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I N   S E N A T E

May 7, 2014

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Introduced by Sen. GIANARIS -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

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, the agriculture and markets law and the judiciary 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 ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Sections 130.40, 130.45 and 130.50 of the penal law are  
2 REPEALED.  
3     S 2. Subdivision 1 of section 130.00 of the penal law is amended to  
4 read as follows:  
5     1. "Sexual intercourse" [has its ordinary meaning and occurs upon any  
6 penetration, however slight] MEANS CONDUCT BETWEEN PERSONS CONSISTING OF  
7 CONTACT BETWEEN THE PENIS AND THE VAGINA OR VULVA.  
8     S 3. Section 130.25 of the penal law, as amended by chapter 1 of the  
9 laws of 2000, is amended to read as follows:  
10 S 130.25 Rape in the third degree.  
11     A person is guilty of rape in the third degree when:  
12     1. He or she engages in sexual intercourse with another person who is  
13 incapable of consent by reason of some factor other than being less than  
14 seventeen years old;  
15     2. HE OR SHE ENGAGES IN ORAL SEXUAL CONDUCT OR ANAL SEXUAL CONDUCT  
16 WITH ANOTHER PERSON WHO IS INCAPABLE OF CONSENT BY REASON OF SOME FACTOR  
17 OTHER THAN BEING LESS THAN SEVENTEEN YEARS OLD;  
18     3. Being twenty-one years old or more, he or she engages in sexual  
19 intercourse with another person less than seventeen years old; [or  
20     3.] 4. BEING TWENTY-ONE YEARS OLD OR MORE, HE OR SHE ENGAGES IN ORAL  
21 SEXUAL CONDUCT OR ANAL SEXUAL CONDUCT WITH ANOTHER PERSON LESS THAN  
22 SEVENTEEN YEARS OLD;

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

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1 5. He or she engages in sexual intercourse with another person without  
2 such person's consent where such lack of consent is by reason of some  
3 factor other than incapacity to consent[.]; OR

4 6. HE OR SHE ENGAGES IN ORAL SEXUAL CONDUCT OR ANAL SEXUAL CONDUCT  
5 WITH ANOTHER PERSON WITHOUT SUCH PERSON'S CONSENT WHERE SUCH LACK OF  
6 CONSENT IS BY REASON OF SOME FACTOR OTHER THAN INCAPACITY TO CONSENT.

7 Rape in the third degree is a class E felony.

8 S 4. Section 130.30 of the penal law, as amended by chapter 1 of the  
9 laws of 2000, is amended to read as follows:

10 S 130.30 Rape in the second degree.

11 A person is guilty of rape in the second degree when:

12 1. being eighteen years old or more, he or she engages in sexual  
13 intercourse with another person less than fifteen years old; [or]

14 2. BEING EIGHTEEN YEARS OLD OR MORE, HE OR SHE ENGAGES IN ORAL SEXUAL  
15 CONDUCT OR ANAL SEXUAL CONDUCT WITH ANOTHER PERSON LESS THAN FIFTEEN  
16 YEARS OLD;

17 3. he or she engages in sexual intercourse with another person who is  
18 incapable of consent by reason of being mentally disabled or mentally  
19 incapacitated[.] ; OR

20 4. HE OR SHE ENGAGES IN ORAL SEXUAL CONDUCT OR ANAL SEXUAL CONDUCT  
21 WITH ANOTHER PERSON WHO IS INCAPABLE OF CONSENT BY REASON OF BEING  
22 MENTALLY DISABLED OR MENTALLY INCAPACITATED.

23 It shall be an affirmative defense to the crime of rape in the second  
24 degree as defined in [subdivision] SUBDIVISIONS one AND TWO of this  
25 section that the defendant was less than four years older than the  
26 victim at the time of the act.

27 Rape in the second degree is a class D felony.

28 S 5. Section 130.35 of the penal law, as amended by chapter 1 of the  
29 laws of 2000, is amended to read as follows:

30 S 130.35 Rape in the first degree.

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

32 1. he or she engages in sexual intercourse with another person:

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

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

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

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

39 2. HE OR SHE ENGAGES IN ORAL SEXUAL CONDUCT OR ANAL SEXUAL CONDUCT  
40 WITH ANOTHER PERSON:

41 (A) BY FORCIBLE COMPULSION; OR

42 (B) WHO IS INCAPABLE OF CONSENT BY REASON OF BEING PHYSICALLY HELP-  
43 LESS; OR

44 (C) WHO IS LESS THAN ELEVEN YEARS OLD; OR

45 (D) WHO IS LESS THAN THIRTEEN YEARS OLD AND THE ACTOR IS EIGHTEEN  
46 YEARS OLD OR MORE.

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

48 S 6. Paragraph 2 of subdivision 18 of section 10.00 of the penal law,  
49 as amended by chapter 7 of the laws of 2007, is amended to read as  
50 follows:

51 (2) a person fourteen or fifteen years old who is criminally responsi-  
52 ble for acts constituting the crimes defined in subdivisions one and two  
53 of section 125.25 (murder in the second degree) and in subdivision three  
54 of such section provided that the underlying crime for the murder charge  
55 is one for which such person is criminally responsible; section 135.25  
56 (kidnapping in the first degree); 150.20 (arson in the first degree);

1 subdivisions one and two of section 120.10 (assault in the first  
2 degree); 125.20 (manslaughter in the first degree); [subdivisions one  
3 and] PARAGRAPHS (A) AND (B) OF SUBDIVISION ONE AND PARAGRAPHS (A) AND  
4 (B) OF SUBDIVISION two of section 130.35 (rape in the first degree);  
5 [subdivisions one and two of section 130.50 (criminal sexual act in the  
6 first degree);] 130.70 (aggravated sexual abuse in the first degree);  
7 140.30 (burglary in the first degree); subdivision one of section 140.25  
8 (burglary in the second degree); 150.15 (arson in the second degree);  
9 160.15 (robbery in the first degree); subdivision two of section 160.10  
10 (robbery in the second degree) of this chapter; or section 265.03 of  
11 this chapter, where such machine gun or such firearm is possessed on  
12 school grounds, as that phrase is defined in subdivision fourteen of  
13 section 220.00 of this chapter; or defined in this chapter as an attempt  
14 to commit murder in the second degree or kidnapping in the first degree,  
15 or such conduct as a sexually motivated felony, where authorized pursu-  
16 ant to section 130.91 of [the penal law] THIS CHAPTER.

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

19 2. A person thirteen, fourteen or fifteen years of age is criminally  
20 responsible for acts constituting murder in the second degree as defined  
21 in subdivisions one and two of section 125.25 and in subdivision three  
22 of such section provided that the underlying crime for the murder charge  
23 is one for which such person is criminally responsible or for such  
24 conduct as a sexually motivated felony, where authorized pursuant to  
25 section 130.91 [of the penal law]; and a person fourteen or fifteen  
26 years of age is criminally responsible for acts constituting the crimes  
27 defined in section 135.25 (kidnapping in the first degree); 150.20  
28 (arson in the first degree); subdivisions one and two of section 120.10  
29 (assault in the first degree); 125.20 (manslaughter in the first  
30 degree); [subdivisions one and] PARAGRAPHS (A) AND (B) OF SUBDIVISION  
31 ONE AND PARAGRAPHS (A) AND (B) OF SUBDIVISION two of section 130.35  
32 (rape in the first degree); [subdivisions one and two of section 130.50  
33 (criminal sexual act in the first degree);] 130.70 (aggravated sexual  
34 abuse in the first degree);] 140.30 (burglary in the first degree);  
35 subdivision one of section 140.25 (burglary in the second degree);  
36 150.15 (arson in the second degree); 160.15 (robbery in the first  
37 degree); subdivision two of section 160.10 (robbery in the second  
38 degree) of this chapter; or section 265.03 of this chapter, where such  
39 machine gun or such firearm is possessed on school grounds, as that  
40 phrase is defined in subdivision fourteen of section 220.00 of this  
41 chapter; or defined in this chapter as an attempt to commit murder in  
42 the second degree or kidnapping in the first degree, or for such conduct  
43 as a sexually motivated felony, where authorized pursuant to section  
44 130.91 of [the penal law] THIS CHAPTER.

