

STATE OF NEW YORK

OFFICIAL COPY CHAP¹ 342 LAWS OF 2015

2015-2016 Regular Sessions

IN SENATE

January 9, 2015

Introduced by Sens. SAVINO, LITTLE, GOLDEN, ROBACH, HANNON -- read twice
and ordered printed, and when printed to be committed to the Committee
on Rules

AN ACT to amend the labor law, in relation to the prohibition of differ-
ential pay because of sex

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

- 1 Section 1. Subdivision 1 of section 194 of the labor law, as added by
2 chapter 548 of the laws of 1966, is amended and three new subdivisions
3 2, 3 and 4 are added to read as follows:
4 1. No employee shall be paid a wage at a rate less than the rate at
5 which an employee of the opposite sex in the same establishment is paid
6 for equal work on a job the performance of which requires equal skill,
7 effort and responsibility, and which is performed under similar working
8 conditions, except where payment is made pursuant to a differential
9 based on:
10 a. a seniority system;
11 b. a merit system;
12 c. a system which measures earnings by quantity or quality of
13 production; or
14 d. [any other factor other than sex] a bona fide factor other than
15 sex, such as education, training, or experience. Such factor: (i) shall
16 not be based upon or derived from a sex-based differential in compen-
17 sation and (ii) shall be job-related with respect to the position in
18 question and shall be consistent with business necessity. Such exception
19 under this paragraph shall not apply when the employee demonstrates (A)
20 that an employer uses a particular employment practice that causes a
21 disparate impact on the basis of sex, (B) that an alternative employment
22 practice exists that would serve the same business purpose and not
23 produce such differential, and (C) that the employer has refused to
24 adopt such alternative practice.

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

LBD07113-01-5

1 2. For the purpose of subdivision one of this section, "business
2 necessity" shall be defined as a factor that bears a manifest relation-
3 ship to the employment in question.

4 3. For the purposes of subdivision one of this section, employees
5 shall be deemed to work in the same establishment if the employees work
6 for the same employer at workplaces located in the same geographical
7 region, no larger than a county, taking into account population distrib-
8 ution, economic activity, and/or the presence of municipalities.

9 4. (a) No employer shall prohibit an employee from inquiring about,
10 discussing, or disclosing the wages of such employee or another employ-
11 ee.

12 (b) An employer may, in a written policy provided to all employees,
13 establish reasonable workplace and workday limitations on the time,
14 place and manner for inquires about, discussion of, or the disclosure of
15 wages. Such limitations shall be consistent with standards promulgated
16 by the commissioner and shall be consistent with all other state and
17 federal laws. Such limitations may include prohibiting an employee from
18 discussing or disclosing the wages of another employee without such
19 employee's prior permission.

20 (c) Nothing in this subdivision shall require an employee to disclose
21 his or her wages. The failure of an employee to adhere to such reason-
22 able limitations in such written policy shall be an affirmative defense
23 to any claims made against an employer under this subdivision, provided
24 that any adverse employment action taken by the employer was for failure
25 to adhere to such reasonable limitations and not for mere inquiry,
26 discussion or disclosure of wages in accordance with such reasonable
27 limitations in such written policy.

28 (d) This prohibition shall not apply to instances in which an employee
29 who has access to the wage information of other employees as a part of
30 such employee's essential job functions discloses the wages of such
31 other employees to individuals who do not otherwise have access to such
32 information, unless such disclosure is in response to a complaint or
33 charge, or in furtherance of an investigation, proceeding, hearing, or
34 action under this chapter, including an investigation conducted by the
35 employer.

36 (e) Nothing in this section shall be construed to limit the rights of
37 an employee provided under any other provision of law or collective
38 bargaining agreement.

39 § 2. Subdivision 1-a of section 198 of the labor law, as amended by
40 chapter 564 of the laws of 2010, is amended to read as follows:

41 1-a. On behalf of any employee paid less than the wage to which he or
42 she is entitled under the provisions of this article, the commissioner
43 may bring any legal action necessary, including administrative action,
44 to collect such claim and as part of such legal action, in addition to
45 any other remedies and penalties otherwise available under this article,
46 the commissioner shall assess against the employer the full amount of
47 any such underpayment, and an additional amount as liquidated damages,
48 unless the employer proves a good faith basis for believing that its
49 underpayment of wages was in compliance with the law. Liquidated damages
50 shall be calculated by the commissioner as no more than one hundred
51 percent of the total amount of wages found to be due, except such liqui-
52 dated damages may be up to three hundred percent of the total amount of
53 the wages found to be due for a willful violation of section one hundred
54 ninety-four of this article. In any action instituted in the courts upon
55 a wage claim by an employee or the commissioner in which the employee
56 prevails, the court shall allow such employee to recover the full amount



1 of any underpayment, all reasonable attorney's fees, prejudgment inter-
2 est as required under the civil practice law and rules, and, unless the
3 employer proves a good faith basis to believe that its underpayment of
4 wages was in compliance with the law, an additional amount as liquidated
5 damages equal to one hundred percent of the total amount of the wages
6 found to be due, except such liquidated damages may be up to three
7 hundred percent of the total amount of the wages found to be due for a
8 willful violation of section one hundred ninety-four of this article.

9 § 3. The department of labor and the division of human rights shall
10 make training available to assist employers in developing training,
11 policies and procedures to address discrimination and harassment in the
12 workplace including, but not limited to issues relating to pregnancy,
13 familial status, pay equity and sexual harassment. Such training shall
14 take into account the needs of employers of various sizes. The depart-
15 ment and division shall make such training available through, including
16 but not limited to, online means. In developing such training materi-
17 als, the department and division shall afford the public an opportunity
18 to submit comments on such training.

19 § 4. Severability clause. If any clause, sentence, paragraph, subdivi-
20 sion, section or part of this act shall be adjudged by a court of compe-
21 tent jurisdiction to be invalid, such judgment shall not affect, impair
22 or invalidate the remainder thereof, but shall be confined in its opera-
23 tion to the clause, sentence, paragraph, subdivision, section or part
24 thereof directly involved in the controversy in which such judgment
25 shall have been rendered. It is hereby declared to be the intent of the
26 legislature that this act would have been enacted even if such invalid
27 provisions had not been included herein.

28 § 5. This act shall take effect on the ninetieth day after it shall
29 have become a law; provided, however, that the commissioner of labor
30 shall take actions necessary to provide for the promulgation of stand-
31 ards pursuant to subdivision 4 of section 194 of the labor law, as added
32 by section one of this act, prior to this act taking effect; and
33 provided further, however, that the department of labor and division of
34 human rights shall take actions necessary to establish training pursuant
35 to section three of this act prior to this act taking effect.

**APPROVED****OCT 21 2015**

STATE OF NEW YORK
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CHAP²~~363~~ LAWS OF 2015

2015-2016 Regular Sessions

IN SENATE

January 9, 2015

Introduced by Sens. VALESKY, LITTLE, GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the executive law, in relation to unlawful discriminatory practices

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

1 Section 1. Subdivision 5 of section 292 of the executive law, as
2 amended by chapter 481 of the laws of 2010, is amended to read as
3 follows:

4 5. The term "employer" does not include any employer with fewer than
5 four persons in his or her employ except as set forth in section two
6 hundred ninety-six-b of this [title] article, provided, however, that in
7 the case of an action for discrimination based on sex pursuant to subdivi-
8 sion one of section two hundred ninety-six of this article, with
9 respect to sexual harassment only, the term "employer" shall include all
10 employers within the state.

11 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
12 sion, section or part of this act shall be adjudged by a court of compe-
13 tent jurisdiction to be invalid, such judgment shall not affect, impair
14 or invalidate the remainder thereof, but shall be confined in its opera-
15 tion to the clause, sentence, paragraph, subdivision, section or part
16 thereof directly involved in the controversy in which such judgment
17 shall have been rendered. It is hereby declared to be the intent of the
18 legislature that this act would have been enacted even if such invalid
19 provisions had not been included herein.

20 § 3. This act shall take effect on the ninetieth day after it shall
21 have become a law.



APPROVED

OCT 21 2015

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

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3

CHAP~~34~~ LAWS OF 2015

2015-2016 Regular Sessions

IN SENATE

January 9, 2015

Introduced by Sen. LITTLE -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the executive law, in relation to the provision of attorney's fees in cases of housing, employment or credit discrimination; to amend the executive law, in relation to the awarding of reasonable attorney's fees

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

1 Section 1. Subdivision 10 of section 297 of the executive law, as
2 added by section 17 of part D of chapter 405 of the laws of 1999, is
3 amended to read as follows:
4 10. With respect to all cases of housing discrimination and housing
5 related credit discrimination [only] in an action or proceeding at law
6 under this section or section two hundred ninety-eight of this article,
7 the commissioner or the court may in its discretion award reasonable
8 attorney's fees to any prevailing or substantially prevailing party; and
9 with respect to a claim of employment or credit discrimination where sex
10 is a basis of such discrimination, in an action or proceeding at law
11 under this section or section two hundred ninety-eight of this article,
12 the commissioner or the court may in its discretion award reasonable
13 attorney's fees attributable to such claim to any prevailing party;
14 provided, however, that a prevailing respondent or defendant in order to
15 recover such reasonable attorney's fees must make a motion requesting
16 such fees and show that the action or proceeding brought was frivolous;
17 and further provided that in a proceeding brought in the division of
18 human rights, the commissioner may only award attorney's fees as part of
19 a final order after a public hearing held pursuant to subdivision four
20 of this section. In no case shall attorney's fees be awarded to the
21 division, nor shall the division be liable to a prevailing or substan-
22 tially prevailing party for attorney's fees, except in a case in which
23 the division is a party to the action or the proceeding in the divi-

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LBD07115-01-5

1 sion's capacity as an employer. In cases of employment discrimination,
2 a respondent shall only be liable for attorney's fees under this subdivi-
3 sion if the respondent has been found liable for having committed an
4 unlawful discriminatory practice. In order to find the action or
5 proceeding to be frivolous, the court or the commissioner must find in
6 writing one or more of the following:

7 (a) the action or proceeding was commenced, used or continued in bad
8 faith, solely to delay or prolong the resolution of the litigation or to
9 harass or maliciously injure another; or

10 (b) the action or proceeding was commenced or continued in bad faith
11 without any reasonable basis and could not be supported by a good faith
12 argument for an extension, modification or reversal of existing law. If
13 the action or proceeding was promptly discontinued when the party or
14 attorney learned or should have learned that the action or proceeding
15 lacked such a reasonable basis, the court may find that the party or the
16 attorney did not act in bad faith.

