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I N   A S S E M B L Y

April 10, 2012

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Introduced by M. of A. PAULIN, DINOWITZ, SCARBOROUGH, ROSENTHAL, COOK, LANCMAN, LAVINE, ZEBROWSKI, ABBATE, CUSICK, ENGLEBRIGHT, GALEF, GIBSON, GUNTHER, JAFFEE, MAGNARELLI, MARKEY, MILLMAN, MOYA, REILLY, ROBERTS, WEISENBERG -- Multi-Sponsored by -- M. of A. BOYLAND, COLTON, JACOBS, McENENY, NOLAN, THIELE -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, the criminal procedure law, the social services law, the mental hygiene law, the correction law, the executive law, the vehicle and traffic law, the public health law, the real property actions and proceedings law and the real property law, in relation to prostitution offenses; and to repeal section 230.07 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.     Short title. This act shall be known and may be cited as  
2     the "trafficking victims protection and justice act".  
3     S 2. Section 60.13 of the penal law, as added by chapter 7 of the laws  
4     of 2007, is amended to read as follows:  
5     S 60.13 Authorized dispositions; felony sex offenses.  
6     When a person is to be sentenced upon a conviction for any felony  
7     defined in article one hundred thirty of this chapter, including a sexu-  
8     ally motivated felony, or patronizing a [prostitute] PERSON FOR PROSTI-  
9     TUTION in the first degree as defined in section 230.06 of this chapter,  
10    AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE THIRD DEGREE AS  
11    DEFINED IN SECTION 230.11 OF THIS CHAPTER, AGGRAVATED PATRONIZING A  
12    MINOR FOR PROSTITUTION IN THE SECOND DEGREE AS DEFINED IN SECTION 230.12  
13    OF THIS CHAPTER, AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE  
14    FIRST DEGREE AS DEFINED IN SECTION 230.13 OF THIS CHAPTER, incest in the  
15    second degree as defined in section 255.26 of this chapter, or incest in  
16    the first degree as defined in section 255.27 of this chapter, or a  
17    felony attempt or conspiracy to commit any of these crimes, the court  
18    must sentence the defendant in accordance with the provisions of section  
19    70.80 of this title.

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

LBD00832-11-2

1 S 3. Paragraph (a) of subdivision 1 of section 70.02 of the penal law,  
2 as amended by chapter 320 of the laws of 2006, is amended to read as  
3 follows:

4 (a) Class B violent felony offenses: an attempt to commit the class  
5 A-I felonies of murder in the second degree as defined in section  
6 125.25, kidnapping in the first degree as defined in section 135.25, and  
7 arson in the first degree as defined in section 150.20; manslaughter in  
8 the first degree as defined in section 125.20, aggravated manslaughter  
9 in the first degree as defined in section 125.22, rape in the first  
10 degree as defined in section 130.35, criminal sexual act in the first  
11 degree as defined in section 130.50, aggravated sexual abuse in the  
12 first degree as defined in section 130.70, course of sexual conduct  
13 against a child in the first degree as defined in section 130.75;  
14 assault in the first degree as defined in section 120.10, kidnapping in  
15 the second degree as defined in section 135.20, burglary in the first  
16 degree as defined in section 140.30, arson in the second degree as  
17 defined in section 150.15, robbery in the first degree as defined in  
18 section 160.15, SEX TRAFFICKING AS DEFINED IN SECTION 230.34, incest in  
19 the first degree as defined in section 255.27, criminal possession of a  
20 weapon in the first degree as defined in section 265.04, criminal use of  
21 a firearm in the first degree as defined in section 265.09, criminal  
22 sale of a firearm in the first degree as defined in section 265.13,  
23 aggravated assault upon a police officer or a peace officer as defined  
24 in section 120.11, gang assault in the first degree as defined in  
25 section 120.07, intimidating a victim or witness in the first degree as  
26 defined in section 215.17, hindering prosecution of terrorism in the  
27 first degree as defined in section 490.35, criminal possession of a  
28 chemical weapon or biological weapon in the second degree as defined in  
29 section 490.40, and criminal use of a chemical weapon or biological  
30 weapon in the third degree as defined in section 490.47.

31 S 4. Paragraph (a) of subdivision 1 of section 70.80 of the penal law,  
32 as added by chapter 7 of the laws of 2007, is amended to read as  
33 follows:

34 (a) For the purposes of this section, a "felony sex offense" means a  
35 conviction of any felony defined in article one hundred thirty of this  
36 chapter, including a sexually motivated felony, or patronizing a [pros-  
37 titute] PERSON FOR PROSTITUTION in the first degree as defined in  
38 section 230.06 of this chapter, PATRONIZING A PERSON FOR PROSTITUTION IN  
39 THE SECOND DEGREE AS DEFINED IN SECTION 230.05 OF THIS CHAPTER, AGGRA-  
40 VATED PATRONIZING A MINOR FOR PROSTITUTION IN THE THIRD DEGREE AS  
41 DEFINED IN SECTION 230.11 OF THIS CHAPTER, AGGRAVATED PATRONIZING A  
42 MINOR FOR PROSTITUTION IN THE SECOND DEGREE AS DEFINED IN SECTION 230.12  
43 OF THIS CHAPTER, AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE  
44 FIRST DEGREE AS DEFINED IN SECTION 230.13 OF THIS CHAPTER, incest in the  
45 second degree as defined in section 255.26 of this chapter, or incest in  
46 the first degree as defined in section 255.27 of this chapter, or a  
47 felony attempt or conspiracy to commit any of the above.

