

# STATE OF NEW YORK

4249--A

Cal. No. 322

2017-2018 Regular Sessions

## IN ASSEMBLY

February 2, 2017

Introduced by M. of A. SIMOTAS, COLTON, AUBRY, ENGLEBRIGHT, BRAUNSTEIN, DenDEKKER, BRINDISI, MORELLE, JAFFEE, PERRY, COOK, HOOPER, WEPRIN, SANTABARBARA, SKOUFIS, ROZIC, HEVESI, QUART, LIFTON, OTIS, SEPULVEDA, MOSLEY, HAWLEY, FAHY -- Multi-Sponsored by -- M. of A. ARROYO, BUCHWALD, FINCH, FITZPATRICK, GALEF, GLICK, HIKIND, LUPARDO, MALLIO-TAKIS, McDONOUGH, MONTESANO, PEOPLES-STOKES, RA, WALTER -- read once and referred to the Committee on Codes -- ordered 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2 REPEALED.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 § 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.

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

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

LBD04197-06-8

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

§ 130.25 Rape in the third degree.

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

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

2. He or she engages in oral sexual contact with another person who is incapable of consent by reason of some factor other than being less than seventeen years old;

3. He or she engages in anal sexual contact with another person who is incapable of consent by reason of some other factor other than being less than seventeen years old;

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

~~3-]~~ 5. Being twenty-one years old or more, he or she engages in oral sexual contact with another person less than seventeen years old;

6. Being twenty-one years old or more, he or she engages in anal sexual contact with another person less than seventeen years old;

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

8. He or she engages in oral sexual contact with another person without such person's consent where such lack of consent is by reason of some factor other than incapacity to consent; or

9. He or she engages in anal sexual contact with another person without such person's consent where such lack of consent is by reason of some factor other than the incapacity to consent.

Rape in the third degree is a class E felony.

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

§ 130.30 Rape in the second degree.

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

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

2. being eighteen years old or more, he or she engages in oral sexual contact with another person less than fifteen years old;

3. being eighteen years old or more, he or she engages in anal sexual contact with another person less than fifteen years old;

4. he or she engages in ~~[sexual intercourse]~~ vaginal sexual contact with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated~~[+]~~;

5. he or she engages in oral sexual contact with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated; or

6. he or she engages in anal sexual contact with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated.

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

Rape in the second degree is a class D felony.

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

§ 130.35 Rape in the first degree.

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

1. he or she engages in ~~[sexual intercourse]~~ vaginal sexual contact with another person:

[1-] (a) By forcible compulsion; or

[2-] (b) Who is incapable of consent by reason of being physically helpless; or

[3-] (c) Who is less than eleven years old; or

[4-] (d) Who is less than thirteen years old and the actor is eighteen years old or more[+];

2. he or she engages in oral sexual contact with another person:

(a) By forcible compulsion; or

(b) Who is incapable of consent by reason of being physically helpless; or

(c) Who is less than eleven years old; or

(d) Who is less than thirteen years old and the actor is eighteen years old or more; or

3. he or she engages in anal sexual contact with another person:

(a) by forcible compulsion; or

(b) who is incapable of consent by reason of being physically helpless; or

(c) who is less than eleven years old; or

(d) who is less than thirteen years old and the actor is eighteen years old or more.

Rape in the first degree is a class B felony.

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

(2) a person fourteen or fifteen years old who is criminally responsible for acts constituting the crimes defined in subdivisions one and two of section 125.25 (murder in the second degree) and in subdivision three of such section provided that the underlying crime for the murder charge is one for which such person is criminally responsible; section 135.25 (kidnapping in the first degree); 150.20 (arson in the first degree); subdivisions one and two of section 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); ~~[subdivisions one and]~~ paragraphs (a) and (b) of subdivision one, paragraphs (a) and (b) of subdivision two, and paragraphs (a) and (b) of subdivision three of section 130.35 (rape in the first degree); ~~[subdivisions one and two of section 130.50 (criminal sexual act in the first degree),]~~ 130.70 (aggravated sexual abuse in the first degree); 140.30 (burglary in the first degree); subdivision one of section 140.25 (burglary in the second degree); 150.15 (arson in the second degree); 160.15 (robbery in the first degree); subdivision two of section 160.10 (robbery in the second degree) of this chapter; or section 265.03 of this chapter, where such machine gun or such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 of this chapter; or defined in this chapter as an attempt to commit murder in the second degree or kidnapping in the first degree, or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of ~~[the penal law]~~ this chapter.

§ 7. Subdivision 2 of section 30.00 of the penal law, as amended by section 38 of part WWW of chapter 59 of the laws of 2017, is amended to read as follows:

2. A person thirteen, fourteen or, fifteen years of age is criminally responsible for acts constituting murder in the second degree as defined in subdivisions one and two of section 125.25 and in subdivision three of such section provided that the underlying crime for the murder charge is one for which such person is criminally responsible or for such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of this chapter; and a person fourteen or, fifteen years of age is criminally responsible for acts constituting the crimes defined in section 135.25 (kidnapping in the first degree); 150.20 (arson in the first degree); subdivisions one and two of section 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); ~~[subdivisions one and~~ paragraphs (a) and (b) of subdivision one, paragraphs (a) and (b) of subdivision two and paragraphs (a) and (b) of subdivision three of section 130.35 (rape in the first degree); subdivisions one and two of section 130.50 (criminal sexual act in the first degree); 130.70 (aggravated sexual abuse in the first degree); 140.30 (burglary in the first degree); subdivision one of section 140.25 (burglary in the second degree); 150.15 (arson in the second degree); 160.15 (robbery in the first degree); subdivision two of section 160.10 (robbery in the second degree) of this chapter; or section 265.03 of this chapter, where such machine gun or such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 of this chapter; or defined in this chapter as an attempt to commit murder in the second degree or kidnapping in the first degree, or for such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of this chapter.

