STATE OF NEW YORK

849

2021-2022 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 6, 2021

Introduced by M. of A. GOTTFRIED, NIOU, KIM, QUART, CRUZ, O'DONNELL, DICKENS, DE LA ROSA -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to decriminalizing sex work; and to repeal certain provisions of such law relating to prostitution (Part A); to amend the criminal procedure law, the civil practice law and rules, the social services law, and the administrative code of the city of New York, in relation to eliminating prior criminal records and making other related changes; and to repeal certain provisions of the criminal procedure law relating to the prosecution of prostitution offenses (Part B); and to amend the multiple dwelling law, the public health law, the real property actions and proceedings law, the real property law, the vehicle and traffic law, and the administrative code of the city of New York, in relation to making conforming changes (Part C)

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

Section 1. This act enacts into law major components of legislation relating to the decriminalization of certain prostitution offenses. Each component of this act is wholly contained within a Part identified as Parts A through C. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

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

LBD00419-02-1

PART A
DECRIMINALIZATION

Section 1. Section 230.00 of the penal law, as amended by chapter 169 of the laws of 1969, is amended to read as follows:

§ 230.00 Prostitution; definitions.

[~~A person is guilty of prostitution when such person engages or agrees or offers to engage in sexual conduct with another person in return for a fee.~~

~~Prostitution is a class B Misdemeanor~~]

As used in this chapter, the following terms have the following meanings:

1. "Prostitution" means engaging or agreeing to engage in sexual conduct with another person in return for a fee.

2. A person "patronizes a person for prostitution" when: (a) pursuant to a prior understanding, the actor pays a fee to another person as compensation for such other person or a third person having engaged in sexual conduct with the actor; or

(b) the person pays or agrees to pay a fee to another person pursuant to an understanding that in return therefor such other person or a third person will engage in sexual conduct with the actor; or

(c) the person solicits or requests another person to engage in sexual conduct with the actor in return for a fee.

3. "Person who is patronized" means the person with whom the actor engaged in sexual conduct or was to have engaged in sexual conduct pursuant to the understanding, or the person who was solicited or requested by the actor to engage in sexual conduct.

4. "School zone" means (a) in or on or within any building, structure, athletic playing field, playground or land contained within the real property boundary line of a public or private elementary, parochial, intermediate, junior high, vocational, or high school, or (b) any public sidewalk, street, parking lot, park, playground or private land, located immediately adjacent to the boundary line of such school.

5. (a) "Advance prostitution." A person "advances prostitution" when, acting other than as a person in prostitution or as a patron thereof, and with intent to cause prostitution, the actor directly engages in conduct that facilitates an act or enterprise of prostitution.

(b) Conduct by a person under twenty-one years of age shall not constitute advancing prostitution unless the person participated in compulsion by force or intimidation or in sex trafficking, or the person whose prostitution was advanced is under seventeen years of age.

6. "Profit from prostitution." A person profits from prostitution when, acting other than as a person in prostitution receiving compensation for personally rendered prostitution services, the actor accepts or receives money or other property pursuant to an agreement or understanding with any person whereby the actor participates or is to participate in the proceeds of prostitution activity.

§ 2. Section 230.01 of the penal law, as amended by chapter 189 of the laws of 2018, is amended to read as follows:

§ 230.01 Prostitution; affirmative defense.

In any prosecution under [~~section 230.00,~~] section 230.03, section 230.19, [~~230.20, subdivision 2 of section 230.25,~~] subdivision 2 of section 230.30, or section 230.34-a [~~or subdivision two of section 240.37~~] of this [~~part~~] article, it is an affirmative defense that the defendant's participation in the offense was a result of having been a victim of compelling prostitution under section 230.33, a victim of sex

trafficking under section 230.34 of this article, a victim of sex trafficking of a child under section 230.34-a of this article or a victim of trafficking in persons under the trafficking victims protection act (United States Code, Title 22, Chapter 78).

§ 3. Section 230.02 of the penal law is REPEALED.

§ 4. Section 230.03 of the penal law, as added by chapter 191 of the laws of 2011, subdivision 2 as amended by chapter 368 of the laws of 2015, is amended to read as follows:

§ 230.03 Prostitution in a school zone.

