

STATE OF NEW YORK

349--A

2023-2024 Regular Sessions

IN SENATE

(Prefiled)

January 4, 2023

Introduced by Sen. CLEARE -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

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

4 (a) A prosecution for a class A felony, or rape in the first degree as
5 defined in section 130.35 of the penal law, or a crime defined or
6 formerly defined in section 130.50 of the penal law, or aggravated sexu-
7 al abuse in the first degree as defined in section 130.70 of the penal
8 law, or course of sexual conduct against a child in the first degree as
9 defined in section 130.75 of the penal law, or sex trafficking as

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

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1 defined in section 230.34 of the penal law, or sex trafficking of a
2 child as defined in section 230.34-a of the penal law, or incest in the
3 first degree as defined in section 255.27 of the penal law may be
4 commenced at any time;

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

8 (f) For purposes of a prosecution involving a sexual offense as
9 defined in article one hundred thirty of the penal law[, ~~other than a~~
10 ~~sexual offense delineated in paragraph (a) of subdivision two of this~~
11 ~~section,~~] committed against a child less than eighteen years of age, the
12 period of limitation shall not begin to run until the child has reached
13 the age of twenty-three or the offense is reported to a law enforcement
14 agency or statewide central register of child abuse and maltreatment,
15 whichever occurs earlier. This paragraph shall not apply to sexual
16 offenses delineated in paragraph (a) of subdivision two of this section
17 committed against a child less than eighteen years of age, sex traffick-
18 ing as defined in section 230.34 of the penal law committed against a
19 child less than eighteen years of age, sex trafficking of a child as
20 defined in section 230.34-a of the penal law, incest in the first,
21 second or third degree as defined in sections 255.27, 255.26 and 255.25
22 of the penal law committed against a child less than eighteen years of
23 age, or use of a child in a sexual performance as defined in section
24 263.05 of the penal law[, ~~the period of limitation shall not begin to~~
25 ~~run until the child has reached the age of twenty-three or the offense~~
26 ~~is reported to a law enforcement agency or statewide central register of~~
27 ~~child abuse and maltreatment, whichever occurs earlier~~].

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

31 (b) Notwithstanding any provision of law which imposes a period of
32 limitation to the contrary and the provisions of any other law pertain-
33 ing to the filing of a notice of claim or a notice of intention to file
34 a claim as a condition precedent to commencement of an action or special
35 proceeding, with respect to all civil claims or causes of action brought
36 by any person for physical, psychological or other injury or condition
37 suffered by such person as a result of conduct which would constitute a
38 sexual offense as defined in article one hundred thirty of the penal law
39 committed against such person who was less than eighteen years of age,
40 sex trafficking as defined in section 230.34 of the penal law committed
41 against such person who was less than eighteen years of age, sex traf-
42 ficking of a child as defined in section 230.34-a of the penal law,
43 incest as defined in section 255.27, 255.26 or 255.25 of the penal law
44 committed against such person who was less than eighteen years of age,
45 or the use of such person in a sexual performance as defined in section
46 263.05 of the penal law, or a predecessor statute that prohibited such
47 conduct at the time of the act, which conduct was committed against such
48 person who was less than eighteen years of age, such action may be
49 commenced, against any party whose intentional or negligent acts or
50 omissions are alleged to have resulted in the commission of said
51 conduct, on or before the plaintiff or infant plaintiff reaches the age
52 of fifty-five years. In any such claim or action, in addition to any
53 other defense and affirmative defense that may be available in accord-
54 ance with law, rule or the common law, to the extent that the acts
55 alleged in such action are of the type described in subdivision one of
56 section 130.30 of the penal law or subdivision one of section 130.45 of

1 the penal law, the affirmative defenses set forth, respectively, in the
2 closing paragraph of such sections of the penal law shall apply.

