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I N A S S E M B L Y

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Introduced by M. of A. SIMOTAS, COLTON, AUBRY, MARKEY, ENGLEBRIGHT, BRAUNSTEIN, DenDEKKER, BRINDISI, MORELLE, JAFFEE, PERRY, CLARK, COOK, HOOPER, WEPRIN, SANTABARBARA, SKOUFIS, ROZIC, HEVESI, QUART, LIFTON, GJONAJ, OTIS, SEPULVEDA, McDONALD, MOSLEY, HAWLEY -- Multi-Sponsored by -- M. of A. ARROYO, BRENNAN, BUCHWALD, CORWIN, DUPREY, FINCH, FITZPATRICK, GALEF, GLICK, GOODELL, HIKIND, LUPARDO, MALLIOTAKIS, McDONOUGH, MONTESANO, PEOPLES-STOKES, RA, ROBINSON, SCHIMEL, WALTER -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

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2 REPEALED.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.

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

3 S 3. Section 130.25 of the penal law, as amended by chapter 1 of the  
4 laws of 2000, is amended to read as follows:  
5 S 130.25 Rape in the third degree.

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

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

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

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

16 4. Being twenty-one years old or more, he or she engages in [sexual  
17 intercourse] VAGINAL SEXUAL CONTACT with another person less than seven-  
18 teen years old; [or  
19 3.] 5. BEING TWENTY-ONE YEARS OLD OR MORE, HE OR SHE ENGAGES IN ORAL  
20 SEXUAL CONTACT WITH ANOTHER PERSON LESS THAN SEVENTEEN YEARS OLD;

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

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

26 8. HE OR SHE ENGAGES IN ORAL SEXUAL CONTACT WITH ANOTHER PERSON WITH-  
27 OUT SUCH PERSON'S CONSENT WHERE SUCH LACK OF CONSENT IS BY REASON OF  
28 SOME FACTOR OTHER THAN INCAPACITY TO CONSENT; OR

29 9. HE OR SHE ENGAGES IN ANAL SEXUAL CONTACT WITH ANOTHER PERSON WITH-  
30 OUT SUCH PERSON'S CONSENT WHERE SUCH LACK OF CONSENT IS BY REASON OF  
31 SOME FACTOR OTHER THAN THE INCAPACITY TO CONSENT.

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

33 S 4. Section 130.30 of the penal law, as amended by chapter 1 of the  
34 laws of 2000, is amended to read as follows:  
35 S 130.30 Rape in the second degree.

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

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

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

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

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

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

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

53 It shall be an affirmative defense to the crime of rape in the second  
54 degree as defined in [subdivision] SUBDIVISIONS one, TWO AND THREE of  
55 this section that the defendant was less than four years older than the  
56 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 9-a. Paragraphs (a) and (c) of subdivision 1 of section 70.02 of the  
35 penal law, as amended by chapter 368 of the laws of 2015, are amended to  
36 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, sex trafficking as defined in paragraphs (a) and (b) of  
52 subdivision five of section 230.34, incest in the first degree as  
53 defined in section 255.27, criminal possession of a weapon in the first  
54 degree as defined in section 265.04, criminal use of a firearm in the  
55 first degree as defined in section 265.09, criminal sale of a firearm in  
56 the first degree as defined in section 265.13, aggravated assault upon a

1 police officer or a peace officer as defined in section 120.11, gang  
2 assault in the first degree as defined in section 120.07, intimidating a  
3 victim or witness in the first degree as defined in section 215.17,  
4 hindering prosecution of terrorism in the first degree as defined in  
5 section 490.35, criminal possession of a chemical weapon or biological  
6 weapon in the second degree as defined in section 490.40, and criminal  
7 use of a chemical weapon or biological weapon in the third degree as  
8 defined in section 490.47.

9 (c) Class D violent felony offenses: an attempt to commit any of the  
10 class C felonies set forth in paragraph (b); reckless assault of a child  
11 as defined in section 120.02, assault in the second degree as defined in  
12 section 120.05, menacing a police officer or peace officer as defined in  
13 section 120.18, stalking in the first degree, as defined in subdivision  
14 one of section 120.60, strangulation in the second degree as defined in  
15 section 121.12, rape in the second degree as defined in section 130.30,  
16 [criminal sexual act in the second degree as defined in section 130.45,]  
17 sexual abuse in the first degree as defined in section 130.65, course of  
18 sexual conduct against a child in the second degree as defined in  
19 section 130.80, aggravated sexual abuse in the third degree as defined  
20 in section 130.66, facilitating a sex offense with a controlled  
21 substance as defined in section 130.90, labor trafficking as defined in  
22 paragraphs (a) and (b) of subdivision three of section 135.35, criminal  
23 possession of a weapon in the third degree as defined in subdivision  
24 five, six, seven, eight, nine or ten of section 265.02, criminal sale of  
25 a firearm in the third degree as defined in section 265.11, intimidating  
26 a victim or witness in the second degree as defined in section 215.16,  
27 soliciting or providing support for an act of terrorism in the second  
28 degree as defined in section 490.10, and making a terroristic threat as  
29 defined in section 490.20, falsely reporting an incident in the first  
30 degree as defined in section 240.60, placing a false bomb or hazardous  
31 substance in the first degree as defined in section 240.62, placing a  
32 false bomb or hazardous substance in a sports stadium or arena, mass  
33 transportation facility or enclosed shopping mall as defined in section  
34 240.63, and aggravated unpermitted use of indoor pyrotechnics in the  
35 first degree as defined in section 405.18.

