

5418

2015-2016 Regular Sessions

I N A S S E M B L Y

February 23, 2015

Introduced by M. of A. CUSICK, COLTON, FITZPATRICK, SCARBOROUGH,
GUNTHER, TITONE, SIMANOWITZ, BRINDISI -- Multi-Sponsored by -- M. of
A. ABBATE, CERETTO, COOK, CROUCH, DUPREY, GRAF, LOPEZ, RAIA, TENNEY,
THIELE -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to the timeli-
ness of prosecutions for certain sex offenses; to amend the civil
practice law and rules, the general municipal law, the court of claims
act and the education law, in relation to the timeliness for commenc-
ing certain civil actions related to sex offenses

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

1 Section 1. Paragraph (f) of subdivision 3 of section 30.10 of the
2 criminal procedure law, as separately amended by chapters 3 and 320 of
3 the laws of 2006, is amended to read as follows:
4 (f) For purposes of a prosecution involving a sexual offense as
5 defined in article one hundred thirty of the penal law, other than a
6 sexual offense delineated in paragraph (a) of subdivision two of this
7 section, committed against a child less than eighteen years of age,
8 incest in the first, second or third degree as defined in sections
9 255.27, 255.26 and 255.25 of the penal law committed against a child
10 less than eighteen years of age, or use of a child in a sexual perform-
11 ance as defined in section 263.05 of the penal law, the period of limi-
12 tation shall not begin to run until the child has reached the age of
13 [eighteen] TWENTY-THREE or the offense is reported to a law enforcement
14 agency or statewide central register of child abuse and maltreatment,
15 whichever occurs earlier.
16 S 2. The opening paragraph of section 208 of the civil practice law
17 and rules is designated subdivision (a) and a new subdivision (b) is
18 added to read as follows:
19 (B) NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION (A) OF THIS SECTION,
20 WITH RESPECT TO ALL CIVIL CLAIMS OR CAUSES OF ACTION BROUGHT BY ANY

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

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1 PERSON FOR PHYSICAL, PSYCHOLOGICAL OR OTHER INJURY OR CONDITION SUFFERED
2 AS A RESULT OF CONDUCT OF A DEFENDANT WHICH WOULD CONSTITUTE A SEXUAL
3 OFFENSE AS DEFINED IN ARTICLE ONE HUNDRED THIRTY OF THE PENAL LAW
4 COMMITTED AGAINST A CHILD LESS THAN EIGHTEEN YEARS OF AGE, INCEST AS
5 DEFINED IN SECTION 255.25, 255.26 OR 255.27 OF THE PENAL LAW COMMITTED
6 AGAINST A CHILD LESS THAN EIGHTEEN YEARS OF AGE, OR THE USE OF A CHILD
7 IN A SEXUAL PERFORMANCE AS DEFINED IN SECTION 263.05 OF THE PENAL LAW,
8 OR A PREDECESSOR STATUTE THAT PROHIBITED SUCH CONDUCT AT THE TIME OF THE
9 ACT, WHICH CONDUCT WAS COMMITTED AGAINST A CHILD LESS THAN EIGHTEEN
10 YEARS OF AGE, THE TIME WITHIN WHICH THE ACTION MUST BE COMMENCED SHALL
11 BE EXTENDED TO FIVE YEARS AFTER THE PERSON REACHES THE AGE OF
12 TWENTY-THREE YEARS.

13 S 3. Subdivision 8 of section 50-e of the general municipal law, as
14 amended by chapter 24 of the laws of 1988, is amended to read as
15 follows:

16 8. Inapplicability of section. (A) This section shall not apply to
17 claims arising under the provisions of the workers' compensation law,
18 the volunteer firefighters' benefit law, or the volunteer ambulance
19 workers' benefit law or to claims against public corporations by their
20 own infant wards.

21 (B) THIS SECTION SHALL NOT APPLY TO ANY CLAIM MADE FOR PHYSICAL,
22 PSYCHOLOGICAL, OR OTHER INJURY OR CONDITION SUFFERED AS A RESULT OF
23 CONDUCT OF A DEFENDANT WHICH WOULD CONSTITUTE A SEXUAL OFFENSE AS
24 DEFINED IN ARTICLE ONE HUNDRED THIRTY OF THE PENAL LAW COMMITTED AGAINST
25 A CHILD LESS THAN EIGHTEEN YEARS OF AGE, INCEST AS DEFINED IN SECTION
26 255.25, 255.26 OR 255.27 OF THE PENAL LAW COMMITTED AGAINST A CHILD LESS
27 THAN EIGHTEEN YEARS OF AGE, OR THE USE OF A CHILD IN A SEXUAL PERFORM-
28 ANCE AS DEFINED IN SECTION 263.05 OF THE PENAL LAW COMMITTED AGAINST A
29 CHILD LESS THAN EIGHTEEN YEARS OF AGE.

