

2135--B

Cal. No. 385

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I N S E N A T E

January 11, 2013

Introduced by Sens. LANZA, GALLIVAN, ADAMS, ADDABBO, AVELLA, BALL, BONACIC, BOYLE, CARLUCCI, DeFRANCISCO, DILAN, HANNON, HASSELL-THOMPSON, HOYLMAN, KENNEDY, KLEIN, LAVALLE, MARTINS, MONTGOMERY, PARKER, PERKINS, SAVINO, TKACZYK, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee and committed to the Committee on Rules -- reported favorably from said committee to third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the penal law, the criminal procedure law, the social services law, the mental hygiene law, the correction 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; to amend the criminal procedure law and the executive law, in relation to sexually exploited children and youthful offender adjudication; and to amend the judiciary law, in relation to providing specialized training for judges who oversee the cases of 16 and 17 year old prostituted youth

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 PERSON FOR PROSTITUTION IN THE
9 SECOND DEGREE, AS DEFINED IN SECTION 230.05 OF THIS CHAPTER, patronizing
10 a [prostitute] PERSON FOR PROSTITUTION in the first degree as defined in

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

LBD03210-21-3

1 section 230.06 of this chapter, AGGRAVATED PATRONIZING A MINOR FOR PROS-
2 TITUTION IN THE THIRD DEGREE AS DEFINED IN SECTION 230.11 OF THIS CHAP-
3 TER, AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE SECOND
4 DEGREE AS DEFINED IN SECTION 230.12 OF THIS CHAPTER, AGGRAVATED PATRON-
5 IZING A MINOR FOR PROSTITUTION IN THE FIRST DEGREE AS DEFINED IN SECTION
6 230.13 OF THIS CHAPTER, incest in the second degree as defined in
7 section 255.26 of this chapter, or incest in the first degree as defined
8 in section 255.27 of this chapter, or a felony attempt or conspiracy to
9 commit any of these crimes, the court must sentence the defendant in
10 accordance with the provisions of section 70.80 of this title.

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

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

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

44 (a) For the purposes of this section, a "felony sex offense" means a
45 conviction of any felony defined in article one hundred thirty of this
46 chapter, including a sexually motivated felony, or patronizing a [pros-
47 titute] PERSON FOR PROSTITUTION in the first degree as defined in
48 section 230.06 of this chapter, PATRONIZING A PERSON FOR PROSTITUTION IN
49 THE SECOND DEGREE AS DEFINED IN SECTION 230.05 OF THIS CHAPTER, AGGRA-
50 VATED PATRONIZING A MINOR FOR PROSTITUTION IN THE THIRD DEGREE AS
51 DEFINED IN SECTION 230.11 OF THIS CHAPTER, AGGRAVATED PATRONIZING A
52 MINOR FOR PROSTITUTION IN THE SECOND DEGREE AS DEFINED IN SECTION 230.12
53 OF THIS CHAPTER, AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE
54 FIRST DEGREE AS DEFINED IN SECTION 230.13 OF THIS CHAPTER, incest in the
55 second degree as defined in section 255.26 of this chapter, or incest in

1 the first degree as defined in section 255.27 of this chapter, or a
2 felony attempt or conspiracy to commit any of the above.

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

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

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

8 S 230.01 PROSTITUTION; DEFENSE.

9 IN ANY PROSECUTION UNDER SECTION 230.00 OR SUBDIVISION TWO OF SECTION
10 240.37 OF THIS PART, IT IS AN AFFIRMATIVE DEFENSE THAT THE DEFENDANT'S
11 PARTICIPATION IN THE OFFENSE WAS A RESULT OF BEING A VICTIM OF SEX TRAF-
12 FICKING UNDER SECTION 230.34 OF THIS ARTICLE OR A VICTIM OF TRAFFICKING
13 IN PERSONS UNDER THE TRAFFICKING VICTIMS PROTECTION ACT (UNITED STATES
14 CODE, TITLE 22, CHAPTER 78).

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

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

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

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

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

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

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

30 2. For the purposes of this section, SECTION 230.08 and section 230.19
31 of this article, "school zone" means (a) in or on or within any build-
32 ing, structure, athletic playing field, playground or land contained
33 within the real property boundary line of a public or private elementa-
34 ry, parochial, intermediate, junior high, vocational, or high school, or
35 (b) any public sidewalk, street, parking lot, park, playground or
36 private land, located immediately adjacent to the boundary line of such
37 school.

