

4959

2015-2016 Regular Sessions

I N A S S E M B L Y

February 9, 2015

Introduced by M. of A. SIMOTAS, COLTON, AUBRY, SCARBOROUGH, MARKEY, ENGLEBRIGHT, BRAUNSTEIN, DenDEKKER, BRINDISI, MORELLE, JAFFEE, PERRY, CLARK, COOK, ROBERTS, HOOPER, WEPRIN, SANTABARBARA, SKOUFIS, ROZIC, HEVESI, QUART, LIFTON, GJONAJ, OTIS, SEPULVEDA, McDONALD, MOSLEY -- Multi-Sponsored by -- M. of A. ARROYO, BRENNAN, BUCHWALD, CORWIN, DUPREY, FINCH, FITZPATRICK, GALEF, GLICK, GOODELL, HIKIND, LUPARDO, MALLIOTAKIS, McDONOUGH, MONTESANO, PEOPLES-STOKES, RA, ROBINSON, SCHIMEL, WALTER -- read once and referred 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, the agriculture and markets law and the judiciary 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 and 130.50 of the penal law are
2 REPEALED.
3 S 2. Subdivision 1 of section 130.00 of the penal law is amended to
4 read as follows:
5 1. "Sexual intercourse" [has its ordinary meaning and occurs upon any
6 penetration, however slight] MEANS CONDUCT BETWEEN PERSONS CONSISTING OF
7 CONTACT BETWEEN THE PENIS AND THE VAGINA OR VULVA.
8 S 3. Section 130.25 of the penal law, as amended by chapter 1 of the
9 laws of 2000, is amended to read as follows:
10 S 130.25 Rape in the third degree.
11 A person is guilty of rape in the third degree when:
12 1. He or she engages in sexual intercourse with another person who is
13 incapable of consent by reason of some factor other than being less than
14 seventeen years old;

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

LBD06040-02-5

1 2. HE OR SHE ENGAGES IN ORAL SEXUAL CONDUCT OR ANAL SEXUAL CONDUCT
2 WITH ANOTHER PERSON WHO IS INCAPABLE OF CONSENT BY REASON OF SOME FACTOR
3 OTHER THAN BEING LESS THAN SEVENTEEN YEARS OLD;

4 3. Being twenty-one years old or more, he or she engages in sexual
5 intercourse with another person less than seventeen years old; [or

6 3.] 4. BEING TWENTY-ONE YEARS OLD OR MORE, HE OR SHE ENGAGES IN ORAL
7 SEXUAL CONDUCT OR ANAL SEXUAL CONDUCT WITH ANOTHER PERSON LESS THAN
8 SEVENTEEN YEARS OLD;

9 5. He or she engages in sexual intercourse with another person without
10 such person's consent where such lack of consent is by reason of some
11 factor other than incapacity to consent[.]; OR

12 6. HE OR SHE ENGAGES IN ORAL SEXUAL CONDUCT OR ANAL SEXUAL CONDUCT
13 WITH ANOTHER PERSON WITHOUT SUCH PERSON'S CONSENT WHERE SUCH LACK OF
14 CONSENT IS BY REASON OF SOME FACTOR OTHER THAN INCAPACITY TO CONSENT.

15 Rape in the third degree is a class E felony.

16 S 4. Section 130.30 of the penal law, as amended by chapter 1 of the
17 laws of 2000, is amended to read as follows:

18 S 130.30 Rape in the second degree.

19 A person is guilty of rape in the second degree when:

20 1. being eighteen years old or more, he or she engages in sexual
21 intercourse with another person less than fifteen years old; [or]

22 2. BEING EIGHTEEN YEARS OLD OR MORE, HE OR SHE ENGAGES IN ORAL SEXUAL
23 CONDUCT OR ANAL SEXUAL CONDUCT WITH ANOTHER PERSON LESS THAN FIFTEEN
24 YEARS OLD;

25 3. he or she engages in sexual intercourse with another person who is
26 incapable of consent by reason of being mentally disabled or mentally
27 incapacitated[.] ; OR

28 4. HE OR SHE ENGAGES IN ORAL SEXUAL CONDUCT OR ANAL SEXUAL CONDUCT
29 WITH ANOTHER PERSON WHO IS INCAPABLE OF CONSENT BY REASON OF BEING
30 MENTALLY DISABLED OR MENTALLY INCAPACITATED.

31 It shall be an affirmative defense to the crime of rape in the second
32 degree as defined in [subdivision] SUBDIVISIONS one AND TWO of this
33 section that the defendant was less than four years older than the
34 victim at the time of the act.

35 Rape in the second degree is a class D felony.

36 S 5. Section 130.35 of the penal law, as amended by chapter 1 of the
37 laws of 2000, is amended to read as follows:

38 S 130.35 Rape in the first degree.

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

40 1. he or she engages in sexual intercourse with another person:

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

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

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

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

47 2. HE OR SHE ENGAGES IN ORAL SEXUAL CONDUCT OR ANAL SEXUAL CONDUCT
48 WITH ANOTHER PERSON:

49 (A) BY FORCIBLE COMPULSION; OR

50 (B) WHO IS INCAPABLE OF CONSENT BY REASON OF BEING PHYSICALLY HELP-
51 LESS; OR

52 (C) WHO IS LESS THAN ELEVEN YEARS OLD; OR

53 (D) WHO IS LESS THAN THIRTEEN YEARS OLD AND THE ACTOR IS EIGHTEEN
54 YEARS OLD OR MORE.

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

1 S 6. Paragraph 2 of subdivision 18 of section 10.00 of the penal law,
2 as amended by chapter 7 of the laws of 2007, is amended to read as
3 follows:

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

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

28 2. A person thirteen, fourteen or fifteen years of age is criminally
29 responsible for acts constituting murder in the second degree as defined
30 in subdivisions one and two of section 125.25 and in subdivision three
31 of such section provided that the underlying crime for the murder charge
32 is one for which such person is criminally responsible or for such
33 conduct as a sexually motivated felony, where authorized pursuant to
34 section 130.91 [of the penal law]; and a person fourteen or fifteen
35 years of age is criminally responsible for acts constituting the crimes
36 defined in section 135.25 (kidnapping in the first degree); 150.20
37 (arson in the first degree); subdivisions one and two of section 120.10
38 (assault in the first degree); 125.20 (manslaughter in the first
39 degree); [subdivisions one and] PARAGRAPHS (A) AND (B) OF SUBDIVISION
40 ONE AND PARAGRAPHS (A) AND (B) OF SUBDIVISION two of section 130.35
41 (rape in the first degree); [subdivisions one and two of section 130.50
42 (criminal sexual act in the first degree);] 130.70 (aggravated sexual
43 abuse in the first degree);] 140.30 (burglary in the first degree);
44 subdivision one of section 140.25 (burglary in the second degree);
45 150.15 (arson in the second degree); 160.15 (robbery in the first
46 degree); subdivision two of section 160.10 (robbery in the second
47 degree) of this chapter; or section 265.03 of this chapter, where such
48 machine gun or such firearm is possessed on school grounds, as that
49 phrase is defined in subdivision fourteen of section 220.00 of this
50 chapter; or defined in this chapter as an attempt to commit murder in
51 the second degree or kidnapping in the first degree, or for such conduct
52 as a sexually motivated felony, where authorized pursuant to section
53 130.91 of [the penal law] THIS CHAPTER.

