

S. 2812

A. 4012

S E N A T E - A S S E M B L Y

February 1, 2011

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IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means

AN ACT relating to constituting chapter 18-A of the consolidated laws in relation to financial regulation; to amend the insurance law, the banking law, the executive law, the education law, the energy law, the state technology law, the real property law, the general business law, the public authorities law, the public health law, the public service law, the New York state defense emergency act, the state finance law, the criminal procedure law, the tax law, and chapter 784 of the laws of 1951, constituting the New York state defense emergency act, in relation to the creation of the department of financial regulation; to amend chapter 322 of the laws of 2007, amending the banking law relating to the power of banks, private bankers, trust companies, savings banks, savings and loan associations, credit unions and foreign banking corporations to exercise the rights of national banks, federal savings associations, federal credit unions and federal branches and agencies of foreign banks, in relation to the effectiveness of certain provisions of such chapter; to transfer certain authority with respect to consumer protection from the executive law to the department of financial regulation; to amend chapter 3 of the laws of 1997, amending the banking law and the insurance law relating to authorizing the banking board to permit banks and trust companies to exercise the rights of national banks, in relation to making certain provisions of such chapter permanent and to repeal certain provisions of the banking law, the insurance law, the executive law, the agriculture and markets law, the general business law, the tax law, the criminal procedure law and chapter 610 of the laws of 1995, amending the insurance law relating to investments relating to financial regulation and to making technical corrections (Part A); to amend the executive law, the labor law, the public health law, the social services law, the criminal procedure law, the family court act, the correction law and the education law, in relation to merging the office of victims services, state

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

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commission of correction and office for the prevention of domestic violence into the division of criminal justice services; to repeal section 576 of the executive law relating to the batterers project; and to repeal subdivision 3-a of section 844-b of the executive law, relating to reports of the New York state committee for the coordination of police services to elderly persons (Part B); to amend the correction law and the executive law, in relation to merging the department of correctional services and division of parole into the department of corrections and community supervision; and repealing certain provisions of the correction law relating thereto and article 12-B of the executive law relating to the state division of parole (Subpart A); and to amend the correction law, abandoned property law, alcoholic beverage control law, civil practice law and rules, civil rights law, civil service law, county law, court of claims act, criminal procedure law, education law, election law, environmental conservation law, executive law, facilities development corporation act, family court act, general business law, general municipal law, labor law, legislative law, mental hygiene law, municipal home rule law, penal law, public buildings law, public health law, public officers law, railroad law, retirement and social security law, social services law, state administrative procedure act, state finance law, state technology law, surrogate's court procedure act, tax law, town law, vehicle and traffic law, and the workers' compensation law, in relation to making conforming technical changes; and to repeal certain provisions of the correction law relating thereto (Subpart B) (Part C); and to amend the New York state urban development corporation act, in relation to the elimination of the New York state foundation for science, technology and innovation and the transfer of functions to the New York state urban development corporation, and to repeal certain provisions of the public authorities law relating thereto (Part D)

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

1 Section 1. This act enacts into law major components of legislation  
2 which are necessary to implement the state fiscal plan for the 2011-2012  
3 state fiscal year. Each component is wholly contained within a Part  
4 identified as Parts A through D. The effective date for each particular  
5 provision contained within such Part is set forth in the last section of  
6 such Part. Any provision in any section contained within a Part, includ-  
7 ing the effective date of the Part, which makes a reference to a section  
8 "of this act", when used in connection with that particular component,  
9 shall be deemed to mean and refer to the corresponding section of the  
10 Part in which it is found. Section three of this act sets forth the  
11 general effective date of this act.

12 PART A

13 Section 1. Chapter 18-A of the consolidated laws is added to read as  
14 follows:

15 CHAPTER 18-A OF THE CONSOLIDATED LAWS  
16 FINANCIAL REGULATION AND PROTECTION LAW  
17 ARTICLE I  
18 GENERAL PROVISIONS

1 Section 101. Short title.

2 102. Department of financial regulation.

3 103. Explanation of order of provisions.

4 104. Definitions.

5 S 101. Short title. This chapter shall be known and may be cited as  
6 the "financial regulation and protection law".

7 S 102. Department of financial regulation. The legislature hereby  
8 declares that the purpose of this chapter is to consolidate financial  
9 regulation and consumer and investor protection, including enforcement  
10 of the insurance and banking laws, under the auspices of a single state  
11 agency to be known as the "department of financial regulation".

12 S 103. Explanation of order of provisions. In this financial regu-  
13 lation law, the provisions have been divided in descending order of  
14 application, with illustrations, as follows:

15 Article 1

16 Section 101

17 Subsection (a)

18 Paragraph (1)

19 Subparagraph (A)

20 Item (i)

21 Clause (I)

22 Subitem (aa)

23 Subclause (aaa)

24 S 104. Definitions. (a) In this chapter, unless the context otherwise  
25 requires:

26 (1) "Department" shall mean the department of financial regulation.

27 (2) "Derivative" shall mean a financial instrument that derives its  
28 value from other financial instruments, including traditional securi-  
29 ties, assets or market indices.

30 (3) "Financial fraud" shall mean any fraud, intentional misrepresen-  
31 tation or deceptive act or practice involving a financial product or  
32 service or involving any person offering to provide or providing finan-  
33 cial products or services, including (A) any fraudulent insurance act or  
34 fraudulent life settlement act, as those terms are defined by the insur-  
35 ance law; (B) any deceptive act or practice or false advertising as  
36 those terms are interpreted under article twenty-two-A of the general  
37 business law; (C) any fraud as that term is interpreted under the bank-  
38 ing law; (D) any activity that violates article one hundred fifty-five,  
39 one hundred seventy, one hundred seventy-five, one hundred seventy-six,  
40 one hundred eighty, one hundred eighty-five, one hundred eighty-seven,  
41 one hundred ninety, two hundred, two hundred ten, four hundred sixty or  
42 four hundred seventy of the penal law, or three hundred fifty-two or  
43 three hundred fifty-three of the general business law; (E) any criminal  
44 activity involving a financial product or service or involving any indi-  
45 vidual or other entity offering to provide or providing financial  
46 products or services; or (F) any act or omission in violation of federal  
47 or state fair lending laws.

48 (4) "Financial product or service" shall mean (A) any product or  
49 service offered or provided by any person regulated or required to be  
50 regulated by the superintendent pursuant to this chapter, the banking  
51 law, the insurance law or other laws, or otherwise subject to the inves-  
52 tigatory or enforcement authority of the superintendent under this chap-  
53 ter, the insurance law, the banking law or other laws; (B) any invest-  
54 ment, credit, debt, lien, deposit, derivative, money management device;  
55 and (C) any contract involving any of the foregoing.

(5) "Person" shall mean any individual, partnership, corporation, association or any other entity.

(6) "Regulated person" shall mean any person operating under a license, registration, certificate or authorization, or authorized, accredited, chartered or incorporated or possessing other similar status under the insurance law or the banking law.

(7) "Superintendent" shall mean the superintendent of financial regulation of this state.

(b) Acts or practices "involving" a financial product or service include acts or practices that relate to: (1) a consumer's financial obligations; (2) the balance of a consumer's account; (3) a consumer's credit; (4) the leasing or financing of a purchase by a consumer; (5) stored value cards and gift certificates; (6) rebates; (7) a consumer's financial and personally identifiable information and (8) sweepstakes.

(c) Whenever the terms "include", "including" or terms of similar import appear in this chapter, unless the context requires otherwise, such terms shall not be construed to imply the exclusion of any person, class or thing not specifically included.

(d) A reference in this chapter to any other law or statute of this state, or of any other jurisdiction, means such law or statute as amended to the effective date of this chapter, and unless the context otherwise requires, as amended thereafter.

## ARTICLE II

### ORGANIZATION OF THE DEPARTMENT OF FINANCIAL REGULATION

Section 201. Declaration of policy.

202. Superintendent.

203. Deputies; employees.

204. Offices of the department.

205. Bureaus.

206. Assessments to defray operating expenses of the department.

S 201. Declaration of policy. (a) It is the intent of the legislature that the superintendent shall supervise the business of, and the persons providing, financial products and services, including any persons subject to the provisions of the insurance law and the banking law.

(b) The superintendent shall take such actions as the superintendent believes necessary to:

(1) foster the growth of the financial industry in New York through judicious regulation and vigilant supervision;

(2) ensure the continued sound and prudent conduct of the providers of financial products and services;

(3) ensure fair, timely and equitable fulfillment of the financial obligations of such providers;

(4) protect users of financial products and services from financially impaired or insolvent providers of such services;

(5) encourage high standards of honesty, transparency, fair business practices and public responsibility;

(6) eliminate financial fraud, other criminal abuse and unethical conduct in the industry; and

(7) educate and protect users of financial products and services and ensure that users are provided with timely and understandable information to make responsible decisions about financial products and services.

S 202. Superintendent. (a) The head of the department shall be the superintendent of financial regulation, who shall be appointed by the governor, by and with the advice and consent of the senate, and who shall hold office until the end of the term of the governor by whom the

1 superintendent was appointed and until the superintendent's successor is  
2 appointed and qualified. The superintendent shall possess the rights,  
3 powers, and duties, in connection with financial regulation and  
4 protection in this state, expressed or reasonably implied by this chap-  
5 ter or any other applicable law of this state.

6 (b) The superintendent may, in the superintendent's discretion, desig-  
7 nate one of the superintendent's deputies to act as superintendent  
8 during the superintendent's absence or inability to act. If the office  
9 of superintendent is vacant, or if the superintendent's absence or  
10 inability to act continues for a period of more than thirty successive  
11 days, the governor may designate an individual to act as superintendent  
12 until the filling of the vacancy or the return or recovery of the super-  
13 intendent.

14 (c) Whenever in this chapter, the banking law, the insurance law or  
15 any other law the superintendent is authorized but not required to take  
16 any action or the superintendent's approval is required as a condition  
17 precedent to the doing of any act, the taking of such action and the  
18 giving of such approval shall be within the superintendent's sound  
19 discretion. In taking any action with respect to any banking organiza-  
20 tion, and in approving or disapproving any application made by a banking  
21 organization, the superintendent shall give due consideration to the  
22 policy of the state of New York as set forth in section ten of the bank-  
23 ing law.

24 S 203. Deputies; employees. (a) The superintendent may appoint one or  
25 more first deputies and such other deputies as the superintendent deems  
26 necessary to fulfill the responsibilities of the department. The super-  
27 intendent may remove at will any deputy appointed by the superintendent,  
28 except as may be otherwise provided by the civil service law.

29 (b) The superintendent may appoint and remove from time to time, in  
30 accordance with law and any applicable rules of the state civil service  
31 commission, such employees, under such titles as the superintendent may  
32 assign, as the superintendent may deem necessary for the efficient  
33 administration of the department. They shall perform such duties as the  
34 superintendent shall assign to them. The compensation of such employees  
35 shall be determined by the superintendent in accordance with law.

36 (c) Any action that the superintendent is required or authorized here-  
37 inafter by this chapter, the banking law, the insurance law or other  
38 laws to take may be taken by a deputy to whom the duty of taking such  
39 action has been delegated or assigned by the superintendent.

40 S 204. Offices of the department. Suitable offices for conducting the  
41 business of the department shall be located in the cities of Albany and  
42 New York, and such other cities as the superintendent deems necessary.  
43 Necessary additional office, filing and storage space that cannot be  
44 supplied by the state commissioner of general services may be leased by  
45 the superintendent, and rent or expenses incurred pursuant to any such  
46 lease shall, unless otherwise provided for, be paid on the certificate  
47 of the superintendent and the audit and warrant of the comptroller.

48 S 205. Bureaus. The superintendent may establish such bureaus, divi-  
49 sions, and other units within the department as may be necessary for the  
50 administration and operation of the department and the proper exercise  
51 of its powers and the performance of its duties, under this chapter, and  
52 may, from time to time, consolidate or abolish such divisions, bureaus  
53 or other units within the department. Notwithstanding any inconsistent  
54 provision of law, the superintendent may determine the official func-  
55 tions of each division, bureau, or other unit within the department.  
56 There shall be a head of each bureau, division or other unit to be

1 appointed by the superintendent, who shall serve at the pleasure of the  
2 superintendent, except as may be otherwise provided by the civil service  
3 law. The heads of bureaus, divisions or units in the banking and insur-  
4 ance departments who are in office when this chapter takes effect shall  
5 continue in office at the pleasure of the superintendent, except as may  
6 be otherwise provided by the civil service law.

7 S 206. Assessments to defray operating expenses of the department.

8 (a) For each fiscal year commencing on or after April first, two thou-  
9 sand twelve, assessments to defray operating expenses, including all  
10 direct and indirect costs, of the department shall be assessed by the  
11 superintendent in such proportions as the superintendent shall deem just  
12 and reasonable upon all domestic insurers and all licensed United States  
13 branches of alien insurers domiciled in this state within the meaning of  
14 the insurance law and upon any regulated person under the banking law,  
15 other than mortgage loan originators, except as otherwise provided by  
16 sections one hundred fifty-one and two hundred twenty-eight of the work-  
17 ers' compensation law and by section sixty of the volunteer firefight-  
18 ers' benefit law. The provisions of this section shall not be applicable  
19 to a bank holding company, as that term is defined in article three-A of  
20 the banking law. Persons regulated under the banking law will not be  
21 assessed for expenses that the superintendent deems to benefit solely  
22 persons regulated under the insurance law, and persons regulated under  
23 the insurance law will not be assessed for expenses that the superinten-  
24 dent deems to benefit solely persons regulated under the banking law.

