

7212

I N S E N A T E

May 2, 2012

Introduced by Sens. SALAND, GOLDEN -- read twice and ordered printed,
and when printed to be committed 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 sexually motivated felony, or patronizing a [prostitute] PERSON FOR PROSTITUTION in the first degree as defined in section 230.06 of this chapter,
8 AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE THIRD DEGREE AS
9 DEFINED IN SECTION 230.11 OF THIS CHAPTER, AGGRAVATED PATRONIZING A
10 MINOR FOR PROSTITUTION IN THE SECOND DEGREE AS DEFINED IN SECTION 230.12
11 OF THIS CHAPTER, AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE
12 FIRST DEGREE AS DEFINED IN SECTION 230.13 OF THIS CHAPTER, incest in the
13 second degree as defined in section 255.26 of this chapter, or incest in
14 the first degree as defined in section 255.27 of this chapter, or a
15 felony attempt or conspiracy to commit any of these crimes, the court
16 must sentence the defendant in accordance with the provisions of section
17 70.80 of this title.

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

21 (a) Class B violent felony offenses: an attempt to commit the class
22 A-I felonies of murder in the second degree as defined in section
23 125.25, kidnapping in the first degree as defined in section 135.25, and
24 arson in the first degree as defined in section 150.20; manslaughter in
25 the first degree as defined in section 125.20, aggravated manslaughter
26 in the first degree as defined in section 125.20, aggravated manslaughter
27 in the first degree as defined in section 125.20, aggravated manslaughter

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

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1 in the first degree as defined in section 125.22, rape in the first
2 degree as defined in section 130.35, criminal sexual act in the first
3 degree as defined in section 130.50, aggravated sexual abuse in the
4 first degree as defined in section 130.70, course of sexual conduct
5 against a child in the first degree as defined in section 130.75;
6 assault in the first degree as defined in section 120.10, kidnapping in
7 the second degree as defined in section 135.20, burglary in the first
8 degree as defined in section 140.30, arson in the second degree as
9 defined in section 150.15, robbery in the first degree as defined in
10 section 160.15, SEX TRAFFICKING AS DEFINED IN SECTION 230.34, incest in
11 the first degree as defined in section 255.27, criminal possession of a
12 weapon in the first degree as defined in section 265.04, criminal use of
13 a firearm in the first degree as defined in section 265.09, criminal
14 sale of a firearm in the first degree as defined in section 265.13,
15 aggravated assault upon a police officer or a peace officer as defined
16 in section 120.11, gang assault in the first degree as defined in
17 section 120.07, intimidating a victim or witness in the first degree as
18 defined in section 215.17, hindering prosecution of terrorism in the
19 first degree as defined in section 490.35, criminal possession of a
20 chemical weapon or biological weapon in the second degree as defined in
21 section 490.40, and criminal use of a chemical weapon or biological
22 weapon in the third degree as defined in section 490.47.

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

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

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

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

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

45 S 230.01 PROSTITUTION; DEFENSE.

46 IN ANY PROSECUTION UNDER SECTION 230.00 OR SUBDIVISION THREE OF
47 SECTION 240.37 OF THIS PART, IT IS AN AFFIRMATIVE DEFENSE THAT THE
48 DEFENDANT'S PARTICIPATION IN THE OFFENSE WAS A RESULT OF HAVING BEEN A
49 VICTIM OF SEX TRAFFICKING UNDER SECTION 230.34 OF THIS ARTICLE OR A
50 VICTIM OF TRAFFICKING IN PERSONS UNDER THE TRAFFICKING VICTIMS
51 PROTECTION ACT (UNITED STATES CODE, TITLE 22, CHAPTER 78).

