

# STATE OF NEW YORK

1854

2023-2024 Regular Sessions

## IN ASSEMBLY

January 23, 2023

Introduced by M. of A. L. ROSENTHAL -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to removing statute of limitations for certain child sexual assault crimes; to amend the civil practice law and rules, in relation to removing the statute of limitations in civil actions involving certain child sexual assault offenses; and to repeal paragraph (e) of subdivision 3 of section 30.10 of the criminal procedure law relating to the statute of limitations for sexual conduct against a child

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 third degree as  
5 defined in subdivision two of section 130.25 of the penal law, or rape  
6 in the second degree as defined in subdivision one of section 130.30 of  
7 the penal law, or rape in the first degree as defined in section 130.35  
8 of the penal law, or criminal sexual act in the third degree as defined  
9 in subdivision two of section 130.40 of the penal law, or criminal sexu-  
10 al act in the second degree as defined in subdivision one of section  
11 130.45 of the penal law, or a crime defined or formerly defined in  
12 section 130.50 of the penal law, or sexual abuse in the second degree as  
13 defined in subdivision two of section 130.60 of the penal law, or sexual  
14 abuse in the first degree as defined in subdivisions three and four of  
15 section 130.65 of the penal law, or aggravated sexual abuse in the  
16 fourth degree as defined in paragraph (a) of subdivision one of section  
17 130.65-a of the penal law, or aggravated sexual abuse in the third  
18 degree as defined in paragraph (c) of subdivision one of section 130.66  
19 of the penal law, or aggravated sexual abuse in the second degree as  
20 defined in paragraph (c) of subdivision one of section 130.67 of the

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

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1 penal law, or aggravated sexual abuse in the first degree as defined in  
2 section 130.70 of the penal law, or course of sexual conduct against a  
3 child in the first degree as defined in section 130.75 of the penal law,  
4 or course of sexual conduct against a child in the second degree as  
5 defined in section 130.80 of the penal law, or predatory sexual assault  
6 against a child as defined in section 130.96 of the penal law, or incest  
7 in the first degree as defined in section 255.27 of the penal law, or  
8 use of a child in a sexual performance as defined in section 263.05 of  
9 the penal law, may be commenced at any time;

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

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

25 § 3. Paragraph (e) of subdivision 3 of section 30.10 of the criminal  
26 procedure law is REPEALED.

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

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

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

3 § 213-c. Action by victim of conduct constituting certain sexual  
4 offenses. (a) Notwithstanding any other limitation set forth in this  
5 article, except as provided in subdivision (b) of section two hundred  
6 eight of this article, all civil claims or causes of action brought by  
7 any person for physical, psychological or other injury or condition  
8 suffered by such person as a result of conduct which would constitute  
9 rape in the first degree as defined in section 130.35 of the penal law,  
10 or rape in the second degree as defined in subdivision two of section  
11 130.30 of the penal law, or rape in the third degree as defined in  
12 subdivision one or three of section 130.25 of the penal law, or criminal  
13 sexual act in the first degree as defined in section 130.50 of the penal  
14 law, or criminal sexual act in the second degree as defined in subdivi-  
15 sion two of section 130.45 of the penal law, or criminal sexual act in  
16 the third degree as defined in subdivision one or three of section  
17 130.40 of the penal law, or incest in the first degree as defined in  
18 section 255.27 of the penal law, or incest in the second degree as  
19 defined in section 255.26 of the penal law (where the crime committed is  
20 rape in the second degree as defined in subdivision two of section  
21 130.30 of the penal law or criminal sexual act in the second degree as  
22 defined in subdivision two of section 130.45), or aggravated sexual  
23 abuse in the first degree as defined in section 130.70 of the penal law,  
24 or course of sexual conduct against a child in the first degree as  
25 defined in section 130.75 of the penal law may be brought against any  
26 party whose intentional or negligent acts or omissions are alleged to  
27 have resulted in the commission of the said conduct, within twenty  
28 years.

29 (b) Notwithstanding the provisions of subdivision (a) of this section,  
30 or any other provision of law to the contrary, all civil claims or caus-  
31 es of action brought by any person for physical, psychological or other  
32 injury or condition suffered as a result of conduct which would consti-  
33 tute a sexual offense as defined in article one hundred thirty of the  
34 penal law committed against a child less than eighteen years of age,  
35 incest as defined in section 255.25, 255.26 or 255.27 of the penal law  
36 committed against a child less than eighteen years of age, or the use of  
37 a child in a sexual performance as defined in section 263.05 of the  
38 penal law, or a predecessor statute that prohibited such conduct at the  
39 time of the act, which conduct was committed against a child less than  
40 eighteen years of age, such action may be commenced at any time.

41 (c) Nothing in this section shall be construed to require that a crim-  
42 inal charge be brought or a criminal conviction be obtained as a condi-  
43 tion of bringing a civil cause of action or receiving a civil judgment  
44 pursuant to this section or be construed to require that any of the  
45 rules governing a criminal proceeding be applicable to any such civil  
46 action.

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

49 § 214-g. Certain child sexual abuse cases. Notwithstanding any  
50 provision of law which imposes a period of limitation to the contrary  
51 and the provisions of any other law pertaining to the filing of a notice  
52 of claim or a notice of intention to file a claim as a condition prece-  
53 dent to commencement of an action or special proceeding, every civil  
54 claim or cause of action brought against any party alleging intentional  
55 or negligent acts or omissions by a person for physical, psychological,  
56 or other injury or condition suffered as a result of conduct which would

1 constitute a sexual offense as defined in article one hundred thirty of  
2 the penal law committed against a child less than eighteen years of age,  
3 incest as defined in section 255.27, 255.26 or 255.25 of the penal law  
4 committed against a child less than eighteen years of age, or the use of  
5 a child in a sexual performance as defined in section 263.05 of the  
6 penal law, or a predecessor statute that prohibited such conduct at the  
7 time of the act, which conduct was committed against a child less than  
8 eighteen years of age, which is barred as of the effective date of this  
9 section because the applicable period of limitation has expired, and/or  
10 the plaintiff previously failed to file a notice of claim or a notice of  
11 intention to file a claim, is hereby revived, and action thereon may be  
12 commenced not earlier than six months after~~[, and not later than two~~  
13 ~~years and six months after]~~ the effective date of this section. In any  
14 such claim or action: (a) in addition to any other defense and affirma-  
15 tive defense that may be available in accordance with law, rule or the  
16 common law, to the extent that the acts alleged in such action are of  
17 the type described in subdivision one of section 130.30 of the penal law  
18 or subdivision one of section 130.45 of the penal law, the affirmative  
19 defenses set forth, respectively, in the closing paragraph of such  
20 sections of the penal law shall apply; and (b) dismissal of a previous  
21 action, ordered before the effective date of this section, on grounds  
22 that such previous action was time barred, and/or for failure of a party  
23 to file a notice of claim or a notice of intention to file a claim,  
24 shall not be grounds for dismissal of a revival action pursuant to this  
25 section.

26 § 7. This act shall take effect immediately.