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

6513

2009-2010 Regular Sessions

I N A S S E M B L Y

March 6, 2009

Introduced by M. of A. SCOZZAFAVA, McDONOUGH, CALHOUN, RABBITT, TEDISCO, TOWNSEND -- Multi-Sponsored by -- M. of A. ALFANO, AMEDORE, BACALLES, BALL, BARCLAY, BARRA, BOYLE, BURLING, BUTLER, CONTE, CROUCH, DUPREY, ERRIGO, FINCH, FITZPATRICK, GABRYSZAK, GIGLIO, HAWLEY, HAYES, KOLB, P. LOPEZ, McKEVITT, MILLER, MOLINARO, OAKS, O'MARA, QUINN, RAIA, REILICH, SALADINO, SAYWARD, SPANO, THIELE, TOBACCO, WALKER -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to concurrent and consecutive terms of imprisonment (Part A); to amend the penal law, in relation to establishing the crimes of unlawful intentional viewing in the third, second and first degrees (Part B); to amend the penal law, in relation to the new crime of gang sexual assault (Part C); to amend the criminal procedure law, in relation to limiting plea bargaining for sexual offenders; and to amend the penal law, the correction law and the criminal procedure law, in relation to repeat sexual offenders (Part D); to amend the criminal procedure law and the family court act, in relation to jurisdiction in family offense proceedings; and to amend the penal law, in relation to creating the crime of domestic assault (Part E); and to amend the domestic relations law, the family court act and the criminal procedure law, in relation to requiring mandatory prison sentences for repeat violators of orders of protection (Part F)

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

Section 1. This act enacts into law major components of legislation which are necessary to enact the SAVE-NY Violence Against Women Prevention Act. Each component is wholly contained within a Part identified as Parts A through F. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes reference to a section "of this act", when used in connection with that particular component,

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

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shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section five of this act sets forth the general effective date of this act.

S 2. This act shall be known and may be cited as the "SAVE-NY Violence Against Women Prevention Act".

S 3. Legislative intent. The Sexual Assault and Violence Education Task Force (SAVE-NY) worked diligently with law enforcement officials, district attorneys and community activists throughout New York state to create legislation to further protect New York's children and women against sex crimes and violence. In 2004, the SAVE-NY Child Protection Act was introduced and continues to provide a comprehensive plan to safeguard children from sexual predators. Phase II of the SAVE-NY Task Force focuses on sex crimes and domestic violence against women. This legislation, the SAVE-NY Violence Against Women Prevention Act, presents a comprehensive plan designed to strengthen laws to improve the quality of protection for women.

PART A

Section 1. Section 70.25 of the penal law is amended by adding a new subdivision 2-h to read as follows:

2-H. WHENEVER A PERSON IS CONVICTED OF TWO OR MORE COUNTS OF RAPE IN THE FIRST DEGREE AS DEFINED IN SECTION 130.35 OF THIS CHAPTER, COMMITTED AGAINST DIFFERENT VICTIMS, THEN ANY TERM OF IMPRISONMENT WHICH MAY BE IMPOSED AS A SENTENCE UPON SUCH CONVICTIONS SHALL RUN CONSECUTIVELY TO EACH OTHER AND TO ANY OTHER UNDISCHARGED TERM OF IMPRISONMENT TO WHICH THE DEFENDANT WAS SUBJECT AND FOR WHICH HE MAY BE CONFINED AT THE TIME OF SENTENCING.

S 2. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.

PART B

Section 1. The penal law is amended by adding four new sections 250.70, 250.75, 250.80 and 250.85 to read as follows:

S 250.70 UNLAWFUL INTENTIONAL VIEWING IN THE THIRD DEGREE.

A PERSON IS GUILTY OF UNLAWFUL INTENTIONAL VIEWING IN THE THIRD DEGREE WHEN, FOR HIS OR HER OWN SEXUAL AROUSAL AND SEXUAL GRATIFICATION, HE OR SHE INTENTIONALLY VIEWS A PERSON DRESSING OR UNDRESSING OR VIEWS THE SEXUAL OR OTHER INTIMATE PARTS OF A PERSON AT A PLACE, INCLUDING BUT NOT LIMITED TO THAT PERSON'S DWELLING, AND AT A TIME WHEN SUCH PERSON HAS A REASONABLE EXPECTATION OF PRIVACY, AND THE VIEWING IS WITHOUT SUCH PERSON'S KNOWLEDGE OR CONSENT. FOR THE PURPOSE OF THIS SECTION, "SEXUAL OR OTHER INTIMATE PARTS" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION 250.40 OF THIS ARTICLE.

UNLAWFUL INTENTIONAL VIEWING IN THE THIRD DEGREE IS A CLASS B MISDEMEANOR.

S 250.75 UNLAWFUL INTENTIONAL VIEWING IN THE SECOND DEGREE.

A PERSON IS GUILTY OF UNLAWFUL INTENTIONAL VIEWING IN THE SECOND DEGREE WHEN, FOR HIS OR HER OWN SEXUAL AROUSAL OR SEXUAL GRATIFICATION, HE OR SHE INTENTIONALLY VIEWS A PERSON DRESSING OR UNDRESSING OR VIEWS THE SEXUAL OR OTHER INTIMATE PARTS OF A PERSON AT A PLACE, INCLUDING BUT NOT LIMITED TO THAT PERSON'S DWELLING, AND AT A TIME WHEN SUCH PERSON HAS A REASONABLE EXPECTATION OF PRIVACY, AND THE VIEWING IS WITHOUT SUCH PERSON'S KNOWLEDGE OR CONSENT, AND THE PERPETRATOR HAS PREVIOUSLY BEEN CONVICTED OF UNLAWFUL INTENTIONAL VIEWING IN THE THIRD DEGREE WITHIN THE

PRIOR EIGHTEEN MONTHS. FOR THE PURPOSE OF THIS SECTION, "SEXUAL OR OTHER INTIMATE PARTS" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION 250.40 OF THIS ARTICLE.

UNLAWFUL INTENTIONAL VIEWING IN THE SECOND DEGREE IS A CLASS A MISDEMEANOR.

