

[NY CLS Penal § 230.34-A](#)

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New York Consolidated Laws Service > Penal Law (Pts. ONE — FOUR) > Part THREE Specific Offenses (Titles G — P) > Title M Offenses Against Public Health and Morals (Arts. 220 — 235) > Article 230 Prostitution Offenses (§§ 230.00 — 230.40)

230.34-A [Effective November 13, 2018]

Sex trafficking of a child.

1.A person is guilty of sex trafficking of a child when he or she, being twenty-one years old or more, intentionally advances or profits from prostitution of another person and such person is a child less than eighteen years old. Knowledge by the defendant of the age of such child is not an element of this offense and it is not a defense to a prosecution therefor that the defendant did not know the age of the child or believed such age to be eighteen or over.

2.For purposes of this section:

(a)A person “advances prostitution” when, acting other than as a person in prostitution or as a patron thereof, and with intent to cause prostitution, he or she directly engages in conduct that facilitates an act or enterprise of prostitution.

(b)A person “profits from prostitution” when, acting other than as a person in prostitution receiving compensation for personally rendered prostitution services, and with intent to facilitate prostitution, he or she accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he or she participates in the proceeds of prostitution activity.

Sex trafficking of a child is a class B felony.

History

L 2018, ch 189, § 1, eff Nov 13, 2018.

Annotations

Research References & Practice Aids

Hierarchy Notes:

[NY CLS Penal, Pt. THREE](#)

[NY CLS Penal, Pt. THREE, Title M](#)

[NY CLS Penal, Pt. THREE, Title M, Art. 230](#)

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§ 230.35. Promoting or compelling prostitution; accomplice

In a prosecution for promoting prostitution or compelling prostitution, a person less than eighteen years old from whose prostitution activity another person is alleged to have advanced or attempted to advance or profited or attempted to profit shall not be deemed to be an accomplice.

History

Add, L 1978, ch 627, § 5, eff Sept 1, 1978; amd, [L 2005, ch 450, § 2](#), eff Nov 1, 2005; L 2015, ch 368, § 25, eff Jan 19, 2016.

Annotations

Notes

Prior Law:

Former § 230.35, add, L 1965, ch 1030, § 1; repealed, L 1978, ch 627, § 5, eff Sept 1, 1978.

Editor's Notes:

Laws 2015 ch 368, § 1, eff Jan 19, 2016, provide:

Section 1. Short title. This act shall be known and may be cited as the “trafficking victims protection and justice act”.

Amendment Notes:

☐☐**2005**. Chapter 450, § 2 amended:

☐Section heading by adding the matter in italics.

Section by adding the matter in italics.

The 2015 amendment by ch 368, § 25, substituted “eighteen years old” for “seventeen years of age.”

Notes to Decisions

1.In general

2. Under former § 2460

1. In general

Although prostitutes may be considered accomplices, as term is defined in [CPL § 60.22](#), of defendant accused of promoting prostitution in second degree, those accomplices under 17 years of age at time they became involved with defendant are not accomplices whose testimony need be corroborated. [People v Pasini, 112 A.D.2d 1013, 492 N.Y.S.2d 819, 1985 N.Y. App. Div. LEXIS 52222 \(N.Y. App. Div. 2d Dep't 1985\)](#).

In a prosecution for first degree kidnapping with the intent to accomplish and advance the commission of the felony of third degree promotion of prostitution, the testimony of the alleged kidnap victim would not be subject to any necessity for corroboration pursuant to [Penal Law § 230.35](#) on the asserted ground that the victim was an "accomplice" to the secondary felony, since, though defendants intended to use the victim as a prostitute, there was no evidence that she was a prostitute or that defendants were her pimps, and since the legislature never intended that kidnap victims be deemed "accomplices" within the meaning of the statute. [People v Valero, 120 Misc. 2d 539, 466 N.Y.S.2d 600, 1983 N.Y. Misc. LEXIS 3756 \(N.Y. County Ct. 1983\)](#).