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

55 Patronizing a [prostitute] PERSON FOR PROSTITUTION; definitions.

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

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

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

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

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

11 2. For the purposes of this section, SECTION 230.08 and section 230.19
12 of this article, "school zone" means (a) in or on or within any build-
13 ing, structure, athletic playing field, playground or land contained
14 within the real property boundary line of a public or private elementa-
15 ry, parochial, intermediate, junior high, vocational, or high school, or
16 (b) any public sidewalk, street, parking lot, park, playground or
17 private land, located immediately adjacent to the boundary line of such
18 school.

19 S 9. Section 230.07 of the penal law is REPEALED and a new section
20 230.08 is added to read as follows:

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

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

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

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

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

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

34 A person is guilty of patronizing a [prostitute] PERSON FOR PROSTITU-
35 TION in the third degree when he or she patronizes a [prostitute] PERSON
36 FOR PROSTITUTION.

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

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

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

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

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

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

52 S 230.06 Patronizing a [prostitute] PERSON FOR PROSTITUTION in the first
53 degree.

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

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

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

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

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

9 Prostitution and patronizing a [prostitute] PERSON FOR PROSTITUTION; no
10 defense.

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

15 S 14. The penal law is amended by adding three new sections 230.11,
16 230.12 and 230.13 to read as follows:

17 S 230.11 AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE THIRD
18 DEGREE.

19 A PERSON IS GUILTY OF AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION
20 IN THE THIRD DEGREE WHEN, BEING TWENTY-ONE YEARS OLD OR MORE, HE OR SHE
21 PATRONIZES A PERSON FOR PROSTITUTION AND THE PERSON PATRONIZED IS LESS
22 THAN EIGHTEEN YEARS OLD AND THE PERSON GUILTY OF PATRONIZING ENGAGES IN
23 SEXUAL INTERCOURSE, ORAL SEXUAL CONDUCT, ANAL SEXUAL CONDUCT, OR AGGRA-
24 VATED SEXUAL CONDUCT.

25 AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE THIRD DEGREE IS
26 A CLASS E FELONY.

27 S 230.12 AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE SECOND
28 DEGREE.

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

35 AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE SECOND DEGREE
36 IS A CLASS D FELONY.

37 S 230.13 AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE FIRST
38 DEGREE.

39 A PERSON IS GUILTY OF AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION
40 IN THE FIRST DEGREE WHEN HE OR SHE PATRONIZES A PERSON FOR PROSTITUTION
41 AND THE PERSON PATRONIZED IS LESS THAN ELEVEN YEARS OLD, BEING EIGHTEEN
42 YEARS OLD OR MORE, HE OR SHE PATRONIZES A PERSON FOR PROSTITUTION AND
43 THE PERSON PATRONIZED IS LESS THAN THIRTEEN YEARS OLD, AND THE PERSON
44 GUILTY OF PATRONIZING ENGAGES IN SEXUAL INTERCOURSE, ORAL SEXUAL
45 CONDUCT, ANAL SEXUAL CONDUCT, OR AGGRAVATED SEXUAL CONDUCT.

46 AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE FIRST DEGREE IS
47 A CLASS B FELONY.

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

50 1. "Advance prostitution." A person "advances prostitution" when,
51 acting other than as a [prostitute] PERSON IN PROSTITUTION or as a
52 patron thereof, he OR SHE knowingly causes or aids a person to commit or
53 engage in prostitution, procures or solicits patrons for prostitution,
54 provides persons or premises for prostitution purposes, operates or
55 assists in the operation of a house of prostitution or a prostitution

1 enterprise, or engages in any other conduct designed to institute, aid
2 or facilitate an act or enterprise of prostitution.

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

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

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

17 S 17. The opening paragraph and subdivisions 1 and 2 of section 230.25
18 of the penal law, the opening paragraph and subdivision 2 as amended by
19 chapter 627 of the laws of 1978 and subdivision 1 as amended by chapter
20 74 of the laws of 2007, are amended to read as follows:

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

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

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

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

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

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

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

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

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

50 S 230.33 Compelling prostitution.

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

55 Compelling prostitution is a class B felony.

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

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

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

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

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

S 230.35 Promoting or compelling prostitution; accomplice.