38 S 9. The penal law is amended by adding a new section 230.08 to read
39 as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

16 S 230.06 Patronizing a [prostitute] PERSON FOR PROSTITUTION in the first
17 degree.

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

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

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

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

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

28 Prostitution and patronizing a [prostitute] PERSON FOR PROSTITUTION; no
29 defense.

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

34 S 14. The penal law is amended by adding three new sections 230.11,
35 230.12 and 230.13 to read as follows:

36 S 230.11 AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE THIRD
37 DEGREE.

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

44 AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE THIRD DEGREE IS
45 A CLASS E FELONY.

46 S 230.12 AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE SECOND
47 DEGREE.

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

54 AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE SECOND DEGREE
55 IS A CLASS D FELONY.

1 S 230.13 AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE FIRST
2 DEGREE.

3 A PERSON IS GUILTY OF AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION
4 IN THE FIRST DEGREE WHEN HE OR SHE PATRONIZES A PERSON FOR PROSTITUTION
5 AND THE PERSON PATRONIZED IS LESS THAN ELEVEN YEARS OLD, OR BEING EIGH-
6 TEEN YEARS OLD OR MORE, HE OR SHE PATRONIZES A PERSON FOR PROSTITUTION
7 AND THE PERSON PATRONIZED IS LESS THAN THIRTEEN YEARS OLD, AND THE
8 PERSON GUILTY OF PATRONIZING ENGAGES IN SEXUAL INTERCOURSE, ORAL SEXUAL
9 CONDUCT, ANAL SEXUAL CONDUCT, OR AGGRAVATED SEXUAL CONDUCT.

10 AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE FIRST DEGREE IS
11 A CLASS B FELONY.

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

14 1. "Advance prostitution." A person "advances prostitution" when,
15 acting other than as a [prostitute] PERSON IN PROSTITUTION or as a
16 patron thereof, he OR SHE knowingly causes or aids a person to commit or
17 engage in prostitution, procures or solicits patrons for prostitution,
18 provides persons or premises for prostitution purposes, operates or
19 assists in the operation of a house of prostitution or a prostitution
20 enterprise, or engages in any other conduct designed to institute, aid
21 or facilitate an act or enterprise of prostitution.

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

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

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

36 S 17. The opening paragraph and subdivisions 1 and 2 of section 230.25
37 of the penal law, the opening paragraph and subdivision 2 as amended by
38 chapter 627 of the laws of 1978 and subdivision 1 as amended by chapter
39 74 of the laws of 2007, are amended to read as follows:

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

42 1. Advances or profits from prostitution by managing, supervising,
43 controlling or owning, either alone or in association with others, a
44 house of prostitution or a prostitution business or enterprise involving
45 prostitution activity by two or more [prostitutes] PERSONS IN PROSTITU-
46 TION, or a business that sells travel-related services knowing that such
47 services include or are intended to facilitate travel for the purpose of
48 patronizing a [prostitute] PERSON FOR PROSTITUTION, including to a
49 foreign jurisdiction and regardless of the legality of prostitution in
50 said foreign jurisdiction; or

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

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

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

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

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

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

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

14 S 230.33 Compelling prostitution.

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

19 Compelling prostitution is a class B felony.

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

23 1. unlawfully providing to a person who is patronized, with intent to
24 impair said person's judgment: (a) a narcotic drug or a narcotic prepa-
25 ration; (b) concentrated cannabis as defined in paragraph (a) of subdivi-
26 sion four of section thirty-three hundred two of the public health
27 law; (c) methadone; [or] (d) gamma-hydroxybutyrate (GHB) or flunitrazep-
28 an, also known as Rohypnol; OR (E) METHYLENEDIOXYMETHAMPHETAMINE (MDMA),
29 ALSO KNOWN AS ECSTASY;

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

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

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

38 S 230.35 Promoting or compelling prostitution; accomplice.

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

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

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

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

53 2. 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

1 interferes with the free passage of other persons, for the purpose of
2 prostitution[, or of patronizing a prostitute as those terms are] AS
3 THAT TERM IS defined in article two hundred thirty of [the penal law]
4 THIS PART, shall be guilty of a violation and is guilty of a class B
5 misdemeanor if such person has previously been convicted of a violation
6 of this section or of [sections] SECTION 230.00 [or 230.05] of [the
7 penal law] THIS PART.

