STATE OF NEW YORK

8558

IN ASSEMBLY

January 9, 2024

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

AN ACT to amend the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law and the judiciary law, in relation to certain sex offenses; and to amend a chapter of the laws of 2023, amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, in relation to the effectiveness thereof

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

Section 1. Subdivision 10 of section 130.00 of the penal law, as amended by chapter 264 of the laws of 2003, is amended to read as follows:

10. "Sexual conduct" means **vaginal** sexual [~~**intercourse**~~] **contact**, oral sexual [~~**conduct**~~] **contact**, anal sexual [~~**conduct**~~] **contact**, aggravated sexual contact, or sexual contact.

§ 2. Paragraph 2 of subdivision 18 of section 10.00 of the penal law, as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, is amended to read as follows:

(2) a person fourteen or fifteen years old who is criminally responsible for acts constituting the crimes defined in subdivisions one and two of section 125.25 (murder in the second degree) and in subdivision three of such section provided that the underlying crime for the murder charge

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

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is one for which such person is criminally responsible; section 135.25 (kidnapping in the first degree); 150.20 (arson in the first degree); subdivisions one and two of section 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); paragraphs (a) and (b) of subdivision one, paragraphs (a) and (b) of subdivision two, and paragraphs (a) and (b) of subdivision three of section 130.35 (rape in the first degree); **former subdivisions one and two of section 130.35 (rape in the first degree); subdivisions one and two of the former section 130.50;** 130.70 (aggravated sexual abuse in the first degree); 140.30 (burglary in the first degree); subdivision one of section 140.25 (burglary in the second degree); 150.15 (arson in the second degree); 160.15 (robbery in the first degree); subdivision two of section 160.10 (robbery in the second degree) of this chapter; or section 265.03 of this chapter, where such machine gun or such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 of this chapter; or defined in this chapter as an attempt to commit murder in the second degree or kidnapping in the first degree, or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of this chapter.

§ 3. Subdivision 2 of section 30.00 of the penal law, as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, is amended to read as follows:

2. A person thirteen, fourteen or, fifteen years of age is criminally responsible for acts constituting murder in the second degree as defined in subdivisions one and two of section 125.25 and in subdivision three of such section provided that the underlying crime for the murder charge is one for which such person is criminally responsible or for such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of this chapter; and a person fourteen or, fifteen years of age is criminally responsible for acts constituting the crimes defined in section 135.25 (kidnapping in the first degree); 150.20 (arson in the first degree); subdivisions one and two of section 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); paragraphs (a) and (b) of subdivision one, paragraphs (a) and (b) of subdivision two and paragraphs (a) and (b) of subdivision three of section 130.35 (rape in the first degree); **former subdivisions one and two of section 130.35 (rape in the first degree);** subdivisions one and two of **former** section 130.50 [~~**(criminal sexual act in the first degree)**~~]; 130.70 (aggravated sexual abuse in the first degree); 140.30 (burglary in the first degree); subdivision one of section 140.25 (burglary in the second degree); 150.15 (arson in the second degree); 160.15 (robbery in the first degree); subdivision two of section 160.10 (robbery in the second degree) of this chapter; or section 265.03 of this chapter, where such machine gun or such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 of this chapter; or defined in this chapter as an attempt to commit murder in the second degree or kidnapping in the first degree, or for such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of this chapter.

§ 4. Paragraph (b) of subdivision 2 of section 35.15 of the penal law, as amended by a chapter of the laws of 2023 amending the penal law, the

criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, is amended to read as follows:

(b) He or she reasonably believes that such other person is committing or attempting to commit a kidnapping, forcible rape, forcible aggravated sexual abuse, **a crime formerly defined in section 130.50 of this chapter by force,** or robbery; or

§ 5. Paragraphs (a) and (c) of subdivision 1 of section 70.02 of the penal law, paragraph (a) as amended by chapter 189 of the laws of 2018 and paragraph (c) as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, are amended to read as follows:

(a) Class B violent felony offenses: an attempt to commit the class A-I felonies of murder in the second degree as defined in section 125.25, kidnapping in the first degree as defined in section 135.25, and arson in the first degree as defined in section 150.20; manslaughter in the first degree as defined in section 125.20, aggravated manslaughter in the first degree as defined in section 125.22, rape in the first degree as defined in section 130.35, [~~criminal sexual act in the first degree as~~] **a crime formerly** defined in section 130.50, aggravated sexual abuse in the first degree as defined in section 130.70, course of sexual conduct against a child in the first degree as defined in section 130.75[~~:~~], assault in the first degree as defined in section 120.10, kidnapping in the second degree as defined in section 135.20, burglary in the first degree as defined in section 140.30, arson in the second degree as defined in section 150.15, robbery in the first degree as defined in section 160.15, sex trafficking as defined in paragraphs (a) and (b) of subdivision five of section 230.34, sex trafficking of a child as defined in section 230.34-a, incest in the first degree as defined in section 255.27, criminal possession of a weapon in the first degree as defined in section 265.04, criminal use of a firearm in the first degree as defined in section 265.09, criminal sale of a firearm in the first degree as defined in section 265.13, aggravated assault upon a police officer or a peace officer as defined in section 120.11, gang assault in the first degree as defined in section 120.07, intimidating a victim or witness in the first degree as defined in section 215.17, hindering prosecution of terrorism in the first degree as defined in section 490.35, criminal possession of a chemical weapon or biological weapon in the second degree as defined in section 490.40, and criminal use of a chemical weapon or biological weapon in the third degree as defined in section 490.47.

(c) Class D violent felony offenses: an attempt to commit any of the class C felonies set forth in paragraph (b); reckless assault of a child as defined in section 120.02, assault in the second degree as defined in section 120.05, menacing a police officer or peace officer as defined in section 120.18, stalking in the first degree, as defined in subdivision one of section 120.60, strangulation in the second degree as defined in section 121.12, rape in the second degree as defined in section 130.30, **a crime formerly defined in section 130.45,** sexual abuse in the first

degree as defined in section 130.65, course of sexual conduct against a child in the second degree as defined in section 130.80, aggravated sexual abuse in the third degree as defined in section 130.66, facilitating a sex offense with a controlled substance as defined in section 130.90, labor trafficking as defined in paragraphs (a) and (b) of subdivision three of section 135.35, criminal possession of a weapon in the third degree as defined in subdivision five, six, seven, eight, nine or ten of section 265.02, criminal sale of a firearm in the third degree as defined in section 265.11, intimidating a victim or witness in the second degree as defined in section 215.16, soliciting or providing support for an act of terrorism in the second degree as defined in section 490.10, and making a terroristic threat as defined in section 490.20, falsely reporting an incident in the first degree as defined in section 240.60, placing a false bomb or hazardous substance in the first degree as defined in section 240.62, placing a false bomb or hazardous substance in a sports stadium or arena, mass transportation facility or enclosed shopping mall as defined in section 240.63, aggravated unpermitted use of indoor pyrotechnics in the first degree as defined in section 405.18, and criminal manufacture, sale, or transport of an undetectable firearm, rifle or shotgun as defined in section 265.50.

