

STATE OF NEW YORK

4450

2023-2024 Regular Sessions

IN ASSEMBLY

February 14, 2023

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

AN ACT to amend the penal law, the agriculture and markets law, the criminal procedure law, the civil practice law and rules, the domestic relations law, the education law, the executive law, the family court act, the general business law, the judiciary law, the labor law, the public health law, the social services law and the administrative code of the city of New York, in relation to replacing the word rape with the term sexual battery

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

1 Section 1. Section 130.25 of the penal law, as amended by chapter 1 of
2 the laws of 2000, is amended to read as follows:

3 § 130.25 [~~Rape~~] Sexual battery in the third degree.

4 A person is guilty of [~~rape~~] sexual battery in the third degree when:

5 1. He or she engages in sexual intercourse with another person who is
6 incapable of consent by reason of some factor other than being less than
7 seventeen years old;

8 2. Being twenty-one years old or more, he or she engages in sexual
9 intercourse with another person less than seventeen years old; or

10 3. He or she engages in sexual intercourse with another person without
11 such person's consent where such lack of consent is by reason of some
12 factor other than incapacity to consent.

13 [~~Rape~~] Sexual battery in the third degree is a class E felony.

14 § 2. Section 130.30 of the penal law, as amended by chapter 1 of the
15 laws of 2000, is amended to read as follows:

16 § 130.30 [~~Rape~~] Sexual battery in the second degree.

17 A person is guilty of [~~rape~~] sexual battery in the second degree when:

18 1. being eighteen years old or more, he or she engages in sexual
19 intercourse with another person less than fifteen years old; or

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

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1 2. he or she engages in sexual intercourse with another person who is
2 incapable of consent by reason of being mentally disabled or mentally
3 incapacitated.

4 It shall be an affirmative defense to the crime of [~~rape~~] sexual
5 battery in the second degree as defined in subdivision one of this
6 section that the defendant was less than four years older than the
7 victim at the time of the act.

8 [~~Rape~~] Sexual battery in the second degree is a class D felony.

9 § 3. Section 130.35 of the penal law, as amended by chapter 1 of the
10 laws of 2000, is amended to read as follows:

11 § 130.35 [~~Rape~~] Sexual battery in the first degree.

12 A person is guilty of [~~rape~~] sexual battery in the first degree when
13 he or she engages in sexual intercourse with another person:

14 1. By forcible compulsion; or

15 2. Who is incapable of consent by reason of being physically helpless;
16 or

17 3. Who is less than eleven years old; or

18 4. Who is less than thirteen years old and the actor is eighteen years
19 old or more.

20 [~~Rape~~] Sexual battery in the first degree is a class B felony.

21 § 4. Paragraph 2 of subdivision 18 of section 10.00 of the penal law,
22 as amended by chapter 7 of the laws of 2007, is amended to read as
23 follows:

24 (2) a person fourteen or fifteen years old who is criminally responsi-
25 ble for acts constituting the crimes defined in subdivisions one and two
26 of section 125.25 (murder in the second degree) and in subdivision three
27 of such section provided that the underlying crime for the murder charge
28 is one for which such person is criminally responsible; section 135.25
29 (kidnapping in the first degree); 150.20 (arson in the first degree);
30 subdivisions one and two of section 120.10 (assault in the first
31 degree); 125.20 (manslaughter in the first degree); subdivisions one and
32 two of section 130.35 [~~(rape)~~] (sexual battery in the first degree);
33 subdivisions one and two of section 130.50 (criminal sexual act in the
34 first degree); 130.70 (aggravated sexual abuse in the first degree);
35 140.30 (burglary in the first degree); subdivision one of section 140.25
36 (burglary in the second degree); 150.15 (arson in the second degree);
37 160.15 (robbery in the first degree); subdivision two of section 160.10
38 (robbery in the second degree) of this chapter; or section 265.03 of
39 this chapter, where such machine gun or such firearm is possessed on
40 school grounds, as that phrase is defined in subdivision fourteen of
41 section 220.00 of this chapter; or defined in this chapter as an attempt
42 to commit murder in the second degree or kidnapping in the first degree,
43 or such conduct as a sexually motivated felony, where authorized pursu-
44 ant to section 130.91 of [~~the penal law~~] this chapter.

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

48 2. A person thirteen, fourteen or, fifteen years of age is criminally
49 responsible for acts constituting murder in the second degree as defined
50 in subdivisions one and two of section 125.25 and in subdivision three
51 of such section provided that the underlying crime for the murder charge
52 is one for which such person is criminally responsible or for such
53 conduct as a sexually motivated felony, where authorized pursuant to
54 section 130.91 of this chapter; and a person fourteen or, fifteen years
55 of age is criminally responsible for acts constituting the crimes
56 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~~] (sexual battery in the first degree); subdivisions one and two of section 130.50 (criminal sexual act in the first 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.

§ 6. Paragraph (b) of subdivision 2 of section 35.15 of the penal law, as amended by chapter 511 of the laws of 2004, is amended to read as follows:

(b) He or she reasonably believes that such other person is committing or attempting to commit a kidnapping, forcible [~~rape~~] sexual battery, forcible criminal sexual act or robbery; or

§ 7. Paragraph (b) of subdivision 4 of section 35.30 of the penal law, as amended by chapter 264 of the laws of 2003, is amended to read as follows:

(b) Effect the arrest of a person who has committed murder, manslaughter in the first degree, robbery, forcible [~~rape~~] sexual battery or forcible criminal sexual act and who is in immediate flight therefrom.

§ 8. Paragraphs (a) and (c) of subdivision 1 of section 70.02 of the penal law, paragraph (a) as amended by chapter 189 of the laws of 2018 and paragraph (c) as amended by chapter 134 of the laws of 2019, are amended to read as follows:

(a) Class B violent felony offenses: an attempt to commit the class A-I felonies of murder in the second degree as defined in section 125.25, kidnapping in the first degree as defined in section 135.25, and arson in the first degree as defined in section 150.20; manslaughter in the first degree as defined in section 125.20, aggravated manslaughter in the first degree as defined in section 125.22, [~~rape~~] sexual battery in the first degree as defined in section 130.35, criminal sexual act in the first degree as defined in section 130.50, aggravated sexual abuse in the first degree as defined in section 130.70, course of sexual conduct against a child in the first degree as defined in section 130.75; assault in the first degree as defined in section 120.10, kidnapping in the second degree as defined in section 135.20, burglary in the first degree as defined in section 140.30, arson in the second degree as defined in section 150.15, robbery in the first degree as defined in section 160.15, sex trafficking as defined in paragraphs (a) and (b) of subdivision five of section 230.34, sex trafficking of a child as defined in section 230.34-a, incest in the first degree as defined in section 255.27, criminal possession of a weapon in the first degree as defined in section 265.04, criminal use of a firearm in the first degree as defined in section 265.09, criminal sale of a firearm in the first degree as defined in section 265.13, aggravated assault upon a police officer or a peace officer as defined in section 120.11, gang assault in the first degree as defined in section 120.07, intimidating a

1 victim or witness in the first degree as defined in section 215.17,
2 hindering prosecution of terrorism in the first degree as defined in
3 section 490.35, criminal possession of a chemical weapon or biological
4 weapon in the second degree as defined in section 490.40, and criminal
5 use of a chemical weapon or biological weapon in the third degree as
6 defined in section 490.47.

7 (c) Class D violent felony offenses: an attempt to commit any of the
8 class C felonies set forth in paragraph (b); reckless assault of a child
9 as defined in section 120.02, assault in the second degree as defined in
10 section 120.05, menacing a police officer or peace officer as defined in
11 section 120.18, stalking in the first degree, as defined in subdivision
12 one of section 120.60, strangulation in the second degree as defined in
13 section 121.12, [~~rape~~ sexual battery in the second degree as defined in
14 section 130.30, criminal sexual act in the second degree as defined in
15 section 130.45, sexual abuse in the first degree as defined in section
16 130.65, course of sexual conduct against a child in the second degree as
17 defined in section 130.80, aggravated sexual abuse in the third degree
18 as defined in section 130.66, facilitating a sex offense with a
19 controlled substance as defined in section 130.90, labor trafficking as
20 defined in paragraphs (a) and (b) of subdivision three of section
21 135.35, criminal possession of a weapon in the third degree as defined
22 in subdivision five, six, seven, eight, nine or ten of section 265.02,
23 criminal sale of a firearm in the third degree as defined in section
24 265.11, intimidating a victim or witness in the second degree as defined
25 in section 215.16, soliciting or providing support for an act of terror-
26 ism in the second degree as defined in section 490.10, and making a
27 terroristic threat as defined in section 490.20, falsely reporting an
28 incident in the first degree as defined in section 240.60, placing a
29 false bomb or hazardous substance in the first degree as defined in
30 section 240.62, placing a false bomb or hazardous substance in a sports
31 stadium or arena, mass transportation facility or enclosed shopping mall
32 as defined in section 240.63, aggravated unpermitted use of indoor pyro-
33 technics in the first degree as defined in section 405.18, and criminal
34 manufacture, sale, or transport of an undetectable firearm, rifle or
35 shotgun as defined in section 265.50.

36 § 9. The opening paragraph of subdivision 3 and subdivision 5 of
37 section 125.25 of the penal law, the opening paragraph of subdivision 3
38 as amended by chapter 264 of the laws of 2003 and subdivision 5 as
39 amended by chapter 320 of the laws of 2006, are amended to read as
40 follows:

41 Acting either alone or with one or more other persons, he commits or
42 attempts to commit robbery, burglary, kidnapping, arson, [~~rape~~ sexual
43 battery in the first degree, criminal sexual act in the first degree,
44 sexual abuse in the first degree, aggravated sexual abuse, escape in the
45 first degree, or escape in the second degree, and, in the course of and
46 in furtherance of such crime or of immediate flight therefrom, he, or
47 another participant, if there be any, causes the death of a person other
48 than one of the participants; except that in any prosecution under this
49 subdivision, in which the defendant was not the only participant in the
50 underlying crime, it is an affirmative defense that the defendant:

51 5. Being eighteen years old or more, while in the course of committing
52 [~~rape~~ sexual battery in the first, second or third degree, criminal
53 sexual act in the first, second or third degree, sexual abuse in the
54 first degree, aggravated sexual abuse in the first, second, third or
55 fourth degree, or incest in the first, second or third degree, against a

1 person less than fourteen years old, he or she intentionally causes the
2 death of such person.

3 § 10. Subparagraph (vii) of paragraph (a) of subdivision 1 of section
4 125.27 of the penal law, as amended by chapter 264 of the laws of 2003,
5 is amended to read as follows:

6 (vii) the victim was killed while the defendant was in the course of
7 committing or attempting to commit and in furtherance of robbery,
8 burglary in the first degree or second degree, kidnapping in the first
9 degree, arson in the first degree or second degree, [~~rape~~] sexual
10 battery in the first degree, criminal sexual act in the first degree,
11 sexual abuse in the first degree, aggravated sexual abuse in the first
12 degree or escape in the first degree, or in the course of and further-
13 ance of immediate flight after committing or attempting to commit any
14 such crime or in the course of and furtherance of immediate flight after
15 attempting to commit the crime of murder in the second degree; provided
16 however, the victim is not a participant in one of the aforementioned
17 crimes and, provided further that, unless the defendant's criminal
18 liability under this subparagraph is based upon the defendant having
19 commanded another person to cause the death of the victim or intended
20 victim pursuant to section 20.00 of this chapter, this subparagraph
21 shall not apply where the defendant's criminal liability is based upon
22 the conduct of another pursuant to section 20.00 of this chapter; or

23 § 11. Paragraph (d) of subdivision 2 and paragraph (h) of subdivision
24 3 of section 130.05 of the penal law, paragraph (d) of subdivision 2 as
25 amended by chapter 40 of the laws of 2004 and paragraph (h) of subdivi-
26 sion 3 as amended by section 2 of part G of chapter 501 of the laws of
27 2012, are amended to read as follows:

28 (d) Where the offense charged is [~~rape~~] sexual battery in the third
29 degree as defined in subdivision three of section 130.25, or criminal
30 sexual act in the third degree as defined in subdivision three of
31 section 130.40, in addition to forcible compulsion, circumstances under
32 which, at the time of the act of intercourse, oral sexual conduct or
33 anal sexual conduct, the victim clearly expressed that he or she did not
34 consent to engage in such act, and a reasonable person in the actor's
35 situation would have understood such person's words and acts as an
36 expression of lack of consent to such act under all the circumstances.