54 S 8. Paragraph (b) of subdivision 2 of section 35.15 of the penal law,
55 as amended by chapter 511 of the laws of 2004, is amended to read as
56 follows:

(b) He or she reasonably believes that such other person is committing or attempting to commit a kidnapping, forcible rape, [forcible criminal sexual act] FORCIBLE AGGRAVATED SEXUAL ABUSE, or robbery; or

S 9. The opening paragraph of subdivision 3 of section 125.25 of the penal law, as amended by chapter 264 of the laws of 2003, is amended to read as follows:

Acting either alone or with one or more other persons, he commits or attempts to commit robbery, burglary, kidnapping, arson, rape in the first degree, [criminal sexual act in the first degree,] sexual abuse in the first degree, aggravated sexual abuse, escape in the first degree, or escape in the second degree, and, in the course of and in furtherance of such crime or of immediate flight therefrom, he, or another participant, if there be any, causes the death of a person other than one of the participants; except that in any prosecution under this subdivision, in which the defendant was not the only participant in the underlying crime, it is an affirmative defense that the defendant:

S 10. Paragraphs (a) and (c) of subdivision 1 of section 70.02 of the penal law, paragraph (a) as amended by chapter 320 of the laws of 2006 and paragraph (c) as amended by chapter 1 of the laws of 2013, are amended to read as follows:

(a) Class B violent felony offenses: an attempt to commit the class A-I felonies of murder in the second degree as defined in section 125.25, kidnapping in the first degree as defined in section 135.25, and arson in the first degree as defined in section 150.20; manslaughter in the first degree as defined in section 125.20, aggravated manslaughter in the first degree as defined in section 125.22, rape in the first degree as defined in section 130.35, [criminal sexual act in the first degree as defined in section 130.50,] aggravated sexual abuse in the first degree as defined in section 130.70, course of sexual conduct against a child in the first degree as defined in section 130.75; assault in the first degree as defined in section 120.10, kidnapping in the second degree as defined in section 135.20, burglary in the first degree as defined in section 140.30, arson in the second degree as defined in section 150.15, robbery in the first degree as defined in section 160.15, incest in the first degree as defined in section 255.27, criminal possession of a weapon in the first degree as defined in section 265.04, criminal use of a firearm in the first degree as defined in section 265.09, criminal sale of a firearm in the first degree as defined in section 265.13, aggravated assault upon a police officer or a peace officer as defined in section 120.11, gang assault in the first degree as defined in section 120.07, intimidating a victim or witness in the first degree as defined in section 215.17, hindering prosecution of terrorism in the first degree as defined in section 490.35, criminal possession of a chemical weapon or biological weapon in the second degree as defined in section 490.40, and criminal use of a chemical weapon or biological weapon in the third degree as defined in section 490.47.

(c) Class D violent felony offenses: an attempt to commit any of the class C felonies set forth in paragraph (b); reckless assault of a child as defined in section 120.02, assault in the second degree as defined in section 120.05, menacing a police officer or peace officer as defined in section 120.18, stalking in the first degree, as defined in subdivision one of section 120.60, strangulation in the second degree as defined in section 121.12, rape in the second degree as defined in section 130.30, [criminal sexual act in the second degree as defined in section 130.45,] sexual abuse in the first degree as defined in section 130.65, course of

1 sexual conduct against a child in the second degree as defined in
2 section 130.80, aggravated sexual abuse in the third degree as defined
3 in section 130.66, facilitating a sex offense with a controlled
4 substance as defined in section 130.90, criminal possession of a weapon
5 in the third degree as defined in subdivision five, six, seven, eight,
6 nine or ten of section 265.02, criminal sale of a firearm in the third
7 degree as defined in section 265.11, intimidating a victim or witness in
8 the second degree as defined in section 215.16, soliciting or providing
9 support for an act of terrorism in the second degree as defined in
10 section 490.10, and making a terroristic threat as defined in section
11 490.20, falsely reporting an incident in the first degree as defined in
12 section 240.60, placing a false bomb or hazardous substance in the first
13 degree as defined in section 240.62, placing a false bomb or hazardous
14 substance in a sports stadium or arena, mass transportation facility or
15 enclosed shopping mall as defined in section 240.63, [and] OR aggravated
16 unpermitted use of indoor pyrotechnics in the first degree as defined in
17 section 405.18.

18 S 11. Paragraph b of subdivision 5 of section 120.40 of the penal law,
19 as amended by chapter 320 of the laws of 2006, is amended to read as
20 follows:

21 b. a crime defined in section 130.20, 130.25, 130.30, [130.40,
22 130.45,] 130.55, 130.60, 130.70, 255.25, 255.26 or 255.27;

23 S 12. Paragraph (d) of subdivision 2 and paragraph (h) of subdivision
24 3 of section 130.05 of the penal law, paragraph (d) of subdivision 2 as
25 amended by chapter 40 of the laws of 2004 and paragraph (h) of subdivi-
26 sion 3 as amended by section 2 of part G of chapter 501 of the laws of
27 2012, are amended to read as follows:

28 (d) Where the offense charged is rape in the third degree as defined
29 in [subdivision three] SUBDIVISIONS FIVE AND SIX of section 130.25, [or
30 criminal sexual act in the third degree as defined in subdivision three
31 of section 130.40,] in addition to forcible compulsion, circumstances
32 under which, at the time of the act of intercourse, oral sexual conduct
33 or anal sexual conduct, the victim clearly expressed that he or she did
34 not consent to engage in such act, and a reasonable person in the
35 actor's situation would have understood such person's words and acts as
36 an expression of lack of consent to such act under all the circum-
37 stances.

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

45 S 13. The opening paragraph of subdivision 3 of section 125.25 of the
46 penal law, as amended by chapter 264 of the laws of 2003, is amended to
47 read as follows:

48 Acting either alone or with one or more other persons, he commits or
49 attempts to commit robbery, burglary, kidnapping, arson, rape in the
50 first degree, [criminal sexual act in the first degree], sexual abuse in
51 the first degree, aggravated sexual abuse, escape in the first degree,
52 or escape in the second degree, and, in the course of and in furtherance
53 of such crime or of immediate flight therefrom, he, or another partic-
54 ipant, if there be any, causes the death of a person other than one of
55 the participants; except that in any prosecution under this subdivision,

1 in which the defendant was not the only participant in the underlying
2 crime, it is an affirmative defense that the defendant:

3 S 14. Subdivision 5 of section 125.25 of the penal law, as amended by
4 chapter 320 of the laws of 2006, is amended to read as follows:

5 5. Being eighteen years old or more, while in the course of committing
6 rape in the first, second or third degree, [criminal sexual act in the
7 first, second or third degree,] sexual abuse in the first degree, aggra-
8 vated sexual abuse in the first, second, third or fourth degree, or
9 incest in the first, second or third degree, against a person less than
10 fourteen years old, he or she intentionally causes the death of such
11 person.