Defendant in rape prosecution, who told complainant that he had AIDS, would be ordered to provide blood samples as nontestimonial evidence under CLS [CPL § 240.40\(2\)\(b\)\(v\)](#) to determine whether defendant could be identified or excluded as perpetrator and in order that Vitullo rape kit taken from complainant, which police had refused to analyze due to possibility of AIDS, could be safely analyzed, since there was no less obtrusive means of obtaining needed evidence, defendant's constitutional rights would not be violated by testing for purpose of possibly preventing his further prosecution, and complainant had right to know if she was exposed to AIDS. [People v Durham, 146 Misc. 2d 913, 553 N.Y.S.2d 944, 1990 N.Y. Misc. LEXIS 107 \(N.Y. Sup. Ct. 1990\)](#).

2. Under former § 2460

Where there is corroboration of witnesses in a prosecution for compulsory prostitution of women, a defendant may be convicted on testimony of two prostitutes, also named in indictment, and of an accomplice of defendant under this section. [People v Guardino, 290 N.Y. 749, 50 N.E.2d 98, 290 N.Y. \(N.Y.S.\) 749, 1943 N.Y. LEXIS 1367 \(N.Y. 1943\)](#).

Testimony of prostitute was sufficiently corroborated to sustain conviction of defendant for receiving monies from her earnings. [People v Pupera, 17 A.D.2d 1027, 235 N.Y.S.2d 199, 1962 N.Y. App. Div. LEXIS 6766 \(N.Y. App. Div. 4th Dep't 1962\)](#).

The testimony of complainant, a prostitute, could be supported, under this section, by testimony of another prostitute, also named in indictment as having been induced, enticed and procured for immoral purposes. [People v Guardino, 30 N.Y.S.2d 729, 177 Misc. 402, 1941 N.Y. Misc. LEXIS 2323 \(N.Y. County Ct. 1941\)](#), aff'd, 265 A.D. 872, 37 N.Y.S.2d 981, 1942 N.Y. App. Div. LEXIS 6261 (N.Y. App. Div. 1942).

Incest is distinguished as not requiring corroboration of the prosecutrix. [People v Jones, 32 N.Y.S.2d 214, 177 Misc. 922, 1942 N.Y. Misc. LEXIS 1266 \(N.Y. County Ct. 1942\)](#).

The measure of corroboration required for testimony of the female whose activities are the subject of the charge, by subd. 9 of this section, is more than that demanded by § 395 of the Code of Criminal Procedure respecting confessions and should go to material portions of the crime defined by the statute. [People v Loocerello, 34 Misc. 2d 1087, 233 N.Y.S.2d 206, 1962 N.Y. Misc. LEXIS 3055 \(N.Y. County Ct. 1962\)](#), rev'd, 18 A.D.2d 1125, 239 N.Y.S.2d 283, 1963 N.Y. App. Div. LEXIS 4033 (N.Y. App. Div. 4th Dep't 1963).

Research References & Practice Aids

Jurisprudences:

35C NY Jur 2d Criminal Law Substantive Principles and Offenses § 1787.

63C Am Jur 2d, Prostitution § 17.

Annotations:

Separate acts of taking earnings of or support from prostitute as separate or continuing offenses of pimping. [3 ALR4th 1195](#).

Texts:

6 Frumer & Biskind, [Bender's New York Evidence—CPLR §§ 25.01](#), 25.05.

[New York Criminal Practice Ch. 77](#).

Hierarchy Notes:

[NY CLS Penal, Pt. THREE](#)

[NY CLS Penal, Pt. THREE, Title M](#)

[NY CLS Penal, Pt. THREE, Title M, Art. 230](#)

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§ 230.36. Sex trafficking; accomplice

In a prosecution for sex trafficking, a person from whose prostitution activity another person is alleged to have advanced or attempted to advance or profited or attempted to profit shall not be deemed to be an accomplice.

History

Add, [L 2007, ch 74, § 2](#), eff Nov 1, 2007.

Annotations

Research References & Practice Aids

Jurisprudences:

35C NY Jur 2d Criminal Law Substantive Principles and Offenses § 1789.

