

STATE OF NEW YORK

2938

2019-2020 Regular Sessions

IN SENATE

January 30, 2019

Introduced by Sen. MAYER -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, 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:

Section 1. Sections 130.40, 130.45 and 130.50 of the penal law are REPEALED.

§ 2. Subdivisions 1 and 2 of section 130.00 of the penal law, subdivision 2 as amended by chapter 264 of the laws of 2003, are amended to read as follows:

1. "[~~Sexual intercourse~~] Vaginal sexual contact" [~~has its ordinary meaning and occurs upon any penetration, however slight~~] means conduct between persons consisting of contact between the penis and the vagina or vulva.

2. (a) "Oral sexual [~~conduct~~] contact" means conduct between persons consisting of contact between the mouth and the penis, the mouth and the anus, or the mouth and the vulva or vagina.

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

§ 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;

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

LBD01481-02-9

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 seven-
teen 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

1 of age is criminally responsible for acts constituting the crimes
2 defined in section 135.25 (kidnapping in the first degree); 150.20
3 (arson in the first degree); subdivisions one and two of section 120.10
4 (assault in the first degree); 125.20 (manslaughter in the first
5 degree); ~~[subdivisions one and]~~ paragraphs (a) and (b) of subdivision
6 one, paragraphs (a) and (b) of subdivision two and paragraphs (a) and
7 (b) of subdivision three of section 130.35 (rape in the first degree);
8 subdivisions one and two of section 130.50 (criminal sexual act in the
9 first degree); 130.70 (aggravated sexual abuse in the first degree);
10 140.30 (burglary in the first degree); subdivision one of section 140.25
11 (burglary in the second degree); 150.15 (arson in the second degree);
12 160.15 (robbery in the first degree); subdivision two of section 160.10
13 (robbery in the second degree) of this chapter; or section 265.03 of
14 this chapter, where such machine gun or such firearm is possessed on
15 school grounds, as that phrase is defined in subdivision fourteen of
16 section 220.00 of this chapter; or defined in this chapter as an attempt
17 to commit murder in the second degree or kidnapping in the first degree,
18 or for such conduct as a sexually motivated felony, where authorized
19 pursuant to section 130.91 of this chapter.

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

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

26 § 9. Paragraphs (a) and (c) of subdivision 1 of section 70.02 of the
27 penal law, paragraph (a) as amended by chapter 189 of the laws 2018 and
28 paragraph (c) as amended by chapter 368 of the laws of 2015, are amended
29 to read as follows:

30 (a) Class B violent felony offenses: an attempt to commit the class
31 A-I felonies of murder in the second degree as defined in section
32 125.25, kidnapping in the first degree as defined in section 135.25, and
33 arson in the first degree as defined in section 150.20; manslaughter in
34 the first degree as defined in section 125.20, aggravated manslaughter
35 in the first degree as defined in section 125.22, rape in the first
36 degree as defined in section 130.35, ~~[criminal sexual act in the first~~
37 ~~degree as defined in section 130.50,~~] aggravated sexual abuse in the
38 first degree as defined in section 130.70, course of sexual conduct
39 against a child in the first degree as defined in section 130.75;
40 assault in the first degree as defined in section 120.10, kidnapping in
41 the second degree as defined in section 135.20, burglary in the first
42 degree as defined in section 140.30, arson in the second degree as
43 defined in section 150.15, robbery in the first degree as defined in
44 section 160.15, sex trafficking as defined in paragraphs (a) and (b) of
45 subdivision five of section 230.34, sex trafficking of a child as
46 defined in section 230.34-a, incest in the first degree as defined in
47 section 255.27, criminal possession of a weapon in the first degree as
48 defined in section 265.04, criminal use of a firearm in the first degree
49 as defined in section 265.09, criminal sale of a firearm in the first
50 degree as defined in section 265.13, aggravated assault upon a police
51 officer or a peace officer as defined in section 120.11, gang assault in
52 the first degree as defined in section 120.07, intimidating a victim or
53 witness in the first degree as defined in section 215.17, hindering
54 prosecution of terrorism in the first degree as defined in section
55 490.35, criminal possession of a chemical weapon or biological weapon in
56 the second degree as defined in section 490.40, and criminal use of a

1 chemical weapon or biological weapon in the third degree as defined in
2 section 490.47.

