

STATE OF NEW YORK

4249

2017-2018 Regular Sessions

IN ASSEMBLY

February 2, 2017

Introduced by M. of A. SIMOTAS, COLTON, AUBRY, ENGLEBRIGHT, BRAUNSTEIN, DenDEKKER, BRINDISI, MORELLE, JAFFEE, PERRY, COOK, HOOPER, WEPRIN, SANTABARBARA, SKOUFIS, ROZIC, HEVESI, QUART, LIFTON, GJONAJ, OTIS, SEPULVEDA, MOSLEY, HAWLEY -- Multi-Sponsored by -- M. of A. ARROYO, BUCHWALD, FINCH, FITZPATRICK, GALEF, GLICK, HIKIND, LUPARDO, MALLIO-TAKIS, McDONOUGH, MONTESANO, PEOPLES-STOKES, RA, WALTER -- read once and referred to the Committee on Codes

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

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

1 Section 1. Sections 130.40, 130.45 and 130.50 of the penal law are
2 REPEALED.

3 § 2. Subdivisions 1 and 2 of section 130.00 of the penal law, subdivi-
4 sion 2 as amended by chapter 264 of the laws of 2003, are amended to
5 read as follows:

6 1. "[~~Sexual intercourse~~] Vaginal sexual contact" [~~has its ordinary~~
7 ~~meaning and occurs upon any penetration, however slight~~] means conduct
8 between persons consisting of contact between the penis and the vagina
9 or vulva.

10 2. (a) "Oral sexual [~~conduct~~] contact" means conduct between persons
11 consisting of contact between the mouth and the penis, the mouth and the
12 anus, or the mouth and the vulva or vagina.

13 (b) "Anal sexual [~~conduct~~] contact" means conduct between persons
14 consisting of contact between the penis and anus.

15 § 3. Section 130.25 of the penal law, as amended by chapter 1 of the
16 laws of 2000, is amended to read as follows:

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

LBD04197-01-7

§ 130.25 Rape in the third degree.

A person is guilty of rape in the third degree when:

1. He or she engages in [~~sexual intercourse~~] vaginal sexual contact with another person who is incapable of consent by reason of some factor other than being less than seventeen years old;

2. He or she engages in oral sexual contact with another person who is incapable of consent by reason of some factor other than being less than seventeen years old;

3. He or she engages in anal sexual contact with another person who is incapable of consent by reason of some other factor other than being less than seventeen years old;

4. Being twenty-one years old or more, he or she engages in [~~sexual intercourse~~] vaginal sexual contact with another person less than seventeen years old; [~~or~~

~~3-~~] 5. Being twenty-one years old or more, he or she engages in oral sexual contact with another person less than seventeen years old;

6. Being twenty-one years old or more, he or she engages in anal sexual contact with another person less than seventeen years old;

7. He or she engages in [~~sexual intercourse~~] vaginal sexual contact with another person without such person's consent where such lack of consent is by reason of some factor other than incapacity to consent[~~-~~];

8. He or she engages in oral sexual contact with another person without such person's consent where such lack of consent is by reason of some factor other than incapacity to consent; or

9. He or she engages in anal sexual contact with another person without such person's consent where such lack of consent is by reason of some factor other than the incapacity to consent.

Rape in the third degree is a class E felony.

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

§ 130.30 Rape in the second degree.

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

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

2. being eighteen years old or more, he or she engages in oral sexual contact with another person less than fifteen years old;

3. being eighteen years old or more, he or she engages in anal sexual contact with another person less than fifteen years old;

4. he or she engages in [~~sexual intercourse~~] vaginal sexual contact with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated[~~-~~];

5. he or she engages in oral sexual contact with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated; or

6. he or she engages in anal sexual contact with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated.

It shall be an affirmative defense to the crime of rape in the second degree as defined in [~~subdivision~~] subdivisions one, two and three of this section that the defendant was less than four years older than the victim at the time of the act.

Rape in the second degree is a class D felony.

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

§ 130.35 Rape in the first degree.

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

2 1. he or she engages in ~~[sexual intercourse]~~ vaginal sexual contact
3 with another person:

4 ~~[1-]~~ (a) By forcible compulsion; or

5 ~~[2-]~~ (b) Who is incapable of consent by reason of being physically
6 helpless; or

7 ~~[3-]~~ (c) Who is less than eleven years old; or

8 ~~[4-]~~ (d) Who is less than thirteen years old and the actor is eighteen
9 years old or more~~[-]~~;

10 2. he or she engages in oral sexual contact with another person:

11 (a) By forcible compulsion; or

12 (b) Who is incapable of consent by reason of being physically help-
13 less; or

14 (c) Who is less than eleven years old; or

15 (d) Who is less than thirteen years old and the actor is eighteen
16 years old or more; or

17 3. he or she engages in anal sexual contact with another person:

18 (a) by forcible compulsion; or

19 (b) who is incapable of consent by reason of being physically help-
20 less; or

21 (c) who is less than eleven years old; or

22 (d) who is less than thirteen years old and the actor is eighteen
23 years old or more.

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

25 § 6. Paragraph 2 of subdivision 18 of section 10.00 of the penal law,
26 as amended by chapter 7 of the laws of 2007, is amended to read as
27 follows:

28 (2) a person fourteen or fifteen years old who is criminally responsi-
29 ble for acts constituting the crimes defined in subdivisions one and two
30 of section 125.25 (murder in the second degree) and in subdivision three
31 of such section provided that the underlying crime for the murder charge
32 is one for which such person is criminally responsible; section 135.25
33 (kidnapping in the first degree); 150.20 (arson in the first degree);
34 subdivisions one and two of section 120.10 (assault in the first
35 degree); 125.20 (manslaughter in the first degree); ~~[subdivisions one~~
36 ~~and]~~ paragraphs (a) and (b) of subdivision one, paragraphs (a) and (b)
37 of subdivision two, and paragraphs (a) and (b) of subdivision three of
38 section 130.35 (rape in the first degree); ~~[subdivisions one and two of~~
39 ~~section 130.50 (criminal sexual act in the first degree);]~~ 130.70
40 (aggravated sexual abuse in the first degree); 140.30 (burglary in the
41 first degree); subdivision one of section 140.25 (burglary in the second
42 degree); 150.15 (arson in the second degree); 160.15 (robbery in the
43 first degree); subdivision two of section 160.10 (robbery in the second
44 degree) of this chapter; or section 265.03 of this chapter, where such
45 machine gun or such firearm is possessed on school grounds, as that
46 phrase is defined in subdivision fourteen of section 220.00 of this
47 chapter; or defined in this chapter as an attempt to commit murder in
48 the second degree or kidnapping in the first degree, or such conduct as
49 a sexually motivated felony, where authorized pursuant to section 130.91
50 of ~~[the penal law]~~ this chapter.

51 § 7. Subdivision 2 of section 30.00 of the penal law, as amended by
52 chapter 7 of the laws of 2007, is amended to read as follows:

53 2. A person thirteen, fourteen or fifteen years of age is criminally
54 responsible for acts constituting murder in the second degree as defined
55 in subdivisions one and two of section 125.25 and in subdivision three
56 of such section provided that the underlying crime for the murder charge

1 is one for which such person is criminally responsible or for such
2 conduct as a sexually motivated felony, where authorized pursuant to
3 section 130.91 [~~of the penal law~~]; and a person fourteen or fifteen
4 years of age is criminally responsible for acts constituting the crimes
5 defined in section 135.25 (kidnapping in the first degree); 150.20
6 (arson in the first degree); subdivisions one and two of section 120.10
7 (assault in the first degree); 125.20 (manslaughter in the first
8 degree); [~~subdivisions one and~~] paragraphs (a) and (b) of subdivision
9 one, paragraphs (a) and (b) of subdivision two, and paragraphs (a) and
10 (b) of subdivision three of section 130.35 (rape in the first degree);
11 [~~subdivisions one and two of section 130.50 (criminal sexual act in the~~
12 ~~first degree); 130.70 (aggravated sexual abuse in the first degree);~~]
13 140.30 (burglary in the first degree); subdivision one of section 140.25
14 (burglary in the second degree); 150.15 (arson in the second degree);
15 160.15 (robbery in the first degree); subdivision two of section 160.10
16 (robbery in the second degree) of this chapter; or section 265.03 of
17 this chapter, where such machine gun or such firearm is possessed on
18 school grounds, as that phrase is defined in subdivision fourteen of
19 section 220.00 of this chapter; or defined in this chapter as an attempt
20 to commit murder in the second degree or kidnapping in the first degree,
21 or for such conduct as a sexually motivated felony, where authorized
22 pursuant to section 130.91 of [~~the penal law~~] this chapter.

