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April 19, 2011

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* PAST PRESIDENT DAASNY

Honorable Andrew Cuomo
Governor of the State of New York
Executive Chamber
Albany, New York

RE: S1882 / A788

Dear Governor Cuomo:

As President of the District Attorneys Association of New York State, I write on behalf of my colleagues across the State to express our strong support for the above-referenced bill which has passed both houses of the Legislature and is on your desk for signature. This important legislation would offer increased protection to the children of New York State by making it a class D violent felony for a person who is 21 years old or more to subject a child under the age of 13 to sexual contact: that is, the touching of the sexual or other intimate parts of a person for the purpose of sexual gratification.

When New York State enacted the Sexual Assault Reform Act (SARA) in 2000, it added new subdivisions to a number of first degree sex crimes to extend protection to young children - 11 and 12-year-olds - in cases of non-forcible sexual assault. Prior to SARA, these crimes had been limited to children under the age of 11. Thus, SARA added Rape in the First Degree, Section 130.35(4), Criminal Sexual Act in the First Degree, Section 130.50(4) and Course of Sexual Conduct in the First Degree, Section 130.75 (1) (b) to create new B felony crimes where the victim is under the age of 13 and the crime is committed by a person over the age of 18. These changes recognized that 11 and 12- year- old children were vulnerable minors in need of the law's special protection.

At the time these changes were made, no corresponding change was made to the D felony crime of Sexual Abuse in the First Degree which continued to protect only children under 11 from non-forcible sexual assaults. As a result, if an adult fondles the breasts or grabs the buttocks or puts their hands down the pants of an 11 or 12- year- old child, the person commits only a class A misdemeanor carrying the same range of punishment as for a Petit Larceny.

The legislation before you would add a subdivision four to Sexual Abuse in the First Degree making it a class D violent felony for a person over the age of 21 to subject any child under the age of 13 to sexual contact. Thus, it would bring the Sexual

3 COLUMBIA PLACE, ALBANY, NEW YORK 12210
TEL.: (518) 447-2496 FAX: (518) 447-2495
WEBSITE: DAASNY.ORG