S 250.80 UNLAWFUL INTENTIONAL VIEWING IN THE FIRST DEGREE.

A PERSON IS GUILTY OF UNLAWFUL INTENTIONAL VIEWING IN THE FIRST DEGREE WHEN, FOR HIS OR HER OWN SEXUAL AROUSAL OR SEXUAL GRATIFICATION, HE OR SHE INTENTIONALLY VIEWS A PERSON DRESSING OR UNDRESSING OR VIEWS THE SEXUAL OR OTHER INTIMATE PARTS OF A PERSON AT A PLACE, INCLUDING BUT NOT LIMITED TO THAT PERSON'S DWELLING, AND AT A TIME WHEN SUCH PERSON HAS A REASONABLE EXPECTATION OF PRIVACY, AND THE VIEWING IS WITHOUT SUCH PERSON'S KNOWLEDGE OR CONSENT, AND THE PERPETRATOR HAS PREVIOUSLY BEEN CONVICTED OF UNLAWFUL INTENTIONAL VIEWING IN THE SECOND DEGREE WITHIN THE PRIOR EIGHTEEN MONTHS. FOR THE PURPOSE OF THIS SECTION, "SEXUAL OR OTHER INTIMATE PARTS" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION 250.40 OF THIS ARTICLE.

UNLAWFUL INTENTIONAL VIEWING IN THE FIRST DEGREE IS A CLASS E FELONY.

S 250.85 MANDATORY PSYCHOLOGICAL EVALUATION; UNLAWFUL INTENTIONAL VIEWING.

WHEN A PERSON IS TO BE SENTENCED UPON A CONVICTION OF THE CRIME OF UNLAWFUL INTENTIONAL VIEWING IN THE THIRD DEGREE AS DEFINED IN SECTION 250.70 OF THIS ARTICLE, UNLAWFUL INTENTIONAL VIEWING IN THE SECOND DEGREE AS DEFINED IN SECTION 250.75 OF THIS ARTICLE OR UNLAWFUL INTENTIONAL VIEWING IN THE FIRST DEGREE AS DEFINED IN SECTION 250.80 OF THIS ARTICLE, THE COURT SHALL ORDER THE DEFENDANT TO UNDERGO A MANDATORY PSYCHOLOGICAL EVALUATION PRIOR TO SENTENCING.

S 2. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.

PART C

Section 1. The penal law is amended by adding a new section 130.54 to read as follows:

S 130.54 GANG SEXUAL ASSAULT.

A PERSON IS GUILTY OF GANG SEXUAL ASSAULT WHEN:

1. AIDED BY TWO OR MORE PERSONS ACTUALLY PRESENT, HE OR SHE SUBJECTS ANOTHER PERSON TO SEXUAL CONTACT WITHOUT THE CONSENT OF THE OTHER PERSON; OR

2. WITH INTENT TO EXPOSE THE INTIMATE PARTS OF THE BODY OF ANOTHER PERSON, AND WHEN AIDED BY TWO OR MORE OTHER PERSONS ACTUALLY PRESENT, HE OR SHE REMOVES OR ATTEMPTS TO REMOVE AN ARTICLE OF CLOTHING FROM SUCH PERSON WITHOUT THE CONSENT OF SUCH PERSON.

GANG SEXUAL ASSAULT IS A CLASS E FELONY.

S 2. Paragraph (c) of subdivision 2 of section 130.05 of the penal law, as amended by chapter 264 of the laws of 2003, is amended to read as follows:

(c) Where the offense charged is sexual abuse, GANG SEXUAL ASSAULT or forcible touching, any circumstances, in addition to forcible compulsion or incapacity to consent, in which the victim does not expressly or impliedly acquiesce in the actor's conduct; or

S 3. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.

PART D

Section 1. Subdivision 5 of section 220.10 of the criminal procedure law is amended by adding a new paragraph (i) to read as follows:

(I) WHERE THE INDICTMENT CHARGES A FELONY CONTAINED IN ARTICLE ONE HUNDRED THIRTY OR SECTION 255.25, 255.26, 255.27, 263.05, 263.10 OR 263.15 OF THE PENAL LAW, ANY PLEA OF GUILTY THEREAFTER ENTERED IN SATISFACTION OF SUCH CHARGE MUST INCLUDE AT LEAST A PLEA OF GUILTY TO THE VIOLATION OF ONE OF THE ABOVE ENUMERATED OFFENSES AND NO OTHER DISPOSITION BY PLEA OF GUILTY TO ANY OTHER CHARGE IN SATISFACTION OF SUCH CHARGE SHALL BE AUTHORIZED, PROVIDED, HOWEVER, IF THE DISTRICT ATTORNEY UPON REVIEWING THE AVAILABLE EVIDENCE DETERMINES THAT THE CHARGE OF A VIOLATION OF THE ABOVE ENUMERATED FELONIES IS NOT WARRANTED, SUCH DISTRICT ATTORNEY MAY CONSENT, AND THE COURT MAY ALLOW A DISPOSITION BY PLEA OF GUILTY TO ANOTHER CHARGE IN SATISFACTION OF SUCH CHARGE; PROVIDED, HOWEVER, IN ALL SUCH CASES, THE COURT SHALL SET FORTH UPON THE RECORD THE BASIS FOR SUCH DISPOSITION.

S 2. Subdivision 3 of section 130.00 of the penal law, as amended by chapter 650 of the laws of 1984, is amended to read as follows:

3. "Sexual contact" means any INTENTIONAL touching of the sexual or other intimate parts of [a] ANOTHER person [not married to the actor for the purpose of gratifying sexual desire of either party] FOR NO LEGITIMATE PURPOSE. It includes the touching of the actor by the victim, as well as the touching of the victim by the actor, whether directly or through clothing.