25 (b) For each fiscal year commencing on or after April first, two thou-  
26 sand twelve, a partial payment shall be made by each entity subject to  
27 this section in a sum equal to twenty-five per centum, or such other per  
28 centum or per centums as the superintendent may prescribe, of the annual  
29 expenses assessed upon it for the fiscal year as estimated by the super-  
30 intendent. Such payment shall be made on March tenth of the preceding  
31 fiscal year and on June tenth, September tenth and December tenth of  
32 each year, or at such other dates as the superintendent may prescribe.  
33 The balance of assessments for the fiscal year shall be paid upon deter-  
34 mination of the actual amount due in accordance with the provisions of  
35 this section. Any overpayment of annual assessment resulting from  
36 complying with the requirements of this subsection shall be applied  
37 against the next estimated quarterly assessment, if less than or equal  
38 to such amount, with any excess refunded to the assessed. As an alterna-  
39 tive, if the estimated annual assessment for the fiscal year is equal to  
40 or less than the annual minimum assessment set by the superintendent,  
41 the superintendent may require full payment to be made on or before  
42 September thirtieth or such other date of the fiscal year as the super-  
43 intendent may determine.

44 (c) The expenses incurred in making examinations of, or for special  
45 services performed on account of, any bank holding company, as that term  
46 is defined in the banking law, or any regulated person under the banking  
47 law, shall be assessed provided, however, that the superintendent, in  
48 the superintendent's sole discretion, may determine, with respect to  
49 expenses incurred in the making of any specific examination or investi-  
50 gation, or the performing of any special services, that any such expense  
51 shall be assessed against and paid by the bank holding company or any  
52 other regulated person under the banking law for which they were  
53 incurred or performed.

54 (d) The expenses incurred in making an examination of any affiliate of  
55 a banking organization pursuant to the banking law, and the expenses  
56 incurred in making an examination, pursuant to the banking law, of a

1 non-banking subsidiary of a corporation or any other entity that is an  
2 affiliate of a banking organization, shall be assessed against and paid  
3 by such banking organization if the affiliate cannot be assessed pursu-  
4 ant to the provisions of the banking law.

5 (e) The superintendent may, in the superintendent's sole discretion,  
6 upon notice, suspend the license, registration, certificate or authority  
7 (for purposes of this section, a license) granted to any person pursuant  
8 to this chapter, the banking law or insurance law, upon the failure of  
9 such person to make any payment required by this section within thirty  
10 days after the due date. If the superintendent has suspended any such  
11 license, such license may be reinstated if the superintendent determines  
12 that such person has made any such payments within ninety days after the  
13 date of such notice of suspension. Otherwise, unless the superinten-  
14 dent, in the superintendent's sole discretion, has extended such suspen-  
15 sion, the license of such person shall be deemed to be automatically  
16 terminated by operation of law at the close of business on such nineti-  
17 eth day.

18 (f) (1) The expenses of every examination of the affairs of any regu-  
19 lated person subject to the insurance law, including an appraisal of  
20 such regulated person's real property or of any real property on which  
21 such regulated person holds a mortgage, made pursuant to the authority  
22 conferred by any provision of this chapter, the insurance law or the  
23 banking law, shall be borne and paid by the regulated person so exam-  
24 ined, but the superintendent, with the approval of the comptroller, may  
25 in the superintendent's discretion for good cause shown remit such  
26 charges.

27 (2) (A) For any such examination by the superintendent or a deputy  
28 superintendent personally, the charge made shall be only for necessary  
29 traveling expenses and other actual expenses. In all other cases the  
30 expenses of examination shall also include reimbursement for the compen-  
31 sation paid for the services of persons employed by the superintendent  
32 or by the superintendent's authority to make such examination or  
33 appraisal.

34 (B) Notwithstanding any provisions of this section to the contrary, in  
35 case of an examination or appraisal of a domestic insurer made within  
36 this state, the traveling and living expense of the person or persons  
37 making the examination shall be considered a cost of operation, as  
38 referred to in section three hundred thirty-two of the insurance law and  
39 not an expense of examination.

40 (3) All charges, including necessary traveling and other actual  
41 expenses, except as hereinabove provided, as audited by the comptroller  
42 and paid on the comptroller's warrant in the usual manner by the comp-  
43 troller to the person or persons making the examination or appraisal,  
44 shall be presented to the insurer, or other person whose duty it is to  
45 pay the same, in the form of a copy of the itemized bill therefor as  
46 certified and approved by the superintendent or by any deputy super-  
47 intendent or authorized employee of the department. Upon receiving such  
48 certified copy the insurer or other person whose duty it is to pay such  
49 charges shall pay the amount thereof to the superintendent, to be paid  
50 by the superintendent into the state treasury.

#### 51 ARTICLE III

#### 52 ADMINISTRATIVE AND PROCEDURAL PROVISIONS

- 53 Section 301. Powers of the superintendent.  
54 302. Regulations by superintendent.  
55 303. Orders of superintendent; when writing required.  
56 304. Notice; how given.

305. Hearings; conduct; findings and report.

306. Attendance of witnesses; production of documents and records.

307. Immunity from prosecution.

308. Judicial review of orders, regulations and decisions of superintendent.

309. Injunction to restrain violation of this chapter.

310. Certificates as evidence; affirmation of documents and testimony.

S 301. Powers of the superintendent. (a) The superintendent shall have such powers as are conferred upon the superintendent by this chapter, the banking law, the insurance law or any other law of this state. The superintendent shall have the power to conduct investigations, research, studies and analyses of matters affecting the interests of consumers of financial products and services, including tracking and monitoring complaints.

(b) The superintendent shall protect users of financial products and services, including:

(1) taking such actions as the superintendent deems necessary to educate and protect users of financial products and services;

(2) receiving complaints of consumers of financial products and services, and where appropriate (A) providing direct assistance to consumers and advocacy for consumer interests; (B) mediating the resolution of such complaints with providers of financial products and services; or (C) referring such complaints to the appropriate federal, state or local agency authorized by law for appropriate action on such complaints;

(3) studying the operation of laws and advising and making recommendations to the governor on matters affecting consumers of and investors in financial products and services and promoting and encouraging the protection of the legitimate interests of users of such financial products and services;

(4) establishing, in consultation with the office of cyber security and critical infrastructure coordination, a process by which victims of frauds, including identity theft and security breaches of financial and other personally identifiable data shall receive assistance and information to resolve complaints; and, in that regard, acting as a liaison between any victim of frauds including identity theft and security breaches, and any state agency, public authority, or any municipal department or agency, the division of state police, and county or municipal police departments, and any non-governmental entity, including consumer credit reporting agencies, to facilitate the victim obtaining such assistance and data as shall enable the identity theft program to carry out its duties to help consumers resolve the problems that have resulted from the identity theft;

(5) cooperating with and assisting the attorney general in the carrying out of the attorney general's legal enforcement responsibilities for the protection of consumers of and investors in financial products and services;

(6) initiating and encouraging consumer financial education programs, and disseminating materials to educate users of financial products and services; and

(7) cooperating with and assisting local governments and not-for-profits in the development of consumer protection measures with respect to financial products and services.

(c) The powers conferred upon the superintendent pursuant to this article with respect to financial products and services shall also apply to acts and practices involving financial products and services.

S 302. Regulations by superintendent. (a) The superintendent shall have the power to prescribe and from time to time withdraw or amend, in writing, rules and regulations and issue orders and guidance involving financial products and services, not inconsistent with the provisions of this chapter, the banking law, the insurance law and any other law in which the superintendent is given authority:

(1) effectuating any power, given to the superintendent under the provisions of this chapter, the insurance law, the banking law, or any other law to prescribe forms or make regulations;

(2) interpreting the provisions of this chapter, the insurance law, the banking law, or any other law; and

(3) governing the procedures to be followed in the practice of the department.

(b) Notwithstanding subsection (a) of this section, no such rules or regulations shall be promulgated with respect to any financial product or service that is regulated under the exclusive jurisdiction of a federal agency or authority or substantially regulated by any other state agency or state public authority, or if such rules or regulations would be preempted by federal law.

(c) The superintendent may promulgate a list of financial products and services excluded from regulation by the superintendent, provided that such exclusion shall not limit in any way the ability of the superintendent to take any actions with respect to financial fraud provided for in this chapter, the insurance law, the banking law or any other law.

S 303. Orders of superintendent; when writing required. Whenever by any provision of this chapter, the insurance law, the banking law or any other law the superintendent is authorized to grant any approval, authorization or permission or to make any other order or determination affecting any person subject to the provisions of this chapter, the insurance law, the banking law or any other law, such order or determination shall not be effective unless made in writing and signed by the superintendent.

S 304. Notice; how given. (a) (1) Whenever the provisions of this chapter, the insurance law, the banking law or any other law require the superintendent to give notice to any person of any action or proposed action, it shall be sufficient to give such notice in writing either by delivering it to such person or by depositing the same in the United States mail, postage prepaid, registered or certified, and addressed to the last known place of business of such person or if no such address is known to the superintendent, then to the residence address of such person. Notice to the public may be given with respect to any matter by providing such notice on the department's website or in any bulletin of the department required to be published at least weekly and to be made publicly available.

(2) Such notice shall refer to the provisions of this chapter, the insurance law, the banking law or any other law pursuant to which the action was taken or is proposed to be taken and the grounds therefor, but failure to make such reference shall not render the notice ineffective if the person to whom it is addressed is thereby or otherwise reasonably apprised of such grounds.

(3) If the person being notified is entitled to a hearing by the provisions of this chapter, the banking law, the insurance law or any other law, the notice of proposed action may specify a date on which

1 such action will be taken unless such person shall notify the super-  
2 intendent in writing that a hearing is demanded; in such case the super-  
3 intendent shall give such person a further notice of the time and place  
4 of such hearing in the manner stated above.

5 (b) Whenever the provisions of this chapter, the insurance law, the  
6 banking law, or any other law require the superintendent to give to any  
7 person a hearing on any proposed action, it shall be sufficient compli-  
8 ance with such requirement if the superintendent gives to such person:

9 (1) notice of the time and the place at which an opportunity for hear-  
10 ing will be afforded, and

11 (2) an opportunity for hearing, if the person appears at the time and  
12 place specified in the notice.

13 (c) Any hearing of which such notice is given may be adjourned from  
14 time to time without other notice than the announcement thereof at such  
15 hearing.

16 (d) Whenever any person is entitled to a hearing by the provisions of  
17 this chapter, the insurance law, the banking law, or any other law  
18 before any proposed action is taken, the notice of such proposed action  
19 may, if the superintendent deems it expedient, be in the form of a  
20 notice to show cause stating that such proposed action may be taken  
21 unless such person shows cause at a hearing to be held at a time and  
22 place specified in such notice, why such proposed action should not be  
23 taken.

24 (e) The statement of any regular salaried employee of the department  
25 of financial regulation, subscribed and affirmed by such employee as  
26 true under the penalties of perjury, stating facts which show that any  
27 notice referred to in this section has been delivered or mailed as  
28 hereinbefore provided, shall be presumptive evidence that such notice  
29 has been duly delivered or mailed, as the case may be.

30 S 305. Hearings; conduct; findings and report. (a) Unless otherwise  
31 provided in this chapter, the banking law, the insurance law or any  
32 other law, any hearing pursuant to any such law may be held before the  
33 superintendent, any deputy superintendent, or any designated salaried  
34 employee of the department authorized by the superintendent for such  
35 purpose.

36 (b) The person conducting such hearing shall have power to administer  
37 oaths, examine and cross-examine witnesses and receive documentary  
38 evidence, and shall report his findings, orally or in writing, to the  
39 superintendent with or without recommendation. Such report, if adopted  
40 by the superintendent may be the basis of any determination made by the  
41 superintendent. One hundred twenty days after the effective date of a  
42 determination of liability for a civil penalty pursuant to section four  
43 hundred eight of this chapter or one thousand one hundred two, two thou-  
44 sand one hundred two, two thousand one hundred seventeen, two thousand  
45 one hundred thirty-three or seven thousand eight hundred sixteen of the  
46 insurance law, such determination of liability for a civil penalty may  
47 be entered as a judgment and enforced, without court proceedings, in the  
48 same manner as the enforcement of a money judgment in civil actions in  
49 any court of competent jurisdiction or any other place provided for the  
50 entry of civil judgment within this state.

51 (c) Every such hearing shall be open to the public unless the super-  
52 intendent or the person authorized by the superintendent to conduct such  
53 hearing, shall determine that a private hearing would be in the public  
54 interest, in which case the hearing shall be private.

55 (d) Every person affected shall be allowed to be present during the  
56 giving of all the testimony, and shall be allowed a reasonable opportu-

1 nity to inspect all adverse documentary proof, to examine and cross-exa-  
2 mine witnesses, and to present proof in support of the person's inter-  
3 est.

4 (e) Nothing herein contained shall require the observance at any such  
5 hearing of formal rules of pleading or evidence.

6 S 306. Attendance of witnesses; production of documents and records.

7 (a) The superintendent or the person authorized by the superintendent to  
8 conduct a hearing or investigation shall have power to subpoena  
9 witnesses, compel the attendance of witnesses, administer oaths, examine  
10 any person under oath, and to compel any person to subscribe to his or  
11 her testimony after it has been correctly reduced to writing, and in  
12 connection therewith to require the production of any books, papers,  
13 records, correspondence or other documents which the superintendent  
14 deems relevant to the inquiry. A subpoena issued under this section  
15 shall be regulated by the civil practice law and rules.

16 (b) No person subject to the provisions of this chapter, the insurance  
17 law or the banking law whose conduct, condition or practices are being  
18 investigated, and no officer, director or employee of any such person,  
19 shall be entitled to witness or mileage fees.

20 (c) In addition to the liabilities and punishment prescribed by the  
21 civil practice law and rules, any person who, without just cause fails  
22 or refuses to attend and testify or to answer any lawful inquiry or to  
23 produce any books, papers or records in obedience to a subpoena issued  
24 by the superintendent shall be guilty of a misdemeanor.