§ 6. Paragraph b of subdivision 5 of section 120.40 of the penal law, as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, is amended to read as follows:

b. a crime defined in section 130.20, 130.25, 130.30, 130.55, 130.60, 130.70, 255.25, 255.26 or 255.27**, or formerly defined in section 130.40 or 130.45**;

§ 7. Paragraph (d) of subdivision 2 and paragraph (h) of subdivision 3 of section 130.05 of the penal law, as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, are amended to read as follows:

(d) Where the offense charged is rape in the third degree as defined in subdivision seven, eight or nine of section 130.25, **or a crime formerly defined in subdivision three of section 130.40**, in addition to forcible [~~**vaginal sexual contact**~~] compulsion, circumstances under which, at the time of the act of [~~**intercourse**~~] **vaginal sexual contact**, oral sexual contact or anal sexual contact, the victim clearly expressed that he or she did not consent to engage in such act, and a reasonable person in the actor's situation would have understood such person's words and acts as an expression of lack of consent to such act under all the circumstances.

(h) a client or patient and the actor is a health care provider or mental health care provider charged with rape in the third degree as defined in section 130.25, **a crime formerly defined in section 130.40,** aggravated sexual abuse in the fourth degree as defined in section 130.65-a, or sexual abuse in the third degree as defined in section 130.55, and the act of sexual conduct occurs during a treatment session, consultation, interview, or examination; or

§ 8. The opening paragraph of subdivision 3 of section 125.25 of the penal law, as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, is amended to read as follows:

Acting either alone or with one or more other persons, he commits or attempts to commit robbery, burglary, kidnapping, arson, rape in the first degree, **a crime formerly defined in section 130.50 of this title, the crime of** sexual abuse in the first degree, aggravated sexual abuse, escape in the first degree, or escape in the second degree, and, in the course of and in furtherance of such crime or of immediate flight therefrom, he, or another participant, if there be any, causes the death of a person other than one of the participants; except that in any prosecution under this subdivision, in which the defendant was not the only participant in the underlying crime, it is an affirmative defense that the defendant:

§ 9. Subdivision 5 of section 125.25 of the penal law, as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, is amended to read as follows:

5. Being eighteen years old or more, while in the course of committing rape in the first, second or third degree, **a crime formerly defined in section 130.50, 130.45 or 130.40 of this title, the crime of** sexual abuse in the first degree, aggravated sexual abuse in the first, second, third or fourth degree, or incest in the first, second or third degree, against a person less than fourteen years old, he or she intentionally causes the death of such person.

§ 10. Subparagraph (vii) of paragraph (a) of subdivision 1 of section 125.27 of the penal law, as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, is amended to read as follows:

(vii) the victim was killed while the defendant was in the course of committing or attempting to commit and in furtherance of robbery, burglary in the first degree or second degree, kidnapping in the first degree, arson in the first degree or second degree, rape in the first degree, **a crime formerly defined in section 130.50 of this title,** sexual abuse in the first degree, aggravated sexual abuse in the first degree or escape in the first degree, or in the course of and furtherance of immediate flight after committing or attempting to commit any such crime or in the course of and furtherance of immediate flight after attempting to commit the crime of murder in the second degree; provided however, the victim is not a participant in one of the aforementioned crimes and, provided further that, unless the defendant's criminal liability under this subparagraph is based upon the defendant having commanded another person to cause the death of the victim or intended victim pursuant to

section 20.00 of this chapter, this subparagraph shall not apply where the defendant's criminal liability is based upon the conduct of another pursuant to section 20.00 of this chapter; or

§ 11. Subdivision 3 of section 130.10 of the penal law, as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, is amended to read as follows:

3. In any prosecution for the crime of rape in the third degree as defined in section 130.25, **a crime formerly defined in section 130.40,** aggravated sexual abuse in the fourth degree as defined in section 130.65-a, or sexual abuse in the third degree as defined in section 130.55 in which incapacity to consent is based on the circumstances set forth in paragraph (h) of subdivision three of section 130.05 of this article it shall be an affirmative defense that the client or patient consented to such conduct charged after having been expressly advised by the health care or mental health care provider that such conduct was not performed for a valid medical purpose.

§ 12. The opening paragraph and subdivision 2 of section 130.95 of the penal law, as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, are amended to read as follows:

A person is guilty of predatory sexual assault when he or she commits the crime of rape in the first degree, **a crime formerly defined in section 130.50 of this title, the crime of** aggravated sexual abuse in the first degree, or course of sexual conduct against a child in the first degree, as defined in this article, and when:

2. He or she has engaged in conduct constituting the crime of rape in the first degree, **a crime formerly defined in section 130.50 of this title, the crime of** aggravated sexual abuse in the first degree, or course of sexual conduct against a child in the first degree, as defined in this article, against one or more additional persons; or

§ 13. The opening paragraph of section 130.96 of the penal law, as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, is amended to read as follows:

A person is guilty of predatory sexual assault against a child when, being eighteen years old or more, he or she commits the crime of rape in the first degree, **a crime formerly defined in section 130.50 of this title, the crime of** aggravated sexual abuse in the first degree, or course of sexual conduct against a child in the first degree, as defined in this article, and the victim is less than thirteen years old.

§ 14. Subdivision 2 of section 240.75 of the penal law, as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle

and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, is amended to read as follows:

2. A "specified offense" is an offense defined in section 120.00 (assault in the third degree); section 120.05 (assault in the second degree); section 120.10 (assault in the first degree); section 120.13 (menacing in the first degree); section 120.14 (menacing in the second degree); section 120.15 (menacing in the third degree); section 120.20 (reckless endangerment in the second degree); section 120.25 (reckless endangerment in the first degree); section 120.45 (stalking in the fourth degree); section 120.50 (stalking in the third degree); section 120.55 (stalking in the second degree); section 120.60 (stalking in the first degree); section 121.11 (criminal obstruction of breathing or blood circulation); section 121.12 (strangulation in the second degree); section 121.13 (strangulation in the first degree); subdivision one of section 125.15 (manslaughter in the second degree); subdivision one, two or four of section 125.20 (manslaughter in the first degree); section 125.25 (murder in the second degree); section 130.20 (sexual misconduct); section 130.25 (rape in the third degree); section 130.30 (rape in the second degree); section 130.35 (rape in the first degree); **formerly defined in section 130.40; formerly defined in section 130.45; formerly defined in section 130.50; defined in** section 130.52 (forcible touching); section 130.53 (persistent sexual abuse); section 130.55 (sexual abuse in the third degree); section 130.60 (sexual abuse in the second degree); section 130.65 (sexual abuse in the first degree); section 130.66 (aggravated sexual abuse in the third degree); section 130.67 (aggravated sexual abuse in the second degree); section 130.70 (aggravated sexual abuse in the first degree); section 130.91 (sexually motivated felony); section 130.95 (predatory sexual assault); section 130.96 (predatory sexual assault against a child); section 135.05 (unlawful imprisonment in the second degree); section 135.10 (unlawful imprisonment in the first degree); section 135.60 (coercion in the third degree); section 135.61 (coercion in the second degree); section 135.65 (coercion in the first degree); section 140.20 (burglary in the third degree); section 140.25 (burglary in the second degree); section 140.30 (burglary in the first degree); section 145.00 (criminal mischief in the fourth degree); section 145.05 (criminal mischief in the third degree); section 145.10 (criminal mischief in the second degree); section 145.12 (criminal mischief in the first degree); section 145.14 (criminal tampering in the third degree); section 215.50 (criminal contempt in the second degree); section 215.51 (criminal contempt in the first degree); section 215.52 (aggravated criminal contempt); section 240.25 (harassment in the first degree); subdivision one, two or four of section 240.30 (aggravated harassment in the second degree); aggravated family offense as defined in this section or any attempt or conspiracy to commit any of the foregoing offenses where the defendant and the person against whom the offense was committed were members of the same family or household as defined in subdivision one of section 530.11 of the criminal procedure law.

