

# STATE OF NEW YORK

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6040

2021-2022 Regular Sessions

## IN SENATE

March 31, 2021

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

AN ACT to amend the penal law, in relation to certain prostitution offenses and fines relating thereto; to amend the criminal procedure law, in relation to motions to vacate judgment and motions for new sentencing; to amend the education law, in relation to investigation into acts alleged to be the unauthorized practice of massage therapy by potential victims of human trafficking; to amend the civil practice law and rules, the criminal procedure law and the executive law, in relation to prohibiting possession of reproductive or sexual health devices from being permitted in specified criminal or civil proceedings as evidence of prostitution; to amend the executive law, in relation to the maximum age at which a homeless youth can continue to receive shelter services; to amend the executive law, in relation to human trafficking and sexual exploitation awareness; to amend the county law, in relation to duties of the sheriff; to amend the town law, in relation to the duties of police officers and constables; to amend the social services law, in relation to services for exploited individuals, services for victims of human trafficking and the interagency task force on human trafficking; to amend the state finance law, in relation to establishing the victims of sexual exploitation fund; to amend the administrative code of the city of New York, the criminal procedure law, the family court act, the multiple dwelling law, the public health law, the real property law, the real property actions and proceedings law and the vehicle and traffic law, in relation to making conforming changes; and to repeal section 230.00 of the penal law relating to prostitution, section 230.03 of the penal law relating to prostitution in a school zone, section 230.07 relating to a defense against patronizing a person for prostitution, and subdivision 4 of section 170.30 of the criminal procedure law relating to a motion to dismiss information, simplified information, prosecutor's information or misdemeanor complaint

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

LBD08899-07-1

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. This act shall be known and may be cited as the "sex trade survivors justice and equality act".

§ 2. Section 230.01 of the penal law, as amended by chapter 23 of the laws of 2021, is amended to read as follows:

§ 230.01 Prostitution; affirmative defense.

In any prosecution under [~~section 230.00, section 230.03,~~] section 230.19, section 230.20, subdivision [~~2~~] two of section 230.25, subdivision [~~2~~] two of section 230.30 or section 230.34-a of this article, it is an affirmative defense that the defendant's participation in the offense was a result of having been a victim of compelling prostitution under section 230.33 of this article, a victim of sex trafficking under section 230.34 of this article, a victim of sex trafficking of a child under section 230.34-a of this article or a victim of trafficking in persons under the trafficking victims protection act (United States Code, Title 22, Chapter 78).

§ 3. Section 230.02 of the penal law, as amended by chapter 627 of laws of 1978, the section heading and subdivision 1 as amended by chapter 368 of the laws of 2015, is amended to read as follows:

§ 230.02 Patronizing a person for prostitution; definitions.

1. A person patronizes a person for prostitution when:

(a) Pursuant to a prior understanding, he or she pays a fee, or anything of value, to another person as compensation for such person or a third person having engaged in sexual conduct with him or her; or

(b) He or she pays or agrees to pay a fee, or anything of value, to another person pursuant to an understanding that in return therefor such person or a third person will engage in sexual conduct with him or her; or

(c) He or she solicits or requests another person to engage in sexual conduct with him or her in return for a fee, or anything of value.

2. As used in this article[~~7~~]:

(a) "person who is patronized" means the person with whom the defendant engaged in sexual conduct or was to have engaged in sexual conduct pursuant to the understanding, or the person who was solicited or requested by the defendant to engage in sexual conduct;

(b) "prostitution" means the act of engaging in or agreeing to engage in sexual conduct with another person in return for a fee or anything of value that is given or received by a person.

§ 4. Section 230.15 of the penal law, subdivisions 1 and 2 as amended by chapter 368 of the laws of 2015, is amended to read as follows:

§ 230.15 Promoting prostitution; definitions of terms.

The following definitions are applicable to this article:

1. "Advance prostitution." A person "advances prostitution" when, acting other than as a person in prostitution [~~or as a patron thereof~~], he or she knowingly causes or aids a person to commit or engage in prostitution, procures or solicits patrons for prostitution, provides persons or premises for prostitution purposes, operates or assists in the operation of a house of prostitution or a prostitution enterprise, or engages in any other conduct designed to institute, aid or facilitate an act or enterprise of prostitution.

2. "Profit from prostitution." A person "profits from prostitution" when, acting other than as a person in prostitution receiving compensation for personally rendered prostitution services, he or she accepts or receives money or other property pursuant to an agreement or under-

standing with any person whereby he or she participates or is to participate in the proceeds of prostitution activity.

3. "Prostitution." "Prostitution" means the act of engaging in or agreeing to engage in sexual conduct with another person in return for a fee or anything of value that is given or received by a person.

§ 5. Section 230.19 of the penal law, as added by chapter 191 of the laws of 2011, subdivision 1 as amended by chapter 368 of the laws of 2015, is amended to read as follows:

§ 230.19 Promoting prostitution in a school zone.

1. A person is guilty of promoting prostitution in a school zone when, being nineteen years old or more, he or she knowingly advances or profits from prostitution that he or she knows or reasonably should know is or will be committed ~~[in violation of section 230.03 of this article]~~ in a school zone during the hours that school is in session.

2. For purposes of this section, "school zone" ~~[shall mean "school zone" as defined in subdivision two of section 230.03 of this article]~~ means (a) in or on or within any building, structure, athletic playing field, playground or land contained within the real property boundary line of a public or private elementary, parochial, intermediate, junior high, vocational, or high school, or (b) any public sidewalk, street, parking lot, park, playground or private land, located immediately adjacent to the boundary line of such school.

Promoting prostitution in a school zone is a class E felony.

§ 6. Section 230.35 of the penal law, as amended by chapter 368 of the laws of 2015, is amended to read as follows:

§ 230.35 Promoting or compelling prostitution; accomplice.

In a prosecution for promoting prostitution or compelling prostitution, a person ~~[less than eighteen years old]~~ from whose prostitution activity another person is alleged to have advanced or attempted to advance or profited or attempted to profit shall not be deemed to be an accomplice.

§ 7. Subdivision 1 of section 80.05 of the penal law, as amended by chapter 669 of the laws of 1984, is amended to read as follows:

1. Class A misdemeanor. A sentence to pay a fine for a class A misdemeanor shall be a sentence to pay an amount, fixed by the court, not exceeding one thousand dollars, provided, however, that a sentence imposed for a violation of section 215.80 of this chapter may include a fine in an amount equivalent to double the value of the property unlawfully disposed of in the commission of the crime; provided however that no sentence imposed by this section shall be imposed on any individual sentenced under subdivision one of section 80.20 of this article.

§ 8. The penal law is amended by adding a new section 80.20 to read as follows:

§ 80.20 Imposition of fines in relation to certain violations of article 230.

1. A person whose violation of section 230.04 of this chapter results in a judicial disposition other than acquittal, adjournment in contemplation of dismissal or dismissal shall be required to pay a fine, as fixed by the court based on the defendant's "net taxable income," as defined in subdivision four of this section, which shall be determined by the completion of a compulsory financial disclosure at the time of sentencing. The fine shall be distributed to the victims of sexual exploitation fund established by section ninety-seven-bbbb of the state finance law. Notwithstanding any other provision of law, the penalty imposed under this section shall be a substitute for any fines imposed under subdivision one of section 80.05 of this article.