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

39 b. a crime defined in section 130.20, 130.25, 130.30, [130.40,  
40 130.45,] 130.55, 130.60, 130.70, 255.25, 255.26 or 255.27;

41 S 11. Paragraph (d) of subdivision 2 and paragraph (h) of subdivision  
42 3 of section 130.05 of the penal law, paragraph (d) of subdivision 2 as  
43 amended by chapter 40 of the laws of 2004 and paragraph (h) of subdivi-  
44 sion 3 as amended by section 2 of part G of chapter 501 of the laws of  
45 2012, are amended to read as follows:

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

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

8 S 12. The opening paragraph of subdivision 3 of section 125.25 of the  
9 penal law, as amended by chapter 264 of the laws of 2003, is amended to  
10 read as follows:

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

21 S 13. Subdivision 5 of section 125.25 of the penal law, as amended by  
22 chapter 320 of the laws of 2006, is amended to read as follows:

23 5. Being eighteen years old or more, while in the course of committing  
24 rape in the first, second or third degree, [criminal sexual act in the  
25 first, second or third degree,] sexual abuse in the first degree, aggra-  
26 vated sexual abuse in the first, second, third or fourth degree, or  
27 incest in the first, second or third degree, against a person less than  
28 fourteen years old, he or she intentionally causes the death of such  
29 person.

30 S 14. Subparagraph (vii) of paragraph (a) of subdivision 1 of section  
31 125.27 of the penal law, as amended by chapter 264 of the laws of 2003,  
32 is amended to read as follows:

33 (vii) the victim was killed while the defendant was in the course of  
34 committing or attempting to commit and in furtherance of robbery,  
35 burglary in the first degree or second degree, kidnapping in the first  
36 degree, arson in the first degree or second degree, rape in the first  
37 degree, [criminal sexual act in the first degree,] sexual abuse in the  
38 first degree, aggravated sexual abuse in the first degree or escape in  
39 the first degree, or in the course of and furtherance of immediate  
40 flight after committing or attempting to commit any such crime or in the  
41 course of and furtherance of immediate flight after attempting to commit  
42 the crime of murder in the second degree; provided however, the victim  
43 is not a participant in one of the aforementioned crimes and, provided  
44 further that, unless the defendant's criminal liability under this  
45 subparagraph is based upon the defendant having commanded another person  
46 to cause the death of the victim or intended victim pursuant to section  
47 20.00 of this chapter, this subparagraph shall not apply where the  
48 defendant's criminal liability is based upon the conduct of another  
49 pursuant to section 20.00 of this chapter; or

50 S 15. Subdivision 3 of section 130.10 of the penal law, as amended by  
51 chapter 264 of the laws of 2003, is amended to read as follows:

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

1 circumstances set forth in paragraph (h) of subdivision three of section  
2 130.05 of this article it shall be an affirmative defense that the  
3 client or patient consented to such conduct charged after having been  
4 expressly advised by the health care or mental health care provider that  
5 such conduct was not performed for a valid medical purpose.

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

9 A person is guilty of predatory sexual assault when he or she commits  
10 the crime of rape in the first degree, [criminal sexual act in the first  
11 degree,] aggravated sexual abuse in the first degree, or course of sexu-  
12 al conduct against a child in the first degree, as defined in this arti-  
13 cle, and when:

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

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

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

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

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



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

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

22 S 255.26 Incest in the second degree.

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

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

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

33 S 255.27 Incest in the first degree.

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

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

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

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

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

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

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

1 second degree); 160.15 (robbery in the first degree); subdivision two of  
2 section 160.10 (robbery in the second degree) of the penal law; or  
3 section 265.03 of the penal law, where such machine gun or such firearm  
4 is possessed on school grounds, as that phrase is defined in subdivision  
5 fourteen of section 220.00 of the penal law; or defined in the penal law  
6 as an attempt to commit murder in the second degree or kidnapping in the  
7 first degree, or such conduct as a sexually motivated felony, where  
8 authorized pursuant to section 130.91 of the penal law.

9 S 23. Paragraphs (a) and (b) of subdivision 1, the opening paragraph  
10 of subdivision 2 and paragraph (a) of subdivision 3 of section 140.20 of  
11 the criminal procedure law, paragraphs (a) and (b) of subdivision 1 as  
12 amended by chapter 324 of the laws of 1988, the opening paragraph of  
13 subdivision 2 and paragraph (a) of subdivision 3 as amended by chapter  
14 550 of the laws of 1987, are amended to read as follows:

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

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

32 If the arrest is for an offense other than a class A, B, C or D felony  
33 or a violation of section 130.25, [130.40,] 205.10, 205.17, 205.19 or  
34 215.56 of the penal law, the arrested person need not be brought before  
35 a local criminal court as provided in subdivision one, and the procedure  
36 may instead be as follows:

37 (a) the arrest is for an offense other than a class A, B, C or D felo-  
38 ny or a violation of section 130.25, [130.40,] 205.10, 205.17, 205.19 or  
39 215.56 of the penal law, and

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

44 (a) the arrest is for an offense other than a class A, B, C or D felo-  
45 ny or a violation of section 130.25, [130.40,] 205.10, 205.17, 205.19 or  
46 215.56 of the penal law and

47 If the arrest is for an offense other than a class A, B, C or D felony  
48 or a violation of section 130.25, [130.40,] 205.10, 205.17, 205.19 or  
49 215.56 of the penal law, the arrested person need not be brought before  
50 a local criminal court as provided in subdivision two, and the procedure  
51 may instead be as follows:

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

1 (a) the arrest is for an offense other than a class A, B, C or D felo-  
2 ny or a violation of section 130.25, [130.40,] 205.10, 205.17, 205.19 or  
3 215.56 of the penal law and

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

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

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

13 1. Whenever a police officer is authorized pursuant to section 140.10  
14 to arrest a person without a warrant for an offense other than a class  
15 A, B, C or D felony or a violation of section 130.25, [130.40,] 205.10,  
16 205.17, 205.19 or 215.56 of the penal law, he may, subject to the  
17 provisions of subdivisions three and four of section 150.40, instead  
18 issue to and serve upon such person an appearance ticket.