12 S 15. Subparagraph (vii) of paragraph (a) of subdivision 1 of section
13 125.27 of the penal law, as amended by chapter 264 of the laws of 2003,
14 is amended to read as follows:

15 (vii) the victim was killed while the defendant was in the course of
16 committing or attempting to commit and in furtherance of robbery,
17 burglary in the first degree or second degree, kidnapping in the first
18 degree, arson in the first degree or second degree, rape in the first
19 degree, [criminal sexual act in the first degree,] sexual abuse in the
20 first degree, aggravated sexual abuse in the first degree or escape in
21 the first degree, or in the course of and furtherance of immediate
22 flight after committing or attempting to commit any such crime or in the
23 course of and furtherance of immediate flight after attempting to commit
24 the crime of murder in the second degree; provided however, the victim
25 is not a participant in one of the aforementioned crimes and, provided
26 further that, unless the defendant's criminal liability under this
27 subparagraph is based upon the defendant having commanded another person
28 to cause the death of the victim or intended victim pursuant to section
29 20.00 of this chapter, this subparagraph shall not apply where the
30 defendant's criminal liability is based upon the conduct of another
31 pursuant to section 20.00 of this chapter; or

32 S 16. Paragraph (d) of subdivision 2 of section 130.05 of the penal
33 law, as amended by chapter 40 of the laws of 2004, is amended to read as
34 follows:

35 (d) Where the offense charged is rape in the third degree as defined
36 in [subdivision three] SUBDIVISIONS FIVE AND SIX of section 130.25, [or
37 criminal sexual act in the third degree as defined in subdivision three
38 of section 130.40,] in addition to forcible compulsion, circumstances
39 under which, at the time of the act of intercourse, oral sexual conduct
40 or anal sexual conduct, the victim clearly expressed that he or she did
41 not consent to engage in such act, and a reasonable person in the
42 actor's situation would have understood such person's words and acts as
43 an expression of lack of consent to such act under all the circum-
44 stances.

45 S 17. Paragraph (h) of subdivision 3 of section 130.05 of the penal
46 law, as amended by section 2 of part G of chapter 501 of the laws of
47 2012, is amended to read as follows:

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

55 S 18. Subdivision 3 of section 130.10 of the penal law, as amended by
56 chapter 264 of the laws of 2003, is amended to read as follows:

1 3. In any prosecution for the crime of rape in the third degree as
2 defined in section 130.25, [criminal sexual act in the third degree as
3 defined in section 130.40,] aggravated sexual abuse in the fourth degree
4 as defined in section 130.65-a, or sexual abuse in the third degree as
5 defined in section 130.55 in which incapacity to consent is based on the
6 circumstances set forth in paragraph (h) of subdivision three of section
7 130.05 of this article it shall be an affirmative defense that the
8 client or patient consented to such conduct charged after having been
9 expressly advised by the health care or mental health care provider that
10 such conduct was not performed for a valid medical purpose.

11 S 19. The opening paragraph and subdivision 2 of section 130.95 of the
12 penal law, as added by chapter 107 of the laws of 2006, are amended to
13 read as follows:

14 A person is guilty of predatory sexual assault when he or she commits
15 the crime of rape in the first degree, [criminal sexual act in the first
16 degree,] aggravated sexual abuse in the first degree, or course of sexual
17 conduct against a child in the first degree, as defined in this article,
18 and when:

19 2. He or she has engaged in conduct constituting the crime of rape in
20 the first degree, [criminal sexual act in the first degree,] aggravated
21 sexual abuse in the first degree, or course of sexual conduct against a
22 child in the first degree, as defined in this article, against one or
23 more additional persons; or

24 S 20. The opening paragraph of section 130.96 of the penal law, as
25 added by chapter 107 of the laws of 2006, is amended to read as follows:

26 A person is guilty of predatory sexual assault against a child when,
27 being eighteen years old or more, he or she commits the crime of rape in
28 the first degree, [criminal sexual act in the first degree,] aggravated
29 sexual abuse in the first degree, or course of sexual conduct against a
30 child in the first degree, as defined in this article, and the victim is
31 less than thirteen years old.

32 S 21. Subdivision 2 of section 240.75 of the penal law, as added by
33 section 2 of part D of chapter 491 of the laws of 2012, is amended to
34 read as follows:

35 2. A "specified offense" is an offense defined in section 120.00
36 (assault in the third degree); section 120.05 (assault in the second
37 degree); section 120.10 (assault in the first degree); section 120.13
38 (menacing in the first degree); section 120.14 (menacing in the second
39 degree); section 120.15 (menacing in the third degree); section 120.20
40 (reckless endangerment in the second degree); section 120.25 (reckless
41 endangerment in the first degree); section 120.45 (stalking in the
42 fourth degree); section 120.50 (stalking in the third degree); section
43 120.55 (stalking in the second degree); section 120.60 (stalking in the
44 first degree); section 121.11 (criminal obstruction of breathing or
45 blood circulation); section 121.12 (strangulation in the second degree);
46 section 121.13 (strangulation in the first degree); subdivision one of
47 section 125.15 (manslaughter in the second degree); subdivision one, two
48 or four of section 125.20 (manslaughter in the first degree); section
49 125.25 (murder in the second degree); section 130.20 (sexual misconduct);
50 SECTION 130.25 (RAPE IN THE THIRD DEGREE); section 130.30 (rape
51 in the second degree); section 130.35 (rape in the first degree);
52 [section 130.40 (criminal sexual act in the third degree); section
53 130.45 (criminal sexual act in the second degree); section 130.50 (criminal
54 sexual act in the first degree);] section 130.52 (forcible touching);
55 section 130.53 (persistent sexual abuse); section 130.55 (sexual
56 abuse in the third degree); section 130.60 (sexual abuse in the second

1 degree); section 130.65 (sexual abuse in the first degree); section
2 130.66 (aggravated sexual abuse in the third degree); section 130.67
3 (aggravated sexual abuse in the second degree); section 130.70 (aggra-
4 vated sexual abuse in the first degree); section 130.91 (sexually moti-
5 vated felony); section 130.95 (predatory sexual assault); section 130.96
6 (predatory sexual assault against a child); section 135.05 (unlawful
7 imprisonment in the second degree); section 135.10 (unlawful imprison-
8 ment in the first degree); section 135.60 (coercion in the second
9 degree); section 135.65 (coercion in the first degree); section 140.20
10 (burglary in the third degree); section 140.25 (burglary in the second
11 degree); section 140.30 (burglary in the first degree); section 145.00
12 (criminal mischief in the fourth degree); section 145.05 (criminal
13 mischief in the third degree); section 145.10 (criminal mischief in the
14 second degree); section 145.12 (criminal mischief in the first degree);
15 section 145.14 (criminal tampering in the third degree); section 215.50
16 (criminal contempt in the second degree); section 215.51 (criminal
17 contempt in the first degree); section 215.52 (aggravated criminal
18 contempt); section 240.25 (harassment in the first degree); subdivision
19 one, two or four of section 240.30 (aggravated harassment in the second
20 degree); aggravated family offense as defined in this section or any
21 attempt or conspiracy to commit any of the foregoing offenses where the
22 defendant and the person against whom the offense was committed were
23 members of the same family or household as defined in subdivision one of
24 section 530.11 of the criminal procedure law.

25 S 22. Section 255.26 of the penal law, as added by chapter 320 of the
26 laws of 2006, is amended to read as follows:

27 S 255.26 Incest in the second degree.

28 A person is guilty of incest in the second degree when he or she
29 commits the crime of rape in the second degree, as defined in section
30 130.30 of this part, [or criminal sexual act in the second degree, as
31 defined in section 130.45 of this part,] against a person whom he or she
32 knows to be related to him or her, whether through marriage or not, as
33 an ancestor, descendant, brother or sister of either the whole or the
34 half blood, uncle, aunt, nephew or niece.

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

36 S 23. Section 255.27 of the penal law, as added by chapter 320 of the
37 laws of 2006, is amended to read as follows:

38 S 255.27 Incest in the first degree.

39 A person is guilty of incest in the first degree when he or she
40 commits the crime of rape in the first degree, as defined in PARAGRAPH
41 (C) OR (D) OF subdivision [three or four] ONE AND PARAGRAPH (C) OR (D)
42 OF SUBDIVISION TWO of section 130.35 of this part[, or criminal sexual
43 act in the first degree, as defined in subdivision three or four of
44 section 130.50 of this part,] against a person whom he or she knows to
45 be related to him or her, whether through marriage or not, as an ances-
46 tor, descendant, brother or sister of either the whole or half blood,
47 uncle, aunt, nephew or niece.