21 Am Jur 2d, Criminal Law §§ 188 et seq.

63C Am Jur 2d, Prostitution § 22.

Hierarchy Notes:

[NY CLS Penal, Pt. THREE](#)

[NY CLS Penal, Pt. THREE, Title M](#)

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§ 230.40. Permitting prostitution

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

Permitting prostitution is a class B misdemeanor.

History

Add, L 1965, ch 1030, § 1, eff Sept 1, 1967, with substance derived from § 1146 in part; amd, L 2015, ch 368, § 26, eff Jan 19, 2016.

Annotations

Notes

Commission Staff Notes:

See Commission Staff Notes under § 230.15.

Editor's Notes:

Laws 2015 ch 368, § 1, eff Jan 19, 2016, provide:

Section 1. Short title. This act shall be known and may be cited as the “trafficking victims protection and justice act”.

Amendment Notes

The 2015 amendment by ch 368, § 26, added “or vehicle”; added “or for the purpose of advancing prostitution”; and made stylistic changes.

Notes to Decisions

1.In general

2.Under former § 1146; in general

3.—Nature and elements of offense

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- 4.—Parties subject to prosecution
- 5.—Recovery of possession of premises
- 6.—Jurisdiction
- 7.—Admissibility of evidence; corroboration
- 8.—Sufficiency of evidence
- 9.—Sentence
- 10. Under former Code of Criminal Procedure § 887

1. In general

Although prostitutes may be considered accomplices, as term is defined in [CPL § 60.22](#), of defendant accused of promoting prostitution in second degree, those accomplices under 17 years of age at time they became involved with defendant are not accomplices whose testimony need be corroborated. [People v Pasini, 112 A.D.2d 1013, 492 N.Y.S.2d 819, 1985 N.Y. App. Div. LEXIS 52222 \(N.Y. App. Div. 2d Dep't 1985\)](#).

Absent proof that defendant desk clerk was aware that the premises were to be used for purposes of prostitution, his mere knowing rental of a room to parties known not to be married to each other does not constitute a violation of [Penal Law §§ 110.00 and 230.40](#) relating to attempting to permit prostitution. [People v Harris, 74 Misc. 2d 707, 345 N.Y.S.2d 890, 1973 N.Y. Misc. LEXIS 1809 \(N.Y. App. Term 1973\)](#).

Where lease is void for illegal use of demised premises, covenants in lease which relate to preliminary notice as a condition to instituting eviction proceedings have no probative effect. [Murphy v Relaxation Plus Commodore, Ltd., 83 Misc. 2d 838, 373 N.Y.S.2d 793, 1975 N.Y. Misc. LEXIS 2995 \(N.Y. App. Term 1975\)](#).

Convictions of four women arrested on hotel premises for prostitution, conviction of an alleged clerk for permitting prostitution and reputation of the hotel in the community were not only presumptive evidence of nuisance but prima facie evidence of knowledge, acquiescence, and participation by hotel operator and owners of fee. [People ex rel. New York v Morbel Realty Corp., 87 Misc. 2d 989, 386 N.Y.S.2d 925, 1976 N.Y. Misc. LEXIS 2341 \(N.Y. Sup. Ct. 1976\)](#).

A charge against a bartender of aiding and abetting prostitution in violation of [Penal Law § 230.40](#) would not be dismissed as invalid due merely to the omission of an allegation that defendant failed to make reasonable efforts to halt or abate such prostitution, since such neglect on the part of defendant was fairly implied from the claim that he facilitated prostitution on his premises. [People v Gilmore, 120 Misc. 2d 741, 468 N.Y.S.2d 965, 1983 N.Y. Misc. LEXIS 3790 \(N.Y. City Ct. 1983\)](#).