§ 15. Section 255.26 of the penal law, as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domes-

tic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, is amended to read as follows:

§ 255.26 Incest in the second degree.

A person is guilty of incest in the second degree when he or she commits the crime of rape in the second degree, as defined in section 130.30 of this part, **or a crime formerly defined in section 130.45 of this part,** against a person whom he or she knows to be related to him or her, whether through marriage or not, as an ancestor, descendant, brother or sister of either the whole or the half blood, uncle, aunt, nephew or niece.

Incest in the second degree is a class D felony.

§ 16. Section 255.27 of the penal law, as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, is amended to read as follows:

§ 255.27 Incest in the first degree.

A person is guilty of incest in the first degree when he or she commits the crime of rape in the first degree, as defined in paragraph (c) or (d) of subdivision one, paragraph (c) or (d) of subdivision two or paragraph (c) or (d) of subdivision three of section 130.35 of this part**, rape in the first degree as defined in former subdivision three or four of section 130.35 of this part, or a crime formerly defined in subdivision three or four of section 130.50 of this part,** against a person whom he or she knows to be related to him or her, whether through marriage or not, as an ancestor, descendant, brother or sister of either the whole or half blood, uncle, aunt, nephew or niece.

Incest in the first degree is a class B felony.

§ 17. Subdivision 3 of section 485.05 of the penal law, as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, is amended to read as follows:

3. A "specified offense" is an offense defined by any of the following provisions of this chapter: section 120.00 (assault in the third degree); section 120.05 (assault in the second degree); section 120.10 (assault in the first degree); section 120.12 (aggravated assault upon a person less than eleven years old); section 120.13 (menacing in the first degree); section 120.14 (menacing in the second degree); section 120.15 (menacing in the third degree); section 120.20 (reckless endangerment in the second degree); section 120.25 (reckless endangerment in the first degree); section 121.12 (strangulation in the second degree); section 121.13 (strangulation in the first degree); subdivision one of section 125.15 (manslaughter in the second degree); subdivision one, two or four of section 125.20 (manslaughter in the first degree); section 125.25 (murder in the second degree); section 120.45 (stalking in the fourth degree); section 120.50 (stalking in the third degree); section 120.55 (stalking in the second degree); section 120.60 (stalking in the first degree); paragraph (a) of subdivision one, paragraph (a) of subdivision two and paragraph (a) of subdivision three of section 130.35 (rape in the first degree); **former subdivision one of section 130.35**

(rape in the first degree); subdivision one of former section 130.50; subdivision one of section 130.65 (sexual abuse in the first degree); paragraph (a) of subdivision one of section 130.67 (aggravated sexual abuse in the second degree); paragraph (a) of subdivision one of section 130.70 (aggravated sexual abuse in the first degree); section 135.05 (unlawful imprisonment in the second degree); section 135.10 (unlawful imprisonment in the first degree); section 135.20 (kidnapping in the second degree); section 135.25 (kidnapping in the first degree); section 135.60 (coercion in the third degree); section 135.61 (coercion in the second degree); section 135.65 (coercion in the first degree); section 140.10 (criminal trespass in the third degree); section 140.15 (criminal trespass in the second degree); section 140.17 (criminal trespass in the first degree); section 140.20 (burglary in the third degree); section 140.25 (burglary in the second degree); section 140.30 (burglary in the first degree); section 145.00 (criminal mischief in the fourth degree); section 145.05 (criminal mischief in the third degree); section 145.10 (criminal mischief in the second degree); section 145.12 (criminal mischief in the first degree); section 150.05 (arson in the fourth degree); section 150.10 (arson in the third degree); section 150.15 (arson in the second degree); section 150.20 (arson in the first degree); section 155.25 (petit larceny); section 155.30 (grand larceny in the fourth degree); section 155.35 (grand larceny in the third degree); section 155.40 (grand larceny in the second degree); section 155.42 (grand larceny in the first degree); section 160.05 (robbery in the third degree); section 160.10 (robbery in the second degree); section 160.15 (robbery in the first degree); section 240.25 (harassment in the first degree); subdivision one, two or four of section 240.30 (aggravated harassment in the second degree); section 490.10 (soliciting or providing support for an act of terrorism in the second degree); section 490.15 (soliciting or providing support for an act of terrorism in the first degree); section 490.20 (making a terroristic threat); section 490.25 (crime of terrorism); section 490.30 (hindering prosecution of terrorism in the second degree); section 490.35 (hindering prosecution of terrorism in the first degree); section 490.37 (criminal possession of a chemical weapon or biological weapon in the third degree); section 490.40 (criminal possession of a chemical weapon or biological weapon in the second degree); section 490.45 (criminal possession of a chemical weapon or biological weapon in the first degree); section 490.47 (criminal use of a chemical weapon or biological weapon in the third degree); section 490.50 (criminal use of a chemical weapon or biological weapon in the second degree); section 490.55 (criminal use of a chemical weapon or biological weapon in the first degree); or any attempt or conspiracy to commit any of the foregoing offenses.

§ 18. Subdivision 42 of section 1.20 of the criminal procedure law, as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, is amended to read as follows:

42. "Juvenile offender" means (1) a person, thirteen years old who is criminally responsible for acts constituting murder in the second degree as defined in subdivisions one and two of section 125.25 of the penal law, or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; and (2) a person fourteen

or fifteen years old who is criminally responsible for acts constituting the crimes defined in subdivisions one and two of section 125.25 (murder in the second degree) and in subdivision three of such section provided that the underlying crime for the murder charge is one for which such person is criminally responsible; section 135.25 (kidnapping in the first degree); 150.20 (arson in the first degree); subdivisions one and two of section 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); paragraphs (a) and (b) of subdivision one, paragraphs (a) and (b) of subdivision two and paragraphs (a) and (b) of subdivision three of section 130.35 (rape in the first degree); **former subdivisions one and two of section 130.35 (rape in the first degree); subdivisions one and two of former section 130.50;** 130.70 (aggravated sexual abuse in the first degree); 140.30 (burglary in the first degree); subdivision one of section 140.25 (burglary in the second degree); 150.15 (arson in the second degree); 160.15 (robbery in the first degree); subdivision two of section 160.10 (robbery in the second degree) of the penal law; or section 265.03 of the penal law, where such machine gun or such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 of the penal law; or defined in the penal law as an attempt to commit murder in the second degree or kidnapping in the first degree, or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law.