[~~1.~~] A person is guilty of prostitution in a school zone when, being nineteen years of age or older, and acting during the hours that school is in session, [~~he or she~~] **the actor** commits [~~the crime~~] **an act** of prostitution [~~in violation of section 230.00 of this article~~] at a place that [~~he or she~~] **the actor** knows, or reasonably should know, is in a school zone, and [~~he or she~~] **the actor** knows, or reasonably should know, that such act of prostitution is within the direct view of children attending such school.

[~~2. For the purposes of this section, section 230.08 and section 230.10 of this article, "school zone" means (a) in or on or within any building, structure, athletic playing field, playground or land contained within the real property boundary line of a public or private elementary, parochial, intermediate, junior high, vocational, or high school, or (b) any public sidewalk, street, parking lot, park, playground or private land, located immediately adjacent to the boundary line of such school.~~]

Prostitution in a school zone is a class A misdemeanor.

§ 5. Sections 230.04, 230.05, 230.06, 230.07 and 230.08 of the penal law, sections 230.04, 230.05, 230.06 and 230.07 as amended and section 230.08 as added by chapter 368 of the laws of 2015, are amended to read as follows:

§ 230.04 Patronizing a person for prostitution in the third degree.

A person is guilty of patronizing a person for prostitution in the third degree when [~~he or she~~] **the actor** patronizes a person for prostitution **and the person patronized is less than eighteen years old**.

Patronizing a person for prostitution in the third degree is a class A misdemeanor.

§ 230.05 Patronizing a person for prostitution in the second degree.

A person is guilty of patronizing a person for prostitution in the second degree when, being eighteen years old or more, [~~he or she~~] **the actor** patronizes a person for prostitution and the person patronized is less than fifteen years old.

Patronizing a person for prostitution in the second degree is a class E felony.

§ 230.06 Patronizing a person for prostitution in the first degree.

A person is guilty of patronizing a person for prostitution in the first degree when:

1. [~~He or she~~] **The actor** patronizes a person for prostitution and the person patronized is less than eleven years old; or

2. Being eighteen years old or more, [~~he or she~~] **the actor** patronizes a person for prostitution and the person patronized is less than thirteen years old.

Patronizing a person for prostitution in the first degree is a class D felony.

§ 230.07 Patronizing a person for prostitution; defense.

In any prosecution for patronizing a person for prostitution in the first [~~or~~]**,** second **or third** degrees or patronizing a person for prosti-

tution in a school zone, it is a defense that the defendant did not have reasonable grounds to believe that the person was less than the age specified.

§ 230.08 Patronizing a person for prostitution in a school zone.

[~~1.~~] A person is guilty of patronizing a person for prostitution in a school zone when, being twenty-one years old or more, [~~he or she~~] **the actor** patronizes a person for prostitution and the person patronized is less than eighteen years old at a place that [~~he or she~~] **the actor** knows, or reasonably should know, is in a school zone.

[~~2. For purposes of this section, "school zone" shall mean "school zone" as defined in subdivision two of section 230.03 of this article.~~]

Patronizing a person for prostitution in a school zone is a class E felony.

§ 6. Section 230.10 of the penal law, the section heading and the opening paragraph as amended by chapter 368 of the laws of 2015, is amended to read as follows:

§ 230.10 Prostitution and patronizing a person for prostitution; no defense.

In any prosecution for prostitution or patronizing a person for prostitution, the sex of [~~the two~~] **any of the** parties or prospective parties to the sexual conduct engaged in, contemplated or solicited is immaterial[~~, and it is no defense that:~~

~~1. Such persons were of the same sex; or~~

~~2. The person who received, agreed to receive or solicited a fee was a male and the person who paid or agreed or offered to pay such fee was a female~~].

§ 7. Sections 230.11, 230.12 and 230.13 of the penal law, as added by chapter 368 of the laws of 2015, are amended to read as follows:

§ 230.11 Aggravated patronizing a minor for prostitution in the third degree.

A person is guilty of aggravated patronizing a minor for prostitution in the third degree when, being twenty-one years old or more, [~~he or she~~] **the actor** patronizes a person for prostitution and the person patronized is less than seventeen years old and the person guilty of patronizing engages in sexual intercourse, oral sexual conduct, anal sexual conduct, or aggravated sexual conduct as those terms are defined in section 130.00 of this part, with the person patronized.