48 S 5. The closing paragraph of section 135.35 of the penal law, as  
49 added by chapter 74 of the laws of 2007, is amended to read as follows:

50 Labor trafficking is a class [D] B felony.

51 S 6. The penal law is amended by adding a new section 230.01 to read  
52 as follows:

53 S 230.01 PROSTITUTION; DEFENSE.

54 IN ANY PROSECUTION UNDER SECTION 230.00 OR SUBDIVISION THREE OF  
55 SECTION 240.37 OF THIS PART, IT IS AN AFFIRMATIVE DEFENSE THAT THE  
56 DEFENDANT'S PARTICIPATION IN THE OFFENSE WAS A RESULT OF HAVING BEEN A

VICTIM OF SEX TRAFFICKING UNDER SECTION 230.34 OF THIS ARTICLE OR A VICTIM OF TRAFFICKING IN PERSONS UNDER THE TRAFFICKING VICTIMS PROTECTION ACT (UNITED STATES CODE, TITLE 22, CHAPTER 78).

S 7. The section heading and subdivision 1 of section 230.02 of the penal law, as amended by chapter 627 of the laws of 1978, are amended to read as follows:

Patronizing a [prostitute] PERSON FOR PROSTITUTION; definitions.

1. A person patronizes a [prostitute] PERSON FOR PROSTITUTION when:

(a) Pursuant to a prior understanding, he OR SHE pays a fee to another person as compensation for such person or a third person having engaged in sexual conduct with him OR HER; or

(b) He OR SHE pays or agrees to pay a fee to another person pursuant to an understanding that in return therefor such person or a third person will engage in sexual conduct with him OR HER; or

(c) He OR SHE solicits or requests another person to engage in sexual conduct with him OR HER in return for a fee.

S 8. Subdivision 2 of section 230.03 of the penal law, as added by chapter 191 of the laws of 2011, is amended to read as follows:

2. For the purposes of this section, SECTION 230.08 and section 230.19 of this article, "school zone" means (a) in or on or within any building, structure, athletic playing field, playground or land contained within the real property boundary line of a public or private elementary, parochial, intermediate, junior high, vocational, or high school, or (b) any public sidewalk, street, parking lot, park, playground or private land, located immediately adjacent to the boundary line of such school.

S 9. Section 230.07 of the penal law is REPEALED and a new section 230.08 is added to read as follows:

S 230.08 PATRONIZING A PERSON FOR PROSTITUTION IN A SCHOOL ZONE.

1. A PERSON IS GUILTY OF PATRONIZING A PERSON FOR PROSTITUTION IN A SCHOOL ZONE WHEN HE OR SHE COMMITS THE CRIME OF PATRONIZING A PERSON FOR PROSTITUTION IN VIOLATION OF SECTION 230.04, 230.05, OR 230.06 OF THIS ARTICLE IN A SCHOOL ZONE DURING THE HOURS THAT SCHOOL IS IN SESSION.

2. FOR PURPOSES OF THIS SECTION, "SCHOOL ZONE" SHALL MEAN "SCHOOL ZONE" AS DEFINED IN SUBDIVISION TWO OF SECTION 230.03 OF THIS ARTICLE.

PATRONIZING A PERSON FOR PROSTITUTION IN A SCHOOL ZONE IS A CLASS E FELONY.

S 10. Section 230.04 of the penal law, as amended by chapter 74 of the laws of 2007, is amended to read as follows:

S 230.04 Patronizing a [prostitute] PERSON FOR PROSTITUTION in the third degree.

A person is guilty of patronizing a [prostitute] PERSON FOR PROSTITUTION in the third degree when he or she patronizes a [prostitute] PERSON FOR PROSTITUTION.

Patronizing a [prostitute] PERSON FOR PROSTITUTION in the third degree is a class A misdemeanor.

S 11. Section 230.05 of the penal law, as added by chapter 627 of the laws of 1978, is amended to read as follows:

S 230.05 Patronizing a [prostitute] PERSON FOR PROSTITUTION in the second degree.

A person is guilty of patronizing a [prostitute] PERSON FOR PROSTITUTION in the second degree when, being [over] eighteen years [of age] OLD OR MORE, he OR SHE patronizes a [prostitute] PERSON FOR PROSTITUTION and the person patronized is less than [fourteen] FIFTEEN years [of age] OLD.

1 Patronizing a [prostitute] PERSON FOR PROSTITUTION in the second  
2 degree is a class E felony.

3 S 12. Section 230.06 of the penal law, as added by chapter 627 of the  
4 laws of 1978, is amended to read as follows:

5 S 230.06 Patronizing a [prostitute] PERSON FOR PROSTITUTION in the first  
6 degree.

7 A person is guilty of patronizing a [prostitute] PERSON FOR PROSTITU-  
8 TION in the first degree when [he]:

9 1. HE OR SHE patronizes a [prostitute] PERSON FOR PROSTITUTION and the  
10 person patronized is less than eleven years [of age] OLD; OR

11 2. BEING EIGHTEEN YEARS OLD OR MORE, HE OR SHE PATRONIZES A PERSON FOR  
12 PROSTITUTION AND THE PERSON PATRONIZED IS LESS THAN THIRTEEN YEARS OLD.

