

STATE OF NEW YORK

2712

2025-2026 Regular Sessions

IN ASSEMBLY

January 22, 2025

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

AN ACT to amend the penal law and the criminal procedure law, in relation to enacting the "child sex crime victims protection act"

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

1 Section 1. This act shall be known and may be cited as the "child sex
2 crime victims protection act" or "Sara's law".

3 § 2. Legislative intent. This act shall be construed as prioritizing
4 the successful treatment and rehabilitation of child sex crime victims
5 who commit acts of violence against their abusers. It is the legisla-
6 ture's preference that such persons be viewed as child victims and
7 provided with treatment and services rather than transferred into the
8 adult system.

9 § 3. The penal law is amended by adding a new section 60.38 to read as
10 follows:

11 § 60.38 Authorized dispositions; child sex crime victims.

12 Notwithstanding any other provision of law to the contrary, when a
13 person is convicted as an adult of an offense that such person committed
14 when such person was under the age of eighteen, and the court finds that
15 the individual against whom such person committed such offense traf-
16 ficked such person as defined by section 230.34-a of this chapter,
17 compelled such person to engage in prostitution as defined by section
18 230.33 of this chapter, promoted the prostitution of such person in the
19 first degree as defined by section 230.32 of this chapter, promoted the
20 prostitution of such person in the second degree as defined by section
21 230.30 of this chapter, or committed a sex offense against such person
22 as defined by section 130.30, 130.35, 130.53, 130.55, 130.60, 130.65,
23 130.66, 130.67, 130.70, 130.75, 130.80, 130.85, 130.90, 130.91, 130.95,
24 or 130.96 of this chapter prior to such offense, the court may:

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

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- 1 1. depart from any mandatory minimum sentence, maximum sentence, or
- 2 sentencing enhancement;
- 3 2. suspend any portion of an otherwise applicable sentence; or
- 4 3. transfer such person back to the jurisdiction of the family court
- 5 for disposition pursuant to article seven hundred twenty-five of the
- 6 criminal procedure law.

7 § 4. Section 722.22 of the criminal procedure law is amended by adding
 8 a new subdivision 1-a to read as follows:

9 1-a. After a motion by a juvenile offender, pursuant to subdivision
 10 five of section 722.20 of this article, or after arraignment of a juve-
 11 nile offender upon an indictment:

12 (a) the defendant may request a hearing to determine if the individual
 13 against whom such juvenile offender committed such offense committed a
 14 child sex crime against such juvenile offender prior to such offense;
 15 and

16 (b) the court shall, on motion of any party or on its own motion,
 17 order removal of the action to the family court pursuant to the
 18 provisions of article seven hundred twenty-five of this title, if, after
 19 such hearing, it is proven by a preponderance of the evidence that the
 20 individual against whom such juvenile offender committed such offense
 21 trafficked such juvenile offender as defined by section 230.34-a of the
 22 penal law, compelled such juvenile offender to engage in prostitution as
 23 defined by section 230.33 of the penal law, promoted the prostitution of
 24 such juvenile offender in the first degree as defined by section 230.32
 25 of the penal law, promoted the prostitution of such juvenile offender in
 26 the second degree as defined by section 230.30 of the penal law, or
 27 committed a sex offense against such juvenile offender as defined by
 28 section 130.30, 130.35, 130.53, 130.55, 130.60, 130.65, 130.66, 130.67,
 29 130.70, 130.75, 130.80, 130.85, 130.90, 130.91, 130.95, or 130.96 of the
 30 penal law prior to such offense.

31 § 5. Section 722.23 of the criminal procedure law is amended by adding
 32 a new subdivision 2-a to read as follows:

33 2-a. Following the arraignment of a defendant charged with a crime
 34 committed when such defendant was under eighteen years of age:

35 (a) the defendant may request a hearing to determine if, prior to the
 36 commission of such crime by such defendant, the individual against whom
 37 such defendant committed such crime committed a child sex crime against
 38 such defendant; and

39 (b) the court shall order removal of the action to the family court
 40 pursuant to the provisions of article seven hundred twenty-five of this
 41 title, if, after such hearing, it is proven by a preponderance of the
 42 evidence that, prior to the commission of such crime by such defendant,
 43 the individual against whom such defendant committed such crime traf-
 44 ficked such defendant as defined by section 230.34-a of the penal law,
 45 compelled such defendant to engage in prostitution as defined by section
 46 230.33 of the penal law, promoted the prostitution of such defendant in
 47 the first degree as defined by section 230.32 of the penal law, promoted
 48 the prostitution of such defendant in the second degree as defined by
 49 section 230.30 of the penal law, or committed a sex offense against such
 50 defendant as defined by section 130.30, 130.35, 130.53, 130.55, 130.60,
 51 130.65, 130.66, 130.67, 130.70, 130.75, 130.80, 130.85, 130.90, 130.91,
 52 130.95, or 130.96 of the penal law.

53 § 6. The criminal procedure law is amended by adding a new section
 54 440.48 to read as follows:

55 § 440.48 Motion for resentence; child sex crime victims.