23 § 8. Paragraph (b) of subdivision 2 of section 35.15 of the penal law,
24 as amended by chapter 511 of the laws of 2004, is amended to read as
25 follows:

26 (b) He or she reasonably believes that such other person is committing
27 or attempting to commit a kidnapping, forcible rape, [~~forcible criminal~~
28 ~~sexual act~~] forcible aggravated sexual abuse, or robbery; or

29 § 9. Paragraphs (a) and (c) of subdivision 1 of section 70.02 of the
30 penal law, as amended by chapter 368 of the laws of 2015, are amended to
31 read as follows:

32 (a) Class B violent felony offenses: an attempt to commit the class
33 A-I felonies of murder in the second degree as defined in section
34 125.25, kidnapping in the first degree as defined in section 135.25, and
35 arson in the first degree as defined in section 150.20; manslaughter in
36 the first degree as defined in section 125.20, aggravated manslaughter
37 in the first degree as defined in section 125.22, rape in the first
38 degree as defined in section 130.35, [~~criminal sexual act in the first~~
39 ~~degree as defined in section 130.50,~~] aggravated sexual abuse in the
40 first degree as defined in section 130.70, course of sexual conduct
41 against a child in the first degree as defined in section 130.75;
42 assault in the first degree as defined in section 120.10, kidnapping in
43 the second degree as defined in section 135.20, burglary in the first
44 degree as defined in section 140.30, arson in the second degree as
45 defined in section 150.15, robbery in the first degree as defined in
46 section 160.15, sex trafficking as defined in paragraphs (a) and (b) of
47 subdivision five of section 230.34, incest in the first degree as
48 defined in section 255.27, criminal possession of a weapon in the first
49 degree as defined in section 265.04, criminal use of a firearm in the
50 first degree as defined in section 265.09, criminal sale of a firearm in
51 the first degree as defined in section 265.13, aggravated assault upon a
52 police officer or a peace officer as defined in section 120.11, gang
53 assault in the first degree as defined in section 120.07, intimidating a
54 victim or witness in the first degree as defined in section 215.17,
55 hindering prosecution of terrorism in the first degree as defined in
56 section 490.35, criminal possession of a chemical weapon or biological

1 weapon in the second degree as defined in section 490.40, and criminal
2 use of a chemical weapon or biological weapon in the third degree as
3 defined in section 490.47.

4 (c) Class D violent felony offenses: an attempt to commit any of the
5 class C felonies set forth in paragraph (b); reckless assault of a child
6 as defined in section 120.02, assault in the second degree as defined in
7 section 120.05, menacing a police officer or peace officer as defined in
8 section 120.18, stalking in the first degree, as defined in subdivision
9 one of section 120.60, strangulation in the second degree as defined in
10 section 121.12, rape in the second degree as defined in section 130.30,
11 ~~[criminal sexual act in the second degree as defined in section 130.45,~~
12 sexual abuse in the first degree as defined in section 130.65, course of
13 sexual conduct against a child in the second degree as defined in
14 section 130.80, aggravated sexual abuse in the third degree as defined
15 in section 130.66, facilitating a sex offense with a controlled
16 substance as defined in section 130.90, labor trafficking as defined in
17 paragraphs (a) and (b) of subdivision three of section 135.35, criminal
18 possession of a weapon in the third degree as defined in subdivision
19 five, six, seven, eight, nine or ten of section 265.02, criminal sale of
20 a firearm in the third degree as defined in section 265.11, intimidating
21 a victim or witness in the second degree as defined in section 215.16,
22 soliciting or providing support for an act of terrorism in the second
23 degree as defined in section 490.10, and making a terroristic threat as
24 defined in section 490.20, falsely reporting an incident in the first
25 degree as defined in section 240.60, placing a false bomb or hazardous
26 substance in the first degree as defined in section 240.62, placing a
27 false bomb or hazardous substance in a sports stadium or arena, mass
28 transportation facility or enclosed shopping mall as defined in section
29 240.63, and aggravated unpermitted use of indoor pyrotechnics in the
30 first degree as defined in section 405.18.

31 § 10. Paragraph b of subdivision 5 of section 120.40 of the penal law,
32 as amended by chapter 320 of the laws of 2006, is amended to read as
33 follows:

34 b. a crime defined in section 130.20, 130.25, 130.30, ~~[130.40,~~
35 ~~130.45,~~] 130.55, 130.60, 130.70, 255.25, 255.26 or 255.27;

36 § 11. Paragraph (d) of subdivision 2 and paragraph (h) of subdivision
37 3 of section 130.05 of the penal law, paragraph (d) of subdivision 2 as
38 amended by chapter 40 of the laws of 2004 and paragraph (h) of subdivi-
39 sion 3 as amended by section 2 of part G of chapter 501 of the laws of
40 2012, are amended to read as follows:

41 (d) Where the offense charged is rape in the third degree as defined
42 in ~~[subdivision three]~~ subdivisions seven, eight and nine of section
43 130.25, ~~[or criminal sexual act in the third degree as defined in subdivi-~~
44 ~~vision three of section 130.40,~~] in addition to forcible compulsion,
45 circumstances under which, at the time of the act of intercourse, oral
46 sexual conduct or anal sexual conduct, the victim clearly expressed that
47 he or she did not consent to engage in such act, and a reasonable person
48 in the actor's situation would have understood such person's words and
49 acts as an expression of lack of consent to such act under all the
50 circumstances.

51 (h) a client or patient and the actor is a health care provider or
52 mental health care provider charged with rape in the third degree as
53 defined in section 130.25, ~~[criminal sexual act in the third degree as~~
54 ~~defined in section 130.40,~~] aggravated sexual abuse in the fourth degree
55 as defined in section 130.65-a, or sexual abuse in the third degree as

1 defined in section 130.55, and the act of sexual conduct occurs during a
2 treatment session, consultation, interview, or examination; or

3 § 12. The opening paragraph of subdivision 3 of section 125.25 of the
4 penal law, as amended by chapter 264 of the laws of 2003, is amended to
5 read as follows:

6 Acting either alone or with one or more other persons, he commits or
7 attempts to commit robbery, burglary, kidnapping, arson, rape in the
8 first degree, [~~criminal sexual act in the first degree,~~] sexual abuse in
9 the first degree, aggravated sexual abuse, escape in the first degree,
10 or escape in the second degree, and, in the course of and in furtherance
11 of such crime or of immediate flight therefrom, he, or another partic-
12 ipant, if there be any, causes the death of a person other than one of
13 the participants; except that in any prosecution under this subdivision,
14 in which the defendant was not the only participant in the underlying
15 crime, it is an affirmative defense that the defendant:

16 § 13. Subdivision 5 of section 125.25 of the penal law, as amended by
17 chapter 320 of the laws of 2006, is amended to read as follows:

18 5. Being eighteen years old or more, while in the course of committing
19 rape in the first, second or third degree, [~~criminal sexual act in the~~
20 ~~first, second or third degree,~~] sexual abuse in the first degree, aggra-
21 vated sexual abuse in the first, second, third or fourth degree, or
22 incest in the first, second or third degree, against a person less than
23 fourteen years old, he or she intentionally causes the death of such
24 person.

25 § 14. Subparagraph (vii) of paragraph (a) of subdivision 1 of section
26 125.27 of the penal law, as amended by chapter 264 of the laws of 2003,
27 is amended to read as follows:

28 (vii) the victim was killed while the defendant was in the course of
29 committing or attempting to commit and in furtherance of robbery,
30 burglary in the first degree or second degree, kidnapping in the first
31 degree, arson in the first degree or second degree, rape in the first
32 degree, [~~criminal sexual act in the first degree,~~] sexual abuse in the
33 first degree, aggravated sexual abuse in the first degree or escape in
34 the first degree, or in the course of and furtherance of immediate
35 flight after committing or attempting to commit any such crime or in the
36 course of and furtherance of immediate flight after attempting to commit
37 the crime of murder in the second degree; provided however, the victim
38 is not a participant in one of the aforementioned crimes and, provided
39 further that, unless the defendant's criminal liability under this
40 subparagraph is based upon the defendant having commanded another person
41 to cause the death of the victim or intended victim pursuant to section
42 20.00 of this chapter, this subparagraph shall not apply where the
43 defendant's criminal liability is based upon the conduct of another
44 pursuant to section 20.00 of this chapter; or

45 § 15. Subdivision 3 of section 130.10 of the penal law, as amended by
46 chapter 264 of the laws of 2003, is amended to read as follows:

47 3. In any prosecution for the crime of rape in the third degree as
48 defined in section 130.25, [~~criminal sexual act in the third degree as~~
49 ~~defined in section 130.40,~~] aggravated sexual abuse in the fourth degree
50 as defined in section 130.65-a, or sexual abuse in the third degree as
51 defined in section 130.55 in which incapacity to consent is based on the
52 circumstances set forth in paragraph (h) of subdivision three of section
53 130.05 of this article it shall be an affirmative defense that the
54 client or patient consented to such conduct charged after having been
55 expressly advised by the health care or mental health care provider that
56 such conduct was not performed for a valid medical purpose.

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

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

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

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

A person is guilty of predatory sexual assault against a child when, being eighteen years old or more, he or she commits the crime of rape in the first degree, [~~criminal sexual act in the first degree,~~] aggravated sexual abuse in the first degree, or course of sexual conduct against a child in the first degree, as defined in this article, and the victim is less than thirteen years old.