17 § 2. Paragraph c of subdivision 7 of section 296-a of the executive
18 law, as amended by chapter 632 of the laws of 1976, is amended to read
19 as follows:

20 c. If the superintendent finds that a violation of this section has
21 occurred, the superintendent shall issue an order which shall do one or
22 more of the following:

23 (1) impose a fine in an amount not to exceed ten thousand dollars for
24 each violation, to be paid to the people of the state of New York;

25 (2) award compensatory damages to the person aggrieved by such
26 violation;

27 (3) for a claim of sex discrimination only, award reasonable attor-
28 ney's fees attributable to such claim to any prevailing party; provided,
29 however, that a prevailing respondent or defendant in order to recover
30 such reasonable attorney's fees must make a motion requesting such fees
31 and show that the action or proceeding brought was frivolous. In no case
32 shall attorney's fees be awarded to the department, nor shall the
33 department be liable to a prevailing party for attorney's fees. In order
34 to find the action or proceeding to be frivolous, the superintendent
35 must find in writing one or more of the following:

36 (a) the action or proceeding was commenced, used or continued in bad
37 faith, solely to delay or prolong the resolution of the litigation or to
38 harass or maliciously injure another; or

39 (b) the action or proceeding was commenced or continued in bad faith
40 without any reasonable basis and could not be supported by a good faith
41 argument for an extension, modification or reversal of existing law. If
42 the action or proceeding was promptly discontinued when the party or
43 attorney learned or should have learned that the action or proceeding
44 lacked such a reasonable basis, the court may find that the party or the
45 attorney did not act in bad faith.

46 (4) require the regulated creditor to cease and desist from such
47 unlawful discriminatory practices;

48 [(4)] (5) require the regulated creditor to take such further affirma-
49 tive action as will effectuate the purposes of this section, including,
50 but not limited to, granting the credit which was the subject of the
51 complaint.

52 § 3. Severability clause. If any clause, sentence, paragraph, subdivi-
53 sion, section or part of this act shall be adjudged by a court of compe-
54 tent jurisdiction to be invalid, such judgment shall not affect, impair
55 or invalidate the remainder thereof, but shall be confined in its opera-
56 tion to the clause, sentence, paragraph, subdivision, section or part

1 thereof directly involved in the controversy in which such judgment
2 shall have been rendered. It is hereby declared to be the intent of the
3 legislature that this act would have been enacted even if such invalid
4 provisions had not been included herein.

5 § 4. This act shall take effect on the ninetieth day after it shall
6 have become a law, and shall apply to actions commenced on or after such
7 date.

**APPROVED****OCT 21 2015**

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4

CHAP~~34~~³⁵ LAWS OF 20~~14~~¹⁵

2015-2016 Regular Sessions

IN SENATE

January 9, 2015

Introduced by Sens. LITTLE, ROBACH -- read twice and ordered printed,
and when printed to be committed to the Committee on Rules

AN ACT to amend the executive law, in relation to unlawful discriminatory
practice because of familial status

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

- 1 Section 1. Subdivisions 1 and 1-a of section 296 of the executive law,
2 as amended by chapter 803 of the laws of 1975, paragraph (a) of subdivi-
3 sion 1 as amended by chapter 80 of the laws of 2009, paragraphs (b), (c)
4 and (d) of subdivision 1 as amended by chapter 75 of the laws of 2005,
5 paragraph (e) of subdivision 1 as amended by chapter 166 of the laws of
6 2000, paragraph (g) of subdivision 1 as added by chapter 98 of the laws
7 of 1984 and paragraphs (b), (c) and (d) of subdivision 1-a as amended by
8 chapter 106 of the laws of 2003, are amended to read as follows:
9 1. It shall be an unlawful discriminatory practice:
10 (a) For an employer or licensing agency, because of an individual's
11 age, race, creed, color, national origin, sexual orientation, military
12 status, sex, disability, predisposing genetic characteristics, familial
13 status, marital status, or domestic violence victim status, to refuse to
14 hire or employ or to bar or to discharge from employment such individual
15 or to discriminate against such individual in compensation or in terms,
16 conditions or privileges of employment.
17 (b) For an employment agency to discriminate against any individual
18 because of age, race, creed, color, national origin, sexual orientation,
19 military status, sex, disability, predisposing genetic characteristics,
20 familial status, or marital status, in receiving, classifying, disposing
21 or otherwise acting upon applications for its services or in referring
22 an applicant or applicants to an employer or employers.
23 (c) For a labor organization, because of the age, race, creed, color,
24 national origin, sexual orientation, military status, sex, disability,
25 predisposing genetic characteristics, familial status, or marital status

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
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1 of any individual, to exclude or to expel from its membership such indi-
2 vidual or to discriminate in any way against any of its members or
3 against any employer or any individual employed by an employer.

4 (d) For any employer, or employment agency to print or circulate or
5 cause to be printed or circulated any statement, advertisement or publi-
6 cation, or to use any form of application for employment or to make any
7 inquiry in connection with prospective employment, which expresses
8 directly or indirectly, any limitation, specification or discrimination
9 as to age, race, creed, color, national origin, sexual orientation,
10 military status, sex, disability, predisposing genetic characteristics,
11 familial status, or marital status, or any intent to make any such limi-
12 tation, specification or discrimination, unless based upon a bona fide
13 occupational qualification; provided, however, that neither this para-
14 graph nor any provision of this chapter or other law shall be construed
15 to prohibit the department of civil service or the department of person-
16 nel of any city containing more than one county from requesting informa-
17 tion from applicants for civil service examinations concerning any of
18 the aforementioned characteristics, other than sexual orientation, for
19 the purpose of conducting studies to identify and resolve possible prob-
20 lems in recruitment and testing of members of minority groups to insure
21 the fairest possible and equal opportunities for employment in the civil
22 service for all persons, regardless of age, race, creed, color, national
23 origin, sexual orientation, military status, sex, disability, predispos-
24 ing genetic characteristics, familial status, or marital status.

25 (e) For any employer, labor organization or employment agency to
26 discharge, expel or otherwise discriminate against any person because he
27 or she has opposed any practices forbidden under this article or because
28 he or she has filed a complaint, testified or assisted in any proceeding
29 under this article.

30 (f) Nothing in this subdivision shall affect any restrictions upon the
31 activities of persons licensed by the state liquor authority with
32 respect to persons under twenty-one years of age.

33 (g) For an employer to compel an employee who is pregnant to take a
34 leave of absence, unless the employee is prevented by such pregnancy
35 from performing the activities involved in the job or occupation in a
36 reasonable manner.

37 1-a. It shall be an unlawful discriminatory practice for an employer,
38 labor organization, employment agency or any joint labor-management
39 committee controlling apprentice training programs:

40 (a) To select persons for an apprentice training program registered
41 with the state of New York on any basis other than their qualifications,
42 as determined by objective criteria which permit review;

43 (b) To deny to or withhold from any person because of race, creed,
44 color, national origin, sexual orientation, military status, sex, age,
45 disability, familial status, or marital status, the right to be admitted
46 to or participate in a guidance program, an apprenticeship training
47 program, on-the-job training program, executive training program, or
48 other occupational training or retraining program;

49 (c) To discriminate against any person in his or her pursuit of such
50 programs or to discriminate against such a person in the terms, condi-
51 tions or privileges of such programs because of race, creed, color,
52 national origin, sexual orientation, military status, sex, age, disabil-
53 ity, familial status or marital status;

54 (d) To print or circulate or cause to be printed or circulated any
55 statement, advertisement or publication, or to use any form of applica-
56 tion for such programs or to make any inquiry in connection with such

1 program which expresses, directly or indirectly, any limitation, spec-
2 ification or discrimination as to race, creed, color, national origin,
3 sexual orientation, military status, sex, age, disability, familial
4 status or marital status, or any intention to make any such limitation,
5 specification or discrimination, unless based on a bona fide occupa-
6 tional qualification.

7 § 2. Subdivision 3 of section 296 of the executive law is amended by
8 adding a new paragraph (c) to read as follows:

9 (c) Nothing in this subdivision regarding "reasonable accommodation"
10 or in the chapter of the laws of two thousand fifteen which added this
11 paragraph shall alter, diminish, increase, or create new or additional
12 requirements to accommodate protected classes pursuant to this article
13 other than the additional requirements as explicitly set forth in such
14 chapter of the laws of two thousand fifteen.

15 § 3. Paragraph (a) of subdivision 9 of section 296 of the executive
16 law, as amended by chapter 106 of the laws of 2003, is amended to read
17 as follows:

18 (a) It shall be an unlawful discriminatory practice for any fire
19 department or fire company therein, through any member or members there-
20 of, officers, board of fire commissioners or other body or office having
21 power of appointment of volunteer firefighters, directly or indirectly,
22 by ritualistic practice, constitutional or by-law prescription, by tacit
23 agreement among its members, or otherwise, to deny to any individual
24 membership in any volunteer fire department or fire company therein, or
25 to expel or discriminate against any volunteer member of a fire depart-
26 ment or fire company therein, because of the race, creed, color,
27 national origin, sexual orientation, military status, sex [or], marital
28 status, or familial status, of such individual.

29 § 4. Subdivision 13 of section 296 of the executive law, as amended by
30 chapter 196 of the laws of 2010, is amended to read as follows:

31 13. It shall be an unlawful discriminatory practice (i) for any person
32 to boycott or blacklist, or to refuse to buy from, sell to or trade
33 with, or otherwise discriminate against any person, because of the race,
34 creed, color, national origin, sexual orientation, military status, sex,
35 [or] disability, or familial status, of such person, or of such person's
36 partners, members, stockholders, directors, officers, managers, super-
37 intendants, agents, employees, business associates, suppliers or custom-
38 ers, or (ii) for any person wilfully to do any act or refrain from doing
39 any act which enables any such person to take such action. This subdivi-
40 sion shall not apply to:

41 (a) Boycotts connected with labor disputes; or

42 (b) Boycotts to protest unlawful discriminatory practices.

43 § 5. Severability clause. If any clause, sentence, paragraph, subdivi-
44 sion, section or part of this act shall be adjudged by a court of compe-
45 tent jurisdiction to be invalid, such judgment shall not affect, impair
46 or invalidate the remainder thereof, but shall be confined in its opera-
47 tion to the clause, sentence, paragraph, subdivision, section or part
48 thereof directly involved in the controversy in which such judgment
49 shall have been rendered. It is hereby declared to be the intent of the
50 legislature that this act would have been enacted even if such invalid
51 provisions had not been included herein.

52 § 6. This act shall take effect on the ninetieth day after it shall
53 have become a law.



APPROVED
OCT 21 2010



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CHAP³⁴⁶ LAWS OF 2015

2015-2016 Regular Sessions

IN SENATE

January 9, 2015

Introduced by Sens. ROBACH, CARLUCCI -- read twice and ordered printed,
and when printed to be committed to the Committee on Rules

AN ACT to amend the real property law and the real property actions and proceedings law, in relation to prohibiting discrimination in housing based upon domestic violence status and establishing a task force to study the impact of source of income on access to housing

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

1 Section 1. The real property law is amended by adding a new section
2 227-d to read as follows:

3 § 227-d. Discrimination based on domestic violence status; prohibited.

