

STATE OF NEW YORK

618--A

2021-2022 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 6, 2021

Introduced by M. of A. L. ROSENTHAL -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the criminal procedure law, in relation to removing statute of limitations for certain child sexual assault crimes; to amend the civil practice law and rules, in relation to removing the statute of limitations in civil actions involving certain child sexual assault offenses; and to repeal paragraph (e) of subdivision 3 of section 30.10 of the criminal procedure law relating to the statute of limitations for sexual conduct against a child

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

1 Section 1. Paragraph (a) of subdivision 2 of section 30.10 of the
2 criminal procedure law, as amended by chapter 315 of the laws of 2019,
3 is amended to read as follows:

4 (a) A prosecution for a class A felony, or rape in the third degree as
5 defined in subdivision two of section 130.25 of the penal law, or rape
6 in the second degree as defined in subdivision one of section 130.30 of
7 the penal law, or rape in the first degree as defined in section 130.35
8 of the penal law, or criminal sexual act in the third degree as defined
9 in subdivision two of section 130.40 of the penal law, or criminal sexu-
10 al act in the second degree as defined in subdivision one of section
11 130.45 of the penal law, or a crime defined or formerly defined in
12 section 130.50 of the penal law, or sexual abuse in the second degree as
13 defined in subdivision two of section 130.60 of the penal law, or sexual
14 abuse in the first degree as defined in subdivisions three and four of
15 section 130.65 of the penal law, or aggravated sexual abuse in the
16 fourth degree as defined in paragraph (a) of subdivision one of section
17 130.65-a of the penal law, or aggravated sexual abuse in the third
18 degree as defined in paragraph (c) of subdivision one of section 130.66

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

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1 of the penal law, or aggravated sexual abuse in the second degree as
2 defined in paragraph (c) of subdivision one of section 130.67 of the
3 penal law, or aggravated sexual abuse in the first degree as defined in
4 section 130.70 of the penal law, or course of sexual conduct against a
5 child in the first degree as defined in section 130.75 of the penal law,
6 or course of sexual conduct against a child in the second degree as
7 defined in section 130.80 of the penal law, or predatory sexual assault
8 against a child as defined in section 130.96 of the penal law, or incest
9 in the first degree as defined in section 255.27 of the penal law, or
10 use of a child in a sexual performance as defined in section 263.05 of
11 the penal law, may be commenced at any time;

12 § 2. Paragraph (f) of subdivision 3 of section 30.10 of the criminal
13 procedure law, as amended by chapter 11 of the laws of 2019, is amended
14 to read as follows:

15 (f) [~~For purposes of a prosecution involving a sexual offense as~~
16 ~~defined in article one hundred thirty of the penal law, other than a~~
17 ~~sexual offense delineated in paragraph (a) of subdivision two of this~~
18 ~~section, committed against a child less than eighteen years of age,] A
19 prosecution for incest in the first, second or third degree as defined
20 in sections 255.27, 255.26 and 255.25 of the penal law committed against
21 a child less than eighteen years of age[~~, or use of a child in a sexual~~
22 ~~performance as defined in section 263.05 of the penal law,] the period
23 of limitation shall not begin to run until the child has reached the age
24 of twenty-three or the offense is reported to a law enforcement agency
25 or statewide central register of child abuse and maltreatment, whichever
26 occurs earlier.~~~~

27 § 3. Paragraph (e) of subdivision 3 of section 30.10 of the criminal
28 procedure law is REPEALED.

29 § 4. Subdivision (b) of section 208 of the civil practice law and
30 rules, as added by chapter 11 of the laws of 2019, is amended to read as
31 follows:

32 (b) Notwithstanding any provision of law which imposes a period of
33 limitation to the contrary and the provisions of any other law pertain-
34 ing to the filing of a notice of claim or a notice of intention to file
35 a claim as a condition precedent to commencement of an action or special
36 proceeding, with respect to all civil claims or causes of action brought
37 by any person for physical, psychological or other injury or condition
38 suffered by such person as a result of conduct which would constitute a
39 sexual offense as defined in article one hundred thirty of the penal law
40 committed against such person who was less than eighteen years of age,
41 incest as defined in section 255.27, 255.26 or 255.25 of the penal law
42 committed against such person who was less than eighteen years of age,
43 or the use of such person in a sexual performance as defined in section
44 263.05 of the penal law, or a predecessor statute that prohibited such
45 conduct at the time of the act, which conduct was committed against such
46 person who was less than eighteen years of age, such action may be
47 commenced, against any party whose intentional or negligent acts or
48 omissions are alleged to have resulted in the commission of said
49 conduct, [~~on or before~~ by the plaintiff or infant plaintiff [~~reaches~~
50 ~~the age of fifty five years~~ at any time. In any such claim or action,
51 in addition to any other defense and affirmative defense that may be
52 available in accordance with law, rule or the common law, to the extent
53 that the acts alleged in such action are of the type described in subdi-
54 vision one of section 130.30 of the penal law or subdivision one of
55 section 130.45 of the penal law, the affirmative defenses set forth,

1 respectively, in the closing paragraph of such sections of the penal law
2 shall apply.

