

4959--A

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, SCHIMMEL, WALTER -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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, the judiciary law and the domestic relations 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2 REPEALED.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. Subdivisions 1 and 2 of section 130.00 of the penal law, subdivi-
4 sion 2 as amended by chapter 264 of the laws of 2003, are amended to
5 read as follows:
- 6 1. "[Sexual intercourse] VAGINAL SEXUAL CONTACT" [has its ordinary
7 meaning and occurs upon any penetration, however slight] MEANS CONDUCT
8 BETWEEN PERSONS CONSISTING OF CONTACT BETWEEN THE PENIS AND THE VAGINA
9 OR VULVA.
- 10 2. (a) "Oral sexual [conduct] CONTACT" means conduct between persons
11 consisting of contact between the mouth and the penis, the mouth and the
12 anus, or the mouth and the vulva or vagina.

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

LBD06040-04-5

(b) "Anal sexual [conduct] CONTACT" means conduct between persons consisting of contact between the penis and anus.

S 3. 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 degree.

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

1. He or she engages in [sexual intercourse] VAGINAL SEXUAL CONTACT with another person who is incapable of consent by reason of some factor other than being less than seventeen years old;

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

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

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

3.] 5. BEING TWENTY-ONE YEARS OLD OR MORE, HE OR SHE ENGAGES IN ORAL SEXUAL CONTACT WITH ANOTHER PERSON LESS THAN SEVENTEEN YEARS OLD;

6. BEING TWENTY-ONE YEARS OLD OR MORE, HE OR SHE ENGAGES IN ANAL SEXUAL CONTACT WITH ANOTHER PERSON LESS THAN SEVENTEEN YEARS OLD;

7. He or she engages in [sexual intercourse] VAGINAL SEXUAL CONTACT with another person without such person's consent where such lack of consent is by reason of some factor other than incapacity to consent[.];

8. HE OR SHE ENGAGES IN ORAL SEXUAL CONTACT WITH ANOTHER PERSON WITHOUT SUCH PERSON'S CONSENT WHERE SUCH LACK OF CONSENT IS BY REASON OF SOME FACTOR OTHER THAN INCAPACITY TO CONSENT; OR

9. HE OR SHE ENGAGES IN ANAL SEXUAL CONTACT WITH ANOTHER PERSON WITHOUT SUCH PERSON'S CONSENT WHERE SUCH LACK OF CONSENT IS BY REASON OF SOME FACTOR OTHER THAN THE INCAPACITY TO CONSENT.

Rape in the third degree is a class E felony.

S 4. 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 degree.

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

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

2. BEING EIGHTEEN YEARS OLD OR MORE, HE OR SHE ENGAGES IN ORAL SEXUAL CONTACT WITH ANOTHER PERSON LESS THAN FIFTEEN YEARS OLD;

3. BEING EIGHTEEN YEARS OLD OR MORE, HE OR SHE ENGAGES IN ANAL SEXUAL CONTACT WITH ANOTHER PERSON LESS THAN FIFTEEN YEARS OLD;

4. he or she engages in [sexual intercourse] VAGINAL SEXUAL CONTACT with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated[.] ;

5. HE OR SHE ENGAGES IN ORAL SEXUAL CONTACT WITH ANOTHER PERSON WHO IS INCAPABLE OF CONSENT BY REASON OF BEING MENTALLY DISABLED OR MENTALLY INCAPACITATED; OR

6. HE OR SHE ENGAGES IN ANAL SEXUAL CONTACT WITH ANOTHER PERSON WHO IS INCAPABLE OF CONSENT BY REASON OF BEING MENTALLY DISABLED OR MENTALLY INCAPACITATED.

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

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

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

4 S 130.35 Rape in the first degree.

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

6 1. he or she engages in [sexual intercourse] VAGINAL SEXUAL CONTACT
7 with another person:

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

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

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

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

14 2. HE OR SHE ENGAGES IN ORAL SEXUAL CONTACT WITH ANOTHER PERSON:

15 (A) BY FORCIBLE COMPULSION; OR

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

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

19 (D) WHO IS LESS THAN THIRTEEN YEARS OLD AND THE ACTOR IS EIGHTEEN
20 YEARS OLD OR MORE; OR

21 3. HE OR SHE ENGAGES IN ANAL SEXUAL CONTACT WITH ANOTHER PERSON:

22 (A) BY FORCIBLE COMPULSION; OR

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

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

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

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

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

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

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

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

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

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

33 S 9. Paragraphs (a) and (c) of subdivision 1 of section 70.02 of the
34 penal law, paragraph (a) as amended by chapter 320 of the laws of 2006
35 and paragraph (c) as amended by chapter 1 of the laws of 2013, are
36 amended to read as follows:

37 (a) Class B violent felony offenses: an attempt to commit the class
38 A-I felonies of murder in the second degree as defined in section
39 125.25, kidnapping in the first degree as defined in section 135.25, and
40 arson in the first degree as defined in section 150.20; manslaughter in
41 the first degree as defined in section 125.20, aggravated manslaughter
42 in the first degree as defined in section 125.22, rape in the first
43 degree as defined in section 130.35, [criminal sexual act in the first
44 degree as defined in section 130.50,] aggravated sexual abuse in the
45 first degree as defined in section 130.70, course of sexual conduct
46 against a child in the first degree as defined in section 130.75;
47 assault in the first degree as defined in section 120.10, kidnapping in
48 the second degree as defined in section 135.20, burglary in the first
49 degree as defined in section 140.30, arson in the second degree as
50 defined in section 150.15, robbery in the first degree as defined in
51 section 160.15, incest in the first degree as defined in section 255.27,
52 criminal possession of a weapon in the first degree as defined in
53 section 265.04, criminal use of a firearm in the first degree as defined
54 in section 265.09, criminal sale of a firearm in the first degree as
55 defined in section 265.13, aggravated assault upon a police officer or a
56 peace officer as defined in section 120.11, gang assault in the first

1 degree as defined in section 120.07, intimidating a victim or witness in
2 the first degree as defined in section 215.17, hindering prosecution of
3 terrorism in the first degree as defined in section 490.35, criminal
4 possession of a chemical weapon or biological weapon in the second
5 degree as defined in section 490.40, and criminal use of a chemical
6 weapon or biological weapon in the third degree as defined in section
7 490.47.

8 (c) Class D violent felony offenses: an attempt to commit any of the
9 class C felonies set forth in paragraph (b); reckless assault of a child
10 as defined in section 120.02, assault in the second degree as defined in
11 section 120.05, menacing a police officer or peace officer as defined in
12 section 120.18, stalking in the first degree, as defined in subdivision
13 one of section 120.60, strangulation in the second degree as defined in
14 section 121.12, rape in the second degree as defined in section 130.30,
15 [criminal sexual act in the second degree as defined in section 130.45,]
16 sexual abuse in the first degree as defined in section 130.65, course of
17 sexual conduct against a child in the second degree as defined in
18 section 130.80, aggravated sexual abuse in the third degree as defined
19 in section 130.66, facilitating a sex offense with a controlled
20 substance as defined in section 130.90, criminal possession of a weapon
21 in the third degree as defined in subdivision five, six, seven, eight,
22 nine or ten of section 265.02, criminal sale of a firearm in the third
23 degree as defined in section 265.11, intimidating a victim or witness in
24 the second degree as defined in section 215.16, soliciting or providing
25 support for an act of terrorism in the second degree as defined in
26 section 490.10, and making a terroristic threat as defined in section
27 490.20, falsely reporting an incident in the first degree as defined in
28 section 240.60, placing a false bomb or hazardous substance in the first
29 degree as defined in section 240.62, placing a false bomb or hazardous
30 substance in a sports stadium or arena, mass transportation facility or
31 enclosed shopping mall as defined in section 240.63, [and] OR aggravated
32 unpermitted use of indoor pyrotechnics in the first degree as defined in
33 section 405.18.