25 (d) Every regulated person under this chapter, the insurance law or  
26 the banking law who is given a notice of hearing pursuant to this chap-  
27 ter shall upon the service of a notice to produce books and records,  
28 when attached to the notice of hearing or mailed subsequently thereto in  
29 the same manner as the notice of hearing, pursuant to such notice,  
30 produce at the hearing the books, records and documents enumerated ther-  
31 ein.

32 S 307. Immunity from prosecution. (a) At any hearing conducted pursu-  
33 ant to this chapter, the insurance law or the banking law or in any  
34 cause or proceeding instituted by the superintendent pursuant to this  
35 chapter, the insurance law or the banking law, the superintendent, or  
36 the superintendent's deputy or other officer conducting the hearing,  
37 cause or proceeding may confer immunity in accordance with the  
38 provisions of section 50.20 of the criminal procedure law.

39 (b) No person compelled in accordance with the provisions of section  
40 50.20 of the criminal procedure law to give answer or produce evidence  
41 of any other kind at any such hearing, cause or proceeding shall be  
42 exempt from the refusal, revocation or suspension of any license,  
43 permission or authority conferred, or to be conferred, pursuant to this  
44 chapter, the banking law or the insurance law. Any person testifying at  
45 any such hearing, cause or proceeding may execute, acknowledge and file  
46 in the office of the superintendent a statement expressly waiving his or  
47 her immunity or privilege against self-incrimination in respect to any  
48 transaction, matter or thing specified in such statement and thereupon  
49 the answers given or evidence produced by such person in relation to  
50 such transaction, matter or thing may be received or produced before any  
51 judge or justice, court, tribunal, grand jury or otherwise, and if so  
52 received or produced such person shall not be entitled to any immunity  
53 or privilege on account of any answers such person may so give or  
54 evidence such person may so produce.

55 S 308. Judicial review of orders, regulations and decisions of super-  
56 intendent. (a) Notwithstanding the specific enumerations of the right to

1 judicial review in this chapter, the insurance law or the banking law,  
2 any order, regulation or decision of the superintendent is declared to  
3 be subject to judicial review in a proceeding under article seventy-  
4 eight of the civil practice law and rules, provided that nothing in this  
5 section or article seventy-eight of the civil practice law and rules  
6 shall affect the time period provided in the banking law or the insur-  
7 ance law for commencing such proceeding.

8 (b) Except as provided in section two thousand one hundred twenty-four  
9 of the insurance law, the commencement of such proceeding shall not  
10 affect the enforcement or validity of the superintendent's order, regu-  
11 lation or decision under review unless the court shall determine, after  
12 a preliminary hearing of which the superintendent is notified at least  
13 forty-eight hours in advance, that a stay of enforcement pending the  
14 proceeding or until further direction of the court will not unduly  
15 injure the interests of the people of the state, in which case a stay of  
16 execution may be granted.

17 S 309. Injunction to restrain violation of this chapter. (a) In addi-  
18 tion to such other remedies that are provided under this chapter, the  
19 superintendent may maintain and prosecute, in the name of the people of  
20 the state, an action against any person subject to this chapter, the  
21 insurance law or the banking law, or the person's officers, directors,  
22 trustees or agents or against any person subject to the provisions of  
23 this chapter, the insurance law or the banking law, for the purpose of  
24 obtaining an injunction restraining such person or persons from doing  
25 any acts in violation of the provisions of this chapter, the insurance  
26 law or the banking law.

27 (b) In such action if the court finds that a defendant is threatening  
28 or is likely to do any act in violation of this chapter, and that such  
29 violation will cause irreparable injury to the interests of the people  
30 of this state, the court may grant an injunction restraining such  
31 violation. The court may on motion and affidavits grant a preliminary  
32 injunction and interlocutory injunction, upon such terms as may be just;  
33 but the people of the state shall not be required to give security  
34 before the issuance of any such injunction.

35 S 310. Certificates as evidence; affirmation of documents and testimo-  
36 ny. (a) Every certificate, assignment, conveyance or other paper  
37 executed by the superintendent or one of the superintendent's deputies  
38 pursuant to law and sealed with the official seal of the department  
39 shall be received as evidence in any judicial or other proceeding and  
40 may be recorded in the proper recording offices.

41 (b) Any charter, or any certificate or other instrument supplemental  
42 to or amendatory of the charter, of any regulated person filed in the  
43 office of the superintendent and containing statements of fact required  
44 or permitted by law to be contained therein, shall be received in all  
45 courts, public offices and official bodies as prima facie evidence of  
46 such facts and of the execution of such instrument.

47 (c) Whenever by the laws of any jurisdiction other than this state,  
48 any certificate by any officer in such jurisdiction or a copy of any  
49 instruments certified or exemplified by any such officer, may be  
50 received as prima facie evidence of the incorporation, existence or  
51 capacity of any corporation incorporated in such jurisdiction, or claim-  
52 ing so to be, such certificate when exemplified, or such copy of such  
53 instrument when exemplified shall be received in all courts, public  
54 offices and official bodies of this state, as prima facie evidence with  
55 the same force as in such jurisdiction. Such certificate or certified  
56 copy of such instrument shall be so received, without being exemplified,

1 if it is certified by the secretary of state, or official performing the  
2 equivalent function as to corporate records of such jurisdiction.

3 (d) Notwithstanding any provision of this chapter, the insurance law  
4 or the banking law requiring an oath as to the proof of a document or  
5 the truth of testimony, the affiant may, if the affiant's religious  
6 beliefs cause the affiant to object to giving an oath, affirm the docu-  
7 ment or the affiant's testimony.

#### 8 ARTICLE IV

#### 9 FINANCIAL FRAUDS PREVENTION

10 Section 401. Short title.

11 402. Legislative declaration.

12 403. Financial frauds and consumer protection unit.

13 404. Powers of the financial frauds and consumer protection  
14 unit.

15 405. Immunity.

16 406. Other law enforcement authority, powers and duties not  
17 affected or impaired.

18 407. Financial fraud.

19 408. Civil penalty.

20 409. Reports.

21 S 401. Short title. This article shall be known and may be cited as  
22 the "financial frauds prevention act."

23 S 402. Legislative declaration. The legislature hereby finds and  
24 declares that financial frauds take many forms across multiple indus-  
25 tries. The legislature further finds that financial frauds are detri-  
26 mental to the social and economic well-being of the citizens of this  
27 state. In order to more thoroughly uncover, investigate and eliminate  
28 the myriad financial frauds that may be perpetrated in, and may involve  
29 the people of, New York state, the legislature finds that it is appro-  
30 priate that the responsibilities of the insurance frauds bureau and the  
31 criminal investigations bureau that were administered by the department  
32 of insurance and the department of banking, respectively, prior to the  
33 enactment of this article, along with the consumer financial protection  
34 activities of the consumer protection board be consolidated into a new  
35 financial frauds and consumer protection unit under the supervision of  
36 the superintendent.

37 S 403. Financial frauds and consumer protection unit. (a) The super-  
38 intendent shall establish a financial frauds and consumer protection  
39 unit in the department of financial regulation.

40 (b) The financial frauds and consumer protection unit shall be a qual-  
41 ified agency, as defined in section eight hundred thirty-five of the  
42 executive law, to enforce the provisions of this article and article  
43 four of the insurance law.

44 (c) The superintendent shall have the power to designate employees of  
45 the unit as peace officers as defined in section 2.10 of the criminal  
46 procedure law. Any such designations made by the superintendent of  
47 insurance or the superintendent of banks, as they relate to peace offi-  
48 cers within the insurance frauds bureau and the criminal investigations  
49 bureau, made prior to the effective date of this chapter, shall be  
50 deemed continued and will remain effective subject to the discretion of  
51 the superintendent.

52 (d) The superintendent is authorized to establish within the financial  
53 frauds and consumer protection unit one or more units designated for the  
54 purpose of investigating and preventing fraud in certain specified areas  
55 of the banking, finance and insurance industries.

1 S 404. Powers of the financial frauds and consumer protection unit.  
2 (a) The superintendent has broad authority under this article, the bank-  
3 ing law, the insurance law and other laws to investigate activities that  
4 may constitute financial fraud and to develop evidence thereon.

5 (b) If the financial frauds and consumer protection unit has a reason-  
6 able suspicion that a person or entity has engaged, or is engaging, in a  
7 financial fraud or misconduct, then the superintendent, in the enforce-  
8 ment of relevant statutes, may undertake an investigation thereon,  
9 provided, however, that the scope of authority set forth in this section  
10 shall not be deemed to otherwise limit or impair the ability of the  
11 superintendent to assist any other entity in an investigation involving  
12 a violation of law, and provided further that the responsibility and  
13 power to investigate any specific financial frauds or misconduct enumer-  
14 ated in this chapter, the banking law and insurance law shall be  
15 included under the jurisdiction of the financial frauds and consumer  
16 protection unit.

17 S 405. Immunity. In the absence of fraud or bad faith, no person shall  
18 be subject to civil liability, and no civil cause of action of any  
19 nature shall arise against such person for any: (a) information  
20 furnished to law enforcement officials, their agents and employees; (b)  
21 information furnished to other persons subject to the provisions of this  
22 chapter; and (c) information furnished in reports to the financial  
23 frauds and consumer protection unit, its agents or employees or any  
24 state agency investigating fraud or misconduct relating to financial  
25 fraud, its agents or employees. The superintendent or any employee of  
26 the financial frauds and consumer protection unit, in the absence of  
27 fraud or bad faith, shall not be subject to civil liability and no civil  
28 cause of action of any nature shall arise against the superintendent or  
29 any such employee by virtue of the publication of any report or bulletin  
30 related to the official activities of the financial frauds and consumer  
31 protection unit. Nothing herein is intended to abrogate or modify in any  
32 way any common law privilege or immunity heretofore enjoyed by any  
33 person.

34 S 406. Other law enforcement authority, powers and duties not affected  
35 or impaired. This article shall not:

36 (a) Preempt the authority or relieve the duty of other law enforcement  
37 agencies to investigate and prosecute suspected violations of law;

38 (b) Prevent or prohibit a person from voluntarily disclosing any  
39 information concerning violations of this article to any law enforcement  
40 agency; or

41 (c) Limit any of the powers granted elsewhere in the banking law or  
42 insurance law or other laws to the superintendent or the department to  
43 investigate possible violations of law and take appropriate remedial  
44 action.

45 S 407. Financial fraud. No person shall commit or attempt to commit  
46 financial fraud in this state.

47 S 408. Civil penalty. In addition to any civil or criminal liability  
48 arising under the provisions of this article, the banking law, the  
49 insurance law or the penal law, the superintendent may collect restitu-  
50 tion and damages on behalf of any person suffering economic harm arising  
51 from financial fraud and may levy a civil penalty not exceeding five  
52 thousand dollars for each violation upon any person, including any regu-  
53 lated person under the banking law or the insurance law and any such  
54 regulated person's employees, who is found, after notice and hearing, to  
55 have committed a financial fraud or otherwise violated the provisions of  
56 this chapter or the regulations thereunder. Nothing in this section

shall preclude the superintendent from imposing any disciplinary action against any person, including any regulated person under the banking law or the insurance law and any such regulated person's employees. The term violation shall have the same meaning as that term is interpreted under section three hundred fifty-d of the general business law.

S 409. Reports. (a) Whenever the superintendent is satisfied that a material financial fraud has been committed or attempted, the superintendent shall report any such violation of law, as the superintendent deems appropriate, to the appropriate licensing agency, the district attorney of the county in which such acts were committed, when authorized by law, to the attorney general, and where appropriate, to the person who submitted the report of fraudulent activity, as provided by the provisions of this article. Within one hundred twenty days of receipt of the superintendent's report, the attorney general or the district attorney concerned shall inform the superintendent as to the status of the reported violations.

(b) No later than March fifteenth of each year, beginning in two thousand twelve, the superintendent shall furnish to the governor, the speaker of the assembly and the temporary president of the senate a report describing the activities of the financial fraud and consumer protection unit. Such report shall describe (1) the unit's efforts with respect to (A) frauds against entities regulated under the banking and insurance laws; and (B) frauds against consumers; (2) the unit's activities to address consumer complaints; and (3) any recommendations of the superintendent with respect to changes of law that are desirable to address gaps in protection. The report may address such other matters relating to the activities of the financial fraud and consumer protection unit as the superintendent believes will be useful to the governor or the legislature.

(c) No later than March fifteenth of each year beginning in the year two thousand twelve, the superintendent shall submit to the governor, the state comptroller, the attorney general, the temporary president of the senate, the speaker of the assembly, the chairpersons of the senate finance and health committees, and the assembly ways and means and health committees, a report summarizing the department's activities to investigate and combat health insurance fraud including information regarding referrals received, investigations initiated, investigations completed, and any other material necessary or desirable to evaluate the department's efforts.

#### ARTICLE V

##### RESTRICTIONS ON OFFICERS AND EMPLOYEES OF THE DEPARTMENT

Section 501. Restrictions on officers and employees of the department; penalty.

S 501. Restrictions on officers and employees of the department; penalty. (a) No officer or employee of the department shall obtain a loan from any regulated person or be interested in any such regulated person as a director, partner, officer, attorney, agent, trustee or employee, or own or deal in, either directly or indirectly, the stocks or obligations of any such regulated person. A violation of the provisions of this section by any officer or employee shall constitute sufficient grounds for his or her removal by the superintendent.

(b) Nothing in this section shall be construed to prohibit any officer or employee from obtaining financing upon his or her primary or secondary residence, provided that the premises securing such loan are occupied by such employee, and further provided that such loan is reported to the department, which shall keep a record thereof. The term "resi-

1 dence," for the purposes of this section, shall mean a single family or  
2 two family residence, condominium apartment or cooperative apartment,  
3 occupied in whole or in part, by the officer or employee. The term  
4 "cooperative apartment" means a residence where ownership is evidenced  
5 by certificates of stock or other evidence of an ownership interest in,  
6 and a proprietary lease from, a corporation or partnership formed for  
7 the purpose of the cooperative ownership of real estate.