Aggravated patronizing a minor for prostitution in the third degree is a class E felony.

§ 230.12 Aggravated patronizing a minor for prostitution in the second degree.

A person is guilty of aggravated patronizing a minor for prostitution in the second degree when, being eighteen years old or more, [~~he or she~~] **the actor** patronizes a person for prostitution and the person patronized is less than fifteen years old and the person guilty of patronizing engages in sexual intercourse, oral sexual conduct, anal sexual conduct, or aggravated sexual conduct as those terms are defined in section 130.00 of this part, with the person patronized.

Aggravated patronizing a minor for prostitution in the second degree is a class D felony.

§ 230.13 Aggravated patronizing a minor for prostitution in the first degree.

A person is guilty of aggravated patronizing a minor for prostitution in the first degree when [~~he or she~~] **the actor** patronizes a person for prostitution and the person patronized is less than eleven years old, or being eighteen years old or more, [~~he or she~~] **the actor** patronizes a

person for prostitution and the person patronized is less than thirteen years old, and the person guilty of patronizing engages in sexual intercourse, oral sexual conduct, anal sexual conduct, or aggravated sexual conduct as those terms are defined in section 130.00 of this part, with the person patronized.

Aggravated patronizing a minor for prostitution in the first degree is a class B felony.

§ 8. Section 230.15 of the penal law is REPEALED.

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

§ 230.19 Promoting prostitution in a school zone.

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

[~~2. For purposes of this section, "school zone" shall mean "school zone" as defined in subdivision two of section 230.03 of this article.~~]

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

§ 10. Sections 230.20 and 230.25 of the penal law are REPEALED.

§ 11. Section 230.30 of the penal law, as amended by chapter 368 of the laws of 2015, is amended to read as follows:

§ 230.30 Promoting prostitution in the second degree.

A person is guilty of promoting prostitution in the second degree when [~~he or she~~] **the actor** knowingly:

1. Advances prostitution by compelling a person by force or intimidation to engage in prostitution, or profits from such coercive conduct by another; or

2. Advances or profits from prostitution of a person less than eighteen years old.

Promoting prostitution in the second degree is a class C felony.

§ 12. Section 230.32 of the penal law, as added by chapter 627 of the laws of 1978, the opening paragraph and subdivisions 1 and 2 as amended by chapter 368 of the laws of 2015, is amended to read as follows:

§ 230.32 Promoting prostitution in the first degree.

A person is guilty of promoting prostitution in the first degree when [~~he or she~~] **the actor**:

1. knowingly advances or profits from prostitution of a person less than thirteen years old; or

2. being twenty-one years old or more, [~~he or she~~] **the actor** knowingly advances or profits from prostitution of a person less than fifteen years old.

Promoting prostitution in the first degree is a class B felony.

§ 13. Section 230.33 of the penal law, as amended by chapter 368 of the laws of 2015, is amended to read as follows:

§ 230.33 Compelling prostitution.

A person is guilty of compelling prostitution when, being eighteen years old or more, [~~he or she~~] **the actor** knowingly advances prostitution by compelling a person less than eighteen years old, by force or intimidation, to engage in prostitution.

Compelling prostitution is a class B felony.

§ 14. The opening paragraph of section 230.34 of the penal law, as added by chapter 74 of the laws of 2007, is amended to read as follows:

A person is guilty of sex trafficking if [~~he or she~~] **the actor** intentionally advances or profits from prostitution by:

§ 15. Section 230.34-a of the penal law, as added by chapter 189 of the laws of 2018, is amended to read as follows:

§ 230.34-a Sex trafficking of a child.

[~~1.~~] A person is guilty of sex trafficking of a child when [~~he or she~~] **the actor**, being twenty-one years old or more, intentionally advances or profits from prostitution of another person and such person is a child less than eighteen years old. Knowledge by the defendant of the age of such child is not an element of this offense and it is not a defense to a prosecution therefor that the defendant did not know the age of the child or believed such age to be eighteen or over.