13 Patronizing a [prostitute] PERSON FOR PROSTITUTION in the first degree  
14 is a class D felony.

15 S 13. The section heading and the opening paragraph of section 230.10  
16 of the penal law are amended to read as follows:

17 Prostitution and patronizing a [prostitute] PERSON FOR PROSTITUTION; no  
18 defense.

19 In any prosecution for prostitution or patronizing a [prostitute]  
20 PERSON FOR PROSTITUTION, the sex of the two parties or prospective  
21 parties to the sexual conduct engaged in, contemplated or solicited is  
22 immaterial, and it is no defense that:

23 S 14. The penal law is amended by adding three new sections 230.11,  
24 230.12 and 230.13 to read as follows:

25 S 230.11 AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE THIRD  
26 DEGREE.

27 A PERSON IS GUILTY OF AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION  
28 IN THE THIRD DEGREE WHEN, BEING TWENTY-ONE YEARS OLD OR MORE, HE OR SHE  
29 PATRONIZES A PERSON FOR PROSTITUTION AND THE PERSON PATRONIZED IS LESS  
30 THAN EIGHTEEN YEARS OLD AND THE PERSON GUILTY OF PATRONIZING ENGAGES IN  
31 SEXUAL INTERCOURSE, ORAL SEXUAL CONDUCT, ANAL SEXUAL CONDUCT, OR AGGRA-  
32 VATED SEXUAL CONDUCT.

33 AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE THIRD DEGREE IS  
34 A CLASS E FELONY.

35 S 230.12 AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE SECOND  
36 DEGREE.

37 A PERSON IS GUILTY OF AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION  
38 IN THE SECOND DEGREE WHEN, BEING EIGHTEEN YEARS OLD OR MORE, HE OR SHE  
39 PATRONIZES A PERSON FOR PROSTITUTION AND THE PERSON PATRONIZED IS LESS  
40 THAN FIFTEEN YEARS OLD AND THE PERSON GUILTY OF PATRONIZING ENGAGES IN  
41 SEXUAL INTERCOURSE, ORAL SEXUAL CONDUCT, ANAL SEXUAL CONDUCT, OR AGGRA-  
42 VATED SEXUAL CONDUCT.

43 AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE SECOND DEGREE  
44 IS A CLASS D FELONY.

45 S 230.13 AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE FIRST  
46 DEGREE.

47 A PERSON IS GUILTY OF AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION  
48 IN THE FIRST DEGREE WHEN HE OR SHE PATRONIZES A PERSON FOR PROSTITUTION  
49 AND THE PERSON PATRONIZED IS LESS THAN ELEVEN YEARS OLD, BEING EIGHTEEN  
50 YEARS OLD OR MORE, HE OR SHE PATRONIZES A PERSON FOR PROSTITUTION AND  
51 THE PERSON PATRONIZED IS LESS THAN THIRTEEN YEARS OLD, AND THE PERSON  
52 GUILTY OF PATRONIZING ENGAGES IN SEXUAL INTERCOURSE, ORAL SEXUAL  
53 CONDUCT, ANAL SEXUAL CONDUCT, OR AGGRAVATED SEXUAL CONDUCT.

54 AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE FIRST DEGREE IS  
55 A CLASS B FELONY.

1 S 15. Subdivisions 1 and 2 of section 230.15 of the penal law are  
2 amended to read as follows:

3 1. "Advance prostitution." A person "advances prostitution" when,  
4 acting other than as a [prostitute] PERSON IN PROSTITUTION or as a  
5 patron thereof, he OR SHE knowingly causes or aids a person to commit or  
6 engage in prostitution, procures or solicits patrons for prostitution,  
7 provides persons or premises for prostitution purposes, operates or  
8 assists in the operation of a house of prostitution or a prostitution  
9 enterprise, or engages in any other conduct designed to institute, aid  
10 or facilitate an act or enterprise of prostitution.

11 2. "Profit from prostitution." A person "profits from prostitution"  
12 when, acting other than as a [prostitute] PERSON IN PROSTITUTION receiv-  
13 ing compensation for personally rendered prostitution services, he OR  
14 SHE accepts or receives money or other property pursuant to an agreement  
15 or understanding with any person whereby he OR SHE participates or is to  
16 participate in the proceeds of prostitution activity.

17 S 16. Subdivision 1 of section 230.19 of the penal law, as added by  
18 chapter 191 of the laws of 2011, is amended to read as follows:

19 1. A person is guilty of promoting prostitution in a school zone when,  
20 being nineteen years [of age] OLD or [older] MORE, he or she knowingly  
21 advances or profits from prostitution [that he or she knows or reason-  
22 ably should know is or will be committed in violation of section 230.03  
23 of this article] in a school zone during the hours that school is in  
24 session.