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

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

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

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

2. Any person who remains or wanders about in a public place and repeatedly beckons to, or repeatedly stops, or repeatedly attempts to stop, or repeatedly attempts to engage passers-by in conversation, or repeatedly stops or attempts to stop motor vehicles, or repeatedly interferes with the free passage of other persons, for the purpose of prostitution[, or of patronizing a prostitute as those terms are] AS THAT TERM IS defined in article two hundred thirty of [the penal law] 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 [sections] SECTION 230.00 [or 230.05] of [the penal law] THIS PART.

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

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

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

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

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

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

22 6. Regardless of whether the victim requests to make a statement with
23 regard to the defendant's sentence, where the defendant is sentenced for
24 a violent felony offense as defined in section 70.02 of the penal law or
25 a felony defined in article one hundred twenty-five of such law or any
26 of the following provisions of such law: sections 130.25, 130.30,
27 130.40, 130.45, 255.25, 255.26, 255.27, article two hundred sixty-three,
28 135.10, 135.25, 230.04, 230.05, 230.06, 230.08, 230.11, 230.12, 230.13,
29 subdivision two of section 230.30 or 230.32, the prosecutor shall, with-
30 in sixty days of the imposition of sentence, provide the victim with a
31 form on which the victim may indicate a demand to be informed of any
32 petition to change the name of such defendant. Such forms shall be
33 maintained by such prosecutor. Upon receipt of a notice of a petition to
34 change the name of any such defendant, pursuant to subdivision two of
35 section sixty-two of the civil rights law, the prosecutor shall promptly
36 notify the victim at the most current address or telephone number
37 provided by such victim in the most reasonable and expedient possible
38 manner of the time and place such petition will be presented to the
39 court.

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

43 The judgment is a conviction where the arresting charge was under
44 section 240.37 (loitering for the purpose of engaging in a prostitution
45 offense, provided that the defendant was not alleged to be loitering for
46 the purpose of patronizing a [prostitute] PERSON FOR PROSTITUTION or
47 promoting prostitution) or 230.00 (prostitution) of the penal law, and
48 the defendant's participation in the offense was a result of having been
49 a victim of sex trafficking under section 230.34 of the penal law or
50 trafficking in persons under the Trafficking Victims Protection Act
51 (United States Code, title 22, chapter 78); provided that

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

55 (h) Promoting prostitution in the first degree, as defined in section
56 230.32 of the penal law, promoting prostitution in the second degree, as

defined by subdivision one of section 230.30 of the penal law, PROMOTING PROSTITUTION IN THE THIRD DEGREE, AS DEFINED IN SECTION 230.25 OF THE PENAL LAW;

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

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

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

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

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

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

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

(b) Where a defendant stands convicted of an offense defined in paragraph (b) of subdivision two of section one hundred sixty-eight-a of this article or where the defendant was convicted of patronizing a [prostitute] PERSON FOR PROSTITUTION in the third degree under section 230.04 of the penal law OR OF PATRONIZING A PERSON FOR PROSTITUTION IN THE SECOND DEGREE UNDER SECTION 230.05 OF THE PENAL LAW, OR OF PATRONIZ-

