

3515--A

2013-2014 Regular Sessions

I N S E N A T E

February 5, 2013

Introduced by Sens. YOUNG, GOLDEN, BOYLE, ESPAILLAT, LARKIN, RANZENHOF-
ER, ZELDIN -- read twice and ordered printed, and when printed to be
committed to the Committee on Codes -- recommitted to the Committee on
Codes in accordance with Senate Rule 6, sec. 8 -- committee
discharged, bill amended, ordered reprinted as amended and recommitted
to said committee

AN ACT to amend the penal law, the criminal procedure law, the
correction law, the social services law, the vehicle and traffic law,
the family court act, the civil rights law, the civil practice law and
rules and the agriculture and markets law, in relation to sex
offenses; and to repeal certain provisions of the penal law relating
thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Sections 130.40, 130.45, 130.50, 130.65-a, 130.66, 130.67
2 and 130.70 of the penal law are REPEALED.
3 S 2. Paragraph 2 of subdivision 18 of section 10.00 of the penal law,
4 as amended by chapter 7 of the laws of 2007, is amended to read as
5 follows:
6 (2) a person fourteen or fifteen years old who is criminally responsi-
7 ble for acts constituting the crimes defined in subdivisions one and two
8 of section 125.25 (murder in the second degree) and in subdivision three
9 of such section provided that the underlying crime for the murder charge
10 is one for which such person is criminally responsible; section 135.25
11 (kidnapping in the first degree); 150.20 (arson in the first degree);
12 [subdivisions one and two of section 120.10 (assault in the first
13 degree); 125.20 (manslaughter in the first degree); [subdivisions one
14 and] PARAGRAPHS (A) AND (B) OF SUBDIVISION ONE AND SUBDIVISION two of
15 section 130.35 (rape in the first degree); [subdivisions one and two of
16 section 130.50 (criminal sexual act in the first degree); 130.70 (aggra-
17 vated sexual abuse in the first degree);] 140.30 (burglary in the first

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

LBD02734-10-4

1 degree); subdivision one of section 140.25 (burglary in the second
2 degree); 150.15 (arson in the second degree); 160.15 (robbery in the
3 first degree); subdivision two of section 160.10 (robbery in the second
4 degree) of this chapter; or section 265.03 of this chapter, where such
5 machine gun or such firearm is possessed on school grounds, as that
6 phrase is defined in subdivision fourteen of section 220.00 of this
7 chapter; or defined in this chapter as an attempt to commit murder in
8 the second degree or kidnapping in the first degree, or such conduct as
9 a sexually motivated felony, where authorized pursuant to section 130.91
10 of [the penal law] THIS CHAPTER.

11 S 3. Subdivision 2 of section 30.00 of the penal law, as amended by
12 chapter 7 of the laws of 2007, is amended to read as follows:

13 2. A person thirteen, fourteen or fifteen years of age is criminally
14 responsible for acts constituting murder in the second degree as defined
15 in subdivisions one and two of section 125.25 and in subdivision three
16 of such section provided that the underlying crime for the murder charge
17 is one for which such person is criminally responsible or for such
18 conduct as a sexually motivated felony, where authorized pursuant to
19 section 130.91 [of the penal law]; and a person fourteen or fifteen
20 years of age is criminally responsible for acts constituting the crimes
21 defined in section 135.25 (kidnapping in the first degree); 150.20
22 (arson in the first degree); subdivisions one and two of section 120.10
23 (assault in the first degree); 125.20 (manslaughter in the first
24 degree); [subdivisions one and] PARAGRAPHS (A) AND (B) OF SUBDIVISION
25 ONE AND SUBDIVISION two of section 130.35 (rape in the first degree);
26 [subdivisions one and two of section 130.50 (criminal sexual act in the
27 first degree); 130.70 (aggravated sexual abuse in the first degree);]
28 140.30 (burglary in the first degree); subdivision one of section 140.25
29 (burglary in the second degree); 150.15 (arson in the second degree);
30 160.15 (robbery in the first degree); subdivision two of section 160.10
31 (robbery in the second degree) of this chapter; or section 265.03 of
32 this chapter, where such machine gun or such firearm is possessed on
33 school grounds, as that phrase is defined in subdivision fourteen of
34 section 220.00 of this chapter; or defined in this chapter as an attempt
35 to commit murder in the second degree or kidnapping in the first degree,
36 or for such conduct as a sexually motivated felony, where authorized
37 pursuant to section 130.91 of [the penal law] OF THIS CHAPTER.

38 S 4. Paragraphs (a), (b), (c) and (d) of subdivision 1 of section
39 70.02 of the penal law, paragraph (a) as amended by chapter 320 of the
40 laws of 2006, paragraphs (b) and (c) as amended by chapter 1 of the laws
41 of 2013, and paragraph (d) as amended by chapter 7 of the laws of 2007,
42 are amended to read as follows:

43 (a) Class B violent felony offenses: an attempt to commit the class
44 A-I felonies of murder in the second degree as defined in section
45 125.25, kidnapping in the first degree as defined in section 135.25, and
46 arson in the first degree as defined in section 150.20; manslaughter in
47 the first degree as defined in section 125.20, aggravated manslaughter
48 in the first degree as defined in section 125.22, rape in the first
49 degree as defined in section 130.35, [criminal sexual act in the first
50 degree as defined in section 130.50, aggravated sexual abuse in the
51 first degree as defined in section 130.70,] course of sexual conduct
52 against a child in the first degree as defined in section 130.75;
53 assault in the first degree as defined in section 120.10, kidnapping in
54 the second degree as defined in section 135.20, burglary in the first
55 degree as defined in section 140.30, arson in the second degree as
56 defined in section 150.15, robbery in the first degree as defined in

1 section 160.15, incest in the first degree as defined in section 255.27,
2 criminal possession of a weapon in the first degree as defined in
3 section 265.04, criminal use of a firearm in the first degree as defined
4 in section 265.09, criminal sale of a firearm in the first degree as
5 defined in section 265.13, aggravated assault upon a police officer or a
6 peace officer as defined in section 120.11, gang assault in the first
7 degree as defined in section 120.07, intimidating a victim or witness in
8 the first degree as defined in section 215.17, hindering prosecution of
9 terrorism in the first degree as defined in section 490.35, criminal
10 possession of a chemical weapon or biological weapon in the second
11 degree as defined in section 490.40, and criminal use of a chemical
12 weapon or biological weapon in the third degree as defined in section
13 490.47 AND ANY OFFENSES COMMITTED UNDER A FORMER SECTION OF ARTICLE ONE
14 HUNDRED THIRTY OF THIS CHAPTER WHICH WOULD CONSTITUTE A VIOLATION OF THE
15 AFORESAID SECTIONS OF THIS CHAPTER.

16 (b) Class C violent felony offenses: an attempt to commit any of the
17 class B felonies set forth in paragraph (a) of this subdivision; aggra-
18 vated criminally negligent homicide as defined in section 125.11, aggra-
19 vated manslaughter in the second degree as defined in section 125.21,
20 [aggravated sexual abuse in the second degree as defined in section
21 130.67] RAPE IN THE SECOND DEGREE AS DEFINED IN SECTION 130.33, assault
22 on a peace officer, police officer, fireman or emergency medical
23 services professional as defined in section 120.08, assault on a judge
24 as defined in section 120.09, gang assault in the second degree as
25 defined in section 120.06, strangulation in the first degree as defined
26 in section 121.13, burglary in the second degree as defined in section
27 140.25, robbery in the second degree as defined in section 160.10, crim-
28 inal possession of a weapon in the second degree as defined in section
29 265.03, criminal use of a firearm in the second degree as defined in
30 section 265.08, criminal sale of a firearm in the second degree as
31 defined in section 265.12, criminal sale of a firearm with the aid of a
32 minor as defined in section 265.14, aggravated criminal possession of a
33 weapon as defined in section 265.19, soliciting or providing support for
34 an act of terrorism in the first degree as defined in section 490.15,
35 hindering prosecution of terrorism in the second degree as defined in
36 section 490.30, and criminal possession of a chemical weapon or biolog-
37 ical weapon in the third degree as defined in section 490.37 AND ANY
38 OFFENSES COMMITTED UNDER A FORMER SECTION OF ARTICLE ONE HUNDRED THIRTY
39 OF THIS CHAPTER WHICH WOULD CONSTITUTE A VIOLATION OF THE AFORESAID
40 SECTIONS OF THIS CHAPTER.