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

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

33 b. a crime defined in section 130.20, 130.25, 130.30, ~~[130.40,~~
34 ~~130.45,~~] 130.55, 130.60, 130.70, 255.25, 255.26 or 255.27;

35 § 11. Paragraph (d) of subdivision 2 and paragraph (h) of subdivision
36 3 of section 130.05 of the penal law, paragraph (d) of subdivision 2 as
37 amended by chapter 40 of the laws of 2004 and paragraph (h) of subdivi-
38 sion 3 as amended by section 2 of part G of chapter 501 of the laws of
39 2012, are amended to read as follows:

40 (d) Where the offense charged is rape in the third degree as defined
41 in ~~[subdivision three]~~ subdivisions seven, eight and nine of section
42 130.25, ~~[or criminal sexual act in the third degree as defined in subdivi-~~
43 ~~vision three of section 130.40,~~] in addition to forcible compulsion,
44 circumstances under which, at the time of the act of intercourse, oral
45 sexual conduct or anal sexual conduct, the victim clearly expressed that
46 he or she did not consent to engage in such act, and a reasonable person
47 in the actor's situation would have understood such person's words and
48 acts as an expression of lack of consent to such act under all the
49 circumstances.

50 (h) a client or patient and the actor is a health care provider or
51 mental health care provider charged with rape in the third degree as
52 defined in section 130.25, ~~[criminal sexual act in the third degree as~~
53 ~~defined in section 130.40,~~] aggravated sexual abuse in the fourth degree
54 as defined in section 130.65-a, or sexual abuse in the third degree as
55 defined in section 130.55, and the act of sexual conduct occurs during a
56 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 client or patient consented to such conduct charged after having been expressly advised by the health care or mental health care provider that such conduct was not performed for a valid medical purpose.

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

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

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

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

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

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

25 2. A "specified offense" is an offense defined in section 120.00
26 (assault in the third degree); section 120.05 (assault in the second
27 degree); section 120.10 (assault in the first degree); section 120.13
28 (menacing in the first degree); section 120.14 (menacing in the second
29 degree); section 120.15 (menacing in the third degree); section 120.20
30 (reckless endangerment in the second degree); section 120.25 (reckless
31 endangerment in the first degree); section 120.45 (stalking in the
32 fourth degree); section 120.50 (stalking in the third degree); section
33 120.55 (stalking in the second degree); section 120.60 (stalking in the
34 first degree); section 121.11 (criminal obstruction of breathing or
35 blood circulation); section 121.12 (strangulation in the second degree);
36 section 121.13 (strangulation in the first degree); subdivision one of
37 section 125.15 (manslaughter in the second degree); subdivision one, two
38 or four of section 125.20 (manslaughter in the first degree); section
39 125.25 (murder in the second degree); section 130.20 (sexual misconduct);
40 section 130.25 (rape in the third degree); section 130.30 (rape
41 in the second degree); section 130.35 (rape in the first degree);
42 section 130.40 (criminal sexual act in the third degree); section 130.45
43 (criminal sexual act in the second degree); section 130.50 (criminal
44 sexual act in the first degree); section 130.52 (forcible touching);
45 section 130.53 (persistent sexual abuse); section 130.55 (sexual abuse
46 in the third degree); section 130.60 (sexual abuse in the second
47 degree); section 130.65 (sexual abuse in the first degree); section
48 130.66 (aggravated sexual abuse in the third degree); section 130.67
49 (aggravated sexual abuse in the second degree); section 130.70 (aggravated
50 sexual abuse in the first degree); section 130.91 (sexually motivated
51 felony); section 130.95 (predatory sexual assault); section 130.96
52 (predatory sexual assault against a child); section 135.05 (unlawful
53 imprisonment in the second degree); section 135.10 (unlawful imprisonment
54 in the first degree); section 135.60 (coercion in the third
55 degree); section 135.61 (coercion in the second degree); section 135.65
56 (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 or four of section 125.20 (manslaughter in the first degree); section 125.25 (murder in the second degree); section 120.45 (stalking in the fourth degree); section 120.50 (stalking in the third degree); section