§ 18. Subdivision 2 of section 240.75 of the penal law, as added by section 2 of part D of chapter 491 of the laws of 2012, is amended to read as follows:

2. A "specified offense" is an offense defined in section 120.00 (assault in the third degree); section 120.05 (assault in the second degree); section 120.10 (assault in the first degree); section 120.13 (menacing in the first degree); section 120.14 (menacing in the second degree); section 120.15 (menacing in the third degree); section 120.20 (reckless endangerment in the second degree); section 120.25 (reckless endangerment in the first degree); section 120.45 (stalking in the fourth degree); section 120.50 (stalking in the third degree); section 120.55 (stalking in the second degree); section 120.60 (stalking in the first degree); section 121.11 (criminal obstruction of breathing or blood circulation); section 121.12 (strangulation in the second degree); section 121.13 (strangulation in the first degree); subdivision one of section 125.15 (manslaughter in the second degree); subdivision one, two or four of section 125.20 (manslaughter in the first degree); section 125.25 (murder in the second degree); section 130.20 (sexual misconduct); section 130.25 (rape in the third degree); section 130.30 (rape in the second degree); section 130.35 (rape in the first degree); [~~section 130.40 (criminal sexual act in the third degree); section 130.45 (criminal sexual act in the second degree); section 130.50 (criminal sexual act in the first degree);~~] section 130.52 (forcible touching); section 130.53 (persistent sexual abuse); section 130.55 (sexual abuse in the third degree); section 130.60 (sexual abuse in the second degree); section 130.65 (sexual abuse in the first degree); section 130.66 (aggravated sexual abuse in the third degree); section 130.67 (aggravated sexual abuse in the second degree); section 130.70 (aggravated sexual abuse in the first degree); section 130.91 (sexually motivated felony); section 130.95 (predatory sexual assault); section 130.96 (predatory sexual assault against a child); section 135.05 (unlawful imprisonment in the second degree); section 135.10 (unlawful imprisonment in the first degree); section 135.60 (coercion in the second degree); section 135.65 (coercion in the first degree); section 140.20 (burglary in the third degree); section 140.25 (burglary in the second

degree); section 140.30 (burglary in the first degree); section 145.00 (criminal mischief in the fourth degree); section 145.05 (criminal mischief in the third degree); section 145.10 (criminal mischief in the second degree); section 145.12 (criminal mischief in the first degree); section 145.14 (criminal tampering in the third degree); section 215.50 (criminal contempt in the second degree); section 215.51 (criminal contempt in the first degree); section 215.52 (aggravated criminal contempt); section 240.25 (harassment in the first degree); subdivision one, two or four of section 240.30 (aggravated harassment in the second degree); aggravated family offense as defined in this section or any attempt or conspiracy to commit any of the foregoing offenses where the defendant and the person against whom the offense was committed were members of the same family or household as defined in subdivision one of section 530.11 of the criminal procedure law.

§ 19. Section 255.26 of the penal law, as added by chapter 320 of the laws of 2006, is amended to read as follows:

§ 255.26 Incest in the second degree.

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

Incest in the second degree is a class D felony.

§ 20. Section 255.27 of the penal law, as added by chapter 320 of the laws of 2006, is amended to read as follows:

§ 255.27 Incest in the first degree.

A person is guilty of incest in the first degree when he or she commits the crime of rape in the first degree, as defined in paragraph (c) or (d) of subdivision [three or four] one, paragraph (c) or (d) of subdivision two and paragraph (c) or (d) of subdivision three of section 130.35 of this part~~[, or criminal sexual act in the first degree, as defined in subdivision three or four of section 130.50 of this part,]~~ against a person whom he or she knows to be related to him or her, whether through marriage or not, as an ancestor, descendant, brother or sister of either the whole or half blood, uncle, aunt, nephew or niece.

Incest in the first degree is a class B felony.

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

3. A "specified offense" is an offense defined by any of the following provisions of this chapter: section 120.00 (assault in the third degree); section 120.05 (assault in the second degree); section 120.10 (assault in the first degree); section 120.12 (aggravated assault upon a person less than eleven years old); section 120.13 (menacing in the first degree); section 120.14 (menacing in the second degree); section 120.15 (menacing in the third degree); section 120.20 (reckless endangerment in the second degree); section 120.25 (reckless endangerment in the first degree); section 121.12 (strangulation in the second degree); section 121.13 (strangulation in the first degree); subdivision one of section 125.15 (manslaughter in the second degree); subdivision one, two or four of section 125.20 (manslaughter in the first degree); section 125.25 (murder in the second degree); section 120.45 (stalking in the fourth degree); section 120.50 (stalking in the third degree); section 120.55 (stalking in the second degree); section 120.60 (stalking in the first degree); paragraph (a) of subdivision one, paragraph (a) of subdivi-

1 vision two and paragraph (a) of subdivision three of section 130.35
2 (rape in the first degree); [~~subdivision one of section 130.50 (criminal~~
3 ~~sexual act in the first degree);~~] subdivision one of section 130.65
4 (sexual abuse in the first degree); paragraph (a) of subdivision one of
5 section 130.67 (aggravated sexual abuse in the second degree); paragraph
6 (a) of subdivision one of section 130.70 (aggravated sexual abuse in the
7 first degree); section 135.05 (unlawful imprisonment in the second
8 degree); section 135.10 (unlawful imprisonment in the first degree);
9 section 135.20 (kidnapping in the second degree); section 135.25
10 (kidnapping in the first degree); section 135.60 (coercion in the second
11 degree); section 135.65 (coercion in the first degree); section 140.10
12 (criminal trespass in the third degree); section 140.15 (criminal tres-
13 pass in the second degree); section 140.17 (criminal trespass in the
14 first degree); section 140.20 (burglary in the third degree); section
15 140.25 (burglary in the second degree); section 140.30 (burglary in the
16 first degree); section 145.00 (criminal mischief in the fourth degree);
17 section 145.05 (criminal mischief in the third degree); section 145.10
18 (criminal mischief in the second degree); section 145.12 (criminal
19 mischief in the first degree); section 150.05 (arson in the fourth
20 degree); section 150.10 (arson in the third degree); section 150.15
21 (arson in the second degree); section 150.20 (arson in the first
22 degree); section 155.25 (petit larceny); section 155.30 (grand larceny
23 in the fourth degree); section 155.35 (grand larceny in the third
24 degree); section 155.40 (grand larceny in the second degree); section
25 155.42 (grand larceny in the first degree); section 160.05 (robbery in
26 the third degree); section 160.10 (robbery in the second degree);
27 section 160.15 (robbery in the first degree); section 240.25 (harassment
28 in the first degree); subdivision one, two or four of section 240.30
29 (aggravated harassment in the second degree); or any attempt or conspir-
30 acy to commit any of the foregoing offenses.

31 § 22. Subdivision 42 of section 1.20 of the criminal procedure law, as
32 amended by chapter 7 of the laws of 2007, is amended to read as follows:

33 42. "Juvenile offender" means (1) a person, thirteen years old who is
34 criminally responsible for acts constituting murder in the second degree
35 as defined in subdivisions one and two of section 125.25 of the penal
36 law, or such conduct as a sexually motivated felony, where authorized
37 pursuant to section 130.91 of the penal law; and (2) a person fourteen
38 or fifteen years old who is criminally responsible for acts constituting
39 the crimes defined in subdivisions one and two of section 125.25 (murder
40 in the second degree) and in subdivision three of such section provided
41 that the underlying crime for the murder charge is one for which such
42 person is criminally responsible; section 135.25 (kidnapping in the
43 first degree); 150.20 (arson in the first degree); subdivisions one and
44 two of section 120.10 (assault in the first degree); 125.20 (manslaught-
45 er in the first degree); [~~subdivisions one and~~ paragraphs (a) and (b)
46 of subdivision one, paragraphs (a) and (b) of subdivision two and para-
47 graphs (a) and (b) of subdivision three of section 130.35 (rape in the
48 first degree); [~~subdivisions one and two of section 130.50 (criminal~~
49 ~~sexual act in the first degree);~~] 130.70 (aggravated sexual abuse in the
50 first degree); 140.30 (burglary in the first degree); subdivision one of
51 section 140.25 (burglary in the second degree); 150.15 (arson in the
52 second degree); 160.15 (robbery in the first degree); subdivision two of
53 section 160.10 (robbery in the second degree) of the penal law; or
54 section 265.03 of the penal law, where such machine gun or such firearm
55 is possessed on school grounds, as that phrase is defined in subdivision
56 fourteen of section 220.00 of the penal law; or defined in the penal law

1 as an attempt to commit murder in the second degree or kidnapping in the
2 first degree, or such conduct as a sexually motivated felony, where
3 authorized pursuant to section 130.91 of the penal law.