41 (c) Class D violent felony offenses: an attempt to commit any of the
42 class C felonies set forth in paragraph (b); reckless assault of a child
43 as defined in section 120.02, assault in the second degree as defined in
44 section 120.05, menacing a police officer or peace officer as defined in
45 section 120.18, stalking in the first degree, as defined in subdivision
46 one of section 120.60, strangulation in the second degree as defined in
47 section 121.12, rape in the [second] THIRD degree as defined in section
48 130.30, [criminal sexual act in the second degree as defined in section
49 130.45,] sexual abuse in the first degree as defined in section 130.65,
50 course of sexual conduct against a child in the second degree as defined
51 in section 130.80, [aggravated sexual abuse in the third degree as
52 defined in section 130.66,] facilitating a sex offense with a controlled
53 substance as defined in section 130.90, criminal possession of a weapon
54 in the third degree as defined in subdivision five, six, seven, eight,
55 nine or ten of section 265.02, criminal sale of a firearm in the third
56 degree as defined in section 265.11, intimidating a victim or witness in

1 the second degree as defined in section 215.16, soliciting or providing
2 support for an act of terrorism in the second degree as defined in
3 section 490.10, and making a terroristic threat as defined in section
4 490.20, falsely reporting an incident in the first degree as defined in
5 section 240.60, placing a false bomb or hazardous substance in the first
6 degree as defined in section 240.62, placing a false bomb or hazardous
7 substance in a sports stadium or arena, mass transportation facility or
8 enclosed shopping mall as defined in section 240.63, [and] OR aggravated
9 unpermitted use of indoor pyrotechnics in the first degree as defined in
10 section 405.18 AND ANY OFFENSES COMMITTED UNDER A FORMER SECTION OF
11 ARTICLE ONE HUNDRED THIRTY OF THIS CHAPTER WHICH WOULD CONSTITUTE A
12 VIOLATION OF THE AFORESAID SECTIONS OF THIS CHAPTER.

13 (d) Class E violent felony offenses: an attempt to commit any of the
14 felonies of criminal possession of a weapon in the third degree as
15 defined in subdivision five, six, seven or eight of section 265.02 as a
16 lesser included offense of that section as defined in section 220.20 of
17 the criminal procedure law, persistent sexual abuse as defined in
18 section 130.53, [aggravated sexual abuse in the fourth degree as defined
19 in section 130.65-a,] RAPE IN THE FOURTH DEGREE AS DEFINED IN SUBDIVI-
20 SIONS FOUR AND FIVE OF SECTION 130.25, falsely reporting an incident in
21 the second degree as defined in section 240.55 [and], placing a false
22 bomb or hazardous substance in the second degree as defined in section
23 240.61 AND ANY OFFENSES COMMITTED UNDER A FORMER SECTION OF ARTICLE ONE
24 HUNDRED THIRTY OF THIS CHAPTER WHICH WOULD CONSTITUTE A VIOLATION OF THE
25 AFORESAID SECTIONS OF THIS CHAPTER.

26 S 5. Paragraph b of subdivision 5 of section 120.40 of the penal law,
27 as amended by chapter 320 of the laws of 2006, is amended to read as
28 follows:

29 b. a crime defined in section 130.20, 130.25, 130.30, [130.40,
30 130.45,] 130.55, 130.60, [130.70,] 255.25, 255.26 or 255.27;

31 S 6. Paragraph (d) of subdivision 2 and paragraph (h) of subdivision 3
32 of section 130.05 of the penal law, paragraph (d) of subdivision 2 as
33 amended by chapter 40 of the laws of 2004 and paragraph (h) of subdivi-
34 sion 3 as amended by section 2 of part G of chapter 501 of the laws of
35 2012, are amended to read as follows:

36 (d) Where the offense charged is rape in the [third] FOURTH degree as
37 defined in subdivision three of section 130.25, [or criminal sexual act
38 in the third degree as defined in subdivision three of section 130.40,]
39 in addition to forcible compulsion, circumstances under which, at the
40 time of the act of intercourse, oral sexual conduct or anal sexual
41 conduct, the victim clearly expressed that he or she did not consent to
42 engage in such act, and a reasonable person in the actor's situation
43 would have understood such person's words and acts as an expression of
44 lack of consent to such act under all the circumstances.

45 (h) a client or patient and the actor is a health care provider or
46 mental health care provider charged with rape in the [third] FOURTH
47 degree as defined in section 130.25, [criminal sexual act in the third
48 degree as defined in section 130.40, aggravated sexual abuse in the
49 fourth degree as defined in section 130.65-a,] or sexual abuse in the
50 third degree as defined in section 130.55, and the act of sexual conduct
51 occurs during a treatment session, consultation, interview, or examina-
52 tion; or

53 S 7. Subdivision 3 of section 130.10 of the penal law, as amended by
54 chapter 264 of the laws of 2003, is amended to read as follows:

55 3. In any prosecution for the crime of rape in the [third] FOURTH
56 degree as defined in section 130.25, [criminal sexual act in the third

1 degree as defined in section 130.40, aggravated sexual abuse in the
2 fourth degree as defined in section 130.65-a,] or sexual abuse in the
3 third degree as defined in section 130.55 in which incapacity to consent
4 is based on the circumstances set forth in paragraph (h) of subdivision
5 three of section 130.05 of this article it shall be an affirmative
6 defense that the client or patient consented to such conduct charged
7 after having been expressly advised by the health care or mental health
8 care provider that such conduct was not performed for a valid medical
9 purpose.

10 S 8. Section 130.25 of the penal law, as amended by chapter 1 of the
11 laws of 2000, is amended to read as follows:

12 S 130.25 Rape in the [third] FOURTH degree.

13 A person is guilty of rape in the [third] FOURTH degree when:

14 1. He or she engages in sexual intercourse, ORAL SEXUAL CONDUCT, OR
15 ANAL SEXUAL CONDUCT with another person who is incapable of consent by
16 reason of some factor other than being less than seventeen years old;

17 2. Being twenty-one years old or more, he or she engages in sexual
18 intercourse, ORAL SEXUAL CONDUCT, OR ANAL SEXUAL CONDUCT with another
19 person less than seventeen years old; [or]

20 3. He or she engages in sexual intercourse, ORAL SEXUAL CONDUCT, OR
21 ANAL SEXUAL CONDUCT with another person without such person's consent
22 where such lack of consent is by reason of some factor other than inca-
23 pacity to consent[.];

24 4. HE OR SHE INSERTS A FOREIGN OBJECT IN THE VAGINA, URETHRA, PENIS,
25 RECTUM OR ANUS OF ANOTHER PERSON AND THE OTHER PERSON IS INCAPABLE OF
26 CONSENT BY REASON OF SOME FACTOR OTHER THAN BEING LESS THAN SEVENTEEN
27 YEARS OLD; OR

28 5. HE OR SHE INSERTS A FINGER IN THE VAGINA, URETHRA, PENIS, RECTUM OR
29 ANUS OF ANOTHER PERSON CAUSING PHYSICAL INJURY TO SUCH PERSON AND SUCH
30 PERSON IS INCAPABLE OF CONSENT BY REASON OF SOME FACTOR OTHER THAN BEING
31 LESS THAN SEVENTEEN YEARS OLD.

32 CONDUCT PERFORMED FOR A VALID MEDICAL PURPOSE DOES NOT VIOLATE THE
33 PROVISIONS OF SUBDIVISIONS FOUR AND FIVE OF THIS SECTION.

34 Rape in the [third] FOURTH degree is a class E felony.

35 S 9. Section 130.30 of the penal law, as amended by chapter 1 of the
36 laws of 2000, is amended to read as follows:

37 S 130.30 Rape in the [second] THIRD degree.

38 A person is guilty of rape in the [second] THIRD degree when:

39 1. being eighteen years old or more, he or she engages in sexual
40 intercourse, ORAL SEXUAL CONDUCT, OR ANAL SEXUAL CONDUCT with another
41 person less than fifteen years old; [or]

42 2. he or she engages in sexual intercourse, ORAL SEXUAL CONDUCT, OR
43 ANAL SEXUAL CONDUCT with another person who is incapable of consent by
44 reason of being mentally disabled or mentally incapacitated[.];

45 3. HE OR SHE INSERTS A FOREIGN OBJECT IN THE VAGINA, URETHRA, PENIS,
46 RECTUM OR ANUS OF ANOTHER PERSON:

47 (A) BY FORCIBLE COMPULSION; OR

48 (B) WHEN THE OTHER PERSON IS INCAPABLE OF CONSENT BY REASON OF BEING
49 PHYSICALLY HELPLESS; OR

50 (C) WHEN THE OTHER PERSON IS LESS THAN ELEVEN YEARS OLD; OR

51 4. HE OR SHE INSERTS A FOREIGN OBJECT IN THE VAGINA, URETHRA, PENIS,
52 RECTUM OR ANUS OF ANOTHER PERSON CAUSING PHYSICAL INJURY TO SUCH PERSON
53 AND SUCH PERSON IS INCAPABLE OF CONSENT BY REASON OF BEING MENTALLY
54 DISABLED OR MENTALLY INCAPACITATED.

55 CONDUCT PERFORMED FOR A VALID MEDICAL PURPOSE DOES NOT VIOLATE SUBDI-
56 VISIONS THREE AND FOUR OF THIS SECTION.

1 It shall be an affirmative defense to the crime of rape in the
2 [second] THIRD degree as defined in subdivision one of this section that
3 the defendant was less than four years older than the victim at the time
4 of the act.

5 Rape in the [second] THIRD degree is a class D felony.

6 S 10. The penal law is amended by adding a new section 130.33 to read
7 as follows:

8 S 130.33 RAPE IN THE SECOND DEGREE.

9 A PERSON IS GUILTY OF RAPE IN THE SECOND DEGREE WHEN HE OR SHE INSERTS
10 A FINGER IN THE VAGINA, URETHRA, PENIS, RECTUM OR ANUS OF ANOTHER PERSON
11 CAUSING PHYSICAL INJURY TO SUCH PERSON:

12 1. BY FORCIBLE COMPULSION; OR

13 2. WHEN THE OTHER PERSON IS INCAPABLE OF CONSENT BY REASON OF BEING
14 PHYSICALLY HELPLESS; OR

15 3. WHEN THE OTHER PERSON IS LESS THAN ELEVEN YEARS OLD.