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

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

§ 9. Paragraphs (a) and (c) of subdivision 1 of section 70.02 of the penal law, as amended by chapter 368 of the laws of 2015, are amended to read as follows:

(a) Class B violent felony offenses: an attempt to commit the class A-I felonies of murder in the second degree as defined in section 125.25, kidnapping in the first degree as defined in section 135.25, and arson in the first degree as defined in section 150.20; manslaughter in the first degree as defined in section 125.20, aggravated manslaughter in the first degree as defined in section 125.22, rape in the first degree as defined in section 130.35, ~~[criminal sexual act in the first degree as defined in section 130.50,~~ aggravated sexual abuse in the first degree as defined in section 130.70, course of sexual conduct against a child in the first degree as defined in section 130.75; assault in the first degree as defined in section 120.10, kidnapping in the second degree as defined in section 135.20, burglary in the first degree as defined in section 140.30, arson in the second degree as defined in section 150.15, robbery in the first degree as defined in section 160.15, sex trafficking as defined in paragraphs (a) and (b) of subdivision five of section 230.34, incest in the first degree as defined in section 255.27, criminal possession of a weapon in the first degree as defined in section 265.04, criminal use of a firearm in the first degree as defined in section 265.09, criminal sale of a firearm in the first degree as defined in section 265.13, aggravated assault upon a police officer or a peace officer as defined in section 120.11, gang

1 assault in the first degree as defined in section 120.07, intimidating a  
2 victim or witness in the first degree as defined in section 215.17,  
3 hindering prosecution of terrorism in the first degree as defined in  
4 section 490.35, criminal possession of a chemical weapon or biological  
5 weapon in the second degree as defined in section 490.40, and criminal  
6 use of a chemical weapon or biological weapon in the third degree as  
7 defined in section 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, labor trafficking as defined in  
21 paragraphs (a) and (b) of subdivision three of section 135.35, criminal  
22 possession of a weapon in the third degree as defined in subdivision  
23 five, six, seven, eight, nine or ten of section 265.02, criminal sale of  
24 a firearm in the third degree as defined in section 265.11, intimidating  
25 a victim or witness in the second degree as defined in section 215.16,  
26 soliciting or providing support for an act of terrorism in the second  
27 degree as defined in section 490.10, and making a terroristic threat as  
28 defined in section 490.20, falsely reporting an incident in the first  
29 degree as defined in section 240.60, placing a false bomb or hazardous  
30 substance in the first degree as defined in section 240.62, placing a  
31 false bomb or hazardous substance in a sports stadium or arena, mass  
32 transportation facility or enclosed shopping mall as defined in section  
33 240.63, and aggravated unpermitted use of indoor pyrotechnics in the  
34 first degree as defined in section 405.18.

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

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

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

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

55 (h) a client or patient and the actor is a health care provider or  
56 mental health care provider charged with rape in the third degree as



defined in section 130.25, [~~criminal sexual act in the third degree as defined in section 130.40,~~] aggravated sexual abuse in the fourth degree as defined in section 130.65-a, or sexual abuse in the third degree as defined in section 130.55, and the act of sexual conduct occurs during a treatment session, consultation, interview, or examination; or

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

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

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

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

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

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

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

3. In any prosecution for the crime of rape in the third degree as defined in section 130.25, [~~criminal sexual act in the third degree as defined in section 130.40,~~] aggravated sexual abuse in the fourth degree as defined in section 130.65-a, or sexual abuse in the third degree as defined in section 130.55 in which incapacity to consent is based on the circumstances set forth in paragraph (h) of subdivision three of section 130.05 of this article it shall be an affirmative defense that the

1 client or patient consented to such conduct charged after having been  
2 expressly advised by the health care or mental health care provider that  
3 such conduct was not performed for a valid medical purpose.

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

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

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

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

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

25 § 18. Subdivision 2 of section 240.75 of the penal law, as amended by  
26 section 8 of part NN of chapter 55 of the laws of 2018, is amended to  
27 read as follows:

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

ment in the first degree); section 135.60 (coercion in the third degree); section 135.61 (coercion in the second degree); section 135.65 (coercion in the first degree); section 140.20 (burglary in the third degree); section 140.25 (burglary in the second degree); section 140.30 (burglary in the first degree); section 145.00 (criminal mischief in the fourth degree); section 145.05 (criminal mischief in the third degree); section 145.10 (criminal mischief in the second degree); section 145.12 (criminal mischief in the first degree); section 145.14 (criminal tampering in the third degree); section 215.50 (criminal contempt in the second degree); section 215.51 (criminal contempt in the first degree); section 215.52 (aggravated criminal contempt); section 240.25 (harassment in the first degree); subdivision one, two or four of section 240.30 (aggravated harassment in the second degree); aggravated family offense as defined in this section or any attempt or conspiracy to commit any of the foregoing offenses where the defendant and the person against whom the offense was committed were members of the same family or household as defined in subdivision one of section 530.11 of the criminal procedure law.

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

§ 255.26 Incest in the second degree.

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

Incest in the second degree is a class D felony.

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

§ 255.27 Incest in the first degree.

A person is guilty of incest in the first degree when he or she commits the crime of rape in the first degree, as defined in paragraph (c) or (d) of subdivision ~~[three or four]~~ one, paragraph (c) or (d) of subdivision two and paragraph (c) or (d) of subdivision three of section 130.35 of this part~~[, or criminal sexual act in the first degree, as defined in subdivision three or four of section 130.50 of this part,~~] against a person whom he or she knows to be related to him or her, whether through marriage or not, as an ancestor, descendant, brother or sister of either the whole or half blood, uncle, aunt, nephew or niece.

Incest in the first degree is a class B felony.

§ 21. Subdivision 3 of section 485.05 of the penal law, as amended by section 9 of part NN of chapter 55 of the laws of 2018, is amended to read as follows:

3. A "specified offense" is an offense defined by any of the following provisions of this chapter: section 120.00 (assault in the third degree); section 120.05 (assault in the second degree); section 120.10 (assault in the first degree); section 120.12 (aggravated assault upon a person less than eleven years old); section 120.13 (menacing in the first degree); section 120.14 (menacing in the second degree); section 120.15 (menacing in the third degree); section 120.20 (reckless endangerment in the second degree); section 120.25 (reckless endangerment in the first degree); section 121.12 (strangulation in the second degree); section 121.13 (strangulation in the first degree); subdivision one of 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 subdivi-  
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 third  
16 degree); section 135.61 (coercion in the second degree); section 135.65  
17 (coercion in the first degree); section 140.10 (criminal trespass in the  
18 third degree); section 140.15 (criminal trespass in the second degree);  
19 section 140.17 (criminal trespass in the first degree); section 140.20  
20 (burglary in the third degree); section 140.25 (burglary in the second  
21 degree); section 140.30 (burglary in the first degree); section 145.00  
22 (criminal mischief in the fourth degree); section 145.05 (criminal  
23 mischief in the third degree); section 145.10 (criminal mischief in the  
24 second degree); section 145.12 (criminal mischief in the first degree);  
25 section 150.05 (arson in the fourth degree); section 150.10 (arson in  
26 the third degree); section 150.15 (arson in the second degree); section  
27 150.20 (arson in the first degree); section 155.25 (petit larceny);  
28 section 155.30 (grand larceny in the fourth degree); section 155.35  
29 (grand larceny in the third degree); section 155.40 (grand larceny in  
30 the second degree); section 155.42 (grand larceny in the first degree);  
31 section 160.05 (robbery in the third degree); section 160.10 (robbery in  
32 the second degree); section 160.15 (robbery in the first degree);  
33 section 240.25 (harassment in the first degree); subdivision one, two or  
34 four of section 240.30 (aggravated harassment in the second degree); or  
35 any attempt or conspiracy to commit any of the foregoing offenses.

36 § 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 § 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 § 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 § 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 felony  
2 or a violation of section 130.25, [~~130.40,~~] 205.10, 205.17, 205.19 or  
3 215.56 of the penal law 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 procedure  
8 may instead be as follows:

9 § 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 § 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 appearance  
28 ticket pursuant to subdivision four of section 140.27, or (c) whenever  
29 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 officer  
35 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 felonies  
44 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 § 27. Subdivision (a) of section 190.71 of the criminal procedure law,  
50 as amended by chapter 7 of the laws of 2007, is amended to read as  
51 follows:

52 (a) Except as provided in subdivision six of section 200.20 of this  
53 chapter, a grand jury may not indict (i) a person thirteen years of age  
54 for any conduct or crime other than conduct constituting a crime defined  
55 in subdivisions one and two of section 125.25 (murder in the second  
56 degree) or such conduct as a sexually motivated felony, where authorized

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

27 § 28. Subdivision 4 of section 722.20 of the criminal procedure law,  
28 as added by section 1-a of part WWW of chapter 59 of the laws of 2017,  
29 is amended to read as follows:

30 4. Notwithstanding the provisions of subdivisions two and three of  
31 this section, the court shall, at the request of the district attorney,  
32 order removal of an action against a juvenile offender to the family  
33 court pursuant to the provisions of article seven hundred twenty-five of  
34 this title if, upon consideration of the criteria specified in subdivi-  
35 sion two of section 722.22 of this article, it is determined that to do  
36 so would be in the interests of justice. Where, however, the felony  
37 complaint charges the juvenile offender with murder in the second degree  
38 as defined in section 125.25 of the penal law, rape in the first degree  
39 as defined in paragraph (a) of subdivision one, paragraph (a) of subdivi-  
40 vision two and paragraph (a) of subdivision three of section 130.35 of  
41 the penal law, [~~criminal sexual act in the first degree as defined in~~  
42 ~~subdivision one of section 130.50 of the penal law,~~] or an armed felony  
43 as defined in paragraph (a) of subdivision forty-one of section 1.20 of  
44 this chapter, a determination that such action be removed to the family  
45 court shall, in addition, be based upon a finding of one or more of the  
46 following factors: (i) mitigating circumstances that bear directly upon  
47 the manner in which the crime was committed; or (ii) where the defendant  
48 was not the sole participant in the crime, the defendant's participation  
49 was relatively minor although not so minor as to constitute a defense to  
50 the prosecution; or (iii) possible deficiencies in proof of the crime.

51 § 29. Subdivision 5 of section 722.21 of the criminal procedure law,  
52 as added by section 1-a of part WWW of chapter 59 of the laws of 2017,  
53 is amended to read as follows:

54 5. Notwithstanding subdivisions two and three of this section, at the  
55 request of the district attorney, the court shall order removal of an  
56 action against an adolescent offender charged with an offense listed in

paragraph (a) of subdivision two of section 722.23 of this article, to the family court pursuant to the provisions of article seven hundred twenty-five of this title and upon consideration of the criteria specified in subdivision two of section 722.22 of this article, it is determined that to do so would be in the interests of justice. Where, however, the felony complaint charges the adolescent offender with murder in the second degree as defined in section 125.25 of the penal law, rape in the first degree as defined in paragraph (a) of subdivision one, paragraph (a) of subdivision two and paragraph (a) of subdivision three of section 130.35 of the penal law, [~~criminal sexual act in the first degree as defined in subdivision one of section 130.50 of the penal law~~] or an armed felony as defined in paragraph (a) of subdivision forty-one of section 1.20 of this chapter, a determination that such action be removed to the family court shall, in addition, be based upon a finding of one or more of the following factors: (i) mitigating circumstances that bear directly upon the manner in which the crime was committed; or (ii) where the defendant was not the sole participant in the crime, the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution; or (iii) possible deficiencies in proof of the crime.

§ 30. Paragraph (b) of subdivision 1 of section 722.22 of the criminal procedure law, as added by section 1-a of part WWW of chapter 59 of the laws of 2017, is amended to read as follows:

(b) with the consent of the district attorney, order removal of an action involving an indictment charging a juvenile offender with murder in the second degree as defined in section 125.25 of the penal law; rape in the first degree, as defined in paragraph (a) of subdivision one, paragraph (a) of subdivision two and paragraph (a) of subdivision three of section 130.35 of the penal law[, ~~criminal sexual act in the first degree, as defined in subdivision one of section 130.50 of the penal law~~]; or an armed felony as defined in paragraph (a) of subdivision forty-one of section 1.20 of this chapter, to the family court pursuant to the provisions of article seven hundred twenty-five of this title if the court finds one or more of the following factors: (i) mitigating circumstances that bear directly upon the manner in which the crime was committed; (ii) where the defendant was not the sole participant in the crime, the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution; or (iii) possible deficiencies in the proof of the crime, and, after consideration of the factors set forth in subdivision two of this section, the court determined that removal of the action to the family court would be in the interests of justice.

