

# STATE OF NEW YORK

8315

2021-2022 Regular Sessions

## IN ASSEMBLY

October 20, 2021

Introduced by M. of A. J. M. GIGLIO -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, the penal law and the family court act, in relation to providing juvenile offender status to persons thirteen, fourteen or fifteen years of age who have committed certain sex offenses

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

Section 1. Subdivision 42 of section 1.20 of the criminal procedure law, as amended by chapter 7 of the laws of 2007, is amended to read as follows:

42. "Juvenile offender" means (1) a person, thirteen years old who is criminally responsible for acts constituting murder in the second degree as defined in subdivisions one and two of section 125.25 of the penal law~~[-]~~; subdivisions one and two of section 130.35 (rape in the first degree); subdivisions one and two of section 130.50 (criminal sexual act in the first degree); section 130.70 (aggravated sexual abuse in the first degree) of the penal law; or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; and (2) a person fourteen or fifteen years old who is criminally responsible for acts constituting the crimes defined in subdivisions one and two of section 125.25 (murder in the second degree) and in subdivision three of such section provided that the underlying crime for the murder charge is one for which such person is criminally responsible; section 135.25 (kidnapping in the first degree); 150.20 (arson in the first degree); subdivisions one and two of section 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); subdivisions one and two of section 130.35 (rape in the first degree); subdivisions one and two of section 130.50 (criminal sexual act in the first degree); section 130.66 (aggravated sexual abuse in the third degree); section 130.67 (aggravated sexual abuse in the second degree); 130.70 (aggravated sexual abuse in the first degree); 140.30 (burglary in the first degree); subdivision one of section 140.25 (burglary in the second degree); 150.15 (arson in the second degree); 160.15 (robbery in the

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

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first degree); subdivision two of section 160.10 (robbery in the second degree) of the penal law; or section 265.03 of the penal law, where such machine gun or such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 of the penal law; or defined in the penal law as an attempt to commit murder in the second degree or kidnapping in the first degree, or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law.

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

(a) Except as provided in subdivision six of section 200.20 of this chapter, a grand jury may not indict (i) a person thirteen years of age for any conduct or crime other than conduct constituting a crime defined in subdivisions one and two of section 125.25 (murder in the second degree); subdivisions one and two of section 130.35 (rape in the first degree); subdivisions one and two of section 130.50 (criminal sexual act in the first degree); section 130.70 (aggravated sexual abuse in the first degree); or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (ii) a person fourteen or fifteen years of age for any conduct or crime other than conduct constituting a crime defined in subdivisions one and two of section 125.25 (murder in the second degree) and in subdivision three of such section provided that the underlying crime for the murder charge is one for which such person is criminally responsible; 135.25 (kidnapping in the first degree); 150.20 (arson in the first degree); subdivisions one and two of section 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); subdivisions one and two of section 130.35 (rape in the first degree); subdivisions one and two of section 130.50 (criminal sexual act in the first degree); section 130.66 (aggravated sexual abuse in the third degree); section 130.67 (aggravated sexual abuse in the second degree); 130.70 (aggravated sexual abuse in the first degree); 140.30 (burglary in the first degree); subdivision one of section 140.25 (burglary in the second degree); 150.15 (arson in the second degree); 160.15 (robbery in the first degree); subdivision two of section 160.10 (robbery in the second degree) of the penal law; subdivision four of section 265.02 of the penal law, where such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 of the penal law; or section 265.03 of the penal law, where such machine gun or such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 of the penal law; or defined in the penal law as an attempt to commit murder in the second degree or kidnapping in the first degree, or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law.

§ 3. Subdivision 18 of section 10.00 of the penal law, as amended by chapter 7 of the laws of 2007, is amended to read as follows:

18. "Juvenile offender" means (1) a person thirteen years old who is criminally responsible for acts constituting murder in the second degree as defined in subdivisions one and two of section 125.25 of this chapter; subdivisions one and two of section 130.35 (rape in the first degree); subdivisions one and two of section 130.50 (criminal sexual act in the first degree); section 130.70 (aggravated sexual abuse in the first degree) of this chapter; or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of [~~the penal law~~] this chapter; and

(2) a person fourteen or fifteen years old who is criminally responsible for acts constituting the crimes defined in subdivisions one and two of section 125.25 (murder in the second degree) and in subdivision three of such section provided that the underlying crime for the murder charge is one for which such person is criminally responsible; section 135.25 (kidnapping in the first degree); 150.20 (arson in the first degree); subdivisions one and two of section 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); subdivisions one and two of section 130.35 (rape in the first degree); subdivisions one and two of section 130.50 (criminal sexual act in the first degree); section 130.66 (aggravated sexual abuse in the third degree); section 130.67 (aggravated sexual abuse in the second degree); 130.70 (aggravated sexual abuse in the first degree); 140.30 (burglary in the first degree); subdivision one of section 140.25 (burglary in the second degree); 150.15 (arson in the second degree); 160.15 (robbery in the first degree); subdivision two of section 160.10 (robbery in the second degree) of this chapter; or section 265.03 of this chapter, where such machine gun or such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 of this chapter; or defined in this chapter as an attempt to commit murder in the second degree or kidnapping in the first degree, or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of ~~[the penal law]~~ this chapter.