1 120.55 (stalking in the second degree); section 120.60 (stalking in the
2 first degree); paragraph (a) of subdivision one, paragraph (a) of subdivi-
3 vision two and paragraph (a) of subdivision three of section 130.35
4 (rape in the first degree); subdivision one of section 130.50 (criminal
5 sexual act in the first degree); subdivision one of section 130.65
6 (sexual abuse in the first degree); paragraph (a) of subdivision one of
7 section 130.67 (aggravated sexual abuse in the second degree); paragraph
8 (a) of subdivision one of section 130.70 (aggravated sexual abuse in the
9 first degree); section 135.05 (unlawful imprisonment in the second
10 degree); section 135.10 (unlawful imprisonment in the first degree);
11 section 135.20 (kidnapping in the second degree); section 135.25
12 (kidnapping in the first degree); section 135.60 (coercion in the third
13 degree); section 135.61 (coercion in the second degree); section 135.65
14 (coercion in the first degree); section 140.10 (criminal trespass in the
15 third degree); section 140.15 (criminal trespass in the second degree);
16 section 140.17 (criminal trespass in the first degree); section 140.20
17 (burglary in the third degree); section 140.25 (burglary in the second
18 degree); section 140.30 (burglary in the first degree); section 145.00
19 (criminal mischief in the fourth degree); section 145.05 (criminal
20 mischief in the third degree); section 145.10 (criminal mischief in the
21 second degree); section 145.12 (criminal mischief in the first degree);
22 section 150.05 (arson in the fourth degree); section 150.10 (arson in
23 the third degree); section 150.15 (arson in the second degree); section
24 150.20 (arson in the first degree); section 155.25 (petit larceny);
25 section 155.30 (grand larceny in the fourth degree); section 155.35
26 (grand larceny in the third degree); section 155.40 (grand larceny in
27 the second degree); section 155.42 (grand larceny in the first degree);
28 section 160.05 (robbery in the third degree); section 160.10 (robbery in
29 the second degree); section 160.15 (robbery in the first degree);
30 section 240.25 (harassment in the first degree); subdivision one, two or
31 four of section 240.30 (aggravated harassment in the second degree); or
32 any attempt or conspiracy to commit any of the foregoing offenses.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

46 § 27. Subdivision (a) of section 190.71 of the criminal procedure law,
47 as amended by chapter 7 of the laws of 2007, is amended to read as
48 follows:

49 (a) Except as provided in subdivision six of section 200.20 of this
50 chapter, a grand jury may not indict (i) a person thirteen years of age
51 for any conduct or crime other than conduct constituting a crime defined
52 in subdivisions one and two of section 125.25 (murder in the second
53 degree) or such conduct as a sexually motivated felony, where authorized
54 pursuant to section 130.91 of the penal law; (ii) a person fourteen or
55 fifteen years of age for any conduct or crime other than conduct consti-
56 tuting a crime 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; 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 two of section 130.50 (criminal sexual act in the first degree),]~~ 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 the penal law; ~~[subdivision four of section 265.02 of the penal law, where such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 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; or defined in the penal law 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.

§ 28. Subdivision 4 of section 722.20 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:

4. Notwithstanding the provisions of subdivisions two and three of this section, the court shall, at the request of the district attorney, order removal of an action against a juvenile offender to the family court pursuant to the provisions of article seven hundred twenty-five of this title if, 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 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, 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.

§ 29. Subdivision 5 of section 722.21 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:

5. Notwithstanding subdivisions two and three of this section, at the request of the district attorney, the court shall order removal of an 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 speci-

1 fied in subdivision two of section 722.22 of this article, it is deter-
2 mined that to do so would be in the interests of justice. Where, howev-
3 er, the felony complaint charges the adolescent offender with murder in
4 the second degree as defined in section 125.25 of the penal law, rape in
5 the first degree as defined in paragraph (a) of subdivision one, para-
6 graph (a) of subdivision two and paragraph (a) of subdivision three of
7 section 130.35 of the penal law, [~~criminal sexual act in the first~~
8 ~~degree as defined in subdivision one of section 130.50 of the penal~~
9 ~~law,~~] or an armed felony as defined in paragraph (a) of subdivision
10 forty-one of section 1.20 of this chapter, a determination that such
11 action be removed to the family court shall, in addition, be based upon
12 a finding of one or more of the following factors: (i) mitigating
13 circumstances that bear directly upon the manner in which the crime was
14 committed; or (ii) where the defendant was not the sole participant in
15 the crime, the defendant's participation was relatively minor although
16 not so minor as to constitute a defense to the prosecution; or (iii)
17 possible deficiencies in proof of the crime.

