S T A T E O F N E W Y O R K

7540

I N S E N A T E

May 15, 2014

Introduced by Sen. STEWART-COUSINS -- read twice and ordered printed, and when printed to be committed to the Committee on Labor

AN ACT to amend the labor law, in relation to the prohibition of differential pay because of sex (Part A); to amend the executive law, in relation to unlawful discriminatory practices (Part B); to amend the executive law, in relation to the provision of attorney's fees in cases of housing, employment or credit discrimination; to amend the executive law, in relation to the awarding of reasonable attorney's fees (Part C); to amend the executive law in relation to the unlawful discriminatory practice because of familial status (Part D); to amend the real property law and the real property actions and proceedings law, in relation to prohibiting discrimination in housing based upon domestic violence status and establishing a task force to study the impact of source of income on access to housing (Part E); to amend the family court act and the judiciary law, in relation to establishing a pilot program for the filing of petitions for temporary orders of protection by electronic means and for issuance of such orders ex parte by audio-visual means and to amend the executive law, in relation to review and reports by the chief administrator of the courts (Part F); to amend the penal law, the criminal procedure law, the social services law, the civil practice law and rules, the mental hygiene law, the correction law, the vehicle and traffic law, the public health law, the real property actions and proceedings law, and the real property law, in relation to enacting the "trafficking victims protection and justice act"; to amend the penal law, in relation to prostitution in a school zone; to amend chapter 74 of the laws of 2007 amending the penal law, the criminal procedure law, the correction law, the social services law, and the executive law relating to human trafficking, in relation to extending the interagency task force on human trafficking for four years; and to amend the executive law, in relation to human trafficking awareness (Part G); to amend the executive law, in relation to reasonable accommodation (Part H); and to amend the public health law, in relation to access to reproductive services (Part I)

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

LBD12044-03-4

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

Section 1. This act shall be known and may be cited as the "Women's Equality act".

S 2. This act enacts into law major components of legislation which are necessary to implement the "Women's Equality act." Each component is wholly contained within a Part identified as Parts A through I. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference to section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section four of this act sets forth the general effective date of this act.

PART A

Section 1. Subdivision 1 of section 194 of the labor law, as added by chapter 548 of the laws of 1966, is amended and three new subdivisions 2, 3 and 4 are added to read as follows:

1. No employee shall be paid a wage at a rate less than the rate at which an employee of the opposite sex in the same establishment is paid for equal work on a job the performance of which requires equal skill, effort and responsibility, and which is performed under similar working conditions, except where payment is made pursuant to a differential based on:

a. a seniority system;

b. a merit system;

c. a system which measures earnings by quantity or quality of production; or

d. [any other factor other than sex] A BONA FIDE FACTOR OTHER THAN SEX, SUCH AS EDUCATION, TRAINING, OR EXPERIENCE. SUCH FACTOR: (I) SHALL NOT BE BASED UPON OR DERIVED FROM A SEX-BASED DIFFERENTIAL IN COMPENSATION AND (II) SHALL BE JOB-RELATED WITH RESPECT TO THE POSITION IN QUESTION AND SHALL BE CONSISTENT WITH BUSINESS NECESSITY. SUCH EXCEPTION UNDER THIS PARAGRAPH SHALL NOT APPLY WHEN THE EMPLOYEE DEMONSTRATES (A) THAT AN EMPLOYER USES A PARTICULAR EMPLOYMENT PRACTICE THAT CAUSES A DISPARATE IMPACT ON THE BASIS OF SEX, (B) THAT AN ALTERNATIVE EMPLOYMENT PRACTICE EXISTS THAT WOULD SERVE THE SAME BUSINESS PURPOSE AND NOT PRODUCE SUCH DIFFERENTIAL, AND (C) THAT THE EMPLOYER HAS REFUSED TO ADOPT SUCH ALTERNATIVE PRACTICE.

2. FOR THE PURPOSE OF SUBDIVISION ONE OF THIS SECTION, "BUSINESS NECESSITY" SHALL BE DEFINED AS A FACTOR THAT BEARS A MANIFEST RELATIONSHIP TO THE EMPLOYMENT IN QUESTION.

3. FOR THE PURPOSES OF SUBDIVISION ONE OF THIS SECTION, EMPLOYEES SHALL BE DEEMED TO WORK IN THE SAME ESTABLISHMENT IF THE EMPLOYEES WORK FOR THE SAME EMPLOYER AT WORKPLACES LOCATED IN THE SAME GEOGRAPHICAL REGION, NO LARGER THAN A COUNTY, TAKING INTO ACCOUNT POPULATION DISTRIBUTION, ECONOMIC ACTIVITY, AND/OR THE PRESENCE OF MUNICIPALITIES.

4. (A) NO EMPLOYER SHALL PROHIBIT AN EMPLOYEE FROM INQUIRING ABOUT, DISCUSSING, OR DISCLOSING THE WAGES OF SUCH EMPLOYEE OR ANOTHER EMPLOYEE.

(B) AN EMPLOYER MAY, IN A WRITTEN POLICY PROVIDED TO ALL EMPLOYEES, ESTABLISH REASONABLE WORKPLACE AND WORKDAY LIMITATIONS ON THE TIME,

PLACE AND MANNER FOR INQUIRES ABOUT, DISCUSSION OF, OR THE DISCLOSURE OF WAGES. SUCH LIMITATIONS SHALL BE CONSISTENT WITH STANDARDS PROMULGATED BY THE COMMISSIONER AND SHALL BE CONSISTENT WITH ALL OTHER STATE AND FEDERAL LAWS. SUCH LIMITATIONS MAY INCLUDE PROHIBITING AN EMPLOYEE FROM DISCUSSING OR DISCLOSING THE WAGES OF ANOTHER EMPLOYEE WITHOUT SUCH EMPLOYEE'S PRIOR PERMISSION.

(C) NOTHING IN THIS SUBDIVISION SHALL REQUIRE AN EMPLOYEE TO DISCLOSE HIS OR HER WAGES. THE FAILURE OF AN EMPLOYEE TO ADHERE TO SUCH REASONABLE LIMITATIONS IN SUCH WRITTEN POLICY SHALL BE AN AFFIRMATIVE DEFENSE TO ANY CLAIMS MADE AGAINST AN EMPLOYER UNDER THIS SUBDIVISION, PROVIDED THAT ANY ADVERSE EMPLOYMENT ACTION TAKEN BY THE EMPLOYER WAS FOR FAILURE TO ADHERE TO SUCH REASONABLE LIMITATIONS AND NOT FOR MERE INQUIRY, DISCUSSION OR DISCLOSURE OF WAGES IN ACCORDANCE WITH SUCH REASONABLE LIMITATIONS IN SUCH WRITTEN POLICY.

(D) THIS PROHIBITION SHALL NOT APPLY TO INSTANCES IN WHICH AN EMPLOYEE WHO HAS ACCESS TO THE WAGE INFORMATION OF OTHER EMPLOYEES AS A PART OF SUCH EMPLOYEE'S ESSENTIAL JOB FUNCTIONS DISCLOSES THE WAGES OF SUCH OTHER EMPLOYEES TO INDIVIDUALS WHO DO NOT OTHERWISE HAVE ACCESS TO SUCH INFORMATION, UNLESS SUCH DISCLOSURE IS IN RESPONSE TO A COMPLAINT OR CHARGE, OR IN FURTHERANCE OF AN INVESTIGATION, PROCEEDING, HEARING, OR ACTION UNDER THIS CHAPTER, INCLUDING AN INVESTIGATION CONDUCTED BY THE EMPLOYER.

(E) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT THE RIGHTS OF AN EMPLOYEE PROVIDED UNDER ANY OTHER PROVISION OF LAW OR COLLECTIVE BARGAINING AGREEMENT.

S 2. Subdivision 1-a of section 198 of the labor law, as amended by chapter 564 of the laws of 2010, is amended to read as follows:

1-a. On behalf of any employee paid less than the wage to which he or she is entitled under the provisions of this article, the commissioner may bring any legal action necessary, including administrative action, to collect such claim and as part of such legal action, in addition to any other remedies and penalties otherwise available under this article, the commissioner shall assess against the employer the full amount of any such underpayment, and an additional amount as liquidated damages, unless the employer proves a good faith basis for believing that its underpayment of wages was in compliance with the law. Liquidated damages shall be calculated by the commissioner as no more than one hundred percent of the total amount of wages found to be due, EXCEPT SUCH LIQUIDATED DAMAGES MAY BE UP TO THREE HUNDRED PERCENT OF THE TOTAL AMOUNT OF THE WAGES FOUND TO BE DUE FOR A WILLFUL VIOLATION OF SECTION ONE HUNDRED NINETY-FOUR OF THIS ARTICLE. In any action instituted in the courts upon a wage claim by an employee or the commissioner in which the employee prevails, the court shall allow such employee to recover the full amount of any underpayment, all reasonable attorney's fees, prejudgment interest as required under the civil practice law and rules, and, unless the employer proves a good faith basis to believe that its underpayment of wages was in compliance with the law, an additional amount as liquidated damages equal to one hundred percent of the total amount of the wages found to be due, EXCEPT SUCH LIQUIDATED DAMAGES MAY BE UP TO THREE HUNDRED PERCENT OF THE TOTAL AMOUNT OF THE WAGES FOUND TO BE DUE FOR A WILLFUL VIOLATION OF SECTION ONE HUNDRED NINETY-FOUR OF THIS ARTICLE.

S 3. The department of labor and the division of human rights shall make training available to assist employers in developing training, policies and procedures to address discrimination and harassment in the workplace including, but not limited to issues relating to pregnancy, familial status, pay equity and sexual harassment. Such training shall

take into account the needs of employers of various sizes. The department and division shall make such training available through, including but not limited to, online means. In developing such training materials, the department and division shall afford the public an opportunity to submit comments on such training.

S 4. This act shall take effect on the ninetieth day after it shall have become a law; provided, however, that the commissioner of labor shall take actions necessary to provide for the promulgation of standards pursuant to subdivision 4 of section 194 of the labor law, as added by section one of this act, prior to this act taking effect; and provided further, however, that the department of labor and division of human rights shall take actions necessary to establish training pursuant to section three of this act prior to this act taking effect.

PART B

Section 1. Subdivision 5 of section 292 of the executive law, as amended by chapter 481 of the laws of 2010, is amended to read as follows:

5. The term "employer" does not include any employer with fewer than four persons in his or her employ except as set forth in section two hundred ninety-six-b of this [title] ARTICLE, PROVIDED, HOWEVER, THAT IN THE CASE OF AN ACTION FOR DISCRIMINATION BASED ON SEX PURSUANT TO SUBDIVISION ONE OF SECTION TWO HUNDRED NINETY-SIX OF THIS ARTICLE, WITH RESPECT TO SEXUAL HARASSMENT ONLY, THE TERM "EMPLOYER" SHALL INCLUDE ALL EMPLOYERS WITHIN THE STATE.

S 2. This act shall take effect on the ninetieth day after it shall have become a law.

PART C

Section 1. Subdivision 10 of section 297 of the executive law, as added by section 17 of part D of chapter 405 of the laws of 1999, is amended to read as follows:

10. With respect to ALL cases of HOUSING DISCRIMINATION AND housing RELATED CREDIT discrimination [only] in an action or proceeding at law under this section or section two hundred ninety-eight of this article, the commissioner or the court may in its discretion award reasonable attorney's fees to any prevailing or substantially prevailing party; AND WITH RESPECT TO A CLAIM OF EMPLOYMENT OR CREDIT DISCRIMINATION WHERE SEX IS A BASIS OF SUCH DISCRIMINATION, IN AN ACTION OR PROCEEDING AT LAW UNDER THIS SECTION OR SECTION TWO HUNDRED NINETY-EIGHT OF THIS ARTICLE, THE COMMISSIONER OR THE COURT MAY IN ITS DISCRETION AWARD REASONABLE ATTORNEY'S FEES ATTRIBUTABLE TO SUCH CLAIM TO ANY PREVAILING PARTY; provided, however, that a prevailing respondent or defendant in order to recover such reasonable attorney's fees must make a motion requesting such fees and show that the action or proceeding brought was frivolous; and further provided that in a proceeding brought in the division of human rights, the commissioner may only award attorney's fees as part of a final order after a public hearing held pursuant to subdivision four of this section. In no case shall attorney's fees be awarded to the division, nor shall the division be liable to a prevailing or substantially prevailing party for attorney's fees, except in a case in which the division is a party to the action or the proceeding in the division's capacity as an employer. IN CASES OF EMPLOYMENT DISCRIMINATION, A RESPONDENT SHALL ONLY BE LIABLE FOR ATTORNEY'S FEES UNDER THIS SUBDI-

VISION IF THE RESPONDENT HAS BEEN FOUND LIABLE FOR HAVING COMMITTED AN UNLAWFUL DISCRIMINATORY PRACTICE. In order to find the action or proceeding to be frivolous, the court or the commissioner must find in writing one or more of the following:

(a) the action or proceeding was commenced, used or continued in bad faith, solely to delay or prolong the resolution of the litigation or to harass or maliciously injure another; or

(b) the action or proceeding was commenced or continued in bad faith without any reasonable basis and could not be supported by a good faith argument for an extension, modification or reversal of existing law. If the action or proceeding was promptly discontinued when the party or attorney learned or should have learned that the action or proceeding lacked such a reasonable basis, the court may find that the party or the attorney did not act in bad faith.