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

(iii) Where the indictment does not charge a crime specified in subparagraph (i) of this paragraph, the district attorney may recommend removal of the action to the family court. Upon making such recommendation the district attorney shall submit a subscribed memorandum setting forth: (1) a recommendation that the interests of justice would best be served by removal of the action to the family court; and (2) if the indictment charges a thirteen year old with the crime of murder in the second degree, or a fourteen or fifteen year old with the crimes of rape in the first degree as defined in paragraph (a) of subdivision one, paragraph (a) of subdivision two and paragraph (a) of subdivision three of section 130.35 of the penal law, [~~or criminal sexual act in the first~~



~~degree as defined in subdivision one of section 130.50 of the penal law,~~ or an armed felony as defined in paragraph (a) of subdivision forty-one of section 1.20 of this chapter specific factors, one or more of which reasonably supports the recommendation, showing, (i) mitigating circumstances that bear directly upon the manner in which the crime was committed, or (ii) where the defendant was not the sole participant in the crime, that the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution, or (iii) possible deficiencies in proof of the crime, or (iv) where the juvenile offender has no previous adjudications of having committed a designated felony act, as defined in subdivision eight of section 301.2 of the family court act, regardless of the age of the offender at the time of commission of the act, that the criminal act was not part of a pattern of criminal behavior and, in view of the history of the offender, is not likely to be repeated.

§ 32. Subdivision 6 of section 300.50 of the criminal procedure law, as amended by chapter 264 of the laws of 2003, is amended to read as follows:

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

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

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

§ 33. Paragraph (b) of subdivision 8 of section 700.05 of the criminal procedure law, as amended by chapter 368 of the laws of 2015, is amended to read as follows:

(b) Any of the following felonies: assault in the second degree as defined in section 120.05 of the penal law, assault in the first degree as defined in section 120.10 of the penal law, reckless endangerment in the first degree as defined in section 120.25 of the penal law, promoting a suicide attempt as defined in section 120.30 of the penal law, strangulation in the second degree as defined in section 121.12 of the penal law, strangulation in the first degree as defined in section 121.13 of the penal law, criminally negligent homicide as defined in section 125.10 of the penal law, manslaughter in the second degree as defined in section 125.15 of the penal law, manslaughter in the first degree as defined in section 125.20 of the penal law, murder in the second degree as defined in section 125.25 of the penal law, murder in the first degree as defined in section 125.27 of the penal law, abortion in the second degree as defined in section 125.40 of the penal law, abortion in the first degree as defined in section 125.45 of the penal law, rape in the third degree as defined in section 130.25 of the penal law, rape in the second degree as defined in section 130.30 of the penal law, rape in the first degree as defined in section 130.35 of the penal law, ~~criminal sexual act in the third degree as defined in section 130.40 of the penal law, criminal sexual act in the second degree as defined in section 130.45 of the penal law, criminal sexual act in the first degree as defined in section 130.50 of the penal law,~~ sexual abuse in the first degree as defined in section 130.65 of the penal law, unlawful imprisonment in the first degree as defined in section 135.10 of the penal law, kidnapping in the second degree as defined in section 135.20 of the penal law, kidnapping in the first degree as defined in section 135.25 of the penal law, labor trafficking as defined in section 135.35 of the penal law, aggravated labor trafficking as defined in section 135.37 of the penal law, custodial interference in the first degree as defined in section 135.50 of the penal law, coercion in the first degree as defined in section 135.65 of the penal law, criminal trespass in the first degree as defined in section 140.17 of the penal law, burglary in the third degree as defined in section 140.20 of the penal law, burglary in the second degree as defined in section 140.25 of the penal law, burglary in the first degree as defined in section 140.30 of the penal law, criminal mischief in the third degree as defined in section 145.05 of the penal law, criminal mischief in the second degree as defined in section 145.10 of the penal law, criminal mischief in the first degree as defined in section 145.12 of the penal law, criminal tampering in the first degree as defined in section 145.20 of the penal law, arson in the fourth degree as defined in section 150.05 of the penal law, arson in the third degree as defined in section 150.10 of the penal law, arson in the second degree as defined in section 150.15 of the penal law, arson in the first degree as defined in section 150.20 of the penal law, grand larceny in the fourth degree as defined in section 155.30 of the penal law, grand larceny in the third degree as defined in section 155.35 of the penal law, grand larceny in the second degree as defined in section 155.40 of the penal law, grand larceny in the first degree as defined in section 155.42 of the penal law, health care fraud in the fourth degree as defined in section 177.10 of the penal law, health care fraud in the third degree as defined in section 177.15 of the penal law, health care fraud in the second degree as defined in section 177.20 of the penal law, health care fraud in the first degree as defined in section 177.25 of the penal law, robbery in the third degree as defined in section 160.05 of the penal law, robbery in the second degree as defined in section 160.10 of the penal law, robbery in

