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I N   A S S E M B L Y

March 12, 2012

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Introduced by M. of A. RAMOS, SWEENEY, ENGLEBRIGHT, THIELE, WEISENBERG, RUSSELL, MAGEE, MILLMAN, PERRY, CRESPO, SCHIMEL, LUPARDO, MAISEL, ESPINAL, ROBERTS, BRONSON, CUSICK, TITONE, BRAUNSTEIN -- Multi-Sponsored by -- M. of A. FITZPATRICK, GRAF, LOSQUADRO, McDONOUGH, MURRAY, RAI, TOBACCO -- read once and referred to the Committee on Local Governments -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reference changed to the Committee on Transportation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general municipal law, the vehicle and traffic law, the criminal procedure law and the state finance law, in relation to establishing a traffic and parking violations agency in the county of Suffolk

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1     Section 1. Section 370 of the general municipal law is amended by  
2     adding a new subdivision 3 to read as follows:  
3     3. THERE SHALL BE A DEPARTMENT OF THE SUFFOLK COUNTY GOVERNMENT KNOWN  
4     AS THE SUFFOLK COUNTY TRAFFIC AND PARKING VIOLATIONS AGENCY, WHICH SHALL  
5     OPERATE UNDER THE DIRECTION AND CONTROL OF THE COUNTY EXECUTIVE.  
6     S 2. Section 370-a of the general municipal law, as added by chapter  
7     496 of the laws of 1990, subdivision 1 as amended by chapter 527 of the  
8     laws of 2002, is amended to read as follows:  
9     S 370-a. Definitions. For the purpose of this article:  
10    1. "Traffic and parking violations agency" shall mean a department of  
11    the Nassau county government established pursuant to subdivision two of  
12    section three hundred seventy of this article OR A DEPARTMENT IN THE  
13    SUFFOLK COUNTY GOVERNMENT ESTABLISHED PURSUANT TO SUBDIVISION THREE OF  
14    SUCH SECTION to administer and dispose of traffic and parking infrac-  
15    tions.  
16    2. "Traffic prosecutor" shall mean an attorney duly admitted to prac-  
17    tice law in the state of New York who, having been appointed and either

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

1 hired or retained pursuant to section three hundred seventy-four of this  
2 article, has the responsibility of prosecuting any traffic and parking  
3 infractions returnable before the Nassau county district court OR THE  
4 SUFFOLK COUNTY DISTRICT COURT pursuant to the jurisdictional limitations  
5 of section three hundred seventy-one of this article.

6 S 3. Subdivisions 2, 3 and 4 of section 371 of the general municipal  
7 law, subdivision 2 as amended by section 21 of part G of chapter 58 of  
8 the laws of 2012, subdivision 3 as amended by chapter 496 of the laws of  
9 1990 and subdivision 4 as amended by chapter 465 of the laws of 1998,  
10 are amended to read as follows:

11 2. The Nassau county traffic and parking violations agency, as estab-  
12 lished, may be authorized to assist the Nassau county district court,  
13 AND THE SUFFOLK COUNTY TRAFFIC AND PARKING VIOLATIONS AGENCY, AS ESTAB-  
14 LISHED, MAY BE AUTHORIZED TO ASSIST THE SUFFOLK COUNTY DISTRICT COURT,  
15 in the disposition and administration of infractions of traffic and  
16 parking laws, ordinances, rules and regulations and the liability of  
17 owners for violations of subdivision (d) of section eleven hundred elev-  
18 en of the vehicle and traffic law in accordance with section eleven  
19 hundred eleven-b of such law, except that such [agency] AGENCIES shall  
20 not have jurisdiction over (a) the traffic infraction defined under  
21 subdivision one of section eleven hundred ninety-two of the vehicle and  
22 traffic law; (b) the traffic infraction defined under subdivision five  
23 of section eleven hundred ninety-two of the vehicle and traffic law; (c)  
24 the violation defined under paragraph (b) of subdivision four of section  
25 fourteen-f of the transportation law and the violation defined under  
26 clause (b) of subparagraph (iii) of paragraph c of subdivision two of  
27 section one hundred forty of the transportation law; (d) the traffic  
28 infraction defined under section three hundred ninety-seven-a of the  
29 vehicle and traffic law and the traffic infraction defined under subdi-  
30 vision (g) of section eleven hundred eighty of the vehicle and traffic  
31 law; (e) any misdemeanor or felony; or (f) any offense that is part of  
32 the same criminal transaction, as that term is defined in subdivision  
33 two of section 40.10 of the criminal procedure law, as a violation of  
34 subdivision one of section eleven hundred ninety-two of the vehicle and  
35 traffic law, a violation of subdivision five of section eleven hundred  
36 ninety-two of the vehicle and traffic law, a violation of paragraph (b)  
37 of subdivision four of section fourteen-f of the transportation law, a  
38 violation of clause (b) of subparagraph (iii) of paragraph [d] C of  
39 subdivision two of section one hundred forty of the transportation law,  
40 a violation of section three hundred ninety-seven-a of the vehicle and  
41 traffic law, a violation of subdivision (g) of section eleven hundred  
42 eighty of the vehicle and traffic law or any misdemeanor or felony.

43 3. A person charged with an infraction which shall be disposed of by  
44 either a traffic violations bureau [or], the Nassau county traffic and  
45 parking violations agency, OR THE SUFFOLK COUNTY TRAFFIC AND PARKING  
46 VIOLATIONS AGENCY may be permitted to answer, within a specified time,  
47 at the traffic violations bureau, [and] in Nassau county at the traffic  
48 and parking violations agency AND IN SUFFOLK COUNTY AT THE TRAFFIC AND  
49 PARKING VIOLATIONS AGENCY, either in person or by written power of  
50 attorney in such form as may be prescribed in the ordinance or local law  
51 creating the bureau or agency, by paying a prescribed fine and, in writ-  
52 ing, waiving a hearing in court, pleading guilty to the charge or admit-  
53 ting liability as an owner for the violation of subdivision (d) of  
54 section eleven hundred eleven of the vehicle and traffic law, as the  
55 case may be, and authorizing the person in charge of the bureau or agen-  
56 cy to enter such a plea or admission and accept payment of said fine.

1 Acceptance of the prescribed fine and power of attorney by the bureau or  
2 agency shall be deemed complete satisfaction for the violation or of the  
3 liability, and the violator or owner liable for a violation of subdivi-  
4 sion (d) of section eleven hundred eleven of the vehicle and traffic law  
5 shall be given a receipt which so states. If a person charged with a  
6 traffic violation does not answer as hereinbefore prescribed, within a  
7 designated time, the bureau or agency may cause a complaint to be  
8 entered against him forthwith and a warrant to be issued for his arrest  
9 and appearance before the court, such summons to be predicated upon the  
10 personal service of said summons upon the person charged with the  
11 infraction. Any person who shall have been, within the preceding twelve  
12 months, guilty of a number of parking violations in excess of such maxi-  
13 mum number as may be designated by the court, or of three or more  
14 violations other than parking violations, shall not be permitted to  
15 appear and answer to a subsequent violation at the traffic violations  
16 bureau or agency, but must appear in court at a time specified by the  
17 bureau or agency. Such bureau or agency shall not be authorized to  
18 deprive a person of his right to counsel or to prevent him from exercis-  
19 ing his right to appear in court to answer to, explain, or defend any  
20 charge of a violation of any traffic law, ordinance, rule or regulation.

