

STATE OF NEW YORK

349--B

2023-2024 Regular Sessions

IN SENATE

(Prefiled)

January 4, 2023

Introduced by Sens. CLEARE, BORRELLO, MARTINEZ, PALUMBO -- 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 -- recommitted to the Committee on Codes in accordance with Senate Rule 6, sec. 8 -- 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-

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

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1 al abuse in the first degree as defined in section 130.70 of the penal
2 law, or course of sexual conduct against a child in the first degree as
3 defined in section 130.75 of the penal law, or sex trafficking as
4 defined in section 230.34 of the penal law, or sex trafficking of a
5 child as defined in section 230.34-a of the penal law, or incest in the
6 first degree as defined in section 255.27 of the penal law may be
7 commenced at any time;

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

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

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

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

1 ance with law, rule or the common law, to the extent that the acts
2 alleged in such action are of the type described in subdivision one of
3 section 130.30 of the penal law or subdivision one of section 130.45 of
4 the penal law, the affirmative defenses set forth, respectively, in the
5 closing paragraph of such sections of the penal law shall apply.

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

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

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

1 subdivision. In any such claim or action, dismissal of a previous
2 action, ordered before the effective date of this subdivision, on
3 grounds that such previous action was time barred, and/or for failure of
4 a party to file a notice of claim or a notice of intention to file a
5 claim, shall not be grounds for dismissal of a revival action pursuant
6 to this subdivision.

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

9 § 213-c. Action by victim of conduct constituting certain sexual
10 offenses. Notwithstanding any other limitation set forth in this article
11 or any other provision of law which imposes a period of limitation to
12 the contrary, except as provided in subdivision (b) of section two
13 hundred eight of this article, all civil claims or causes of action
14 brought by any person for physical, psychological or other injury or
15 condition suffered by such person as a result of conduct which would
16 constitute rape in the first degree as defined in section 130.35 of the
17 penal law, or rape in the second degree as defined in subdivision two of
18 section 130.30 of the penal law, or rape in the third degree as defined
19 in subdivision one or three of section 130.25 of the penal law, or crim-
20 inal sexual act in the first degree as defined in section 130.50 of the
21 penal law, or criminal sexual act in the second degree as defined in
22 subdivision two of section 130.45 of the penal law, or criminal sexual
23 act in the third degree as defined in subdivision one or three of
24 section 130.40 of the penal law, or incest in the first degree as
25 defined in section 255.27 of the penal law, or incest in the second
26 degree as defined in section 255.26 of the penal law (where the crime
27 committed is rape in the second degree as defined in subdivision two of
28 section 130.30 of the penal law or criminal sexual act in the second
29 degree as defined in subdivision two of section 130.45), or aggravated
30 sexual abuse in the first degree as defined in section 130.70 of the
31 penal law, or course of sexual conduct against a child in the first
32 degree as defined in section 130.75 of the penal law, or sex trafficking
33 as defined in section 230.34 of the penal law, or sex trafficking of a
34 child as defined in section 230.34-a of the penal law may be brought
35 against any party whose intentional or negligent acts or omissions are
36 alleged to have resulted in the commission of the said conduct, within
37 twenty years. Nothing in this section shall be construed to require that
38 a criminal charge be brought or a criminal conviction be obtained as a
39 condition of bringing a civil cause of action or receiving a civil judg-
40 ment pursuant to this section or be construed to require that any of the
41 rules governing a criminal proceeding be applicable to any such civil
42 action.

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

45 § 214-k. Certain sexual offense actions. Notwithstanding any
46 provision of law which imposes a period of limitation to the contrary
47 and the provisions of any other law pertaining to the filing of a notice
48 of claim or a notice of intention to file a claim as a condition prece-
49 dent to commencement of an action or special proceeding, every civil
50 claim or cause of action brought against any party alleging intentional
51 or negligent acts or omissions by a person for physical, psychological,
52 or other injury or condition suffered as a result of conduct which would
53 constitute sex trafficking as defined in section 230.34 of the penal law
54 committed against such person who was eighteen years of age or older,
55 which is barred as of the effective date of this section because the
56 applicable period of limitation has expired, and/or the plaintiff previ-

ously 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 [~~ex~~], 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

1 would constitute a sexual offense as defined in article one hundred
2 thirty of the penal law committed against a child less than eighteen
3 years of age, sex trafficking as defined in section 230.34 of the penal
4 law committed against a child less than eighteen years of age, sex traf-
5 ficking of a child as defined in section 230.34-a of the penal law,
6 incest as defined in section 255.27, 255.26 or 255.25 of the penal law
7 committed against a child less than eighteen years of age, or the use of
8 a child in a sexual performance as defined in section 263.05 of the
9 penal law committed against a child less than eighteen years of age.

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

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

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

41 § 14. This act shall take effect immediately and shall apply to acts
42 or omissions occurring on or after such effective date and to acts or
43 omissions occurring prior to such effective date where the applicable
44 statute of limitations in effect on the date of such act or omission has
45 not yet expired.