4 1. Definitions. For the purposes of this section, a person is a "domestic violence victim" and possesses "domestic violence victim status" if
5 such person is or has been, or is a parent accompanied by a minor child
6 or children who is or has been, in a situation in which such person or
7 child is a victim of an act that would constitute a violent felony
8 offense as enumerated in section 70.02 of the penal law, or a family
9 offense as enumerated in subdivision one of section eight hundred twelve
10 of the family court act, and such act is alleged to have been committed
11 by a member of the same family or household, as defined in subdivision
12 one of section eight hundred twelve of the family court act.

14 2. Discrimination based on domestic violence victim status prohibited.

15 (a) No person, firm or corporation owning or managing any building used
16 for dwelling purposes, or the agent of such person, firm or corporation,
17 shall, because of such person's or family member's domestic violence
18 victim status, (1) refuse to rent a residential unit to any person or
19 family, when, but for such status, rental would not have been refused,
20 (2) discriminate in the terms, conditions, or privileges of any such
21 rental, when, but for such status, such discrimination would not have
22 occurred, or (3) print or circulate, or cause to be printed or circu-
23 lated, any statement, advertisement or publication which expresses,

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[] is old law to be omitted.

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1 directly or indirectly, any limitation, specification, or discrimi-
2 nation. A violation of this subdivision shall be a misdemeanor and, on
3 conviction thereof, shall be punished by a fine of not less than one
4 thousand dollars and not more than two thousand dollars for each
5 offense; provided, however, that it shall be a defense that such person,
6 firm, corporation or agent refused to rent a residential unit on any
7 other lawful ground.

8 (b) (1) Where discriminatory conduct prohibited by this subdivision
9 has occurred, such person or family shall have a cause of action in any
10 court of appropriate jurisdiction for compensatory and punitive damages,
11 with such punitive damages not exceeding two thousand dollars for each
12 offense, and declaratory and injunctive relief; and (2) in all actions
13 brought under this section, reasonable attorneys' fees as determined by
14 the court may be awarded to a prevailing party, provided, however, that
15 a prevailing defendant in order to recover such reasonable attorneys'
16 fees must make a motion requesting such fees and show that the action or
17 proceeding brought was frivolous. In order to find the action or
18 proceeding to be frivolous, the court must find one or more of the
19 following: (i) the action was commenced, used or continued in bad faith,
20 solely to delay or prolong the resolution of the litigation or to harass
21 or maliciously injure another; or (ii) the action was commenced or
22 continued in bad faith without any reasonable basis and could not be
23 supported by a good faith argument for an extension, modification or
24 reversal of existing law. If the action or proceeding was promptly
25 discontinued when the party or attorney learned or should have learned
26 that the action or proceeding lacked such a reasonable basis, the court
27 may find that the party or the attorney did not act in bad faith.

28 (c) Nothing in this section shall be construed as limiting the ability
29 of a person, firm or corporation owning or managing a building used for
30 dwelling purposes, or the agent of such person, firm or corporation,
31 from applying reasonable standards not based on or derived from domestic
32 violence victim status in determining the eligibility of a person or
33 family seeking to rent a residential unit.

34 (d) This section shall not apply to buildings used for dwelling
35 purposes that are owner occupied and have two or fewer residential
36 units.

37 3. A person, firm, or corporation owning or managing a building used
38 for dwelling purposes or agent of such person, firm or corporation shall
39 not be civilly liable to other tenants, guests, invitees, or licensees
40 arising from reasonable and good faith efforts to comply with this
41 section.

42 4. Nothing in this section shall be construed as prohibiting a person,
43 firm or corporation owning or managing a building used for dwelling
44 purposes, or the agent of such person, firm or corporation, from:

45 (a) providing or preserving a rental preference in any public or
46 private housing for victims of domestic violence;

47 (b) providing any other assistance to victims of domestic violence in
48 obtaining or retaining any public or private housing; or

49 (c) responding to an inquiry or request by an applicant, tenant, or
50 leaseholder who is a victim of domestic violence.

51 5. Nothing in this section shall be construed as prohibiting a municipi-
52 pality from retaining or promulgating local laws or ordinances imposing
53 additional or enhanced protections prohibiting discrimination against
54 victims of domestic violence.

55 6. Nothing in this section shall be construed as limiting, diminish-
56 ing, or otherwise affecting any rights under existing law.

1 § 2. The real property actions and proceedings law is amended by
2 adding a new section 744 to read as follows:

3 § 744. Eviction based on domestic violence victim status prohibited.

4 1. A tenant shall not be removed from possession of a residential unit
5 pursuant to this article because of such person's domestic violence
6 victim status, as defined in section two hundred twenty-seven-d of the
7 real property law. It shall be a defense to a proceeding to recover
8 possession of a residential unit that a landlord seeks such recovery
9 because of a person's domestic violence victim status, and that, but for
10 such status, the landlord would not seek to recover possession. A land-
11 lord may rebut such defense by showing that he or she seeks to recover
12 possession of a residential unit because of any other lawful ground.

13 2. Nothing in this section shall restrict a landlord's legal rights to
14 recover possession of a residential unit on grounds not based on or
15 derived from domestic violence victim status.

16 3. A landlord shall not be civilly liable to other tenants, guests,
17 invitees, or licensees arising from reasonable and good faith efforts to
18 comply with this section.

19 4. This section shall not apply to buildings used for dwelling
20 purposes that are owner occupied and have two or fewer residential
21 units.

22 § 3. There is hereby established a task force to study the impact of
23 source of income on access to housing including, but not limited to, any
24 sex-based impact. The task force shall consist of the following members
25 as appointed by the governor: (1) two members of the governor's cabinet;
26 (2) two experts on housing policy representing the needs of both land-
27 lords and tenants; (3) two members who are local government officials,
28 who shall each represent different geographical regions within the
29 state; (4) two members on the recommendation of the temporary president
30 of the senate; and (5) two members on the recommendation of the speaker
31 of the assembly. The governor shall designate a chair of the task force
32 from amongst such appointees. The task force shall meet as often as is
33 appropriate under circumstances necessary to fulfill its duties under
34 this section. The task force shall (a) review the Section 8 Housing
35 Choice Voucher Administrative Plan and, if necessary, recommend modifi-
36 cations to increase the participation of landlords and property owners,
37 which may include, but shall not be limited to: expanding the portabil-
38 ity of Section 8 vouchers, including as may be appropriate for domestic
39 violence victims; creating a state-sponsored special-purpose mobility
40 counseling program; enhancing means of connecting voucher holders to
41 approved landlords; and eliminating delays in housing quality standard
42 inspections; and (b) review other current policies and laws and, if
43 necessary, recommend modifications to improve access to quality and
44 affordable housing. The task force shall submit its report and recommen-
45 dations to the governor, the temporary president of the senate, and the
46 speaker of the assembly on January 15, 2016.

47 § 4. Severability clause. If any clause, sentence, paragraph, subdivi-
48 sion, section or part of this act shall be adjudged by a court of compe-
49 tent jurisdiction to be invalid, such judgment shall not affect, impair
50 or invalidate the remainder thereof, but shall be confined in its opera-
51 tion to the clause, sentence, paragraph, subdivision, section or part
52 thereof directly involved in the controversy in which such judgment
53 shall have been rendered. It is hereby declared to be the intent of the
54 legislature that this act would have been enacted even if such invalid
55 provisions had not been included herein.



1 § 5. This act shall take effect on the ninetieth day after it shall
2 have become a law.

 **APPROVED**
OCT 21 2015

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CHAP~~36~~37 LAWS OF 2015

2015-2016 Regular Sessions

IN SENATE

January 9, 2015

Introduced by Sens. YOUNG, SAVINO, LITTLE, RITCHIE, MARCHIONE, ROBACH,
HANNON -- read twice and ordered printed, and when printed to be
committed to the Committee on Rules

AN ACT to amend the family court act and the judiciary law, in relation
to establishing a pilot program for the filing of petitions for tempo-
rary orders of protection by electronic means and for issuance of such
orders ex parte by audio-visual means and to amend the executive law,
in relation to review and reports by the chief administrator of the
courts

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

1 Section 1. Section 153-c of the family court act, as added by chapter
2 416 of the laws of 1981, is amended to read as follows:

3 § 153-c. Temporary order of protection. (a) Any person appearing at
4 family court when the court is open requesting a temporary order of
5 protection under any article of this act shall be entitled to file a
6 petition without delay on the same day such person first appears at the
7 family court, and a hearing on that request shall be held on the same
8 day or the next day that the family court is open following the filing
9 of such petition.

10 (b) As provided in this section, the chief administrator of the
11 courts, with the approval of the administrative board of the courts, may
12 promulgate rules to establish and implement a pilot program for the
13 filing of petitions for temporary orders of protection by electronic
14 means and for the issuance of such orders ex parte by audio-visual means
15 in order to accommodate litigants for whom attendance at court to file
16 for, and obtain, emergency relief would constitute an undue hardship or
17 to accommodate litigants, for whom traveling to and appearing in the
18 courthouse to obtain emergency relief, creates a risk of harm to such
19 litigant.

20 (1) Definitions. As used in this section:

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

LBD07122-01-5



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(i) "Electronic means" means any method of transmission of information between computers or other machines designed for the purpose of sending and receiving such transmissions, and which allows the recipient to reproduce the information transmitted in a tangible medium of expression.

(ii) "Independent audio-visual system" means an electronic system for the transmission and receiving of audio and visual signals, encompassing encoded signals, frequency domain multiplexing or other suitable means to preclude the unauthorized reception and decoding of the signals by commercially available television receivers, channel converters, or other available receiving devices.

(iii) "Electronic appearance" means an appearance in which one or more of the parties are not present in the court, but in which, by means of an independent audio-visual system, all of the participants are simultaneously able to see and hear reproductions of the voices and images of the judge, counsel, parties, witnesses, if any and other participants.

(2) Development of a pilot program. A plan for a pilot program pursuant to this section shall be developed by the chief administrator of the courts or his or her delegate in consultation with one or more local programs providing assistance to victims of domestic violence, the office for the prevention of domestic violence, and attorneys who represent family offense petitions. The plan shall include, but is not limited to:

(i) identification of one or more family justice centers or organizations or agencies or other sites outside of the local family court that are equipped with, or have access to, an independent audio-visual system and electronic means for filing documents that are compatible with the equipment in the local family court, with consideration given to the location of such site or sites and available resources; and

(ii) identification of one or more licensed and certified organizations, agencies or entities with advocates for victims of domestic violence who are trained, and available to assist petitioners in preparing and filing petitions for temporary orders of protection and in their electronic appearances before the family court to obtain such orders; and

(iii) identification of the existing resources available in local family courts for the implementation and oversight of the pilot program; and

(iv) delineation of procedures for filing of the petitions and documents, if any, by electronic means, swearing in the petitioners and any witnesses, preparation of a verbatim transcription of testimony presented and a record of evidence adduced and prompt transmission of any orders issued to the petitioners; and

(v) a timetable for implementation of the pilot program and plan for informing the public of its availability; and

(vi) a description of data to be collected in order to evaluate and, if necessary, make recommendations for improvements to the pilot program.