37 (h) a client or patient and the actor is a health care provider or
38 mental health care provider charged with [~~rape~~] sexual battery in the
39 third degree as defined in section 130.25, criminal sexual act in the
40 third degree as defined in section 130.40, aggravated sexual abuse in
41 the fourth degree as defined in section 130.65-a, or sexual abuse in the
42 third degree as defined in section 130.55, and the act of sexual conduct
43 occurs during a treatment session, consultation, interview, or examina-
44 tion; or

45 § 12. Subdivision 3 of section 130.10 of the penal law, as amended by
46 chapter 264 of the laws of 2003, is amended to read as follows:

47 3. In any prosecution for the crime of [~~rape~~] sexual battery in the
48 third degree as defined in section 130.25, criminal sexual act in the
49 third degree as defined in section 130.40, aggravated sexual abuse in
50 the fourth degree as defined in section 130.65-a, or sexual abuse in the
51 third degree as defined in section 130.55 in which incapacity to consent
52 is based on the circumstances set forth in paragraph (h) of subdivision
53 three of section 130.05 of this article it shall be an affirmative
54 defense that the client or patient consented to such conduct charged
55 after having been expressly advised by the health care or mental health

1 care provider that such conduct was not performed for a valid medical
2 purpose.

3 § 13. The opening paragraph and subdivision 2 of section 130.95 of the
4 penal law, as added by chapter 107 of the laws of 2006, are amended to
5 read as follows:

6 A person is guilty of predatory sexual assault when he or she commits
7 the crime of [~~rape~~] sexual battery in the first degree, criminal sexual
8 act in the first degree, aggravated sexual abuse in the first degree, or
9 course of sexual conduct against a child in the first degree, as defined
10 in this article, and when:

11 2. He or she has engaged in conduct constituting the crime of [~~rape~~]
12 sexual battery in the first degree, criminal sexual act in the first
13 degree, aggravated sexual abuse in the first degree, or course of sexual
14 conduct against a child in the first degree, as defined in this article,
15 against one or more additional persons; or

16 § 14. Section 130.96 of the penal law, as added by chapter 107 of the
17 laws of 2006, is amended to read as follows:

18 § 130.96 Predatory sexual assault against a child.

19 A person is guilty of predatory sexual assault against a child when,
20 being eighteen years old or more, he or she commits the crime of [~~rape~~]
21 sexual battery in the first degree, criminal sexual act in the first
22 degree, aggravated sexual abuse in the first degree, or course of sexual
23 conduct against a child in the first degree, as defined in this article,
24 and the victim is less than thirteen years old.

25 Predatory sexual assault against a child is a class A-II felony.

26 § 15. Subdivision 2 of section 240.75 of the penal law, as amended by
27 section 8 of part NN of chapter 55 of the laws of 2018, is amended to
28 read as follows:

29 2. A "specified offense" is an offense defined in section 120.00
30 (assault in the third degree); section 120.05 (assault in the second
31 degree); section 120.10 (assault in the first degree); section 120.13
32 (menacing in the first degree); section 120.14 (menacing in the second
33 degree); section 120.15 (menacing in the third degree); section 120.20
34 (reckless endangerment in the second degree); section 120.25 (reckless
35 endangerment in the first degree); section 120.45 (stalking in the
36 fourth degree); section 120.50 (stalking in the third degree); section
37 120.55 (stalking in the second degree); section 120.60 (stalking in the
38 first degree); section 121.11 (criminal obstruction of breathing or
39 blood circulation); section 121.12 (strangulation in the second degree);
40 section 121.13 (strangulation in the first degree); subdivision one of
41 section 125.15 (manslaughter in the second degree); subdivision one, two
42 or four of section 125.20 (manslaughter in the first degree); section
43 125.25 (murder in the second degree); section 130.20 (sexual miscon-
44 duct); section 130.30 [~~rape~~] (sexual battery in the second degree);
45 section 130.35 [~~rape~~] (sexual battery in the first degree); section
46 130.40 (criminal sexual act in the third degree); section 130.45 (crimi-
47 nal sexual act in the second degree); section 130.50 (criminal sexual
48 act in the first degree); section 130.52 (forcible touching); section
49 130.53 (persistent sexual abuse); section 130.55 (sexual abuse in the
50 third degree); section 130.60 (sexual abuse in the second degree);
51 section 130.65 (sexual abuse in the first degree); section 130.66
52 (aggravated sexual abuse in the third degree); section 130.67 (aggra-
53 vated sexual abuse in the second degree); section 130.70 (aggravated
54 sexual abuse in the first degree); section 130.91 (sexually motivated
55 felony); section 130.95 (predatory sexual assault); section 130.96
56 (predatory sexual assault against a child); section 135.05 (unlawful

imprisonment in the second degree); section 135.10 (unlawful imprisonment in the first degree); section 135.60 (coercion in the third degree); section 135.61 (coercion in the second degree); section 135.65 (coercion in the first degree); section 140.20 (burglary in the third degree); section 140.25 (burglary in the second degree); section 140.30 (burglary in the first degree); section 145.00 (criminal mischief in the fourth degree); section 145.05 (criminal mischief in the third degree); section 145.10 (criminal mischief in the second degree); section 145.12 (criminal mischief in the first degree); section 145.14 (criminal tampering in the third degree); section 215.50 (criminal contempt in the second degree); section 215.51 (criminal contempt in the first degree); section 215.52 (aggravated criminal contempt); section 240.25 (harassment in the first degree); subdivision one, two or four of section 240.30 (aggravated harassment in the second degree); aggravated family offense as defined in this section or any attempt or conspiracy to commit any of the foregoing offenses where the defendant and the person against whom the offense was committed were members of the same family or household as defined in subdivision one of section 530.11 of the criminal procedure law.

§ 16. Section 255.26 of the penal law, as added by chapter 320 of the laws of 2006, is amended to read as follows:

§ 255.26 Incest in the second degree.

A person is guilty of incest in the second degree when he or she commits the crime of [~~rape~~] sexual battery in the second degree, as defined in section 130.30 of this part, or criminal sexual act in the second degree, as defined in section 130.45 of this part, against a person whom he or she knows to be related to him or her, whether through marriage or not, as an ancestor, descendant, brother or sister of either the whole or the half blood, uncle, aunt, nephew or niece.

Incest in the second degree is a class D felony.

§ 17. Section 255.27 of the penal law, as added by chapter 320 of the laws of 2006, is amended to read as follows:

§ 255.27 Incest in the first degree.

A person is guilty of incest in the first degree when he or she commits the crime of [~~rape~~] sexual battery in the first degree, as defined in subdivision three or four of section 130.35 of this part, or criminal sexual act in the first degree, as defined in subdivision three or four of section 130.50 of this part, against a person whom he or she knows to be related to him or her, whether through marriage or not, as an ancestor, descendant, brother or sister of either the whole or half blood, uncle, aunt, nephew or niece.

Incest in the first degree is a class B felony.

§ 18. Paragraph (a) of subdivision 1 of section 460.10 of the penal law, as amended by chapter 134 of the laws of 2019, is amended to read as follows:

(a) Any of the felonies set forth in this chapter: sections 120.05, 120.10 and 120.11 relating to assault; sections 121.12 and 121.13 relating to strangulation; sections 125.10 to 125.27 relating to homicide; sections 130.25, 130.30 and 130.35 relating to [~~rape~~] sexual battery; sections 135.20 and 135.25 relating to kidnapping; sections 135.35 and 135.37 relating to labor trafficking; section 135.65 relating to coercion; sections 140.20, 140.25 and 140.30 relating to burglary; sections 145.05, 145.10 and 145.12 relating to criminal mischief; article one hundred fifty relating to arson; sections 155.30, 155.35, 155.40 and 155.42 relating to grand larceny; sections 177.10, 177.15, 177.20 and 177.25 relating to health care fraud; article one hundred sixty relating

1 to robbery; sections 165.45, 165.50, 165.52 and 165.54 relating to crim-
2 inal possession of stolen property; sections 165.72 and 165.73 relating
3 to trademark counterfeiting; sections 170.10, 170.15, 170.25, 170.30,
4 170.40, 170.65 and 170.70 relating to forgery; sections 175.10, 175.25,
5 175.35, 175.40 and 210.40 relating to false statements; sections 176.15,
6 176.20, 176.25 and 176.30 relating to insurance fraud; sections 178.20
7 and 178.25 relating to criminal diversion of prescription medications
8 and prescriptions; sections 180.03, 180.08, 180.15, 180.25, 180.40,
9 180.45, 200.00, 200.03, 200.04, 200.10, 200.11, 200.12, 200.20, 200.22,
10 200.25, 200.27, 200.56, 215.00, 215.05 and 215.19 relating to bribery;
11 sections 187.10, 187.15, 187.20 and 187.25 relating to residential mort-
12 gage fraud, sections 190.40 and 190.42 relating to criminal usury;
13 section 190.65 relating to schemes to defraud; any felony defined in
14 article four hundred ninety-six; sections 205.60 and 205.65 relating to
15 hindering prosecution; sections 210.10, 210.15, and 215.51 relating to
16 perjury and contempt; section 215.40 relating to tampering with physical
17 evidence; sections 220.06, 220.09, 220.16, 220.18, 220.21, 220.31,
18 220.34, 220.39, 220.41, 220.43, 220.46, 220.55, 220.60, 220.65 and
19 220.77 relating to controlled substances; sections 225.10 and 225.20
20 relating to gambling; sections 230.25, 230.30, and 230.32 relating to
21 promoting prostitution; section 230.34 relating to sex trafficking;
22 section 230.34-a relating to sex trafficking of a child; sections
23 235.06, 235.07, 235.21 and 235.22 relating to obscenity; sections 263.10
24 and 263.15 relating to promoting a sexual performance by a child;
25 sections 265.02, 265.03, 265.04, 265.11, 265.12, 265.13 and the
26 provisions of section 265.10 which constitute a felony relating to
27 firearms and other dangerous weapons; sections 265.14 and 265.16 relat-
28 ing to criminal sale of a firearm; section 265.50 relating to the crimi-
29 nal manufacture, sale or transport of an undetectable firearm, rifle or
30 shotgun; section 275.10, 275.20, 275.30, or 275.40 relating to unauthor-
31 ized recordings; and sections 470.05, 470.10, 470.15 and 470.20 relating
32 to money laundering; or

33 § 19. Subdivision 3 of section 485.05 of the penal law, as amended by
34 section 3 of part R of chapter 55 of the laws of 2020, is amended to
35 read as follows:

36 3. A "specified offense" is an offense defined by any of the following
37 provisions of this chapter: section 120.00 (assault in the third
38 degree); section 120.05 (assault in the second degree); section 120.10
39 (assault in the first degree); section 120.12 (aggravated assault upon a
40 person less than eleven years old); section 120.13 (menacing in the
41 first degree); section 120.14 (menacing in the second degree); section
42 120.15 (menacing in the third degree); section 120.20 (reckless endan-
43 germent in the second degree); section 120.25 (reckless endangerment in
44 the first degree); section 121.12 (strangulation in the second degree);
45 section 121.13 (strangulation in the first degree); subdivision one of
46 section 125.15 (manslaughter in the second degree); subdivision one, two
47 or four of section 125.20 (manslaughter in the first degree); section
48 125.25 (murder in the second degree); section 120.45 (stalking in the
49 fourth degree); section 120.50 (stalking in the third degree); section
50 120.55 (stalking in the second degree); section 120.60 (stalking in the
51 first degree); subdivision one of section 130.35 [~~rape~~] (sexual battery
52 in the first degree); subdivision one of section 130.50 (criminal sexual
53 act in the first degree); subdivision one of section 130.65 (sexual
54 abuse in the first degree); paragraph (a) of subdivision one of section
55 130.67 (aggravated sexual abuse in the second degree); paragraph (a) of
56 subdivision one of section 130.70 (aggravated sexual abuse in the first

degree); section 135.05 (unlawful imprisonment in the second degree); section 135.10 (unlawful imprisonment in the first degree); section 135.20 (kidnapping in the second degree); section 135.25 (kidnapping in the first degree); section 135.60 (coercion in the third degree); section 135.61 (coercion in the second degree); section 135.65 (coercion in the first degree); section 140.10 (criminal trespass in the third degree); section 140.15 (criminal trespass in the second degree); section 140.17 (criminal trespass in the first degree); section 140.20 (burglary in the third degree); section 140.25 (burglary in the second degree); section 140.30 (burglary in the first degree); section 145.00 (criminal mischief in the fourth degree); section 145.05 (criminal mischief in the third degree); section 145.10 (criminal mischief in the second degree); section 145.12 (criminal mischief in the first degree); section 150.05 (arson in the fourth degree); section 150.10 (arson in the third degree); section 150.15 (arson in the second degree); section 150.20 (arson in the first degree); section 155.25 (petit larceny); section 155.30 (grand larceny in the fourth degree); section 155.35 (grand larceny in the third degree); section 155.40 (grand larceny in the second degree); section 155.42 (grand larceny in the first degree); section 160.05 (robbery in the third degree); section 160.10 (robbery in the second degree); section 160.15 (robbery in the first degree); section 240.25 (harassment in the first degree); subdivision one, two or four of section 240.30 (aggravated harassment in the second degree); section 490.10 (soliciting or providing support for an act of terrorism in the second degree); section 490.15 (soliciting or providing support for an act of terrorism in the first degree); section 490.20 (making a terroristic threat); section 490.25 (crime of terrorism); section 490.30 (hindering prosecution of terrorism in the second degree); section 490.35 (hindering prosecution of terrorism in the first degree); section 490.37 (criminal possession of a chemical weapon or biological weapon in the third degree); section 490.40 (criminal possession of a chemical weapon or biological weapon in the second degree); section 490.45 (criminal possession of a chemical weapon or biological weapon in the first degree); section 490.47 (criminal use of a chemical weapon or biological weapon in the third degree); section 490.50 (criminal use of a chemical weapon or biological weapon in the second degree); section 490.55 (criminal use of a chemical weapon or biological weapon in the first degree); or any attempt or conspiracy to commit any of the foregoing offenses.

§ 20. Subdivision 11 of section 123 of the agriculture and markets law, as amended by chapter 392 of the laws of 2004 and such section as renumbered by section 18 of part T of chapter 59 of the laws of 2010, is amended to read as follows:

11. The owner shall not be liable pursuant to subdivision six, seven, eight, nine or ten of this section if the dog was coming to the aid or defense of a person during the commission or attempted commission of a murder, robbery, burglary, arson, ~~rape~~ sexual battery in the first degree as defined in subdivision one or two of section 130.35 of the penal law, criminal sexual act in the first degree as defined in subdivision one or two of section 130.50 of the penal law or kidnapping within the dwelling or upon the real property of the owner of the dog and the dog injured or killed the person committing such criminal activity.

§ 21. 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, 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~~] (sexual battery in the first degree); subdivisions one and two of section 130.50 (criminal sexual act in the first 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; 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.

§ 22. Paragraphs (a), (a-1) and (a-2) of subdivision 2 of section 30.10 of the criminal procedure law, paragraph (a) as amended and paragraphs (a-1) and (a-2) as added by chapter 315 of the laws of 2019, are amended to read as follows:

(a) A prosecution for a class A felony, or [~~rape~~] sexual battery in the first degree as defined in section 130.35 of the penal law, or a crime defined or formerly defined in section 130.50 of the penal law, or aggravated sexual abuse in the first degree as defined in section 130.70 of the penal law, or course of sexual conduct against a child in the first degree as defined in section 130.75 of the penal law, or incest in the first degree as defined in section 255.27 of the penal law may be commenced at any time;

(a-1) A prosecution for [~~rape~~] sexual battery in the second degree as defined in subdivision two of section 130.30 of the penal law, or criminal sexual act in the second degree as defined in subdivision two of section 130.45 of the penal law, or incest in the second degree as defined in section 255.26 of the penal law (where the crime committed is [~~rape~~] sexual battery in the second degree as defined in subdivision two of section 130.30 of the penal law or criminal sexual act in the second degree as defined in subdivision two of section 130.45) must be commenced within twenty years after the commission thereof or within ten years from when the offense is first reported to law enforcement, whichever occurs earlier;

(a-2) A prosecution for [~~rape~~] sexual battery in the third degree as defined in subdivision one or three of section 130.25 of the penal law, or criminal sexual act in the third degree as defined in subdivision one or three of section 130.40 of the penal law must be commenced within ten years after the commission thereof;

§ 23. The section heading of section 60.76 of the criminal procedure law, as added by chapter 432 of the laws of 1993, is amended to read as follows:

Rules of evidence; [~~rape~~] sexual battery crisis counselor evidence in certain cases.

§ 24. Paragraph (h) of subdivision 3 of section 190.25 of the criminal procedure law, as amended by chapter 347 of the laws of 2014, is amended to read as follows:

(h) A social worker, [~~rape~~] sexual battery crisis counselor, psychologist or other professional providing emotional support to a child witness twelve years old or younger, or a social worker or informal caregiver, as provided in subdivision two of section two hundred six of the elder law, for a vulnerable elderly person as provided in subdivision three of section 260.31 of the penal law, who is called to give evidence in a grand jury proceeding concerning a crime defined in article one hundred twenty-one, article one hundred thirty, article two hundred sixty, section 120.10, 125.10, 125.15, 125.20, 125.25, 125.26, 125.27, 255.25, 255.26 or 255.27 of the penal law provided that the district attorney consents. Such support person shall not provide the witness with an answer to any question or otherwise participate in such proceeding and shall first take an oath before the grand jury that he or she will keep secret all matters before such grand jury within his or her knowledge.

§ 25. Paragraph (c) of subdivision 5 of section 190.32 of the criminal procedure law, as amended by chapter 91 of the laws of 1995, is amended to read as follows:

(c) A social worker, [~~rape~~] sexual battery crisis counselor, psychologist or other professional providing emotional support to a child witness or to a special witness, as defined in subparagraph (ii) of paragraph (b) of subdivision one of this section, or any of those persons enumerated in paragraphs (a), (b), (c), (d), (e), (f) and (g) of subdivision three of section 190.25 may be present during the videotaping except that a doctor, nurse or other medical assistant also may be present if required by the attendant circumstances. Each person present, except the witness, must, if he has not previously taken a constitutional oath of office or an oath that he will keep secret all matters before a grand jury, must take an oath on the record that he will keep secret the videotaped examination.

§ 26. 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) 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~~] (sexual battery in the first degree); subdivisions one and two of section 130.50 (criminal sexual act in the first 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.

§ 27. Subparagraph (iii) of paragraph (g) of subdivision 5 of section 220.10 of the criminal procedure law, as amended by chapter 264 of the laws of 2003, is amended to read as follows:

(iii) Where the indictment does not charge a crime specified in subparagraph (i) of this paragraph, the district attorney may recommend removal of the action to the family court. Upon making such recommendation the district attorney shall submit a subscribed memorandum setting forth: (1) a recommendation that the interests of justice would best be served by removal of the action to the family court; and (2) if the indictment charges a thirteen year old with the crime of murder in the second degree, or a fourteen or fifteen year old with the crimes of ~~rape~~ sexual battery in the first degree as defined in subdivision one of section 130.35 of the penal law, or criminal sexual act in the first degree as defined in subdivision one of section 130.50 of the penal law, or an armed felony as defined in paragraph (a) of subdivision forty-one of section 1.20 of this chapter specific factors, one or more of which reasonably supports the recommendation, showing, (i) mitigating circumstances that bear directly upon the manner in which the crime was committed, or (ii) where the defendant was not the sole participant in the crime, that the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution, or (iii) possible deficiencies in proof of the crime, or (iv) where the juvenile offender has no previous adjudications of having committed a designated felony act, as defined in subdivision eight of section 301.2 of the family court act, regardless of the age of the offender at the time of commission of the act, that the criminal act was not part of a pattern of criminal behavior and, in view of the history of the offender, is not likely to be repeated.

§ 28. Subdivision 6 of section 300.50 of the criminal procedure law, as amended by chapter 264 of the laws of 2003, is amended to read as follows:

6. For purposes of this section, the offenses of ~~rape~~ sexual battery in the third degree as defined in subdivision three of section 130.25 of the penal law and criminal sexual act in the third degree as defined in subdivision three of section 130.40 of the penal law, are not lesser included offenses of ~~rape~~ sexual battery in the first degree, criminal sexual act in the first degree or any other offense. Notwithstanding the foregoing, either such offense may be submitted as a lesser included offense of the applicable first degree offense when (i) there is a reasonable view of the evidence which would support a finding that the defendant committed such lesser offense but did not commit the greater offense, and (ii) both parties consent to its submission.

§ 29. Paragraph (c) of subdivision 2 of section 440.47 of the criminal procedure law, as added by chapter 31 of the laws of 2019, is amended to read as follows:

(c) An application for resentencing pursuant to this section must include at least two pieces of evidence corroborating the applicant's

1 claim that he or she was, at the time of the offense, a victim of domes-
2 tic violence subjected to substantial physical, sexual or psychological
3 abuse inflicted by a member of the same family or household as the
4 applicant as such term is defined in subdivision one of section 530.11
5 of this chapter.

6 At least one piece of evidence must be either a court record, pre-sen-
7 tence report, social services record, hospital record, sworn statement
8 from a witness to the domestic violence, law enforcement record, domes-
9 tic incident report, or order of protection. Other evidence may include,
10 but shall not be limited to, local and state department of corrections
11 and community supervision records, a showing based in part on documenta-
12 tion prepared at or near the time of the commission of the offense or
13 the prosecution thereof tending to support the person's claim, or when
14 there is verification of consultation with a licensed medical or mental
15 health care provider, employee of a court acting within the scope of his
16 or her employment, member of the clergy, attorney, social worker, or
17 [~~rape~~] sexual battery crisis counselor as defined in section forty-five
18 hundred ten of the civil practice law and rules, or other advocate
19 acting on behalf of an agency that assists victims of domestic violence
20 for the purpose of assisting such person with domestic violence victim
21 counseling or support.