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

2. A person thirteen, fourteen or, fifteen years of age is criminally responsible for acts constituting murder in the second degree as defined in subdivisions one and two of section 125.25 and in subdivision three of such section provided that the underlying crime for the murder charge is one for which such person is criminally responsible or for such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of this chapter; a person thirteen years of age is criminally responsible for acts constituting the crimes defined in subdivisions one and two of section 130.25 (rape in the first degree); subdivisions one and two of section 130.50 (criminal sexual act in the first degree); and section 130.70 (aggravated sexual abuse in the first degree) of this chapter; and a person fourteen or, fifteen years of age is criminally responsible for acts constituting the crimes defined in section 135.25 (kidnapping in the first degree); 150.20 (arson in the first degree); subdivisions one and two of section 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); subdivisions one and two of section 130.35 (rape in the first degree); subdivisions one and two of section 130.50 (criminal sexual act in the first degree); section 130.66 (aggravated sexual abuse in the third degree); section 130.67 (aggravated sexual abuse in the second degree); 130.70 (aggravated sexual abuse in the first degree); 140.30 (burglary in the first degree); subdivision one of section 140.25 (burglary in the second degree); 150.15 (arson in the second degree); 160.15 (robbery in the first degree); subdivision two of section 160.10 (robbery in the second degree) of this chapter; or section 265.03 of this chapter, where such machine gun or such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 of this chapter; or defined in this chapter as an attempt to commit murder in the second degree or kidnapping in the first degree, or for such conduct

1 as a sexually motivated felony, where authorized pursuant to section  
2 130.91 of this chapter.

3 § 5. Subdivision 8 of section 301.2 of the family court act, as  
4 amended by section 57 of part WWW of chapter 59 of the laws of 2017, is  
5 amended to read as follows:

6 8. "Designated felony act" means an act which, if done by an adult,  
7 would be a crime: (i) defined in sections 125.27 (murder in the first  
8 degree); 125.25 (murder in the second degree); 135.25 (kidnapping in the  
9 first degree); or 150.20 (arson in the first degree) of the penal law  
10 committed by a person thirteen, fourteen, fifteen, or sixteen, or  
11 commencing October first, two thousand nineteen, seventeen years of age;  
12 or such conduct committed as a sexually motivated felony, where author-  
13 ized pursuant to section 130.91 of the penal law; (ii) defined in  
14 sections 120.10 (assault in the first degree); 125.20 (manslaughter in  
15 the first degree); 130.35 (rape in the first degree); 130.50 (criminal  
16 sexual act in the first degree); 130.66 (aggravated sexual abuse in the  
17 third degree); 130.67 (aggravated sexual abuse in the second degree);  
18 130.70 (aggravated sexual abuse in the first degree); 135.20 (kidnapping  
19 in the second degree) but only where the abduction involved the use or  
20 threat of use of deadly physical force; 150.15 (arson in the second  
21 degree) or 160.15 (robbery in the first degree) of the penal law commit-  
22 ted by a person thirteen, fourteen, fifteen, or sixteen, or, commencing  
23 October first, two thousand nineteen, seventeen years of age; or such  
24 conduct committed as a sexually motivated felony, where authorized  
25 pursuant to section 130.91 of the penal law; (iii) defined in the penal  
26 law as an attempt to commit murder in the first or second degree or  
27 kidnapping in the first degree committed by a person thirteen, fourteen,  
28 fifteen, or sixteen, or commencing October first, two thousand nineteen,  
29 seventeen years of age; or such conduct committed as a sexually moti-  
30 vated felony, where authorized pursuant to section 130.91 of the penal  
31 law; (iv) defined in section 140.30 (burglary in the first degree);  
32 subdivision one of section 140.25 (burglary in the second degree);  
33 subdivision two of section 160.10 (robbery in the second degree) of the  
34 penal law; or section 265.03 of the penal law, where such machine gun or  
35 such firearm is possessed on school grounds, as that phrase is defined  
36 in subdivision fourteen of section 220.00 of the penal law committed by  
37 a person fourteen or fifteen years of age; or such conduct committed as  
38 a sexually motivated felony, where authorized pursuant to section 130.91  
39 of the penal law; (v) defined in section 120.05 (assault in the second  
40 degree) or 160.10 (robbery in the second degree) of the penal law  
41 committed by a person fourteen, fifteen, or sixteen or, commencing Octo-  
42 ber first, two thousand nineteen, seventeen years of age but only where  
43 there has been a prior finding by a court that such person has previous-  
44 ly committed an act which, if committed by an adult, would be the crime  
45 of assault in the second degree, robbery in the second degree or any  
46 designated felony act specified in paragraph (i), (ii), or (iii) of this  
47 subdivision regardless of the age of such person at the time of the  
48 commission of the prior act; (vi) other than a misdemeanor committed by  
49 a person at least seven but less than seventeen years of age, and  
50 commencing October first, two thousand nineteen, a person at least seven  
51 but less than eighteen years of age, but only where there has been two  
52 prior findings by the court that such person has committed a prior felo-  
53 ny.

54 § 6. This act shall take effect on the first of November next succeed-  
55 ing the date on which it shall have become a law.