45 S 8. Paragraph (b) of subdivision 2 of section 35.15 of the penal law,  
46 as amended by chapter 511 of the laws of 2004, is amended to read as  
47 follows:

48 (b) He or she reasonably believes that such other person is committing  
49 or attempting to commit a kidnapping, forcible rape, [forcible criminal  
50 sexual act] FORCIBLE AGGRAVATED SEXUAL ABUSE, or robbery; or

51 S 9. The opening paragraph of subdivision 3 of section 125.25 of the  
52 penal law, as amended by chapter 264 of the laws of 2003, is amended to  
53 read as follows:

54 Acting either alone or with one or more other persons, he commits or  
55 attempts to commit robbery, burglary, kidnapping, arson, rape in the  
56 first degree, [criminal sexual act in the first degree,] sexual abuse in

1 the first degree, aggravated sexual abuse, escape in the first degree,  
2 or escape in the second degree, and, in the course of and in furtherance  
3 of such crime or of immediate flight therefrom, he, or another partic-  
4 ipant, if there be any, causes the death of a person other than one of  
5 the participants; except that in any prosecution under this subdivision,  
6 in which the defendant was not the only participant in the underlying  
7 crime, it is an affirmative defense that the defendant:

8 S 10. Paragraphs (a) and (c) of subdivision 1 of section 70.02 of the  
9 penal law, paragraph (a) as amended by chapter 320 of the laws of 2006  
10 and paragraph (c) as amended by chapter 1 of the laws of 2013, are  
11 amended to read as follows:

12 (a) Class B violent felony offenses: an attempt to commit the class  
13 A-I felonies of murder in the second degree as defined in section  
14 125.25, kidnapping in the first degree as defined in section 135.25, and  
15 arson in the first degree as defined in section 150.20; manslaughter in  
16 the first degree as defined in section 125.20, aggravated manslaughter  
17 in the first degree as defined in section 125.22, rape in the first  
18 degree as defined in section 130.35, [criminal sexual act in the first  
19 degree as defined in section 130.50,] aggravated sexual abuse in the  
20 first degree as defined in section 130.70, course of sexual conduct  
21 against a child in the first degree as defined in section 130.75;  
22 assault in the first degree as defined in section 120.10, kidnapping in  
23 the second degree as defined in section 135.20, burglary in the first  
24 degree as defined in section 140.30, arson in the second degree as  
25 defined in section 150.15, robbery in the first degree as defined in  
26 section 160.15, incest in the first degree as defined in section 255.27,  
27 criminal possession of a weapon in the first degree as defined in  
28 section 265.04, criminal use of a firearm in the first degree as defined  
29 in section 265.09, criminal sale of a firearm in the first degree as  
30 defined in section 265.13, aggravated assault upon a police officer or a  
31 peace officer as defined in section 120.11, gang assault in the first  
32 degree as defined in section 120.07, intimidating a victim or witness in  
33 the first degree as defined in section 215.17, hindering prosecution of  
34 terrorism in the first degree as defined in section 490.35, criminal  
35 possession of a chemical weapon or biological weapon in the second  
36 degree as defined in section 490.40, and criminal use of a chemical  
37 weapon or biological weapon in the third degree as defined in section  
38 490.47.

39 (c) Class D violent felony offenses: an attempt to commit any of the  
40 class C felonies set forth in paragraph (b); reckless assault of a child  
41 as defined in section 120.02, assault in the second degree as defined in  
42 section 120.05, menacing a police officer or peace officer as defined in  
43 section 120.18, stalking in the first degree, as defined in subdivision  
44 one of section 120.60, strangulation in the second degree as defined in  
45 section 121.12, rape in the second degree as defined in section 130.30,  
46 [criminal sexual act in the second degree as defined in section 130.45,]  
47 sexual abuse in the first degree as defined in section 130.65, course of  
48 sexual conduct against a child in the second degree as defined in  
49 section 130.80, aggravated sexual abuse in the third degree as defined  
50 in section 130.66, facilitating a sex offense with a controlled  
51 substance as defined in section 130.90, criminal possession of a weapon  
52 in the third degree as defined in subdivision five, six, seven, eight,  
53 nine or ten of section 265.02, criminal sale of a firearm in the third  
54 degree as defined in section 265.11, intimidating a victim or witness in  
55 the second degree as defined in section 215.16, soliciting or providing  
56 support for an act of terrorism in the second degree as defined in

1 section 490.10, and making a terroristic threat as defined in section  
2 490.20, falsely reporting an incident in the first degree as defined in  
3 section 240.60, placing a false bomb or hazardous substance in the first  
4 degree as defined in section 240.62, placing a false bomb or hazardous  
5 substance in a sports stadium or arena, mass transportation facility or  
6 enclosed shopping mall as defined in section 240.63, [and] OR aggravated  
7 unpermitted use of indoor pyrotechnics in the first degree as defined in  
8 section 405.18.

9 S 11. Paragraph b of subdivision 5 of section 120.40 of the penal law,  
10 as amended by chapter 320 of the laws of 2006, is amended to read as  
11 follows:

12 b. a crime defined in section 130.20, 130.25, 130.30, [130.40,  
13 130.45,] 130.55, 130.60, 130.70, 255.25, 255.26 or 255.27;

14 S 12. Paragraph (d) of subdivision 2 and paragraph (h) of subdivision  
15 3 of section 130.05 of the penal law, paragraph (d) of subdivision 2 as  
16 amended by chapter 40 of the laws of 2004 and paragraph (h) of subdivi-  
17 sion 3 as amended by section 2 of part G of chapter 501 of the laws of  
18 2012, are amended to read as follows:

19 (d) Where the offense charged is rape in the third degree as defined  
20 in [subdivision three] SUBDIVISIONS FIVE AND SIX of section 130.25, [or  
21 criminal sexual act in the third degree as defined in subdivision three  
22 of section 130.40,] in addition to forcible compulsion, circumstances  
23 under which, at the time of the act of intercourse, oral sexual conduct  
24 or anal sexual conduct, the victim clearly expressed that he or she did  
25 not consent to engage in such act, and a reasonable person in the  
26 actor's situation would have understood such person's words and acts as  
27 an expression of lack of consent to such act under all the circum-  
28 stances.

29 (h) a client or patient and the actor is a health care provider or  
30 mental health care provider charged with rape in the third degree as  
31 defined in section 130.25, [criminal sexual act in the third degree as  
32 defined in section 130.40,] aggravated sexual abuse in the fourth degree  
33 as defined in section 130.65-a, or sexual abuse in the third degree as  
34 defined in section 130.55, and the act of sexual conduct occurs during a  
35 treatment session, consultation, interview, or examination; or

36 S 13. The opening paragraph of subdivision 3 of section 125.25 of the  
37 penal law, as amended by chapter 264 of the laws of 2003, is amended to  
38 read as follows:

39 Acting either alone or with one or more other persons, he commits or  
40 attempts to commit robbery, burglary, kidnapping, arson, rape in the  
41 first degree, [criminal sexual act in the first degree], sexual abuse in  
42 the first degree, aggravated sexual abuse, escape in the first degree,  
43 or escape in the second degree, and, in the course of and in furtherance  
44 of such crime or of immediate flight therefrom, he, or another partic-  
45 ipant, if there be any, causes the death of a person other than one of  
46 the participants; except that in any prosecution under this subdivision,  
47 in which the defendant was not the only participant in the underlying  
48 crime, it is an affirmative defense that the defendant:

49 S 14. Subdivision 5 of section 125.25 of the penal law, as amended by  
50 chapter 320 of the laws of 2006, is amended to read as follows:

51 5. Being eighteen years old or more, while in the course of committing  
52 rape in the first, second or third degree, [criminal sexual act in the  
53 first, second or third degree,] sexual abuse in the first degree, aggra-  
54 vated sexual abuse in the first, second, third or fourth degree, or  
55 incest in the first, second or third degree, against a person less than

fourteen years old, he or she intentionally causes the death of such person.