22 § 30. Paragraph (b) of subdivision 8 of section 700.05 of the criminal
23 procedure law, as amended by chapter 134 of the laws of 2019, is amended
24 to read as follows:

25 (b) Any of the following felonies: assault in the second degree as
26 defined in section 120.05 of the penal law, assault in the first degree
27 as defined in section 120.10 of the penal law, reckless endangerment in
28 the first degree as defined in section 120.25 of the penal law, promot-
29 ing a suicide attempt as defined in section 120.30 of the penal law,
30 strangulation in the second degree as defined in section 121.12 of the
31 penal law, strangulation in the first degree as defined in section
32 121.13 of the penal law, criminally negligent homicide as defined in
33 section 125.10 of the penal law, manslaughter in the second degree as
34 defined in section 125.15 of the penal law, manslaughter in the first
35 degree as defined in section 125.20 of the penal law, murder in the
36 second degree as defined in section 125.25 of the penal law, murder in
37 the first degree as defined in section 125.27 of the penal law, [~~rape~~]
38 sexual battery in the third degree as defined in section 130.25 of the
39 penal law, [~~rape~~] sexual battery in the second degree as defined in
40 section 130.30 of the penal law, [~~rape~~] sexual battery in the first
41 degree as defined in section 130.35 of the penal law, criminal sexual
42 act in the third degree as defined in section 130.40 of the penal law,
43 criminal sexual act in the second degree as defined in section 130.45 of
44 the penal law, criminal sexual act in the first degree as defined in
45 section 130.50 of the penal law, sexual abuse in the first degree as
46 defined in section 130.65 of the penal law, unlawful imprisonment in the
47 first degree as defined in section 135.10 of the penal law, kidnapping
48 in the second degree as defined in section 135.20 of the penal law,
49 kidnapping in the first degree as defined in section 135.25 of the penal
50 law, labor trafficking as defined in section 135.35 of the penal law,
51 aggravated labor trafficking as defined in section 135.37 of the penal
52 law, custodial interference in the first degree as defined in section
53 135.50 of the penal law, coercion in the first degree as defined in
54 section 135.65 of the penal law, criminal trespass in the first degree
55 as defined in section 140.17 of the penal law, burglary in the third
56 degree as defined in section 140.20 of the penal law, burglary in the

1 second degree as defined in section 140.25 of the penal law, burglary in
2 the first degree as defined in section 140.30 of the penal law, criminal
3 mischief in the third degree as defined in section 145.05 of the penal
4 law, criminal mischief in the second degree as defined in section 145.10
5 of the penal law, criminal mischief in the first degree as defined in
6 section 145.12 of the penal law, criminal tampering in the first degree
7 as defined in section 145.20 of the penal law, arson in the fourth
8 degree as defined in section 150.05 of the penal law, arson in the third
9 degree as defined in section 150.10 of the penal law, arson in the
10 second degree as defined in section 150.15 of the penal law, arson in
11 the first degree as defined in section 150.20 of the penal law, grand
12 larceny in the fourth degree as defined in section 155.30 of the penal
13 law, grand larceny in the third degree as defined in section 155.35 of
14 the penal law, grand larceny in the second degree as defined in section
15 155.40 of the penal law, grand larceny in the first degree as defined in
16 section 155.42 of the penal law, health care fraud in the fourth degree
17 as defined in section 177.10 of the penal law, health care fraud in the
18 third degree as defined in section 177.15 of the penal law, health care
19 fraud in the second degree as defined in section 177.20 of the penal
20 law, health care fraud in the first degree as defined in section 177.25
21 of the penal law, robbery in the third degree as defined in section
22 160.05 of the penal law, robbery in the second degree as defined in
23 section 160.10 of the penal law, robbery in the first degree as defined
24 in section 160.15 of the penal law, unlawful use of secret scientific
25 material as defined in section 165.07 of the penal law, criminal
26 possession of stolen property in the fourth degree as defined in section
27 165.45 of the penal law, criminal possession of stolen property in the
28 third degree as defined in section 165.50 of the penal law, criminal
29 possession of stolen property in the second degree as defined by section
30 165.52 of the penal law, criminal possession of stolen property in the
31 first degree as defined by section 165.54 of the penal law, trademark
32 counterfeiting in the second degree as defined in section 165.72 of the
33 penal law, trademark counterfeiting in the first degree as defined in
34 section 165.73 of the penal law, forgery in the second degree as defined
35 in section 170.10 of the penal law, forgery in the first degree as
36 defined in section 170.15 of the penal law, criminal possession of a
37 forged instrument in the second degree as defined in section 170.25 of
38 the penal law, criminal possession of a forged instrument in the first
39 degree as defined in section 170.30 of the penal law, criminal
40 possession of forgery devices as defined in section 170.40 of the penal
41 law, falsifying business records in the first degree as defined in
42 section 175.10 of the penal law, tampering with public records in the
43 first degree as defined in section 175.25 of the penal law, offering a
44 false instrument for filing in the first degree as defined in section
45 175.35 of the penal law, issuing a false certificate as defined in
46 section 175.40 of the penal law, criminal diversion of prescription
47 medications and prescriptions in the second degree as defined in section
48 178.20 of the penal law, criminal diversion of prescription medications
49 and prescriptions in the first degree as defined in section 178.25 of
50 the penal law, residential mortgage fraud in the fourth degree as
51 defined in section 187.10 of the penal law, residential mortgage fraud
52 in the third degree as defined in section 187.15 of the penal law, resi-
53 dential mortgage fraud in the second degree as defined in section 187.20
54 of the penal law, residential mortgage fraud in the first degree as
55 defined in section 187.25 of the penal law, escape in the second degree
56 as defined in section 205.10 of the penal law, escape in the first

1 degree as defined in section 205.15 of the penal law, absconding from
2 temporary release in the first degree as defined in section 205.17 of
3 the penal law, promoting prison contraband in the first degree as
4 defined in section 205.25 of the penal law, hindering prosecution in the
5 second degree as defined in section 205.60 of the penal law, hindering
6 prosecution in the first degree as defined in section 205.65 of the
7 penal law, sex trafficking as defined in section 230.34 of the penal
8 law, sex trafficking of a child as defined in section 230.34-a of the
9 penal law, criminal possession of a weapon in the third degree as
10 defined in subdivisions two, three and five of section 265.02 of the
11 penal law, criminal possession of a weapon in the second degree as
12 defined in section 265.03 of the penal law, criminal possession of a
13 weapon in the first degree as defined in section 265.04 of the penal
14 law, manufacture, transport, disposition and defacement of weapons and
15 dangerous instruments and appliances defined as felonies in subdivisions
16 one, two, and three of section 265.10 of the penal law, sections 265.11,
17 265.12 and 265.13 of the penal law, or prohibited use of weapons as
18 defined in subdivision two of section 265.35 of the penal law, relating
19 to firearms and other dangerous weapons, criminal manufacture, sale or
20 transport of an undetectable firearm, rifle or shotgun as defined in
21 section 265.50 of the penal law, or failure to disclose the origin of a
22 recording in the first degree as defined in section 275.40 of the penal
23 law;

24 § 31. Paragraph (a) of subdivision 2 and subdivision 3 of section
25 720.10 of the criminal procedure law, paragraph (a) of subdivision 2 as
26 amended by chapter 316 of the laws of 2006 and subdivision 3 as amended
27 by chapter 264 of the laws of 2003, are amended to read as follows:

28 (a) the conviction to be replaced by a youthful offender finding is
29 for (i) a class A-I or class A-II felony, or (ii) an armed felony as
30 defined in subdivision forty-one of section 1.20, except as provided in
31 subdivision three, or (iii) ~~rape~~ sexual battery in the first degree,
32 criminal sexual act in the first degree, or aggravated sexual abuse,
33 except as provided in subdivision three, or

34 3. Notwithstanding the provisions of subdivision two, a youth who has
35 been convicted of an armed felony offense or of ~~rape~~ sexual battery in
36 the first degree, criminal sexual act in the first degree, or aggravated
37 sexual abuse is an eligible youth if the court determines that one or
38 more of the following factors exist: (i) mitigating circumstances that
39 bear directly upon the manner in which the crime was committed; or (ii)
40 where the defendant was not the sole participant in the crime, the
41 defendant's participation was relatively minor although not so minor as
42 to constitute a defense to the prosecution. Where the court determines
43 that the eligible youth is a youthful offender, the court shall make a
44 statement on the record of the reasons for its determination, a tran-
45 script of which shall be forwarded to the state division of criminal
46 justice services, to be kept in accordance with the provisions of subdi-
47 vision three of section eight hundred thirty-seven-a of the executive
48 law.

49 § 32. Subdivision 4 of section 722.20 of the criminal procedure law,
50 as added by section 1-a of part WWW of chapter 59 of the laws of 2017,
51 is amended to read as follows:

52 4. Notwithstanding the provisions of subdivisions two and three of
53 this section, the court shall, at the request of the district attorney,
54 order removal of an action against a juvenile offender to the family
55 court pursuant to the provisions of article seven hundred twenty-five of
56 this title if, upon consideration of the criteria specified in subdivi-

sion two of section 722.22 of this article, it is determined that to do so would be in the interests of justice. Where, however, the felony complaint charges the juvenile offender with murder in the second degree as defined in section 125.25 of the penal law, ~~[rape]~~ sexual battery in the first degree as defined in subdivision one of section 130.35 of the penal law, criminal sexual act in the first degree as defined in subdivision one of section 130.50 of the penal law, or an armed felony as defined in paragraph (a) of subdivision forty-one of section 1.20 of this chapter, a determination that such action be removed to the family court shall, in addition, be based upon a finding of one or more of the following factors: (i) mitigating circumstances that bear directly upon the manner in which the crime was committed; or (ii) where the defendant was not the sole participant in the crime, the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution; or (iii) possible deficiencies in proof of the crime.

§ 33. Subdivision 5 of section 722.21 of the criminal procedure law, as added by section 1-a of part WWW of chapter 59 of the laws of 2017, is amended to read as follows:

5. Notwithstanding subdivisions two and three of this section, at the request of the district attorney, the court shall order removal of an action against an adolescent offender charged with an offense listed in paragraph (a) of subdivision two of section 722.23 of this article, to the family court pursuant to the provisions of article seven hundred twenty-five of this title and upon consideration of the criteria specified in subdivision two of section 722.22 of this article, it is determined that to do so would be in the interests of justice. Where, however, the felony complaint charges the adolescent offender with murder in the second degree as defined in section 125.25 of the penal law, ~~[rape]~~ sexual battery in the first degree as defined in subdivision one of section 130.35 of the penal law, criminal sexual act in the first degree as defined in subdivision one of section 130.50 of the penal law, or an armed felony as defined in paragraph (a) of subdivision forty-one of section 1.20 of this chapter, a determination that such action be removed to the family court shall, in addition, be based upon a finding of one or more of the following factors: (i) mitigating circumstances that bear directly upon the manner in which the crime was committed; or (ii) where the defendant was not the sole participant in the crime, the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution; or (iii) possible deficiencies in proof of the crime.

§ 34. Paragraph (b) of subdivision 1 of section 722.22 of the criminal procedure law, as added by section 1-a of part WWW of chapter 59 of the laws of 2017, is amended to read as follows:

(b) with the consent of the district attorney, order removal of an action involving an indictment charging a juvenile offender with murder in the second degree as defined in section 125.25 of the penal law; ~~[rape]~~ sexual battery in the first degree, as defined in subdivision one of section 130.35 of the penal law; criminal sexual act in the first degree, as defined in subdivision one of section 130.50 of the penal law; or an armed felony as defined in paragraph (a) of subdivision forty-one of section 1.20 of this chapter, to the family court pursuant to the provisions of article seven hundred twenty-five of this title if the court finds one or more of the following factors: (i) mitigating circumstances that bear directly upon the manner in which the crime was committed; (ii) where the defendant was not the sole participant in the crime, the defendant's participation was relatively minor although not

1 so minor as to constitute a defense to the prosecution; or (iii) possi-
2 ble deficiencies in the proof of the crime, and, after consideration of
3 the factors set forth in subdivision two of this section, the court
4 determined that removal of the action to the family court would be in
5 the interests of justice.