2. After the completion of a compulsory financial disclosure, if it is determined that a defendant is in a financial position to pay a fine, such defendant shall pay a fine calculated as provided in this subdivision. Except for individuals who are determined to be unable to pay a fine, the schedule of fines shall be as follows:

<u>Amount of net taxable income:</u>	<u>Schedule of Fines:</u>
<u>(a) Less than thirty thousand dollars</u>	<u>Fifty dollars</u>
<u>(b) Thirty thousand dollars or more, but less than fifty thousand dollars</u>	<u>One hundred dollars</u>
<u>(c) Fifty thousand dollars or more, but less than seventy-five thousand dollars</u>	<u>Two hundred dollars</u>
<u>(d) Seventy-five thousand dollars or more, but less than one hundred thousand dollars</u>	<u>Three hundred dollars</u>
<u>(e) One hundred thousand dollars or more, but less than one hundred fifty thousand dollars</u>	<u>Five hundred dollars</u>
<u>(f) One hundred fifty thousand dollars or more, but less than two hundred thousand dollars</u>	<u>Seven hundred dollars</u>
<u>(g) Greater than two hundred thousand dollars</u>	<u>One thousand dollars</u>

3. Notwithstanding any other provision of law, a person whose violation of any offense enumerated under section 230.05, 230.06, 230.19, 230.20, 230.25, 230.30, 230.32, 230.33, 230.34, or 230.34-a of this chapter that results in a judicial disposition other than acquittal, adjournment in contemplation of dismissal or dismissal shall pay a fine the sum of which will be calculated at the time of sentencing, on a sliding scale, based on their net taxable income, which shall be determined by the completion of a compulsory financial disclosure. If it is determined that such defendant is in a financial position to pay a prescribed fine, such defendant shall pay a fine in one of the following amounts to the court, to be distributed to the victims of sexual exploitation fund established by section ninety-seven-bbbb of the state finance law.

(a) A person convicted of a first offense shall pay a fine of not less than one thousand dollars and not more than the maximum amount applicable under section 80.00 of this article.

(b) A person convicted of a second offense shall pay a fine of not less than five thousand dollars nor more than twenty-five thousand dollars.

(c) A person convicted of a third or subsequent offense shall pay a fine of not less than ten thousand dollars nor more than fifty thousand dollars.

4. (a) If the defendant is assessed a fine or fee by the court but can prove they will have financial difficulty paying the amount in one lump sum an installment payment plan may be provided as described in this subdivision. Any such installment payment plan shall include all fines, fees and mandatory surcharges and shall consist of monthly payments that do not exceed two percent of such person's monthly net taxable income or ten dollars per month, whichever is greater. For the purpose of this subdivision, the term "net taxable income" means a person's total income from all sources and assets, minus deductions required by law including

1 but not limited to administrative or court-ordered garnishments and  
2 support payments. A court or hearing officer may require the  
3 submission of a financial disclosure report from all persons who opt to  
4 enter into installment payment plans. A court or hearing officer also  
5 may accept payments higher than the set amount, but may not undertake  
6 additional collection activity so long as the person meets his or her  
7 obligations under the installment payment plan. A court or hearing  
8 officer may require a person entering installment payment plans to  
9 appear periodically before such court or hearing officer, but no more  
10 frequently than annually, to assess his or her financial circumstances,  
11 and may set a new payment amount if such person's financial circum-  
12 stances have changed. A person who enters into an installment payment  
13 plan and experiences a reduction in net taxable income may petition the  
14 court or hearing officer at any time to seek a reduction in the monthly  
15 payment.

16 (b) The court or hearing officer shall have the discretion in the  
17 interests of justice to reduce or waive the amount of any fine, fee or  
18 mandatory surcharge assessed for a violation of any of the provisions of  
19 this chapter.

20 5. Fines collected under this article shall be deposited into the  
21 victims of sexual exploitation fund created by section ninety-seven-bbb  
22 of the state finance law and distributed in the following manner:

23 (a) subject to the availability of funds, fifty percent shall be  
24 distributed by the office of victim services to make grants to victims  
25 of sexual exploitation fund created by section ninety-seven-bbbbb of the  
26 state finance law. Subject to the availability of funds, the office of  
27 victim services shall make grants to victims of sexual exploitation and  
28 sex trafficking who do not otherwise qualify for funds from the crime  
29 victims compensation fund. Such available funds may be used to remedy  
30 personal injury, loss of essential personal property, medical and coun-  
31 seling services, lost wages, savings, or lost support, transportation,  
32 occupational/vocational rehabilitation, use of shelters by victims and  
33 their children, housing and moving expenses and other costs and/or  
34 expenses as the task force deems appropriate.

35 (b) the remaining fifty percent of such funds shall be allocated to  
36 various jurisdictions and localities as the interagency task force on  
37 human trafficking deems appropriate in order to:

38 (1) develop, expand or strengthen programs for victims of human traf-  
39 ficking and sexual exploitation, including:

40 (i) health services, including mental health services;

41 (ii) temporary and permanent housing placement;

42 (iii) legal and immigration services;

43 (iv) employment placement, education and training; and

44 (v) safe harbour programs for sexually exploited children;

45 (2) ensure prevention of human trafficking and sexual exploitation,  
46 including increasing public awareness; and/or

47 (3) ensure protection of victims of human trafficking and sexual  
48 exploitation, including training of first responders.

49 § 9. Section 230.00 of the penal law is REPEALED.

50 § 10. Section 230.03 of the penal law is REPEALED.

51 § 11. Section 230.07 of the penal law is REPEALED.

52 § 12. Paragraph (i) of subdivision 1 of section 440.10 of the criminal  
53 procedure law, as amended by section 3 of part 00 of chapter 55 of the  
54 laws of 2019, subparagraph (ii) as amended by chapter 131 of the laws of  
55 2019, is amended to read as follows:



(i) The judgment is a conviction where [~~the arresting charge was under section 240.37 (loitering for the purpose of engaging in a prostitution offense, provided that the defendant was not alleged to be loitering for the purpose of patronizing a person for prostitution or promoting prostitution) or 230.00 (prostitution) or 230.03 (prostitution in a school zone) of the penal law, and~~] the defendant's participation in the offense was a result of having been a victim of sex trafficking under section 230.34 of the penal law, sex trafficking of a child under section 230.34-a of the penal law, labor trafficking under section 135.35 of the penal law, aggravated labor trafficking under section 135.37 of the penal law, compelling prostitution under section 230.33 of the penal law, or trafficking in persons under the Trafficking Victims Protection Act (United States Code, title 22, chapter 78); provided that

(i) a motion under this paragraph shall be made with due diligence, after the defendant has ceased to be a victim of such trafficking or compelling prostitution crime or has sought services for victims of such trafficking or compelling prostitution crime, subject to reasonable concerns for the safety of the defendant, family members of the defendant, or other victims of such trafficking or compelling prostitution crime that may be jeopardized by the bringing of such motion, or for other reasons consistent with the purpose of this paragraph; ~~and~~

(ii) official documentation of the defendant's status as a victim of trafficking, labor trafficking, aggravated labor trafficking, compelling prostitution or trafficking in persons at the time of the offense from a federal, state or local government agency shall create a presumption that the defendant's participation in the offense was a result of having been a victim of sex trafficking, labor trafficking, aggravated labor trafficking, compelling prostitution or trafficking in persons, but shall not be required for granting a motion under this paragraph;

(iii) a motion under this paragraph, and all pertinent papers and documents, shall be confidential and may not be made available to any person or public or private agency except where specifically authorized by the court; and

(iv) the granting of a motion under this paragraph shall be determined by the court in consideration of the circumstances and the interest of justice; or

§ 13. Section 1.20 of the criminal procedure law is amended by adding a new subdivision 46 to read as follows:

46. "Vacatur" of convictions under paragraph (i) of subdivision one of section 440.10 of this chapter means, to dismiss the judgment, to dismiss the accusatory instrument, and mark all records as vacated based on the merits. The court shall make a copy of all official records and papers available to the defendant.