8 3. ANY PERSON WHO REMAINS OR WANDERS ABOUT IN A PUBLIC PLACE AND
9 REPEATEDLY BECKONS TO, OR REPEATEDLY STOPS, OR REPEATEDLY ATTEMPTS TO
10 STOP, OR REPEATEDLY ATTEMPTS TO ENGAGE PASSERS-BY IN CONVERSATION, OR
11 REPEATEDLY STOPS OR ATTEMPTS TO STOP MOTOR VEHICLES, OR REPEATEDLY
12 INTERFERES WITH THE FREE PASSAGE OF OTHER PERSONS, FOR THE PURPOSE OF
13 PATRONIZING A PERSON FOR PROSTITUTION AS DEFINED IN SECTION 230.02 OF
14 THIS PART, SHALL BE GUILTY OF A VIOLATION AND IS GUILTY OF A CLASS B
15 MISDEMEANOR IF SUCH PERSON HAS PREVIOUSLY BEEN CONVICTED OF A VIOLATION
16 OF THIS SECTION OR OF SECTION 230.04, 230.05, 230.06 OR 230.08 OF THIS
17 PART.

18 S 25. Section 120.90 of the criminal procedure law is amended by
19 adding a new subdivision 9 to read as follows:

20 9. (A) UPON TAKING A PERSON SIXTEEN OR SEVENTEEN YEARS OF AGE INTO
21 CUSTODY FOR AN ACT WHICH WOULD CONSTITUTE A VIOLATION OF SECTION 230.00
22 OR SUBDIVISION TWO OF SECTION 240.37 OF THE PENAL LAW, A POLICE OFFICER,
23 AFTER PERFORMING WITHOUT UNNECESSARY DELAY ALL RECORDING, FINGERPRINT-
24 ING, AND OTHER PRELIMINARY POLICE DUTIES REQUIRED IN THE PARTICULAR CASE
25 SHALL BRING THE ARRESTED PERSON OR CAUSE SUCH PERSON TO BE BROUGHT
26 BEFORE A LOCAL CRIMINAL COURT AND FILE THEREWITH AN APPROPRIATE ACCUSA-
27 TORY INSTRUMENT. IF THE LOCAL CRIMINAL COURT IS NOT IN SESSION, THEN THE
28 ARRESTING OFFICER SHALL TAKE SUCH PERSON TO AN AVAILABLE SHORT-TERM SAFE
29 HOUSE, AS DEFINED IN SUBDIVISION TWO OF SECTION FOUR HUNDRED FORTY-SEV-
30 EN-A OF THE SOCIAL SERVICES LAW.

31 (B) NOTHING IN THIS SUBDIVISION PRECLUDES A POLICE OFFICER OR PEACE
32 OFFICER FROM ORIGINATING A PERSON IN NEED OF SUPERVISION PROCEEDING
33 PURSUANT TO SECTION SEVEN HUNDRED THIRTY-THREE OF THE FAMILY COURT ACT
34 IN LIEU OF REFERRAL FOR PROSECUTION.

35 S 26. Section 140.20 of the criminal procedure law is amended by
36 adding a new subdivision 8 to read as follows:

37 8. (A) UPON TAKING A PERSON SIXTEEN OR SEVENTEEN YEARS OF AGE INTO
38 CUSTODY FOR AN ACT WHICH WOULD CONSTITUTE A VIOLATION OF SECTION 230.00
39 OR SUBDIVISION TWO OF SECTION 240.37 OF THE PENAL LAW, A POLICE OFFICER,
40 AFTER PERFORMING WITHOUT UNNECESSARY DELAY ALL RECORDING, FINGERPRINT-
41 ING, AND OTHER PRELIMINARY POLICE DUTIES REQUIRED IN THE PARTICULAR CASE
42 SHALL BRING THE ARRESTED PERSON OR CAUSE SUCH PERSON TO BE BROUGHT
43 BEFORE A LOCAL CRIMINAL COURT AND FILE THEREWITH AN APPROPRIATE ACCUSA-
44 TORY INSTRUMENT. IF THE LOCAL CRIMINAL COURT IS NOT IN SESSION, THEN THE
45 ARRESTING OFFICER SHALL TAKE SUCH PERSON TO AN AVAILABLE SHORT-TERM SAFE
46 HOUSE, AS DEFINED IN SUBDIVISION TWO OF SECTION FOUR HUNDRED FORTY-SEV-
47 EN-A OF THE SOCIAL SERVICES LAW.