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

49 S 24. Subdivision 3 of section 485.05 of the penal law, as amended by
50 chapter 405 of the laws of 2010, is amended to read as follows:

51 3. A "specified offense" is an offense defined by any of the following
52 provisions of this chapter: section 120.00 (assault in the third
53 degree); section 120.05 (assault in the second degree); section 120.10
54 (assault in the first degree); section 120.12 (aggravated assault upon a
55 person less than eleven years old); section 120.13 (menacing in the
56 first degree); section 120.14 (menacing in the second degree); section

1 120.15 (menacing in the third degree); section 120.20 (reckless endan-
2 germent in the second degree); section 120.25 (reckless endangerment in
3 the first degree); section 121.12 (strangulation in the second degree);
4 section 121.13 (strangulation in the first degree); subdivision one of
5 section 125.15 (manslaughter in the second degree); subdivision one, two
6 or four of section 125.20 (manslaughter in the first degree); section
7 125.25 (murder in the second degree); section 120.45 (stalking in the
8 fourth degree); section 120.50 (stalking in the third degree); section
9 120.55 (stalking in the second degree); section 120.60 (stalking in the
10 first degree); PARAGRAPH (A) OF subdivision one AND PARAGRAPH (A) OF
11 SUBDIVISION TWO of section 130.35 (rape in the first degree); [subdivi-
12 sion one of section 130.50 (criminal sexual act in the first degree);]
13 subdivision one of section 130.65 (sexual abuse in the first degree);
14 paragraph (a) of subdivision one of section 130.67 (aggravated sexual
15 abuse in the second degree); paragraph (a) of subdivision one of section
16 130.70 (aggravated sexual abuse in the first degree); section 135.05
17 (unlawful imprisonment in the second degree); section 135.10 (unlawful
18 imprisonment in the first degree); section 135.20 (kidnapping in the
19 second degree); section 135.25 (kidnapping in the first degree); section
20 135.60 (coercion in the second degree); section 135.65 (coercion in the
21 first degree); section 140.10 (criminal trespass in the third degree);
22 section 140.15 (criminal trespass in the second degree); section 140.17
23 (criminal trespass in the first degree); section 140.20 (burglary in the
24 third degree); section 140.25 (burglary in the second degree); section
25 140.30 (burglary in the first degree); section 145.00 (criminal mischief
26 in the fourth degree); section 145.05 (criminal mischief in the third
27 degree); section 145.10 (criminal mischief in the second degree);
28 section 145.12 (criminal mischief in the first degree); section 150.05
29 (arson in the fourth degree); section 150.10 (arson in the third
30 degree); section 150.15 (arson in the second degree); section 150.20
31 (arson in the first degree); section 155.25 (petit larceny); section
32 155.30 (grand larceny in the fourth degree); section 155.35 (grand
33 larceny in the third degree); section 155.40 (grand larceny in the
34 second degree); section 155.42 (grand larceny in the first degree);
35 section 160.05 (robbery in the third degree); section 160.10 (robbery in
36 the second degree); section 160.15 (robbery in the first degree);
37 section 240.25 (harassment in the first degree); subdivision one, two or
38 four of section 240.30 (aggravated harassment in the second degree); or
39 any attempt or conspiracy to commit any of the foregoing offenses.

40 S 25. Subdivision 42 of section 1.20 of the criminal procedure law, as
41 amended by chapter 7 of the laws of 2007, is amended to read as follows:

42 42. "Juvenile offender" means (1) a person, thirteen years old who is
43 criminally responsible for acts constituting murder in the second degree
44 as defined in subdivisions one and two of section 125.25 of the penal
45 law, or such conduct as a sexually motivated felony, where authorized
46 pursuant to section 130.91 of the penal law; and (2) a person fourteen
47 or fifteen years old who is criminally responsible for acts constituting
48 the crimes defined in subdivisions one and two of section 125.25 (murder
49 in the second degree) and in subdivision three of such section provided
50 that the underlying crime for the murder charge is one for which such
51 person is criminally responsible; section 135.25 (kidnapping in the
52 first degree); 150.20 (arson in the first degree); subdivisions one and
53 two of section 120.10 (assault in the first degree); 125.20 (manslaught-
54 er in the first degree); [subdivisions one and] PARAGRAPHS (A) AND (B)
55 OF SUBDIVISION ONE AND PARAGRAPHS (A) AND (B) OF SUBDIVISION two of
56 section 130.35 (rape in the first degree); [subdivisions one and two of

1 section 130.50 (criminal sexual act in the first degree);] 130.70
2 (aggravated sexual abuse in the first degree); 140.30 (burglary in the
3 first degree); subdivision one of section 140.25 (burglary in the second
4 degree); 150.15 (arson in the second degree); 160.15 (robbery in the
5 first degree); subdivision two of section 160.10 (robbery in the second
6 degree) of the penal law; or section 265.03 of the penal law, where such
7 machine gun or such firearm is possessed on school grounds, as that
8 phrase is defined in subdivision fourteen of section 220.00 of the penal
9 law; or defined in the penal law as an attempt to commit murder in the
10 second degree or kidnapping in the first degree, or such conduct as a
11 sexually motivated felony, where authorized pursuant to section 130.91
12 of the penal law.

13 S 26. Intentionally omitted.

14 S 27. Paragraphs (a) and (b) of subdivision 1, the opening paragraph
15 of subdivision 2 and paragraph (a) of subdivision 3 of section 140.20 of
16 the criminal procedure law, paragraphs (a) and (b) of subdivision 1 as
17 amended by chapter 324 of the laws of 1988, the opening paragraph of
18 subdivision 2 and paragraph (a) of subdivision 3 as amended by chapter
19 550 of the laws of 1987, are amended to read as follows:

20 (a) If the arrest is for an offense other than a class A, B, C or D
21 felony or a violation of section 130.25, [130.40,] 205.10, 205.17,
22 205.19 or 215.56 of the penal law committed in a town, but not in a
23 village thereof having a village court, and the town court of such town
24 is not available at the time, the arrested person may be brought before
25 the local criminal court of any village within such town or, any adjoining
26 town, village embraced in whole or in part by such adjoining town,
27 or city of the same county; and

28 (b) If the arrest is for an offense other than a class A, B, C or D
29 felony or a violation of section 130.25, [130.40,] 205.10, 205.17,
30 205.19 or 215.56 of the penal law committed in a village having a
31 village court and such court is not available at the time, the arrested
32 person may be brought before the town court of the town embracing such
33 village or any other village court within such town, or, if such town or
34 village court is not available either, before the local criminal court
35 of any adjoining town, village embraced in whole or in part by such
36 adjoining town, or city of the same county; and

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

42 (a) the arrest is for an offense other than a class A, B, C or D felony
43 or a violation of section 130.25, [130.40,] 205.10, 205.17, 205.19 or
44 215.56 of the penal law, and

45 S 28. Paragraph (a) of subdivision 3 and the opening paragraph of
46 subdivision 4 of section 140.27 of the criminal procedure law, as
47 amended by chapter 550 of the laws of 1987, are amended to read as
48 follows:

49 (a) the arrest is for an offense other than a class A, B, C or D felony
50 or a violation of section 130.25, [130.40,] 205.10, 205.17, 205.19 or
51 215.56 of the penal law and