21 4. Notwithstanding any inconsistent provision of law, fines, penalties  
22 and forfeitures collected by the Nassau county OR SUFFOLK COUNTY traffic  
23 and parking violations agency shall be distributed as provided in  
24 section eighteen hundred three of the vehicle and traffic law. All  
25 fines, penalties and forfeitures for violations adjudicated by the  
26 Nassau county OR SUFFOLK COUNTY traffic and parking violations agency  
27 pursuant to subdivision two of this section, with the exception of park-  
28 ing violations, and except as provided in subdivision three of section  
29 ninety-nine-a of the state finance law, shall be paid by such [agency]  
30 AGENCIES to the state comptroller within the first ten days of the month  
31 following collection. Each such payment shall be accompanied by a true  
32 and complete report in such form and detail as the comptroller shall  
33 prescribe.

34 S 4. Section 374 of the general municipal law, as amended by chapter  
35 527 of the laws of 2002, is amended to read as follows:

36 S 374. Traffic prosecutor selection and oversight. (a) The executive  
37 director of the Nassau county traffic and parking violations agency, AND  
38 THE EXECUTIVE DIRECTOR OF THE SUFFOLK COUNTY TRAFFIC AND PARKING  
39 VIOLATIONS AGENCY, appointed pursuant to subdivision (b) of this  
40 section, shall select and may contract with or hire one or more persons  
41 who are attorneys, duly admitted to the practice of law in New York  
42 state for the prosecution of any traffic and parking infraction, except  
43 those described in paragraphs (a), (b), (c), (d), (e) and (f) of subdi-  
44 vision two of section three hundred seventy-one of this article, to be  
45 heard, tried or otherwise disposed of by the district court of Nassau  
46 county IN THE CASE OF AN ATTORNEY SELECTED BY THE NASSAU COUNTY EXECU-  
47 TIVE DIRECTOR, OR BY THE DISTRICT COURT OF SUFFOLK COUNTY, IN THE CASE  
48 OF AN ATTORNEY SELECTED BY THE SUFFOLK COUNTY EXECUTIVE DIRECTOR. Such  
49 persons shall be known as "traffic prosecutors", as that term is defined  
50 in section three hundred seventy-a of this article. Traffic prosecutors  
51 shall have the same power as a district attorney would otherwise have in  
52 the prosecution of any traffic or parking infraction which may, pursuant  
53 to the jurisdictional provisions of section three hundred seventy-one of  
54 this article, be prosecuted before the district court of Nassau county  
55 OR THE DISTRICT COURT OF SUFFOLK COUNTY, IF THE TRAFFIC VIOLATION  
56 OCCURRED IN SUFFOLK COUNTY. The executive director shall give active

consideration to requiring that such traffic prosecutors serve on a full-time basis. Traffic prosecutors are prohibited from appearing in any capacity other than as a traffic prosecutor in any part of the Nassau county district court OR THE SUFFOLK COUNTY DISTRICT COURT, IF THE TRAFFIC VIOLATION OCCURRED IN SUFFOLK COUNTY on any matter relating to traffic or parking violations and are further prohibited from appearing in any capacity other than as a traffic prosecutor in any other court or administrative tribunal on any matter relating to traffic or parking violations.

(b) The county executive of the county of Nassau shall appoint a person to serve as the executive director of the Nassau county traffic and parking violations agency subject to the confirmation of the county legislature of the county of Nassau. THE COUNTY EXECUTIVE OF THE COUNTY OF SUFFOLK SHALL APPOINT A PERSON TO SERVE AS THE EXECUTIVE DIRECTOR OF THE SUFFOLK COUNTY TRAFFIC AND PARKING VIOLATIONS AGENCY SUBJECT TO THE CONFIRMATION OF THE COUNTY LEGISLATURE OF THE COUNTY OF SUFFOLK. The executive director shall be responsible for the oversight and administration of the agency. The executive director OF NASSAU COUNTY is prohibited from appearing in any capacity in any part of the Nassau county district court AND THE EXECUTIVE DIRECTOR OF SUFFOLK COUNTY IS PROHIBITED FROM APPEARING IN ANY CAPACITY IN ANY PART OF THE SUFFOLK COUNTY DISTRICT COURT on any matter relating to traffic or parking violations and is further prohibited from appearing in any capacity in any other court or administrative tribunal on any matter relating to traffic or parking violations.