8 (c) Nothing in this section shall be construed to prohibit any officer  
9 or employee from: (1) obtaining a loan secured by an assignment of his  
10 or her deposit in a banking organization, or an assignment or pledge of  
11 his or her shares in a savings and loan association or credit union; (2)  
12 accepting dealer financing of an automobile, truck or other personal  
13 property for the sole reason that the financing company is chartered  
14 under article twelve of the banking law; or (3) owning shares of an  
15 investment company (mutual fund) that may incidentally invest in the  
16 securities of any entity licensed or regulated by the department,  
17 provided that the purpose of the investment portfolio of such investment  
18 company may not be to invest primarily or exclusively in the securities  
19 of banking or insurance entities. For purposes of this section, invest-  
20 ment companies include open-end and closed-end investment companies and  
21 unit investment trusts as those terms are defined in an Act of Congress  
22 entitled "The Investment Company Act of 1940," as amended.

23 (d) Nothing in this section shall be construed to prevent any officer  
24 or employee from becoming a policyholder of any insurer, or prevent or  
25 impair the ability of the superintendent to act as a liquidator, rehabi-  
26 litator, or conservator pursuant to article seventy-four of the insur-  
27 ance law or article thirteen of the banking law.

28 (e) The superintendent may promulgate policies and procedures for  
29 exempting particular employees, or classes of employees, from investment  
30 restrictions in subsection (a) of this section as to regulated persons  
31 with which such employee or class of employees has no authority or  
32 involvement.

33 (f) This section shall not apply to investments held in a blind trust  
34 approved by the superintendent or the superintendent's designee.

35 S 2. Article 2-B of the banking law is REPEALED.

36 S 3. Section 401 of the insurance law is amended to read as follows:

37 S 401. Title; legislative declaration and purpose. This article shall  
38 be known and may be cited as the "insurance frauds prevention act".

39 (a) The legislature finds and declares that the business of insurance  
40 directly and indirectly affects all sectors of the public, business and  
41 government. It further finds that the business of insurance, including  
42 organization and licensing, the issuance of policies, and the adjustment  
43 and payment of claims and losses, involve many transactions which have  
44 potential for abuse and illegal activities.

45 (b) [The superintendent and the department have broad authority under  
46 this chapter to investigate activities which may be fraudulent and to  
47 develop evidence thereon. This article is intended to permit the full  
48 utilization of the expertise of the superintendent and the department so  
49 that they may more effectively investigate and discover insurance  
50 frauds, halt fraudulent activities and assist and receive assistance  
51 from federal and state law enforcement agencies in the prosecution of  
52 persons who are parties to insurance frauds.

53 (c)] Arson for insurance fraud is a particularly damaging crime  
54 against society, destroying lives, property and neighborhoods. Insur-  
55 ance losses resulting from arson are reflected in higher premiums  
56 charged to residents of this state.

1 [(d)] (C) This article establishes a framework within which the super-  
2 intendent and the department can more effectively assist in the elimi-  
3 nation of arson for insurance fraud. That increased capacity, together  
4 with a more effective monitoring of fire loss claims and payments by the  
5 insurance industry through centralized reporting and oversight, is  
6 intended to make it more difficult to perpetrate the crime of insurance  
7 fraud by arson.

8 S 4. Section 402 of the insurance law is REPEALED.

9 S 5. Subsection (c) of section 403 of the insurance law is REPEALED.

10 S 6. Subsection (a) of section 404 of the insurance law, as amended by  
11 chapter 499 of the laws of 2009, is amended to read as follows:

12 (a) If the [insurance frauds bureau] SUPERINTENDENT has reason to  
13 believe that a person has engaged in, or is engaging in, an act defined  
14 in section 155.05 of the penal law, with respect to personal or commer-  
15 cial insurance transactions, the business of life settlements, section  
16 176.05 or section 176.40 of such law, the superintendent may make such  
17 investigation within or without this state as the superintendent deems  
18 necessary to aid in the enforcement of this chapter or to determine  
19 whether any person has violated or is about to violate any such  
20 provision of the penal law.

21 S 7. Section 405 of the insurance law, as amended by chapter 499 of  
22 the laws of 2009, paragraph 11 of subsection (d) as amended by chapter  
23 11 of the laws of 2010, is amended to read as follows:

24 S 405. Reports. (a) Any person licensed or registered pursuant to the  
25 provisions of this chapter, and any person engaged in the business of  
26 insurance or life settlement in this state who is exempted from compli-  
27 ance with the licensing requirements of this chapter, including the  
28 state insurance fund of this state, who has reason to believe that an  
29 insurance transaction or life settlement act may be fraudulent, or has  
30 knowledge that a fraudulent insurance transaction or fraudulent life  
31 settlement act is about to take place, or has taken place shall, within  
32 thirty days after determination by such person that the transaction  
33 appears to be fraudulent, send to the [insurance frauds bureau] SUPER-  
34 INTENDENT on a form prescribed by the superintendent, the information  
35 requested by the form and such additional information relative to the  
36 factual circumstances of the transaction and the parties involved as the  
37 superintendent may require. The [insurance frauds bureau] SUPERINTENDENT  
38 shall accept reports of suspected fraudulent insurance transactions or  
39 fraudulent life settlement acts from any self insurer, including but not  
40 limited to self insurers providing health insurance coverage or those  
41 defined in section fifty of the workers' compensation law, and shall  
42 treat such reports as any other received pursuant to this section.

43 (b) The [insurance frauds bureau] SUPERINTENDENT shall review each  
44 report and undertake such further investigation as [it] THE SUPERINTEN-  
45 DENT deems necessary and proper to determine the validity of the allega-  
46 tions.

47 [(c)] Whenever the superintendent is satisfied that a material fraud,  
48 deceit, or intentional misrepresentation has been committed in an insur-  
49 ance transaction or in the business of life settlements or purported  
50 insurance transaction or business of life settlements, he or she shall  
51 report any such violation of law to the appropriate licensing agency,  
52 the district attorney of the county in which such acts were committed,  
53 when authorized by law, to the attorney general, and where appropriate,  
54 to the person who submitted the report of fraudulent activity, as  
55 provided by the provisions of this article. Within one hundred twenty  
56 days of receipt of the superintendent's report, the attorney general or

1 the district attorney concerned shall inform the superintendent as to  
2 the status of the reported violations.

3 (d) No later than March fifteenth of each year, beginning in nineteen  
4 hundred ninety-four, the superintendent shall furnish to the governor,  
5 the speaker of the assembly and the president pro tem of the senate a  
6 report containing:

7 (1) a comprehensive summary and assessment of the frauds bureau's  
8 efforts in discovering, investigating and halting fraudulent activities  
9 and assisting in the prosecution of persons who are parties to insurance  
10 fraud or life settlement fraud;

11 (2) the number of reports received from any person or persons engaged  
12 in the business of insurance or life settlements, the number of investi-  
13 gations undertaken by the bureau pursuant to any reports received, the  
14 number of investigations undertaken not as a result of reports received,  
15 the number of investigations that resulted in a referral to a licensing  
16 agency, a local prosecutor or the attorney general, the number of such  
17 referrals pursued by a licensing agency, a local prosecutor or the  
18 attorney general, and the disposition of such cases;

19 (3) a delineation of the number of reported and investigated cases by  
20 line of insurance and those that relate to life settlements;

21 (4) a comparison of the frauds bureau's experience, with regard to  
22 paragraphs two and three of this subsection, to the bureau's experience  
23 of years past;

24 (5) the total number of employees assigned to the frauds bureau delin-  
25 eated by title and location of bureau assigned;

26 (6) an assessment of the activities of insurance companies and life  
27 settlement providers activities in regard to detecting, investigating  
28 and reporting fraudulent activities, including a list of companies which  
29 maintain special investigative units for the sole purpose of detecting,  
30 investigating and reporting fraudulent activities and the number of  
31 investigators assigned to such units per every thirty thousand policies  
32 or life settlement contracts in force with such company or provider;

33 (7) the amount of technical and monetary assistance requested and  
34 received by the frauds bureau from any insurance company or companies,  
35 any life settlement provider or providers, or any organization funded by  
36 insurance companies or life settlement providers;

37 (8) the amount of money returned by the frauds bureau to insurance  
38 companies pursuant to any fraudulent claims that were recouped by the  
39 bureau;

40 (9) the number and amount of civil penalties levied by the frauds  
41 bureau pursuant to chapter four hundred eighty of the laws of nineteen  
42 hundred ninety-two;

43 (10) recommendations for further statutory or administrative changes  
44 designed to meet the objectives of this article; and

45 (11) an assessment of law enforcement and insurance company activities  
46 to detect and curtail the incidence of operating a motor vehicle without  
47 proper insurance coverage as required by this chapter and the incidence  
48 of misrepresentation by insureds of the principal place where motor  
49 vehicles are garaged and driven.]

50 S 8. Sections 406, 407-a and 410 of the insurance law are REPEALED.

51 S 9. Paragraph 1 of subsection (c) of section 409 of the insurance  
52 law, as added by chapter 635 of the laws of 1996, is amended to read as  
53 follows:

54 (1) interface of special investigation unit personnel with law  
55 enforcement and prosecutorial agencies[, including] AND WITH the [insur-

1   ance frauds bureau] FINANCIAL FRAUDS AND CONSUMER PROTECTION UNIT of the  
2   [state insurance department] DEPARTMENT OF FINANCIAL REGULATION;

3   S 10. Paragraph 1 of subsection (b) of section 411 of the insurance  
4   law, as added by chapter 499 of the laws of 2009, is amended to read as  
5   follows:

6   (1) interface of special investigations unit personnel with law  
7   enforcement and prosecutorial agencies, including the [insurance frauds  
8   bureau] FINANCIAL FRAUDS AND CONSUMER PROTECTION UNIT in the department;

9   S 11. Section 11 of the banking law, as amended by chapter 684 of the  
10   laws of 1938, the section heading as amended by chapter 777 of the laws  
11   of 1939, subdivisions 1 and 4 as amended by chapter 566 of the laws of  
12   2004 and subdivision 3 as amended by chapter 276 of the laws of 1990, is  
13   amended to read as follows:

14   S 11. [Banking department; official] DEPARTMENT OF FINANCIAL REGU-  
15   LATION; OFFICIAL documents; destruction of documents; official communi-  
16   cations. 1. The [banking] department shall be charged with the execution  
17   of the laws relating to the individuals, partnerships, corporations and  
18   other entities to which this chapter is applicable and shall exercise  
19   such powers and perform such duties as are conferred and imposed upon it  
20   by this chapter, or by any law of this state. [The principal office of  
21   the department shall be in the city of Albany.

22   2. Every paper executed by an officer of the department in pursuance  
23   of authority conferred by law and sealed with the official seal of the  
24   department shall be received in evidence, and may be recorded in the  
25   proper recording offices in the same manner and with the same effect as  
26   a deed regularly acknowledged.

27   3.] 2. (a) Except as specified in paragraph (b) or (c) of this subdi-  
28   vision, any report expressly required to be rendered to the superinten-  
29   dent under any provision of this chapter, any report of an examination  
30   made in accordance with any provision of this chapter, and any oath or  
31   declaration of office received by the department shall be retained in  
32   such form and for such period as the superintendent finds necessary and  
33   proper. After such period the superintendent shall recommend disposal of  
34   such material in accordance with the provisions of the arts and cultural  
35   affairs law.

36   (b) Reports made in accordance with section twenty-eight-b of this  
37   [chapter] ARTICLE or pursuant to the rules and regulations of the [bank-  
38   ing board] SUPERINTENDENT promulgated in connection with assessing a  
39   banking organization's record of performance in meeting the credit needs  
40   of local communities within the meaning of section twenty-eight-b of  
41   this [chapter] ARTICLE, including reports expressly required to be  
42   rendered to the superintendent and reports of examinations may be  
43   destroyed at the direction of the superintendent and in accordance with  
44   the provisions of the arts and cultural affairs law after three years  
45   from date of receipt thereof, provided any such report has first been  
46   photographed, microphotographed or otherwise reproduced. Each such  
47   reproduction shall be retained in the files of the department for a  
48   period of at least fifteen years from the date of the last received  
49   report, oath or declaration appearing thereon. After the expiration of  
50   such period, such reproduction may be destroyed at the direction of the  
51   superintendent and in accordance with the provisions of the arts and  
52   cultural affairs law. Such reproduction thereof shall be deemed, for any  
53   purpose, the equivalent of the original of such report. Any such report  
54   not so reproduced shall be retained in the files of the department for a  
55   period of at least fifteen years from the date of receipt thereof, after

1 which it may be destroyed at the direction of the superintendent and in  
2 accordance with the provisions of the arts and cultural affairs law.

3 (c) This subdivision shall not apply to any records, documents or  
4 correspondence referred to in subdivision four of section six hundred  
5 twenty-seven of this chapter.

6 4. Any communication from the [banking] department to any person,  
7 partnership, corporation or other entity may contain a direction that  
8 such communication shall be presented to the controlling owners or prin-  
9 cipal management of such entity, members of such partnership or to the  
10 board of directors or trustees of such corporation. A communication  
11 containing such direction shall be for the purposes of this chapter an  
12 official communication. The superintendent may, in his or her  
13 discretion, notify in writing each owner or principal manager of such  
14 entity, every member of such partnership and every director or trustee  
15 of such corporation of the sending of such a communication and, in that  
16 event the notification shall state the date of such communication.

17 S 12. Section 12 of the banking law is REPEALED.

18 S 12-a. Sections 204, 301, 302, 303, 304, 305, 306, 313, 326 and 327  
19 of the insurance law are REPEALED.

20 S 13. Paragraphs 17 and 41 of subsection (a) of section 107 of the  
21 insurance law are amended to read as follows:

22 (17) "Department" means the [insurance] department OF FINANCIAL REGU-  
23 LATION of this state.