S 2. Paragraph c of subdivision 7 of section 296-a of the executive law, as amended by chapter 632 of the laws of 1976, is amended to read as follows:

c. If the superintendent finds that a violation of this section has occurred, the superintendent shall issue an order which shall do one or more of the following:

(1) impose a fine in an amount not to exceed ten thousand dollars for each violation, to be paid to the people of the state of New York;

(2) award compensatory damages to the person aggrieved by such violation;

(3) FOR A CLAIM OF SEX DISCRIMINATION ONLY, AWARD REASONABLE ATTORNEY'S FEES ATTRIBUTABLE TO SUCH CLAIM TO ANY PREVAILING PARTY; PROVIDED, HOWEVER, THAT A PREVAILING RESPONDENT OR DEFENDANT IN ORDER TO RECOVER SUCH REASONABLE ATTORNEY'S FEES MUST MAKE A MOTION REQUESTING SUCH FEES AND SHOW THAT THE ACTION OR PROCEEDING BROUGHT WAS FRIVOLOUS. IN NO CASE SHALL ATTORNEY'S FEES BE AWARDED TO THE DEPARTMENT, NOR SHALL THE DEPARTMENT BE LIABLE TO A PREVAILING PARTY FOR ATTORNEY'S FEES. IN ORDER TO FIND THE ACTION OR PROCEEDING TO BE FRIVOLOUS, THE SUPERINTENDENT MUST FIND IN WRITING ONE OR MORE OF THE FOLLOWING:

(A) THE ACTION OR PROCEEDING WAS COMMENCED, USED OR CONTINUED IN BAD FAITH, SOLELY TO DELAY OR PROLONG THE RESOLUTION OF THE LITIGATION OR TO HARASS OR MALICIOUSLY INJURE ANOTHER; OR

(B) THE ACTION OR PROCEEDING WAS COMMENCED OR CONTINUED IN BAD FAITH WITHOUT ANY REASONABLE BASIS AND COULD NOT BE SUPPORTED BY A GOOD FAITH ARGUMENT FOR AN EXTENSION, MODIFICATION OR REVERSAL OF EXISTING LAW. IF THE ACTION OR PROCEEDING WAS PROMPTLY DISCONTINUED WHEN THE PARTY OR ATTORNEY LEARNED OR SHOULD HAVE LEARNED THAT THE ACTION OR PROCEEDING LACKED SUCH A REASONABLE BASIS, THE COURT MAY FIND THAT THE PARTY OR THE ATTORNEY DID NOT ACT IN BAD FAITH.

(4) require the regulated creditor to cease and desist from such unlawful discriminatory practices;

[(4)] (5) require the regulated creditor to take such further affirmative action as will effectuate the purposes of this section, including, but not limited to, granting the credit which was the subject of the complaint.

S 3. This act shall take effect on the ninetieth day after it shall have become a law, and shall apply to actions commenced on or after such date.

PART D

Section 1. Subdivisions 1 and 1-a of section 296 of the executive law, as amended by chapter 803 of the laws of 1975, paragraph (a) of subdivision 1 as amended by chapter 80 of the laws of 2009, paragraphs (b), (c) and (d) of subdivision 1 as amended by chapter 75 of the laws of 2005, paragraph (e) of subdivision 1 as amended by chapter 166 of the laws of 2000, paragraph (g) of subdivision 1 as added by chapter 98 of the laws of 1984 and paragraphs (b), (c) and (d) of subdivision 1-a as amended by chapter 106 of the laws of 2003, are amended to read as follows:

1. It shall be an unlawful discriminatory practice:

(a) For an employer or licensing agency, because of an individual's age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, FAMILIAL STATUS, marital status, or domestic violence victim status, to refuse to hire or employ or to bar or to discharge from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment.

(b) For an employment agency to discriminate against any individual because of age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, FAMILIAL STATUS, or marital status, in receiving, classifying, disposing or otherwise acting upon applications for its services or in referring an applicant or applicants to an employer or employers.

(c) For a labor organization, because of the age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, FAMILIAL STATUS, or marital status of any individual, to exclude or to expel from its membership such individual or to discriminate in any way against any of its members or against any employer or any individual employed by an employer.

(d) For any employer or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment or to make any inquiry in connection with prospective employment, which expresses directly or indirectly, any limitation, specification or discrimination as to age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, FAMILIAL STATUS, or marital status, or any intent to make any such limitation, specification or discrimination, unless based upon a bona fide occupational qualification; provided, however, that neither this paragraph nor any provision of this chapter or other law shall be construed to prohibit the department of civil service or the department of personnel of any city containing more than one county from requesting information from applicants for civil service examinations concerning any of the aforementioned characteristics, other than sexual orientation, for the purpose of conducting studies to identify and resolve possible problems in recruitment and testing of members of minority groups to insure the fairest possible and equal opportunities for employment in the civil service for all persons, regardless of age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, FAMILIAL STATUS, or marital status.

(e) For any employer, labor organization or employment agency to discharge, expel or otherwise discriminate against any person because he or she has opposed any practices forbidden under this article or because he or she has filed a complaint, testified or assisted in any proceeding under this article.

(f) Nothing in this subdivision shall affect any restrictions upon the activities of persons licensed by the state liquor authority with respect to persons under twenty-one years of age.

(g) For an employer to compel an employee who is pregnant to take a leave of absence, unless the employee is prevented by such pregnancy from performing the activities involved in the job or occupation in a reasonable manner.

1-a. It shall be an unlawful discriminatory practice for an employer, labor organization, employment agency or any joint labor-management committee controlling apprentice training programs:

(a) To select persons for an apprentice training program registered with the state of New York on any basis other than their qualifications, as determined by objective criteria which permit review;

(b) To deny to or withhold from any person because of race, creed, color, national origin, sexual orientation, military status, sex, age, disability, FAMILIAL STATUS, or marital status, the right to be admitted to or participate in a guidance program, an apprenticeship training program, on-the-job training program, executive training program, or other occupational training or retraining program;

(c) To discriminate against any person in his or her pursuit of such programs or to discriminate against such a person in the terms, conditions or privileges of such programs because of race, creed, color, national origin, sexual orientation, military status, sex, age, disability, FAMILIAL STATUS or marital status;

(d) To print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for such programs or to make any inquiry in connection with such program which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, sexual orientation, military status, sex, age, disability, FAMILIAL STATUS or marital status, or any intention to make any such limitation, specification or discrimination, unless based on a bona fide occupational qualification.

S 2. Paragraph (a) of subdivision 9 of section 296 of the executive law, as amended by chapter 106 of the laws of 2003, is amended to read as follows:

(a) It shall be an unlawful discriminatory practice for any fire department or fire company therein, through any member or members thereof, officers, board of fire commissioners or other body or office having power of appointment of volunteer firefighters, directly or indirectly, by ritualistic practice, constitutional or by-law prescription, by tacit agreement among its members, or otherwise, to deny to any individual membership in any volunteer fire department or fire company therein, or to expel or discriminate against any volunteer member of a fire department or fire company therein, because of the race, creed, color, national origin, sexual orientation, military status, sex [or], marital status, OR FAMILIAL STATUS, of such individual.

S 3. Subdivision 13 of section 296 of the executive law, as amended by chapter 196 of the laws of 2010, is amended to read as follows:

13. It shall be an unlawful discriminatory practice (i) for any person to boycott or blacklist, or to refuse to buy from, sell to or trade with, or otherwise discriminate against any person, because of the race, creed, color, national origin, sexual orientation, military status, sex, [or] disability, OR FAMILIAL STATUS, of such person, or of such person's partners, members, stockholders, directors, officers, managers, superintendents, agents, employees, business associates, suppliers or custom-

ers, or (ii) for any person wilfully to do any act or refrain from doing any act which enables any such person to take such action. This subdivision shall not apply to:

(a) Boycotts connected with labor disputes; or

(b) Boycotts to protest unlawful discriminatory practices.

S 4. This act shall take effect on the ninetieth day after it shall have become a law.

PART E

Section 1. The real property law is amended by adding a new section 227-d to read as follows:

S 227-D. DISCRIMINATION BASED ON DOMESTIC VIOLENCE STATUS; PROHIBITED. 1. DEFINITIONS. FOR THE PURPOSES OF THIS SECTION, A PERSON IS A "DOMESTIC VIOLENCE VICTIM" AND POSSESSES "DOMESTIC VIOLENCE VICTIM STATUS" IF SUCH PERSON IS OR HAS BEEN, OR IS A PARENT ACCOMPANIED BY A MINOR CHILD OR CHILDREN WHO IS OR HAS BEEN, IN A SITUATION IN WHICH SUCH PERSON OR CHILD IS A VICTIM OF AN ACT THAT WOULD CONSTITUTE A VIOLENT FELONY OFFENSE AS ENUMERATED IN SECTION 70.02 OF THE PENAL LAW, OR A FAMILY OFFENSE AS ENUMERATED IN SUBDIVISION ONE OF SECTION EIGHT HUNDRED TWELVE OF THE FAMILY COURT ACT, AND SUCH ACT IS ALLEGED TO HAVE BEEN COMMITTED BY A MEMBER OF THE SAME FAMILY OR HOUSEHOLD, AS DEFINED IN SUBDIVISION ONE OF SECTION EIGHT HUNDRED TWELVE OF THE FAMILY COURT ACT.

2. DISCRIMINATION BASED ON DOMESTIC VIOLENCE VICTIM STATUS PROHIBITED. (A) NO PERSON, FIRM OR CORPORATION OWNING OR MANAGING ANY BUILDING USED FOR DWELLING PURPOSES, OR THE AGENT OF SUCH PERSON, FIRM OR CORPORATION, SHALL, BECAUSE OF SUCH PERSON'S OR FAMILY MEMBER'S DOMESTIC VIOLENCE VICTIM STATUS, (1) REFUSE TO RENT A RESIDENTIAL UNIT TO ANY PERSON OR FAMILY, WHEN, BUT FOR SUCH STATUS, RENTAL WOULD NOT HAVE BEEN REFUSED, (2) DISCRIMINATE IN THE TERMS, CONDITIONS, OR PRIVILEGES OF ANY SUCH RENTAL, WHEN, BUT FOR SUCH STATUS, SUCH DISCRIMINATION WOULD NOT HAVE OCCURRED, OR (3) PRINT OR CIRCULATE, OR CAUSE TO BE PRINTED OR CIRCULATED, ANY STATEMENT, ADVERTISEMENT OR PUBLICATION WHICH EXPRESSES, DIRECTLY OR INDIRECTLY, ANY LIMITATION, SPECIFICATION, OR DISCRIMINATION. A VIOLATION OF THIS SUBDIVISION SHALL BE A MISDEMEANOR AND, ON CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE OF NOT LESS THAN ONE THOUSAND DOLLARS AND NOT MORE THAN TWO THOUSAND DOLLARS FOR EACH OFFENSE; PROVIDED, HOWEVER, THAT IT SHALL BE A DEFENSE THAT SUCH PERSON, FIRM, CORPORATION OR AGENT REFUSED TO RENT A RESIDENTIAL UNIT ON ANY OTHER LAWFUL GROUND.

