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Introduced by M. of A. LAVINE, LUNSFORD, K. BROWN, GRIFFIN, SANTABARBARA, SAYEGH, McDONALD, WOERNER, GRAY, McMAHON -- read once and referred to the Committee on Racing and Wagering -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Racing and Wagering in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the racing, pari-mutuel wagering and breeding law, in relation to designating an individual who has been convicted of certain crimes against athletes, coaches, officials, or participants in sports events or horse races, or of certain offenses involving sports contests, horse races, or wagering thereon, as a prohibited sports bettor

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

1 Section 1. Subparagraphs (ix) and (x) of paragraph (r) of subdivision
2 1 of section 1367 of the racing, pari-mutuel wagering and breeding law,
3 as amended by section 3 of part Y of chapter 59 of the laws of 2021, are
4 amended and a new subparagraph (xi) is added to read as follows:
5 (ix) any individual placing a wager as an agent or proxy for another
6 person known to be a prohibited sports bettor; [~~or~~]
7 (x) any minor[~~+~~]; or
8 (xi) any individual who, on or after the effective date of this
9 subparagraph, has (A) been convicted, in this state, of an offense
10 defined in section 120.00, 120.03, 120.04, 120.04-a, 120.05, 120.06,
11 120.07, 120.10, 120.13, 120.14, 120.15, 120.20, 120.25, 120.45, 120.50,
12 120.55, 120.60, 121.11, 121.12, 121.13, 125.10, 125.12, 125.13, 125.14,
13 125.15, 125.20, 125.25, 125.27, 135.05, 135.10, 135.20, 135.25, 135.60,

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

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1 135.61, 135.65, 140.10, 140.15, 140.17, 140.20, 140.25, 140.30, 145.00,
2 145.05, 145.10, 145.12, 150.01, 150.05, 150.10, 150.15, 150.20, 155.35,
3 155.42, 160.05, 160.10, 160.15, 180.40, 180.45, 180.50, 180.51, 180.52,
4 180.53, 215.15, 215.16, 215.17, 240.25, 240.30, 240.31, 240.50, 240.55,
5 240.60, 240.61, 240.62, 240.63, 240.78, 240.79, 265.01-e, 485.05, or
6 490.20 of the penal law, or of subdivision six of section 155.30 or
7 subdivision two of section 155.40 of the penal law, or a substantially
8 similar offense in another jurisdiction, where (1) the complainant or
9 victim is an amateur or professional athlete, coach, official or other
10 participant in a sports event, or a jockey, driver, trainer, owner,
11 official or other participant in a horse race, or (2) the offense is
12 defined in section 180.40, 180.45, 180.50, 180.51, 180.52, or 180.53 of
13 the penal law or is a substantially similar offense in another jurisdic-
14 tion and involves corruption of, tampering with, or impairment of the
15 integrity of a sports contest, pari-mutuel horse race, pari-mutuel
16 betting system, horse race, or wagering on a horse race, and, in either
17 case, the conduct underlying such offense arose from or related to a
18 sports wager, pari-mutuel betting, a wager on a horse race, such sport-
19 ing event, such sports contest, such pari-mutuel horse race, such pari-
20 mutuel betting system, or such horse race; (B) been found, in a final
21 order of protection or equivalent final civil protection order issued by
22 a court of competent jurisdiction, to have committed conduct that would
23 constitute an offense defined in the sections enumerated in clause (A)
24 of this subparagraph if prosecuted in this state, where the protected
25 party is such an athlete, coach, official or participant in a sports
26 event, or a jockey, driver, trainer, owner, official or other partic-
27 ipant in a horse race, and the conduct arose from or related to a sports
28 wager, pari-mutuel betting, a wager on a horse race, or such sporting
29 event, or such horse race; or (C) been convicted, in this state of
30 disorderly conduct (section 240.20 of the penal law), harassment in the
31 second degree (section 240.26 of the penal law), or a substantially
32 similar offense in another jurisdiction, or been found, in a final order
33 of protection or equivalent final civil protection order issued by a
34 court of competent jurisdiction, to have committed conduct that would
35 constitute disorderly conduct (section 240.20 of the penal law), harass-
36 ment in the second degree (section 240.26 of the penal law), or a
37 substantially similar offense in another jurisdiction, where the
38 complainant, victim or protected party is such an athlete, coach, offi-
39 cial or participant in a sports event, or a jockey, driver, trainer,
40 owner, official or other participant in a horse race, the conduct under-
41 lying such offense arose from or related to a sports wager, pari-mutuel
42 betting, a wager on a horse race, such sporting event or such horse
43 race, and the commission, in accordance with regulations promulgated
44 pursuant to subdivision seventeen of this section, determines that such
45 designation is warranted. The duration of any designation as a prohibit-
46 ed sports bettor pursuant to this subparagraph shall be determined in
47 accordance with the schedule established by the commission pursuant to
48 subdivision seventeen of this section, and shall be calculated from the
49 date of final conviction or issuance of the final order of protection.
50 Such designation shall be in addition to, and not in lieu of, any other
51 criminal, civil, administrative, licensing, or regulatory consequence
52 otherwise authorized by law. The commission shall provide notice to an
53 individual of such individual's designation as a prohibited sports
54 bettor pursuant to this subparagraph, provided further, an individual
55 may submit a written appeal to the commission for the limited purposes
56 of challenging the accuracy of the identifying information used by the

