

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

5708--A

2009-2010 Regular Sessions

I N A S S E M B L Y

February 19, 2009

Introduced by M. of A. V. LOPEZ, COLTON, DeMONTE, FITZPATRICK, SPANO, HYER-SPENCER, HIKIND, ROBINSON, REILLY, BROOK-KRASNY, CUSICK, BENJAMIN, KOON, GORDON, CAMARA, MORELLE, MAISEL, P. RIVERA -- Multi-Sponsored by -- M. of A. BACALLES, BARRA, DESTITO, DUPREY, EDDINGTON, ERRIGO, FIELDS, FINCH, GOTTFRIED, GREENE, JORDAN, McENENY, O'MARA, PEOPLES, QUINN, REILICH, SCOZZAFAVA, TOBACCO, TOWNSEND, WALKER -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the criminal procedure law, in relation to the timeliness of prosecutions for certain sex offenses; to amend the civil practice law and rules and the general municipal law, in relation to the timeliness for commencing certain civil actions related to sex offenses

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

1 Section 1. Paragraph (f) of subdivision 3 of section 30.10 of the
2 criminal procedure law, as separately amended by chapters 3 and 320 of
3 the laws of 2006, is amended to read as follows:
4 (f) For purposes of a prosecution involving a sexual offense as
5 defined in article one hundred thirty of the penal law, other than a
6 sexual offense delineated in paragraph (a) of subdivision two of this
7 section, committed against a child less than eighteen years of age,
8 incest in the first, second or third degree as defined in sections
9 255.27, 255.26 and 255.25 of the penal law committed against a child
10 less than eighteen years of age, or use of a child in a sexual perform-
11 ance as defined in section 263.05 of the penal law, the period of limi-
12 tation shall not begin to run until the child has reached the age of
13 [eighteen] TWENTY or the offense is reported to a law enforcement agency
14 or statewide central register of child abuse and maltreatment, whichever
15 occurs earlier.

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

LBD08111-05-9

1 S 2. The opening paragraph of section 208 of the civil practice law
2 and rules is designated subdivision (a) and a new subdivision (b) is
3 added to read as follows:

4 (B) NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION (A) OF THIS SECTION,
5 WITH RESPECT TO ALL CIVIL CLAIMS OR CAUSES OF ACTION BROUGHT BY ANY
6 PERSON FOR PHYSICAL, PSYCHOLOGICAL OR OTHER INJURY OR CONDITION SUFFERED
7 AS A RESULT OF CONDUCT OF A DEFENDANT WHICH WOULD CONSTITUTE A SEXUAL
8 OFFENSE AS DEFINED IN ARTICLE ONE HUNDRED THIRTY OF THE PENAL LAW
9 COMMITTED AGAINST A CHILD LESS THAN EIGHTEEN YEARS OF AGE, INCEST AS
10 DEFINED IN SECTION 255.25, 255.26 OR 255.27 OF THE PENAL LAW COMMITTED
11 AGAINST A CHILD LESS THAN EIGHTEEN YEARS OF AGE, OR THE USE OF A CHILD
12 IN A SEXUAL PERFORMANCE AS DEFINED IN SECTION 263.05 OF THE PENAL LAW,
13 OR A PREDECESSOR STATUTE THAT PROHIBITED SUCH CONDUCT AT THE TIME OF THE
14 ACT, WHICH CONDUCT WAS COMMITTED AGAINST A CHILD LESS THAN EIGHTEEN
15 YEARS OF AGE, THE TIME WITHIN WHICH THE ACTION MUST BE COMMENCED SHALL
16 BE EXTENDED TO FIVE YEARS AFTER THE PERSON REACHES THE AGE OF TWENTY
17 YEARS.

18 S 3. Subdivision 8 of section 50-e of the general municipal law, as
19 amended by chapter 24 of the laws of 1988, is amended to read as
20 follows:

21 8. Inapplicability of section. (A) This section shall not apply to
22 claims arising under the provisions of the workers' compensation law,
23 the volunteer firefighters' benefit law, or the volunteer ambulance
24 workers' benefit law or to claims against public corporations by their
25 own infant wards.

26 (B) THIS SECTION SHALL NOT APPLY TO ANY CLAIM MADE FOR PHYSICAL,
27 PSYCHOLOGICAL, OR OTHER INJURY OR CONDITION SUFFERED AS A RESULT OF
28 CONDUCT OF A DEFENDANT WHICH WOULD CONSTITUTE A SEXUAL OFFENSE AS
29 DEFINED IN ARTICLE ONE HUNDRED THIRTY OF THE PENAL LAW COMMITTED AGAINST
30 A CHILD LESS THAN EIGHTEEN YEARS OF AGE, INCEST AS DEFINED IN SECTION
31 255.25, 255.26, OR 255.27 OF THE PENAL LAW COMMITTED AGAINST A CHILD
32 LESS THAN EIGHTEEN YEARS OF AGE, OR THE USE OF A CHILD IN A SEXUAL
33 PERFORMANCE AS DEFINED IN SECTION 263.05 OF THE PENAL LAW COMMITTED
34 AGAINST A CHILD LESS THAN EIGHTEEN YEARS OF AGE.

35 S 4. Section 50-i of the general municipal law is amended by adding a
36 new subdivision 4 to read as follows:

37 4. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THIS SECTION
38 SHALL NOT APPLY TO ANY CLAIM MADE AGAINST A CITY, COUNTY, TOWN, VILLAGE,
39 FIRE DISTRICT OR SCHOOL DISTRICT FOR PHYSICAL, PSYCHOLOGICAL, OR OTHER
40 INJURY OR CONDITION SUFFERED AS A RESULT OF CONDUCT OF A DEFENDANT WHICH
41 WOULD CONSTITUTE A SEXUAL OFFENSE AS DEFINED IN ARTICLE ONE HUNDRED
42 THIRTY OF THE PENAL LAW COMMITTED AGAINST A CHILD LESS THAN EIGHTEEN
43 YEARS OF AGE, INCEST AS DEFINED IN SECTION 255.25, 255.26, OR 255.27 OF
44 THE PENAL LAW COMMITTED AGAINST A CHILD LESS THAN EIGHTEEN YEARS OF AGE,
45 OR THE USE OF A CHILD IN A SEXUAL PERFORMANCE AS DEFINED IN SECTION
46 263.05 OF THE PENAL LAW COMMITTED AGAINST A CHILD LESS THAN EIGHTEEN
47 YEARS OF AGE.

48 S 5. The provisions of this act shall be severable, and if any clause,
49 sentence, paragraph, subdivision or part of this act shall be adjudged
50 by any court of competent jurisdiction to be invalid, such judgment
51 shall not affect, impair, or invalidate the remainder thereof, but shall
52 be confined in its operation to the clause, sentence, paragraph, subdivi-
53 sion or part thereof directly involved in the controversy in which
54 such judgment shall have been rendered.

55 S 6. This act shall take effect immediately.