

STATE OF NEW YORK

7069

2021-2022 Regular Sessions

IN ASSEMBLY

April 21, 2021

Introduced by M. of A. HUNTER -- read once and referred 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:

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

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

5 § 230.01 Prostitution; affirmative defense.

6 In any prosecution under [~~section 230.00, section 230.03,~~] section
7 230.19, section 230.20, subdivision [~~2~~] two of section 230.25, subdivi-
8 sion [~~2~~] two of section 230.30 or section 230.34-a of this article, it
9 is an affirmative defense that the defendant's participation in the
10 offense was a result of having been a victim of compelling prostitution
11 under section 230.33 of this article, a victim of sex trafficking under
12 section 230.34 of this article, a victim of sex trafficking of a child
13 under section 230.34-a of this article or a victim of trafficking in
14 persons under the trafficking victims protection act (United States
15 Code, Title 22, Chapter 78).

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

19 § 230.02 Patronizing a person for prostitution; definitions.

20 1. A person patronizes a person for prostitution when:

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

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

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

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

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

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

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

40 § 230.15 Promoting prostitution; definitions of terms.

41 The following definitions are applicable to this article:

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

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

1 standing with any person whereby he or she participates or is to partic-
2 ipate in the proceeds of prostitution activity.

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

6 § 5. Section 230.19 of the penal law, as added by chapter 191 of the
7 laws of 2011, subdivision 1 as amended by chapter 368 of the laws of
8 2015, is amended to read as follows:

9 § 230.19 Promoting prostitution in a school zone.

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

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

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

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

26 § 230.35 Promoting or compelling prostitution; accomplice.

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

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

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

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

44 § 80.20 Imposition of fines in relation to certain violations of article
45 230.

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

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

<u>Amount of net taxable income:</u>	<u>Schedule of Fines:</u>
6 <u>(a) Less than thirty thousand</u> 7 <u>dollars</u>	<u>Fifty dollars</u>
8 <u>(b) Thirty thousand dollars or</u> 9 <u>more, but less than fifty</u> 10 <u>thousand dollars</u>	<u>One hundred dollars</u>
11 <u>(c) Fifty thousand dollars or</u> 12 <u>more, but less than seventy-five</u> 13 <u>thousand dollars</u>	<u>Two hundred dollars</u>
14 <u>(d) Seventy-five thousand dollars</u> 15 <u>or more, but less than one hundred</u> 16 <u>thousand dollars</u>	<u>Three hundred dollars</u>
17 <u>(e) One hundred thousand dollars or</u> 18 <u>more, but less than one hundred fifty</u> 19 <u>thousand dollars</u>	<u>Five hundred dollars</u>
20 <u>(f) One hundred fifty thousand</u> 21 <u>dollars or more, but less than two</u> 22 <u>hundred thousand dollars</u>	<u>Seven hundred dollars</u>
23 <u>(g) Greater than two hundred</u> 24 <u>thousand dollars</u>	<u>One thousand dollars</u>

25
 26 3. Notwithstanding any other provision of law, a person whose
 27 violation of any offense enumerated under section 230.05, 230.06,
 28 230.19, 230.20, 230.25, 230.30, 230.32, 230.33, 230.34, or 230.34-a of
 29 this chapter that results in a judicial disposition other than acquit-
 30 tal, adjournment in contemplation of dismissal or dismissal shall pay a
 31 fine the sum of which will be calculated at the time of sentencing, on a
 32 sliding scale, based on their net taxable income, which shall be deter-
 33 mined by the completion of a compulsory financial disclosure. If it is
 34 determined that such defendant is in a financial position to pay a
 35 prescribed fine, such defendant shall pay a fine in one of the following
 36 amounts to the court, to be distributed to the victims of sexual exploi-
 37 tation fund established by section ninety-seven-bbbb of the state
 38 finance law.

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

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

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

48 4. (a) If the defendant is assessed a fine or fee by the court but can
 49 prove they will have financial difficulty paying the amount in one lump
 50 sum an installment payment plan may be provided as described in this
 51 subdivision. Any such installment payment plan shall include all fines,
 52 fees and mandatory surcharges and shall consist of monthly payments that
 53 do not exceed two percent of such person's monthly net taxable income or
 54 ten dollars per month, whichever is greater. For the purpose of this
 55 subdivision, the term "net taxable income" means a person's total income
 56 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-bbbb 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:

1 (i) The judgment is a conviction where [~~the arresting charge was under~~
2 ~~section 240.37 (loitering for the purpose of engaging in a prostitution~~
3 ~~offense, provided that the defendant was not alleged to be loitering for~~
4 ~~the purpose of patronizing a person for prostitution or promoting pros-~~
5 ~~titution) or 230.00 (prostitution) or 230.03 (prostitution in a school~~
6 ~~zone) of the penal law, and] the defendant's participation in the
7 offense was a result of having been a victim of sex trafficking under
8 section 230.34 of the penal law, sex trafficking of a child under
9 section 230.34-a of the penal law, labor trafficking under section
10 135.35 of the penal law, aggravated labor trafficking under section
11 135.37 of the penal law, compelling prostitution under section 230.33 of
12 the penal law, or trafficking in persons under the Trafficking Victims
13 Protection Act (United States Code, title 22, chapter 78); provided that~~

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

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

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

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

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

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

44 § 14. The criminal procedure law is amended by adding a new section
45 440.46-a to read as follows:

46 § 440.46-a Motion for resentence; persons convicted of certain prostitu-
47 tion offenses.

48 1. When a person has been convicted, whether by trial verdict or guilty
49 plea, under former section 230.00, 230.03 or 240.37 of the penal law,
50 then the chief administrative judge of the state of New York shall, in
51 accordance with this section, automatically vacate, dismiss and expunge
52 such conviction in accordance with section 160.50 of this chapter, and
53 the office of court administration shall immediately notify the state
54 division of criminal justice services, state department of corrections
55 and community supervision and the appropriate local correctional facili-
56 ty 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

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

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

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

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

1 § 60.42 Rules of evidence; admissibility of evidence of victim's sexual
2 conduct in sex offense cases.

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

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

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

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

15 [~~4.]~~ 3. rebuts evidence introduced by the people which proves or tends
16 to prove that the accused is the cause of pregnancy or disease of the
17 victim, or the source of semen found in the victim; or

18 [~~5.]~~ 4. is determined by the court after an offer of proof by the
19 accused outside the hearing of the jury, or such hearing as the court
20 may require, and a statement by the court of its findings of fact essen-
21 tial to its determination, to be relevant and admissible in the inter-
22 ests of justice.

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

26 Notwithstanding any other provision of law, at any time at or after
27 arraignment on a charge of prostitution pursuant to former section
28 230.00 of the penal law, after consultation with counsel, a knowing and
29 voluntary plea of guilty has been entered to such charge, any judge or
30 justice hearing any stage of such case may, upon consent of the defend-
31 ant after consultation with counsel:

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

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

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

52 4. Notwithstanding any provision in this article, a person charged
53 with prostitution as defined in former section 230.00 of the penal law
54 regardless of whether such person (i) had prior to commencement of trial
55 or entry of a plea of guilty been convicted of a crime or found a youth-
56 ful 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.

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

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

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

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

22 § 40. Section 2324-a of the public health law, as amended by chapter
23 189 of the laws of 2018, is amended to read as follows:

24 § 2324-a. Presumptive evidence. For the purposes of this title, two or
25 more convictions of any person or persons had, within a period of one
26 year, for any of the offenses described in section [~~230.00,~~] 230.05,
27 230.06, 230.08, 230.11, 230.12, 230.13, 230.20, 230.25, 230.30, 230.32
28 or 230.34-a of the penal law arising out of conduct engaged in at the
29 same real property consisting of a dwelling as that term is defined in
30 subdivision four of section four of the multiple dwelling law shall be
31 presumptive evidence of conduct constituting use of the premises for
32 purposes of prostitution.

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

36 3. For the purposes of this section, two or more convictions of any
37 person or persons had, within a period of one year, for any of the
38 offenses described in section [~~230.00,~~] 230.05, 230.06, 230.11, 230.12,
39 230.13, 230.20, 230.25, 230.30, 230.32 or 230.40 of the penal law aris-
40 ing out of conduct engaged in at the same premises consisting of a
41 dwelling as that term is defined in subdivision four of section four of
42 the multiple dwelling law shall be presumptive evidence of unlawful use
43 of such premises and of the owners knowledge of the same.

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

47 2. For purposes of this section, two or more convictions of any person
48 or persons had, within a period of one year, for any of the offenses
49 described in section [~~230.00,~~] 230.05, 230.06, 230.11, 230.12, 230.13,
50 230.20, 230.25, 230.30, 230.32 or 230.40 of the penal law arising out of
51 conduct engaged in at the same real property consisting of a dwelling as
52 that term is defined in subdivision four of section four of the multiple
53 dwelling law shall be presumptive evidence of conduct constituting use
54 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.