

9774--A

I N A S S E M B L Y

April 2, 2012

Introduced by M. of A. SIMOTAS, COLTON, AUBRY, SAYWARD, SCARBOROUGH, MARKEY, P. RIVERA, MENG, ENGLEBRIGHT, BRAUNSTEIN, DenDEKKER, LANCMAN, BRINDISI, LINARES, MORELLE, JAFFEE, MILLMAN, ZEBROWSKI, GUNTHER, LAVINE, MOYA, TITONE, PERRY, CLARK, COOK, ROBERTS, HOOPER, BOYLAND -- Multi-Sponsored by -- M. of A. ARROYO, BRENNAN, BURLING, CORWIN, DUPREY, FINCH, GALEF, GLICK, GOODELL, HIKIND, LOSQUADRO, MALLIOTAKIS, McDONOUGH, McENENY, McKEVITT, J. MILLER, MONTESANO, MURRAY, RA, ROBINSON, SCHIMEL, SWEENEY, TOBACCO, WALTER -- 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 penal law, the criminal procedure law, the correction law, the executive law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules and the agriculture and markets law, in relation to sex offenses; and to repeal certain provisions of the penal law relating thereto

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

1 Section 1. Sections 130.40, 130.45, 130.50, 130.65-A, 130.66, 130.67
2 and 130.70 of the penal law are REPEALED.
3 S 2. Paragraph 2 of subdivision 18 of section 10.00 of the penal law,
4 as amended by chapter 7 of the laws of 2007, is amended to read as
5 follows:
6 (2) a person fourteen or fifteen years old who is criminally responsi-
7 ble for acts constituting the crimes defined in subdivisions one and two
8 of section 125.25 (murder in the second degree) and in subdivision three
9 of such section provided that the underlying crime for the murder charge
10 is one for which such person is criminally responsible; section 135.25
11 (kidnapping in the first degree); 150.20 (arson in the first degree);
12 subdivisions one and two of section 120.10 (assault in the first
13 degree); 125.20 (manslaughter in the first degree); [subdivisions one
14 and] PARAGRAPHS (A) AND (B) OF SUBDIVISION ONE AND SUBDIVISION two of
15 section 130.35 (rape in the first degree); subdivisions one and two of
16 section 130.50 (criminal sexual act in the first degree); 130.70 (aggra-

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

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1 vated sexual abuse in the first degree); 140.30 (burglary in the first
2 degree); subdivision one of section 140.25 (burglary in the second
3 degree); 150.15 (arson in the second degree); 160.15 (robbery in the
4 first degree); subdivision two of section 160.10 (robbery in the second
5 degree) of this chapter; or section 265.03 of this chapter, where such
6 machine gun or such firearm is possessed on school grounds, as that
7 phrase is defined in subdivision fourteen of section 220.00 of this
8 chapter; or defined in this chapter as an attempt to commit murder in
9 the second degree or kidnapping in the first degree, or such conduct as
10 a sexually motivated felony, where authorized pursuant to section 130.91
11 of [the penal law] THIS CHAPTER.

12 S 3. Subdivision 2 of section 30.00 of the penal law, as amended by
13 chapter 7 of the laws of 2007, is amended to read as follows:

14 2. A person thirteen, fourteen or fifteen years of age is criminally
15 responsible for acts constituting murder in the second degree as defined
16 in subdivisions one and two of section 125.25 and in subdivision three
17 of such section provided that the underlying crime for the murder charge
18 is one for which such person is criminally responsible or for such
19 conduct as a sexually motivated felony, where authorized pursuant to
20 section 130.91 [of the penal law]; and a person fourteen or fifteen
21 years of age is criminally responsible for acts constituting the crimes
22 defined in section 135.25 (kidnapping in the first degree); 150.20
23 (arson in the first degree); subdivisions one and two of section 120.10
24 (assault in the first degree); 125.20 (manslaughter in the first
25 degree); [subdivisions one and] PARAGRAPHS (A) AND (B) OF SUBDIVISION
26 ONE AND SUBDIVISION two of section 130.35 (rape in the first degree);
27 [subdivisions one and two of section 130.50 (criminal sexual act in the
28 first degree);] 130.70 (aggravated sexual abuse in the first degree);
29 140.30 (burglary in the first degree); subdivision one of section 140.25
30 (burglary in the second degree); 150.15 (arson in the second degree);
31 160.15 (robbery in the first degree); subdivision two of section 160.10
32 (robbery in the second degree) of this chapter; or section 265.03 of
33 this chapter, where such machine gun or such firearm is possessed on
34 school grounds, as that phrase is defined in subdivision fourteen of
35 section 220.00 of this chapter; or defined in this chapter as an attempt
36 to commit murder in the second degree or kidnapping in the first degree,
37 or for such conduct as a sexually motivated felony, where authorized
38 pursuant to section 130.91 of [the penal law] OF THIS CHAPTER.

39 S 4. Paragraphs (a), (b), (c) and (d) of subdivision 1 of section
40 70.02 of the penal law, paragraph (a) as amended by chapter 320 of the
41 laws of 2006, paragraph (b) as amended by chapter 148 of the laws of
42 2011, paragraph (c) as amended by chapter 405 of the laws of 2010, and
43 paragraph (d) as amended by chapter 7 of the laws of 2007, are amended
44 to read as follows:

45 (a) Class B violent felony offenses: an attempt to commit the class
46 A-I felonies of murder in the second degree as defined in section
47 125.25, kidnapping in the first degree as defined in section 135.25, and
48 arson in the first degree as defined in section 150.20; manslaughter in
49 the first degree as defined in section 125.20, aggravated manslaughter
50 in the first degree as defined in section 125.22, rape in the first
51 degree as defined in section 130.35, [criminal sexual act in the first
52 degree as defined in section 130.50, aggravated sexual abuse in the
53 first degree as defined in section 130.70,] course of sexual conduct
54 against a child in the first degree as defined in section 130.75;
55 assault in the first degree as defined in section 120.10, kidnapping in
56 the second degree as defined in section 135.20, burglary in the first

1 degree as defined in section 140.30, arson in the second degree as
2 defined in section 150.15, robbery in the first degree as defined in
3 section 160.15, incest in the first degree as defined in section 255.27,
4 criminal possession of a weapon in the first degree as defined in
5 section 265.04, criminal use of a firearm in the first degree as defined
6 in section 265.09, criminal sale of a firearm in the first degree as
7 defined in section 265.13, aggravated assault upon a police officer or a
8 peace officer as defined in section 120.11, gang assault in the first
9 degree as defined in section 120.07, intimidating a victim or witness in
10 the first degree as defined in section 215.17, hindering prosecution of
11 terrorism in the first degree as defined in section 490.35, criminal
12 possession of a chemical weapon or biological weapon in the second
13 degree as defined in section 490.40, and criminal use of a chemical
14 weapon or biological weapon in the third degree as defined in section
15 490.47 AND ANY OFFENSES COMMITTED UNDER A FORMER SECTION OF ARTICLE 130
16 OF THIS CHAPTER WHICH WOULD CONSTITUTE A VIOLATION OF THE AFORESAID
17 SECTIONS OF THIS CHAPTER.

18 (b) Class C violent felony offenses: an attempt to commit any of the
19 class B felonies set forth in paragraph (a) of this subdivision; aggra-
20 vated criminally negligent homicide as defined in section 125.11, aggra-
21 vated manslaughter in the second degree as defined in section 125.21,
22 [aggravated sexual abuse in the second degree as defined in section
23 130.67] RAPE IN THE SECOND DEGREE AS DEFINED IN SECTION 130.33, assault
24 on a peace officer, police officer, fireman or emergency medical
25 services professional as defined in section 120.08, assault on a judge
26 as defined in section 120.09, gang assault in the second degree as
27 defined in section 120.06, strangulation in the first degree as defined
28 in section 121.13, burglary in the second degree as defined in section
29 140.25, robbery in the second degree as defined in section 160.10, crim-
30 inal possession of a weapon in the second degree as defined in section
31 265.03, criminal use of a firearm in the second degree as defined in
32 section 265.08, criminal sale of a firearm in the second degree as
33 defined in section 265.12, criminal sale of a firearm with the aid of a
34 minor as defined in section 265.14, soliciting or providing support for
35 an act of terrorism in the first degree as defined in section 490.15,
36 hindering prosecution of terrorism in the second degree as defined in
37 section 490.30, and criminal possession of a chemical weapon or biolog-
38 ical weapon in the third degree as defined in section 490.37 AND ANY
39 OFFENSES COMMITTED UNDER A FORMER SECTION OF ARTICLE 130 OF THIS CHAPTER
40 WHICH WOULD CONSTITUTE A VIOLATION OF THE AFORESAID SECTIONS OF THIS
41 CHAPTER.