16 CONDUCT PERFORMED FOR A VALID MEDICAL PURPOSE DOES NOT VIOLATE THE
17 PROVISIONS OF THIS SECTION.

18 RAPE IN THE SECOND DEGREE IS A CLASS C FELONY.

19 S 11. Section 130.35 of the penal law, as amended by chapter 1 of the
20 laws of 2000, is amended to read as follows:

21 S 130.35 Rape in the first degree.

22 A person is guilty of rape in the first degree when:

23 1. he or she engages in sexual intercourse, ORAL SEXUAL CONDUCT, OR
24 ANAL SEXUAL CONDUCT with another person:

25 [1.] (A) By forcible compulsion; or

26 [2.] (B) Who is incapable of consent by reason of being physically
27 helpless; or

28 [3.] (C) Who is less than eleven years old; or

29 [4.] (D) Who is less than thirteen years old and the actor is eighteen
30 years old or more[.];

31 2. HE OR SHE INSERTS A FOREIGN OBJECT IN THE VAGINA, URETHRA, PENIS,
32 RECTUM OR ANUS OF ANOTHER PERSON CAUSING PHYSICAL INJURY TO SUCH PERSON:

33 (A) BY FORCIBLE COMPULSION; OR

34 (B) WHEN THE OTHER PERSON IS INCAPABLE OF CONSENT BY REASON OF BEING
35 PHYSICALLY HELPLESS; OR

36 (C) WHEN THE OTHER PERSON IS LESS THAN ELEVEN YEARS OLD.

37 CONDUCT PERFORMED FOR A VALID MEDICAL PURPOSE DOES NOT VIOLATE SUBDI-
38 VISION TWO OF THIS SECTION.

39 Rape in the first degree is a class B felony.

40 S 12. Section 255.26 of the penal law, as added by chapter 320 of the
41 laws of 2006, is amended to read as follows:

42 S 255.26 Incest in the second degree.

43 A person is guilty of incest in the second degree when he or she
44 commits the crime of rape in the [second] THIRD degree, as defined in
45 section 130.30 of this part, [or criminal sexual act in the second
46 degree, as defined in section 130.45 of this part,] against a person
47 whom he or she knows to be related to him or her, whether through
48 marriage or not, as an ancestor, descendant, brother or sister of either
49 the whole or the half blood, uncle, aunt, nephew or niece.

50 Incest in the second degree is a class D felony.

51 S 13. Section 255.27 of the penal law, as added by chapter 320 of the
52 laws of 2006, is amended to read as follows:

53 S 255.27 Incest in the first degree.

54 A person is guilty of incest in the first degree when he or she
55 commits the crime of rape in the first degree, as defined in PARAGRAPH

56 (C) OR (D) OF subdivision [three or four] ONE of section 130.35 of this

part[, or criminal sexual act in the first degree, as defined in subdivision three or four of section 130.50 of this part,] against a person whom he or she knows to be related to him or her, whether through marriage or not, as an ancestor, descendant, brother or sister of either the whole or half blood, uncle, aunt, nephew or niece.

Incest in the first degree is a class B felony.

S 14. Subdivision 3 of section 485.05 of the penal law, as amended by chapter 405 of the laws of 2010, is amended to read as follows:

3. A "specified offense" is an offense defined by any of the following provisions of this chapter: section 120.00 (assault in the third degree); section 120.05 (assault in the second degree); section 120.10 (assault in the first degree); section 120.12 (aggravated assault upon a person less than eleven years old); section 120.13 (menacing in the first degree); section 120.14 (menacing in the second degree); section 120.15 (menacing in the third degree); section 120.20 (reckless endangerment in the second degree); section 120.25 (reckless endangerment in the first degree); section 121.12 (strangulation in the second degree); section 121.13 (strangulation in the first degree); subdivision one of section 125.15 (manslaughter in the second degree); subdivision one, two or four of section 125.20 (manslaughter in the first degree); section 125.25 (murder in the second degree); section 120.45 (stalking in the fourth degree); section 120.50 (stalking in the third degree); section 120.55 (stalking in the second degree); section 120.60 (stalking in the first degree); SUBDIVISION ONE OF SECTION 130.33 (RAPE IN THE SECOND DEGREE); PARAGRAPH (A) OF subdivision one AND PARAGRAPH (A) OF SUBDIVISION TWO of section 130.35 (rape in the first degree); [subdivision one of section 130.50 (criminal sexual act in the first degree);] subdivision one of section 130.65 (sexual abuse in the first degree); [paragraph (a) of subdivision one of section 130.67 (aggravated sexual abuse in the second degree); paragraph (a) of subdivision one of section 130.70 (aggravated sexual abuse in the first degree);] section 135.05 (unlawful imprisonment in the second degree); section 135.10 (unlawful imprisonment in the first degree); section 135.20 (kidnapping in the second degree); section 135.25 (kidnapping in the first degree); section 135.60 (coercion in the second degree); section 135.65 (coercion in the first degree); section 140.10 (criminal trespass in the third degree); section 140.15 (criminal trespass in the second degree); section 140.17 (criminal trespass in the first degree); section 140.20 (burglary in the third degree); section 140.25 (burglary in the second degree); section 140.30 (burglary in the first degree); section 145.00 (criminal mischief in the fourth degree); section 145.05 (criminal mischief in the third degree); section 145.10 (criminal mischief in the second degree); section 145.12 (criminal mischief in the first degree); section 150.05 (arson in the fourth degree); section 150.10 (arson in the third degree); section 150.15 (arson in the second degree); section 150.20 (arson in the first degree); section 155.25 (petit larceny); section 155.30 (grand larceny in the fourth degree); section 155.35 (grand larceny in the third degree); section 155.40 (grand larceny in the second degree); section 155.42 (grand larceny in the first degree); section 160.05 (robbery in the third degree); section 160.10 (robbery in the second degree); section 160.15 (robbery in the first degree); section 240.25 (harassment in the first degree); subdivision one, two or four of section 240.30 (aggravated harassment in the second degree); or any attempt or conspiracy to commit any of the foregoing offenses.

S 15. Subdivision 42 of section 1.20 of the criminal procedure law, as amended by chapter 7 of the laws of 2007, is amended to read as follows:

1 42. "Juvenile offender" means (1) a person, thirteen years old who is
2 criminally responsible for acts constituting murder in the second degree
3 as defined in subdivisions one and two of section 125.25 of the penal
4 law, or such conduct as a sexually motivated felony, where authorized
5 pursuant to section 130.91 of the penal law; and (2) a person fourteen
6 or fifteen years old who is criminally responsible for acts constituting
7 the crimes defined in subdivisions one and two of section 125.25 (murder
8 in the second degree) and in subdivision three of such section provided
9 that the underlying crime for the murder charge is one for which such
10 person is criminally responsible; section 135.25 (kidnapping in the
11 first degree); 150.20 (arson in the first degree); subdivisions one and
12 two of section 120.10 (assault in the first degree); 125.20 (manslaught-
13 er in the first degree); [subdivisions one and] PARAGRAPHS (A) AND (B)
14 OF SUBDIVISION ONE AND SUBDIVISION two of section 130.35 (rape in the
15 first degree); [subdivisions one and two of section 130.50 (criminal
16 sexual act in the first degree); 130.70 (aggravated sexual abuse in the
17 first degree);] 140.30 (burglary in the first degree); subdivision one
18 of section 140.25 (burglary in the second degree); 150.15 (arson in the
19 second degree); 160.15 (robbery in the first degree); subdivision two of
20 section 160.10 (robbery in the second degree) of the penal law; or
21 section 265.03 of the penal law, where such machine gun or such firearm
22 is possessed on school grounds, as that phrase is defined in subdivision
23 fourteen of section 220.00 of the penal law; or defined in the penal law
24 as an attempt to commit murder in the second degree or kidnapping in the
25 first degree, or such conduct as a sexually motivated felony, where
26 authorized pursuant to section 130.91 of the penal law.

