

STATE OF NEW YORK

349

2023-2024 Regular Sessions

IN SENATE

(Prefiled)

January 4, 2023

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

AN ACT to amend the criminal procedure law, in relation to the statute of limitations in criminal prosecution of certain sex trafficking crimes; to amend the civil practice law and rules, in relation to the statute of limitations for civil actions related to certain sex trafficking offenses, reviving such actions otherwise barred by the existing statute of limitations and granting trial preference to such actions; to amend the general municipal law, in relation to providing that the notice of claim provisions shall not apply to actions related to certain sex trafficking offenses; to amend the court of claims act, in relation to providing that the notice of intention to file provisions shall not apply to actions related to certain sex trafficking offenses; and to amend the education law, in relation to providing that the notice of claim provisions shall not apply to actions related to certain sex trafficking offenses

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

1 Section 1. Paragraph (a) of subdivision 2 of section 30.10 of the
2 criminal procedure law, as amended by chapter 315 of the laws of 2019,
3 is amended to read as follows:
4 (a) A prosecution for a class A felony, or rape in the first degree as
5 defined in section 130.35 of the penal law, or a crime defined or
6 formerly defined in section 130.50 of the penal law, or aggravated sexual
7 abuse in the first degree as defined in section 130.70 of the penal
8 law, or course of sexual conduct against a child in the first degree as
9 defined in section 130.75 of the penal law, or sex trafficking as
10 defined in section 230.34 of the penal law, or sex trafficking of a
11 child as defined in section 230.34-a of the penal law, or incest in the

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

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1 first degree as defined in section 255.27 of the penal law may be
2 commenced at any time;

3 § 2. Paragraph (f) of subdivision 3 of section 30.10 of the criminal
4 procedure law, as amended by chapter 11 of the laws of 2019, is amended
5 to read as follows:

6 (f) For purposes of a prosecution involving a sexual offense as
7 defined in article one hundred thirty of the penal law~~[, other than a~~
8 ~~sexual offense delineated in paragraph (a) of subdivision two of this~~
9 ~~section,]~~ committed against a child less than eighteen years of age, the
10 period of limitation shall not begin to run until the child has reached
11 the age of twenty-three or the offense is reported to a law enforcement
12 agency or statewide central register of child abuse and maltreatment,
13 whichever occurs earlier. This paragraph shall not apply to sexual
14 offenses delineated in paragraph (a) of subdivision two of this section
15 committed against a child less than eighteen years of age, sex traffick-
16 ing as defined in section 230.34 of the penal law committed against a
17 child less than eighteen years of age, sex trafficking of a child as
18 defined in section 230.34-a of the penal law, incest in the first,
19 second or third degree as defined in sections 255.27, 255.26 and 255.25
20 of the penal law committed against a child less than eighteen years of
21 age, or use of a child in a sexual performance as defined in section
22 263.05 of the penal law~~[, the period of limitation shall not begin to~~
23 ~~run until the child has reached the age of twenty-three or the offense~~
24 ~~is reported to a law enforcement agency or statewide central register of~~
25 ~~child abuse and maltreatment, whichever occurs earlier]~~.

26 § 3. Subdivision (b) of section 208 of the civil practice law and
27 rules, as added by chapter 11 of the laws of 2019, is amended to read as
28 follows:

29 (b) Notwithstanding any provision of law which imposes a period of
30 limitation to the contrary and the provisions of any other law pertain-
31 ing to the filing of a notice of claim or a notice of intention to file
32 a claim as a condition precedent to commencement of an action or special
33 proceeding, with respect to all civil claims or causes of action brought
34 by any person for physical, psychological or other injury or condition
35 suffered by such person as a result of conduct which would constitute a
36 sexual offense as defined in article one hundred thirty of the penal law
37 committed against such person who was less than eighteen years of age,
38 sex trafficking as defined in section 230.34 of the penal law committed
39 against such person who was less than eighteen years of age, sex traf-
40 ficking of a child as defined in section 230.34-a of the penal law,
41 incest as defined in section 255.27, 255.26 or 255.25 of the penal law
42 committed against such person who was less than eighteen years of age,
43 or the use of such person in a sexual performance as defined in section
44 263.05 of the penal law, or a predecessor statute that prohibited such
45 conduct at the time of the act, which conduct was committed against such
46 person who was less than eighteen years of age, such action may be
47 commenced, against any party whose intentional or negligent acts or
48 omissions are alleged to have resulted in the commission of said
49 conduct, on or before the plaintiff or infant plaintiff reaches the age
50 of fifty-five years. In any such claim or action, in addition to any
51 other defense and affirmative defense that may be available in accord-
52 ance with law, rule or the common law, to the extent that the acts
53 alleged in such action are of the type described in subdivision one of
54 section 130.30 of the penal law or subdivision one of section 130.45 of
55 the penal law, the affirmative defenses set forth, respectively, in the
56 closing paragraph of such sections of the penal law shall apply.