4 § 23. Paragraphs (a) and (b) of subdivision 1, the opening paragraph
5 of subdivision 2 and paragraph (a) of subdivision 3 of section 140.20 of
6 the criminal procedure law, paragraphs (a) and (b) of subdivision 1 as
7 amended by chapter 324 of the laws of 1988, the opening paragraph of
8 subdivision 2 and paragraph (a) of subdivision 3 as amended by chapter
9 550 of the laws of 1987, are amended to read as follows:

10 (a) If the arrest is for an offense other than a class A, B, C or D
11 felony or a violation of section 130.25, [~~130.40,~~] 205.10, 205.17,
12 205.19 or 215.56 of the penal law committed in a town, but not in a
13 village thereof having a village court, and the town court of such town
14 is not available at the time, the arrested person may be brought before
15 the local criminal court of any village within such town or, any adjoining
16 town, village embraced in whole or in part by such adjoining town,
17 or city of the same county; and

18 (b) If the arrest is for an offense other than a class A, B, C or D
19 felony or a violation of section 130.25, [~~130.40,~~] 205.10, 205.17,
20 205.19 or 215.56 of the penal law committed in a village having a
21 village court and such court is not available at the time, the arrested
22 person may be brought before the town court of the town embracing such
23 village or any other village court within such town, or, if such town or
24 village court is not available either, before the local criminal court
25 of any adjoining town, village embraced in whole or in part by such
26 adjoining town, or city of the same county; and

27 If the arrest is for an offense other than a class A, B, C or D felony
28 or a violation of section 130.25, [~~130.40,~~] 205.10, 205.17, 205.19 or
29 215.56 of the penal law, the arrested person need not be brought before
30 a local criminal court as provided in subdivision one, and the procedure
31 may instead be as follows:

32 (a) the arrest is for an offense other than a class A, B, C or D felo-
33 ny or a violation of section 130.25, [~~130.40,~~] 205.10, 205.17, 205.19 or
34 215.56 of the penal law, and

35 § 24. Paragraph (a) of subdivision 3 and the opening paragraph of
36 subdivision 4 of section 140.27 of the criminal procedure law, as
37 amended by chapter 550 of the laws of 1987, are amended to read as
38 follows:

39 (a) the arrest is for an offense other than a class A, B, C or D felo-
40 ny or a violation of section 130.25, [~~130.40,~~] 205.10, 205.17, 205.19 or
41 215.56 of the penal law and

42 If the arrest is for an offense other than a class A, B, C or D felony
43 or a violation of section 130.25, [~~130.40,~~] 205.10, 205.17, 205.19 or
44 215.56 of the penal law, the arrested person need not be brought before
45 a local criminal court as provided in subdivision two, and the procedure
46 may instead be as follows:

47 § 25. Paragraph (a) of subdivision 2 and the opening paragraph of
48 subdivision 3 of section 140.40 of the criminal procedure law, as
49 amended by chapter 550 of the laws of 1987, are amended to read as
50 follows:

51 (a) the arrest is for an offense other than a class A, B, C or D felo-
52 ny or a violation of section 130.25, [~~130.40,~~] 205.10, 205.17, 205.19 or
53 215.56 of the penal law and

54 If the arrest is for an offense other than a class A, B, C or D felony
55 or a violation of section 130.25, [~~130.40,~~] 205.10, 205.17, 205.19 or
56 215.56 of the penal law, the arrested person need not be brought before

1 a local criminal court, as provided in subdivision one, and the procedure may instead be as follows:

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

3 § 150.20 Appearance ticket; when and by whom issuable.

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

5 2. (a) Whenever a police officer has arrested a person without a warrant for an offense other than a class A, B, C or D felony or a violation of section 130.25, ~~[130.40,]~~ 205.10, 205.17, 205.19 or 215.56 of the penal law pursuant to section 140.10, or (b) whenever a peace officer, who is not authorized by law to issue an appearance ticket, has arrested a person for an offense other than a class A, B, C or D felony or a violation of section 130.25, ~~[130.40,]~~ 205.10, 205.17, 205.19 or 215.56 of the penal law pursuant to section 140.25, and has requested a police officer to issue and serve upon such arrested person an appearance ticket pursuant to subdivision four of section 140.27, or (c) whenever a person has been arrested for an offense other than a class A, B, C or D felony or a violation of section 130.25, ~~[130.40,]~~ 205.10, 205.17, 205.19 or 215.56 of the penal law and has been delivered to the custody of an appropriate police officer pursuant to section 140.40, such police officer may, instead of bringing such person before a local criminal court and promptly filing or causing the arresting peace officer or arresting person to file a local criminal court accusatory instrument therewith, issue to and serve upon such person an appearance ticket. The issuance and service of an appearance ticket under such circumstances may be conditioned upon a deposit of pre-arraignment bail, as provided in section 150.30.

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

7 § 27. Subdivision 4 of section 180.75 of the criminal procedure law, as amended by chapter 264 of the laws of 2003, is amended to read as follows:

8 4. Notwithstanding the provisions of subdivisions two and three of this section, a local criminal court shall, at the request of the district attorney, order removal of an action against a juvenile offender to the family court pursuant to the provisions of article seven hundred twenty-five of this chapter if, upon consideration of the criteria specified in subdivision two of section 210.43 of this chapter, it is determined that to do so would be in the interests of justice. Where, however, the felony complaint charges the juvenile offender with murder in the second degree as defined in section 125.25 of the penal law, rape in the first degree as defined in paragraph (a) of subdivision one, paragraph (a) of subdivision two or paragraph (a) of subdivision

1 ~~three~~ of section 130.35 of the penal law, [~~criminal sexual act in the~~
2 ~~first degree as defined in subdivision one of section 130.50 of the~~
3 ~~penal law,~~] or an armed felony as defined in paragraph (a) of subdivi-
4 sion forty-one of section 1.20 of this chapter, a determination that
5 such action be removed to the family court shall, in addition, be based
6 upon a finding of one or more of the following factors: (i) mitigating
7 circumstances that bear directly upon the manner in which the crime was
8 committed; or (ii) where the defendant was not the sole participant in
9 the crime, the defendant's participation was relatively minor although
10 not so minor as to constitute a defense to the prosecution; or (iii)
11 possible deficiencies in proof of the crime.

12 § 28. Subdivision (a) of section 190.71 of the criminal procedure law,
13 as amended by chapter 7 of the laws of 2007, is amended to read as
14 follows:

15 (a) Except as provided in subdivision six of section 200.20 of this
16 chapter, a grand jury may not indict (i) a person thirteen years of age
17 for any conduct or crime other than conduct constituting a crime defined
18 in subdivisions one and two of section 125.25 (murder in the second
19 degree) or such conduct as a sexually motivated felony, where authorized
20 pursuant to section 130.91 of the penal law; (ii) a person fourteen or
21 fifteen years of age for any conduct or crime other than conduct consti-
22 tuting a crime defined in subdivisions one and two of section 125.25
23 (murder in the second degree) and in subdivision three of such section
24 provided that the underlying crime for the murder charge is one for
25 which such person is criminally responsible; 135.25 (kidnapping in the
26 first degree); 150.20 (arson in the first degree); subdivisions one and
27 two of section 120.10 (assault in the first degree); 125.20 (manslaught-
28 er in the first degree); [~~subdivisions one and~~ paragraphs (a) and (b)
29 of subdivision one, paragraphs (a) and (b) of subdivision two and para-
30 graphs (a) and (b) of subdivision three of section 130.35 (rape in the
31 first degree); [~~subdivisions one and two of section 130.50 (criminal~~
32 ~~sexual act in the first degree);~~] 130.70 (aggravated sexual abuse in the
33 first degree); 140.30 (burglary in the first degree); subdivision one of
34 section 140.25 (burglary in the second degree); 150.15 (arson in the
35 second degree); 160.15 (robbery in the first degree); subdivision two of
36 section 160.10 (robbery in the second degree) of the penal law; [~~subdi-~~
37 ~~vision four of section 265.02 of the penal law, where such firearm is~~
38 ~~possessed on school grounds, as that phrase is defined in subdivision~~
39 ~~fourteen of section 220.00 of the penal law;~~] or section 265.03 of the
40 penal law, where such machine gun or such firearm is possessed on school
41 grounds, as that phrase is defined in subdivision fourteen of section
42 220.00 of the penal law; or defined in the penal law as an attempt to
43 commit murder in the second degree or kidnapping in the first degree, or
44 such conduct as a sexually motivated felony, where authorized pursuant
45 to section 130.91 of the penal law.

46 § 29. Paragraph (b) of subdivision 1 of section 210.43 of the criminal
47 procedure law, as amended by chapter 264 of the laws of 2003, is amended
48 to read as follows:

49 (b) with the consent of the district attorney, order removal of an
50 action involving an indictment charging a juvenile offender with murder
51 in the second degree as defined in section 125.25 of the penal law; rape
52 in the first degree, as defined in paragraph (a) of subdivision one,
53 paragraph (a) of subdivision two and paragraph (a) of subdivision three
54 of section 130.35 of the penal law; [~~criminal sexual act in the first~~
55 ~~degree, as defined in subdivision one of section 130.50 of the penal~~
56 ~~law;~~] or an armed felony as defined in paragraph (a) of subdivision

1 forty-one of section 1.20, to the family court pursuant to the
2 provisions of article seven hundred twenty-five of this chapter if the
3 court finds one or more of the following factors: (i) mitigating circum-
4 stances that bear directly upon the manner in which the crime was
5 committed; (ii) where the defendant was not the sole participant in the
6 crime, the defendant's participation was relatively minor although not
7 so minor as to constitute a defense to the prosecution; or (iii) possi-
8 ble deficiencies in the proof of the crime, and, after consideration of
9 the factors set forth in subdivision two of this section, the court
10 determined that removal of the action to the family court would be in
11 the interests of justice.