3 § 5. Section 213-c of the civil practice law and rules, as amended by
4 chapter 315 of the laws of 2019, is amended to read as follows:

5 § 213-c. Action by victim of conduct constituting certain sexual
6 offenses. (a) Notwithstanding any other limitation set forth in this
7 article, except as provided in subdivision (b) of section two hundred
8 eight of this article, all civil claims or causes of action brought by
9 any person for physical, psychological or other injury or condition
10 suffered by such person as a result of conduct which would constitute
11 rape in the first degree as defined in section 130.35 of the penal law,
12 or rape in the second degree as defined in subdivision two of section
13 130.30 of the penal law, or rape in the third degree as defined in
14 subdivision one or three of section 130.25 of the penal law, or criminal
15 sexual act in the first degree as defined in section 130.50 of the penal
16 law, or criminal sexual act in the second degree as defined in subdivi-
17 sion two of section 130.45 of the penal law, or criminal sexual act in
18 the third degree as defined in subdivision one or three of section
19 130.40 of the penal law, or incest in the first degree as defined in
20 section 255.27 of the penal law, or incest in the second degree as
21 defined in section 255.26 of the penal law (where the crime committed is
22 rape in the second degree as defined in subdivision two of section
23 130.30 of the penal law or criminal sexual act in the second degree as
24 defined in subdivision two of section 130.45), or aggravated sexual
25 abuse in the first degree as defined in section 130.70 of the penal law,
26 or course of sexual conduct against a child in the first degree as
27 defined in section 130.75 of the penal law may be brought against any
28 party whose intentional or negligent acts or omissions are alleged to
29 have resulted in the commission of the said conduct, within twenty
30 years.

31 (b) Notwithstanding the provisions of subdivision (a) of this section,
32 or any other provision of law to the contrary, all civil claims or caus-
33 es of action brought by any person for physical, psychological or other
34 injury or condition suffered as a result of conduct which would consti-
35 tute a sexual offense as defined in article one hundred thirty of the
36 penal law committed against a child less than eighteen years of age,
37 incest as defined in section 255.25, 255.26 or 255.27 of the penal law
38 committed against a child less than eighteen years of age, or the use of
39 a child in a sexual performance as defined in section 263.05 of the
40 penal law, or a predecessor statute that prohibited such conduct at the
41 time of the act, which conduct was committed against a child less than
42 eighteen years of age, such action may be commenced at any time.

43 (c) Nothing in this section shall be construed to require that a crim-
44 inal charge be brought or a criminal conviction be obtained as a condi-
45 tion of bringing a civil cause of action or receiving a civil judgment
46 pursuant to this section or be construed to require that any of the
47 rules governing a criminal proceeding be applicable to any such civil
48 action.

49 § 6. Section 214-g of the civil practice law and rules, as amended by
50 chapter 130 of the laws of 2020, is amended to read as follows:

51 § 214-g. Certain child sexual abuse cases. Notwithstanding any
52 provision of law which imposes a period of limitation to the contrary
53 and the provisions of any other law pertaining to the filing of a notice
54 of claim or a notice of intention to file a claim as a condition prece-
55 dent to commencement of an action or special proceeding, every civil
56 claim or cause of action brought against any party alleging intentional

1 or negligent acts or omissions by a person for physical, psychological,
2 or other injury or condition suffered as a result of conduct which would
3 constitute a sexual offense as defined in article one hundred thirty of
4 the penal law committed against a child less than eighteen years of age,
5 incest as defined in section 255.27, 255.26 or 255.25 of the penal law
6 committed against a child less than eighteen years of age, or the use of
7 a child in a sexual performance as defined in section 263.05 of the
8 penal law, or a predecessor statute that prohibited such conduct at the
9 time of the act, which conduct was committed against a child less than
10 eighteen years of age, which is barred as of the effective date of this
11 section because the applicable period of limitation has expired, and/or
12 the plaintiff previously failed to file a notice of claim or a notice of
13 intention to file a claim, is hereby revived, and action thereon may be
14 commenced not earlier than six months after ~~and not later than two~~
15 ~~years and six months after~~ the effective date of this section. In any
16 such claim or action: (a) in addition to any other defense and affirma-
17 tive defense that may be available in accordance with law, rule or the
18 common law, to the extent that the acts alleged in such action are of
19 the type described in subdivision one of section 130.30 of the penal law
20 or subdivision one of section 130.45 of the penal law, the affirmative
21 defenses set forth, respectively, in the closing paragraph of such
22 sections of the penal law shall apply; and (b) dismissal of a previous
23 action, ordered before the effective date of this section, on grounds
24 that such previous action was time barred, and/or for failure of a party
25 to file a notice of claim or a notice of intention to file a claim,
26 shall not be grounds for dismissal of a revival action pursuant to this
27 section.

28 § 7. This act shall take effect immediately.