S 15. Subparagraph (vii) of paragraph (a) of subdivision 1 of section 125.27 of the penal law, as amended by chapter 264 of the laws of 2003, is amended to read as follows:

(vii) the victim was killed while the defendant was in the course of committing or attempting to commit and in furtherance of robbery, burglary in the first degree or second degree, kidnapping in the first degree, arson in the first degree or second degree, rape in the first degree, [criminal sexual act in the first degree,] sexual abuse in the first degree, aggravated sexual abuse in the first degree or escape in the first degree, or in the course of and furtherance of immediate flight after committing or attempting to commit any such crime or in the course of and furtherance of immediate flight after attempting to commit the crime of murder in the second degree; provided however, the victim is not a participant in one of the aforementioned crimes and, provided further that, unless the defendant's criminal liability under this subparagraph is based upon the defendant having commanded another person to cause the death of the victim or intended victim pursuant to section 20.00 of this chapter, this subparagraph shall not apply where the defendant's criminal liability is based upon the conduct of another pursuant to section 20.00 of this chapter; or

S 16. Intentionally omitted.

S 17. Intentionally omitted.

S 18. Subdivision 3 of section 130.10 of the penal law, as amended by chapter 264 of the laws of 2003, is amended to read as follows:

3. In any prosecution for the crime of rape in the third degree as defined in section 130.25, [criminal sexual act in the third degree as defined in section 130.40,] aggravated sexual abuse in the fourth degree as defined in section 130.65-a, or sexual abuse in the third degree as defined in section 130.55 in which incapacity to consent is based on the circumstances set forth in paragraph (h) of subdivision three of section 130.05 of this article it shall be an affirmative defense that the client or patient consented to such conduct charged after having been expressly advised by the health care or mental health care provider that such conduct was not performed for a valid medical purpose.

S 19. The opening paragraph and subdivision 2 of section 130.95 of the penal law, as added by chapter 107 of the laws of 2006, are amended to read as follows:

A person is guilty of predatory sexual assault when he or she commits the crime of rape in the first degree, [criminal sexual act in the first degree,] aggravated sexual abuse in the first degree, or course of sexual conduct against a child in the first degree, as defined in this article, and when:

2. He or she has engaged in conduct constituting the crime of rape in the first degree, [criminal sexual act in the first degree,] aggravated sexual abuse in the first degree, or course of sexual conduct against a child in the first degree, as defined in this article, against one or more additional persons; or

S 20. The opening paragraph of section 130.96 of the penal law, as added by chapter 107 of the laws of 2006, is amended to read as follows:

A person is guilty of predatory sexual assault against a child when, being eighteen years old or more, he or she commits the crime of rape in the first degree, [criminal sexual act in the first degree,] aggravated sexual abuse in the first degree, or course of sexual conduct against a

1 child in the first degree, as defined in this article, and the victim is  
2 less than thirteen years old.

3 S 21. Subdivision 2 of section 240.75 of the penal law, as added by  
4 section 2 of part D of chapter 491 of the laws of 2012, is amended to  
5 read as follows:

6 2. A "specified offense" is an offense defined in section 120.00  
7 (assault in the third degree); section 120.05 (assault in the second  
8 degree); section 120.10 (assault in the first degree); section 120.13  
9 (menacing in the first degree); section 120.14 (menacing in the second  
10 degree); section 120.15 (menacing in the third degree); section 120.20  
11 (reckless endangerment in the second degree); section 120.25 (reckless  
12 endangerment in the first degree); section 120.45 (stalking in the  
13 fourth degree); section 120.50 (stalking in the third degree); section  
14 120.55 (stalking in the second degree); section 120.60 (stalking in the  
15 first degree); section 121.11 (criminal obstruction of breathing or  
16 blood circulation); section 121.12 (strangulation in the second degree);  
17 section 121.13 (strangulation in the first degree); subdivision one of  
18 section 125.15 (manslaughter in the second degree); subdivision one, two  
19 or four of section 125.20 (manslaughter in the first degree); section  
20 125.25 (murder in the second degree); section 130.20 (sexual miscon-  
21 duct); SECTION 130.25 (RAPE IN THE THIRD DEGREE); section 130.30 (rape  
22 in the second degree); section 130.35 (rape in the first degree);  
23 [section 130.40 (criminal sexual act in the third degree); section  
24 130.45 (criminal sexual act in the second degree); section 130.50 (crim-  
25 inal sexual act in the first degree);] section 130.52 (forcible touch-  
26 ing); section 130.53 (persistent sexual abuse); section 130.55 (sexual  
27 abuse in the third degree); section 130.60 (sexual abuse in the second  
28 degree); section 130.65 (sexual abuse in the first degree); section  
29 130.66 (aggravated sexual abuse in the third degree); section 130.67  
30 (aggravated sexual abuse in the second degree); section 130.70 (aggra-  
31 vated sexual abuse in the first degree); section 130.91 (sexually moti-  
32 vated felony); section 130.95 (predatory sexual assault); section 130.96  
33 (predatory sexual assault against a child); section 135.05 (unlawful  
34 imprisonment in the second degree); section 135.10 (unlawful imprison-  
35 ment in the first degree); section 135.60 (coercion in the second  
36 degree); section 135.65 (coercion in the first degree); section 140.20  
37 (burglary in the third degree); section 140.25 (burglary in the second  
38 degree); section 140.30 (burglary in the first degree); section 145.00  
39 (criminal mischief in the fourth degree); section 145.05 (criminal  
40 mischief in the third degree); section 145.10 (criminal mischief in the  
41 second degree); section 145.12 (criminal mischief in the first degree);  
42 section 145.14 (criminal tampering in the third degree); section 215.50  
43 (criminal contempt in the second degree); section 215.51 (criminal  
44 contempt in the first degree); section 215.52 (aggravated criminal  
45 contempt); section 240.25 (harassment in the first degree); subdivision  
46 one, two or four of section 240.30 (aggravated harassment in the second  
47 degree); aggravated family offense as defined in this section or any  
48 attempt or conspiracy to commit any of the foregoing offenses where the  
49 defendant and the person against whom the offense was committed were  
50 members of the same family or household as defined in subdivision one of  
51 section 530.11 of the criminal procedure law.

52 S 22. Section 255.26 of the penal law, as added by chapter 320 of the  
53 laws of 2006, is amended to read as follows:

54 S 255.26 Incest in the second degree.

55 A person is guilty of incest in the second degree when he or she  
56 commits the crime of rape in the second degree, as defined in section

1 130.30 of this part, [or criminal sexual act in the second degree, as  
2 defined in section 130.45 of this part,] against a person whom he or she  
3 knows to be related to him or her, whether through marriage or not, as  
4 an ancestor, descendant, brother or sister of either the whole or the  
5 half blood, uncle, aunt, nephew or niece.

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

7 S 23. Section 255.27 of the penal law, as added by chapter 320 of the  
8 laws of 2006, is amended to read as follows:

9 S 255.27 Incest in the first degree.

10 A person is guilty of incest in the first degree when he or she  
11 commits the crime of rape in the first degree, as defined in PARAGRAPH  
12 (C) OR (D) OF subdivision [three or four] ONE AND PARAGRAPH (C) OR (D)  
13 OF SUBDIVISION TWO of section 130.35 of this part[, or criminal sexual  
14 act in the first degree, as defined in subdivision three or four of  
15 section 130.50 of this part,] against a person whom he or she knows to  
16 be related to him or her, whether through marriage or not, as an ances-  
17 tor, descendant, brother or sister of either the whole or half blood,  
18 uncle, aunt, nephew or niece.