A building owner who had allowed women whom he knew were not tenants into his building on two separate occasions accompanied by unidentified men would be found guilty of permitting prostitution in violation of [Penal L § 230.40](#), since, though the presumptions contained in [Real P Law § 231](#) and [Pub Health Law § 2324-a](#) that two or more convictions for prostitution occurring at one location within one year constitutes presumptive evidence of a penal law violation may not permissibly be read into the criminal statute in that the imposition of such a presumption would work to impermissibly shift the burden of proof to defendants, the People met their burden of proof as to defendant by proving beyond a reasonable doubt that he had been aware of the activity that was occurring on his premises but had failed to take reasonable steps to halt or abate it. [People v Taliaferrow, 121 Misc. 2d 307, 467 N.Y.S.2d 522, 1983 N.Y. Misc. LEXIS 3919 \(N.Y. Crim. Ct. 1983\)](#).

Defendant, hotel desk clerk, was not entitled to dismissal of charge of permitting prostitution on ground that information failed to make out present "use" of premises for prostitution purposes and referred only to future "intent"

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to use” on part of police officers posing as prostitute and “john,” since it would be overly narrow and unintended interpretation of CLS [Penal § 230.40](#) to suggest that premises were not being “used” for prostitution purposes until officers actually entered room within premises after male officer had told defendant that his female companion was “prostitute.” [People v Behncke, 141 Misc. 2d 630, 534 N.Y.S.2d 79, 1988 N.Y. Misc. LEXIS 662 \(N.Y. Crim. Ct. 1988\).](#)

Defendant, hotel desk clerk who rented room to 2 police officers posing as prostitute and her “john,” could not be charged with permitting prostitution since there could be no actual agreement, offer, solicitation, or other understanding between officers to engage in sexual conduct for fee, and thus there could be neither “prostitution” nor use of hotel premises “for prostitution purposes” as required under CLS [Penal § 230.40](#); likewise, defendant could not be charged with fourth degree promoting prostitution since there was no actual prostitution relationship between officers. [People v Behncke, 141 Misc. 2d 630, 534 N.Y.S.2d 79, 1988 N.Y. Misc. LEXIS 662 \(N.Y. Crim. Ct. 1988\).](#)

Defendant, hotel desk clerk who rented room to 2 police officers posing as prostitute and her “john,” engaged in conduct which, but for lack of actual prostitution relationship between officers, amounted to violation of CLS [Penal §§ 230.40](#) and [230.20](#); thus, although defendant could not be charged with completed crimes of permitting prostitution and fourth degree promoting prostitution, he could be charged with attempt to commit those crimes under CLS [Penal § 110.10](#). [People v Behncke, 141 Misc. 2d 630, 534 N.Y.S.2d 79, 1988 N.Y. Misc. LEXIS 662 \(N.Y. Crim. Ct. 1988\).](#)

Defendant, hotel desk clerk who rented room to 2 police officers posing as prostitute and her “john,” was not entitled, in interest of justice, to dismissal of information charging him with attempted fourth degree promoting prostitution and attempted permitting prostitution, notwithstanding that he had no prior criminal record, and despite his assertions that no harm resulted and that dismissal would not have negative impact on public’s confidence in criminal justice system, since (1) prostitution is not “victimless” crime and tends to supplement related and more serious criminal activity, (2) public policy of city, as evidenced by consistently large numbers of prostitution arrests and by People’s unwillingness to forego even first-arrest prosecution cases, reflected both underlying public concern for seriousness of offense itself, and desire to stem increase of prostitution-related criminal activity, and (3) defendant’s conduct, by providing premises for fee, had effect of encouraging repeated acts of prostitution to occur. [People v Behncke, 141 Misc. 2d 630, 534 N.Y.S.2d 79, 1988 N.Y. Misc. LEXIS 662 \(N.Y. Crim. Ct. 1988\).](#)

2. Under former § 1146; in general

Though a house of ill fame is a public nuisance it may not be lawfully destroyed in abating it. [Lawton v Steele, 119 N.Y. 226, 23 N.E. 878, 119 N.Y. \(N.Y.S.\) 226, 1890 N.Y. LEXIS 1081 \(N.Y.\), reh’g denied, 23 N.E. 1151 \(N.Y. 1890\), aff’d, 152 U.S. 133, 14 S. Ct. 499, 38 L. Ed. 385, 1894 U.S. LEXIS 2103 \(U.S. 1894\).](#)

