

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

3107--A

2009-2010 Regular Sessions

I N S E N A T E

March 10, 2009

Introduced by Sen. KRUGER -- read twice and ordered printed, and when printed to be committed 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.
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

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

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

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

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

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

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

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

43 S 5. The provisions of this act shall be severable, and if any clause,
44 sentence, paragraph, subdivision or part of this act shall be adjudged
45 by any court of competent jurisdiction to be invalid, such judgment
46 shall not affect, impair, or invalidate the remainder thereof, but shall
47 be confined in its operation to the clause, sentence, paragraph, subdi-
48 vision or part thereof directly involved in the controversy in which
49 such judgment shall have been rendered.

50 S 6. This act shall take effect immediately.