

3515

2013-2014 Regular Sessions

I N S E N A T E

February 5, 2013

Introduced by Sens. YOUNG, GOLDEN, LARKIN, RANZENHOFER, ZELDIN -- 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 correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules and the agriculture and markets law, in relation to sex offenses; and to repeal certain provisions of the penal law relating thereto

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

1 Section 1. Sections 130.40, 130.45, 130.50, 130.65-a, 130.66, 130.67
2 and 130.70 of the penal law are REPEALED.
3 S 2. Paragraph 2 of subdivision 18 of section 10.00 of the penal law,
4 as amended by chapter 7 of the laws of 2007, is amended to read as
5 follows:
6 (2) a person fourteen or fifteen years old who is criminally responsi-
7 ble for acts constituting the crimes defined in subdivisions one and two
8 of section 125.25 (murder in the second degree) and in subdivision three
9 of such section provided that the underlying crime for the murder charge
10 is one for which such person is criminally responsible; section 135.25
11 (kidnapping in the first degree); 150.20 (arson in the first degree);
12 [subdivisions one and two of section 120.10 (assault in the first
13 degree); 125.20 (manslaughter in the first degree); [subdivisions one
14 and] PARAGRAPHS (A) AND (B) OF SUBDIVISION ONE AND SUBDIVISION two of
15 section 130.35 (rape in the first degree); [subdivisions one and two of
16 section 130.50 (criminal sexual act in the first degree); 130.70 (aggra-
17 vated sexual abuse in the first degree);] 140.30 (burglary in the first
18 degree); subdivision one of section 140.25 (burglary in the second
19 degree); 150.15 (arson in the second degree); 160.15 (robbery in the
20 first degree); subdivision two of section 160.10 (robbery in the second

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

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1 degree) of this chapter; or section 265.03 of this chapter, where such
2 machine gun or such firearm is possessed on school grounds, as that
3 phrase is defined in subdivision fourteen of section 220.00 of this
4 chapter; or defined in this chapter as an attempt to commit murder in
5 the second degree or kidnapping in the first degree, or such conduct as
6 a sexually motivated felony, where authorized pursuant to section 130.91
7 of [the penal law] THIS CHAPTER.

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

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

35 S 4. Paragraphs (a), (b), (c) and (d) of subdivision 1 of section
36 70.02 of the penal law, paragraph (a) as amended by chapter 320 of the
37 laws of 2006, paragraphs (b) and (c) as amended by chapter 1 of the laws
38 of 2013, and paragraph (d) as amended by chapter 7 of the laws of 2007,
39 are amended to read as follows:

40 (a) Class B violent felony offenses: an attempt to commit the class
41 A-I felonies of murder in the second degree as defined in section
42 125.25, kidnapping in the first degree as defined in section 135.25, and
43 arson in the first degree as defined in section 150.20; manslaughter in
44 the first degree as defined in section 125.20, aggravated manslaughter
45 in the first degree as defined in section 125.22, rape in the first
46 degree as defined in section 130.35, [criminal sexual act in the first
47 degree as defined in section 130.50, aggravated sexual abuse in the
48 first degree as defined in section 130.70,] course of sexual conduct
49 against a child in the first degree as defined in section 130.75;
50 assault in the first degree as defined in section 120.10, kidnapping in
51 the second degree as defined in section 135.20, burglary in the first
52 degree as defined in section 140.30, arson in the second degree as
53 defined in section 150.15, robbery in the first degree as defined in
54 section 160.15, incest in the first degree as defined in section 255.27,
55 criminal possession of a weapon in the first degree as defined in
56 section 265.04, criminal use of a firearm in the first degree as defined

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

13 (b) Class C violent felony offenses: an attempt to commit any of the
14 class B felonies set forth in paragraph (a) of this subdivision; aggra-
15 vated criminally negligent homicide as defined in section 125.11, aggra-
16 vated manslaughter in the second degree as defined in section 125.21,
17 [aggravated sexual abuse in the second degree as defined in section
18 130.67] RAPE IN THE SECOND DEGREE AS DEFINED IN SECTION 130.33, assault
19 on a peace officer, police officer, fireman or emergency medical
20 services professional as defined in section 120.08, assault on a judge
21 as defined in section 120.09, gang assault in the second degree as
22 defined in section 120.06, strangulation in the first degree as defined
23 in section 121.13, burglary in the second degree as defined in section
24 140.25, robbery in the second degree as defined in section 160.10, crim-
25 inal possession of a weapon in the second degree as defined in section
26 265.03, criminal use of a firearm in the second degree as defined in
27 section 265.08, criminal sale of a firearm in the second degree as
28 defined in section 265.12, criminal sale of a firearm with the aid of a
29 minor as defined in section 265.14, aggravated criminal possession of a
30 weapon as defined in section 265.19, soliciting or providing support for
31 an act of terrorism in the first degree as defined in section 490.15,
32 hindering prosecution of terrorism in the second degree as defined in
33 section 490.30, and criminal possession of a chemical weapon or biolog-
34 ical weapon in the third degree as defined in section 490.37 AND ANY
35 OFFENSES COMMITTED UNDER A FORMER SECTION OF ARTICLE ONE HUNDRED THIRTY
36 OF THIS CHAPTER WHICH WOULD CONSTITUTE A VIOLATION OF THE AFORESAID
37 SECTIONS OF THIS CHAPTER.