25 S 17. The opening paragraph and subdivisions 1 and 2 of section 230.25  
26 of the penal law, the opening paragraph and subdivision 2 as amended by  
27 chapter 627 of the laws of 1978 and subdivision 1 as amended by chapter  
28 74 of the laws of 2007, are amended to read as follows:

29 A person is guilty of promoting prostitution in the third degree when  
30 he OR SHE knowingly:

31 1. Advances or profits from prostitution by managing, supervising,  
32 controlling or owning, either alone or in association with others, a  
33 house of prostitution or a prostitution business or enterprise involving  
34 prostitution activity by two or more [prostitutes] PERSONS IN PROSTITU-  
35 TION, or a business that sells travel-related services knowing that such  
36 services include or are intended to facilitate travel for the purpose of  
37 patronizing a [prostitute] PERSON FOR PROSTITUTION, including to a  
38 foreign jurisdiction and regardless of the legality of prostitution in  
39 said foreign jurisdiction; or

40 2. PROFITS FROM PROSTITUTION BY ENGAGING, EITHER ALONE OR IN ASSOCI-  
41 ATION WITH OTHERS, IN A BUSINESS OR ENTERPRISE CONSISTING OF THE TRANS-  
42 PORTING OF A PERSON OR PERSONS FOR THE PURPOSES OF PROSTITUTION; OR

43 3. Advances or profits from prostitution of a person less than nine-  
44 teen years old.

45 S 18. The opening paragraph of section 230.30 of the penal law, as  
46 amended by chapter 627 of the laws of 1978, is amended to read as  
47 follows:

48 A person is guilty of promoting prostitution in the second degree when  
49 he OR SHE knowingly:

50 S 19. The first undesignated paragraph of section 230.32 of the penal  
51 law, as added by chapter 627 of the laws of 1978, is amended to read as  
52 follows:

53 A person is guilty of promoting prostitution in the first degree when  
54 he OR SHE knowingly advances or profits from prostitution of a person  
55 less than [eleven] THIRTEEN years old.

1 S 20. Section 230.33 of the penal law, as added by chapter 450 of the  
2 laws of 2005, is amended to read as follows:

3 S 230.33 Compelling prostitution.

4 A person is guilty of compelling prostitution when, being twenty-one  
5 years [of age or older] OLD OR MORE, he or she knowingly advances pros-  
6 titution by compelling a person less than [sixteen] EIGHTEEN years old,  
7 by force or intimidation, to engage in prostitution.

8 Compelling prostitution is a class B felony.

9 S 21. Subdivision 1 and paragraph (h) of subdivision 5 of section  
10 230.34 of the penal law, as added by chapter 74 of the laws of 2007, are  
11 amended and a new subdivision 6 is added to read as follows:

12 1. unlawfully providing to a person who is patronized, with intent to  
13 impair said person's judgment: (a) a narcotic drug or a narcotic prepa-  
14 ration; (b) MARIJUANA OR concentrated cannabis as defined in paragraph  
15 (a) of subdivision four of section thirty-three hundred two of the  
16 public health law; (c) methadone; [or] (d) gamma-hydroxybutyrate (GHB)  
17 or flunitrazepan, also known as Rohypnol; OR (E) METHYLENEDIOXYMETH-  
18 AMPHETAMINE (MDMA), ALSO KNOWN AS ECSTASY;

19 (h) perform any other act which would not in itself materially benefit  
20 the actor but which is calculated to harm the person who is patronized  
21 materially with respect to his or her health, safety, or immigration  
22 status[.]; OR

23 6. KNOWINGLY ADVANCING PROSTITUTION OF A PERSON LESS THAN EIGHTEEN  
24 YEARS OLD.

25 S 22. Section 230.35 of the penal law, as amended by chapter 450 of  
26 the laws of 2005, is amended to read as follows:

27 S 230.35 Promoting or compelling prostitution; accomplice.

28 In a prosecution for promoting prostitution or compelling prostitu-  
29 tion, a person less than [seventeen] EIGHTEEN years [of age] OLD from  
30 whose prostitution activity another person is alleged to have advanced  
31 or attempted to advance or profited or attempted to profit shall not be  
32 deemed to be an accomplice.

33 S 23. The first undesignated paragraph of section 230.40 of the penal  
34 law is amended to read as follows:

35 A person is guilty of permitting prostitution when, having possession  
36 or control of premises OR VEHICLE which he OR SHE knows are being used  
37 for prostitution purposes OR FOR THE PURPOSE OF ADVANCING PROSTITUTION,  
38 he OR SHE fails to make reasonable effort to halt or abate such use.

39 S 24. Subdivision 2 of section 240.37 of the penal law, as added by  
40 chapter 344 of the laws of 1976, is amended, subdivision 3 is renumbered  
41 subdivision 4 and a new subdivision 3 is added to read as follows:

42 2. Any person who remains or wanders about in a public place and  
43 repeatedly beckons to, or repeatedly stops, or repeatedly attempts to  
44 stop, or repeatedly attempts to engage passers-by in conversation, or  
45 repeatedly stops or attempts to stop motor vehicles, or repeatedly  
46 interferes with the free passage of other persons, for the purpose of  
47 prostitution[, or of patronizing a prostitute as those terms are] AS  
48 THAT TERM IS defined in article two hundred thirty of [the penal law]  
49 THIS PART, shall be guilty of a violation and is guilty of a class B  
50 misdemeanor if such person has previously been convicted of a violation  
51 of this section or of [sections] SECTION 230.00 [or 230.05] of [the  
52 penal law] THIS PART.

