

STATE OF NEW YORK

8722

IN SENATE

April 5, 2022

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

AN ACT to amend the criminal procedure law, in relation to the statute of limitations in criminal prosecution of certain sex trafficking crimes; to amend the civil practice law and rules, in relation to the statute of limitations for civil actions related to certain sex trafficking offenses, reviving such actions otherwise barred by the existing statute of limitations and granting trial preference to such actions; to amend the general municipal law, in relation to providing that the notice of claim provisions shall not apply to actions related to certain sex trafficking offenses; to amend the court of claims act, in relation to providing that the notice of intention to file provisions shall not apply to actions related to certain sex trafficking offenses; and to amend the education law, in relation to providing that the notice of claim provisions shall not apply to actions related to certain sex trafficking offenses

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

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

4 (a) A prosecution for a class A felony, or rape in the first degree as
5 defined in section 130.35 of the penal law, or a crime defined or
6 formerly defined in section 130.50 of the penal law, or aggravated sexual
7 abuse in the first degree as defined in section 130.70 of the penal
8 law, or course of sexual conduct against a child in the first degree as
9 defined in section 130.75 of the penal law, or sex trafficking as
10 defined in section 230.34 of the penal law, or sex trafficking of a
11 child as defined in section 230.34-a of the penal law, or incest in the
12 first degree as defined in section 255.27 of the penal law may be
13 commenced at any time;

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

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

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(f) For purposes of a prosecution involving a sexual offense as defined in article one hundred thirty of the penal law~~[, other than a sexual offense delineated in paragraph (a) of subdivision two of this section,~~ committed against a child less than eighteen years of age, the period of limitation shall not begin to run until the child has reached the age of twenty-three or the offense is reported to a law enforcement agency or statewide central register of child abuse and maltreatment, whichever occurs earlier. This paragraph shall not apply to sexual offenses delineated in paragraph (a) of subdivision two of this section committed against a child less than eighteen years of age, sex trafficking as defined in section 230.34 of the penal law committed against a child less than eighteen years of age, sex trafficking of a child as defined in section 230.34-a of the penal law, incest in the first, second or third degree as defined in sections 255.27, 255.26 and 255.25 of the penal law committed against a child less than eighteen years of age, or use of a child in a sexual performance as defined in section 263.05 of the penal law~~[, the period of limitation shall not begin to run until the child has reached the age of twenty-three or the offense is reported to a law enforcement agency or statewide central register of child abuse and maltreatment, whichever occurs earlier].~~

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

(b) Notwithstanding any provision of law which imposes a period of limitation to the contrary and the provisions of any other law pertaining to the filing of a notice of claim or a notice of intention to file a claim as a condition precedent to commencement of an action or special proceeding, with respect to all civil claims or causes of action brought by any person for physical, psychological or other injury or condition suffered by such person as a result of conduct which would constitute a sexual offense as defined in article one hundred thirty of the penal law committed against such person who was less than eighteen years of age, sex trafficking as defined in section 230.34 of the penal law committed against such person who was less than eighteen years of age, sex trafficking of a child as defined in section 230.34-a of the penal law, incest as defined in section 255.27, 255.26 or 255.25 of the penal law committed against such person who was less than eighteen years of age, or the use of such person in a sexual performance as defined in section 263.05 of the penal law, or a predecessor statute that prohibited such conduct at the time of the act, which conduct was committed against such person who was less than eighteen years of age, such action may be commenced, against any party whose intentional or negligent acts or omissions are alleged to have resulted in the commission of said conduct, on or before the plaintiff or infant plaintiff reaches the age of fifty-five years. In any such claim or action, in addition to any other defense and affirmative defense that may be available in accordance with law, rule or the common law, to the extent that the acts alleged in such action are of the type described in subdivision one of section 130.30 of the penal law or subdivision one of section 130.45 of the penal law, the affirmative defenses set forth, respectively, in the closing paragraph of such sections of the penal law shall apply.

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

§ 214-g. Certain child sexual abuse cases. Notwithstanding any provision of law which imposes a period of limitation to the contrary and the provisions of any other law pertaining to the filing of a notice