38 (c) Class D violent felony offenses: an attempt to commit any of the
39 class C felonies set forth in paragraph (b); reckless assault of a child
40 as defined in section 120.02, assault in the second degree as defined in
41 section 120.05, menacing a police officer or peace officer as defined in
42 section 120.18, stalking in the first degree, as defined in subdivision
43 one of section 120.60, strangulation in the second degree as defined in
44 section 121.12, rape in the [second] THIRD degree as defined in section
45 130.30, [criminal sexual act in the second degree as defined in section
46 130.45,] sexual abuse in the first degree as defined in section 130.65,
47 course of sexual conduct against a child in the second degree as defined
48 in section 130.80, [aggravated sexual abuse in the third degree as
49 defined in section 130.66,] facilitating a sex offense with a controlled
50 substance as defined in section 130.90, criminal possession of a weapon
51 in the third degree as defined in subdivision five, six, seven, eight,
52 nine or ten of section 265.02, criminal sale of a firearm in the third
53 degree as defined in section 265.11, intimidating a victim or witness in
54 the second degree as defined in section 215.16, soliciting or providing
55 support for an act of terrorism in the second degree as defined in
56 section 490.10, and making a terroristic threat as defined in section

490.20, falsely reporting an incident in the first degree as defined in section 240.60, placing a false bomb or hazardous substance in the first degree as defined in section 240.62, placing a false bomb or hazardous substance in a sports stadium or arena, mass transportation facility or enclosed shopping mall as defined in section 240.63, [and] OR aggravated unpermitted use of indoor pyrotechnics in the first degree as defined in section 405.18 AND ANY OFFENSES COMMITTED UNDER A FORMER SECTION OF ARTICLE ONE HUNDRED THIRTY OF THIS CHAPTER WHICH WOULD CONSTITUTE A VIOLATION OF THE AFORESAID SECTIONS OF THIS CHAPTER.

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

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

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

S 6. Paragraph (d) of subdivision 2 and paragraph (h) of subdivision 3 of section 130.05 of the penal law, paragraph (d) of subdivision 2 as amended by chapter 40 of the laws of 2004 and paragraph (h) of subdivision 3 as amended by section 2 of part G of chapter 501 of the laws of 2012, are amended to read as follows:

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

(h) a client or patient and the actor is a health care provider or mental health care provider charged with rape in the [third] FOURTH degree as defined in section 130.25, [criminal sexual act in the third degree as defined in section 130.40, aggravated sexual abuse in the fourth degree as defined in section 130.65-a,] or sexual abuse in the third degree as defined in section 130.55, and the act of sexual conduct occurs during a treatment session, consultation, interview, or examination; or

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

3. In any prosecution for the crime of rape in the [third] FOURTH degree as defined in section 130.25, [criminal sexual act in the third degree as defined in section 130.40, aggravated sexual abuse in the fourth degree as defined in section 130.65-a,] or sexual abuse in the third degree as defined in section 130.55 in which incapacity to consent

is based on the circumstances set forth in paragraph (h) of subdivision three of section 130.05 of this article it shall be an affirmative defense that the client or patient consented to such conduct charged after having been expressly advised by the health care or mental health care provider that such conduct was not performed for a valid medical purpose.

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

S 130.25 Rape in the [third] FOURTH degree.

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

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

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

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

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

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

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

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

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

S 130.30 Rape in the [second] THIRD degree.

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

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

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

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

(A) BY FORCIBLE COMPULSION; OR

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

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

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

CONDUCT PERFORMED FOR A VALID MEDICAL PURPOSE DOES NOT VIOLATE SUBDIVISIONS THREE AND FOUR OF THIS SECTION.

It shall be an affirmative defense to the crime of rape in the [second] THIRD degree as defined in subdivision one of this section that

1 the defendant was less than four years older than the victim at the time
2 of the act.

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

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

6 S 130.33 RAPE IN THE SECOND DEGREE.

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

10 1. BY FORCIBLE COMPULSION; OR

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

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

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

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

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

19 S 130.35 Rape in the first degree.

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

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

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

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

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

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

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

31 (A) BY FORCIBLE COMPULSION; OR

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

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

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

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

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

40 S 255.26 Incest in the second degree.

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

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

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

51 S 255.27 Incest in the first degree.

52 A person is guilty of incest in the first degree when he or she
53 commits the crime of rape in the first degree, as defined in PARAGRAPH
54 (C) OR (D) OF subdivision [three or four] ONE of section 130.35 of this
55 part[, or criminal sexual act in the first degree, as defined in subdi-
56 vision three or four of section 130.50 of this part,] against a person

1 whom he or she knows to be related to him or her, whether through
2 marriage or not, as an ancestor, descendant, brother or sister of either
3 the whole or half blood, uncle, aunt, nephew or niece.