42 (c) Class D violent felony offenses: an attempt to commit any of the
43 class C felonies set forth in paragraph (b); reckless assault of a child
44 as defined in section 120.02, assault in the second degree as defined in
45 section 120.05, menacing a police officer or peace officer as defined in
46 section 120.18, stalking in the first degree, as defined in subdivision
47 one of section 120.60, strangulation in the second degree as defined in
48 section 121.12, rape in the [second] THIRD degree as defined in section
49 130.30, [criminal sexual act in the second degree as defined in section
50 130.45,] sexual abuse in the first degree as defined in section 130.65,
51 course of sexual conduct against a child in the second degree as defined
52 in section 130.80, [aggravated sexual abuse in the third degree as
53 defined in section 130.66,] facilitating a sex offense with a controlled
54 substance as defined in section 130.90, criminal possession of a weapon
55 in the third degree as defined in subdivision five, six, seven or eight
56 of section 265.02, criminal sale of a firearm in the third degree as

1 defined in section 265.11, intimidating a victim or witness in the
2 second degree as defined in section 215.16, soliciting or providing
3 support for an act of terrorism in the second degree as defined in
4 section 490.10, and making a terroristic threat as defined in section
5 490.20, falsely reporting an incident in the first degree as defined in
6 section 240.60, placing a false bomb or hazardous substance in the first
7 degree as defined in section 240.62, placing a false bomb or hazardous
8 substance in a sports stadium or arena, mass transportation facility or
9 enclosed shopping mall as defined in section 240.63, [and] OR aggravated
10 unpermitted use of indoor pyrotechnics in the first degree as defined in
11 section 405.18 AND ANY OFFENSES COMMITTED UNDER A FORMER SECTION OF
12 ARTICLE 130 OF THIS CHAPTER WHICH WOULD CONSTITUTE A VIOLATION OF THE
13 AFORESAID SECTIONS OF THIS CHAPTER.

14 (d) Class E violent felony offenses: an attempt to commit any of the
15 felonies of criminal possession of a weapon in the third degree as
16 defined in subdivision five, six, seven or eight of section 265.02 as a
17 lesser included offense of that section as defined in section 220.20 of
18 the criminal procedure law, persistent sexual abuse as defined in
19 section 130.53, [aggravated sexual abuse in the fourth degree as defined
20 in section 130.65-a,] RAPE IN THE FOURTH DEGREE AS DEFINED IN SUBDIVI-
21 SIONS FOUR AND FIVE OF SECTION 130.25, falsely reporting an incident in
22 the second degree as defined in section 240.55 [and], placing a false
23 bomb or hazardous substance in the second degree as defined in section
24 240.61 AND ANY OFFENSES COMMITTED UNDER A FORMER SECTION OF ARTICLE 130
25 OF THIS CHAPTER WHICH WOULD CONSTITUTE A VIOLATION OF THE AFORESAID
26 SECTIONS OF THIS CHAPTER.

27 S 5. Paragraph b of subdivision 5 of section 120.40 of the penal law,
28 as amended by chapter 320 of the laws of 2006, is amended to read as
29 follows:

30 b. a crime defined in section 130.20, 130.25, 130.30, [130.40,
31 130.45,] 130.55, 130.60, [130.70,] 255.25, 255.26 or 255.27;

32 S 6. Paragraph (d) of subdivision 2 and paragraph (h) of subdivision 3
33 of section 130.05 of the penal law, paragraph (d) of subdivision 2 as
34 amended by chapter 40 of the laws of 2004 and paragraph (h) of subdivi-
35 sion 3 as amended by chapter 264 of the laws of 2003, are amended to
36 read as follows:

37 (d) Where the offense charged is rape in the [third] FOURTH degree as
38 defined in subdivision three of section 130.25, [or criminal sexual act
39 in the third degree as defined in subdivision three of section 130.40,]
40 in addition to forcible compulsion, circumstances under which, at the
41 time of the act of intercourse, oral sexual conduct or anal sexual
42 conduct, the victim clearly expressed that he or she did not consent to
43 engage in such act, and a reasonable person in the actor's situation
44 would have understood such person's words and acts as an expression of
45 lack of consent to such act under all the circumstances.

46 (h) a client or patient and the actor is a health care provider or
47 mental health care provider charged with rape in the [third] FOURTH
48 degree as defined in section 130.25, [criminal sexual act in the third
49 degree as defined in section 130.40, aggravated sexual abuse in the
50 fourth degree as defined in section 130.65-a,] or sexual abuse in the
51 third degree as defined in section 130.55, and the act of sexual conduct
52 occurs during a treatment session, consultation, interview, or examina-
53 tion.

54 S 7. Subdivision 3 of section 130.10 of the penal law, as amended by
55 chapter 264 of the laws of 2003, is amended to read as follows:

1 3. In any prosecution for the crime of rape in the [third] FOURTH
2 degree as defined in section 130.25, [criminal sexual act in the third
3 degree as defined in section 130.40, aggravated sexual abuse in the
4 fourth degree as defined in section 130.65-a,] or sexual abuse in the
5 third degree as defined in section 130.55 in which incapacity to consent
6 is based on the circumstances set forth in paragraph (h) of subdivision
7 three of section 130.05 of this article it shall be an affirmative
8 defense that the client or patient consented to such conduct charged
9 after having been expressly advised by the health care or mental health
10 care provider that such conduct was not performed for a valid medical
11 purpose.

12 S 8. Section 130.25 of the penal law, as amended by chapter 1 of the
13 laws of 2000, is amended to read as follows:

14 S 130.25 Rape in the [third] FOURTH degree.

15 A person is guilty of rape in the [third] FOURTH degree when:

16 1. He or she engages in sexual intercourse, ORAL SEXUAL CONDUCT, OR
17 ANAL SEXUAL CONDUCT with another person who is incapable of consent by
18 reason of some factor other than being less than seventeen years old;

19 2. Being twenty-one years old or more, he or she engages in sexual
20 intercourse, ORAL SEXUAL CONDUCT, OR ANAL SEXUAL CONDUCT with another
21 person less than seventeen years old; [or]

22 3. He or she engages in sexual intercourse, ORAL SEXUAL CONDUCT, OR
23 ANAL SEXUAL CONDUCT with another person without such person's consent
24 where such lack of consent is by reason of some factor other than inca-
25 pacity to consent[.];

26 4. HE OR SHE INSERTS A FOREIGN OBJECT IN THE VAGINA, URETHRA, PENIS,
27 RECTUM OR ANUS OF ANOTHER PERSON AND THE OTHER PERSON IS INCAPABLE OF
28 CONSENT BY REASON OF SOME FACTOR OTHER THAN BEING LESS THAN SEVENTEEN
29 YEARS OLD; OR

30 5. HE OR SHE INSERTS A FINGER IN THE VAGINA, URETHRA, PENIS, RECTUM OR
31 ANUS OF ANOTHER PERSON CAUSING PHYSICAL INJURY TO SUCH PERSON AND SUCH
32 PERSON IS INCAPABLE OF CONSENT BY REASON OF SOME FACTOR OTHER THAN BEING
33 LESS THAN SEVENTEEN YEARS OLD.

34 CONDUCT PERFORMED FOR A VALID MEDICAL PURPOSE DOES NOT VIOLATE THE
35 PROVISIONS OF SUBDIVISIONS FOUR AND FIVE OF THIS SECTION.

36 Rape in the [third] FOURTH degree is a class E felony.

37 S 9. Section 130.30 of the penal law, as amended by chapter 1 of the
38 laws of 2000, is amended to read as follows:

39 S 130.30 Rape in the [second] THIRD degree.

40 A person is guilty of rape in the [second] THIRD degree when:

41 1. being eighteen years old or more, he or she engages in sexual
42 intercourse, ORAL SEXUAL CONDUCT, OR ANAL SEXUAL CONDUCT with another
43 person less than fifteen years old; [or]

44 2. he or she engages in sexual intercourse, ORAL SEXUAL CONDUCT, OR
45 ANAL SEXUAL CONDUCT with another person who is incapable of consent by
46 reason of being mentally disabled or mentally incapacitated[.];

47 3. HE OR SHE INSERTS A FOREIGN OBJECT IN THE VAGINA, URETHRA, PENIS,
48 RECTUM OR ANUS OF ANOTHER PERSON:

49 (A) BY FORCIBLE COMPULSION; OR

50 (B) WHEN THE OTHER PERSON IS INCAPABLE OF CONSENT BY REASON OF BEING
51 PHYSICALLY HELPLESS; OR

52 (C) WHEN THE OTHER PERSON IS LESS THAN ELEVEN YEARS OLD; OR

53 4. HE OR SHE INSERTS A FOREIGN OBJECT IN THE VAGINA, URETHRA, PENIS,
54 RECTUM OR ANUS OF ANOTHER PERSON CAUSING PHYSICAL INJURY TO SUCH PERSON
55 AND SUCH PERSON IS INCAPABLE OF CONSENT BY REASON OF BEING MENTALLY
56 DISABLED OR MENTALLY INCAPACITATED.

1 CONDUCT PERFORMED FOR A VALID MEDICAL PURPOSE DOES NOT VIOLATE SUBDI-
2 VISIONS THREE AND FOUR OF THIS SECTION.

3 It shall be an affirmative defense to the crime of rape in the
4 [second] THIRD degree as defined in subdivision one of this section that
5 the defendant was less than four years older than the victim at the time
6 of the act.

7 Rape in the [second] THIRD degree is a class D felony.

8 S 10. The penal law is amended by adding a new section 130.33 to read
9 as follows:

10 S 130.33 RAPE IN THE SECOND DEGREE.

11 A PERSON IS GUILTY OF RAPE IN THE SECOND DEGREE WHEN HE OR SHE INSERTS
12 A FINGER IN THE VAGINA, URETHRA, PENIS, RECTUM OR ANUS OF ANOTHER PERSON
13 CAUSING PHYSICAL INJURY TO SUCH PERSON:

14 1. BY FORCIBLE COMPULSION; OR

15 2. WHEN THE OTHER PERSON IS INCAPABLE OF CONSENT BY REASON OF BEING
16 PHYSICALLY HELPLESS; OR

17 3. WHEN THE OTHER PERSON IS LESS THAN ELEVEN YEARS OLD.