1 the first degree as defined in section 160.15 of the penal law, unlawful  
2 use of secret scientific material as defined in section 165.07 of the  
3 penal law, criminal possession of stolen property in the fourth degree  
4 as defined in section 165.45 of the penal law, criminal possession of  
5 stolen property in the third degree as defined in section 165.50 of the  
6 penal law, criminal possession of stolen property in the second degree  
7 as defined by section 165.52 of the penal law, criminal possession of  
8 stolen property in the first degree as defined by section 165.54 of the  
9 penal law, trademark counterfeiting in the second degree as defined in  
10 section 165.72 of the penal law, trademark counterfeiting in the first  
11 degree as defined in section 165.73 of the penal law, forgery in the  
12 second degree as defined in section 170.10 of the penal law, forgery in  
13 the first degree as defined in section 170.15 of the penal law, criminal  
14 possession of a forged instrument in the second degree as defined in  
15 section 170.25 of the penal law, criminal possession of a forged instru-  
16 ment in the first degree as defined in section 170.30 of the penal law,  
17 criminal possession of forgery devices as defined in section 170.40 of  
18 the penal law, falsifying business records in the first degree as  
19 defined in section 175.10 of the penal law, tampering with public  
20 records in the first degree as defined in section 175.25 of the penal  
21 law, offering a false instrument for filing in the first degree as  
22 defined in section 175.35 of the penal law, issuing a false certificate  
23 as defined in section 175.40 of the penal law, criminal diversion of  
24 prescription medications and prescriptions in the second degree as  
25 defined in section 178.20 of the penal law, criminal diversion of  
26 prescription medications and prescriptions in the first degree as  
27 defined in section 178.25 of the penal law, residential mortgage fraud  
28 in the fourth degree as defined in section 187.10 of the penal law,  
29 residential mortgage fraud in the third degree as defined in section  
30 187.15 of the penal law, residential mortgage fraud in the second degree  
31 as defined in section 187.20 of the penal law, residential mortgage  
32 fraud in the first degree as defined in section 187.25 of the penal law,  
33 escape in the second degree as defined in section 205.10 of the penal  
34 law, escape in the first degree as defined in section 205.15 of the  
35 penal law, absconding from temporary release in the first degree as  
36 defined in section 205.17 of the penal law, promoting prison contraband  
37 in the first degree as defined in section 205.25 of the penal law,  
38 hindering prosecution in the second degree as defined in section 205.60  
39 of the penal law, hindering prosecution in the first degree as defined  
40 in section 205.65 of the penal law, sex trafficking as defined in  
41 section 230.34 of the penal law, criminal possession of a weapon in the  
42 third degree as defined in subdivisions two, three and five of section  
43 265.02 of the penal law, criminal possession of a weapon in the second  
44 degree as defined in section 265.03 of the penal law, criminal  
45 possession of a weapon in the first degree as defined in section 265.04  
46 of the penal law, manufacture, transport, disposition and defacement of  
47 weapons and dangerous instruments and appliances defined as felonies in  
48 subdivisions one, two, and three of section 265.10 of the penal law,  
49 sections 265.11, 265.12 and 265.13 of the penal law, or prohibited use  
50 of weapons as defined in subdivision two of section 265.35 of the penal  
51 law, relating to firearms and other dangerous weapons, or failure to  
52 disclose the origin of a recording in the first degree as defined in  
53 section 275.40 of the penal law;

54 § 34. Paragraph (a) of subdivision 2 of section 720.10 of the criminal  
55 procedure law, as amended by chapter 316 of the laws of 2006, is amended  
56 to read as follows:

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

§ 35. Paragraph (a) of subdivision 2 and paragraph (a) of subdivision 3 of section 168-a of the correction law, as amended by chapter 405 of the laws of 2008, subparagraph (i) of paragraph (a) as amended by chapter 368 of the laws of 2015 and paragraph (a) of subdivision 3 as amended by chapter 107 of the laws of 2006, are amended to read as follows:

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

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

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

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

(i) the child has been found to be an abused child, (A) as defined in paragraph (i) of subdivision (e) of section ten hundred twelve of the

1 family court act, as a result of such parent's acts; or (B) as defined  
2 in paragraph (iii) of subdivision (e) of section ten hundred twelve of  
3 the family court act, as a result of such parent's acts; provided,  
4 however, the respondent must have committed or knowingly allowed to be  
5 committed a felony sex offense as defined in sections 130.25, 130.30,  
6 130.35, [~~130.40, 130.45, 130.50,~~] 130.65, 130.67, 130.70, 130.75,  
7 130.80, 130.95 and 130.96 of the penal law; and

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

25 (e) A determination by the court in accordance with article ten of the  
26 family court act based upon clear and convincing evidence that a child  
27 was abused (A) as defined in paragraph (i) of subdivision (e) of section  
28 ten hundred twelve of the family court act, as a result of such parent's  
29 acts; or (B) as defined in paragraph (iii) of subdivision (e) of section  
30 ten hundred twelve of the family court act, as a result of such parent's  
31 acts; provided, however, the respondent must have committed or knowingly  
32 allowed to be committed a felony sex offense as defined in sections  
33 130.25, 130.30, 130.35, [~~130.40, 130.45, 130.50,~~] 130.65, 130.67,  
34 130.70, 130.75 and 130.80 of the penal law shall establish that the  
35 child was an abused child for the purpose of a determination as required  
36 by subparagraph (i) or (ii) of paragraph (b) of this subdivision. Such a  
37 determination by the court in accordance with article ten of the family  
38 court act based upon a fair preponderance of evidence shall be admissi-  
39 ble in any proceeding commenced in accordance with this section.

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

43 (a) The offenses referred to in subparagraph (ii) of paragraph (a) of  
44 subdivision one and paragraph (a) of subdivision two of this section  
45 that result in permanent disqualification shall include a conviction  
46 under sections 125.12, 125.13, 125.14, 125.15, 125.20, 125.21, 125.22,  
47 125.25, 125.26, 125.27, 130.30, 130.35, [~~130.45, 130.50,~~] 130.65,  
48 130.66, 130.67, 130.70, 130.75, 130.80, 130.90, 130.95, 130.96, 135.25,  
49 150.20, 230.30, 230.32, 230.34, 235.22, 263.05, 263.10, 263.11, 263.15,  
50 263.16 of the penal law or an attempt to commit any of the aforesaid  
51 offenses under section 110.00 of the penal law, or any offenses commit-  
52 ted under a former section of the penal law which would constitute  
53 violations of the aforesaid sections of the penal law, or any offenses  
54 committed outside this state which would constitute violations of the  
55 aforesaid sections of the penal law.



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

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

(b) For every juvenile delinquency proceeding under article three involving an allegation of an act committed by a person which, if done by an adult, would be a crime (i) defined in sections 125.27 (murder in the first degree); 125.25 (murder in the second degree); 135.25 (kidnapping in the first degree); or 150.20 (arson in the first degree) of the penal law committed by a person thirteen, fourteen or fifteen years of age; or such conduct committed as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (ii) defined in sections 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); 130.35 (rape in the first degree); ~~[130.50 (criminal sexual act in the first degree),]~~ 135.20 (kidnapping in the second degree), but only where the abduction involved the use or threat of use of deadly physical force; 150.15 (arson in the second degree); or 160.15 (robbery in the first degree) of the penal law committed by a person thirteen, fourteen or fifteen years of age; or such conduct committed as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (iii) defined in the penal law as an attempt to commit murder in the first or second degree or kidnapping in the first degree committed by a person thirteen, fourteen or fifteen years of age; or such conduct committed as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (iv) defined in section 140.30 (burglary in the first degree); subdivision one of section 140.25 (burglary in the second degree); subdivision two of section 160.10 (robbery in the second degree) of the penal law; or section 265.03 of the penal law, where such machine gun or such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 of the penal law committed by a person fourteen or fifteen years of age; or such conduct committed as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (v) defined in section 120.05 (assault in the second degree) or 160.10 (robbery in the second degree) of the penal law committed by a person fourteen or fifteen years of age but only where there has been a prior finding by a court that such person has previously committed an act which, if committed by an adult, would be the crime of assault in the second degree, robbery in the second degree or any designated felony act specified in clause (i), (ii) or (iii) of this subdivision regardless of the age of such person at the time of the commission of the prior act; or (vi) other than a misdemeanor, committed by a person at least seven but less than sixteen years of age, but only where there has been two prior findings by the court that such person has committed a prior act which, if committed by an adult would be a felony:

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

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

§ 39. Paragraph (ii) of subdivision 8 of section 301.2 of the family court act, as amended by section 57 of part WWW of chapter 59 of the laws of 2017, is amended to read as follows:

(ii) defined in sections 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); 130.35 (rape in the first degree); ~~130.50 (criminal sexual act in the first degree);~~ 130.70 (aggravated sexual abuse in the first degree); 135.20 (kidnapping in the second degree) but only where the abduction involved the use or threat of use of deadly physical force; 150.15 (arson in the second degree) or 160.15 (robbery in the first degree) of the penal law committed by a person thirteen, fourteen, fifteen, or sixteen, or, commencing October first, two thousand nineteen, seventeen years of age; or such conduct committed as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law;

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

4. The probation service shall not adjust a case in which the child has allegedly committed a delinquent act which would be a crime defined in section 120.25, (reckless endangerment in the first degree), ~~[subdivision one of section 125.15, (manslaughter in the second degree), subdivision]~~ subdivisions one, two and three of section 130.25, (rape in the third degree), ~~[subdivision one of section 130.40, (criminal sexual act in the third degree),]~~ subdivision one or two of section 130.65, (sexual abuse in the first degree), section 135.65, (coercion in the first degree), section 140.20, (burglary in the third degree), section 150.10, (arson in the third degree), section 160.05, (robbery in the third degree), subdivision two, three or four of section 265.02, (criminal possession of a weapon in the third degree), section 265.03, (criminal possession of a weapon in the second degree), or section 265.04, (criminal possession of a dangerous weapon in the first degree) of the penal law where the child has previously had one or more adjustments of a case in which such child allegedly committed an act which would be a crime specified in this subdivision unless it has received written approval from the court and the appropriate presentment agency.

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

(c) Prior to granting an order of disposition pursuant to subdivision (a) of this section following an adjudication of child abuse, as defined in paragraph (i) of subdivision (e) of section ten hundred twelve of this act or a finding of a felony sex offense as defined in sections 130.25, 130.30, 130.35, ~~130.40, 130.45, 130.50,~~ 130.65 and 130.70 of the penal law, the court shall advise the respondent that any subsequent adjudication of child abuse, as defined in paragraph (i) of subdivision (e) of section one thousand twelve of this act or any subsequent finding of a felony sex offense as defined in those sections of the penal law herein enumerated, arising out of acts of the respondent may result in

1 the commitment of the guardianship and custody of the child or another  
2 child pursuant to section three hundred eighty-four-b of the social  
3 services law. The order in such cases shall contain a statement that any  
4 subsequent adjudication of child abuse or finding of a felony sex  
5 offense as described herein may result in the commitment of the guardi-  
6 anship and custody of the child, or another child pursuant to section  
7 three hundred eighty-four-b of the social services law.

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

11 2. If the petitioner stands convicted of a violent felony offense as  
12 defined in section 70.02 of the penal law or a felony defined in article  
13 one hundred twenty-five of such law or any of the following provisions  
14 of such law sections 130.25, 130.30, [~~130.40, 130.45,~~] 255.25, 255.26,  
15 255.27, article two hundred sixty-three, 135.10, 135.25, 230.05, 230.06,  
16 subdivision two of section 230.30 or 230.32, and is currently confined  
17 as an inmate in any correctional facility or currently under the super-  
18 vision of the department of corrections and community supervision or a  
19 county probation department as a result of such conviction, the petition  
20 shall for each such conviction specify such felony conviction, the date  
21 of such conviction or convictions, and the court in which such  
22 conviction or convictions were entered.

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

26 2. If the petition be to change the name of a person currently  
27 confined as an inmate in any correctional facility or currently under  
28 the supervision of the department of corrections and community super-  
29 vision or a county probation department as a result of a conviction for  
30 a violent felony offense as defined in section 70.02 of the penal law or  
31 a felony defined in article one hundred twenty-five of such law or any  
32 of the following provisions of such law sections 130.25, 130.30,  
33 [~~130.40, 130.45,~~] 255.25, 255.26, 255.27, article two hundred sixty-  
34 three, 135.10, 135.25, 230.05, 230.06, subdivision two of section 230.30  
35 or 230.32, notice of the time and place when and where the petition will  
36 be presented shall be served, in like manner as a notice of a motion  
37 upon an attorney in an action, upon the district attorney of every coun-  
38 ty in which such person has been convicted of such felony and upon the  
39 court or courts in which the sentence for such felony was entered.  
40 Unless a shorter period of time is ordered by the court, said notice  
41 shall be served upon each such district attorney and court or courts not  
42 less than sixty days prior to the date on which such petition is noticed  
43 to be heard.

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

47 Upon compliance with the order and the filing of the affidavit of the  
48 publication, as provided in this section, the clerk of the court in  
49 which the order has been entered shall certify that the order has been  
50 complied with; and, if the petition states that the petitioner stands  
51 convicted of a violent felony offense as defined in section 70.02 of the  
52 penal law or a felony defined in article one hundred twenty-five of such  
53 law or any of the following provisions of such law sections 130.25,  
54 130.30, [~~130.40, 130.45,~~] 255.25, 255.26, 255.27, article two hundred  
55 sixty-three, 135.10, 135.25, 230.05, 230.06, subdivision two of section  
56 230.30 or 230.32, such clerk (1) shall deliver, by first class mail, a

1 copy of such certified order to the division of criminal justice  
2 services at its office in the county of Albany and (2) upon the clerk of  
3 the court reviewing the petitioner's application for name change and  
4 subsequent in-court inquiry, may, in the clerk's discretion, deliver, by  
5 first class mail, the petitioner's new name with such certified order to  
6 the court of competent jurisdiction which imposed the orders of support.  
7 Such certification shall appear on the original order and on any certi-  
8 fied copy thereof and shall be entered in the clerk's minutes of the  
9 proceeding.