(3) Filing by electronic means. In conjunction with an electronic appearance under this section, petitioners for ex parte temporary orders of protection may, with the assistance of trained advocates, commence the proceedings by filing petitions by electronic means.

(i) A petitioner who seeks a temporary order of protection ex parte by use of an electronic appearance must file a petition in advance of such appearance and may do so by electronic means. The petitioner shall set forth the circumstances in which traveling to or appearing in the court-

1 house would constitute an undue hardship, or create a risk of harm to
2 the petitioner. In granting or denying the relief sought by the peti-
3 tioner, the court shall state the names of all participants, and whether
4 it is granting or denying an appearance by electronic means and the
5 basis for such determination; provided, however, that nothing in this
6 section shall be construed to compel a party to file a petition or other
7 document by electronic means or to testify by means of an electronic
8 appearance.

9 (ii) Nothing in this section shall affect or change any existing laws
10 governing the service of process, including requirements for personal
11 service, or the sealing and confidentiality of court records in family
12 court proceedings, or access to court records by the parties to such
13 proceedings.

14 (4) (i) All electronic appearances by petitioners seeking temporary
15 orders of protection ex parte under this section shall be strictly
16 voluntary and the consent of such petitioners shall be given on the
17 record at the commencement of each appearance.

18 (ii) Appearances taken through the use of an electronic appearance
19 under this section shall be recorded and preserved for transcription.
20 Documentary evidence, if any, referred to by a party or witness or the
21 court may be transmitted and submitted and introduced by electronic
22 means.

23 § 2. Subdivision 2 of section 212 of the judiciary law is amended by
24 adding a new paragraph (t) to read as follows:

25 (t) Have the power to establish pilot programs for the filing of
26 petitions for temporary orders of protection by electronic means and for
27 the issuance of such orders by audio-visual means pursuant to subdivi-
28 sion (b) of section one hundred fifty-three-c of the family court act.
29 The chief administrator shall maintain an up-to-date and publicly-avail-
30 able listing of the sites, if any, at which such applications for ex
31 parte temporary orders of protection may be filed, and at which elec-
32 tronic appearances in support of such applications may be sought, in
33 accordance with such section one hundred fifty-three-c of the family
34 court act. In developing such pilot program, the chief administrator
35 shall strive for a program that is regionally diverse, and takes into
36 consideration, among other things, the availability of public transpor-
37 tation, population density and the availability of facilities for
38 conducting such program.

39 § 3. Section 648 of the executive law, as added by chapter 893 of the
40 laws of 1986, is amended to read as follows:

41 § 648. Review; report and implementation. 1. The chief administrator
42 of the unified court system shall review court practices, procedures,
43 services, regulations and laws to determine the adequacy and appropri-
44 ateness of its services with respect to crime victims, including victims
45 with special needs, particularly the elderly, disabled or victims of
46 child abuse, domestic violence, sex trafficking or sex-related offenses.
47 Such review shall include reasonable opportunity for public comment and
48 consultation with crime victims or their representatives, and may
49 include public hearings.

50 2. After the review, and not later than two hundred seventy days after
51 the effective date of this section, and no later than two hundred seven-
52 ty days after the effective date of the chapter of the laws of two thou-
53 sand fifteen which amended this section, and every five years thereaft-
54 er, the chief administrator of the unified court system shall submit a
55 report to the governor and the legislature, setting forth the findings
56 of the review, including a description of the services provided by the

1 components of the unified court system and recommendations for changes
2 in its procedures, services, regulations and laws to improve its
3 services to crime victims and to establish and implement fair treatment
4 standards for crime victims.

5 3. Subject to the direction of the chief administrator, the components
6 of the unified court system shall expeditiously implement the recommen-
7 dations of its report.

8 § 4. Severability clause. If any clause, sentence, paragraph, subdivi-
9 sion, section or part of this act shall be adjudged by a court of compe-
10 tent jurisdiction to be invalid, such judgment shall not affect, impair
11 or invalidate the remainder thereof, but shall be confined in its opera-
12 tion to the clause, sentence, paragraph, subdivision, section or part
13 thereof directly involved in the controversy in which such judgment
14 shall have been rendered. It is hereby declared to be the intent of the
15 legislature that this act would have been enacted even if such invalid
16 provisions had not been included herein.

17 § 5. This act shall take effect April 1, 2016.



APPROVED

OCT 21 2015



STATE OF NEW YORK

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CHAP 368 LAWS OF 2015

2015-2016 Regular Sessions

IN SENATE

January 9, 2015

Introduced by Sens. LANZA, GALLIVAN, SAVINO, HANNON -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the penal law, the criminal procedure law, the social services law, the civil practice law and rules, the mental hygiene law, the correction law, the vehicle and traffic law, the public health law, the real property actions and proceedings law, and the real property law, in relation to enacting the "trafficking victims protection and justice act"; to amend the penal law, in relation to prostitution in a school zone; to amend chapter 74 of the laws of 2007 amending the penal law, the criminal procedure law, the correction law, the social services law, and the executive law relating to human trafficking, in relation to extending the interagency task force on human trafficking for four years; and to amend the executive law, in relation to human trafficking awareness

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 the "trafficking victims protection and justice act".
- 3 § 2. Section 60.13 of the penal law, as added by chapter 7 of the laws
- 4 of 2007, is amended to read as follows:
- 5 § 60.13 Authorized dispositions; felony sex offenses.
- 6 When a person is to be sentenced upon a conviction for any felony
- 7 defined in article one hundred thirty of this chapter, including a sexu-
- 8 ally motivated felony, or patronizing a [prostitute] person for prosti-
- 9 tution in the first degree as defined in section 230.06 of this chapter,
- 10 aggravated patronizing a minor for prostitution in the third degree as
- 11 defined in section 230.11 of this chapter, aggravated patronizing a
- 12 minor for prostitution in the second degree as defined in section 230.12
- 13 of this chapter, aggravated patronizing a minor for prostitution in the
- 14 first degree as defined in section 230.13 of this chapter, incest in the

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

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1 second degree as defined in section 255.26 of this chapter, or incest in
2 the first degree as defined in section 255.27 of this chapter, or a
3 felony attempt or conspiracy to commit any of these crimes, the court
4 must sentence the defendant in accordance with the provisions of section
5 70.80 of this title.

6 § 3. Paragraphs (a) and (c) of subdivision 1 of section 70.02 of the
7 penal law, paragraph (a) as amended by chapter 320 of the laws of 2006
8 and paragraph (c) as amended by chapter 1 of the laws of 2013, are
9 amended to read as follows:

10 (a) Class B violent felony offenses: an attempt to commit the class
11 A-I felonies of murder in the second degree as defined in section
12 125.25, kidnapping in the first degree as defined in section 135.25, and
13 arson in the first degree as defined in section 150.20; manslaughter in
14 the first degree as defined in section 125.20, aggravated manslaughter
15 in the first degree as defined in section 125.22, rape in the first
16 degree as defined in section 130.35, criminal sexual act in the first
17 degree as defined in section 130.50, aggravated sexual abuse in the
18 first degree as defined in section 130.70, course of sexual conduct
19 against a child in the first degree as defined in section 130.75;
20 assault in the first degree as defined in section 120.10, kidnapping in
21 the second degree as defined in section 135.20, burglary in the first
22 degree as defined in section 140.30, arson in the second degree as
23 defined in section 150.15, robbery in the first degree as defined in
24 section 160.15, sex trafficking as defined in paragraphs (a) and (b) of
25 subdivision five of section 230.34, incest in the first degree as
26 defined in section 255.27, criminal possession of a weapon in the first
27 degree as defined in section 265.04, criminal use of a firearm in the
28 first degree as defined in section 265.09, criminal sale of a firearm in
29 the first degree as defined in section 265.13, aggravated assault upon a
30 police officer or a peace officer as defined in section 120.11, gang
31 assault in the first degree as defined in section 120.07, intimidating a
32 victim or witness in the first degree as defined in section 215.17,
33 hindering prosecution of terrorism in the first degree as defined in
34 section 490.35, criminal possession of a chemical weapon or biological
35 weapon in the second degree as defined in section 490.40, and criminal
36 use of a chemical weapon or biological weapon in the third degree as
37 defined in section 490.47.

38 (c) Class D violent felony offenses: an attempt to commit any of the
39 class C felonies set forth in paragraph (b); reckless assault of a child
40 as defined in section 120.02, assault in the second degree as defined in
41 section 120.05, menacing a police officer or peace officer as defined in
42 section 120.18, stalking in the first degree, as defined in subdivision
43 one of section 120.60, strangulation in the second degree as defined in
44 section 121.12, rape in the second degree as defined in section 130.30,
45 criminal sexual act in the second degree as defined in section 130.45,
46 sexual abuse in the first degree as defined in section 130.65, course of
47 sexual conduct against a child in the second degree as defined in
48 section 130.80, aggravated sexual abuse in the third degree as defined
49 in section 130.66, facilitating a sex offense with a controlled
50 substance as defined in section 130.90, labor trafficking as defined in
51 paragraphs (a) and (b) of subdivision three of section 135.35, criminal
52 possession of a weapon in the third degree as defined in subdivision
53 five, six, seven, eight, nine or ten of section 265.02, criminal sale of
54 a firearm in the third degree as defined in section 265.11, intimidating
55 a victim or witness in the second degree as defined in section 215.16,
56 soliciting or providing support for an act of terrorism in the second

1 degree as defined in section 490.10, and making a terroristic threat as
2 defined in section 490.20, falsely reporting an incident in the first
3 degree as defined in section 240.60, placing a false bomb or hazardous
4 substance in the first degree as defined in section 240.62, placing a
5 false bomb or hazardous substance in a sports stadium or arena, mass
6 transportation facility or enclosed shopping mall as defined in section
7 240.63, and aggravated unpermitted use of indoor pyrotechnics in the
8 first degree as defined in section 405.18.

9 § 4. Paragraph (a) of subdivision 1 of section 70.80 of the penal law,
10 as added by chapter 7 of the laws of 2007, is amended to read as
11 follows:

12 (a) For the purposes of this section, a "felony sex offense" means a
13 conviction of any felony defined in article one hundred thirty of this
14 chapter, including a sexually motivated felony, or patronizing a [pros-
15 titute] person for prostitution in the first degree as defined in
16 section 230.06 of this chapter, patronizing a person for prostitution in
17 the second degree as defined in section 230.05 of this chapter, aggra-
18 vated patronizing a minor for prostitution in the third degree as
19 defined in section 230.11 of this chapter, aggravated patronizing a
20 minor for prostitution in the second degree as defined in section 230.12
21 of this chapter, aggravated patronizing a minor for prostitution in the
22 first degree as defined in section 230.13 of this chapter, incest in the
23 second degree as defined in section 255.26 of this chapter, or incest in
24 the first degree as defined in section 255.27 of this chapter, or a
25 felony attempt or conspiracy to commit any of the above.