[~~2. For purposes of this section:~~

~~(a) A person "advances prostitution" when, acting other than as a person in prostitution or as a patron thereof, and with intent to cause prostitution, he or she directly engages in conduct that facilitates an act or enterprise of prostitution.~~

~~(b) A person "profits from prostitution" when, acting other than as a person in prostitution receiving compensation for personally rendered prostitution services, and with intent to facilitate prostitution, he or she accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he or she participates in the proceeds of prostitution activity.~~]

Sex trafficking of a child is a class B felony.

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

§ 230.35 Promoting or compelling prostitution; accomplice.

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

§ 17. Section 230.40 of the penal law, the opening paragraph as amended by chapter 368 of the laws of 2015, is amended to read as follows:

§ 230.40 Permitting prostitution.

A person is guilty of permitting prostitution when, having possession or control of premises or vehicle which [~~he or she~~] **the actor** knows are being used for prostitution purposes or for the purpose of advancing prostitution, [~~he or she~~] **in violation of this article, the actor** fails to make reasonable effort to halt or abate such use.

Permitting prostitution is a class B misdemeanor.

§ 18. Section 240.37 of the penal law is REPEALED.

§ 19. This act shall take effect on the thirtieth day after it shall have become a law.

PART B
ELIMINATING PRIOR CRIMINAL RECORDS AND OTHER RELATED PROVISIONS

Section 1. Subdivision 3 of section 160.50 of the criminal procedure law is amended by adding a new paragraph (m) to read as follows:

(m) The accusatory instrument alleged a violation of article two hundred thirty or section 240.37 of the penal law, as in effect prior to the effective date of this paragraph, and the accusatory instrument, initially or as amended, does not allege conduct that is an offense under law in effect on and after the effective date of this paragraph.

No defendant shall be required or permitted to waive eligibility for sealing pursuant to this paragraph as part of a plea of guilty, a sentence or any agreement related to a conviction or other disposition. Any such waiver shall be deemed void and wholly unenforceable.

§ 2. Section 160.50 of the criminal procedure law is amended by adding a new subdivision 6 to read as follows:

6. A person in whose favor a criminal action or proceeding was terminated, as defined in paragraph (m) of subdivision three of this section, may upon motion apply to the court in which such termination occurred, upon not less than twenty days notice to the district attorney, for an order granting to such person the relief set forth in subdivision one of this section, and such order shall be granted unless the district attorney demonstrates to the satisfaction of the court that the interests of justice require otherwise.

§ 3. Paragraph (k) of subdivision 1 of section 440.10 of the criminal procedure law, as added by chapter 132 of the laws of 2019, is amended and a new subdivision (l) is added to read as follows:

(k) The judgment occurred prior to the effective date of this paragraph and is a conviction for an offense as defined in subparagraph (i) or (ii) of paragraph (k) of subdivision three of section 160.50 of this part, in which case the court shall presume that a conviction by plea for the aforementioned offenses was not knowing, voluntary and intelligent if it has severe or ongoing consequences, including but not limited to potential or actual immigration consequences, and shall presume that a conviction by verdict for the aforementioned offenses constitutes cruel and unusual punishment under section five of article one of the state constitution, based on those consequences. The people may rebut these presumptions[.]; or

(l) The judgment is a conviction for a violation of article two hundred thirty or section 240.37 of the penal law, as in effect prior to the effective date of this paragraph, provided that the court shall decline to vacate any portion of the judgment of conviction that is for conduct that is an offense under law in effect at the time of the conduct and on and after the effective date of this paragraph.

§ 4. Section 440.10 of the criminal procedure law is amended by adding a new subdivision 6-a to read as follows:

6-a. If the court grants a motion under paragraph (l) of subdivision one of this section, it must vacate the judgment and dismiss the accusatory instrument, to the extent it has vacated the judgment, and may take such additional action as is appropriate in the circumstances.

§ 5. Subdivision 5 of section 1310 of the civil practice law and rules, as added by chapter 669 of the laws of 1984, is amended to read as follows:

5. "Post-conviction forfeiture crime" means any felony defined in the penal law or any other chapter of the consolidated laws of the state. However, this shall not include any felony under article two hundred thirty of the penal law in effect prior to the effective date of a chapter of the laws of two thousand twenty-one which amended this subdivision, unless it was also a felony under that article on or after that date.

