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:

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

(a) A prosecution for a class A felony, or **rape in the third degree as defined in subdivision two of section 130.25 of the penal law, or rape in the second degree as defined in subdivision one of section 130.30 of the penal law, or** rape in the first degree as defined in section 130.35 of the penal law, **or criminal sexual act in the third degree as defined in subdivision two of section 130.40 of the penal law, or criminal sexual act in the second degree as defined in subdivision one of section 130.45 of the penal law,** or a crime defined or formerly defined in section 130.50 of the penal law, **or sexual abuse in the second degree as defined in subdivision two of section 130.60 of the penal law, or sexual abuse in the first degree as defined in subdivisions three and four of section 130.65 of the penal law, or aggravated sexual abuse in the fourth degree as defined in paragraph (a) of subdivision one of section 130.65-a of the penal law, or aggravated sexual abuse in the third degree as defined in paragraph (c) of subdivision one of section 130.66 of the penal law, or aggravated sexual abuse in the second degree as 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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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 course of sexual conduct against a child in the second degree as defined in section 130.80 of the penal law, or predatory sexual assault against a child as defined in section 130.96 of the penal law,** or incest in the first degree as defined in section 255.27 of the penal law**, or use of a child in a sexual performance as defined in section 263.05 of the penal law,** may be commenced at any time;

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

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

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

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

(b) 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, with respect to 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 a sexual offense as defined in article one hundred thirty of the penal law committed against such person who was less than eighteen years of age, incest as defined in section 255.27, 255.26 or 255.25 of the penal law committed against such person who was less than eighteen years of age, or the use of such person in a sexual performance as defined in section 263.05 of the penal law, or a predecessor statute that prohibited such conduct at the time of the act, which conduct was committed against such person who was less than eighteen years of age, such action may be commenced, against any party whose intentional or negligent acts or omissions are alleged to have resulted in the commission of said conduct, [~~**on or before**~~] **by** the plaintiff or infant plaintiff [~~**reaches the age of fifty-five years**~~] **at any time**. In any such claim or action, in addition to any other defense and affirmative defense that may be available in accordance with law, rule or the common law, to the extent that the acts alleged in such action are of the type described in subdivision one of section 130.30 of the penal law or subdivision one of section 130.45 of the penal law, the affirmative defenses set forth, respectively, in the closing paragraph of such sections of the penal law shall apply.

§ 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. **(a)** 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 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.

(b) Notwithstanding the provisions of subdivision (a) of this section, or any other provision of law to the contrary, all civil claims or causes of action brought by any person 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, incest as defined in section 255.25, 255.26 or 255.27 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, or a predecessor statute that prohibited such conduct at the time of the act, which conduct was committed against a child less than eighteen years of age, such action may be commenced at any time.

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

§ 214-g. Certain child sexual abuse cases. 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 a sexual offense as defined in article one hundred thirty of the penal law committed against a child less than eighteen years of age, 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, or a predecessor statute that prohibited such conduct at the time of the act, which conduct was committed against a child less than eighteen years of age, 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 two years and six months after~~] the effective date of this section. In any such claim or action: (a) in addition to any other defense and affirmative defense that may be available in accordance with law, rule or the common law, to the extent that the acts alleged in such action are of the type described in subdivision one of section 130.30 of the penal law or subdivision one of section 130.45 of the penal law, the affirmative defenses set forth, respectively, in the closing paragraph of such sections of the penal law shall apply; and (b) 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. This act shall take effect immediately.