S 3. Subdivisions 1 and 2 of section 168-a of the correction law, subdivision 1 as added by chapter 192 of the laws of 1995, subdivision 2 as amended by chapter 11 of the laws of 2002, paragraph (a) of subdivision 2 as amended by chapter 405 of the laws of 2008, subparagraph (i) of paragraph (d) of subdivision 2 as amended by chapter 146 of the laws of 2004, subparagraph (iii) of paragraph (d) of subdivision 2 as amended by chapter 232 of the laws of 2008 and paragraph (e) of subdivision 2 as added by chapter 69 of the laws of 2003, are amended to read as follows:

1. "Sex offender" includes any person who is convicted of (A) any of the offenses set forth in subdivision two or three of this section[.] OR (B) ANY OTHER FELONY OFFENSE COMMITTED WITHIN FIVE YEARS OF THE DATE ON WHICH HE OR SHE WAS ADJUDICATED A YOUTHFUL OFFENDER PURSUANT TO ARTICLE SEVEN HUNDRED TWENTY OF THE CRIMINAL PROCEDURE LAW FOR ANY OF THE OFFENSES SET FORTH IN SUBDIVISION TWO OR THREE OF THIS SECTION.

Convictions that result from or are connected with the same act, or result from offenses committed at the same time, shall be counted for the purpose of this article as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this article.

2. "Sex offense" means: (a) (i) a conviction of or a conviction for an attempt to commit any of the provisions of sections 120.70, 130.20, 130.25, 130.30, 130.40, 130.45, 130.52, 130.54, 130.60, 130.80, 130.85, 230.34, 250.50, 250.80, 255.25, 255.26 and 255.27 or article two hundred sixty-three of the penal law, or section 135.05, 135.10, 135.20 or 135.25 of such law relating to kidnapping offenses, provided the victim of such kidnapping or related offense is less than seventeen years old and the offender is not the parent of the victim, or section 230.04, where the person patronized is in fact less than seventeen years of age, 230.05 or 230.06, or subdivision two of section 230.30, or section 230.32 or 230.33 of the penal law, or (ii) a conviction of or a conviction for an attempt to commit any of the provisions of section 235.22 of the penal law, or (iii) a conviction of or a conviction for an attempt to commit any provisions of the foregoing sections committed or attempted as a hate crime defined in section 485.05 of the penal law or

as a crime of terrorism defined in section 490.25 of such law or as a sexually motivated felony defined in section 130.91 of such law; or

(b) a conviction of or a conviction for an attempt to commit any of the provisions of section 130.52 or 130.55 of the penal law, provided the victim of such offense is less than eighteen years of age; or

(c) a conviction of or a conviction for an attempt to commit any of the provisions of section 130.52 or 130.55 of the penal law regardless of the age of the victim and the offender has previously been convicted of: (i) a sex offense defined in this article, (ii) a sexually violent offense defined in this article, or (iii) any of the provisions of section 130.52 or 130.55 of the penal law, or an attempt thereof; or

(d) a conviction of (i) an offense in any other jurisdiction which includes all of the essential elements of any such crime provided for in paragraph (a), (b) or (c) of this subdivision or (ii) a felony in any other jurisdiction for which the offender is required to register as a sex offender in the jurisdiction in which the conviction occurred or, (iii) any of the provisions of 18 U.S.C. 2251, 18 U.S.C. 2251A, 18 U.S.C. 2252, 18 U.S.C. 2252A, 18 U.S.C. 2260, 18 U.S.C. 2422(b), 18 U.S.C. 2423, or 18 U.S.C. 2425, provided that the elements of such crime of conviction are substantially the same as those which are a part of such offense as of the date on which this subparagraph takes effect[.]; OR

(e) a conviction of any of the provisions of subdivision two, three or four of section 250.45 of the penal law, unless upon motion by the defendant, the trial court, having regard to the nature and circumstances of the crime and to the history and character of the defendant, is of the opinion that registration would be unduly harsh and inappropriate[.]; OR

(F) A CONVICTION FOR ANY OFFENSE SET FORTH IN PARAGRAPH (A) OF THIS SUBDIVISION WHICH WAS REPLACED BY A YOUTHFUL OFFENDER FINDING PURSUANT TO ARTICLE SEVEN HUNDRED TWENTY OF THE CRIMINAL PROCEDURE LAW.

S 4. Section 450.10 of the criminal procedure law is amended by adding a new subdivision 6 to read as follows:

6. AN ORDER, ENTERED PURSUANT TO SECTION 530.42, GRANTING IN WHOLE OR IN PART AN APPLICATION OF THE PEOPLE.

S 5. Subdivision 4 of section 450.20 of the criminal procedure law is amended to read as follows:

4. A sentence other than one of death, as prescribed in subdivisions two and three of section 450.30, UNLESS THE APPEAL IS BASED SOLELY UPON THE GROUND THAT A SENTENCE WAS UNDULY LENIENT WHEN SUCH SENTENCE WAS PREDICATED UPON ENTRY OF A PLEA OF GUILTY AND THE SENTENCE IMPOSED WAS NOT LESS THAN THAT WHICH WAS AGREED TO BY THE PEOPLE AS A CONDITION OF THE PLEA AND SET FORTH IN THE RECORD OR FILED WITH THE COURT AS REQUIRED BY SUBDIVISION FIVE OF SECTION 220.50 OR SUBDIVISION FOUR OF SECTION 340.20;

S 6. Section 450.20 of the criminal procedure law is amended by adding a new subdivision 12 to read as follows:

12. AN ORDER, ENTERED PURSUANT TO SECTION 530.42, DENYING IN WHOLE OR IN PART AN APPLICATION OF THE PEOPLE.

S 7. Subdivision 2 of section 450.30 of the criminal procedure law is amended to read as follows:

2. An appeal by the people from a sentence, as authorized by subdivision four of section 450.20, may be based [only] upon the ground that such sentence EITHER was (A) invalid as a matter of law OR (B) UNDULY LENIENT.

S 8. Paragraph (c) of subdivision 2 and paragraph (b) of subdivision 6 of section 470.15 of the criminal procedure law are amended to read as follows:

(c) Upon a determination that a sentence imposed upon a valid conviction is illegal [or], unduly harsh or severe OR UNDULY LENIENT, the court may modify the judgment by reversing it with respect to the sentence and by otherwise affirming it.

(b) That a sentence, though legal, was EITHER (I) unduly harsh or severe OR (II) UNDULY LENIENT.