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

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

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

52 4. Notwithstanding the provisions of subdivisions two and three of  
53 this section, a local criminal court shall, at the request of the  
54 district attorney, order removal of an action against a juvenile offen-  
55 der to the family court pursuant to the provisions of article seven  
56 hundred twenty-five of this chapter if, upon consideration of the crite-

1 ria specified in subdivision two of section 210.43 of this chapter, it  
2 is determined that to do so would be in the interests of justice.  
3 Where, however, the felony complaint charges the juvenile offender with  
4 murder in the second degree as defined in section 125.25 of the penal  
5 law, rape in the first degree as defined in PARAGRAPH (A) OF subdivision  
6 one, PARAGRAPH (A) OF SUBDIVISION TWO OR PARAGRAPH (A) OF SUBDIVISION  
7 THREE of section 130.35 of the penal law, [criminal sexual act in the  
8 first degree as defined in subdivision one of section 130.50 of the  
9 penal law,] or an armed felony as defined in paragraph (a) of subdivi-  
10 sion forty-one of section 1.20 of this chapter, a determination that  
11 such action be removed to the family court shall, in addition, be based  
12 upon a finding of one or more of the following factors: (i) mitigating  
13 circumstances that bear directly upon the manner in which the crime was  
14 committed; or (ii) where the defendant was not the sole participant in  
15 the crime, the defendant's participation was relatively minor although  
16 not so minor as to constitute a defense to the prosecution; or (iii)  
17 possible deficiencies in proof of the crime.

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

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

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

55 (b) with the consent of the district attorney, order removal of an  
56 action involving an indictment charging a juvenile offender with murder

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

18 S 30. Subparagraph (iii) of paragraph (g) of subdivision 5 of section  
19 220.10 of the criminal procedure law, as amended by chapter 264 of the  
20 laws of 2003, is amended to read as follows:

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

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

50 6. For purposes of this section, the offenses of rape in the third  
51 degree as defined in [subdivision three] SUBDIVISIONS SEVEN, EIGHT AND  
52 NINE of section 130.25 of the penal law [and criminal sexual act in the  
53 third degree as defined in subdivision three of section 130.40 of the  
54 penal law], are not lesser included offenses of rape in the first  
55 degree[, criminal sexual act in the first degree] or any other offense.  
56 Notwithstanding the foregoing, either such offense may be submitted as a

1 lesser included offense of the applicable first degree offense when (i)  
2 there is a reasonable view of the evidence which would support a finding  
3 that the defendant committed such lesser offense but did not commit the  
4 greater offense, and (ii) both parties consent to its submission.

5 S 32. Subdivision 6 of section 380.50 of the criminal procedure law,  
6 as amended by chapter 394 of the laws of 2015, is amended to read as  
7 follows:

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

27 S 32-a. Subdivision 6 of section 380.50 of the criminal procedure law,  
28 as separately amended by chapters 368 and 394 of the laws of 2015, is  
29 amended to read as follows:

30 6. Regardless of whether the victim requests to make a statement with  
31 regard to the defendant's sentence, where the defendant is sentenced for  
32 a violent felony offense as defined in section 70.02 of the penal law or  
33 a felony defined in article one hundred twenty-five of such law or any  
34 of the following provisions of such law sections 130.25, 130.30,  
35 [130.40, 130.45,] 255.25, 255.26, 255.27, article two hundred sixty-  
36 three, 135.10, 135.25, 230.05, 230.06, 230.11, 230.12, 230.13, subdivi-  
37 sion two of section 230.30 or 230.32, the prosecutor shall, within sixty  
38 days of the imposition of sentence, provide the victim with a form,  
39 prepared and distributed by the commissioner of the division of criminal  
40 justice services, in consultation with the director of the office of  
41 victim services, on which the victim may indicate a demand to be  
42 informed of any petition to change the name of such defendant. Such  
43 forms shall be maintained by such prosecutor. Upon receipt of a notice  
44 of a petition to change the name of any such defendant, pursuant to  
45 subdivision two of section sixty-two of the civil rights law, the prose-  
46 cutor shall promptly notify the victim at the most current address or  
47 telephone number provided by such victim in the most reasonable and  
48 expedient possible manner of the time and place such petition will be  
49 presented to the court.

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

53 (b) Any of the following felonies: assault in the second degree as  
54 defined in section 120.05 of the penal law, assault in the first degree  
55 as defined in section 120.10 of the penal law, reckless endangerment in  
56 the first degree as defined in section 120.25 of the penal law, promot-