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

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

7 3. A "specified offense" is an offense defined by any of the following
8 provisions of this chapter: section 120.00 (assault in the third
9 degree); section 120.05 (assault in the second degree); section 120.10
10 (assault in the first degree); section 120.12 (aggravated assault upon a
11 person less than eleven years old); section 120.13 (menacing in the
12 first degree); section 120.14 (menacing in the second degree); section
13 120.15 (menacing in the third degree); section 120.20 (reckless endan-
14 germent in the second degree); section 120.25 (reckless endangerment in
15 the first degree); section 121.12 (strangulation in the second degree);
16 section 121.13 (strangulation in the first degree); subdivision one of
17 section 125.15 (manslaughter in the second degree); subdivision one, two
18 or four of section 125.20 (manslaughter in the first degree); section
19 125.25 (murder in the second degree); section 120.45 (stalking in the
20 fourth degree); section 120.50 (stalking in the third degree); section
21 120.55 (stalking in the second degree); section 120.60 (stalking in the
22 first degree); SUBDIVISION ONE OF SECTION 130.33 (RAPE IN THE SECOND
23 DEGREE); PARAGRAPH (A) OF subdivision one AND PARAGRAPH (A) OF SUBDIVI-
24 SION TWO of section 130.35 (rape in the first degree); [subdivision one
25 of section 130.50 (criminal sexual act in the first degree);] subdivi-
26 sion one of section 130.65 (sexual abuse in the first degree); [para-
27 graph (a) of subdivision one of section 130.67 (aggravated sexual abuse
28 in the second degree); paragraph (a) of subdivision one of section
29 130.70 (aggravated sexual abuse in the first degree);] section 135.05
30 (unlawful imprisonment in the second degree); section 135.10 (unlawful
31 imprisonment in the first degree); section 135.20 (kidnapping in the
32 second degree); section 135.25 (kidnapping in the first degree); section
33 135.60 (coercion in the second degree); section 135.65 (coercion in the
34 first degree); section 140.10 (criminal trespass in the third degree);
35 section 140.15 (criminal trespass in the second degree); section 140.17
36 (criminal trespass in the first degree); section 140.20 (burglary in the
37 third degree); section 140.25 (burglary in the second degree); section
38 140.30 (burglary in the first degree); section 145.00 (criminal mischief
39 in the fourth degree); section 145.05 (criminal mischief in the third
40 degree); section 145.10 (criminal mischief in the second degree);
41 section 145.12 (criminal mischief in the first degree); section 150.05
42 (arson in the fourth degree); section 150.10 (arson in the third
43 degree); section 150.15 (arson in the second degree); section 150.20
44 (arson in the first degree); section 155.25 (petit larceny); section
45 155.30 (grand larceny in the fourth degree); section 155.35 (grand
46 larceny in the third degree); section 155.40 (grand larceny in the
47 second degree); section 155.42 (grand larceny in the first degree);
48 section 160.05 (robbery in the third degree); section 160.10 (robbery in
49 the second degree); section 160.15 (robbery in the first degree);
50 section 240.25 (harassment in the first degree); subdivision one, two or
51 four of section 240.30 (aggravated harassment in the second degree); or
52 any attempt or conspiracy to commit any of the foregoing offenses.

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

55 42. "Juvenile offender" means (1) a person, thirteen years old who is
56 criminally responsible for acts constituting murder in the second degree

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

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

28 (a) A prosecution for a class A felony, or rape in the first degree as
29 defined in section 130.35 of the penal law, [or a crime defined or
30 formerly defined in section 130.50 of the penal law, or aggravated sexu-
31 al abuse in the first degree as defined in section 130.70 of the penal
32 law,] or course of sexual conduct against a child in the first degree as
33 defined in section 130.75 of the penal law may be commenced at any time;

34 S 17. Paragraphs (a) and (b) of subdivision 1, the opening paragraph
35 of subdivision 2 and paragraph (a) of subdivision 3 of section 140.20 of
36 the criminal procedure law, paragraphs (a) and (b) of subdivision 1 as
37 amended by chapter 324 of the laws of 1988, the opening paragraph of
38 subdivision 2 and paragraph (a) of subdivision 3 as amended by chapter
39 550 of the laws of 1987, are amended to read as follows:

40 (a) If the arrest is for an offense other than a class A, B, C or D
41 felony or a violation of SUBDIVISION ONE, TWO OR THREE OF section
42 130.25, [130.40,] OR SECTION 205.10, 205.17, 205.19 or 215.56 of the
43 penal law committed in a town, but not in a village thereof having a
44 village court, and the town court of such town is not available at the
45 time, the arrested person may be brought before the local criminal court
46 of any village within such town or, any adjoining town, village embraced
47 in whole or in part by such adjoining town, or city of the same county;
48 and

49 (b) If the arrest is for an offense other than a class A, B, C or D
50 felony or a violation of SUBDIVISION ONE, TWO OR THREE OF section
51 130.25, [130.40,] OR SECTION 205.10, 205.17, 205.19 or 215.56 of the
52 penal law committed in a village having a village court and such court
53 is not available at the time, the arrested person may be brought before
54 the town court of the town embracing such village or any other village
55 court within such town, or, if such town or village court is not avail-
56 able either, before the local criminal court of any adjoining town,

1 village embraced in whole or in part by such adjoining town, or city of
2 the same county; and

3 If the arrest is for an offense other than a class A, B, C or D felony
4 or a violation of SUBDIVISION ONE, TWO OR THREE OF section 130.25,
5 [130.40,] OR SECTION 205.10, 205.17, 205.19 or 215.56 of the penal law,
6 the arrested person need not be brought before a local criminal court as
7 provided in subdivision one, and the procedure may instead be as
8 follows:

9 (a) the arrest is for an offense other than a class A, B, C or D felo-
10 ny or a violation of SUBDIVISION ONE, TWO OR THREE OF section 130.25,
11 [130.40,] OR SECTION 205.10, 205.17, 205.19 or 215.56 of the penal law,
12 and

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

17 (a) the arrest is for an offense other than a class A, B, C or D felo-
18 ny or a violation of SUBDIVISION ONE, TWO OR THREE OF section 130.25,
19 [130.40,] OR SECTION 205.10, 205.17, 205.19 or 215.56 of the penal law
20 and

21 If the arrest is for an offense other than a class A, B, C or D felony
22 or a violation of SUBDIVISION ONE, TWO OR THREE OF section 130.25,
23 [130.40,] OR SECTION 205.10, 205.17, 205.19 or 215.56 of the penal law,
24 the arrested person need not be brought before a local criminal court as
25 provided in subdivision two, and the procedure may instead be as
26 follows:

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

31 (a) the arrest is for an offense other than a class A, B, C or D felo-
32 ny or a violation of SUBDIVISION ONE, TWO OR THREE OF section 130.25,
33 [130.40,] OR SECTION 205.10, 205.17, 205.19 or 215.56 of the penal law
34 and

35 If the arrest is for an offense other than a class A, B, C or D felony
36 or a violation of SUBDIVISION ONE, TWO OR THREE OF section 130.25,
37 [130.40,] OR SECTION 205.10, 205.17, 205.19 or 215.56 of the penal law,
38 the arrested person need not be brought before a local criminal court,
39 as provided in subdivision one, and the procedure may instead be as
40 follows:

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

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

45 1. Whenever a police officer is authorized pursuant to section 140.10
46 to arrest a person without a warrant for an offense other than a class
47 A, B, C or D felony or a violation of SUBDIVISION ONE, TWO OR THREE OF
48 section 130.25, [130.40,] OR SECTION 205.10, 205.17, 205.19 or 215.56 of
49 the penal law, he may, subject to the provisions of subdivisions three
50 and four of section 150.40, instead issue to and serve upon such person
51 an appearance ticket.