24 (41) "Superintendent" means the superintendent of [insurance] FINAN-  
25 CIAL REGULATION of this state.

26 S 13-a. Section 2 of the banking law is amended by adding two new  
27 subdivisions 28 and 29 to read as follows:

28 (28) "DEPARTMENT" MEANS THE DEPARTMENT OF FINANCIAL REGULATION OF THIS  
29 STATE.

30 (29) "SUPERINTENDENT" MEANS THE SUPERINTENDENT OF FINANCIAL REGULATION  
31 OF THIS STATE.

32 S 14. Paragraphs (b) and (e) of subdivision 1 of section 169 of the  
33 executive law, paragraph (b) as amended by section 1 of part F of chap-  
34 ter 56 of the laws of 2005, and paragraph (e) as separately amended by  
35 section 11 of part A-1 and section 10 of part O of chapter 56 of the  
36 laws of 2010, are amended to read as follows:

37 (b) commissioner of labor, chairman of public service commission,  
38 commissioner of taxation and finance, superintendent of [banks] FINAN-  
39 CIAL REGULATION, commissioner of criminal justice services, [superinten-  
40 dent of insurance,] and commissioner of parks, recreation and historic  
41 preservation;

42 (e) chairman of state athletic commission, [chairman and executive  
43 director of consumer protection board,] director of the office of victim  
44 services, chairman of human rights appeal board, chairman of the indus-  
45 trial board of appeals, chairman of the state commission of correction,  
46 members of the board of parole, members of the state racing and wagering  
47 board, member-chairman of unemployment insurance appeal board, director  
48 of veterans' affairs, and vice-chairman of the workers' compensation  
49 board;

50 S 15. Section 332 of the insurance law is REPEALED.

51 S 16. Section 17 of the banking law is REPEALED.

52 S 17. Section 13 of the banking law is REPEALED.

53 S 18. Section 201 of the insurance law is REPEALED.

54 S 19. Section 202 of the insurance law is REPEALED.

55 S 20. Article 20 of the executive law is REPEALED.

56 S 21. Section 192-d of the agriculture and markets law is REPEALED.

1 S 22. Section 285 of the agriculture and markets law is REPEALED.

2 S 23. Subdivision 1 of section 5010 of the education law, as amended  
3 by chapter 604 of the laws of 1993, is amended to read as follows:

4 1. An advisory council for registered business and licensed trade  
5 schools is hereby created for the purpose of advising the board of  
6 regents and the commissioner as provided herein. The council shall be  
7 composed of eleven members appointed by the governor, two of whom shall  
8 be upon the recommendation of the temporary president of the senate, two  
9 of whom shall be upon the recommendation of the speaker of the assembly,  
10 one of whom shall be upon the recommendation of the minority leader of  
11 the senate and one of whom shall be upon the recommendation of the  
12 minority leader of the assembly. Of the five remaining members, one  
13 shall be an owner or director of a school regulated pursuant to this  
14 article, one shall be a currently enrolled student at the time of  
15 appointment or a graduate of such a school who graduated within three  
16 years of appointment and one shall be a student advocate. The governor  
17 shall designate a chairperson from such members. The commissioner of  
18 education, the president of the higher education services corporation,  
19 the [chair of the consumer protection board] SUPERINTENDENT OF FINANCIAL  
20 REGULATION, the comptroller, the director of the division of the budget,  
21 and the executive director of the job training partnership council, or  
22 their designees, shall serve as ex-officio, non-voting members of the  
23 council.

24 S 24. Subdivision 1 of section 6-102 of the energy law, as added by  
25 chapter 433 of the laws of 2009, is amended to read as follows:

26 1. There shall be established a state energy planning board, herein-  
27 after referred to as the "board", which shall consist of the chair of  
28 the public service commission, the commissioner of environmental conser-  
29 vation, the commissioner of economic development, the commissioner of  
30 transportation, the commissioner of labor, the director of the state  
31 emergency management office, [the chair of the consumer protection  
32 board,] the commissioner of health, the president of the New York state  
33 urban development corporation, the secretary of state and the president  
34 of the New York state energy research and development authority. The  
35 governor, the speaker of the assembly and the temporary president of the  
36 senate shall each appoint one representative to serve on the board. The  
37 presiding officer of the federally designated electric bulk system oper-  
38 ator (BSO) shall serve as a non-voting member of the board. Any decision  
39 or action by the board shall be by majority vote. The president of the  
40 New York state energy research and development authority shall serve as  
41 chair of the board. Members of the board may designate an executive  
42 staff representative to participate on the board on their behalf.

43 S 25. Section 12-101-a of the energy law, as added by chapter 83 of  
44 the laws of 1995, is amended to read as follows:

45 S 12-101-a. Administration. Notwithstanding any other provision of  
46 law, the [state consumer protection board] NEW YORK STATE ENERGY  
47 RESEARCH AND DEVELOPMENT AUTHORITY shall be deemed to have the responsi-  
48 bility and authority to implement the provisions of this article.

49 S 26. Section 17-102 of the energy law, as added by chapter 83 of the  
50 laws of 1995, is amended to read as follows:

51 S 17-102. Administration. Notwithstanding any other provision of law,  
52 the [state consumer protection board] NEW YORK STATE ENERGY RESEARCH AND  
53 DEVELOPMENT AUTHORITY shall be deemed to have the responsibility and  
54 authority to implement the provisions of this article.

1 S 27. Paragraph (a) of subdivision 7 of section 208 of the state tech-  
2 nology law, as amended by chapter 491 of the laws of 2005, is amended to  
3 read as follows:

4 (a) In the event that any New York residents are to be notified, the  
5 state entity shall notify the state attorney general, [the consumer  
6 protection board,] THE DEPARTMENT OF FINANCIAL REGULATION and the state  
7 office of cyber security and critical infrastructure coordination as to  
8 the timing, content and distribution of the notices and approximate  
9 number of affected persons. Such notice shall be made without delaying  
10 notice to affected New York residents.

11 S 28. Article 14-A of the general business law is REPEALED.

12 S 29. Subdivision 1 of section 442-i of the real property law, as  
13 added by chapter 248 of the laws of 1995, is amended to read as follows:

14 1. There is hereby established within the department of state a state  
15 real estate board which shall consist of the secretary of state, [the  
16 executive director of the consumer protection board] SUPERINTENDENT OF  
17 FINANCIAL REGULATION, and thirteen additional members. At least five of  
18 these members shall be "real estate brokers", each of whom, at the time  
19 of appointment, shall be licensed and qualified as a real estate broker  
20 under the laws of New York state and shall have been engaged in the real  
21 estate business in this state for a period of not less than ten years  
22 prior to appointment. The remaining members shall be "public members"  
23 who shall not be real estate licensees.

24 S 30. Subdivisions 1 and 4 of section 490-a of the general business  
25 law are REPEALED and two new subdivisions 1 and 4 are added to read as  
26 follows:

27 1. "DEPARTMENT" MEANS THE DEPARTMENT OF HEALTH.

28 4. "COMMISSIONER" MEANS THE COMMISSIONER OF HEALTH.

29 S 31. Paragraph (d) of subdivision 1 of section 490-d of the general  
30 business law, as added by chapter 553 of the laws of 2008, is amended to  
31 read as follows:

32 (d) Provide notification to the [board] DEPARTMENT of such recall or  
33 warning.

34 All notices under this subdivision must include in a clear and conspicu-  
35 ous fashion a description of the product, the reason for the recall or  
36 warning, a picture of the product if available, and instructions on how  
37 to return or exchange the recalled product. Such notice shall include  
38 only the product recall or warning information and may not include sales  
39 or marketing information on that product or any other product, excluding  
40 return and exchange policies.

41 S 32. Paragraph (b) of subdivision 2 of section 490-d of the general  
42 business law, as added by chapter 553 of the laws of 2008, is amended to  
43 read as follows:

44 (b) The commercial dealer shall provide to the [board] DEPARTMENT  
45 certification of disposition for such recalled products within ninety  
46 days after the issuance of the recall, unless upon written application  
47 by such dealer the [board] DEPARTMENT determines an extension of time is  
48 warranted.

49 S 33. Sections 490-g and 490-h of the general business law, as added  
50 by chapter 553 of the laws of 2008, are amended to read as follows:

51 S 490-g. Enforcement. 1. Where it is determined after a hearing that  
52 any person has violated one or more provisions of this article, the  
53 [director] COMMISSIONER may assess a civil penalty no greater than five  
54 thousand dollars for each violation. Any proceeding conducted pursuant  
55 to this section shall be subject to the state administrative procedure  
56 act. Upon the occasion of a second violation or subsequent violations of

1 this article, a civil penalty no greater than fifty thousand dollars may  
2 be assessed.

3 2. The [board] DEPARTMENT shall provide the attorney general any  
4 information on recalled or unsafe products, complaints regarding  
5 recalled or unsafe products and violations of this section that are  
6 necessary for the purposes of enforcement by the attorney general pursu-  
7 ant to section sixty-three of the executive law.

8 3. The [director] COMMISSIONER or his or her designee may administer  
9 oaths and take affidavits in relation to any matter or proceeding in the  
10 exercise of the powers and duties under this article. The [director]  
11 COMMISSIONER or his or her designee may subpoena and require the attend-  
12 ance of witnesses and the production of books, papers, contracts and any  
13 other documents pertaining to any investigation or hearing conducted  
14 pursuant to this article.

15 4. If any person refuses to comply with a subpoena issued under this  
16 section, the [board] DEPARTMENT may petition a court of competent juris-  
17 diction to enforce the subpoena and such sanctions as the court may  
18 direct.

19 5. Nothing in this section shall be construed to restrict any right  
20 which any person may have under any other statute or at common law.

21 S 490-h. Promulgation of rules and regulations. The [board] DEPARTMENT  
22 shall promulgate rules and regulations to administer this article.

23 S 34. Subdivision 9 of section 349-d of the general business law, as  
24 added by chapter 416 of the laws of 2010, is amended to read as follows:

25 9. The attorney general, upon his or her own motion or upon referral  
26 from the public service commission, the Long Island power authority or  
27 the [state consumer protection board] DEPARTMENT OF FINANCIAL  
28 REGULATION, may bring a civil action against any energy services company  
29 that violates any provision of this section and may recover (a) a civil  
30 penalty not to exceed one thousand dollars per violation; and (b) costs  
31 and reasonable attorney's fees. In any such proceeding the court may  
32 direct restitution.

33 S 35. Subdivisions (b) and (c) of section 372 of the general business  
34 law, as added by section 6 of part VV of chapter 59 of the laws of 2009,  
35 are amended to read as follows:

36 (b) The department shall, in accordance with regulations promulgated  
37 by the commissioner of taxation and finance, produce and make available  
38 to taxpayers and tax preparers an informational flier regarding consum-  
39 ers' rights and laws concerning tax preparers to be called a "consumer  
40 bill of rights regarding tax preparers". The department shall consult  
41 with the [state consumer protection board] DEPARTMENT OF FINANCIAL REGU-  
42 LATION to enhance distribution of fliers to consumers. The flier shall  
43 also be made available on the department and the [state consumer  
44 protection board's] DEPARTMENT OF FINANCIAL REGULATION'S internet site,  
45 and shall contain information including, but not limited to, the follow-  
46 ing:

47 (1) postings required by state and federal laws, such as price posting  
48 and posting of qualifications;

49 (2) explanations of some of the commonly offered services and industry  
50 jargon, such as preparation of short and long federal forms, refund,  
51 electronic filing, express mail, direct deposit, refund anticipation  
52 check, refund anticipation loan, quick, instant, rapid, fast, fee, and  
53 interest;

54 (3) basic information on what a tax preparer is and is not required to  
55 do for a consumer, such as the preparer's responsibility to sign a  
56 return, that a tax preparer may not be required to accompany a consumer

1 to an audit but the company may have a voluntary policy to accompany  
2 consumers to audits; and

3 (4) the telephone numbers of the department for information and  
4 complaints.

5 The flier shall be in a form which is easily reproducible by photocopy  
6 machine.

7 (c) The department shall coordinate its response to consumer tax  
8 preparer complaints with the [state consumer protection board] DEPART-  
9 MENT OF FINANCIAL REGULATION, pursuant to subdivision [(b)] ONE of  
10 section five hundred fifty-three of the executive law, as the department  
11 deems appropriate.

12 S 36. Subdivision (g) of section 380-t of the general business law, as  
13 amended by chapter 279 of the laws of 2008, is amended to read as  
14 follows:

15 (g) The [consumer protection board] DEPARTMENT OF FINANCIAL REGULATION  
16 shall monitor the state of technology relating to the means available to  
17 process requests for the lifting or removal of a security freeze, and  
18 shall report to the legislature when it is determined that the technolo-  
19 gy to process requests for the lifting or removal of a security freeze  
20 in a shorter period of time than that set forth in subdivision (e) of  
21 this section is available.

22 S 37. Subdivision 3 of section 390-c of the general business law, as  
23 added by chapter 509 of the laws of 2007, is amended to read as follows:

24 3. The [consumer protection board] DEPARTMENT OF FINANCIAL REGULATION  
25 shall establish an internet security website or webpage, that includes,  
26 but is not limited to, an explanation of what a firewall is and the  
27 importance of other internet security measures.

28 S 38. Subdivision 2 of section 399-dd of the general business law, as  
29 added by chapter 519 of the laws of 2006, is amended to read as follows:

30 2. The [consumer protection board, in consultation with the] office of  
31 parks, recreation and historic preservation[,] shall promulgate rules  
32 and regulations for the design, installation, inspection and maintenance  
33 of playgrounds and playground equipment. Those regulations shall  
34 substantially comply with the guidelines and criteria which are  
35 contained in the handbook for public playground safety produced by the  
36 United States consumer products safety commission or any successor. The  
37 rules and regulations shall include special provisions for playgrounds  
38 appropriate for children within the range of ages in day care settings.