18 CONDUCT PERFORMED FOR A VALID MEDICAL PURPOSE DOES NOT VIOLATE THE
19 PROVISIONS OF THIS SECTION.

20 RAPE IN THE SECOND DEGREE IS A CLASS C FELONY.

21 S 11. Section 130.35 of the penal law, as amended by chapter 1 of the
22 laws of 2000, is amended to read as follows:

23 S 130.35 Rape in the first degree.

24 A person is guilty of rape in the first degree when:

25 1. he or she engages in sexual intercourse, ORAL SEXUAL CONDUCT, OR
26 ANAL SEXUAL CONDUCT with another person:

27 [1.] (A) By forcible compulsion; or

28 [2.] (B) Who is incapable of consent by reason of being physically
29 helpless; or

30 [3.] (C) Who is less than eleven years old; or

31 [4.] (D) Who is less than thirteen years old and the actor is eighteen
32 years old or more[.];

33 2. HE OR SHE INSERTS A FOREIGN OBJECT IN THE VAGINA, URETHRA, PENIS,
34 RECTUM OR ANUS OF ANOTHER PERSON CAUSING PHYSICAL INJURY TO SUCH PERSON:

35 (A) BY FORCIBLE COMPULSION; OR

36 (B) WHEN THE OTHER PERSON IS INCAPABLE OF CONSENT BY REASON OF BEING
37 PHYSICALLY HELPLESS; OR

38 (C) WHEN THE OTHER PERSON IS LESS THAN ELEVEN YEARS OLD.

39 CONDUCT PERFORMED FOR A VALID MEDICAL PURPOSE DOES NOT VIOLATE SUBDI-
40 VISION TWO OF THIS SECTION.

41 Rape in the first degree is a class B felony.

42 S 12. Section 255.26 of the penal law, as added by chapter 320 of the
43 laws of 2006, is amended to read as follows:

44 S 255.26 Incest in the second degree.

45 A person is guilty of incest in the second degree when he or she
46 commits the crime of rape in the [second] THIRD degree, as defined in
47 section 130.30 of this part, [or criminal sexual act in the second
48 degree, as defined in section 130.45 of this part,] against a person
49 whom he or she knows to be related to him or her, whether through
50 marriage or not, as an ancestor, descendant, brother or sister of either
51 the whole or the half blood, uncle, aunt, nephew or niece.

52 Incest in the second degree is a class D felony.

53 S 13. Section 255.27 of the penal law, as added by chapter 320 of the
54 laws of 2006, is amended to read as follows:

55 S 255.27 Incest in the first degree.

1 A person is guilty of incest in the first degree when he or she
2 commits the crime of rape in the first degree, as defined in PARAGRAPH
3 (C) OR (D) OF subdivision [three or four] ONE of section 130.35 of this
4 part[, or criminal sexual act in the first degree, as defined in subdi-
5 vision three or four of section 130.50 of this part,] against a person
6 whom he or she knows to be related to him or her, whether through
7 marriage or not, as an ancestor, descendant, brother or sister of either
8 the whole or half blood, uncle, aunt, nephew or niece.

9 Incest in the first degree is a class B felony.

10 S 14. Subdivision 3 of section 485.05 of the penal law, as amended by
11 chapter 405 of the laws of 2010, is amended to read as follows:

12 3. A "specified offense" is an offense defined by any of the following
13 provisions of this chapter: section 120.00 (assault in the third
14 degree); section 120.05 (assault in the second degree); section 120.10
15 (assault in the first degree); section 120.12 (aggravated assault upon a
16 person less than eleven years old); section 120.13 (menacing in the
17 first degree); section 120.14 (menacing in the second degree); section
18 120.15 (menacing in the third degree); section 120.20 (reckless endan-
19 germent in the second degree); section 120.25 (reckless endangerment in
20 the first degree); section 121.12 (strangulation in the second degree);
21 section 121.13 (strangulation in the first degree); subdivision one of
22 section 125.15 (manslaughter in the second degree); subdivision one, two
23 or four of section 125.20 (manslaughter in the first degree); section
24 125.25 (murder in the second degree); section 120.45 (stalking in the
25 fourth degree); section 120.50 (stalking in the third degree); section
26 120.55 (stalking in the second degree); section 120.60 (stalking in the
27 first degree); SUBDIVISION ONE OF SECTION 130.33 (RAPE IN THE SECOND
28 DEGREE); PARAGRAPH (A) OF subdivision one AND PARAGRAPH (A) OF SUBDIVI-
29 SION TWO of section 130.35 (rape in the first degree); [subdivision one
30 of section 130.50 (criminal sexual act in the first degree);] subdivi-
31 sion one of section 130.65 (sexual abuse in the first degree); [para-
32 graph (a) of subdivision one of section 130.67 (aggravated sexual abuse
33 in the second degree);] paragraph (a) of subdivision one of section
34 130.70 (aggravated sexual abuse in the first degree); section 135.05
35 (unlawful imprisonment in the second degree); section 135.10 (unlawful
36 imprisonment in the first degree); section 135.20 (kidnapping in the
37 second degree); section 135.25 (kidnapping in the first degree); section
38 135.60 (coercion in the second degree); section 135.65 (coercion in the
39 first degree); section 140.10 (criminal trespass in the third degree);
40 section 140.15 (criminal trespass in the second degree); section 140.17
41 (criminal trespass in the first degree); section 140.20 (burglary in the
42 third degree); section 140.25 (burglary in the second degree); section
43 140.30 (burglary in the first degree); section 145.00 (criminal mischief
44 in the fourth degree); section 145.05 (criminal mischief in the third
45 degree); section 145.10 (criminal mischief in the second degree);
46 section 145.12 (criminal mischief in the first degree); section 150.05
47 (arson in the fourth degree); section 150.10 (arson in the third
48 degree); section 150.15 (arson in the second degree); section 150.20
49 (arson in the first degree); section 155.25 (petit larceny); section
50 155.30 (grand larceny in the fourth degree); section 155.35 (grand
51 larceny in the third degree); section 155.40 (grand larceny in the
52 second degree); section 155.42 (grand larceny in the first degree);
53 section 160.05 (robbery in the third degree); section 160.10 (robbery in
54 the second degree); section 160.15 (robbery in the first degree);
55 section 240.25 (harassment in the first degree); subdivision one, two or

1 four of section 240.30 (aggravated harassment in the second degree); or
2 any attempt or conspiracy to commit any of the foregoing offenses.

3 S 15. Subdivision 42 of section 1.20 of the criminal procedure law, as
4 amended by chapter 7 of the laws of 2007, is amended to read as follows:

5 42. "Juvenile offender" means (1) a person, thirteen years old who is
6 criminally responsible for acts constituting murder in the second degree
7 as defined in subdivisions one and two of section 125.25 of the penal
8 law, or such conduct as a sexually motivated felony, where authorized
9 pursuant to section 130.91 of the penal law; and (2) a person fourteen
10 or fifteen years old who is criminally responsible for acts constituting
11 the crimes defined in subdivisions one and two of section 125.25 (murder
12 in the second degree) and in subdivision three of such section provided
13 that the underlying crime for the murder charge is one for which such
14 person is criminally responsible; section 135.25 (kidnapping in the
15 first degree); 150.20 (arson in the first degree); subdivisions one and
16 two of section 120.10 (assault in the first degree); 125.20 (manslaught-
17 er in the first degree); [subdivisions one and] PARAGRAPHS (A) AND (B)
18 OF SUBDIVISION ONE AND SUBDIVISION two of section 130.35 (rape in the
19 first degree); [subdivisions one and two of section 130.50 (criminal
20 sexual act in the first degree);] 130.70 (aggravated sexual abuse in the
21 first degree); 140.30 (burglary in the first degree); subdivision one of
22 section 140.25 (burglary in the second degree); 150.15 (arson in the
23 second degree); 160.15 (robbery in the first degree); subdivision two of
24 section 160.10 (robbery in the second degree) of the penal law; or
25 section 265.03 of the penal law, where such machine gun or such firearm
26 is possessed on school grounds, as that phrase is defined in subdivision
27 fourteen of section 220.00 of the penal law; or defined in the penal law
28 as an attempt to commit murder in the second degree or kidnapping in the
29 first degree, or such conduct as a sexually motivated felony, where
30 authorized pursuant to section 130.91 of the penal law.