§ 19. Paragraphs (a) and (b) of subdivision 1, the opening paragraph of subdivision 2 and paragraph (a) of subdivision 3 of section 140.20 of the criminal procedure law, as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, are amended to read as follows:

(a) If the arrest is for an offense other than a class A, B, C or D felony or a violation of section 130.25, **former section 130.40, section** 205.10, 205.17, 205.19 or 215.56 of the penal law committed in a town, but not in a village thereof having a village court, and the town court of such town is not available at the time, the arrested person may be brought before the local criminal court of any village within such town or, any adjoining town, village embraced in whole or in part by such adjoining town, or city of the same county; and

(b) If the arrest is for an offense other than a class A, B, C or D felony or a violation of section 130.25, **former section 130.40, section** 205.10, 205.17, 205.19 or 215.56 of the penal law committed in a village having a village court and such court is not available at the time, the arrested person may be brought before the town court of the town embracing such village or any other village court within such town, or, if such town or village court is not available either, before the local criminal court of any adjoining town, village embraced in whole or in part by such adjoining town, or city of the same county; and

If the arrest is for an offense other than a class A, B, C or D felony or a violation of section 130.25, **former section 130.40, section** 205.10, 205.17, 205.19 or 215.56 of the penal law, the arrested person need not be brought before a local criminal court as provided in subdivision one, and the procedure may instead be as follows:

(a) the arrest is for an offense other than a class A, B, C or D felony or a violation of section 130.25, **former section 130.40, section** 205.10, 205.17, 205.19 or 215.56 of the penal law, and

§ 20. Paragraph (a) of subdivision 3 and the opening paragraph of subdivision 4 of section 140.27 of the criminal procedure law, as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, are amended to read as follows:

(a) the arrest is for an offense other than a class A, B, C or D felony or a violation of section 130.25, **former section 130.40, section** 205.10, 205.17, 205.19 or 215.56 of the penal law and

If the arrest is for an offense other than a class A, B, C or D felony or a violation of section 130.25, **former section 130.40, section** 205.10, 205.17, 205.19 or 215.56 of the penal law, the arrested person need not be brought before a local criminal court as provided in subdivision two, and the procedure may instead be as follows:

§ 21. Paragraph (a) of subdivision 2 and the opening paragraph of subdivision 3 of section 140.40 of the criminal procedure law, as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, are amended to read as follows:

(a) the arrest is for an offense other than a class A, B, C or D felony or a violation of section 130.25, **former section 130.40, section** 205.10, 205.17, 205.19 or 215.56 of the penal law and

If the arrest is for an offense other than a class A, B, C or D felony or a violation of section 130.25, **former section 130.40, section** 205.10, 205.17, 205.19 or 215.56 of the penal law, the arrested person need not be brought before a local criminal court, as provided in subdivision one, and the procedure may instead be as follows:

§ 22. Paragraph (a) of subdivision 1 of section 150.20 of the criminal procedure law, as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, is amended to read as follows:

(a) Whenever a police officer is authorized pursuant to section 140.10 of this title to arrest a person without a warrant for an offense other than a class A, B, C or D felony or a violation of section 130.25, **former section 130.40, section** 205.10, 205.17, 205.19 or 215.56 of the penal law, he shall, except as set out in paragraph (b) of this subdivision, subject to the provisions of subdivisions three and four of section 150.40 of this title, instead issue to and serve upon such person an appearance ticket.

§ 23. Subdivision (a) of section 190.71 of the criminal procedure law, as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the

vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, is amended to read as follows:

(a) Except as provided in subdivision six of section 200.20 of this chapter, a grand jury may not indict (i) a person thirteen years of age for any conduct or crime other than conduct constituting a crime defined in subdivisions one and two of section 125.25 (murder in the second degree) or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (ii) a person fourteen or fifteen years of age for any conduct or crime other than conduct constituting a crime defined in subdivisions one and two of section 125.25 (murder in the second degree) and in subdivision three of such section provided that the underlying crime for the murder charge is one for which such person is criminally responsible; 135.25 (kidnapping in the first degree); 150.20 (arson in the first degree); subdivisions one and two of section 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); paragraphs (a) and (b) of subdivision one, paragraphs (a) and (b) of subdivision two and paragraphs (a) and (b) of subdivision three of section 130.35 (rape in the first degree); **former subdivisions one and two of section 130.35 (rape in the first degree); subdivisions one and two of former section 130.50;** 130.70 (aggravated sexual abuse in the first degree); 140.30 (burglary in the first degree); subdivision one of section 140.25 (burglary in the second degree); 150.15 (arson in the second degree); 160.15 (robbery in the first degree); subdivision two of section 160.10 (robbery in the second degree) of the penal law; or section 265.03 of the penal law, where such machine gun or such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 of the penal law; or defined in the penal law as an attempt to commit murder in the second degree or kidnapping in the first degree, or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law.

§ 24. Subdivision 4 of section 722.20 of the criminal procedure law, as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, is amended to read as follows:

4. Notwithstanding the provisions of subdivisions two and three of this section, the court shall, at the request of the district attorney, order removal of an action against a juvenile offender to the family court pursuant to the provisions of article seven hundred twenty-five of this title if, upon consideration of the criteria specified in subdivision two of section 722.22 of this article, it is determined that to do so would be in the interests of justice. Where, however, the felony complaint charges the juvenile offender with murder in the second degree as defined in section 125.25 of the penal law, rape in the first degree as defined in paragraph (a) of subdivision one, paragraph (a) of subdivision two and paragraph (a) of subdivision three of section 130.35 of the penal law, **rape in the first degree as formerly defined in subdivision one of section 130.35 of the penal law; a crime formerly defined in subdivision one of section 130.50 of the penal law,** or an armed felony

as defined in paragraph (a) of subdivision forty-one of section 1.20 of this chapter, a determination that such action be removed to the family court shall, in addition, be based upon a finding of one or more of the following factors: (i) mitigating circumstances that bear directly upon the manner in which the crime was committed; or (ii) where the defendant was not the sole participant in the crime, the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution; or (iii) possible deficiencies in proof of the crime.

§ 25. Subdivision 5 of section 722.21 of the criminal procedure law, as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, is amended to read as follows:

5. Notwithstanding subdivisions two and three of this section, at the request of the district attorney, the court shall order removal of an action against an adolescent offender charged with an offense listed in paragraph (a) of subdivision two of section 722.23 of this article, to the family court pursuant to the provisions of article seven hundred twenty-five of this title and upon consideration of the criteria specified in subdivision two of section 722.22 of this article, it is determined that to do so would be in the interests of justice. Where, however, the felony complaint charges the adolescent offender with murder in the second degree as defined in section 125.25 of the penal law, rape in the first degree as defined in paragraph (a) of subdivision one, paragraph (a) of subdivision two and paragraph (a) of subdivision three of section 130.35 of the penal law, **rape in the first degree as formerly defined in subdivision one of section 130.35 of the penal law, a crime formerly defined in subdivision one of section 130.50 of the penal law,** or an armed felony as defined in paragraph (a) of subdivision forty-one of section 1.20 of this chapter, a determination that such action be removed to the family court shall, in addition, be based upon a finding of one or more of the following factors: (i) mitigating circumstances that bear directly upon the manner in which the crime was committed; or (ii) where the defendant was not the sole participant in the crime, the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution; or (iii) possible deficiencies in proof of the crime.