The police authorities will not be precluded from maintaining a surveillance over and inspecting a place suspected of being a bawdy house. [Delaney v Flood, 183 N.Y. 323, 76 N.E. 209, 183 N.Y. \(N.Y.S.\) 323, 1906 N.Y. LEXIS 785 \(N.Y. 1906\).](#)

In an action against holder of liquor tax certificate and his surety brought by state commissioner of excise to recover on bond for violation of Liq. Tax Law (now repealed) fact that defendant allowed premises to become disorderly cannot be established by record of court of special sessions which shows that wife of defendant had been previously convicted of keeping disorderly house on premises in violation of this section. Such evidence is inadmissible either against defendant or his surety. [Green v Altenkirch, 176 A.D. 320, 162 N.Y.S. 447, 1916 N.Y. App. Div. LEXIS 8998 \(N.Y. App. Div. 1916\).](#)

Conviction of violation of this section will not be reversed upon ground that information submitted for warrant was made by police officer upon information and belief without stating sources and grounds thereof, where there is nothing to show that magistrate did not have before him depositions of other witnesses and defendant did not object

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upon her arraignment, but consented to case being set for trial. [*People v Costello*, 182 A.D. 341, 170 N.Y.S. 341, 1918 N.Y. App. Div. LEXIS 5031 \(N.Y. App. Div. 1918\)](#).

Defendant charged in court of special sessions with misdemeanor of keeping and maintaining a disorderly house in violation of § 1146, is entitled to a bill of particulars, where information covers a period of almost four months and defendant may be confronted at trial with evidence of unlawful conduct on any day during that period. [*People ex rel. Capell v Palmer*, 9 N.Y.S.2d 627, 170 Misc. 475, 1939 N.Y. Misc. LEXIS 1477 \(N.Y. City Ct. 1939\)](#).

Reputation is not established by proof of specific acts. [*People v Webb*, 26 N.Y.S.2d 386, 1941 N.Y. Misc. LEXIS 1564 \(N.Y. Spec. Sess. 1941\)](#).

Evidence of conviction under this section may properly be used against accused in deportation proceedings. [*United States ex rel. Tomasso v Flynn*, 22 F.2d 174, 1927 U.S. Dist. LEXIS 1521 \(D.N.Y. 1927\)](#).

3. —Nature and elements of offense

It is not an essential element of the offense of keeping a disorderly house that the public should be disturbed by noise, the keeping of a common bawdy or gambling house constitutes the house so kept a disorderly house. [*King v People*, 83 N.Y. 587, 83 N.Y. \(N.Y.S.\) 587, 1881 N.Y. LEXIS 34 \(N.Y. 1881\)](#).

Evidence sufficient to show a private house to be one of assignation may fail entirely to prove a hotel to be such. Where there is no evidence to show that the proprietor or his agent have knowledge that a hotel is being used for illegal purposes no conviction can be had under this section. [*People v Drum*, 127 A.D. 241, 110 N.Y.S. 1096, 1908 N.Y. App. Div. LEXIS 1942 \(N.Y. App. Div. 1908\)](#).

A violation of this section must be shown to be with the knowledge of the accused but such knowledge may be inferred from circumstances to which he could not close his eyes. [*People v Rankin*, 155 N.Y.S. 86, 92 Misc. 62, 1915 N.Y. Misc. LEXIS 686 \(N.Y. Gen. Sess. 1915\)](#).

Violation of this section is not infamous crime which must be prosecuted by indictment. [*People v Peterson*, 261 N.Y.S. 151, 145 Misc. 324, 1932 N.Y. Misc. LEXIS 1679 \(N.Y. County Ct. 1932\)](#).

4. —Parties subject to prosecution

Under this statute the owner of a hotel is chargeable with the responsibility of knowing what was going on prior to the time that he took over operation of the premises and may be convicted even though he did not actually know that the hotel was being used for immoral purposes. [*Kahan v Wallander*, 83 N.Y.S.2d 570, 193 Misc. 190, 1948 N.Y. Misc. LEXIS 3386 \(N.Y. Sup. Ct. 1948\)](#).