27 S 16. Paragraph (a) of subdivision 2 of section 30.10 of the criminal
28 procedure law, as amended by chapter 467 of the laws of 2008, is amended
29 to read as follows:

30 (a) A prosecution for a class A felony, or rape in the first degree as
31 defined in section 130.35 of the penal law, [or a crime defined or
32 formerly defined in section 130.50 of the penal law, or aggravated sexu-
33 al abuse in the first degree as defined in section 130.70 of the penal
34 law,] or course of sexual conduct against a child in the first degree as
35 defined in section 130.75 of the penal law may be commenced at any time;

36 S 17. Paragraphs (a) and (b) of subdivision 1, the opening paragraph
37 of subdivision 2 and paragraph (a) of subdivision 3 of section 140.20 of
38 the criminal procedure law, paragraphs (a) and (b) of subdivision 1 as
39 amended by chapter 324 of the laws of 1988, the opening paragraph of
40 subdivision 2 and paragraph (a) of subdivision 3 as amended by chapter
41 550 of the laws of 1987, are amended to read as follows:

42 (a) If the arrest is for an offense other than a class A, B, C or D
43 felony or a violation of SUBDIVISION ONE, TWO OR THREE OF section
44 130.25, [130.40,] OR SECTION 205.10, 205.17, 205.19 or 215.56 of the
45 penal law committed in a town, but not in a village thereof having a
46 village court, and the town court of such town is not available at the
47 time, the arrested person may be brought before the local criminal court
48 of any village within such town or, any adjoining town, village embraced
49 in whole or in part by such adjoining town, or city of the same county;
50 and

51 (b) If the arrest is for an offense other than a class A, B, C or D
52 felony or a violation of SUBDIVISION ONE, TWO OR THREE OF section
53 130.25, [130.40,] OR SECTION 205.10, 205.17, 205.19 or 215.56 of the
54 penal law committed in a village having a village court and such court
55 is not available at the time, the arrested person may be brought before
56 the town court of the town embracing such village or any other village

1 court within such town, or, if such town or village court is not avail-
2 able either, before the local criminal court of any adjoining town,
3 village embraced in whole or in part by such adjoining town, or city of
4 the same county; and

5 If the arrest is for an offense other than a class A, B, C or D felony
6 or a violation of SUBDIVISION ONE, TWO OR THREE OF section 130.25,
7 [130.40,] OR SECTION 205.10, 205.17, 205.19 or 215.56 of the penal law,
8 the arrested person need not be brought before a local criminal court as
9 provided in subdivision one, and the procedure may instead be as
10 follows:

11 (a) the arrest is for an offense other than a class A, B, C or D felo-
12 ny or a violation of SUBDIVISION ONE, TWO OR THREE OF section 130.25,
13 [130.40,] OR SECTION 205.10, 205.17, 205.19 or 215.56 of the penal law,
14 and

15 S 18. Paragraph (a) of subdivision 3 and the opening paragraph of
16 subdivision 4 of section 140.27 of the criminal procedure law, as
17 amended by chapter 550 of the laws of 1987, are amended to read as
18 follows:

19 (a) the arrest is for an offense other than a class A, B, C or D felo-
20 ny or a violation of SUBDIVISION ONE, TWO OR THREE OF section 130.25,
21 [130.40,] OR SECTION 205.10, 205.17, 205.19 or 215.56 of the penal law
22 and

23 If the arrest is for an offense other than a class A, B, C or D felony
24 or a violation of SUBDIVISION ONE, TWO OR THREE OF section 130.25,
25 [130.40,] OR SECTION 205.10, 205.17, 205.19 or 215.56 of the penal law,
26 the arrested person need not be brought before a local criminal court as
27 provided in subdivision two, and the procedure may instead be as
28 follows:

29 S 19. Paragraph (a) of subdivision 2 and the opening paragraph of
30 subdivision 3 of section 140.40 of the criminal procedure law, as
31 amended by chapter 550 of the laws of 1987, are amended to read as
32 follows:

33 (a) the arrest is for an offense other than a class A, B, C or D felo-
34 ny or a violation of SUBDIVISION ONE, TWO OR THREE OF section 130.25,
35 [130.40,] OR SECTION 205.10, 205.17, 205.19 or 215.56 of the penal law
36 and

37 If the arrest is for an offense other than a class A, B, C or D felony
38 or a violation of SUBDIVISION ONE, TWO OR THREE OF section 130.25,
39 [130.40,] OR SECTION 205.10, 205.17, 205.19 or 215.56 of the penal law,
40 the arrested person need not be brought before a local criminal court,
41 as provided in subdivision one, and the procedure may instead be as
42 follows:

43 S 20. Section 150.20 of the criminal procedure law, subdivisions 1, 2
44 and 3 as amended by chapter 550 of the laws of 1987, is amended to read
45 as follows:

46 S 150.20 Appearance ticket; when and by whom issuable.

47 1. Whenever a police officer is authorized pursuant to section 140.10
48 to arrest a person without a warrant for an offense other than a class
49 A, B, C or D felony or a violation of SUBDIVISION ONE, TWO OR THREE OF
50 section 130.25, [130.40,] OR SECTION 205.10, 205.17, 205.19 or 215.56 of
51 the penal law, he may, subject to the provisions of subdivisions three
52 and four of section 150.40, instead issue to and serve upon such person
53 an appearance ticket.

54 2. (a) Whenever a police officer has arrested a person without a
55 warrant for an offense other than a class A, B, C or D felony or a
56 violation of SUBDIVISION ONE, TWO OR THREE OF section 130.25, [130.40,]

1 OR SECTION 205.10, 205.17, 205.19 or 215.56 of the penal law pursuant to
2 section 140.10, or (b) whenever a peace officer, who is not authorized
3 by law to issue an appearance ticket, has arrested a person for an
4 offense other than a class A, B, C or D felony or a violation of SUBDI-
5 VISION ONE, TWO OR THREE OF section 130.25, [130.40,] OR SECTION 205.10,
6 205.17, 205.19 or 215.56 of the penal law pursuant to section 140.25,
7 and has requested a police officer to issue and serve upon such arrested
8 person an appearance ticket pursuant to subdivision four of section
9 140.27, or (c) whenever a person has been arrested for an offense other
10 than a class A, B, C or D felony or a violation of SUBDIVISION ONE, TWO
11 OR THREE OF section 130.25, [130.40,] OR SECTION 205.10, 205.17, 205.19
12 or 215.56 of the penal law and has been delivered to the custody of an
13 appropriate police officer pursuant to section 140.40, such police offi-
14 cer may, instead of bringing such person before a local criminal court
15 and promptly filing or causing the arresting peace officer or arresting
16 person to file a local criminal court accusatory instrument therewith,
17 issue to and serve upon such person an appearance ticket. The issuance
18 and service of an appearance ticket under such circumstances may be
19 conditioned upon a deposit of pre-arraignment bail, as provided in
20 section 150.30.

21 3. A public servant other than a police officer, who is specially
22 authorized by state law or local law enacted pursuant to the provisions
23 of the municipal home rule law to issue and serve appearance tickets
24 with respect to designated offenses other than class A, B, C or D felo-
25 nies or violations of SUBDIVISION ONE, TWO OR THREE OF section 130.25,
26 [130.40,] OR SECTION 205.10, 205.17, 205.19 or 215.56 of the penal law,
27 may in such cases issue and serve upon a person an appearance ticket
28 when he has reasonable cause to believe that such person has committed a
29 crime, or has committed a petty offense in his presence.

30 S 21. Subdivision 4 of section 180.75 of the criminal procedure law,
31 as amended by chapter 264 of the laws of 2003, is amended to read as
32 follows:

33 4. Notwithstanding the provisions of subdivisions two and three of
34 this section, a local criminal court shall, at the request of the
35 district attorney, order removal of an action against a juvenile offen-
36 der to the family court pursuant to the provisions of article seven
37 hundred twenty-five of this chapter if, upon consideration of the crite-
38 ria specified in subdivision two of section 210.43 of this chapter, it
39 is determined that to do so would be in the interests of justice.
40 Where, however, the felony complaint charges the juvenile offender with
41 murder in the second degree as defined in section 125.25 of the penal
42 law, rape in the first degree as defined in PARAGRAPH (A) OF subdivision
43 one of section 130.35 of the penal law, [criminal sexual act in the
44 first degree as defined in subdivision one of section 130.50 of the
45 penal law,] or an armed felony as defined in paragraph (a) of subdivi-
46 sion forty-one of section 1.20 of this chapter, a determination that
47 such action be removed to the family court shall, in addition, be based
48 upon a finding of one or more of the following factors: (i) mitigating
49 circumstances that bear directly upon the manner in which the crime was
50 committed; or (ii) where the defendant was not the sole participant in
51 the crime, the defendant's participation was relatively minor although
52 not so minor as to constitute a defense to the prosecution; or (iii)
53 possible deficiencies in proof of the crime.

54 S 22. Subdivision (a) of section 190.71 of the criminal procedure law,
55 as amended by chapter 7 of the laws of 2007, is amended to read as
56 follows:

1 (a) Except as provided in subdivision six of section 200.20 of this
2 chapter, a grand jury may not indict (i) a person thirteen years of age
3 for any conduct or crime other than conduct constituting a crime defined
4 in subdivisions one and two of section 125.25 (murder in the second
5 degree) or such conduct as a sexually motivated felony, where authorized
6 pursuant to section 130.91 of the penal law; (ii) a person fourteen or
7 fifteen years of age for any conduct or crime other than conduct consti-
8 tuting a crime defined in subdivisions one and two of section 125.25
9 (murder in the second degree) and in subdivision three of such section
10 provided that the underlying crime for the murder charge is one for
11 which such person is criminally responsible; 135.25 (kidnapping in the
12 first degree); 150.20 (arson in the first degree); subdivisions one and
13 two of section 120.10 (assault in the first degree); 125.20 (manslaught-
14 er in the first degree); [subdivisions one and] PARAGRAPHS (A) AND (B)
15 OF SUBDIVISION ONE AND SUBDIVISION two of section 130.35 (rape in the
16 first degree); [subdivisions one and two of section 130.50 (criminal
17 sexual act in the first degree); 130.70 (aggravated sexual abuse in the
18 first degree);] 140.30 (burglary in the first degree); subdivision one
19 of section 140.25 (burglary in the second degree); 150.15 (arson in the
20 second degree); 160.15 (robbery in the first degree); subdivision two of
21 section 160.10 (robbery in the second degree) of the penal law; subdivi-
22 sion four of section 265.02 of the penal law, where such firearm is
23 possessed on school grounds, as that phrase is defined in subdivision
24 fourteen of section 220.00 of the penal law; or section 265.03 of the
25 penal law, where such machine gun or such firearm is possessed on school
26 grounds, as that phrase is defined in subdivision fourteen of section
27 220.00 of the penal law; or defined in the penal law as an attempt to
28 commit murder in the second degree or kidnapping in the first degree, or
29 such conduct as a sexually motivated felony, where authorized pursuant
30 to section 130.91 of the penal law.