(B) CIVIL LIABILITY: (1) WHERE DISCRIMINATORY CONDUCT PROHIBITED BY THIS SUBDIVISION HAS OCCURRED, SUCH PERSON OR FAMILY SHALL HAVE A CAUSE OF ACTION IN ANY COURT OF APPROPRIATE JURISDICTION FOR COMPENSATORY AND PUNITIVE DAMAGES, WITH SUCH PUNITIVE DAMAGES NOT EXCEEDING TWO THOUSAND DOLLARS FOR EACH OFFENSE, AND DECLARATORY AND INJUNCTIVE RELIEF; AND (2) IN ALL ACTIONS BROUGHT UNDER THIS SECTION, REASONABLE ATTORNEYS' FEES AS DETERMINED BY THE COURT MAY BE AWARDED TO A PREVAILING PARTY, PROVIDED, HOWEVER, THAT A PREVAILING DEFENDANT IN ORDER TO RECOVER SUCH REASONABLE ATTORNEYS' FEES MUST MAKE A MOTION REQUESTING SUCH FEES AND SHOW THAT THE ACTION OR PROCEEDING BROUGHT WAS FRIVOLOUS. IN ORDER TO FIND THE ACTION OR PROCEEDING TO BE FRIVOLOUS, THE COURT MUST FIND ONE OR MORE OF THE FOLLOWING: (I) THE ACTION WAS COMMENCED, USED OR CONTINUED IN BAD FAITH, SOLELY TO DELAY OR PROLONG THE RESOLUTION OF THE LITIGATION OR TO HARASS OR MALICIOUSLY INJURE ANOTHER; OR (II) THE ACTION WAS COMMENCED OR CONTINUED IN BAD FAITH WITHOUT ANY REASONABLE BASIS AND COULD NOT BE SUPPORTED BY A GOOD FAITH ARGUMENT FOR AN EXTENSION, MODIFICATION OR

REVERSAL OF EXISTING LAW. IF THE ACTION OR PROCEEDING WAS PROMPTLY DISCONTINUED WHEN THE PARTY OR ATTORNEY LEARNED OR SHOULD HAVE LEARNED THAT THE ACTION OR PROCEEDING LACKED SUCH A REASONABLE BASIS, THE COURT MAY FIND THAT THE PARTY OR THE ATTORNEY DID NOT ACT IN BAD FAITH.

(C) NOTHING IN THIS SECTION SHALL BE CONSTRUED AS LIMITING THE ABILITY OF A PERSON, FIRM OR CORPORATION OWNING OR MANAGING A BUILDING USED FOR DWELLING PURPOSES, OR THE AGENT OF SUCH PERSON, FIRM OR CORPORATION, FROM APPLYING REASONABLE STANDARDS NOT BASED ON OR DERIVED FROM DOMESTIC VIOLENCE VICTIM STATUS IN DETERMINING THE ELIGIBILITY OF A PERSON OR FAMILY SEEKING TO RENT A RESIDENTIAL UNIT.

(D) THIS SECTION SHALL NOT APPLY TO BUILDINGS USED FOR DWELLING PURPOSES THAT ARE OWNER OCCUPIED AND HAVE TWO OR FEWER RESIDENTIAL UNITS.

3. A PERSON, FIRM, OR CORPORATION OWNING OR MANAGING A BUILDING USED FOR DWELLING PURPOSES OR AGENT OF SUCH PERSON, FIRM OR CORPORATION SHALL NOT BE CIVILLY LIABLE TO OTHER TENANTS, GUESTS, INVITEES, OR LICENSEES ARISING FROM REASONABLE AND GOOD FAITH EFFORTS TO COMPLY WITH THIS SECTION.

4. NOTHING IN THIS SECTION SHALL BE CONSTRUED AS PROHIBITING A PERSON, FIRM OR CORPORATION OWNING OR MANAGING A BUILDING USED FOR DWELLING PURPOSES, OR THE AGENT OF SUCH PERSON, FIRM OR CORPORATION, FROM:

(A) PROVIDING OR PRESERVING A RENTAL PREFERENCE IN ANY PUBLIC OR PRIVATE HOUSING FOR VICTIMS OF DOMESTIC VIOLENCE;

(B) PROVIDING ANY OTHER ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE IN OBTAINING OR RETAINING ANY PUBLIC OR PRIVATE HOUSING; OR

(C) RESPONDING TO AN INQUIRY OR REQUEST BY AN APPLICANT, TENANT, OR LEASEHOLDER WHO IS A VICTIM OF DOMESTIC VIOLENCE.

5. NOTHING IN THIS SECTION SHALL BE CONSTRUED AS PROHIBITING A MUNICIPALITY FROM RETAINING OR PROMULGATING LOCAL LAWS OR ORDINANCES IMPOSING ADDITIONAL OR ENHANCED PROTECTIONS PROHIBITING DISCRIMINATION AGAINST VICTIMS OF DOMESTIC VIOLENCE.

6. NOTHING IN THIS SECTION SHALL BE CONSTRUED AS LIMITING, DIMINISHING, OR OTHERWISE AFFECTING ANY RIGHTS UNDER EXISTING LAW.

S 2. The real property actions and proceedings law is amended by adding a new section 744 to read as follows:

S 744. EVICTION BASED ON DOMESTIC VIOLENCE VICTIM STATUS PROHIBITED. 1. A TENANT SHALL NOT BE REMOVED FROM POSSESSION OF A RESIDENTIAL UNIT PURSUANT TO THIS ARTICLE BECAUSE OF SUCH PERSON'S DOMESTIC VIOLENCE VICTIM STATUS, AS DEFINED IN SECTION TWO HUNDRED TWENTY-SEVEN-D OF THE REAL PROPERTY LAW. IT SHALL BE A DEFENSE TO A PROCEEDING TO RECOVER POSSESSION OF A RESIDENTIAL UNIT THAT A LANDLORD SEEKS SUCH RECOVERY BECAUSE OF A PERSON'S DOMESTIC VIOLENCE VICTIM STATUS, AND THAT, BUT FOR SUCH STATUS, THE LANDLORD WOULD NOT SEEK TO RECOVER POSSESSION. A LANDLORD MAY REBUT SUCH DEFENSE BY SHOWING THAT HE OR SHE SEEKS TO RECOVER POSSESSION OF A RESIDENTIAL UNIT BECAUSE OF ANY OTHER LAWFUL GROUND.

2. NOTHING IN THIS SECTION SHALL RESTRICT A LANDLORD'S LEGAL RIGHTS TO RECOVER POSSESSION OF A RESIDENTIAL UNIT ON GROUNDS NOT BASED ON OR DERIVED FROM DOMESTIC VIOLENCE VICTIM STATUS.

3. A LANDLORD SHALL NOT BE CIVILLY LIABLE TO OTHER TENANTS, GUESTS, INVITEES, OR LICENSEES ARISING FROM REASONABLE AND GOOD FAITH EFFORTS TO COMPLY WITH THIS SECTION.

4. THIS SECTION SHALL NOT APPLY TO BUILDINGS USED FOR DWELLING PURPOSES THAT ARE OWNER OCCUPIED AND HAVE TWO OR FEWER RESIDENTIAL UNITS.

S 3. There is hereby established a task force to study the impact of source of income on access to housing including, but not limited to, any

sex-based impact. The task force shall consist of the following members as appointed by the governor: (1) two members of the governor's cabinet; (2) two experts on housing policy representing the needs of both landlords and tenants; (3) two members who are local government officials, who shall each represent different geographical regions within the state; (4) two members on the recommendation of the temporary president of the senate; and (5) two members on the recommendation of the speaker of the assembly. The governor shall designate a chair of the task force from amongst such appointees. The task force shall meet as often as is appropriate under circumstances necessary to fulfill its duties under this section. The task force shall (a) review the Section 8 Housing Choice Voucher Administrative Plan and, if necessary, recommend modifications to increase the participation of landlords and property owners, which may include, but shall not be limited to: expanding the portability of Section 8 vouchers, including as may be appropriate for domestic violence victims; creating a state-sponsored special-purpose mobility counseling program; enhancing means of connecting voucher holders to approved landlords; and eliminating delays in housing quality standard inspections; and (b) review other current policies and laws and, if necessary, recommend modifications to improve access to quality and affordable housing. The task force shall submit its report and recommendations to the governor, the temporary president of the senate, and the speaker of the assembly on January 15, 2015.

S 4. This act shall take effect on the ninetieth day after it shall have become a law.

PART F

Section 1. Section 153-c of the family court act, as added by chapter 416 of the laws of 1981, is amended to read as follows:

S 153-c. Temporary order of protection. (A) Any person appearing at family court when the court is open requesting a temporary order of protection under any article of this act shall be entitled to file a petition without delay on the same day such person first appears at the family court, and a hearing on that request shall be held on the same day or the next day that the family court is open following the filing of such petition.

(B) AS PROVIDED IN THIS SECTION, THE CHIEF ADMINISTRATOR OF THE COURTS, WITH THE APPROVAL OF THE ADMINISTRATIVE BOARD OF THE COURTS, MAY PROMULGATE RULES TO ESTABLISH AND IMPLEMENT A PILOT PROGRAM FOR THE FILING OF PETITIONS FOR TEMPORARY ORDERS OF PROTECTION BY ELECTRONIC MEANS AND FOR THE ISSUANCE OF SUCH ORDERS EX PARTE BY AUDIO-VISUAL MEANS IN ORDER TO ACCOMMODATE LITIGANTS FOR WHOM ATTENDANCE AT COURT TO FILE FOR, AND OBTAIN, EMERGENCY RELIEF WOULD CONSTITUTE AN UNDUE HARDSHIP OR TO ACCOMMODATE LITIGANTS, FOR WHOM TRAVELING TO AND APPEARING IN THE COURTHOUSE TO OBTAIN EMERGENCY RELIEF, CREATES A RISK OF HARM TO SUCH LITIGANT.

(1) DEFINITIONS. AS USED IN THIS SECTION:

(I) "ELECTRONIC MEANS" MEANS ANY METHOD OF TRANSMISSION OF INFORMATION BETWEEN COMPUTERS OR OTHER MACHINES DESIGNED FOR THE PURPOSE OF SENDING AND RECEIVING SUCH TRANSMISSIONS, AND WHICH ALLOWS THE RECIPIENT TO REPRODUCE THE INFORMATION TRANSMITTED IN A TANGIBLE MEDIUM OF EXPRESSION.

(II) "INDEPENDENT AUDIO-VISUAL SYSTEM" MEANS AN ELECTRONIC SYSTEM FOR THE TRANSMISSION AND RECEIVING OF AUDIO AND VISUAL SIGNALS, ENCOMPASSING ENCODED SIGNALS, FREQUENCY DOMAIN MULTIPLEXING OR OTHER SUITABLE MEANS

TO PRECLUDE THE UNAUTHORIZED RECEPTION AND DECODING OF THE SIGNALS BY COMMERCIALLY AVAILABLE TELEVISION RECEIVERS, CHANNEL CONVERTERS, OR OTHER AVAILABLE RECEIVING DEVICES.

(III) "ELECTRONIC APPEARANCE" MEANS AN APPEARANCE IN WHICH ONE OR MORE OF THE PARTIES ARE NOT PRESENT IN THE COURT, BUT IN WHICH, BY MEANS OF AN INDEPENDENT AUDIO-VISUAL SYSTEM, ALL OF THE PARTICIPANTS ARE SIMULTANEOUSLY ABLE TO SEE AND HEAR REPRODUCTIONS OF THE VOICES AND IMAGES OF THE JUDGE, COUNSEL, PARTIES, WITNESSES, IF ANY AND OTHER PARTICIPANTS.

(2) DEVELOPMENT OF A PILOT PROGRAM. A PLAN FOR A PILOT PROGRAM PURSUANT TO THIS SECTION SHALL BE DEVELOPED BY THE CHIEF ADMINISTRATOR OF THE COURTS OR HIS OR HER DELEGATE IN CONSULTATION WITH ONE OR MORE LOCAL PROGRAMS PROVIDING ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, THE OFFICE FOR THE PREVENTION OF DOMESTIC VIOLENCE, AND ATTORNEYS WHO REPRESENT FAMILY OFFENSE PETITIONS. THE PLAN SHALL INCLUDE, BUT IS NOT LIMITED TO:

(I) IDENTIFICATION OF ONE OR MORE FAMILY JUSTICE CENTERS OR ORGANIZATIONS OR AGENCIES OR OTHER SITES OUTSIDE OF THE LOCAL FAMILY COURT THAT ARE EQUIPPED WITH, OR HAVE ACCESS TO, AN INDEPENDENT AUDIO-VISUAL SYSTEM AND ELECTRONIC MEANS FOR FILING DOCUMENTS THAT ARE COMPATIBLE WITH THE EQUIPMENT IN THE LOCAL FAMILY COURT, WITH CONSIDERATION GIVEN TO THE LOCATION OF SUCH SITE OR SITES AND AVAILABLE RESOURCES; AND

(II) IDENTIFICATION OF ONE OR MORE LICENSED AND CERTIFIED ORGANIZATIONS, AGENCIES OR ENTITIES WITH ADVOCATES FOR VICTIMS OF DOMESTIC VIOLENCE WHO ARE TRAINED, AND AVAILABLE TO ASSIST PETITIONERS IN PREPARING AND FILING PETITIONS FOR TEMPORARY ORDERS OF PROTECTION AND IN THEIR ELECTRONIC APPEARANCES BEFORE THE FAMILY COURT TO OBTAIN SUCH ORDERS; AND

(III) IDENTIFICATION OF THE EXISTING RESOURCES AVAILABLE IN LOCAL FAMILY COURTS FOR THE IMPLEMENTATION AND OVERSIGHT OF THE PILOT PROGRAM; AND

(IV) DELINEATION OF PROCEDURES FOR FILING OF THE PETITIONS AND DOCUMENTS, IF ANY, BY ELECTRONIC MEANS, SWEARING IN THE PETITIONERS AND ANY WITNESSES, PREPARATION OF A VERBATIM TRANSCRIPTION OF TESTIMONY PRESENTED AND A RECORD OF EVIDENCE ADDUCED AND PROMPT TRANSMISSION OF ANY ORDERS ISSUED TO THE PETITIONERS; AND

(V) A TIMETABLE FOR IMPLEMENTATION OF THE PILOT PROGRAM AND PLAN FOR INFORMING THE PUBLIC OF ITS AVAILABILITY; AND

(VI) A DESCRIPTION OF DATA TO BE COLLECTED IN ORDER TO EVALUATE AND, IF NECESSARY, MAKE RECOMMENDATIONS FOR IMPROVEMENTS TO THE PILOT PROGRAM.