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

8 § 213-c. Action by victim of conduct constituting certain sexual
9 offenses. Notwithstanding any other limitation set forth in this arti-
10 cle, except as provided in subdivision (b) of section two hundred eight
11 of this article, all civil claims or causes of action brought by any
12 person for physical, psychological or other injury or condition suffered
13 by such person as a result of conduct which would constitute [~~rape~~]
14 sexual battery in the first degree as defined in section 130.35 of the
15 penal law, or [~~rape~~] sexual battery in the second degree as defined in
16 subdivision two of section 130.30 of the penal law, or [~~rape~~] sexual
17 battery in the third degree as defined in subdivision one or three of
18 section 130.25 of the penal law, or criminal sexual act in the first
19 degree as defined in section 130.50 of the penal law, or criminal sexual
20 act in the second degree as defined in subdivision two of section 130.45
21 of the penal law, or criminal sexual act in the third degree as defined
22 in subdivision one or three of section 130.40 of the penal law, or
23 incest in the first degree as defined in section 255.27 of the penal
24 law, or incest in the second degree as defined in section 255.26 of the
25 penal law (where the crime committed is [~~rape~~] sexual battery in the
26 second degree as defined in subdivision two of section 130.30 of the
27 penal law or criminal sexual act in the second degree as defined in
28 subdivision two of section 130.45), or aggravated sexual abuse in the
29 first degree as defined in section 130.70 of the penal law, or course of
30 sexual conduct against a child in the first degree as defined in section
31 130.75 of the penal law may be brought against any party whose inten-
32 tional or negligent acts or omissions are alleged to have resulted in
33 the commission of the said conduct, within twenty years. Nothing in this
34 section shall be construed to require that a criminal charge be brought
35 or a criminal conviction be obtained as a condition of bringing a civil
36 cause of action or receiving a civil judgment pursuant to this section
37 or be construed to require that any of the rules governing a criminal
38 proceeding be applicable to any such civil action.

39 § 36. Paragraph (b) of subdivision 8 of section 215 of the civil prac-
40 tice law and rules, as added by chapter 3 of the laws of 2006, is
41 amended to read as follows:

42 (b) Whenever it is shown that a criminal action against the same
43 defendant has been commenced with respect to the event or occurrence
44 from which a claim governed by this section arises, and such criminal
45 action is for [~~rape~~] sexual battery in the first degree as defined in
46 section 130.35 of the penal law, or criminal sexual act in the first
47 degree as defined in section 130.50 of the penal law, or aggravated
48 sexual abuse in the first degree as defined in section 130.70 of the
49 penal law, or course of sexual conduct against a child in the first
50 degree as defined in section 130.75 of the penal law, the plaintiff
51 shall have at least five years from the termination of the criminal
52 action as defined in section 1.20 of the criminal procedure law in which
53 to commence the civil action, notwithstanding that the time in which to
54 commence such action has already expired or has less than a year remain-
55 ing.

§ 37. Section 4510 of the civil practice law and rules, as amended by chapter 309 of the laws of 2021, is amended to read as follows:

§ 4510. ~~[Rape]~~ Sexual battery crisis counselor or domestic violence advocate. (a) Definitions. When used in this section, the following terms shall have the following meanings:

1. "~~[Rape]~~ Sexual battery crisis program" means any office, institution or center which has been approved pursuant to subdivision fifteen of section two hundred six of the public health law, as added by chapter 432 of the laws of 1993, offering counseling and assistance to clients concerning sexual offenses, sexual abuses or incest.

2. "~~[Rape]~~ Sexual battery crisis counselor" means any person who has been certified by an approved ~~[rape]~~ sexual battery crisis program as having satisfied the training standards specified in subdivision fifteen of section two hundred six of the public health law, as added by chapter 432 of the laws of 1993, and who, regardless of compensation, is acting under the direction and supervision of an approved ~~[rape]~~ sexual battery crisis program.

3. "Client" means (i) any person who is seeking or receiving the services of a ~~[rape]~~ sexual battery crisis counselor for the purpose of securing counseling or assistance concerning any sexual offenses, sexual abuse, incest or attempts to commit sexual offenses, sexual abuse, or incest, as defined in the penal law; or

(ii) any victim of domestic violence as defined in section four hundred fifty-nine-a of the social services law.

4. "Domestic violence program" means a residential program for victims of domestic violence or a non-residential program for victims of domestic violence as defined in section four hundred fifty-nine-a of the social services law or any similar program operated by an Indian tribe, as defined by section two of the Indian law.

5. "Domestic violence advocate" means any person who is acting under the direction and supervision of a licensed and approved domestic violence program and has satisfied the training standards required by the office of children and family services.

(b) Confidential information privileged. A ~~[rape]~~ sexual battery crisis counselor or domestic violence advocate shall not be required to disclose a communication made by his or her client to him or her, or advice given thereon, in the course of his or her services nor shall any clerk, stenographer or other person working for the same program as the ~~[rape]~~ sexual battery crisis counselor or domestic violence advocate or for the ~~[rape]~~ sexual battery crisis counselor or domestic violence advocate be allowed to disclose any such communication or advice given thereon nor shall any records made in the course of the services given to the client or recording of any communications made by or to a client be required to be disclosed, nor shall the client be compelled to disclose such communication or records, except:

1. that a ~~[rape]~~ sexual battery crisis counselor or domestic violence advocate may disclose such otherwise confidential communication to the extent authorized by the client;

2. that a ~~[rape]~~ sexual battery crisis counselor or domestic violence advocate shall not be required to treat as confidential a communication by a client which reveals the intent to commit a crime or harmful act;

3. that a domestic violence advocate shall not be required to treat as confidential a communication by a client which reveals a case of suspected child abuse or maltreatment pursuant to title six of article six of the social services law;

4. in a case in which the client waives the privilege by instituting charges against the [~~rape~~] sexual battery crisis counselor or domestic violence advocate or the [~~rape~~] sexual battery crisis program or domestic violence program and such action or proceeding involves confidential communications between the client and the [~~rape~~] sexual battery crisis counselor or domestic violence advocate.

(c) Who may waive the privilege. The privilege may only be waived if the client, the personal representative of a deceased client, or, in the case of a client who has been adjudicated incompetent or for whom a conservator has been appointed, the committee or conservator provides the [~~rape~~] sexual battery crisis counselor or domestic violence advocate with informed, written and reasonably time-limited consent.

(d) Limitation on waiver. A client who, for the purposes of obtaining compensation under article twenty-two of the executive law or insurance benefits, authorizes the disclosure of any privileged communication to an employee of the office of victim services or an insurance representative shall not be deemed to have waived the privilege created by this section.

§ 38. Paragraph (A) of subdivision 1 of section 111-a of the domestic relations law, as amended by chapter 828 of the laws of 2022, is amended to read as follows:

(A) [~~rape~~] sexual battery in first or second degree;

§ 39. Paragraph (b) of subdivision 3-a of section 115-d of the domestic relations law, as amended by chapter 623 of the laws of 2008, is amended to read as follows:

(b) Notwithstanding any other provision of law to the contrary, a petition for certification as a qualified adoptive parent shall be denied where a criminal history record of the applicant reveals a conviction for (i) a felony conviction at any time involving: (1) child abuse or neglect; (2) spousal abuse; (3) a crime against a child, including child pornography; or (4) a crime involving violence, including [~~rape~~] sexual battery, sexual assault, or homicide, other than a crime involving physical assault or battery; or (ii) a felony conviction within the past five years for physical assault, battery, or a drug-related offense.

§ 40. Clause 1 of subparagraph (A) of paragraph (b) of subdivision 1-c of section 240 of the domestic relations law, as amended by chapter 182 of the laws of 2019, is amended to read as follows:

(1) [~~rape~~] sexual battery in the first or second degree;

§ 41. Subdivision 7 of section 6444 of the education law, as added by chapter 76 of the laws of 2015, is amended to read as follows:

7. Institutions that lack appropriate on-campus resources or services shall, to the extent practicable, enter into memoranda of understanding, agreements or collaborative partnerships with existing community-based organizations, including [~~rape-crisis~~] sexual battery-crisis centers and domestic violence shelters and assistance organizations, to refer students for assistance or make services available to students, including counseling, health, mental health, victim advocacy, and legal assistance, which may also include resources and services for the respondent.

§ 42. Subdivision 4 of section 7605 of the education law, as amended by chapter 554 of the laws of 2013, is amended to read as follows:

4. The practice, conduct, activities, or services by any person licensed or otherwise authorized to practice nursing as a registered professional nurse or nurse practitioner within the state pursuant to article one hundred thirty-nine of this title or by any person licensed

1 or otherwise authorized to practice social work within the state pursuant to article one hundred fifty-four of this title, or by any person
2 licensed or otherwise authorized to practice mental health counseling,
3 marriage and family therapy, creative arts therapy, or psychoanalysis
4 within the state pursuant to article one hundred sixty-three of this
5 title, or any person licensed or otherwise authorized to practice
6 applied behavior analysis within the state pursuant to article one
7 hundred sixty-seven of this title or any individual who is credentialed
8 under any law, including attorneys, [~~rape~~] sexual battery crisis counselors, certified alcoholism counselors, and certified substance abuse
9 counselors from providing mental health services within their respective
10 established authorities.
11

12
13 § 43. Paragraph (a) of subdivision 5 of section 7706 of the education
14 law, as added by chapter 420 of the laws of 2002, is amended to read as
15 follows:

16 (a) any individual who is credentialed under any law, including attorneys,
17 [~~rape~~] sexual battery crisis counselors, credentialed alcoholism
18 and substance abuse counselors whose scope of practice includes the
19 practices defined in section seventy-seven hundred one of this article
20 from performing or claiming to perform work authorized by applicable
21 provisions of this chapter and the mental hygiene law;

22 § 44. Subdivision 2 of section 8410 of the education law, as added by
23 chapter 676 of the laws of 2002, is amended to read as follows:

24 2. Prohibit or limit any individual who is credentialed under any law,
25 including attorneys, [~~rape~~] sexual battery crisis counselors, certified
26 alcoholism counselors and certified substance abuse counselors from
27 providing mental health services within their respective established
28 authorities.

29 § 45. Clause (ii) of subparagraph 2 of paragraph (c) of subdivision 22
30 of section 296 of the executive law, as added by chapter 176 of the laws
31 of 2019, is amended to read as follows:

32 (ii) Obtaining services from a domestic violence shelter, program, or
33 [~~rape~~] sexual battery crisis center as a result of domestic violence; or

34 § 46. Subdivision 1 and paragraph (a) of subdivision 13 of section 631
35 of the executive law, subdivision 1 as separately amended by chapters
36 189 and 295 of the laws of 2018 and paragraph (a) of subdivision 13 as
37 amended by section 3 of subpart S of part XX of chapter 55 of the laws
38 of 2020, are amended to read as follows:

39 1. No award shall be made unless the office finds that (a) a crime was
40 committed, (b) such crime directly resulted in personal physical injury
41 to or the exacerbation of a preexisting disability, or condition, or
42 death of, the victim, and (c) criminal justice agency records show that
43 such crime was promptly reported to the proper authorities; and in no
44 case may an award be made where the criminal justice agency records show
45 that such report was made more than one week after the occurrence of
46 such crime unless the office, for good cause shown, finds the delay to
47 have been justified. Notwithstanding the foregoing provisions of this
48 subdivision, in cases involving an alleged sex offense as contained in
49 article one hundred thirty of the penal law or incest as defined in
50 section 255.25, 255.26 or 255.27 of the penal law or labor trafficking
51 as defined in section 135.35 of the penal law or sex trafficking as
52 defined in sections 230.34 and 230.34-a of the penal law or an offense
53 chargeable as a family offense as described in section eight hundred
54 twelve of the family court act or section 530.11 of the criminal procedure
55 law, the criminal justice agency report need only be made within a
56 reasonable time considering all the circumstances, including the

1 victim's physical, emotional and mental condition and family situation.
2 For the purposes of this subdivision, "criminal justice agency" shall
3 include, but not be limited to, a police department, a district attorney's
4 office, and any other governmental agency having responsibility
5 for the enforcement of the criminal laws of the state provided, however,
6 that in cases involving such sex offense or family offense a criminal
7 justice agency shall also mean a family court, a governmental agency
8 responsible for child and/or adult protective services pursuant to title
9 six of article six of the social services law and/or title one of article
10 nine-B of the social services law, and any medical facility established
11 under the laws of the state that provides a forensic physical
12 examination for victims of [~~rape~~] sexual battery and sexual assault.