53 3. ANY PERSON WHO REMAINS OR WANDERS ABOUT IN A PUBLIC PLACE AND  
54 REPEATEDLY BECKONS TO, OR REPEATEDLY STOPS, OR REPEATEDLY ATTEMPTS TO  
55 STOP, OR REPEATEDLY ATTEMPTS TO ENGAGE PASSERS-BY IN CONVERSATION, OR  
56 REPEATEDLY STOPS OR ATTEMPTS TO STOP MOTOR VEHICLES, OR REPEATEDLY

INTERFERES WITH THE FREE PASSAGE OF OTHER PERSONS, FOR THE PURPOSE OF PATRONIZING A PERSON FOR PROSTITUTION AS DEFINED IN SECTION 230.02 OF THIS PART, SHALL BE GUILTY OF A VIOLATION AND IS GUILTY OF A CLASS B MISDEMEANOR IF SUCH PERSON HAS PREVIOUSLY BEEN CONVICTED OF A VIOLATION OF THIS SECTION OR OF SECTION 230.04, 230.05, 230.06 OR 230.08 OF THIS PART.

S 25. The section heading of section 170.15 of the criminal procedure law, as amended by chapter 661 of the laws of 1972, is amended and a new subdivision 5 is added to read as follows:

Removal of action from [one local] criminal court to another COURT.

5. (A) WHEN A DEFENDANT WHO IS LESS THAN EIGHTEEN YEARS OLD AND ALLEGED TO HAVE ENGAGED IN ANY ACT DEFINED IN SECTION 230.00 OR SUBDIVISION TWO OF SECTION 240.37 OF THE PENAL LAW IS BROUGHT FOR ARRAIGNMENT UPON AN INFORMATION, SIMPLIFIED INFORMATION OR MISDEMEANOR COMPLAINT CHARGING SUCH OFFENSE, THE COURT MUST ORDER THE ACTION REMOVED TO FAMILY COURT FOR FURTHER PROCEEDINGS IN ACCORDANCE WITH ARTICLE SEVEN OF THE FAMILY COURT ACT. THE ORDER OF REMOVAL MUST DIRECT THAT ALL OF THE PLEADINGS AND PROCEEDINGS IN THE ACTION, OR A CERTIFIED COPY OF THE SAME, BE TRANSFERRED TO THE DESIGNATED FAMILY COURT AND BE DELIVERED TO AND FILED WITH THE CLERK OF THAT COURT. THE PROCEDURES SET FORTH IN SECTIONS 725.10, 725.15 AND 725.20 OF THIS CHAPTER FOR TRANSFER AND SEALING OF RECORDS SHALL APPLY TO THIS PROVISION WHENEVER APPLICABLE.

(B) THE COURT MUST INFORM THE DEFENDANT OF THE AVAILABILITY OF SERVICES UNDER SECTION 447-B OF THE SOCIAL SERVICES LAW.

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

6. Regardless of whether the victim requests to make a statement with regard to the defendant's sentence, where the defendant is sentenced for a violent felony offense as defined in section 70.02 of the penal law or a felony defined in article one hundred twenty-five of such law or any of the following provisions of such law: sections 130.25, 130.30, 130.40, 130.45, 255.25, 255.26, 255.27, article two hundred sixty-three, 135.10, 135.25, 230.04, 230.05, 230.06, 230.08, 230.11, 230.12, 230.13, subdivision two of section 230.30 or 230.32, the prosecutor shall, within sixty days of the imposition of sentence, provide the victim with a form on which the victim may indicate a demand to be informed of any petition to change the name of such defendant. Such forms shall be maintained by such prosecutor. Upon receipt of a notice of a petition to change the name of any such defendant, pursuant to subdivision two of section sixty-two of the civil rights law, the prosecutor shall promptly notify the victim at the most current address or telephone number provided by such victim in the most reasonable and expedient possible manner of the time and place such petition will be presented to the court.

S 27. The opening paragraph of paragraph (i) of subdivision 1 of section 440.10 of the criminal procedure law, as added by chapter 332 of the laws of 2010, is amended to read as follows:

The judgment is a conviction where the arresting charge was under section 240.37 (loitering for the purpose of engaging in a prostitution offense, provided that the defendant was not alleged to be loitering for the purpose of patronizing a [prostitute] PERSON FOR PROSTITUTION or promoting prostitution) or 230.00 (prostitution) of the penal law, and the defendant's participation in the offense was a result of having been a victim of sex trafficking under section 230.34 of the penal law or

1 trafficking in persons under the Trafficking Victims Protection Act  
2 (United States Code, title 22, chapter 78); provided that

3 S 28. Paragraph (h) of subdivision 8 of section 700.05 of the crimi-  
4 nal procedure law, as amended by chapter 154 of the laws of 1990, is  
5 amended to read as follows:

6 (h) Promoting prostitution in the first degree, as defined in section  
7 230.32 of the penal law, promoting prostitution in the second degree, as  
8 defined by subdivision one of section 230.30 of the penal law, PROMOTING  
9 PROSTITUTION IN THE THIRD DEGREE, AS DEFINED IN SECTION 230.25 OF THE  
10 PENAL LAW;

11 S 29. Subdivision (a) of section 483-cc of the social services law, as  
12 added by chapter 74 of the laws of 2007, is amended to read as follows:

13 (a) As soon as practicable after a first encounter with a person who  
14 reasonably appears to a law enforcement agency [or a], district attor-  
15 ney's office, OR AN ESTABLISHED PROVIDER OF SOCIAL OR LEGAL SERVICES  
16 DESIGNATED BY THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE OR THE  
17 OFFICE FOR THE PREVENTION OF DOMESTIC VIOLENCE to be a human trafficking  
18 victim, that agency [or], office OR PROVIDER shall notify the office of  
19 temporary and disability assistance and the division of criminal justice  
20 services that such person may be eligible for services under this arti-  
21 cle.