19 Incest in the first degree is a class B felony.

20 S 24. Subdivision 3 of section 485.05 of the penal law, as amended by  
21 chapter 405 of the laws of 2010, is amended to read as follows:

22 3. A "specified offense" is an offense defined by any of the following  
23 provisions of this chapter: section 120.00 (assault in the third  
24 degree); section 120.05 (assault in the second degree); section 120.10  
25 (assault in the first degree); section 120.12 (aggravated assault upon a  
26 person less than eleven years old); section 120.13 (menacing in the  
27 first degree); section 120.14 (menacing in the second degree); section  
28 120.15 (menacing in the third degree); section 120.20 (reckless endan-  
29 germent in the second degree); section 120.25 (reckless endangerment in  
30 the first degree); section 121.12 (strangulation in the second degree);  
31 section 121.13 (strangulation in the first degree); subdivision one of  
32 section 125.15 (manslaughter in the second degree); subdivision one, two  
33 or four of section 125.20 (manslaughter in the first degree); section  
34 125.25 (murder in the second degree); section 120.45 (stalking in the  
35 fourth degree); section 120.50 (stalking in the third degree); section  
36 120.55 (stalking in the second degree); section 120.60 (stalking in the  
37 first degree); PARAGRAPH (A) OF subdivision one AND PARAGRAPH (A) OF  
38 SUBDIVISION TWO of section 130.35 (rape in the first degree); [subdivi-  
39 sion one of section 130.50 (criminal sexual act in the first degree);]  
40 subdivision one of section 130.65 (sexual abuse in the first degree);  
41 paragraph (a) of subdivision one of section 130.67 (aggravated sexual  
42 abuse in the second degree); paragraph (a) of subdivision one of section  
43 130.70 (aggravated sexual abuse in the first degree); section 135.05  
44 (unlawful imprisonment in the second degree); section 135.10 (unlawful  
45 imprisonment in the first degree); section 135.20 (kidnapping in the  
46 second degree); section 135.25 (kidnapping in the first degree); section  
47 135.60 (coercion in the second degree); section 135.65 (coercion in the  
48 first degree); section 140.10 (criminal trespass in the third degree);  
49 section 140.15 (criminal trespass in the second degree); section 140.17  
50 (criminal trespass in the first degree); section 140.20 (burglary in the  
51 third degree); section 140.25 (burglary in the second degree); section  
52 140.30 (burglary in the first degree); section 145.00 (criminal mischief  
53 in the fourth degree); section 145.05 (criminal mischief in the third  
54 degree); section 145.10 (criminal mischief in the second degree);  
55 section 145.12 (criminal mischief in the first degree); section 150.05  
56 (arson in the fourth degree); section 150.10 (arson in the third



1 degree); section 150.15 (arson in the second degree); section 150.20  
2 (arson in the first degree); section 155.25 (petit larceny); section  
3 155.30 (grand larceny in the fourth degree); section 155.35 (grand  
4 larceny in the third degree); section 155.40 (grand larceny in the  
5 second degree); section 155.42 (grand larceny in the first degree);  
6 section 160.05 (robbery in the third degree); section 160.10 (robbery in  
7 the second degree); section 160.15 (robbery in the first degree);  
8 section 240.25 (harassment in the first degree); subdivision one, two or  
9 four of section 240.30 (aggravated harassment in the second degree); or  
10 any attempt or conspiracy to commit any of the foregoing offenses.

11 S 25. Subdivision 42 of section 1.20 of the criminal procedure law, as  
12 amended by chapter 7 of the laws of 2007, is amended to read as follows:

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

40 S 26. Intentionally omitted.

41 S 27. Paragraphs (a) and (b) of subdivision 1, the opening paragraph  
42 of subdivision 2 and paragraph (a) of subdivision 3 of section 140.20 of  
43 the criminal procedure law, paragraphs (a) and (b) of subdivision 1 as  
44 amended by chapter 324 of the laws of 1988, the opening paragraph of  
45 subdivision 2 and paragraph (a) of subdivision 3 as amended by chapter  
46 550 of the laws of 1987, are amended to read as follows:

47 (a) If the arrest is for an offense other than a class A, B, C or D  
48 felony or a violation of section 130.25, [130.40,] 205.10, 205.17,  
49 205.19 or 215.56 of the penal law committed in a town, but not in a  
50 village thereof having a village court, and the town court of such town  
51 is not available at the time, the arrested person may be brought before  
52 the local criminal court of any village within such town or, any adjoin-  
53 ing town, village embraced in whole or in part by such adjoining town,  
54 or city of the same county; and

55 (b) If the arrest is for an offense other than a class A, B, C or D  
56 felony or a violation of section 130.25, [130.40,] 205.10, 205.17,

205.19 or 215.56 of the penal law committed in a village having a village court and such court is not available at the time, the arrested person may be brought before the town court of the town embracing such village or any other village court within such town, or, if such town or village court is not available either, before the local criminal court of any adjoining town, village embraced in whole or in part by such adjoining town, or city of the same county; and

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

(a) the arrest is for an offense other than a class A, B, C or D felony or a violation of section 130.25, [130.40,] 205.10, 205.17, 205.19 or 215.56 of the penal law, and

S 28. Paragraph (a) of subdivision 3 and the opening paragraph of subdivision 4 of section 140.27 of the criminal procedure law, as amended by chapter 550 of the laws of 1987, are amended to read as follows:

(a) the arrest is for an offense other than a class A, B, C or D felony or a violation of section 130.25, [130.40,] 205.10, 205.17, 205.19 or 215.56 of the penal law and

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

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

(a) the arrest is for an offense other than a class A, B, C or D felony or a violation of section 130.25, [130.40,] 205.10, 205.17, 205.19 or 215.56 of the penal law and

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

S 30. Section 150.20 of the criminal procedure law, subdivisions 1, 2 and 3 as amended by chapter 550 of the laws of 1987, is amended to read as follows:

S 150.20 Appearance ticket; when and by whom issuable.

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

2. (a) Whenever a police officer has arrested a person without a warrant for an offense other than a class A, B, C or D felony or a violation of section 130.25, [130.40,] 205.10, 205.17, 205.19 or 215.56 of the penal law pursuant to section 140.10, or (b) whenever a peace officer, who is not authorized by law to issue an appearance ticket, has arrested a person for an offense other than a class A, B, C or D felony or a violation of section 130.25, [130.40,] 205.10, 205.17, 205.19 or

1 215.56 of the penal law pursuant to section 140.25, and has requested a  
2 police officer to issue and serve upon such arrested person an appear-  
3 ance ticket pursuant to subdivision four of section 140.27, or (c) when-  
4 ever a person has been arrested for an offense other than a class A, B,  
5 C or D felony or a violation of section 130.25, [130.40,] 205.10,  
6 205.17, 205.19 or 215.56 of the penal law and has been delivered to the  
7 custody of an appropriate police officer pursuant to section 140.40,  
8 such police officer may, instead of bringing such person before a local  
9 criminal court and promptly filing or causing the arresting peace offi-  
10 cer or arresting person to file a local criminal court accusatory  
11 instrument therewith, issue to and serve upon such person an appearance  
12 ticket. The issuance and service of an appearance ticket under such  
13 circumstances may be conditioned upon a deposit of pre-arraignment bail,  
14 as provided in section 150.30.

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

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

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

48 S 32. Subdivision (a) of section 190.71 of the criminal procedure law,  
49 as amended by chapter 7 of the laws of 2007, is amended to read as  
50 follows:

51 (a) Except as provided in subdivision six of section 200.20 of this  
52 chapter, a grand jury may not indict (i) a person thirteen years of age  
53 for any conduct or crime other than conduct constituting a crime defined  
54 in subdivisions one and two of section 125.25 (murder in the second  
55 degree) or such conduct as a sexually motivated felony, where authorized  
56 pursuant to section 130.91 of the penal law; (ii) a person fourteen or

1 fifteen years of age for any conduct or crime other than conduct consti-  
2 tuting a crime defined in subdivisions one and two of section 125.25  
3 (murder in the second degree) and in subdivision three of such section  
4 provided that the underlying crime for the murder charge is one for  
5 which such person is criminally responsible; 135.25 (kidnapping in the  
6 first degree); 150.20 (arson in the first degree); subdivisions one and  
7 two of section 120.10 (assault in the first degree); 125.20 (manslaught-  
8 er in the first degree); [subdivisions one and] PARAGRAPHS (A) AND (B)  
9 OF SUBDIVISION ONE AND PARAGRAPHS (A) AND (B) OF SUBDIVISION two of  
10 section 130.35 (rape in the first degree); [subdivisions one and two of  
11 section 130.50 (criminal sexual act in the first degree);] 130.70  
12 (aggravated sexual abuse in the first degree); 140.30 (burglary in the  
13 first degree); subdivision one of section 140.25 (burglary in the second  
14 degree); 150.15 (arson in the second degree); 160.15 (robbery in the  
15 first degree); subdivision two of section 160.10 (robbery in the second  
16 degree) of the penal law; [subdivision four of section 265.02 of the  
17 penal law, where such firearm is possessed on school grounds, as that  
18 phrase is defined in subdivision fourteen of section 220.00 of the penal  
19 law;] or section 265.03 of the penal law, where such machine gun or such  
20 firearm is possessed on school grounds, as that phrase is defined in  
21 subdivision fourteen of section 220.00 of the penal law; or defined in  
22 the penal law as an attempt to commit murder in the second degree or  
23 kidnapping in the first degree, or such conduct as a sexually motivated  
24 felony, where authorized pursuant to section 130.91 of the penal law.