12 § 30. Subparagraph (iii) of paragraph (g) of subdivision 5 of section
13 220.10 of the criminal procedure law, as amended by chapter 264 of the
14 laws of 2003, is amended to read as follows:

15 (iii) Where the indictment does not charge a crime specified in
16 subparagraph (i) of this paragraph, the district attorney may recommend
17 removal of the action to the family court. Upon making such recommenda-
18 tion the district attorney shall submit a subscribed memorandum setting
19 forth: (1) a recommendation that the interests of justice would best be
20 served by removal of the action to the family court; and (2) if the
21 indictment charges a thirteen year old with the crime of murder in the
22 second degree, or a fourteen or fifteen year old with the crimes of rape
23 in the first degree as defined in paragraph (a) of subdivision one,
24 paragraph (a) of subdivision two and paragraph (a) of subdivision three
25 of section 130.35 of the penal law, [~~or criminal sexual act in the first~~
26 ~~degree as defined in subdivision one of section 130.50 of the penal~~
27 ~~law,~~] or an armed felony as defined in paragraph (a) of subdivision
28 forty-one of section 1.20 of this chapter specific factors, one or more
29 of which reasonably supports the recommendation, showing, (i) mitigating
30 circumstances that bear directly upon the manner in which the crime was
31 committed, or (ii) where the defendant was not the sole participant in
32 the crime, that the defendant's participation was relatively minor
33 although not so minor as to constitute a defense to the prosecution, or
34 (iii) possible deficiencies in proof of the crime, or (iv) where the
35 juvenile offender has no previous adjudications of having committed a
36 designated felony act, as defined in subdivision eight of section 301.2
37 of the family court act, regardless of the age of the offender at the
38 time of commission of the act, that the criminal act was not part of a
39 pattern of criminal behavior and, in view of the history of the offen-
40 der, is not likely to be repeated.

41 § 31. Subdivision 6 of section 300.50 of the criminal procedure law,
42 as amended by chapter 264 of the laws of 2003, is amended to read as
43 follows:

44 6. For purposes of this section, the offenses of rape in the third
45 degree as defined in [~~subdivision three~~] subdivisions seven, eight and
46 nine of section 130.25 of the penal law [~~and criminal sexual act in the~~
47 ~~third degree as defined in subdivision three of section 130.40 of the~~
48 ~~penal law~~], are not lesser included offenses of rape in the first
49 degree[, ~~criminal sexual act in the first degree~~] or any other offense.
50 Notwithstanding the foregoing, either such offense may be submitted as a
51 lesser included offense of the applicable first degree offense when (i)
52 there is a reasonable view of the evidence which would support a finding
53 that the defendant committed such lesser offense but did not commit the
54 greater offense, and (ii) both parties consent to its submission.

§ 32. Subdivision 6 of section 380.50 of the criminal procedure law, as amended by chapter 394 of the laws of 2015, 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, 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, prepared and distributed by the commissioner of the division of criminal justice services, in consultation with the director of the office of victim services, 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.

§ 32-a. Subdivision 6 of section 380.50 of the criminal procedure law, as separately amended by chapters 368 and 394 of the laws of 2015, 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, prepared and distributed by the commissioner of the division of criminal justice services, in consultation with the director of the office of victim services, 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.

§ 33. Paragraph (b) of subdivision 8 of section 700.05 of the criminal procedure law, as amended by chapter 368 of the laws of 2015, is 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

1 section 125.10 of the penal law, manslaughter in the second degree as
2 defined in section 125.15 of the penal law, manslaughter in the first
3 degree as defined in section 125.20 of the penal law, murder in the
4 second degree as defined in section 125.25 of the penal law, murder in
5 the first degree as defined in section 125.27 of the penal law, abortion
6 in the second degree as defined in section 125.40 of the penal law,
7 abortion in the first degree as defined in section 125.45 of the penal
8 law, rape in the third degree as defined in section 130.25 of the penal
9 law, rape in the second degree as defined in section 130.30 of the penal
10 law, rape in the first degree as defined in section 130.35 of the penal
11 law, ~~criminal sexual act in the third degree as defined in section~~
12 ~~130.40 of the penal law, criminal sexual act in the second degree as~~
13 ~~defined in section 130.45 of the penal law, criminal sexual act in the~~
14 ~~first degree as defined in section 130.50 of the penal law,~~ sexual
15 abuse in the first degree as defined in section 130.65 of the penal law,
16 unlawful imprisonment in the first degree as defined in section 135.10
17 of the penal law, kidnapping in the second degree as defined in section
18 135.20 of the penal law, kidnapping in the first degree as defined in
19 section 135.25 of the penal law, labor trafficking as defined in section
20 135.35 of the penal law, aggravated labor trafficking as defined in
21 section 135.37 of the penal law, custodial interference in the first
22 degree as defined in section 135.50 of the penal law, coercion in the
23 first degree as defined in section 135.65 of the penal law, criminal
24 trespass in the first degree as defined in section 140.17 of the penal
25 law, burglary in the third degree as defined in section 140.20 of the
26 penal law, burglary in the second degree as defined in section 140.25 of
27 the penal law, burglary in the first degree as defined in section 140.30
28 of the penal law, criminal mischief in the third degree as defined in
29 section 145.05 of the penal law, criminal mischief in the second degree
30 as defined in section 145.10 of the penal law, criminal mischief in the
31 first degree as defined in section 145.12 of the penal law, criminal
32 tampering in the first degree as defined in section 145.20 of the penal
33 law, arson in the fourth degree as defined in section 150.05 of the
34 penal law, arson in the third degree as defined in section 150.10 of the
35 penal law, arson in the second degree as defined in section 150.15 of
36 the penal law, arson in the first degree as defined in section 150.20 of
37 the penal law, grand larceny in the fourth degree as defined in section
38 155.30 of the penal law, grand larceny in the third degree as defined in
39 section 155.35 of the penal law, grand larceny in the second degree as
40 defined in section 155.40 of the penal law, grand larceny in the first
41 degree as defined in section 155.42 of the penal law, health care fraud
42 in the fourth degree as defined in section 177.10 of the penal law,
43 health care fraud in the third degree as defined in section 177.15 of
44 the penal law, health care fraud in the second degree as defined in
45 section 177.20 of the penal law, health care fraud in the first degree
46 as defined in section 177.25 of the penal law, robbery in the third
47 degree as defined in section 160.05 of the penal law, robbery in the
48 second degree as defined in section 160.10 of the penal law, robbery in
49 the first degree as defined in section 160.15 of the penal law, unlawful
50 use of secret scientific material as defined in section 165.07 of the
51 penal law, criminal possession of stolen property in the fourth degree
52 as defined in section 165.45 of the penal law, criminal possession of
53 stolen property in the third degree as defined in section 165.50 of the
54 penal law, criminal possession of stolen property in the second degree
55 as defined by section 165.52 of the penal law, criminal possession of
56 stolen property in the first degree as defined by section 165.54 of the

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

46 § 34. Paragraph (a) of subdivision 2 of section 720.10 of the criminal
47 procedure law, as amended by chapter 316 of the laws of 2006, is amended
48 to read as follows:

49 (a) the conviction to be replaced by a youthful offender finding is
50 for (i) a class A-I or class A-II felony, or (ii) an armed felony as
51 defined in subdivision forty-one of section 1.20, except as provided in
52 subdivision three, or (iii) rape in the first degree[, ~~criminal sexual~~
53 ~~act in the first degree,~~] or aggravated sexual abuse, except as provided
54 in subdivision three, or

55 § 35. Paragraph (a) of subdivision 2 and paragraph (a) of subdivision
56 3 of section 168-a of the correction law, paragraph (a) of subdivision 2

1 as amended by chapter 405 of the laws of 2008 and paragraph (a) of
2 subdivision 3 as amended by chapter 107 of the laws of 2006, are amended
3 to read as follows:

4 (a) (i) a conviction of or a conviction for an attempt to commit any
5 of the provisions of sections 120.70, 130.20, 130.25, 130.30, [~~130.40,~~
6 ~~130.45,~~] 130.60, 230.34, 250.50, 255.25, 255.26 and 255.27 or article
7 two hundred sixty-three of the penal law, or section 135.05, 135.10,
8 135.20 or 135.25 of such law relating to kidnapping offenses, provided
9 the victim of such kidnapping or related offense is less than seventeen
10 years old and the offender is not the parent of the victim, or section
11 230.04, where the person patronized is in fact less than seventeen years
12 of age, 230.05 or 230.06, or subdivision two of section 230.30, or
13 section 230.32 or 230.33 of the penal law, or (ii) a conviction of or a
14 conviction for an attempt to commit any of the provisions of section
15 235.22 of the penal law, or (iii) a conviction of or a conviction for an
16 attempt to commit any provisions of the foregoing sections committed or
17 attempted as a hate crime defined in section 485.05 of the penal law or
18 as a crime of terrorism defined in section 490.25 of such law or as a
19 sexually motivated felony defined in section 130.91 of such law; or

20 (a) (i) a conviction of or a conviction for an attempt to commit any
21 of the provisions of sections 130.35, [~~130.50,~~] 130.65, 130.66, 130.67,
22 130.70, 130.75, 130.80, 130.95 and 130.96 of the penal law, or (ii) a
23 conviction of or a conviction for an attempt to commit any of the
24 provisions of sections 130.53, 130.65-a and 130.90 of the penal law, or
25 (iii) a conviction of or a conviction for an attempt to commit any
26 provisions of the foregoing sections committed or attempted as a hate
27 crime defined in section 485.05 of the penal law or as a crime of
28 terrorism defined in section 490.25 of such law; or