S 9. Subdivision 6 of section 470.20 of the criminal procedure law is amended to read as follows:

6. Upon modifying a judgment or reversing a sentence as a matter of discretion in the interest of justice upon the ground that the sentence is unduly harsh or severe OR UNDULY LENIENT, the court must itself impose some legally authorized lesser OR GREATER sentence.

S 10. Subdivision 3 of section 530.30 of the criminal procedure law is renumbered subdivision 6 and three new subdivisions 3, 4 and 5 are added to read as follows:

3. WHEN A CRIMINAL ACTION IS PENDING IN A LOCAL CRIMINAL COURT, OTHER THAN ONE CONSISTING OF A SUPERIOR COURT JUDGE SITTING AS SUCH, A JUDGE OF A SUPERIOR COURT HOLDING A TERM THEREOF IN THE COUNTY, UPON APPLICATION OF THE PEOPLE, MAY REVOKE AN ORDER OF RECOGNIZANCE OR BAIL ENTERED BY A LOCAL CRIMINAL COURT AND FIX BAIL IN AN AMOUNT THE COURT DETERMINES SUFFICIENT OR, IF THE DEFENDANT IS CHARGED WITH ONE OR MORE CRIMES AT LEAST ONE OF WHICH IS A FELONY, COMMIT THE DEFENDANT TO THE CUSTODY OF THE SHERIFF.

4. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION THREE OF THIS SECTION, A SUPERIOR COURT JUDGE MAY NOT VACATE AN ORDER OF RECOGNIZANCE OR BAIL AND FIX BAIL OR COMMIT THE DEFENDANT TO THE CUSTODY OF THE SHERIFF UNLESS AND UNTIL:

(A) THE DEFENDANT HAS HAD AN OPPORTUNITY TO BE HEARD IN THE MATTER OR, AFTER KNOWLEDGE OR NOTICE TO THE DEFENDANT OR HIS COUNSEL OF THE APPLICATION AND REASONABLE OPPORTUNITY TO BE HEARD, HAS FAILED TO APPEAR AT THE PROCEEDING OR HAS OTHERWISE WAIVED HIS RIGHT TO DO SO; AND

(B) SUCH JUDGE HAS BEEN FURNISHED WITH A REPORT AS DESCRIBED IN SUBPARAGRAPH (II) OF PARAGRAPH (B) OF SUBDIVISION TWO OF SECTION 530.20 OF THIS ARTICLE.

5. WHEN A CRIMINAL ACTION IS PENDING IN A LOCAL CRIMINAL COURT AND AN ORDER FIXING BAIL HAS BEEN ENTERED, AND THEREAFTER A LOCAL CRIMINAL COURT ENTERS AN ORDER RELEASING THE DEFENDANT ON HIS OWN RECOGNIZANCE OR FIXING BAIL IN A LESSER AMOUNT OR IN A LESS BURDENSOME MANNER, THE PEOPLE MAY FILE WITH THE LOCAL CRIMINAL COURT A NOTICE OF INTENTION TO APPLY TO A SUPERIOR COURT JUDGE PURSUANT TO SUBDIVISION THREE OF THIS SECTION. THE FILING OF SUCH A NOTICE SHALL STAY THE EFFECT OF THE ORDER RELEASING THE DEFENDANT ON HIS OWN RECOGNIZANCE OR FIXING BAIL IN A LESSER AMOUNT OR IN A LESS BURDENSOME MANNER. A STAY PURSUANT TO THIS SUBDIVISION SHALL REMAIN IN EFFECT FOR A PERIOD OF SEVENTY-TWO HOURS UNLESS EXTENDED OR VACATED BY THE JUDGE OF THE SUPERIOR COURT TO WHOM THE PEOPLE APPLY PURSUANT TO SUBDIVISION THREE OF THIS SECTION.

S 11. The criminal procedure law is amended by adding a new section 530.42 to read as follows:

S 530.42 ORDER OF RECOGNIZANCE OR BAIL; REVIEW BY SUPERIOR COURT.

1. WHEN A CRIMINAL ACTION IS PENDING IN A LOCAL CRIMINAL COURT OR A SUPERIOR COURT, AND THE COURT HAS ORDERED RECOGNIZANCE OR BAIL, A JUDGE OF THE SUPERIOR COURT HOLDING A TERM THEREOF IN THE COUNTY, UPON APPLICATION OF THE PEOPLE, MAY REVIEW AN ORDER OF RECOGNIZANCE OR BAIL PREVI-

OUSLY ENTERED IN THE ACTION AND FIX BAIL IN AN AMOUNT THE COURT DETERMINES SUFFICIENT OR, IF THE DEFENDANT IS CHARGED WITH ONE OR MORE CRIMES AT LEAST ONE OF WHICH IS A FELONY, COMMIT THE DEFENDANT TO THE CUSTODY OF THE SHERIFF.

2. UPON AN APPLICATION FOR REVIEW PURSUANT TO SUBDIVISION ONE OF THIS SECTION, THE SUPERIOR COURT JUDGE MAY GRANT THE APPLICATION ONLY UPON A DETERMINATION THAT THE ORDER OF RECOGNIZANCE OR BAIL UNDER REVIEW CONSTITUTES AN ABUSE OF DISCRETION.

3. AN APPLICATION PURSUANT TO SUBDIVISION ONE OF THIS SECTION SHALL BE ACCOMPANIED BY AN AFFIDAVIT OR AFFIRMATION WHICH SHALL STATE THE DATE, AND THE COURT OR JUDGE TO WHOM MADE, OF EVERY PREVIOUS APPLICATION, THE DISPOSITION OF EACH SUCH APPLICATION AND OF ANY APPEAL TAKEN, AND THE NEW FACTS PRESENTED IN THE APPLICATION THAT WERE NOT PRESENTED IN ANY PREVIOUS APPLICATION.