1 ing a suicide attempt as defined in section 120.30 of the penal law,  
2 strangulation in the second degree as defined in section 121.12 of the  
3 penal law, strangulation in the first degree as defined in section  
4 121.13 of the penal law, criminally negligent homicide as defined in  
5 section 125.10 of the penal law, manslaughter in the second degree as  
6 defined in section 125.15 of the penal law, manslaughter in the first  
7 degree as defined in section 125.20 of the penal law, murder in the  
8 second degree as defined in section 125.25 of the penal law, murder in  
9 the first degree as defined in section 125.27 of the penal law, abortion  
10 in the second degree as defined in section 125.40 of the penal law,  
11 abortion in the first degree as defined in section 125.45 of the penal  
12 law, rape in the third degree as defined in section 130.25 of the penal  
13 law, rape in the second degree as defined in section 130.30 of the penal  
14 law, rape in the first degree as defined in section 130.35 of the penal  
15 law, [criminal sexual act in the third degree as defined in section  
16 130.40 of the penal law, criminal sexual act in the second degree as  
17 defined in section 130.45 of the penal law, criminal sexual act in the  
18 first degree as defined in section 130.50 of the penal law,] sexual  
19 abuse in the first degree as defined in section 130.65 of the penal law,  
20 unlawful imprisonment in the first degree as defined in section 135.10  
21 of the penal law, kidnapping in the second degree as defined in section  
22 135.20 of the penal law, kidnapping in the first degree as defined in  
23 section 135.25 of the penal law, labor trafficking as defined in section  
24 135.35 of the penal law, custodial interference in the first degree as  
25 defined in section 135.50 of the penal law, coercion in the first degree  
26 as defined in section 135.65 of the penal law, criminal trespass in the  
27 first degree as defined in section 140.17 of the penal law, burglary in  
28 the third degree as defined in section 140.20 of the penal law, burglary  
29 in the second degree as defined in section 140.25 of the penal law,  
30 burglary in the first degree as defined in section 140.30 of the penal  
31 law, criminal mischief in the third degree as defined in section 145.05  
32 of the penal law, criminal mischief in the second degree as defined in  
33 section 145.10 of the penal law, criminal mischief in the first degree  
34 as defined in section 145.12 of the penal law, criminal tampering in the  
35 first degree as defined in section 145.20 of the penal law, arson in the  
36 fourth degree as defined in section 150.05 of the penal law, arson in  
37 the third degree as defined in section 150.10 of the penal law, arson in  
38 the second degree as defined in section 150.15 of the penal law, arson  
39 in the first degree as defined in section 150.20 of the penal law, grand  
40 larceny in the fourth degree as defined in section 155.30 of the penal  
41 law, grand larceny in the third degree as defined in section 155.35 of  
42 the penal law, grand larceny in the second degree as defined in section  
43 155.40 of the penal law, grand larceny in the first degree as defined in  
44 section 155.42 of the penal law, health care fraud in the fourth degree  
45 as defined in section 177.10 of the penal law, health care fraud in the  
46 third degree as defined in section 177.15 of the penal law, health care  
47 fraud in the second degree as defined in section 177.20 of the penal  
48 law, health care fraud in the first degree as defined in section 177.25  
49 of the penal law, robbery in the third degree as defined in section  
50 160.05 of the penal law, robbery in the second degree as defined in  
51 section 160.10 of the penal law, robbery in the first degree as defined  
52 in section 160.15 of the penal law, unlawful use of secret scientific  
53 material as defined in section 165.07 of the penal law, criminal  
54 possession of stolen property in the fourth degree as defined in section  
55 165.45 of the penal law, criminal possession of stolen property in the  
56 third degree as defined in section 165.50 of the penal law, criminal



1 possession of stolen property in the second degree as defined by section  
2 165.52 of the penal law, criminal possession of stolen property in the  
3 first degree as defined by section 165.54 of the penal law, trademark  
4 counterfeiting in the second degree as defined in section 165.72 of the  
5 penal law, trademark counterfeiting in the first degree as defined in  
6 section 165.73 of the penal law, forgery in the second degree as defined  
7 in section 170.10 of the penal law, forgery in the first degree as  
8 defined in section 170.15 of the penal law, criminal possession of a  
9 forged instrument in the second degree as defined in section 170.25 of  
10 the penal law, criminal possession of a forged instrument in the first  
11 degree as defined in section 170.30 of the penal law, criminal  
12 possession of forgery devices as defined in section 170.40 of the penal  
13 law, falsifying business records in the first degree as defined in  
14 section 175.10 of the penal law, tampering with public records in the  
15 first degree as defined in section 175.25 of the penal law, offering a  
16 false instrument for filing in the first degree as defined in section  
17 175.35 of the penal law, issuing a false certificate as defined in  
18 section 175.40 of the penal law, criminal diversion of prescription  
19 medications and prescriptions in the second degree as defined in section  
20 178.20 of the penal law, criminal diversion of prescription medications  
21 and prescriptions in the first degree as defined in section 178.25 of  
22 the penal law, residential mortgage fraud in the fourth degree as  
23 defined in section 187.10 of the penal law, residential mortgage fraud  
24 in the third degree as defined in section 187.15 of the penal law, resi-  
25 dential mortgage fraud in the second degree as defined in section 187.20  
26 of the penal law, residential mortgage fraud in the first degree as  
27 defined in section 187.25 of the penal law, escape in the second degree  
28 as defined in section 205.10 of the penal law, escape in the first  
29 degree as defined in section 205.15 of the penal law, absconding from  
30 temporary release in the first degree as defined in section 205.17 of  
31 the penal law, promoting prison contraband in the first degree as  
32 defined in section 205.25 of the penal law, hindering prosecution in the  
33 second degree as defined in section 205.60 of the penal law, hindering  
34 prosecution in the first degree as defined in section 205.65 of the  
35 penal law, sex trafficking as defined in section 230.34 of the penal  
36 law, criminal possession of a weapon in the third degree as defined in  
37 subdivisions two, three and five of section 265.02 of the penal law,  
38 criminal possession of a weapon in the second degree as defined in  
39 section 265.03 of the penal law, criminal possession of a weapon in the  
40 first degree as defined in section 265.04 of the penal law, manufacture,  
41 transport, disposition and defacement of weapons and dangerous instru-  
42 ments and appliances defined as felonies in subdivisions one, two, and  
43 three of section 265.10 of the penal law, sections 265.11, 265.12 and  
44 265.13 of the penal law, or prohibited use of weapons as defined in  
45 subdivision two of section 265.35 of the penal law, relating to firearms  
46 and other dangerous weapons, or failure to disclose the origin of a  
47 recording in the first degree as defined in section 275.40 of the penal  
48 law;

49 S 33-a. Paragraph (b) of subdivision 8 of section 700.05 of the crimi-  
50 nal procedure law, as amended by chapter 368 of the laws of 2015, is  
51 amended to read as follows:

52 (b) Any of the following felonies: assault in the second degree as  
53 defined in section 120.05 of the penal law, assault in the first degree  
54 as defined in section 120.10 of the penal law, reckless endangerment in  
55 the first degree as defined in section 120.25 of the penal law, promot-  
56 ing a suicide attempt as defined in section 120.30 of the penal law,

