

# STATE OF NEW YORK

2712--A

2025-2026 Regular Sessions

## IN ASSEMBLY

January 22, 2025

Introduced by M. of A. PAULIN -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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, or who committed a  
6 crime as the direct result of being a victim of trafficking. It is the  
7 legislature's preference that such persons be viewed as child victims  
8 and provided with treatment and services rather than transferred into  
9 the adult system.

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

12 § 60.38 Authorized dispositions; child sex crime victims.

13 Notwithstanding any other provision of law to the contrary, when a  
14 person is convicted as an adult of an offense that such person committed  
15 when such person was under the age of twenty, and the court finds that  
16 either:

17 (a) the individual against whom such person committed such offense  
18 trafficked such person as defined by section 230.34 or 230.34-a of this  
19 chapter, compelled such person to engage in prostitution as defined by  
20 section 230.33 of this chapter, promoted the prostitution of such person  
21 in the first degree as defined by section 230.32 of this chapter,  
22 promoted the prostitution of such person in the second degree as defined  
23 by section 230.30 of this chapter, or committed a sex offense against

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

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1 such person as defined by article one hundred thirty of this chapter  
2 prior to or during the commission of such offense; or

3 (b) the individual who committed such offense did so as a direct  
4 result of being a victim of trafficking as defined by section 135.35,  
5 230.30, 230.32, 230.33, 230.34-a, or 230.34 of this chapter;  
6 the court may:

7 1. depart from any mandatory minimum sentence, maximum sentence, or  
8 sentencing enhancement;

9 2. suspend any portion of an otherwise applicable sentence; or

10 3. if the individual was under the age of eighteen at the time of the  
11 commission of the offense, transfer such person back to the jurisdiction  
12 of the family court for disposition pursuant to article seven hundred  
13 twenty-five of the criminal procedure law.

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

16 1-a. After a motion by a juvenile offender, pursuant to subdivision  
17 five of section 722.20 of this article, or after arraignment of a juve-  
18 nile offender upon an indictment:

19 (a) the juvenile offender may request a hearing to determine:

20 (i) if the individual against whom such juvenile offender committed  
21 such offense committed a child sex crime against such juvenile offender  
22 prior to or during the commission of such offense; or

23 (ii) if the juvenile offender committed such offense as a direct  
24 result of being a victim of trafficking as defined by section 135.35,  
25 230.30, 230.32, 230.33, 230.34, or 230.34-a of the penal law; and

26 (b) the court shall, on motion of any party or on its own motion,  
27 order removal of the action to the family court pursuant to the  
28 provisions of article seven hundred twenty-five of this title, if, after  
29 such hearing, it is proven by a preponderance of the evidence that:

30 (i) the individual against whom such juvenile offender committed such  
31 offense trafficked such juvenile offender as defined by section 230.34  
32 or 230.34-a of the penal law, compelled such juvenile offender to engage  
33 in prostitution as defined by section 230.33 of the penal law, promoted  
34 the prostitution of such juvenile offender in the first degree as  
35 defined by section 230.32 of the penal law, promoted the prostitution of  
36 such juvenile offender in the second degree as defined by section 230.30  
37 of the penal law, or committed a sex offense against such juvenile  
38 offender as defined by article one hundred thirty of the penal law prior  
39 to or during the commission of such offense; or

40 (ii) the juvenile offender committed such offense as a direct result  
41 of being a victim of trafficking as defined by section 135.35, 230.30,  
42 230.32, 230.33, 230.34-a, or 230.34 of the penal law.

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

45 2-a. Following the arraignment of a defendant charged with an offense  
46 committed when such defendant was under eighteen years of age:

47 (a) the defendant may request a hearing to determine if, prior to or  
48 during the commission of such offense:

49 (i) the individual against whom the defendant committed such offense  
50 committed a child sex crime against the defendant; or

51 (ii) the defendant committed such offense as a direct result of being  
52 a victim of trafficking as defined by section 135.35, 230.30, 230.32,  
53 230.33, 230.34, or 230.34-a of the penal law; and

54 (b) the court shall order removal of the action to the family court  
55 pursuant to the provisions of article seven hundred twenty-five of this  
56 title, if, after such hearing, it is proven by a preponderance of the

1 evidence that, prior to the commission of such offense by such defend-  
2 ant:

3 (i) the individual against whom the defendant committed such offense  
4 trafficked such defendant as defined by section 230.34 or 230.34-a of  
5 the penal law, compelled such defendant to engage in prostitution as  
6 defined by section 230.33 of the penal law, promoted the prostitution of  
7 such defendant in the first degree as defined by section 230.32 of the  
8 penal law, promoted the prostitution of such defendant in the second  
9 degree as defined by section 230.30 of the penal law, or committed a sex  
10 offense against such defendant as defined by article one hundred thirty  
11 of the penal law; or

12 (ii) that the defendant committed such offense as a direct result of  
13 being a victim of trafficking as defined by section 135.35, 230.30,  
14 230.32, 230.33, 230.34, or 230.34-a of the penal law.