1 1. (a) Notwithstanding any other provision of law to the contrary, any
2 person who is confined in an institution operated by the department of
3 correction and community supervision and serving a sentence for an
4 offense committed prior to the effective date of this section may submit
5 to the judge or justice who originally sentenced such person for such
6 offense an application to be resentenced to a determinate sentence
7 pursuant to section 60.38 of the penal law if:

8 (i) such person is eligible for an alternative sentence as a person
9 convicted as an adult of an offense committed when such person was under
10 eighteen years of age pursuant to section 60.38 of the penal law; and

11 (ii) the individual against whom such person committed such crime
12 trafficked such person as defined by section 230.34-a of the penal law,
13 compelled such person to engage in prostitution as defined by section
14 230.33 of the penal law, promoted the prostitution of such person in the
15 first degree as defined by section 230.32 of the penal law, promoted the
16 prostitution of such person in the second degree as defined by section
17 230.30 of the penal law, or committed a sex offense against such person
18 as defined by section 130.30, 130.35, 130.53, 130.55, 130.60, 130.65,
19 130.66, 130.67, 130.70, 130.75, 130.80, 130.85, 130.90, 130.91, 130.95,
20 or 130.96 of the penal law.

21 (b) An application to be resentenced to a determinate sentence submit-
22 ted pursuant to paragraph (a) of this subdivision shall include documen-
23 tation proving that such person is:

24 (i) confined in an institution operated by the department of
25 corrections and community supervision and is serving a sentence for an
26 offense committed prior to the effective date of this section; and

27 (ii) eligible for an alternative sentence as a person convicted as an
28 adult of an offense committed when such person was under eighteen years
29 of age pursuant to section 60.38 of the penal law.

30 (c) If, at the time of such person's request to apply for resentencing
31 pursuant to this section, the judge or justice who originally sentenced
32 such person is a judge or justice of a court of competent jurisdiction,
33 but such court is not the court in which such person was originally
34 sentenced, then the request shall be randomly assigned to another judge
35 or justice of the court in which such person was originally sentenced.
36 If the judge or justice who originally sentenced such person is no long-
37 er a judge or justice of a court of competent jurisdiction, then the
38 request shall be randomly assigned to another judge or justice of the
39 court in which such person was originally sentenced.

40 (d) If the court finds that such person is eligible to apply for
41 resentencing pursuant to this section, the court shall notify such
42 person that such person may submit an application for resentencing. Upon
43 such notification, the person may request that the court assign an
44 attorney to such person for the preparation of and proceedings on the
45 application for resentencing submitted pursuant to this section. The
46 attorney shall be assigned pursuant to the applicable provisions of
47 section seven hundred twenty-two and article eighteen-A of the county
48 law.

49 (e) If the court finds that such person is not eligible to apply for
50 resentencing pursuant to this section, the court shall notify such
51 person of such ineligibility and dismiss such person's request to apply
52 for resentencing without prejudice.

53 2. (a) Upon receipt of an application for resentencing, the court
54 shall promptly notify the appropriate district attorney and provide such
55 district attorney with a copy of such application.

1 (b) If the judge or justice who receives such person's application for
2 resentencing is not the judge or justice who originally sentenced such
3 person, such application may be referred to the judge or justice who
4 originally sentenced such person; provided, however, that the judge or
5 justice who originally sentenced such person is a judge or justice of a
6 court of competent jurisdiction; and provided, further, that the person
7 applying for resentencing and the district attorney agree that such
8 application should be referred.

9 3. (a) If the court finds that such person has met the requirements of
10 this section, the court shall conduct a hearing to determine whether to
11 approve or deny such person's application for resentencing. At such
12 hearing, the court shall determine any controverted issue of fact rele-
13 vant to the issue of sentencing. Reliable hearsay shall be admissible at
14 such hearings.

15 (b) If the court denies such person's application for resentencing,
16 the court shall notify such person of such denial and shall enter an
17 order to that effect.

18 (c) If the court approves such person's application for resentencing,
19 the court shall notify such person that, unless such person withdraws
20 the application or appeals from such approval, the court shall enter an
21 order vacating the sentence originally imposed and impose the new
22 sentence pursuant to section 60.38 of the penal law. Such approval may
23 be based on the grounds that any order issued by a court pursuant to
24 this subdivision must include written findings of fact and the reasons
25 for such order.

26 4. (a) An appeal may be taken as of right pursuant to this chapter:

27 (i) from an order denying such person's application for resentencing;

28 (ii) from a new sentence imposed pursuant to paragraph (c) of subdivi-
29 sion three of this section on the grounds that the term of the new
30 sentence is harsh or excessive or is unauthorized as a matter of law; or
31 (iii) from an order specifying and informing such person of the term
32 of the determinate sentence the court would impose upon resentencing on
33 the ground that the term of the proposed sentence is harsh or excessive.

34 (b) Upon remand to the sentencing court following such appeal, the
35 person applying for resentencing shall be given an opportunity to with-
36 draw such application before any resentence is imposed. Such person may
37 request that the court assign an attorney to such person for the prepa-
38 ration of and proceedings on any appeals regarding such person's appli-
39 cation for resentencing pursuant to this section. The attorney shall be
40 assigned pursuant to the applicable provisions of section seven hundred
41 twenty-two and article eighteen-A of the county law.

42 5. In calculating the new term to be served by such person applying
43 for resentencing pursuant to section 60.38 of the penal law, such person
44 shall be credited for any period of incarceration credited toward:

45 (a) the subject conviction; and

46 (b) the sentence originally imposed.

47 § 7. This act shall take effect immediately.