52 If the arrest is for an offense other than a class A, B, C or D felony
53 or a violation of section 130.25, [130.40,] 205.10, 205.17, 205.19 or
54 215.56 of the penal law, the arrested person need not be brought before
55 a local criminal court as provided in subdivision two, and the procedure
56 may instead be as follows:

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

5 (a) the arrest is for an offense other than a class A, B, C or D felo-
6 ny or a violation of section 130.25, [130.40,] 205.10, 205.17, 205.19 or
7 215.56 of the penal law and

8 If the arrest is for an offense other than a class A, B, C or D felony
9 or a violation of section 130.25, [130.40,] 205.10, 205.17, 205.19 or
10 215.56 of the penal law, the arrested person need not be brought before
11 a local criminal court, as provided in subdivision one, and the proce-
12 dure may instead be as follows:

13 S 30. Section 150.20 of the criminal procedure law, subdivisions 1, 2
14 and 3 as amended by chapter 550 of the laws of 1987, is amended to read
15 as follows:

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

17 1. Whenever a police officer is authorized pursuant to section 140.10
18 to arrest a person without a warrant for an offense other than a class
19 A, B, C or D felony or a violation of section 130.25, [130.40,] 205.10,
20 205.17, 205.19 or 215.56 of the penal law, he may, subject to the
21 provisions of subdivisions three and four of section 150.40, instead
22 issue to and serve upon such person an appearance ticket.

23 2. (a) Whenever a police officer has arrested a person without a
24 warrant for an offense other than a class A, B, C or D felony or a
25 violation of section 130.25, [130.40,] 205.10, 205.17, 205.19 or 215.56
26 of the penal law pursuant to section 140.10, or (b) whenever a peace
27 officer, who is not authorized by law to issue an appearance ticket, has
28 arrested a person for an offense other than a class A, B, C or D felony
29 or a violation of section 130.25, [130.40,] 205.10, 205.17, 205.19 or
30 215.56 of the penal law pursuant to section 140.25, and has requested a
31 police officer to issue and serve upon such arrested person an appear-
32 ance ticket pursuant to subdivision four of section 140.27, or (c) when-
33 ever a person has been arrested for an offense other than a class A, B,
34 C or D felony or a violation of section 130.25, [130.40,] 205.10,
35 205.17, 205.19 or 215.56 of the penal law and has been delivered to the
36 custody of an appropriate police officer pursuant to section 140.40,
37 such police officer may, instead of bringing such person before a local
38 criminal court and promptly filing or causing the arresting peace offi-
39 cer or arresting person to file a local criminal court accusatory
40 instrument therewith, issue to and serve upon such person an appearance
41 ticket. The issuance and service of an appearance ticket under such
42 circumstances may be conditioned upon a deposit of pre-arraignment bail,
43 as provided in section 150.30.

44 3. A public servant other than a police officer, who is specially
45 authorized by state law or local law enacted pursuant to the provisions
46 of the municipal home rule law to issue and serve appearance tickets
47 with respect to designated offenses other than class A, B, C or D felo-
48 nies or violations of section 130.25, [130.40,] 205.10, 205.17, 205.19
49 or 215.56 of the penal law, may in such cases issue and serve upon a
50 person an appearance ticket when he has reasonable cause to believe that
51 such person has committed a crime, or has committed a petty offense in
52 his presence.

53 S 31. Subdivision 4 of section 180.75 of the criminal procedure law,
54 as amended by chapter 264 of the laws of 2003, is amended to read as
55 follows:

1 4. Notwithstanding the provisions of subdivisions two and three of
2 this section, a local criminal court shall, at the request of the
3 district attorney, order removal of an action against a juvenile offen-
4 der to the family court pursuant to the provisions of article seven
5 hundred twenty-five of this chapter if, upon consideration of the crite-
6 ria specified in subdivision two of section 210.43 of this chapter, it
7 is determined that to do so would be in the interests of justice.
8 Where, however, the felony complaint charges the juvenile offender with
9 murder in the second degree as defined in section 125.25 of the penal
10 law, rape in the first degree as defined in PARAGRAPH (A) OF subdivision
11 one OR PARAGRAPH (A) OF SUBDIVISION TWO of section 130.35 of the penal
12 law, [criminal sexual act in the first degree as defined in subdivision
13 one of section 130.50 of the penal law,] or an armed felony as defined
14 in paragraph (a) of subdivision forty-one of section 1.20 of this chap-
15 ter, a determination that such action be removed to the family court
16 shall, in addition, be based upon a finding of one or more of the
17 following factors: (i) mitigating circumstances that bear directly upon
18 the manner in which the crime was committed; or (ii) where the defendant
19 was not the sole participant in the crime, the defendant's participation
20 was relatively minor although not so minor as to constitute a defense to
21 the prosecution; or (iii) possible deficiencies in proof of the crime.

22 S 32. Subdivision (a) of section 190.71 of the criminal procedure law,
23 as amended by chapter 7 of the laws of 2007, is amended to read as
24 follows:

25 (a) Except as provided in subdivision six of section 200.20 of this
26 chapter, a grand jury may not indict (i) a person thirteen years of age
27 for any conduct or crime other than conduct constituting a crime defined
28 in subdivisions one and two of section 125.25 (murder in the second
29 degree) or such conduct as a sexually motivated felony, where authorized
30 pursuant to section 130.91 of the penal law; (ii) a person fourteen or
31 fifteen years of age for any conduct or crime other than conduct consti-
32 tuting a crime defined in subdivisions one and two of section 125.25
33 (murder in the second degree) and in subdivision three of such section
34 provided that the underlying crime for the murder charge is one for
35 which such person is criminally responsible; 135.25 (kidnapping in the
36 first degree); 150.20 (arson in the first degree); subdivisions one and
37 two of section 120.10 (assault in the first degree); 125.20 (manslaught-
38 er in the first degree); [subdivisions one and] PARAGRAPHS (A) AND (B)
39 OF SUBDIVISION ONE AND PARAGRAPHS (A) AND (B) OF SUBDIVISION two of
40 section 130.35 (rape in the first degree); [subdivisions one and two of
41 section 130.50 (criminal sexual act in the first degree);] 130.70
42 (aggravated sexual abuse in the first degree); 140.30 (burglary in the
43 first degree); subdivision one of section 140.25 (burglary in the second
44 degree); 150.15 (arson in the second degree); 160.15 (robbery in the
45 first degree); subdivision two of section 160.10 (robbery in the second
46 degree) of the penal law; [subdivision four of section 265.02 of the
47 penal law, where such firearm is possessed on school grounds, as that
48 phrase is defined in subdivision fourteen of section 220.00 of the penal
49 law;] or section 265.03 of the penal law, where such machine gun or such
50 firearm is possessed on school grounds, as that phrase is defined in
51 subdivision fourteen of section 220.00 of the penal law; or defined in
52 the penal law as an attempt to commit murder in the second degree or
53 kidnapping in the first degree, or such conduct as a sexually motivated
54 felony, where authorized pursuant to section 130.91 of the penal law.