26 § 5. Section 135.35 of the penal law, as added by chapter 74 of the
27 laws of 2007, is amended to read as follows:

28 § 135.35 Labor trafficking.

29 A person is guilty of labor trafficking if he or she compels or
30 induces another to engage in labor or recruits, entices, harbors, or
31 transports such other person by means of intentionally:

32 1. [unlawfully providing a controlled substance to such person with
33 intent to impair said person's judgment;

34 2.] requiring that the labor be performed to retire, repay, or service
35 a real or purported debt that the actor has caused by a systematic ongo-
36 ing course of conduct with intent to defraud such person;

37 [3.] 2. withholding, destroying, or confiscating any actual or
38 purported passport, immigration document, or any other actual or
39 purported government identification document, of another person with
40 intent to impair said person's freedom of movement; provided, however,
41 that this subdivision shall not apply to an attempt to correct a social
42 security administration record or immigration agency record in accord-
43 ance with any local, state, or federal agency requirement, where such
44 attempt is not made for the purpose of any express or implied threat;

45 [4.] 3. using force or engaging in any scheme, plan or pattern to
46 compel or induce such person to engage in or continue to engage in labor
47 activity by means of instilling a fear in such person that, if the
48 demand is not complied with, the actor or another will do one or more of
49 the following:

50 (a) cause physical injury, serious physical injury, or death to a
51 person; or

52 (b) cause damage to property, other than the property of the actor; or

53 (c) engage in other conduct constituting a felony or unlawful impri-
54 sonment in the second degree in violation of section 135.05 of this
55 [chapter] article; or

(d) accuse some person of a crime or cause criminal charges or deportation proceedings to be instituted against such person; provided, however, that it shall be an affirmative defense to this subdivision that the defendant reasonably believed the threatened charge to be true and that his or her sole purpose was to compel or induce the victim to take reasonable action to make good the wrong which was the subject of such threatened charge; or

(e) expose a secret or publicize an asserted fact, whether true or false, tending to subject some person to hatred, contempt or ridicule; or

(f) testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or

(g) use or abuse his or her position as a public servant by performing some act within or related to his or her official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely.

Labor trafficking is a class D felony.

§ 6. The penal law is amended by adding a new section 135.37 to read as follows:

§ 135.37 Aggravated labor trafficking.

A person is guilty of aggravated labor trafficking if he or she compels or induces another to engage in labor or recruits, entices, harbors, or transports such other person to engage in labor by means of intentionally unlawfully providing a controlled substance to such person with intent to impair said person's judgment.

Aggravated labor trafficking is a class C felony.

§ 7. Paragraph (a) of subdivision 1 of section 460.10 of the penal law, as amended by chapter 37 of the laws of 2014, is amended to read as follows:

(a) Any of the felonies set forth in this chapter: sections 120.05, 120.10 and 120.11 relating to assault; sections 121.12 and 121.13 relating to strangulation; sections 125.10 to 125.27 relating to homicide; sections 130.25, 130.30 and 130.35 relating to rape; sections 135.20 and 135.25 relating to kidnapping; [section] sections 135.35 and 135.37 relating to labor trafficking; section 135.65 relating to coercion; sections 140.20, 140.25 and 140.30 relating to burglary; sections 145.05, 145.10 and 145.12 relating to criminal mischief; article one hundred fifty relating to arson; sections 155.30, 155.35, 155.40 and 155.42 relating to grand larceny; sections 177.10, 177.15, 177.20 and 177.25 relating to health care fraud; article one hundred sixty relating to robbery; sections 165.45, 165.50, 165.52 and 165.54 relating to criminal possession of stolen property; sections 165.72 and 165.73 relating to trademark counterfeiting; sections 170.10, 170.15, 170.25, 170.30, 170.40, 170.65 and 170.70 relating to forgery; sections 175.10, 175.25, 175.35, 175.40 and 210.40 relating to false statements; sections 176.15, 176.20, 176.25 and 176.30 relating to insurance fraud; sections 178.20 and 178.25 relating to criminal diversion of prescription medications and prescriptions; sections 180.03, 180.08, 180.15, 180.25, 180.40, 180.45, 200.00, 200.03, 200.04, 200.10, 200.11, 200.12, 200.20, 200.22, 200.25, 200.27, 200.56, 215.00, 215.05 and 215.19; sections 187.10, 187.15, 187.20 and 187.25 relating to residential mortgage fraud; sections 190.40 and 190.42 relating to criminal usury; section 190.65 relating to schemes to defraud; any felony defined in article four hundred ninety-six; sections 205.60 and 205.65 relating to hindering prosecution; sections 210.10, 210.15, and 215.51 relating to perjury and contempt; section 215.40 relating to tampering with physical evidence;

1 sections 220.06, 220.09, 220.16, 220.18, 220.21, 220.31, 220.34, 220.39,
2 220.41, 220.43, 220.46, 220.55, 220.60, 220.65 and 220.77 relating to
3 controlled substances; sections 225.10 and 225.20 relating to gambling;
4 sections 230.25, 230.30, and 230.32 relating to promoting prostitution;
5 section 230.34 relating to sex trafficking; sections 235.06, 235.07,
6 235.21 and 235.22 relating to obscenity; sections 263.10 and 263.15
7 relating to promoting a sexual performance by a child; sections 265.02,
8 265.03, 265.04, 265.11, 265.12, 265.13 and the provisions of section
9 265.10 which constitute a felony relating to firearms and other danger-
10 ous weapons; sections 265.14 and 265.16 relating to criminal sale of a
11 firearm; section 275.10, 275.20, 275.30, or 275.40 relating to unauthor-
12 ized recordings; and sections 470.05, 470.10, 470.15 and 470.20 relating
13 to money laundering; or

14 § 8. Paragraphs (b) and (h) of subdivision 8 of section 700.05 of the
15 criminal procedure law, paragraph (b) as amended by chapter 405 of the
16 laws of 2010 and paragraph (h) as amended by chapter 154 of the laws of
17 1990, are amended to read as follows:

18 (b) Any of the following felonies: assault in the second degree as
19 defined in section 120.05 of the penal law, assault in the first degree
20 as defined in section 120.10 of the penal law, reckless endangerment in
21 the first degree as defined in section 120.25 of the penal law, promot-
22 ing a suicide attempt as defined in section 120.30 of the penal law,
23 strangulation in the second degree as defined in section 121.12 of the
24 penal law, strangulation in the first degree as defined in section
25 121.13 of the penal law, criminally negligent homicide as defined in
26 section 125.10 of the penal law, manslaughter in the second degree as
27 defined in section 125.15 of the penal law, manslaughter in the first
28 degree as defined in section 125.20 of the penal law, murder in the
29 second degree as defined in section 125.25 of the penal law, murder in
30 the first degree as defined in section 125.27 of the penal law, abortion
31 in the second degree as defined in section 125.40 of the penal law,
32 abortion in the first degree as defined in section 125.45 of the penal
33 law, rape in the third degree as defined in section 130.25 of the penal
34 law, rape in the second degree as defined in section 130.30 of the penal
35 law, rape in the first degree as defined in section 130.35 of the penal
36 law, criminal sexual act in the third degree as defined in section
37 130.40 of the penal law, criminal sexual act in the second degree as
38 defined in section 130.45 of the penal law, criminal sexual act in the
39 first degree as defined in section 130.50 of the penal law, sexual abuse
40 in the first degree as defined in section 130.65 of the penal law,
41 unlawful imprisonment in the first degree as defined in section 135.10
42 of the penal law, kidnapping in the second degree as defined in section
43 135.20 of the penal law, kidnapping in the first degree as defined in
44 section 135.25 of the penal law, labor trafficking as defined in section
45 135.35 of the penal law, aggravated labor trafficking as defined in
46 section 135.37 of the penal law, custodial interference in the first
47 degree as defined in section 135.50 of the penal law, coercion in the
48 first degree as defined in section 135.65 of the penal law, criminal
49 trespass in the first degree as defined in section 140.17 of the penal
50 law, burglary in the third degree as defined in section 140.20 of the
51 penal law, burglary in the second degree as defined in section 140.25 of
52 the penal law, burglary in the first degree as defined in section 140.30
53 of the penal law, criminal mischief in the third degree as defined in
54 section 145.05 of the penal law, criminal mischief in the second degree
55 as defined in section 145.10 of the penal law, criminal mischief in the
56 first degree as defined in section 145.12 of the penal law, criminal

1 tampering in the first degree as defined in section 145.20 of the penal
2 law, arson in the fourth degree as defined in section 150.05 of the
3 penal law, arson in the third degree as defined in section 150.10 of the
4 penal law, arson in the second degree as defined in section 150.15 of
5 the penal law, arson in the first degree as defined in section 150.20 of
6 the penal law, grand larceny in the fourth degree as defined in section
7 155.30 of the penal law, grand larceny in the third degree as defined in
8 section 155.35 of the penal law, grand larceny in the second degree as
9 defined in section 155.40 of the penal law, grand larceny in the first
10 degree as defined in section 155.42 of the penal law, health care fraud
11 in the fourth degree as defined in section 177.10 of the penal law,
12 health care fraud in the third degree as defined in section 177.15 of
13 the penal law, health care fraud in the second degree as defined in
14 section 177.20 of the penal law, health care fraud in the first degree
15 as defined in section 177.25 of the penal law, robbery in the third
16 degree as defined in section 160.05 of the penal law, robbery in the
17 second degree as defined in section 160.10 of the penal law, robbery in
18 the first degree as defined in section 160.15 of the penal law, unlawful
19 use of secret scientific material as defined in section 165.07 of the
20 penal law, criminal possession of stolen property in the fourth degree
21 as defined in section 165.45 of the penal law, criminal possession of
22 stolen property in the third degree as defined in section 165.50 of the
23 penal law, criminal possession of stolen property in the second degree
24 as defined by section 165.52 of the penal law, criminal possession of
25 stolen property in the first degree as defined by section 165.54 of the
26 penal law, trademark counterfeiting in the second degree as defined in
27 section 165.72 of the penal law, trademark counterfeiting in the first
28 degree as defined in section 165.73 of the penal law, forgery in the
29 second degree as defined in section 170.10 of the penal law, forgery in
30 the first degree as defined in section 170.15 of the penal law, criminal
31 possession of a forged instrument in the second degree as defined in
32 section 170.25 of the penal law, criminal possession of a forged instru-
33 ment in the first degree as defined in section 170.30 of the penal law,
34 criminal possession of forgery devices as defined in section 170.40 of
35 the penal law, falsifying business records in the first degree as
36 defined in section 175.10 of the penal law, tampering with public
37 records in the first degree as defined in section 175.25 of the penal
38 law, offering a false instrument for filing in the first degree as
39 defined in section 175.35 of the penal law, issuing a false certificate
40 as defined in section 175.40 of the penal law, criminal diversion of
41 prescription medications and prescriptions in the second degree as
42 defined in section 178.20 of the penal law, criminal diversion of
43 prescription medications and prescriptions in the first degree as
44 defined in section 178.25 of the penal law, residential mortgage fraud
45 in the fourth degree as defined in section 187.10 of the penal law,
46 residential mortgage fraud in the third degree as defined in section
47 187.15 of the penal law, residential mortgage fraud in the second degree
48 as defined in section 187.20 of the penal law, residential mortgage
49 fraud in the first degree as defined in section 187.25 of the penal law,
50 escape in the second degree as defined in section 205.10 of the penal
51 law, escape in the first degree as defined in section 205.15 of the
52 penal law, absconding from temporary release in the first degree as
53 defined in section 205.17 of the penal law, promoting prison contraband
54 in the first degree as defined in section 205.25 of the penal law,
55 hindering prosecution in the second degree as defined in section 205.60
56 of the penal law, hindering prosecution in the first degree as defined