§ 6. Section 60.47 of the criminal procedure law is REPEALED.

§ 7. Paragraphs (c) and (d) of subdivision 1 of section 160.10 of the criminal procedure law, paragraph (c) as amended by chapter 762 of the laws of 1971 and paragraph (d) as amended by chapter 232 of the laws of 2010, are amended to read as follows:

(c) A misdemeanor defined outside the penal law which would constitute a felony if such person had a previous judgment of conviction for a crime[~~; or~~

~~(d) Loitering for the purpose of engaging in a prostitution offense as defined in subdivision two of section 240.37 of the penal law~~].

§ 8. Subdivision 4 of section 170.30 of the criminal procedure law is REPEALED.

§ 9. Section 170.80 of the criminal procedure law is REPEALED.

§ 10. Subdivision 2 of section 420.35 of the criminal procedure law, as amended by chapter 144 of the laws of 2020, is amended to read as follows:

2. Except as provided in this subdivision or subdivision two-a of this section, under no circumstances shall the mandatory surcharge, sex offender registration fee, DNA databank fee or the crime victim assistance fee be waived. A court shall waive any mandatory surcharge, DNA databank fee and crime victim assistance fee when: (i) the defendant is convicted of [~~loitering for the purpose of engaging in prostitution under section 240.37 of the penal law (provided that the defendant was not convicted of loitering for the purpose of patronizing a person for prostitution); (ii) the defendant is convicted of prostitution under section 230.00 of the penal law; (iii) the defendant is convicted of a violation in the event such conviction is in lieu of a plea to or conviction for loitering for the purpose of engaging in prostitution under section 240.37 of the penal law (provided that the defendant was not alleged to be loitering for the purpose of patronizing a person for prostitution) or prostitution under section 230.00 of the penal law;~~] a violation of article two hundred thirty or section 240.37 of the penal law, as in effect prior to the effective date of a chapter of the laws of two thousand twenty-one which amended this subdivision, unless the violation is an offense under law in effect on and after that effective date or [~~(iv)~~] the court finds that a defendant is a victim of sex trafficking under section 230.34 of the penal law, sex trafficking of a child under section 230.34-a of the penal law, or [~~a victim of~~] trafficking in persons under the trafficking victims protection act (United States Code, Title 22, Chapter 78)[~~; or (v) the court finds that the defendant is a victim of sex trafficking of a child under section 230.34-a of the penal law~~].

§ 11. Subdivision 4 of section 720.15 of the criminal procedure law is REPEALED.

§ 12. Subdivision 1 of section 720.35 of the criminal procedure law, as amended by chapter 402 of the laws of 2014, is amended to read as follows:

1. A youthful offender adjudication is not a judgment of conviction for a crime or any other offense, and does not operate as a disqualification of any person so adjudged to hold public office or public employment or to receive any license granted by public authority but shall be deemed a conviction only for the purposes of transfer of supervision and custody pursuant to section two hundred fifty-nine-m of the executive law. [~~A defendant for whom a youthful offender adjudication was substituted, who was originally charged with prostitution as defined in section 230.00 of the penal law or loitering for the purposes of prostitution as defined in subdivision two of section 240.37 of the penal law provided that the person does not stand charged with loitering for the purpose of patronizing a prostitute, for an offense allegedly committed when he or she was sixteen or seventeen years of age, shall be deemed a "sexually exploited child" as defined in subdivision one of~~

~~section four hundred forty-seven-a of the social services law and therefore shall not be considered an adult for purposes related to the charges in the youthful offender proceeding or a proceeding under section 170.80 of this chapter.~~]

§ 13. Paragraphs (c) and (d) of subdivision 1 of section 447-a of the social services law, as amended by chapter 189 of the laws of 2018, are amended to read as follows:

(c) is a victim of the crime of compelling prostitution as defined in section 230.33 of the penal law; **or**

(d) engages in acts or conduct described in article two hundred sixty-three [~~or section 240.37~~] of the penal law.