52 2. (a) Whenever a police officer has arrested a person without a
53 warrant for an offense other than a class A, B, C or D felony or a
54 violation of SUBDIVISION ONE, TWO OR THREE OF section 130.25, [130.40,]
55 OR SECTION 205.10, 205.17, 205.19 or 215.56 of the penal law pursuant to
56 section 140.10, or (b) whenever a peace officer, who is not authorized

1 by law to issue an appearance ticket, has arrested a person for an
2 offense other than a class A, B, C or D felony or a violation of SUBDI-
3 VISION ONE, TWO OR THREE OF section 130.25, [130.40,] OR SECTION 205.10,
4 205.17, 205.19 or 215.56 of the penal law pursuant to section 140.25,
5 and has requested a police officer to issue and serve upon such arrested
6 person an appearance ticket pursuant to subdivision four of section
7 140.27, or (c) whenever a person has been arrested for an offense other
8 than a class A, B, C or D felony or a violation of SUBDIVISION ONE, TWO
9 OR THREE OF section 130.25, [130.40,] OR SECTION 205.10, 205.17, 205.19
10 or 215.56 of the penal law and has been delivered to the custody of an
11 appropriate police officer pursuant to section 140.40, such police offi-
12 cer may, instead of bringing such person before a local criminal court
13 and promptly filing or causing the arresting peace officer or arresting
14 person to file a local criminal court accusatory instrument therewith,
15 issue to and serve upon such person an appearance ticket. The issuance
16 and service of an appearance ticket under such circumstances may be
17 conditioned upon a deposit of pre-arraignment bail, as provided in
18 section 150.30.

19 3. A public servant other than a police officer, who is specially
20 authorized by state law or local law enacted pursuant to the provisions
21 of the municipal home rule law to issue and serve appearance tickets
22 with respect to designated offenses other than class A, B, C or D felo-
23 nies or violations of SUBDIVISION ONE, TWO OR THREE OF section 130.25,
24 [130.40,] OR SECTION 205.10, 205.17, 205.19 or 215.56 of the penal law,
25 may in such cases issue and serve upon a person an appearance ticket
26 when he has reasonable cause to believe that such person has committed a
27 crime, or has committed a petty offense in his presence.

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

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

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

55 (a) Except as provided in subdivision six of section 200.20 of this
56 chapter, a grand jury may not indict (i) a person thirteen years of age

1 for any conduct or crime other than conduct constituting a crime defined
2 in subdivisions one and two of section 125.25 (murder in the second
3 degree) or such conduct as a sexually motivated felony, where authorized
4 pursuant to section 130.91 of the penal law; (ii) a person fourteen or
5 fifteen years of age for any conduct or crime other than conduct consti-
6 tuting a crime defined in subdivisions one and two of section 125.25
7 (murder in the second degree) and in subdivision three of such section
8 provided that the underlying crime for the murder charge is one for
9 which such person is criminally responsible; 135.25 (kidnapping in the
10 first degree); 150.20 (arson in the first degree); subdivisions one and
11 two of section 120.10 (assault in the first degree); 125.20 (manslaught-
12 er in the first degree); [subdivisions one and] PARAGRAPHS (A) AND (B)
13 OF SUBDIVISION ONE AND SUBDIVISION two of section 130.35 (rape in the
14 first degree); [subdivisions one and two of section 130.50 (criminal
15 sexual act in the first degree); 130.70 (aggravated sexual abuse in the
16 first degree);] 140.30 (burglary in the first degree); subdivision one
17 of section 140.25 (burglary in the second degree); 150.15 (arson in the
18 second degree); 160.15 (robbery in the first degree); subdivision two of
19 section 160.10 (robbery in the second degree) of the penal law; subdivi-
20 sion four of section 265.02 of the penal law, where such firearm is
21 possessed on school grounds, as that phrase is defined in subdivision
22 fourteen of section 220.00 of the penal law; or section 265.03 of the
23 penal law, where such machine gun or such firearm is possessed on school
24 grounds, as that phrase is defined in subdivision fourteen of section
25 220.00 of the penal law; or defined in the penal law as an attempt to
26 commit murder in the second degree or kidnapping in the first degree, or
27 such conduct as a sexually motivated felony, where authorized pursuant
28 to section 130.91 of the penal law.

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

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

50 S 24. Subparagraph (iii) of paragraph (g) of subdivision 5 of section
51 220.10 of the criminal procedure law, as amended by chapter 264 of the
52 laws of 2003, is amended to read as follows:

53 (iii) Where the indictment does not charge a crime specified in
54 subparagraph (i) of this paragraph, the district attorney may recommend
55 removal of the action to the family court. Upon making such recommenda-
56 tion the district attorney shall submit a subscribed memorandum setting

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

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

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

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

39 6. Regardless of whether the victim requests to make a statement with
40 regard to the defendant's sentence, where the defendant is sentenced for
41 a violent felony offense as defined in section 70.02 of the penal law or
42 a felony defined in article one hundred twenty-five of such law or any
43 of the following provisions of such law sections 130.25, 130.30,
44 [130.40, 130.45] 130.33, 255.25, 255.26, 255.27, article two hundred
45 sixty-three, 135.10, 135.25, 230.05, 230.06, subdivision two of section
46 230.30 or 230.32, OR ANY OFFENSES COMMITTED UNDER A FORMER SECTION OF
47 ARTICLE ONE HUNDRED THIRTY OF THE PENAL LAW WHICH WOULD CONSTITUTE A
48 VIOLATION OF THE AFORESAID SECTIONS OF THE PENAL LAW, the prosecutor
49 shall, within sixty days of the imposition of sentence, provide the
50 victim with a form on which the victim may indicate a demand to be
51 informed of any petition to change the name of such defendant. Such
52 forms shall be maintained by such prosecutor. Upon receipt of a notice
53 of a petition to change the name of any such defendant, pursuant to
54 subdivision two of section sixty-two of the civil rights law, the prose-
55 cutor shall promptly notify the victim at the most current address or
56 telephone number provided by such victim in the most reasonable and

1 expedient possible manner of the time and place such petition will be
2 presented to the court.