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

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

46 S 34. Subparagraph (iii) of paragraph (g) of subdivision 5 of section  
47 220.10 of the criminal procedure law, as amended by chapter 264 of the  
48 laws of 2003, is amended to read as follows:

49 (iii) Where the indictment does not charge a crime specified in  
50 subparagraph (i) of this paragraph, the district attorney may recommend  
51 removal of the action to the family court. Upon making such recommenda-  
52 tion the district attorney shall submit a subscribed memorandum setting  
53 forth: (1) a recommendation that the interests of justice would best be  
54 served by removal of the action to the family court; and (2) if the  
55 indictment charges a thirteen year old with the crime of murder in the  
56 second degree, or a fourteen or fifteen year old with the crimes of rape

1 in the first degree as defined in PARAGRAPH (A) OF subdivision one AND  
2 PARAGRAPH (A) OF SUBDIVISION TWO of section 130.35 of the penal law, [or  
3 criminal sexual act in the first degree as defined in subdivision one of  
4 section 130.50 of the penal law,] or an armed felony as defined in para-  
5 graph (a) of subdivision forty-one of section 1.20 of this chapter  
6 specific factors, one or more of which reasonably supports the recommen-  
7 dation, showing, (i) mitigating circumstances that bear directly upon  
8 the manner in which the crime was committed, or (ii) where the defendant  
9 was not the sole participant in the crime, that the defendant's partic-  
10 ipation was relatively minor although not so minor as to constitute a  
11 defense to the prosecution, or (iii) possible deficiencies in proof of  
12 the crime, or (iv) where the juvenile offender has no previous adjudi-  
13 cations of having committed a designated felony act, as defined in  
14 subdivision eight of section 301.2 of the family court act, regardless  
15 of the age of the offender at the time of commission of the act, that  
16 the criminal act was not part of a pattern of criminal behavior and, in  
17 view of the history of the offender, is not likely to be repeated.

18 S 35. Subdivision 6 of section 300.50 of the criminal procedure law,  
19 as amended by chapter 264 of the laws of 2003, is amended to read as  
20 follows:

21 6. For purposes of this section, the offenses of rape in the third  
22 degree as defined in [subdivision three] SUBDIVISIONS FIVE AND SIX of  
23 section 130.25 of the penal law [and criminal sexual act in the third  
24 degree as defined in subdivision three of section 130.40 of the penal  
25 law], are not lesser included offenses of rape in the first degree[,  
26 criminal sexual act in the first degree] or any other offense. Notwith-  
27 standing the foregoing, either such offense may be submitted as a lesser  
28 included offense of the applicable first degree offense when (i) there  
29 is a reasonable view of the evidence which would support a finding that  
30 the defendant committed such lesser offense but did not commit the  
31 greater offense, and (ii) both parties consent to its submission.

32 S 36. Subdivision 6 of section 380.50 of the criminal procedure law,  
33 as amended by chapter 320 of the laws of 2006, is amended to read as  
34 follows:

35 6. Regardless of whether the victim requests to make a statement with  
36 regard to the defendant's sentence, where the defendant is sentenced for  
37 a violent felony offense as defined in section 70.02 of the penal law or  
38 a felony defined in article one hundred twenty-five of such law or any  
39 of the following provisions of such law sections 130.25, 130.30,  
40 [130.40, 130.45,] 255.25, 255.26, 255.27, article two hundred sixty-  
41 three, 135.10, 135.25, 230.05, 230.06, subdivision two of section 230.30  
42 or 230.32, the prosecutor shall, within sixty days of the imposition of  
43 sentence, provide the victim with a form on which the victim may indi-  
44 cate a demand to be informed of any petition to change the name of such  
45 defendant. Such forms shall be maintained by such prosecutor. Upon  
46 receipt of a notice of a petition to change the name of any such defend-  
47 ant, pursuant to subdivision two of section sixty-two of the civil  
48 rights law, the prosecutor shall promptly notify the victim at the most  
49 current address or telephone number provided by such victim in the most  
50 reasonable and expedient possible manner of the time and place such  
51 petition will be presented to the court.

52 S 37. Paragraph (b) of subdivision 8 of section 700.05 of the criminal  
53 procedure law, as amended by chapter 405 of the laws of 2010, is amended  
54 to read as follows:

55 (b) Any of the following felonies: assault in the second degree as  
56 defined in section 120.05 of the penal law, assault in the first degree

1 as defined in section 120.10 of the penal law, reckless endangerment in  
2 the first degree as defined in section 120.25 of the penal law, promot-  
3 ing a suicide attempt as defined in section 120.30 of the penal law,  
4 strangulation in the second degree as defined in section 121.12 of the  
5 penal law, strangulation in the first degree as defined in section  
6 121.13 of the penal law, criminally negligent homicide as defined in  
7 section 125.10 of the penal law, manslaughter in the second degree as  
8 defined in section 125.15 of the penal law, manslaughter in the first  
9 degree as defined in section 125.20 of the penal law, murder in the  
10 second degree as defined in section 125.25 of the penal law, murder in  
11 the first degree as defined in section 125.27 of the penal law, abortion  
12 in the second degree as defined in section 125.40 of the penal law,  
13 abortion in the first degree as defined in section 125.45 of the penal  
14 law, rape in the third degree as defined in section 130.25 of the penal  
15 law, rape in the second degree as defined in section 130.30 of the penal  
16 law, rape in the first degree as defined in section 130.35 of the penal  
17 law, [criminal sexual act in the third degree as defined in section  
18 130.40 of the penal law, criminal sexual act in the second degree as  
19 defined in section 130.45 of the penal law, criminal sexual act in the  
20 first degree as defined in section 130.50 of the penal law,] sexual  
21 abuse in the first degree as defined in section 130.65 of the penal law,  
22 unlawful imprisonment in the first degree as defined in section 135.10  
23 of the penal law, kidnapping in the second degree as defined in section  
24 135.20 of the penal law, kidnapping in the first degree as defined in  
25 section 135.25 of the penal law, labor trafficking as defined in section  
26 135.35 of the penal law, custodial interference in the first degree as  
27 defined in section 135.50 of the penal law, coercion in the first degree  
28 as defined in section 135.65 of the penal law, criminal trespass in the  
29 first degree as defined in section 140.17 of the penal law, burglary in  
30 the third degree as defined in section 140.20 of the penal law, burglary  
31 in the second degree as defined in section 140.25 of the penal law,  
32 burglary in the first degree as defined in section 140.30 of the penal  
33 law, criminal mischief in the third degree as defined in section 145.05  
34 of the penal law, criminal mischief in the second degree as defined in  
35 section 145.10 of the penal law, criminal mischief in the first degree  
36 as defined in section 145.12 of the penal law, criminal tampering in the  
37 first degree as defined in section 145.20 of the penal law, arson in the  
38 fourth degree as defined in section 150.05 of the penal law, arson in  
39 the third degree as defined in section 150.10 of the penal law, arson in  
40 the second degree as defined in section 150.15 of the penal law, arson  
41 in the first degree as defined in section 150.20 of the penal law, grand  
42 larceny in the fourth degree as defined in section 155.30 of the penal  
43 law, grand larceny in the third degree as defined in section 155.35 of  
44 the penal law, grand larceny in the second degree as defined in section  
45 155.40 of the penal law, grand larceny in the first degree as defined in  
46 section 155.42 of the penal law, health care fraud in the fourth degree  
47 as defined in section 177.10 of the penal law, health care fraud in the  
48 third degree as defined in section 177.15 of the penal law, health care  
49 fraud in the second degree as defined in section 177.20 of the penal  
50 law, health care fraud in the first degree as defined in section 177.25  
51 of the penal law, robbery in the third degree as defined in section  
52 160.05 of the penal law, robbery in the second degree as defined in  
53 section 160.10 of the penal law, robbery in the first degree as defined  
54 in section 160.15 of the penal law, unlawful use of secret scientific  
55 material as defined in section 165.07 of the penal law, criminal  
56 possession of stolen property in the fourth degree as defined in section