§ 14. The criminal procedure law is amended by adding a new section 440.46-a to read as follows:

§ 440.46-a Motion for resentence; persons convicted of certain prostitution offenses.

1. When a person has been convicted, whether by trial verdict or guilty plea, under former section 230.00, 230.03 or 240.37 of the penal law, then the chief administrative judge of the state of New York shall, in accordance with this section, automatically vacate, dismiss and expunge such conviction in accordance with section 160.50 of this chapter, and the office of court administration shall immediately notify the state division of criminal justice services, state department of corrections and community supervision and the appropriate local correctional facility which shall immediately effectuate the appropriate relief. Such

1 notification to the division of criminal justice services shall also  
2 direct that such agency notify all relevant police and law enforcement  
3 agencies of their duty to destroy and/or mark records related to such  
4 case in accordance with section 160.50 of this chapter. Nothing in this  
5 section shall prevent a person who believes his or her sentence is  
6 required by this section to be vacated, dismissed and/or expunged from  
7 filing a petition with the court to effectuate all appropriate relief.

8 2. (a) When a person has been convicted in this state, whether by  
9 trial verdict or guilty plea, under former section 230.00, 230.03 or  
10 240.37 of the penal law, then such person may petition the court of  
11 conviction pursuant to this article for vacatur of such conviction.

12 (b) Upon receiving a served and filed motion under paragraph (a) of  
13 this subdivision, the court shall presume the movant satisfies the  
14 criteria in such paragraph (a) and shall grant the motion to vacate such  
15 conviction unless the party opposing the motion proves, by clear and  
16 convincing evidence, that the movant does not satisfy the criteria. If  
17 the movant satisfies the criteria, the court shall grant the motion to  
18 vacate the conviction if: (i) the conviction was by plea of guilty, on  
19 grounds that such plea was not knowing, voluntary and intelligent owing  
20 to ongoing consequences; and (ii) the conviction was by verdict or  
21 otherwise, on grounds that such conviction and sentence constitutes  
22 cruel and unusual punishment under the state constitution owing to such  
23 ongoing consequences; and may, if the petition meets the criteria in  
24 subparagraph (i) of this paragraph, after affording the parties an  
25 opportunity to be heard and present evidence, substitute, unless it is  
26 not in the interests of justice to do so, a conviction for an appropri-  
27 ate lesser offense under article two hundred thirty of the penal law.

28 (c) In the event of any vacatur pursuant to this subdivision, the  
29 office of court administration shall immediately notify the state divi-  
30 sion of criminal justice services concerning such determination. Such  
31 notification to the division of criminal justice services shall also  
32 direct that such agency notify all relevant police and law enforcement  
33 agencies of their duty to destroy and/or mark records related to such  
34 case in accordance with section 160.50 of this chapter, and update such  
35 agencies' records accordingly.

36 3. The chief administrator of the courts shall promulgate all neces-  
37 sary rules and make available all necessary forms to enable the filing  
38 of the petitions and applications provided in this section no later than  
39 sixty days following the effective date of this section. All sentences  
40 eligible for automatic vacatur, dismissal and expungement pursuant to  
41 subdivision one of this section shall be identified and the required  
42 entities notified within one year of the effective date of this section.

43 § 15. Section 6512 of the education law is amended by adding a new  
44 subdivision 3 to read as follows:

45 3. If the department conducts an investigation into acts alleged to be  
46 the unauthorized practice of massage therapy under article one hundred  
47 fifty-five of this chapter, the department shall consider whether or not  
48 the individual who allegedly committed the acts did so as a result of  
49 having been a victim of compelling prostitution under section 230.33, of  
50 sex trafficking under section 230.34 or of sex trafficking of a child  
51 under section 230.34-a of the penal law. In the event that the depart-  
52 ment suspects that such individual has been the victim of one or more  
53 such offenses, the department shall make an immediate referral of the  
54 matter to local service providers, as defined by the Safe Harbour For  
55 Exploited Children Act or by the office of children and family services.  
56 If the department subsequently reports the matter to the attorney gener-

1 al with a request for prosecution, the department shall inform the  
2 attorney general of such suspicions and referral.

3 § 16. The civil practice law and rules is amended by adding a new  
4 section 4519-a to read as follows:

5 § 4519-a. Possession of reproductive or sexual health devices; receipt  
6 into evidence. 1. Evidence that a person was in possession of a condom  
7 or other reproductive or sexual health device may not be received in  
8 evidence in any trial, hearing or proceeding in relation to any allega-  
9 tion of a misdemeanor offense pursuant to subdivision one of section  
10 twelve and article ten of the multiple dwelling law, sections twelve-a  
11 and twenty-three hundred twenty of the public health law, section two  
12 hundred thirty-one of the real property law or subdivision five of  
13 section seven hundred eleven and section seven hundred fifteen of the  
14 real property actions and proceedings law, or by any law, local law or  
15 ordinance of a municipality or political subdivision of the state, or  
16 any word, rule, or regulation of any governmental instrumentality  
17 authorized by law to adopt the same as evidence of conduct which would  
18 constitute an offense defined in article two hundred thirty of the penal  
19 law.

20 2. "Reproductive or sexual health device" shall include, but shall not  
21 be limited to, any contraceptive or other tool used to prevent unwanted  
22 pregnancy or the transmission of HIV or other sexually transmitted  
23 diseases, including but not limited to male condoms, female condoms,  
24 lubricants, pre-exposure prophylaxis (PrEP), post-exposure prophylaxis  
25 (PEP), HIV anti-retroviral medication, spermicide, hormonal methods,  
26 emergency contraception, diaphragm, cervical cap, or sponge.

27 § 17. Section 60.47 of the criminal procedure law, as amended by chap-  
28 ter 23 of the laws of 2021, is amended to read as follows:

29 § 60.47 Possession of condoms or other reproductive or sexual health  
30 device; receipt into evidence for allegations of misdemeanor  
31 offenses.

32 1. Evidence that a person was in possession of one or more condoms or  
33 other reproductive or sexual health device may not be admitted at any  
34 trial, hearing, or other proceeding in a prosecution for [section  
35 ~~230-00~~] any misdemeanor offense, or an attempt to commit any misdemeanor  
36 offense, defined in article two hundred thirty of the penal law, or  
37 section sixty-five hundred twelve of the education law, or any law,  
38 local law or ordinance of a municipality or political subdivision of  
39 state, or any word, rule or regulation of any governmental instrumen-  
40 tality authorized by law to adopt the same, for the purpose of estab-  
41 lishing probable cause for an arrest or proving any person's commission  
42 or attempted commission of such offense.

