

## NEW YORK CITY DEPARTMENT OF CORRECTION

### Notice of Adoption of Amendments to Title 39 of the Rules of the City of New York

Notice is hereby given in accordance with Section 1043(f) of the New York City Charter (“Charter”) and pursuant to the authority granted to the Department of Correction (“Department”) by §§ 389(b) and 1043 of the Charter and in §§ 9-205, 9-131, and 14-154 of the Administrative Code.

A notice of public hearing and opportunity to comment on the Department’s proposal to amend Title 39 of the Rules of the City of New York was published in the City Record on July 9, 2019, and a public hearing was held on August 12, 2019. The Department now adopts the amendments as set forth below.

#### Statement of Basis and Purpose

Administrative Code § 9-131 limits when the Department of Correction (“Department”) may honor immigration detainer requests by holding a person beyond the time when they would otherwise be released, and also limits the use of Department property and use of time or resources to disclose certain information to federal immigration authorities except in certain limited circumstances. The Department may honor detainers by holding a person beyond the time when they would otherwise be released only when federal immigration authorities present a judicial warrant for detention of a person and the person to whom the detainer pertains has been convicted of a violent or serious crime, as defined under Administrative Code § 9-131(a)(7), or is identified as a possible match in the terrorist screening database. In addition, the Department may disclose to federal immigration authorities certain information regarding persons convicted of a violent or serious crime or identified as a possible match in the terrorist screening database.

Administrative Code §§ 9-131(a)(7)(v) and 14-154(a)(6)(v) allow the Department to promulgate this rule, in consultation with the police department, to add additional crimes to the definition of “violent or serious crime” if those crimes are felonies that were codified or amended by the state legislature after the enactments of §§ 9-131 and 14-154 and if they involve violence, force, firearms, terrorism, or endangerment or abuse of vulnerable persons.

After consultation with the New York Police Department, and public notice, the Department is issuing the following rule to add seven Penal Law offenses to the definition of “violent or serious crime.”

These offenses were codified by the state legislature after the enactments of Administrative Code §§ 9-131 and 14-154 and involve violence, force, firearms, terrorism, or endangerment or abuse of vulnerable persons. The offenses are:

- Aggravated labor trafficking, Penal Law § 135.37
- Patronizing a person for prostitution in a school zone, Penal Law § 230.08
- Aggravated patronizing a minor for prostitution in the third degree, Penal Law § 230.11
- Aggravated patronizing a minor for prostitution in the second degree, Penal Law § 230.12
- Aggravated patronizing a minor for prostitution in the first degree, Penal Law § 230.13
- Sex trafficking of a child, Penal Law § 230.34-a
- Coercion in the second degree, Penal Law § 135.61

Adoption of this rule adds the above offenses to the definition of “violent or serious crime” in Administrative Code §§ 9-131(a)(7), 14-154(a)(6), which limits when the Police Department may honor immigration detainees by holding a person beyond the time when they would otherwise be released, and 9-205, which limits when the Department of Probation may honor immigration detainees by holding a person beyond the time when they would otherwise be released.

The Department’s authority for this rule may be found in §§ 389(b) and 1043 of the City Charter and in §§ 9-205, 9-131, and 14-154 of the Administrative Code.

New text is underlined. Deleted text is [bracketed].

### **Final Rule Text**

Title 39 of the Rules of the City of New York is amended by adding a new Chapter 2, to read as follows:

#### Chapter 2: Violent or serious crimes for purposes of honoring civil immigration detainees

##### § 2-01 Additional violent or serious crimes

- (a) The Department determines that the following Penal Law offenses shall be considered “violent or serious crimes” for purposes of §§ 9-205(a), 9-131(a)(7) and 14-154(a)(6) of the Administrative Code:
- (1) Section 135.37, aggravated labor trafficking.
  - (2) Section 135.61, coercion in the second degree.
  - (3) Section 230.08, patronizing a person for prostitution in a school zone.
  - (4) Section 230.11, aggravated patronizing a minor for prostitution in the third degree.
  - (5) Section 230.12, aggravated patronizing a minor for prostitution in the second degree.
  - (6) Section 230.13, aggravated patronizing a minor for prostitution in the first degree.
  - (7) Section 230.34-a, sex trafficking of a child.