31 S 23. Paragraph (b) of subdivision 1 of section 210.43 of the criminal
32 procedure law, as amended by chapter 264 of the laws of 2003, is amended
33 to read as follows:

34 (b) with the consent of the district attorney, order removal of an
35 action involving an indictment charging a juvenile offender with murder
36 in the second degree as defined in section 125.25 of the penal law; rape
37 in the first degree, as defined in PARAGRAPH (A) OF subdivision one of
38 section 130.35 of the penal law; [criminal sexual act in the first
39 degree, as defined in subdivision one of section 130.50 of the penal
40 law;] or an armed felony as defined in paragraph (a) of subdivision
41 forty-one of section 1.20, to the family court pursuant to the
42 provisions of article seven hundred twenty-five of this chapter if the
43 court finds one or more of the following factors: (i) mitigating circum-
44 stances that bear directly upon the manner in which the crime was
45 committed; (ii) where the defendant was not the sole participant in the
46 crime, the defendant's participation was relatively minor although not
47 so minor as to constitute a defense to the prosecution; or (iii) possi-
48 ble deficiencies in the proof of the crime, and, after consideration of
49 the factors set forth in subdivision two of this section, the court
50 determined that removal of the action to the family court would be in
51 the interests of justice.

52 S 24. Subparagraph (iii) of paragraph (g) of subdivision 5 of section
53 220.10 of the criminal procedure law, as amended by chapter 264 of the
54 laws of 2003, is amended to read as follows:

55 (iii) Where the indictment does not charge a crime specified in
56 subparagraph (i) of this paragraph, the district attorney may recommend

1 removal of the action to the family court. Upon making such recommenda-
2 tion the district attorney shall submit a subscribed memorandum setting
3 forth: (1) a recommendation that the interests of justice would best be
4 served by removal of the action to the family court; and (2) if the
5 indictment charges a thirteen year old with the crime of murder in the
6 second degree, or a fourteen or fifteen year old with the crimes of rape
7 in the first degree as defined in PARAGRAPH (A) OF subdivision one of
8 section 130.35 of the penal law, [or criminal sexual act in the first
9 degree as defined in subdivision one of section 130.50 of the penal
10 law,] or an armed felony as defined in paragraph (a) of subdivision
11 forty-one of section 1.20 of this chapter specific factors, one or more
12 of which reasonably supports the recommendation, showing, (i) mitigating
13 circumstances that bear directly upon the manner in which the crime was
14 committed, or (ii) where the defendant was not the sole participant in
15 the crime, that the defendant's participation was relatively minor
16 although not so minor as to constitute a defense to the prosecution, or
17 (iii) possible deficiencies in proof of the crime, or (iv) where the
18 juvenile offender has no previous adjudications of having committed a
19 designated felony act, as defined in subdivision eight of section 301.2
20 of the family court act, regardless of the age of the offender at the
21 time of commission of the act, that the criminal act was not part of a
22 pattern of criminal behavior and, in view of the history of the offen-
23 der, is not likely to be repeated.

24 S 25. Subdivision 6 of section 300.50 of the criminal procedure law,
25 as amended by chapter 264 of the laws of 2003, is amended to read as
26 follows:

27 6. For purposes of this section, the offenses of rape in the [third]
28 FOURTH degree as defined in subdivision three of section 130.25 of the
29 penal law [and criminal sexual act in the third degree as defined in
30 subdivision three of section 130.40 of the penal law], are not lesser
31 included offenses of rape in the first degree, criminal sexual act in
32 the first degree or any other offense. Notwithstanding the foregoing,
33 either such offense may be submitted as a lesser included offense of the
34 applicable first degree offense when (i) there is a reasonable view of
35 the evidence which would support a finding that the defendant committed
36 such lesser offense but did not commit the greater offense, and (ii)
37 both parties consent to its submission.

38 S 26. Subdivision 6 of section 380.50 of the criminal procedure law,
39 as amended by chapter 320 of the laws of 2006, is amended to read as
40 follows:

41 6. Regardless of whether the victim requests to make a statement with
42 regard to the defendant's sentence, where the defendant is sentenced for
43 a violent felony offense as defined in section 70.02 of the penal law or
44 a felony defined in article one hundred twenty-five of such law or any
45 of the following provisions of such law sections 130.25, 130.30,
46 [130.40, 130.45] 130.33, 255.25, 255.26, 255.27, article two hundred
47 sixty-three, 135.10, 135.25, 230.05, 230.06, subdivision two of section
48 230.30 or 230.32, OR ANY OFFENSES COMMITTED UNDER A FORMER SECTION OF
49 ARTICLE ONE HUNDRED THIRTY OF THE PENAL LAW WHICH WOULD CONSTITUTE A
50 VIOLATION OF THE AFORESAID SECTIONS OF THE PENAL LAW, the prosecutor
51 shall, within sixty days of the imposition of sentence, provide the
52 victim with a form on which the victim may indicate a demand to be
53 informed of any petition to change the name of such defendant. Such
54 forms shall be maintained by such prosecutor. Upon receipt of a notice
55 of a petition to change the name of any such defendant, pursuant to
56 subdivision two of section sixty-two of the civil rights law, the prose-

1 cutor shall promptly notify the victim at the most current address or
2 telephone number provided by such victim in the most reasonable and
3 expedient possible manner of the time and place such petition will be
4 presented to the court.

5 S 27. Paragraph (b) of subdivision 8 of section 700.05 of the criminal
6 procedure law, as amended by chapter 405 of the laws of 2010, is amended
7 to read as follows:

8 (b) Any of the following felonies: assault in the second degree as
9 defined in section 120.05 of the penal law, assault in the first degree
10 as defined in section 120.10 of the penal law, reckless endangerment in
11 the first degree as defined in section 120.25 of the penal law, promot-
12 ing a suicide attempt as defined in section 120.30 of the penal law,
13 strangulation in the second degree as defined in section 121.12 of the
14 penal law, strangulation in the first degree as defined in section
15 121.13 of the penal law, criminally negligent homicide as defined in
16 section 125.10 of the penal law, manslaughter in the second degree as
17 defined in section 125.15 of the penal law, manslaughter in the first
18 degree as defined in section 125.20 of the penal law, murder in the
19 second degree as defined in section 125.25 of the penal law, murder in
20 the first degree as defined in section 125.27 of the penal law, abortion
21 in the second degree as defined in section 125.40 of the penal law,
22 abortion in the first degree as defined in section 125.45 of the penal
23 law, rape in the [third] FOURTH degree as defined in SUBDIVISION ONE,
24 TWO OR THREE OF section 130.25 of the penal law, rape in the [second]
25 THIRD degree as defined in SUBDIVISION ONE OR TWO OF section 130.30 of
26 the penal law, rape in the first degree as defined in SUBDIVISION ONE OF
27 section 130.35 of the penal law, [criminal sexual act in the third
28 degree as defined in section 130.40 of the penal law, criminal sexual
29 act in the second degree as defined in section 130.45 of the penal law,
30 criminal sexual act in the first degree as defined in section 130.50 of
31 the penal law,] sexual abuse in the first degree as defined in section
32 130.65 of the penal law, unlawful imprisonment in the first degree as
33 defined in section 135.10 of the penal law, kidnapping in the second
34 degree as defined in section 135.20 of the penal law, kidnapping in the
35 first degree as defined in section 135.25 of the penal law, labor traf-
36 ficking as defined in section 135.35 of the penal law, custodial inter-
37 ference in the first degree as defined in section 135.50 of the penal
38 law, coercion in the first degree as defined in section 135.65 of the
39 penal law, criminal trespass in the first degree as defined in section
40 140.17 of the penal law, burglary in the third degree as defined in
41 section 140.20 of the penal law, burglary in the second degree as
42 defined in section 140.25 of the penal law, burglary in the first degree
43 as defined in section 140.30 of the penal law, criminal mischief in the
44 third degree as defined in section 145.05 of the penal law, criminal
45 mischief in the second degree as defined in section 145.10 of the penal
46 law, criminal mischief in the first degree as defined in section 145.12
47 of the penal law, criminal tampering in the first degree as defined in
48 section 145.20 of the penal law, arson in the fourth degree as defined
49 in section 150.05 of the penal law, arson in the third degree as defined
50 in section 150.10 of the penal law, arson in the second degree as
51 defined in section 150.15 of the penal law, arson in the first degree as
52 defined in section 150.20 of the penal law, grand larceny in the fourth
53 degree as defined in section 155.30 of the penal law, grand larceny in
54 the third degree as defined in section 155.35 of the penal law, grand
55 larceny in the second degree as defined in section 155.40 of the penal
56 law, grand larceny in the first degree as defined in section 155.42 of