34 S 10. Paragraph b of subdivision 5 of section 120.40 of the penal law,
35 as amended by chapter 320 of the laws of 2006, is amended to read as
36 follows:

37 b. a crime defined in section 130.20, 130.25, 130.30, [130.40,
38 130.45,] 130.55, 130.60, 130.70, 255.25, 255.26 or 255.27;

39 S 11. Paragraph (d) of subdivision 2 and paragraph (h) of subdivision
40 3 of section 130.05 of the penal law, paragraph (d) of subdivision 2 as
41 amended by chapter 40 of the laws of 2004 and paragraph (h) of subdivi-
42 sion 3 as amended by section 2 of part G of chapter 501 of the laws of
43 2012, are amended to read as follows:

44 (d) Where the offense charged is rape in the third degree as defined
45 in [subdivision three] SUBDIVISIONS SEVEN, EIGHT AND NINE of section
46 130.25, [or criminal sexual act in the third degree as defined in subdivi-
47 sion three of section 130.40,] in addition to forcible compulsion,
48 circumstances under which, at the time of the act of intercourse, oral
49 sexual conduct or anal sexual conduct, the victim clearly expressed that
50 he or she did not consent to engage in such act, and a reasonable person
51 in the actor's situation would have understood such person's words and
52 acts as an expression of lack of consent to such act under all the
53 circumstances.

54 (h) a client or patient and the actor is a health care provider or
55 mental health care provider charged with rape in the third degree as
56 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 12. 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 13. Subdivision 5 of section 125.25 of the penal law, as amended by chapter 320 of the laws of 2006, is amended to read as follows:

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

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

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

S 15. 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 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

1 expressly advised by the health care or mental health care provider that
2 such conduct was not performed for a valid medical purpose.

3 S 16. The opening paragraph and subdivision 2 of section 130.95 of the
4 penal law, as added by chapter 107 of the laws of 2006, are amended to
5 read as follows:

6 A person is guilty of predatory sexual assault when he or she commits
7 the crime of rape in the first degree, [criminal sexual act in the first
8 degree,] aggravated sexual abuse in the first degree, or course of sexual
9 conduct against a child in the first degree, as defined in this article,
10 and when:

11 2. He or she has engaged in conduct constituting the crime of rape in
12 the first degree, [criminal sexual act in the first degree,] aggravated
13 sexual abuse in the first degree, or course of sexual conduct against a
14 child in the first degree, as defined in this article, against one or
15 more additional persons; or

16 S 17. The opening paragraph of section 130.96 of the penal law, as
17 added by chapter 107 of the laws of 2006, is amended to read as follows:

18 A person is guilty of predatory sexual assault against a child when,
19 being eighteen years old or more, he or she commits 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, and the victim is
23 less than thirteen years old.

24 S 18. Subdivision 2 of section 240.75 of the penal law, as added by
25 section 2 of part D of chapter 491 of the laws of 2012, is amended to
26 read as follows:

27 2. A "specified offense" is an offense defined in section 120.00
28 (assault in the third degree); section 120.05 (assault in the second
29 degree); section 120.10 (assault in the first degree); section 120.13
30 (menacing in the first degree); section 120.14 (menacing in the second
31 degree); section 120.15 (menacing in the third degree); section 120.20
32 (reckless endangerment in the second degree); section 120.25 (reckless
33 endangerment in the first degree); section 120.45 (stalking in the
34 fourth degree); section 120.50 (stalking in the third degree); section
35 120.55 (stalking in the second degree); section 120.60 (stalking in the
36 first degree); section 121.11 (criminal obstruction of breathing or
37 blood circulation); section 121.12 (strangulation in the second degree);
38 section 121.13 (strangulation in the first degree); subdivision one of
39 section 125.15 (manslaughter in the second degree); subdivision one, two
40 or four of section 125.20 (manslaughter in the first degree); section
41 125.25 (murder in the second degree); section 130.20 (sexual miscon-
42 duct); SECTION 130.25 (RAPE IN THE THIRD DEGREE); section 130.30 (rape
43 in the second degree); section 130.35 (rape in the first degree);
44 [section 130.40 (criminal sexual act in the third degree); section
45 130.45 (criminal sexual act in the second degree); section 130.50 (criminal
46 sexual act in the first degree);] section 130.52 (forcible touch-
47 ing); section 130.53 (persistent sexual abuse); section 130.55 (sexual
48 abuse in the third degree); section 130.60 (sexual abuse in the second
49 degree); section 130.65 (sexual abuse in the first degree); section
50 130.66 (aggravated sexual abuse in the third degree); section 130.67
51 (aggravated sexual abuse in the second degree); section 130.70 (aggra-
52 vated sexual abuse in the first degree); section 130.91 (sexually moti-
53 vated felony); section 130.95 (predatory sexual assault); section 130.96
54 (predatory sexual assault against a child); section 135.05 (unlawful
55 imprisonment in the second degree); section 135.10 (unlawful imprison-
56 ment in the first degree); section 135.60 (coercion in the second

1 degree); section 135.65 (coercion in the first degree); section 140.20
2 (burglary in the third degree); section 140.25 (burglary in the second
3 degree); section 140.30 (burglary in the first degree); section 145.00
4 (criminal mischief in the fourth degree); section 145.05 (criminal
5 mischief in the third degree); section 145.10 (criminal mischief in the
6 second degree); section 145.12 (criminal mischief in the first degree);
7 section 145.14 (criminal tampering in the third degree); section 215.50
8 (criminal contempt in the second degree); section 215.51 (criminal
9 contempt in the first degree); section 215.52 (aggravated criminal
10 contempt); section 240.25 (harassment in the first degree); subdivision
11 one, two or four of section 240.30 (aggravated harassment in the second
12 degree); aggravated family offense as defined in this section or any
13 attempt or conspiracy to commit any of the foregoing offenses where the
14 defendant and the person against whom the offense was committed were
15 members of the same family or household as defined in subdivision one of
16 section 530.11 of the criminal procedure law.

17 S 19. Section 255.26 of the penal law, as added by chapter 320 of the
18 laws of 2006, is amended to read as follows:

19 S 255.26 Incest in the second degree.

20 A person is guilty of incest in the second degree when he or she
21 commits the crime of rape in the second degree, as defined in section
22 130.30 of this part, [or criminal sexual act in the second degree, as
23 defined in section 130.45 of this part,] against a person whom he or she
24 knows to be related to him or her, whether through marriage or not, as
25 an ancestor, descendant, brother or sister of either the whole or the
26 half blood, uncle, aunt, nephew or niece.

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

28 S 20. Section 255.27 of the penal law, as added by chapter 320 of the
29 laws of 2006, is amended to read as follows:

30 S 255.27 Incest in the first degree.

31 A person is guilty of incest in the first degree when he or she
32 commits the crime of rape in the first degree, as defined in PARAGRAPH
33 (C) OR (D) OF subdivision [three or four] ONE, PARAGRAPH (C) OR (D) OF
34 SUBDIVISION TWO AND PARAGRAPH (C) OR (D) OF SUBDIVISION THREE of section
35 130.35 of this part[, or criminal sexual act in the first degree, as
36 defined in subdivision three or four of section 130.50 of this part,]
37 against a person whom he or she knows to be related to him or her,
38 whether through marriage or not, as an ancestor, descendant, brother or
39 sister of either the whole or half blood, uncle, aunt, nephew or niece.