29 § 35-a. Paragraph (a) of subdivision 2 of section 168-a of the
30 correction law, as amended by chapter 405 of the laws of 2008, subpara-
31 graph (i) of paragraph (a) as amended by chapter 368 of the laws of
32 2015, is amended to read as follows:

33 (a) (i) a conviction of or a conviction for an attempt to commit any
34 of the provisions of sections 120.70, 130.20, 130.25, 130.30, [~~130.40,~~
35 ~~130.45,~~] 130.60, 230.34, 250.50, 255.25, 255.26 and 255.27 or article
36 two hundred sixty-three of the penal law, or section 135.05, 135.10,
37 135.20 or 135.25 of such law relating to kidnapping offenses, provided
38 the victim of such kidnapping or related offense is less than seventeen
39 years old and the offender is not the parent of the victim, or section
40 230.04, where the person patronized is in fact less than seventeen years
41 of age, 230.05, 230.06, 230.11, 230.12, 230.13, subdivision two of
42 section 230.30, section 230.32, 230.33, or 230.34 of the penal law, or
43 section 230.25 of the penal law where the person prostituted is in fact
44 less than seventeen years old, or (ii) a conviction of or a conviction
45 for an attempt to commit any of the provisions of section 235.22 of the
46 penal law, or (iii) a conviction of or a conviction for an attempt to
47 commit any provisions of the foregoing sections committed or attempted
48 as a hate crime defined in section 485.05 of the penal law or as a crime
49 of terrorism defined in section 490.25 of such law or as a sexually
50 motivated felony defined in section 130.91 of such law; or

51 § 36. Subparagraph (ii) of paragraph (a), subparagraphs (i) and (ii)
52 of paragraph (b) and paragraph (e) of subdivision 8 of section 384-b of
53 the social services law, subparagraph (ii) of paragraph (a) and subpara-
54 graph (i) of paragraph (b) as amended by chapter 430 of the laws of
55 2013, subparagraph (ii) of paragraph (b) as amended and paragraph (e) as
56 added by chapter 7 of the laws of 1999, are amended to read as follows:

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

(i) the child has been found to be an abused child, (A) as defined in paragraph (i) of subdivision (e) of section ten hundred twelve of the family court act, as a result of such parent's acts; or (B) as defined in paragraph (iii) of subdivision (e) of section ten hundred twelve of the family court act, as a result of such parent's acts; provided, however, the respondent must have committed or knowingly allowed to be committed a felony sex offense as defined in sections 130.25, 130.30, 130.35, ~~[130.40, 130.45, 130.50,]~~ 130.65, 130.67, 130.70, 130.75, 130.80, 130.95 and 130.96 of the penal law; and

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

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

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

(a) The offenses referred to in subparagraph (ii) of paragraph (a) of subdivision one and paragraph (a) of subdivision two of this section that result in permanent disqualification shall include a conviction

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

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

23 § 38. Subdivision (b) of section 117 of the family court act, as
24 amended by chapter 7 of the laws of 2007, is amended to read as follows:

25 (b) For every juvenile delinquency proceeding under article three
26 involving an allegation of an act committed by a person which, if done
27 by an adult, would be a crime (i) defined in sections 125.27 (murder in
28 the first degree); 125.25 (murder in the second degree); 135.25 (kidnap-
29 ping in the first degree); or 150.20 (arson in the first degree) of the
30 penal law committed by a person thirteen, fourteen or fifteen years of
31 age; or such conduct committed as a sexually motivated felony, where
32 authorized pursuant to section 130.91 of the penal law; (ii) defined in
33 sections 120.10 (assault in the first degree); 125.20 (manslaughter in
34 the first degree); 130.35 (rape in the first degree); [~~130.50 (criminal~~
35 ~~sexual act in the first degree);~~] 135.20 (kidnapping in the second
36 degree), but only where the abduction involved the use or threat of use
37 of deadly physical force; 150.15 (arson in the second degree); or 160.15
38 (robbery in the first degree) of the penal law committed by a person
39 thirteen, fourteen or fifteen years of age; or such conduct committed as
40 a sexually motivated felony, where authorized pursuant to section 130.91
41 of the penal law; (iii) defined in the penal law as an attempt to commit
42 murder in the first or second degree or kidnapping in the first degree
43 committed by a person thirteen, fourteen or fifteen years of age; or
44 such conduct committed as a sexually motivated felony, where authorized
45 pursuant to section 130.91 of the penal law; (iv) defined in section
46 140.30 (burglary in the first degree); subdivision one of section 140.25
47 (burglary in the second degree); subdivision two of section 160.10
48 (robbery in the second degree) of the penal law; or section 265.03 of
49 the penal law, where such machine gun or such firearm is possessed on
50 school grounds, as that phrase is defined in subdivision fourteen of
51 section 220.00 of the penal law committed by a person fourteen or
52 fifteen years of age; or such conduct committed as a sexually motivated
53 felony, where authorized pursuant to section 130.91 of the penal law;
54 (v) defined in section 120.05 (assault in the second degree) or 160.10
55 (robbery in the second degree) of the penal law committed by a person
56 fourteen or fifteen years of age but only where there has been a prior

1 finding by a court that such person has previously committed an act
2 which, if committed by an adult, would be the crime of assault in the
3 second degree, robbery in the second degree or any designated felony act
4 specified in clause (i), (ii) or (iii) of this subdivision regardless of
5 the age of such person at the time of the commission of the prior act;
6 or (vi) other than a misdemeanor, committed by a person at least seven
7 but less than sixteen years of age, but only where there has been two
8 prior findings by the court that such person has committed a prior act
9 which, if committed by an adult would be a felony:

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

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

19 § 39. Paragraph (ii) of subdivision 8 of section 301.2 of the family
20 court act, as amended by chapter 7 of the laws of 2007, is amended to
21 read as follows:

22 (ii) defined in sections 120.10 (assault in the first degree); 125.20
23 (manslaughter in the first degree); 130.35 (rape in the first degree);
24 ~~130.50 (criminal sexual act in the first degree);~~ 130.70 (aggravated
25 sexual abuse in the first degree); 135.20 (kidnapping in the second
26 degree) but only where the abduction involved the use or threat of use
27 of deadly physical force; 150.15 (arson in the second degree) or 160.15
28 (robbery in the first degree) of the penal law committed by a person
29 thirteen, fourteen or fifteen years of age; or such conduct committed as
30 a sexually motivated felony, where authorized pursuant to section 130.91
31 of the penal law;

32 § 40. Subdivision 4 of section 308.1 of the family court act, as
33 amended by chapter 264 of the laws of 2003, is amended to read as
34 follows:

35 4. The probation service shall not adjust a case in which the child
36 has allegedly committed a delinquent act which would be a crime defined
37 in section 120.25, (reckless endangerment in the first degree), ~~[subdi-~~
38 ~~vision one of section 125.15, (manslaughter in the second degree),~~
39 ~~subdivision]~~ subdivisions one, two and three of section 130.25, (rape in
40 the third degree), ~~[subdivision one of section 130.40, (criminal sexual~~
41 ~~act in the third degree),]~~ subdivision one or two of section 130.65,
42 (sexual abuse in the first degree), section 135.65, (coercion in the
43 first degree), section 140.20, (burglary in the third degree), section
44 150.10, (arson in the third degree), section 160.05, (robbery in the
45 third degree), subdivision two, three or four of section 265.02, (crimi-
46 nal possession of a weapon in the third degree), section 265.03, (crimi-
47 nal possession of a weapon in the second degree), or section 265.04,
48 (criminal possession of a dangerous weapon in the first degree) of the
49 penal law where the child has previously had one or more adjustments of
50 a case in which such child allegedly committed an act which would be a
51 crime specified in this subdivision unless it has received written
52 approval from the court and the appropriate presentment agency.

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

55 (c) Prior to granting an order of disposition pursuant to subdivision
56 (a) of this section following an adjudication of child abuse, as defined

1 in paragraph (i) of subdivision (e) of section ten hundred twelve of
2 this act or a finding of a felony sex offense as defined in sections
3 130.25, 130.30, 130.35, [~~130.40, 130.45, 130.50,~~] 130.65 and 130.70 of
4 the penal law, the court shall advise the respondent that any subsequent
5 adjudication of child abuse, as defined in paragraph (i) of subdivision
6 (e) of section one thousand twelve of this act or any subsequent finding
7 of a felony sex offense as defined in those sections of the penal law
8 herein enumerated, arising out of acts of the respondent may result in
9 the commitment of the guardianship and custody of the child or another
10 child pursuant to section three hundred eighty-four-b of the social
11 services law. The order in such cases shall contain a statement that any
12 subsequent adjudication of child abuse or finding of a felony sex
13 offense as described herein may result in the commitment of the guardi-
14 anship and custody of the child, or another child pursuant to section
15 three hundred eighty-four-b of the social services law.