39 S 39. Paragraphs a and b of subdivision 1 of section 399-z of the  
40 general business law are REPEALED, and two new paragraphs a and b are  
41 added to read as follows:

42 A. "DEPARTMENT" SHALL MEAN THE DEPARTMENT OF STATE.

43 B. "SECRETARY" SHALL MEAN THE SECRETARY OF STATE.

44 S 40. Subdivision 4 of section 399-z of the general business law, as  
45 amended by chapter 344 of the laws of 2010, is amended to read as  
46 follows:

47 4. a. The [board] DEPARTMENT is authorized to establish, manage, and  
48 maintain a no telemarketing sales calls statewide registry which shall  
49 contain a list of customers who do not wish to receive unsolicited tele-  
50 marketing sales calls. The [board] DEPARTMENT may contract with a  
51 private vendor to establish, manage and maintain such registry, provided  
52 the private vendor has maintained national no telemarketing sales calls  
53 registries for more than two years, and the contract requires the vendor  
54 to provide the no telemarketing sales calls registry in a printed hard  
55 copy format and in any other format as prescribed by the board.

1 b. The [board] DEPARTMENT is authorized to have the national "do-not-  
2 call" registry established, managed and maintained by the federal trade  
3 commission pursuant to 16 C.F.R. Section 310.4 (b) (1) (iii) (B) serve  
4 as the New York state no telemarketing sales calls statewide registry  
5 provided for by this section. The [board] DEPARTMENT is further author-  
6 ized to take whatever administrative actions may be necessary or appro-  
7 priate for such transition including, but not limited to, providing the  
8 telephone numbers of New York customers registered on the no telemarket-  
9 ing sales calls statewide registry to the federal trade commission, for  
10 inclusion on the national "do-not-call" registry.

11 S 41. Subdivisions 6, 7 and 8 of section 399-z of the general business  
12 law, subdivisions 6 and 8 as amended and subdivision 7 as added by chap-  
13 ter 344 of the laws of 2010, are amended to read as follows:

14 6. a. The [board] DEPARTMENT shall provide notice to customers of the  
15 establishment of the national "do-not-call" registry. Any customer who  
16 wishes to be included on such registry shall notify the federal trade  
17 commission as directed by relevant federal regulations.

18 b. Any company that provides local telephone directories to customers  
19 in this state shall inform its customers of the provisions of this  
20 section by means of publishing a notice in such local telephone directo-  
21 ries.

22 7. When the [board] DEPARTMENT has reason to believe a telemarketer  
23 has engaged in repeated unlawful acts in violation of this section, or  
24 when a notice of hearing has been issued pursuant to subdivision eight  
25 of this section, the [board] DEPARTMENT may request in writing the  
26 production of relevant documents and records as part of its investi-  
27 gation. If the person upon whom such request was made fails to produce  
28 the documents or records within thirty days after the date of the  
29 request, the [board] DEPARTMENT may issue and serve subpoenas to compel  
30 the production of such documents and records. If any person shall refuse  
31 to comply with a subpoena issued under this section, the [board] DEPART-  
32 MENT may petition a court of competent jurisdiction to enforce the  
33 subpoena and such sanctions as the court may direct.

34 8. a. Where it is determined after hearing that any person has  
35 violated one or more provisions of this section, the [director] SECRE-  
36 TARY, or any person deputized or so designated by him or her may assess  
37 a fine not to exceed eleven thousand dollars for each violation.

38 b. Any proceeding conducted pursuant to paragraph a of this subdivi-  
39 sion shall be subject to the state administrative procedure act.

40 c. Nothing in this subdivision shall be construed to restrict any  
41 right which any person may have under any other statute or at common  
42 law.

43 S 42. Subdivision 1 of section 791 of the general business law, as  
44 amended by chapter 133 of the laws of 1999, is amended to read as  
45 follows:

46 1. There is created within the department a hearing aid dispensing  
47 advisory board which shall consist of [thirteen] ELEVEN members to be  
48 appointed by the secretary: four of whom shall be non-audiologist hear-  
49 ing aid dispensers who shall have been engaged in the business of  
50 dispensing hearing aids primarily in this state for at least five years  
51 immediately preceding their appointment, two to be appointed upon the  
52 recommendation of the governor, one to be appointed upon the recommenda-  
53 tion of the temporary president of the senate and one to be appointed  
54 upon the recommendation of the speaker of the assembly; four members  
55 shall be audiologists who are engaged in the dispensing of hearing aids  
56 for at least five years immediately preceding their appointment, two to

1 be appointed upon the recommendation of the governor, one to be  
2 appointed upon the recommendation of the temporary president of the  
3 senate and one to be appointed upon the recommendation of the speaker of  
4 the assembly; two shall be otolaryngologists; and the remaining three  
5 members, none of whom shall derive nor have derived in the past economic  
6 benefit from the business of dispensing hearing aids, shall be from the  
7 resident lay public of this state who are knowledgeable about issues  
8 related to hearing loss. At least one lay member shall be an individual  
9 representing adults over the age of fifty. At least one of the lay  
10 members shall be a hearing aid user. Of the otolaryngologists and lay  
11 members, one shall be appointed by the secretary on the recommendation  
12 of the minority leader of the senate and one shall be appointed by the  
13 secretary on the recommendation of the minority leader of the assembly  
14 and three shall be appointed by the secretary on the recommendation of  
15 the governor. Each member of the board shall be appointed for a term of  
16 two years. Any member may be appointed for additional terms. In the  
17 event that any member shall die or resign during his or her term, a  
18 successor shall be appointed in the same manner and with the same quali-  
19 fications as set forth in this section. A member may be reappointed for  
20 successive terms but no member shall serve more than a total of ten  
21 years. The secretary or the designee of the secretary shall serve in an  
22 ex officio non-voting position. The secretary shall serve as chair-  
23 person. The commissioner of education, the commissioner of health, [the  
24 chair and executive director of the consumer protection board] and the  
25 attorney general or their designees shall serve as non-voting ex officio  
26 members.

27 S 43. Paragraph (a) of subdivision 8 of section 899-aa of the general  
28 business law, as amended by chapter 491 of the laws of 2005, is amended  
29 to read as follows:

30 (a) In the event that any New York residents are to be notified, the  
31 person or business shall notify the state attorney general, the [consum-  
32 er protection board,] DEPARTMENT OF FINANCIAL REGULATION and the state  
33 office of cyber security and critical infrastructure coordination as to  
34 the timing, content and distribution of the notices and approximate  
35 number of affected persons. Such notice shall be made without delaying  
36 notice to affected New York residents.

37 S 44. Subdivision (c) of section 3217 of the insurance law is amended  
38 to read as follows:

39 (c) Prior to the issuance of regulations pursuant to this section,  
40 the superintendent shall afford the public, including the companies  
41 affected thereby, reasonable opportunity for comment and shall obtain  
42 the views, in writing, of the commissioner of health [and the chairman  
43 of the consumer protection board].

44 S 45. Paragraph (a) of subdivision 1 of section 1898 of the public  
45 authorities law, as added by chapter 487 of the laws of 2009, is amended  
46 to read as follows:

47 (a) the president of the authority; the secretary of state; the  
48 commissioner of housing and community renewal; the commissioner of  
49 labor; the commissioner of temporary and disability assistance; [the  
50 chair of the consumer protection board;] the chair of the department of  
51 public service; the president of the power authority of the state of New  
52 York; the president of the Long Island power authority; the commissioner  
53 of economic development; the commissioner of environmental conservation;  
54 or the designees of such persons; and

55 S 46. Section 2803-s of the public health law, as added by chapter 539  
56 of the laws of 2010, is amended to read as follows:

1 S 2803-s. Access to product recall information. The commissioner shall  
2 require that every hospital and birth center distribute at the time of  
3 pre-booking or admission directly to each maternity patient and, upon  
4 request, to the general public an informational leaflet. Such leaflet  
5 shall be designed by the commissioner [in conjunction with the executive  
6 director of the state consumer protection board, on behalf of the state  
7 consumer protection board,] and shall contain information detailing how  
8 parents or guardians of infants and children can subscribe to the United  
9 States consumer product safety commission's e-mail subscription lists to  
10 receive consumer product recall and safety news by e-mail from the  
11 United States consumer product safety commission and such other material  
12 as deemed appropriate by the commissioner. Such leaflet shall be made  
13 available to hospitals and birth centers by the department on its  
14 website and shall be provided in English, as well as the top six  
15 languages other than English spoken in the state according to the latest  
16 available data from the United States Bureau of Census.

17 S 47. Section 24-a of the public service law, as added by chapter 650  
18 of the laws of 1974, is amended to read as follows:

19 S 24-a. [1.] Notice to be given to [board] DEPARTMENT prior to rate  
20 increase.

21 1. Notwithstanding any inconsistent general, special or local law or  
22 rule or regulation to the contrary, the commission shall to the extent  
23 the [board] DEPARTMENT shall so request in any cases or class of cases,  
24 give notice to the [board] DEPARTMENT of any filed statement proposing  
25 to modify or increase rates, services, schedule of rates or any other  
26 rating rule or to adopt or amend any rate or service rules or regu-  
27 lations within five days after the commission shall have received such  
28 statement from any utility subject to its jurisdiction; provided, howev-  
29 er, that in lieu of giving such notice, the commission may direct that  
30 the utility give such notice to the [board] DEPARTMENT.

31 2. In any such case in which the [board] DEPARTMENT shall file with  
32 the commission a statement of intent to be a party, the [board] DEPART-  
33 MENT shall have and in its discretion may exercise all the rights and  
34 privileges of a party.

35 3. For the purposes of this section, the term ["board"] "DEPARTMENT"  
36 shall mean the DEPARTMENT OF STATE [state consumer protection board],  
37 the term "commission" shall mean the public service commission.

38 S 48. Section 71 of the public service law, as amended by chapter 217  
39 of the laws of 1978, is amended to read as follows:

40 S 71. Complaints as to quality and price of gas and electricity;  
41 investigation by commission; forms of complaints. Upon the complaint in  
42 writing of the mayor of a city, the trustees of a village, the town  
43 board of a town or the chief executive officer or the legislative body  
44 of a county in which a person or corporation is authorized to manufac-  
45 ture, convey, transport, sell or supply gas or electricity for heat,  
46 light or power, or upon the complaint in writing of not less than twen-  
47 ty-five customers or purchasers of such gas or electricity, [or upon the  
48 complaint in writing of the state consumer protection board,] or upon a  
49 complaint of a gas corporation or electrical corporation supplying or  
50 transmitting said gas or electricity, as to the illuminating or heating  
51 power, purity or pressure or the rates, charges or classifications of  
52 service of gas, the efficiency of the electric incandescent lamp supply,  
53 the voltage of the current supplied for light, heat or power, or the  
54 rates charged or classification of service of electricity sold and  
55 delivered in such municipality, the commission shall investigate as to  
56 the cause for such complaint. When such complaint is made, the commis-

1 sion may, by its agents, examiners and inspectors, inspect the works,  
2 system, plant, devices, appliances and methods used by such person or  
3 corporation in manufacturing, transmitting and supplying such gas or  
4 electricity, and may examine or cause to be examined the books and  
5 papers of such person, or corporation pertaining to the manufacture,  
6 sale, transmitting and supplying of such gas or electricity. The form  
7 and contents of complaints made as provided in this section shall be  
8 prescribed by the commission. Such complaints shall be signed by the  
9 officers, or by the customers, purchasers or subscribers making them,  
10 who must add to their signatures their places of residence, by street  
11 and number, if any.

12 S 49. Section 84 of the public service law, as amended by chapter 650  
13 of the laws of 1974, is amended to read as follows:

14 S 84. Complaints as to service and price of steam heat; investigation  
15 by commission; forms of complaints. Upon the complaint in writing of  
16 the mayor of the city, the trustees of a village or the town board of a  
17 town in which a person or corporation is authorized to manufacture, sell  
18 or supply steam for heat or power, or upon the complaint in writing of  
19 not less than fifty customers or purchasers of such steam heat in cities  
20 of the first or second class, or of not less than twenty-five in cities  
21 of the third class, or of not less than ten elsewhere, [or upon the  
22 complaint in writing of the state consumer protection board,] as to the  
23 price, pressure or efficiency of steam supplied for heat or power, sold  
24 and delivered in such municipality, the commission shall investigate as  
25 to the cause for such complaint. When such complaint is made, the  
26 commission may, by its agents, examiners and inspectors, inspect the  
27 work, system, plant, devices, appliances and methods used by such person  
28 or corporation in manufacturing, transmitting and supplying such steam,  
29 and may examine or cause to be examined the books and papers of such  
30 person or corporation pertaining to the manufacture, sale, transmitting  
31 and supplying of such steam. The form and contents of complaints made as  
32 provided in this section shall be prescribed by the commission. Such  
33 complaint shall be signed by the officers, or by the customers, purchas-  
34 ers or subscribers making them, who must add to their signatures their  
35 place of residence, by street and number, if any.

36 S 50. Section 89-i of the public service law, as amended by chapter  
37 651 of the laws of 1974, is amended to read as follows:

38 S 89-i. Complaints as to price of water; investigation by commission;  
39 forms of complaints. Upon the complaint in writing of the mayor of a  
40 city, the trustees of a village or the town board of a town in which a  
41 person or corporation is authorized to supply or distribute water for  
42 domestic, commercial or public uses, or upon the complaint in writing of  
43 not less than twenty-five customers or purchasers of such water in such  
44 municipality or upon complaint of a water-works corporation supplying  
45 such water, as to the rates, charges or classifications of service for  
46 water sold and delivered in such municipality, [or upon the complaint in  
47 writing of the state consumer protection board,] or as to the methods  
48 employed in furnishing such service, the commission shall investigate as  
49 to the cause of such complaint. When such complaint is made, the commis-  
50 sion may, by its agents, examiners and inspectors, inspect the works,  
51 system, plant, devices, appliances and methods used by such water-works  
52 corporation in supplying and distributing such water, and may examine or  
53 cause to be examined the books and papers of such water-works corpo-  
54 ration pertaining to the supplying and distributing of such water. The  
55 form and contents of complaints made as provided in this section shall  
56 be prescribed by the commission. Such complaints shall be signed by the

1 officers, or by the customers, purchasers or subscribers making them,  
2 who must add to their signatures their places of residence, by street  
3 and number, if any.