§ 14. The third undesignated paragraph of subdivision a of section 3-118 of the administrative code of the city of New York, as amended by chapter 189 of the laws of 2018, is amended to read as follows:

Sexually exploited youth. The term "sexually exploited youth" means persons under the age of 18 who have been subject to sexual exploitation because they (a) are the victim of the crime of sex trafficking as defined in section 230.34 of the penal law; (b) engage in any act as defined in section 230.00 of the penal law; (c) are a victim of the crime of compelling prostitution as defined in section 230.33 of the penal law; (d) are a victim of the crime of sex trafficking of a child as defined in section 230.34-a of the penal law; or (e) engage in acts or conduct described in article 263 [~~or section 240.37~~] of the penal law. The term shall also mean persons under the age of 18 who have been subject to incest in the third degree, second degree or first degree, as defined in sections 255.25, 255.26, and 255.27 of the penal law, respectively, or any of the sex offenses enumerated in article 130 of the penal law.

§ 15. The office of court administration shall establish and make available all necessary forms for proceedings under this act no later than sixty days following the effective date of this section.

§ 16. This act shall take effect on the thirtieth day after it shall have become a law.

PART C
OTHER CONFORMING CHANGES

Section 1. Subdivision 1 of section 12 of the multiple dwelling law is amended to read as follows:

1. It shall be unlawful to use any multiple dwelling or any part of the lot or premises thereof for the purpose of **criminal conduct related to** prostitution [~~or assignation of any description~~] **under article two hundred thirty of the penal law. This subdivision shall only apply to conduct involving prostitution activity in violation of article two hundred thirty of the penal law on or after the effective date of a chapter of the laws of two thousand twenty-one that amended this subdivision**.

§ 2. Sections 351 and 352 of the multiple dwelling law, section 352 as amended by chapter 310 of the laws of 1962, are amended to read as follows:

§ 351. Lien. A multiple dwelling shall be subject to a penalty of one thousand dollars if it or any part of it shall be used as a house of prostitution [~~or assignation~~] **in violation of article two hundred thirty of the penal law** with the permission of the owner, and such penalty shall be a lien upon the dwelling and lot upon which it is situated. **This section shall only apply to conduct involving prostitution activity**

in violation of article two hundred thirty of the penal law on or after the effective date of a chapter of the laws of two thousand twenty-one that amended this section.

§ 352. Recovery of premises. If a multiple dwelling, or any part thereof, shall be used as a house of prostitution [~~or assignation~~] in violation of article two hundred thirty of the penal law with the permission of the lessee or [~~his~~] the lessee's agent, the lease shall be terminable at the election of the lessor, and the owner shall be entitled to recover possession of said premises by summary proceedings. This section shall only apply to conduct involving prostitution activity in violation of article two hundred thirty of the penal law on or after the effective date of a chapter of the laws of two thousand twenty-one that amended this section.

§ 3. Section 2320 of the public health law is amended to read as follows:

§ 2320. Houses of prostitution; equipment; nuisance. 1. Whoever shall erect, establish, continue, maintain, use, own, or lease any building, erection, or place used for the purpose of [~~lewdness, assignation, or~~] prostitution activity in violation of article two hundred thirty of the penal law is guilty of maintaining a nuisance.

2. The building, erection, or place, or the ground itself, in or upon which any [~~lewdness, assignation, or~~] prostitution activity in violation of article two hundred thirty of the penal law is conducted, permitted, or carried on, continued, or exists, and the furniture, fixtures, musical instruments, and movable property used in conducting or maintaining such nuisance, are hereby declared to be a nuisance and shall be enjoined and abated as hereafter provided.

3. This article shall only apply to conduct involving prostitution activity in violation of article two hundred thirty of the penal law on or after the effective date of this subdivision.

§ 4. Subdivision 5 of section 711 of the real property actions and proceedings law, as added by section 312 of the laws of 1962, is amended to read as follows:

5. The premises, or any part thereof, are used or occupied [~~as a bawdy-house, or house or place of assignation for lewd persons, or~~] for purposes of prostitution activity in violation of article two hundred thirty of the penal law, or for any illegal trade or manufacture, or other illegal business. As used in this subdivision, "prostitution activity" shall only mean conduct in violation of article two hundred thirty of the penal law on or after the effective date of a chapter of the laws of two thousand twenty-one that amended this subdivision.