(c) It shall be a misdemeanor for the executive director, any traffic prosecutor or any judicial hearing officer assigned to hear traffic or parking violations cases pursuant to section one thousand six hundred ninety of the vehicle and traffic law to establish any quota of traffic violation convictions which must be obtained by any traffic prosecutor or judicial hearing officer. Nothing contained herein shall prohibit the taking of any job action against a traffic prosecutor or judicial hearing officer for failure to satisfactorily perform such prosecutor's or officer's job assignment except that the employment productivity of such prosecutor or officer shall not be measured by the attainment or nonattainment of any conviction quota. For the purposes of this section a conviction quota shall mean a specific number of convictions which must be obtained within a specific time period.

(d) The legislature of the county of Nassau may appropriate those monies which, in the legislature's sole discretion, are necessary for the compensation of those persons selected to serve as executive director and traffic prosecutors and to cover all other expenses associated with the administration of the Nassau county traffic and parking violations agency.

(E) THE LEGISLATURE OF THE COUNTY OF SUFFOLK MAY APPROPRIATE THOSE MONIES WHICH, IN THE LEGISLATURE'S SOLE DISCRETION, ARE NECESSARY FOR THE COMPENSATION OF THOSE PERSONS SELECTED TO SERVE AS EXECUTIVE DIRECTOR AND TRAFFIC PROSECUTORS AND TO COVER ALL OTHER EXPENSES ASSOCIATED WITH THE ADMINISTRATION OF THE SUFFOLK COUNTY TRAFFIC AND PARKING VIOLATIONS AGENCY.

S 5. The article heading of article 44-A of the vehicle and traffic law, as added by chapter 496 of the laws of 1990, is amended to read as follows:

AUTHORITY OF THE NASSAU AND SUFFOLK  
COUNTY DISTRICT COURT  
JUDICIAL HEARING [OFFICER] OFFICERS

1 S 6. The section heading, subdivision 1 and subdivision 4 of section  
2 1690 of the vehicle and traffic law, the section heading and subdivision  
3 4 as added by chapter 496 of the laws of 1990, subdivision 1 as amended  
4 by chapter 420 of the laws of 2001, and the opening paragraph of subdi-  
5 vision 1 as amended by section 20 of part G of chapter 58 of the laws of  
6 2012, are amended to read as follows:

7 Authority of the Nassau county AND SUFFOLK COUNTY district court judi-  
8 cial hearing [officer] OFFICERS. 1. Notwithstanding any other provision  
9 of law, where the trial of a traffic or parking infraction is authorized  
10 or required to be tried before the Nassau county district court OR  
11 SUFFOLK COUNTY DISTRICT COURT, and such traffic and parking infraction  
12 does not constitute a misdemeanor, felony, violation of subdivision one  
13 of section eleven hundred ninety-two, subdivision five of section eleven  
14 hundred ninety-two, section three hundred ninety-seven-a, or subdivision  
15 (g) of section eleven hundred eighty of this chapter, or a violation of  
16 paragraph (b) of subdivision four of section fourteen-f or clause (b) of  
17 subparagraph (iii) of paragraph c of subdivision two of section one  
18 hundred forty of the transportation law, or any offense that is part of  
19 the same criminal transaction, as that term is defined in subdivision  
20 two of section 40.10 of the criminal procedure law, as such a misdemea-  
21 nor, felony, violation of subdivision one of section eleven hundred  
22 ninety-two, subdivision two of section eleven hundred ninety-two,  
23 section three hundred ninety-seven-a or subdivision (g) of section elev-  
24 en hundred eighty of this chapter, or a violation of paragraph (b) of  
25 subdivision four of section fourteen-f or clause (b) of subparagraph  
26 (iii) of paragraph d of subdivision two of section one hundred forty of  
27 the transportation law, the administrative judge of the county in which  
28 the trial court is located, may assign judicial hearing officers to  
29 conduct such a trial. Such judicial hearing officers shall be village  
30 court justices or retired judges either of which shall have at least two  
31 years of experience conducting trials of traffic and parking violations  
32 cases and shall be admitted to practice law in this state. Where such  
33 assignment is made, the judicial hearing officer shall entertain the  
34 case in the same manner as a court and shall:

- 35 (a) determine all questions of law;
- 36 (b) act as the exclusive trier of all issues of fact;
- 37 (c) render a verdict;
- 38 (d) impose sentence; or
- 39 (e) dispose of the case in any manner provided by law.

40 4. Judicial hearing officers are prohibited from appearing in any  
41 capacity other than as a judicial hearing officer in any part of the  
42 Nassau county OR SUFFOLK COUNTY district court on any matter relating to  
43 traffic or parking violations and are further prohibited from appearing  
44 in any capacity other than as a judicial hearing officer in any other  
45 court or administrative tribunal on any matter relating to traffic or  
46 parking violations.

47 S 7. Subdivision 5 of section 350.20 of the criminal procedure law, as  
48 added by chapter 496 of the laws of 1990, is amended to read as follows:

49 5. Notwithstanding the provisions of subdivision one of this section,  
50 FOR ALL PROCEEDINGS BEFORE THE DISTRICT COURT OF NASSAU COUNTY the  
51 administrative judge of Nassau county may, AND FOR ALL PROCEEDINGS  
52 BEFORE THE DISTRICT COURT OF SUFFOLK COUNTY, THE ADMINISTRATIVE JUDGE OF  
53 SUFFOLK COUNTY MAY, without the consent of the parties, assign matters  
54 involving traffic and parking infractions except those described in  
55 paragraphs (a), (b), (c), (d), (e) and (f) of subdivision two of section  
56 three hundred seventy-one of the general municipal law to a judicial

1 hearing officer [for all proceedings before the district court of Nassau  
2 county] in accordance with the provisions of section sixteen hundred  
3 ninety of the vehicle and traffic law.

4 S 8. Subdivision 1 of section 225 of the vehicle and traffic law, as  
5 amended by chapter 173 of the laws of 1990, is amended to read as  
6 follows:

7 1. Notwithstanding any inconsistent provision of law, all violations  
8 of this chapter or of a law, ordinance, order, rule or regulation relat-  
9 ing to traffic, except parking, standing, stopping or pedestrian  
10 offenses, which occur within a city having a population of two hundred  
11 thousand or more in which administrative tribunals have heretofore been  
12 established, [or within that portion of Suffolk county for which a  
13 district court has been established,] and which are classified as traf-  
14 fic infractions, may be heard and determined pursuant to the regulations  
15 of the commissioner as provided in this article. Whenever a crime and a  
16 traffic infraction arise out of the same transaction or occurrence, a  
17 charge alleging both offenses may be made returnable before the court  
18 having jurisdiction over the crime. Nothing herein provided shall be  
19 construed to prevent a court, having jurisdiction over a criminal charge  
20 relating to traffic or a traffic infraction, from lawfully entering a  
21 judgment of conviction, whether or not based on a plea of guilty, for  
22 any offense classified as a traffic infraction.