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

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

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

37 aggravated assault upon a person less than eleven years old, as
38 defined in section 120.12 of the penal law; menacing in the first
39 degree, as defined in section 120.13 of the penal law; reckless endan-
40 germent in the first degree, as defined in section 120.25 of the penal
41 law; stalking in the second degree, as defined in section 120.55 of the
42 penal law; criminally negligent homicide, as defined in section 125.10
43 of the penal law; vehicular manslaughter in the second degree, as
44 defined in section 125.12 of the penal law; vehicular manslaughter in
45 the first degree, as defined in section 125.13 of the penal law;
46 persistent sexual abuse, as defined in section 130.53 of the penal law;
47 aggravated sexual abuse in the fourth degree, as defined in section
48 130.65-a of the penal law; female genital mutilation, as defined in
49 section 130.85 of the penal law; facilitating a sex offense with a
50 controlled substance, as defined in section 130.90 of the penal law;
51 unlawful imprisonment in the first degree, as defined in section 135.10
52 of the penal law; custodial interference in the first degree, as defined
53 in section 135.50 of the penal law; criminal trespass in the first
54 degree, as defined in section 140.17 of the penal law; criminal tamper-
55 ing in the first degree, as defined in section 145.20 of the penal law;
56 tampering with a consumer product in the first degree, as defined in

1 section 145.45 of the penal law; robbery in the third degree as defined
2 in section 160.05 of the penal law; identity theft in the second degree,
3 as defined in section 190.79 of the penal law; identity theft in the
4 first degree, as defined in section 190.80 of the penal law; promoting
5 prison contraband in the first degree, as defined in section 205.25 of
6 the penal law; tampering with a witness in the third degree, as defined
7 in section 215.11 of the penal law; tampering with a witness in the
8 second degree, as defined in section 215.12 of the penal law; tampering
9 with a witness in the first degree, as defined in section 215.13 of the
10 penal law; criminal contempt in the first degree, as defined in subdivi-
11 sions (b), (c) and (d) of section 215.51 of the penal law; aggravated
12 criminal contempt, as defined in section 215.52 of the penal law; bail
13 jumping in the second degree, as defined in section 215.56 of the penal
14 law; bail jumping in the first degree, as defined in section 215.57 of
15 the penal law; patronizing a [prostitute] PERSON FOR PROSTITUTION in the
16 second degree, as defined in section 230.05 of the penal law; patroniz-
17 ing a [prostitute] PERSON FOR PROSTITUTION in the first degree, as
18 defined in section 230.06 of the penal law; AGGRAVATED PATRONIZING A
19 MINOR FOR PROSTITUTION IN THE FIRST DEGREE AS DEFINED IN SECTION 230.13
20 OF THE PENAL LAW; AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE
21 SECOND DEGREE AS DEFINED IN SECTION 230.12 OF THE PENAL LAW; promoting
22 prostitution in the second degree, as defined in section 230.30 of the
23 penal law; promoting prostitution in the first degree, as defined in
24 section 230.32 of the penal law; compelling prostitution, as defined in
25 section 230.33 of the penal law; disseminating indecent [materials]
26 MATERIAL to minors in the second degree, as defined in section 235.21 of
27 the penal law; disseminating indecent [materials] MATERIAL to minors in
28 the first degree, as defined in section 235.22 of the penal law; riot in
29 the first degree, as defined in section 240.06 of the penal law; crimi-
30 nal anarchy, as defined in section 240.15 of the penal law; aggravated
31 harassment of an employee by an inmate, as defined in section 240.32 of
32 the penal law; unlawful surveillance in the second degree, as defined in
33 section 250.45 of the penal law; unlawful surveillance in the first
34 degree, as defined in section 250.50 of the penal law; endangering the
35 welfare of a vulnerable elderly person, OR AN INCOMPETENT OR PHYSICALLY
36 DISABLED PERSON in the second degree, as defined in section 260.32 of
37 the penal law; endangering the welfare of a vulnerable elderly person,
38 OR AN INCOMPETENT OR PHYSICALLY DISABLED PERSON in the first degree, as
39 defined in section 260.34 of the penal law; use of a child in a sexual
40 performance, as defined in section 263.05 of the penal law; promoting an
41 obscene sexual performance by a child, as defined in section 263.10 of
42 the penal law; possessing an obscene sexual performance by a child, as
43 defined in section 263.11 of the penal law; promoting a sexual perform-
44 ance by a child, as defined in section 263.15 of the penal law; possess-
45 ing a sexual performance by a child, as defined in section 263.16 of the
46 penal law; criminal possession of a weapon in the third degree, as
47 defined in section 265.02 of the penal law; criminal sale of a firearm
48 in the third degree, as defined in section 265.11 of the penal law;
49 criminal sale of a firearm to a minor, as defined in section 265.16 of
50 the penal law; unlawful wearing of a body vest, as defined in section
51 270.20 of the penal law; hate crimes as defined in section 485.05 of the
52 penal law; and crime of terrorism, as defined in section 490.25 of the
53 penal law; or