1 in section 205.65 of the penal law, sex trafficking as defined in,
2 section 230.34 of the penal law, criminal possession of a weapon in the
3 third degree as defined in subdivisions two, three and five of section
4 265.02 of the penal law, criminal possession of a weapon in the second
5 degree as defined in section 265.03 of the penal law, criminal
6 possession of a weapon in the first degree as defined in section 265.04
7 of the penal law, manufacture, transport, disposition and defacement of
8 weapons and dangerous instruments and appliances defined as felonies in
9 subdivisions one, two, and three of section 265.10 of the penal law,
10 sections 265.11, 265.12 and 265.13 of the penal law, or prohibited use
11 of weapons as defined in subdivision two of section 265.35 of the penal
12 law, relating to firearms and other dangerous weapons, or failure to
13 disclose the origin of a recording in the first degree as defined in
14 section 275.40 of the penal law;

15 (h) Promoting prostitution in the first degree, as defined in section
16 230.32 of the penal law, promoting prostitution in the second degree, as
17 defined by subdivision one of section 230.30 of the penal law, promoting
18 prostitution in the third degree, as defined in section 230.25 of the
19 penal law;

20 § 9. The penal law is amended by adding a new section 230.01 to read
21 as follows:

22 § 230.01 Prostitution; affirmative defense.

23 In any prosecution under section 230.00, section 230.03 or subdivision
24 two of section 240.37 of this part, it is an affirmative defense that
25 the defendant's participation in the offense was a result of having been
26 a victim of compelling prostitution under section 230.33, a victim of
27 sex trafficking under section 230.34 of this article or a victim of
28 trafficking in persons under the trafficking victims' protection act
29 (United States Code, Title 22, Chapter 78).

30 § 10. The section heading and subdivision 1 of section 230.02 of the
31 penal law, as amended by chapter 627 of the laws of 1978, are amended to
32 read as follows:

33 Patronizing a [prostitute] person for prostitution; definitions.

34 1. A person patronizes a [prostitute] person for prostitution when:

35 (a) Pursuant to a prior understanding, he or she pays a fee to another
36 person as compensation for such person or a third person having engaged
37 in sexual conduct with him or her; or

38 (b) He or she pays or agrees to pay a fee to another person pursuant
39 to an understanding that in return therefor such person or a third
40 person will engage in sexual conduct with him or her; or

41 (c) He or she solicits or requests another person to engage in sexual
42 conduct with him or her in return for a fee.

43 § 11. Subdivision 2 of section 230.03 of the penal law, as added by
44 chapter 191 of the laws of 2011, is amended to read as follows:

45 2. For the purposes of this section, section 230.08 and section 230.19
46 of this article, "school zone" means (a) in or on or within any build-
47 ing, structure, athletic playing field, playground or land contained
48 within the real property boundary line of a public or private elementa-
49 ry, parochial, intermediate, junior high, vocational, or high school, or
50 (b) any public sidewalk, street, parking lot, park, playground or
51 private land, located immediately adjacent to the boundary line of such
52 school.

53 § 12. Section 230.04 of the penal law, as amended by chapter 74 of the
54 laws of 2007, is amended to read as follows:

55 § 230.04 Patronizing a [prostitute] person for prostitution in the third
56 degree.

1 A person is guilty of patronizing a [prostitute] person for prostitu-
2 tion in the third degree when he or she patronizes a [prostitute] person
3 for prostitution.

4 Patronizing a [prostitute] person for prostitution in the third degree
5 is a class A misdemeanor.

6 § 13. Section 230.05 of the penal law, as added by chapter 627 of the
7 laws of 1978, is amended to read as follows:

8 § 230.05 Patronizing a [prostitute] person for prostitution in the
9 second degree.

10 A person is guilty of patronizing a [prostitute] person for prostitu-
11 tion in the second degree when, being [over] eighteen years [of age] old
12 or more, he or she patronizes a [prostitute] person for prostitution and
13 the person patronized is less than [fourteen] fifteen years [of age]
14 old.

15 Patronizing a [prostitute] person for prostitution in the second
16 degree is a class E felony.

17 § 14. Section 230.06 of the penal law, as added by chapter 627 of the
18 laws of 1978, is amended to read as follows:

19 § 230.06 Patronizing a [prostitute] person for prostitution in the first
20 degree.

21 A person is guilty of patronizing a [prostitute] person for prostitu-
22 tion in the first degree when [he]:

23 1. He or she patronizes a [prostitute] person for prostitution and the
24 person patronized is less than eleven years [of age] old; or

25 2. Being eighteen years old or more, he or she patronizes a person for
26 prostitution and the person patronized is less than thirteen years old.

27 Patronizing a [prostitute] person for prostitution in the first degree
28 is a class D felony.

29 § 15. Section 230.07 of the penal law, as amended by chapter 74 of the
30 laws of 2007, is amended to read as follows:

31 § 230.07 Patronizing a [prostitute] person for prostitution; defense.

32 In any prosecution for patronizing a [prostitute] person for prostitu-
33 tion in the first or second degrees or patronizing a person for prosti-
34 tution in a school zone, it is a defense that the defendant did not have
35 reasonable grounds to believe that the person was less than the age
36 specified.

37 § 16. The penal law is amended by adding a new section 230.08 to read
38 as follows:

39 § 230.08 Patronizing a person for prostitution in a school zone.

40 1. A person is guilty of patronizing a person for prostitution in a
41 school zone when, being twenty-one years old or more, he or she patron-
42 izes a person for prostitution and the person patronized is less than
43 eighteen years old at a place that he or she knows, or reasonably should
44 know, is in a school zone.

45 2. For purposes of this section, "school zone" shall mean "school
46 zone" as defined in subdivision two of section 230.03 of this article.

47 Patronizing a person for prostitution in a school zone is a class E
48 felony.

49 § 17. The section heading and the opening paragraph of section 230.10
50 of the penal law are amended to read as follows:

51 Prostitution and patronizing a [prostitute] person for prostitution;
52 no defense.

53 In any prosecution for prostitution or patronizing a [prostitute]
54 person for prostitution, the sex of the two parties or prospective
55 parties to the sexual conduct engaged in, contemplated or solicited is
56 immaterial, and it is no defense that:

§ 18. The penal law is amended by adding three new sections 230.11, 230.12 and 230.13 to read as follows:

§ 230.11 Aggravated patronizing a minor for prostitution in the third degree.

A person is guilty of aggravated patronizing a minor for prostitution in the third degree when, being twenty-one years old or more, he or she patronizes a person for prostitution and the person patronized is less than seventeen years old and the person guilty of patronizing engages in sexual intercourse, oral sexual conduct, anal sexual conduct, or aggravated sexual conduct as those terms are defined in section 130.00 of this part, with the person patronized.

Aggravated patronizing a minor for prostitution in the third degree is a class E felony.

§ 230.12 Aggravated patronizing a minor for prostitution in the second degree.

A person is guilty of aggravated patronizing a minor for prostitution in the second degree when, being eighteen years old or more, he or she patronizes a person for prostitution and the person patronized is less than fifteen years old and the person guilty of patronizing engages in sexual intercourse, oral sexual conduct, anal sexual conduct, or aggravated sexual conduct as those terms are defined in section 130.00 of this part, with the person patronized.

Aggravated patronizing a minor for prostitution in the second degree is a class D felony.

§ 230.13 Aggravated patronizing a minor for prostitution in the first degree.

A person is guilty of aggravated patronizing a minor for prostitution in the first degree when he or she patronizes a person for prostitution and the person patronized is less than eleven years old, or being eighteen years old or more, he or she patronizes a person for prostitution and the person patronized is less than thirteen years old, and the person guilty of patronizing engages in sexual intercourse, oral sexual conduct, anal sexual conduct, or aggravated sexual conduct as those terms are defined in section 130.00 of this part, with the person patronized.

Aggravated patronizing a minor for prostitution in the first degree is a class B felony.

§ 19. Subdivisions 1 and 2 of section 230.15 of the penal law are amended to read as follows:

1. "Advance prostitution." A person "advances prostitution" when, acting other than as a [prostitute] person in prostitution or as a patron thereof, he or she knowingly causes or aids a person to commit or engage in prostitution, procures or solicits patrons for prostitution, provides persons or premises for prostitution purposes, operates or assists in the operation of a house of prostitution or a prostitution enterprise, or engages in any other conduct designed to institute, aid or facilitate an act or enterprise of prostitution.

2. "Profit from prostitution." A person "profits from prostitution" when, acting other than as a [prostitute] person in prostitution receiving compensation for personally rendered prostitution services, he or she accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he or she participates or is to participate in the proceeds of prostitution activity.

§ 20. Subdivision 1 of section 230.19 of the penal law, as added by chapter 191 of the laws of 2011, is amended to read as follows:

1 1. A person is guilty of promoting prostitution in a school zone when,
2 being nineteen years [of age] old or [older] more, he or she knowingly
3 advances or profits from prostitution that he or she knows or reasonably
4 should know is or will be committed in violation of section 230.03 of
5 this article in a school zone during the hours that school is in
6 session.

7 § 21. The opening paragraph and subdivision 1 of section 230.25 of the
8 penal law, the opening paragraph as amended by chapter 627 of the laws
9 of 1978 and subdivision 1 as amended by chapter 74 of the laws of 2007,
10 are amended to read as follows:

11 A person is guilty of promoting prostitution in the third degree when
12 he or she knowingly:

13 1. Advances or profits from prostitution by managing, supervising,
14 controlling or owning, either alone or in association with others, a
15 house of prostitution or a prostitution business or enterprise involving
16 prostitution activity by two or more [prostitutes] persons in prostitu-
17 tion, or a business that sells travel-related services knowing that such
18 services include or are intended to facilitate travel for the purpose of
19 patronizing a [prostitute] person for prostitution, including to a
20 foreign jurisdiction and regardless of the legality of prostitution in
21 said foreign jurisdiction; or

22 § 22. Section 230.30 of the penal law, as amended by chapter 627 of
23 the laws of 1978, is amended to read as follows:

24 § 230.30 Promoting prostitution in the second degree.

