

STATE OF NEW YORK

794--B

2019-2020 Regular Sessions

IN ASSEMBLY

January 11, 2019

Introduced by M. of A. SIMOTAS, COLTON, AUBRY, ENGLEBRIGHT, BRAUNSTEIN, DenDEKKER, JAFFEE, PERRY, COOK, WEPRIN, SANTABARBARA, ROZIC, HEVESI, QUART, LIFTON, OTIS, MOSLEY, FAHY, SEAWRIGHT, TAYLOR, ZEBROWSKI -- Multi-Sponsored by -- M. of A. ARROYO, BUCHWALD, FINCH, FITZPATRICK, GALEF, GLICK, LUPARDO, MALLIOTAKIS, McDONOUGH, MONTESANO, PEOPLES-STOKES, RA -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, 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2 REPEALED.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.

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

LBD01481-05-9

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

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

§ 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.

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

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

4 § 130.35 Rape in the first degree.

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

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

8 [~~1-~~] (a) By forcible compulsion; or

9 [~~2-~~] (b) Who is incapable of consent by reason of being physically
10 helpless; or

11 [~~3-~~] (c) Who is less than eleven years old; or

12 [~~4-~~] (d) Who is less than thirteen years old and the actor is eighteen
13 years old or more[~~-~~];

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

15 (a) By forcible compulsion; or

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

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

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

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

22 (a) by forcible compulsion; or

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

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

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

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

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

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

§ 7. Subdivision 2 of section 30.00 of the penal law, as amended by section 38 of part WWW of chapter 59 of the laws of 2017, is amended to read as follows:

2. A person thirteen, fourteen or, fifteen years of age is criminally responsible for acts constituting murder in the second degree as defined in subdivisions one and two of section 125.25 and in subdivision three of such section provided that the underlying crime for the murder charge is one for which such person is criminally responsible or for such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of this chapter; and a person fourteen or, fifteen years of age is criminally responsible for acts constituting the crimes defined in section 135.25 (kidnapping in the first degree); 150.20 (arson in the first degree); subdivisions one and two of section 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); ~~subdivisions one and~~ paragraphs (a) and (b) of subdivision one, paragraphs (a) and (b) of subdivision two and paragraphs (a) and (b) of subdivision three of section 130.35 (rape in the first degree); subdivisions one and two of section 130.50 (criminal sexual act in the first degree); 130.70 (aggravated sexual abuse in the first degree); 140.30 (burglary in the first degree); subdivision one of section 140.25 (burglary in the second degree); 150.15 (arson in the second degree); 160.15 (robbery in the first degree); subdivision two of section 160.10 (robbery in the second degree) of this chapter; or section 265.03 of this chapter, where such machine gun or such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 of this chapter; or defined in this chapter as an attempt to commit murder in the second degree or kidnapping in the first degree, or for such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of this chapter.

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

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

§ 9. Paragraphs (a) and (c) of subdivision 1 of section 70.02 of the penal law, paragraph (a) as amended by chapter 189 of the laws 2018 and paragraph (c) as amended by chapter 368 of the laws of 2015, are amended to read as follows:

(a) Class B violent felony offenses: an attempt to commit the class A-I felonies of murder in the second degree as defined in section 125.25, kidnapping in the first degree as defined in section 135.25, and arson in the first degree as defined in section 150.20; manslaughter in the first degree as defined in section 125.20, aggravated manslaughter in the first degree as defined in section 125.22, rape in the first degree as defined in section 130.35, ~~criminal sexual act in the first degree as defined in section 130.50,~~ aggravated sexual abuse in the first degree as defined in section 130.70, course of sexual conduct against a child in the first degree as defined in section 130.75; assault in the first degree as defined in section 120.10, kidnapping in the second degree as defined in section 135.20, burglary in the first degree as defined in section 140.30, arson in the second degree as defined in section 150.15, robbery in the first degree as defined in section 160.15, sex trafficking as defined in paragraphs (a) and (b) of subdivision five of section 230.34, sex trafficking of a child as defined in section 230.34-a, incest in the first degree as defined in

1 section 255.27, criminal possession of a weapon in the first degree as
2 defined in section 265.04, criminal use of a firearm in the first degree
3 as defined in section 265.09, criminal sale of a firearm in the first
4 degree as defined in section 265.13, aggravated assault upon a police
5 officer or a peace officer as defined in section 120.11, gang assault in
6 the first degree as defined in section 120.07, intimidating a victim or
7 witness in the first degree as defined in section 215.17, hindering
8 prosecution of terrorism in the first degree as defined in section
9 490.35, criminal possession of a chemical weapon or biological weapon in
10 the second degree as defined in section 490.40, and criminal use of a
11 chemical weapon or biological weapon in the third degree as defined in
12 section 490.47.