§ 4. Section 214-g of the civil practice law and rules, as amended by chapter 130 of the laws of 2020, is amended to read as follows:

§ 214-g. Certain child sexual abuse cases. Notwithstanding any provision of law which imposes a period of limitation to the contrary and the provisions of any other law pertaining to the filing of a notice of claim or a notice of intention to file a claim as a condition precedent to commencement of an action or special proceeding, every civil claim or cause of action brought against any party alleging intentional or negligent acts or omissions by a person for physical, psychological, or other injury or condition suffered as a result of conduct which would constitute a sexual offense as defined in article one hundred thirty of the penal law committed against a child less than eighteen years of age, sex trafficking as defined in section 230.34 of the penal law committed against a child less than eighteen years of age, sex trafficking of a child as defined in section 230.34-a of the penal law, incest as defined in section 255.27, 255.26 or 255.25 of the penal law committed against a child less than eighteen years of age, or the use of a child in a sexual performance as defined in section 263.05 of the penal law, or a predecessor statute that prohibited such conduct at the time of the act, which conduct was committed against a child less than eighteen years of age, which is barred as of the effective date of this section because the applicable period of limitation has expired, and/or the plaintiff previously failed to file a notice of claim or a notice of intention to file a claim, is hereby revived, and action thereon may be commenced not earlier than six months after, and not later than two years and six months after the effective date of this section. In any such claim or action: (a) in addition to any other defense and affirmative defense that may be available in accordance with law, rule or the common law, to the extent that the acts alleged in such action are of the type described in subdivision one of section 130.30 of the penal law or subdivision one of section 130.45 of the penal law, the affirmative defenses set forth, respectively, in the closing paragraph of such sections of the penal law shall apply; and (b) dismissal of a previous action, ordered before the effective date of this section, on grounds that such previous action was time barred, and/or for failure of a party to file a notice of claim or a notice of intention to file a claim, shall not be grounds for dismissal of a revival action pursuant to this section.

§ 5. Section 213-c of the civil practice law and rules, as amended by chapter 315 of the laws of 2019, is amended to read as follows:

§ 213-c. Action by victim of conduct constituting certain sexual offenses. Notwithstanding any other limitation set forth in this article, except as provided in subdivision (b) of section two hundred eight of this article, all civil claims or causes of action brought by any person for physical, psychological or other injury or condition suffered by such person as a result of conduct which would constitute rape in the first degree as defined in section 130.35 of the penal law, or rape in the second degree as defined in subdivision two of section 130.30 of the penal law, or rape in the third degree as defined in subdivision one or three of section 130.25 of the penal law, or criminal sexual act in the first degree as defined in section 130.50 of the penal law, or criminal sexual act in the second degree as defined in subdivision two of section 130.45 of the penal law, or criminal sexual act in the third degree as defined in subdivision one or three of section 130.40 of the penal law, or incest in the first degree as defined in section 255.27 of the penal law, or incest in the second degree as defined in section 255.26 of the

1 penal law (where the crime committed is rape in the second degree as
2 defined in subdivision two of section 130.30 of the penal law or crimi-
3 nal sexual act in the second degree as defined in subdivision two of
4 section 130.45), or aggravated sexual abuse in the first degree as
5 defined in section 130.70 of the penal law, or course of sexual conduct
6 against a child in the first degree as defined in section 130.75 of the
7 penal law, or sex trafficking as defined in section 230.34 of the penal
8 law, or sex trafficking of a child as defined in section 230.34-a of the
9 penal law may be brought against any party whose intentional or negli-
10 gent acts or omissions are alleged to have resulted in the commission of
11 the said conduct, within twenty years. Nothing in this section shall be
12 construed to require that a criminal charge be brought or a criminal
13 conviction be obtained as a condition of bringing a civil cause of
14 action or receiving a civil judgment pursuant to this section or be
15 construed to require that any of the rules governing a criminal proceed-
16 ing be applicable to any such civil action.

17 § 6. The civil practice law and rules is amended by adding a new
18 section 214-k to read as follows:

19 § 214-k. Certain sexual offense actions. Notwithstanding any
20 provision of law which imposes a period of limitation to the contrary
21 and the provisions of any other law pertaining to the filing of a notice
22 of claim or a notice of intention to file a claim as a condition prece-
23 dent to commencement of an action or special proceeding, every civil
24 claim or cause of action brought against any party alleging intentional
25 or negligent acts or omissions by a person for physical, psychological,
26 or other injury or condition suffered as a result of conduct which would
27 constitute sex trafficking as defined in section 230.34 of the penal law
28 committed against such person who was eighteen years of age or older,
29 which is barred as of the effective date of this section because the
30 applicable period of limitation has expired, and/or the plaintiff previ-
31 ously failed to file a notice of claim or a notice of intention to file
32 a claim, is hereby revived, and action thereon may be commenced not
33 earlier than six months after, and not later than one year and six
34 months after the effective date of this section. In any such claim or
35 action, dismissal of a previous action, ordered before the effective
36 date of this section, on grounds that such previous action was time
37 barred, and/or for failure of a party to file a notice of claim or a
38 notice of intention to file a claim, shall not be grounds for dismissal
39 of a revival action pursuant to this section.