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

12 § 213-c. Action by victim of conduct constituting certain sexual  
13 offenses. Notwithstanding any other limitation set forth in this arti-  
14 cle, a civil claim or cause of action to recover from a defendant as  
15 hereinafter defined, for physical, psychological or other injury or  
16 condition suffered by a person as a result of acts by such defendant of  
17 rape in the first degree as defined in section 130.35 of the penal law,  
18 ~~[or criminal sexual act in the first degree as defined in section 130.50~~  
19 ~~of the penal law,]~~ or aggravated sexual abuse in the first degree as  
20 defined in section 130.70 of the penal law, or course of sexual conduct  
21 against a child in the first degree as defined in section 130.75 of the  
22 penal law may be brought within five years. As used in this section, the  
23 term "defendant" shall mean only a person who commits the acts described  
24 in this section or who, in a criminal proceeding, could be charged with  
25 criminal liability for the commission of such acts pursuant to section  
26 20.00 of the penal law and shall not apply to any related civil claim or  
27 cause of action arising from such acts. Nothing in this section shall be  
28 construed to require that a criminal charge be brought or a criminal  
29 conviction be obtained as a condition of bringing a civil cause of  
30 action or receiving a civil judgment pursuant to this section or be  
31 construed to require that any of the rules governing a criminal proceed-  
32 ing be applicable to any such civil action.

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

36 (b) Whenever it is shown that a criminal action against the same  
37 defendant has been commenced with respect to the event or occurrence  
38 from which a claim governed by this section arises, and such criminal  
39 action is for rape in the first degree as defined in section 130.35 of  
40 the penal law, ~~[or criminal sexual act in the first degree as defined in~~  
41 ~~section 130.50 of the penal law,]~~ or aggravated sexual abuse in the  
42 first degree as defined in section 130.70 of the penal law, or course of  
43 sexual conduct against a child in the first degree as defined in section  
44 130.75 of the penal law, the plaintiff shall have at least five years  
45 from the termination of the criminal action as defined in section 1.20  
46 of the criminal procedure law in which to commence the civil action,  
47 notwithstanding that the time in which to commence such action has  
48 already expired or has less than a year remaining.

49 § 47. Subdivision 11 of section 123 of the agriculture and markets  
50 law, as amended by chapter 392 of the laws of 2004, and such section as  
51 renumbered by section 18 of part T of chapter 59 of the laws of 2010, is  
52 amended to read as follows:

53 11. The owner shall not be liable pursuant to subdivision six, seven,  
54 eight, nine or ten of this section if the dog was coming to the aid or  
55 defense of a person during the commission or attempted commission of a  
56 murder, robbery, burglary, arson, rape in the first degree as defined in

1 ~~paragraph (a) or (b) of~~ subdivision one [~~ex~~], ~~paragraph (a) or (b) of~~  
2 ~~subdivision two or paragraph (a) or (b) of subdivision three~~ of section  
3 130.35 of the penal law[~~, criminal sexual act in the first degree as~~  
4 ~~defined in subdivision one or two of section 130.50 of the penal law~~] or  
5 kidnapping within the dwelling or upon the real property of the owner of  
6 the dog and the dog injured or killed the person committing such crimi-  
7 nal activity.

8 § 48. Section 4 of the judiciary law, as amended by chapter 264 of the  
9 laws of 2003, is amended to read as follows:

10 § 4. Sittings of courts to be public. The sittings of every court  
11 within this state shall be public, and every citizen may freely attend  
12 the same, except that in all proceedings and trials in cases for  
13 divorce, seduction, abortion, rape, assault with intent to commit rape,  
14 [~~criminal sexual act,~~] bastardy or filiation, the court may, in its  
15 discretion, exclude therefrom all persons who are not directly inter-  
16 ested therein, excepting jurors, witnesses, and officers of the court.

17 § 49. Subdivision 2 of section 120.60 of the penal law, as amended by  
18 chapter 434 of the laws of 2000, is amended to read as follows:

19 2. commits a class A misdemeanor defined in article one hundred thirty  
20 of this chapter, or a class E felony defined in section 130.25, [~~130.40~~]  
21 or 130.85 of this chapter, or a class D felony defined in section 130.30  
22 [~~ex 130.45~~] of this chapter.

23 § 50. Subdivision 1 of section 210.16 of the criminal procedure law,  
24 as added by chapter 571 of the laws of 2007, is amended to read as  
25 follows:

26 1. (a) In a case where an indictment or a superior court information  
27 has been filed with a superior court which charges the defendant with a  
28 felony offense enumerated in any section of article one hundred thirty  
29 of the penal law where an act of "[~~sexual intercourse~~] vaginal sexual  
30 contact", "oral sexual [~~conduct~~] contact" or "anal sexual [~~conduct~~]  
31 contact," as those terms are defined in section 130.00 of the penal law,  
32 is required as an essential element for the commission thereof, the  
33 court shall, upon a request of the victim within six months of the date  
34 of the crimes charged, order that the defendant submit to human immuno-  
35 deficiency virus (HIV) related testing. Testing of a defendant shall be  
36 ordered when the result would provide medical benefit to the victim or a  
37 psychological benefit to the victim. Medical benefit shall be found when  
38 the following elements are satisfied: (i) a decision is pending about  
39 beginning, continuing, or discontinuing a medical intervention for the  
40 victim; and (ii) the result of an HIV test of the accused could affect  
41 that decision, and could provide relevant information beyond that which  
42 would be provided by an HIV test of the victim. If testing the defendant  
43 would provide medical benefit to the victim or a psychological benefit  
44 to the victim, then the testing is to be conducted by a state, county,  
45 or local public health officer designated by the order. Test results,  
46 which shall not be disclosed to the court, shall be communicated to the  
47 defendant and the victim named in the order in accordance with the  
48 provisions of section twenty-seven hundred eighty-five-a of the public  
49 health law.

50 (b) For the purposes of this section, the terms "victim" and "appli-  
51 cant" mean the person with whom the defendant is charged to have engaged  
52 in an act of "[~~sexual intercourse~~] vaginal sexual contact", "oral sexual  
53 [~~conduct~~] contact" or "anal sexual [~~conduct~~] contact", as those terms  
54 are defined in section 130.00 of the penal law, where such conduct with  
55 such victim was the basis for charging the defendant with an offense  
56 specified in paragraph (a) of this subdivision.