13 (c) Class D violent felony offenses: an attempt to commit any of the
14 class C felonies set forth in paragraph (b); reckless assault of a child
15 as defined in section 120.02, assault in the second degree as defined in
16 section 120.05, menacing a police officer or peace officer as defined in
17 section 120.18, stalking in the first degree, as defined in subdivision
18 one of section 120.60, strangulation in the second degree as defined in
19 section 121.12, rape in the second degree as defined in section 130.30,
20 ~~[criminal sexual act in the second degree as defined in section 130.45,~~
21 sexual abuse in the first degree as defined in section 130.65, course of
22 sexual conduct against a child in the second degree as defined in
23 section 130.80, aggravated sexual abuse in the third degree as defined
24 in section 130.66, facilitating a sex offense with a controlled
25 substance as defined in section 130.90, labor trafficking as defined in
26 paragraphs (a) and (b) of subdivision three of section 135.35, criminal
27 possession of a weapon in the third degree as defined in subdivision
28 five, six, seven, eight, nine or ten of section 265.02, criminal sale of
29 a firearm in the third degree as defined in section 265.11, intimidating
30 a victim or witness in the second degree as defined in section 215.16,
31 soliciting or providing support for an act of terrorism in the second
32 degree as defined in section 490.10, and making a terroristic threat as
33 defined in section 490.20, falsely reporting an incident in the first
34 degree as defined in section 240.60, placing a false bomb or hazardous
35 substance in the first degree as defined in section 240.62, placing a
36 false bomb or hazardous substance in a sports stadium or arena, mass
37 transportation facility or enclosed shopping mall as defined in section
38 240.63, and aggravated unpermitted use of indoor pyrotechnics in the
39 first degree as defined in section 405.18.

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

43 b. a crime defined in section 130.20, 130.25, 130.30, ~~[130.40,~~
44 ~~130.45,~~] 130.55, 130.60, 130.70, 255.25, 255.26 or 255.27;

45 § 11. Paragraph (d) of subdivision 2 and paragraph (h) of subdivision
46 3 of section 130.05 of the penal law, paragraph (d) of subdivision 2 as
47 amended by chapter 40 of the laws of 2004 and paragraph (h) of subdivi-
48 sion 3 as amended by section 2 of part G of chapter 501 of the laws of
49 2012, are amended to read as follows:

50 (d) Where the offense charged is rape in the third degree as defined
51 in ~~[subdivision three]~~ subdivision seven, eight or nine of section
52 130.25, ~~[or criminal sexual act in the third degree as defined in subdivi-~~
53 ~~vision three of section 130.40,~~] in addition to forcible vaginal sexual
54 contact compulsion, circumstances under which, at the time of the act of
55 intercourse, oral sexual ~~[conduct]~~ contact or anal sexual ~~[conduct]~~
56 contact, the victim clearly expressed that he or she did not consent to

engage in such act, and a reasonable person in the actor's situation would have understood such person's words and acts as an expression of lack of consent to such act under all the circumstances.

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

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

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

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

5. Being eighteen years old or more, while in the course of committing rape in the first, second or third degree, ~~[criminal sexual act in the first, second or third degree,]~~ sexual abuse in the first degree, aggravated sexual abuse in the first, second, third or fourth degree, or incest in the first, second or third degree, against a person less than fourteen years old, he or she intentionally causes the death of such person.

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

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

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

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

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

§ 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 amended by section 8 of part NN of chapter 55 of the laws of 2018, 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 third degree); section 135.61 (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 or 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 section 9 of part NN of chapter 55 of the laws of 2018, 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

1 120.15 (menacing in the third degree); section 120.20 (reckless endan-
2 germent in the second degree); section 120.25 (reckless endangerment in
3 the first degree); section 121.12 (strangulation in the second degree);
4 section 121.13 (strangulation in the first degree); subdivision one of
5 section 125.15 (manslaughter in the second degree); subdivision one, two
6 or four of section 125.20 (manslaughter in the first degree); section
7 125.25 (murder in the second degree); section 120.45 (stalking in the
8 fourth degree); section 120.50 (stalking in the third degree); section
9 120.55 (stalking in the second degree); section 120.60 (stalking in the
10 first degree); paragraph (a) of subdivision one, paragraph (a) of subdi-
11 vision two and paragraph (a) of subdivision three of section 130.35
12 (rape in the first degree); subdivision one of section 130.50 (criminal
13 sexual act in the first degree); subdivision one of section 130.65
14 (sexual abuse in the first degree); paragraph (a) of subdivision one of
15 section 130.67 (aggravated sexual abuse in the second degree); paragraph
16 (a) of subdivision one of section 130.70 (aggravated sexual abuse in the
17 first degree); section 135.05 (unlawful imprisonment in the second
18 degree); section 135.10 (unlawful imprisonment in the first degree);
19 section 135.20 (kidnapping in the second degree); section 135.25
20 (kidnapping in the first degree); section 135.60 (coercion in the third
21 degree); section 135.61 (coercion in the second degree); section 135.65
22 (coercion in the first degree); section 140.10 (criminal trespass in the
23 third degree); section 140.15 (criminal trespass in the second degree);
24 section 140.17 (criminal trespass in the first degree); section 140.20
25 (burglary in the third degree); section 140.25 (burglary in the second
26 degree); section 140.30 (burglary in the first degree); section 145.00
27 (criminal mischief in the fourth degree); section 145.05 (criminal
28 mischief in the third degree); section 145.10 (criminal mischief in the
29 second degree); section 145.12 (criminal mischief in the first degree);
30 section 150.05 (arson in the fourth degree); section 150.10 (arson in
31 the third degree); section 150.15 (arson in the second degree); section
32 150.20 (arson in the first degree); section 155.25 (petit larceny);
33 section 155.30 (grand larceny in the fourth degree); section 155.35
34 (grand larceny in the third degree); section 155.40 (grand larceny in
35 the second degree); section 155.42 (grand larceny in the first degree);
36 section 160.05 (robbery in the third degree); section 160.10 (robbery in
37 the second degree); section 160.15 (robbery in the first degree);
38 section 240.25 (harassment in the first degree); subdivision one, two or
39 four of section 240.30 (aggravated harassment in the second degree); or
40 any attempt or conspiracy to commit any of the foregoing offenses.