§ 26. Paragraph (b) of subdivision 1 of section 722.22 of the criminal procedure law, as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, is amended to read as follows:

(b) with the consent of the district attorney, order removal of an action involving an indictment charging a juvenile offender with murder in the second degree as defined in section 125.25 of the penal law; rape in the first degree, as defined in paragraph (a) of subdivision one, paragraph (a) of subdivision two and paragraph (a) of subdivision three of section 130.35 of the penal law; **rape in the first degree as formerly defined in subdivision one of section 130.35 of the penal law; a crime formerly defined in subdivision one of section 130.50 of the penal law;**

or an armed felony as defined in paragraph (a) of subdivision forty-one of section 1.20 of this chapter, to the family court pursuant to the provisions of article seven hundred twenty-five of this title if the court finds one or more of the following factors: (i) mitigating circumstances that bear directly upon the manner in which the crime was committed; (ii) where the defendant was not the sole participant in the crime, the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution; or (iii) possible deficiencies in the proof of the crime, and, after consideration of the factors set forth in subdivision two of this section, the court determined that removal of the action to the family court would be in the interests of justice.

§ 27. Subparagraph (iii) of paragraph (g) of subdivision 5 of section 220.10 of the criminal procedure law, as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, is amended to read as follows:

(iii) Where the indictment does not charge a crime specified in subparagraph (i) of this paragraph, the district attorney may recommend removal of the action to the family court. Upon making such recommendation the district attorney shall submit a subscribed memorandum setting forth: (1) a recommendation that the interests of justice would best be served by removal of the action to the family court; and (2) if the indictment charges a thirteen year old with the crime of murder in the second degree, or a fourteen or fifteen year old with the crimes of rape in the first degree as defined in paragraph (a) of subdivision one, paragraph (a) of subdivision two and paragraph (a) of subdivision three of section 130.35 of the penal law, **rape in the first degree as formerly defined in subdivision one of section 130.35 of the penal law, a crime formerly defined in subdivision one of section 130.50 of the penal law,** or an armed felony as defined in paragraph (a) of subdivision forty-one of section 1.20 of this chapter specific factors, one or more of which reasonably supports the recommendation, showing, (i) mitigating circumstances that bear directly upon the manner in which the crime was committed, or (ii) where the defendant was not the sole participant in the crime, that the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution, or (iii) possible deficiencies in proof of the crime, or (iv) where the juvenile offender has no previous adjudications of having committed a designated felony act, as defined in subdivision eight of section 301.2 of the family court act, regardless of the age of the offender at the time of commission of the act, that the criminal act was not part of a pattern of criminal behavior and, in view of the history of the offender, is not likely to be repeated.

§ 28. Subdivision 6 of section 300.50 of the criminal procedure law, as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, is amended to read as follows:

6. For purposes of this section, the offenses of rape in the third degree as defined in **the former subdivision three or** subdivisions seven, eight and nine of section 130.25 of the penal law **and a crime formerly defined in subdivision three of section 130.40 of the penal law**, are not lesser included offenses of rape in the first degree**, a crime formerly defined in section 130.50 of the penal law,** or any other offense. Notwithstanding the foregoing, any such offense may be submitted as a lesser included offense of the applicable first degree offense when (i) there is a reasonable view of the evidence which would support a finding that the defendant committed such lesser offense but did not commit the greater offense, and (ii) both parties consent to its submission.

§ 29. Subdivision 6 of section 380.50 of the criminal procedure law, as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, is amended to read as follows:

6. Regardless of whether the victim requests to make a statement with regard to the defendant's sentence, where the defendant is sentenced for a violent felony offense as defined in section 70.02 of the penal law or a felony defined in article one hundred twenty-five of such law or any of the following provisions of such law sections 130.25, 130.30, **former section 130.40, former section 130.45, sections** 255.25, 255.26, 255.27, article two hundred sixty-three, 135.10, 135.25, 230.05, 230.06, 230.11, 230.12, 230.13, subdivision two of section 230.30 or 230.32, the prosecutor shall, within sixty days of the imposition of sentence, provide the victim with a form, prepared and distributed by the commissioner of the division of criminal justice services, in consultation with the director of the office of victim services, on which the victim may indicate a demand to be informed of any petition to change the name of such defendant. Such forms shall be maintained by such prosecutor. Upon receipt of a notice of a petition to change the name of any such defendant, pursuant to subdivision two of section sixty-two of the civil rights law, the prosecutor shall promptly notify the victim at the most current address or telephone number provided by such victim in the most reasonable and expedient possible manner of the time and place such petition will be presented to the court.

§ 30. Paragraph (b) of subdivision 8 of section 700.05 of the criminal procedure law, as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, is amended to read as follows:

(b) Any of the following felonies: assault in the second degree as defined in section 120.05 of the penal law, assault in the first degree as defined in section 120.10 of the penal law, reckless endangerment in the first degree as defined in section 120.25 of the penal law, promoting a suicide attempt as defined in section 120.30 of the penal law, strangulation in the second degree as defined in section 121.12 of the penal law, strangulation in the first degree as defined in section 121.13 of the penal law, criminally negligent homicide as defined in section 125.10 of the penal law, manslaughter in the second degree as

defined in section 125.15 of the penal law, manslaughter in the first degree as defined in section 125.20 of the penal law, murder in the second degree as defined in section 125.25 of the penal law, murder in the first degree as defined in section 125.27 of the penal law, rape in the third degree as defined in section 130.25 of the penal law, rape in the second degree as defined in section 130.30 of the penal law, rape in the first degree as defined in section 130.35 of the penal law, **a crime formerly defined in section 130.40 of the penal law, a crime formerly defined in section 130.45 of the penal law, a crime formerly defined in section 130.50 of the penal law,** sexual abuse in the first degree as defined in section 130.65 of the penal law, unlawful imprisonment in the first degree as defined in section 135.10 of the penal law, kidnapping in the second degree as defined in section 135.20 of the penal law, kidnapping in the first degree as defined in section 135.25 of the penal law, labor trafficking as defined in section 135.35 of the penal law, aggravated labor trafficking as defined in section 135.37 of the penal law, custodial interference in the first degree as defined in section 135.50 of the penal law, coercion in the first degree as defined in section 135.65 of the penal law, criminal trespass in the first degree as defined in section 140.17 of the penal law, burglary in the third degree as defined in section 140.20 of the penal law, burglary in the second degree as defined in section 140.25 of the penal law, burglary in the first degree as defined in section 140.30 of the penal law, criminal mischief in the third degree as defined in section 145.05 of the penal law, criminal mischief in the second degree as defined in section 145.10 of the penal law, criminal mischief in the first degree as defined in section 145.12 of the penal law, criminal tampering in the first degree as defined in section 145.20 of the penal law, arson in the fourth degree as defined in section 150.05 of the penal law, arson in the third degree as defined in section 150.10 of the penal law, arson in the second degree as defined in section 150.15 of the penal law, arson in the first degree as defined in section 150.20 of the penal law, grand larceny in the fourth degree as defined in section 155.30 of the penal law, grand larceny in the third degree as defined in section 155.35 of the penal law, grand larceny in the second degree as defined in section 155.40 of the penal law, grand larceny in the first degree as defined in section 155.42 of the penal law, health care fraud in the fourth degree as defined in section 177.10 of the penal law, health care fraud in the third degree as defined in section 177.15 of the penal law, health care fraud in the second degree as defined in section 177.20 of the penal law, health care fraud in the first degree as defined in section 177.25 of the penal law, robbery in the third degree as defined in section 160.05 of the penal law, robbery in the second degree as defined in section 160.10 of the penal law, robbery in the first degree as defined in section 160.15 of the penal law, unlawful use of secret scientific material as defined in section 165.07 of the penal law, criminal possession of stolen property in the fourth degree as defined in section 165.45 of the penal law, criminal possession of stolen property in the third degree as defined in section 165.50 of the penal law, criminal possession of stolen property in the second degree as defined by section 165.52 of the penal law, criminal possession of stolen property in the first degree as defined by section 165.54 of the penal law, trademark counterfeiting in the second degree as defined in section 165.72 of the penal law, trademark counterfeiting in the first degree as defined in section 165.73 of the penal law, forgery in the second degree as defined in section 170.10 of the penal law, forgery in the first degree as