48 (B) NOTHING IN THIS SUBDIVISION PRECLUDES A POLICE OFFICER OR PEACE
49 OFFICER FROM ORIGINATING A PERSON IN NEED OF SUPERVISION PROCEEDING
50 PURSUANT TO SECTION SEVEN HUNDRED THIRTY-THREE OF THE FAMILY COURT ACT
51 IN LIEU OF REFERRAL FOR PROSECUTION.

52 S 27. Section 170.10 of the criminal procedure law is amended by
53 adding two new subdivisions 10 and 11 to read as follows:

54 10. IN ANY PROCEEDING UNDER THIS ARTICLE BASED UPON AN ARREST FOR
55 PROSTITUTION AS DEFINED IN SECTION 230.00 OF THE PENAL LAW, OR LOITERING
56 FOR THE PURPOSES OF PROSTITUTION AS DEFINED IN SUBDIVISION TWO OF

SECTION 240.37 OF THE PENAL LAW, A YOUTH SIXTEEN OR SEVENTEEN YEARS OF AGE SHALL BE TREATED AS A SEXUALLY EXPLOITED CHILD PURSUANT TO SECTION FOUR HUNDRED FORTY-SEVEN-A OF THE SOCIAL SERVICES LAW.

11. THE COURT SHALL ORDER SPECIALIZED SERVICES ENUMERATED IN SUBDIVISIONS TWO, THREE, FOUR AND FIVE OF SECTION FOUR HUNDRED FORTY-SEVEN-A OF THE SOCIAL SERVICES LAW FOR A PERIOD NOT TO EXCEED THREE MONTHS, UPON THE CONSENT OF THE SEXUALLY EXPLOITED CHILD ACCUSED OF PROSTITUTION AS DEFINED IN SECTION 230.00 OF THE PENAL LAW OR LOITERING FOR THE PURPOSES OF PROSTITUTION AS DEFINED IN SUBDIVISION TWO OF SECTION 240.37 OF THE PENAL LAW. NOTHING IN THIS SUBDIVISION SHALL PRECLUDE THE COURT FROM DISMISSING SUCH A CASE IN THE INTEREST OF JUSTICE PURSUANT TO PARAGRAPH (G) OF SUBDIVISION ONE OF SECTION 170.30 OF THIS ARTICLE WITHOUT ORDERING SPECIALIZED SERVICES AS AFORESAID.

S 28. Section 170.30 of the criminal procedure law is amended by adding a new subdivision 4 to read as follows:

4. AFTER ARRAIGNMENT UPON AN INFORMATION, A SIMPLIFIED INFORMATION, A PROSECUTOR'S INFORMATION OR A MISDEMEANOR COMPLAINT, THE LOCAL CRIMINAL COURT SHALL DISMISS SUCH INSTRUMENT ON THE GROUNDS THAT A SEXUALLY EXPLOITED CHILD ACCUSED OF PROSTITUTION AS DEFINED IN SECTION 230.00 OF THE PENAL LAW OR LOITERING FOR THE PURPOSES OF PROSTITUTION AS DEFINED IN SUBDIVISION TWO OF SECTION 240.37 OF THE PENAL LAW COOPERATED WITH SERVICES ORDERED BY THE COURT.

S 29. 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 30. 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 trafficking in persons under the Trafficking Victims Protection Act (United States Code, title 22, chapter 78); provided that

1 S 31. Paragraph (h) of subdivision 8 of section 700.05 of the crimi-
2 nal procedure law, as amended by chapter 154 of the laws of 1990, is
3 amended to read as follows:

4 (h) Promoting prostitution in the first degree, as defined in section
5 230.32 of the penal law, promoting prostitution in the second degree, as
6 defined [by subdivision one of] IN section 230.30 of the penal law,
7 PROMOTING PROSTITUTION IN THE THIRD DEGREE, AS DEFINED IN SECTION 230.25
8 OF THE PENAL LAW;

9 S 32. Subdivision 1 of section 720.10 of the criminal procedure law,
10 as amended by chapter 411 of the laws of 1979, is amended to read as
11 follows:

12 1. "Youth" means a person charged with a crime alleged to have been
13 committed when he OR SHE was at least sixteen years old and less than
14 nineteen years old or a person charged with being a juvenile offender as
15 defined in subdivision forty-two of section 1.20 of this chapter OR A
16 PERSON CHARGED WITH LOITERING FOR THE PURPOSES OF PROSTITUTION AS
17 DEFINED IN SUBDIVISION TWO OF SECTION 240.37 OF THE PENAL LAW WHERE SUCH
18 VIOLATION WAS ALLEGED TO HAVE BEEN COMMITTED WHEN HE OR SHE WAS SIXTEEN
19 OR SEVENTEEN YEARS OLD.