4. WHEN A CRIMINAL ACTION IS PENDING IN A SUPERIOR COURT AND AN ORDER IS ENTERED RELEASING THE DEFENDANT ON HIS OWN RECOGNIZANCE OR FIXING BAIL, THE PEOPLE MAY APPLY ON AN EMERGENCY BASIS TO THE COURT TO WHICH AN APPLICATION PURSUANT TO SUBDIVISION ONE OF THIS SECTION WOULD BE MADE FOR AN INTERIM ORDER FIXING BAIL OR COMMITTING THE DEFENDANT TO THE CUSTODY OF THE SHERIFF. SUCH AN ORDER SHALL REMAIN IN EFFECT FOR A PERIOD OF SEVENTY-TWO HOURS UNLESS EXTENDED OR VACATED BY THE COURT TO WHICH THE PEOPLE APPLY PURSUANT TO SUBDIVISION ONE OF THIS SECTION.

5. THE CHIEF ADMINISTRATOR OF THE COURTS, WITH THE ADVICE AND CONSENT OF THE ADMINISTRATIVE BOARD OF THE COURTS, SHALL ADOPT PROCEDURES REGULATING THE COURT OR COURTS IN THE COUNTY TO WHICH AN APPLICATION PURSUANT TO SUBDIVISION ONE OF THIS SECTION MAY BE MADE.

S 12. Subdivision 1 of section 720.35 of the criminal procedure law, as amended by chapter 452 of the laws of 1992, is amended to read as follows:

1. A youthful offender adjudication is not a judgment of conviction for a crime or any other offense, and does not operate as a disqualification of any person so adjudged to hold public office or public employment or to receive any license granted by public authority but shall be deemed a conviction [only] (I) for the purposes of transfer of supervision and custody pursuant to section two hundred fifty-nine-m of the executive law OR (II) FOR THE PURPOSE OF DETERMINING WHETHER THE PERSON IS SUBJECT TO THE REQUIREMENTS OF ARTICLE SIX-C OF THE CORRECTION LAW, WHENEVER THE PERSON HAS BEEN CONVICTED OF A FELONY OFFENSE COMMITTED WITHIN FIVE YEARS OF THE DATE ON WHICH HE OR SHE WAS ADJUDICATED A YOUTHFUL OFFENDER FOR A FELONY OFFENSE DEFINED IN SUBDIVISION TWO OR THREE OF SECTION ONE HUNDRED SIXTY-EIGHT-A OF THE CORRECTION LAW OR (III) FOR THE PURPOSE OF DETERMINING WHETHER THE PERSON IS A DESIGNATED OFFENDER WITHIN THE MEANING OF SUBDIVISION SEVEN OF SECTION NINE HUNDRED NINETY-FIVE OF THE EXECUTIVE LAW AND SUBJECT TO THE REQUIREMENTS OF ARTICLE FORTY-NINE-B OF THE EXECUTIVE LAW.

S 13. Section 720.35 of the criminal procedure law is amended by adding a new subdivision 5 to read as follows:

5. NOTWITHSTANDING SUBDIVISION TWO OF THIS SECTION, WHENEVER A PERSON STANDS CONVICTED OF A FELONY OFFENSE COMMITTED WITHIN FIVE YEARS OF THE DATE ON WHICH HE OR SHE WAS ADJUDICATED A YOUTHFUL OFFENDER FOR A FELONY OFFENSE DEFINED IN SUBDIVISION TWO OR THREE OF SECTION ONE HUNDRED SIXTY-EIGHT-A OF THE CORRECTION LAW, ALL RECORDS PERTAINING TO THE YOUTHFUL OFFENDER ADJUDICATION SHALL NO LONGER BE CONFIDENTIAL.

S 14. The criminal procedure law is amended by adding a new section 60.41 to read as follows:

S 60.41 RULES OF EVIDENCE; PROOF OF PREVIOUS SEXUAL ASSAULT.

1. IN ANY PROSECUTION IN WHICH A DEFENDANT IS CHARGED WITH AN OFFENSE OF SEXUAL ASSAULT, EVIDENCE OF THE DEFENDANT'S COMMISSION OF ANOTHER OFFENSE OR OFFENSES OF SEXUAL ASSAULT IS ADMISSIBLE AND MAY BE CONSIDERED FOR ITS BEARING ON ANY MATTER TO WHICH IT IS RELEVANT, INCLUDING THE DEFENDANT'S PROPENSITY TO COMMIT AN OFFENSE OF SEXUAL ASSAULT OR THE CREDIBILITY OF THE ALLEGED VICTIM OF THE SEXUAL ASSAULT, UNLESS THE COURT DETERMINES THAT ITS PROBATIVE VALUE IS SUBSTANTIALLY OUTWEIGHED BY THE DANGER OF UNDUE PREJUDICE TO THE DEFENDANT.

2. FOR PURPOSES OF THIS SECTION, "OFFENSE OF SEXUAL ASSAULT" MEANS ANY CONDUCT PROSCRIBED BY ARTICLE ONE HUNDRED THIRTY OF THE PENAL LAW, OR ANY ATTEMPT TO ENGAGE IN SUCH CONDUCT, WHETHER COMMITTED IN THIS STATE OR ELSEWHERE, REGARDLESS OF WHETHER THE DEFENDANT WAS CONVICTED FOR THE CONDUCT.

S 15. Section 60.40 of the criminal procedure law is amended by adding a new subdivision 4 to read as follows:

4. IN ACCORDANCE WITH SECTION 60.41, THE PEOPLE MAY PROVE THAT A DEFENDANT HAS PREVIOUSLY BEEN CONVICTED OF AN OFFENSE OF SEXUAL ASSAULT.

S 16. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.