1 strangulation in the second degree as defined in section 121.12 of the  
2 penal law, strangulation in the first degree as defined in section  
3 121.13 of the penal law, criminally negligent homicide as defined in  
4 section 125.10 of the penal law, manslaughter in the second degree as  
5 defined in section 125.15 of the penal law, manslaughter in the first  
6 degree as defined in section 125.20 of the penal law, murder in the  
7 second degree as defined in section 125.25 of the penal law, murder in  
8 the first degree as defined in section 125.27 of the penal law, abortion  
9 in the second degree as defined in section 125.40 of the penal law,  
10 abortion in the first degree as defined in section 125.45 of the penal  
11 law, rape in the third degree as defined in section 130.25 of the penal  
12 law, rape in the second degree as defined in section 130.30 of the penal  
13 law, rape in the first degree as defined in section 130.35 of the penal  
14 law, [criminal sexual act in the third degree as defined in section  
15 130.40 of the penal law, criminal sexual act in the second degree as  
16 defined in section 130.45 of the penal law, criminal sexual act in the  
17 first degree as defined in section 130.50 of the penal law,] sexual  
18 abuse in the first degree as defined in section 130.65 of the penal law,  
19 unlawful imprisonment in the first degree as defined in section 135.10  
20 of the penal law, kidnapping in the second degree as defined in section  
21 135.20 of the penal law, kidnapping in the first degree as defined in  
22 section 135.25 of the penal law, labor trafficking as defined in section  
23 135.35 of the penal law, aggravated labor trafficking as defined in  
24 section 135.37 of the penal law, custodial interference in the first  
25 degree as defined in section 135.50 of the penal law, coercion in the  
26 first degree as defined in section 135.65 of the penal law, criminal  
27 trespass in the first degree as defined in section 140.17 of the penal  
28 law, burglary in the third degree as defined in section 140.20 of the  
29 penal law, burglary in the second degree as defined in section 140.25 of  
30 the penal law, burglary in the first degree as defined in section 140.30  
31 of the penal law, criminal mischief in the third degree as defined in  
32 section 145.05 of the penal law, criminal mischief in the second degree  
33 as defined in section 145.10 of the penal law, criminal mischief in the  
34 first degree as defined in section 145.12 of the penal law, criminal  
35 tampering in the first degree as defined in section 145.20 of the penal  
36 law, arson in the fourth degree as defined in section 150.05 of the  
37 penal law, arson in the third degree as defined in section 150.10 of the  
38 penal law, arson in the second degree as defined in section 150.15 of  
39 the penal law, arson in the first degree as defined in section 150.20 of  
40 the penal law, grand larceny in the fourth degree as defined in section  
41 155.30 of the penal law, grand larceny in the third degree as defined in  
42 section 155.35 of the penal law, grand larceny in the second degree as  
43 defined in section 155.40 of the penal law, grand larceny in the first  
44 degree as defined in section 155.42 of the penal law, health care fraud  
45 in the fourth degree as defined in section 177.10 of the penal law,  
46 health care fraud in the third degree as defined in section 177.15 of  
47 the penal law, health care fraud in the second degree as defined in  
48 section 177.20 of the penal law, health care fraud in the first degree  
49 as defined in section 177.25 of the penal law, robbery in the third  
50 degree as defined in section 160.05 of the penal law, robbery in the  
51 second degree as defined in section 160.10 of the penal law, robbery in  
52 the first degree as defined in section 160.15 of the penal law, unlawful  
53 use of secret scientific material as defined in section 165.07 of the  
54 penal law, criminal possession of stolen property in the fourth degree  
55 as defined in section 165.45 of the penal law, criminal possession of  
56 stolen property in the third degree as defined in section 165.50 of the

1 penal law, criminal possession of stolen property in the second degree  
2 as defined by section 165.52 of the penal law, criminal possession of  
3 stolen property in the first degree as defined by section 165.54 of the  
4 penal law, trademark counterfeiting in the second degree as defined in  
5 section 165.72 of the penal law, trademark counterfeiting in the first  
6 degree as defined in section 165.73 of the penal law, forgery in the  
7 second degree as defined in section 170.10 of the penal law, forgery in  
8 the first degree as defined in section 170.15 of the penal law, criminal  
9 possession of a forged instrument in the second degree as defined in  
10 section 170.25 of the penal law, criminal possession of a forged instru-  
11 ment in the first degree as defined in section 170.30 of the penal law,  
12 criminal possession of forgery devices as defined in section 170.40 of  
13 the penal law, falsifying business records in the first degree as  
14 defined in section 175.10 of the penal law, tampering with public  
15 records in the first degree as defined in section 175.25 of the penal  
16 law, offering a false instrument for filing in the first degree as  
17 defined in section 175.35 of the penal law, issuing a false certificate  
18 as defined in section 175.40 of the penal law, criminal diversion of  
19 prescription medications and prescriptions in the second degree as  
20 defined in section 178.20 of the penal law, criminal diversion of  
21 prescription medications and prescriptions in the first degree as  
22 defined in section 178.25 of the penal law, residential mortgage fraud  
23 in the fourth degree as defined in section 187.10 of the penal law,  
24 residential mortgage fraud in the third degree as defined in section  
25 187.15 of the penal law, residential mortgage fraud in the second degree  
26 as defined in section 187.20 of the penal law, residential mortgage  
27 fraud in the first degree as defined in section 187.25 of the penal law,  
28 escape in the second degree as defined in section 205.10 of the penal  
29 law, escape in the first degree as defined in section 205.15 of the  
30 penal law, absconding from temporary release in the first degree as  
31 defined in section 205.17 of the penal law, promoting prison contraband  
32 in the first degree as defined in section 205.25 of the penal law,  
33 hindering prosecution in the second degree as defined in section 205.60  
34 of the penal law, hindering prosecution in the first degree as defined  
35 in section 205.65 of the penal law, sex trafficking as defined in  
36 section 230.34 of the penal law, criminal possession of a weapon in the  
37 third degree as defined in subdivisions two, three and five of section  
38 265.02 of the penal law, criminal possession of a weapon in the second  
39 degree as defined in section 265.03 of the penal law, criminal  
40 possession of a weapon in the first degree as defined in section 265.04  
41 of the penal law, manufacture, transport, disposition and defacement of  
42 weapons and dangerous instruments and appliances defined as felonies in  
43 subdivisions one, two, and three of section 265.10 of the penal law,  
44 sections 265.11, 265.12 and 265.13 of the penal law, or prohibited use  
45 of weapons as defined in subdivision two of section 265.35 of the penal  
46 law, relating to firearms and other dangerous weapons, or failure to  
47 disclose the origin of a recording in the first degree as defined in  
48 section 275.40 of the penal law;