1 165.45 of the penal law, criminal possession of stolen property in the  
2 third degree as defined in section 165.50 of the penal law, criminal  
3 possession of stolen property in the second degree as defined by section  
4 165.52 of the penal law, criminal possession of stolen property in the  
5 first degree as defined by section 165.54 of the penal law, trademark  
6 counterfeiting in the second degree as defined in section 165.72 of the  
7 penal law, trademark counterfeiting in the first degree as defined in  
8 section 165.73 of the penal law, forgery in the second degree as defined  
9 in section 170.10 of the penal law, forgery in the first degree as  
10 defined in section 170.15 of the penal law, criminal possession of a  
11 forged instrument in the second degree as defined in section 170.25 of  
12 the penal law, criminal possession of a forged instrument in the first  
13 degree as defined in section 170.30 of the penal law, criminal  
14 possession of forgery devices as defined in section 170.40 of the penal  
15 law, falsifying business records in the first degree as defined in  
16 section 175.10 of the penal law, tampering with public records in the  
17 first degree as defined in section 175.25 of the penal law, offering a  
18 false instrument for filing in the first degree as defined in section  
19 175.35 of the penal law, issuing a false certificate as defined in  
20 section 175.40 of the penal law, criminal diversion of prescription  
21 medications and prescriptions in the second degree as defined in section  
22 178.20 of the penal law, criminal diversion of prescription medications  
23 and prescriptions in the first degree as defined in section 178.25 of  
24 the penal law, residential mortgage fraud in the fourth degree as  
25 defined in section 187.10 of the penal law, residential mortgage fraud  
26 in the third degree as defined in section 187.15 of the penal law, resi-  
27 dential mortgage fraud in the second degree as defined in section 187.20  
28 of the penal law, residential mortgage fraud in the first degree as  
29 defined in section 187.25 of the penal law, escape in the second degree  
30 as defined in section 205.10 of the penal law, escape in the first  
31 degree as defined in section 205.15 of the penal law, absconding from  
32 temporary release in the first degree as defined in section 205.17 of  
33 the penal law, promoting prison contraband in the first degree as  
34 defined in section 205.25 of the penal law, hindering prosecution in the  
35 second degree as defined in section 205.60 of the penal law, hindering  
36 prosecution in the first degree as defined in section 205.65 of the  
37 penal law, sex trafficking as defined in section 230.34 of the penal  
38 law, criminal possession of a weapon in the third degree as defined in  
39 subdivisions two, three and five of section 265.02 of the penal law,  
40 criminal possession of a weapon in the second degree as defined in  
41 section 265.03 of the penal law, criminal possession of a weapon in the  
42 first degree as defined in section 265.04 of the penal law, manufacture,  
43 transport, disposition and defacement of weapons and dangerous instru-  
44 ments and appliances defined as felonies in subdivisions one, two, and  
45 three of section 265.10 of the penal law, sections 265.11, 265.12 and  
46 265.13 of the penal law, or prohibited use of weapons as defined in  
47 subdivision two of section 265.35 of the penal law, relating to firearms  
48 and other dangerous weapons, or failure to disclose the origin of a  
49 recording in the first degree as defined in section 275.40 of the penal  
50 law;

51 S 38. Paragraph (a) of subdivision 2 of section 720.10 of the criminal  
52 procedure law, as amended by chapter 316 of the laws of 2006, is amended  
53 to read as follows:

54 (a) the conviction to be replaced by a youthful offender finding is  
55 for (i) a class A-I or class A-II felony, or (ii) an armed felony as  
56 defined in subdivision forty-one of section 1.20, except as provided in

subdivision three, or (iii) rape in the first degree[, criminal sexual act in the first degree,] or aggravated sexual abuse, except as provided in subdivision three, or

S 39. Paragraph (a) of subdivision 2 and paragraph (a) of subdivision 3 of section 168-a of the correction law, paragraph (a) of subdivision 2 as amended by chapter 405 of the laws of 2008 and paragraph (a) of subdivision 3 as amended by chapter 107 of the laws of 2006, are amended to read as follows:

(a) (i) a conviction of or a conviction for an attempt to commit any of the provisions of sections 120.70, 130.20, 130.25, 130.30, [130.40, 130.45,] 130.60, 230.34, 250.50, 255.25, 255.26 and 255.27 or article two hundred sixty-three of the penal law, or section 135.05, 135.10, 135.20 or 135.25 of such law relating to kidnapping offenses, provided the victim of such kidnapping or related offense is less than seventeen years old and the offender is not the parent of the victim, or section 230.04, where the person patronized is in fact less than seventeen years of age, 230.05 or 230.06, or subdivision two of section 230.30, or section 230.32 or 230.33 of the penal law, or (ii) a conviction of or a conviction for an attempt to commit any of the provisions of section 235.22 of the penal law, or (iii) a conviction of or a conviction for an attempt to commit any provisions of the foregoing sections committed or attempted as a hate crime defined in section 485.05 of the penal law or as a crime of terrorism defined in section 490.25 of such law or as a sexually motivated felony defined in section 130.91 of such law; or

(a) (i) a conviction of or a conviction for an attempt to commit any of the provisions of sections 130.35, [130.50,] 130.65, 130.66, 130.67, 130.70, 130.75, 130.80, 130.95 and 130.96 of the penal law, or (ii) a conviction of or a conviction for an attempt to commit any of the provisions of sections 130.53, 130.65-a and 130.90 of the penal law, or (iii) a conviction of or a conviction for an attempt to commit any provisions of the foregoing sections committed or attempted as a hate crime defined in section 485.05 of the penal law or as a crime of terrorism defined in section 490.25 of such law; or

S 40. Subparagraph (ii) of paragraph (a), subparagraphs (i) and (ii) of paragraph (b) and paragraph (e) of subdivision 8 of section 384-b of the social services law, subparagraph (ii) of paragraph (a) and subparagraph (i) of paragraph (b) as amended by chapter 430 of the laws of 2013 and subparagraph (ii) of paragraph (b) as amended and paragraph (e) as added by chapter 7 of the laws of 1999, are amended to read as follows:

(ii) the child has been found to be an abused child, as defined in paragraph (iii) of subdivision (e) of section ten hundred twelve of the family court act, as a result of such parent's acts; provided, however, the respondent must have committed or knowingly allowed to be committed a felony sex offense as defined in sections 130.25, 130.30, 130.35, [130.40, 130.45, 130.50,] 130.65, 130.67, 130.70, 130.75, 130.80, 130.95 and 130.96 of the penal law and, for the purposes of this section the corroboration requirements contained in the penal law shall not apply to proceedings under this section; or

(i) the child has been found to be an abused child, (A) as defined in paragraph (i) of subdivision (e) of section ten hundred twelve of the family court act, as a result of such parent's acts; or (B) as defined in paragraph (iii) of subdivision (e) of section ten hundred twelve of the family court act, as a result of such parent's acts; provided, however, the respondent must have committed or knowingly allowed to be committed a felony sex offense as defined in sections 130.25, 130.30,



1 130.35, [130.40, 130.45, 130.50,] 130.65, 130.67, 130.70, 130.75,  
2 130.80, 130.95 and 130.96 of the penal law; and

3 (ii) (A) the child or another child for whose care such parent is or  
4 has been legally responsible has been previously found, within the five  
5 years immediately preceding the initiation of the proceeding in which  
6 such abuse is found, to be an abused child, as defined in paragraph (i)  
7 or (iii) of subdivision (e) of section ten hundred twelve of the family  
8 court act, as a result of such parent's acts; provided, however, in the  
9 case of a finding of abuse as defined in paragraph (iii) of subdivision  
10 (e) of section ten hundred twelve of the family court act the respondent  
11 must have committed or knowingly allowed to be committed a felony sex  
12 offense as defined in sections 130.25, 130.30, 130.35, [130.40, 130.45,  
13 130.50,] 130.65, 130.67, 130.70, 130.75 and 130.80 of the penal law, or  
14 (B) the parent has been convicted of a crime under section 130.25,  
15 130.30, 130.35, [130.40, 130.45, 130.50,] 130.65, 130.67, 130.70, 130.75  
16 or 130.80 of the penal law against the child, a sibling of the child or  
17 another child for whose care such parent is or has been legally respon-  
18 sible, within the five year period immediately preceding the initiation  
19 of the proceeding in which abuse is found; and

20 (e) A determination by the court in accordance with article ten of the  
21 family court act based upon clear and convincing evidence that a child  
22 was abused (A) as defined in paragraph (i) of subdivision (e) of section  
23 ten hundred twelve of the family court act, as a result of such parent's  
24 acts; or (B) as defined in paragraph (iii) of subdivision (e) of section  
25 ten hundred twelve of the family court act, as a result of such parent's  
26 acts; provided, however, the respondent must have committed or knowingly  
27 allowed to be committed a felony sex offense as defined in sections  
28 130.25, 130.30, 130.35, [130.40, 130.45, 130.50,] 130.65, 130.67,  
29 130.70, 130.75 and 130.80 of the penal law shall establish that the  
30 child was an abused child for the purpose of a determination as required  
31 by subparagraph (i) or (ii) of paragraph (b) of this subdivision. Such a  
32 determination by the court in accordance with article ten of the family  
33 court act based upon a fair preponderance of evidence shall be admissi-  
34 ble in any proceeding commenced in accordance with this section.