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

1 (c) The offenses referred to in subparagraph (i) of paragraph (b) of
2 subdivision one and subparagraph (i) of paragraph (c) of subdivision two
3 of this section that result in disqualification for a period of five
4 years shall include a conviction under sections 100.10, 105.13, 115.05,
5 120.03, 120.04, 120.04-a, 120.05, 120.10, 120.25, 121.12, 121.13,
6 125.40, 125.45, 130.20, 130.25, 130.52, 130.55, 135.10, 135.55, 140.17,
7 140.25, 140.30, 145.12, 150.10, 150.15, 160.05, 160.10, 220.06, 220.09,
8 220.16, 220.31, 220.34, 220.60, 220.65, 221.30, 221.50, 221.55, 230.00,
9 230.04, 230.05, 230.06, 230.08, 230.11, 230.12, 230.13, 230.19, 230.20,
10 235.05, 235.06, 235.07, 235.21, 240.06, 245.00, 260.10, subdivision two
11 of section 260.20 and sections 260.25, 265.02, 265.03, 265.08, 265.09,
12 265.10, 265.12, 265.35 of the penal law or an attempt to commit any of
13 the aforesaid offenses under section 110.00 of the penal law, or any
14 similar offenses committed under a former section of the penal law, or
15 any offenses committed under a former section of the penal law which
16 would constitute violations of the aforesaid sections of the penal law,
17 or any offenses committed outside this state which would constitute
18 violations of the aforesaid sections of the penal law.

19 S 35. Section 2324-a of the public health law, as amended by chapter
20 260 of the laws of 1978, is amended to read as follows:

21 S 2324-a. Presumptive evidence. For the purposes of this title, two
22 or more convictions of any person or persons had, within a period of one
23 year, for any of the offenses described in section 230.00, 230.04,
24 230.05, 230.06, 230.08, 230.11, 230.12, 230.13, 230.20, 230.25 [or],
25 230.30 OR 230.32 of the penal law arising out of conduct engaged in at
26 the same real property consisting of a dwelling as that term is defined
27 in subdivision four of section four of the multiple dwelling law shall
28 be presumptive evidence of conduct constituting use of the premises for
29 purposes of prostitution.

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

33 2. For purposes of this section, two or more convictions of any person
34 or persons had, within a period of one year, for any of the offenses
35 described in section 230.00, 230.04, 230.05, 230.06, 230.08, 230.11,
36 230.12, 230.13, 230.20, 230.25, 230.30, 230.32 or 230.40 of the penal
37 law arising out of conduct engaged in at the same real property consist-
38 ing of a dwelling as that term is defined in subdivision four of section
39 four of the multiple dwelling law shall be presumptive evidence of
40 conduct constituting use of the premises for purposes of prostitution.

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

44 3. For the purposes of this section, two or more convictions of any
45 person or persons had, within a period of one year, for any of the
46 offenses described in section 230.00, 230.04, 230.05, 230.06, 230.08,
47 230.11, 230.12, 230.13, 230.20, 230.25, 230.30, 230.32 or 230.40 of the
48 penal law arising out of conduct engaged in at the same premises
49 consisting of a dwelling as that term is defined in subdivision four of
50 section four of the multiple dwelling law shall be presumptive evidence
51 of unlawful use of such premises and of the owners knowledge of the
52 same.

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