§ 5. Subdivisions 1 and 2 of section 715 of the real property actions and proceedings law, subdivision 1 as amended by chapter 555 of the laws of 1978, subdivision 2 as amended by chapter 368 of the laws of 2015, are amended to read as follows:

1. An owner or tenant, including a tenant of one or more rooms of an apartment house, tenement house or multiple dwelling, of any premises within two hundred feet from other demised real property [~~used or occupied in whole or in part as a bawdy-house, or house or place of assignation for lewd persons, or~~] for purposes of prostitution activity in violation of article two hundred thirty of the penal law, or for any illegal trade, business or manufacture, or any domestic corporation organized for the suppression of vice, subject to or which submits to visitation by the state department of social services and possesses a certificate from such department of such fact and of conformity with regulations of the department, or any duly authorized enforcement agency

of the state or of a subdivision thereof, under a duty to enforce the provisions of the penal law or of any state or local law, ordinance, code, rule or regulation relating to buildings, may serve personally upon the owner or landlord of the premises so used or occupied, or upon [~~his~~] **the lessee's** agent, a written notice requiring the owner or landlord to make an application for the removal of the person so using or occupying the same. If the owner or landlord or [~~his~~] **the lessee's** agent does not make such application within five days thereafter; or, having made it, does not in good faith diligently prosecute it, the person, corporation or enforcement agency giving the notice may bring a proceeding under this article for such removal as though the petitioner were the owner or landlord of the premises, and shall have precedence over any similar proceeding thereafter brought by such owner or landlord or to one theretofore brought by [~~him~~] **such owner or landlord** and not prosecuted diligently and in good faith. [~~Proof of the ill repute of the demised premises or of the inmates thereof or of those resorting thereto shall constitute presumptive evidence of the unlawful use of the demised premises required to be stated in the petition for removal.~~] Both the person in possession of the property and the owner or landlord shall be made respondents in the proceeding. **As used in this subdivision, "prostitution activity" shall only mean conduct in violation of article two hundred thirty of the penal law on or after the effective date of a chapter of the laws of two thousand twenty-one that amended this subdivision.**

2. For purposes of this section, two or more convictions of any person or persons had, within a period of one year, for any of the offenses described in section [~~230.00,~~] 230.05, 230.06, 230.11, 230.12, 230.13, [~~230.20, 230.25,~~] 230.30, 230.32 or 230.40 of the penal law arising out of conduct engaged in at the same real property consisting of a dwelling as that term is defined in subdivision four of section four of the multiple dwelling law shall be presumptive evidence of conduct constituting use of the premises for purposes of prostitution. **However, this subdivision shall only apply to an offense under article two hundred thirty of the penal law in effect on or after the effective date of a chapter of laws of two thousand twenty-one that amended this subdivision.**

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

3. For the purposes of this section, two or more convictions of any person or persons had, within a period of one year, for any of the offenses described in section [~~230.00,~~] 230.05, 230.06, 230.11, 230.12, 230.13, [~~230.20, 230.25,~~] 230.30, 230.32 or 230.40 of the penal law arising out of conduct engaged in at the same premises consisting of a dwelling as that term is defined in subdivision four of section four of the multiple dwelling law shall be presumptive evidence of unlawful use of such premises and of the owners knowledge of the same. **However, this subdivision shall only apply to an offense under article two hundred thirty of the penal law in effect on or after the effective date of a chapter of the laws of two thousand twenty-one that amended this subdivision.**

§ 7. Paragraph 3 of subdivision b of section 233 of the real property law, as added by chapter 566 of the laws of 1996, is amended to read as follows:

3. The premises, or any part thereof, are used or occupied [~~as a bawdy-house, or house or place of assignation for lewd purposes or~~] for purposes of prostitution **activity in violation of article two hundred**

thirty of the penal law, or for any illegal trade or business. As used in this paragraph, "prostitution activity" shall only mean conduct in violation of article two hundred thirty of the penal law on or after the effective date of a chapter of the laws of two thousand twenty-one that amended this paragraph.