31 S 16. Paragraph (a) of subdivision 2 of section 30.10 of the criminal
32 procedure law, as amended by chapter 467 of the laws of 2008, is amended
33 to read as follows:

34 (a) A prosecution for a class A felony, or rape in the first degree as
35 defined in section 130.35 of the penal law, [or a crime defined or
36 formerly defined in section 130.50 of the penal law, or aggravated sexu-
37 al abuse in the first degree as defined in section 130.70 of the penal
38 law,] or course of sexual conduct against a child in the first degree as
39 defined in section 130.75 of the penal law may be commenced at any time;

40 S 17. Paragraphs (a) and (b) of subdivision 1, the opening paragraph
41 of subdivision 2 and paragraph (a) of subdivision 3 of section 140.20 of
42 the criminal procedure law, paragraphs (a) and (b) of subdivision 1 as
43 amended by chapter 324 of the laws of 1988, the opening paragraph of
44 subdivision 2 and paragraph (a) of subdivision 3 as amended by chapter
45 550 of the laws of 1987, are amended to read as follows:

46 (a) If the arrest is for an offense other than a class A, B, C or D
47 felony or a violation of SUBDIVISION ONE, TWO OR THREE OF section
48 130.25, [130.40,] OR SECTION 205.10, 205.17, 205.19 or 215.56 of the
49 penal law committed in a town, but not in a village thereof having a
50 village court, and the town court of such town is not available at the
51 time, the arrested person may be brought before the local criminal court
52 of any village within such town or, any adjoining town, village embraced
53 in whole or in part by such adjoining town, or city of the same county;
54 and

55 (b) If the arrest is for an offense other than a class A, B, C or D
56 felony or a violation of SUBDIVISION ONE, TWO OR THREE OF section

1 130.25, [130.40,] OR SECTION 205.10, 205.17, 205.19 or 215.56 of the
2 penal law committed in a village having a village court and such court
3 is not available at the time, the arrested person may be brought before
4 the town court of the town embracing such village or any other village
5 court within such town, or, if such town or village court is not avail-
6 able either, before the local criminal court of any adjoining town,
7 village embraced in whole or in part by such adjoining town, or city of
8 the same county; and

9 If the arrest is for an offense other than a class A, B, C or D felony
10 or a violation of SUBDIVISION ONE, TWO OR THREE OF section 130.25,
11 [130.40,] OR SECTION 205.10, 205.17, 205.19 or 215.56 of the penal law,
12 the arrested person need not be brought before a local criminal court as
13 provided in subdivision one, and the procedure may instead be as
14 follows:

15 (a) the arrest is for an offense other than a class A, B, C or D felo-
16 ny or a violation of SUBDIVISION ONE, TWO OR THREE OF section 130.25,
17 [130.40,] OR SECTION 205.10, 205.17, 205.19 or 215.56 of the penal law,
18 and

19 S 18. Paragraph (a) of subdivision 3 and the opening paragraph of
20 subdivision 4 of section 140.27 of the criminal procedure law, as
21 amended by chapter 550 of the laws of 1987, are amended to read as
22 follows:

23 (a) the arrest is for an offense other than a class A, B, C or D felo-
24 ny or a violation of SUBDIVISION ONE, TWO OR THREE OF section 130.25,
25 [130.40,] OR SECTION 205.10, 205.17, 205.19 or 215.56 of the penal law
26 and

27 If the arrest is for an offense other than a class A, B, C or D felony
28 or a violation of SUBDIVISION ONE, TWO OR THREE OF section 130.25,
29 [130.40,] OR SECTION 205.10, 205.17, 205.19 or 215.56 of the penal law,
30 the arrested person need not be brought before a local criminal court as
31 provided in subdivision two, and the procedure may instead be as
32 follows:

33 S 19. Paragraph (a) of subdivision 2 and the opening paragraph of
34 subdivision 3 of section 140.40 of the criminal procedure law, as
35 amended by chapter 550 of the laws of 1987, are amended to read as
36 follows:

37 (a) the arrest is for an offense other than a class A, B, C or D felo-
38 ny or a violation of SUBDIVISION ONE, TWO OR THREE OF section 130.25,
39 [130.40,] OR SECTION 205.10, 205.17, 205.19 or 215.56 of the penal law
40 and

41 If the arrest is for an offense other than a class A, B, C or D felony
42 or a violation of SUBDIVISION ONE, TWO OR THREE OF section 130.25,
43 [130.40,] OR SECTION 205.10, 205.17, 205.19 or 215.56 of the penal law,
44 the arrested person need not be brought before a local criminal court,
45 as provided in subdivision one, and the procedure may instead be as
46 follows:

47 S 20. Section 150.20 of the criminal procedure law, subdivisions 1, 2
48 and 3 as amended by chapter 550 of the laws of 1987, is amended to read
49 as follows:

50 S 150.20 Appearance ticket; when and by whom issuable.

51 1. Whenever a police officer is authorized pursuant to section 140.10
52 to arrest a person without a warrant for an offense other than a class
53 A, B, C or D felony or a violation of SUBDIVISION ONE, TWO OR THREE OF
54 section 130.25, [130.40,] OR SECTION 205.10, 205.17, 205.19 or 215.56 of
55 the penal law, he may, subject to the provisions of subdivisions three

1 and four of section 150.40, instead issue to and serve upon such person
2 an appearance ticket.

3 2. (a) Whenever a police officer has arrested a person without a
4 warrant for an offense other than a class A, B, C or D felony or a
5 violation of SUBDIVISION ONE, TWO OR THREE OF section 130.25, [130.40,]
6 OR SECTION 205.10, 205.17, 205.19 or 215.56 of the penal law pursuant to
7 section 140.10, or (b) whenever a peace officer, who is not authorized
8 by law to issue an appearance ticket, has arrested a person for an
9 offense other than a class A, B, C or D felony or a violation of SUBDI-
10 VISION ONE, TWO OR THREE OF section 130.25, [130.40,] OR SECTION 205.10,
11 205.17, 205.19 or 215.56 of the penal law pursuant to section 140.25,
12 and has requested a police officer to issue and serve upon such arrested
13 person an appearance ticket pursuant to subdivision four of section
14 140.27, or (c) whenever a person has been arrested for an offense other
15 than a class A, B, C or D felony or a violation of SUBDIVISION ONE, TWO
16 OR THREE OF section 130.25, [130.40,] OR SECTION 205.10, 205.17, 205.19
17 or 215.56 of the penal law and has been delivered to the custody of an
18 appropriate police officer pursuant to section 140.40, such police offi-
19 cer may, instead of bringing such person before a local criminal court
20 and promptly filing or causing the arresting peace officer or arresting
21 person to file a local criminal court accusatory instrument therewith,
22 issue to and serve upon such person an appearance ticket. The issuance
23 and service of an appearance ticket under such circumstances may be
24 conditioned upon a deposit of pre-arraignment bail, as provided in
25 section 150.30.

26 3. A public servant other than a police officer, who is specially
27 authorized by state law or local law enacted pursuant to the provisions
28 of the municipal home rule law to issue and serve appearance tickets
29 with respect to designated offenses other than class A, B, C or D felo-
30 nies or violations of SUBDIVISION ONE, TWO OR THREE OF section 130.25,
31 [130.40,] OR SECTION 205.10, 205.17, 205.19 or 215.56 of the penal law,
32 may in such cases issue and serve upon a person an appearance ticket
33 when he has reasonable cause to believe that such person has committed a
34 crime, or has committed a petty offense in his presence.

35 S 21. Subdivision 4 of section 180.75 of the criminal procedure law,
36 as amended by chapter 264 of the laws of 2003, is amended to read as
37 follows:

38 4. Notwithstanding the provisions of subdivisions two and three of
39 this section, a local criminal court shall, at the request of the
40 district attorney, order removal of an action against a juvenile offen-
41 der to the family court pursuant to the provisions of article seven
42 hundred twenty-five of this chapter if, upon consideration of the crite-
43 ria specified in subdivision two of section 210.43 of this chapter, it
44 is determined that to do so would be in the interests of justice.
45 Where, however, the felony complaint charges the juvenile offender with
46 murder in the second degree as defined in section 125.25 of the penal
47 law, rape in the first degree as defined in PARAGRAPH (A) OF subdivision
48 one of section 130.35 of the penal law, [criminal sexual act in the
49 first degree as defined in subdivision one of section 130.50 of the
50 penal law,] or an armed felony as defined in paragraph (a) of subdivi-
51 sion forty-one of section 1.20 of this chapter, a determination that
52 such action be removed to the family court shall, in addition, be based
53 upon a finding of one or more of the following factors: (i) mitigating
54 circumstances that bear directly upon the manner in which the crime was
55 committed; or (ii) where the defendant was not the sole participant in
56 the crime, the defendant's participation was relatively minor although

1 not so minor as to constitute a defense to the prosecution; or (iii)
2 possible deficiencies in proof of the crime.

3 S 22. Subdivision (a) of section 190.71 of the criminal procedure law,
4 as amended by chapter 7 of the laws of 2007, is amended to read as
5 follows:

6 (a) Except as provided in subdivision six of section 200.20 of this
7 chapter, a grand jury may not indict (i) a person thirteen years of age
8 for any conduct or crime other than conduct constituting a crime defined
9 in subdivisions one and two of section 125.25 (murder in the second
10 degree) or such conduct as a sexually motivated felony, where authorized
11 pursuant to section 130.91 of the penal law; (ii) a person fourteen or
12 fifteen years of age for any conduct or crime other than conduct consti-
13 tuting a crime defined in subdivisions one and two of section 125.25
14 (murder in the second degree) and in subdivision three of such section
15 provided that the underlying crime for the murder charge is one for
16 which such person is criminally responsible; 135.25 (kidnapping in the
17 first degree); 150.20 (arson in the first degree); subdivisions one and
18 two of section 120.10 (assault in the first degree); 125.20 (manslaught-
19 er in the first degree); [subdivisions one and] PARAGRAPHS (A) AND (B)
20 OF SUBDIVISION ONE AND SUBDIVISION two of section 130.35 (rape in the
21 first degree); [subdivisions one and two of section 130.50 (criminal
22 sexual act in the first degree); 130.70 (aggravated sexual abuse in the
23 first degree);] 140.30 (burglary in the first degree); subdivision one
24 of section 140.25 (burglary in the second degree); 150.15 (arson in the
25 second degree); 160.15 (robbery in the first degree); subdivision two of
26 section 160.10 (robbery in the second degree) of the penal law; subdivi-
27 sion four of section 265.02 of the penal law, where such firearm is
28 possessed on school grounds, as that phrase is defined in subdivision
29 fourteen of section 220.00 of the penal law; or section 265.03 of the
30 penal law, where such machine gun or such firearm is possessed on school
31 grounds, as that phrase is defined in subdivision fourteen of section
32 220.00 of the penal law; or defined in the penal law as an attempt to
33 commit murder in the second degree or kidnapping in the first degree, or
34 such conduct as a sexually motivated felony, where authorized pursuant
35 to section 130.91 of the penal law.