(3) FILING BY ELECTRONIC MEANS. IN CONJUNCTION WITH AN ELECTRONIC APPEARANCE UNDER THIS SECTION, PETITIONERS FOR EX PARTE TEMPORARY ORDERS OF PROTECTION MAY, WITH THE ASSISTANCE OF TRAINED ADVOCATES, COMMENCE THE PROCEEDINGS BY FILING PETITIONS BY ELECTRONIC MEANS.

(I) A PETITIONER WHO SEEKS A TEMPORARY ORDER OF PROTECTION EX PARTE BY USE OF AN ELECTRONIC APPEARANCE MUST FILE A PETITION IN ADVANCE OF SUCH APPEARANCE AND MAY DO SO BY ELECTRONIC MEANS. THE PETITIONER SHALL SET FORTH THE CIRCUMSTANCES IN WHICH TRAVELING TO OR APPEARING IN THE COURTHOUSE WOULD CONSTITUTE AN UNDUE HARDSHIP, OR CREATE A RISK OF HARM TO THE PETITIONER. IN GRANTING OR DENYING THE RELIEF SOUGHT BY THE PETITIONER, THE COURT SHALL STATE THE NAMES OF ALL PARTICIPANTS, AND WHETHER IT IS GRANTING OR DENYING AN APPEARANCE BY ELECTRONIC MEANS AND THE BASIS FOR SUCH DETERMINATION; PROVIDED, HOWEVER, THAT NOTHING IN THIS SECTION SHALL BE CONSTRUED TO COMPEL A PARTY TO FILE A PETITION OR OTHER DOCUMENT BY ELECTRONIC MEANS OR TO TESTIFY BY MEANS OF AN ELECTRONIC APPEARANCE.

(II) NOTHING IN THIS SECTION SHALL AFFECT OR CHANGE ANY EXISTING LAWS GOVERNING THE SERVICE OF PROCESS, INCLUDING REQUIREMENTS FOR PERSONAL SERVICE, OR THE SEALING AND CONFIDENTIALITY OF COURT RECORDS IN FAMILY COURT PROCEEDINGS, OR ACCESS TO COURT RECORDS BY THE PARTIES TO SUCH PROCEEDINGS.

(4) (I) ALL ELECTRONIC APPEARANCES BY PETITIONERS SEEKING TEMPORARY ORDERS OF PROTECTION EX PARTE UNDER THIS SECTION SHALL BE STRICTLY VOLUNTARY AND THE CONSENT OF SUCH PETITIONERS SHALL BE GIVEN ON THE RECORD AT THE COMMENCEMENT OF EACH APPEARANCE.

(II) APPEARANCES TAKEN THROUGH THE USE OF AN ELECTRONIC APPEARANCE UNDER THIS SECTION SHALL BE RECORDED AND PRESERVED FOR TRANSCRIPTION. DOCUMENTARY EVIDENCE, IF ANY, REFERRED TO BY A PARTY OR WITNESS OR THE COURT MAY BE TRANSMITTED AND SUBMITTED AND INTRODUCED BY ELECTRONIC MEANS.

S 2. Subdivision 2 of section 212 of the judiciary law is amended by adding a new paragraph (t) to read as follows:

(T) HAVE THE POWER TO ESTABLISH PILOT PROGRAMS FOR THE FILING OF PETITIONS FOR TEMPORARY ORDERS OF PROTECTION BY ELECTRONIC MEANS AND FOR THE ISSUANCE OF SUCH ORDERS BY AUDIO-VISUAL MEANS PURSUANT TO SUBDIVISION (B) OF SECTION ONE HUNDRED FIFTY-THREE-C OF THE FAMILY COURT ACT. THE CHIEF ADMINISTRATOR SHALL MAINTAIN AN UP-TO-DATE AND PUBLICLY-AVAILABLE LISTING OF THE SITES, IF ANY, AT WHICH SUCH APPLICATIONS FOR EX PARTE TEMPORARY ORDERS OF PROTECTION MAY BE FILED, AND AT WHICH ELECTRONIC APPEARANCES IN SUPPORT OF SUCH APPLICATIONS MAY BE SOUGHT, IN ACCORDANCE WITH SUCH SECTION ONE HUNDRED FIFTY-THREE-C OF THE FAMILY COURT ACT. IN DEVELOPING SUCH PILOT PROGRAM, THE CHIEF ADMINISTRATOR SHALL STRIVE FOR A PROGRAM THAT IS REGIONALLY DIVERSE, AND TAKES INTO CONSIDERATION, AMONG OTHER THINGS, THE AVAILABILITY OF PUBLIC TRANSPORTATION, POPULATION DENSITY AND THE AVAILABILITY OF FACILITIES FOR CONDUCTING SUCH PROGRAM.

S 3. Section 648 of the executive law, as added by chapter 893 of the laws of 1986, is amended to read as follows:

S 648. Review; report and implementation. 1. The chief administrator of the unified court system shall review court practices, procedures, services, regulations and laws to determine the adequacy and appropriateness of its services with respect to crime victims, including victims with special needs, particularly the elderly, disabled or victims of child abuse, domestic violence, SEX TRAFFICKING or sex-related offenses. Such review shall include reasonable opportunity for public comment and consultation with crime victims or their representatives, and may include public hearings.

2. After the review, and not later than two hundred seventy days after the effective date of this section, AND NO LATER THAN TWO HUNDRED SEVENTY DAYS AFTER THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND THIRTEEN WHICH AMENDED THIS SECTION, AND EVERY FIVE YEARS THEREAFTER, the chief administrator of the unified court system shall submit a report to the governor and the legislature, setting forth the findings of the review, including a description of the services provided by the components of the unified court system and recommendations for changes in its procedures, services, regulations and laws to improve its services to crime victims and to establish and implement fair treatment standards for crime victims.

3. Subject to the direction of the chief administrator, the components of the unified court system shall expeditiously implement the recommendations of its report.

S 4. This act shall take effect April 1, 2014.

PART G

Section 1. Short title. This act shall be known and may be cited as the "trafficking victims protection and justice act".

S 2. Section 60.13 of the penal law, as added by chapter 7 of the laws of 2007, is amended to read as follows:

S 60.13 Authorized dispositions; felony sex offenses.

When a person is to be sentenced upon a conviction for any felony defined in article one hundred thirty of this chapter, including a sexually motivated felony, or patronizing a [prostitute] PERSON FOR PROSTITUTION in the first degree as defined in section 230.06 of this chapter, AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE THIRD DEGREE AS DEFINED IN SECTION 230.11 OF THIS CHAPTER, AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE SECOND DEGREE AS DEFINED IN SECTION 230.12 OF THIS CHAPTER, AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE FIRST DEGREE AS DEFINED IN SECTION 230.13 OF THIS CHAPTER, incest in the second degree as defined in section 255.26 of this chapter, or incest in the first degree as defined in section 255.27 of this chapter, or a felony attempt or conspiracy to commit any of these crimes, the court must sentence the defendant in accordance with the provisions of section 70.80 of this title.

S 3. Paragraphs (a) and (c) of subdivision 1 of section 70.02 of the penal law, paragraph (a) as amended by chapter 320 of the laws of 2006 and paragraph (c) as amended by chapter 1 of the laws of 2013, are amended to read as follows:

(a) Class B violent felony offenses: an attempt to commit the class A-I felonies of murder in the second degree as defined in section 125.25, kidnapping in the first degree as defined in section 135.25, and arson in the first degree as defined in section 150.20; manslaughter in the first degree as defined in section 125.20, aggravated manslaughter in the first degree as defined in section 125.22, rape in the first degree as defined in section 130.35, criminal sexual act in the first degree as defined in section 130.50, aggravated sexual abuse in the first degree as defined in section 130.70, course of sexual conduct against a child in the first degree as defined in section 130.75; assault in the first degree as defined in section 120.10, kidnapping in the second degree as defined in section 135.20, burglary in the first degree as defined in section 140.30, arson in the second degree as defined in section 150.15, robbery in the first degree as defined in section 160.15, SEX TRAFFICKING AS DEFINED IN PARAGRAPHS (A) AND (B) OF SUBDIVISION FIVE OF SECTION 230.34, incest in the first degree as defined in section 255.27, criminal possession of a weapon in the first degree as defined in section 265.04, criminal use of a firearm in the first degree as defined in section 265.09, criminal sale of a firearm in the first degree as defined in section 265.13, aggravated assault upon a police officer or a peace officer as defined in section 120.11, gang assault in the first degree as defined in section 120.07, intimidating a victim or witness in the first degree as defined in section 215.17, hindering prosecution of terrorism in the first degree as defined in section 490.35, criminal possession of a chemical weapon or biological weapon in the second degree as defined in section 490.40, and criminal use of a chemical weapon or biological weapon in the third degree as defined in section 490.47.

(c) Class D violent felony offenses: an attempt to commit any of the class C felonies set forth in paragraph (b); reckless assault of a child as defined in section 120.02, assault in the second degree as defined in

section 120.05, menacing a police officer or peace officer as defined in section 120.18, stalking in the first degree, as defined in subdivision one of section 120.60, strangulation in the second degree as defined in section 121.12, rape in the second degree as defined in section 130.30, criminal sexual act in the second degree as defined in section 130.45, sexual abuse in the first degree as defined in section 130.65, course of sexual conduct against a child in the second degree as defined in section 130.80, aggravated sexual abuse in the third degree as defined in section 130.66, facilitating a sex offense with a controlled substance as defined in section 130.90, LABOR TRAFFICKING AS DEFINED IN PARAGRAPHS (A) AND (B) OF SUBDIVISION THREE OF SECTION 135.35, criminal possession of a weapon in the third degree as defined in subdivision five, six, seven, eight, nine or ten of section 265.02, criminal sale of a firearm in the third degree as defined in section 265.11, intimidating a victim or witness in the second degree as defined in section 215.16, soliciting or providing support for an act of terrorism in the second degree as defined in section 490.10, and making a terroristic threat as defined in section 490.20, falsely reporting an incident in the first degree as defined in section 240.60, placing a false bomb or hazardous substance in the first degree as defined in section 240.62, placing a false bomb or hazardous substance in a sports stadium or arena, mass transportation facility or enclosed shopping mall as defined in section 240.63, and aggravated unpermitted use of indoor pyrotechnics in the first degree as defined in section 405.18.

S 4. Paragraph (a) of subdivision 1 of section 70.80 of the penal law, as added by chapter 7 of the laws of 2007, is amended to read as follows:

(a) For the purposes of this section, a "felony sex offense" means a conviction of any felony defined in article one hundred thirty of this chapter, including a sexually motivated felony, or patronizing a [prostitute] PERSON FOR PROSTITUTION in the first degree as defined in section 230.06 of this chapter, PATRONIZING A PERSON FOR PROSTITUTION IN THE SECOND DEGREE AS DEFINED IN SECTION 230.05 OF THIS CHAPTER, AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE THIRD DEGREE AS DEFINED IN SECTION 230.11 OF THIS CHAPTER, AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE SECOND DEGREE AS DEFINED IN SECTION 230.12 OF THIS CHAPTER, AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN FIRST DEGREE AS DEFINED IN SECTION 230.13 OF THIS CHAPTER, incest in the second degree as defined in section 255.26 of this chapter, or incest in the first degree as defined in section 255.27 of this chapter, or a felony attempt or conspiracy to commit any of the above.

S 5. Section 135.35 of the penal law, as added by chapter 74 of the laws of 2007, is amended to read as follows:

S 135.35 Labor trafficking.