15 § 6. The criminal procedure law is amended by adding a new section  
16 440.48 to read as follows:

17 § 440.48 Motion for resentence; child sex crime victims.

18 1. (a) Notwithstanding any other provision of law to the contrary, any  
19 person who is confined in an institution operated by the department of  
20 correction and community supervision and serving a sentence for an  
21 offense committed prior to the effective date of this section may submit  
22 to the judge or justice who originally sentenced such person for such  
23 offense an application to be resentenced to a determinate sentence  
24 pursuant to section 60.38 of the penal law if such person is eligible  
25 for an alternative sentence as a person convicted as an adult of an  
26 offense committed when such person was under twenty years of age pursu-  
27 ant to section 60.38 of the penal law; and

28 (i) the individual against whom such person committed such crime traf-  
29 ficked such person as defined by section 230.34 or 230.34-a of the penal  
30 law, compelled such person to engage in prostitution as defined by  
31 section 230.33 of the penal law, promoted the prostitution of such  
32 person in the first degree as defined by section 230.32 of the penal  
33 law, promoted the prostitution of such person in the second degree as  
34 defined by section 230.30 of the penal law, or committed a sex offense  
35 against such person as defined by article one hundred thirty of the  
36 penal law; or

37 (ii) the defendant committed such offense as a direct result of being  
38 a victim of trafficking as defined by section 135.35, 230.30, 230.32,  
39 230.33, 230.34, or 230.34-a of the penal law.

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

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

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

49 (c) If, at the time of such person's request to apply for resentencing  
50 pursuant to this section, the judge or justice who originally sentenced  
51 such person is a judge or justice of a court of competent jurisdiction,  
52 but such court is not the court in which such person was originally  
53 sentenced, then the request shall be randomly assigned to another judge  
54 or justice of the court in which such person was originally sentenced.  
55 If the judge or justice who originally sentenced such person is no long-  
56 er a judge or justice of a court of competent jurisdiction, then the

1 request shall be randomly assigned to another judge or justice of the  
2 court in which such person was originally sentenced.

3 (d) If the court finds that such person is eligible to apply for  
4 resentencing pursuant to this section, the court shall notify such  
5 person that such person may submit an application for resentencing. Upon  
6 such notification, the person may request that the court assign an  
7 attorney to such person for the preparation of and proceedings on the  
8 application for resentencing submitted pursuant to this section. The  
9 attorney shall be assigned pursuant to the applicable provisions of  
10 section seven hundred twenty-two and article eighteen-A of the county  
11 law.

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

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

19 (b) If the judge or justice who receives such person's application for  
20 resentencing is not the judge or justice who originally sentenced such  
21 person, such application may be referred to the judge or justice who  
22 originally sentenced such person; provided, however, that the judge or  
23 justice who originally sentenced such person is a judge or justice of a  
24 court of competent jurisdiction; and provided, further, that the person  
25 applying for resentencing and the district attorney agree that such  
26 application should be referred.

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

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

36 (c) If the court approves such person's application for resentencing,  
37 the court shall notify such person that, unless such person withdraws  
38 the application or appeals from such approval, the court shall enter an  
39 order vacating the sentence originally imposed and impose the new  
40 sentence pursuant to section 60.38 of the penal law. Such approval may  
41 be based on the grounds that any order issued by a court pursuant to  
42 this subdivision must include written findings of fact and the reasons  
43 for such order.

44 4. (a) An appeal may be taken as of right pursuant to this chapter:  
45 (i) from an order denying such person's application for resentencing;  
46 (ii) from a new sentence imposed pursuant to paragraph (c) of subdivi-  
47 sion three of this section on the grounds that the term of the new  
48 sentence is harsh or excessive or is unauthorized as a matter of law; or  
49 (iii) from an order specifying and informing such person of the term  
50 of the determinate sentence the court would impose upon resentencing on  
51 the ground that the term of the proposed sentence is harsh or excessive.

52 (b) Upon remand to the sentencing court following such appeal, the  
53 person applying for resentencing shall be given an opportunity to with-  
54 draw such application before any resentence is imposed. Such person may  
55 request that the court assign an attorney to such person for the prepa-  
56 ration of and proceedings on any appeals regarding such person's appli-

1 ation for resentencing pursuant to this section. The attorney shall be  
2 assigned pursuant to the applicable provisions of section seven hundred  
3 twenty-two and article eighteen-A of the county law.

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

7 (a) the subject conviction; and

8 (b) the sentence originally imposed.

9 § 7. This act shall take effect immediately.