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

43 42. "Juvenile offender" means (1) a person, thirteen years old who is
44 criminally responsible for acts constituting murder in the second degree
45 as defined in subdivisions one and two of section 125.25 of the penal
46 law, or such conduct as a sexually motivated felony, where authorized
47 pursuant to section 130.91 of the penal law; and (2) a person fourteen
48 or fifteen years old who is criminally responsible for acts constituting
49 the crimes defined in subdivisions one and two of section 125.25 (murder
50 in the second degree) and in subdivision three of such section provided
51 that the underlying crime for the murder charge is one for which such
52 person is criminally responsible; section 135.25 (kidnapping in the
53 first degree); 150.20 (arson in the first degree); subdivisions one and
54 two of section 120.10 (assault in the first degree); 125.20 (manslaught-
55 er in the first degree); [~~subdivisions one and~~ paragraphs (a) and (b)
56 of subdivision one, paragraphs (a) and (b) of subdivision two and para-

1 graphs (a) and (b) of subdivision three of section 130.35 (rape in the
2 first degree); [~~subdivisions one and two of section 130.50 (criminal~~
3 ~~sexual act in the first degree);~~] 130.70 (aggravated sexual abuse in the
4 first degree); 140.30 (burglary in the first degree); subdivision one of
5 section 140.25 (burglary in the second degree); 150.15 (arson in the
6 second degree); 160.15 (robbery in the first degree); subdivision two of
7 section 160.10 (robbery in the second degree) of the penal law; or
8 section 265.03 of the penal law, where such machine gun or such firearm
9 is possessed on school grounds, as that phrase is defined in subdivision
10 fourteen of section 220.00 of the penal law; or defined in the penal law
11 as an attempt to commit murder in the second degree or kidnapping in the
12 first degree, or such conduct as a sexually motivated felony, where
13 authorized pursuant to section 130.91 of the penal law.

14 § 23. Paragraphs (a) and (b) of subdivision 1, the opening paragraph
15 of subdivision 2 and paragraph (a) of subdivision 3 of section 140.20 of
16 the criminal procedure law, paragraphs (a) and (b) of subdivision 1 as
17 amended by chapter 324 of the laws of 1988, the opening paragraph of
18 subdivision 2 and paragraph (a) of subdivision 3 as amended by chapter
19 550 of the laws of 1987, are amended to read as follows:

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

28 (b) If the arrest is for an offense other than a class A, B, C or D
29 felony or a violation of section 130.25, [~~130.40,~~] 205.10, 205.17,
30 205.19 or 215.56 of the penal law committed in a village having a
31 village court and such court is not available at the time, the arrested
32 person may be brought before the town court of the town embracing such
33 village or any other village court within such town, or, if such town or
34 village court is not available either, before the local criminal court
35 of any adjoining town, village embraced in whole or in part by such
36 adjoining town, or city of the same county; and

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

42 (a) 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, and

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

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

52 If the arrest is for an offense other than a class A, B, C or D felony
53 or a violation of section 130.25, [~~130.40,~~] 205.10, 205.17, 205.19 or
54 215.56 of the penal law, the arrested person need not be brought before
55 a local criminal court as provided in subdivision two, and the procedure
56 may instead be as follows:

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

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

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

§ 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:

§ 150.20 Appearance ticket; when and by whom issuable.

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

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

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.