defined in section 170.15 of the penal law, criminal possession of a forged instrument in the second degree as defined in section 170.25 of the penal law, criminal possession of a forged instrument in the first degree as defined in section 170.30 of the penal law, criminal possession of forgery devices as defined in section 170.40 of the penal law, falsifying business records in the first degree as defined in section 175.10 of the penal law, tampering with public records in the first degree as defined in section 175.25 of the penal law, offering a false instrument for filing in the first degree as defined in section 175.35 of the penal law, issuing a false certificate as defined in section 175.40 of the penal law, criminal diversion of prescription medications and prescriptions in the second degree as defined in section 178.20 of the penal law, criminal diversion of prescription medications and prescriptions in the first degree as defined in section 178.25 of the penal law, residential mortgage fraud in the fourth degree as defined in section 187.10 of the penal law, residential mortgage fraud in the third degree as defined in section 187.15 of the penal law, residential mortgage fraud in the second degree as defined in section 187.20 of the penal law, residential mortgage fraud in the first degree as defined in section 187.25 of the penal law, escape in the second degree as defined in section 205.10 of the penal law, escape in the first degree as defined in section 205.15 of the penal law, absconding from temporary release in the first degree as defined in section 205.17 of the penal law, promoting prison contraband in the first degree as defined in section 205.25 of the penal law, hindering prosecution in the second degree as defined in section 205.60 of the penal law, hindering prosecution in the first degree as defined in section 205.65 of the penal law, sex trafficking as defined in section 230.34 of the penal law, sex trafficking of a child as defined in section 230.34-a of the penal law, criminal possession of a weapon in the third degree as defined in subdivisions two, three and five of section 265.02 of the penal law, criminal possession of a weapon in the second degree as defined in section 265.03 of the penal law, criminal possession of a weapon in the first degree as defined in section 265.04 of the penal law, manufacture, transport, disposition and defacement of weapons and dangerous instruments and appliances defined as felonies in subdivisions one, two, and three of section 265.10 of the penal law, sections 265.11, 265.12 and 265.13 of the penal law, or prohibited use of weapons as defined in subdivision two of section 265.35 of the penal law, relating to firearms and other dangerous weapons, criminal manufacture, sale or transport of an undetectable firearm, rifle or shotgun as defined in section 265.50 of the penal law, or failure to disclose the origin of a recording in the first degree as defined in section 275.40 of the penal law;

§ 31. Paragraph (a) of subdivision 2 of section 720.10 of the criminal procedure law, as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, is amended to read as follows:

(a) the conviction to be replaced by a youthful offender finding is for (i) a class A-I or class A-II felony, or (ii) an armed felony as defined in subdivision forty-one of section 1.20, except as provided in subdivision three, or (iii) rape in the first degree**, a crime formerly**

defined in section 130.50 of the penal law, or **the crime of** aggravated sexual abuse, except as provided in subdivision three, or

§ 32. Paragraph (a) of subdivision 2 and paragraph (a) of subdivision 3 of section 168-a of the correction law, as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, are amended to read as follows:

(a) (i) a conviction of or a conviction for an attempt to commit any of the provisions of sections 120.70, 130.20, 130.25, 130.30, [~~130.40, 130.45,~~] **former section 130.40, former section 130.45, sections** 130.60, 230.34, 230.34-a, 250.50, 255.25, 255.26 and 255.27 or article two hundred sixty-three of the penal law, or section 135.05, 135.10, 135.20 or 135.25 of such law relating to kidnapping offenses, provided the victim of such kidnapping or related offense is less than seventeen years old and the offender is not the parent of the victim, or section 230.04, where the person patronized is in fact less than seventeen years of age, 230.05, 230.06, 230.11, 230.12, 230.13, subdivision two of section 230.30, section 230.32, 230.33, or 230.34 of the penal law, or section 230.25 of the penal law where the person prostituted is in fact less than seventeen years old, or

(a) (i) a conviction of or a conviction for an attempt to commit any of the provisions of [~~sections~~] **section** 130.35, **former section 130.50, sections** 130.65, 130.66, 130.67, 130.70, 130.75, 130.80, 130.95 and 130.96 of the penal law, or (ii) a conviction of or a conviction for an attempt to commit any of the provisions of sections 130.53, 130.65-a and 130.90 of the penal law, or (iii) a conviction of or a conviction for an attempt to commit any provisions of the foregoing sections committed or attempted as a hate crime defined in section 485.05 of the penal law or as a crime of terrorism defined in section 490.25 of such law; or

§ 33. Subparagraph (ii) of paragraph (a), subparagraphs (i) and (ii) of paragraph (b) and paragraph (e) of subdivision 8 of section 384-b of the social services law, as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, are amended to read as follows:

(ii) the child has been found to be an abused child, as defined in paragraph (iii) of subdivision (e) of section ten hundred twelve of the family court act, as a result of such parent's acts; provided, however, the respondent must have committed or knowingly allowed to be committed a felony sex offense as defined in sections 130.25, 130.30, 130.35, **former sections 130.40, 130.45, 130.50, sections** 130.65, 130.67, 130.70, 130.75, 130.80, 130.95 and 130.96 of the penal law and, for the purposes of this section the corroboration requirements contained in the penal law shall not apply to proceedings under this section; or

(i) the child has been found to be an abused child, (A) as defined in paragraph (i) of subdivision (e) of section ten hundred twelve of the family court act, as a result of such parent's acts; or (B) as defined in paragraph (iii) of subdivision (e) of section ten hundred twelve of the family court act, as a result of such parent's acts; provided, however, the respondent must have committed or knowingly allowed to be

committed a felony sex offense as defined in sections 130.25, 130.30, 130.35, **former sections 130.40, 130.45, 130.50, sections** 130.65, 130.67, 130.70, 130.75, 130.80, 130.95 and 130.96 of the penal law; and