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

41 S 21. Subdivision 3 of section 485.05 of the penal law, as amended by
42 chapter 405 of the laws of 2010, is amended to read as follows:

43 3. A "specified offense" is an offense defined by any of the following
44 provisions of this chapter: section 120.00 (assault in the third
45 degree); section 120.05 (assault in the second degree); section 120.10
46 (assault in the first degree); section 120.12 (aggravated assault upon a
47 person less than eleven years old); section 120.13 (menacing in the
48 first degree); section 120.14 (menacing in the second degree); section
49 120.15 (menacing in the third degree); section 120.20 (reckless endan-
50 germent in the second degree); section 120.25 (reckless endangerment in
51 the first degree); section 121.12 (strangulation in the second degree);
52 section 121.13 (strangulation in the first degree); subdivision one of
53 section 125.15 (manslaughter in the second degree); subdivision one, two
54 or four of section 125.20 (manslaughter in the first degree); section
55 125.25 (murder in the second degree); section 120.45 (stalking in the
56 fourth degree); section 120.50 (stalking in the third degree); section

1 120.55 (stalking in the second degree); section 120.60 (stalking in the
2 first degree); PARAGRAPH (A) OF subdivision one, PARAGRAPH (A) OF SUBDI-
3 VISION TWO AND PARAGRAPH (A) OF SUBDIVISION THREE of section 130.35
4 (rape in the first degree); [subdivision one of section 130.50 (criminal
5 sexual act in the first degree);] subdivision one of section 130.65
6 (sexual abuse in the first degree); paragraph (a) of subdivision one of
7 section 130.67 (aggravated sexual abuse in the second degree); paragraph
8 (a) of subdivision one of section 130.70 (aggravated sexual abuse in the
9 first degree); section 135.05 (unlawful imprisonment in the second
10 degree); section 135.10 (unlawful imprisonment in the first degree);
11 section 135.20 (kidnapping in the second degree); section 135.25
12 (kidnapping in the first degree); section 135.60 (coercion in the second
13 degree); section 135.65 (coercion in the first degree); section 140.10
14 (criminal trespass in the third degree); section 140.15 (criminal tres-
15 pass in the second degree); section 140.17 (criminal trespass in the
16 first degree); section 140.20 (burglary in the third degree); section
17 140.25 (burglary in the second degree); section 140.30 (burglary in the
18 first degree); section 145.00 (criminal mischief in the fourth degree);
19 section 145.05 (criminal mischief in the third degree); section 145.10
20 (criminal mischief in the second degree); section 145.12 (criminal
21 mischief in the first degree); section 150.05 (arson in the fourth
22 degree); section 150.10 (arson in the third degree); section 150.15
23 (arson in the second degree); section 150.20 (arson in the first
24 degree); section 155.25 (petit larceny); section 155.30 (grand larceny
25 in the fourth degree); section 155.35 (grand larceny in the third
26 degree); section 155.40 (grand larceny in the second degree); section
27 155.42 (grand larceny in the first degree); section 160.05 (robbery in
28 the third degree); section 160.10 (robbery in the second degree);
29 section 160.15 (robbery in the first degree); section 240.25 (harassment
30 in the first degree); subdivision one, two or four of section 240.30
31 (aggravated harassment in the second degree); or any attempt or conspir-
32 acy to commit any of the foregoing offenses.

33 S 22. Subdivision 42 of section 1.20 of the criminal procedure law, as
34 amended by chapter 7 of the laws of 2007, is amended to read as follows:

35 42. "Juvenile offender" means (1) a person, thirteen years old who is
36 criminally responsible for acts constituting murder in the second degree
37 as defined in subdivisions one and two of section 125.25 of the penal
38 law, or such conduct as a sexually motivated felony, where authorized
39 pursuant to section 130.91 of the penal law; and (2) a person fourteen
40 or fifteen years old who is criminally responsible for acts constituting
41 the crimes defined in subdivisions one and two of section 125.25 (murder
42 in the second degree) and in subdivision three of such section provided
43 that the underlying crime for the murder charge is one for which such
44 person is criminally responsible; section 135.25 (kidnapping in the
45 first degree); 150.20 (arson in the first degree); subdivisions one and
46 two of section 120.10 (assault in the first degree); 125.20 (manslaught-
47 er in the first degree); [subdivisions one and] PARAGRAPHS (A) AND (B)
48 OF SUBDIVISION ONE, PARAGRAPHS (A) AND (B) OF SUBDIVISION two AND PARA-
49 GRAPHS (A) AND (B) OF SUBDIVISION THREE of section 130.35 (rape in the
50 first degree); [subdivisions one and two of section 130.50 (criminal
51 sexual act in the first degree);] 130.70 (aggravated sexual abuse in the
52 first degree); 140.30 (burglary in the first degree); subdivision one of
53 section 140.25 (burglary in the second degree); 150.15 (arson in the
54 second degree); 160.15 (robbery in the first degree); subdivision two of
55 section 160.10 (robbery in the second degree) of the penal law; or
56 section 265.03 of the penal law, where such machine gun or such firearm

1 is possessed on school grounds, as that phrase is defined in subdivision
2 fourteen of section 220.00 of the penal law; or defined in the penal law
3 as an attempt to commit murder in the second degree or kidnapping in the
4 first degree, or such conduct as a sexually motivated felony, where
5 authorized pursuant to section 130.91 of the penal law.

6 S 23. Paragraphs (a) and (b) of subdivision 1, the opening paragraph
7 of subdivision 2 and paragraph (a) of subdivision 3 of section 140.20 of
8 the criminal procedure law, paragraphs (a) and (b) of subdivision 1 as
9 amended by chapter 324 of the laws of 1988, the opening paragraph of
10 subdivision 2 and paragraph (a) of subdivision 3 as amended by chapter
11 550 of the laws of 1987, are amended to read as follows:

12 (a) If the arrest is for an offense other than a class A, B, C or D
13 felony or a violation of section 130.25, [130.40,] 205.10, 205.17,
14 205.19 or 215.56 of the penal law committed in a town, but not in a
15 village thereof having a village court, and the town court of such town
16 is not available at the time, the arrested person may be brought before
17 the local criminal court of any village within such town or, any adjoin-
18 ing town, village embraced in whole or in part by such adjoining town,
19 or city of the same county; and

20 (b) 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 village having a
23 village court and such court is not available at the time, the arrested
24 person may be brought before the town court of the town embracing such
25 village or any other village court within such town, or, if such town or
26 village court is not available either, before the local criminal court
27 of any adjoining town, village embraced in whole or in part by such
28 adjoining town, or city of the same county; and

29 If the arrest is for an offense other than a class A, B, C or D felony
30 or a violation of section 130.25, [130.40,] 205.10, 205.17, 205.19 or
31 215.56 of the penal law, the arrested person need not be brought before
32 a local criminal court as provided in subdivision one, and the procedure
33 may instead be as follows:

34 (a) the arrest is for an offense other than a class A, B, C or D felo-
35 ny or a violation of section 130.25, [130.40,] 205.10, 205.17, 205.19 or
36 215.56 of the penal law, and

37 S 24. Paragraph (a) of subdivision 3 and the opening paragraph of
38 subdivision 4 of section 140.27 of the criminal procedure law, as
39 amended by chapter 550 of the laws of 1987, are amended to read as
40 follows:

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

44 If the arrest is for an offense other than a class A, B, C or D felony
45 or a violation of section 130.25, [130.40,] 205.10, 205.17, 205.19 or
46 215.56 of the penal law, the arrested person need not be brought before
47 a local criminal court as provided in subdivision two, and the procedure
48 may instead be as follows:

49 S 25. Paragraph (a) of subdivision 2 and the opening paragraph of
50 subdivision 3 of section 140.40 of the criminal procedure law, as
51 amended by chapter 550 of the laws of 1987, are amended to read as
52 follows:

53 (a) the arrest is for an offense other than a class A, B, C or D felo-
54 ny or a violation of section 130.25, [130.40,] 205.10, 205.17, 205.19 or
55 215.56 of the penal law and

1 If the arrest is for an offense other than a class A, B, C or D felony
2 or a violation of section 130.25, [130.40,] 205.10, 205.17, 205.19 or
3 215.56 of the penal law, the arrested person need not be brought before
4 a local criminal court, as provided in subdivision one, and the proce-
5 dure may instead be as follows:

6 S 26. Section 150.20 of the criminal procedure law, subdivisions 1, 2
7 and 3 as amended by chapter 550 of the laws of 1987, is amended to read
8 as follows:

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

10 1. Whenever a police officer is authorized pursuant to section 140.10
11 to arrest a person without a warrant for an offense other than a class
12 A, B, C or D felony or a violation of section 130.25, [130.40,] 205.10,
13 205.17, 205.19 or 215.56 of the penal law, he may, subject to the
14 provisions of subdivisions three and four of section 150.40, instead
15 issue to and serve upon such person an appearance ticket.