1 commission, demonstrating that the conviction or order of protection
2 relied upon has been vacated, reversed or otherwise set aside, demon-
3 strating that the prohibition period established by the commission's
4 schedule has expired, or establishing that the underlying offense did
5 not arise from or relate to a sports wager, pari-mutuel betting, a wager
6 on a horse race, or sporting event, sports contest, pari-mutuel horse
7 race, pari-mutuel betting system, or horse race as required by this
8 subparagraph, or, with respect to a designation pursuant to this clause,
9 establishing that the commission failed to apply the regulations promul-
10 gated pursuant to subdivision seventeen of this section, in a form and
11 manner prescribed by the commission. Nothing in this subparagraph shall
12 be construed to authorize the commission to designate an individual as a
13 prohibited sports bettor based solely on expression that is protected by
14 the United States or New York state constitution, including criticism,
15 commentary or other fan expression that does not constitute conduct
16 described in this subparagraph.

17 § 2. Section 1367 of the racing, pari-mutuel wagering and breeding law
18 is amended by adding two new subdivisions 17 and 18 to read as follows:

19 17. (a) The commission shall, by regulation, establish a schedule of
20 prohibition periods for individuals designated as prohibited sports
21 bettors pursuant to subparagraph (xi) of paragraph (r) of subdivision
22 one of this section. Such schedule shall provide fixed prohibition peri-
23 ods based on the classification and severity of the underlying offense,
24 and shall not permit individualized determinations by the commission on
25 a case-by-case basis, except as otherwise provided for offenses
26 described in clause (C) of subparagraph (xi) of paragraph (r) of subdi-
27 vision one of this section. The schedule shall include the following
28 tiers:

29 (i) Tier I offenses (Class B misdemeanors and qualifying violations):
30 A prohibition period of not less than one year and not more than three
31 years from the date of conviction or final order of protection. Tier I
32 offenses shall include menacing in the third degree (section 120.15 of
33 the penal law), stalking in the fourth degree (section 120.45 of the
34 penal law), harassment in the first degree (section 240.25 of the penal
35 law), criminal trespass in the third degree (section 140.10 of the penal
36 law), making a threat of mass harm (section 240.78 of the penal law),
37 and, where the commission determines pursuant to regulations that desig-
38 nation is warranted under clause (C) of subparagraph (xi) of paragraph
39 (r) of subdivision one of this section, disorderly conduct (section
40 240.20 of the penal law), harassment in the second degree (section
41 240.26 of the penal law) and substantially similar offenses in other
42 jurisdictions.