36 S 23. Paragraph (b) of subdivision 1 of section 210.43 of the criminal
37 procedure law, as amended by chapter 264 of the laws of 2003, is amended
38 to read as follows:

39 (b) with the consent of the district attorney, order removal of an
40 action involving an indictment charging a juvenile offender with murder
41 in the second degree as defined in section 125.25 of the penal law; rape
42 in the first degree, as defined in PARAGRAPH (A) OF subdivision one of
43 section 130.35 of the penal law; [criminal sexual act in the first
44 degree, as defined in subdivision one of section 130.50 of the penal
45 law;] or an armed felony as defined in paragraph (a) of subdivision
46 forty-one of section 1.20, to the family court pursuant to the
47 provisions of article seven hundred twenty-five of this chapter if the
48 court finds one or more of the following factors: (i) mitigating circum-
49 stances that bear directly upon the manner in which the crime was
50 committed; (ii) where the defendant was not the sole participant in the
51 crime, the defendant's participation was relatively minor although not
52 so minor as to constitute a defense to the prosecution; or (iii) possi-
53 ble deficiencies in the proof of the crime, and, after consideration of
54 the factors set forth in subdivision two of this section, the court
55 determined that removal of the action to the family court would be in
56 the interests of justice.

1 S 24. Subparagraph (iii) of paragraph (g) of subdivision 5 of section
2 220.10 of the criminal procedure law, as amended by chapter 264 of the
3 laws of 2003, is amended to read as follows:

4 (iii) Where the indictment does not charge a crime specified in
5 subparagraph (i) of this paragraph, the district attorney may recommend
6 removal of the action to the family court. Upon making such recommenda-
7 tion the district attorney shall submit a subscribed memorandum setting
8 forth: (1) a recommendation that the interests of justice would best be
9 served by removal of the action to the family court; and (2) if the
10 indictment charges a thirteen year old with the crime of murder in the
11 second degree, or a fourteen or fifteen year old with the crimes of rape
12 in the first degree as defined in PARAGRAPH (A) OF subdivision one of
13 section 130.35 of the penal law, [or criminal sexual act in the first
14 degree as defined in subdivision one of section 130.50 of the penal
15 law,] or an armed felony as defined in paragraph (a) of subdivision
16 forty-one of section 1.20 of this chapter specific factors, one or more
17 of which reasonably supports the recommendation, showing, (i) mitigating
18 circumstances that bear directly upon the manner in which the crime was
19 committed, or (ii) where the defendant was not the sole participant in
20 the crime, that the defendant's participation was relatively minor
21 although not so minor as to constitute a defense to the prosecution, or
22 (iii) possible deficiencies in proof of the crime, or (iv) where the
23 juvenile offender has no previous adjudications of having committed a
24 designated felony act, as defined in subdivision eight of section 301.2
25 of the family court act, regardless of the age of the offender at the
26 time of commission of the act, that the criminal act was not part of a
27 pattern of criminal behavior and, in view of the history of the offen-
28 der, is not likely to be repeated.

29 S 25. Subdivision 6 of section 300.50 of the criminal procedure law,
30 as amended by chapter 264 of the laws of 2003, is amended to read as
31 follows:

32 6. For purposes of this section, the offenses of rape in the [third]
33 FOURTH degree as defined in subdivision three of section 130.25 of the
34 penal law [and criminal sexual act in the third degree as defined in
35 subdivision three of section 130.40 of the penal law], are not lesser
36 included offenses of rape in the first degree, criminal sexual act in
37 the first degree or any other offense. Notwithstanding the foregoing,
38 either such offense may be submitted as a lesser included offense of the
39 applicable first degree offense when (i) there is a reasonable view of
40 the evidence which would support a finding that the defendant committed
41 such lesser offense but did not commit the greater offense, and (ii)
42 both parties consent to its submission.

43 S 26. Subdivision 6 of section 380.50 of the criminal procedure law,
44 as amended by chapter 320 of the laws of 2006, is amended to read as
45 follows:

46 6. Regardless of whether the victim requests to make a statement with
47 regard to the defendant's sentence, where the defendant is sentenced for
48 a violent felony offense as defined in section 70.02 of the penal law or
49 a felony defined in article one hundred twenty-five of such law or any
50 of the following provisions of such law sections 130.25, 130.30,
51 [130.40, 130.45] 130.33, 255.25, 255.26, 255.27, article two hundred
52 sixty-three, 135.10, 135.25, 230.05, 230.06, subdivision two of section
53 230.30 or 230.32, OR ANY OFFENSES COMMITTED UNDER A FORMER SECTION OF
54 ARTICLE ONE HUNDRED THIRTY OF THE PENAL LAW WHICH WOULD CONSTITUTE A
55 VIOLATION OF THE AFORESAID SECTIONS OF THE PENAL LAW, the prosecutor
56 shall, within sixty days of the imposition of sentence, provide the

1 victim with a form on which the victim may indicate a demand to be
2 informed of any petition to change the name of such defendant. Such
3 forms shall be maintained by such prosecutor. Upon receipt of a notice
4 of a petition to change the name of any such defendant, pursuant to
5 subdivision two of section sixty-two of the civil rights law, the prose-
6 cutor shall promptly notify the victim at the most current address or
7 telephone number provided by such victim in the most reasonable and
8 expedient possible manner of the time and place such petition will be
9 presented to the court.

10 S 27. Paragraph (b) of subdivision 8 of section 700.05 of the criminal
11 procedure law, as amended by chapter 405 of the laws of 2010, is amended
12 to read as follows:

13 (b) Any of the following felonies: assault in the second degree as
14 defined in section 120.05 of the penal law, assault in the first degree
15 as defined in section 120.10 of the penal law, reckless endangerment in
16 the first degree as defined in section 120.25 of the penal law, promot-
17 ing a suicide attempt as defined in section 120.30 of the penal law,
18 strangulation in the second degree as defined in section 121.12 of the
19 penal law, strangulation in the first degree as defined in section
20 121.13 of the penal law, criminally negligent homicide as defined in
21 section 125.10 of the penal law, manslaughter in the second degree as
22 defined in section 125.15 of the penal law, manslaughter in the first
23 degree as defined in section 125.20 of the penal law, murder in the
24 second degree as defined in section 125.25 of the penal law, murder in
25 the first degree as defined in section 125.27 of the penal law, abortion
26 in the second degree as defined in section 125.40 of the penal law,
27 abortion in the first degree as defined in section 125.45 of the penal
28 law, rape in the [third] FOURTH degree as defined in SUBDIVISION ONE,
29 TWO OR THREE OF section 130.25 of the penal law, rape in the [second]
30 THIRD degree as defined in SUBDIVISION ONE OR TWO OF section 130.30 of
31 the penal law, rape in the first degree as defined in SUBDIVISION ONE OF
32 section 130.35 of the penal law, [criminal sexual act in the third
33 degree as defined in section 130.40 of the penal law, criminal sexual
34 act in the second degree as defined in section 130.45 of the penal law,
35 criminal sexual act in the first degree as defined in section 130.50 of
36 the penal law,] sexual abuse in the first degree as defined in section
37 130.65 of the penal law, unlawful imprisonment in the first degree as
38 defined in section 135.10 of the penal law, kidnapping in the second
39 degree as defined in section 135.20 of the penal law, kidnapping in the
40 first degree as defined in section 135.25 of the penal law, labor traf-
41 ficking as defined in section 135.35 of the penal law, custodial inter-
42 ference in the first degree as defined in section 135.50 of the penal
43 law, coercion in the first degree as defined in section 135.65 of the
44 penal law, criminal trespass in the first degree as defined in section
45 140.17 of the penal law, burglary in the third degree as defined in
46 section 140.20 of the penal law, burglary in the second degree as
47 defined in section 140.25 of the penal law, burglary in the first degree
48 as defined in section 140.30 of the penal law, criminal mischief in the
49 third degree as defined in section 145.05 of the penal law, criminal
50 mischief in the second degree as defined in section 145.10 of the penal
51 law, criminal mischief in the first degree as defined in section 145.12
52 of the penal law, criminal tampering in the first degree as defined in
53 section 145.20 of the penal law, arson in the fourth degree as defined
54 in section 150.05 of the penal law, arson in the third degree as defined
55 in section 150.10 of the penal law, arson in the second degree as
56 defined in section 150.15 of the penal law, arson in the first degree as