(ii) (A) the child or another child for whose care such parent is or has been legally responsible has been previously found, within the five years immediately preceding the initiation of the proceeding in which such abuse is found, to be an abused child, as defined in paragraph (i) or (iii) of subdivision (e) of section ten hundred twelve of the family court act, as a result of such parent's acts; provided, however, in the case of a finding of abuse as defined in paragraph (iii) of subdivision (e) of section ten hundred twelve of the family court act the respondent must have committed or knowingly allowed to be committed a felony sex offense as defined in sections 130.25, 130.30, 130.35, **former sections 130.40, 130.45, 130.50, sections** 130.65, 130.67, 130.70, 130.75 and 130.80 of the penal law, or (B) the parent has been convicted of a crime under section 130.25, 130.30, 130.35, **former sections 130.40, 130.45, 130.50, sections** 130.65, 130.67, 130.70, 130.75 or 130.80 of the penal law against the child, a sibling of the child or another child for whose care such parent is or has been legally responsible, within the five year period immediately preceding the initiation of the proceeding in which abuse is found; and

(e) A determination by the court in accordance with article ten of the family court act based upon clear and convincing evidence that a child was abused (A) as defined in paragraph (i) of subdivision (e) of section ten hundred twelve of the family court act, as a result of such parent's acts; or (B) as defined in paragraph (iii) of subdivision (e) of section ten hundred twelve of the family court act, as a result of such parent's acts; provided, however, the respondent must have committed or knowingly allowed to be committed a felony sex offense as defined in sections 130.25, 130.30, 130.35, **former sections 130.40, 130.45, 130.50, sections** 130.65, 130.67, 130.70, 130.75 and 130.80 of the penal law shall establish that the child was an abused child for the purpose of a determination as required by subparagraph (i) or (ii) of paragraph (b) of this subdivision. Such a determination by the court in accordance with article ten of the family court act based upon a fair preponderance of evidence shall be admissible in any proceeding commenced in accordance with this section.

§ 34. Paragraphs (a) and (b) of subdivision 4 of section 509-cc of the vehicle and traffic law, as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, are amended to read as follows:

(a) The offenses referred to in subparagraph (ii) of paragraph (a) of subdivision one and paragraph (a) of subdivision two of this section that result in permanent disqualification shall include a conviction under sections 125.12, 125.13, 125.14, 125.15, 125.20, 125.21, 125.22, 125.25, 125.26, 125.27, 130.30, 130.35, **former sections 130.45 and 130.50, sections** 130.65, 130.66, 130.67, 130.70, 130.75, 130.80, 130.90, 130.95, 130.96, 135.25, 150.20, 230.30, 230.32, 230.34, 230.34-a, 235.22, 263.05, 263.10, 263.11, 263.15, 263.16 of the penal law or an attempt to commit any of the aforesaid offenses under section 110.00 of the penal law, or any offenses committed under a former section of the penal law which would constitute violations of the aforesaid sections of

the penal law, or any offenses committed outside this state which would constitute violations of the aforesaid sections of the penal law.

(b) The offenses referred to in subparagraph (ii) of paragraph (a) of subdivision one and paragraph (b) of subdivision two of this section that result in permanent disqualification shall include a conviction under sections 100.13, 105.15, 105.17, 115.08, 120.12, 120.70, 125.10, 125.11, **former section 130.40, sections** 130.53, 130.60, 130.65-a, 135.20, 160.15, 220.18, 220.21, 220.39, 220.41, 220.43, 220.44, 230.25, 260.00, 265.04 of the penal law or an attempt to commit any of the aforesaid offenses under section 110.00 of the penal law, or any offenses committed under a former section of the penal law which would constitute violations of the aforesaid sections of the penal law, or any offenses committed outside this state which would constitute violations of the aforesaid sections of the penal law.

§ 35. The opening paragraph of subdivision (b) of section 117 of the family court act, as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, is amended to read as follows:

For every juvenile delinquency proceeding under article three involving an allegation of an act committed by a person which, if done by an adult, would be a crime (i) defined in sections 125.27 (murder in the first degree); 125.25 (murder in the second degree); 135.25 (kidnapping in the first degree); or 150.20 (arson in the first degree) of the penal law committed by a person thirteen, fourteen, fifteen, sixteen, or seventeen years of age; or such conduct committed as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (ii) defined in sections 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); 130.35 (rape in the first degree); **former section 130.50; sections** 130.70 (aggravated sexual abuse in the first degree); 135.20 (kidnapping in the second degree), but only where the abduction involved the use or threat of use of deadly physical force; 150.15 (arson in the second degree); or 160.15 (robbery in the first degree) of the penal law committed by a person thirteen, fourteen, fifteen, sixteen, or seventeen years of age; or such conduct committed as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (iii) defined in the penal law as an attempt to commit murder in the first or second degree or kidnapping in the first degree committed by a person thirteen, fourteen, fifteen, sixteen, or seventeen years of age; or such conduct committed as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (iv) defined in section 140.30 (burglary in the first degree); subdivision one of section 140.25 (burglary in the second degree); subdivision two of section 160.10 (robbery in the second degree) of the penal law; or section 265.03 of the penal law, where such machine gun or such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 of the penal law committed by a person fourteen, fifteen, sixteen, or seventeen years of age; or such conduct committed as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (v) defined in section 120.05 (assault in the second degree) or 160.10 (robbery in the second degree) of the penal law committed by a person fourteen, fifteen, sixteen, or seventeen years of age but only where there has been a prior

finding by a court that such person has previously committed an act which, if committed by an adult, would be the crime of assault in the second degree, robbery in the second degree or any designated felony act specified in clause (i), (ii) or (iii) of this subdivision regardless of the age of such person at the time of the commission of the prior act; or (vi) other than a misdemeanor, committed by a person at least twelve but less than eighteen years of age, but only where there have been two prior findings by the court that such person has committed a prior act which, if committed by an adult, would be a felony:

§ 36. Subdivision 4 of section 308.1 of the family court act, as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, is amended to read as follows:

4. The probation service shall not adjust a case in which the child has allegedly committed a delinquent act which would be a crime defined in section 120.25, (reckless endangerment in the first degree), subdivision one of section 125.15, (manslaughter in the second degree), subdivisions one, two and three of section 130.25, (rape in the third degree), **subdivision one of former section 130.40,** subdivision one or two of section 130.65, (sexual abuse in the first degree), section 135.65, (coercion in the first degree), section 140.20, (burglary in the third degree), section 150.10, (arson in the third degree), section 160.05, (robbery in the third degree), subdivision two, three or four of section 265.02, (criminal possession of a weapon in the third degree), section 265.03, (criminal possession of a weapon in the second degree), or section 265.04, (criminal possession of a dangerous weapon in the first degree) of the penal law where the child has previously had one or more adjustments of a case in which such child allegedly committed an act which would be a crime specified in this subdivision unless it has received written approval from the court and the appropriate presentment agency.