A person is guilty of labor trafficking if he or she compels or induces another to engage in labor or recruits, entices, harbors, or transports such other person by means of intentionally:

1. [unlawfully providing a controlled substance to such person with intent to impair said person's judgment;

2.] requiring that the labor be performed to retire, repay, or service a real or purported debt that the actor has caused by a systematic ongoing course of conduct with intent to defraud such person;

[3.] 2. withholding, destroying, or confiscating any actual or purported passport, immigration document, or any other actual or purported government identification document, of another person with intent to impair said person's freedom of movement; provided, however,

that this subdivision shall not apply to an attempt to correct a social security administration record or immigration agency record in accordance with any local, state, or federal agency requirement, where such attempt is not made for the purpose of any express or implied threat;

[4.] 3. using force or engaging in any scheme, plan or pattern to compel or induce such person to engage in or continue to engage in labor activity by means of instilling a fear in such person that, if the demand is not complied with, the actor or another will do one or more of the following:

(a) cause physical injury, serious physical injury, or death to a person; or

(b) cause damage to property, other than the property of the actor; or

(c) engage in other conduct constituting a felony or unlawful imprisonment in the second degree in violation of section 135.05 of this [chapter] ARTICLE; or

(d) accuse some person of a crime or cause criminal charges or deportation proceedings to be instituted against such person; provided, however, that it shall be an affirmative defense to this subdivision that the defendant reasonably believed the threatened charge to be true and that his or her sole purpose was to compel or induce the victim to take reasonable action to make good the wrong which was the subject of such threatened charge; or

(e) expose a secret or publicize an asserted fact, whether true or false, tending to subject some person to hatred, contempt or ridicule; or

(f) testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or

(g) use or abuse his or her position as a public servant by performing some act within or related to his or her official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely.

Labor trafficking is a class D felony.

S 5-a. The penal law is amended by adding a new section 135.37 to read as follows:

S 135.37 AGGRAVATED LABOR TRAFFICKING.

A PERSON IS GUILTY OF AGGRAVATED LABOR TRAFFICKING IF HE OR SHE COMPELS OR INDUCES ANOTHER TO ENGAGE IN LABOR OR RECRUITS, ENTICES, HARBORS, OR TRANSPORTS SUCH OTHER PERSON TO ENGAGE IN LABOR BY MEANS OF INTENTIONALLY UNLAWFULLY PROVIDING A CONTROLLED SUBSTANCE TO SUCH PERSON WITH INTENT TO IMPAIR SAID PERSON'S JUDGMENT.

AGGRAVATED LABOR TRAFFICKING IS A CLASS C FELONY.

S 5-b. Paragraph (a) of subdivision 1 of section 460.10 of the penal law, as amended by section 16 of subpart A of part H of chapter 55 of the laws of 2014, is amended to read as follows:

(a) Any of the felonies set forth in this chapter: sections 120.05, 120.10 and 120.11 relating to assault; sections 121.12 and 121.13 relating to strangulation; sections 125.10 to 125.27 relating to homicide; sections 130.25, 130.30 and 130.35 relating to rape; sections 135.20 and 135.25 relating to kidnapping; [section] SECTIONS 135.35 AND 135.37 relating to labor trafficking; section 135.65 relating to coercion; sections 140.20, 140.25 and 140.30 relating to burglary; sections 145.05, 145.10 and 145.12 relating to criminal mischief; article one hundred fifty relating to arson; sections 155.30, 155.35, 155.40 and 155.42 relating to grand larceny; sections 177.10, 177.15, 177.20 and 177.25 relating to health care fraud; article one hundred sixty relating to robbery; sections 165.45, 165.50, 165.52 and 165.54 relating to crim-

inal possession of stolen property; sections 165.72 and 165.73 relating to trademark counterfeiting; sections 170.10, 170.15, 170.25, 170.30, 170.40, 170.65 and 170.70 relating to forgery; sections 175.10, 175.25, 175.35, 175.40 and 210.40 relating to false statements; sections 176.15, 176.20, 176.25 and 176.30 relating to insurance fraud; sections 178.20 and 178.25 relating to criminal diversion of prescription medications and prescriptions; sections 180.03, 180.08, 180.15, 180.25, 180.40, 180.45, 200.00, 200.03, 200.04, 200.10, 200.11, 200.12, 200.20, 200.22, 200.25, 200.27, 200.56, 215.00, 215.05 and 215.19; sections 187.10, 187.15, 187.20 and 187.25 relating to residential mortgage fraud, sections 190.40 and 190.42 relating to criminal usury; section 190.65 relating to schemes to defraud; any felony defined in article four hundred ninety-six; sections 205.60 and 205.65 relating to hindering prosecution; sections 210.10, 210.15, and 215.51 relating to perjury and contempt; section 215.40 relating to tampering with physical evidence; sections 220.06, 220.09, 220.16, 220.18, 220.21, 220.31, 220.34, 220.39, 220.41, 220.43, 220.46, 220.55, 220.60 and 220.77 relating to controlled substances; sections 225.10 and 225.20 relating to gambling; sections 230.25, 230.30, and 230.32 relating to promoting prostitution; section 230.34 relating to sex trafficking; sections 235.06, 235.07, 235.21 and 235.22 relating to obscenity; sections 263.10 and 263.15 relating to promoting a sexual performance by a child; sections 265.02, 265.03, 265.04, 265.11, 265.12, 265.13 and the provisions of section 265.10 which constitute a felony relating to firearms and other dangerous weapons; and sections 265.14 and 265.16 relating to criminal sale of a firearm; and section 275.10, 275.20, 275.30, or 275.40 relating to unauthorized recordings; and sections 470.05, 470.10, 470.15 and 470.20 relating to money laundering; or

S 5-c. Paragraphs (b) and (h) of subdivision 8 of section 700.05 of the criminal procedure law, paragraph (b) as amended by chapter 405 of the laws of 2010 and paragraph (h) as amended by chapter 154 of the laws of 1990, are amended to read as follows:

(b) Any of the following felonies: assault in the second degree as defined in section 120.05 of the penal law, assault in the first degree as defined in section 120.10 of the penal law, reckless endangerment in the first degree as defined in section 120.25 of the penal law, promoting a suicide attempt as defined in section 120.30 of the penal law, strangulation in the second degree as defined in section 121.12 of the penal law, strangulation in the first degree as defined in section 121.13 of the penal law, criminally negligent homicide as defined in section 125.10 of the penal law, manslaughter in the second degree as defined in section 125.15 of the penal law, manslaughter in the first degree as defined in section 125.20 of the penal law, murder in the second degree as defined in section 125.25 of the penal law, murder in the first degree as defined in section 125.27 of the penal law, abortion in the second degree as defined in section 125.40 of the penal law, abortion in the first degree as defined in section 125.45 of the penal law, rape in the third degree as defined in section 130.25 of the penal law, rape in the second degree as defined in section 130.30 of the penal law, rape in the first degree as defined in section 130.35 of the penal law, criminal sexual act in the third degree as defined in section 130.40 of the penal law, criminal sexual act in the second degree as defined in section 130.45 of the penal law, criminal sexual act in the first degree as defined in section 130.50 of the penal law, sexual abuse in the first degree as defined in section 130.65 of the penal law, unlawful imprisonment in the first degree as defined in section 135.10

of the penal law, kidnapping in the second degree as defined in section 135.20 of the penal law, kidnapping in the first degree as defined in section 135.25 of the penal law, labor trafficking as defined in section 135.35 of the penal law, AGGRAVATED LABOR TRAFFICKING AS DEFINED IN SECTION 135.37 OF THE PENAL LAW, custodial interference in the first degree as defined in section 135.50 of the penal law, coercion in the first degree as defined in section 135.65 of the penal law, criminal trespass in the first degree as defined in section 140.17 of the penal law, burglary in the third degree as defined in section 140.20 of the penal law, burglary in the second degree as defined in section 140.25 of the penal law, burglary in the first degree as defined in section 140.30 of the penal law, criminal mischief in the third degree as defined in section 145.05 of the penal law, criminal mischief in the second degree as defined in section 145.10 of the penal law, criminal mischief in the first degree as defined in section 145.12 of the penal law, criminal tampering in the first degree as defined in section 145.20 of the penal law, arson in the fourth degree as defined in section 150.05 of the penal law, arson in the third degree as defined in section 150.10 of the penal law, arson in the second degree as defined in section 150.15 of the penal law, arson in the first degree as defined in section 150.20 of the penal law, grand larceny in the fourth degree as defined in section 155.30 of the penal law, grand larceny in the third degree as defined in section 155.35 of the penal law, grand larceny in the second degree as defined in section 155.40 of the penal law, grand larceny in the first degree as defined in section 155.42 of the penal law, health care fraud in the fourth degree as defined in section 177.10 of the penal law, health care fraud in the third degree as defined in section 177.15 of the penal law, health care fraud in the second degree as defined in section 177.20 of the penal law, health care fraud in the first degree as defined in section 177.25 of the penal law, robbery in the third degree as defined in section 160.05 of the penal law, robbery in the second degree as defined in section 160.10 of the penal law, robbery in the first degree as defined in section 160.15 of the penal law, unlawful use of secret scientific material as defined in section 165.07 of the penal law, criminal possession of stolen property in the fourth degree as defined in section 165.45 of the penal law, criminal possession of stolen property in the third degree as defined in section 165.50 of the penal law, criminal possession of stolen property in the second degree as defined by section 165.52 of the penal law, criminal possession of stolen property in the first degree as defined by section 165.54 of the penal law, trademark counterfeiting in the second degree as defined in section 165.72 of the penal law, trademark counterfeiting in the first degree as defined in section 165.73 of the penal law, forgery in the second degree as defined in section 170.10 of the penal law, forgery in the first degree as defined in section 170.15 of the penal law, criminal possession of a forged instrument in the second degree as defined in section 170.25 of the penal law, criminal possession of a forged instrument in the first degree as defined in section 170.30 of the penal law, criminal possession of forgery devices as defined in section 170.40 of the penal law, falsifying business records in the first degree as defined in section 175.10 of the penal law, tampering with public records in the first degree as defined in section 175.25 of the penal law, offering a false instrument for filing in the first degree as defined in section 175.35 of the penal law, issuing a false certificate as defined in section 175.40 of the penal law, criminal diversion of prescription medications and prescriptions in the second degree as

defined in section 178.20 of the penal law, criminal diversion of prescription medications and prescriptions in the first degree as defined in section 178.25 of the penal law, residential mortgage fraud in the fourth degree as defined in section 187.10 of the penal law, residential mortgage fraud in the third degree as defined in section 187.15 of the penal law, residential mortgage fraud in the second degree as defined in section 187.20 of the penal law, residential mortgage fraud in the first degree as defined in section 187.25 of the penal law, escape in the second degree as defined in section 205.10 of the penal law, escape in the first degree as defined in section 205.15 of the penal law, absconding from temporary release in the first degree as defined in section 205.17 of the penal law, promoting prison contraband in the first degree as defined in section 205.25 of the penal law, hindering prosecution in the second degree as defined in section 205.60 of the penal law, hindering prosecution in the first degree as defined in section 205.65 of the penal law, sex trafficking as defined in section 230.34 of the penal law, criminal possession of a weapon in the third degree as defined in subdivisions two, three and five of section 265.02 of the penal law, criminal possession of a weapon in the second degree as defined in section 265.03 of the penal law, criminal possession of a weapon in the first degree as defined in section 265.04 of the penal law, manufacture, transport, disposition and defacement of weapons and dangerous instruments and appliances defined as felonies in subdivisions one, two, and three of section 265.10 of the penal law, sections 265.11, 265.12 and 265.13 of the penal law, or prohibited use of weapons as defined in subdivision two of section 265.35 of the penal law, relating to firearms and other dangerous weapons, or failure to disclose the origin of a recording in the first degree as defined in section 275.40 of the penal law;

(h) Promoting prostitution in the first degree, as defined in section 230.32 of the penal law, promoting prostitution in the second degree, as defined by subdivision one of section 230.30 of the penal law, PROMOTING PROSTITUTION IN THE THIRD DEGREE, AS DEFINED IN SECTION 230.25 OF THE PENAL LAW;

S 6. The penal law is amended by adding a new section 230.01 to read as follows:

S 230.01 PROSTITUTION; AFFIRMATIVE DEFENSE.

IN ANY PROSECUTION UNDER SECTION 230.00, SECTION 230.03 OR SUBDIVISION TWO OF SECTION 240.37 OF THIS PART, IT IS AN AFFIRMATIVE DEFENSE THAT THE DEFENDANT'S PARTICIPATION IN THE OFFENSE WAS A RESULT OF HAVING BEEN A VICTIM OF COMPELLING PROSTITUTION UNDER SECTION 230.33, A VICTIM OF SEX TRAFFICKING UNDER SECTION 230.34 OF THIS ARTICLE OR A VICTIM OF TRAFFICKING IN PERSONS UNDER THE TRAFFICKING VICTIMS PROTECTION ACT (UNITED STATES CODE, TITLE 22, CHAPTER 78).