1 the penal law, health care fraud in the fourth degree as defined in
2 section 177.10 of the penal law, health care fraud in the third degree
3 as defined in section 177.15 of the penal law, health care fraud in the
4 second degree as defined in section 177.20 of the penal law, health care
5 fraud in the first degree as defined in section 177.25 of the penal law,
6 robbery in the third degree as defined in section 160.05 of the penal
7 law, robbery in the second degree as defined in section 160.10 of the
8 penal law, robbery in the first degree as defined in section 160.15 of
9 the penal law, unlawful use of secret scientific material as defined in
10 section 165.07 of the penal law, criminal possession of stolen property
11 in the fourth degree as defined in section 165.45 of the penal law,
12 criminal possession of stolen property in the third degree as defined in
13 section 165.50 of the penal law, criminal possession of stolen property
14 in the second degree as defined by section 165.52 of the penal law,
15 criminal possession of stolen property in the first degree as defined by
16 section 165.54 of the penal law, trademark counterfeiting in the second
17 degree as defined in section 165.72 of the penal law, trademark counter-
18 feiting in the first degree as defined in section 165.73 of the penal
19 law, forgery in the second degree as defined in section 170.10 of the
20 penal law, forgery in the first degree as defined in section 170.15 of
21 the penal law, criminal possession of a forged instrument in the second
22 degree as defined in section 170.25 of the penal law, criminal
23 possession of a forged instrument in the first degree as defined in
24 section 170.30 of the penal law, criminal possession of forgery devices
25 as defined in section 170.40 of the penal law, falsifying business
26 records in the first degree as defined in section 175.10 of the penal
27 law, tampering with public records in the first degree as defined in
28 section 175.25 of the penal law, offering a false instrument for filing
29 in the first degree as defined in section 175.35 of the penal law, issu-
30 ing a false certificate as defined in section 175.40 of the penal law,
31 criminal diversion of prescription medications and prescriptions in the
32 second degree as defined in section 178.20 of the penal law, criminal
33 diversion of prescription medications and prescriptions in the first
34 degree as defined in section 178.25 of the penal law, residential mort-
35 gage fraud in the fourth degree as defined in section 187.10 of the
36 penal law, residential mortgage fraud in the third degree as defined in
37 section 187.15 of the penal law, residential mortgage fraud in the
38 second degree as defined in section 187.20 of the penal law, residential
39 mortgage fraud in the first degree as defined in section 187.25 of the
40 penal law, escape in the second degree as defined in section 205.10 of
41 the penal law, escape in the first degree as defined in section 205.15
42 of the penal law, absconding from temporary release in the first degree
43 as defined in section 205.17 of the penal law, promoting prison contra-
44 band in the first degree as defined in section 205.25 of the penal law,
45 hindering prosecution in the second degree as defined in section 205.60
46 of the penal law, hindering prosecution in the first degree as defined
47 in section 205.65 of the penal law, sex trafficking as defined in
48 section 230.34 of the penal law, criminal possession of a weapon in the
49 third degree as defined in subdivisions two, three and five of section
50 265.02 of the penal law, criminal possession of a weapon in the second
51 degree as defined in section 265.03 of the penal law, criminal
52 possession of a weapon in the first degree as defined in section 265.04
53 of the penal law, manufacture, transport, disposition and defacement of
54 weapons and dangerous instruments and appliances defined as felonies in
55 subdivisions one, two, and three of section 265.10 of the penal law,
56 sections 265.11, 265.12 and 265.13 of the penal law, or prohibited use

1 of weapons as defined in subdivision two of section 265.35 of the penal
2 law, relating to firearms and other dangerous weapons, or failure to
3 disclose the origin of a recording in the first degree as defined in
4 section 275.40 of the penal law;

5 S 28. Paragraph (a) of subdivision 2 and paragraph (a) of subdivision
6 3 of section 168-a of the correction law, paragraph (a) of subdivision 2
7 as amended by chapter 405 of the laws of 2008 and paragraph (a) of
8 subdivision 3 as amended by chapter 107 of the laws of 2006, are amended
9 to read as follows:

10 (a) (i) a conviction of or a conviction for an attempt to commit any
11 of the provisions of sections 120.70, 130.20, [130.25, 130.30, 130.40,
12 130.45,] 130.60, 230.34, 250.50, 255.25, 255.26 and 255.27, OR SUBDIVI-
13 SION ONE, TWO OR THREE OF SECTION 130.25, OR SUBDIVISION ONE OR TWO OF
14 SECTION 130.30, or article two hundred sixty-three of the penal law, or
15 section 135.05, 135.10, 135.20 or 135.25 of such law relating to kidnapp-
16 ping offenses, provided the victim of such kidnapping or related offense
17 is less than seventeen years old and the offender is not the parent of
18 the victim, or section 230.04, where the person patronized is in fact
19 less than seventeen years of age, 230.05 or 230.06, or subdivision two
20 of section 230.30, or section 230.32 or 230.33 of the penal law, or (ii)
21 a conviction of or a conviction for an attempt to commit any of the
22 provisions of section 235.22 of the penal law, or (iii) a conviction of
23 or a conviction for an attempt to commit any provisions of the foregoing
24 sections committed or attempted as a hate crime defined in section
25 485.05 of the penal law or as a crime of terrorism defined in section
26 490.25 of such law or as a sexually motivated felony defined in section
27 130.91 of such law; or (IV) ANY OFFENSE COMMITTED UNDER A FORMER SECTION
28 OF ARTICLE ONE HUNDRED THIRTY OF THE PENAL LAW WHICH WOULD CONSTITUTE A
29 VIOLATION OF THE AFORESAID SECTIONS OF THE PENAL LAW; OR

30 (a) (i) a conviction of or a conviction for an attempt to commit any
31 of the provisions of sections 130.33, 130.35, [130.50,] 130.65, [130.66,
32 130.67, 130.70,] 130.75, 130.80, 130.95 and 130.96 of the penal law, or
33 (ii) a conviction of or a conviction for an attempt to commit any of the
34 provisions of sections 130.53[, 130.65-a] and 130.90 of the penal law,
35 or [(iii)] SUBDIVISIONS FOUR AND FIVE OF SECTION 130.25 OR 130.30 OF THE
36 PENAL LAW, OR (III) ANY OFFENSES COMMITTED UNDER A FORMER SECTION OF
37 ARTICLE ONE HUNDRED THIRTY OF THE PENAL LAW WHICH WOULD CONSTITUTE A
38 VIOLATION OF THE AFORESAID SECTIONS OF THE PENAL LAW, OR (IV) a
39 conviction of or a conviction for an attempt to commit any provisions of
40 the foregoing sections committed or attempted as a hate crime defined in
41 section 485.05 of the penal law or as a crime of terrorism defined in
42 section 490.25 of such law; or

43 S 29. Subparagraph (ii) of paragraph (a), subparagraphs (i) and (ii)
44 of paragraph (b) and paragraph (e) of subdivision 8 of section 384-b of
45 the social services law, subparagraph (ii) of paragraph (a) and subpara-
46 graph (i) of paragraph (b) as amended by chapter 430 of the laws of
47 2013, and paragraph (e) as added and subparagraph (ii) of paragraph (b)
48 as amended by chapter 7 of the laws of 1999, are amended to read as
49 follows:

50 (ii) the child has been found to be an abused child, as defined in
51 paragraph (iii) of subdivision (e) of section ten hundred twelve of the
52 family court act, as a result of such parent's acts; provided, however,
53 the respondent must have committed or knowingly allowed to be committed
54 a felony sex offense as defined in [sections] SUBDIVISION ONE, TWO OR
55 THREE OF SECTION 130.25[,] OR 130.30, OR SECTIONS 130.33, 130.35,
56 [130.40, 130.45, 130.50,] 130.65, [130.67, 130.70,] 130.75, 130.80,

1 130.95 and 130.96 of the penal law and, for the purposes of this section
2 the corroboration requirements contained in the penal law shall not
3 apply to proceedings under this section; or

4 (i) the child has been found to be an abused child, (A) as defined in
5 paragraph (i) of subdivision (e) of section ten hundred twelve of the
6 family court act, as a result of such parent's acts; or (B) as defined
7 in paragraph (iii) of subdivision (e) of section ten hundred twelve of
8 the family court act, as a result of such parent's acts; provided,
9 however, the respondent must have committed or knowingly allowed to be
10 committed a felony sex offense as defined in [sections] SUBDIVISION ONE,
11 TWO OR THREE OF SECTION 130.25, SUBDIVISION ONE OR TWO OF SECTION
12 130.30, OR SECTIONS 130.33, 130.35, [130.40, 130.45, 130.50,] 130.65,
13 [130.67, 130.70,] 130.75, 130.80, 130.95 and 130.96 of the penal law;
14 and

15 (ii) (A) the child or another child for whose care such parent is or
16 has been legally responsible has been previously found, within the five
17 years immediately preceding the initiation of the proceeding in which
18 such abuse is found, to be an abused child, as defined in paragraph (i)
19 or (iii) of subdivision (e) of section ten hundred twelve of the family
20 court act, as a result of such parent's acts; provided, however, in the
21 case of a finding of abuse as defined in paragraph (iii) of subdivision
22 (e) of section ten hundred twelve of the family court act the respondent
23 must have committed or knowingly allowed to be committed a felony sex
24 offense as defined in [sections] SUBDIVISION ONE, TWO OR THREE OF
25 SECTION 130.25, SUBDIVISION ONE OR TWO OF SECTION 130.30, OR SECTIONS
26 130.33, 130.35, [130.40, 130.45, 130.50,] 130.65, [130.67, 130.70,]
27 130.75 and 130.80 of the penal law, or (B) the parent has been convicted
28 of a crime under SUBDIVISION ONE, TWO OR THREE OF section 130.25, SUBDI-
29 VISION ONE OR TWO OF SECTION 130.30, OR SECTIONS 130.33, 130.35,
30 [130.40, 130.45, 130.50,] 130.65, [130.67, 130.70,] 130.75 or 130.80 of
31 the penal law against the child, a sibling of the child or another child
32 for whose care such parent is or has been legally responsible, within
33 the five year period immediately preceding the initiation of the
34 proceeding in which abuse is found; and