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

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

40 § 31. Subparagraph (iii) of paragraph (g) of subdivision 5 of section
41 220.10 of the criminal procedure law, as amended by chapter 264 of the
42 laws of 2003, is amended to read as follows:

43 (iii) Where the indictment does not charge a crime specified in
44 subparagraph (i) of this paragraph, the district attorney may recommend
45 removal of the action to the family court. Upon making such recommenda-
46 tion the district attorney shall submit a subscribed memorandum setting
47 forth: (1) a recommendation that the interests of justice would best be
48 served by removal of the action to the family court; and (2) if the
49 indictment charges a thirteen year old with the crime of murder in the
50 second degree, or a fourteen or fifteen year old with the crimes of rape
51 in the first degree as defined in paragraph (a) of subdivision one,
52 paragraph (a) of subdivision two and paragraph (a) of subdivision three
53 of section 130.35 of the penal law, [~~or criminal sexual act in the first~~
54 ~~degree as defined in subdivision one of section 130.50 of the penal~~
55 ~~law,~~] or an armed felony as defined in paragraph (a) of subdivision
56 forty-one of section 1.20 of this chapter specific factors, one or more

1 of which reasonably supports the recommendation, showing, (i) mitigating
2 circumstances that bear directly upon the manner in which the crime was
3 committed, or (ii) where the defendant was not the sole participant in
4 the crime, that the defendant's participation was relatively minor
5 although not so minor as to constitute a defense to the prosecution, or
6 (iii) possible deficiencies in proof of the crime, or (iv) where the
7 juvenile offender has no previous adjudications of having committed a
8 designated felony act, as defined in subdivision eight of section 301.2
9 of the family court act, regardless of the age of the offender at the
10 time of commission of the act, that the criminal act was not part of a
11 pattern of criminal behavior and, in view of the history of the offen-
12 der, is not likely to be repeated.

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

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

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

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

50 § 33. Paragraph (b) of subdivision 8 of section 700.05 of the criminal
51 procedure law, as amended by chapter 1 of the laws of 2019, is amended
52 to read as follows:

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

ing 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, 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 the first degree as defined in section 160.15 of the penal law, unlawful use of secret scientific material as defined in section 165.07 of the penal law, criminal possession of stolen property in the fourth degree as defined in section 165.45 of the penal law, criminal possession of stolen property in the third degree as defined in section 165.50 of the penal law, criminal possession of stolen property in the second degree as defined by section

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

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

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

~~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, paragraph (a) of subdivision 2 as amended by chapter 405 of the laws of 2008, subparagraph (i) of paragraph (a) of subdivision 2 as amended by chapter 189 of the laws of 2018 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, 230.34-a 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 family court act, as a result of such parent's acts; or (B) as defined in paragraph (iii) of subdivision (e) of section ten hundred twelve of the family court act, as a result of such parent's acts; provided, however, the respondent must have committed or knowingly allowed to be

1 committed a felony sex offense as defined in sections 130.25, 130.30,
2 130.35, [~~130.40, 130.45, 130.50,~~] 130.65, 130.67, 130.70, 130.75,
3 130.80, 130.95 and 130.96 of the penal law; and

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

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

36 § 37. Paragraphs (a) and (b) of subdivision 4 of section 509-cc of the
37 vehicle and traffic law, paragraph (a) as amended by chapter 189 of the
38 laws of 2018 and paragraph (b) as amended by chapter 400 of the laws of
39 2011, are amended to read as follows:

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

53 (b) The offenses referred to in subparagraph (ii) of paragraph (a) of
54 subdivision one and paragraph (b) of subdivision two of this section
55 that result in permanent disqualification shall include a conviction
56 under sections 100.13, 105.15, 105.17, 115.08, 120.12, 120.70, 125.10,

1 125.11, [~~130.40,~~] 130.53, 130.60, 130.65-a, 135.20, 160.15, 220.18,
2 220.21, 220.39, 220.41, 220.43, 220.44, 230.25, 260.00, 265.04 of the
3 penal law or an attempt to commit any of the aforesaid offenses under
4 section 110.00 of the penal law, or any offenses committed under a
5 former section of the penal law which would constitute violations of the
6 aforesaid sections of the penal law, or any offenses committed outside
7 this state which would constitute violations of the aforesaid sections
8 of the penal law.

