

5708

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, DelMONTE, FITZPATRICK --
Multi-Sponsored by -- M. of A. DESTITO -- read once and referred to
the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to the timeli-
ness 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 ASSEM-
BLY, 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.

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

19 (B) NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION (A) OF THIS SECTION,
20 WITH RESPECT TO ALL CIVIL CLAIMS OR CAUSES OF ACTION BROUGHT BY ANY
21 PERSON FOR PHYSICAL, PSYCHOLOGICAL OR OTHER INJURY OR CONDITION SUFFERED

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

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1 AS A RESULT OF CONDUCT OF A DEFENDANT WHICH WOULD CONSTITUTE A SEXUAL
2 OFFENSE AS DEFINED IN ARTICLE ONE HUNDRED THIRTY OF THE PENAL LAW
3 COMMITTED AGAINST A CHILD LESS THAN EIGHTEEN YEARS OF AGE, INCEST AS
4 DEFINED IN SECTION 255.25, 255.26 OR 255.27 OF THE PENAL LAW COMMITTED
5 AGAINST A CHILD LESS THAN EIGHTEEN YEARS OF AGE, OR THE USE OF A CHILD
6 IN A SEXUAL PERFORMANCE AS DEFINED IN SECTION 263.05 OF THE PENAL LAW,
7 OR A PREDECESSOR STATUTE THAT PROHIBITED SUCH CONDUCT AT THE TIME OF THE
8 ACT, WHICH CONDUCT WAS COMMITTED AGAINST A CHILD LESS THAN EIGHTEEN
9 YEARS OF AGE, THE TIME WITHIN WHICH THE ACTION MUST BE COMMENCED SHALL
10 BE EXTENDED TO FIVE YEARS AFTER THE PERSON REACHES THE AGE OF TWENTY
11 YEARS.

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

15 8. Inapplicability of section. (A) This section shall not apply to
16 claims arising under the provisions of the workers' compensation law,
17 the volunteer firefighters' benefit law, or the volunteer ambulance
18 workers' benefit law or to claims against public corporations by their
19 own infant wards.

20 (B) THIS SECTION SHALL NOT APPLY TO ANY CLAIM MADE FOR PHYSICAL,
21 PSYCHOLOGICAL, OR OTHER INJURY OR CONDITION SUFFERED AS A RESULT OF
22 CONDUCT OF A DEFENDANT WHICH WOULD CONSTITUTE A SEXUAL OFFENSE AS
23 DEFINED IN ARTICLE ONE HUNDRED THIRTY OF THE PENAL LAW COMMITTED AGAINST
24 A CHILD LESS THAN EIGHTEEN YEARS OF AGE, INCEST AS DEFINED IN SECTION
25 255.25, 255.26, OR 255.27 OF THE PENAL LAW COMMITTED AGAINST A CHILD
26 LESS THAN EIGHTEEN YEARS OF AGE, OR THE USE OF A CHILD IN A SEXUAL
27 PERFORMANCE AS DEFINED IN SECTION 263.05 OF THE PENAL LAW COMMITTED
28 AGAINST A CHILD LESS THAN EIGHTEEN YEARS OF AGE.

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

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

42 S 5. The general municipal law is amended by adding a new section 53
43 to read as follows:

44 S 53. LIABILITY OF OFFICERS AND EMPLOYEES. THE LIABILITY FOR ANY ACT
45 EXCEPTED BY PARAGRAPH (B) OF SUBDIVISION EIGHT OF SECTION FIFTY-E OF
46 THIS ARTICLE OR SUBDIVISION FOUR OF SECTION FIFTY-I OF THIS ARTICLE
47 SHALL BE LIMITED TO THE DEFENDANT WHO COMMITTED THOSE ACTS. AS USED IN
48 THIS SECTION, THE TERM "DEFENDANT" SHALL MEAN ONLY A PERSON WHO COMMITS
49 THE ACTS DESCRIBED IN THIS SECTION OR WHO, IN A CRIMINAL PROCEEDING,
50 COULD BE CHARGED WITH CRIMINAL LIABILITY FOR THE COMMISSION OF SUCH ACTS
51 PURSUANT TO SECTION 20.00 OF THE PENAL LAW AND SHALL NOT APPLY TO ANY
52 RELATED CIVIL CLAIM OR CAUSE OF ACTION ARISING FROM SUCH ACTS. NOTHING
53 IN THIS SECTION SHALL BE CONSTRUED TO REQUIRE THAT A CRIMINAL CHARGE BE
54 BROUGHT OR A CRIMINAL CONVICTION BE OBTAINED AS A CONDITION OF BRINGING
55 A CIVIL CAUSE OF ACTION OR RECEIVING A CIVIL JUDGMENT PURSUANT TO THIS

1 SECTION OR BE CONSTRUED TO REQUIRE THAT ANY OF THE RULES GOVERNING A
2 CRIMINAL PROCEEDING BE APPLICABLE TO ANY SUCH CIVIL ACTION.

3 S 6. The civil practice law and rules is amended by adding a new
4 section 1027 to read as follows:

5 S 1027. PARTY LIABILITY REQUIRED. LIABILITY FOR ANY CONDUCT SPECIFIED
6 IN SUBDIVISION (B) OF SECTION TWO HUNDRED EIGHT OF THIS CHAPTER SHALL BE
7 LIMITED TO THE DEFENDANT WHO COMMITTED THE ACT. AS USED IN THIS
8 SECTION, THE TERM "DEFENDANT" SHALL MEAN ONLY A PERSON WHO COMMITS THE
9 ACTS DESCRIBED IN THIS SECTION OR WHO, IN A CRIMINAL PROCEEDING, COULD
10 BE CHARGED WITH CRIMINAL LIABILITY FOR THE COMMISSION OF SUCH ACTS
11 PURSUANT TO SECTION 20.00 OF THE PENAL LAW AND SHALL NOT APPLY TO ANY
12 RELATED CIVIL CLAIM OR CAUSE OF ACTION ARISING FROM SUCH ACTS. NOTHING
13 IN THIS SECTION SHALL BE CONSTRUED TO REQUIRE THAT A CRIMINAL CHARGE BE
14 BROUGHT OR A CRIMINAL CONVICTION BE OBTAINED AS A CONDITION OF BRINGING
15 A CIVIL CAUSE OF ACTION OR RECEIVING A CIVIL JUDGMENT PURSUANT TO THIS
16 SECTION OR BE CONSTRUED TO REQUIRE THAT ANY OF THE RULES GOVERNING A
17 CRIMINAL PROCEEDING BE APPLICABLE TO ANY SUCH CIVIL ACTION.

18 S 7. The provisions of this act shall be severable, and if any clause,
19 sentence, paragraph, subdivision or part of this act shall be adjudged
20 by any court of competent jurisdiction to be invalid, such judgment
21 shall not affect, impair, or invalidate the remainder thereof, but shall
22 be confined in its operation to the clause, sentence, paragraph, subdi-
23 vision or part thereof directly involved in the controversy in which
24 such judgment shall have been rendered.

25 S 8. This act shall take effect immediately.