13 (a) Notwithstanding any other provision of law, rule, or regulation to
14 the contrary, when any New York state accredited hospital, accredited
15 sexual assault examiner program, or licensed health care provider
16 furnishes services to any sexual assault survivor, including but not
17 limited to a health care forensic examination in accordance with the sex
18 offense evidence collection protocol and standards established by the
19 department of health, such hospital, sexual assault examiner program, or
20 licensed healthcare provider shall provide such services to the person
21 without charge and shall bill the office directly. The office, in
22 consultation with the department of health, shall define the specific
23 services to be covered by the sexual assault forensic exam reimbursement
24 fee, which must include at a minimum forensic examiner services, hospital
25 or healthcare facility services related to the exam, and any necessary
26 related laboratory tests or pharmaceuticals; including but not
27 limited to HIV post-exposure prophylaxis provided by a hospital emergency
28 room at the time of the forensic [~~rape~~] sexual battery examination
29 pursuant to paragraph (c) of subdivision one of section twenty-eight
30 hundred five-i of the public health law. For a person eighteen years of
31 age or older, follow-up HIV post-exposure prophylaxis costs shall
32 continue to be reimbursed according to established office procedure. The
33 office, in consultation with the department of health, shall also generate
34 the necessary regulations and forms for the direct reimbursement
35 procedure.

36 § 47. Paragraph (b) of subdivision 1 of section 641 of the executive
37 law, as added by chapter 94 of the laws of 1984, is amended to read as
38 follows:

39 (b) availability of appropriate public or private programs that
40 provide counseling, treatment or support for crime victims, including
41 but not limited to the following: [~~rape~~] sexual battery crisis centers,
42 victim/witness assistance programs, elderly victim services, victim
43 assistance hotlines and domestic violence shelters;

44 § 48. Subdivision 2-a of section 642 of the executive law, as amended
45 by chapter 301 of the laws of 1991, paragraph (a) as amended by chapter
46 320 of the laws of 2006, is amended to read as follows:

47 2-a. (a) All police departments, as that term is defined in subdivision
48 a of section eight hundred thirty-seven-c of this chapter, district
49 attorneys' offices and presentment agencies, as that term is defined in
50 subdivision twelve of section 301.2 of the family court act, shall
51 provide a private setting for interviewing victims of a crime defined in
52 article one hundred thirty or section 255.25, 255.26 or 255.27 of the
53 penal law. For purposes of this subdivision, "private setting" shall
54 mean an enclosed room from which the occupants are not visible or otherwise
55 identifiable, and whose conversations cannot be heard, from outside
56 such room. Only (i) those persons directly and immediately related to

1 the interviewing of a particular victim, (ii) the victim, (iii) a social
2 worker, [~~rape~~] sexual battery crisis counselor, psychologist or other
3 professional providing emotional support to the victim, unless the
4 victim objects to the presence of such person and requests the exclusion
5 of such person from the interview, and (iv) where appropriate, the
6 parent or parents of the victim, if requested by the victim, shall be
7 present during the interview of the victim.

8 (b) All police departments, as that term is defined in subdivision a
9 of section eight hundred thirty-seven-c of this chapter, shall provide
10 victims of a crime defined in article one hundred thirty of the penal
11 law with the name, address, and telephone of the nearest [~~rape~~] sexual
12 battery crisis center in writing.

13 § 49. The opening paragraph of paragraph (a) of subdivision 4 of
14 section 840 of the executive law, as added by chapter 506 of the laws of
15 2011, is amended to read as follows:

16 (a) Develop, maintain and disseminate, in consultation with [~~rape~~]
17 sexual battery crisis centers experienced in assisting victims in this
18 state, written policies and procedures consistent with applicable
19 provisions of the family court act, domestic relations law, criminal
20 procedure law and the penal law, regarding the investigation of and
21 intervention by new and veteran police officers in crimes involving
22 sexual assault. Such policies and procedures shall make provisions for
23 education and training of new and veteran police officers in the inves-
24 tigation and enforcement of crimes involving sexual assault under state
25 law, including but not limited to:

26 § 50. The opening paragraph of subdivision (b) of section 117 of the
27 family court act, as amended by chapter 38 of the laws of 2022, is
28 amended to read as follows:

29 For every juvenile delinquency proceeding under article three involv-
30 ing an allegation of an act committed by a person which, if done by an
31 adult, would be a crime (i) defined in sections 125.27 (murder in the
32 first degree); 125.25 (murder in the second degree); 135.25 (kidnapping
33 in the first degree); or 150.20 (arson in the first degree) of the penal
34 law committed by a person thirteen, fourteen, fifteen, sixteen, or seventeen
35 years of age; or such conduct committed as a sexually motivated moti-
36 vated felony, where authorized pursuant to section 130.91 of the penal
37 law; (ii) defined in sections 120.10 (assault in the first degree);
38 125.20 (manslaughter in the first degree); 130.35 [~~rape~~] (sexual
39 battery in the first degree); 130.50 (criminal sexual act in the first
40 degree); 130.70 (aggravated sexual abuse in the first degree); 135.20
41 (kidnapping in the second degree), but only where the abduction involved
42 the use or threat of use of deadly physical force; 150.15 (arson in the
43 second degree); or 160.15 (robbery in the first degree) of the penal law
44 committed by a person thirteen, fourteen, fifteen, sixteen, or seventeen
45 years of age; or such conduct committed as a sexually motivated felony,
46 where authorized pursuant to section 130.91 of the penal law; (iii)
47 defined in the penal law as an attempt to commit murder in the first or
48 second degree or kidnapping in the first degree committed by a person
49 thirteen, fourteen, fifteen, sixteen, or seventeen years of age; or such
50 conduct committed as a sexually motivated felony, where authorized
51 pursuant to section 130.91 of the penal law; (iv) defined in section
52 140.30 (burglary in the first degree); subdivision one of section 140.25
53 (burglary in the second degree); subdivision two of section 160.10
54 (robbery in the second degree) of the penal law; or section 265.03 of
55 the penal law, where such machine gun or such firearm is possessed on
56 school grounds, as that phrase is defined in subdivision fourteen of

1 section 220.00 of the penal law committed by a person fourteen, fifteen,
2 sixteen, or seventeen years of age; or such conduct committed as a sexu-
3 ally motivated felony, where authorized pursuant to section 130.91 of
4 the penal law; (v) defined in section 120.05 (assault in the second
5 degree) or 160.10 (robbery in the second degree) of the penal law
6 committed by a person fourteen, fifteen, sixteen, or seventeen years of
7 age but only where there has been a prior finding by a court that such
8 person has previously committed an act which, if committed by an adult,
9 would be the crime of assault in the second degree, robbery in the
10 second degree or any designated felony act specified in clause (i), (ii)
11 or (iii) of this subdivision regardless of the age of such person at the
12 time of the commission of the prior act; or (vi) other than a misdemea-
13 nor, committed by a person at least twelve but less than eighteen years
14 of age, but only where there have been two prior findings by the court
15 that such person has committed a prior act which, if committed by an
16 adult, would be a felony:

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

20 8. "Designated felony act" means an act which, if done by an adult,
21 would be a crime: (i) defined in sections 125.27 (murder in the first
22 degree); 125.25 (murder in the second degree); 135.25 (kidnapping in the
23 first degree); or 150.20 (arson in the first degree) of the penal law
24 committed by a person thirteen, fourteen, fifteen, sixteen, or seventeen
25 years of age; or such conduct committed as a sexually motivated felony,
26 where authorized pursuant to section 130.91 of the penal law; (ii)
27 defined in sections 120.10 (assault in the first degree); 125.20
28 (manslaughter in the first degree); 130.35 [~~rape~~] (sexual battery in
29 the first degree); 130.50 (criminal sexual act in the first degree);
30 130.70 (aggravated sexual abuse in the first degree); 135.20 (kidnapping
31 in the second degree) but only where the abduction involved the use or
32 threat of use of deadly physical force; 150.15 (arson in the second
33 degree) or 160.15 (robbery in the first degree) of the penal law commit-
34 ted by a person thirteen, fourteen, fifteen, sixteen, or seventeen years
35 of age; or such conduct committed as a sexually motivated felony, where
36 authorized pursuant to section 130.91 of the penal law; (iii) defined in
37 the penal law as an attempt to commit murder in the first or second
38 degree or kidnapping in the first degree committed by a person thirteen,
39 fourteen, fifteen, sixteen, or seventeen years of age; or such conduct
40 committed as a sexually motivated felony, where authorized pursuant to
41 section 130.91 of the penal law; (iv) defined in section 140.30
42 (burglary in the first degree); subdivision one of section 140.25
43 (burglary in the second degree); subdivision two of section 160.10
44 (robbery in the second degree) of the penal law; or section 265.03 of
45 the penal law, where such machine gun or such firearm is possessed on
46 school grounds, as that phrase is defined in subdivision fourteen of
47 section 220.00 of the penal law committed by a person fourteen, fifteen,
48 sixteen, or seventeen years of age; or such conduct committed as a sexu-
49 ally motivated felony, where authorized pursuant to section 130.91 of
50 the penal law; (v) defined in section 120.05 (assault in the second
51 degree) or 160.10 (robbery in the second degree) of the penal law
52 committed by a person fourteen, fifteen, sixteen or seventeen years of
53 age but only where there has been a prior finding by a court that such
54 person has previously committed an act which, if committed by an adult,
55 would be the crime of assault in the second degree, robbery in the
56 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.

§ 52. Subdivision 4 of section 308.1 of the family court act, as amended by chapter 264 of the laws of 2003, is amended to read as follows:

4. The probation service shall not adjust a case in which the child has allegedly committed a delinquent act which would be a crime defined in section 120.25, (reckless endangerment in the first degree), subdivision one of section 125.15, (manslaughter in the second degree), subdivision one of section 130.25, [~~rape~~] (sexual battery in the third degree), subdivision one of section 130.40, (criminal sexual act in the third degree), subdivision one or two of section 130.65, (sexual abuse in the first degree), section 135.65, (coercion in the first degree), section 140.20, (burglary in the third degree), section 150.10, (arson in the third degree), section 160.05, (robbery in the third degree), subdivision two, three or four of section 265.02, (criminal possession of a weapon in the third degree), section 265.03, (criminal possession of a weapon in the second degree), or section 265.04, (criminal possession of a dangerous weapon in the first degree) of the penal law where the child has previously had one or more adjustments of a case in which such child allegedly committed an act which would be a crime specified in this subdivision unless it has received written approval from the court and the appropriate presentment agency.

§ 53. Paragraph (vii) of subdivision (a) of section 1046 of the family court act, as amended by chapter 432 of the laws of 1993, is amended to read as follows:

(vii) neither the privilege attaching to confidential communications between husband and wife, as set forth in section forty-five hundred two of the civil practice law and rules, nor the physician-patient and related privileges, as set forth in section forty-five hundred four of the civil practice law and rules, nor the psychologist-client privilege, as set forth in section forty-five hundred seven of the civil practice law and rules, nor the social worker-client privilege, as set forth in section forty-five hundred eight of the civil practice law and rules, nor the [~~rape~~] sexual battery crisis counselor-client privilege, as set forth in section forty-five hundred ten of the civil practice law and rules, shall be a ground for excluding evidence which otherwise would be admissible.