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

11 (b) For every juvenile delinquency proceeding under article three
12 involving an allegation of an act committed by a person which, if done
13 by an adult, would be a crime (i) defined in sections 125.27 (murder in
14 the first degree); 125.25 (murder in the second degree); 135.25 (kidnap-
15 ping in the first degree); or 150.20 (arson in the first degree) of the
16 penal law committed by a person thirteen, fourteen or fifteen years of
17 age; or such conduct committed as a sexually motivated felony, where
18 authorized pursuant to section 130.91 of the penal law; (ii) defined in
19 sections 120.10 (assault in the first degree); 125.20 (manslaughter in
20 the first degree); 130.35 (rape in the first degree); [~~130.50 (criminal
21 sexual act in the first degree),~~] 135.20 (kidnapping in the second
22 degree), but only where the abduction involved the use or threat of use
23 of deadly physical force; 150.15 (arson in the second degree); or 160.15
24 (robbery in the first degree) of the penal law committed by a person
25 thirteen, fourteen or fifteen years of age; or such conduct committed as
26 a sexually motivated felony, where authorized pursuant to section 130.91
27 of the penal law; (iii) defined in the penal law as an attempt to commit
28 murder in the first or second degree or kidnapping in the first degree
29 committed by a person thirteen, fourteen or fifteen years of age; or
30 such conduct committed as a sexually motivated felony, where authorized
31 pursuant to section 130.91 of the penal law; (iv) defined in section
32 140.30 (burglary in the first degree); subdivision one of section 140.25
33 (burglary in the second degree); subdivision two of section 160.10
34 (robbery in the second degree) of the penal law; or section 265.03 of
35 the penal law, where such machine gun or such firearm is possessed on
36 school grounds, as that phrase is defined in subdivision fourteen of
37 section 220.00 of the penal law committed by a person fourteen or
38 fifteen years of age; or such conduct committed as a sexually motivated
39 felony, where authorized pursuant to section 130.91 of the penal law;
40 (v) defined in section 120.05 (assault in the second degree) or 160.10
41 (robbery in the second degree) of the penal law committed by a person
42 fourteen or fifteen years of age but only where there has been a prior
43 finding by a court that such person has previously committed an act
44 which, if committed by an adult, would be the crime of assault in the
45 second degree, robbery in the second degree or any designated felony act
46 specified in clause (i), (ii) or (iii) of this subdivision regardless of
47 the age of such person at the time of the commission of the prior act;
48 or (vi) other than a misdemeanor, committed by a person at least seven
49 but less than sixteen years of age, but only where there has been two
50 prior findings by the court that such person has committed a prior act
51 which, if committed by an adult would be a felony:

52 (i) There is hereby established in the family court in the city of New
53 York at least one "designated felony act part." Such part or parts shall
54 be held separate from all other proceedings of the court, and shall have
55 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 one of section 130.40, (criminal sexual act in the third degree),~~ 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 the commitment of the guardianship and custody of the child or another child pursuant to section three hundred eighty-four-b of the social services law. The order in such cases shall contain a statement that any subsequent adjudication of child abuse or finding of a felony sex

1 offense as described herein may result in the commitment of the guardi-
2 anship and custody of the child, or another child pursuant to section
3 three hundred eighty-four-b of the social services law.

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

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

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

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

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

43 Upon compliance with the order and the filing of the affidavit of the
44 publication, as provided in this section, the clerk of the court in
45 which the order has been entered shall certify that the order has been
46 complied with; and, if the petition states that the petitioner stands
47 convicted of a violent felony offense as defined in section 70.02 of the
48 penal law or a felony defined in article one hundred twenty-five of such
49 law or any of the following provisions of such law sections 130.25,
50 130.30, [~~130.40, 130.45,~~] 255.25, 255.26, 255.27, article two hundred
51 sixty-three, 135.10, 135.25, 230.05, 230.06, subdivision two of section
52 230.30 or 230.32, such clerk (1) shall deliver, by first class mail, a
53 copy of such certified order to the division of criminal justice
54 services at its office in the county of Albany and (2) upon the clerk of
55 the court reviewing the petitioner's application for name change and
56 subsequent in-court inquiry, may, in the clerk's discretion, deliver, by

1 first class mail, the petitioner's new name with such certified order to
2 the court of competent jurisdiction which imposed the orders of support.
3 Such certification shall appear on the original order and on any certi-
4 fied copy thereof and shall be entered in the clerk's minutes of the
5 proceeding.