20 S 33. Paragraph (b) of subdivision 1 of section 720.20 of the criminal
21 procedure law, as amended by chapter 652 of the laws of 1974, is amended
22 and a new paragraph (c) is added to read as follows:

23 (b) Where the conviction is had in a local criminal court and the
24 eligible youth had not prior to commencement of trial or entry of a plea
25 of guilty been convicted of a crime or found a youthful offender, the
26 court must find he is a youthful offender. ANY CONVICTION FOR PROSTITU-
27 TION AS DEFINED IN SECTION 230.00 OF THE PENAL LAW OR LOITERING FOR THE
28 PURPOSES OF PROSTITUTION AS DEFINED IN SUBDIVISION TWO OF SECTION 240.37
29 OF THE PENAL LAW RESULTING IN A PRIOR YOUTHFUL OFFENDER ADJUDICATION
30 SHALL NOT PRECLUDE THE YOUTH'S ELIGIBILITY FOR YOUTHFUL OFFENDER TREAT-
31 MENT PURSUANT TO THIS SUBDIVISION.

32 (C) WHERE A SIXTEEN OR SEVENTEEN YEAR OLD YOUTH IS CONVICTED OF PROS-
33 TITUTION AS DEFINED IN SECTION 230.00 OF THE PENAL LAW, OR LOITERING FOR
34 THE PURPOSES OF PROSTITUTION AS DEFINED IN SUBDIVISION TWO OF SECTION
35 240.37 OF THE PENAL LAW, THE COURT MUST FIND SUCH YOUTH A YOUTHFUL
36 OFFENDER.

37 S 34. Subdivision (a) of section 483-cc of the social services law, as
38 added by chapter 74 of the laws of 2007, is amended to read as follows:

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

48 S 35. Subdivision (p) of section 10.03 of the mental hygiene law, as
49 added by chapter 7 of the laws of 2007, is amended to read as follows:

50 (p) "Sex offense" means an act or acts constituting: (1) any felony
51 defined in article one hundred thirty of the penal law, including a
52 sexually motivated felony; (2) patronizing a [prostitute] PERSON FOR
53 PROSTITUTION in the first degree as defined in section 230.06 of the
54 penal law, AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE FIRST
55 DEGREE AS DEFINED IN SECTION 230.13 OF THE PENAL LAW, AGGRAVATED PATRON-
56 IZING A MINOR FOR PROSTITUTION IN THE SECOND DEGREE AS DEFINED IN

1 SECTION 230.12 OF THE PENAL LAW, AGGRAVATED PATRONIZING A MINOR FOR
2 PROSTITUTION IN THE THIRD DEGREE AS DEFINED IN SECTION 230.11 OF THE
3 PENAL LAW, incest in the second degree as defined in section 255.26 of
4 the penal law, or incest in the first degree as defined in section
5 255.27 of the penal law; (3) a felony attempt or conspiracy to commit
6 any of the foregoing offenses set forth in this subdivision; or (4) a
7 designated felony, as defined in subdivision (f) of this section, if
8 sexually motivated and committed prior to the effective date of this
9 article.

10 S 36. Subparagraph (i) of paragraph (a) of subdivision 2 of section
11 168-a of the correction law, as amended by chapter 405 of the laws of
12 2008, is amended to read as follows:

13 (i) a conviction of or a conviction for an attempt to commit any of
14 the provisions of sections 120.70, 130.20, 130.25, 130.30, 130.40,
15 130.45, 130.60, 230.34, 250.50, 255.25, 255.26 and 255.27 or article two
16 hundred sixty-three of the penal law, or section 135.05, 135.10, 135.20
17 or 135.25 of such law relating to kidnapping offenses, provided the
18 victim of such kidnapping or related offense is less than seventeen
19 years old and the offender is not the parent of the victim, or section
20 230.04, where the person patronized is in fact less than seventeen years
21 of age, 230.05 [or], 230.06, 230.08, [or] 230.11, 230.12, 230.13, subdi-
22 vision two of section 230.30, [or] section 230.32 [or], 230.33, OR
23 230.34 of the penal law, OR SECTION 230.25 OF THE PENAL LAW WHERE THE
24 PERSON PROSTITUTED IS IN FACT LESS THAN SEVENTEEN YEARS OLD, or