22 S 30. Subdivision (p) of section 10.03 of the mental hygiene law, as  
23 added by chapter 7 of the laws of 2007, is amended to read as follows:

24 (p) "Sex offense" means an act or acts constituting: (1) any felony  
25 defined in article one hundred thirty of the penal law, including a  
26 sexually motivated felony; (2) patronizing a [prostitute] PERSON FOR  
27 PROSTITUTION in the first degree as defined in section 230.06 of the  
28 penal law, AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE FIRST  
29 DEGREE AS DEFINED IN SECTION 230.13 OF THE PENAL LAW, AGGRAVATED PATRON-  
30 IZING A MINOR FOR PROSTITUTION IN THE SECOND DEGREE AS DEFINED IN  
31 SECTION 230.12 OF THE PENAL LAW, AGGRAVATED PATRONIZING A MINOR FOR  
32 PROSTITUTION IN THE THIRD DEGREE AS DEFINED IN SECTION 230.11 OF THE  
33 PENAL LAW, incest in the second degree as defined in section 255.26 of  
34 the penal law, or incest in the first degree as defined in section  
35 255.27 of the penal law; (3) a felony attempt or conspiracy to commit  
36 any of the foregoing offenses set forth in this subdivision; or (4) a  
37 designated felony, as defined in subdivision (f) of this section, if  
38 sexually motivated and committed prior to the effective date of this  
39 article.

40 S 31. Subparagraph (i) of paragraph (a) of subdivision 2 of section  
41 168-a of the correction law, as amended by chapter 405 of the laws of  
42 2008, is amended to read as follows:

43 (i) a conviction of or a conviction for an attempt to commit any of  
44 the provisions of sections 120.70, 130.20, 130.25, 130.30, 130.40,  
45 130.45, 130.60, 230.34, 250.50, 255.25, 255.26 and 255.27 or article two  
46 hundred sixty-three of the penal law, or section 135.05, 135.10, 135.20  
47 or 135.25 of such law relating to kidnapping offenses, provided the  
48 victim of such kidnapping or related offense is less than seventeen  
49 years old and the offender is not the parent of the victim, or section  
50 230.04, [where the person patronized is in fact less than seventeen  
51 years of age,] 230.05 [or], 230.06, 230.08, [or] 230.11, 230.12, 230.13,  
52 subdivision two of section 230.30, [or] section 230.32 [or], 230.33, OR  
53 230.34 of the penal law, OR SECTION 230.25 OF THE PENAL LAW WHERE THE  
54 PERSON PROSTITUTED IS IN FACT LESS THAN SEVENTEEN YEARS OLD, or



1 S 32. Paragraph (b) of subdivision 1 of section 168-d of the  
2 correction law, as amended by chapter 74 of the laws of 2007, is amended  
3 to read as follows:

4 (b) Where a defendant stands convicted of an offense defined in para-  
5 graph (b) of subdivision two of section one hundred sixty-eight-a of  
6 this article or where the defendant was convicted of patronizing a  
7 [prostitute] PERSON FOR PROSTITUTION in the third degree under section  
8 230.04 of the penal law OR OF PATRONIZING A PERSON FOR PROSTITUTION IN  
9 THE SECOND DEGREE UNDER SECTION 230.05 OF THE PENAL LAW, OR OF PATRONIZ-  
10 ING A PERSON FOR PROSTITUTION IN THE FIRST DEGREE UNDER SECTION 230.06  
11 OF THE PENAL LAW, OR OF PATRONIZING A PERSON FOR PROSTITUTION IN A  
12 SCHOOL ZONE UNDER SECTION 230.08 OF THE PENAL LAW, OR OF AGGRAVATED  
13 PATRONIZING A MINOR FOR PROSTITUTION IN THE FIRST DEGREE AS DEFINED IN  
14 SECTION 230.13 OF THE PENAL LAW, OR OF AGGRAVATED PATRONIZING A MINOR  
15 FOR PROSTITUTION IN THE SECOND DEGREE AS DEFINED IN SECTION 230.12 OF  
16 THE PENAL LAW, OR OF AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN  
17 THE THIRD DEGREE AS DEFINED IN SECTION 230.11 OF THE PENAL LAW, and the  
18 defendant controverts an allegation that the victim of such offense was  
19 less than eighteen years [of age or, in the case of a conviction under  
20 section 230.04 of the penal law, less than seventeen years of age] OLD,  
21 the court, without a jury, shall, prior to sentencing, conduct a hear-  
22 ing, and the people may prove by clear and convincing evidence that the  
23 victim was less than eighteen years [of age] OLD or less than seventeen  
24 years [of age] OLD, as applicable, by any evidence admissible under the  
25 rules applicable to a trial of the issue of guilt. The court in addition  
26 to such admissible evidence may also consider reliable hearsay evidence  
27 submitted by either party provided that it is relevant to the determi-  
28 nation of the age of the victim. Facts concerning the age of the victim  
29 proven at trial or ascertained at the time of entry of a plea of guilty  
30 shall be deemed established by clear and convincing evidence and shall  
31 not be relitigated. At the conclusion of the hearing, or if the defend-  
32 ant does not controvert an allegation that the victim of the offense was  
33 less than eighteen years [of age] OLD or less than seventeen years [of  
34 age] OLD, as applicable, the court must make a finding and enter an  
35 order setting forth the age of the victim. If the court finds that the  
36 victim of such offense was under eighteen years [of age] OLD or under  
37 seventeen years [of age] OLD, as applicable, the court shall certify the  
38 defendant as a sex offender, the provisions of paragraph (a) of this  
39 subdivision shall apply and the defendant shall register with the divi-  
40 sion in accordance with the provisions of this article.