S 7. The section heading and subdivision 1 of section 230.02 of the penal law, as amended by chapter 627 of the laws of 1978, are amended to read as follows:

Patronizing a [prostitute] PERSON FOR PROSTITUTION; definitions.

1. A person patronizes a [prostitute] PERSON FOR PROSTITUTION when:

(a) Pursuant to a prior understanding, he OR SHE pays a fee to another person as compensation for such person or a third person having engaged in sexual conduct with him OR HER; or

(b) He OR SHE pays or agrees to pay a fee to another person pursuant to an understanding that in return therefor such person or a third person will engage in sexual conduct with him OR HER; or

(c) He OR SHE solicits or requests another person to engage in sexual conduct with him OR HER in return for a fee.

S 8. Subdivision 2 of section 230.03 of the penal law, as added by chapter 191 of the laws of 2011, is amended to read as follows:

2. For the purposes of this section, SECTION 230.08 and section 230.19 of this article, "school zone" means (a) in or on or within any building, structure, athletic playing field, playground or land contained within the real property boundary line of a public or private elementary, parochial, intermediate, junior high, vocational, or high school, or (b) any public sidewalk, street, parking lot, park, playground or private land, located immediately adjacent to the boundary line of such school.

S 9. Section 230.04 of the penal law, as amended by chapter 74 of the laws of 2007, is amended to read as follows:

S 230.04 Patronizing a [prostitute] PERSON FOR PROSTITUTION in the third degree.

A person is guilty of patronizing a [prostitute] PERSON FOR PROSTITUTION in the third degree when he or she patronizes a [prostitute] PERSON FOR PROSTITUTION.

Patronizing a [prostitute] PERSON FOR PROSTITUTION in the third degree is a class A misdemeanor.

S 10. Section 230.05 of the penal law, as added by chapter 627 of the laws of 1978, is amended to read as follows:

S 230.05 Patronizing a [prostitute] PERSON FOR PROSTITUTION in the second degree.

A person is guilty of patronizing a [prostitute] PERSON FOR PROSTITUTION in the second degree when, being [over] eighteen years [of age] OLD OR MORE, he OR SHE patronizes a [prostitute] PERSON FOR PROSTITUTION and the person patronized is less than [fourteen] FIFTEEN years [of age] OLD.

Patronizing a [prostitute] PERSON FOR PROSTITUTION in the second degree is a class E felony.

S 11. Section 230.06 of the penal law, as added by chapter 627 of the laws of 1978, is amended to read as follows:

S 230.06 Patronizing a [prostitute] PERSON FOR PROSTITUTION in the first degree.

A person is guilty of patronizing a [prostitute] PERSON FOR PROSTITUTION in the first degree when [he]:

1. HE OR SHE patronizes a [prostitute] PERSON FOR PROSTITUTION and the person patronized is less than eleven years [of age] OLD; OR

2. BEING EIGHTEEN YEARS OLD OR MORE, HE OR SHE PATRONIZES A PERSON FOR PROSTITUTION AND THE PERSON PATRONIZED IS LESS THAN THIRTEEN YEARS OLD.

Patronizing a [prostitute] PERSON FOR PROSTITUTION in the first degree is a class D felony.

S 11-a. Section 230.07 of the penal law, as amended by chapter 74 of the laws of 2007, is amended to read as follows:

S 230.07 Patronizing a [prostitute] PERSON FOR PROSTITUTION; defense.

In any prosecution for patronizing a [prostitute] PERSON FOR PROSTITUTION in the first or second degrees OR PATRONIZING A PERSON FOR PROSTITUTION IN A SCHOOL ZONE, it is a defense that the defendant did not have reasonable grounds to believe that the person was less than the age specified.

S 12. The penal law is amended by adding a new section 230.08 to read as follows:

S 230.08 PATRONIZING A PERSON FOR PROSTITUTION IN A SCHOOL ZONE.

1. A PERSON IS GUILTY OF PATRONIZING A PERSON FOR PROSTITUTION IN A SCHOOL ZONE WHEN, BEING TWENTY-ONE YEARS OF AGE OR OLDER, HE OR SHE PATRONIZES A PERSON FOR PROSTITUTION AND THE PERSON PATRONIZED IS LESS THAN EIGHTEEN YEARS OF AGE AT A PLACE THAT HE OR SHE KNOWS, OR REASONABLY SHOULD KNOW, IS IN A SCHOOL ZONE.

2. FOR PURPOSES OF THIS SECTION, "SCHOOL ZONE" SHALL MEAN "SCHOOL ZONE" AS DEFINED IN SUBDIVISION TWO OF SECTION 230.03 OF THIS ARTICLE.

PATRONIZING A PERSON FOR PROSTITUTION IN A SCHOOL ZONE IS A CLASS E FELONY.

S 13. The section heading and the opening paragraph of section 230.10 of the penal law are amended to read as follows:

Prostitution and patronizing a [prostitute] PERSON FOR PROSTITUTION; no defense.

In any prosecution for prostitution or patronizing a [prostitute] PERSON FOR PROSTITUTION, the sex of the two parties or prospective parties to the sexual conduct engaged in, contemplated or solicited is immaterial, and it is no defense that:

S 14. The penal law is amended by adding three new sections 230.11, 230.12 and 230.13 to read as follows:

S 230.11 AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE THIRD DEGREE.

A PERSON IS GUILTY OF AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE THIRD DEGREE WHEN, BEING TWENTY-ONE YEARS OLD OR MORE, HE OR SHE PATRONIZES A PERSON FOR PROSTITUTION AND THE PERSON PATRONIZED IS LESS THAN SEVENTEEN YEARS OLD AND THE PERSON GUILTY OF PATRONIZING ENGAGES IN SEXUAL INTERCOURSE, ORAL SEXUAL CONDUCT, ANAL SEXUAL CONDUCT, OR AGGRAVATED SEXUAL CONDUCT AS THOSE TERMS ARE DEFINED IN SECTION 130.00 OF THIS PART.

AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE THIRD DEGREE IS A CLASS E FELONY.

S 230.12 AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE SECOND DEGREE.

A PERSON IS GUILTY OF AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE SECOND DEGREE WHEN, BEING EIGHTEEN YEARS OLD OR MORE, HE OR SHE PATRONIZES A PERSON FOR PROSTITUTION AND THE PERSON PATRONIZED IS LESS THAN FIFTEEN YEARS OLD AND THE PERSON GUILTY OF PATRONIZING ENGAGES IN SEXUAL INTERCOURSE, ORAL SEXUAL CONDUCT, ANAL SEXUAL CONDUCT, OR AGGRAVATED SEXUAL CONDUCT AS THOSE TERMS ARE DEFINED IN SECTION 130.00 OF THIS PART.

AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE SECOND DEGREE IS A CLASS D FELONY.

S 230.13 AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE FIRST DEGREE.

A PERSON IS GUILTY OF AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE FIRST DEGREE WHEN HE OR SHE PATRONIZES A PERSON FOR PROSTITUTION AND THE PERSON PATRONIZED IS LESS THAN ELEVEN YEARS OLD, OR BEING EIGHTEEN YEARS OLD OR MORE, HE OR SHE PATRONIZES A PERSON FOR PROSTITUTION AND THE PERSON PATRONIZED IS LESS THAN THIRTEEN YEARS OLD, AND THE PERSON GUILTY OF PATRONIZING ENGAGES IN SEXUAL INTERCOURSE, ORAL SEXUAL CONDUCT, ANAL SEXUAL CONDUCT, OR AGGRAVATED SEXUAL CONDUCT AS THOSE TERMS ARE DEFINED IN SECTION 130.00 OF THIS PART.

AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE FIRST DEGREE IS A CLASS B FELONY.

S 15. Subdivisions 1 and 2 of section 230.15 of the penal law are amended to read as follows:

1. "Advance prostitution." A person "advances prostitution" when, acting other than as a [prostitute] PERSON IN PROSTITUTION or as a patron thereof, he OR SHE knowingly causes or aids a person to commit or engage in prostitution, procures or solicits patrons for prostitution, provides persons or premises for prostitution purposes, operates or assists in the operation of a house of prostitution or a prostitution enterprise, or engages in any other conduct designed to institute, aid or facilitate an act or enterprise of prostitution.

2. "Profit from prostitution." A person "profits from prostitution" when, acting other than as a [prostitute] PERSON IN PROSTITUTION receiving compensation for personally rendered prostitution services, he OR SHE accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he OR SHE participates or is to participate in the proceeds of prostitution activity.

S 16. Subdivision 1 of section 230.19 of the penal law, as added by chapter 191 of the laws of 2011, is amended to read as follows:

1. A person is guilty of promoting prostitution in a school zone when, being nineteen years [of age] OLD or [older] MORE, he or she knowingly advances or profits from prostitution that he or she knows or reasonably should know is or will be committed in violation of section 230.03 of this article in a school zone during the hours that school is in session.

S 17. The opening paragraph and subdivision 1 of section 230.25 of the penal law, the opening paragraph as amended by chapter 627 of the laws of 1978 and subdivision 1 as amended by chapter 74 of the laws of 2007, are amended to read as follows:

A person is guilty of promoting prostitution in the third degree when he OR SHE knowingly:

1. Advances or profits from prostitution by managing, supervising, controlling or owning, either alone or in association with others, a house of prostitution or a prostitution business or enterprise involving prostitution activity by two or more [prostitutes] PERSONS IN PROSTITUTION, or a business that sells travel-related services knowing that such services include or are intended to facilitate travel for the purpose of patronizing a [prostitute] PERSON FOR PROSTITUTION, including to a foreign jurisdiction and regardless of the legality of prostitution in said foreign jurisdiction; or

S 18. Section 230.30 of the penal law, as amended by chapter 627 of the laws of 1978, is amended to read as follows:

S 230.30 Promoting prostitution in the second degree.

A person is guilty of promoting prostitution in the second degree when he OR SHE knowingly:

1. Advances prostitution by compelling a person by force or intimidation to engage in prostitution, or profits from such coercive conduct by another; or

2. Advances or profits from prostitution of a person less than [sixteen] EIGHTEEN years old.

Promoting prostitution in the second degree is a class C felony.

S 19. The first undesignated paragraph of section 230.32 of the penal law, as added by chapter 627 of the laws of 1978, is amended to read as follows:

A person is guilty of promoting prostitution in the first degree when he OR SHE:

1. knowingly advances or profits from prostitution of a person less than [eleven] THIRTEEN years old; OR

2. BEING TWENTY-ONE YEARS OLD OR MORE, HE OR SHE KNOWINGLY ADVANCES OR PROFITS FROM PROSTITUTION OF A PERSON LESS THAN FIFTEEN YEARS OF AGE.

S 20. Section 230.33 of the penal law, as added by chapter 450 of the laws of 2005, is amended to read as follows:

S 230.33 Compelling prostitution.

A person is guilty of compelling prostitution when, being [twenty-one] EIGHTEEN years [of age or older] OLD OR MORE, he or she knowingly advances prostitution by compelling a person less than [sixteen] EIGHTEEN years old, by force or intimidation, to engage in prostitution.

Compelling prostitution is a class B felony.

S 21. Intentionally omitted.

S 22. Section 230.35 of the penal law, as amended by chapter 450 of the laws of 2005, is amended to read as follows:

S 230.35 Promoting or compelling prostitution; accomplice.

In a prosecution for promoting prostitution or compelling prostitution, a person less than [seventeen] EIGHTEEN years [of age] OLD from whose prostitution activity another person is alleged to have advanced or attempted to advance or profited or attempted to profit shall not be deemed to be an accomplice.

S 23. The first undesignated paragraph of section 230.40 of the penal law is amended to read as follows:

A person is guilty of permitting prostitution when, having possession or control of premises OR VEHICLE which he OR SHE knows are being used for prostitution purposes OR FOR THE PURPOSE OF ADVANCING PROSTITUTION, he OR SHE fails to make reasonable effort to halt or abate such use.

S 24. Subdivision 2 of section 240.37 of the penal law, as added by chapter 344 of the laws of 1976, is amended, and subdivision 3 is renumbered subdivision 4 and a new subdivision 3 is added to read as follows:

2. Any person who remains or wanders about in a public place and repeatedly beckons to, or repeatedly stops, or repeatedly attempts to stop, or repeatedly attempts to engage passers-by in conversation, or repeatedly stops or attempts to stop motor vehicles, or repeatedly interferes with the free passage of other persons, for the purpose of prostitution[, or of patronizing a prostitute as those terms are] AS THAT TERM IS defined in article two hundred thirty of [the penal law] THIS PART, shall be guilty of a violation and is guilty of a class B misdemeanor if such person has previously been convicted of a violation of this section or of [sections] SECTION 230.00 [or 230.05] of [the penal law] THIS PART.