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

8 § 213-c. Action by victim of conduct constituting certain sexual
9 offenses. Notwithstanding any other limitation set forth in this arti-
10 cle, a civil claim or cause of action to recover from a defendant as
11 hereinafter defined, for physical, psychological or other injury or
12 condition suffered by a person as a result of acts by such defendant of
13 rape in the first degree as defined in section 130.35 of the penal law,
14 ~~[or criminal sexual act in the first degree as defined in section 130.50~~
15 ~~of the penal law]~~ or aggravated sexual abuse in the first degree as
16 defined in section 130.70 of the penal law, or course of sexual conduct
17 against a child in the first degree as defined in section 130.75 of the
18 penal law may be brought within five years. As used in this section, the
19 term "defendant" shall mean only a person who commits the acts described
20 in this section or who, in a criminal proceeding, could be charged with
21 criminal liability for the commission of such acts pursuant to section
22 20.00 of the penal law and shall not apply to any related civil claim or
23 cause of action arising from such acts. Nothing in this section shall be
24 construed to require that a criminal charge be brought or a criminal
25 conviction be obtained as a condition of bringing a civil cause of
26 action or receiving a civil judgment pursuant to this section or be
27 construed to require that any of the rules governing a criminal proceed-
28 ing be applicable to any such civil action.

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

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

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

49 11. The owner shall not be liable pursuant to subdivision six, seven,
50 eight, nine or ten of this section if the dog was coming to the aid or
51 defense of a person during the commission or attempted commission of a
52 murder, robbery, burglary, arson, rape in the first degree as defined in
53 paragraph (a) or (b) of subdivision one [ex], paragraph (a) or (b) of
54 subdivision two or paragraph (a) or (b) of subdivision three of section
55 130.35 of the penal law~~[, criminal sexual act in the first degree as~~
56 ~~defined in subdivision one or two of section 130.50 of the penal law]~~ or

1 kidnapping within the dwelling or upon the real property of the owner of
2 the dog and the dog injured or killed the person committing such criminal
3 activity.

4 § 48. Section 4 of the judiciary law, as amended by chapter 1 of the
5 laws of 2019, is amended to read as follows:

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

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

15 2. commits a class A misdemeanor defined in article one hundred thirty
16 of this chapter, or a class E felony defined in section 130.25, ~~[130.40]~~
17 or 130.85 of this chapter, or a class D felony defined in section 130.30
18 ~~[or 130.45]~~ of this chapter.

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

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

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

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

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

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

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

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

44 (b) For the purposes of this section, the term "victim" means the
45 person with whom the respondent engaged in an act of "[~~sexual-inter-~~
46 ~~course~~ vaginal sexual contact", "oral sexual [~~conduct~~ contact" or
47 "anal sexual [~~conduct~~ contact", as those terms are defined in section
48 130.00 of the penal law, where such conduct with such victim was the
49 basis for the court's finding that the respondent committed acts consti-
50 tuting one or more of the offenses specified in paragraph (a) of this
51 subdivision.

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

54 (a) Establish that an attempt was made to engage the victim in [~~sexual~~
55 ~~intercourse~~ vaginal sexual contact, oral sexual [~~conduct~~ contact, anal

1 sexual [~~conduct~~] contact, or sexual contact, as the case may be, at the
2 time of the occurrence; and

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

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

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

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

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

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

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

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

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

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

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

47 § 255.25 Incest in the third degree.

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

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

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

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

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

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

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

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

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

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

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

34 4. The commission of an act of adultery by the defendant; except where
35 such offense is committed by the procurement or with the connivance of
36 the plaintiff or where there is voluntary cohabitation of the parties
37 with the knowledge of the offense or where action was not commenced
38 within five years after the discovery by the plaintiff of the offense
39 charged or where the plaintiff has also been guilty of adultery under
40 such circumstances that the defendant would have been entitled, if inno-
41 cent, to a divorce, provided that adultery for the purposes of this
42 subdivision is hereby defined as the commission of an act of [~~sexual~~]
43 intercourse] vaginal sexual contact, oral sexual [~~conduct~~] contact or
44 anal sexual [~~conduct~~] contact, voluntarily performed by the defendant,
45 with a person other than the plaintiff after the marriage of plaintiff
46 and defendant. Oral sexual [~~conduct~~] contact and anal sexual [~~conduct~~]
47 contact include, but are not limited to, sexual conduct as defined in
48 subdivision two of section 130.00 and subdivision three of section
49 130.20 of the penal law.

50 § 64. This act shall take effect January 1, 2021 and shall apply to
51 any offense on or after such effective date. As it pertains to the
52 repealed sections of law, nothing in this act shall affect a requirement
53 to register pursuant to article 6-C of the correction law; a lawfully
54 required disclosure of a conviction; any restriction or prohibition for
55 certain types of employment, housing, or government benefit; or any

1 other ongoing matter related to a conviction of the sections repealed in
2 this act.