5. —Recovery of possession of premises

Where tenant occupying upper floors of leased premises has been convicted of keeping disorderly house thereon, both said tenant and subtenant, which occupied first floor and part of basement of said premises, may be dispossessed by landlord under this section. [*Coste v Pappas*, 236 A.D. 175, 258 N.Y.S. 293, 1932 N.Y. App. Div. LEXIS 5923 \(N.Y. App. Div. 1932\)](#).

6. —Jurisdiction

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City court of Utica has not exclusive jurisdiction under § 4 of city court act to try defendant charged with misdemeanor consisting of maintaining disorderly house in such city in violation of this section. [*People v Steppello*, 235 A.D. 240, 257 N.Y.S. 208, 1932 N.Y. App. Div. LEXIS 7931 \(N.Y. App. Div. 1932\)](#).

Violation of this section constitutes misdemeanor, and when such violation is committed in city of Syracuse and accused brought before court of special sessions or justice thereof, that court has jurisdiction of offense in first instance, so that upon record in this proceeding court of special sessions of that city had jurisdiction of offense charged against relator. Having jurisdiction of case, and upon relator's plea to offense charged, action taken thereupon by court was within authority granted by (former) § 2188. [*People ex rel. Pringle v Livingston*, 239 N.Y.S. 122, 135 Misc. 475, 1930 N.Y. Misc. LEXIS 964 \(N.Y. Sup. Ct. 1930\)](#).

City court of Watertown has jurisdiction under city charter to hear, try and determine a violation of this section and to impose punishment provided for such violation. [*People v Peterson*, 261 N.Y.S. 151, 145 Misc. 324, 1932 N.Y. Misc. LEXIS 1679 \(N.Y. County Ct. 1932\)](#).

7. —Admissibility of evidence; corroboration

Evidence tending to prove the commission of other crimes unconnected with a violation of this section is inadmissible. [*People v Jones*, 191 N.Y. 291, 84 N.E. 61, 191 N.Y. \(N.Y.S.\) 291, 1908 N.Y. LEXIS 1060 \(N.Y. 1908\)](#).

On trial for violation of this section evidence of certain occurrences in presence of defendant, at house in controversy; and of number and sex of persons who, in presence of defendant, from time to time, both day and night, passed through alleged grocery store, situated in room next to street on first floor of house, to and from sitting room or kitchen and bedroom in rear thereof, held, competent. [*People v Pasquale*, 206 N.Y. 598, 100 N.E. 413, 206 N.Y. \(N.Y.S.\) 598, 1912 N.Y. LEXIS 1011 \(N.Y. 1912\)](#).

A police officer who made several trips to a house of prostitution and who testified to acts violative of this section committed on the premises is not an accomplice of the proprietor within the meaning of the statute requiring corroboration of such testimony. [*People v Swift*, 293 N.Y.S. 378, 161 Misc. 851, 1936 N.Y. Misc. LEXIS 1642 \(N.Y. Sup. Ct. 1936\)](#), aff'd, 251 A.D. 808, 298 N.Y.S. 188, 1937 N.Y. App. Div. LEXIS 7685 (N.Y. App. Div. 1937).

Circumstantial evidence may show knowledge of a hotel owner that the hotel was being used for a disorderly house. [*Kahan v Wallander*, 83 N.Y.S.2d 570, 193 Misc. 190, 1948 N.Y. Misc. LEXIS 3386 \(N.Y. Sup. Ct. 1948\)](#).

In a charge under § 1146, evidence of reputation, if offered, might properly be received. [*People v Webb*, 26 N.Y.S.2d 386, 1941 N.Y. Misc. LEXIS 1564 \(N.Y. Spec. Sess. 1941\)](#).

8. —Sufficiency of evidence

Evidence sufficient to show a private house to be one of assignation may fail entirely to prove a hotel to be such. Where there is no evidence to show that the proprietor or his agent have knowledge that a hotel is being used for illegal purposes no conviction can be had under this section. [*People v Drum*, 127 A.D. 241, 110 N.Y.S. 1096, 1908 N.Y. App. Div. LEXIS 1942 \(N.Y. App. Div. 1908\)](#).

