye Golden

Aye Griffo

Aye Grisanti

Aye Hannon

Aye Hassell-
Thompson

Aye Huntley

Aye Johnson

Aye Kennedy

Aye Klein

Aye Krueger

Aye Kruger

Aye Lanza

Aye Larkin

Aye LaValle

Aye Libous

Aye Little

Aye Marcellino

Aye Martins

Aye Maziarz

Aye McDonald

Aye Montgomery

Aye Nozzolio

Aye O'Mara	Aye Oppenheimer	Aye Parker	Aye Peralta
Aye Perkins	Aye Ranzenhofer	Aye Ritchie	Aye Rivera
Aye Robach	Aye Saland	Aye Sampson	Aye Savino
Aye Serrano	Aye Seward	Aye Skelos	Exc Smith
Aye Squadron	Aye Stavisky	Aye Stewart-Cousins	Aye Valesky
Aye Young	Aye Zeldin		

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.

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.

CHAPTER TEXT:

LAWS OF NEW YORK, 2011

CHAPTER 26

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

Became a law May 17, 2011, with the approval of the Governor.
Passed by a majority vote, three-fifths being present.

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

Section 1. Section 130.65 of the penal law, as amended by chapter 1 of the laws of 2000, is amended to read as follows:

§ 130.65 Sexual abuse in the first degree.

A person is guilty of sexual abuse in the first degree when he or she subjects another person to sexual contact:

1. By forcible compulsion; or
2. When the other person is incapable of consent by reason of being physically helpless; or
3. When the other person is less than eleven years old; or
- 4. When the other person is less than thirteen years old and the actor is twenty-one years old or older.**

Sexual abuse in the first degree is a class D felony.

§ 2. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.

The Legislature of the STATE OF NEW YORK **ss:**

Pursuant to the authority vested in us by section 70-b of the Public Officers Law, we hereby jointly certify that this slip copy of this session law was printed under our direction and, in accordance with such

section, is entitled to be read into evidence.

DEAN G. SKELOS

Temporary President of the Senate

SHELDON SILVER

Speaker of the Assembly

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