35 S 41. Paragraphs (a) and (b) of subdivision 4 of section 509-cc of the  
36 vehicle and traffic law, as amended by chapter 400 of the laws of 2011,  
37 are amended to read as follows:

38 (a) The offenses referred to in subparagraph (ii) of paragraph (a) of  
39 subdivision one and paragraph (a) of subdivision two of this section  
40 that result in permanent disqualification shall include a conviction  
41 under sections 125.12, 125.13, 125.14, 125.15, 125.20, 125.21, 125.22,  
42 125.25, 125.26, 125.27, 130.30, 130.35, [130.45, 130.50,] 130.65,  
43 130.66, 130.67, 130.70, 130.75, 130.80, 130.90, 130.95, 130.96, 135.25,  
44 150.20, 230.30, 230.32, 230.34, 235.22, 263.05, 263.10, 263.11, 263.15,  
45 263.16 of the penal law or an attempt to commit any of the aforesaid  
46 offenses under section 110.00 of the penal law, or any offenses commit-  
47 ted under a former section of the penal law which would constitute  
48 violations of the aforesaid sections of the penal law, or any offenses  
49 committed outside this state which would constitute violations of the  
50 aforesaid sections of the penal law.

51 (b) The offenses referred to in subparagraph (ii) of paragraph (a) of  
52 subdivision one and paragraph (b) of subdivision two of this section  
53 that result in permanent disqualification shall include a conviction  
54 under sections 100.13, 105.15, 105.17, 115.08, 120.12, 120.70, 125.10,  
55 125.11, [130.40,] 130.53, 130.60, 130.65-a, 135.20, 160.15, 220.18,  
56 220.21, 220.39, 220.41, 220.43, 220.44, 230.25, 260.00, 265.04 of the

1 penal law or an attempt to commit any of the aforesaid offenses under  
2 section 110.00 of the penal law, or any offenses committed under a  
3 former section of the penal law which would constitute violations of the  
4 aforesaid sections of the penal law, or any offenses committed outside  
5 this state which would constitute violations of the aforesaid sections  
6 of the penal law.

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

9 (b) For every juvenile delinquency proceeding under article three  
10 involving an allegation of an act committed by a person which, if done  
11 by an adult, would be a crime (i) defined in sections 125.27 (murder in  
12 the first degree); 125.25 (murder in the second degree); 135.25 (kidnap-  
13 ping in the first degree); or 150.20 (arson in the first degree) of the  
14 penal law committed by a person thirteen, fourteen or fifteen years of  
15 age; or such conduct committed as a sexually motivated felony, where  
16 authorized pursuant to section 130.91 of the penal law; (ii) defined in  
17 sections 120.10 (assault in the first degree); 125.20 (manslaughter in  
18 the first degree); 130.35 (rape in the first degree); [130.50 (criminal  
19 sexual act in the first degree);] 135.20 (kidnapping in the second  
20 degree), but only where the abduction involved the use or threat of use  
21 of deadly physical force; 150.15 (arson in the second degree); or 160.15  
22 (robbery in the first degree) of the penal law committed by a person  
23 thirteen, fourteen or fifteen years of age; or such conduct committed as  
24 a sexually motivated felony, where authorized pursuant to section 130.91  
25 of the penal law; (iii) defined in the penal law as an attempt to commit  
26 murder in the first or second degree or kidnapping in the first degree  
27 committed by a person thirteen, fourteen or fifteen years of age; or  
28 such conduct committed as a sexually motivated felony, where authorized  
29 pursuant to section 130.91 of the penal law; (iv) defined in section  
30 140.30 (burglary in the first degree); subdivision one of section 140.25  
31 (burglary in the second degree); subdivision two of section 160.10  
32 (robbery in the second degree) of the penal law; or section 265.03 of  
33 the penal law, where such machine gun or such firearm is possessed on  
34 school grounds, as that phrase is defined in subdivision fourteen of  
35 section 220.00 of the penal law committed by a person fourteen or  
36 fifteen years of age; or such conduct committed as a sexually motivated  
37 felony, where authorized pursuant to section 130.91 of the penal law;  
38 (v) defined in section 120.05 (assault in the second degree) or 160.10  
39 (robbery in the second degree) of the penal law committed by a person  
40 fourteen or fifteen years of age but only where there has been a prior  
41 finding by a court that such person has previously committed an act  
42 which, if committed by an adult, would be the crime of assault in the  
43 second degree, robbery in the second degree or any designated felony act  
44 specified in clause (i), (ii) or (iii) of this subdivision regardless of  
45 the age of such person at the time of the commission of the prior act;  
46 or (vi) other than a misdemeanor, committed by a person at least seven  
47 but less than sixteen years of age, but only where there has been two  
48 prior findings by the court that such person has committed a prior act  
49 which, if committed by an adult would be a felony:

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

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

S 43. Paragraph (ii) of subdivision 8 of section 301.2 of the family court act, as amended by chapter 7 of the laws of 2007, is amended to read as follows:

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

S 44. Subdivision 4 of section 308.1 of the family court act, as amended by chapter 264 of the laws of 2003, is amended to read as follows:

4. The probation service shall not adjust a case in which the child has allegedly committed a delinquent act which would be a crime defined in section 120.25, (reckless endangerment in the first degree), [subdivision one of section 125.15, (manslaughter in the second degree), subdivision] SUBDIVISIONS one AND TWO of section 130.25, (rape in the third degree), [subdivision one of section 130.40, (criminal sexual act in the third degree),] subdivision one or two of section 130.65, (sexual abuse in the first degree), section 135.65, (coercion in the first degree), section 140.20, (burglary in the third degree), section 150.10, (arson in the third degree), section 160.05, (robbery in the third degree), subdivision two, three or four of section 265.02, (criminal possession of a weapon in the third degree), section 265.03, (criminal possession of a weapon in the second degree), or section 265.04, (criminal possession of a dangerous weapon in the first degree) of the penal law where the child has previously had one or more adjustments of a case in which such child allegedly committed an act which would be a crime specified in this subdivision unless it has received written approval from the court and the appropriate presentment agency.

S 45. Subdivision (c) of section 1052 of the family court act, as added by chapter 739 of the laws of 1981, is amended to read as follows:

(c) Prior to granting an order of disposition pursuant to subdivision (a) of this section following an adjudication of child abuse, as defined in paragraph (i) of subdivision (e) of section ten hundred twelve of this act or a finding of a felony sex offense as defined in sections 130.25, 130.30, 130.35, [130.40, 130.45, 130.50,] 130.65 and 130.70 of the penal law, the court shall advise the respondent that any subsequent adjudication of child abuse, as defined in paragraph (i) of subdivision (e) of section one thousand twelve of this act or any subsequent finding of a felony sex offense as defined in those sections of the penal law herein enumerated, arising out of acts of the respondent may result in the commitment of the guardianship and custody of the child or another child pursuant to section three hundred eighty-four-b of the social services law. The order in such cases shall contain a statement that any subsequent adjudication of child abuse or finding of a felony sex offense as described herein may result in the commitment of the guardianship and custody of the child, or another child pursuant to section three hundred eighty-four-b of the social services law.

