

STATE OF NEW YORK

6214

2025-2026 Regular Sessions

IN ASSEMBLY

February 27, 2025

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

AN ACT to amend the penal law and the correction law, in relation to establishing certain sex offenses and criminal sentencing for defendants convicted of certain sex offenses

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

1 Section 1. Short title. This act shall be known and may be cited as
2 "Kimberly's law".
3 § 2. The penal law is amended by adding a new section 130.36 to read
4 as follows:
5 § 130.36 Aggravated rape.
6 A person is guilty of aggravated rape when such person engages in
7 sexual intercourse with another person:
8 1. With intent to cause serious physical injury; and
9 2. Such person is armed with a deadly weapon or dangerous instrument,
10 or any object used in a manner to lead the victim to reasonably believe
11 such object to be a deadly weapon or dangerous instrument; and
12 (a) By forcible compulsion; or
13 (b) Such victim is incapable of consent by reason of being physically
14 helpless; or
15 (c) Such victim is less than eleven years old; or
16 (d) Such victim is less than thirteen years old and the actor is eigh-
17 teen years old or more.
18 Aggravated rape is a class A felony.
19 § 3. Section 70.80 of the penal law is amended by adding a new subdi-
20 vision 10 to read as follows:
21 10. Sentence of imprisonment for an offender of certain felony sex
22 offenses. An offender convicted of rape in the first degree pursuant to
23 section 130.35 of this chapter or an offender convicted of aggravated
24 rape pursuant to section 130.36 of this chapter shall not be released

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

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1 pursuant to section 70.40 of this article until such minimum sentence
2 shall have been served.

3 § 4. Subparagraph (i) of paragraph (a) of subdivision 3 of section
4 70.00 of the penal law, as amended by chapter 107 of the laws of 2006,
5 is amended to read as follows:

6 (i) For a class A-I felony, such minimum period shall not be less than
7 fifteen years nor more than twenty-five years; provided, however, that
8 (A) where a sentence, other than a sentence of death or life imprison-
9 ment without parole, is imposed upon a defendant convicted of murder in
10 the first degree as defined in section 125.27 of this chapter such mini-
11 mum period shall be not less than twenty years nor more than twenty-five
12 years, and, (B) where a sentence is imposed upon a defendant convicted
13 of murder in the second degree as defined in subdivision five of section
14 125.25 of this chapter or convicted of aggravated murder as defined in
15 section 125.26 of this chapter, the sentence shall be life imprisonment
16 without parole, and, (C) where a sentence is imposed upon a defendant
17 convicted of attempted murder in the first degree as defined in article
18 one hundred ten of this chapter and subparagraph (i), (ii) or (iii) of
19 paragraph (a) of subdivision one and paragraph (b) of subdivision one of
20 section 125.27 of this chapter or attempted aggravated murder as defined
21 in article one hundred ten of this chapter and section 125.26 of this
22 chapter such minimum period shall be not less than twenty years nor more
23 than forty years, and, (D) where a sentence is imposed upon a defendant
24 convicted of rape of a child as defined in section 130.37, criminal
25 sexual act against a child as defined in section 130.51, aggravated
26 sexual abuse of a child as defined in section 130.71 or aggravated
27 course of sexual conduct against a child as defined in section 130.81 of
28 this chapter such minimum period shall be twenty years.

29 § 5. Subdivision 5 of section 125.25 of the penal law, as amended by
30 chapter 23 of the laws of 2024, is amended to read as follows:

31 5. Being eighteen years old or more, while in the course of committing
32 rape in the first, second or third degree, a crime formerly defined in
33 section 130.50, 130.45 or 130.40 of this title, the crime of sexual
34 abuse in the first degree, rape of a child, criminal sexual act against
35 a child, aggravated sexual abuse of a child, aggravated course of sexual
36 conduct against a child, aggravated sexual abuse in the first, second,
37 third or fourth degree, or incest in the first, second or third degree,
38 against a person less than fourteen years old, [~~he or she~~] they inten-
39 tionally [~~causes~~] cause the death of such person.

40 § 6. Section 130.35 of the penal law, as amended by chapter 777 of the
41 laws of 2023, is amended to read as follows:

42 § 130.35 Rape in the first degree.

43 A person is guilty of rape in the first degree when:

44 1. [~~he or she~~] such person engages in vaginal sexual contact with
45 another person:

46 (a) By forcible compulsion; or

47 (b) Who is incapable of consent by reason of being physically help-
48 less; or

49 (c) [~~who is less than eleven years old; or~~
50 ~~(d)~~] Who is less than thirteen years old and the actor is eighteen
51 years old or more;

52 2. [~~he or she~~] such person engages in oral sexual contact with another
53 person:

54 (a) By forcible compulsion; or

55 (b) Who is incapable of consent by reason of being physically help-
56 less; or

1 (c) [~~who is less than eleven years old; or~~
2 ~~(d)~~] Who is less than thirteen years old and the actor is eighteen
3 years old or more; or

4 3. [~~he or she~~] such person engages in anal sexual contact with another
5 person:

6 (a) By forcible compulsion; or

7 (b) Who is incapable of consent by reason of being physically help-
8 less; or

9 (c) [~~who is less than eleven years old; or~~

10 ~~(d)~~] Who is less than thirteen years old and the actor is eighteen
11 years old or more.