43 2. "Reproductive or sexual health device" shall include, but shall not  
44 be limited to, any contraceptive or other tool used to prevent unwanted  
45 pregnancy or the transmission of HIV or other sexually transmitted  
46 diseases, including but not limited to male condoms, female condoms,  
47 lubricants, pre-exposure prophylaxis (PrEP), post-exposure prophylaxis  
48 (PEP), HIV anti-retroviral medication, spermicide, hormonal methods,  
49 emergency contraception, diaphragm, cervical cap, or sponge.

50 § 18. Paragraph (c) of subdivision 1 of section 532-d of the executive  
51 law, as amended by section 5 of part M of chapter 56 of the laws of  
52 2017, is amended to read as follows:

53 (c) A homeless youth who entered a transitional independent living  
54 program under the age of [~~twenty-one~~] twenty-four may continue to  
55 receive shelter services in such program beyond the applicable period  
56 authorized by paragraph (b) of this subdivision, if the municipality has



1 notified the office of children and family services in accordance with  
2 clause (iv) of subparagraph three of paragraph a of subdivision two of  
3 section four hundred twenty of this chapter;

4 § 19. Section 214-d of the executive law, as added by chapter 368 of  
5 the laws of 2015, is amended to read as follows:

6 § 214-d. Human trafficking and sexual exploitation awareness. The  
7 superintendent, in consultation with the office of temporary and disa-  
8 bility assistance, the office of children and family services, and the  
9 division of criminal justice services, shall:

10 ~~[(1+)]~~ 1. (a) develop, maintain and disseminate to all members of the  
11 state police, including new and veteran officers, written policies,  
12 procedures and educational materials relating to human trafficking and  
13 sexually exploited victims, including but not limited to, (i) services  
14 available for victims of human trafficking and services available for  
15 victims of sexual exploitation, as referenced in section four hundred  
16 eighty-three-bb of the social services law, and title eight-A of the  
17 social services law; and (ii) education on the impact of the trauma and  
18 emotional harm experienced by victims of human trafficking and sexual  
19 exploitation; and

20 ~~[(2+)]~~ (b) establish and implement trauma informed written procedures  
21 and policies in the event a member of the division of state police  
22 encounters an individual believed to be a victim of human trafficking,  
23 or victim of sexual exploitation which shall include, but not be limited  
24 to, the provision of information and/or referral to an appropriate  
25 provider of social and legal services to human trafficking, or sexually  
26 exploited victims~~[, in accordance with such section four hundred eight-~~  
27 ~~y-three-bb]; and~~

28 (c) establish and implement trauma informed written procedures and  
29 policies in the event a member of the division of state police encount-  
30 ers such victim, including the provision of information and referral to  
31 the appropriate services.

32 2. In the development of such program, the commissioners, and super-  
33 intendent of state police shall seek the recommendations of a broad  
34 range of experts such as social service providers, certified and  
35 licensed social workers, others with educational expertise in human  
36 trafficking, sexual exploitation, intimate partner violence, sexual  
37 assault, reproductive and sexual health care, and serving lesbian, gay,  
38 bisexual, transgender and questioning individuals.

39 3. The superintendent shall make available to all local law enforce-  
40 ment all materials, trainings, and resources developed pursuant to this  
41 chapter.

42 § 20. Section 650 of the county law is amended by adding a new subdi-  
43 vision 3 to read as follows:

44 3. The sheriff, in any county with greater than one hundred thousand  
45 residents according to the most recent census, shall, for all members of  
46 the department:

47 (a) adopt, maintain, and disseminate written policies, and educational  
48 materials, regarding human trafficking and sexual exploitation, includ-  
49 ing, but not limited to: (i) services available for victims of human  
50 trafficking or sexual exploitation; and (ii) education on the impact of  
51 the trauma and emotional harm experienced by victims of human traffick-  
52 ing and sexual exploitation;

53 (b) establish, and implement on an ongoing basis, a training program  
54 for all current and new employees regarding the policies and procedures  
55 established pursuant to this section; and

(c) establish and implement trauma informed written procedures and policies in the event a member of the police department encounters such victim, including the provision of information and referral to the appropriate services.

§ 21. Section 39 of the town law, as amended by chapter 476 of the laws of 2018, is amended to read as follows:

§ 39. Powers and duties of constables and town police officers. 1. Constables and town police officers shall have all the power and authority conferred upon constables by the general laws of the state and such additional powers, not inconsistent with law, as shall be conferred upon them by the town board. They shall be subject to the general authority and direction of the town board and to such orders and regulations as the town board may prescribe, not inconsistent with law.

2. The chief constable or police officer, in any town with greater than one hundred thousand residents according to the most recent census, shall, for all members of the department:

(a) adopt, maintain, and disseminate written policies, and educational materials, regarding human trafficking and sexual exploitation, including, but not limited to:

(i) services available for victims of human trafficking or sexual exploitation; and

(ii) education on the impact of the trauma and emotional harm experienced by victims of human trafficking and sexual exploitation;

(b) establish, and implement on an ongoing basis, a training program for all current and new employees regarding the policies and procedures established pursuant to this section; and

(c) establish and implement trauma informed written procedures and policies in the event a member of the police department encounters such victim, including the provision of information and referral to the appropriate services.

§ 22. Section 841 of the executive law is amended by adding a new subdivision 7-b to read as follows:

7-b. Take such steps as may be necessary to ensure that all police officers and peace officers certified pursuant to subdivision three of this section receive appropriate instruction regarding the evidentiary prohibition set forth in section 60.47 of the criminal procedure law and section forty-five hundred nineteen-a of the civil practice law and rules relating to the use of condoms and other reproductive or sexual health devices as evidence in certain misdemeanor trials, hearings or proceedings, or as a basis for probable cause for arrest, including that unauthorized seizure or confiscation of condoms and other reproductive or sexual health devices as a breach of public policy;

§ 23. Section 447-a of the social services law, as added by chapter 569 of the laws of 2008, subdivision 1 as amended by chapter 189 of the laws of 2018, paragraphs (c) and (d) of subdivision 1 as amended by chapter 23 of the laws of 2021, subdivision 2 as amended by section 8 of part M of chapter 56 of the laws of 2017, and subdivisions 4 and 5 as amended by section 1 of part G of chapter 58 of the laws of 2010, is amended to read as follows:

§ 447-a. Definitions. As used in this title:

1. The term "sexually exploited [~~child~~] individual" means any person under the age of [~~eighteen~~] twenty-four at the time of identification who has been subject to sexual exploitation because he or she:

(a) is the victim of the crime of sex trafficking as defined in section 230.34 of the penal law or the crime of sex trafficking of [~~a child~~] an individual as defined in section 230.34-a of the penal law; or

(b) [~~engages in any act as defined in section 230.00 of the penal law,~~  
~~(e)~~] is a victim of the crime of compelling prostitution as defined in  
section 230.33 of the penal law[~~+~~  
~~(d) engages in acts or conduct described in article two hundred~~  
~~sixty-three of the penal law~~].

2. The term "short-term safe house" means a residential facility oper-  
ated by an authorized agency as defined in subdivision ten of section  
three hundred seventy-one of this article including a residential facil-  
ity operating as part of a runaway and homeless youth crisis services  
program as defined in subdivision four of section five hundred thirty-  
two-a of the executive law or a not-for-profit agency with experience in  
providing services to sexually exploited youth and approved in accord-  
ance with the regulations of the office of children and family services  
that provides emergency shelter, services and care to sexually exploited  
[~~children~~] individuals including food, shelter, clothing, medical care,  
counseling and appropriate crisis intervention services at the time they  
are taken into custody by law enforcement and for the duration of any  
legal proceeding or proceedings in which they are either the complaining  
witness or the subject [~~child~~] individual. The short-term safe house  
shall also be available at the point in time that [~~a-child~~] an individ-  
ual under the age of [~~eighteen~~] twenty-four has first come into the  
custody of juvenile detention officials, law enforcement, local jails or  
the local commissioner of social services or is residing with the local  
runaway and homeless youth authority.