§ 37. Subdivision (c) of section 1052 of the family court act, as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, is amended to read as follows:

(c) Prior to granting an order of disposition pursuant to subdivision (a) of this section following an adjudication of child abuse, as defined in paragraph (i) of subdivision (e) of section ten hundred twelve of this act or a finding of a felony sex offense as defined in sections 130.25, 130.30, 130.35, **former sections 130.40, 130.45, 130.50, sections** 130.65 and 130.70 of the penal law, the court shall advise the respondent that any subsequent adjudication of child abuse, as defined in paragraph (i) of subdivision (e) of section one thousand twelve of this act or any subsequent finding of a felony sex offense as defined in those sections of the penal law herein enumerated, arising out of acts of the respondent may result in the commitment of the guardianship and custody of the child or another child pursuant to section three hundred eighty-four-b of the social services law. The order in such cases shall contain

a statement that any subsequent adjudication of child abuse or finding of a felony sex offense as described herein may result in the commitment of the guardianship and custody of the child, or another child pursuant to section three hundred eighty-four-b of the social services law.

§ 38. Subdivision 2 of section 64 of the civil rights law, as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, is amended to read as follows:

2. (a) If the petition states that the petitioner stands convicted of a violent felony offense as defined in section 70.02 of the penal law or a felony defined in article one hundred twenty-five of such law or any of the following provisions of such law sections 130.25, 130.30, **former sections 130.40 and 130.45, sections** 255.25, 255.26, 255.27, article two hundred sixty-three, 135.10, 135.25, 230.05, 230.06, subdivision two of section 230.30 or 230.32, the clerk of the court in which the order has been entered shall deliver, by first class mail, a copy of such certified order to the division of criminal justice services at its office in the county of Albany and (b) if the petition states that the petitioner is responsible for spousal support or child support obligations pursuant to court order, upon review of the petitioner's application for name change and subsequent inquiry, the court shall order the petitioner to deliver, by first class mail, the petitioner's new name with such certified order to the court of competent jurisdiction which imposed the orders of support. If a party to the order is receiving child support services pursuant to title six-A of article three of the social services law, a copy shall be mailed to the support collection unit of the applicable social services district providing such services to a party. Such certification shall appear on the original order and on any certified copy thereof and shall be entered in the court's minutes of the proceeding.

§ 39. Section 213-c of the civil practice law and rules, as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, 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~~] **four, five or six** of section 130.30 of the penal law, **or rape in the second degree as defined in former subdivision two of section 130.30 of the penal law,** or rape in the third degree as defined in subdivision one [~~or~~]**, two,** three**, seven, eight or nine** of section 130.25 of the penal law, **or a crime formerly defined in section 130.50 of the penal law, or a crime formerly defined in subdivision two of section 130.45 of the penal law, or a crime**

formerly 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~~] four, five or six of section 130.30 of the penal law, or rape in the second degree as formerly defined in subdivision two of section 130.30 of the penal law, or a crime formerly defined in subdivision two of section 130.45 of the 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 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.

§ 40. Paragraph (b) of subdivision 8 of section 215 of the civil practice law and rules, as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, is amended to read as follows:

(b) Whenever it is shown that a criminal action against the same defendant has been commenced with respect to the event or occurrence from which a claim governed by this section arises, and such criminal action is for rape in the first degree as defined in section 130.35 of the penal law, or a crime formerly defined in section 130.50 of the 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, the plaintiff shall have at least five years from the termination of the criminal action as defined in section 1.20 of the criminal procedure law in which to commence the civil action, notwithstanding that the time in which to commence such action has already expired or has less than a year remaining.

§ 41. Subdivision 11 of section 123 of the agriculture and markets law, as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, is amended to read as follows:

11. The owner shall not be liable pursuant to subdivision six, seven, eight, nine or ten of this section if the dog was coming to the aid or defense of a person during the commission or attempted commission of a murder, robbery, burglary, arson, rape in the first degree as defined in paragraph (a) or (b) of subdivision one, paragraph (a) or (b) of subdivision two or paragraph (a) or (b) of subdivision three of section 130.35 of the penal law, rape in the first degree as defined in the former subdivision one of section 130.35 of the penal law, a crime

formerly defined in subdivision one or two of section 130.50 of the penal law or kidnapping within the dwelling or upon the real property of the owner of the dog and the dog injured or killed the person committing such criminal activity.

§ 42. Section 4 of the judiciary law, as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, is amended to read as follows:

§ 4. Sittings of courts to be public. The sittings of every court within this state shall be public, and every citizen may freely attend the same, except that in all proceedings and trials in cases for divorce, seduction, rape, assault with intent to commit rape, bastardy [~~or~~], filiation, or a crime formerly defined in sections 130.50, 130.45, and 130.40 of the penal law, the court may, in its discretion, exclude therefrom all persons who are not directly interested therein, excepting jurors, witnesses, and officers of the court.

§ 43. Subdivision 2 of section 120.60 of the penal law, as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, is amended to read as follows:

2. commits a class A misdemeanor defined in article one hundred thirty of this chapter, or a class E felony defined in section 130.25, former section 130.40 or section 130.85 of this chapter, or a class D felony defined in former section 130.45 or section 130.30 of this chapter.

§ 44. Subdivision 1 of section 235.00 of the penal law, as amended by a chapter of the laws of 2023 amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, is amended to read as follows:

1. "Obscene." Any material or performance is "obscene" if (a) the average person, applying contemporary community standards, would find that considered as a whole, its predominant appeal is to the prurient interest in sex, and (b) it depicts or describes in a patently offensive manner, actual or simulated: vaginal sexual contact, a crime under the former sections 130.50, 130.45, and 130.40 of the penal law, oral sexual contact, anal sexual contact, sexual bestiality, masturbation, sadism, masochism, excretion or lewd exhibition of the genitals, and (c) considered as a whole, it lacks serious literary, artistic, political, and scientific value. Predominant appeal shall be judged with reference to ordinary adults unless it appears from the character of the material or the circumstances of its dissemination to be designed for children or other especially susceptible audience.

§ 45. Sections 65 and 66 of a chapter of the laws of 2023, amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture

and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, are amended to read as follows:

§ 65. As it pertains to the repealed sections of law, [~~nothing~~] **such repeal shall not be construed to apply retroactively. Offenses committed prior to the effective date of this act may be construed and punished according to the provisions of law existing at the time of the commission thereof. Nothing** in this act shall affect a requirement to register pursuant to article 6-C of the correction law; a lawfully required disclosure of a conviction; any restriction or prohibition for certain types of employment, housing, or government benefit; or any other ongoing matter related to a conviction of the sections repealed in this act.

§ 66. This act shall take effect [~~January~~] **September** 1, 2024 and shall apply to any offense **committed** on or after such effective date.

§ 46. This act shall take effect immediately; provided, however, that sections one through forty-four of this act shall take effect on the same date and in the same manner as a chapter of the laws of 2023, amending the penal law, the criminal procedure law, the correction law, the social services law, the vehicle and traffic law, the family court act, the civil rights law, the civil practice law and rules, the agriculture and markets law, the judiciary law and the domestic relations law relating to sex offenses, as proposed in legislative bills numbers S. 3161 and A. 3340, takes effect.