43 (ii) Tier II offenses (Specified class A misdemeanors): A prohibition
44 period of not less than three years and not more than five years from
45 the date of conviction or final order of protection. Tier II offenses
46 shall include menacing in the second degree (section 120.14 of the penal
47 law), reckless endangerment in the second degree (section 120.20 of the
48 penal law), stalking in the third degree (section 120.50 of the penal
49 law), unlawful imprisonment in the second degree (section 135.05 of the
50 penal law), aggravated harassment in the second degree (section 240.30
51 of the penal law), criminal obstruction of breathing or blood circula-
52 tion (section 121.11 of the penal law), criminal trespass in the
53 second degree (section 140.15 of the penal law), arson in the fifth
54 degree (section 150.01 of the penal law), falsely reporting an incident
55 in the third degree (section 240.50 of the penal law), aggravated threat

1 of mass harm (section 240.79 of the penal law), and substantially simi-
2 lar offenses in other jurisdictions.

3 (iii) Tier III offenses (Felonies and specified class A misdemeanors):
4 A prohibition period of not less than five years and not more than ten
5 years from the date of conviction or final order of protection. Tier III
6 offenses shall include menacing in the first degree (section 120.13 of
7 the penal law), stalking in the second degree (section 120.55 of the
8 penal law), stalking in the first degree (section 120.60 of the penal
9 law), reckless endangerment in the first degree (section 120.25 of the
10 penal law), aggravated harassment in the first degree (section 240.31 of
11 the penal law), assault in the third degree (section 120.00 of the penal
12 law), vehicular assault in the second degree (section 120.03 of the
13 penal law), vehicular assault in the first degree (section 120.04 of the
14 penal law), aggravated vehicular assault (section 120.04-a of the penal
15 law), assault in the second degree (section 120.05 of the penal law),
16 gang assault in the second degree (section 120.06 of the penal law),
17 gang assault in the first degree (section 120.07 of the penal law),
18 assault in the first degree (section 120.10 of the penal law), strangulation
19 in the second degree (section 121.12 of the penal law), strangulation
20 in the first degree (section 121.13 of the penal law), criminally
21 negligent homicide (section 125.10 of the penal law), murder in the
22 first degree (section 125.27 of the penal law), vehicular manslaughter
23 in the second degree (section 125.12 of the penal law), vehicular
24 manslaughter in the first degree (section 125.13 of the penal law),
25 aggravated vehicular homicide (section 125.14 of the penal law),
26 manslaughter in the second degree (section 125.15 of the penal law),
27 manslaughter in the first degree (section 125.20 of the penal law),
28 murder in the second degree (section 125.25 of the penal law), unlawful
29 imprisonment in the first degree (section 135.10 of the penal law),
30 kidnapping in the second degree (section 135.20 of the penal law),
31 kidnapping in the first degree (section 135.25 of the penal law), coercion
32 in the third degree (section 135.60 of the penal law), coercion in
33 the second degree (section 135.61 of the penal law), coercion in the
34 first degree (section 135.65 of the penal law), criminal trespass in the
35 first degree (section 140.17 of the penal law), burglary in the third
36 degree (section 140.20 of the penal law), burglary in the second degree
37 (section 140.25 of the penal law), burglary in the first degree (section
38 140.30 of the penal law), criminal mischief in the fourth degree
39 (section 145.00 of the penal law), criminal mischief in the third degree
40 (section 145.05 of the penal law), criminal mischief in the second
41 degree (section 145.10 of the penal law), criminal mischief in the first
42 degree (section 145.12 of the penal law), arson in the fourth degree
43 (section 150.05 of the penal law), arson in the third degree (section
44 150.10 of the penal law), arson in the second degree (section 150.15 of
45 the penal law), arson in the first degree (section 150.20 of the penal
46 law), grand larceny in the fourth degree by extortion (subdivision six
47 of section 155.30 of the penal law), grand larceny in the second degree
48 by extortion (subdivision two of section 155.40 of the penal law), grand
49 larceny in the third degree (section 155.35 of the penal law), grand
50 larceny in the first degree (section 155.42 of the penal law), criminal
51 possession of a firearm, rifle, or shotgun in a sensitive location
52 (section 265.01-e of the penal law), robbery in the third degree
53 (section 160.05 of the penal law), robbery in the second degree (section
54 160.10 of the penal law), robbery in the first degree (section 160.15 of
55 the penal law), sports bribing (section 180.40 of the penal law), sports
56 bribe receiving (section 180.45 of the penal law), tampering with a