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

5 § 214-g. (a) Certain child sexual abuse cases. Notwithstanding any
6 provision of law which imposes a period of limitation to the contrary
7 and the provisions of any other law pertaining to the filing of a notice
8 of claim or a notice of intention to file a claim as a condition prece-
9 dent to commencement of an action or special proceeding, every civil
10 claim or cause of action brought against any party alleging intentional
11 or negligent acts or omissions by a person for physical, psychological,
12 or other injury or condition suffered as a result of conduct which would
13 constitute a sexual offense as defined in article one hundred thirty of
14 the penal law committed against a child less than eighteen years of age,
15 incest as defined in section 255.27, 255.26 or 255.25 of the penal law
16 committed against a child less than eighteen years of age, or the use of
17 a child in a sexual performance as defined in section 263.05 of the
18 penal law, or a predecessor statute that prohibited such conduct at the
19 time of the act, which conduct was committed against a child less than
20 eighteen years of age, which is barred as of the effective date of this
21 section because the applicable period of limitation has expired, and/or
22 the plaintiff previously failed to file a notice of claim or a notice of
23 intention to file a claim, is hereby revived, and action thereon may be
24 commenced not earlier than six months after, and not later than two
25 years and six months after the effective date of this section. In any
26 such claim or action: (a) in addition to any other defense and affirma-
27 tive defense that may be available in accordance with law, rule or the
28 common law, to the extent that the acts alleged in such action are of
29 the type described in subdivision one of section 130.30 of the penal law
30 or subdivision one of section 130.45 of the penal law, the affirmative
31 defenses set forth, respectively, in the closing paragraph of such
32 sections of the penal law shall apply; and (b) dismissal of a previous
33 action, ordered before the effective date of this section, on grounds
34 that such previous action was time barred, and/or for failure of a party
35 to file a notice of claim or a notice of intention to file a claim,
36 shall not be grounds for dismissal of a revival action pursuant to this
37 section.

38 (b) Notwithstanding any provision of law which imposes a period of
39 limitation to the contrary and the provisions of any other law pertain-
40 ing to the filing of a notice of claim or a notice of intention to file
41 a claim as a condition precedent to commencement of an action or special
42 proceeding, every civil claim or cause of action brought against any
43 party alleging intentional or negligent acts or omissions by a person
44 for physical, psychological, or other injury or condition suffered as a
45 result of conduct which would constitute sex trafficking as defined in
46 section 230.34 of the penal law committed against a child less than
47 eighteen years of age or sex trafficking of a child as defined in
48 section 230.34-a of the penal law, which is barred as of the effective
49 date of this subdivision because the applicable period of limitation has
50 expired, and/or the plaintiff previously failed to file a notice of
51 claim or a notice of intention to file a claim, is hereby revived, and
52 action thereon may be commenced not earlier than six months after, and
53 not later than one year and six months after the effective date of this
54 subdivision. In any such claim or action, dismissal of a previous
55 action, ordered before the effective date of this subdivision, on
56 grounds that such previous action was time barred, and/or for failure of

a party to file a notice of claim or a notice of intention to file a claim, shall not be grounds for dismissal of a revival action pursuant to this subdivision.

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

§ 213-c. Action by victim of conduct constituting certain sexual offenses. Notwithstanding any other limitation set forth in this article, except as provided in subdivision (b) of section two hundred eight of this article, all civil claims or causes of action brought by any person for physical, psychological or other injury or condition suffered by such person as a result of conduct which would constitute rape in the first degree as defined in section 130.35 of the penal law, or rape in the second degree as defined in subdivision two of section 130.30 of the penal law, or rape 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 first degree as defined in section 130.50 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 criminal sexual act in the third degree as defined in subdivision one or three of section 130.40 of the penal law, or incest in the first degree as defined in section 255.27 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 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), 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 sex trafficking as defined in section 230.34 of the penal law, or sex trafficking of a child as defined in section 230.34-a of the penal law may be brought against any party whose intentional or negligent acts or omissions are alleged to have resulted in the commission of the said conduct, within twenty years. Nothing in this section shall be construed to require that a criminal charge be brought or a criminal conviction be obtained as a condition of bringing a civil cause of action or receiving a civil judgment pursuant to this section or be construed to require that any of the rules governing a criminal proceeding be applicable to any such civil action.

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

§ 214-k. Certain sexual offense actions. Notwithstanding any provision of law which imposes a period of limitation to the contrary and the provisions of any other law pertaining to the filing of a notice of claim or a notice of intention to file a claim as a condition precedent to commencement of an action or special proceeding, every civil claim or cause of action brought against any party alleging intentional or negligent acts or omissions by a person for physical, psychological, or other injury or condition suffered as a result of conduct which would constitute sex trafficking as defined in section 230.34 of the penal law committed against such person who was eighteen years of age or older, which is barred as of the effective date of this section because the applicable period of limitation has expired, and/or the plaintiff previously failed to file a notice of claim or a notice of intention to file a claim, is hereby revived, and action thereon may be commenced not earlier than six months after, and not later than one year and six months after the effective date of this section. In any such claim or action, dismissal of a previous action, ordered before the effective

date of this section, on grounds that such previous action was time barred, and/or for failure of a party to file a notice of claim or a notice of intention to file a claim, shall not be grounds for dismissal of a revival action pursuant to this section.