23 S 9. Subdivision 3 of section 99-a of the state finance law, as  
24 amended by chapter 465 of the laws of 1998, is amended to read as  
25 follows:

26 3. The comptroller is hereby authorized to implement alternative  
27 procedures, including guidelines in conjunction therewith, relating to  
28 the remittance of fines, penalties, forfeitures and other moneys by town  
29 and village justice courts, and by the Nassau [county] AND SUFFOLK COUN-  
30 TIES traffic and parking violations [agency] AGENCIES, to the justice  
31 court fund and for the distribution of such moneys by the justice court  
32 fund. Notwithstanding any law to the contrary, the alternative proce-  
33 dures utilized may include:

34 a. electronic funds transfer;

35 b. remittance of funds by the justice court to the chief fiscal office  
36 of the town or village, or, in the case of the Nassau [county] AND  
37 SUFFOLK COUNTIES traffic and parking violations [agency] AGENCIES, to  
38 the county treasurer, for distribution in accordance with instructions  
39 by the comptroller; and/or

40 c. monthly, rather than quarterly, distribution of funds.

41 The comptroller may require such reporting and record keeping as he or  
42 she deems necessary to ensure the proper distribution of moneys in  
43 accordance with applicable laws. A justice court or the Nassau [county]  
44 AND SUFFOLK COUNTIES traffic and parking violations [bureau] AGENCIES  
45 may utilize these procedures only when permitted by the comptroller, and  
46 such permission, once given, may subsequently be withdrawn by the comp-  
47 troller on due notice.

48 S 10. Subdivision 2 of section 99-1 of the general municipal law, as  
49 added by chapter 261 of the laws of 1993, is amended to read as follows:

50 2. The [county] COUNTIES of Nassau AND SUFFOLK shall be entitled to  
51 receive the amounts set forth in subdivision one of this section for the  
52 services of [the Nassau] THEIR RESPECTIVE county traffic and parking  
53 violations agency.

54 S 11. Notwithstanding any provision of law to the contrary no non-ju-  
55 dicial employee of the Suffolk county district court shall suffer a  
56 diminution of salary, employment status or rights solely by operation of

1 this act provided that nothing herein shall limit the legal authority of  
2 the chief administrator of the courts to supervise the administration  
3 and operation of the unified court system.

4 S 12. The administrative judge of Suffolk county shall issue on an  
5 annual basis, beginning eighteen months following the creation of the  
6 Suffolk county traffic and parking violations agency pursuant to Suffolk  
7 county local law, a report detailing the progress, development and oper-  
8 ations of the traffic and parking violations agency. The report shall be  
9 provided to the governor, the temporary president of the senate, the  
10 speaker of the assembly, the Suffolk county executive, the legislature  
11 of the county of Suffolk, the presiding judge of the Suffolk county  
12 district court and the Suffolk county district attorney.

13 S 13. This act shall take effect immediately; provided, however, the  
14 amendments to section 370-a, subdivisions 2, 3 and 4 of section 371 and  
15 section 374 of the general municipal law, the article heading of article  
16 44-A and the section heading and subdivisions 1 and 4 of section 1690 of  
17 the vehicle and traffic law and subdivision 5 of section 350.20 of the  
18 criminal procedure law, as made by sections two, three, four, five, six  
19 and seven of this act, respectively, shall take effect only in the event  
20 that the county of Suffolk shall have by local law established a traffic  
21 and parking violations agency; provided that the legislature of the  
22 county of Suffolk shall notify the legislative bill drafting commission  
23 upon the occurrence of the enactment of the legislation provided for in  
24 sections two, three, four, five, six and seven of this act in order that  
25 the commission may maintain an accurate and timely effective data base  
26 of the official text of the laws of the state of New York in furtherance  
27 of effectuating the provisions of section 44 of the legislative law and  
28 section 70-b of the public officers law; provided, however, that the  
29 amendments to section 371 of the general municipal law made by section  
30 three of this act shall not affect the expiration of such section and  
31 shall be deemed to expire therewith; and provided that the amendments to  
32 subdivision 2 of section 99-1 of the general municipal law made by  
33 section ten of this act shall take effect on the same date as the rever-  
34 sion of subdivision 2 of section 99-1 of the general municipal law as  
35 provided in section 6 of chapter 382 of the laws of 2011, as amended.