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

6 (b) Any of the following felonies: assault in the second degree as
7 defined in section 120.05 of the penal law, assault in the first degree
8 as defined in section 120.10 of the penal law, reckless endangerment in
9 the first degree as defined in section 120.25 of the penal law, promot-
10 ing a suicide attempt as defined in section 120.30 of the penal law,
11 strangulation in the second degree as defined in section 121.12 of the
12 penal law, strangulation in the first degree as defined in section
13 121.13 of the penal law, criminally negligent homicide as defined in
14 section 125.10 of the penal law, manslaughter in the second degree as
15 defined in section 125.15 of the penal law, manslaughter in the first
16 degree as defined in section 125.20 of the penal law, murder in the
17 second degree as defined in section 125.25 of the penal law, murder in
18 the first degree as defined in section 125.27 of the penal law, abortion
19 in the second degree as defined in section 125.40 of the penal law,
20 abortion in the first degree as defined in section 125.45 of the penal
21 law, rape in the [third] FOURTH degree as defined in SUBDIVISION ONE,
22 TWO OR THREE OF section 130.25 of the penal law, rape in the [second]
23 THIRD degree as defined in SUBDIVISION ONE OR TWO OF section 130.30 of
24 the penal law, rape in the first degree as defined in SUBDIVISION ONE OF
25 section 130.35 of the penal law, [criminal sexual act in the third
26 degree as defined in section 130.40 of the penal law, criminal sexual
27 act in the second degree as defined in section 130.45 of the penal law,
28 criminal sexual act in the first degree as defined in section 130.50 of
29 the penal law,] sexual abuse in the first degree as defined in section
30 130.65 of the penal law, unlawful imprisonment in the first degree as
31 defined in section 135.10 of the penal law, kidnapping in the second
32 degree as defined in section 135.20 of the penal law, kidnapping in the
33 first degree as defined in section 135.25 of the penal law, labor traf-
34 ficking as defined in section 135.35 of the penal law, custodial inter-
35 ference in the first degree as defined in section 135.50 of the penal
36 law, coercion in the first degree as defined in section 135.65 of the
37 penal law, criminal trespass in the first degree as defined in section
38 140.17 of the penal law, burglary in the third degree as defined in
39 section 140.20 of the penal law, burglary in the second degree as
40 defined in section 140.25 of the penal law, burglary in the first degree
41 as defined in section 140.30 of the penal law, criminal mischief in the
42 third degree as defined in section 145.05 of the penal law, criminal
43 mischief in the second degree as defined in section 145.10 of the penal
44 law, criminal mischief in the first degree as defined in section 145.12
45 of the penal law, criminal tampering in the first degree as defined in
46 section 145.20 of the penal law, arson in the fourth degree as defined
47 in section 150.05 of the penal law, arson in the third degree as defined
48 in section 150.10 of the penal law, arson in the second degree as
49 defined in section 150.15 of the penal law, arson in the first degree as
50 defined in section 150.20 of the penal law, grand larceny in the fourth
51 degree as defined in section 155.30 of the penal law, grand larceny in
52 the third degree as defined in section 155.35 of the penal law, grand
53 larceny in the second degree as defined in section 155.40 of the penal
54 law, grand larceny in the first degree as defined in section 155.42 of
55 the penal law, health care fraud in the fourth degree as defined in
56 section 177.10 of the penal law, health care fraud in the third degree