1 sports contest in the second degree (section 180.50 of the penal law),
2 tampering with a sports contest in the first degree (section 180.51 of
3 the penal law), impairing the integrity of a pari-mutuel betting system
4 in the second degree (section 180.52 of the penal law), impairing the
5 integrity of a pari-mutuel betting system in the first degree (section
6 180.53 of the penal law), intimidating a victim or witness in the third
7 degree (section 215.15 of the penal law), intimidating a victim or
8 witness in the second degree (section 215.16 of the penal law), intimi-
9 dating a victim or witness in the first degree (section 215.17 of the
10 penal law), falsely reporting an incident in the second degree (section
11 240.55 of the penal law), falsely reporting an incident in the first
12 degree (section 240.60 of the penal law), placing a false bomb or
13 hazardous substance in the second degree (section 240.61 of the penal
14 law), placing a false bomb or hazardous substance in the first degree
15 (section 240.62 of the penal law), placing a false bomb or hazardous
16 substance in a sports stadium or arena, mass transportation facility or
17 enclosed shopping mall (section 240.63 of the penal law), hate crimes
18 (section 485.05 of the penal law), making a terroristic threat (section
19 490.20 of the penal law), and substantially similar offenses in other
20 jurisdictions.

21 (iv) Multiple or repeat offenses: Where an individual has been
22 convicted of, or is the subject of final orders of protection for,
23 multiple qualifying offenses arising from separate incidents, the prohi-
24 bition periods shall run consecutively. Where an individual commits a
25 subsequent qualifying offense while under an existing prohibition, the
26 commission shall impose the maximum prohibition period for the higher
27 tier offense, and such period shall commence upon the expiration of any
28 existing prohibition period.

29 (b) The commission may, by regulation and after public comment, adjust
30 the specific duration within each tier based on evidence of recidivism
31 rates, deterrent effect, and recommendations from law enforcement,
32 professional sports organizations, and the National Collegiate Athletic
33 Association (NCAA), provided that no prohibition period shall be indefi-
34 nite or exceed ten years for a single offense. Nothing in subparagraph
35 (xi) of paragraph (r) of subdivision one of this section or in this
36 subdivision shall be construed to limit, preclude, replace or otherwise
37 affect any criminal prosecution, sentence, fine, restitution, forfei-
38 ture, order of protection, civil or administrative remedy, or the
39 authority of the commission or any other governmental entity to suspend,
40 revoke, condition, restrict or deny any license, registration, wagering
41 privilege, access or other approval otherwise authorized by this chapter
42 or any other law. The prohibition periods established pursuant to this
43 subdivision are in addition to, and not in lieu of, any such conse-
44 quences. The commission shall review and provide a report on the effec-
45 tiveness of the schedule to the governor, the temporary president of the
46 senate, and the speaker of the assembly every five years.

47 (c) The commission shall implement this subdivision in accordance with
48 the rules and regulations promulgated pursuant to this subdivision and
49 subdivision eighteen of this section, and shall not require any casino
50 or mobile sports wagering licensee or any racing association, corpo-
51 ration, off-track betting corporation, simulcast facility, account
52 wagering licensee, multi-jurisdictional account wagering provider, or
53 other entity licensed, franchised, or otherwise authorized by the
54 commission to accept wagers on horse races to make independent determi-
55 nations regarding the legal sufficiency of any conviction or order of

1 protection beyond verifying the identity of the bettor or account holder
2 against lists provided by the commission.