1 S 46. Subdivision 2 of section 61 of the civil rights law, as amended  
2 by section 54 of subpart B of part C of chapter 62 of the laws of 2011,  
3 is amended to read as follows:

4 2. If the petitioner stands convicted of a violent felony offense as  
5 defined in section 70.02 of the penal law or a felony defined in article  
6 one hundred twenty-five of such law or any of the following provisions  
7 of such law sections 130.25, 130.30, [130.40, 130.45,] 255.25, 255.26,  
8 255.27, article two hundred sixty-three, 135.10, 135.25, 230.05, 230.06,  
9 subdivision two of section 230.30 or 230.32, and is currently confined  
10 as an inmate in any correctional facility or currently under the super-  
11 vision of the department of corrections and community supervision or a  
12 county probation department as a result of such conviction, the petition  
13 shall for each such conviction specify such felony conviction, the date  
14 of such conviction or convictions, and the court in which such  
15 conviction or convictions were entered.

16 S 47. Subdivision 2 of section 62 of the civil rights law, as amended  
17 by section 55 of subpart B of part C of chapter 62 of the laws of 2011,  
18 is amended to read as follows:

19 2. If the petition be to change the name of a person currently  
20 confined as an inmate in any correctional facility or currently under  
21 the supervision of the department of corrections and community super-  
22 vision or a county probation department as a result of a conviction for  
23 a violent felony offense as defined in section 70.02 of the penal law or  
24 a felony defined in article one hundred twenty-five of such law or any  
25 of the following provisions of such law sections 130.25, 130.30,  
26 [130.40, 130.45,] 255.25, 255.26, 255.27, article two hundred sixty-  
27 three, 135.10, 135.25, 230.05, 230.06, subdivision two of section 230.30  
28 or 230.32, notice of the time and place when and where the petition will  
29 be presented shall be served, in like manner as a notice of a motion  
30 upon an attorney in an action, upon the district attorney of every coun-  
31 ty in which such person has been convicted of such felony and upon the  
32 court or courts in which the sentence for such felony was entered.  
33 Unless a shorter period of time is ordered by the court, said notice  
34 shall be served upon each such district attorney and court or courts not  
35 less than sixty days prior to the date on which such petition is noticed  
36 to be heard.

37 S 48. The closing paragraph of section 64 of the civil rights law, as  
38 separately amended by chapters 258, 320 and 481 of the laws of 2006, is  
39 amended to read as follows:

40 Upon compliance with the order and the filing of the affidavit of the  
41 publication, as provided in this section, the clerk of the court in  
42 which the order has been entered shall certify that the order has been  
43 complied with; and, if the petition states that the petitioner stands  
44 convicted of a violent felony offense as defined in section 70.02 of the  
45 penal law or a felony defined in article one hundred twenty-five of such  
46 law or any of the following provisions of such law sections 130.25,  
47 130.30, [130.40, 130.45,] 255.25, 255.26, 255.27, article two hundred  
48 sixty-three, 135.10, 135.25, 230.05, 230.06, subdivision two of section  
49 230.30 or 230.32, such clerk (1) shall deliver, by first class mail, a  
50 copy of such certified order to the division of criminal justice  
51 services at its office in the county of Albany and (2) upon the clerk of  
52 the court reviewing the petitioner's application for name change and  
53 subsequent in-court inquiry, may, in the clerk's discretion, deliver, by  
54 first class mail, the petitioner's new name with such certified order to  
55 the court of competent jurisdiction which imposed the orders of support.  
56 Such certification shall appear on the original order and on any certi-

1 filed copy thereof and shall be entered in the clerk's minutes of the  
2 proceeding.

3 S 49. Section 213-c of the civil practice law and rules, as added by  
4 chapter 3 of the laws of 2006, is amended to read as follows:

5 S 213-c. Action by victim of conduct constituting certain sexual  
6 offenses. Notwithstanding any other limitation set forth in this arti-  
7 cle, a civil claim or cause of action to recover from a defendant as  
8 hereinafter defined, for physical, psychological or other injury or  
9 condition suffered by a person as a result of acts by such defendant of  
10 rape in the first degree as defined in section 130.35 of the penal law,  
11 [or criminal sexual act in the first degree as defined in section 130.50  
12 of the penal law,] or aggravated sexual abuse in the first degree as  
13 defined in section 130.70 of the penal law, or course of sexual conduct  
14 against a child in the first degree as defined in section 130.75 of the  
15 penal law may be brought within five years. As used in this section, the  
16 term "defendant" shall mean only a person who commits the acts described  
17 in this section or who, in a criminal proceeding, could be charged with  
18 criminal liability for the commission of such acts pursuant to section  
19 20.00 of the penal law and shall not apply to any related civil claim or  
20 cause of action arising from such acts. Nothing in this section shall be  
21 construed to require that a criminal charge be brought or a criminal  
22 conviction be obtained as a condition of bringing a civil cause of  
23 action or receiving a civil judgment pursuant to this section or be  
24 construed to require that any of the rules governing a criminal proceed-  
25 ing be applicable to any such civil action.

26 S 50. Paragraph (b) of subdivision 8 of section 215 of the civil prac-  
27 tice law and rules, as added by chapter 3 of the laws of 2006, is  
28 amended to read as follows:

29 (b) Whenever it is shown that a criminal action against the same  
30 defendant has been commenced with respect to the event or occurrence  
31 from which a claim governed by this section arises, and such criminal  
32 action is for rape in the first degree as defined in section 130.35 of  
33 the penal law, [or criminal sexual act in the first degree as defined in  
34 section 130.50 of the penal law,] or aggravated sexual abuse in the  
35 first degree as defined in section 130.70 of the penal law, or course of  
36 sexual conduct against a child in the first degree as defined in section  
37 130.75 of the penal law, the plaintiff shall have at least five years  
38 from the termination of the criminal action as defined in section 1.20  
39 of the criminal procedure law in which to commence the civil action,  
40 notwithstanding that the time in which to commence such action has  
41 already expired or has less than a year remaining.

42 S 51. Subdivision 11 of section 123 of the agriculture and markets  
43 law, as amended by chapter 392 of the laws of 2004, and such section as  
44 renumbered by section 18 of part T of chapter 59 of the laws of 2010, is  
45 amended to read as follows:

46 11. The owner shall not be liable pursuant to subdivision six, seven,  
47 eight, nine or ten of this section if the dog was coming to the aid or  
48 defense of a person during the commission or attempted commission of a  
49 murder, robbery, burglary, arson, rape in the first degree as defined in  
50 PARAGRAPH (A) OR (B) OF subdivision one or PARAGRAPH (A) OR (B) OF  
51 SUBDIVISION two of section 130.35 of the penal law[, criminal sexual act  
52 in the first degree as defined in subdivision one or two of section  
53 130.50 of the penal law] or kidnapping within the dwelling or upon the  
54 real property of the owner of the dog and the dog injured or killed the  
55 person committing such criminal activity.

1 S 52. Section 4 of the judiciary law, as amended by chapter 264 of the  
2 laws of 2003, is amended to read as follows:

3 S 4. Sittings of courts to be public. The sittings of every court  
4 within this state shall be public, and every citizen may freely attend  
5 the same, except that in all proceedings and trials in cases for  
6 divorce, seduction, abortion, rape, assault with intent to commit rape,  
7 [criminal sexual act,] bastardy or filiation, the court may, in its  
8 discretion, exclude therefrom all persons who are not directly inter-  
9 ested therein, excepting jurors, witnesses, and officers of the court.

10 S 53. Subdivision 2 of section 120.60 of the penal law, as amended by  
11 chapter 434 of the laws of 2000, is amended to read as follows:

12 2. commits a class A misdemeanor defined in article one hundred thirty  
13 of this chapter, or a class E felony defined in section 130.25, [130.40]  
14 or 130.85 of this chapter, or a class D felony defined in section 130.30  
15 [or 130.45] of this chapter.

16 S 54. This act shall take effect on the ninetieth day after it shall  
17 have become a law and shall apply to any offense on or after such effec-  
18 tive date. As it pertains to the repealed sections of law, nothing in  
19 this act shall affect a requirement to register pursuant to article 6-C  
20 of the correction law; a lawfully required disclosure of a conviction;  
21 any restriction or prohibition for certain types of employment, housing,  
22 or government benefit; or any other ongoing matter related to a  
23 conviction of the sections repealed in this act.