§ 8. Paragraphs (b) and (c) of subdivision 4 of section 509-cc of the vehicle and traffic law, paragraph (b) as amended by chapter 400 of the laws of 2011, paragraph (c) as amended by chapter 368 of the laws of 2015, are amended to read as follows:

(b) The offenses referred to in subparagraph (ii) of paragraph (a) of subdivision one and paragraph (b) of subdivision two of this section that result in permanent disqualification shall include a conviction under sections 100.13, 105.15, 105.17, 115.08, 120.12, 120.70, 125.10, 125.11, 130.40, 130.53, 130.60, 130.65-a, 135.20, 160.15, 220.18, 220.21, 220.39, 220.41, 220.43, 220.44, [~~230.25,~~] 260.00, 265.04 of the penal law or an attempt to commit any of the aforesaid offenses under section 110.00 of the penal law, or any offenses committed under a former section of the penal law which would constitute violations of the aforesaid sections of the penal law, or any offenses committed outside this state which would constitute violations of the aforesaid sections of the penal law.

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

§ 9. Subdivisions 1 and 2 of section 510-d of the vehicle and traffic law, as amended by chapter 189 of the laws of 2018, are amended to read as follows:

1. A class E driver's license shall be suspended by the commissioner for a period of one year where the holder is convicted of a violation of section [~~230.20, 230.25,~~] 230.30, 230.32, 230.34, 230.34-a or 230.40 of the penal law and the holder used a for hire motor vehicle to commit such crime.

2. A class E driver's license may be revoked by the commissioner when the holder, who had his or her driver's license suspended under subdivision one of this section within the last ten years, is convicted of a second violation of section [~~230.20, 230.25,~~] 230.30, 230.32, 230.34, 230.34-a or 230.40 of the penal law and the holder used a for hire motor vehicle to commit such crime.

§ 10. Subdivision (a) of section 7-703 of the administrative code of the city of New York is amended to read as follows:

(a) Any building, erection or place, including one- or two-family dwellings, used for the purpose of prostitution [~~as defined in section 230.00~~] activity in violation of article two hundred thirty of the penal law. Two or more criminal convictions of persons for [~~acts of~~] prostitution activity in violation of article two hundred thirty of the penal law in the building, erection or place, including one- or two-family dwellings, within the one-year period preceding the commencement of an action under this chapter, shall be presumptive evidence that the building, erection or place, including one- or two-family dwellings, is a public nuisance. In any action under this subdivision, evidence of the common fame and general reputation of the building, erection or place, including one- or two-family dwellings, of the inmates or occupants thereof, or of those resorting thereto, shall be competent evidence to prove the existence of the public nuisance. If evidence of the general reputation of the building, erection or place, including one- or two-family dwellings, or of the inmates or occupants thereof, is sufficient to establish the existence of the public nuisance, it shall be prima facie evidence of knowledge thereof and acquiescence and participation therein and responsibility for the nuisance, on the part of the owners, lessors, lessees and all those in possession of or having charge of, as agent or otherwise, or having any interest in any form in the property, real or personal, used in conducting or maintaining the public nuisance. As used in this subdivision, "prostitution activity" shall only mean conduct in violation of article two hundred thirty of the penal law on or after the effective date of a chapter of the laws of two thousand twenty-one that amended this subdivision;

§ 11. Subdivision f of section 20-247 of the administrative code of the city of New York is amended to read as follows:

f. It shall be unlawful for any licensee to guide or direct any person to [~~a place of ill repute, house of ill fame or assignation, or to any house or place of amusement kept for immoral purposes, or to~~] any place resorted to for the purpose of prostitution activity in violation of article two hundred thirty of the penal law or gambling. It shall be unlawful for any such licensee to impart any information as to the location or address of any such houses or places, or to solicit the patronage of any person or persons for any hotel, lodging house or boarding house or place of temporary or permanent abode, or for any place where refreshments are served or amusement of any type provided. As used in this subdivision, "prostitution activity" shall only mean conduct in violation of article two hundred thirty of the penal law on or after the effective date of a chapter of the laws of two thousand twenty-one that amended this subdivision.

§ 12. This act shall take effect on the thirtieth day after it shall have become a law.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by a court of component jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 3. This act shall take effect immediately.