41 S 33. Paragraph (d) of subdivision 7 of section 995 of the executive  
42 law, as amended by chapter 2 of the laws of 2006, is amended to read as  
43 follows:

44 (d) any of the following felonies, or an attempt thereof where such  
45 attempt is a felony offense:

46 aggravated assault upon a person less than eleven years old, as  
47 defined in section 120.12 of the penal law; menacing in the first  
48 degree, as defined in section 120.13 of the penal law; reckless endan-  
49 germent in the first degree, as defined in section 120.25 of the penal  
50 law; stalking in the second degree, as defined in section 120.55 of the  
51 penal law; criminally negligent homicide, as defined in section 125.10  
52 of the penal law; vehicular manslaughter in the second degree, as  
53 defined in section 125.12 of the penal law; vehicular manslaughter in  
54 the first degree, as defined in section 125.13 of the penal law;  
55 persistent sexual abuse, as defined in section 130.53 of the penal law;  
56 aggravated sexual abuse in the fourth degree, as defined in section

1 130.65-a of the penal law; female genital mutilation, as defined in  
2 section 130.85 of the penal law; facilitating a sex offense with a  
3 controlled substance, as defined in section 130.90 of the penal law;  
4 unlawful imprisonment in the first degree, as defined in section 135.10  
5 of the penal law; custodial interference in the first degree, as defined  
6 in section 135.50 of the penal law; criminal trespass in the first  
7 degree, as defined in section 140.17 of the penal law; criminal tamper-  
8 ing in the first degree, as defined in section 145.20 of the penal law;  
9 tampering with a consumer product in the first degree, as defined in  
10 section 145.45 of the penal law; robbery in the third degree as defined  
11 in section 160.05 of the penal law; identity theft in the second degree,  
12 as defined in section 190.79 of the penal law; identity theft in the  
13 first degree, as defined in section 190.80 of the penal law; promoting  
14 prison contraband in the first degree, as defined in section 205.25 of  
15 the penal law; tampering with a witness in the third degree, as defined  
16 in section 215.11 of the penal law; tampering with a witness in the  
17 second degree, as defined in section 215.12 of the penal law; tampering  
18 with a witness in the first degree, as defined in section 215.13 of the  
19 penal law; criminal contempt in the first degree, as defined in subdivi-  
20 sions (b), (c) and (d) of section 215.51 of the penal law; aggravated  
21 criminal contempt, as defined in section 215.52 of the penal law; bail  
22 jumping in the second degree, as defined in section 215.56 of the penal  
23 law; bail jumping in the first degree, as defined in section 215.57 of  
24 the penal law; patronizing a [prostitute] PERSON FOR PROSTITUTION in the  
25 second degree, as defined in section 230.05 of the penal law; patroniz-  
26 ing a [prostitute] PERSON FOR PROSTITUTION in the first degree, as  
27 defined in section 230.06 of the penal law; AGGRAVATED PATRONIZING A  
28 MINOR FOR PROSTITUTION IN THE FIRST DEGREE AS DEFINED IN SECTION 230.13  
29 OF THE PENAL LAW; AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE  
30 SECOND DEGREE AS DEFINED IN SECTION 230.12 OF THE PENAL LAW; promoting  
31 prostitution in the second degree, as defined in section 230.30 of the  
32 penal law; promoting prostitution in the first degree, as defined in  
33 section 230.32 of the penal law; compelling prostitution, as defined in  
34 section 230.33 of the penal law; disseminating indecent [materials]  
35 MATERIAL to minors in the second degree, as defined in section 235.21 of  
36 the penal law; disseminating indecent [materials] MATERIAL to minors in  
37 the first degree, as defined in section 235.22 of the penal law; riot in  
38 the first degree, as defined in section 240.06 of the penal law; crimi-  
39 nal anarchy, as defined in section 240.15 of the penal law; aggravated  
40 harassment of an employee by an inmate, as defined in section 240.32 of  
41 the penal law; unlawful surveillance in the second degree, as defined in  
42 section 250.45 of the penal law; unlawful surveillance in the first  
43 degree, as defined in section 250.50 of the penal law; endangering the  
44 welfare of a vulnerable elderly person, OR AN INCOMPETENT OR PHYSICALLY  
45 DISABLED PERSON in the second degree, as defined in section 260.32 of  
46 the penal law; endangering the welfare of a vulnerable elderly person,  
47 OR AN INCOMPETENT OR PHYSICALLY DISABLED PERSON in the first degree, as  
48 defined in section 260.34 of the penal law; use of a child in a sexual  
49 performance, as defined in section 263.05 of the penal law; promoting an  
50 obscene sexual performance by a child, as defined in section 263.10 of  
51 the penal law; possessing an obscene sexual performance by a child, as  
52 defined in section 263.11 of the penal law; promoting a sexual perform-  
53 ance by a child, as defined in section 263.15 of the penal law; possess-  
54 ing a sexual performance by a child, as defined in section 263.16 of the  
55 penal law; criminal possession of a weapon in the third degree, as  
56 defined in section 265.02 of the penal law; criminal sale of a firearm