1 S 33. Paragraph (b) of subdivision 1 of section 210.43 of the criminal
2 procedure law, as amended by chapter 264 of the laws of 2003, is amended
3 to read as follows:

4 (b) with the consent of the district attorney, order removal of an
5 action involving an indictment charging a juvenile offender with murder
6 in the second degree as defined in section 125.25 of the penal law; rape
7 in the first degree, as defined in PARAGRAPH (A) OF subdivision one AND
8 PARAGRAPH (A) OF SUBDIVISION TWO of section 130.35 of the penal law;
9 [criminal sexual act in the first degree, as defined in subdivision one
10 of section 130.50 of the penal law;] or an armed felony as defined in
11 paragraph (a) of subdivision forty-one of section 1.20, to the family
12 court pursuant to the provisions of article seven hundred twenty-five of
13 this chapter if the court finds one or more of the following factors:
14 (i) mitigating circumstances that bear directly upon the manner in which
15 the crime was committed; (ii) where the defendant was not the sole
16 participant in the crime, the defendant's participation was relatively
17 minor although not so minor as to constitute a defense to the prose-
18 cution; or (iii) possible deficiencies in the proof of the crime, and,
19 after consideration of the factors set forth in subdivision two of this
20 section, the court determined that removal of the action to the family
21 court would be in the interests of justice.

22 S 34. Subparagraph (iii) of paragraph (g) of subdivision 5 of section
23 220.10 of the criminal procedure law, as amended by chapter 264 of the
24 laws of 2003, is amended to read as follows:

25 (iii) Where the indictment does not charge a crime specified in
26 subparagraph (i) of this paragraph, the district attorney may recommend
27 removal of the action to the family court. Upon making such recommenda-
28 tion the district attorney shall submit a subscribed memorandum setting
29 forth: (1) a recommendation that the interests of justice would best be
30 served by removal of the action to the family court; and (2) if the
31 indictment charges a thirteen year old with the crime of murder in the
32 second degree, or a fourteen or fifteen year old with the crimes of rape
33 in the first degree as defined in PARAGRAPH (A) OF subdivision one AND
34 PARAGRAPH (A) OF SUBDIVISION TWO of section 130.35 of the penal law, [or
35 criminal sexual act in the first degree as defined in subdivision one of
36 section 130.50 of the penal law,] or an armed felony as defined in para-
37 graph (a) of subdivision forty-one of section 1.20 of this chapter
38 specific factors, one or more of which reasonably supports the recommen-
39 dation, showing, (i) mitigating circumstances that bear directly upon
40 the manner in which the crime was committed, or (ii) where the defendant
41 was not the sole participant in the crime, that the defendant's partic-
42 ipation was relatively minor although not so minor as to constitute a
43 defense to the prosecution, or (iii) possible deficiencies in proof of
44 the crime, or (iv) where the juvenile offender has no previous adjudi-
45 cations of having committed a designated felony act, as defined in
46 subdivision eight of section 301.2 of the family court act, regardless
47 of the age of the offender at the time of commission of the act, that
48 the criminal act was not part of a pattern of criminal behavior and, in
49 view of the history of the offender, is not likely to be repeated.

50 S 35. Subdivision 6 of section 300.50 of the criminal procedure law,
51 as amended by chapter 264 of the laws of 2003, is amended to read as
52 follows:

53 6. For purposes of this section, the offenses of rape in the third
54 degree as defined in [subdivision three] SUBDIVISIONS FIVE AND SIX of
55 section 130.25 of the penal law [and criminal sexual act in the third
56 degree as defined in subdivision three of section 130.40 of the penal

law], are not lesser included offenses of rape in the first degree[, criminal sexual act in the first degree] or any other offense. Notwithstanding the foregoing, either such offense may be submitted as a lesser included offense of the applicable first degree offense when (i) there is a reasonable view of the evidence which would support a finding that the defendant committed such lesser offense but did not commit the greater offense, and (ii) both parties consent to its submission.

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

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

S 37. Paragraph (b) of subdivision 8 of section 700.05 of the criminal procedure law, as amended by chapter 405 of the laws of 2010, is amended to read as follows:

(b) Any of the following felonies: assault in the second degree as defined in section 120.05 of the penal law, assault in the first degree as defined in section 120.10 of the penal law, reckless endangerment in the first degree as defined in section 120.25 of the penal law, promoting a suicide attempt as defined in section 120.30 of the penal law, strangulation in the second degree as defined in section 121.12 of the penal law, strangulation in the first degree as defined in section 121.13 of the penal law, criminally negligent homicide as defined in section 125.10 of the penal law, manslaughter in the second degree as defined in section 125.15 of the penal law, manslaughter in the first degree as defined in section 125.20 of the penal law, murder in the second degree as defined in section 125.25 of the penal law, murder in the first degree as defined in section 125.27 of the penal law, abortion in the second degree as defined in section 125.40 of the penal law, abortion in the first degree as defined in section 125.45 of the penal law, rape in the third degree as defined in section 130.25 of the penal law, rape in the second degree as defined in section 130.30 of the penal law, rape in the first degree as defined in section 130.35 of the penal law, [criminal sexual act in the third degree as defined in section 130.40 of the penal law, criminal sexual act in the second degree as defined in section 130.45 of the penal law, criminal sexual act in the first degree as defined in section 130.50 of the penal law,] sexual abuse in the first degree as defined in section 130.65 of the penal law, unlawful imprisonment in the first degree as defined in section 135.10 of the penal law, kidnapping in the second degree as defined in section 135.20 of the penal law, kidnapping in the first degree as defined in

1 section 135.25 of the penal law, labor trafficking as defined in section
2 135.35 of the penal law, custodial interference in the first degree as
3 defined in section 135.50 of the penal law, coercion in the first degree
4 as defined in section 135.65 of the penal law, criminal trespass in the
5 first degree as defined in section 140.17 of the penal law, burglary in
6 the third degree as defined in section 140.20 of the penal law, burglary
7 in the second degree as defined in section 140.25 of the penal law,
8 burglary in the first degree as defined in section 140.30 of the penal
9 law, criminal mischief in the third degree as defined in section 145.05
10 of the penal law, criminal mischief in the second degree as defined in
11 section 145.10 of the penal law, criminal mischief in the first degree
12 as defined in section 145.12 of the penal law, criminal tampering in the
13 first degree as defined in section 145.20 of the penal law, arson in the
14 fourth degree as defined in section 150.05 of the penal law, arson in
15 the third degree as defined in section 150.10 of the penal law, arson in
16 the second degree as defined in section 150.15 of the penal law, arson
17 in the first degree as defined in section 150.20 of the penal law, grand
18 larceny in the fourth degree as defined in section 155.30 of the penal
19 law, grand larceny in the third degree as defined in section 155.35 of
20 the penal law, grand larceny in the second degree as defined in section
21 155.40 of the penal law, grand larceny in the first degree as defined in
22 section 155.42 of the penal law, health care fraud in the fourth degree
23 as defined in section 177.10 of the penal law, health care fraud in the
24 third degree as defined in section 177.15 of the penal law, health care
25 fraud in the second degree as defined in section 177.20 of the penal
26 law, health care fraud in the first degree as defined in section 177.25
27 of the penal law, robbery in the third degree as defined in section
28 160.05 of the penal law, robbery in the second degree as defined in
29 section 160.10 of the penal law, robbery in the first degree as defined
30 in section 160.15 of the penal law, unlawful use of secret scientific
31 material as defined in section 165.07 of the penal law, criminal
32 possession of stolen property in the fourth degree as defined in section
33 165.45 of the penal law, criminal possession of stolen property in the
34 third degree as defined in section 165.50 of the penal law, criminal
35 possession of stolen property in the second degree as defined by section
36 165.52 of the penal law, criminal possession of stolen property in the
37 first degree as defined by section 165.54 of the penal law, trademark
38 counterfeiting in the second degree as defined in section 165.72 of the
39 penal law, trademark counterfeiting in the first degree as defined in
40 section 165.73 of the penal law, forgery in the second degree as defined
41 in section 170.10 of the penal law, forgery in the first degree as
42 defined in section 170.15 of the penal law, criminal possession of a
43 forged instrument in the second degree as defined in section 170.25 of
44 the penal law, criminal possession of a forged instrument in the first
45 degree as defined in section 170.30 of the penal law, criminal
46 possession of forgery devices as defined in section 170.40 of the penal
47 law, falsifying business records in the first degree as defined in
48 section 175.10 of the penal law, tampering with public records in the
49 first degree as defined in section 175.25 of the penal law, offering a
50 false instrument for filing in the first degree as defined in section
51 175.35 of the penal law, issuing a false certificate as defined in
52 section 175.40 of the penal law, criminal diversion of prescription
53 medications and prescriptions in the second degree as defined in section
54 178.20 of the penal law, criminal diversion of prescription medications
55 and prescriptions in the first degree as defined in section 178.25 of
56 the penal law, residential mortgage fraud in the fourth degree as