16 § 42. Subdivision 2 of section 61 of the civil rights law, as amended
17 by section 54 of subpart B of part C of chapter 62 of the laws of 2011,
18 is amended to read as follows:

19 2. If the petitioner stands convicted of a violent felony offense as
20 defined in section 70.02 of the penal law or a felony defined in article
21 one hundred twenty-five of such law or any of the following provisions
22 of such law sections 130.25, 130.30, [~~130.40, 130.45,~~] 255.25, 255.26,
23 255.27, article two hundred sixty-three, 135.10, 135.25, 230.05, 230.06,
24 subdivision two of section 230.30 or 230.32, and is currently confined
25 as an inmate in any correctional facility or currently under the super-
26 vision of the department of corrections and community supervision or a
27 county probation department as a result of such conviction, the petition
28 shall for each such conviction specify such felony conviction, the date
29 of such conviction or convictions, and the court in which such
30 conviction or convictions were entered.

31 § 43. Subdivision 2 of section 62 of the civil rights law, as amended
32 by section 55 of subpart B of part C of chapter 62 of the laws of 2011,
33 is amended to read as follows:

34 2. If the petition be to change the name of a person currently
35 confined as an inmate in any correctional facility or currently under
36 the supervision of the department of corrections and community super-
37 vision or a county probation department as a result of a conviction for
38 a violent felony offense as defined in section 70.02 of the penal law or
39 a felony defined in article one hundred twenty-five of such law or any
40 of the following provisions of such law sections 130.25, 130.30,
41 [~~130.40, 130.45,~~] 255.25, 255.26, 255.27, article two hundred sixty-
42 three, 135.10, 135.25, 230.05, 230.06, subdivision two of section 230.30
43 or 230.32, notice of the time and place when and where the petition will
44 be presented shall be served, in like manner as a notice of a motion
45 upon an attorney in an action, upon the district attorney of every coun-
46 ty in which such person has been convicted of such felony and upon the
47 court or courts in which the sentence for such felony was entered.
48 Unless a shorter period of time is ordered by the court, said notice
49 shall be served upon each such district attorney and court or courts not
50 less than sixty days prior to the date on which such petition is noticed
51 to be heard.

52 § 44. The closing paragraph of section 64 of the civil rights law, as
53 separately amended by chapters 258, 320 and 481 of the laws of 2006, is
54 amended to read as follows:

55 Upon compliance with the order and the filing of the affidavit of the
56 publication, as provided in this section, the clerk of the court in

1 which the order has been entered shall certify that the order has been
2 complied with; and, if the petition states that the petitioner stands
3 convicted of a violent felony offense as defined in section 70.02 of the
4 penal law or a felony defined in article one hundred twenty-five of such
5 law or any of the following provisions of such law sections 130.25,
6 130.30, ~~[130.40, 130.45,]~~ 255.25, 255.26, 255.27, article two hundred
7 sixty-three, 135.10, 135.25, 230.05, 230.06, subdivision two of section
8 230.30 or 230.32, such clerk (1) shall deliver, by first class mail, a
9 copy of such certified order to the division of criminal justice
10 services at its office in the county of Albany and (2) upon the clerk of
11 the court reviewing the petitioner's application for name change and
12 subsequent in-court inquiry, may, in the clerk's discretion, deliver, by
13 first class mail, the petitioner's new name with such certified order to
14 the court of competent jurisdiction which imposed the orders of support.
15 Such certification shall appear on the original order and on any certi-
16 fied copy thereof and shall be entered in the clerk's minutes of the
17 proceeding.

18 § 45. Section 213-c of the civil practice law and rules, as added by
19 chapter 3 of the laws of 2006, is amended to read as follows:

20 § 213-c. Action by victim of conduct constituting certain sexual
21 offenses. Notwithstanding any other limitation set forth in this arti-
22 cle, a civil claim or cause of action to recover from a defendant as
23 hereinafter defined, for physical, psychological or other injury or
24 condition suffered by a person as a result of acts by such defendant of
25 rape in the first degree as defined in section 130.35 of the penal law,
26 ~~[or criminal sexual act in the first degree as defined in section 130.50~~
27 ~~of the penal law,]~~ or aggravated sexual abuse in the first degree as
28 defined in section 130.70 of the penal law, or course of sexual conduct
29 against a child in the first degree as defined in section 130.75 of the
30 penal law may be brought within five years. As used in this section, the
31 term "defendant" shall mean only a person who commits the acts described
32 in this section or who, in a criminal proceeding, could be charged with
33 criminal liability for the commission of such acts pursuant to section
34 20.00 of the penal law and shall not apply to any related civil claim or
35 cause of action arising from such acts. Nothing in this section shall be
36 construed to require that a criminal charge be brought or a criminal
37 conviction be obtained as a condition of bringing a civil cause of
38 action or receiving a civil judgment pursuant to this section or be
39 construed to require that any of the rules governing a criminal proceed-
40 ing be applicable to any such civil action.

41 § 46. Paragraph (b) of subdivision 8 of section 215 of the civil prac-
42 tice law and rules, as added by chapter 3 of the laws of 2006, is
43 amended to read as follows:

44 (b) Whenever it is shown that a criminal action against the same
45 defendant has been commenced with respect to the event or occurrence
46 from which a claim governed by this section arises, and such criminal
47 action is for rape in the first degree as defined in section 130.35 of
48 the penal law, ~~[or criminal sexual act in the first degree as defined in~~
49 ~~section 130.50 of the penal law,]~~ or aggravated sexual abuse in the
50 first degree as defined in section 130.70 of the penal law, or course of
51 sexual conduct against a child in the first degree as defined in section
52 130.75 of the penal law, the plaintiff shall have at least five years
53 from the termination of the criminal action as defined in section 1.20
54 of the criminal procedure law in which to commence the civil action,
55 notwithstanding that the time in which to commence such action has
56 already expired or has less than a year remaining.

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

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

§ 48. Section 4 of the judiciary law, as amended by chapter 264 of the laws of 2003, is amended to read as follows:

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

§ 49. Subdivision 2 of section 120.60 of the penal law, as amended by chapter 434 of the laws of 2000, is amended to read as follows:

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

§ 50. Subdivision 1 of section 210.16 of the criminal procedure law, as added by chapter 571 of the laws of 2007, is amended to read as follows:

1. (a) In a case where an indictment or a superior court information has been filed with a superior court which charges the defendant with a felony offense enumerated in any section of article one hundred thirty of the penal law where an act of "~~sexual intercourse~~ vaginal sexual contact", "oral sexual ~~[conduct]~~ contact" or "anal sexual ~~[conduct]~~ contact," as those terms are defined in section 130.00 of the penal law, is required as an essential element for the commission thereof, the court shall, upon a request of the victim within six months of the date of the crimes charged, order that the defendant submit to human immunodeficiency virus (HIV) related testing. Testing of a defendant shall be ordered when the result would provide medical benefit to the victim or a psychological benefit to the victim. Medical benefit shall be found when the following elements are satisfied: (i) a decision is pending about beginning, continuing, or discontinuing a medical intervention for the victim; and (ii) the result of an HIV test of the accused could affect that decision, and could provide relevant information beyond that which would be provided by an HIV test of the victim. If testing the defendant would provide medical benefit to the victim or a psychological benefit to the victim, then the testing is to be conducted by a state, county, or local public health officer designated by the order. Test results, which shall not be disclosed to the court, shall be communicated to the defendant and the victim named in the order in accordance with the

1 provisions of section twenty-seven hundred eighty-five-a of the public
2 health law.

3 (b) For the purposes of this section, the terms "victim" and "appli-
4 cant" mean the person with whom the defendant is charged to have engaged
5 in an act of "[~~sexual intercourse~~ vaginal sexual contact", "oral sexual
6 [~~conduct~~ contact" or "anal sexual [~~conduct~~ contact", as those terms
7 are defined in section 130.00 of the penal law, where such conduct with
8 such victim was the basis for charging the defendant with an offense
9 specified in paragraph (a) of this subdivision.

10 § 51. Subdivision 1 of section 390.15 of the criminal procedure law,
11 as amended by chapter 264 of the laws of 2003, is amended to read as
12 follows:

13 1. (a) In any case where the defendant is convicted of a felony
14 offense enumerated in any section of article one hundred thirty of the
15 penal law, or any subdivision of section 130.20 of such law, where an
16 act of "[~~sexual intercourse~~ vaginal sexual contact", "oral sexual
17 [~~conduct~~ contact" or "anal sexual [~~conduct~~ contact," as those terms
18 are defined in section 130.00 of the penal law, is required as an essen-
19 tial element for the commission thereof, the court must, upon a request
20 of the victim, order that the defendant submit to human immunodeficiency
21 (HIV) related testing. The testing is to be conducted by a state, coun-
22 ty, or local public health officer designated by the order. Test
23 results, which shall not be disclosed to the court, shall be communi-
24 cated to the defendant and the victim named in the order in accordance
25 with the provisions of section twenty-seven hundred eighty-five-a of the
26 public health law, but such results and disclosure need not be completed
27 prior to the imposition of sentence.