1 as defined in section 177.15 of the penal law, health care fraud in the
2 second degree as defined in section 177.20 of the penal law, health care
3 fraud in the first degree as defined in section 177.25 of the penal law,
4 robbery in the third degree as defined in section 160.05 of the penal
5 law, robbery in the second degree as defined in section 160.10 of the
6 penal law, robbery in the first degree as defined in section 160.15 of
7 the penal law, unlawful use of secret scientific material as defined in
8 section 165.07 of the penal law, criminal possession of stolen property
9 in the fourth degree as defined in section 165.45 of the penal law,
10 criminal possession of stolen property in the third degree as defined in
11 section 165.50 of the penal law, criminal possession of stolen property
12 in the second degree as defined by section 165.52 of the penal law,
13 criminal possession of stolen property in the first degree as defined by
14 section 165.54 of the penal law, trademark counterfeiting in the second
15 degree as defined in section 165.72 of the penal law, trademark counter-
16 feiting in the first degree as defined in section 165.73 of the penal
17 law, forgery in the second degree as defined in section 170.10 of the
18 penal law, forgery in the first degree as defined in section 170.15 of
19 the penal law, criminal possession of a forged instrument in the second
20 degree as defined in section 170.25 of the penal law, criminal
21 possession of a forged instrument in the first degree as defined in
22 section 170.30 of the penal law, criminal possession of forgery devices
23 as defined in section 170.40 of the penal law, falsifying business
24 records in the first degree as defined in section 175.10 of the penal
25 law, tampering with public records in the first degree as defined in
26 section 175.25 of the penal law, offering a false instrument for filing
27 in the first degree as defined in section 175.35 of the penal law, issu-
28 ing a false certificate as defined in section 175.40 of the penal law,
29 criminal diversion of prescription medications and prescriptions in the
30 second degree as defined in section 178.20 of the penal law, criminal
31 diversion of prescription medications and prescriptions in the first
32 degree as defined in section 178.25 of the penal law, residential mort-
33 gage fraud in the fourth degree as defined in section 187.10 of the
34 penal law, residential mortgage fraud in the third degree as defined in
35 section 187.15 of the penal law, residential mortgage fraud in the
36 second degree as defined in section 187.20 of the penal law, residential
37 mortgage fraud in the first degree as defined in section 187.25 of the
38 penal law, escape in the second degree as defined in section 205.10 of
39 the penal law, escape in the first degree as defined in section 205.15
40 of the penal law, absconding from temporary release in the first degree
41 as defined in section 205.17 of the penal law, promoting prison contra-
42 band in the first degree as defined in section 205.25 of the penal law,
43 hindering prosecution in the second degree as defined in section 205.60
44 of the penal law, hindering prosecution in the first degree as defined
45 in section 205.65 of the penal law, sex trafficking as defined in
46 section 230.34 of the penal law, criminal possession of a weapon in the
47 third degree as defined in subdivisions two, three and five of section
48 265.02 of the penal law, criminal possession of a weapon in the second
49 degree as defined in section 265.03 of the penal law, criminal
50 possession of a weapon in the first degree as defined in section 265.04
51 of the penal law, manufacture, transport, disposition and defacement of
52 weapons and dangerous instruments and appliances defined as felonies in
53 subdivisions one, two, and three of section 265.10 of the penal law,
54 sections 265.11, 265.12 and 265.13 of the penal law, or prohibited use
55 of weapons as defined in subdivision two of section 265.35 of the penal
56 law, relating to firearms and other dangerous weapons, or failure to

disclose the origin of a recording in the first degree as defined in section 275.40 of the penal law;

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

(a) (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 SUBDIVISION ONE, TWO OR THREE OF SECTION 130.25, OR SUBDIVISION ONE OR TWO OF SECTION 130.30, 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, or subdivision two of section 230.30, or section 230.32 or 230.33 of the penal law, or (ii) a conviction of or a conviction for an attempt to commit any of the provisions of section 235.22 of the penal law, or (iii) a conviction of or a conviction for an attempt to commit any provisions of the foregoing sections committed or attempted as a hate crime defined in section 485.05 of the penal law or as a crime of terrorism defined in section 490.25 of such law or as a sexually motivated felony defined in section 130.91 of such law; or (IV) ANY OFFENSE COMMITTED UNDER A FORMER SECTION OF ARTICLE ONE HUNDRED THIRTY OF THE PENAL LAW WHICH WOULD CONSTITUTE A VIOLATION OF THE AFORESAID SECTIONS OF THE PENAL LAW; OR

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

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

(ii) the child has been found to be an abused child, as defined in paragraph (iii) of subdivision (e) of section ten hundred twelve of the family court act, as a result of such parent's acts; provided, however, the respondent must have committed or knowingly allowed to be committed a felony sex offense as defined in [sections] SUBDIVISION ONE, TWO OR THREE OF SECTION 130.25[,] OR 130.30, OR SECTIONS 130.33, 130.35, [130.40, 130.45, 130.50,] 130.65, [130.67, 130.70,] 130.75 and 130.80 of the penal law and, for the purposes of this section the corroboration requirements contained in the penal law shall not apply to proceedings under this section; or

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

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

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

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

51 (4) (a) The offenses referred to in subparagraph (ii) of paragraph (a)
52 of subdivision one and paragraph (a) of subdivision two of this section
53 that result in permanent disqualification shall include a conviction
54 under sections 125.12, 125.13, 125.14, 125.15, 125.20, 125.21, 125.22,
55 125.25, 125.26, 125.27, 130.30, 130.33, 130.35, [130.45, 130.50,]
56 130.65, [130.66, 130.67, 130.70,] 130.75, 130.80, 130.90, 130.95,

1 130.96, 135.25, 150.20, 230.30, 230.32, 230.34, 235.22, 263.05, 263.10,
2 263.11, 263.15, 263.16 of the penal law or an attempt to commit any of
3 the aforesaid offenses under section 110.00 of the penal law, or any
4 offenses committed under a former section of the penal law which would
5 constitute violations of the aforesaid sections of the penal law, or any
6 offenses committed outside this state which would constitute violations
7 of the aforesaid sections of the penal law.

8 (b) The offenses referred to in subparagraph (ii) of paragraph (a) of
9 subdivision one and paragraph (b) of subdivision two of this section
10 that result in permanent disqualification shall include a conviction
11 under sections 100.13, 105.15, 105.17, 115.08, 120.12, 120.70, 125.10,
12 125.11, [130.40,] 130.25, 130.53, 130.60, [130.65-a,] 135.20, 160.15,
13 220.18, 220.21, 220.39, 220.41, 220.43, 220.44, 230.25, 260.00, 265.04
14 of the penal law or an attempt to commit any of the aforesaid offenses
15 under section 110.00 of the penal law, or any offenses committed under a
16 former section of the penal law which would constitute violations of the
17 aforesaid sections of the penal law, or any offenses committed outside
18 this state which would constitute violations of the aforesaid sections
19 of the penal law.

