

# STATE OF NEW YORK

2684

2023-2024 Regular Sessions

## IN ASSEMBLY

January 26, 2023

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 (aggra-

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

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1 vated sexual abuse in the first degree); 140.30 (burglary in the first  
2 degree); subdivision one of section 140.25 (burglary in the second  
3 degree); 150.15 (arson in the second degree); 160.15 (robbery in the  
4 first degree); subdivision two of section 160.10 (robbery in the second  
5 degree) of the penal law; or section 265.03 of the penal law, where such  
6 machine gun or such firearm is possessed on school grounds, as that  
7 phrase is defined in subdivision fourteen of section 220.00 of the penal  
8 law; or defined in the penal law as an attempt to commit murder in the  
9 second degree or kidnapping in the first degree, or such conduct as a  
10 sexually motivated felony, where authorized pursuant to section 130.91  
11 of the penal law.

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

15 (a) Except as provided in subdivision six of section 200.20 of this  
16 chapter, a grand jury may not indict (i) a person thirteen years of age  
17 for any conduct or crime other than conduct constituting a crime defined  
18 in subdivisions one and two of section 125.25 (murder in the second  
19 degree); subdivisions one and two of section 130.35 (rape in the first  
20 degree); subdivisions one and two of section 130.50 (criminal sexual act  
21 in the first degree); section 130.70 (aggravated sexual abuse in the  
22 first degree); or such conduct as a sexually motivated felony, where  
23 authorized pursuant to section 130.91 of the penal law; (ii) a person  
24 fourteen or fifteen years of age for any conduct or crime other than  
25 conduct constituting a crime defined in subdivisions one and two of  
26 section 125.25 (murder in the second degree) and in subdivision three of  
27 such section provided that the underlying crime for the murder charge is  
28 one for which such person is criminally responsible; 135.25 (kidnapping  
29 in the first degree); 150.20 (arson in the first degree); subdivisions  
30 one and two of section 120.10 (assault in the first degree); 125.20  
31 (manslaughter in the first degree); subdivisions one and two of section  
32 130.35 (rape in the first degree); subdivisions one and two of section  
33 130.50 (criminal sexual act in the first degree); section 130.66 (aggra-  
34 vated sexual abuse in the third degree); section 130.67 (aggravated  
35 sexual abuse in the second degree); 130.70 (aggravated sexual abuse in  
36 the first degree); 140.30 (burglary in the first degree); subdivision  
37 one of section 140.25 (burglary in the second degree); 150.15 (arson in  
38 the second degree); 160.15 (robbery in the first degree); subdivision  
39 two of section 160.10 (robbery in the second degree) of the penal law;  
40 subdivision four of section 265.02 of the penal law, where such firearm  
41 is possessed on school grounds, as that phrase is defined in subdivision  
42 fourteen of section 220.00 of the penal law; or section 265.03 of the  
43 penal law, where such machine gun or such firearm is possessed on school  
44 grounds, as that phrase is defined in subdivision fourteen of section  
45 220.00 of the penal law; or defined in the penal law as an attempt to  
46 commit murder in the second degree or kidnapping in the first degree, or  
47 such conduct as a sexually motivated felony, where authorized pursuant  
48 to section 130.91 of the penal law.

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

51 18. "Juvenile offender" means (1) a person thirteen years old who is  
52 criminally responsible for acts constituting murder in the second degree  
53 as defined in subdivisions one and two of section 125.25 of this  
54 chapter; subdivisions one and two of section 130.35 (rape in the first  
55 degree); subdivisions one and two of section 130.50 (criminal sexual act  
56 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 as a sexually motivated felony, where authorized pursuant to section 130.91 of this chapter.

§ 5. Subdivision 8 of section 301.2 of the family court act, as amended by chapter 38 of the laws of 2022, is amended to read as follows:

8. "Designated felony act" means an act which, if done by an adult, would be a crime: (i) defined in sections 125.27 (murder in the first degree); 125.25 (murder in the second degree); 135.25 (kidnapping in the first degree); or 150.20 (arson in the first degree) of the penal law committed by a person thirteen, fourteen, fifteen, sixteen, or seventeen years of age; or such conduct committed as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (ii) defined in sections 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); 130.35 (rape in the first degree); 130.50 (criminal sexual act in the first degree); 130.66 (aggravated sexual abuse in the third degree); 130.67 (aggressive sexual abuse in the 2nd degree); 130.70 (aggravated sexual abuse in the first degree); 135.20 (kidnapping in the second degree) but only where the abduction involved the use or threat of use of deadly physical force; 150.15 (arson in the second degree) or 160.15 (robbery in the first degree) of the penal law committed by a person thirteen, fourteen, fifteen, sixteen, or seventeen years of age; or such conduct committed as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (iii) defined in the penal law as an attempt to commit murder in the first or second degree or kidnapping in the first degree committed by a person thirteen, fourteen, fifteen, sixteen, or seventeen years of age; or such conduct committed as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (iv) defined in section 140.30 (burglary in the first degree); subdivision one of section 140.25 (burglary in the second 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 committed by a person fourteen, fifteen, sixteen, or seventeen years of age; or such conduct committed as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (v) defined in section 120.05 (assault in the second degree) or 160.10 (robbery in the second degree) of the penal law committed by a person fourteen, fifteen, sixteen or seventeen years of age but only where there has been a prior finding by a court that such person has previously committed an act which, if committed by an adult, would be the crime of assault in the second degree, robbery in the second degree or any designated felony act specified in paragraph (i), (ii), or (iii) of this subdivision regardless of the age of such person at the time of the commission of the prior act; (vi) other than a misdemeanor committed by a person at least twelve but less than eighteen years of age, but only where there have been two prior findings by the court that such person has committed a prior act which, if committed by an adult, would be a felony.

§ 6. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.