§ 54. Subparagraph 5 of paragraph a of subdivision 2 of section 654-a of the general business law, as amended by chapter 17 of the laws of 2013, is amended to read as follows:

(5) the purchaser of a contract signed by more than one purchaser provides to the operator a copy of any of the following, within six months of its issuance, involving domestic violence by another signatory of the same contract: (A) a valid domestic violence incident report form as such term is defined in subdivision fifteen of section eight hundred thirty-seven of the executive law; (B) a valid police report; (C) a valid order of protection; or (D) a signed affidavit from a licensed medical or mental health care provider, employee of a court acting within the scope of his or her employment, social worker, a [~~rape~~] sexual battery crisis counselor as defined in section forty-five hundred ten of the civil practice law and rules, or advocate acting on behalf of an

1 agency that assists domestic violence victims. Paragraph d of this
2 subdivision shall not apply to a purchaser canceling under this subpara-
3 graph. A claim for termination under this subparagraph shall be made in
4 good faith. Termination under this subparagraph shall require, and the
5 provision of any of the items in (A) through (D) of this subparagraph,
6 for the purposes of this subparagraph, shall be presumptive evidence of
7 the continued existence of a substantial risk of physical or emotional
8 harm to the purchaser or purchaser's child.

9 § 55. Section 4 of the judiciary law, as amended by chapter 1 of the
10 laws of 2019, is amended to read as follows:

11 § 4. Sittings of courts to be public. The sittings of every court
12 within this state shall be public, and every citizen may freely attend
13 the same, except that in all proceedings and trials in cases for
14 divorce, seduction, [~~rape~~] sexual battery, assault with intent to commit
15 [~~rape~~] sexual battery, criminal sexual act, bastardy or filiation, the
16 court may, in its discretion, exclude therefrom all persons who are not
17 directly interested therein, excepting jurors, witnesses, and officers
18 of the court.

19 § 56. Clause (a) of subparagraph (iii) of paragraph a of subdivision 4
20 of section 196-b of the labor law, as added by section 1 of part J of
21 chapter 56 of the laws of 2020, is amended to read as follows:

22 (a) to obtain services from a domestic violence shelter, [~~rape~~] sexual
23 battery crisis center, or other services program;

24 § 57. Subdivision 15 of section 206 of the public health law, as added
25 by chapter 432 of the laws of 1993, is amended to read as follows:

26 15. (a) The commissioner shall promulgate rules and regulations which
27 establish:

28 (i) procedures to review and approve [~~rape~~] sexual battery crisis
29 programs that provide training to [~~rape~~] sexual battery crisis counse-
30 lers as defined in section four thousand five hundred ten of the civil
31 practice law and rules;

32 (ii) minimum training standards for [~~rape~~] sexual battery crisis coun-
33 selors;

34 (iii) procedures to enable approved [~~rape~~] sexual battery crisis
35 programs to certify current and future [~~rape~~] sexual battery crisis
36 counselors, including volunteer counselors, provided such [~~rape~~] sexual
37 battery crisis counselors have met the minimum training standards as set
38 forth in this subdivision; and

39 (iv) procedures to periodically review approved training programs to
40 assure they continue to satisfy established standards.

41 (b) [~~Rape~~] Sexual battery crisis programs approved by the commissioner
42 shall provide training programs consisting of at least thirty hours of
43 pre-service training and within the first year of service at least ten
44 hours of in-service training for [~~rape~~] sexual battery crisis counse-
45 lers. This training shall include but not be limited to, instruction on
46 the following:

47 (i) the dynamics of sexual offenses, sexual abuses or incest;

48 (ii) crisis intervention techniques;

49 (iii) client-counselor confidentiality requirements;

50 (iv) communication skills and intervention techniques;

51 (v) an overview of the state criminal justice system;

52 (vi) an update and review of state laws on sexual offenses, sexual
53 abuse or incest;

54 (vii) the availability of state and community resources for clients;

55 (viii) working with a diverse population;

(ix) an overview of child abuse and maltreatment identification and reporting responsibilities; and
(x) information on the availability of medical and legal assistance for such clients.

(c) The department shall provide technical assistance to approved ~~[rape]~~ sexual battery crisis programs to implement training programs in accordance with the minimum standards set forth in this subdivision.

§ 58. The article heading of article 6-A of the public health law, as added by chapter 1 of the laws of 2000, is amended to read as follows:

~~[RAPE]~~ SEXUAL BATTERY CRISIS INTERVENTION AND PREVENTION
PROGRAM

§ 59. Section 695 of the public health law, as added by chapter 1 of the laws of 2000, is amended to read as follows:

§ 695. Short title. This article shall be known and may be cited as the ~~["rape"]~~ "sexual battery crisis intervention and prevention act of two thousand".

§ 60. Subdivisions 1, 5, 6, 7, 8 and 9 of section 695-a of the public health law, as added by chapter 1 of the laws of 2000 and subdivision 9 as amended by chapter 264 of the laws of 2003, are amended to read as follows:

1. ~~["Rape"]~~ "Sexual battery crisis intervention and prevention program" means any program which has been approved by the department offering counseling and assistance to clients concerning sex offenses, sexual abuse, or incest.

5. "Client" means any person seeking or receiving the services of a ~~[rape]~~ sexual battery crisis counselor for the purpose of securing counseling or assistance concerning any sex offense, sexual abuse, incest, or attempt to commit a sex offense, sexual abuse, or incest.

6. "Hotline" means twenty-four-hour access to ~~[rape]~~ sexual battery crisis intervention and prevention services including telephone hotline and telephone counseling capabilities.

7. "Community prevention" means public education projects designed to encourage victim use of ~~[rape]~~ sexual battery crisis intervention services, educating the general public about the availability and significance of ~~[rape]~~ sexual battery crisis intervention services, providing sex offense, sexual abuse or incest prevention and personal safety information, providing other education programs which sensitize service providers and the general public about the nature of sex offenses, sexual abuse or incest and the needs of survivors of a sex offense, sexual abuse or incest. "Community prevention" also means and includes public education projects designed to teach the general public about the problem of acquaintance ~~[rape]~~ sexual battery, including but not limited to: (a) the importance of promptly respecting the decision of another person not to engage in sexual conduct; and (b) the right of every individual to make such a decision and have it respected.

8. "Recruitment and training programs" means programs designed to recruit and train staff or volunteers in a ~~[rape]~~ sexual battery crisis intervention and prevention program as well as training or education to other agencies participating in a community support system.

9. "Accompaniment services" means services that assure the presence of a trained ~~[rape]~~ sexual battery crisis worker to assist and support the client, at hospitals, law enforcement agencies, district attorneys' offices, courts and other agencies.

§ 61. Subdivision 1 of section 695-b of the public health law, as added by chapter 1 of the laws of 2000, is amended to read as follows:

1 1. The department is hereby authorized to contract, within amounts
2 appropriated, for the provision of [~~rape~~] sexual battery crisis inter-
3 vention and prevention programs as provided herein. Rules, regulations
4 and guidelines as shall be necessary or appropriate to assure successful
5 implementation of this program shall be promulgated by the department.

6 § 62. Paragraph (b) of subdivision 1, subdivision 3, subparagraph 3 of
7 paragraph (a) and subparagraph 3 of paragraph (b) of subdivision 4-b,
8 subdivision 5, and subparagraph 1 of paragraph (a) of subdivision 6 of
9 section 2805-i of the public health law, as amended by chapter 504 of
10 the laws of 1994, paragraph (b) of subdivision 1 as separately amended
11 by section 1 of subpart S and section 2 of subpart A of part XX of chap-
12 ter 55 of the laws of 2020, subparagraph 3 of paragraph (a) of subdivi-
13 sion 4-b and subdivision 5 as amended by chapter 1 of the laws of 2000,
14 subparagraph 3 of paragraph (b) of subdivision 4-b as amended by section
15 3 of subpart A of part XX of chapter 55 of the laws of 2020, and subpar-
16 agraph 1 of paragraph (a) of subdivision 6 as amended by section 4 of
17 subpart A of part XX of chapter 55 of the laws of 2020, are amended to
18 read as follows:

19 (b) informing sexual offense victims of the availability of [~~rape~~]
20 sexual battery crisis and local victim assistance organizations, if any,
21 in the geographic area served by the hospital, and contacting a [~~rape~~]
22 sexual battery crisis or local victim assistance organization to estab-
23 lish the coordination of non-medical services, including but not limited
24 to transportation within the geographic area served by that organiza-
25 tion, upon the conclusion of initial medical services, free of charge
26 from the medical facility to sexual offense victims who request such
27 coordination and services;

28 3. Upon admittance or commencement of treatment of the alleged sexual
29 offense victim, the hospital shall advise the victim of the availability
30 of the services of a local [~~rape~~] sexual battery crisis or victim
31 assistance organization, if any, to accompany the victim through the
32 sexual offense examination. If after receiving such advice the sexual
33 offense victim wishes the presence of a [~~rape~~] sexual battery crisis or
34 victim assistance advocate, the hospital shall contact the appropriate
35 organization and request that one be provided, provided, however, that
36 if in the professional judgment of the treating practitioner a delay in
37 treatment is detrimental to the provision of medical treatment, then
38 examination or treatment need not be delayed pending the arrival of such
39 advocate and further provided that the presence or continued presence of
40 such advocate does not interfere with the provision of necessary medical
41 care to the victim.

42 (3) the capacity of the hospital site to coordinate services for
43 victims of sexual offenses including medical treatment, [~~rape~~] sexual
44 battery crisis counseling, psychological support, law enforcement
45 assistance and forensic evidence collection;

46 (3) Promptly after the examination is completed, the victim shall be
47 permitted to shower, be provided with a change of clothing, be informed
48 that a [~~rape~~] sexual battery crisis or victim assistance organization
49 providing victim assistance to the geographic area served by that hospi-
50 tal is available to provide transportation within the geographic area
51 served by that organization, upon the conclusion of initial medical
52 services, free of charge from the medical facility, and receive follow-
53 up information, counseling, medical treatment and referrals for same.

54 5. The commissioner shall promulgate such rules and regulations as may
55 be necessary and proper to carry out effectively the provisions of this
56 section. Prior to promulgating such rules and regulations, the commis-

sioner shall consult with relevant police agencies, forensic laboratories, ~~[rape]~~ sexual battery crisis centers, hospitals, and other such persons as the commissioner deems necessary. Such rules and regulations shall identify the offenses subject to the provisions of this section, provide a specific definition of sexual offense evidence and require each hospital to contact its local police agency and forensic laboratory to determine their specific needs or requirements.

(1) consult with a local ~~[rape]~~ sexual battery crisis or local victim assistance organization, to have a representative of such organization accompany the victim through the sexual offense examination, to have such an organization be summoned by the medical facility, police agency, prosecutorial agency or other law enforcement agency before the commencement of the physical examination or interview, pursuant to this section, and to have such organization provide transportation within the geographic area served by that organization, free of charge from the medical facility to sexual offense victims who request such services upon discharge;

§ 63. Section 2805-p of the public health law, as added by chapter 625 of the laws of 2003, is amended to read as follows:

§ 2805-p. Emergency treatment of ~~[rape]~~ sexual battery survivors. 1. As used in this section:

(a) "Emergency contraception" shall mean one or more prescription drugs used separately or in combination to be administered or self-administered by a patient to prevent pregnancy within a medically recommended amount of time after sexual intercourse and dispensed for that purpose in accordance with professional standards of practice and determined by the United States Food and Drug Administration to be safe.

(b) "Emergency treatment" shall mean any medical examination or treatment provided by a hospital to a ~~[rape]~~ sexual battery survivor following an alleged ~~[rape]~~ sexual battery.

(c) ~~["Rape"]~~ "Sexual battery" shall mean any act defined in section 130.25, 130.30 or 130.35 of the penal law.