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

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

46 S 27. Subdivision 4 of section 180.75 of the criminal procedure law,
47 as amended by chapter 264 of the laws of 2003, is amended to read as
48 follows:

49 4. Notwithstanding the provisions of subdivisions two and three of
50 this section, a local criminal court shall, at the request of the
51 district attorney, order removal of an action against a juvenile offen-
52 der to the family court pursuant to the provisions of article seven
53 hundred twenty-five of this chapter if, upon consideration of the crite-
54 ria specified in subdivision two of section 210.43 of this chapter, it
55 is determined that to do so would be in the interests of justice.
56 Where, however, the felony complaint charges the juvenile offender with

1 murder in the second degree as defined in section 125.25 of the penal
2 law, rape in the first degree as defined in PARAGRAPH (A) OF subdivision
3 one, PARAGRAPH (A) OF SUBDIVISION TWO OR PARAGRAPH (A) OF SUBDIVISION
4 THREE of section 130.35 of the penal law, [criminal sexual act in the
5 first degree as defined in subdivision one of section 130.50 of the
6 penal law,] or an armed felony as defined in paragraph (a) of subdivi-
7 sion forty-one of section 1.20 of this chapter, a determination that
8 such action be removed to the family court shall, in addition, be based
9 upon a finding of one or more of the following factors: (i) mitigating
10 circumstances that bear directly upon the manner in which the crime was
11 committed; or (ii) where the defendant was not the sole participant in
12 the crime, the defendant's participation was relatively minor although
13 not so minor as to constitute a defense to the prosecution; or (iii)
14 possible deficiencies in proof of the crime.

15 S 28. Subdivision (a) of section 190.71 of the criminal procedure law,
16 as amended by chapter 7 of the laws of 2007, is amended to read as
17 follows:

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

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

52 (b) with the consent of the district attorney, order removal of an
53 action involving an indictment charging a juvenile offender with murder
54 in the second degree as defined in section 125.25 of the penal law; rape
55 in the first degree, as defined in PARAGRAPH (A) OF subdivision one,
56 PARAGRAPH (A) OF SUBDIVISION TWO AND PARAGRAPH (A) OF SUBDIVISION THREE

1 of section 130.35 of the penal law; [criminal sexual act in the first
2 degree, as defined in subdivision one of section 130.50 of the penal
3 law;] or an armed felony as defined in paragraph (a) of subdivision
4 forty-one of section 1.20, to the family court pursuant to the
5 provisions of article seven hundred twenty-five of this chapter if the
6 court finds one or more of the following factors: (i) mitigating circum-
7 stances that bear directly upon the manner in which the crime was
8 committed; (ii) where the defendant was not the sole participant in the
9 crime, the defendant's participation was relatively minor although not
10 so minor as to constitute a defense to the prosecution; or (iii) possi-
11 ble deficiencies in the proof of the crime, and, after consideration of
12 the factors set forth in subdivision two of this section, the court
13 determined that removal of the action to the family court would be in
14 the interests of justice.

15 S 30. Subparagraph (iii) of paragraph (g) of subdivision 5 of section
16 220.10 of the criminal procedure law, as amended by chapter 264 of the
17 laws of 2003, is amended to read as follows:

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

44 S 31. Subdivision 6 of section 300.50 of the criminal procedure law,
45 as amended by chapter 264 of the laws of 2003, is amended to read as
46 follows:

47 6. For purposes of this section, the offenses of rape in the third
48 degree as defined in [subdivision three] SUBDIVISIONS SEVEN, EIGHT AND
49 NINE of section 130.25 of the penal law [and criminal sexual act in the
50 third degree as defined in subdivision three of section 130.40 of the
51 penal law], are not lesser included offenses of rape in the first
52 degree[, criminal sexual act in the first degree] or any other offense.
53 Notwithstanding the foregoing, either such offense may be submitted as a
54 lesser included offense of the applicable first degree offense when (i)
55 there is a reasonable view of the evidence which would support a finding

1 that the defendant committed such lesser offense but did not commit the
2 greater offense, and (ii) both parties consent to its submission.

3 S 32. Subdivision 6 of section 380.50 of the criminal procedure law,
4 as amended by chapter 320 of the laws of 2006, is amended to read as
5 follows:

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

23 S 33. Paragraph (b) of subdivision 8 of section 700.05 of the criminal
24 procedure law, as amended by chapter 405 of the laws of 2010, is amended
25 to read as follows:

26 (b) Any of the following felonies: assault in the second degree as
27 defined in section 120.05 of the penal law, assault in the first degree
28 as defined in section 120.10 of the penal law, reckless endangerment in
29 the first degree as defined in section 120.25 of the penal law, promot-
30 ing a suicide attempt as defined in section 120.30 of the penal law,
31 strangulation in the second degree as defined in section 121.12 of the
32 penal law, strangulation in the first degree as defined in section
33 121.13 of the penal law, criminally negligent homicide as defined in
34 section 125.10 of the penal law, manslaughter in the second degree as
35 defined in section 125.15 of the penal law, manslaughter in the first
36 degree as defined in section 125.20 of the penal law, murder in the
37 second degree as defined in section 125.25 of the penal law, murder in
38 the first degree as defined in section 125.27 of the penal law, abortion
39 in the second degree as defined in section 125.40 of the penal law,
40 abortion in the first degree as defined in section 125.45 of the penal
41 law, rape in the third degree as defined in section 130.25 of the penal
42 law, rape in the second degree as defined in section 130.30 of the penal
43 law, rape in the first degree as defined in section 130.35 of the penal
44 law, [criminal sexual act in the third degree as defined in section
45 130.40 of the penal law, criminal sexual act in the second degree as
46 defined in section 130.45 of the penal law, criminal sexual act in the
47 first degree as defined in section 130.50 of the penal law,] sexual
48 abuse in the first degree as defined in section 130.65 of the penal law,
49 unlawful imprisonment in the first degree as defined in section 135.10
50 of the penal law, kidnapping in the second degree as defined in section
51 135.20 of the penal law, kidnapping in the first degree as defined in
52 section 135.25 of the penal law, labor trafficking as defined in section
53 135.35 of the penal law, custodial interference in the first degree as
54 defined in section 135.50 of the penal law, coercion in the first degree
55 as defined in section 135.65 of the penal law, criminal trespass in the
56 first degree as defined in section 140.17 of the penal law, burglary in