1 in the third degree, as defined in section 265.11 of the penal law;  
2 criminal sale of a firearm to a minor, as defined in section 265.16 of  
3 the penal law; unlawful wearing of a body vest, as defined in section  
4 270.20 of the penal law; hate crimes as defined in section 485.05 of the  
5 penal law; and crime of terrorism, as defined in section 490.25 of the  
6 penal law; or

7 S 34. Paragraph (c) of subdivision 4 of section 509-cc of the vehicle  
8 and traffic law, as amended by chapter 400 of the laws of 2011, is  
9 amended to read as follows:

10 (c) The offenses referred to in subparagraph (i) of paragraph (b) of  
11 subdivision one and subparagraph (i) of paragraph (c) of subdivision two  
12 of this section that result in disqualification for a period of five  
13 years shall include a conviction under sections 100.10, 105.13, 115.05,  
14 120.03, 120.04, 120.04-a, 120.05, 120.10, 120.25, 121.12, 121.13,  
15 125.40, 125.45, 130.20, 130.25, 130.52, 130.55, 135.10, 135.55, 140.17,  
16 140.25, 140.30, 145.12, 150.10, 150.15, 160.05, 160.10, 220.06, 220.09,  
17 220.16, 220.31, 220.34, 220.60, 220.65, 221.30, 221.50, 221.55, 230.00,  
18 230.04, 230.05, 230.06, 230.08, 230.11, 230.12, 230.13, 230.19, 230.20,  
19 235.05, 235.06, 235.07, 235.21, 240.06, 245.00, 260.10, subdivision two  
20 of section 260.20 and sections 260.25, 265.02, 265.03, 265.08, 265.09,  
21 265.10, 265.12, 265.35 of the penal law or an attempt to commit any of  
22 the aforesaid offenses under section 110.00 of the penal law, or any  
23 similar offenses committed under a former section of the penal law, or  
24 any offenses committed under a former section of the penal law which  
25 would constitute violations of the aforesaid sections of the penal law,  
26 or any offenses committed outside this state which would constitute  
27 violations of the aforesaid sections of the penal law.

28 S 35. Section 2324-a of the public health law, as amended by chapter  
29 260 of the laws of 1978, is amended to read as follows:

30 S 2324-a. Presumptive evidence. For the purposes of this title, two  
31 or more convictions of any person or persons had, within a period of one  
32 year, for any of the offenses described in section 230.00, 230.04,  
33 230.05, 230.06, 230.08, 230.11, 230.12, 230.13, 230.20, 230.25 [or],  
34 230.30 OR 230.32 of the penal law arising out of conduct engaged in at  
35 the same real property consisting of a dwelling as that term is defined  
36 in subdivision four of section four of the multiple dwelling law shall  
37 be presumptive evidence of conduct constituting use of the premises for  
38 purposes of prostitution.

39 S 36. Subdivision 2 of section 715 of the real property actions and  
40 proceedings law, as added by chapter 494 of the laws of 1976, is amended  
41 to read as follows:

42 2. For purposes of this section, two or more convictions of any person  
43 or persons had, within a period of one year, for any of the offenses  
44 described in section 230.00, 230.04, 230.05, 230.06, 230.08, 230.11,  
45 230.12, 230.13, 230.20, 230.25, 230.30, 230.32 or 230.40 of the penal  
46 law arising out of conduct engaged in at the same real property consist-  
47 ing of a dwelling as that term is defined in subdivision four of section  
48 four of the multiple dwelling law shall be presumptive evidence of  
49 conduct constituting use of the premises for purposes of prostitution.

50 S 37. Subdivision 3 of section 231 of the real property law, as  
51 amended by chapter 203 of the laws of 1980, is amended to read as  
52 follows:

53 3. For the purposes of this section, two or more convictions of any  
54 person or persons had, within a period of one year, for any of the  
55 offenses described in section 230.00, 230.04, 230.05, 230.06, 230.08,  
56 230.11, 230.12, 230.13, 230.20, 230.25, 230.30, 230.32 or 230.40 of the

1 penal law arising out of conduct engaged in at the same premises  
2 consisting of a dwelling as that term is defined in subdivision four of  
3 section four of the multiple dwelling law shall be presumptive evidence  
4 of unlawful use of such premises and of the owners knowledge of the  
5 same.

6 S 38. This act shall take effect on the ninetieth day after it shall  
7 have become a law.