3 18. (a) For purposes of implementing subparagraph (xi) of paragraph
4 (r) of subdivision one and subdivision seventeen of this section, the
5 commission, in consultation with the office of court administration and
6 the division of criminal justice services, shall promulgate rules and
7 regulations governing the sharing of information concerning convictions
8 and final orders of protection described in subparagraph (xi) of para-
9 graph (r) of subdivision one of this section, to the extent authorized
10 by article thirty-five of the executive law, section two hundred twelve
11 of the judiciary law, the criminal procedure law, the family court act,
12 the domestic relations law, and any other applicable state or federal
13 law.

14 (b) Such rules and regulations shall provide for the receipt, use and
15 disclosure by the commission of such information solely as necessary to
16 effectuate the provisions of subparagraph (xi) of paragraph (r) of
17 subdivision one and subdivision seventeen of this section, including the
18 designation of prohibited sports bettors and notification to casinos and
19 mobile sports wagering licensees, racing associations and corporations,
20 franchised corporations, off-track betting corporations, regional corpo-
21 rations, simulcast facilities, account wagering licensees, multi-juris-
22 dictional account wagering providers, and any other entity licensed,
23 franchised, or otherwise authorized by the commission to accept wagers
24 on horse races, of individuals so designated.

25 (c) Any sharing of information pursuant to this subdivision shall be
26 subject to applicable provisions of the criminal procedure law, the
27 family court act, the domestic relations law, article thirty-five of the
28 executive law, section two hundred twelve of the judiciary law, and any
29 other law pertaining to the confidentiality, sealing and expungement of
30 records. Nothing in this subdivision shall be deemed to permit or
31 require the release, disclosure or other dissemination by the office of
32 court administration or the division of criminal justice services of any
33 record that has been sealed or is otherwise confidential in accordance
34 with law.

35 (d) The commission shall, at least annually, update and distribute to
36 all casinos and mobile sports wagering licensees, and to all racing
37 associations and corporations, franchised corporations, off-track
38 betting corporations, regional corporations, simulcast facilities,
39 account wagering licensees, multi-jurisdictional account wagering
40 providers, and any other entity licensed, franchised, or otherwise
41 authorized by the commission to accept wagers on horse races, a consol-
42 idated list of individuals designated as prohibited sports bettors
43 pursuant to subparagraph (xi) of paragraph (r) of subdivision one of
44 this section, and shall provide interim updates as necessary. Casinos,
45 mobile sports wagering licensees and all such horse-race wagering enti-
46 ties shall use such list to prevent designated individuals from placing
47 sports wagers, opening or maintaining wagering accounts, or placing
48 wagers on horse races, and may rely on such list in good faith without
49 undertaking any independent criminal history investigation.

50 § 3. Section 1012 of the racing, pari-mutuel wagering and breeding law
51 is amended by adding a new subdivision 19 to read as follows:

52 19. An account wagering licensee shall not permit any individual
53 designated as a prohibited sports bettor pursuant to subparagraph (xi)
54 of paragraph (r) of subdivision one of section thirteen hundred sixty-
55 seven of this chapter to establish or maintain a wagering account, or to
56 place a wager on a horse race through such account wagering licensee. An

1 account wagering licensee may rely in good faith on lists provided by
2 the commission pursuant to subdivision eighteen of section thirteen
3 hundred sixty-seven of this chapter without undertaking any independent
4 criminal history investigation.

5 § 4. This act shall take effect on the one hundred eightieth day after
6 it shall have become a law. Effective immediately, the addition, amend-
7 ment and/or repeal of any rule or regulation necessary for the implemen-
8 tation of this act on its effective date are authorized to be made and
9 completed by the state gaming commission, the chief administrator of the
10 courts, and the division of criminal justice services on or before such
11 effective date.