PART E

Section 1. Subdivision 1 of section 530.11 of the criminal procedure law, as amended by chapter 326 of the laws of 2008, is amended to read as follows:

1. Jurisdiction. The family court and the criminal courts shall have concurrent jurisdiction over any proceeding concerning acts which would constitute disorderly conduct, harassment in the first degree, harassment in the second degree, aggravated harassment in the second degree, stalking in the first degree, stalking in the second degree, stalking in the third degree, stalking in the fourth degree, criminal mischief, menacing in the second degree, menacing in the third degree, reckless endangerment, assault in the second degree, assault in the third degree or an attempted assault between spouses or former spouses, or between parent and child or between members of the same family or household except that if the respondent would not be criminally responsible by reason of age pursuant to section 30.00 of the penal law, then the family court shall have exclusive jurisdiction over such proceeding. Notwithstanding a complainant's election to proceed in family court, the criminal court shall not be divested of jurisdiction to hear a family offense proceeding pursuant to this section. For purposes of this section, "disorderly conduct" includes disorderly conduct not in a public place. For purposes of this section, "members of the same family or household" with respect to a proceeding in the criminal courts shall mean the following:

(a) persons related by consanguinity or affinity;

(b) persons legally married to one another;

(c) persons formerly married to one another regardless of whether they still reside in the same household;

(d) persons who have a child in common, regardless of whether such persons have been married or have lived together at any time; [and]

(e) persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time. Factors the court may consider in determining whether a relationship is an "intimate relationship"

include but are not limited to: the nature or type of relationship, regardless of whether the relationship is sexual in nature; the frequency of interaction between the persons; and the duration of the relationship. Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an "intimate relationship"; AND

(F) PERSONS RESIDING TOGETHER CONTINUALLY OR AT REGULAR INTERVALS, CURRENTLY OR IN THE PAST.

S 2. Subdivision 1 of section 812 of the family court act, as amended by chapter 326 of the laws of 2008, is amended to read as follows:

1. Jurisdiction. The family court and the criminal courts shall have concurrent jurisdiction over any proceeding concerning acts which would constitute disorderly conduct, harassment in the first degree, harassment in the second degree, aggravated harassment in the second degree, stalking in the first degree, stalking in the second degree, stalking in the third degree, stalking in the fourth degree, criminal mischief, menacing in the second degree, menacing in the third degree, reckless endangerment, assault in the second degree, assault in the third degree or an attempted assault between spouses or former spouses, or between parent and child or between members of the same family or household except that if the respondent would not be criminally responsible by reason of age pursuant to section 30.00 of the penal law, then the family court shall have exclusive jurisdiction over such proceeding. Notwithstanding a complainant's election to proceed in family court, the criminal court shall not be divested of jurisdiction to hear a family offense proceeding pursuant to this section. For purposes of this article, "disorderly conduct" includes disorderly conduct not in a public place. For purposes of this article, "members of the same family or household" shall mean the following:

(a) persons related by consanguinity or affinity;

(b) persons legally married to one another;

(c) persons formerly married to one another regardless of whether they still reside in the same household;

(d) persons who have a child in common regardless of whether such persons have been married or have lived together at any time; [and]

(e) persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time. Factors the court may consider in determining whether a relationship is an "intimate relationship" include but are not limited to: the nature or type of relationship, regardless of whether the relationship is sexual in nature; the frequency of interaction between the persons; and the duration of the relationship. Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an "intimate relationship"; AND

(F) PERSONS RESIDING TOGETHER CONTINUALLY OR AT REGULAR INTERVALS, CURRENTLY OR IN THE PAST.

S 3. The penal law is amended by adding three new sections 120.26, 120.27 and 120.28 to read as follows:

S 120.26 DOMESTIC ASSAULT IN THE SECOND DEGREE.

A PERSON IS GUILTY OF DOMESTIC ASSAULT IN THE SECOND DEGREE WHEN, WITH INTENT TO CAUSE PHYSICAL INJURY TO ANOTHER PERSON WHO IS A MEMBER OF THE SAME FAMILY OR HOUSEHOLD AS SUCH PERSON, HE OR SHE CAUSES TO SUCH OTHER PERSON OR TO A THIRD PERSON, PHYSICAL PAIN AND (1) A VISIBLE OR PALPABLE MARK, OR (2) A LACERATION.

DOMESTIC ASSAULT IN THE SECOND DEGREE IS A CLASS A MISDEMEANOR.

S 120.27 DOMESTIC ASSAULT IN THE FIRST DEGREE.
A PERSON IS GUILTY OF DOMESTIC ASSAULT IN THE FIRST DEGREE WHEN:
1. WITH INTENT TO CAUSE PHYSICAL INJURY TO ANOTHER PERSON WHO IS A MEMBER OF THE SAME FAMILY OR HOUSEHOLD AS SUCH PERSON, HE OR SHE CAUSES SUCH INJURY TO SUCH OTHER PERSON OR TO A THIRD PERSON; OR
2. HE OR SHE RECKLESSLY CAUSES PHYSICAL INJURY TO ANOTHER PERSON WHO IS A MEMBER OF THE SAME FAMILY OR HOUSEHOLD AS SUCH PERSON; OR
3. WITH CRIMINAL NEGLIGENCE, HE OR SHE CAUSES PHYSICAL INJURY TO ANOTHER PERSON WHO IS A MEMBER OF THE SAME FAMILY OR HOUSEHOLD AS SUCH PERSON BY MEANS OF A DEADLY WEAPON OR A DANGEROUS INSTRUMENT.
DOMESTIC ASSAULT IN THE FIRST DEGREE IS A CLASS E FELONY.
S 120.28 DOMESTIC ASSAULT; DEFINITION OF TERM.
FOR PURPOSES OF SECTIONS 120.26 AND 120.27 OF THIS ARTICLE, A PERSON IS A "MEMBER OF THE SAME FAMILY OR HOUSEHOLD" AS ANOTHER PERSON ONLY WHEN SUCH PERSONS ARE:
1. RELATED BY CONSANGUINITY OR AFFINITY;
2. LEGALLY MARRIED TO ONE ANOTHER;
3. FORMERLY MARRIED TO ONE ANOTHER;
4. PERSONS WHO HAVE A CHILD IN COMMON, REGARDLESS OF WHETHER SUCH PERSONS HAVE BEEN MARRIED OR HAVE LIVED TOGETHER AT ANY TIME; OR
5. PERSONS RESIDING TOGETHER CONTINUALLY OR AT REGULAR INTERVALS, CURRENTLY OR IN THE PAST.
S 4. Subdivision 2 of section 510.30 of the criminal procedure law, subparagraph (v) of paragraph (a) as amended by chapter 920 of the laws of 1982 and subparagraphs (vi), (vii) and (viii) of paragraph (a) as renumbered by chapter 447 of the laws of 1977, is amended to read as follows:
2. To the extent that the issuance of an order of recognizance or bail and the terms thereof are matters of discretion rather than of law, an application is determined on the basis of the following factors and criteria:
(a) With respect to any principal, the court must consider the kind and degree of control or restriction that is necessary to secure his court attendance when required. In determining that matter, the court must, on the basis of available information, consider and take into account:
(i) The principal's character, reputation, habits and mental condition, INCLUDING ANY HISTORY OF VIOLENT ACTS OR THREATS OF VIOLENT ACTS;
(ii) His OR HER employment and financial resources; and
(iii) His OR HER family ties, INCLUDING ANY HISTORY OF VIOLENT ACTS OR THREATS OF VIOLENT ACTS AGAINST FAMILY OR HOUSEHOLD MEMBERS, and the length of his OR HER residence if any in the community; and
(iv) His OR HER criminal record if any; and
(v) His OR HER record of previous adjudication as a juvenile delinquent, as retained pursuant to section 354.2 of the family court act, or, of pending cases where fingerprints are retained pursuant to section 306.1 of such act, or a youthful offender, if any; and
(vi) His OR HER previous record if any in responding to court appearances when required or with respect to flight to avoid criminal prosecution; and
(vii) A RECORD OF ANY ORDERS OF PROTECTION THAT WERE PREVIOUSLY ISSUED AGAINST THE PRINCIPAL; AND
(VIII) A RECORD OF ANY VIOLATION OF AN ORDER OF PROTECTION OR DISOBEDIENCE OF AN ORDER, MANDATE OR PROCESS OF ANY COURT; AND
(IX) If he OR SHE is a defendant, the weight of the evidence against him OR HER in the pending criminal action and any other factor indicat-