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

(a) Except as provided in subdivision six of section 200.20 of this chapter, a grand jury may not indict (i) a person thirteen years of age for any conduct or crime other than conduct constituting a crime defined in subdivisions one and two of section 125.25 (murder in the second degree) or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (ii) a person fourteen or fifteen years of age for any conduct or crime other than conduct constituting a crime defined in subdivisions one and two of section 125.25 (murder in the second degree) and in subdivision three of such section provided that the underlying crime for the murder charge is one for which such person is criminally responsible; 135.25 (kidnapping in the first degree); 150.20 (arson in the first degree); subdivisions one and two of section 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); ~~subdivisions one and~~ paragraphs (a) and (b) of subdivision one, paragraphs (a) and (b) of subdivision two and paragraphs (a) and (b) of subdivision three of section 130.35 (rape in the first degree); ~~subdivisions one and two of section 130.50 (criminal sexual act in the first degree);~~ 130.70 (aggravated sexual abuse in the first degree); 140.30 (burglary in the first degree); subdivision one of section 140.25 (burglary in the second degree); 150.15 (arson in the second degree); 160.15 (robbery in the first degree); subdivision two of section 160.10 (robbery in the second degree) of the penal law; ~~subdivision four of section 265.02 of the penal law, where such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 of the penal law;~~ or section 265.03 of the penal law, where such machine gun or such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 of the penal law; or defined in the penal law as an attempt to commit murder in the second degree or kidnapping in the first degree, or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law.

§ 28. Subdivision 4 of section 722.20 of the criminal procedure law, as added by section 1-a of part WWW of chapter 59 of the laws of 2017, is amended to read as follows:

4. Notwithstanding the provisions of subdivisions two and three of this section, the 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 title if, upon consideration of the criteria specified in subdivision two of section 722.22 of this article, 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 and paragraph (a) of subdivision three of section 130.35 of the penal law, ~~criminal sexual act in the first degree as defined in subdivision one of section 130.50 of the penal law,~~ or an armed felony as defined in paragraph (a) of subdivision forty-one of section 1.20 of this chapter, a determination that such action be removed to the family court shall, in addition, be based upon a finding of one or more of the following factors: (i) mitigating circumstances that bear directly upon the manner in which the crime was committed; or (ii) where the defendant was not the sole participant in the crime, the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution; or (iii) possible deficiencies in proof of the crime.

1 § 29. Subdivision 5 of section 722.21 of the criminal procedure law,
2 as added by section 1-a of part WWW of chapter 59 of the laws of 2017,
3 is amended to read as follows:

4 5. Notwithstanding subdivisions two and three of this section, at the
5 request of the district attorney, the court shall order removal of an
6 action against an adolescent offender charged with an offense listed in
7 paragraph (a) of subdivision two of section 722.23 of this article, to
8 the family court pursuant to the provisions of article seven hundred
9 twenty-five of this title and upon consideration of the criteria speci-
10 fied in subdivision two of section 722.22 of this article, it is deter-
11 mined that to do so would be in the interests of justice. Where, howev-
12 er, the felony complaint charges the adolescent offender with murder in
13 the second degree as defined in section 125.25 of the penal law, rape in
14 the first degree as defined in paragraph (a) of subdivision one, para-
15 graph (a) of subdivision two and paragraph (a) of subdivision three of
16 section 130.35 of the penal law, [~~criminal sexual act in the first~~
17 ~~degree as defined in subdivision one of section 130.50 of the penal~~
18 ~~law,~~] or an armed felony as defined in paragraph (a) of subdivision
19 forty-one of section 1.20 of this chapter, a determination that such
20 action be removed to the family court shall, in addition, be based upon
21 a finding of one or more of the following factors: (i) mitigating
22 circumstances that bear directly upon the manner in which the crime was
23 committed; or (ii) where the defendant was not the sole participant in
24 the crime, the defendant's participation was relatively minor although
25 not so minor as to constitute a defense to the prosecution; or (iii)
26 possible deficiencies in proof of the crime.

27 § 30. Paragraph (b) of subdivision 1 of section 722.22 of the criminal
28 procedure law, as added by section 1-a of part WWW of chapter 59 of the
29 laws of 2017, is amended to read as follows:

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

49 § 31. Subparagraph (iii) of paragraph (g) of subdivision 5 of section
50 220.10 of the criminal procedure law, as amended by chapter 264 of the
51 laws of 2003, is amended to read as follows:

52 (iii) where the indictment does not charge a crime specified in
53 subparagraph (i) of this paragraph, the district attorney may recommend
54 removal of the action to the family court. Upon making such recommenda-
55 tion the district attorney shall submit a subscribed memorandum setting
56 forth: (1) a recommendation that the interests of justice would best be

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

22 § 32. Subdivision 6 of section 300.50 of the criminal procedure law,
23 as amended by chapter 264 of the laws of 2003, is amended to read as
24 follows:

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

37 § 32-a. Subdivision 6 of section 380.50 of the criminal procedure law,
38 as separately amended by chapters 368 and 394 of the laws of 2015, is
39 amended to read as follows:

40 6. Regardless of whether the victim requests to make a statement with
41 regard to the defendant's sentence, where the defendant is sentenced for
42 a violent felony offense as defined in section 70.02 of the penal law or
43 a felony defined in article one hundred twenty-five of such law or any
44 of the following provisions of such law sections 130.25, 130.30,
45 [~~130.40, 130.45,~~] 255.25, 255.26, 255.27, article two hundred sixty-
46 three, 135.10, 135.25, 230.05, 230.06, 230.11, 230.12, 230.13, subdivi-
47 sion two of section 230.30 or 230.32, the prosecutor shall, within sixty
48 days of the imposition of sentence, provide the victim with a form,
49 prepared and distributed by the commissioner of the division of criminal
50 justice services, in consultation with the director of the office of
51 victim services, on which the victim may indicate a demand to be
52 informed of any petition to change the name of such defendant. Such
53 forms shall be maintained by such prosecutor. Upon receipt of a notice
54 of a petition to change the name of any such defendant, pursuant to
55 subdivision two of section sixty-two of the civil rights law, the prose-
56 cutor shall promptly notify the victim at the most current address or

1 telephone number provided by such victim in the most reasonable and
2 expedient possible manner of the time and place such petition will be
3 presented to the court.