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

52 (a) the conviction to be replaced by a youthful offender finding is  
53 for (i) a class A-I or class A-II felony, or (ii) an armed felony as  
54 defined in subdivision forty-one of section 1.20, except as provided in  
55 subdivision three, or (iii) rape in the first degree[, criminal sexual

1 act in the first degree,] or aggravated sexual abuse, except as provided  
2 in subdivision three, or

3 S 35. Paragraph (a) of subdivision 2 and paragraph (a) of subdivision  
4 3 of section 168-a of the correction law, paragraph (a) of subdivision 2  
5 as amended by chapter 405 of the laws of 2008 and paragraph (a) of  
6 subdivision 3 as amended by chapter 107 of the laws of 2006, are amended  
7 to read as follows:

8 (a) (i) a conviction of or a conviction for an attempt to commit any  
9 of the provisions of sections 120.70, 130.20, 130.25, 130.30, [130.40,  
10 130.45,] 130.60, 230.34, 250.50, 255.25, 255.26 and 255.27 or article  
11 two hundred sixty-three of the penal law, or section 135.05, 135.10,  
12 135.20 or 135.25 of such law relating to kidnapping offenses, provided  
13 the victim of such kidnapping or related offense is less than seventeen  
14 years old and the offender is not the parent of the victim, or section  
15 230.04, where the person patronized is in fact less than seventeen years  
16 of age, 230.05 or 230.06, or subdivision two of section 230.30, or  
17 section 230.32 or 230.33 of the penal law, or (ii) a conviction of or a  
18 conviction for an attempt to commit any of the provisions of section  
19 235.22 of the penal law, or (iii) a conviction of or a conviction for an  
20 attempt to commit any provisions of the foregoing sections committed or  
21 attempted as a hate crime defined in section 485.05 of the penal law or  
22 as a crime of terrorism defined in section 490.25 of such law or as a  
23 sexually motivated felony defined in section 130.91 of such law; or

24 (a) (i) a conviction of or a conviction for an attempt to commit any  
25 of the provisions of sections 130.35, [130.50,] 130.65, 130.66, 130.67,  
26 130.70, 130.75, 130.80, 130.95 and 130.96 of the penal law, or (ii) a  
27 conviction of or a conviction for an attempt to commit any of the  
28 provisions of sections 130.53, 130.65-a and 130.90 of the penal law, or  
29 (iii) a conviction of or a conviction for an attempt to commit any  
30 provisions of the foregoing sections committed or attempted as a hate  
31 crime defined in section 485.05 of the penal law or as a crime of  
32 terrorism defined in section 490.25 of such law; or

33 S 35-a. Paragraph (a) of subdivision 2 of section 168-a of the  
34 correction law, as amended by chapter 405 of the laws of 2008, subpara-  
35 graph (i) of paragraph (a) as amended by chapter 368 of the laws of  
36 2015, is amended to read as follows:

37 (a) (i) a conviction of or a conviction for an attempt to commit any  
38 of the provisions of sections 120.70, 130.20, 130.25, 130.30, [130.40,  
39 130.45,] 130.60, 230.34, 250.50, 255.25, 255.26 and 255.27 or article  
40 two hundred sixty-three of the penal law, or section 135.05, 135.10,  
41 135.20 or 135.25 of such law relating to kidnapping offenses, provided  
42 the victim of such kidnapping or related offense is less than seventeen  
43 years old and the offender is not the parent of the victim, or section  
44 230.04, where the person patronized is in fact less than seventeen years  
45 of age, 230.05, 230.06, 230.11, 230.12, 230.13, subdivision two of  
46 section 230.30, section 230.32, 230.33, or 230.34 of the penal law, or  
47 section 230.25 of the penal law where the person prostituted is in fact  
48 less than seventeen years old, or (ii) a conviction of or a conviction  
49 for an attempt to commit any of the provisions of section 235.22 of the  
50 penal law, or (iii) a conviction of or a conviction for an attempt to  
51 commit any provisions of the foregoing sections committed or attempted  
52 as a hate crime defined in section 485.05 of the penal law or as a crime  
53 of terrorism defined in section 490.25 of such law or as a sexually  
54 motivated felony defined in section 130.91 of such law; or

55 S 36. Subparagraph (ii) of paragraph (a), subparagraphs (i) and (ii)  
56 of paragraph (b) and paragraph (e) of subdivision 8 of section 384-b of

1 the social services law, subparagraph (ii) of paragraph (a) and subpara-  
2 graph (i) of paragraph (b) as amended by chapter 430 of the laws of  
3 2013, subparagraph (ii) of paragraph (b) as amended and paragraph (e) as  
4 added by chapter 7 of the laws of 1999, are amended to read as follows:

5 (ii) the child has been found to be an abused child, as defined in  
6 paragraph (iii) of subdivision (e) of section ten hundred twelve of the  
7 family court act, as a result of such parent's acts; provided, however,  
8 the respondent must have committed or knowingly allowed to be committed  
9 a felony sex offense as defined in sections 130.25, 130.30, 130.35,  
10 [130.40, 130.45, 130.50,] 130.65, 130.67, 130.70, 130.75, 130.80, 130.95  
11 and 130.96 of the penal law and, for the purposes of this section the  
12 corroboration requirements contained in the penal law shall not apply to  
13 proceedings under this section; or