ing probability or improbability of conviction; or, in the case of an application for bail or recognizance pending appeal, the merit or lack of merit of the appeal; and

[(viii)] (X) If he OR SHE is a defendant, the sentence which may be or has been imposed upon conviction.

(b) Where the principal is a defendant-appellant in a pending appeal from a judgment of conviction, the court must also consider the likelihood of ultimate reversal of the judgment. A determination that the appeal is palpably without merit alone justifies, but does not require, a denial of the application, regardless of any determination made with respect to the factors specified in paragraph (a) OF THIS SUBDIVISION.

S 5. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.

PART F

Section 1. The second closing paragraph of subdivision 3 of section 240 of the domestic relations law, as added by chapter 606 of the laws of 1999, is amended to read as follows:

Upon issuance of an order of protection or temporary order of protection or upon a violation of such order, the court may make an order in accordance with section eight hundred forty-two-a of the family court act directing the surrender of firearms, revoking or suspending a party's firearms license, and/or directing that such party be ineligible to receive a firearms license. Upon issuance of an order of protection pursuant to this section or upon a finding of a violation thereof, the court also may direct payment of restitution in an amount not to exceed ten thousand dollars in accordance with subdivision (e) of section eight hundred forty-one of such act; provided, however, that in no case shall an order of restitution be issued where the court determines that the party against whom the order would be issued has already compensated the injured party or where such compensation is incorporated in a final judgment or settlement of the action. IF THE PERSON SO VIOLATING THE ORDER HAS BEEN FOUND TO HAVE VIOLATED SUCH ORDER ON MORE THAN ONE OCCASION, AND THIS VIOLATION CONSISTED OF COMMITTING A FAMILY OFFENSE AS DEFINED IN SUBDIVISION ONE OF SECTION EIGHT HUNDRED TWELVE OF THE FAMILY COURT ACT OR SUBDIVISION ONE OF SECTION 530.12 OF THE CRIMINAL PROCEDURE LAW, THE COURT SHALL COMMIT SUCH PERSON TO A TERM OF IMPRISONMENT OF NO LESS THAN THIRTY DAYS, WHICH MAY BE SERVED UPON CERTAIN SPECIFIED DAYS OR PARTS OF DAYS AS THE COURT MAY DIRECT.

S 2. Subdivision 9 of section 252 of the domestic relations law, as added by chapter 606 of the laws of 1999, is amended to read as follows:

9. Upon issuance of an order of protection or temporary order of protection or upon a violation of such order, the court may [take] MAKE an order in accordance with section eight hundred forty-two-a of the family court act directing the surrender of firearms, revoking or suspending a party's firearms license, and/or directing that such party be ineligible to receive a firearms license. Upon issuance of an order of protection pursuant to this section or upon a finding of a violation thereof, the court also may direct payment of restitution in an amount not to exceed ten thousand dollars in accordance with subdivision (e) of section eight hundred forty-one of such act; provided, however, that in no case shall an order of restitution be issued where the court determines that the party against whom the order would be issued has already compensated the injured party or where such compensation is incorporated

in a final [judgement] JUDGMENT or settlement of the action. IF THE PERSON SO VIOLATING THE ORDER HAS BEEN FOUND TO HAVE VIOLATED SUCH ORDER ON MORE THAN ONE OCCASION, AND THIS VIOLATION CONSISTED OF COMMITTING A FAMILY OFFENSE AS DEFINED IN SUBDIVISION ONE OF SECTION EIGHT HUNDRED TWELVE OF THE FAMILY COURT ACT OR SUBDIVISION ONE OF SECTION 530.12 OF THE CRIMINAL PROCEDURE LAW, THE COURT SHALL COMMIT SUCH PERSON TO A TERM OF IMPRISONMENT OF NO LESS THAN THIRTY DAYS, WHICH MAY BE SERVED UPON CERTAIN SPECIFIED DAYS OR PARTS OF DAYS AS THE COURT MAY DIRECT.