4 § 33. Paragraph (b) of subdivision 8 of section 700.05 of the criminal
5 procedure law, as amended by chapter 1 of the laws of 2019, is amended
6 to read as follows:

7 (b) Any of the following felonies: assault in the second degree as
8 defined in section 120.05 of the penal law, assault in the first degree
9 as defined in section 120.10 of the penal law, reckless endangerment in
10 the first degree as defined in section 120.25 of the penal law, promot-
11 ing a suicide attempt as defined in section 120.30 of the penal law,
12 strangulation in the second degree as defined in section 121.12 of the
13 penal law, strangulation in the first degree as defined in section
14 121.13 of the penal law, criminally negligent homicide as defined in
15 section 125.10 of the penal law, manslaughter in the second degree as
16 defined in section 125.15 of the penal law, manslaughter in the first
17 degree as defined in section 125.20 of the penal law, murder in the
18 second degree as defined in section 125.25 of the penal law, murder in
19 the first degree as defined in section 125.27 of the penal law, rape in
20 the third degree as defined in section 130.25 of the penal law, rape in
21 the second degree as defined in section 130.30 of the penal law, rape in
22 the first degree as defined in section 130.35 of the penal law, [~~crimi-
23 nal sexual act in the third degree as defined in section 130.40 of the
24 penal law, criminal sexual act in the second degree as defined in
25 section 130.45 of the penal law, criminal sexual act in the first degree
26 as defined in section 130.50 of the penal law,~~] sexual abuse in the
27 first degree as defined in section 130.65 of the penal law, unlawful
28 imprisonment in the first degree as defined in section 135.10 of the
29 penal law, kidnapping in the second degree as defined in section 135.20
30 of the penal law, kidnapping in the first degree as defined in section
31 135.25 of the penal law, labor trafficking as defined in section 135.35
32 of the penal law, aggravated labor trafficking as defined in section
33 135.37 of the penal law, custodial interference in the first degree as
34 defined in section 135.50 of the penal law, coercion in the first degree
35 as defined in section 135.65 of the penal law, criminal trespass in the
36 first degree as defined in section 140.17 of the penal law, burglary in
37 the third degree as defined in section 140.20 of the penal law, burglary
38 in the second degree as defined in section 140.25 of the penal law,
39 burglary in the first degree as defined in section 140.30 of the penal
40 law, criminal mischief in the third degree as defined in section 145.05
41 of the penal law, criminal mischief in the second degree as defined in
42 section 145.10 of the penal law, criminal mischief in the first degree
43 as defined in section 145.12 of the penal law, criminal tampering in the
44 first degree as defined in section 145.20 of the penal law, arson in the
45 fourth degree as defined in section 150.05 of the penal law, arson in
46 the third degree as defined in section 150.10 of the penal law, arson in
47 the second degree as defined in section 150.15 of the penal law, arson
48 in the first degree as defined in section 150.20 of the penal law, grand
49 larceny in the fourth degree as defined in section 155.30 of the penal
50 law, grand larceny in the third degree as defined in section 155.35 of
51 the penal law, grand larceny in the second degree as defined in section
52 155.40 of the penal law, grand larceny in the first degree as defined in
53 section 155.42 of the penal law, health care fraud in the fourth degree
54 as defined in section 177.10 of the penal law, health care fraud in the
55 third degree as defined in section 177.15 of the penal law, health care
56 fraud in the second degree as defined in section 177.20 of the penal