35 (e) A determination by the court in accordance with article ten of the
36 family court act based upon clear and convincing evidence that a child
37 was abused (A) as defined in paragraph (i) of subdivision (e) of section
38 ten hundred twelve of the family court act, as a result of such parent's
39 acts; or (B) as defined in paragraph (iii) of subdivision (e) of section
40 ten hundred twelve of the family court act, as a result of such parent's
41 acts; provided, however, the respondent must have committed or knowingly
42 allowed to be committed a felony sex offense as defined in [sections]
43 SUBDIVISION ONE, TWO OR THREE OF SECTION 130.25, SUBDIVISION ONE OR TWO
44 OF SECTION 130.30, OR SECTIONS 130.33, 130.35, [130.40, 130.45, 130.50,]
45 130.65, [130.67, 130.70,] 130.75 and 130.80 of the penal law shall
46 establish that the child was an abused child for the purpose of a deter-
47 mination as required by subparagraph (i) or (ii) of paragraph (b) of
48 this subdivision. Such a determination by the court in accordance with
49 article ten of the family court act based upon a fair preponderance of
50 evidence shall be admissible in any proceeding commenced in accordance
51 with this section.

52 S 30. Subdivision 4 of section 509-cc of the vehicle and traffic law,
53 as amended by chapter 400 of the laws of 2011, is amended to read as
54 follows:

55 (4) (a) The offenses referred to in subparagraph (ii) of paragraph (a)
56 of subdivision one and paragraph (a) of subdivision two of this section

1 that result in permanent disqualification shall include a conviction
2 under sections 125.12, 125.13, 125.14, 125.15, 125.20, 125.21, 125.22,
3 125.25, 125.26, 125.27, 130.30, 130.33, 130.35, [130.45, 130.50,]
4 130.65, [130.66, 130.67, 130.70,] 130.75, 130.80, 130.90, 130.95,
5 130.96, 135.25, 150.20, 230.30, 230.32, 230.34, 235.22, 263.05, 263.10,
6 263.11, 263.15, 263.16 of the penal law or an attempt to commit any of
7 the aforesaid offenses under section 110.00 of the penal law, or any
8 offenses committed under a former section of the penal law which would
9 constitute violations of the aforesaid sections of the penal law, or any
10 offenses committed outside this state which would constitute violations
11 of the aforesaid sections of the penal law.

12 (b) The offenses referred to in subparagraph (ii) of paragraph (a) of
13 subdivision one and paragraph (b) of subdivision two of this section
14 that result in permanent disqualification shall include a conviction
15 under sections 100.13, 105.15, 105.17, 115.08, 120.12, 120.70, 125.10,
16 125.11, [130.40,] 130.25, 130.53, 130.60, [130.65-a,] 135.20, 160.15,
17 220.18, 220.21, 220.39, 220.41, 220.43, 220.44, 230.25, 260.00, 265.04
18 of the penal law or an attempt to commit any of the aforesaid offenses
19 under section 110.00 of the penal law, or any offenses committed under a
20 former section of the penal law which would constitute violations of the
21 aforesaid sections of the penal law, or any offenses committed outside
22 this state which would constitute violations of the aforesaid sections
23 of the penal law.

24 (c) The offenses referred to in subparagraph (i) of paragraph (b) of
25 subdivision one and subparagraph (i) of paragraph (c) of subdivision two
26 of this section that result in disqualification for a period of five
27 years shall include a conviction under sections 100.10, 105.13, 115.05,
28 120.03, 120.04, 120.04-a, 120.05, 120.10, 120.25, 121.12, 121.13,
29 125.40, 125.45, 130.20, [130.25,] 130.52, 130.55, 135.10, 135.55,
30 140.17, 140.25, 140.30, 145.12, 150.10, 150.15, 160.05, 160.10, 220.06,
31 220.09, 220.16, 220.31, 220.34, 220.60, 220.65, 221.30, 221.50, 221.55,
32 230.00, 230.05, 230.06, 230.20, 235.05, 235.06, 235.07, 235.21, 240.06,
33 245.00, 260.10, subdivision two of section 260.20 and sections 260.25,
34 265.02, 265.03, 265.08, 265.09, 265.10, 265.12, 265.35 of the penal law
35 or an attempt to commit any of the aforesaid offenses under section
36 110.00 of the penal law, or any similar offenses committed under a
37 former section of the penal law, or any offenses committed under a
38 former section of the penal law which would constitute violations of the
39 aforesaid sections of the penal law, or any offenses committed outside
40 this state which would constitute violations of the aforesaid sections
41 of the penal law.

42 S 31. Subdivision (b) of section 117 of the family court act, as
43 amended by chapter 7 of the laws of 2007, is amended to read as follows:

44 (b) For every juvenile delinquency proceeding under article three
45 involving an allegation of an act committed by a person which, if done
46 by an adult, would be a crime (i) defined in sections 125.27 (murder in
47 the first degree); 125.25 (murder in the second degree); 135.25 (kidnap-
48 ping in the first degree); or 150.20 (arson in the first degree) of the
49 penal law committed by a person thirteen, fourteen or fifteen years of
50 age; or such conduct committed as a sexually motivated felony, where
51 authorized pursuant to section 130.91 of the penal law; (ii) defined in
52 sections 120.10 (assault in the first degree); 125.20 (manslaughter in
53 the first degree); SUBDIVISION ONE OF SECTION 130.35 (rape in the first
54 degree); [130.50 (criminal sexual act in the first degree);] SECTION
55 135.20 (kidnapping in the second degree), but only where the abduction
56 involved the use or threat of use of deadly physical force; 150.15

1 (arson in the second degree); or 160.15 (robbery in the first degree) of
2 the penal law committed by a person thirteen, fourteen or fifteen years
3 of age; or such conduct committed as a sexually motivated felony, where
4 authorized pursuant to section 130.91 of the penal law; (iii) defined in
5 the penal law as an attempt to commit murder in the first or second
6 degree or kidnapping in the first degree committed by a person thirteen,
7 fourteen or fifteen years of age; or such conduct committed as a sexual-
8 ly motivated felony, where authorized pursuant to section 130.91 of the
9 penal law; (iv) defined in section 140.30 (burglary in the first
10 degree); subdivision one of section 140.25 (burglary in the second
11 degree); subdivision two of section 160.10 (robbery in the second
12 degree) of the penal law; or section 265.03 of the penal law, where such
13 machine gun or such firearm is possessed on school grounds, as that
14 phrase is defined in subdivision fourteen of section 220.00 of the penal
15 law committed by a person fourteen or fifteen years of age; or such
16 conduct committed as a sexually motivated felony, where authorized
17 pursuant to section 130.91 of the penal law; (v) defined in section
18 120.05 (assault in the second degree) or 160.10 (robbery in the second
19 degree) of the penal law committed by a person fourteen or fifteen years
20 of age but only where there has been a prior finding by a court that
21 such person has previously committed an act which, if committed by an
22 adult, would be the crime of assault in the second degree, robbery in
23 the second degree or any designated felony act specified in clause (i),
24 (ii) or (iii) of this subdivision regardless of the age of such person
25 at the time of the commission of the prior act; or (vi) other than a
26 misdemeanor, committed by a person at least seven but less than sixteen
27 years of age, but only where there has been two prior findings by the
28 court that such person has committed a prior act which, if committed by
29 an adult would be a felony:

30 (i) There is hereby established in the family court in the city of New
31 York at least one "designated felony act part." Such part or parts shall
32 be held separate from all other proceedings of the court, and shall have
33 jurisdiction over all proceedings involving such an allegation. All such
34 proceedings shall be originated in or be transferred to this part from
35 other parts as they are made known to the court.

36 (ii) Outside the city of New York, all proceedings involving such an
37 allegation shall have a hearing preference over every other proceeding
38 in the court, except proceedings under article ten.