4 S 51. Subdivision 3 of section 96 of the public service law, as  
5 amended by chapter 650 of the laws of 1974, is amended to read as  
6 follows:

7 3. Complaints may be made to the commission [by the state consumer  
8 protection board or] by any person or corporation aggrieved, by petition  
9 or complaint in writing, setting forth any act done or omitted to be  
10 done by any telegraph corporation or telephone corporation alleged to be  
11 in violation of the terms or conditions of its franchise or charter or  
12 of any order of the commission. Upon the presentation of such a  
13 complaint the commission shall cause a copy thereof to be forwarded to  
14 the person or corporation complained of which may be accompanied by an  
15 order directed to such person or corporation requiring that the matters  
16 complained of be satisfied or that the charges be answered in writing  
17 within a time to be specified by the commission. If the person or corpo-  
18 ration complained of shall make reparation for any injury alleged and  
19 shall cease to commit or permit the violation of law, franchise, charter  
20 or order charged in the complaint, if any there be, and shall notify the  
21 commission of that fact before the time allowed for answer, the commis-  
22 sion need take no further action upon the charges. If, however, the  
23 charges contained in such petition be not thus satisfied and it shall  
24 appear to the commission that there are reasonable grounds therefor, it  
25 shall investigate such charges in such manner and by such means as it  
26 shall deem proper and take such action within its powers as the facts in  
27 its judgment justify.

28 S 52. Paragraph 2 of subdivision (n) of section 1817 of the tax law,  
29 as amended by section 30 of subpart I of part V-I of chapter 57 of the  
30 laws of 2009, is amended to read as follows:

31 (2) The commissioner, [in cooperation with the state consumer  
32 protection board,] shall monitor the prices charged by persons engaged  
33 in the retail sale or distribution of motor fuel and diesel motor fuel.

34 S 53. Section 97-www of the state finance law, as added by chapter 547  
35 of the laws of 2000, is amended to read as follows:

36 S 97-www. [1.] Consumer protection account. 1. There is hereby estab-  
37 lished in the joint custody of the state comptroller and the commission-  
38 er of taxation and finance an account within the miscellaneous special  
39 revenue fund to be known as the "consumer protection account."

40 2. Such account shall consist of all fees and penalties received by  
41 the [state consumer protection board] DEPARTMENT OF STATE AND DEPARTMENT  
42 OF FINANCIAL REGULATION pursuant to article ten-B of the personal prop-  
43 erty law[,] AND section three hundred ninety-nine-z of the general busi-  
44 ness law, ALL PENALTIES IMPOSED BY THE FINANCIAL FRAUDS AND CONSUMER  
45 PROTECTION UNIT UNDER SECTION FOUR HUNDRED EIGHT OF THE FINANCIAL REGU-  
46 LATION AND PROTECTION LAW and any additional monies appropriated, cred-  
47 ited or transferred to such account by the Legislature. Any interest  
48 earned by the investment of monies in such account shall be added to  
49 such account, become part of such account, and be used for the purposes  
50 of such account.

51 3. Monies in the account shall be available to the [state consumer  
52 protection board for the payment of costs of producing and distributing  
53 educational materials and conducting educational activities relating to  
54 the promotion of the "unsolicited telemarketing sales call registry" and  
55 all related costs and expenditures incurred in the administration of  
56 section three hundred ninety-nine-z of the general business law and

1 article ten-B of the personal property law] DEPARTMENT OF FINANCIAL  
2 REGULATION FOR ALL COSTS AND EXPENDITURES RELATED TO ITS CONSUMER AND  
3 INVESTOR PROTECTION ACTIVITIES.

4 4. Monies in the account shall be paid out of the account on the audit  
5 and warrant of the state comptroller on vouchers certified or approved  
6 by the [state consumer protection board] DEPARTMENT OF FINANCIAL REGU-  
7 LATION or any officer or employee designated by the [executive director]  
8 SUPERINTENDENT OF FINANCIAL REGULATION.

9 S 54. Intentionally omitted.

10 S 55. Paragraph 1 of subsection (c) of section 109 of the insurance  
11 law is amended to read as follows:

12 (1) If the superintendent finds after notice and hearing that any  
13 authorized insurer, representative of [such] THE insurer, licensed  
14 insurance agent, licensed insurance broker [or], licensed adjuster, OR  
15 ANY OTHER PERSON OR ENTITY LICENSED, CERTIFIED, REGISTERED, OR AUTHOR-  
16 IZED PURSUANT TO THIS CHAPTER, has wilfully violated the provisions of  
17 this chapter[, he] OR ANY REGULATION PROMULGATED THEREUNDER, THEN THE  
18 SUPERINTENDENT may order [such insurer, representative, agent, broker,  
19 or adjuster, as the case may be,] THE PERSON OR ENTITY, EXCEPT FOR A  
20 PERSON OR ENTITY LICENSED PURSUANT TO ARTICLE TWENTY-ONE OR SIXTY-EIGHT  
21 OF THIS CHAPTER, to pay to the people of this state a penalty in a sum  
22 not exceeding [five hundred] TEN THOUSAND dollars for each [such]  
23 offense. THE SUPERINTENDENT MAY ORDER ANY PERSON OR ENTITY LICENSED  
24 PURSUANT TO ARTICLE TWENTY-ONE OR SIXTY-EIGHT OF THIS CHAPTER TO PAY TO  
25 THE PEOPLE OF THIS STATE A PENALTY IN A SUM NOT EXCEEDING TWO THOUSAND  
26 FIVE HUNDRED DOLLARS FOR EACH OFFENSE.

27 S 56. Section 203 of the insurance law is REPEALED.

28 S 57. Section 209 of the insurance law is REPEALED.

29 S 58. Section 210-a of the insurance law is REPEALED.

30 S 59. Section 211 of the insurance law is REPEALED.

31 S 60. Section 212 of the insurance law is REPEALED.

32 S 61. Section 214 of the insurance law, as added by chapter 77 of the  
33 laws of 2008, is amended to read as follows:

34 S 214. Report on insurance agent licensing examinations. The super-  
35 intendent shall perform a study of the insurance agent licensure exam-  
36 inations required pursuant to section two thousand one hundred three of  
37 this chapter. The study shall, at a minimum, include the total number of  
38 examinees, the passing rate of all examinees, and the mean scores on the  
39 examination. Additionally, the study shall examine the correlation  
40 between these statistics and the applicants' native language, level of  
41 education, gender, race and ethnicity. The study shall be completed by  
42 [January first] MARCH FIFTEENTH, two thousand [nine] ELEVEN, and annual-  
43 ly thereafter.

44 S 62. Subsection (d) of section 308 of the insurance law is REPEALED.

45 S 63. Sections 498-a and 562 of the banking law are REPEALED.

46 S 64. Section 337 of the insurance law, as added by chapter 647 of  
47 the laws of 1992, is amended to read as follows:

48 S 337. Annual consumer guide on automobile insurance. (a) [No later  
49 than October first of each year, beginning in nineteen hundred ninety-  
50 three, the] THE superintendent shall [publish and make available, free  
51 of charge to the public,] ISSUE AND UPDATE, AS NECESSARY, a consumer  
52 guide on private passenger automobile insurance that shall contain  
53 comprehensive [and updated] information written in plain language in a  
54 clear and understandable format, including the following:

55 (1) an annual ranking of automobile insurers: (A) including an analy-  
56 sis of private passenger insurers in the state which provides, in

1 detail, a ranking of such insurers from best to worst based on each  
2 insurer's record of consumer complaints during the preceding calendar  
3 year, using criteria available to the department, adjusted for volume of  
4 insurance written; and (B) taking into consideration the corresponding  
5 total of claims improperly denied in whole or in part, consumer  
6 complaints found to be valid in whole or in part, and any other perti-  
7 nent data which would permit the department to objectively determine an  
8 insurer's performance; and (C) the superintendent may note, to the  
9 extent relevant, actions taken by the department against an insurer for  
10 violating any law or regulation;

11 (2) a list of makes and models of automobiles that generally do not  
12 meet underwriting guidelines of automobile insurers or in regard to  
13 which consumers can expect to pay higher premiums as a result of an  
14 automobile's style, model type or other distinguishing features, except  
15 that specific insurers shall not be identified for purposes of such  
16 list;

17 (3) an explanation of all types of automobile insurance required by  
18 law and available as optional coverage, including policyholders' rights  
19 under these types of coverage and when making claims;

20 (4) an explanation of and information on the automobile insurance plan  
21 established pursuant to article fifty-three of this chapter, including  
22 how motorists in such plan should proceed in attempting to obtain insur-  
23 ance in the voluntary market;

24 (5) [representative information on the availability and costs of auto-  
25 mobile insurance from insurers for rating territories in the state, for  
26 classes of drivers, including information on premium credit and  
27 surcharge practices;

28 (6)] recommendations as to how best to shop for and compare prices,  
29 service and quality of automobile insurance coverage;

30 [(7)] (6) an explanation of prohibited discriminatory practices apply-  
31 ing to insurance companies, agents and brokers; and

32 [(8)] (7) a department toll free consumer hot-line through which  
33 consumers may initiate complaints, and request general information,  
34 about automobile insurance.

35 (b) The [annual] requirements set forth in subsection (a) of this  
36 section may be satisfied by separate or supplemental publications and  
37 updates.

38 (c) The superintendent shall [provide for the adequate distribution  
39 and availability of] POST the consumer guide on automobile insurance ON  
40 THE DEPARTMENT'S WEBSITE. [Appropriate copies of the guide shall be  
41 transmitted to the commissioner of motor vehicles for distribution at  
42 every department of motor vehicle local and district office in the state  
43 and to the commissioner of education for distribution to every public  
44 library in the state, where copies of the guide shall be made available  
45 free of charge to the public.]

46 S 65. Section 338 of the insurance law is REPEALED.

47 S 66. Section 339 of the insurance law is REPEALED.

48 S 67. Section 402 of the insurance law is REPEALED.

49 S 68. Subsection (b) of section 1504 of the insurance law is amended  
50 to read as follows:

51 (b) Every holding company and every controlled person within a holding  
52 company system shall be subject to examination by order of the super-  
53 intendent if [he] THE SUPERINTENDENT has cause to believe that the oper-  
54 ations of such persons may [materially] affect the operations, manage-  
55 ment or financial condition of any controlled insurer within the system  
56 [and that he is unable to obtain relevant information from such

controlled insurer]. The grounds relied upon by the superintendent for such examination shall be stated in [his] THE SUPERINTENDENT'S order. Such examination shall be confined to matters specified in the order. The cost of such examination shall be assessed against the person examined and no portion thereof shall thereafter be reimbursed to it directly or indirectly by the controlled insurer.

S 69. Section 2102 of the insurance law is amended by adding a new subsection (g) to read as follows:

(G) ANY PERSON, FIRM, ASSOCIATION OR CORPORATION WHO OR THAT VIOLATES THIS SECTION SHALL BE SUBJECT TO A PENALTY NOT TO EXCEED FIVE HUNDRED DOLLARS FOR EACH TRANSACTION, EXCEPT AS PROVIDED IN PARAGRAPH TWO OF SUBSECTION (A) OF THIS SECTION.

S 70. Subsection (g) of section 2117 of the insurance law is amended to read as follows:

(g) Any person, firm, association or corporation violating any provision of this section shall, in addition to any other penalty provided by law, forfeit to the people of the state the sum of five hundred dollars for [the first offense, and an additional sum of five hundred dollars for each month during which any such person, firm, association or corporation shall continue to act in violation of this section] EACH TRANSACTION.

S 71. Subsection (b) of section 2402 of the insurance law, as amended by chapter 499 of the laws of 2009, is amended to read as follows:

(b) "Defined violation" means the commission by a person of an act prohibited by: SUBSECTION (A) OF SECTION ONE THOUSAND ONE HUNDRED TWO, section one thousand two hundred fourteen, one thousand two hundred seventeen, one thousand two hundred twenty, one thousand three hundred thirteen, subparagraph (B) of paragraph two of subsection (i) of section one thousand three hundred twenty-two, subparagraph (B) of paragraph two of subsection (i) of section one thousand three hundred twenty-four, TWO THOUSAND ONE HUNDRED TWO, TWO THOUSAND ONE HUNDRED SEVENTEEN, two thousand one hundred twenty-two, two thousand one hundred twenty-three, subsection (p) of section two thousand three hundred thirteen, section two thousand three hundred twenty-four, two thousand five hundred two, two thousand five hundred three, two thousand five hundred four, two thousand six hundred one, two thousand six hundred two, two thousand six hundred three, two thousand six hundred four, two thousand six hundred six, two thousand seven hundred three, three thousand one hundred nine, three thousand two hundred twenty-four-a, three thousand four hundred twenty-nine, three thousand four hundred thirty-three, paragraph seven of subsection (e) of section three thousand four hundred twenty-six, four thousand two hundred twenty-four, four thousand two hundred twenty-five, four thousand two hundred twenty-six, seven thousand eight hundred nine, seven thousand eight hundred ten, seven thousand eight hundred eleven, seven thousand eight hundred thirteen, seven thousand eight hundred fourteen and seven thousand eight hundred fifteen of this chapter; or section 135.60, 135.65, 175.05, 175.45, or 190.20, or article one hundred five of the penal law.

