

# STATE OF NEW YORK

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1940--B

2023-2024 Regular Sessions

## IN ASSEMBLY

January 23, 2023

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Introduced by M. of A. DINOWITZ, L. ROSENTHAL, HEVESI, BICHOTTE HERMELYN, PAULIN, COLTON, GLICK, DE LOS SANTOS, LEVENBERG, BRAUNSTEIN, SIMON, SILLITTI, EPSTEIN, CRUZ, COOK, GONZALEZ-ROJAS, DAVILA, THIELE, LAVINE, OTIS, TAPIA, MAHER -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Rules -- Rules Committee discharged, bill amended, ordered reprinted as amended and recommitted to the Committee on Rules

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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al 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, or incest in the first degree as defined in section 255.27 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, 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. This paragraph shall not apply to sexual offenses delineated in paragraph (a) of subdivision two of this section 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 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. 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, sex trafficking as defined in section 230.34 of the penal law committed against such person who was 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 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 the plaintiff or infant plaintiff reaches the age of fifty-five years. In any such claim or action, in addition to any 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.