1 the third degree as defined in section 140.20 of the penal law, burglary
2 in the second degree as defined in section 140.25 of the penal law,
3 burglary in the first degree as defined in section 140.30 of the penal
4 law, criminal mischief in the third degree as defined in section 145.05
5 of the penal law, criminal mischief in the second degree as defined in
6 section 145.10 of the penal law, criminal mischief in the first degree
7 as defined in section 145.12 of the penal law, criminal tampering in the
8 first degree as defined in section 145.20 of the penal law, arson in the
9 fourth degree as defined in section 150.05 of the penal law, arson in
10 the third degree as defined in section 150.10 of the penal law, arson in
11 the second degree as defined in section 150.15 of the penal law, arson
12 in the first degree as defined in section 150.20 of the penal law, grand
13 larceny in the fourth degree as defined in section 155.30 of the penal
14 law, grand larceny in the third degree as defined in section 155.35 of
15 the penal law, grand larceny in the second degree as defined in section
16 155.40 of the penal law, grand larceny in the first degree as defined in
17 section 155.42 of the penal law, health care fraud in the fourth degree
18 as defined in section 177.10 of the penal law, health care fraud in the
19 third degree as defined in section 177.15 of the penal law, health care
20 fraud in the second degree as defined in section 177.20 of the penal
21 law, health care fraud in the first degree as defined in section 177.25
22 of the penal law, robbery in the third degree as defined in section
23 160.05 of the penal law, robbery in the second degree as defined in
24 section 160.10 of the penal law, robbery in the first degree as defined
25 in section 160.15 of the penal law, unlawful use of secret scientific
26 material as defined in section 165.07 of the penal law, criminal
27 possession of stolen property in the fourth degree as defined in section
28 165.45 of the penal law, criminal possession of stolen property in the
29 third degree as defined in section 165.50 of the penal law, criminal
30 possession of stolen property in the second degree as defined by section
31 165.52 of the penal law, criminal possession of stolen property in the
32 first degree as defined by section 165.54 of the penal law, trademark
33 counterfeiting in the second degree as defined in section 165.72 of the
34 penal law, trademark counterfeiting in the first degree as defined in
35 section 165.73 of the penal law, forgery in the second degree as defined
36 in section 170.10 of the penal law, forgery in the first degree as
37 defined in section 170.15 of the penal law, criminal possession of a
38 forged instrument in the second degree as defined in section 170.25 of
39 the penal law, criminal possession of a forged instrument in the first
40 degree as defined in section 170.30 of the penal law, criminal
41 possession of forgery devices as defined in section 170.40 of the penal
42 law, falsifying business records in the first degree as defined in
43 section 175.10 of the penal law, tampering with public records in the
44 first degree as defined in section 175.25 of the penal law, offering a
45 false instrument for filing in the first degree as defined in section
46 175.35 of the penal law, issuing a false certificate as defined in
47 section 175.40 of the penal law, criminal diversion of prescription
48 medications and prescriptions in the second degree as defined in section
49 178.20 of the penal law, criminal diversion of prescription medications
50 and prescriptions in the first degree as defined in section 178.25 of
51 the penal law, residential mortgage fraud in the fourth degree as
52 defined in section 187.10 of the penal law, residential mortgage fraud
53 in the third degree as defined in section 187.15 of the penal law, resi-
54 dential mortgage fraud in the second degree as defined in section 187.20
55 of the penal law, residential mortgage fraud in the first degree as
56 defined in section 187.25 of the penal law, escape in the second degree

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

22 S 34. Paragraph (a) of subdivision 2 of section 720.10 of the criminal
23 procedure law, as amended by chapter 316 of the laws of 2006, is amended
24 to read as follows:

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

31 S 35. Paragraph (a) of subdivision 2 and paragraph (a) of subdivision
32 3 of section 168-a of the correction law, paragraph (a) of subdivision 2
33 as amended by chapter 405 of the laws of 2008 and paragraph (a) of
34 subdivision 3 as amended by chapter 107 of the laws of 2006, are amended
35 to read as follows:

36 (a) (i) a conviction of or a conviction for an attempt to commit any
37 of the provisions of sections 120.70, 130.20, 130.25, 130.30, [130.40,
38 130.45,] 130.60, 230.34, 250.50, 255.25, 255.26 and 255.27 or article
39 two hundred sixty-three of the penal law, or section 135.05, 135.10,
40 135.20 or 135.25 of such law relating to kidnapping offenses, provided
41 the victim of such kidnapping or related offense is less than seventeen
42 years old and the offender is not the parent of the victim, or section
43 230.04, where the person patronized is in fact less than seventeen years
44 of age, 230.05 or 230.06, or subdivision two of section 230.30, or
45 section 230.32 or 230.33 of the penal law, or (ii) a conviction of or a
46 conviction for an attempt to commit any of the provisions of section
47 235.22 of the penal law, or (iii) a conviction of or a conviction for an
48 attempt to commit any provisions of the foregoing sections committed or
49 attempted as a hate crime defined in section 485.05 of the penal law or
50 as a crime of terrorism defined in section 490.25 of such law or as a
51 sexually motivated felony defined in section 130.91 of such law; or

52 (a) (i) a conviction of or a conviction for an attempt to commit any
53 of the provisions of sections 130.35, [130.50,] 130.65, 130.66, 130.67,
54 130.70, 130.75, 130.80, 130.95 and 130.96 of the penal law, or (ii) a
55 conviction of or a conviction for an attempt to commit any of the
56 provisions of sections 130.53, 130.65-a and 130.90 of the penal law, or

1 (iii) a conviction of or a conviction for an attempt to commit any
2 provisions of the foregoing sections committed or attempted as a hate
3 crime defined in section 485.05 of the penal law or as a crime of
4 terrorism defined in section 490.25 of such law; or

5 S 36. Subparagraph (ii) of paragraph (a), subparagraphs (i) and (ii)
6 of paragraph (b) and paragraph (e) of subdivision 8 of section 384-b of
7 the social services law, subparagraph (ii) of paragraph (a) and subpara-
8 graph (i) of paragraph (b) as amended by chapter 430 of the laws of
9 2013, subparagraph (ii) of paragraph (b) as amended and paragraph (e) as
10 added by chapter 7 of the laws of 1999, are amended to read as follows:

11 (ii) the child has been found to be an abused child, as defined in
12 paragraph (iii) of subdivision (e) of section ten hundred twelve of the
13 family court act, as a result of such parent's acts; provided, however,
14 the respondent must have committed or knowingly allowed to be committed
15 a felony sex offense as defined in sections 130.25, 130.30, 130.35,
16 [130.40, 130.45, 130.50,] 130.65, 130.67, 130.70, 130.75, 130.80, 130.95
17 and 130.96 of the penal law and, for the purposes of this section the
18 corroboration requirements contained in the penal law shall not apply to
19 proceedings under this section; or

20 (i) the child has been found to be an abused child, (A) as defined in
21 paragraph (i) of subdivision (e) of section ten hundred twelve of the
22 family court act, as a result of such parent's acts; or (B) as defined
23 in paragraph (iii) of subdivision (e) of section ten hundred twelve of
24 the family court act, as a result of such parent's acts; provided,
25 however, the respondent must have committed or knowingly allowed to be
26 committed a felony sex offense as defined in sections 130.25, 130.30,
27 130.35, [130.40, 130.45, 130.50,] 130.65, 130.67, 130.70, 130.75,
28 130.80, 130.95 and 130.96 of the penal law; and

29 (ii) (A) the child or another child for whose care such parent is or
30 has been legally responsible has been previously found, within the five
31 years immediately preceding the initiation of the proceeding in which
32 such abuse is found, to be an abused child, as defined in paragraph (i)
33 or (iii) of subdivision (e) of section ten hundred twelve of the family
34 court act, as a result of such parent's acts; provided, however, in the
35 case of a finding of abuse as defined in paragraph (iii) of subdivision
36 (e) of section ten hundred twelve of the family court act the respondent
37 must have committed or knowingly allowed to be committed a felony sex
38 offense as defined in sections 130.25, 130.30, 130.35, [130.40, 130.45,
39 130.50,] 130.65, 130.67, 130.70, 130.75 and 130.80 of the penal law, or
40 (B) the parent has been convicted of a crime under section 130.25,
41 130.30, 130.35, [130.40, 130.45, 130.50,] 130.65, 130.67, 130.70, 130.75
42 or 130.80 of the penal law against the child, a sibling of the child or
43 another child for whose care such parent is or has been legally respon-
44 sible, within the five year period immediately preceding the initiation
45 of the proceeding in which abuse is found; and

46 (e) A determination by the court in accordance with article ten of the
47 family court act based upon clear and convincing evidence that a child
48 was abused (A) as defined in paragraph (i) of subdivision (e) of section
49 ten hundred twelve of the family court act, as a result of such parent's
50 acts; or (B) as defined in paragraph (iii) of subdivision (e) of section
51 ten hundred twelve of the family court act, as a result of such parent's
52 acts; provided, however, the respondent must have committed or knowingly
53 allowed to be committed a felony sex offense as defined in sections
54 130.25, 130.30, 130.35, [130.40, 130.45, 130.50,] 130.65, 130.67,
55 130.70, 130.75 and 130.80 of the penal law shall establish that the
56 child was an abused child for the purpose of a determination as required

1 by subparagraph (i) or (ii) of paragraph (b) of this subdivision. Such a
2 determination by the court in accordance with article ten of the family
3 court act based upon a fair preponderance of evidence shall be admissi-
4 ble in any proceeding commenced in accordance with this section.