1 law, health care fraud in the first degree as defined in section 177.25
2 of the penal law, robbery in the third degree as defined in section
3 160.05 of the penal law, robbery in the second degree as defined in
4 section 160.10 of the penal law, robbery in the first degree as defined
5 in section 160.15 of the penal law, unlawful use of secret scientific
6 material as defined in section 165.07 of the penal law, criminal
7 possession of stolen property in the fourth degree as defined in section
8 165.45 of the penal law, criminal possession of stolen property in the
9 third degree as defined in section 165.50 of the penal law, criminal
10 possession of stolen property in the second degree as defined by section
11 165.52 of the penal law, criminal possession of stolen property in the
12 first degree as defined by section 165.54 of the penal law, trademark
13 counterfeiting in the second degree as defined in section 165.72 of the
14 penal law, trademark counterfeiting in the first degree as defined in
15 section 165.73 of the penal law, forgery in the second degree as defined
16 in section 170.10 of the penal law, forgery in the first degree as
17 defined in section 170.15 of the penal law, criminal possession of a
18 forged instrument in the second degree as defined in section 170.25 of
19 the penal law, criminal possession of a forged instrument in the first
20 degree as defined in section 170.30 of the penal law, criminal
21 possession of forgery devices as defined in section 170.40 of the penal
22 law, falsifying business records in the first degree as defined in
23 section 175.10 of the penal law, tampering with public records in the
24 first degree as defined in section 175.25 of the penal law, offering a
25 false instrument for filing in the first degree as defined in section
26 175.35 of the penal law, issuing a false certificate as defined in
27 section 175.40 of the penal law, criminal diversion of prescription
28 medications and prescriptions in the second degree as defined in section
29 178.20 of the penal law, criminal diversion of prescription medications
30 and prescriptions in the first degree as defined in section 178.25 of
31 the penal law, residential mortgage fraud in the fourth degree as
32 defined in section 187.10 of the penal law, residential mortgage fraud
33 in the third degree as defined in section 187.15 of the penal law, resi-
34 dential mortgage fraud in the second degree as defined in section 187.20
35 of the penal law, residential mortgage fraud in the first degree as
36 defined in section 187.25 of the penal law, escape in the second degree
37 as defined in section 205.10 of the penal law, escape in the first
38 degree as defined in section 205.15 of the penal law, absconding from
39 temporary release in the first degree as defined in section 205.17 of
40 the penal law, promoting prison contraband in the first degree as
41 defined in section 205.25 of the penal law, hindering prosecution in the
42 second degree as defined in section 205.60 of the penal law, hindering
43 prosecution in the first degree as defined in section 205.65 of the
44 penal law, sex trafficking as defined in section 230.34 of the penal
45 law, sex trafficking of a child as defined in section 230.34-a of the
46 penal law, criminal possession of a weapon in the third degree as
47 defined in subdivisions two, three and five of section 265.02 of the
48 penal law, criminal possession of a weapon in the second degree as
49 defined in section 265.03 of the penal law, criminal possession of a
50 weapon in the first degree as defined in section 265.04 of the penal
51 law, manufacture, transport, disposition and defacement of weapons and
52 dangerous instruments and appliances defined as felonies in subdivisions
53 one, two, and three of section 265.10 of the penal law, sections 265.11,
54 265.12 and 265.13 of the penal law, or prohibited use of weapons as
55 defined in subdivision two of section 265.35 of the penal law, relating
56 to firearms and other dangerous weapons, or failure to disclose the

1 origin of a recording in the first degree as defined in section 275.40
2 of the penal law;

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

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

12 § 35. Paragraph (a) of subdivision 2 and paragraph (a) of subdivision
13 3 of section 168-a of the correction law, paragraph (a) of subdivision 2
14 as amended by chapter 405 of the laws of 2008, subparagraph (i) of para-
15 graph (a) of subdivision 2 as amended by chapter 189 of the laws of 2018
16 and paragraph (a) of subdivision 3 as amended by chapter 107 of the laws
17 of 2006, are amended to read as follows:

18 (a) (i) a conviction of or a conviction for an attempt to commit any
19 of the provisions of sections 120.70, 130.20, 130.25, 130.30, [~~130.40,~~
20 ~~130.45,~~] 130.60, 230.34, 230.34-a 250.50, 255.25, 255.26 and 255.27 or
21 article two hundred sixty-three of the penal law, or section 135.05,
22 135.10, 135.20 or 135.25 of such law relating to kidnapping offenses,
23 provided the victim of such kidnapping or related offense is less than
24 seventeen years old and the offender is not the parent of the victim, or
25 section 230.04, where the person patronized is in fact less than seven-
26 teen years of age, 230.05, 230.06, 230.11, 230.12, 230.13, subdivision
27 two of section 230.30, section 230.32, 230.33, or 230.34 of the penal
28 law, or section 230.25 of the penal law where the person prostituted is
29 in fact less than seventeen years old, or (ii) a conviction of or a
30 conviction for an attempt to commit any of the provisions of section
31 235.22 of the penal law, or (iii) a conviction of or a conviction for an
32 attempt to commit any provisions of the foregoing sections committed or
33 attempted as a hate crime defined in section 485.05 of the penal law or
34 as a crime of terrorism defined in section 490.25 of such law or as a
35 sexually motivated felony defined in section 130.91 of such law; or

36 (a) (i) a conviction of or a conviction for an attempt to commit any
37 of the provisions of sections 130.35, [~~130.50,~~] 130.65, 130.66, 130.67,
38 130.70, 130.75, 130.80, 130.95 and 130.96 of the penal law, or (ii) a
39 conviction of or a conviction for an attempt to commit any of the
40 provisions of sections 130.53, 130.65-a and 130.90 of the penal law, or
41 (iii) a conviction of or a conviction for an attempt to commit any
42 provisions of the foregoing sections committed or attempted as a hate
43 crime defined in section 485.05 of the penal law or as a crime of
44 terrorism defined in section 490.25 of such law; or