12 Rape in the first degree is a class B felony.

13 § 7. The penal law is amended by adding a new section 130.37 to read
14 as follows:

15 § 130.37 Rape of a child.

16 A person is guilty of rape of a child when:

17 1. such person engages in sexual intercourse with another person who
18 is less than twelve years old; or

19 2. being twenty-one years old or more, such person engages in sexual
20 intercourse with another person less than fourteen years old.

21 Rape of a child is a class A-I felony.

22 § 8. The penal law is amended by adding a new section 130.51 to read
23 as follows:

24 § 130.51 Criminal sexual act against a child.

25 A person is guilty of criminal sexual act against a child when:

26 1. such person engages in oral sexual conduct or anal sexual conduct
27 with another person who is less than twelve years old; or

28 2. being twenty-one years old or more, such person engages in oral
29 sexual conduct or anal sexual conduct with another person who is less
30 than fourteen years old.

31 Criminal sexual act against a child is a class A-I felony.

32 § 9. Subdivision 1 of section 130.70 of the penal law, as amended by
33 chapter 450 of the laws of 1988, the opening paragraph as amended by
34 chapter 485 of the laws of 2009, is amended to read as follows:

35 1. A person is guilty of aggravated sexual abuse in the first degree
36 when [~~he or she~~] such person inserts a foreign object in the vagina,
37 urethra, penis, rectum or anus of another person causing physical injury
38 to such other person:

39 (a) By forcible compulsion; or

40 (b) When the other person is incapable of consent by reason of being
41 physically helpless[~~, or~~

42 ~~(c) When the other person is less than eleven years old].~~

43 § 10. The penal law is amended by adding a new section 130.71 to read
44 as follows:

45 § 130.71 Aggravated sexual abuse of a child.

46 1. A person is guilty of aggravated sexual abuse of a child when:

47 (a) such person inserts a foreign object in the vagina, urethra,
48 penis, rectum or anus of another person causing physical injury to such
49 other person when such other person is less than twelve years old; or

50 (b) being twenty-one years old or more, such person inserts a foreign
51 object in the vagina, urethra, penis, rectum or anus of another person
52 causing physical injury to such other person when such other person is
53 less than fourteen years old.

54 2. Conduct performed for a valid medical purpose does not violate the
55 provisions of this section.

56 Aggravated sexual abuse of a child is a class A-I felony.

1 § 11. Subdivision 1 of section 130.75 of the penal law, as amended by
2 chapter 1 of the laws of 2000, paragraphs (a) and (b) as amended by
3 chapter 777 of the laws of 2023, is amended to read as follows:

4 1. A person is guilty of course of sexual conduct against a child in
5 the first degree when, over a period of time not less than three months
6 in duration[+:

7 ~~(a) he or she engages in two or more acts of sexual conduct, which~~
8 ~~includes at least one act of vaginal sexual contact, oral sexual~~
9 ~~contact, anal sexual contact or aggravated sexual contact, with a child~~
10 ~~less than eleven years old; or~~

11 ~~(b) he or she]~~ such person, being eighteen years old or more, engages
12 in two or more acts of sexual conduct, which include at least one act of
13 vaginal sexual contact, oral sexual contact, anal sexual contact or
14 aggravated sexual contact, with a child less than thirteen years old.

15 § 12. The penal law is amended by adding a new section 130.81 to read
16 as follows:

17 § 130.81 Aggravated course of sexual conduct against a child.

18 1. A person is guilty of aggravated course of sexual conduct against a
19 child when, over a period of time not less than three months in dura-
20 tion:

21 (a) such person engages in two or more acts of sexual conduct, which
22 includes at least one act of sexual intercourse, oral sexual conduct,
23 anal sexual conduct or aggravated sexual contact, with a child less than
24 twelve years old; or

25 (b) such person, being twenty-one years old or more, engages in two or
26 more acts of sexual conduct, which includes at least one act of sexual
27 intercourse, oral sexual conduct, anal sexual conduct or aggravated
28 sexual contact, with a child less than fourteen years old.

29 2. A person may not be subsequently prosecuted for any other sexual
30 offense involving the same victim unless the other charged offense
31 occurred outside the time period charged under this section.

32 Aggravated course of sexual conduct against a child is a class A-I
33 felony.

34 § 13. Subparagraph (i) of paragraph (a) of subdivision 3 of section
35 168-a of the correction law, as amended by chapter 23 of the laws of
36 2024, is amended to read as follows:

37 (i) a conviction of or a conviction for an attempt to commit any of
38 the provisions of section 130.35, 130.36, 130.37, former section 130.50,
39 sections 130.51, 130.65, 130.66, 130.67, 130.70, 130.71, 130.75, 130.80,
40 130.81, 130.95 and 130.96 of the penal law, or

41 § 14. This act shall take effect on the first of November next
42 succeeding the date upon which it shall have become a law.