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

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

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

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

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

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

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

31 (b) For every juvenile delinquency proceeding under article three  
32 involving an allegation of an act committed by a person which, if done  
33 by an adult, would be a crime (i) defined in sections 125.27 (murder in  
34 the first degree); 125.25 (murder in the second degree); 135.25 (kidnap-  
35 ping in the first degree); or 150.20 (arson in the first degree) of the  
36 penal law committed by a person thirteen, fourteen or fifteen years of  
37 age; or such conduct committed as a sexually motivated felony, where  
38 authorized pursuant to section 130.91 of the penal law; (ii) defined in  
39 sections 120.10 (assault in the first degree); 125.20 (manslaughter in  
40 the first degree); 130.35 (rape in the first degree); [130.50 (criminal  
41 sexual act in the first degree);] 135.20 (kidnapping in the second  
42 degree), but only where the abduction involved the use or threat of use  
43 of deadly physical force; 150.15 (arson in the second degree); or 160.15  
44 (robbery in the first degree) of the penal law committed by a person  
45 thirteen, fourteen or fifteen years of age; or such conduct committed as  
46 a sexually motivated felony, where authorized pursuant to section 130.91  
47 of the penal law; (iii) defined in the penal law as an attempt to commit  
48 murder in the first or second degree or kidnapping in the first degree  
49 committed by a person thirteen, fourteen or fifteen years of age; or  
50 such conduct committed as a sexually motivated felony, where authorized  
51 pursuant to section 130.91 of the penal law; (iv) defined in section  
52 140.30 (burglary in the first degree); subdivision one of section 140.25  
53 (burglary in the second degree); subdivision two of section 160.10  
54 (robbery in the second degree) of the penal law; or section 265.03 of  
55 the penal law, where such machine gun or such firearm is possessed on  
56 school grounds, as that phrase is defined in subdivision fourteen of

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

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

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

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

28 (ii) defined in sections 120.10 (assault in the first degree); 125.20  
29 (manslaughter in the first degree); 130.35 (rape in the first degree);  
30 [130.50 (criminal sexual act in the first degree);] 130.70 (aggravated  
31 sexual abuse in the first degree); 135.20 (kidnapping in the second  
32 degree) but only where the abduction involved the use or threat of use  
33 of deadly physical force; 150.15 (arson in the second degree) or 160.15  
34 (robbery in the first degree) of the penal law committed by a person  
35 thirteen, fourteen or fifteen years of age; or such conduct committed as  
36 a sexually motivated felony, where authorized pursuant to section 130.91  
37 of the penal law;

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

41 4. The probation service shall not adjust a case in which the child  
42 has allegedly committed a delinquent act which would be a crime defined  
43 in section 120.25, (reckless endangerment in the first degree), [subdi-  
44 vision one of section 125.15, (manslaughter in the second degree),  
45 subdivision] SUBDIVISIONS one, TWO AND THREE of section 130.25, (rape in  
46 the third degree), [subdivision one of section 130.40, (criminal sexual  
47 act in the third degree),] subdivision one or two of section 130.65,  
48 (sexual abuse in the first degree), section 135.65, (coercion in the  
49 first degree), section 140.20, (burglary in the third degree), section  
50 150.10, (arson in the third degree), section 160.05, (robbery in the  
51 third degree), subdivision two, three or four of section 265.02, (crimi-  
52 nal possession of a weapon in the third degree), section 265.03, (crimi-  
53 nal possession of a weapon in the second degree), or section 265.04,  
54 (criminal possession of a dangerous weapon in the first degree) of the  
55 penal law where the child has previously had one or more adjustments of  
56 a case in which such child allegedly committed an act which would be a

1 crime specified in this subdivision unless it has received written  
2 approval from the court and the appropriate presentment agency.

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

5 (c) Prior to granting an order of disposition pursuant to subdivision  
6 (a) of this section following an adjudication of child abuse, as defined  
7 in paragraph (i) of subdivision (e) of section ten hundred twelve of  
8 this act or a finding of a felony sex offense as defined in sections  
9 130.25, 130.30, 130.35, [130.40, 130.45, 130.50,] 130.65 and 130.70 of  
10 the penal law, the court shall advise the respondent that any subsequent  
11 adjudication of child abuse, as defined in paragraph (i) of subdivision  
12 (e) of section one thousand twelve of this act or any subsequent finding  
13 of a felony sex offense as defined in those sections of the penal law  
14 herein enumerated, arising out of acts of the respondent may result in  
15 the commitment of the guardianship and custody of the child or another  
16 child pursuant to section three hundred eighty-four-b of the social  
17 services law. The order in such cases shall contain a statement that any  
18 subsequent adjudication of child abuse or finding of a felony sex  
19 offense as described herein may result in the commitment of the guardi-  
20 anship and custody of the child, or another child pursuant to section  
21 three hundred eighty-four-b of the social services law.

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

25 2. If the petitioner stands convicted of a violent felony offense as  
26 defined in section 70.02 of the penal law or a felony defined in article  
27 one hundred twenty-five of such law or any of the following provisions  
28 of such law sections 130.25, 130.30, [130.40, 130.45,] 255.25, 255.26,  
29 255.27, article two hundred sixty-three, 135.10, 135.25, 230.05, 230.06,  
30 subdivision two of section 230.30 or 230.32, and is currently confined  
31 as an inmate in any correctional facility or currently under the super-  
32 vision of the department of corrections and community supervision or a  
33 county probation department as a result of such conviction, the petition  
34 shall for each such conviction specify such felony conviction, the date  
35 of such conviction or convictions, and the court in which such  
36 conviction or convictions were entered.

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

40 2. If the petition be to change the name of a person currently  
41 confined as an inmate in any correctional facility or currently under  
42 the supervision of the department of corrections and community super-  
43 vision or a county probation department as a result of a conviction for  
44 a violent felony offense as defined in section 70.02 of the penal law or  
45 a felony defined in article one hundred twenty-five of such law or any  
46 of the following provisions of such law sections 130.25, 130.30,  
47 [130.40, 130.45,] 255.25, 255.26, 255.27, article two hundred sixty-  
48 three, 135.10, 135.25, 230.05, 230.06, subdivision two of section 230.30  
49 or 230.32, notice of the time and place when and where the petition will  
50 be presented shall be served, in like manner as a notice of a motion  
51 upon an attorney in an action, upon the district attorney of every coun-  
52 ty in which such person has been convicted of such felony and upon the  
53 court or courts in which the sentence for such felony was entered.  
54 Unless a shorter period of time is ordered by the court, said notice  
55 shall be served upon each such district attorney and court or courts not



1 less than sixty days prior to the date on which such petition is noticed  
2 to be heard.