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

51 (ii) the child has been found to be an abused child, as defined in
52 paragraph (iii) of subdivision (e) of section ten hundred twelve of the
53 family court act, as a result of such parent's acts; provided, however,
54 the respondent must have committed or knowingly allowed to be committed
55 a felony sex offense as defined in sections 130.25, 130.30, 130.35,
56 [~~130.40, 130.45, 130.50,~~] 130.65, 130.67, 130.70, 130.75, 130.80, 130.95

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

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

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

30 (e) A determination by the court in accordance with article ten of the
31 family court act based upon clear and convincing evidence that a child
32 was abused (A) as defined in paragraph (i) of subdivision (e) of section
33 ten hundred twelve of the family court act, as a result of such parent's
34 acts; or (B) as defined in paragraph (iii) of subdivision (e) of section
35 ten hundred twelve of the family court act, as a result of such parent's
36 acts; provided, however, the respondent must have committed or knowingly
37 allowed to be committed a felony sex offense as defined in sections
38 130.25, 130.30, 130.35, ~~[130.40, 130.45, 130.50]~~ 130.65, 130.67,
39 130.70, 130.75 and 130.80 of the penal law shall establish that the
40 child was an abused child for the purpose of a determination as required
41 by subparagraph (i) or (ii) of paragraph (b) of this subdivision. Such a
42 determination by the court in accordance with article ten of the family
43 court act based upon a fair preponderance of evidence shall be admissi-
44 ble in any proceeding commenced in accordance with this section.

45 § 37. Paragraphs (a) and (b) of subdivision 4 of section 509-cc of the
46 vehicle and traffic law, paragraph (a) as amended by chapter 189 of the
47 laws of 2018 and paragraph (b) as amended by chapter 400 of the laws of
48 2011, are amended to read as follows:

49 (a) The offenses referred to in subparagraph (ii) of paragraph (a) of
50 subdivision one and paragraph (a) of subdivision two of this section
51 that result in permanent disqualification shall include a conviction
52 under sections 125.12, 125.13, 125.14, 125.15, 125.20, 125.21, 125.22,
53 125.25, 125.26, 125.27, 130.30, 130.35, ~~[130.45, 130.50]~~ 130.65,
54 130.66, 130.67, 130.70, 130.75, 130.80, 130.90, 130.95, 130.96, 135.25,
55 150.20, 230.30, 230.32, 230.34, 230.34-a, 235.22, 263.05, 263.10,
56 263.11, 263.15, 263.16 of the penal law or an attempt to commit any of

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

6 (b) The offenses referred to in subparagraph (ii) of paragraph (a) of
7 subdivision one and paragraph (b) of subdivision two of this section
8 that result in permanent disqualification shall include a conviction
9 under sections 100.13, 105.15, 105.17, 115.08, 120.12, 120.70, 125.10,
10 125.11, ~~130.40,~~ 130.53, 130.60, 130.65-a, 135.20, 160.15, 220.18,
11 220.21, 220.39, 220.41, 220.43, 220.44, 230.25, 260.00, 265.04 of the
12 penal law or an attempt to commit any of the aforesaid offenses under
13 section 110.00 of the penal law, or any offenses committed under a
14 former section of the penal law which would constitute violations of the
15 aforesaid sections of the penal law, or any offenses committed outside
16 this state which would constitute violations of the aforesaid sections
17 of the penal law.

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

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

1 or (vi) other than a misdemeanor, committed by a person at least seven
2 but less than sixteen years of age, but only where there has been two
3 prior findings by the court that such person has committed a prior act
4 which, if committed by an adult would be a felony:

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

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

14 § 39. Paragraph (ii) of subdivision 8 of section 301.2 of the family
15 court act, as amended by section 57 of part WWW of chapter 59 of the
16 laws of 2017, is amended to read as follows:

17 (ii) defined in sections 120.10 (assault in the first degree); 125.20
18 (manslaughter in the first degree); 130.35 (rape in the first degree);
19 ~~[130.50 (criminal sexual act in the first degree);]~~ 130.70 (aggravated
20 sexual abuse in the first degree); 135.20 (kidnapping in the second
21 degree) but only where the abduction involved the use or threat of use
22 of deadly physical force; 150.15 (arson in the second degree) or 160.15
23 (robbery in the first degree) of the penal law committed by a person
24 thirteen, fourteen, fifteen, or sixteen, or, commencing October first,
25 two thousand nineteen, seventeen years of age; or such conduct committed
26 as a sexually motivated felony, where authorized pursuant to section
27 130.91 of the penal law;

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

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

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

51 (c) Prior to granting an order of disposition pursuant to subdivision
52 (a) of this section following an adjudication of child abuse, as defined
53 in paragraph (i) of subdivision (e) of section ten hundred twelve of
54 this act or a finding of a felony sex offense as defined in sections
55 130.25, 130.30, 130.35, ~~[130.40, 130.45, 130.50,]~~ 130.65 and 130.70 of
56 the penal law, the court shall advise the respondent that any subsequent

1 adjudication of child abuse, as defined in paragraph (i) of subdivision
2 (e) of section one thousand twelve of this act or any subsequent finding
3 of a felony sex offense as defined in those sections of the penal law
4 herein enumerated, arising out of acts of the respondent may result in
5 the commitment of the guardianship and custody of the child or another
6 child pursuant to section three hundred eighty-four-b of the social
7 services law. The order in such cases shall contain a statement that any
8 subsequent adjudication of child abuse or finding of a felony sex
9 offense as described herein may result in the commitment of the guardian-
10 ship and custody of the child, or another child pursuant to section
11 three hundred eighty-four-b of the social services law.