5 S 37. Paragraphs (a) and (b) of subdivision 4 of section 509-cc of the
6 vehicle and traffic law, as amended by chapter 400 of the laws of 2011,
7 are amended to read as follows:

8 (a) The offenses referred to in subparagraph (ii) of paragraph (a) of
9 subdivision one and paragraph (a) of subdivision two of this section
10 that result in permanent disqualification shall include a conviction
11 under sections 125.12, 125.13, 125.14, 125.15, 125.20, 125.21, 125.22,
12 125.25, 125.26, 125.27, 130.30, 130.35, [130.45, 130.50,] 130.65,
13 130.66, 130.67, 130.70, 130.75, 130.80, 130.90, 130.95, 130.96, 135.25,
14 150.20, 230.30, 230.32, 230.34, 235.22, 263.05, 263.10, 263.11, 263.15,
15 263.16 of the penal law or an attempt to commit any of the aforesaid
16 offenses under section 110.00 of the penal law, or any offenses commit-
17 ted under a former section of the penal law which would constitute
18 violations of the aforesaid sections of the penal law, or any offenses
19 committed outside this state which would constitute violations of the
20 aforesaid sections of the penal law.

21 (b) The offenses referred to in subparagraph (ii) of paragraph (a) of
22 subdivision one and paragraph (b) of subdivision two of this section
23 that result in permanent disqualification shall include a conviction
24 under sections 100.13, 105.15, 105.17, 115.08, 120.12, 120.70, 125.10,
25 125.11, [130.40,] 130.53, 130.60, 130.65-a, 135.20, 160.15, 220.18,
26 220.21, 220.39, 220.41, 220.43, 220.44, 230.25, 260.00, 265.04 of the
27 penal law or an attempt to commit any of the aforesaid offenses under
28 section 110.00 of the penal law, or any offenses committed under a
29 former section of the penal law which would constitute violations of the
30 aforesaid sections of the penal law, or any offenses committed outside
31 this state which would constitute violations of the aforesaid sections
32 of the penal law.

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

35 (b) For every juvenile delinquency proceeding under article three
36 involving an allegation of an act committed by a person which, if done
37 by an adult, would be a crime (i) defined in sections 125.27 (murder in
38 the first degree); 125.25 (murder in the second degree); 135.25 (kidnap-
39 ping in the first degree); or 150.20 (arson in the first degree) of the
40 penal law committed by a person thirteen, fourteen or fifteen years of
41 age; or such conduct committed as a sexually motivated felony, where
42 authorized pursuant to section 130.91 of the penal law; (ii) defined in
43 sections 120.10 (assault in the first degree); 125.20 (manslaughter in
44 the first degree); 130.35 (rape in the first degree); [130.50 (criminal
45 sexual act in the first degree);] 135.20 (kidnapping in the second
46 degree), but only where the abduction involved the use or threat of use
47 of deadly physical force; 150.15 (arson in the second degree); or 160.15
48 (robbery in the first degree) of the penal law committed by a person
49 thirteen, fourteen or fifteen years of age; or such conduct committed as
50 a sexually motivated felony, where authorized pursuant to section 130.91
51 of the penal law; (iii) defined in the penal law as an attempt to commit
52 murder in the first or second degree or kidnapping in the first degree
53 committed by a person thirteen, fourteen or fifteen years of age; or
54 such conduct committed as a sexually motivated felony, where authorized
55 pursuant to section 130.91 of the penal law; (iv) defined in section
56 140.30 (burglary in the first degree); subdivision one of section 140.25

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

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

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

29 S 39. Paragraph (ii) of subdivision 8 of section 301.2 of the family
30 court act, as amended by chapter 7 of the laws of 2007, is amended to
31 read as follows:

32 (ii) defined in sections 120.10 (assault in the first degree); 125.20
33 (manslaughter in the first degree); 130.35 (rape in the first degree);
34 [130.50 (criminal sexual act in the first degree);] 130.70 (aggravated
35 sexual abuse in the first degree); 135.20 (kidnapping in the second
36 degree) but only where the abduction involved the use or threat of use
37 of deadly physical force; 150.15 (arson in the second degree) or 160.15
38 (robbery in the first degree) of the penal law committed by a person
39 thirteen, fourteen or fifteen years of age; or such conduct committed as
40 a sexually motivated felony, where authorized pursuant to section 130.91
41 of the penal law;

42 S 40. Subdivision 4 of section 308.1 of the family court act, as
43 amended by chapter 264 of the laws of 2003, is amended to read as
44 follows:

45 4. The probation service shall not adjust a case in which the child
46 has allegedly committed a delinquent act which would be a crime defined
47 in section 120.25, (reckless endangerment in the first degree), [subdi-
48 vision one of section 125.15, (manslaughter in the second degree),
49 subdivision] SUBDIVISIONS one, TWO AND THREE of section 130.25, (rape in
50 the third degree), [subdivision one of section 130.40, (criminal sexual
51 act in the third degree),] subdivision one or two of section 130.65,
52 (sexual abuse in the first degree), section 135.65, (coercion in the
53 first degree), section 140.20, (burglary in the third degree), section
54 150.10, (arson in the third degree), section 160.05, (robbery in the
55 third degree), subdivision two, three or four of section 265.02, (crimi-
56 nal possession of a weapon in the third degree), section 265.03, (crimi-

nal possession of a weapon in the second degree), or section 265.04, (criminal possession of a dangerous weapon in the first degree) of the penal law where the child has previously had one or more adjustments of a case in which such child allegedly committed an act which would be a crime specified in this subdivision unless it has received written approval from the court and the appropriate presentment agency.

S 41. Subdivision (c) of section 1052 of the family court act, as added by chapter 739 of the laws of 1981, is amended to read as follows:

(c) Prior to granting an order of disposition pursuant to subdivision (a) of this section following an adjudication of child abuse, as defined in paragraph (i) of subdivision (e) of section ten hundred twelve of this act or a finding of a felony sex offense as defined in sections 130.25, 130.30, 130.35, [130.40, 130.45, 130.50,] 130.65 and 130.70 of the penal law, the court shall advise the respondent that any subsequent adjudication of child abuse, as defined in paragraph (i) of subdivision (e) of section one thousand twelve of this act or any subsequent finding of a felony sex offense as defined in those sections of the penal law herein enumerated, arising out of acts of the respondent may result in the commitment of the guardianship and custody of the child or another child pursuant to section three hundred eighty-four-b of the social services law. The order in such cases shall contain a statement that any subsequent adjudication of child abuse or finding of a felony sex offense as described herein may result in the commitment of the guardianship and custody of the child, or another child pursuant to section three hundred eighty-four-b of the social services law.