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

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

40 (b) For every juvenile delinquency proceeding under article three
41 involving an allegation of an act committed by a person which, if done
42 by an adult, would be a crime (i) defined in sections 125.27 (murder in
43 the first degree); 125.25 (murder in the second degree); 135.25 (kidnap-
44 ping in the first degree); or 150.20 (arson in the first degree) of the
45 penal law committed by a person thirteen, fourteen or fifteen years of
46 age; or such conduct committed as a sexually motivated felony, where
47 authorized pursuant to section 130.91 of the penal law; (ii) defined in
48 sections 120.10 (assault in the first degree); 125.20 (manslaughter in
49 the first degree); SUBDIVISION ONE OF SECTION 130.35 (rape in the first
50 degree); [130.50 (criminal sexual act in the first degree);] SECTION
51 135.20 (kidnapping in the second degree), but only where the abduction
52 involved the use or threat of use of deadly physical force; 150.15
53 (arson in the second degree); or 160.15 (robbery in the first degree) of
54 the penal law committed by a person thirteen, fourteen or fifteen years
55 of age; or such conduct committed as a sexually motivated felony, where
56 authorized pursuant to section 130.91 of the penal law; (iii) defined in

1 the penal law as an attempt to commit murder in the first or second
2 degree or kidnapping in the first degree committed by a person thirteen,
3 fourteen or fifteen years of age; or such conduct committed as a sexual-
4 ly motivated felony, where authorized pursuant to section 130.91 of the
5 penal law; (iv) defined in section 140.30 (burglary in the first
6 degree); subdivision one of section 140.25 (burglary in the second
7 degree); subdivision two of section 160.10 (robbery in the second
8 degree) of the penal law; or section 265.03 of the penal law, where such
9 machine gun or such firearm is possessed on school grounds, as that
10 phrase is defined in subdivision fourteen of section 220.00 of the penal
11 law committed by a person fourteen or fifteen years of age; or such
12 conduct committed as a sexually motivated felony, where authorized
13 pursuant to section 130.91 of the penal law; (v) defined in section
14 120.05 (assault in the second degree) or 160.10 (robbery in the second
15 degree) of the penal law committed by a person fourteen or fifteen years
16 of age but only where there has been a prior finding by a court that
17 such person has previously committed an act which, if committed by an
18 adult, would be the crime of assault in the second degree, robbery in
19 the second degree or any designated felony act specified in clause (i),
20 (ii) or (iii) of this subdivision regardless of the age of such person
21 at the time of the commission of the prior act; or (vi) other than a
22 misdemeanor, committed by a person at least seven but less than sixteen
23 years of age, but only where there has been two prior findings by the
24 court that such person has committed a prior act which, if committed by
25 an adult would be a felony:

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

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

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

38 (ii) defined in sections 120.10 (assault in the first degree); 125.20
39 (manslaughter in the first degree); 130.35 (rape in the first degree);
40 [130.50 (criminal sexual act in the first degree); 130.70 (aggravated
41 sexual abuse in the first degree);] 135.20 (kidnapping in the second
42 degree) but only where the abduction involved the use or threat of use
43 of deadly physical force; 150.15 (arson in the second degree) or 160.15
44 (robbery in the first degree) of the penal law committed by a person
45 thirteen, fourteen or fifteen years of age; or such conduct committed as
46 a sexually motivated felony, where authorized pursuant to section 130.91
47 of the penal law;

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

51 4. The probation service shall not adjust a case in which the child
52 has allegedly committed a delinquent act which would be a crime defined
53 in section 120.25, (reckless endangerment in the first degree), subdivi-
54 sion one of section 125.15, (manslaughter in the second degree), subdivi-
55 sion one of section 130.25, (rape in the [third] FOURTH degree),
56 [subdivision one of section 130.40, (criminal sexual act in the third

1 degree),] subdivision one or two of section 130.65, (sexual abuse in the
2 first degree), section 135.65, (coercion in the first degree), section
3 140.20, (burglary in the third degree), section 150.10, (arson in the
4 third degree), section 160.05, (robbery in the third degree), subdivi-
5 sion two, three or four of section 265.02, (criminal possession of a
6 weapon in the third degree), section 265.03, (criminal possession of a
7 weapon in the second degree), or section 265.04, (criminal possession of
8 a dangerous weapon in the first degree) of the penal law where the child
9 has previously had one or more adjustments of a case in which such child
10 allegedly committed an act which would be a crime specified in this
11 subdivision unless it has received written approval from the court and
12 the appropriate presentment agency.

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

15 (c) Prior to granting an order of disposition pursuant to subdivision
16 (a) of this section following an adjudication of child abuse, as defined
17 in paragraph (i) of subdivision (e) of section ten hundred twelve of
18 this act or a finding of a felony sex offense as defined in [sections]
19 SUBDIVISION ONE, TWO OR THREE OF SECTION 130.25, SUBDIVISION ONE OR TWO
20 OF SECTION 130.30, OR SECTION 130.35, [130.40, 130.45, 130.50,] OR
21 130.65 [and 130.70] of the penal law, the court shall advise the
22 respondent that any subsequent adjudication of child abuse, as defined
23 in paragraph (i) of subdivision (e) of section one thousand twelve of
24 this act or any subsequent finding of a felony sex offense as defined in
25 those sections of the penal law herein enumerated, arising out of acts
26 of the respondent may result in the commitment of the guardianship and
27 custody of the child or another child pursuant to section three hundred
28 eighty-four-b of the social services law. The order in such cases shall
29 contain a statement that any subsequent adjudication of child abuse or
30 finding of a felony sex offense as described herein may result in the
31 commitment of the guardianship and custody of the child, or another
32 child pursuant to section three hundred eighty-four-b of the social
33 services law.

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

37 2. If the petitioner stands convicted of a violent felony offense as
38 defined in section 70.02 of the penal law or a felony defined in article
39 one hundred twenty-five of such law or any of the following provisions
40 of such law sections 130.25, 130.30, [130.40, 130.45,] 255.25, 255.26,
41 255.27, article two hundred sixty-three, 135.10, 135.25, 230.05, 230.06,
42 subdivision two of section 230.30 or 230.32, and is currently confined
43 as an inmate in any correctional facility or currently under the super-
44 vision of the department of corrections and community supervision or a
45 county probation department as a result of such conviction, the petition
46 shall for each such conviction specify such felony conviction, the date
47 of such conviction or convictions, and the court in which such
48 conviction or convictions were entered.