1 of claim or a notice of intention to file a claim as a condition prece-
2 dent to commencement of an action or special proceeding, every civil
3 claim or cause of action brought against any party alleging intentional
4 or negligent acts or omissions by a person for physical, psychological,
5 or other injury or condition suffered as a result of conduct which would
6 constitute a sexual offense as defined in article one hundred thirty of
7 the penal law committed against a child less than eighteen years of age,
8 sex trafficking as defined in section 230.34 of the penal law committed
9 against a child less than eighteen years of age, sex trafficking of a
10 child as defined in section 230.34-a of the penal law, incest as defined
11 in section 255.27, 255.26 or 255.25 of the penal law committed against a
12 child less than eighteen years of age, or the use of a child in a sexual
13 performance as defined in section 263.05 of the penal law, or a prede-
14 cessor statute that prohibited such conduct at the time of the act,
15 which conduct was committed against a child less than eighteen years of
16 age, which is barred as of the effective date of this section because
17 the applicable period of limitation has expired, and/or the plaintiff
18 previously failed to file a notice of claim or a notice of intention to
19 file a claim, is hereby revived, and action thereon may be commenced not
20 earlier than six months after, and not later than two years and six
21 months after the effective date of this section. In any such claim or
22 action: (a) in addition to any other defense and affirmative defense
23 that may be available in accordance with law, rule or the common law, to
24 the extent that the acts alleged in such action are of the type
25 described in subdivision one of section 130.30 of the penal law or
26 subdivision one of section 130.45 of the penal law, the affirmative
27 defenses set forth, respectively, in the closing paragraph of such
28 sections of the penal law shall apply; and (b) dismissal of a previous
29 action, ordered before the effective date of this section, on grounds
30 that such previous action was time barred, and/or for failure of a party
31 to file a notice of claim or a notice of intention to file a claim,
32 shall not be grounds for dismissal of a revival action pursuant to this
33 section.

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

36 § 213-c. Action by victim of conduct constituting certain sexual
37 offenses. Notwithstanding any other limitation set forth in this arti-
38 cle, except as provided in subdivision (b) of section two hundred eight
39 of this article, all civil claims or causes of action brought by any
40 person for physical, psychological or other injury or condition suffered
41 by such person as a result of conduct which would constitute rape in the
42 first degree as defined in section 130.35 of the penal law, or rape in
43 the second degree as defined in subdivision two of section 130.30 of the
44 penal law, or rape in the third degree as defined in subdivision one or
45 three of section 130.25 of the penal law, or criminal sexual act in the
46 first degree as defined in section 130.50 of the penal law, or criminal
47 sexual act in the second degree as defined in subdivision two of section
48 130.45 of the penal law, or criminal sexual act in the third degree as
49 defined in subdivision one or three of section 130.40 of the penal law,
50 or incest in the first degree as defined in section 255.27 of the penal
51 law, or incest in the second degree as defined in section 255.26 of the
52 penal law (where the crime committed is rape in the second degree as
53 defined in subdivision two of section 130.30 of the penal law or crimi-
54 nal sexual act in the second degree as defined in subdivision two of
55 section 130.45), or aggravated sexual abuse in the first degree as
56 defined in section 130.70 of the penal law, or course of sexual conduct

1 against a child in the first degree as defined in section 130.75 of the
2 penal law, or sex trafficking as defined in section 230.34 of the penal
3 law, or sex trafficking of a child as defined in section 230.34-a of the
4 penal law may be brought against any party whose intentional or negli-
5 gent acts or omissions are alleged to have resulted in the commission of
6 the said conduct, within twenty years. Nothing in this section shall be
7 construed to require that a criminal charge be brought or a criminal
8 conviction be obtained as a condition of bringing a civil cause of
9 action or receiving a civil judgment pursuant to this section or be
10 construed to require that any of the rules governing a criminal proceed-
11 ing be applicable to any such civil action.

12 § 6. The civil practice law and rules is amended by adding a new
13 section 214-j to read as follows:

14 § 214-j. Certain sexual offense actions. Notwithstanding any
15 provision of law which imposes a period of limitation to the contrary
16 and the provisions of any other law pertaining to the filing of a notice
17 of claim or a notice of intention to file a claim as a condition prece-
18 dent to commencement of an action or special proceeding, every civil
19 claim or cause of action brought against any party alleging intentional
20 or negligent acts or omissions by a person for physical, psychological,
21 or other injury or condition suffered as a result of conduct which would
22 constitute a sexual offense as defined in article one hundred thirty of
23 the penal law committed against such person who was eighteen years of
24 age or older, or sex trafficking as defined in section 230.34 of the
25 penal law committed against such person who was eighteen years of age or
26 older, or incest as defined in section 255.26 or 255.27 of the penal law
27 committed against such person who was eighteen years of age or older,
28 which is barred as of the effective date of this section because the
29 applicable period of limitation has expired, and/or the plaintiff previ-
30 ously failed to file a notice of claim or a notice of intention to file
31 a claim, is hereby revived, and action thereon may be commenced not
32 earlier than six months after, and not later than one year and six
33 months after the effective date of this section. In any such claim or
34 action, dismissal of a previous action, ordered before the effective
35 date of this section, on grounds that such previous action was time
36 barred, and/or for failure of a party to file a notice of claim or a
37 notice of intention to file a claim, shall not be grounds for dismissal
38 of a revival action pursuant to this section.

