

2511

2013-2014 Regular Sessions

I N S E N A T E

January 18, 2013

Introduced by Sen. GALLIVAN -- 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 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
19

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

LBD03210-03-3

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, COMPELLING PROSTITUTION AS DEFINED IN SECTION 230.33,
19 SEX TRAFFICKING AS DEFINED IN SECTION 230.34, incest in the first degree
20 as defined in section 255.27, criminal possession of a weapon in the
21 first degree as defined in section 265.04, criminal use of a firearm in
22 the first degree as defined in section 265.09, criminal sale of a
23 firearm in the first degree as defined in section 265.13, aggravated
24 assault upon a police officer or a peace officer as defined in section
25 120.11, gang assault in the first degree as defined in section 120.07,
26 intimidating a victim or witness in the first degree as defined in
27 section 215.17, hindering prosecution of terrorism in the first degree
28 as defined in section 490.35, criminal possession of a chemical weapon
29 or biological weapon in the second degree as defined in section 490.40,
30 and criminal use of a chemical weapon or biological weapon in the third
31 degree as defined in section 490.47.

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

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

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

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

52 S 6. 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:

(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 7. 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 8. 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 9. 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 10. 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.

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

S 11. Section 230.06 of the penal law, as added by chapter 627 of the laws of 1978, is amended to read as follows:

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

A person is guilty of patronizing a [prostitute] PERSON FOR PROSTITUTION 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 12. 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 13. 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 14. 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 15. 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 16. 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 17. 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 18. 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 19. 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 20. 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) METHYLENEDIOXYMETHAMPHETAMINE (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 21. 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 22. 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 23. 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 24. Subdivision 6 of section 380.50 of the criminal procedure law,
2 as amended by chapter 320 of the laws of 2006, is amended to read as
3 follows:

4 6. Regardless of whether the victim requests to make a statement with
5 regard to the defendant's sentence, where the defendant is sentenced for
6 a violent felony offense as defined in section 70.02 of the penal law or
7 a felony defined in article one hundred twenty-five of such law or any
8 of the following provisions of such law: sections 130.25, 130.30,
9 130.40, 130.45, 255.25, 255.26, 255.27, article two hundred sixty-three,
10 135.10, 135.25, 230.04, 230.05, 230.06, 230.08, 230.11, 230.12, 230.13,
11 subdivision two of section 230.30 or 230.32, the prosecutor shall, with-
12 in sixty days of the imposition of sentence, provide the victim with a
13 form on which the victim may indicate a demand to be informed of any
14 petition to change the name of such defendant. Such forms shall be
15 maintained by such prosecutor. Upon receipt of a notice of a petition to
16 change the name of any such defendant, pursuant to subdivision two of
17 section sixty-two of the civil rights law, the prosecutor shall promptly
18 notify the victim at the most current address or telephone number
19 provided by such victim in the most reasonable and expedient possible
20 manner of the time and place such petition will be presented to the
21 court.

22 S 25. The opening paragraph of paragraph (i) of subdivision 1 of
23 section 440.10 of the criminal procedure law, as added by chapter 332 of
24 the laws of 2010, is amended to read as follows:

25 The judgment is a conviction where the arresting charge was under
26 section 240.37 (loitering for the purpose of engaging in a prostitution
27 offense, provided that the defendant was not alleged to be loitering for
28 the purpose of patronizing a [prostitute] PERSON FOR PROSTITUTION or
29 promoting prostitution) or 230.00 (prostitution) of the penal law, and
30 the defendant's participation in the offense was a result of having been
31 a victim of sex trafficking under section 230.34 of the penal law or
32 trafficking in persons under the Trafficking Victims Protection Act
33 (United States Code, title 22, chapter 78); provided that

34 S 26. Paragraph (h) of subdivision 8 of section 700.05 of the crimi-
35 nal procedure law, as amended by chapter 154 of the laws of 1990, is
36 amended to read as follows:

37 (h) Promoting prostitution in the first degree, as defined in section
38 230.32 of the penal law, promoting prostitution in the second degree, as
39 defined by subdivision one of section 230.30 of the penal law, PROMOTING
40 PROSTITUTION IN THE THIRD DEGREE, AS DEFINED IN SECTION 230.25 OF THE
41 PENAL LAW;

42 S 27. Subdivision (a) of section 483-cc of the social services law, as
43 added by chapter 74 of the laws of 2007, is amended to read as follows:

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

53 S 28. Subdivision (p) of section 10.03 of the mental hygiene law, as
54 added by chapter 7 of the laws of 2007, is amended to read as follows:

55 (p) "Sex offense" means an act or acts constituting: (1) any felony
56 defined in article one hundred thirty of the penal law, including a

1 sexually motivated felony; (2) patronizing a [prostitute] PERSON FOR
2 PROSTITUTION in the first degree as defined in section 230.06 of the
3 penal law, AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE FIRST
4 DEGREE AS DEFINED IN SECTION 230.13 OF THE PENAL LAW, AGGRAVATED PATRON-
5 IZING A MINOR FOR PROSTITUTION IN THE SECOND DEGREE AS DEFINED IN
6 SECTION 230.12 OF THE PENAL LAW, AGGRAVATED PATRONIZING A MINOR FOR
7 PROSTITUTION IN THE THIRD DEGREE AS DEFINED IN SECTION 230.11 OF THE
8 PENAL LAW, incest in the second degree as defined in section 255.26 of
9 the penal law, or incest in the first degree as defined in section
10 255.27 of the penal law; (3) a felony attempt or conspiracy to commit
11 any of the foregoing offenses set forth in this subdivision; or (4) a
12 designated felony, as defined in subdivision (f) of this section, if
13 sexually motivated and committed prior to the effective date of this
14 article.

15 S 29. Subparagraph (i) of paragraph (a) of subdivision 2 of section
16 168-a of the correction law, as amended by chapter 405 of the laws of
17 2008, is amended to read as follows:

18 (i) a conviction of or a conviction for an attempt to commit any of
19 the provisions of sections 120.70, 130.20, 130.25, 130.30, 130.40,
20 130.45, 130.60, 230.34, 250.50, 255.25, 255.26 and 255.27 or article two
21 hundred sixty-three of the penal law, or section 135.05, 135.10, 135.20
22 or 135.25 of such law relating to kidnapping offenses, provided the
23 victim of such kidnapping or related offense is less than seventeen
24 years old and the offender is not the parent of the victim, or section
25 230.04, [where the person patronized is in fact less than seventeen
26 years of age,] 230.05 [or], 230.06, 230.08, [or] 230.11, 230.12, 230.13,
27 subdivision two of section 230.30, [or] section 230.32 [or], 230.33, OR
28 230.34 of the penal law, OR SECTION 230.25 OF THE PENAL LAW WHERE THE
29 PERSON PROSTITUTED IS IN FACT LESS THAN SEVENTEEN YEARS OLD, or

30 S 30. Paragraph (b) of subdivision 1 of section 168-d of the
31 correction law, as amended by chapter 74 of the laws of 2007, is amended
32 to read as follows:

33 (b) Where a defendant stands convicted of an offense defined in para-
34 graph (b) of subdivision two of section one hundred sixty-eight-a of
35 this article or where the defendant was convicted of patronizing a
36 [prostitute] PERSON FOR PROSTITUTION in the third degree under section
37 230.04 of the penal law OR OF PATRONIZING A PERSON FOR PROSTITUTION IN
38 THE SECOND DEGREE UNDER SECTION 230.05 OF THE PENAL LAW, OR OF PATRONIZ-
39 ING A PERSON FOR PROSTITUTION IN THE FIRST DEGREE UNDER SECTION 230.06
40 OF THE PENAL LAW, OR OF PATRONIZING A PERSON FOR PROSTITUTION IN A
41 SCHOOL ZONE UNDER SECTION 230.08 OF THE PENAL LAW, OR OF AGGRAVATED
42 PATRONIZING A MINOR FOR PROSTITUTION IN THE FIRST DEGREE AS DEFINED IN
43 SECTION 230.13 OF THE PENAL LAW, OR OF AGGRAVATED PATRONIZING A MINOR
44 FOR PROSTITUTION IN THE SECOND DEGREE AS DEFINED IN SECTION 230.12 OF
45 THE PENAL LAW, OR OF AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN
46 THE THIRD DEGREE AS DEFINED IN SECTION 230.11 OF THE PENAL LAW, and the
47 defendant controverts an allegation that the victim of such offense was
48 less than eighteen years [of age or, in the case of a conviction under
49 section 230.04 of the penal law, less than seventeen years of age] OLD,
50 the court, without a jury, shall, prior to sentencing, conduct a hear-
51 ing, and the people may prove by clear and convincing evidence that the
52 victim was less than eighteen years [of age] OLD or less than seventeen
53 years [of age] OLD, as applicable, by any evidence admissible under the
54 rules applicable to a trial of the issue of guilt. The court in addition
55 to such admissible evidence may also consider reliable hearsay evidence
56 submitted by either party provided that it is relevant to the determi-