(d) ~~["Rape"]~~ "Sexual battery survivor" or "survivor" shall mean any female person who alleges or is alleged to have been ~~[raped]~~ sexually battered and who presents as a patient.

2. Every hospital providing emergency treatment to a ~~[rape]~~ sexual battery survivor shall promptly:

(a) provide such survivor with written information prepared or approved, pursuant to subdivision three of this section, relating to emergency contraception;

(b) orally inform such survivor of the availability of emergency contraception, its use and efficacy; and

(c) provide emergency contraception to such survivor, unless contraindicated, upon her request. No hospital may be required to provide emergency contraception to a ~~[rape]~~ sexual battery survivor who is pregnant.

3. The commissioner shall develop, prepare and produce informational materials relating to emergency contraception for distribution to and use in all hospitals in the state, in quantities sufficient to comply with the requirements of this section. The commissioner may also approve informational materials from medically recognized sources for the purposes of this section. Such informational material shall be in clear and concise language, readily comprehensible, in such varieties and forms as the commissioner shall deem necessary to inform survivors in English and languages other than English. Such materials shall explain the nature of emergency contraception including its use and efficacy.

1 4. The commissioner shall promulgate all such rules and regulations as
2 may be necessary and proper to implement the provisions of this section.
3 § 64. Paragraph (b) of subdivision 20 of section 131 of the social
4 services law, as added by chapter 427 of the laws of 2009, is amended to
5 read as follows:

6 (b) [~~rape~~] sexual battery crisis centers; and

7 § 65. Clause (A) of subparagraph 1 of paragraph (e) of subdivision 2
8 of section 378-a of the social services law, as amended by chapter 92 of
9 the laws of 2021, is amended to read as follows:

10 (A) a felony conviction at any time involving: (i) child abuse or
11 neglect; (ii) spousal abuse; (iii) a crime against a child, including
12 child pornography; or (iv) a crime involving violence, including [~~rape~~]
13 sexual battery, sexual assault, or homicide, other than a crime involv-
14 ing physical assault or battery; or

15 § 66. Paragraph (a) of subdivision 1 of section 384-c of the social
16 services law, as amended by chapter 828 of the laws of 2022, is amended
17 to read as follows:

18 (a) [~~rape~~] sexual battery in first or second degree;

19 § 67. Section 6-125 of the administrative code of the city of New
20 York, as added by local law number 26 of the city of New York for the
21 year 2003, is amended to read as follows:

22 § 6-125. a. For the purposes of this section only, the following terms
23 shall have the following meanings:

24 (1) "City agency" means a city, county, borough, administration,
25 department, division bureau, board or commission, or a corporation,
26 institution or agency of government the expenses of which are paid in
27 whole or in part from the city treasury, but shall not include the
28 health and hospitals corporation.

29 (2) "Covered agreement" means any agreement, including but not limited
30 to, memoranda of understanding, and excluding contracts, entered into on
31 or after the effective date of the local law that added this section,
32 between a hospital and a city agency.

33 (3) "Covered contract" means any contract entered into on or after the
34 effective date of the local law that added this section, between a
35 hospital and a city agency.

36 (4) "Emergency contraception" shall mean one or more prescription
37 drugs, used separately or in combination, to be administered to or self-
38 administered by a patient in a dosage and manner intended to prevent
39 pregnancy when used within a medically recommended amount of time
40 following sexual intercourse and dispensed for that purpose in accord-
41 ance with professional standards of practice, and which has been found
42 safe and effective for such use by the United States food and drug
43 administration.

44 (5) "Hospital" means any facility operating pursuant to article 28 of
45 the public health law which provides emergency medical care.

46 (6) [~~"Rape"~~] "Sexual battery victim" means any female person who
47 alleges or is alleged to have been [~~raped~~] sexually battered and
48 presents to a hospital.

49 b. No city agency shall enter into a covered agreement or covered
50 contract with any hospital that does not contain a provision whereby
51 such hospital agrees to inform [~~rape~~] sexual battery victims presenting
52 to its emergency department of the availability of emergency contracep-
53 tion and, if requested, to administer, if medically appropriate, such
54 contraception in a timely manner.

55 c. No city agency shall enter into a covered agreement or covered
56 contract with any hospital that does not contain a provision whereby

1 such hospital agrees to provide the department of health and mental
2 hygiene, on an annual basis, a report indicating the following informa-
3 tion with respect to each reporting period: i) the number of [~~rape~~]
4 sexual battery victims treated in such hospital's emergency department;
5 ii) the number of [~~rape~~] sexual battery victims treated in such hospi-
6 tal's emergency department which were offered emergency contraception;
7 iii) the number of [~~rape~~] sexual battery victims treated in such hospi-
8 tal's emergency department for whom the administration of emergency
9 contraception was not medically indicated and a brief explanation of the
10 contraindication; and iv) the number of times emergency contraception
11 was accepted or declined by a [~~rape~~] sexual battery victim treated in
12 such hospital's emergency department.

13 d. No city agency shall enter into a covered agreement or covered
14 contract with any hospital that does not contain a provision whereby
15 such hospital agrees to provide the department of health and mental
16 hygiene with a copy of its protocol for treatment of victims of sexual
17 assault, which hospitals are required to establish pursuant to section
18 405.19 of title 10 of the codes, rules and regulations of the state of
19 New York; provided however, that such hospital shall be required to
20 provide such protocol upon amendment or renewal of a covered agreement
21 or covered contract only if such protocol has been amended since the
22 date such hospital initially entered into such covered agreement or
23 covered contract.

24 e. A hospital shall be liable for a civil penalty of not less than
25 five thousand dollars upon a determination that such hospital has been
26 found, through litigation or arbitration, to have made a false claim
27 with respect to its provision of information to [~~rape~~] sexual battery
28 victims regarding the availability of emergency contraception or its
29 provision of emergency contraception, if medically indicated, to [~~rape~~]
30 sexual battery victims in a timely manner.

31 § 68. Paragraphs 22, 23 and 24 of subdivision b and paragraph 8 of
32 subdivision c of section 9-156 of the administrative code of the city of
33 New York, as added by local law number 21 of the city of New York for
34 the year 2019, are amended to read as follows:

35 22. Whether a [~~rape~~] sexual battery kit was administered, declined or
36 not applicable;

37 23. If a [~~rape~~] sexual battery kit was deemed not applicable, whether
38 that determination was the result of a delay in reporting, due to the
39 type of abuse alleged to have occurred, or any other reason;

40 24. Whether a sexual assault nurse examiner or sexual assault response
41 team was present during the administration of a [~~rape~~] sexual battery
42 kit; and

43 8. Whether the alleged victim was referred to trauma or [~~rape~~] sexual
44 battery crisis services following the incident and if the victim
45 accepted or declined such services while in custody;

46 § 69. The opening paragraph of paragraph 4 of subdivision a of section
47 14-150 of the administrative code of the city of New York, as separately
48 amended by local law numbers 71 and 108 of the city of New York for the
49 year 2016, is amended to read as follows:

50 A crime status report. Such report shall include the total number of
51 crime complaints (categorized by class of crime, indicating whether the
52 crime is a misdemeanor or felony) for each patrol precinct, including a
53 subset of housing bureau and transit bureau complaints within each
54 precinct; arrests (categorized by class of crime, indicating whether the
55 arrest is for a misdemeanor or felony) for each patrol precinct, housing
56 police service area, transit district, street crime unit and narcotics

1 division; summons activity (categorized by type of summons, indicating
2 whether the summons is a parking violation, moving violation, environ-
3 mental control board notice of violation, or criminal summons) for each
4 patrol precinct, housing police service area and transit district;
5 domestic violence radio runs for each patrol precinct; average response
6 time for critical and serious crimes in progress for each patrol
7 precinct; overtime statistics for each patrol borough and operational
8 bureau performing an enforcement function within the police department,
9 including, but not limited to, each patrol precinct, housing police
10 service area, transit district and patrol borough street crime unit, as
11 well as the narcotics division, fugitive enforcement division and the
12 special operations division, including its subdivisions, but shall not
13 include internal investigative commands and shall not include undercover
14 officers assigned to any command. Such report shall also include the
15 total number of complaints of all sex offenses as defined in article 130
16 of the New York state penal law, in total and disaggregated by the
17 following offenses: [~~rape~~] sexual battery as defined in sections 130.25,
18 130.30, and 130.35; criminal sexual act as defined in sections 130.40,
19 130.45, and 130.50; misdemeanor sex offenses as defined in sections
20 130.20, 130.52, 130.55, and 130.60; sexual abuse as defined in sections
21 130.65, 130.65-a, 130.66, 130.67, and 130.70; course of sexual conduct
22 against a child as defined in sections 130.75 and 130.80; and predatory
23 sexual assault as defined in sections 130.95 and 130.96. Such report
24 shall also include the total number of major felony crime complaints for
25 properties under the jurisdiction of the department of parks and recre-
26 ation, pursuant to the following timetable:

27 § 70. Paragraph 3 of subdivision a of section 14-161 of the adminis-
28 trative code of the city of New York, as added by local law number 110
29 of the city of New York for the year 2016, is amended to read as
30 follows:

31 3. the number of reported [~~rapes~~] sexual batteries related to domestic
32 violence;

33 § 71. Paragraph 2 of subdivision b of section 14-171 of the adminis-
34 trative code of the city of New York, as added by local law number 42 of
35 the city of New York for the year 2018, is amended to read as follows:

36 2. [~~Rape~~] Sexual battery as defined in article 130 of the penal law;

37 § 72. Subdivision b of section 14-180 of the administrative code of
38 the city of New York, as added by local law number 194 of the city of
39 New York for the year 2018, is amended to read as follows:

40 b. Special victims training program. The department, after considering
41 information from outside experts, shall develop and implement a victim-
42 centered special victims training program designed to develop skills
43 related to the investigation of sexual crimes and the specific needs of
44 victims of sexual crimes. The curriculum shall consider nationally
45 recognized best practices and factors contributing to the additional
46 complexity of sexual assault investigations including the depth of
47 victimization, the negative social consequences of sexual assault, the
48 trauma and neurobiological damage inflicted by sexual assault, the
49 complexity of victim management, the falsity or partially truthful
50 disclosure of complaints, the large unreported rate of sexual assaults
51 and any other training deemed relevant to sexual assault cases by the
52 commissioner. Such program shall include the following training compo-
53 nents: the Forensic Experiential Trauma Interview method, specialized
54 investigative training for sexual assault cases including non-stranger
55 sexual assault and controlled communications, district attorney based
56 training related to legal evidentiary standards and penal law article

1 130 crimes, Sexual Assault Forensic Examiner training, Sex Offender
2 Registration Act training, hospital based training, victim advocate
3 based training and any other training courses currently offered by the
4 NYPD for special victims investigators including but not limited to DNA
5 evidence, investigation of complex cases, drug-facilitated sexual
6 assault, neurobiology of sexual assault, [~~rape~~] sexual battery crisis
7 counselor training, peer based investigative process training, abusive
8 head trauma training and any other training deemed relevant to sexual
9 assault cases by the commissioner, except that the commissioner may
10 eliminate a training component or replace a training component with an
11 alternative component in order to provide comprehensive victim-centered
12 training. Such program shall include a proficiency examination or demon-
13 stration for each training component and shall be of a length the
14 commissioner determines is sufficient to ensure that special victims
15 investigators are capable of utilizing such skills.

16 § 73. Subparagraph (a) of paragraph 1 of subdivision b of section
17 20-914 of the administrative code of the city of New York, as amended by
18 local law number 97 of the city of New York for the year 2020, is
19 amended to read as follows:

20 (a) to obtain services from a domestic violence shelter, [~~rape~~] sexual
21 battery crisis center, or other shelter or services program for relief
22 from a family offense matter, sexual offense, stalking, or human traf-
23 ficking;

24 § 74. This act shall take effect immediately.