3. The term "advocate" means an employee of the short-term safe house  
defined in subdivision two of this section that has been trained to work  
with and advocate for the needs of sexually exploited [~~children~~] indi-  
viduals. The advocate shall accompany the [~~child~~] individual to all  
court appearances and will serve as a liaison between the short-term  
safe house and the court.

4. The term "safe house" means a residential facility operated by an  
authorized agency as defined in subdivision ten of section three hundred  
seventy-one of this article including a residential facility operating  
as part of an approved runaway program as defined in subdivision four of  
section five hundred thirty-two-a of the executive law or a not-for-pro-  
fit agency with experience in providing services to sexually exploited  
youth and approved in accordance with the regulations of the office of  
children and family services that provides shelter for sexually  
exploited [~~children~~] individuals. In addition, a long-term safe house  
may be operated by a transitional independent living support program as  
defined in subdivision six of section five hundred thirty-two-a of the  
executive law. A safe house serving sexually exploited [~~children~~] indi-  
viduals as defined in this title shall provide or assist in securing  
necessary services for such sexually exploited [~~children~~] individuals  
either through direct provision of services, or through written agree-  
ments with other community and public agencies for the provision of  
services including but not limited to housing, assessment, case manage-  
ment, medical care, legal, mental health and substance and alcohol abuse  
services. Where appropriate such safe house in accordance with a service  
plan for such sexually exploited [~~child~~] individual may also provide  
counseling and therapeutic services, educational services including life  
skills services and planning services to successfully transition resi-  
dents back to the community. Nothing in the provisions of this title or  
article nineteen-H of the executive law shall prevent [~~a-child~~] an indi-  
vidual who is the subject of a proceeding which has not reached final  
disposition from residing at the safe house for the duration of that

1 proceeding nor shall it prevent any sexually exploited [~~child~~] individ-  
2 ual who is not the subject of a proceeding from residing at the safe  
3 house. [~~An~~] For individuals under the age of eighteen, an advocate  
4 employed by a short-term safe house or other appropriate staff of a  
5 short-term safe house shall, to the maximum extent possible, preferably  
6 within twenty-four hours but within no more than seventy-two hours  
7 following a sexually exploited [~~child's~~] individual's admission into the  
8 program other than pursuant to a court order, notify such [~~child's~~]  
9 individual's parent, guardian or custodian of his or her physical and  
10 emotional condition and the circumstances surrounding the [~~child's~~]  
11 individual's presence at the program, unless there are compelling  
12 circumstances why the parent, guardian or custodian should not be so  
13 notified. Where such circumstances exist, the advocate or other appro-  
14 priate staff member shall either file an appropriate petition in the  
15 family court, refer the youth to the local social services district, or  
16 in instances where abuse or neglect is suspected, report such case  
17 pursuant to title six of this article.

18 5. The term "community-based program" means a program operated by a  
19 not-for-profit organization that provides services such as street  
20 outreach, voluntary drop-in services, peer counseling, individual coun-  
21 seling, family-therapy and referrals for services such as educational  
22 and vocational training and health care. Any such community-based  
23 program may also work with the safe house serving sexually exploited  
24 [~~children~~] individuals as defined in this title to provide transitional  
25 services to such [~~children~~] individuals returning to the community.

26 § 24. Section 447-b of the social services law, as added by chapter  
27 569 of the laws of 2008, subdivisions 1, 2, 3, 5 and 6 as amended by  
28 section 2 of part G of chapter 58 of the laws of 2010, is amended to  
29 read as follows:

30 § 447-b. Services for exploited [~~children~~] individuals. 1. Notwith-  
31 standing any inconsistent provision of law, pursuant to regulations of  
32 the office of children and family services, every local social services  
33 district shall as a component of the district's multi-year consolidated  
34 services child welfare services plan address the [~~child~~] welfare  
35 services needs of sexually exploited [~~children~~] individuals and to the  
36 extent that funds are available specifically therefor ensure that a  
37 short-term safe house or another short-term safe placement such as an  
38 approved runaway and homeless youth program, approved respite or crisis  
39 program providing crisis intervention or respite services or community-  
40 based program to serve sexually exploited [~~children~~] individuals is  
41 available to [~~children~~] individuals residing in such district. Nothing  
42 in this section shall prohibit a local social services district from  
43 utilizing existing respite or crisis intervention services already oper-  
44 ated by such social services district or homeless youth programs or  
45 services for victims of human trafficking pursuant to article ten-D of  
46 this chapter so long as the staff members have received appropriate  
47 training approved by the office of children and family services regard-  
48 ing sexually exploited [~~children~~] individuals and the existing programs  
49 and facilities provide a safe, secure and appropriate environment for  
50 sexually exploited [~~children~~] individuals. Crisis intervention  
51 services, short-term safe house care and community-based programming  
52 may, where appropriate, be provided by the same not-for-profit agency.  
53 Local social services districts may work cooperatively to provide such  
54 short-term safe house or other short-term safe placement, services and  
55 programming and access to such placement, services and programming may  
56 be provided on a regional basis, provided, however, that every local

1 social services district shall to the extent that funds are available  
2 ensure that such placement, services and programs shall be readily  
3 accessible to sexually exploited [~~children~~] individuals residing within  
4 the district.

5 2. All of the services created under this title may, to the extent  
6 possible provided by law, be available to all sexually exploited [~~chil-~~  
7 ~~dren~~] individuals whether they are accessed voluntarily, as a condition  
8 of an adjournment in contemplation of dismissal issued in criminal  
9 court, through the diversion services created under section seven  
10 hundred thirty-five of the family court act, through a proceeding under  
11 article three of the family court act, a proceeding under article ten of  
12 the family court act or through a referral from a local social services  
13 agency.

14 3. The capacity of the crisis intervention services and community-  
15 based programs in subdivision one of this section shall be based on the  
16 number of sexually exploited [~~children~~] individuals in each district who  
17 are in need of such services. A determination of such need shall be made  
18 in two thousand ten and every five years thereafter in every social  
19 services district by the local commissioner of social services and be  
20 included in the integrated county plan. Such determination shall be made  
21 in consultation with local law enforcement, runaway and homeless youth  
22 program providers, local probation departments, local social services  
23 commissioners, the runaway and homeless youth coordinator for the local  
24 social services district, local law guardians, presentment agencies,  
25 public defenders and district attorney's offices and child advocates and  
26 services providers who work directly with sexually exploited youth.

27 4. In determining the need for and capacity of the services created  
28 under this section, each local social services district shall recognize  
29 that sexually exploited youth have separate and distinct service needs  
30 according to gender and, where a local social services district deter-  
31 mines that the need exists, to the extent that funds are available,  
32 appropriate programming shall be made available.