3. ANY PERSON WHO REMAINS OR WANDERS ABOUT IN A PUBLIC PLACE AND REPEATEDLY BECKONS TO, OR REPEATEDLY STOPS, OR REPEATEDLY ATTEMPTS TO STOP, OR REPEATEDLY ATTEMPTS TO ENGAGE PASSERS-BY IN CONVERSATION, OR REPEATEDLY STOPS OR ATTEMPTS TO STOP MOTOR VEHICLES, OR REPEATEDLY INTERFERES WITH THE FREE PASSAGE OF OTHER PERSONS, FOR THE PURPOSE OF PATRONIZING A PERSON FOR PROSTITUTION AS DEFINED IN SECTION 230.02 OF THIS PART, SHALL BE GUILTY OF A VIOLATION AND IS GUILTY OF A CLASS B MISDEMEANOR IF SUCH PERSON HAS PREVIOUSLY BEEN CONVICTED OF A VIOLATION OF THIS SECTION OR OF SECTION 230.04, 230.05, 230.06 OR 230.08 OF THIS PART.

S 25. Subdivision 6 of section 380.50 of the criminal procedure law, as amended by chapter 320 of the laws of 2006, is amended to read as follows:

6. Regardless of whether the victim requests to make a statement with regard to the defendant's sentence, where the defendant is sentenced for a violent felony offense as defined in section 70.02 of the penal law or a felony defined in article one hundred twenty-five of such law or any

of the following provisions of such law sections 130.25, 130.30, 130.40, 130.45, 255.25, 255.26, 255.27, article two hundred sixty-three, 135.10, 135.25, 230.05, 230.06, 230.11, 230.12, 230.13, subdivision two of section 230.30 or 230.32, the prosecutor shall, within sixty days of the imposition of sentence, provide the victim with a form on which the victim may indicate a demand to be informed of any petition to change the name of such defendant. Such forms shall be maintained by such prosecutor. Upon receipt of a notice of a petition to change the name of any such defendant, pursuant to subdivision two of section sixty-two of the civil rights law, the prosecutor shall promptly notify the victim at the most current address or telephone number provided by such victim in the most reasonable and expedient possible manner of the time and place such petition will be presented to the court.

S 26. Paragraph (i) of subdivision 1 of section 440.10 of the criminal procedure law, as added by chapter 332 of the laws of 2010, is amended to read as follows:

(i) The judgment is a conviction where the arresting charge was under section 240.37 (loitering for the purpose of engaging in a prostitution offense, provided that the defendant was not alleged to be loitering for the purpose of patronizing a prostitute or promoting prostitution) or 230.00 (prostitution) OR 230.03 of the penal law, and the defendant's participation in the offense was a result of having been a victim of sex trafficking under section 230.34 of the penal law, LABOR TRAFFICKING UNDER SECTION 135.35 OF THE PENAL LAW, AGGRAVATED LABOR TRAFFICKING UNDER SECTION 135.37 OF THE PENAL LAW, COMPELLING PROSTITUTION UNDER SECTION 230.33 OF THE PENAL LAW, or trafficking in persons under the Trafficking Victims Protection Act (United States Code, title 22, chapter 78); provided that

(i) a motion under this paragraph shall be made with due diligence, after the defendant has ceased to be a victim of such trafficking OR COMPELLING PROSTITUTION CRIME or has sought services for victims of such trafficking OR COMPELLING PROSTITUTION CRIME, subject to reasonable concerns for the safety of the defendant, family members of the defendant, or other victims of such trafficking OR COMPELLING PROSTITUTION CRIME that may be jeopardized by the bringing of such motion, or for other reasons consistent with the purpose of this paragraph; and

(ii) official documentation of the defendant's status as a victim of [sex] trafficking, COMPELLING PROSTITUTION or trafficking in persons at the time of the offense from a federal, state or local government agency shall create a presumption that the defendant's participation in the offense was a result of having been a victim of sex trafficking, COMPELLING PROSTITUTION or trafficking in persons, but shall not be required for granting a motion under this paragraph.

S 27. Intentionally omitted.

S 28. Section 483-bb of the social services law is amended by adding a new subdivision (c) to read as follows:

(C) AN INDIVIDUAL WHO IS A VICTIM OF THE CONDUCT PROHIBITED BY SECTION 230.33, 230.34, 135.35 OR 135.37 OF THE PENAL LAW MAY BRING A CIVIL ACTION AGAINST THE PERPETRATOR OR WHOEVER KNOWINGLY ADVANCES OR PROFITS FROM, OR WHOEVER SHOULD HAVE KNOWN HE OR SHE WAS ADVANCING OR PROFITING FROM, AN ACT IN VIOLATION OF SECTION 230.33, 230.34, 135.35 OR 135.37 OF THE PENAL LAW TO RECOVER DAMAGES AND REASONABLE ATTORNEY'S FEES.

S 29. Section 212 of the civil practice law and rules is amended by adding a new subdivision (e) to read as follows:

(E) BY A VICTIM OF SEX TRAFFICKING, COMPELLING PROSTITUTION, OR LABOR TRAFFICKING. AN ACTION BY A VICTIM OF SEX TRAFFICKING, COMPELLING PROS-

TITUTION, LABOR TRAFFICKING OR AGGRAVATED LABOR TRAFFICKING, BROUGHT PURSUANT TO SUBDIVISION (C) OF SECTION FOUR HUNDRED EIGHTY-THREE-BB OF THE SOCIAL SERVICES LAW, MAY BE COMMENCED WITHIN TEN YEARS AFTER SUCH VICTIMIZATION OCCURS PROVIDED, HOWEVER, THAT SUCH TEN YEAR PERIOD SHALL NOT BEGIN TO RUN AND SHALL BE TOLLED DURING ANY PERIOD IN WHICH THE VICTIM IS OR REMAINS SUBJECT TO SUCH CONDUCT.

S 30. Subdivision (a) of section 483-cc of the social services law, as added by chapter 74 of the laws of 2007, is amended to read as follows:

(a) As soon as practicable after a first encounter with a person who reasonably appears to a law enforcement agency [or a], district attorney's office, OR AN ESTABLISHED PROVIDER OF SOCIAL OR LEGAL SERVICES DESIGNATED BY THE OFFICE OF TEMPORARY AND AND DISABILITY ASSISTANCE OR THE OFFICE FOR THE PREVENTION OF DOMESTIC VIOLENCE OR THE OFFICE OF VICTIM SERVICES to be a human trafficking victim, that [agency or] LAW ENFORCEMENT AGENCY OR DISTRICT ATTORNEY'S office shall notify the office of temporary and disability assistance and the division of criminal justice services that such person may be eligible for services under this article OR, IN THE CASE OF AN ESTABLISHED PROVIDER OF SOCIAL OR LEGAL SERVICES, SHALL NOTIFY THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE AND THE DIVISION OF CRIMINAL JUSTICE SERVICES IF SUCH VICTIM CONSENTS TO SEEKING SERVICES PURSUANT TO THIS ARTICLE.

S 31. Intentionally omitted.

S 32. Section 14 of chapter 74 of the laws of 2007, amending the penal law, the criminal procedure law, the correction law, the social services law, and the executive law relating to human trafficking, as amended by chapter 24 of the laws of 2011, is amended to read as follows:

S 14. This act shall take effect on the first of November next succeeding the date on which it shall have become a law; provided that section 483-ee of the social services law, as added by section eleven of this act, shall take effect immediately and shall remain in full force and effect until September 1, [2013] 2017 when upon such date the provisions of such section shall expire and be deemed repealed. Provided, effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the timely implementation of the provisions of article 10-D of the social services law, as added by section eleven of this act, on its effective date are authorized to be made on or before such effective date.

S 33. Subdivision (p) of section 10.03 of the mental hygiene law, as added by chapter 7 of the laws of 2007, is amended to read as follows:

(p) "Sex offense" means an act or acts constituting: (1) any felony defined in article one hundred thirty of the penal law, including a sexually motivated felony; (2) patronizing a [prostitute] PERSON FOR PROSTITUTION in the first degree as defined in section 230.06 of the penal law, AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE FIRST DEGREE AS DEFINED IN SECTION 230.13 OF THE PENAL LAW, AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE SECOND DEGREE AS DEFINED IN SECTION 230.12 OF THE PENAL LAW, AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE THIRD DEGREE AS DEFINED IN SECTION 230.11 OF THE PENAL LAW, incest in the second degree as defined in section 255.26 of the penal law, or incest in the first degree as defined in section 255.27 of the penal law; (3) a felony attempt or conspiracy to commit any of the foregoing offenses set forth in this subdivision; or (4) a designated felony, as defined in subdivision (f) of this section, if sexually motivated and committed prior to the effective date of this article.

S 34. Subparagraph (i) of paragraph (a) of subdivision 2 of section 168-a of the correction law, as amended by chapter 405 of the laws of 2008, is amended to read as follows:

(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] 230.11, 230.12, 230.13, subdivision two of section 230.30, [or] section 230.32 [or], 230.33, OR 230.34 of the penal law, OR SECTION 230.25 OF THE PENAL LAW WHERE THE PERSON PROSTITUTED IS IN FACT LESS THAN SEVENTEEN YEARS OLD, or

S 35. Paragraph (b) of subdivision 1 of section 168-d of the correction law, as amended by chapter 74 of the laws of 2007, is amended to read as follows:

(b) Where a defendant stands convicted of an offense defined in paragraph (b) of subdivision two of section one hundred sixty-eight-a of this article or where the defendant was convicted of patronizing a [prostitute] PERSON FOR PROSTITUTION in the third degree under section 230.04 of the penal law and the defendant controverts an allegation that the victim of such offense was less than eighteen years of age or, in the case of a conviction under section 230.04 of the penal law, less than seventeen years of age, the court, without a jury, shall, prior to sentencing, conduct a hearing, and the people may prove by clear and convincing evidence that the victim was less than eighteen years [of age] OLD or less than seventeen years [of age] OLD, as applicable, by any evidence admissible under the rules applicable to a trial of the issue of guilt. The court in addition to such admissible evidence may also consider reliable hearsay evidence submitted by either party provided that it is relevant to the determination of the age of the victim. Facts concerning the age of the victim proven at trial or ascertained at the time of entry of a plea of guilty shall be deemed established by clear and convincing evidence and shall not be relitigated. At the conclusion of the hearing, or if the defendant does not controvert an allegation that the victim of the offense was less than eighteen years [of age] OLD or less than seventeen years [of age] OLD, as applicable, the court must make a finding and enter an order setting forth the age of the victim. If the court finds that the victim of such offense was under eighteen years [of age] OLD or under seventeen years [of age] OLD, as applicable, the court shall certify the defendant as a sex offender, the provisions of paragraph (a) of this subdivision shall apply and the defendant shall register with the division in accordance with the provisions of this article.

S 36. Paragraph (c) of subdivision 4 of section 509-cc of the vehicle and traffic law, as amended by chapter 400 of the laws of 2011, is amended to read as follows:

(c) The offenses referred to in subparagraph (i) of paragraph (b) of subdivision one and subparagraph (i) of paragraph (c) of subdivision two of this section that result in disqualification for a period of five years shall include a conviction under sections 100.10, 105.13, 115.05, 120.03, 120.04, 120.04-a, 120.05, 120.10, 120.25, 121.12, 121.13, 125.40, 125.45, 130.20, 130.25, 130.52, 130.55, 135.10, 135.55, 140.17, 140.25, 140.30, 145.12, 150.10, 150.15, 160.05, 160.10, 220.06, 220.09,

220.16, 220.31, 220.34, 220.60, 220.65, 221.30, 221.50, 221.55, 230.00, 230.05, 230.06, 230.11, 230.12, 230.13, 230.19, 230.20, 235.05, 235.06, 235.07, 235.21, 240.06, 245.00, 260.10, subdivision two of section 260.20 and sections 260.25, 265.02, 265.03, 265.08, 265.09, 265.10, 265.12, 265.35 of the penal law or an attempt to commit any of the aforesaid offenses under section 110.00 of the penal law, or any similar offenses committed under a former section of the penal law, or any offenses committed under a former section of the penal law which would constitute violations of the aforesaid sections of the penal law, or any offenses committed outside this state which would constitute violations of the aforesaid sections of the penal law.