28 (b) For the purposes of this section, the terms "defendant",
29 "conviction" and "sentence" mean and include, respectively, an "eligible
30 youth," a "youthful offender finding" and a "youthful offender sentence"
31 as those terms are defined in section 720.10 of this chapter. The term
32 "victim" means the person with whom the defendant engaged in an act of
33 "[~~sexual intercourse~~ vaginal sexual contact", "oral sexual [~~conduct~~
34 contact" or "anal sexual [~~conduct~~ contact", as those terms are defined
35 in section 130.00 of the penal law, where such conduct with such victim
36 was the basis for the defendant's conviction of an offense specified in
37 paragraph (a) of this subdivision.

38 § 52. Subdivision 1 of section 347.1 of the family court act, as
39 amended by chapter 264 of the laws of 2003, is amended to read as
40 follows:

41 1. (a) In any proceeding where the respondent is found pursuant to
42 section 345.1 or 346.1 of this article, to have committed a felony
43 offense enumerated in any section of article one hundred thirty of the
44 penal law, or any subdivision of section 130.20 of such law, for which
45 an act of "[~~sexual intercourse~~ vaginal sexual contact", "oral sexual
46 [~~conduct~~ contact" or "anal sexual [~~conduct~~ contact", as those terms
47 are defined in section 130.00 of the penal law, is required as an essen-
48 tial element for the commission thereof, the court must, upon a request
49 of the victim, order that the respondent submit to human immunodeficien-
50 cy (HIV) related testing. The testing is to be conducted by a state,
51 county, or local public health officer designated by the order. Test
52 results, which shall not be disclosed to the court, shall be communi-
53 cated to the respondent and the victim named in the order in accordance
54 with the provisions of section twenty-seven hundred eighty-five-a of the
55 public health law.

(b) For the purposes of this section, the term "victim" means the person with whom the respondent engaged in an act of "[~~sexual-intercourse~~] vaginal sexual contact", "oral sexual [~~conduct~~] contact" or "anal sexual [~~conduct~~] contact", as those terms are defined in section 130.00 of the penal law, where such conduct with such victim was the basis for the court's finding that the respondent committed acts constituting one or more of the offenses specified in paragraph (a) of this subdivision.

§ 53. Subdivision (a) of section 130.16 of the penal law, as amended by chapter 264 of the laws of 2003, is amended to read as follows:

(a) Establish that an attempt was made to engage the victim in [~~sexual-intercourse~~] vaginal sexual contact, oral sexual [~~conduct~~] contact, anal sexual [~~conduct~~] contact, or sexual contact, as the case may be, at the time of the occurrence; and

§ 54. Subdivisions 1 and 2 of section 130.20 of the penal law, subdivision 1 as amended by chapter 1 of the laws of 2000, subdivision 2 as amended by chapter 264 of the laws of 2003, are amended to read as follows:

1. He or she engages in [~~sexual-intercourse~~] vaginal sexual contact with another person without such person's consent; or

2. He or she engages in oral sexual [~~conduct~~] contact or anal sexual [~~conduct~~] contact with another person without such person's consent; or

§ 55. Paragraphs (a) and (b) of subdivision 1 of section 130.75 of the penal law, as amended by chapter 264 of the laws of 2003, are amended to read as follows:

(a) he or she engages in two or more acts of sexual conduct, which includes at least one act of [~~sexual-intercourse~~] vaginal sexual contact, oral sexual [~~conduct~~] contact, anal sexual [~~conduct~~] contact or aggravated sexual contact, with a child less than eleven years old; or

(b) he or she, being eighteen years old or more, engages in two or more acts of sexual conduct, which include at least one act of [~~sexual-intercourse~~] vaginal sexual contact, oral sexual [~~conduct~~] contact, anal sexual [~~conduct~~] contact or aggravated sexual contact, with a child less than thirteen years old.

§ 56. Subdivision 1 of section 235.00 of the penal law, as amended by chapter 264 of the laws of 2003, is amended to read as follows:

1. "Obscene." Any material or performance is "obscene" if (a) the average person, applying contemporary community standards, would find that considered as a whole, its predominant appeal is to the prurient interest in sex, and (b) it depicts or describes in a patently offensive manner, actual or simulated: [~~sexual-intercourse~~] vaginal sexual contact, [~~criminal-sexual-act~~] oral sexual contact, anal sexual contact, sexual bestiality, masturbation, sadism, masochism, excretion or lewd exhibition of the genitals, and (c) considered as a whole, it lacks serious literary, artistic, political, and scientific value. Predominant appeal shall be judged with reference to ordinary adults unless it appears from the character of the material or the circumstances of its dissemination to be designed for children or other [~~specially~~] especially susceptible audience.

§ 57. Subdivision 2 of section 235.22 of the penal law, as amended by chapter 264 of the laws of 2003, is amended to read as follows:

2. by means of such communication he importunes, invites or induces a minor to engage in [~~sexual-intercourse~~] vaginal sexual contact, oral sexual [~~conduct~~] contact or anal sexual [~~conduct~~] contact, or sexual contact with him, or to engage in a sexual performance, obscene sexual performance, or sexual conduct for his benefit.

§ 58. Section 255.25 of the penal law, as amended by chapter 320 of the laws of 2006, is amended to read as follows:

§ 255.25 Incest in the third degree.

A person is guilty of incest in the third degree when he or she marries or engages in [~~sexual intercourse~~] vaginal sexual contact, oral sexual [~~conduct~~] contact or anal sexual [~~conduct~~] contact with a person whom he or she knows to be related to him or her, whether through marriage or not, as an ancestor, descendant, brother or sister of either the whole or the half blood, uncle, aunt, nephew or niece.

Incest in the third degree is a class E felony.

§ 59. Subdivision 3 of section 263.00 of the penal law, as amended by chapter 264 of the laws of 2003, is amended to read as follows:

3. "Sexual conduct" means actual or simulated [~~sexual intercourse~~] vaginal sexual contact, oral sexual [~~conduct~~] contact, anal sexual [~~conduct~~] contact, sexual bestiality, masturbation, sado-masochistic abuse, or lewd exhibition of the genitals.

§ 60. Subdivision 3 of section 60.42 of the criminal procedure law, as amended by chapter 264 of the laws of 2003, is amended to read as follows:

3. rebuts evidence introduced by the people of the victim's failure to engage in [~~sexual intercourse~~] vaginal sexual contact, oral sexual [~~conduct~~] contact, anal sexual [~~conduct~~] contact or sexual contact during a given period of time; or

§ 61. Subdivision 3 of section 344.4 of the family court act, as amended by chapter 264 of the laws of 2003, is amended to read as follows:

3. rebuts evidence introduced by the presentment agency of the victim's failure to engage in [~~sexual intercourse~~] vaginal sexual contact, oral sexual [~~conduct~~] contact, anal sexual [~~conduct~~] contact or sexual contact during a given period of time; or

§ 62. Subdivision 4 of section 170 of the domestic relations law, as amended by chapter 264 of the laws of 2003, is amended to read as follows:

(4) The commission of an act of adultery, provided that adultery for the purposes of articles ten, eleven, and eleven-A of this chapter, is hereby defined as the commission of an act of [~~sexual intercourse~~] vaginal sexual contact, oral sexual [~~conduct~~] contact or anal sexual [~~conduct~~] contact, voluntarily performed by the defendant, with a person other than the plaintiff after the marriage of plaintiff and defendant. Oral sexual [~~conduct~~] contact and anal sexual [~~conduct~~] contact include, but are not limited to, sexual conduct as defined in subdivision two of section 130.00 and subdivision three of section 130.20 of the penal law.

§ 63. Subdivision 4 of section 200 of the domestic relations law, as amended by chapter 264 of the laws of 2003, is amended to read as follows:

4. The commission of an act of adultery by the defendant; except where such offense is committed by the procurement or with the connivance of the plaintiff or where there is voluntary cohabitation of the parties with the knowledge of the offense or where action was not commenced within five years after the discovery by the plaintiff of the offense charged or where the plaintiff has also been guilty of adultery under such circumstances that the defendant would have been entitled, if innocent, to a divorce, provided that adultery for the purposes of this subdivision is hereby defined as the commission of an act of [~~sexual intercourse~~] vaginal sexual contact, oral sexual [~~conduct~~] contact or anal sexual [~~conduct~~] contact, voluntarily performed by the defendant,

1 with a person other than the plaintiff after the marriage of plaintiff
2 and defendant. Oral sexual [~~conduct~~] contact and anal sexual [~~conduct~~]
3 contact include, but are not limited to, sexual conduct as defined in
4 subdivision two of section 130.00 and subdivision three of section
5 130.20 of the penal law.

6 § 64. This act shall take effect on the ninetieth day after it shall
7 have become a law and shall apply to any offense on or after such effec-
8 tive date; provided, however, that section nine-a of this act shall take
9 effect on the same date and in the same manner as section 3, section
10 thirty-two-a of this act shall take effect on the same date and in the
11 same manner as section 28, and that section thirty-five-a of this act
12 shall take effect on the same date and in the same manner as section 35
13 of chapter 368 or the laws of 2015. As it pertains to the repealed
14 sections of law, nothing in this act shall affect a requirement to
15 register pursuant to article 6-C of the correction law; a lawfully
16 required disclosure of a conviction; any restriction or prohibition for
17 certain types of employment, housing, or government benefit; or any
18 other ongoing matter related to a conviction of the sections repealed in
19 this act.