§ 7. Paragraph 7 of subdivision (a) of rule 3403 of the civil practice law and rules, as amended by chapter 203 of the laws of 2022, is amended to read as follows:

7. any action which has been revived pursuant to subdivision (a) or (b) of section two hundred fourteen-g [~~or~~], two hundred fourteen-j, or two hundred fourteen-k of this chapter.

§ 8. Section 219-e of the judiciary law, as added by chapter 203 of the laws of 2022, is amended to read as follows:

§ 219-e. Rules reviving certain actions; sexual offenses. The chief administrator of the courts shall promulgate rules for the timely adjudication of revived actions brought pursuant to section two hundred fourteen-j and section two hundred fourteen-k of the civil practice law and rules.

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

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

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

5. Notwithstanding any provision of law to the contrary, this section shall not apply to any claim made against a city, county, town, village, fire district or school district for physical, psychological, or other injury or condition suffered as a result of conduct which would constitute a sexual offense as defined in article one hundred thirty of the penal law committed against a child less than eighteen years of age, sex trafficking as defined in section 230.34 of the penal law committed against a child less than eighteen years of age, sex trafficking of a child as defined in section 230.34-a of the penal law, incest as defined in section 255.27, 255.26 or 255.25 of the penal law committed against a child less than eighteen years of age, or the use of a child in a sexual performance as defined in section 263.05 of the penal law committed against a child less than eighteen years of age.

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

10. Notwithstanding any provision of law to the contrary, this section shall not apply to any claim to recover damages for physical, psychological, or other injury or condition suffered as a result of conduct which would constitute a sexual offense as defined in article one hundred thirty of the penal law committed against a child less than eighteen years of age, sex trafficking as defined in section 230.34 of the penal law committed against a child less than eighteen years of age, sex trafficking of a child as defined in section 230.34-a of the penal law,

1 incest as defined in section 255.27, 255.26 or 255.25 of the penal law
2 committed against a child less than eighteen years of age, or the use of
3 a child in a sexual performance as defined in section 263.05 of the
4 penal law committed against a child less than eighteen years of age.

5 § 12. Subdivision 2 of section 3813 of the education law, as amended
6 by chapter 11 of the laws of 2019, is amended to read as follows:

7 2. Notwithstanding anything to the contrary hereinbefore contained in
8 this section, no action or special proceeding founded upon tort shall be
9 prosecuted or maintained against any of the parties named in this
10 section or against any teacher or member of the supervisory or adminis-
11 trative staff or employee where the alleged tort was committed by such
12 teacher or member or employee acting in the discharge of his duties
13 within the scope of his employment and/or under the direction of the
14 board of education, trustee or trustees, or governing body of the school
15 unless a notice of claim shall have been made and served in compliance
16 with section fifty-e of the general municipal law. Every such action
17 shall be commenced pursuant to the provisions of section fifty-i of the
18 general municipal law; provided, however, that this section shall not
19 apply to any claim to recover damages for physical, psychological, or
20 other injury or condition suffered as a result of conduct which would
21 constitute a sexual offense as defined in article one hundred thirty of
22 the penal law committed against a child less than eighteen years of age,
23 sex trafficking of a child as defined in section 230.34-a of the penal
24 law committed against a child less than eighteen years of age, incest as
25 defined in section 255.27, 255.26 or 255.25 of the penal law committed
26 against a child less than eighteen years of age, or the use of a child
27 in a sexual performance as defined in section 263.05 of the penal law
28 committed against a child less than eighteen years of age.

29 § 13. Severability. If any clause, sentence, paragraph, section or
30 part of this act shall be adjudged by any court of competent jurisdic-
31 tion to be invalid and after exhaustion of all further judicial review,
32 the judgment shall not affect, impair or invalidate the remainder there-
33 of, but shall be confined in its operation to the clause, sentence,
34 paragraph, section or part of this act directly involved in the contro-
35 versy in which the judgment shall have been rendered.

36 § 14. This act shall take effect immediately and shall apply to acts
37 or omissions occurring on or after such effective date and to acts or
38 omissions occurring prior to such effective date where the applicable
39 statute of limitations in effect on the date of such act or omission has
40 not yet expired.