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

52 2. If the petition be to change the name of a person currently
53 confined as an inmate in any correctional facility or currently under
54 the supervision of the department of corrections and community super-
55 vision or a county probation department as a result of a conviction for
56 a violent felony offense as defined in section 70.02 of the penal law or

1 a felony defined in article one hundred twenty-five of such law or any
2 of the following provisions of such law sections 130.25, 130.30,
3 [130.40, 130.45,] 255.25, 255.26, 255.27, article two hundred sixty-
4 three, 135.10, 135.25, 230.05, 230.06, subdivision two of section 230.30
5 or 230.32, notice of the time and place when and where the petition will
6 be presented shall be served, in like manner as a notice of a motion
7 upon an attorney in an action, upon the district attorney of every coun-
8 ty in which such person has been convicted of such felony and upon the
9 court or courts in which the sentence for such felony was entered.
10 Unless a shorter period of time is ordered by the court, said notice
11 shall be served upon each such district attorney and court or courts not
12 less than sixty days prior to the date on which such petition is noticed
13 to be heard.

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

17 Upon compliance with the order and the filing of the affidavit of the
18 publication, as provided in this section, the clerk of the court in
19 which the order has been entered shall certify that the order has been
20 complied with; and, if the petition states that the petitioner stands
21 convicted of a violent felony offense as defined in section 70.02 of the
22 penal law or a felony defined in article one hundred twenty-five of such
23 law or any of the following provisions of such law sections 130.25,
24 130.30, [130.40, 130.45,] 255.25, 255.26, 255.27, article two hundred
25 sixty-three, 135.10, 135.25, 230.05, 230.06, subdivision two of section
26 230.30 or 230.32, such clerk (1) shall deliver, by first class mail, a
27 copy of such certified order to the division of criminal justice
28 services at its office in the county of Albany and (2) upon the clerk of
29 the court reviewing the petitioner's application for name change and
30 subsequent in-court inquiry, may, in the clerk's discretion, deliver, by
31 first class mail, the petitioner's new name with such certified order to
32 the court of competent jurisdiction which imposed the orders of support.
33 Such certification shall appear on the original order and on any certi-
34 fied copy thereof and shall be entered in the clerk's minutes of the
35 proceeding.

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

38 S 213-c. Action by victim of conduct constituting certain sexual
39 offenses. Notwithstanding any other limitation set forth in this arti-
40 cle, a civil claim or cause of action to recover from a defendant as
41 hereinafter defined, for physical, psychological or other injury or
42 condition suffered by a person as a result of acts by such defendant of
43 rape in the first degree as defined in section 130.35 of the penal law,
44 [or criminal sexual act in the first degree as defined in section 130.50
45 of the penal law, or aggravated sexual abuse in the first degree as
46 defined in section 130.70 of the penal law,] or course of sexual conduct
47 against a child in the first degree as defined in section 130.75 of the
48 penal law may be brought within five years. As used in this section, the
49 term "defendant" shall mean only a person who commits the acts described
50 in this section or who, in a criminal proceeding, could be charged with
51 criminal liability for the commission of such acts pursuant to section
52 20.00 of the penal law and shall not apply to any related civil claim or
53 cause of action arising from such acts. Nothing in this section shall be
54 construed to require that a criminal charge be brought or a criminal
55 conviction be obtained as a condition of bringing a civil cause of
56 action or receiving a civil judgment pursuant to this section or be

1 construed to require that any of the rules governing a criminal proceed-
2 ing be applicable to any such civil action.

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

6 (b) Whenever it is shown that a criminal action against the same
7 defendant has been commenced with respect to the event or occurrence
8 from which a claim governed by this section arises, and such criminal
9 action is for rape in the first degree as defined in section 130.35 of
10 the penal law, [or criminal sexual act in the first degree as defined in
11 section 130.50 of the penal law, or aggravated sexual abuse in the first
12 degree as defined in section 130.70 of the penal law,] or course of
13 sexual conduct against a child in the first degree as defined in section
14 130.75 of the penal law, the plaintiff shall have at least five years
15 from the termination of the criminal action as defined in section 1.20
16 of the criminal procedure law in which to commence the civil action,
17 notwithstanding that the time in which to commence such action has
18 already expired or has less than a year remaining.

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

23 11. The owner shall not be liable pursuant to subdivision six, seven,
24 eight, nine or ten of this section if the dog was coming to the aid or
25 defense of a person during the commission or attempted commission of a
26 murder, robbery, burglary, arson, rape in the first degree as defined in
27 PARAGRAPH (A) OR (B) OF subdivision one [or two] of section 130.35 of
28 the penal law[, criminal sexual act in the first degree as defined in
29 subdivision one or two of section 130.50 of the penal law] or kidnapping
30 within the dwelling or upon the real property of the owner of the dog
31 and the dog injured or killed the person committing such criminal activ-
32 ity.

33 S 41. This act shall take effect on the ninetieth day after it shall
34 have become a law provided that if section 27 of chapter 1 of the laws
35 of 2013 is not in effect on such date then the amendments made to para-
36 graphs (b) and (c) of subdivision 1 of section 70.02 of the penal law
37 made by section four of this act shall take effect on the same date and
38 in the same manner as section 27 of chapter 1 of the laws of 2013 takes
39 effect and shall apply to any offense on or after such effective date.
40 As it pertains to the repealed sections of law, nothing in this act
41 shall affect a requirement to register pursuant to article 6-C of the
42 correction law; a lawfully required disclosure of a conviction; any
43 restriction or prohibition for certain types of employment, housing, or
44 government benefit; or any other ongoing matter related to a conviction
45 of the sections repealed in this act.