33 5. To the extent funds are specifically appropriated therefor, the  
34 office of children and family services shall contract with an appropri-  
35 ate not-for-profit agency with experience working with sexually  
36 exploited [~~children~~] individuals to operate at least one long-term safe  
37 house in a geographically appropriate area of the state which shall  
38 provide safe and secure long term housing and specialized services for  
39 sexually exploited [~~children~~] individuals throughout the state. The  
40 appropriateness of the geographic location shall be determined taking  
41 into account the areas of the state with high numbers of sexually  
42 exploited [~~children~~] individuals and the need for sexually exploited  
43 [~~children~~] individuals to find shelter and long term placement in a  
44 region that cannot be readily accessed by the perpetrators of sexual  
45 exploitation. The need for more than one long-term safe house shall be  
46 determined by the office of children and family services based on the  
47 numbers and geographical location of sexually exploited [~~children~~] indi-  
48 viduals within the state. Nothing herein shall be construed to preclude  
49 an agency from applying for and accepting grants, gifts and bequests of  
50 funds from private individuals, foundations and the federal government  
51 for the purpose of creating or carrying out the duties of a long-term  
52 safe house.

53 6. The local social services commissioner may, to the extent that  
54 funds are available, in conjunction with the division of criminal  
55 justice services and local law enforcement officials, contract with an  
56 appropriate not-for-profit agency with experience working with sexually



1 exploited ~~[children]~~ individuals to train law enforcement officials who  
2 are likely to encounter sexually exploited ~~[children]~~ individuals in the  
3 course of their law enforcement duties on the provisions of this section  
4 and how to identify and obtain appropriate services for sexually  
5 exploited ~~[children]~~ individuals. Local social services districts may  
6 work cooperatively to provide such training and such training may be  
7 provided on a regional basis. The division of criminal justice services  
8 shall assist local social services districts in obtaining any available  
9 funds for the purposes of conducting law enforcement training from the  
10 federal justice department and the office of juvenile justice and delin-  
11 quency prevention.

12 § 25. Subdivision (a) of section 483-aa of the social services law, as  
13 added by chapter 74 of the laws of 2007, is amended to read as follows:

14 (a) "Human trafficking victim" means a person who is a victim of sex  
15 trafficking as defined in section 230.34 of the penal law or a victim of  
16 labor trafficking as defined in section 135.35 of the penal law or,  
17 where a commercial sex act is induced by force, fraud, or coercion, or  
18 in which the person induced to perform such act has not attained eigh-  
19 teen years of age, or as defined under section 12 of 22 U.S. Code § 7102  
20 - Sex Trafficking. ("sex trafficking" means the recruitment, harboring,  
21 transportation, provision, obtaining, patronizing, or soliciting of a  
22 person for the purpose of a commercial sex act).

23 § 26. Subdivision (a) of section 483-bb of the social services law, as  
24 added by chapter 74 of the laws of 2007, is amended and a new subdivi-  
25 sion (d) is added to read as follows:

26 (a) The office of temporary and disability assistance ~~[may]~~ shall  
27 coordinate with and assist law enforcement agencies and district attor-  
28 ney's offices to access appropriate services for human trafficking  
29 victims.

30 (d) Annually the provision of such services shall be reviewed and  
31 evaluated to ensure that victims of human trafficking are able to access  
32 and to utilize such services in an appropriate and helpful manner by the  
33 interagency task force on human trafficking created in section four  
34 hundred eighty-three-aa of this article. If the task force determines  
35 that the services prescribed herein are not appropriate, not being  
36 accessed or utilized the task force shall determine protocols to ensure  
37 that such services are more accessible and are more readily available.

38 § 27. Section 483-ee of the social services law, as amended by chapter  
39 413 of the laws of 2016, is amended to read as follows:

40 § 483-ee. Establishment of interagency task force on human traffick-  
41 ing. (a) There is established an interagency task force on trafficking  
42 in persons, which shall consist of the following members or their desig-  
43 nees: (1) the commissioner of the division of criminal justice services;  
44 (2) the commissioner of the office of temporary and disability assist-  
45 ance; (3) the commissioner of health; (4) the commissioner of the office  
46 of mental health; (5) the commissioner of labor; (6) the commissioner of  
47 the office of children and family services; (7) the commissioner of the  
48 office of ~~[alcoholism and substance abuse services]~~ addiction services  
49 and supports; (8) the director of the office of victim services; (9) the  
50 executive director of the office for the prevention of domestic  
51 violence; and (10) the superintendent of the division of state police;  
52 and the following additional members, who shall be promptly appointed by  
53 the governor, each for a term of two years, provided that such person's  
54 membership shall continue after such two year term until a successor is  
55 appointed and provided, further, that a member may be reappointed if  
56 again recommended in the manner specified in this subdivision: (11) two

1 members, who shall be appointed on the recommendation of the temporary  
2 president of the senate; (12) two members, who shall be appointed on the  
3 recommendation of the speaker of the assembly; (13) two members, who  
4 shall be appointed on the recommendation of the not-for-profit organiza-  
5 tion in New York state that receives the largest share of funds, appro-  
6 priated by and through the state budget, for providing services to  
7 victims of human trafficking, as shall be identified annually in writing  
8 by the director of the budget; and (14) one member, who shall be  
9 appointed on the recommendation of the president of the New York state  
10 bar association; and others as may be necessary to carry out the duties  
11 and responsibilities under this section. An effort shall be made to  
12 include representatives from the following groups of people: survivors  
13 of human trafficking, survivors of sexual exploitation, service provid-  
14 ers from various geographic areas of the state, representatives of  
15 women's rights organizations, representatives of the lesbian gay bisexu-  
16 al transgender and queer populations and representatives from various  
17 ethnic demographics across New York state. The task force will be  
18 co-chaired by the commissioners of the division of criminal justice  
19 services and the office of temporary and disability assistance, or their  
20 designees. It shall meet as often as is necessary, but no less than  
21 three times per year, and under circumstances as are appropriate to  
22 fulfilling its duties under this section. All members shall be provided  
23 with written notice reasonably in advance of each meeting with date,  
24 time and location of such meeting.

25 (b) The task force shall: (1) collect and organize data on the nature  
26 and extent of crimes related to trafficking and sexual exploitation of  
27 persons in the state; (2) identify available federal, state and local  
28 programs that provide services to victims of trafficking, including but  
29 not limited to case management, housing, health care, mental health  
30 counseling, drug addiction screening and treatment, language interpreta-  
31 tion and translation services, English language instruction, job train-  
32 ing and placement assistance, post-employment services for job  
33 retention, and services to assist the individual and any of his or her  
34 family members to establish a permanent residence in New York state or  
35 the United States; (3) consult with governmental and non-governmental  
36 organizations in developing recommendations to strengthen state and  
37 local efforts to prevent trafficking, protect and assist victims of  
38 trafficking and prosecute traffickers; (4) establish interagency proto-  
39 cols and collaboration between federal, state, and local law enforce-  
40 ment, state and governmental agencies, child welfare agencies, and non-  
41 governmental organizations; (5) evaluate approaches to increase public  
42 awareness about trafficking and make recommendations on such approaches;  
43 (6) evaluate the effectiveness of training programs on human trafficking  
44 that have been designed for law enforcement personnel, criminal defense  
45 attorneys, social service providers and non-governmental organizations,  
46 and make recommendations for improving the quality and effectiveness of  
47 such programs, as well as ensure that said training is occurring on an  
48 annual basis; (7) measure and evaluate the progress of the state in  
49 preventing trafficking, protecting and providing assistance to victims  
50 of trafficking, and prosecuting persons engaged in trafficking; and (8)  
51 convene any subcommittee necessary, provided such subcommittee has at  
52 least one of the members appointed by the speaker of the assembly,  
53 temporary president of the senate or governor, to consider specific  
54 issues, including, but not limited to: federal, state and/or local coop-  
55 eration; juveniles and human trafficking; the importance of training and

1 who should receive such training; how data is compiled and shared; and  
2 services for and treatment of domestic versus foreign born victims.