30 S 4. Section 50-i of the general municipal law is amended by adding a
31 new subdivision 5 to read as follows:

32 5. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THIS SECTION
33 SHALL NOT APPLY TO ANY CLAIM MADE AGAINST A CITY, COUNTY, TOWN, VILLAGE,
34 FIRE DISTRICT OR SCHOOL DISTRICT FOR PHYSICAL, PSYCHOLOGICAL, OR OTHER
35 INJURY OR CONDITION SUFFERED AS A RESULT OF CONDUCT OF A DEFENDANT WHICH
36 WOULD CONSTITUTE A SEXUAL OFFENSE AS DEFINED IN ARTICLE ONE HUNDRED
37 THIRTY OF THE PENAL LAW COMMITTED AGAINST A CHILD LESS THAN EIGHTEEN
38 YEARS OF AGE, INCEST AS DEFINED IN SECTION 255.25, 255.26 OR 255.27 OF
39 THE PENAL LAW COMMITTED AGAINST A CHILD LESS THAN EIGHTEEN YEARS OF AGE,
40 OR THE USE OF A CHILD IN A SEXUAL PERFORMANCE AS DEFINED IN SECTION
41 263.05 OF THE PENAL LAW COMMITTED AGAINST A CHILD LESS THAN EIGHTEEN
42 YEARS OF AGE.

43 S 5. Section 10 of the court of claims act is amended by adding a new
44 subdivision 10 to read as follows:

45 10. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THIS SECTION
46 SHALL NOT APPLY TO ANY CLAIM TO RECOVER DAMAGES FOR PHYSICAL, PSYCHOLOG-
47 ICAL, OR OTHER INJURY OR CONDITION SUFFERED AS A RESULT OF CONDUCT OF A
48 DEFENDANT WHICH WOULD CONSTITUTE A SEXUAL OFFENSE AS DEFINED IN ARTICLE
49 ONE HUNDRED THIRTY OF THE PENAL LAW COMMITTED AGAINST A CHILD LESS THAN
50 EIGHTEEN YEARS OF AGE, INCEST AS DEFINED IN SECTION 255.25, 255.26 OR
51 255.27 OF THE PENAL LAW COMMITTED AGAINST A CHILD LESS THAN EIGHTEEN
52 YEARS OF AGE, OR THE USE OF A CHILD IN A SEXUAL PERFORMANCE AS DEFINED
53 IN SECTION 263.05 OF THE PENAL LAW COMMITTED AGAINST A CHILD LESS THAN
54 EIGHTEEN YEARS OF AGE.

55 S 6. Subdivision 2 of section 3813 of the education law, as amended by
56 chapter 346 of the laws of 1978, is amended to read as follows:

1 2. Notwithstanding anything to the contrary hereinbefore contained in
2 this section, no action or special proceeding founded upon tort shall be
3 prosecuted or maintained against any of the parties named in this
4 section or against any teacher or member of the supervisory or adminis-
5 trative staff or employee where the alleged tort was committed by such
6 teacher or member or employee acting in the discharge of his duties
7 within the scope of his employment and/or under the direction of the
8 board of education, trustee or trustees, or governing body of the school
9 unless a notice of claim shall have been made and served in compliance
10 with section fifty-e of the general municipal law. Every such action
11 shall be commenced pursuant to the provisions of section fifty-i of the
12 general municipal law, PROVIDED, HOWEVER, THAT THIS SECTION SHALL NOT
13 APPLY TO ANY CLAIM TO RECOVER DAMAGES FOR PHYSICAL, PSYCHOLOGICAL, OR
14 OTHER INJURY OR CONDITION SUFFERED AS A RESULT OF CONDUCT OF A DEFENDANT
15 WHICH WOULD CONSTITUTE A SEXUAL OFFENSE AS DEFINED IN ARTICLE ONE
16 HUNDRED THIRTY OF THE PENAL LAW COMMITTED AGAINST A CHILD LESS THAN
17 EIGHTEEN YEARS OF AGE, INCEST AS DEFINED IN SECTION 255.25, 255.26 OR
18 255.27 OF THE PENAL LAW COMMITTED AGAINST A CHILD LESS THAN EIGHTEEN
19 YEARS OF AGE, OR THE USE OF A CHILD IN A SEXUAL PERFORMANCE AS DEFINED
20 IN SECTION 263.05 OF THE PENAL LAW COMMITTED AGAINST A CHILD LESS THAN
21 EIGHTEEN YEARS OF AGE.

22 S 7. The provisions of this act shall be severable, and if any
23 clause, sentence, paragraph, subdivision or part of this act shall be
24 adjudged by any court of competent jurisdiction to be invalid, such
25 judgment shall not affect, impair, or invalidate the remainder thereof,
26 but shall be confined in its operation to the clause, sentence, para-
27 graph, subdivision or part thereof directly involved in the controversy
28 in which such judgment shall have been rendered.

29 S 8. This act shall take effect immediately.