39 S 32. Paragraph (ii) of subdivision 8 of section 301.2 of the family
40 court act, as amended by chapter 7 of the laws of 2007, is amended to
41 read as follows:

42 (ii) defined in sections 120.10 (assault in the first degree); 125.20
43 (manslaughter in the first degree); 130.35 (rape in the first degree);
44 [130.50 (criminal sexual act in the first degree); 130.70 (aggravated
45 sexual abuse in the first degree);] 135.20 (kidnapping in the second
46 degree) but only where the abduction involved the use or threat of use
47 of deadly physical force; 150.15 (arson in the second degree) or 160.15
48 (robbery in the first degree) of the penal law committed by a person
49 thirteen, fourteen or fifteen years of age; or such conduct committed as
50 a sexually motivated felony, where authorized pursuant to section 130.91
51 of the penal law;

52 S 33. Subdivision 4 of section 308.1 of the family court act, as
53 amended by chapter 264 of the laws of 2003, is amended to read as
54 follows:

55 4. The probation service shall not adjust a case in which the child
56 has allegedly committed a delinquent act which would be a crime defined

1 in section 120.25, (reckless endangerment in the first degree), subdivi-
2 sion one of section 125.15, (manslaughter in the second degree), subdi-
3 vision one of section 130.25, (rape in the [third] FOURTH degree),
4 [subdivision one of section 130.40, (criminal sexual act in the third
5 degree),] subdivision one or two of section 130.65, (sexual abuse in the
6 first degree), section 135.65, (coercion in the first degree), section
7 140.20, (burglary in the third degree), section 150.10, (arson in the
8 third degree), section 160.05, (robbery in the third degree), subdivi-
9 sion two, three or four of section 265.02, (criminal possession of a
10 weapon in the third degree), section 265.03, (criminal possession of a
11 weapon in the second degree), or section 265.04, (criminal possession of
12 a dangerous weapon in the first degree) of the penal law where the child
13 has previously had one or more adjustments of a case in which such child
14 allegedly committed an act which would be a crime specified in this
15 subdivision unless it has received written approval from the court and
16 the appropriate presentment agency.

17 S 34. Subdivision (c) of section 1052 of the family court act, as
18 added by chapter 739 of the laws of 1981, is amended to read as follows:

19 (c) Prior to granting an order of disposition pursuant to subdivision
20 (a) of this section following an adjudication of child abuse, as defined
21 in paragraph (i) of subdivision (e) of section ten hundred twelve of
22 this act or a finding of a felony sex offense as defined in [sections]
23 SUBDIVISION ONE, TWO OR THREE OF SECTION 130.25, SUBDIVISION ONE OR TWO
24 OF SECTION 130.30, OR SECTION 130.35, [130.40, 130.45, 130.50,] OR
25 130.65 [and 130.70] of the penal law, the court shall advise the
26 respondent that any subsequent adjudication of child abuse, as defined
27 in paragraph (i) of subdivision (e) of section one thousand twelve of
28 this act or any subsequent finding of a felony sex offense as defined in
29 those sections of the penal law herein enumerated, arising out of acts
30 of the respondent may result in the commitment of the guardianship and
31 custody of the child or another child pursuant to section three hundred
32 eighty-four-b of the social services law. The order in such cases shall
33 contain a statement that any subsequent adjudication of child abuse or
34 finding of a felony sex offense as described herein may result in the
35 commitment of the guardianship and custody of the child, or another
36 child pursuant to section three hundred eighty-four-b of the social
37 services law.

38 S 35. Subdivision 2 of section 61 of the civil rights law, as amended
39 by section 54 of subpart B of part C of chapter 62 of the laws of 2011,
40 is amended to read as follows:

41 2. If the petitioner stands convicted of a violent felony offense as
42 defined in section 70.02 of the penal law or a felony defined in article
43 one hundred twenty-five of such law or any of the following provisions
44 of such law sections 130.25, 130.30, [130.40, 130.45,] 255.25, 255.26,
45 255.27, article two hundred sixty-three, 135.10, 135.25, 230.05, 230.06,
46 subdivision two of section 230.30 or 230.32, and is currently confined
47 as an inmate in any correctional facility or currently under the super-
48 vision of the department of corrections and community supervision or a
49 county probation department as a result of such conviction, the petition
50 shall for each such conviction specify such felony conviction, the date
51 of such conviction or convictions, and the court in which such
52 conviction or convictions were entered.

53 S 36. Subdivision 2 of section 62 of the civil rights law, as amended
54 by section 55 of subpart B of part C of chapter 62 of the laws of 2011,
55 is amended to read as follows:

1 2. If the petition be to change the name of a person currently
2 confined as an inmate in any correctional facility or currently under
3 the supervision of the department of corrections and community super-
4 vision or a county probation department as a result of a conviction for
5 a violent felony offense as defined in section 70.02 of the penal law or
6 a felony defined in article one hundred twenty-five of such law or any
7 of the following provisions of such law sections 130.25, 130.30,
8 [130.40, 130.45,] 255.25, 255.26, 255.27, article two hundred sixty-
9 three, 135.10, 135.25, 230.05, 230.06, subdivision two of section 230.30
10 or 230.32, notice of the time and place when and where the petition will
11 be presented shall be served, in like manner as a notice of a motion
12 upon an attorney in an action, upon the district attorney of every coun-
13 ty in which such person has been convicted of such felony and upon the
14 court or courts in which the sentence for such felony was entered.
15 Unless a shorter period of time is ordered by the court, said notice
16 shall be served upon each such district attorney and court or courts not
17 less than sixty days prior to the date on which such petition is noticed
18 to be heard.

19 S 37. The closing paragraph of section 64 of the civil rights law, as
20 separately amended by chapters 258, 320 and 481 of the laws of 2006, is
21 amended to read as follows:

22 Upon compliance with the order and the filing of the affidavit of the
23 publication, as provided in this section, the clerk of the court in
24 which the order has been entered shall certify that the order has been
25 complied with; and, if the petition states that the petitioner stands
26 convicted of a violent felony offense as defined in section 70.02 of the
27 penal law or a felony defined in article one hundred twenty-five of such
28 law or any of the following provisions of such law sections 130.25,
29 130.30, [130.40, 130.45,] 255.25, 255.26, 255.27, article two hundred
30 sixty-three, 135.10, 135.25, 230.05, 230.06, subdivision two of section
31 230.30 or 230.32, such clerk (1) shall deliver, by first class mail, a
32 copy of such certified order to the division of criminal justice
33 services at its office in the county of Albany and (2) upon the clerk of
34 the court reviewing the petitioner's application for name change and
35 subsequent in-court inquiry, may, in the clerk's discretion, deliver, by
36 first class mail, the petitioner's new name with such certified order to
37 the court of competent jurisdiction which imposed the orders of support.
38 Such certification shall appear on the original order and on any certi-
39 fied copy thereof and shall be entered in the clerk's minutes of the
40 proceeding.

41 S 38. Section 213-c of the civil practice law and rules, as added by
42 chapter 3 of the laws of 2006, is amended to read as follows:

43 S 213-c. Action by victim of conduct constituting certain sexual
44 offenses. Notwithstanding any other limitation set forth in this arti-
45 cle, a civil claim or cause of action to recover from a defendant as
46 hereinafter defined, for physical, psychological or other injury or
47 condition suffered by a person as a result of acts by such defendant of
48 rape in the first degree as defined in section 130.35 of the penal law,
49 [or criminal sexual act in the first degree as defined in section 130.50
50 of the penal law, or aggravated sexual abuse in the first degree as
51 defined in section 130.70 of the penal law,] or course of sexual conduct
52 against a child in the first degree as defined in section 130.75 of the
53 penal law may be brought within five years. As used in this section, the
54 term "defendant" shall mean only a person who commits the acts described
55 in this section or who, in a criminal proceeding, could be charged with
56 criminal liability for the commission of such acts pursuant to section

20.00 of the penal law and shall not apply to any related civil claim or cause of action arising from such acts. Nothing in this section shall be construed to require that a criminal charge be brought or a criminal conviction be obtained as a condition of bringing a civil cause of action or receiving a civil judgment pursuant to this section or be construed to require that any of the rules governing a criminal proceeding be applicable to any such civil action.

S 39. Paragraph (b) of subdivision 8 of section 215 of the civil practice law and rules, as added by chapter 3 of the laws of 2006, is amended to read as follows:

(b) Whenever it is shown that a criminal action against the same defendant has been commenced with respect to the event or occurrence from which a claim governed by this section arises, and such criminal action is for rape in the first degree as defined in section 130.35 of the penal law, [or criminal sexual act in the first degree as defined in section 130.50 of the penal law, or aggravated sexual abuse in the first degree as defined in section 130.70 of the penal law,] or course of sexual conduct against a child in the first degree as defined in section 130.75 of the penal law, the plaintiff shall have at least five years from the termination of the criminal action as defined in section 1.20 of the criminal procedure law in which to commence the civil action, notwithstanding that the time in which to commence such action has already expired or has less than a year remaining.

S 40. Subdivision 11 of section 123 of the agriculture and markets law, as amended by chapter 392 of the laws of 2004, and such section as renumbered by section 18 of part T of chapter 59 of the laws of 2010, is amended to read as follows:

11. The owner shall not be liable pursuant to subdivision six, seven, eight, nine or ten of this section if the dog was coming to the aid or defense of a person during the commission or attempted commission of a murder, robbery, burglary, arson, rape in the first degree as defined in PARAGRAPH (A) OR (B) OF subdivision one [or two] of section 130.35 of the penal law[, criminal sexual act in the first degree as defined in subdivision one or two of section 130.50 of the penal law] or kidnapping within the dwelling or upon the real property of the owner of the dog and the dog injured or killed the person committing such criminal activity.

S 41. This act shall take effect on the ninetieth day after it shall have become a law and shall apply to any offense committed on or after such effective date. As it pertains to the repealed sections of law, nothing in this act shall affect a requirement to register pursuant to article 6-C of the correction law; a lawfully required disclosure of a conviction; any restriction or prohibition for certain types of employment, housing, or government benefit; or any other ongoing matter related to a conviction of the sections repealed in this act.