3 (c) The task force shall report to the governor, the speaker of the  
4 assembly, the minority leader of the assembly, the temporary president  
5 of the senate and the minority leader of the senate no less than annual-  
6 ly, and it shall additionally issue such reports and recommendations as  
7 it deems necessary to carry out its duties and responsibilities.

8 (d) The task force shall work with the state education department to  
9 create and implement additional sexual education for students in second-  
10 ary school that includes information as it relates to prostitution, its  
11 inherent violence and impact on public and individual health.

12 § 28. The state finance law is amended by adding a new section 97-bbbb  
13 to read as follows:

14 § 97-bbbb. Victims of sexual exploitation fund. 1. There is estab-  
15 lished in the joint custody of the state comptroller and the commis-  
16 sioner of the department of taxation and finance a fund to be known as the  
17 "victims of sexual exploitation fund".

18 2. The victims of sexual exploitation fund shall consist of monies  
19 received by the state pursuant to section 80.20 of the penal law and all  
20 other fees, fines, grants, bequests or other monies credited, appropri-  
21 ated or transferred thereto from any other fund or source.

22 3. Monies of the victims of sexual exploitation fund, following appro-  
23 priation by the legislature and allocation by the director of the budget  
24 shall be made available for grants to victims and local assistance  
25 services and expenses of programs to provide services to victims of  
26 sexual exploitation as determined by the office of victim services and  
27 the interagency task force on human trafficking.

28 § 29. Subdivision a of section 3-118 of the administrative code of the  
29 city of New York, as amended by chapter 189 of the laws of 2018, the  
30 third undesignated paragraph as amended by chapter 23 of the laws of  
31 2021, is amended to read as follows:

32 a. For the purposes of this section, the following terms have the  
33 following meanings:

34 Homeless youth. The term "homeless youth" means persons under the age  
35 of ~~21~~ 24 who are in need of services and are without a place of shel-  
36 ter where supervision and care are available.

37 Sexually exploited youth. The term "sexually exploited youth" means  
38 persons under the age of 18 who have been subject to sexual exploitation  
39 because they (a) are the victim of the crime of sex trafficking as  
40 defined in section 230.34 of the penal law; (b) engage in any act as  
41 defined in former section 230.00 of the penal law; (c) are a victim of  
42 the crime of compelling prostitution as defined in section 230.33 of the  
43 penal law; (d) are a victim of the crime of sex trafficking of a child  
44 as defined in section 230.34-a of the penal law; or (e) engage in acts  
45 or conduct described in article two hundred sixty-three of the penal  
46 law. The term shall also mean persons under the age of 18 who have been  
47 subject to incest in the third degree, second degree or first degree, as  
48 defined in sections 255.25, 255.26, and 255.27 of the penal law, respec-  
49 tively, or any of the sex offenses enumerated in article one hundred  
50 thirty of the penal law.

51 § 30. Subdivision 4 of section 170.30 of the criminal procedure law is  
52 REPEALED.

53 § 31. Section 60.42 of the criminal procedure law, as amended by  
54 section 1 of part R of chapter 55 of the laws of 2019, is amended to  
55 read as follows:

§ 60.42 Rules of evidence; admissibility of evidence of victim's sexual conduct in sex offense cases.

Evidence of a victim's sexual conduct shall not be admissible in a prosecution for an offense or an attempt to commit an offense defined in article one hundred thirty or in section 230.34 of the penal law unless such evidence:

1. proves or tends to prove specific instances of the victim's prior sexual conduct with the accused; or

2. ~~[proves or tends to prove that the victim has been convicted of an offense under section 230.00 of the penal law within three years prior to the sex offense which is the subject of the prosecution; or~~

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

[4.] 3. rebuts evidence introduced by the people which proves or tends to prove that the accused is the cause of pregnancy or disease of the victim, or the source of semen found in the victim; or

[5.] 4. is determined by the court after an offer of proof by the accused outside the hearing of the jury, or such hearing as the court may require, and a statement by the court of its findings of fact essential to its determination, to be relevant and admissible in the interests of justice.

§ 32. The opening paragraph of subdivision 1 of section 170.80 of the criminal procedure law, as amended by chapter 23 of the laws of 2021, is amended to read as follows:

Notwithstanding any other provision of law, at any time at or after arraignment on a charge of prostitution pursuant to former section 230.00 of the penal law, after consultation with counsel, a knowing and voluntary plea of guilty has been entered to such charge, any judge or justice hearing any stage of such case may, upon consent of the defendant after consultation with counsel:

§ 33. Subdivision 2 of section 420.35 of the criminal procedure law, as amended by chapter 23 of the laws of 2021, is amended to read as follows:

2. Except as provided in this subdivision or subdivision two-a of this section, under no circumstances shall the mandatory surcharge, sex offender registration fee, DNA databank fee or the crime victim assistance fee be waived. A court shall waive any mandatory surcharge, DNA databank fee and crime victim assistance fee when: (i) the defendant is convicted of prostitution under former section 230.00 of the penal law; (ii) the defendant is convicted of a violation in the event such conviction is in lieu of a plea to or conviction for prostitution under former section 230.00 of the penal law; (iii) the court finds that a defendant is a victim of sex trafficking under section 230.34 of the penal law or a victim of trafficking in persons under the trafficking victims protection act (United States Code, Title 22, Chapter 78); or (iv) the court finds that the defendant is a victim of sex trafficking of a child under section 230.34-a of the penal law.

§ 34. Subdivision 4 of section 720.15 of the criminal procedure law, as amended by chapter 23 of the laws of 2021, is amended to read as follows:

4. Notwithstanding any provision in this article, a person charged with prostitution as defined in former section 230.00 of the penal law regardless of whether such person (i) had prior to commencement of trial or entry of a plea of guilty been convicted of a crime or found a youthful offender, or (ii) subsequent to such conviction for prostitution is

1 convicted of a crime or found a youthful offender, the provisions of  
2 subdivisions one and two of this section requiring or authorizing the  
3 accusatory instrument filed against a youth to be sealed, and the  
4 arraignment and all proceedings in the action to be conducted in private  
5 shall apply.

6 § 35. Subdivision 1 of section 720.35 of the criminal procedure law,  
7 as amended by chapter 23 of the laws of 2021, is amended to read as  
8 follows:

9 1. A youthful offender adjudication is not a judgment of conviction  
10 for a crime or any other offense, and does not operate as a disquali-  
11 fication of any person so adjudged to hold public office or public  
12 employment or to receive any license granted by public authority but  
13 shall be deemed a conviction only for the purposes of transfer of super-  
14 vision and custody pursuant to section two hundred fifty-nine-m of the  
15 executive law. A defendant for whom a youthful offender adjudication was  
16 substituted, who was originally charged with prostitution as defined in  
17 former section 230.00 of the penal law, shall be deemed a "sexually  
18 exploited [~~child~~] individual" as defined in subdivision one of section  
19 four hundred forty-seven-a of the social services law and therefore  
20 shall not be considered an adult for purposes related to the charges in  
21 the youthful offender proceeding or a proceeding under section 170.80 of  
22 this chapter.