25 A person is guilty of promoting prostitution in the second degree when
26 he or she knowingly:

27 1. Advances prostitution by compelling a person by force or intim-
28 idation to engage in prostitution, or profits from such coercive conduct
29 by another; or

30 2. Advances or profits from prostitution of a person less than
31 [sixteen] eighteen years old.

32 Promoting prostitution in the second degree is a class C felony.

33 § 23. The first undesignated paragraph of section 230.32 of the penal
34 law, as added by chapter 627 of the laws of 1978, is amended to read as
35 follows:

36 A person is guilty of promoting prostitution in the first degree when
37 he or she:

38 1. knowingly advances or profits from prostitution of a person less
39 than [eleven] thirteen years old; or

40 2. being twenty-one years old or more, he or she knowingly advances or
41 profits from prostitution of a person less than fifteen years old.

42 § 24. Section 230.33 of the penal law, as added by chapter 450 of the
43 laws of 2005, is amended to read as follows:

44 § 230.33 Compelling prostitution.

45 A person is guilty of compelling prostitution when, being [twenty-one]
46 eighteen years [of age or older] old or more, he or she knowingly
47 advances prostitution by compelling a person less than [sixteen] eigh-
48 teen years old, by force or intimidation, to engage in prostitution.

49 Compelling prostitution is a class B felony.

50 § 25. Section 230.35 of the penal law, as amended by chapter 450 of
51 the laws of 2005, is amended to read as follows:

52 § 230.35 Promoting or compelling prostitution; accomplice.

53 In a prosecution for promoting prostitution or compelling prostitu-
54 tion, a person less than [seventeen] eighteen years [of age] old from
55 whose prostitution activity another person is alleged to have advanced

1 or attempted to advance or profited or attempted to profit shall not be
2 deemed to be an accomplice.

3 § 26. The first undesignated paragraph of section 230.40 of the penal
4 law is amended to read as follows:

5 A person is guilty of permitting prostitution when, having possession
6 or control of premises or vehicle which he or she knows are being used
7 for prostitution purposes or for the purpose of advancing prostitution,
8 he or she fails to make reasonable effort to halt or abate such use.

9 § 27. Subdivision 2 of section 240.37 of the penal law, as added by
10 chapter 344 of the laws of 1976, is amended, and subdivision 3 is renu-
11 bered subdivision 4 and a new subdivision 3 is added to read as follows:

12 2. Any person who remains or wanders about in a public place and
13 repeatedly beckons to, or repeatedly stops, or repeatedly attempts to
14 stop, or repeatedly attempts to engage passers-by in conversation, or
15 repeatedly stops or attempts to stop motor vehicles, or repeatedly
16 interferes with the free passage of other persons, for the purpose of
17 prostitution[, or of patronizing a prostitute as those terms are] as
18 that term is defined in article two hundred thirty of [the penal law]
19 this part, shall be guilty of a violation and is guilty of a class B
20 misdemeanor if such person has previously been convicted of a violation
21 of this section or of [sections] section 230.00 [or 230.05] of [the
22 penal law] this part.

23 3. Any person who remains or wanders about in a public place and
24 repeatedly beckons to, or repeatedly stops, or repeatedly attempts to
25 stop, or repeatedly attempts to engage passers-by in conversation, or
26 repeatedly stops or attempts to stop motor vehicles, or repeatedly
27 interferes with the free passage of other persons, for the purpose of
28 patronizing a person for prostitution as defined in section 230.02 of
29 this part, shall be guilty of a violation and is guilty of a class B
30 misdemeanor if such person has previously been convicted of a violation
31 of this section or of section 230.04, 230.05, 230.06 or 230.08 of this
32 part.

33 § 28. Subdivision 6 of section 380.50 of the criminal procedure law,
34 as amended by chapter 320 of the laws of 2006, is amended to read as
35 follows:

36 6. Regardless of whether the victim requests to make a statement with
37 regard to the defendant's sentence, where the defendant is sentenced for
38 a violent felony offense as defined in section 70.02 of the penal law or
39 a felony defined in article one hundred twenty-five of such law or any
40 of the following provisions of such law sections 130.25, 130.30, 130.40,
41 130.45, 255.25, 255.26, 255.27, article two hundred sixty-three, 135.10,
42 135.25, 230.05, 230.06, 230.11, 230.12, 230.13, subdivision two of
43 section 230.30 or 230.32, the prosecutor shall, within sixty days of the
44 imposition of sentence, provide the victim with a form on which the
45 victim may indicate a demand to be informed of any petition to change
46 the name of such defendant. Such forms shall be maintained by such
47 prosecutor. Upon receipt of a notice of a petition to change the name of
48 any such defendant, pursuant to subdivision two of section sixty-two of
49 the civil rights law, the prosecutor shall promptly notify the victim at
50 the most current address or telephone number provided by such victim in
51 the most reasonable and expedient possible manner of the time and place
52 such petition will be presented to the court.

53 § 29. Paragraph (i) of subdivision 1 of section 440.10 of the criminal
54 procedure law, as added by chapter 332 of the laws of 2010, is amended
55 to read as follows:



(i) The judgment is a conviction where the arresting charge was under section 240.37 (loitering for the purpose of engaging in a prostitution offense, provided that the defendant was not alleged to be loitering for the purpose of patronizing a [prostitute] person for prostitution or promoting prostitution) or 230.00 (prostitution) or 230.03 (prostitution in a school zone) of the penal law, and the defendant's participation in the offense was a result of having been a victim of sex trafficking under section 230.34 of the penal law, labor trafficking under section 135.35 of the penal law, aggravated labor trafficking under section 135.37 of the penal law, compelling prostitution under section 230.33 of the penal law, or trafficking in persons under the Trafficking Victims Protection Act (United States Code, title 22, chapter 78); provided that

(i) a motion under this paragraph shall be made with due diligence, after the defendant has ceased to be a victim of such trafficking or compelling prostitution crime or has sought services for victims of such trafficking or compelling prostitution crime, subject to reasonable concerns for the safety of the defendant, family members of the defendant, or other victims of such trafficking or compelling prostitution crime that may be jeopardized by the bringing of such motion, or for other reasons consistent with the purpose of this paragraph; and

(ii) official documentation of the defendant's status as a victim of [sex] trafficking, compelling prostitution or trafficking in persons at the time of the offense from a federal, state or local government agency shall create a presumption that the defendant's participation in the offense was a result of having been a victim of sex trafficking, compelling prostitution or trafficking in persons, but shall not be required for granting a motion under this paragraph.

§ 30. Section 483-bb of the social services law is amended by adding a new subdivision (c) to read as follows:

(c) An individual who is a victim of the conduct prohibited by section 230.33, 230.34, 135.35 or 135.37 of the penal law may bring a civil action against the perpetrator or whoever knowingly advances or profits from, or whoever should have known he or she was advancing or profiting from, an act in violation of section 230.33, 230.34, 135.35 or 135.37 of the penal law to recover damages and reasonable attorney's fees.

§ 31. Section 212 of the civil practice law and rules is amended by adding a new subdivision (e) to read as follows:

(e) By a victim of sex trafficking, compelling prostitution, or labor trafficking. An action by a victim of sex trafficking, compelling prostitution, labor trafficking or aggravated labor trafficking, brought pursuant to subdivision (c) of section four hundred eighty-three-bb of the social services law, may be commenced within ten years after such victimization occurs provided, however, that such ten year period shall not begin to run and shall be tolled during any period in which the victim is or remains subject to such conduct.

§ 32. Subdivision (a) of section 483-cc of the social services law, as added by chapter 74 of the laws of 2007, is amended to read as follows:

(a) As soon as practicable after a first encounter with a person who reasonably appears to a law enforcement agency [or a] district attorney's office, or an established provider of social or legal services designated by the office of temporary and disability assistance, the office for the prevention of domestic violence or the office of victim services to be a human trafficking victim, that [agency or] law enforcement agency or district attorney's office shall notify the office of temporary and disability assistance and the division of criminal justice services that such person may be eligible for services under this arti-

1 cle or, in the case of an established provider of social or legal
2 services, shall notify the office of temporary and disability assistance
3 and the division of criminal justice services if such victim consents to
4 seeking services pursuant to this article.

5 § 33. Section 14 of chapter 74 of the laws of 2007, amending the penal
6 law, the criminal procedure law, the correction law, the social services
7 law, and the executive law relating to human trafficking, as amended by
8 chapter 24 of the laws of 2011, is amended to read as follows:

9 § 14. This act shall take effect on the first of November next
10 succeeding the date on which it shall have become a law; provided that
11 section 483-ee of the social services law, as added by section eleven of
12 this act, shall take effect immediately and shall remain in full force
13 and effect until September 1, [2013] 2019 when upon such date the
14 provisions of such section shall expire and be deemed repealed.
15 Provided, effective immediately, the addition, amendment and/or repeal
16 of any rule or regulation necessary for the timely implementation of the
17 provisions of article 10-D of the social services law, as added by
18 section eleven of this act, on its effective date are authorized to be
19 made on or before such effective date.

20 § 34. Subdivision (p) of section 10.03 of the mental hygiene law, as
21 added by chapter 7 of the laws of 2007, is amended to read as follows:

22 (p) "Sex offense" means an act or acts constituting: (1) any felony
23 defined in article one hundred thirty of the penal law, including a
24 sexually motivated felony; (2) patronizing a [prostitute] person for
25 prostitution in the first degree as defined in section 230.06 of the
26 penal law, aggravated patronizing a minor for prostitution in the first
27 degree as defined in section 230.13 of the penal law, aggravated patron-
28 izing a minor for prostitution in the second degree as defined in
29 section 230.12 of the penal law, aggravated patronizing a minor for
30 prostitution in the third degree as defined in section 230.11 of the
31 penal law, incest in the second degree as defined in section 255.26 of
32 the penal law, or incest in the first degree as defined in section
33 255.27 of the penal law; (3) a felony attempt or conspiracy to commit
34 any of the foregoing offenses set forth in this subdivision; or (4) a
35 designated felony, as defined in subdivision (f) of this section, if
36 sexually motivated and committed prior to the effective date of this
37 article.