1 nation of the age of the victim. Facts concerning the age of the victim
2 proven at trial or ascertained at the time of entry of a plea of guilty
3 shall be deemed established by clear and convincing evidence and shall
4 not be relitigated. At the conclusion of the hearing, or if the defend-
5 ant does not controvert an allegation that the victim of the offense was
6 less than eighteen years [of age] OLD or less than seventeen years [of
7 age] OLD, as applicable, the court must make a finding and enter an
8 order setting forth the age of the victim. If the court finds that the
9 victim of such offense was under eighteen years [of age] OLD or under
10 seventeen years [of age] OLD, as applicable, the court shall certify the
11 defendant as a sex offender, the provisions of paragraph (a) of this
12 subdivision shall apply and the defendant shall register with the divi-
13 sion in accordance with the provisions of this article.

14 S 31. Paragraph (c) of subdivision 4 of section 509-cc of the vehicle
15 and traffic law, as amended by chapter 400 of the laws of 2011, is
16 amended to read as follows:

17 (c) The offenses referred to in subparagraph (i) of paragraph (b) of
18 subdivision one and subparagraph (i) of paragraph (c) of subdivision two
19 of this section that result in disqualification for a period of five
20 years shall include a conviction under sections 100.10, 105.13, 115.05,
21 120.03, 120.04, 120.04-a, 120.05, 120.10, 120.25, 121.12, 121.13,
22 125.40, 125.45, 130.20, 130.25, 130.52, 130.55, 135.10, 135.55, 140.17,
23 140.25, 140.30, 145.12, 150.10, 150.15, 160.05, 160.10, 220.06, 220.09,
24 220.16, 220.31, 220.34, 220.60, 220.65, 221.30, 221.50, 221.55, 230.00,
25 230.04, 230.05, 230.06, 230.08, 230.11, 230.12, 230.13, 230.19, 230.20,
26 235.05, 235.06, 235.07, 235.21, 240.06, 245.00, 260.10, subdivision two
27 of section 260.20 and sections 260.25, 265.02, 265.03, 265.08, 265.09,
28 265.10, 265.12, 265.35 of the penal law or an attempt to commit any of
29 the aforesaid offenses under section 110.00 of the penal law, or any
30 similar offenses committed under a former section of the penal law, or
31 any offenses committed under a former section of the penal law which
32 would constitute violations of the aforesaid sections of the penal law,
33 or any offenses committed outside this state which would constitute
34 violations of the aforesaid sections of the penal law.

35 S 32. Section 2324-a of the public health law, as amended by chapter
36 260 of the laws of 1978, is amended to read as follows:

37 S 2324-a. Presumptive evidence. For the purposes of this title, two
38 or more convictions of any person or persons had, within a period of one
39 year, for any of the offenses described in section 230.00, 230.04,
40 230.05, 230.06, 230.08, 230.11, 230.12, 230.13, 230.20, 230.25 [or],
41 230.30 OR 230.32 of the penal law arising out of conduct engaged in at
42 the same real property consisting of a dwelling as that term is defined
43 in subdivision four of section four of the multiple dwelling law shall
44 be presumptive evidence of conduct constituting use of the premises for
45 purposes of prostitution.

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

49 2. For purposes of this section, two or more convictions of any person
50 or persons had, within a period of one year, for any of the offenses
51 described in section 230.00, 230.04, 230.05, 230.06, 230.08, 230.11,
52 230.12, 230.13, 230.20, 230.25, 230.30, 230.32 or 230.40 of the penal
53 law arising out of conduct engaged in at the same real property consist-
54 ing of a dwelling as that term is defined in subdivision four of section
55 four of the multiple dwelling law shall be presumptive evidence of
56 conduct constituting use of the premises for purposes of prostitution.

1 S 34. Subdivision 3 of section 231 of the real property law, as
2 amended by chapter 203 of the laws of 1980, is amended to read as
3 follows:
4 3. For the purposes of this section, two or more convictions of any
5 person or persons had, within a period of one year, for any of the
6 offenses described in section 230.00, 230.04, 230.05, 230.06, 230.08,
7 230.11, 230.12, 230.13, 230.20, 230.25, 230.30, 230.32 or 230.40 of the
8 penal law arising out of conduct engaged in at the same premises
9 consisting of a dwelling as that term is defined in subdivision four of
10 section four of the multiple dwelling law shall be presumptive evidence
11 of unlawful use of such premises and of the owners knowledge of the
12 same.
13 S 35. This act shall take effect on the ninetieth day after it shall
14 have become a law.