1 defined in section 187.10 of the penal law, residential mortgage fraud
2 in the third degree as defined in section 187.15 of the penal law, resi-
3 dential mortgage fraud in the second degree as defined in section 187.20
4 of the penal law, residential mortgage fraud in the first degree as
5 defined in section 187.25 of the penal law, escape in the second degree
6 as defined in section 205.10 of the penal law, escape in the first
7 degree as defined in section 205.15 of the penal law, absconding from
8 temporary release in the first degree as defined in section 205.17 of
9 the penal law, promoting prison contraband in the first degree as
10 defined in section 205.25 of the penal law, hindering prosecution in the
11 second degree as defined in section 205.60 of the penal law, hindering
12 prosecution in the first degree as defined in section 205.65 of the
13 penal law, sex trafficking as defined in section 230.34 of the penal
14 law, criminal possession of a weapon in the third degree as defined in
15 subdivisions two, three and five of section 265.02 of the penal law,
16 criminal possession of a weapon in the second degree as defined in
17 section 265.03 of the penal law, criminal possession of a weapon in the
18 first degree as defined in section 265.04 of the penal law, manufacture,
19 transport, disposition and defacement of weapons and dangerous instru-
20 ments and appliances defined as felonies in subdivisions one, two, and
21 three of section 265.10 of the penal law, sections 265.11, 265.12 and
22 265.13 of the penal law, or prohibited use of weapons as defined in
23 subdivision two of section 265.35 of the penal law, relating to firearms
24 and other dangerous weapons, or failure to disclose the origin of a
25 recording in the first degree as defined in section 275.40 of the penal
26 law;

27 S 38. Paragraph (a) of subdivision 2 of section 720.10 of the criminal
28 procedure law, as amended by chapter 316 of the laws of 2006, is amended
29 to read as follows:

30 (a) the conviction to be replaced by a youthful offender finding is
31 for (i) a class A-I or class A-II felony, or (ii) an armed felony as
32 defined in subdivision forty-one of section 1.20, except as provided in
33 subdivision three, or (iii) rape in the first degree[, criminal sexual
34 act in the first degree,] or aggravated sexual abuse, except as provided
35 in subdivision three, or

36 S 39. Paragraph (a) of subdivision 2 and paragraph (a) of subdivision
37 3 of section 168-a of the correction law, paragraph (a) of subdivision 2
38 as amended by chapter 405 of the laws of 2008 and paragraph (a) of
39 subdivision 3 as amended by chapter 107 of the laws of 2006, are amended
40 to read as follows:

41 (a) (i) a conviction of or a conviction for an attempt to commit any
42 of the provisions of sections 120.70, 130.20, 130.25, 130.30, [130.40,
43 130.45,] 130.60, 230.34, 250.50, 255.25, 255.26 and 255.27 or article
44 two hundred sixty-three of the penal law, or section 135.05, 135.10,
45 135.20 or 135.25 of such law relating to kidnapping offenses, provided
46 the victim of such kidnapping or related offense is less than seventeen
47 years old and the offender is not the parent of the victim, or section
48 230.04, where the person patronized is in fact less than seventeen years
49 of age, 230.05 or 230.06, or subdivision two of section 230.30, or
50 section 230.32 or 230.33 of the penal law, or (ii) a conviction of or a
51 conviction for an attempt to commit any of the provisions of section
52 235.22 of the penal law, or (iii) a conviction of or a conviction for an
53 attempt to commit any provisions of the foregoing sections committed or
54 attempted as a hate crime defined in section 485.05 of the penal law or
55 as a crime of terrorism defined in section 490.25 of such law or as a
56 sexually motivated felony defined in section 130.91 of such law; or

(a) (i) a conviction of or a conviction for an attempt to commit any of the provisions of sections 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) 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 40. 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 subparagraph (i) of paragraph (b), as amended by chapter 430 of the laws of 2013, paragraph (e) as added and subparagraph (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 130.25, 130.30, 130.35, [130.40, 130.45, 130.50,] 130.65, 130.67, 130.70, 130.75, 130.80, 130.95 and 130.96 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

(i) the child has been found to be an abused child, (A) as defined in paragraph (i) of subdivision (e) of section ten hundred twelve of the family court act, as a result of such parent's acts; or (B) 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 130.25, 130.30, 130.35, [130.40, 130.45, 130.50,] 130.65, 130.67, 130.70, 130.75, 130.80, 130.95 and 130.96 of the penal law; and

(ii) (A) the child or another child for whose care such parent is or has been legally responsible has been previously found, within the five years immediately preceding the initiation of the proceeding in which such abuse is found, to be an abused child, as defined in paragraph (i) or (iii) of subdivision (e) of section ten hundred twelve of the family court act, as a result of such parent's acts; provided, however, in the case of a finding of abuse as defined in paragraph (iii) of subdivision (e) of section ten hundred twelve of the family court act the respondent must have committed or knowingly allowed to be committed a felony sex offense as defined in sections 130.25, 130.30, 130.35, [130.40, 130.45, 130.50,] 130.65, 130.67, 130.70, 130.75 and 130.80 of the penal law, or (B) the parent has been convicted of a crime under section 130.25, 130.30, 130.35, [130.40, 130.45, 130.50,] 130.65, 130.67, 130.70, 130.75 or 130.80 of the penal law against the child, a sibling of the child or another child for whose care such parent is or has been legally responsible, within the five year period immediately preceding the initiation of the proceeding in which abuse is found; and

(e) A determination by the court in accordance with article ten of the family court act based upon clear and convincing evidence that a child was abused (A) as defined in paragraph (i) of subdivision (e) of section ten hundred twelve of the family court act, as a result of such parent's acts; or (B) as defined in paragraph (iii) of subdivision (e) of section

1 ten hundred twelve of the family court act, as a result of such parent's
2 acts; provided, however, the respondent must have committed or knowingly
3 allowed to be committed a felony sex offense as defined in sections
4 130.25, 130.30, 130.35, [130.40, 130.45, 130.50,] 130.65, 130.67,
5 130.70, 130.75 and 130.80 of the penal law shall establish that the
6 child was an abused child for the purpose of a determination as required
7 by subparagraph (i) or (ii) of paragraph (b) of this subdivision. Such a
8 determination by the court in accordance with article ten of the family
9 court act based upon a fair preponderance of evidence shall be admissi-
10 ble in any proceeding commenced in accordance with this section.