1 defined in section 150.20 of the penal law, grand larceny in the fourth
2 degree as defined in section 155.30 of the penal law, grand larceny in
3 the third degree as defined in section 155.35 of the penal law, grand
4 larceny in the second degree as defined in section 155.40 of the penal
5 law, grand larceny in the first degree as defined in section 155.42 of
6 the penal law, health care fraud in the fourth degree as defined in
7 section 177.10 of the penal law, health care fraud in the third degree
8 as defined in section 177.15 of the penal law, health care fraud in the
9 second degree as defined in section 177.20 of the penal law, health care
10 fraud in the first degree as defined in section 177.25 of the penal law,
11 robbery in the third degree as defined in section 160.05 of the penal
12 law, robbery in the second degree as defined in section 160.10 of the
13 penal law, robbery in the first degree as defined in section 160.15 of
14 the penal law, unlawful use of secret scientific material as defined in
15 section 165.07 of the penal law, criminal possession of stolen property
16 in the fourth degree as defined in section 165.45 of the penal law,
17 criminal possession of stolen property in the third degree as defined in
18 section 165.50 of the penal law, criminal possession of stolen property
19 in the second degree as defined by section 165.52 of the penal law,
20 criminal possession of stolen property in the first degree as defined by
21 section 165.54 of the penal law, trademark counterfeiting in the second
22 degree as defined in section 165.72 of the penal law, trademark counter-
23 feiting in the first degree as defined in section 165.73 of the penal
24 law, forgery in the second degree as defined in section 170.10 of the
25 penal law, forgery in the first degree as defined in section 170.15 of
26 the penal law, criminal possession of a forged instrument in the second
27 degree as defined in section 170.25 of the penal law, criminal
28 possession of a forged instrument in the first degree as defined in
29 section 170.30 of the penal law, criminal possession of forgery devices
30 as defined in section 170.40 of the penal law, falsifying business
31 records in the first degree as defined in section 175.10 of the penal
32 law, tampering with public records in the first degree as defined in
33 section 175.25 of the penal law, offering a false instrument for filing
34 in the first degree as defined in section 175.35 of the penal law, issu-
35 ing a false certificate as defined in section 175.40 of the penal law,
36 criminal diversion of prescription medications and prescriptions in the
37 second degree as defined in section 178.20 of the penal law, criminal
38 diversion of prescription medications and prescriptions in the first
39 degree as defined in section 178.25 of the penal law, residential mort-
40 gage fraud in the fourth degree as defined in section 187.10 of the
41 penal law, residential mortgage fraud in the third degree as defined in
42 section 187.15 of the penal law, residential mortgage fraud in the
43 second degree as defined in section 187.20 of the penal law, residential
44 mortgage fraud in the first degree as defined in section 187.25 of the
45 penal law, escape in the second degree as defined in section 205.10 of
46 the penal law, escape in the first degree as defined in section 205.15
47 of the penal law, absconding from temporary release in the first degree
48 as defined in section 205.17 of the penal law, promoting prison contra-
49 band in the first degree as defined in section 205.25 of the penal law,
50 hindering prosecution in the second degree as defined in section 205.60
51 of the penal law, hindering prosecution in the first degree as defined
52 in section 205.65 of the penal law, sex trafficking as defined in
53 section 230.34 of the penal law, criminal possession of a weapon in the
54 third degree as defined in subdivisions two, three and five of section
55 265.02 of the penal law, criminal possession of a weapon in the second
56 degree as defined in section 265.03 of the penal law, criminal

1 possession of a weapon in the first degree as defined in section 265.04
2 of the penal law, manufacture, transport, disposition and defacement of
3 weapons and dangerous instruments and appliances defined as felonies in
4 subdivisions one, two, and three of section 265.10 of the penal law,
5 sections 265.11, 265.12 and 265.13 of the penal law, or prohibited use
6 of weapons as defined in subdivision two of section 265.35 of the penal
7 law, relating to firearms and other dangerous weapons, or failure to
8 disclose the origin of a recording in the first degree as defined in
9 section 275.40 of the penal law;

10 S 28. Paragraph (a) of subdivision 2 and paragraph (a) of subdivision
11 3 of section 168-a of the correction law, paragraph (a) of subdivision 2
12 as amended by chapter 405 of the laws of 2008 and paragraph (a) of
13 subdivision 3 as amended by chapter 107 of the laws of 2006, are amended
14 to read as follows:

15 (a) (i) a conviction of or a conviction for an attempt to commit any
16 of the provisions of sections 120.70, 130.20, [130.25, 130.30, 130.40,
17 130.45,] 130.60, 230.34, 250.50, 255.25, 255.26 and 255.27, OR SUBDIVI-
18 SION ONE, TWO OR THREE OF SECTION 130.25, OR SUBDIVISION ONE OR TWO OF
19 SECTION 130.30, or article two hundred sixty-three of the penal law, or
20 section 135.05, 135.10, 135.20 or 135.25 of such law relating to kidnap-
21 ping offenses, provided the victim of such kidnapping or related offense
22 is less than seventeen years old and the offender is not the parent of
23 the victim, or section 230.04, where the person patronized is in fact
24 less than seventeen years of age, 230.05 or 230.06, or subdivision two
25 of section 230.30, or section 230.32 or 230.33 of the penal law, or (ii)
26 a conviction of or a conviction for an attempt to commit any of the
27 provisions of section 235.22 of the penal law, or (iii) a conviction of
28 or a conviction for an attempt to commit any provisions of the foregoing
29 sections committed or attempted as a hate crime defined in section
30 485.05 of the penal law or as a crime of terrorism defined in section
31 490.25 of such law or as a sexually motivated felony defined in section
32 130.91 of such law; or (IV) ANY OFFENSE COMMITTED UNDER A FORMER SECTION
33 OF ARTICLE 130 OF THE PENAL LAW WHICH WOULD CONSTITUTE A VIOLATION OF
34 THE AFORESAID SECTIONS OF THE PENAL LAW.

35 (a) (i) a conviction of or a conviction for an attempt to commit any
36 of the provisions of sections 130.33, 130.35, [130.50,] 130.65, [130.66,
37 130.67,] 130.70, 130.75, 130.80, 130.95 and 130.96 of the penal law, or
38 (ii) a conviction of or a conviction for an attempt to commit any of the
39 provisions of sections 130.53[, 130.65-a] and 130.90 of the penal law,
40 [(iii)] or SUBDIVISIONS FOUR AND FIVE OF SECTION 130.25 OR 130.30 OF THE
41 PENAL LAW, OR (III) OR ANY OFFENSES COMMITTED UNDER A FORMER SECTION OF
42 ARTICLE 130 OF THE PENAL LAW WHICH WOULD CONSTITUTE A VIOLATION OF THE
43 AFORESAID SECTIONS OF THE PENAL LAW, OR (IV) a conviction of or a
44 conviction for an attempt to commit any provisions of the foregoing
45 sections committed or attempted as a hate crime defined in section
46 485.05 of the penal law or as a crime of terrorism defined in section
47 490.25 of such law; or

48 S 29. Subparagraph (ii) of paragraph (a), subparagraphs (i) and (ii)
49 of paragraph (b) and paragraph (c) of subdivision 8 of section 384-b of
50 the social services law, subparagraph (ii) of paragraph (a) and para-
51 graph (e) as added and subparagraphs (i) and (ii) of paragraph (b) as
52 amended by chapter 7 of the laws of 1999, are amended to read as
53 follows:

54 (ii) the child has been found to be an abused child, as defined in
55 paragraph (iii) of subdivision (e) of section ten hundred twelve of the
56 family court act, as a result of such parent's acts; provided, however,

1 the respondent must have committed or knowingly allowed to be committed
2 a felony sex offense as defined in [sections] SUBDIVISION ONE, TWO OR
3 THREE OF SECTION 130.25[,] OR 130.30, OR SECTIONS 130.33, 130.35,
4 [130.40, 130.45, 130.50,] 130.65, [130.67, 130.70,] 130.75 and 130.80 of
5 the penal law and, for the purposes of this section the corroboration
6 requirements contained in the penal law shall not apply to proceedings
7 under this section; or

8 (i) the child has been found to be an abused child, (A) as defined in
9 paragraph (i) of subdivision (e) of section ten hundred twelve of the
10 family court act, as a result of such parent's acts; or (B) as defined
11 in paragraph (iii) of subdivision (e) of section ten hundred twelve of
12 the family court act, as a result of such parent's acts; provided,
13 however, the respondent must have committed or knowingly allowed to be
14 committed a felony sex offense as defined in [sections] SUBDIVISION ONE,
15 TWO OR THREE OF SECTION 130.25, SUBDIVISION ONE OR TWO OF SECTION
16 130.30, OR SECTIONS 130.33, 130.35, [130.40, 130.45, 130.50,] 130.65,
17 [130.67, 130.70,] 130.75 and 130.80 of the penal law; and

18 (ii) (A) the child or another child for whose care such parent is or
19 has been legally responsible has been previously found, within the five
20 years immediately preceding the initiation of the proceeding in which
21 such abuse is found, to be an abused child, as defined in paragraph (i)
22 or (iii) of subdivision (e) of section ten hundred twelve of the family
23 court act, as a result of such parent's acts; provided, however, in the
24 case of a finding of abuse as defined in paragraph (iii) of subdivision
25 (e) of section ten hundred twelve of the family court act the respondent
26 must have committed or knowingly allowed to be committed a felony sex
27 offense as defined in [sections] SUBDIVISION ONE, TWO OR THREE OF
28 SECTION 130.25, SUBDIVISION ONE OR TWO OF SECTION 130.30, OR SECTIONS
29 130.33 130.35, [130.40, 130.45, 130.50,] 130.65, [130.67, 130.70,]
30 130.75 and 130.80 of the penal law, or (B) the parent has been convicted
31 of a crime under SUBDIVISION ONE, TWO OR THREE OF section 130.25, SUBDI-
32 VISION ONE OR TWO OF SECTION 130.30, OR SECTIONS 130.33 130.35, [130.40,
33 130.45, 130.50,] 130.65, [130.67, 130.70,] 130.75 or 130.80 of the penal
34 law against the child, a sibling of the child or another child for whose
35 care such parent is or has been legally responsible, within the five
36 year period immediately preceding the initiation of the proceeding in
37 which abuse is found; and