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

1. (a) In any case where the defendant is convicted of a felony offense enumerated in any section of article one hundred thirty of the penal law, or any subdivision of section 130.20 of such law, where an act of "[~~sexual-intercourse~~ vaginal sexual contact", "oral sexual [~~conduct~~ contact" or "anal sexual [~~conduct~~ contact", as those terms are defined in section 130.00 of the penal law, is required as an essential element for the commission thereof, the court must, upon a request of the victim, order that the defendant submit to human immunodeficiency (HIV) related testing. The testing is to be conducted by a state, county, or local public health officer designated by the order. Test results, which shall not be disclosed to the court, shall be communicated to the defendant and the victim named in the order in accordance with the provisions of section twenty-seven hundred eighty-five-a of the public health law, but such results and disclosure need not be completed prior to the imposition of sentence.

(b) For the purposes of this section, the terms "defendant", "conviction" and "sentence" mean and include, respectively, an "eligible youth," a "youthful offender finding" and a "youthful offender sentence" as those terms are defined in section 720.10 of this chapter. The term "victim" means the person with whom the defendant engaged in an act of "[~~sexual-intercourse~~ vaginal sexual contact", "oral sexual [~~conduct~~ contact" or "anal sexual [~~conduct~~ contact", as those terms are defined in section 130.00 of the penal law, where such conduct with such victim was the basis for the defendant's conviction of an offense specified in paragraph (a) of this subdivision.

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

1. (a) In any proceeding where the respondent is found pursuant to section 345.1 or 346.1 of this article, to have committed a felony offense enumerated in any section of article one hundred thirty of the penal law, or any subdivision of section 130.20 of such law, for which an act of "[~~sexual-intercourse~~ vaginal sexual contact", "oral sexual [~~conduct~~ contact" or "anal sexual [~~conduct~~ contact", as those terms are defined in section 130.00 of the penal law, is required as an essential element for the commission thereof, the court must, upon a request of the victim, order that the respondent submit to human immunodeficiency (HIV) related testing. The testing is to be conducted by a state, county, or local public health officer designated by the order. Test results, which shall not be disclosed to the court, shall be communicated to the respondent and the victim named in the order in accordance with the provisions of section twenty-seven hundred eighty-five-a of the public health law.

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

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

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

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

1. He or she engages in [~~sexual intercourse~~] vaginal sexual contact with another person without such person's consent; or

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

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

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

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

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

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

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

2. by means of such communication he importunes, invites or induces a minor to engage in [~~sexual intercourse~~] vaginal sexual contact, oral sexual [~~conduct~~] contact or anal sexual [~~conduct~~] contact, or sexual contact with him, or to engage in a sexual performance, obscene sexual performance, or sexual conduct for his benefit.

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

§ 255.25 Incest in the third degree.

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

Incest in the third degree is a class E felony.

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

3. "Sexual conduct" means actual or simulated ~~sexual intercourse~~ vaginal sexual contact, oral sexual ~~conduct~~ contact, anal sexual ~~conduct~~ contact, sexual bestiality, masturbation, sado-masochistic abuse, or lewd exhibition of the genitals.

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

3. rebuts evidence introduced by the people of the victim's failure to engage in ~~sexual intercourse~~ vaginal sexual contact, oral sexual ~~conduct~~ contact, anal sexual ~~conduct~~ contact or sexual contact during a given period of time; or

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

3. rebuts evidence introduced by the presentment agency of the victim's failure to engage in ~~sexual intercourse~~ vaginal sexual contact, oral sexual ~~conduct~~ contact, anal sexual ~~conduct~~ contact or sexual contact during a given period of time; or

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

(4) The commission of an act of adultery, provided that adultery for the purposes of articles ten, eleven, and eleven-A of this chapter, is hereby defined as the commission of an act of ~~sexual intercourse~~ vaginal sexual contact, oral sexual ~~conduct~~ contact or anal sexual ~~conduct~~ contact, voluntarily performed by the defendant, with a person other than the plaintiff after the marriage of plaintiff and defendant. Oral sexual ~~conduct~~ contact and anal sexual ~~conduct~~ contact include, but are not limited to, sexual conduct as defined in subdivision two of section 130.00 and subdivision three of section 130.20 of the penal law.

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

4. The commission of an act of adultery by the defendant; except where such offense is committed by the procurement or with the connivance of the plaintiff or where there is voluntary cohabitation of the parties with the knowledge of the offense or where action was not commenced within five years after the discovery by the plaintiff of the offense charged or where the plaintiff has also been guilty of adultery under such circumstances that the defendant would have been entitled, if innocent, to a divorce, provided that adultery for the purposes of this subdivision is hereby defined as the commission of an act of ~~sexual intercourse~~ vaginal sexual contact, oral sexual ~~conduct~~ contact or anal sexual ~~conduct~~ contact, voluntarily performed by the defendant, with a person other than the plaintiff after the marriage of plaintiff and defendant. Oral sexual ~~conduct~~ contact and anal sexual ~~conduct~~ contact include, but are not limited to, sexual conduct as defined in subdivision two of section 130.00 and subdivision three of section 130.20 of the penal law.

§ 64. This act shall take effect January 1, 2019 and shall apply to any offense on or after such effective date; provided, however, that if part WWW of chapter 59 of the laws of 2017 shall not have taken effect on or before such date then sections seven, twenty-eight, twenty-nine, thirty and thirty-nine of this act shall take effect on the same date

1 and in the same manner as such part of such chapter of the laws of 2017,  
2 takes effect; provided, further, that if part NN of chapter 55 of the  
3 laws of 2018 shall not have taken effect on or before such date then  
4 sections eighteen and twenty-one of this act shall take effect on the  
5 same date and in the same manner as such part of such chapter of the  
6 laws of 2018, takes effect. As it pertains to the repealed sections of  
7 law, nothing in this act shall affect a requirement to register pursuant  
8 to article 6-C of the correction law; a lawfully required disclosure of  
9 a conviction; any restriction or prohibition for certain types of  
10 employment, housing, or government benefit; or any other ongoing matter  
11 related to a conviction of the sections repealed in this act.