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

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

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

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

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

51 (b) Whenever it is shown that a criminal action against the same  
52 defendant has been commenced with respect to the event or occurrence  
53 from which a claim governed by this section arises, and such criminal  
54 action is for rape in the first degree as defined in section 130.35 of  
55 the penal law, [or criminal sexual act in the first degree as defined in  
56 section 130.50 of the penal law,] or aggravated sexual abuse in the

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

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

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

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

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

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

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

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

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

1 would be provided by an HIV test of the victim. If testing the defendant  
2 would provide medical benefit to the victim or a psychological benefit  
3 to the victim, then the testing is to be conducted by a state, county,  
4 or local public health officer designated by the order. Test results,  
5 which shall not be disclosed to the court, shall be communicated to the  
6 defendant and the victim named in the order in accordance with the  
7 provisions of section twenty-seven hundred eighty-five-a of the public  
8 health law.

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

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

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

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

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

47 1. (a) In any proceeding where the respondent is found pursuant to  
48 section 345.1 or 346.1 of this article, to have committed a felony  
49 offense enumerated in any section of article one hundred thirty of the  
50 penal law, or any subdivision of section 130.20 of such law, for which  
51 an act of "[sexual intercourse] VAGINAL SEXUAL CONTACT", "oral sexual  
52 [conduct] CONTACT" or "anal sexual [conduct] CONTACT", as those terms  
53 are defined in section 130.00 of the penal law, is required as an essen-  
54 tial element for the commission thereof, the court must, upon a request  
55 of the victim, order that the respondent submit to human immunodeficien-  
56 cy (HIV) related testing. The testing is to be conducted by a state,

1 county, or local public health officer designated by the order. Test  
2 results, which shall not be disclosed to the court, shall be communi-  
3 cated to the respondent and the victim named in the order in accordance  
4 with the provisions of section twenty-seven hundred eighty-five-a of the  
5 public health law.

6 (b) For the purposes of this section, the term "victim" means the  
7 person with whom the respondent engaged in an act of "[sexual inter-  
8 course] VAGINAL SEXUAL CONTACT", "oral sexual [conduct] CONTACT" or  
9 "anal sexual [conduct] CONTACT", as those terms are defined in section  
10 130.00 of the penal law, where such conduct with such victim was the  
11 basis for the court's finding that the respondent committed acts consti-  
12 tuting one or more of the offenses specified in paragraph (a) of this  
13 subdivision.

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

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

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

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

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

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

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

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

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

42 1. "Obscene." Any material or performance is "obscene" if (a) the  
43 average person, applying contemporary community standards, would find  
44 that considered as a whole, its predominant appeal is to the prurient  
45 interest in sex, and (b) it depicts or describes in a patently offensive  
46 manner, actual or simulated: [sexual intercourse] VAGINAL SEXUAL  
47 CONTACT, [criminal sexual act] ORAL SEXUAL CONTACT, ANAL SEXUAL CONTACT,  
48 sexual bestiality, masturbation, sadism, masochism, excretion or lewd  
49 exhibition of the genitals, and (c) considered as a whole, it lacks  
50 serious literary, artistic, political, and scientific value. Predominant  
51 appeal shall be judged with reference to ordinary adults unless it  
52 appears from the character of the material or the circumstances of its  
53 dissemination to be designed for children or other [specially] ESPECIAL-  
54 LY susceptible audience.

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

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

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

8 S 255.25 Incest in the third degree.

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

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

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

18 3. "Sexual conduct" means actual or simulated [sexual intercourse]  
19 VAGINAL SEXUAL CONTACT, oral sexual [conduct] CONTACT, anal sexual  
20 [conduct]CONTACT, sexual bestiality, masturbation, sado-masochistic  
21 abuse, or lewd exhibition of the genitals.

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

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

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

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

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

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

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

51 4. The commission of an act of adultery by the defendant; except where  
52 such offense is committed by the procurement or with the connivance of  
53 the plaintiff or where there is voluntary cohabitation of the parties  
54 with the knowledge of the offense or where action was not commenced  
55 within five years after the discovery by the plaintiff of the offense  
56 charged or where the plaintiff has also been guilty of adultery under

1 such circumstances that the defendant would have been entitled, if inno-  
2 cent, to a divorce, provided that adultery for the purposes of this  
3 subdivision is hereby defined as the commission of an act of [sexual  
4 intercourse] VAGINAL SEXUAL CONTACT, oral sexual [conduct] CONTACT or  
5 anal sexual [conduct] CONTACT, voluntarily performed by the defendant,  
6 with a person other than the plaintiff after the marriage of plaintiff  
7 and defendant. Oral sexual [conduct] CONTACT and anal sexual [conduct]  
8 CONTACT include, but are not limited to, sexual conduct as defined in  
9 subdivision two of section 130.00 and subdivision three of section  
10 130.20 of the penal law.

11 S 64. This act shall take effect on the ninetieth day after it shall  
12 have become a law and shall apply to any offense on or after such effec-  
13 tive date; provided, however, that section nine-a of this act shall take  
14 effect on the same date and in the same manner as section 3, section  
15 thirty-two-a of this act shall take effect on the same date and in the  
16 same manner as section 28, section thirty-three-a of this act shall take  
17 effect on the same date and in the same manner as section 8, and that  
18 section thirty-five-a of this act shall take effect on the same date and  
19 in the same manner as section 35 of chapter 368 or the laws of 2015. As  
20 it pertains to the repealed sections of law, nothing in this act shall  
21 affect a requirement to register pursuant to article 6-C of the  
22 correction law; a lawfully required disclosure of a conviction; any  
23 restriction or prohibition for certain types of employment, housing, or  
24 government benefit; or any other ongoing matter related to a conviction  
25 of the sections repealed in this act.