38 (e) A determination by the court in accordance with article ten of the
39 family court act based upon clear and convincing evidence that a child
40 was abused as defined in paragraph (i) of subdivision (e) of section ten
41 hundred twelve of the family court act, as a result of such parent's
42 acts; or (B) as defined in paragraph (iii) of subdivision (e) of section
43 ten hundred twelve of the family court act, as a result of such parent's
44 acts; provided, however, the respondent must have committed or knowingly
45 allowed to be committed a felony sex offense as defined in [sections]
46 SUBDIVISION ONE, TWO OR THREE OF SECTION 130.25, SUBDIVISION ONE OR TWO
47 OF SECTION 130.30, OR SECTIONS 130.33, 130.35, [130.40, 130.45, 130.50,]
48 130.65, [130.67, 130.70,] 130.75 and 130.80 of the penal law shall
49 establish that the child was an abused child for the purpose of a deter-
50 mination as required by subparagraph (i) or (ii) of paragraph (b) of
51 this subdivision. Such a determination by the court in accordance with
52 article ten of the family court act based upon a fair preponderance of
53 evidence shall be admissible in any proceeding commenced in accordance
54 with this section.

1 S 30. Subdivision 4 of section 509-cc of the vehicle and traffic law,
2 as amended by chapter 400 of the laws of 2011, is amended to read as
3 follows:

4 (4) (a) The offenses referred to in subparagraph (ii) of paragraph (a)
5 of subdivision one and paragraph (a) of subdivision two of this section
6 that result in permanent disqualification shall include a conviction
7 under sections 125.12, 125.13, 125.14, 125.15, 125.20, 125.21, 125.22,
8 125.25, 125.26, 125.27, 130.30, 130.33, 130.35, [130.45, 130.50,]
9 130.65, [130.66, 130.67, 130.70,] 130.75, 130.80, 130.90, 130.95,
10 130.96, 135.25, 150.20, 230.30, 230.32, 230.34, 235.22, 263.05, 263.10,
11 263.11, 263.15, 263.16 of the penal law or an attempt to commit any of
12 the aforesaid offenses under section 110.00 of the penal law, or any
13 offenses committed under a former section of the penal law which would
14 constitute violations of the aforesaid sections of the penal law, or any
15 offenses committed outside this state which would constitute violations
16 of the aforesaid sections of the penal law.

17 (b) The offenses referred to in subparagraph (ii) of paragraph (a) of
18 subdivision one and paragraph (b) of subdivision two of this section
19 that result in permanent disqualification shall include a conviction
20 under sections 100.13, 105.15, 105.17, 115.08, 120.12, 120.70, 125.10,
21 125.11, [130.40,] 130.25, 130.53, 130.60, [130.65-a,] 135.20, 160.15,
22 220.18, 220.21, 220.39, 220.41, 220.43, 220.44, 230.25, 260.00, 265.04
23 of the penal law or an attempt to commit any of the aforesaid offenses
24 under section 110.00 of the penal law, or any offenses committed under a
25 former section of the penal law which would constitute violations of the
26 aforesaid sections of the penal law, or any offenses committed outside
27 this state which would constitute violations of the aforesaid sections
28 of the penal law.

29 (c) The offenses referred to in subparagraph (i) of paragraph (b) of
30 subdivision one and subparagraph (i) of paragraph (c) of subdivision two
31 of this section that result in disqualification for a period of five
32 years shall include a conviction under sections 100.10, 105.13, 115.05,
33 120.03, 120.04, 120.04-a, 120.05, 120.10, 120.25, 121.12, 121.13,
34 125.40, 125.45, 130.20, [130.25,] 130.52, 130.55, 135.10, 135.55,
35 140.17, 140.25, 140.30, 145.12, 150.10, 150.15, 160.05, 160.10, 220.06,
36 220.09, 220.16, 220.31, 220.34, 220.60, 220.65, 221.30, 221.50, 221.55,
37 230.00, 230.05, 230.06, 230.20, 235.05, 235.06, 235.07, 235.21, 240.06,
38 245.00, 260.10, subdivision two of section 260.20 and sections 260.25,
39 265.02, 265.03, 265.08, 265.09, 265.10, 265.12, 265.35 of the penal law
40 or an attempt to commit any of the aforesaid offenses under section
41 110.00 of the penal law, or any similar offenses committed under a
42 former section of the penal law, or any offenses committed under a
43 former section of the penal law which would constitute violations of the
44 aforesaid sections of the penal law, or any offenses committed outside
45 this state which would constitute violations of the aforesaid sections
46 of the penal law.

47 S 31. Subdivision (b) of section 117 of the family court act, as
48 amended by chapter 7 of the laws of 2007, is amended to read as follows:

49 (b) For every juvenile delinquency proceeding under article three
50 involving an allegation of an act committed by a person which, if done
51 by an adult, would be a crime (i) defined in sections 125.27 (murder in
52 the first degree); 125.25 (murder in the second degree); 135.25 (kidnap-
53 ping in the first degree); or 150.20 (arson in the first degree) of the
54 penal law committed by a person thirteen, fourteen or fifteen years of
55 age; or such conduct committed as a sexually motivated felony, where
56 authorized pursuant to section 130.91 of the penal law; (ii) defined in

1 sections 120.10 (assault in the first degree); 125.20 (manslaughter in
2 the first degree); SUBDIVISION ONE OF SECTION 130.35 (rape in the first
3 degree); [130.50 (criminal sexual act in the first degree);] SECTION
4 135.20 (kidnapping in the second degree), but only where the abduction
5 involved the use or threat of use of deadly physical force; 150.15
6 (arson in the second degree); or 160.15 (robbery in the first degree) of
7 the penal law committed by a person thirteen, fourteen or fifteen years
8 of age; or such conduct committed as a sexually motivated felony, where
9 authorized pursuant to section 130.91 of the penal law; (iii) defined in
10 the penal law as an attempt to commit murder in the first or second
11 degree or kidnapping in the first degree committed by a person thirteen,
12 fourteen or fifteen years of age; or such conduct committed as a sexual-
13 ly motivated felony, where authorized pursuant to section 130.91 of the
14 penal law; (iv) defined in section 140.30 (burglary in the first
15 degree); subdivision one of section 140.25 (burglary in the second
16 degree); subdivision two of section 160.10 (robbery in the second
17 degree) of the penal law; or section 265.03 of the penal law, where such
18 machine gun or such firearm is possessed on school grounds, as that
19 phrase is defined in subdivision fourteen of section 220.00 of the penal
20 law committed by a person fourteen or fifteen years of age; or such
21 conduct committed as a sexually motivated felony, where authorized
22 pursuant to section 130.91 of the penal law; (v) defined in section
23 120.05 (assault in the second degree) or 160.10 (robbery in the second
24 degree) of the penal law committed by a person fourteen or fifteen years
25 of age but only where there has been a prior finding by a court that
26 such person has previously committed an act which, if committed by an
27 adult, would be the crime of assault in the second degree, robbery in
28 the second degree or any designated felony act specified in clause (i),
29 (ii) or (iii) of this subdivision regardless of the age of such person
30 at the time of the commission of the prior act; or (vi) other than a
31 misdemeanor, committed by a person at least seven but less than sixteen
32 years of age, but only where there has been two prior findings by the
33 court that such person has committed a prior act which, if committed by
34 an adult would be a felony:

35 (i) There is hereby established in the family court in the city of New
36 York at least one "designated felony act part." Such part or parts shall
37 be held separate from all other proceedings of the court, and shall have
38 jurisdiction over all proceedings involving such an allegation. All such
39 proceedings shall be originated in or be transferred to this part from
40 other parts as they are made known to the court.

41 (ii) Outside the city of New York, all proceedings involving such an
42 allegation shall have a hearing preference over every other proceeding
43 in the court, except proceedings under article ten.

44 S 32. Paragraph (ii) of subdivision 8 of section 301.2 of the family
45 court act, as amended by chapter 7 of the laws of 2007, is amended to
46 read as follows:

47 (ii) defined in sections 120.10 (assault in the first degree); 125.20
48 (manslaughter in the first degree); 130.35 (rape in the first degree);
49 [130.50 (criminal sexual act in the first degree); 130.70 (aggravated
50 sexual abuse in the first degree);] 135.20 (kidnapping in the second
51 degree) but only where the abduction involved the use or threat of use
52 of deadly physical force; 150.15 (arson in the second degree) or 160.15
53 (robbery in the first degree) of the penal law committed by a person
54 thirteen, fourteen or fifteen years of age; or such conduct committed as
55 a sexually motivated felony, where authorized pursuant to section 130.91
56 of the penal law;

1 S 33. Subdivision 4 of section 308.1 of the family court act, as
2 amended by chapter 264 of the laws of 2003, is amended to read as
3 follows:

4 4. The probation service shall not adjust a case in which the child
5 has allegedly committed a delinquent act which would be a crime defined
6 in section 120.25, (reckless endangerment in the first degree), subdivi-
7 sion one of section 125.15, (manslaughter in the second degree), subdivi-
8 sion one of section 130.25, (rape in the [third] FOURTH degree),
9 [subdivision one of section 130.40, (criminal sexual act in the third
10 degree),] subdivision one or two of section 130.65, (sexual abuse in the
11 first degree), section 135.65, (coercion in the first degree), section
12 140.20, (burglary in the third degree), section 150.10, (arson in the
13 third degree), section 160.05, (robbery in the third degree), subdivi-
14 sion two, three or four of section 265.02, (criminal possession of a
15 weapon in the third degree), section 265.03, (criminal possession of a
16 weapon in the second degree), or section 265.04, (criminal possession of
17 a dangerous weapon in the first degree) of the penal law where the child
18 has previously had one or more adjustments of a case in which such child
19 allegedly committed an act which would be a crime specified in this
20 subdivision unless it has received written approval from the court and
21 the appropriate presentment agency.