S 3. Section 846-a of the family court act, as amended by chapter 597 of the laws of 1998, is amended to read as follows:

S 846-a. Powers on failure to obey order. If a respondent is brought before the court for failure to obey any lawful order issued under this article or an order of protection issued by a court of competent jurisdiction of another state, territorial or tribal jurisdiction in a proceeding and if, after hearing, the court is satisfied by competent proof that the respondent has willfully failed to obey any such order, the court may modify an existing order to add reasonable conditions of behavior to the existing order of protection, make a new order of protection in accordance with section eight hundred forty-two OF THIS PART, may order the forfeiture of bail in a manner consistent with article five hundred forty of the criminal procedure law if bail has been ordered pursuant to this act, may order the respondent to pay the petitioner's reasonable and necessary counsel fees in connection with the violation petition where the court finds that the violation of its order was willful, and may commit the respondent to jail for a term not to exceed six months. IF THE RESPONDENT HAS BEEN FOUND BY COMPETENT PROOF TO HAVE WILLFULLY FAILED TO OBEY SUCH ORDER OF PROTECTION ON MORE THAN ONE OCCASION, AND THIS WILLFUL FAILURE CONSISTED OF COMMITTING A FAMILY OFFENSE AS DEFINED IN SUBDIVISION ONE OF SECTION EIGHT HUNDRED TWELVE OF THIS ARTICLE OR SUBDIVISION ONE OF SECTION 530.12 OF THE CRIMINAL PROCEDURE LAW, THE COURT SHALL COMMIT SUCH PERSON TO A TERM OF IMPRISONMENT OF NOT LESS THAN THIRTY DAYS. Such commitment may be served upon certain specified days or parts of days as the court may direct, and the court may, at any time within the term of such sentence, revoke such suspension and commit the respondent for the remainder of the original sentence, or suspend the remainder of such sentence. If the court determines that the willful failure to obey such order involves violent behavior constituting the crimes of menacing, reckless endangerment, assault or attempted assault and if such a respondent is licensed to carry, possess, repair and dispose of firearms pursuant to section 400.00 of the penal law, the court may also immediately revoke such license and may arrange for the immediate surrender and disposal of any firearm such respondent owns or possesses. If the willful failure to obey such order involves the infliction of serious physical injury as defined in subdivision ten of section 10.00 of the penal law or the use or threatened use of a deadly weapon or dangerous instrument, as those terms are defined in subdivisions twelve and thirteen of section 10.00 of the penal law, such revocation and immediate surrender and disposal of any firearm owned or possessed by respondent shall be mandatory, pursuant to subdivision eleven of section 400.00 of the penal law.

S 4. Subdivision 11 of section 530.12 of the criminal procedure law, as amended by chapter 498 of the laws of 1993, the opening paragraph as amended by chapter 597 of the laws of 1998, paragraph (a) as amended by chapter 222 of the laws of 1994 and paragraph (d) as amended by chapter 644 of the laws of 1996, is amended to read as follows:

11. If a defendant is brought before the court for failure to obey any lawful order issued under this section, or an order of protection issued by a court of competent jurisdiction in another state, territorial or tribal jurisdiction, and if, after hearing, the court is satisfied by competent proof that the defendant has willfully failed to obey any such order, (A) the court may:

[(a)] (I) revoke an order of recognizance or revoke an order of bail or order forfeiture of such bail and commit the defendant to custody; or

[(b)] (II) restore the case to the calendar when there has been an adjournment in contemplation of dismissal and commit the defendant to custody; or

[(c)] (III) revoke a conditional discharge in accordance with section 410.70 of this chapter and impose probation supervision or impose a sentence of imprisonment in accordance with the penal law based on the original conviction; or

[(d)] (IV) revoke probation in accordance with section 410.70 of this chapter and impose a sentence of imprisonment in accordance with the penal law based on the original conviction. In addition, if the act which constitutes the violation of the order of protection or temporary order of protection is a crime or a violation the defendant may be charged with and tried for that crime or violation; AND

(B) IF THE COURT FINDS THAT THE DEFENDANT HAS WILLFULLY FAILED TO OBEY SUCH ORDER OF PROTECTION ON MORE THAN ONE OCCASION AND THIS WILLFUL FAILURE CONSISTED OF COMMITTING A FAMILY OFFENSE AS DEFINED IN SUBDIVISION ONE OF THIS SECTION OR SUBDIVISION ONE OF SECTION EIGHT HUNDRED TWELVE OF THE FAMILY COURT ACT, THE COURT SHALL COMMIT SUCH PERSON TO A TERM OF IMPRISONMENT OF NOT LESS THAN THIRTY DAYS, WHICH MAY BE SERVED UPON CERTAIN SPECIFIED DAYS OR PARTS OF DAYS AS THE COURT MAY DIRECT.

S 5. Subdivision 8 of section 530.13 of the criminal procedure law, as added by chapter 388 of the laws of 1984, is amended to read as follows:

8. If a defendant is brought before the court for failure to obey any lawful order issued under this section and if, after hearing, the court is satisfied by competent proof that the defendant has willfully failed to obey any such order, (A) the court may:

[(a)] (I) revoke an order of recognizance or bail and commit the defendant to custody; or

[(b)] (II) restore the case to the calendar when there has been an adjournment in contemplation of dismissal and commit the defendant to custody or impose or increase bail pending a trial of the original crime or violation; or

[(c)] (III) revoke a conditional discharge in accordance with section 410.70 of this chapter and impose probation supervision or impose a sentence of imprisonment in accordance with the penal law based on the original conviction; or

[(d)] (IV) revoke probation in accordance with section 410.70 of this chapter and impose a sentence of imprisonment in accordance with the penal law based on the original conviction. In addition, if the act which constitutes the violation of the order of protection or temporary order of protection is a crime or a violation the defendant may be charged with and tried for that crime or violation; AND

(B) IF THE COURT FINDS THAT THE DEFENDANT HAS WILLFULLY FAILED TO OBEY SUCH ORDER OF PROTECTION ON MORE THAN ONE OCCASION AND THIS WILLFUL FAILURE CONSISTED OF COMMITTING A FAMILY OFFENSE AS DEFINED IN SUBDIVISION ONE OF SECTION 530.12 OF THIS ARTICLE OR SUBDIVISION ONE OF SECTION EIGHT HUNDRED TWELVE OF THE FAMILY COURT ACT, THE COURT SHALL COMMIT SUCH PERSON TO A TERM OF IMPRISONMENT OF NOT LESS THAN THIRTY DAYS,

WHICH MAY BE SERVED UPON CERTAIN SPECIFIED DAYS OR PARTS OF DAYS AS THE COURT MAY DIRECT.

S 6. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.

S 4. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 5. This act shall take effect immediately provided, however, that the applicable effective date of parts A through F of this act shall be as specifically set forth in the last section of such parts.