S 36-a. The vehicle and traffic law is amended by adding a new section 510-d to read as follows:

S 510-D. SUSPENSION AND REVOCATION OF CLASS E DRIVER'S LICENSES. 1. A CLASS E DRIVER'S LICENSE SHALL BE SUSPENDED BY THE COMMISSIONER FOR A PERIOD OF ONE YEAR WHERE THE HOLDER IS CONVICTED OF A VIOLATION OF SECTION 230.20, 230.25, 230.30, 230.32, 230.34 OR 230.40 OF THE PENAL LAW AND THE HOLDER USED A FOR HIRE MOTOR VEHICLE TO COMMIT SUCH CRIME.

2. A CLASS E DRIVER'S LICENSE MAY BE REVOKED BY THE COMMISSIONER WHEN THE HOLDER, WHO HAD HIS OR HER DRIVER'S LICENSE SUSPENDED UNDER SUBDIVISION ONE OF THIS SECTION WITHIN THE LAST TEN YEARS, IS CONVICTED OF A SECOND VIOLATION OF SECTION 230.20, 230.25, 230.30, 230.32, 230.34 OR 230.40 OF THE PENAL LAW AND THE HOLDER USED A FOR HIRE MOTOR VEHICLE TO COMMIT SUCH CRIME.

3. ANY REVOCATION OR SUSPENSION OF A CLASS E DRIVER'S LICENSE ISSUED PURSUANT TO THIS ARTICLE SHALL BE APPLICABLE ONLY TO THAT PORTION OF THE HOLDER'S DRIVER'S LICENSE OR PRIVILEGE WHICH PERMITS THE OPERATION OF A MOTOR VEHICLE TRANSPORTING PASSENGERS FOR HIRE, AND THE COMMISSIONER SHALL IMMEDIATELY ISSUE A LICENSE, OTHER THAN A CLASS E DRIVER'S LICENSE, TO SUCH PERSON, PROVIDED THAT SUCH PERSON IS OTHERWISE ELIGIBLE TO RECEIVE SUCH LICENSE AND FURTHER PROVIDED THAT ISSUING A LICENSE TO SUCH PERSON DOES NOT CREATE A SUBSTANTIAL TRAFFIC SAFETY HAZARD.

4. THE PROVISIONS OF THIS SECTION SHALL NOT BE CONSTRUED TO PREVENT ANY PERSON WHO HAS THE AUTHORITY TO SUSPEND OR REVOKE A LICENSE TO DRIVE OR PRIVILEGE OF OPERATING PURSUANT TO SECTION FIVE HUNDRED TEN OF THIS ARTICLE FROM EXERCISING ANY SUCH AUTHORITY.

S 37. Section 2324-a of the public health law, as amended by chapter 260 of the laws of 1978, is amended to read as follows:

S 2324-a. Presumptive evidence. For the purposes of this title, two or more convictions of any person or persons had, within a period of one year, for any of the offenses described in section 230.00, 230.05, 230.06, 230.08, 230.11, 230.12, 230.13, 230.20, 230.25 [or], 230.30 OR 230.32 of the penal law arising out of conduct engaged in at the same real property consisting of a dwelling as that term is defined in subdivision four of section four of the multiple dwelling law shall be presumptive evidence of conduct constituting use of the premises for purposes of prostitution.

S 38. Subdivision 2 of section 715 of the real property actions and proceedings law, as added by chapter 494 of the laws of 1976, is amended to read as follows:

2. For purposes of this section, two or more convictions of any person or persons had, within a period of one year, for any of the offenses described in section 230.00, 230.05, 230.06, 230.11, 230.12, 230.13, 230.20, 230.25, 230.30, 230.32 or 230.40 of the penal law arising out of conduct engaged in at the same real property consisting of a dwelling as that term is defined in subdivision four of section four of the multiple

dwelling law shall be presumptive evidence of conduct constituting use of the premises for purposes of prostitution.

S 39. Subdivision 3 of section 231 of the real property law, as amended by chapter 203 of the laws of 1980, is amended to read as follows:

3. For the purposes of this section, two or more convictions of any person or persons had, within a period of one year, for any of the offenses described in section 230.00, 230.05, 230.06, 230.11, 230.12, 230.13, 230.20, 230.25, 230.30, 230.32 or 230.40 of the penal law arising out of conduct engaged in at the same premises consisting of a dwelling as that term is defined in subdivision four of section four of the multiple dwelling law shall be presumptive evidence of unlawful use of such premises and of the owners knowledge of the same.

S 40. Subdivision 3 of section 840 of the executive law is amended by adding a new paragraph (f-1) to read as follows:

(F-1) DEVELOP, MAINTAIN AND DISSEMINATE, IN CONSULTATION WITH THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE AND THE DIVISION OF CRIMINAL JUSTICE SERVICES, WRITTEN POLICIES AND PROCEDURES REGARDING HUMAN TRAFFICKING VICTIMS. SUCH POLICIES AND PROCEDURES SHALL INCLUDE, BUT NOT BE LIMITED TO THE FOLLOWING: (1) THE IDENTIFICATION OF POTENTIAL VICTIMS OF HUMAN TRAFFICKING, AS DEFINED UNDER SECTION FOUR HUNDRED EIGHTY-THREE-AA OF THE SOCIAL SERVICES LAW; AND (2) INFORMATION AND/OR REFERRAL TO APPROPRIATE SOCIAL AND LEGAL SERVICES FOR VICTIMS OF HUMAN TRAFFICKING IN ACCORDANCE WITH SECTION FOUR HUNDRED EIGHTY-THREE-BB OF THE SOCIAL SERVICES LAW;

S 41. The executive law is amended by adding a new section 214-d to read as follows:

S 214-D. HUMAN TRAFFICKING AWARENESS. THE SUPERINTENDENT, IN CONSULTATION WITH THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE AND THE DIVISION OF CRIMINAL JUSTICE SERVICES, SHALL: (1) DEVELOP, MAINTAIN AND DISSEMINATE TO ALL MEMBERS OF THE STATE POLICE, INCLUDING NEW AND VETERAN OFFICERS, WRITTEN POLICIES, PROCEDURES AND EDUCATIONAL MATERIALS RELATING TO HUMAN TRAFFICKING VICTIMS, INCLUDING SERVICES AVAILABLE FOR VICTIMS OF HUMAN TRAFFICKING, AS REFERENCED IN SECTION FOUR HUNDRED EIGHTY-THREE-BB OF THE SOCIAL SERVICES LAW; AND (2) ESTABLISH AND IMPLEMENT WRITTEN PROCEDURES AND POLICIES IN THE EVENT A MEMBER OF THE DIVISION OF STATE POLICE ENCOUNTERS AN INDIVIDUAL BELIEVED TO BE A VICTIM OF HUMAN TRAFFICKING, WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO, THE PROVISION OF INFORMATION AND/OR REFERRAL TO AN APPROPRIATE PROVIDER OF SOCIAL AND LEGAL SERVICES TO HUMAN TRAFFICKING VICTIMS, IN ACCORDANCE WITH SUCH SECTION FOUR HUNDRED EIGHTY-THREE-BB.

S 42. This act shall take effect on the ninetieth day after it shall have become a law.

PART H

Section 1. Subdivision 21-e of section 292 of the executive law, as added by chapter 269 of the laws of 1997, is amended and a new subdivision 21-f is added to read as follows:

21-e. The term "reasonable accommodation" means actions taken which permit an employee, prospective employee or member with a disability, OR A PREGNANCY-RELATED CONDITION, to perform in a reasonable manner the activities involved in the job or occupation sought or held and include, but are not limited to, provision of an accessible worksite, acquisition or modification of equipment, support services for persons with impaired hearing or vision, job restructuring and modified work schedules;

provided, however, that such actions do not impose an undue hardship on the business, program or enterprise of the entity from which action is requested.

21-F. THE TERM "PREGNANCY-RELATED CONDITION" MEANS A MEDICAL CONDITION RELATED TO PREGNANCY OR CHILDBIRTH THAT INHIBITS THE EXERCISE OF A NORMAL BODILY FUNCTION OR IS DEMONSTRABLE BY MEDICALLY ACCEPTED CLINICAL OR LABORATORY DIAGNOSTIC TECHNIQUES; PROVIDED, HOWEVER, THAT IN ALL PROVISIONS OF THIS ARTICLE DEALING WITH EMPLOYMENT, THE TERM SHALL BE LIMITED TO CONDITIONS WHICH, UPON THE PROVISION OF REASONABLE ACCOMMODATIONS, DO NOT PREVENT THE COMPLAINANT FROM PERFORMING IN A REASONABLE MANNER THE ACTIVITIES INVOLVED IN THE JOB OR OCCUPATION SOUGHT OR HELD; AND PROVIDED FURTHER, HOWEVER, THAT PREGNANCY-RELATED CONDITIONS SHALL BE TREATED AS TEMPORARY DISABILITIES FOR THE PURPOSES OF THIS ARTICLE.

S 2. Paragraph (a) of subdivision 3 of section 296 of the executive law, as added by chapter 269 of the laws of 1997, is amended and two new paragraphs (c) and (d) are added to read as follows:

(a) It shall be an unlawful discriminatory practice for an employer, licensing agency, employment agency or labor organization to refuse to provide reasonable accommodations to the known disabilities, OR PREGNANCY-RELATED CONDITIONS, of an employee, prospective employee or member in connection with a job or occupation sought or held or participation in a training program.

(C) THE EMPLOYEE MUST COOPERATE IN PROVIDING MEDICAL OR OTHER INFORMATION THAT IS NECESSARY TO VERIFY THE EXISTENCE OF THE DISABILITY OR PREGNANCY-RELATED CONDITION, OR THAT IS NECESSARY FOR CONSIDERATION OF THE ACCOMMODATION. THE EMPLOYEE HAS A RIGHT TO HAVE SUCH MEDICAL INFORMATION KEPT CONFIDENTIAL.

(D) NOTHING IN THIS SUBDIVISION REGARDING "REASONABLE ACCOMMODATION" OR IN PART D OF THE CHAPTER OF THE LAWS OF TWO THOUSAND THIRTEEN WHICH ADDED THIS PARAGRAPH SHALL ALTER, DIMINISH, INCREASE, OR CREATE NEW OR ADDITIONAL REQUIREMENTS TO ACCOMMODATE PROTECTED CLASSES PURSUANT TO THIS ARTICLE OTHER THAN THE ADDITIONAL REQUIREMENTS AS EXPLICITLY SET FORTH IN SUCH CHAPTER OF THE LAWS OF TWO THOUSAND THIRTEEN.

S 3. This act shall take effect on the ninetieth day after it shall have become a law.

PART I

Section 1. The public health law is amended by adding a new section 4166 to read as follows:

S 4166. ACCESS TO REPRODUCTIVE SERVICES. THE STATE SHALL NOT DENY A WOMAN'S RIGHT TO OBTAIN AN ABORTION AS ESTABLISHED BY THE UNITED STATES SUPREME COURT IN THE DECISION ROE V. WADE, 410 U.S.113 (1973). NOTWITHSTANDING ANY LAW TO THE CONTRARY, NEW YORK PROTECTS A WOMAN'S RIGHT TO TERMINATE A PREGNANCY WITHIN TWENTY-FOUR WEEKS FROM COMMENCEMENT OF HER PREGNANCY, OR WHEN NECESSARY TO PROTECT A WOMAN'S LIFE OR HEALTH AS DETERMINED BY A LICENSED PHYSICIAN.

NOTHING IN THIS SECTION SHALL BE CONSTRUED TO CONFLICT WITH ANY APPLICABLE STATE OR FEDERAL LAW OR REGULATION PERMITTING A HEALTH CARE PROVIDER TO REFRAIN FROM PROVIDING ABORTIONS DUE TO THE PROVIDER'S RELIGIOUS OR MORAL BELIEFS.

NOTHING IN THIS SECTION SHALL CONFLICT WITH THE PARTIAL BIRTH ABORTION BAN CODIFIED UNDER 18 USC SECTION 1531.

NO PROSECUTION OR PROCEEDING SHALL BE BROUGHT OR MAINTAINED UNDER THE PENAL LAW OR OTHERWISE FOR ACTS THAT ARE AUTHORIZED OR PERMITTED PURSUANT TO THIS SECTION OR BY THIS CHAPTER AND THE EDUCATION LAW.

SUBDIVISIONS TWO AND THREE OF SECTION 125.05, SUBDIVISION TWO OF SECTION 125.15, SUBDIVISION THREE OF SECTION 125.20 AND SECTIONS 125.40, 125.45, 125.50, 125.55 AND 125.60 OF THE PENAL LAW ARE HEREBY REPEALED TO THE EXTENT THAT THEY ARE INCONSISTENT WITH THIS SECTION.

S 2. This act shall take effect on the thirtieth day after it shall have become a law.

S 3. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 4. This act shall take effect immediately provided, however, that the applicable effective date of Parts A through I of this act shall be as specifically set forth in the last section of such Parts.