22 S 34. Subdivision (c) of section 1052 of the family court act, as
23 added by chapter 739 of the laws of 1981, is amended to read as follows:

24 (c) Prior to granting an order of disposition pursuant to subdivision
25 (a) of this section following an adjudication of child abuse, as defined
26 in paragraph (i) of subdivision (e) of section ten hundred twelve of
27 this act or a finding of a felony sex offense as defined in [sections]
28 SUBDIVISION ONE, TWO OR THREE OF SECTION 130.25, SUBDIVISION ONE OR TWO
29 OF SECTION 130.30, OR SECTION 130.35, [130.40, 130.45, 130.50,] OR
30 130.65 [and 130.70] of the penal law, the court shall advise the
31 respondent that any subsequent adjudication of child abuse, as defined
32 in paragraph (i) of subdivision (e) of section one thousand twelve of
33 this act or any subsequent finding of a felony sex offense as defined in
34 those sections of the penal law herein enumerated, arising out of acts
35 of the respondent may result in the commitment of the guardianship and
36 custody of the child or another child pursuant to section three hundred
37 eighty-four-b of the social services law. The order in such cases shall
38 contain a statement that any subsequent adjudication of child abuse or
39 finding of a felony sex offense as described herein may result in the
40 commitment of the guardianship and custody of the child, or another
41 child pursuant to section three hundred eighty-four-b of the social
42 services law.

43 S 35. Subdivision 2 of section 61 of the civil rights law, as amended
44 by section 54 of subpart B of part C of chapter 62 of the laws of 2011,
45 is amended to read as follows:

46 2. If the petitioner stands convicted of a violent felony offense as
47 defined in section 70.02 of the penal law or a felony defined in article
48 one hundred twenty-five of such law or any of the following provisions
49 of such law sections 130.25, 130.30, [130.40, 130.45,] 255.25, 255.26,
50 255.27, article two hundred sixty-three, 135.10, 135.25, 230.05, 230.06,
51 subdivision two of section 230.30 or 230.32, and is currently confined
52 as an inmate in any correctional facility or currently under the super-
53 vision of the department of corrections and community supervision or a
54 county probation department as a result of such conviction, the petition
55 shall for each such conviction specify such felony conviction, the date

1 of such conviction or convictions, and the court in which such
2 conviction or convictions were entered.

3 S 36. Subdivision 2 of section 62 of the civil rights law, as amended
4 by section 55 of subpart B of part C of chapter 62 of the laws of 2011,
5 is amended to read as follows:

6 2. If the petition be to change the name of a person currently
7 confined as an inmate in any correctional facility or currently under
8 the supervision of the department of corrections and community super-
9 vision or a county probation department as a result of a conviction for
10 a violent felony offense as defined in section 70.02 of the penal law or
11 a felony defined in article one hundred twenty-five of such law or any
12 of the following provisions of such law sections 130.25, 130.30,
13 [130.40, 130.45,] 255.25, 255.26, 255.27, article two hundred sixty-
14 three, 135.10, 135.25, 230.05, 230.06, subdivision two of section 230.30
15 or 230.32, notice of the time and place when and where the petition will
16 be presented shall be served, in like manner as a notice of a motion
17 upon an attorney in an action, upon the district attorney of every coun-
18 ty in which such person has been convicted of such felony and upon the
19 court or courts in which the sentence for such felony was entered.
20 Unless a shorter period of time is ordered by the court, said notice
21 shall be served upon each such district attorney and court or courts not
22 less than sixty days prior to the date on which such petition is noticed
23 to be heard.

24 S 37. The closing paragraph of section 64 of the civil rights law, as
25 separately amended by chapters 258, 320 and 481 of the laws of 2006, is
26 amended to read as follows:

27 Upon compliance with the order and the filing of the affidavit of the
28 publication, as provided in this section, the clerk of the court in
29 which the order has been entered shall certify that the order has been
30 complied with; and, if the petition states that the petitioner stands
31 convicted of a violent felony offense as defined in section 70.02 of the
32 penal law or a felony defined in article one hundred twenty-five of such
33 law or any of the following provisions of such law sections 130.25,
34 130.30, [130.40, 130.45,] 255.25, 255.26, 255.27, article two hundred
35 sixty-three, 135.10, 135.25, 230.05, 230.06, subdivision two of section
36 230.30 or 230.32, such clerk (1) shall deliver, by first class mail, a
37 copy of such certified order to the division of criminal justice
38 services at its office in the county of Albany and (2) upon the clerk of
39 the court reviewing the petitioner's application for name change and
40 subsequent in-court inquiry, may, in the clerk's discretion, deliver, by
41 first class mail, the petitioner's new name with such certified order to
42 the court of competent jurisdiction which imposed the orders of support.
43 Such certification shall appear on the original order and on any certi-
44 fied copy thereof and shall be entered in the clerk's minutes of the
45 proceeding.

46 S 38. Section 213-c of the civil practice laws and rules, as added by
47 chapter 3 of the laws of 2006, is amended to read as follows:

48 S 213-c. Action by victim of conduct constituting certain sexual
49 offenses. Notwithstanding any other limitation set forth in this arti-
50 cle, a civil claim or cause of action to recover from a defendant as
51 hereinafter defined, for physical, psychological or other injury or
52 condition suffered by a person as a result of acts by such defendant of
53 rape in the first degree as defined in section 130.35 of the penal law,
54 [or criminal sexual act in the first degree as defined in section 130.50
55 of the penal law, or aggravated sexual abuse in the first degree as
56 defined in section 130.70 of the penal law,] or course of sexual conduct

1 against a child in the first degree as defined in section 130.75 of the
2 penal law may be brought within five years. As used in this section, the
3 term "defendant" shall mean only a person who commits the acts described
4 in this section or who, in a criminal proceeding, could be charged with
5 criminal liability for the commission of such acts pursuant to section
6 20.00 of the penal law and shall not apply to any related civil claim or
7 cause of action arising from such acts. Nothing in this section shall be
8 construed to require that a criminal charge be brought or a criminal
9 conviction be obtained as a condition of bringing a civil cause of
10 action or receiving a civil judgment pursuant to this section or be
11 construed to require that any of the rules governing a criminal proceed-
12 ing be applicable to any such civil action.

13 S 39. Paragraph (b) of subdivision 8 of section 215 of the civil prac-
14 tice law and rules, as added by chapter 3 of the laws of 2006, is
15 amended to read as follows:

16 (b) Whenever it is shown that a criminal action against the same
17 defendant has been commenced with respect to the event or occurrence
18 from which a claim governed by this section arises, and such criminal
19 action is for rape in the first degree as defined in section 130.35 of
20 the penal law, [or criminal sexual act in the first degree as defined in
21 section 130.50 of the penal law, or aggravated sexual abuse in the first
22 degree as defined in section 130.70 of the penal law,] or course of
23 sexual conduct against a child in the first degree as defined in section
24 130.75 of the penal law, the plaintiff shall have at least five years
25 from the termination of the criminal action as defined in section 1.20
26 of the criminal procedure law in which to commence the civil action,
27 notwithstanding that the time in which to commence such action has
28 already expired or has less than a year remaining.

29 S 40. Subdivision 11 of section 123 of the agriculture and markets
30 law, as amended by chapter 392 of the laws of 2004, and such section as
31 renumbered by section 18 of part T of chapter 59 of the laws of 2010, is
32 amended to read as follows:

33 11. The owner shall not be liable pursuant to subdivision six, seven,
34 eight, nine or ten of this section if the dog was coming to the aid or
35 defense of a person during the commission or attempted commission of a
36 murder, robbery, burglary, arson, rape in the first degree as defined in
37 PARAGRAPH (A) OR (B) OF subdivision one [or two] of section 130.35 of
38 the penal law[, criminal sexual act in the first degree as defined in
39 subdivision one or two of section 130.50 of the penal law] or kidnapping
40 within the dwelling or upon the real property of the owner of the dog
41 and the dog injured or killed the person committing such criminal activ-
42 ity.

43 S 41. This act shall take effect on the ninetieth day after it shall
44 have become a law and shall apply to any offense on or after such effec-
45 tive date. As it pertains to the repealed sections of law, nothing in
46 this act shall affect a requirement to register pursuant to article 6-C
47 of the correction law; a lawfully required disclosure of a conviction;
48 any restriction or prohibition for certain types of employment, housing,
49 or government benefit; or any other ongoing matter related to a
50 conviction of the sections repealed in this act.