38 § 35. Subparagraph (i) of paragraph (a) of subdivision 2 of section
39 168-a of the correction law, as amended by chapter 405 of the laws of
40 2008, is amended to read as follows:

41 (i) a conviction of or a conviction for an attempt to commit any of
42 the provisions of sections 120.70, 130.20, 130.25, 130.30, 130.40,
43 130.45, 130.60, 230.34, 250.50, 255.25, 255.26 and 255.27 or article two
44 hundred sixty-three of the penal law, or section 135.05, 135.10, 135.20
45 or 135.25 of such law relating to kidnapping offenses, provided the
46 victim of such kidnapping or related offense is less than seventeen
47 years old and the offender is not the parent of the victim, or section
48 230.04, where the person patronized is in fact less than seventeen years
49 of age, 230.05 [or], 230.06, [or] 230.11, 230.12, 230.13, subdivision
50 two of section 230.30, [or] section 230.32 [or], 230.33, or 230.34 of
51 the penal law, or section 230.25 of the penal law where the person pros-
52 tituted is in fact less than seventeen years old, or

53 § 36. Paragraph (b) of subdivision 1 of section 168-d of the
54 correction law, as amended by chapter 74 of the laws of 2007, is amended
55 to read as follows:

(b) Where a defendant stands convicted of an offense defined in paragraph (b) of subdivision two of section one hundred sixty-eight-a of this article or where the defendant was convicted of patronizing a [prostitute] person for prostitution in the third degree under section 230.04 of the penal law and the defendant controverts an allegation that the victim of such offense was less than eighteen years of age or, in the case of a conviction under section 230.04 of the penal law, less than seventeen years of age, the court, without a jury, shall, prior to sentencing, conduct a hearing, and the people may prove by clear and convincing evidence that the victim was less than eighteen years [of age] old or less than seventeen years [of age] old, as applicable, by any evidence admissible under the rules applicable to a trial of the issue of guilt. The court in addition to such admissible evidence may also consider reliable hearsay evidence submitted by either party provided that it is relevant to the determination of the age of the victim. Facts concerning the age of the victim proven at trial or ascertained at the time of entry of a plea of guilty shall be deemed established by clear and convincing evidence and shall not be relitigated. At the conclusion of the hearing, or if the defendant does not controvert an allegation that the victim of the offense was less than eighteen years [of age] old or less than seventeen years [of age] old, as applicable, the court must make a finding and enter an order setting forth the age of the victim. If the court finds that the victim of such offense was under eighteen years [of age] old or under seventeen years [of age] old, as applicable, the court shall certify the defendant as a sex offender, the provisions of paragraph (a) of this subdivision shall apply and the defendant shall register with the division in accordance with the provisions of this article.

§ 37. Paragraph (c) of subdivision 4 of section 509-cc of the vehicle and traffic law, as amended by chapter 400 of the laws of 2011, is amended to read as follows:

(c) The offenses referred to in subparagraph (i) of paragraph (b) of subdivision one and subparagraph (i) of paragraph (c) of subdivision two of this section that result in disqualification for a period of five years shall include a conviction under sections 100.10, 105.13, 115.05, 120.03, 120.04, 120.04-a, 120.05, 120.10, 120.25, 121.12, 121.13, 125.40, 125.45, 130.20, 130.25, 130.52, 130.55, 135.10, 135.55, 140.17, 140.25, 140.30, 145.12, 150.10, 150.15, 160.05, 160.10, 220.06, 220.09, 220.16, 220.31, 220.34, 220.60, 220.65, 221.30, 221.50, 221.55, 230.00, 230.05, 230.06, 230.11, 230.12, 230.13, 230.19, 230.20, 235.05, 235.06, 235.07, 235.21, 240.06, 245.00, 260.10, subdivision two of section 260.20 and sections 260.25, 265.02, 265.03, 265.08, 265.09, 265.10, 265.12, 265.35 of the penal law or an attempt to commit any of the aforesaid offenses under section 110.00 of the penal law, or any similar offenses committed under a former section 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.

§ 38. The vehicle and traffic law is amended by adding a new section 510-d to read as follows:

§ 510-d. Suspension and revocation of class E driver's licenses. 1. A class E driver's license shall be suspended by the commissioner for a period of one year where the holder is convicted of a violation of section 230.20, 230.25, 230.30, 230.32, 230.34 or 230.40 of the penal law and the holder used a for hire motor vehicle to commit such crime.

2. A class E driver's license may be revoked by the commissioner when the holder, who had his or her driver's license suspended under subdivision one of this section within the last ten years, is convicted of a second violation of section 230.20, 230.25, 230.30, 230.32, 230.34 or 230.40 of the penal law and the holder used a for hire motor vehicle to commit such crime.

3. Any revocation or suspension of a class E driver's license issued pursuant to this article shall be applicable only to that portion of the holder's driver's license or privilege which permits the operation of a motor vehicle transporting passengers for hire, and the commissioner shall immediately issue a license, other than a class E driver's license, to such person, provided that such person is otherwise eligible to receive such license and further provided that issuing a license to such person does not create a substantial traffic safety hazard.

4. The provisions of this section shall not be construed to prevent any person who has the authority to suspend or revoke a license to drive or privilege of operating pursuant to section five hundred ten of this article from exercising any such authority.

§ 39. Section 2324-a of the public health law, as amended by chapter 260 of the laws of 1978, is amended to read as follows:

§ 2324-a. Presumptive evidence. For the purposes of this title, two or more convictions of any person or persons had, within a period of one year, for any of the offenses described in section 230.00, 230.05, 230.06, 230.08, 230.11, 230.12, 230.13, 230.20, 230.25 [or], 230.30 or 230.32 of the penal law arising out of conduct engaged in at the same real property consisting of a dwelling as that term is defined in subdivision four of section four of the multiple dwelling law shall be presumptive evidence of conduct constituting use of the premises for purposes of prostitution.

§ 40. Subdivision 2 of section 715 of the real property actions and proceedings law, as added by chapter 494 of the laws of 1976, is amended to read as follows:

2. For purposes of this section, two or more convictions of any person or persons had, within a period of one year, for any of the offenses described in section 230.00, 230.05, 230.06, 230.11, 230.12, 230.13, 230.20, 230.25, 230.30, 230.32 or 230.40 of the penal law arising out of conduct engaged in at the same real property consisting of a dwelling as that term is defined in subdivision four of section four of the multiple dwelling law shall be presumptive evidence of conduct constituting use of the premises for purposes of prostitution.

§ 41. Subdivision 3 of section 231 of the real property law, as amended by chapter 203 of the laws of 1980, is amended to read as follows:

3. For the purposes of this section, two or more convictions of any person or persons had, within a period of one year, for any of the offenses described in section 230.00, 230.05, 230.06, 230.11, 230.12, 230.13, 230.20, 230.25, 230.30, 230.32 or 230.40 of the penal law arising out of conduct engaged in at the same premises consisting of a dwelling as that term is defined in subdivision four of section four of the multiple dwelling law shall be presumptive evidence of unlawful use of such premises and of the owners knowledge of the same.

§ 42. Subdivision 3 of section 840 of the executive law is amended by adding a new paragraph (f-1) to read as follows:

(f-1) Develop, maintain and disseminate, in consultation with the office of temporary and disability assistance and the division of criminal justice services, written policies and procedures regarding human

1 trafficking victims. Such policies and procedures shall include, but not
2 be limited to the following: (1) the identification of potential victims
3 of human trafficking, as defined under section four hundred eighty-
4 three-aa of the social services law; and (2) information and/or referral
5 to appropriate social and legal services for victims of human traffick-
6 ing in accordance with section four hundred eighty-three-bb of the
7 social services law;

8 § 43. The executive law is amended by adding a new section 214-d to
9 read as follows:

10 § 214-d. Human trafficking awareness. The superintendent, in consulta-
11 tion with the office of temporary and disability assistance and the
12 division of criminal justice services, shall: (1) develop, maintain and
13 disseminate to all members of the state police, including new and veter-
14 an officers, written policies, procedures and educational materials
15 relating to human trafficking victims, including services available for
16 victims of human trafficking, as referenced in section four hundred
17 eighty-three-bb of the social services law; and (2) establish and imple-
18 ment written procedures and policies in the event a member of the divi-
19 sion of state police encounters an individual believed to be a victim of
20 human trafficking, which shall include, but not be limited to, the
21 provision of information and/or referral to an appropriate provider of
22 social and legal services to human trafficking victims, in accordance
23 with such section four hundred eighty-three-bb.

24 § 44. Severability clause. If any clause, sentence, paragraph, subdi-
25 vision, section or part of this act shall be adjudged by a court of
26 competent jurisdiction to be invalid, such judgment shall not affect,
27 impair or invalidate the remainder thereof, but shall be confined in its
28 operation to the clause, sentence, paragraph, subdivision, section or
29 part thereof directly involved in the controversy in which such judgment
30 shall have been rendered. It is hereby declared to be the intent of the
31 legislature that this act would have been enacted even if such invalid
32 provisions had not been included herein.

33 § 45. Notwithstanding the provisions of article 5 of the general
34 construction law, the provisions of section 483-ee of the social
35 services law, as added by chapter 74 of the laws of 2007, are hereby
36 revived and shall continue in full force and effect as such provisions
37 existed on August 31, 2013.

38 § 46. This act shall take effect on the ninetieth day after it shall
39 have become a law; provided however that sections thirty-three and
40 forty-five of this act shall take effect immediately.



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OCT 21 2015

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8
CHAP 309 LAWS OF 2015

2015-2016 Regular Sessions

IN SENATE

January 9, 2015

Introduced by Sens. HANNON, CARLUCCI, ROBACH -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the executive law, in relation to reasonable accommodation

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

1 Section 1. Subdivision 21-e of section 292 of the executive law, as
2 added by chapter 269 of the laws of 1997, is amended and a new subdivi-
3 sion 21-f is added to read as follows:

4 21-e. The term "reasonable accommodation" means actions taken which
5 permit an employee, prospective employee or member with a disability, or
6 a pregnancy-related condition, to perform in a reasonable manner the
7 activities involved in the job or occupation sought or held and include,
8 but are not limited to, provision of an accessible worksite, acquisition
9 or modification of equipment, support services for persons with impaired
10 hearing or vision, job restructuring and modified work schedules;
11 provided, however, that such actions do not impose an undue hardship on
12 the business, program or enterprise of the entity from which action is
13 requested.

14 21-f. The term "pregnancy-related condition" means a medical condition
15 related to pregnancy or childbirth that inhibits the exercise of a
16 normal bodily function or is demonstrable by medically accepted clinical
17 or laboratory diagnostic techniques; provided, however, that in all
18 provisions of this article dealing with employment, the term shall be
19 limited to conditions which, upon the provision of reasonable accommo-
20 dations, do not prevent the complainant from performing in a reasonable
21 manner the activities involved in the job or occupation sought or held;
22 and provided further, however, that pregnancy-related conditions shall
23 be treated as temporary disabilities for the purposes of this article.

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

LBD01025-01-5



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§ 2. Paragraph (a) of subdivision 3 of section 296 of the executive law, as added by chapter 269 of the laws of 1997, is amended and a new paragraph (c) is added to read as follows:

(a) It shall be an unlawful discriminatory practice for an employer, licensing agency, employment agency or labor organization to refuse to provide reasonable accommodations to the known disabilities, or pregnancy-related conditions, of an employee, prospective employee or member in connection with a job or occupation sought or held or participation in a training program.

(c) The employee must cooperate in providing medical or other information that is necessary to verify the existence of the disability or pregnancy-related condition, or that is necessary for consideration of the accommodation. The employee has a right to have such medical information kept confidential.

§ 3. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 4. This act shall take effect on the ninetieth day after it shall have become a law.



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OCT 21 2015