39 § 7. Paragraph (b) of subdivision 8 of section 50-e of the general
40 municipal law, as added by chapter 11 of the laws of 2019, is amended to
41 read as follows:

42 (b) This section shall not apply to any claim made for physical,
43 psychological, or other injury or condition suffered as a result of
44 conduct which would constitute a sexual offense as defined in article
45 one hundred thirty of the penal law committed against a child less than
46 eighteen years of age, sex trafficking as defined in section 230.34 of
47 the penal law committed against a child less than eighteen years of age,
48 sex trafficking of a child as defined in section 230.34-a of the penal
49 law, incest as defined in section 255.27, 255.26 or 255.25 of the penal
50 law committed against a child less than eighteen years of age, or the
51 use of a child in a sexual performance as defined in section 263.05 of
52 the penal law committed against a child less than eighteen years of age.

53 § 8. Subdivision 5 of section 50-i of the general municipal law, as
54 added by chapter 11 of the laws of 2019, is amended to read as follows:

55 5. Notwithstanding any provision of law to the contrary, this section
56 shall not apply to any claim made against a city, county, town, village,

1 fire district or school district for physical, psychological, or other
2 injury or condition suffered as a result of conduct which would consti-
3 tute a sexual offense as defined in article one hundred thirty of the
4 penal law committed against a child less than eighteen years of age, sex
5 trafficking as defined in section 230.34 of the penal law committed
6 against a child less than eighteen years of age, sex trafficking of a
7 child as defined in section 230.34-a of the penal law, incest as defined
8 in section 255.27, 255.26 or 255.25 of the penal law committed against a
9 child less than eighteen years of age, or the use of a child in a sexual
10 performance as defined in section 263.05 of the penal law committed
11 against a child less than eighteen years of age.

12 § 9. Subdivision 10 of section 10 of the court of claims act, as added
13 by chapter 11 of the laws of 2019, is amended to read as follows:

14 10. Notwithstanding any provision of law to the contrary, this section
15 shall not apply to any claim to recover damages for physical, psycholog-
16 ical, or other injury or condition suffered as a result of conduct which
17 would constitute a sexual offense as defined in article one hundred
18 thirty of the penal law committed against a child less than eighteen
19 years of age, sex trafficking as defined in section 230.34 of the penal
20 law committed against a child less than eighteen years of age, sex traf-
21 ficking of a child as defined in section 230.34-a of the penal law,
22 incest as defined in section 255.27, 255.26 or 255.25 of the penal law
23 committed against a child less than eighteen years of age, or the use of
24 a child in a sexual performance as defined in section 263.05 of the
25 penal law committed against a child less than eighteen years of age.

26 § 10. Subdivision 2 of section 3813 of the education law, as amended
27 by chapter 11 of the laws of 2019, is amended to read as follows:

28 2. Notwithstanding anything to the contrary hereinbefore contained in
29 this section, no action or special proceeding founded upon tort shall be
30 prosecuted or maintained against any of the parties named in this
31 section or against any teacher or member of the supervisory or adminis-
32 trative staff or employee where the alleged tort was committed by such
33 teacher or member or employee acting in the discharge of his duties
34 within the scope of his employment and/or under the direction of the
35 board of education, trustee or trustees, or governing body of the school
36 unless a notice of claim shall have been made and served in compliance
37 with section fifty-e of the general municipal law. Every such action
38 shall be commenced pursuant to the provisions of section fifty-i of the
39 general municipal law; provided, however, that this section shall not
40 apply to any claim to recover damages for physical, psychological, or
41 other injury or condition suffered as a result of conduct which would
42 constitute a sexual offense as defined in article one hundred thirty of
43 the penal law committed against a child less than eighteen years of age,
44 sex trafficking of a child as defined in section 230.34-a of the penal
45 law committed against a child less than eighteen years of age, incest as
46 defined in section 255.27, 255.26 or 255.25 of the penal law committed
47 against a child less than eighteen years of age, or the use of a child
48 in a sexual performance as defined in section 263.05 of the penal law
49 committed against a child less than eighteen years of age.

50 § 11. Severability. If any clause, sentence, paragraph, section or
51 part of this act shall be adjudged by any court of competent jurisdic-
52 tion to be invalid and after exhaustion of all further judicial review,
53 the judgment shall not affect, impair or invalidate the remainder there-
54 of, but shall be confined in its operation to the clause, sentence,
55 paragraph, section or part of this act directly involved in the contro-
56 versy in which the judgment shall have been rendered.

1 § 12. This act shall take effect immediately and shall apply to acts
2 or omissions occurring on or after such effective date and to acts or
3 omissions occurring prior to such effective date where the applicable
4 statute of limitations in effect on the date of such act or omission has
5 not yet expired.