11 S 41. Paragraphs (a) and (b) of subdivision 4 of section 509-cc of the
12 vehicle and traffic law, as amended by chapter 400 of the laws of 2011,
13 are amended to read as follows:

14 (a) The offenses referred to in subparagraph (ii) of paragraph (a) of
15 subdivision one and paragraph (a) of subdivision two of this section
16 that result in permanent disqualification shall include a conviction
17 under sections 125.12, 125.13, 125.14, 125.15, 125.20, 125.21, 125.22,
18 125.25, 125.26, 125.27, 130.30, 130.35, [130.45, 130.50,] 130.65,
19 130.66, 130.67, 130.70, 130.75, 130.80, 130.90, 130.95, 130.96, 135.25,
20 150.20, 230.30, 230.32, 230.34, 235.22, 263.05, 263.10, 263.11, 263.15,
21 263.16 of the penal law or an attempt to commit any of the aforesaid
22 offenses under section 110.00 of the penal law, or any offenses commit-
23 ted under a former section of the penal law which would constitute
24 violations of the aforesaid sections of the penal law, or any offenses
25 committed outside this state which would constitute violations of the
26 aforesaid sections of the penal law.

27 (b) The offenses referred to in subparagraph (ii) of paragraph (a) of
28 subdivision one and paragraph (b) of subdivision two of this section
29 that result in permanent disqualification shall include a conviction
30 under sections 100.13, 105.15, 105.17, 115.08, 120.12, 120.70, 125.10,
31 125.11, [130.40,] 130.53, 130.60, 130.65-a, 135.20, 160.15, 220.18,
32 220.21, 220.39, 220.41, 220.43, 220.44, 230.25, 260.00, 265.04 of the
33 penal law or an attempt to commit any of the aforesaid offenses under
34 section 110.00 of the penal law, or any offenses committed under a
35 former section of the penal law which would constitute violations of the
36 aforesaid sections of the penal law, or any offenses committed outside
37 this state which would constitute violations of the aforesaid sections
38 of the penal law.

39 S 42. Subdivision (b) of section 117 of the family court act, as
40 amended by chapter 7 of the laws of 2007, is amended to read as follows:

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

1 of the penal law; (iii) defined in the penal law as an attempt to commit
2 murder in the first or second degree or kidnapping in the first degree
3 committed by a person thirteen, fourteen or fifteen years of age; or
4 such conduct committed as a sexually motivated felony, where authorized
5 pursuant to section 130.91 of the penal law; (iv) defined in section
6 140.30 (burglary in the first degree); subdivision one of section 140.25
7 (burglary in the second degree); subdivision two of section 160.10
8 (robbery in the second degree) of the penal law; or section 265.03 of
9 the penal law, where such machine gun or such firearm is possessed on
10 school grounds, as that phrase is defined in subdivision fourteen of
11 section 220.00 of the penal law committed by a person fourteen or
12 fifteen years of age; or such conduct committed as a sexually motivated
13 felony, where authorized pursuant to section 130.91 of the penal law;
14 (v) defined in section 120.05 (assault in the second degree) or 160.10
15 (robbery in the second degree) of the penal law committed by a person
16 fourteen or fifteen years of age but only where there has been a prior
17 finding by a court that such person has previously committed an act
18 which, if committed by an adult, would be the crime of assault in the
19 second degree, robbery in the second degree or any designated felony act
20 specified in clause (i), (ii) or (iii) of this subdivision regardless of
21 the age of such person at the time of the commission of the prior act;
22 or (vi) other than a misdemeanor, committed by a person at least seven
23 but less than sixteen years of age, but only where there has been two
24 prior findings by the court that such person has committed a prior act
25 which, if committed by 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 43. 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 44. 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), [subdi-
54 vision one of section 125.15, (manslaughter in the second degree),
55 subdivision] SUBDIVISIONS one AND TWO of section 130.25, (rape in the
56 third degree), [subdivision one of section 130.40, (criminal sexual act

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

13 S 45. 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
19 130.25, 130.30, 130.35, [130.40, 130.45, 130.50,] 130.65 and 130.70 of
20 the penal law, the court shall advise the respondent that any subsequent
21 adjudication of child abuse, as defined in paragraph (i) of subdivision
22 (e) of section one thousand twelve of this act or any subsequent finding
23 of a felony sex offense as defined in those sections of the penal law
24 herein enumerated, arising out of acts of the respondent may result in
25 the commitment of the guardianship and custody of the child or another
26 child pursuant to section three hundred eighty-four-b of the social
27 services law. The order in such cases shall contain a statement that any
28 subsequent adjudication of child abuse or finding of a felony sex
29 offense as described herein may result in the commitment of the guardi-
30 anship and custody of the child, or another child pursuant to section
31 three hundred eighty-four-b of the social services law.

32 S 46. Subdivision 2 of section 61 of the civil rights law, as amended
33 by section 54 of subpart B of part C of chapter 62 of the laws of 2011,
34 is amended to read as follows:

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

47 S 47. Subdivision 2 of section 62 of the civil rights law, as amended
48 by section 55 of subpart B of part C of chapter 62 of the laws of 2011,
49 is amended to read as follows:

50 2. If the petition be to change the name of a person currently
51 confined as an inmate in any correctional facility or currently under
52 the supervision of the department of corrections and community super-
53 vision or a county probation department as a result of a conviction for
54 a violent felony offense as defined in section 70.02 of the penal law or
55 a felony defined in article one hundred twenty-five of such law or any
56 of the following provisions of such law sections 130.25, 130.30,

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

12 S 48. The closing paragraph of section 64 of the civil rights law, as
13 separately amended by chapters 258, 320 and 481 of the laws of 2006, is
14 amended to read as follows:

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

34 S 49. Section 213-c of the civil practice law and rules, as added by
35 chapter 3 of the laws of 2006, is amended to read as follows:

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

1 S 50. Paragraph (b) of subdivision 8 of section 215 of the civil prac-
2 tice law and rules, as added by chapter 3 of the laws of 2006, is
3 amended to read as follows:

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

17 S 51. Subdivision 11 of section 123 of the agriculture and markets
18 law, as amended by chapter 392 of the laws of 2004, and such section as
19 renumbered by section 18 of part T of chapter 59 of the laws of 2010, is
20 amended to read as follows:

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

31 S 52. Section 4 of the judiciary law, as amended by chapter 264 of the
32 laws of 2003, is amended to read as follows:

33 S 4. Sittings of courts to be public. The sittings of every court
34 within this state shall be public, and every citizen may freely attend
35 the same, except that in all proceedings and trials in cases for
36 divorce, seduction, abortion, rape, assault with intent to commit rape,
37 [criminal sexual act,] bastardy or filiation, the court may, in its
38 discretion, exclude therefrom all persons who are not directly inter-
39 ested therein, excepting jurors, witnesses, and officers of the court.

40 S 53. Subdivision 2 of section 120.60 of the penal law, as amended by
41 chapter 434 of the laws of 2000, is amended to read as follows:

42 2. commits a class A misdemeanor defined in article one hundred thirty
43 of this chapter, or a class E felony defined in section 130.25, [130.40]
44 or 130.85 of this chapter, or a class D felony defined in section 130.30
45 [or 130.45] of this chapter.

46 S 54. This act shall take effect on the ninetieth day after it shall
47 have become a law and shall apply to any offense on or after such effec-
48 tive date. As it pertains to the repealed sections of law, nothing in
49 this act shall affect a requirement to register pursuant to article 6-C
50 of the correction law; a lawfully required disclosure of a conviction;
51 any restriction or prohibition for certain types of employment, housing,
52 or government benefit; or any other ongoing matter related to a
53 conviction of the sections repealed in this act.