S 42. Subdivision 2 of section 61 of the civil rights law, as amended by section 54 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

2. If the petitioner stands convicted of 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, and is currently confined as an inmate in any correctional facility or currently under the supervision of the department of corrections and community supervision or a county probation department as a result of such conviction, the petition shall for each such conviction specify such felony conviction, the date of such conviction or convictions, and the court in which such conviction or convictions were entered.

S 43. Subdivision 2 of section 62 of the civil rights law, as amended by section 55 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

2. If the petition be to change the name of a person currently confined as an inmate in any correctional facility or currently under the supervision of the department of corrections and community supervision or a county probation department as a result of a conviction 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, notice of the time and place when and where the petition will be presented shall be served, in like manner as a notice of a motion upon an attorney in an action, upon the district attorney of every county in which such person has been convicted of such felony and upon the

1 court or courts in which the sentence for such felony was entered.
2 Unless a shorter period of time is ordered by the court, said notice
3 shall be served upon each such district attorney and court or courts not
4 less than sixty days prior to the date on which such petition is noticed
5 to be heard.

6 S 44. The closing paragraph of section 64 of the civil rights law, as
7 separately amended by chapters 258, 320 and 481 of the laws of 2006, is
8 amended to read as follows:

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

28 S 45. Section 213-c of the civil practice law and rules, as added by
29 chapter 3 of the laws of 2006, is amended to read as follows:

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

51 S 46. Paragraph (b) of subdivision 8 of section 215 of the civil prac-
52 tice law and rules, as added by chapter 3 of the laws of 2006, is
53 amended to read as follows:

54 (b) Whenever it is shown that a criminal action against the same
55 defendant has been commenced with respect to the event or occurrence
56 from which a claim governed by this section arises, and such criminal

1 action is for rape in the first degree as defined in section 130.35 of
2 the penal law, [or criminal sexual act in the first degree as defined in
3 section 130.50 of the penal law,] or aggravated sexual abuse in the
4 first degree as defined in section 130.70 of the penal law, or course of
5 sexual conduct against a child in the first degree as defined in section
6 130.75 of the penal law, the plaintiff shall have at least five years
7 from the termination of the criminal action as defined in section 1.20
8 of the criminal procedure law in which to commence the civil action,
9 notwithstanding that the time in which to commence such action has
10 already expired or has less than a year remaining.

11 S 47. Subdivision 11 of section 123 of the agriculture and markets
12 law, as amended by chapter 392 of the laws of 2004, and such section as
13 renumbered by section 18 of part T of chapter 59 of the laws of 2010, is
14 amended to read as follows:

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

26 S 48. Section 4 of the judiciary law, as amended by chapter 264 of the
27 laws of 2003, is amended to read as follows:

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

35 S 49. Subdivision 2 of section 120.60 of the penal law, as amended by
36 chapter 434 of the laws of 2000, is amended to read as follows:

37 2. commits a class A misdemeanor defined in article one hundred thirty
38 of this chapter, or a class E felony defined in section 130.25, [130.40]
39 or 130.85 of this chapter, or a class D felony defined in section 130.30
40 [or 130.45] of this chapter.

41 S 50. Subdivision 1 of section 210.16 of the criminal procedure law,
42 as added by chapter 571 of the laws of 2007, is amended to read as
43 follows:

44 1. (a) In a case where an indictment or a superior court information
45 has been filed with a superior court which charges the defendant with a
46 felony offense enumerated in any section of article one hundred thirty
47 of the penal law where an act of "[sexual intercourse] VAGINAL SEXUAL
48 CONTACT", "oral sexual [conduct] CONTACT" or "anal sexual [conduct]
49 CONTACT," as those terms are defined in section 130.00 of the penal law,
50 is required as an essential element for the commission thereof, the
51 court shall, upon a request of the victim within six months of the date
52 of the crimes charged, order that the defendant submit to human immuno-
53 deficiency virus (HIV) related testing. Testing of a defendant shall be
54 ordered when the result would provide medical benefit to the victim or a
55 psychological benefit to the victim. Medical benefit shall be found when
56 the following elements are satisfied: (i) a decision is pending about

1 beginning, continuing, or discontinuing a medical intervention for the
2 victim; and (ii) the result of an HIV test of the accused could affect
3 that decision, and could provide relevant information beyond that which
4 would be provided by an HIV test of the victim. If testing the defendant
5 would provide medical benefit to the victim or a psychological benefit
6 to the victim, then the testing is to be conducted by a state, county,
7 or local public health officer designated by the order. Test results,
8 which shall not be disclosed to the court, shall be communicated to the
9 defendant and the victim named in the order in accordance with the
10 provisions of section twenty-seven hundred eighty-five-a of the public
11 health law.

12 (b) For the purposes of this section, the terms "victim" and "appli-
13 cant" mean the person with whom the defendant is charged to have engaged
14 in an act of "[sexual intercourse] VAGINAL SEXUAL CONTACT", "oral sexual
15 [conduct] CONTACT" or "anal sexual [conduct] CONTACT", as those terms
16 are defined in section 130.00 of the penal law, where such conduct with
17 such victim was the basis for charging the defendant with an offense
18 specified in paragraph (a) of this subdivision.

19 S 51. Subdivision 1 of section 390.15 of the criminal procedure law,
20 as amended by chapter 264 of the laws of 2003, is amended to read as
21 follows:

22 1. (a) In any case where the defendant is convicted of a felony
23 offense enumerated in any section of article one hundred thirty of the
24 penal law, or any subdivision of section 130.20 of such law, where an
25 act of "[sexual intercourse] VAGINAL SEXUAL CONTACT", "oral sexual
26 [conduct] CONTACT" or "anal sexual [conduct] CONTACT," as those terms
27 are defined in section 130.00 of the penal law, is required as an essen-
28 tial element for the commission thereof, the court must, upon a request
29 of the victim, order that the defendant submit to human immunodeficiency
30 (HIV) related testing. The testing is to be conducted by a state, coun-
31 ty, or local public health officer designated by the order. Test
32 results, which shall not be disclosed to the court, shall be communi-
33 cated to the defendant and the victim named in the order in accordance
34 with the provisions of section twenty-seven hundred eighty-five-a of the
35 public health law, but such results and disclosure need not be completed
36 prior to the imposition of sentence.

37 (b) For the purposes of this section, the terms "defendant",
38 "conviction" and "sentence" mean and include, respectively, an "eligible
39 youth," a "youthful offender finding" and a "youthful offender sentence"
40 as those terms are defined in section 720.10 of this chapter. The term
41 "victim" means the person with whom the defendant engaged in an act of
42 "[sexual intercourse] VAGINAL SEXUAL CONTACT", "oral sexual [conduct]
43 CONTACT" or "anal sexual [conduct] CONTACT", as those terms are defined
44 in section 130.00 of the penal law, where such conduct with such victim
45 was the basis for the defendant's conviction of an offense specified in
46 paragraph (a) of this subdivision.

47 S 52. Subdivision 1 of section 347.1 of the family court act, as
48 amended by chapter 264 of the laws of 2003, is amended to read as
49 follows:

50 1. (a) In any proceeding where the respondent is found pursuant to
51 section 345.1 or 346.1 of this article, to have committed a felony
52 offense enumerated in any section of article one hundred thirty of the
53 penal law, or any subdivision of section 130.20 of such law, for which
54 an act of "[sexual intercourse] VAGINAL SEXUAL CONTACT", "oral sexual
55 [conduct] CONTACT" or "anal sexual [conduct] CONTACT", as those terms
56 are defined in section 130.00 of the penal law, is required as an essen-

tial element for the commission thereof, the court must, upon a request of the victim, order that the respondent submit to human immunodeficiency (HIV) related testing. The testing is to be conducted by a state, county, or local public health officer designated by the order. Test results, which shall not be disclosed to the court, shall be communicated to the respondent and the victim named in the order in accordance with the provisions of section twenty-seven hundred eighty-five-a of the public health law.