25 S 37. Paragraph (b) of subdivision 1 of section 168-d of the
26 correction law, as amended by chapter 74 of the laws of 2007, is amended
27 to read as follows:

28 (b) Where a defendant stands convicted of an offense defined in para-
29 graph (b) of subdivision two of section one hundred sixty-eight-a of
30 this article or where the defendant was convicted of patronizing a
31 [prostitute] PERSON FOR PROSTITUTION in the third degree under section
32 230.04 of the penal law and the defendant controverts an allegation that
33 the victim of such offense was less than eighteen years of age or, in
34 the case of a conviction under section 230.04 of the penal law, less
35 than seventeen years of age, the court, without a jury, shall, prior to
36 sentencing, conduct a hearing, and the people may prove by clear and
37 convincing evidence that the victim was less than eighteen years [of
38 age] OLD or less than seventeen years [of age] OLD, as applicable, by
39 any evidence admissible under the rules applicable to a trial of the
40 issue of guilt. The court in addition to such admissible evidence may
41 also consider reliable hearsay evidence submitted by either party
42 provided that it is relevant to the determination of the age of the
43 victim. Facts concerning the age of the victim proven at trial or ascer-
44 tained at the time of entry of a plea of guilty shall be deemed estab-
45 lished by clear and convincing evidence and shall not be relitigated. At
46 the conclusion of the hearing, or if the defendant does not controvert
47 an allegation that the victim of the offense was less than eighteen
48 years [of age] OLD or less than seventeen years [of age] OLD, as appli-
49 cable, the court must make a finding and enter an order setting forth
50 the age of the victim. If the court finds that the victim of such
51 offense was under eighteen years [of age] OLD or under seventeen years
52 [of age] OLD, as applicable, the court shall certify the defendant as a
53 sex offender, the provisions of paragraph (a) of this subdivision shall
54 apply and the defendant shall register with the division in accordance
55 with the provisions of this article.

1 S 38. Paragraph (c) of subdivision 4 of section 509-cc of the vehicle
2 and traffic law, as amended by chapter 400 of the laws of 2011, is
3 amended to read as follows:

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

22 S 39. Section 2324-a of the public health law, as amended by chapter
23 260 of the laws of 1978, is amended to read as follows:

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

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

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

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

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

1 S 42. Subdivision 3 of section 502 of the executive law, as amended by
2 section 1 of subpart B of part Q of chapter 58 of the laws of 2011, is
3 amended to read as follows:

4 3. "Detention" means the temporary care and maintenance of A SIXTEEN
5 OR SEVENTEEN YEAR OLD ALLEGED TO HAVE COMMITTED PROSTITUTION AS DEFINED
6 IN SECTION 230.00 OF THE PENAL LAW OR LOITERING FOR THE PURPOSES OF
7 PROSTITUTION AS DEFINED IN SUBDIVISION TWO OF SECTION 240.37 OF THE
8 PENAL LAW OR A youth held away from their homes pursuant to article
9 three or seven of the family court act, or held pending a hearing for
10 alleged violation of the conditions of release from an office of chil-
11 dren and family services facility or authorized agency, or held pending
12 a hearing for alleged violation of the condition of parole as a juvenile
13 offender, or held pending return to a jurisdiction other than the one in
14 which the youth is held, or held pursuant to a securing order of a crim-
15 inal court if the youth named therein as principal is charged as a juve-
16 nile offender or held pending a hearing on an extension of placement or
17 held pending transfer to a facility upon commitment or placement by a
18 court. Only alleged or convicted juvenile offenders who have not
19 attained their eighteenth birthday shall be subject to detention in a
20 detention facility.

21 S 43. Subdivision 2 of section 212 of the judiciary law is amended by
22 adding a new paragraph (s) to read as follows:

23 (S) ADOPT RULES ESTABLISHING A TRAINING PROGRAM IN SPECIALIZED AREAS
24 INVOLVING SEXUALLY EXPLOITED YOUTH AND ADOLESCENT DEVELOPMENT.

25 S 44. This act shall take effect on the ninetieth day after it shall
26 have become a law.