Proof that a restaurant maintained by the defendant was frequented by men addicted to drink, that they became intoxicated there, that quarrels were of common occurrence and that indecent language used on the premises could be heard by those living in the neighborhood establishes the crime of keeping a disorderly house. [*People v Jones*, 129 A.D. 772, 113 N.Y.S. 1097, 1909 N.Y. App. Div. LEXIS 12 \(N.Y. App. Div.\)](#), aff'd, 195 N.Y. 547, 88 N.E. 1127, 195 N.Y. (N.Y.S.) 547, 1909 N.Y. LEXIS 1120 (N.Y. 1909).

Evidence that hotel rented its 22 rooms 33 times in one evening and that police officer accompanied by policewoman was permitted to register and thereafter a different police officer with the same policewoman was also

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permitted to register was sufficient evidence to hold hotel night clerk and night manager for a violation of this section. [People v McCarthy](#), 119 N.Y.S.2d 435, 204 Misc. 460, 1953 N.Y. Misc. LEXIS 1546 (N.Y. Magis. Ct. 1953).

9. —Sentence

In view of defendant's advanced age and unblemished record, a judgment imposing a sentence of six months in the county penitentiary for keeping a disorderly house was modified and defendant was sentenced to pay a fine of \$500, where defendant had knowingly permitted an employee from time to time to rent a room of the hotel which he operated to be used for immoral purposes but there was no suggestion that he shared in the proceeds of the illicit activity. *People v Vegard*, 25 A.D.2d 476, 266 N.Y.S.2d 437, 1966 N.Y. App. Div. LEXIS 5148 (N.Y. App. Div. 3d Dep't 1966).

Where defendant pleads guilty to indictment charging him with keeping disorderly house in violation of this section, judgment of conviction, sentencing him to pay fine and stand committed to county jail one day for each dollar of fine until paid, should be entered in favor of people of state against defendant. [People v Manganaro](#), 137 N.Y.S. 82, 76 Misc. 293, 1912 N.Y. Misc. LEXIS 809 (N.Y. County Ct. 1912).

Punishment for misdemeanor of keeping a disorderly house is governed by § 1937, and not by code of criminal procedure, § 899 et seq. since no punishment for said misdemeanor is provided in § 1146. [People ex rel. Sievers v McGee](#), 2 N.Y.S.2d 500, 166 Misc. 379, 1938 N.Y. Misc. LEXIS 1305 (N.Y. Sup. Ct. 1938).

10. Under former Code of Criminal Procedure § 887

In a prosecution for "knowingly permitting any person to remain" in premises for the purpose of prostitution, lewdness or assignation, the element of knowledge must be proven and must not be surmised or conjectured. [People ex rel. Harrington v Marcial](#), 110 N.Y.S.2d 361, 1952 N.Y. Misc. LEXIS 2416 (N.Y. Magis. Ct. 1952).

Research References & Practice Aids

Cross References:

This section referred to in CLS [Al Bev § 126](#); CLS [Mult D § 353](#); CLS [Pub Health §§ 2302, 2324](#); CLS Real P Actions & Pr § 715; CLS [Real P § 231](#).

Jurisprudences:

35C NY Jur 2d Criminal Law Substantive Principles and Offenses § 1790.

64 NY Jur 2d Health and Sanitation § 79 .

24 Am Jur 2d, Disorderly Houses §§ 1–4, 6, 8, 10–13, 15, 26, 27.

Law Reviews:

Symposium, Decriminalizing prostitution: liberalization or dehumanization? 1 Cardozo Women's L.J. 101.

Balos & Fellows, A matter of prostitution: becoming respectable. [74 NYU L Rev 5](#).

Matthew Bender's New York Practice Guides:

4 [New York Practice Guide: Business and Commercial § 30.14](#).

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Criminal Jury Instructions:

Permitting prostitution. CJI2d [NY] [Penal Law § 230.40](#).

Texts:

[New York Criminal Practice Ch. 77](#).

Hierarchy Notes:

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