(b) For the purposes of this section, the term "victim" means the person with whom the respondent engaged in an act of "[sexual intercourse] VAGINAL SEXUAL CONTACT", "oral sexual [conduct] CONTACT" or "anal sexual [conduct] CONTACT", as those terms are defined in section 130.00 of the penal law, where such conduct with such victim was the basis for the court's finding that the respondent committed acts constituting one or more of the offenses specified in paragraph (a) of this subdivision.

S 53. Subdivision (a) of section 130.16 of the penal law, as amended by chapter 264 of the laws of 2003, is amended to read as follows:

(a) Establish that an attempt was made to engage the victim in [sexual intercourse] VAGINAL SEXUAL CONTACT, oral sexual [conduct] CONTACT, anal sexual [conduct] CONTACT, or sexual contact, as the case may be, at the time of the occurrence; and

S 54. Subdivisions 1 and 2 of section 130.20 of the penal law, subdivision 1 as amended by chapter 1 of the laws of 2000, subdivision 2 as amended by chapter 264 of the laws of 2003, are amended to read as follows:

1. He or she engages in [sexual intercourse] VAGINAL SEXUAL CONTACT with another person without such person's consent; or

2. He or she engages in oral sexual [conduct] CONTACT or anal sexual [conduct] CONTACT with another person without such person's consent; or

S 55. Paragraphs (a) and (b) of subdivision 1 of section 130.75 of the penal law, as amended by chapter 264 of the laws of 2003, are amended to read as follows:

(a) he or she engages in two or more acts of sexual conduct, which includes at least one act of [sexual intercourse] VAGINAL SEXUAL CONTACT, oral sexual [conduct] CONTACT, anal sexual [conduct] CONTACT or aggravated sexual contact, with a child less than eleven years old; or

(b) he or she, being eighteen years old or more, engages in two or more acts of sexual conduct, which include at least one act of [sexual intercourse] VAGINAL SEXUAL CONTACT, oral sexual [conduct] CONTACT, anal sexual [conduct] CONTACT or aggravated sexual contact, with a child less than thirteen years old.

S 56. Subdivision 1 of section 235.00 of the penal law, as amended by chapter 264 of the laws of 2003, is amended to read as follows:

1. "Obscene." Any material or performance is "obscene" if (a) the average person, applying contemporary community standards, would find that considered as a whole, its predominant appeal is to the prurient interest in sex, and (b) it depicts or describes in a patently offensive manner, actual or simulated: [sexual intercourse] VAGINAL SEXUAL CONTACT, [criminal sexual act] ORAL SEXUAL CONTACT, ANAL SEXUAL CONTACT, sexual bestiality, masturbation, sadism, masochism, excretion or lewd exhibition of the genitals, and (c) considered as a whole, it lacks serious literary, artistic, political, and scientific value. Predominant appeal shall be judged with reference to ordinary adults unless it appears from the character of the material or the circumstances of its

1 dissemination to be designed for children or other [specially] ESPECIAL-
2 LY susceptible audience.

3 S 57. Subdivision 2 of section 235.22 of the penal law, as amended by
4 chapter 264 of the laws of 2003, is amended to read as follows:

5 2. by means of such communication he importunes, invites or induces a
6 minor to engage in [sexual intercourse] VAGINAL SEXUAL CONTACT, oral
7 sexual [conduct] CONTACT or anal sexual [conduct] CONTACT, or sexual
8 contact with him, or to engage in a sexual performance, obscene sexual
9 performance, or sexual conduct for his benefit.

10 S 58. Section 255.25 of the penal law, as amended by chapter 320 of
11 the laws of 2006, is amended to read as follows:

12 S 255.25 Incest in the third degree.

13 A person is guilty of incest in the third degree when he or she
14 marries or engages in [sexual intercourse] VAGINAL SEXUAL CONTACT, oral
15 sexual [conduct] CONTACT or anal sexual [conduct] CONTACT with a person
16 whom he or she knows to be related to him or her, whether through
17 marriage or not, as an ancestor, descendant, brother or sister of either
18 the whole or the half blood, uncle, aunt, nephew or niece.

19 Incest in the third degree is a class E felony.

20 S 59. Subdivision 3 of section 263.00 of the penal law, as amended by
21 chapter 264 of the laws of 2003, is amended to read as follows:

22 3. "Sexual conduct" means actual or simulated [sexual intercourse]
23 VAGINAL SEXUAL CONTACT, oral sexual [conduct] CONTACT, anal sexual
24 [conduct]CONTACT, sexual bestiality, masturbation, sado-masochistic
25 abuse, or lewd exhibition of the genitals.

26 S 60. Subdivision 3 of section 60.42 of the criminal procedure law, as
27 amended by chapter 264 of the laws of 2003, is amended to read as
28 follows:

29 3. rebuts evidence introduced by the people of the victim's failure to
30 engage in [sexual intercourse] VAGINAL SEXUAL CONTACT, oral sexual
31 [conduct] CONTACT, anal sexual [conduct] CONTACT or sexual contact
32 during a given period of time; or

33 S 61. Subdivision 3 of section 344.4 of the family court act, as
34 amended by chapter 264 of the laws of 2003, is amended to read as
35 follows:

36 3. rebuts evidence introduced by the presentment agency of the
37 victim's failure to engage in [sexual intercourse] VAGINAL SEXUAL
38 CONTACT, oral sexual [conduct] CONTACT, anal sexual [conduct] CONTACT or
39 sexual contact during a given period of time; or

40 S 62. Subdivision 4 of section 170 of the domestic relations law, as
41 amended by chapter 264 of the laws of 2003, is amended to read as
42 follows:

43 (4) The commission of an act of adultery, provided that adultery for
44 the purposes of articles ten, eleven, and eleven-A of this chapter, is
45 hereby defined as the commission of an act of [sexual intercourse] VAGI-
46 NAL SEXUAL CONTACT, oral sexual [conduct] CONTACT or anal sexual
47 [conduct] CONTACT, voluntarily performed by the defendant, with a person
48 other than the plaintiff after the marriage of plaintiff and defendant.
49 Oral sexual [conduct] CONTACT and anal sexual [conduct] CONTACT include,
50 but are not limited to, sexual conduct as defined in subdivision two of
51 section 130.00 and subdivision three of section 130.20 of the penal law.

52 S 63. Subdivision 4 of section 200 of the domestic relations law, as
53 amended by chapter 264 of the laws of 2003, is amended to read as
54 follows:

55 4. The commission of an act of adultery by the defendant; except where
56 such offense is committed by the procurement or with the connivance of

1 the plaintiff or where there is voluntary cohabitation of the parties
2 with the knowledge of the offense or where action was not commenced
3 within five years after the discovery by the plaintiff of the offense
4 charged or where the plaintiff has also been guilty of adultery under
5 such circumstances that the defendant would have been entitled, if inno-
6 cent, to a divorce, provided that adultery for the purposes of this
7 subdivision is hereby defined as the commission of an act of [sexual
8 intercourse] VAGINAL SEXUAL CONTACT, oral sexual [conduct] CONTACT or
9 anal sexual [conduct] CONTACT, voluntarily performed by the defendant,
10 with a person other than the plaintiff after the marriage of plaintiff
11 and defendant. Oral sexual [conduct] CONTACT and anal sexual [conduct]
12 CONTACT include, but are not limited to, sexual conduct as defined in
13 subdivision two of section 130.00 and subdivision three of section
14 130.20 of the penal law.

15 S 64. This act shall take effect on the ninetieth day after it shall
16 have become a law and shall apply to any offense on or after such effec-
17 tive date. As it pertains to the repealed sections of law, nothing in
18 this act shall affect a requirement to register pursuant to article 6-C
19 of the correction law; a lawfully required disclosure of a conviction;
20 any restriction or prohibition for certain types of employment, housing,
21 or government benefit; or any other ongoing matter related to a
22 conviction of the sections repealed in this act.