40 § 7. Paragraph (b) of subdivision 8 of section 50-e of the general
41 municipal law, as added by chapter 11 of the laws of 2019, is amended to
42 read as follows:

43 (b) This section shall not apply to any claim made for physical,
44 psychological, or other injury or condition suffered as a result of
45 conduct which would constitute a sexual offense as defined in article
46 one hundred thirty of the penal law committed against a child less than
47 eighteen years of age, sex trafficking as defined in section 230.34 of
48 the penal law committed against a child less than eighteen years of age,
49 sex trafficking of a child as defined in section 230.34-a of the penal
50 law, incest as defined in section 255.27, 255.26 or 255.25 of the penal
51 law committed against a child less than eighteen years of age, or the
52 use of a child in a sexual performance as defined in section 263.05 of
53 the penal law committed against a child less than eighteen years of age.

54 § 8. Subdivision 5 of section 50-i of the general municipal law, as
55 added by chapter 11 of the laws of 2019, is amended to read as follows:

1 5. Notwithstanding any provision of law to the contrary, this section
2 shall not apply to any claim made against a city, county, town, village,
3 fire district or school district for physical, psychological, or other
4 injury or condition suffered as a result of conduct which would consti-
5 tute a sexual offense as defined in article one hundred thirty of the
6 penal law committed against a child less than eighteen years of age, sex
7 trafficking as defined in section 230.34 of the penal law committed
8 against a child less than eighteen years of age, sex trafficking of a
9 child as defined in section 230.34-a of the penal law, incest as defined
10 in section 255.27, 255.26 or 255.25 of the penal law committed against a
11 child less than eighteen years of age, or the use of a child in a sexual
12 performance as defined in section 263.05 of the penal law committed
13 against a child less than eighteen years of age.

14 § 9. Subdivision 10 of section 10 of the court of claims act, as added
15 by chapter 11 of the laws of 2019, is amended to read as follows:

16 10. Notwithstanding any provision of law to the contrary, this section
17 shall not apply to any claim to recover damages for physical, psycholog-
18 ical, or other injury or condition suffered as a result of conduct which
19 would constitute a sexual offense as defined in article one hundred
20 thirty of the penal law committed against a child less than eighteen
21 years of age, sex trafficking as defined in section 230.34 of the penal
22 law committed against a child less than eighteen years of age, sex traf-
23 ficking of a child as defined in section 230.34-a of the penal law,
24 incest as defined in section 255.27, 255.26 or 255.25 of the penal law
25 committed against a child less than eighteen years of age, or the use of
26 a child in a sexual performance as defined in section 263.05 of the
27 penal law committed against a child less than eighteen years of age.

28 § 10. Subdivision 2 of section 3813 of the education law, as amended
29 by chapter 11 of the laws of 2019, is amended to read as follows:

30 2. Notwithstanding anything to the contrary hereinbefore contained in
31 this section, no action or special proceeding founded upon tort shall be
32 prosecuted or maintained against any of the parties named in this
33 section or against any teacher or member of the supervisory or adminis-
34 trative staff or employee where the alleged tort was committed by such
35 teacher or member or employee acting in the discharge of his duties
36 within the scope of his employment and/or under the direction of the
37 board of education, trustee or trustees, or governing body of the school
38 unless a notice of claim shall have been made and served in compliance
39 with section fifty-e of the general municipal law. Every such action
40 shall be commenced pursuant to the provisions of section fifty-i of the
41 general municipal law; provided, however, that this section shall not
42 apply to any claim to recover damages for physical, psychological, or
43 other injury or condition suffered as a result of conduct which would
44 constitute a sexual offense as defined in article one hundred thirty of
45 the penal law committed against a child less than eighteen years of age,
46 sex trafficking of a child as defined in section 230.34-a of the penal
47 law committed against a child less than eighteen years of age, incest as
48 defined in section 255.27, 255.26 or 255.25 of the penal law committed
49 against a child less than eighteen years of age, or the use of a child
50 in a sexual performance as defined in section 263.05 of the penal law
51 committed against a child less than eighteen years of age.

52 § 11. Severability. If any clause, sentence, paragraph, section or
53 part of this act shall be adjudged by any court of competent jurisdic-
54 tion to be invalid and after exhaustion of all further judicial review,
55 the judgment shall not affect, impair or invalidate the remainder there-
56 of, but shall be confined in its operation to the clause, sentence,

1 paragraph, section or part of this act directly involved in the contro-
2 versy in which the judgment shall have been rendered.
3 § 12. This act shall take effect immediately and shall apply to acts
4 or omissions occurring on or after such effective date and to acts or
5 omissions occurring prior to such effective date where the applicable
6 statute of limitations in effect on the date of such act or omission has
7 not yet expired.