23 § 36. Paragraph (d) of subdivision 4 of section 305.2 of the family  
24 court act, as added by section 3 of part G of chapter 58 of the laws of  
25 2010, is amended to read as follows:

26 (d) take the child who such officer has decided to take into custody  
27 in accordance with this section [~~or section 305.1 of this part for~~  
28 ~~violating the provisions of section 230.00 of the penal law,~~] to an  
29 available short-term safe house as defined in subdivision two of section  
30 four hundred forty-seven-a of the social services law; or

31 § 37. Section 344.4 of the family court act, as added by chapter 761  
32 of the laws of 1987, subdivision 3 as amended by chapter 264 of the laws  
33 of 2003, is amended to read as follows:

34 § 344.4. Rules of evidence; admissibility of evidence of victim's  
35 sexual conduct in sex offense cases. Evidence of a victim's sexual  
36 conduct shall not be admissible in a juvenile delinquency proceeding for  
37 a crime or an attempt to commit a crime defined in article one hundred  
38 thirty of the penal law unless such evidence:

39 1. proves or tends to prove specific instances of the victim's prior  
40 sexual conduct with the accused; or

41 2. [~~proves or tends to prove that the victim has been convicted of an~~  
42 ~~offense under section 230.00 of the penal law within three years prior~~  
43 ~~to the sex offense which is the subject of the juvenile delinquency~~  
44 ~~proceeding; or~~

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

48 [~~4.]~~ 3. rebuts evidence introduced by the presentment agency which  
49 proves or tends to prove that the accused is the cause of pregnancy or  
50 disease of the victim, or the source of semen found in the victim; or

51 [~~5.]~~ 4. is determined by the court after an offer of proof by the  
52 accused, or such hearing as the court may require, and a statement by  
53 the court of its findings of fact essential to its determination, to be  
54 relevant and admissible in the interests of justice.



§ 38. Subdivision (a) of section 712 of the family court act, as amended by section 1 of part K of chapter 56 of the laws of 2019, is amended to read as follows:

(a) "Person in need of supervision". A person less than eighteen years of age: (i) who does not attend school in accordance with the provisions of part one of article sixty-five of the education law; (ii) who is incorrigible, ungovernable or habitually disobedient and beyond the lawful control of a parent or other person legally responsible for such child's care, or other lawful authority; (iii) who violates the provisions of: (1) section 221.05; or (2) former section 230.00 of the penal law; (iv) or who appears to be a sexually exploited ~~child~~ individual as defined in paragraph (a)~~[(e)]~~ or ~~[(d)]~~ (b) of subdivision one of section four hundred forty-seven-a of the social services law, but only if the child consents to the filing of a petition under this article.

§ 39. Subdivision 2 of section 353 of the multiple dwelling law, as amended by chapter 680 of the laws of 1967, is amended to read as follows:

2. If there be two or more convictions in such dwelling within a period of six months, under ~~sections 230.00,~~ section 230.25~~[7]~~ or 230.40 of the penal law.

§ 40. Section 2324-a of the public health law, as amended by chapter 189 of the laws of 2018, is amended to read as follows:

§ 2324-a. Presumptive evidence. For the purposes of this title, two or more convictions of any person or persons had, within a period of one year, for any of the offenses described in section ~~230.00,~~ 230.05, 230.06, 230.08, 230.11, 230.12, 230.13, 230.20, 230.25, 230.30, 230.32 or 230.34-a of the penal law arising out of conduct engaged in at the same real property consisting of a dwelling as that term is defined in subdivision four of section four of the multiple dwelling law shall be presumptive evidence of conduct constituting use of the premises for purposes of prostitution.

§ 41. Subdivision 3 of section 231 of the real property law, as amended by chapter 368 of the laws of 2015, is amended to read as follows:

3. For the purposes of this section, two or more convictions of any person or persons had, within a period of one year, for any of the offenses described in section ~~230.00,~~ 230.05, 230.06, 230.11, 230.12, 230.13, 230.20, 230.25, 230.30, 230.32 or 230.40 of the penal law arising out of conduct engaged in at the same premises consisting of a dwelling as that term is defined in subdivision four of section four of the multiple dwelling law shall be presumptive evidence of unlawful use of such premises and of the owners knowledge of the same.

§ 42. Subdivision 2 of section 715 of the real property actions and proceedings law, as amended by chapter 368 of the laws of 2015, is amended to read as follows:

2. For purposes of this section, two or more convictions of any person or persons had, within a period of one year, for any of the offenses described in section ~~230.00,~~ 230.05, 230.06, 230.11, 230.12, 230.13, 230.20, 230.25, 230.30, 230.32 or 230.40 of the penal law arising out of conduct engaged in at the same real property consisting of a dwelling as that term is defined in subdivision four of section four of the multiple dwelling law shall be presumptive evidence of conduct constituting use of the premises for purposes of prostitution.

1     § 43. Paragraph (c) of subdivision 4 of section 509-cc of the vehicle  
2 and traffic law, as amended by chapter 368 of the laws of 2015, is  
3 amended to read as follows:

4     (c) The offenses referred to in subparagraph (i) of paragraph (b) of  
5 subdivision one and subparagraph (i) of paragraph (c) of subdivision two  
6 of this section that result in disqualification for a period of five  
7 years shall include a conviction under sections 100.10, 105.13, 115.05,  
8 120.03, 120.04, 120.04-a, 120.05, 120.10, 120.25, 121.12, 121.13,  
9 125.40, 125.45, 130.20, 130.25, 130.52, 130.55, 135.10, 135.55, 140.17,  
10 140.25, 140.30, 145.12, 150.10, 150.15, 160.05, 160.10, 220.06, 220.09,  
11 220.16, 220.31, 220.34, 220.60, 220.65, 221.30, 221.50, 221.55, former  
12 section 230.00, sections 230.05, 230.06, 230.11, 230.12, 230.13, 230.19,  
13 230.20, 235.05, 235.06, 235.07, 235.21, 240.06, 245.00, 260.10, subdivi-  
14 sion two of section 260.20 and sections 260.25, 265.02, 265.03, 265.08,  
15 265.09, 265.10, 265.12, 265.35 of the penal law or an attempt to commit  
16 any of the aforesaid offenses under section 110.00 of the penal law, or  
17 any similar offenses committed under a former section of the penal law,  
18 or any offenses committed under a former section of the penal law which  
19 would constitute violations of the aforesaid sections of the penal law,  
20 or any offenses committed outside this state which would constitute  
21 violations of the aforesaid sections of the penal law.

22     § 44. Severability. If any provision or term of this act is for any  
23 reason declared unconstitutional or invalid or ineffective by any compe-  
24 tent jurisdiction, such decision shall not affect the validity of the  
25 effectiveness of the remaining portions of this act or any part thereof.

26     § 45. This act shall take effect on the sixtieth day after it shall  
27 have become a law; provided that the amendments to section 483-ee of the  
28 social services law made by section twenty-seven of this act shall not  
29 affect the repeal of such section and shall be deemed repealed there-  
30 with. Effective immediately the addition, amendment and/or repeal of  
31 any rule or regulation necessary for the implementation of this act on  
32 its effective date are authorized to be made and completed on or before  
33 such date.