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

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

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

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

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

51 Upon compliance with the order and the filing of the affidavit of the
52 publication, as provided in this section, the clerk of the court in
53 which the order has been entered shall certify that the order has been
54 complied with; and, if the petition states that the petitioner stands
55 convicted of a violent felony offense as defined in section 70.02 of the
56 penal law or a felony defined in article one hundred twenty-five of such

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

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

16 § 213-c. Action by victim of conduct constituting certain sexual
17 offenses. Notwithstanding any other limitation set forth in this arti-
18 cle, a civil claim or cause of action to recover from a defendant as
19 hereinafter defined, for physical, psychological or other injury or
20 condition suffered by a person as a result of acts by such defendant of
21 rape in the first degree as defined in section 130.35 of the penal law,
22 [~~or criminal sexual act in the first degree as defined in section 130.50~~
23 ~~of the penal law,~~] or aggravated sexual abuse in the first degree as
24 defined in section 130.70 of the penal law, or course of sexual conduct
25 against a child in the first degree as defined in section 130.75 of the
26 penal law may be brought within five years. As used in this section, the
27 term "defendant" shall mean only a person who commits the acts described
28 in this section or who, in a criminal proceeding, could be charged with
29 criminal liability for the commission of such acts pursuant to section
30 20.00 of the penal law and shall not apply to any related civil claim or
31 cause of action arising from such acts. Nothing in this section shall be
32 construed to require that a criminal charge be brought or a criminal
33 conviction be obtained as a condition of bringing a civil cause of
34 action or receiving a civil judgment pursuant to this section or be
35 construed to require that any of the rules governing a criminal proceed-
36 ing be applicable to any such civil action.

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

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

53 § 47. Subdivision 11 of section 123 of the agriculture and markets
54 law, as amended by chapter 392 of the laws of 2004, and such section as
55 renumbered by section 18 of part T of chapter 59 of the laws of 2010, is
56 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 1 of the laws of 2019, 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, 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 provisions of section twenty-seven hundred eighty-five-a of the public health law.

(b) For the purposes of this section, the terms "victim" and "applicant" mean the person with whom the defendant is charged to have engaged in an act of "~~sexual intercourse~~ vaginal sexual contact", "oral sexual

1 [~~conduct~~] contact" or "anal sexual [~~conduct~~] contact", as those terms
2 are defined in section 130.00 of the penal law, where such conduct with
3 such victim was the basis for charging the defendant with an offense
4 specified in paragraph (a) of this subdivision.

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

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

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

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

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

51 (b) For the purposes of this section, the term "victim" means the
52 person with whom the respondent engaged in an act of "[~~sexual-inter-~~
53 ~~course~~] vaginal sexual contact", "oral sexual [~~conduct~~] contact" or
54 "anal sexual [~~conduct~~] contact", as those terms are defined in section
55 130.00 of the penal law, where such conduct with such victim was the
56 basis for the court's finding that the respondent committed acts consti-

1 tuting one or more of the offenses specified in paragraph (a) of this
2 subdivision.

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

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

9 § 54. Section 130.20 of the penal law, as amended by chapter 1 of the
10 laws of 2000, subdivision 2 as amended by chapter 264 of the laws of
11 2003, is amended to read as follows:

12 § 130.20 Sexual misconduct.

13 A person is guilty of sexual misconduct when:

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

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

18 3. He or she engages in anal sexual contact with another person with-
19 out such person's consent; or

20 4. He or she engages in sexual conduct with an animal or a dead human
21 body.

22 Sexual misconduct is a class A misdemeanor.

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

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

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

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

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

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

52 2. by means of such communication he importunes, invites or induces a
53 minor to engage in [~~sexual intercourse~~] vaginal sexual contact, oral
54 sexual [~~conduct~~] contact or anal sexual [~~conduct~~] contact, or sexual
55 contact with him, or to engage in a sexual performance, obscene sexual
56 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~~] four 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

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

7 § 64. This act shall take effect January 1, 2021 and shall apply to
8 any offense on or after such effective date. As it pertains to the
9 repealed sections of law, nothing in this act shall affect a requirement
10 to register pursuant to article 6-C of the correction law; a lawfully
11 required disclosure of a conviction; any restriction or prohibition for
12 certain types of employment, housing, or government benefit; or any
13 other ongoing matter related to a conviction of the sections repealed in
14 this act.