S 72. Section 2706 of the insurance law is REPEALED.

S 73. Intentionally omitted.

S 74. Intentionally omitted.

S 75. Intentionally omitted.

S 76. Section 5514 of the insurance law is REPEALED.

S 77. Subsection (d) of section 7006 of the insurance law is REPEALED.

S 78. Subdivision 47 of section 2.10 of the criminal procedure law, as added by chapter 720 of the laws of 1981 is amended to read as follows:

1 47. Employees of the [insurance frauds bureau of the state] department  
2 of [insurance] FINANCIAL REGULATION when designated as peace officers by  
3 the superintendent of [insurance] FINANCIAL REGULATION and acting pursu-  
4 ant to their special duties AS SET FORTH IN ARTICLE THREE OF THE FINAN-  
5 CIAL REGULATION AND PROTECTION LAW; provided, however, that nothing in  
6 this subdivision shall be deemed to authorize such officer to carry,  
7 possess, repair or dispose of a firearm unless the appropriate license  
8 therefor has been issued pursuant to section 400.00 of the penal law.

9 S 78-a. Subdivision 61 of section 2.10 of the criminal procedure law,  
10 as added by chapter 321 of the laws of 1992, is REPEALED.

11 S 79. Subdivision 1 of section 1370-b of the public health law, as  
12 amended by section 5 of part A of chapter 58 of the laws of 2009, is  
13 amended to read as follows:

14 1. The New York state advisory council on lead poisoning prevention is  
15 hereby established in the department, to consist of the following, or  
16 their designees: the commissioner; the commissioner of labor; the  
17 commissioner of environmental conservation; the commissioner of housing  
18 and community renewal; the commissioner of children and family services;  
19 the commissioner of temporary and disability assistance; the secretary  
20 of state; [the superintendent of insurance;] and fifteen public members  
21 appointed by the governor. The public members shall have a demonstrated  
22 expertise or interest in lead poisoning prevention and at least one  
23 public member shall be representative of each of the following: local  
24 government; community groups; labor unions; real estate; industry;  
25 parents; educators; local housing authorities; child health advocates;  
26 environmental groups; professional medical organizations and hospitals.  
27 The public members of the council shall have fixed terms of three years;  
28 except that five of the initial appointments shall be for two years and  
29 five shall be for one year. The council shall be chaired by the commis-  
30 sioner or his or her designee.

31 S 80. Paragraph (b) of subdivision 1 of section 2553 of the public  
32 health law, as amended by chapter 231 of the laws of 1993, is amended to  
33 read as follows:

34 (b) The council shall consist of [twenty-seven] TWENTY-SIX members,  
35 unless otherwise required by federal law, appointed by the governor. At  
36 least five members shall be parents, four of whom shall be parents of  
37 children with disabilities aged twelve or younger and one of whom shall  
38 be the parent of a child with disabilities aged six or younger; at least  
39 five shall be representatives of public or private providers of early  
40 intervention services; at least one shall be involved in personnel prep-  
41 aration or training; at least two shall be early intervention officials;  
42 at least two shall be members of the legislature; [seven] SIX shall be  
43 the commissioner and the commissioners of education, social services,  
44 [mental retardation and] PEOPLE WITH developmental disabilities, mental  
45 health, alcoholism and substance abuse services [and the superintendent  
46 of insurance], or their appropriate designees with sufficient authority  
47 to engage in policy planning and implementation on behalf of their agen-  
48 cies.

49 S 81. The opening paragraph of subdivision 1 of section 4602 of the  
50 public health law, as amended by chapter 401 of the laws of 2003, is  
51 amended to read as follows:

52 The continuing care retirement community council is hereby estab-  
53 lished, to consist of the following, or their designees: the attorney  
54 general; the commissioner; [the superintendent of insurance;] the direc-  
55 tor of the office for the aging; and eight public members appointed by  
56 the governor with the advice and consent of the senate. Such public

1 members shall be representative of the public, and have a demonstrated  
2 expertise or interest in continuing care retirement communities;  
3 provided that no more than one such member shall be a sponsor, owner,  
4 operator, manager, member of a board of directors, or shareholder of a  
5 continuing care retirement community. At least two public members shall  
6 be residents of a continuing care retirement community. At least one of  
7 the public members shall be a representative of an organization with  
8 demonstrated experience in representing the interests of senior citi-  
9 zens. The public members of the council shall have fixed terms of four  
10 years. The council shall be chaired by the commissioner or his or her  
11 designee.

12 S 82. Paragraph 5 of subsection (a) of section 11 of the tax law, as  
13 amended by section 19 of part A of chapter 63 of the laws of 2005, is  
14 amended to read as follows:

15 (5) "Department" - the department of [insurance] FINANCIAL REGULATION;  
16 PROVIDED, HOWEVER, THAT "DEPARTMENT" SHALL MEAN THE DEPARTMENT OF  
17 ECONOMIC DEVELOPMENT WITH REGARD TO ANY APPLICATION, CERTIFICATION,  
18 REPORT, SUBMISSION, FILING OR OTHER ACTION REQUIRED OR GOVERNED BY THIS  
19 SECTION OCCURRING ON OR AFTER AUGUST FIRST, TWO THOUSAND ELEVEN.

20 S 83. Paragraph 12 of subsection (a) of section 11 of the tax law, as  
21 amended by section 19 of part A of chapter 63 of the laws of 2005, is  
22 amended to read as follows:

23 (12) "Superintendent" - the superintendent of [insurance] FINANCIAL  
24 REGULATION; PROVIDED, HOWEVER, THAT "SUPERINTENDENT" SHALL MEAN THE  
25 COMMISSIONER OF ECONOMIC DEVELOPMENT WITH REGARD TO ANY APPLICATION,  
26 CERTIFICATION, REPORT, SUBMISSION, FILING OR OTHER ACTION REQUIRED OR  
27 GOVERNED BY THIS SECTION OCCURRING ON OR AFTER AUGUST FIRST, TWO THOU-  
28 SAND ELEVEN.

29 S 84. Subsection (j) of section 11 of the tax law is REPEALED.

30 S 85. Subdivision 1 of section 20 of chapter 784 of the laws of 1951,  
31 constituting the New York state defense emergency act, as amended by  
32 chapter 641 of the laws of 1978, is amended to read as follows:

33 1. There is hereby continued in the division of military and naval  
34 affairs in the executive department a state civil defense commission to  
35 consist of the same members as the members of the disaster preparedness  
36 commission as established in article two-B of the executive law. In  
37 addition, the [superintendents] SUPERINTENDENT of [banking and insur-  
38 ance] FINANCIAL REGULATION, the chairman of the workers' compensation  
39 board and the director of the division of veterans' affairs shall be  
40 members. The governor shall designate one of the members of the commis-  
41 sion to be the chairman thereof. The commission may provide for its  
42 division into subcommittees and for action by such subcommittees with  
43 the same force and effect as action by the full commission. The members  
44 of the commission, except for those who serve ex officio, shall be  
45 allowed their actual and necessary expenses incurred in the performance  
46 of their duties under this article but shall receive no additional  
47 compensation for services rendered pursuant to this article.

48 S 86. Section 4 of chapter 610 of the laws of 1995 amending the insur-  
49 ance law, in relation to investments, is hereby REPEALED.

50 S 87. Section 3 of the banking law is REPEALED.

51 S 88. Subdivisions 3, 4, 5, 7 and 9 of section 12-a of the banking  
52 law, as added by chapter 322 of the laws of 2007, are amended to read as  
53 follows:

54 3. Except with respect to a federally permitted power approved pursu-  
55 ant to subdivision four of this section, prior to any state chartered  
56 banking institution initially exercising any federally permitted power

1 pursuant to this section, such banking institution shall make an appli-  
2 cation individually or with one or more state chartered banking insti-  
3 tutions to the superintendent indicating that such institution or insti-  
4 tutions intend to exercise such federally permitted power and the basis  
5 on which such institution or institutions believe such power is a feder-  
6 ally permitted power. [The] IF SUCH APPLICATION MEETS THE REQUIREMENTS  
7 OF THIS SECTION, THE superintendent shall post such application upon the  
8 bulletin board of the department pursuant to section forty-two of this  
9 article. After promptly reviewing such application, the superintendent  
10 shall determine, consistent with the standards set forth in subdivision  
11 five of this section, whether to [recommend to the banking board  
12 approval of] APPROVE such application subject to such terms and condi-  
13 tions as [he or she] THE SUPERINTENDENT may deem appropriate, in [his or  
14 her] THE SUPERINTENDENT'S sole discretion. Such determination, [and any  
15 recommendation to the banking board to approve an application,] shall be  
16 made by the superintendent within forty-five days after the posting of  
17 such application by the superintendent, provided however that the super-  
18 intendent may notify the applicant or applicants that the review of the  
19 application shall be extended for an additional period of time not  
20 exceeding one hundred twenty days after the posting of such application,  
21 and provided further that such period of time may be extended for an  
22 additional period of time with the written consent of the applicant or  
23 applicants. The [banking board] SUPERINTENDENT shall not act upon the  
24 [superintendent's recommendation] APPLICATION prior to thirty days after  
25 such application has been posted. If the superintendent shall determine  
26 not to [recommend approval] APPROVE of such application, the superinten-  
27 dent shall notify the applicant or applicants in writing that the appli-  
28 cant or applicants may not exercise such federally permitted power. If  
29 the superintendent [determines to recommend approval of such applica-  
30 tion, and the banking board approves such application by adoption of a  
31 resolution,] APPROVES SUCH APPLICATION, THE SUPERINTENDENT SHALL NOTIFY  
32 THE APPLICANT OR APPLICANTS IN WRITING THEREOF, AND the applicant or  
33 applicants may exercise such federally permitted power subject to such  
34 terms and conditions as the [banking board] SUPERINTENDENT may have  
35 approved. [If the banking board declines to approve such application,  
36 the superintendent shall notify the applicant or applicants in writing  
37 thereof.] Notwithstanding any other law, the [banking board, upon the  
38 recommendation of the] superintendent[, ] may[, by resolution,] make the  
39 approval of an application under this section applicable to one or more  
40 additional state chartered banking institutions that are qualified to  
41 exercise the same federally permitted powers as the applicant or appli-  
42 cants pursuant to subdivision two of this section, subject to such terms  
43 and conditions as the superintendent shall find necessary and appropri-  
44 ate [and as approved by the banking board].

45 4. Notwithstanding any other law, the superintendent, in [his or her  
46 sole] THE SUPERINTENDENT'S discretion, may, when [he or she] THE SUPER-  
47 INTENDENT deems it necessary and appropriate after considering the stan-  
48 dards set forth in subdivision five of this section, [recommend to the  
49 banking board that it adopt a resolution authorizing] BY ORDER, AUTHOR-  
50 IZE one or more state chartered banking institutions to exercise a  
51 federally permitted power, subject to such terms and conditions as the  
52 superintendent shall find necessary and appropriate [and as approved by  
53 the banking board]. Prior to [making any such recommendation to the  
54 banking board] ISSUING SUCH ORDER, the superintendent shall post [such  
55 recommendation] NOTICE OF THE SUPERINTENDENT'S INTENTION TO ISSUE SUCH  
56 ORDER upon the bulletin board of the department pursuant to section

forty-two of this article, and [the banking board] shall not act upon such [recommendation] INTENTION prior to thirty days after such [recommendation] NOTICE has been posted.

5. Prior to approving any [recommendation by the superintendent] APPLICATION OR PROPOSAL pursuant to subdivision three or four of this section, the [banking board] SUPERINTENDENT shall make a finding that the approval of such [recommendation] APPLICATION OR PROPOSAL is:

(i) consistent with the policy of the state of New York as declared in section ten of this article and thereby protects the public interest, including the interests of depositors, creditors, shareholders, stockholders and consumers; and

(ii) necessary to achieve or maintain parity between state chartered banking institutions and their counterpart federally chartered banking institutions with respect to rights, powers, privileges, benefits, activities, loans, investments or transactions.

7. (a) In those instances where state chartered banking institutions are permitted to engage in the business of insurance pursuant to this section, they shall do so subject to [regulation by the department of insurance and pursuant to] all insurance laws, rules, and regulations; provided, however, that the superintendent[, in consultation with the superintendent of insurance,] may exempt state chartered banking institutions from any insurance law, rule or regulation which has been preempted under federal law, rule or regulation for federally chartered banking institutions if such law, rule or regulation has been preempted because it applies to insurance activities of federally chartered banking institutions and not to those of other entities.

(b) In those instances where a federally permitted power authorized pursuant to this section is subject to regulation by an agency, as defined in subdivision one of section one hundred two of the state administrative procedure act, other than the superintendent, [banking board or superintendent of insurance,] then when a state chartered banking institution exercises such federally permitted power, unless it is so authorized by other New York state law, or a rule, regulation or policy adopted pursuant to such other New York state law, or by a judicial decision, it shall do so subject to such regulation to the same extent and in the same manner as such agency regulates entities other than state chartered banking institutions, except to the extent that federally chartered banking institutions are not subject to such regulation.

[(c) Except with respect to a credit unemployment insurance policy, group credit life insurance policy, a group credit health, group credit accident or group credit health and accident policy, or similar group credit insurance covering the person of the insured, state chartered banking institutions, federally chartered banking institutions, and any person soliciting the purchase of or selling insurance on the premises thereof, must disclose or cause to be disclosed in writing, where practicable, in clear and concise language, to their customers and prospective customers who are solicited therefor that any insurance offered or sold:

(i) is not a deposit;

(ii) is not insured by the federal deposit insurance corporation or the national credit union share insurance fund, as applicable; and

(iii) is not guaranteed by the state chartered banking institution or the federally chartered banking institution.

(d) Except with respect to a flood insurance policy, or a credit unemployment insurance policy, group credit life insurance policy, a group

1 credit health, group credit accident or group credit health and accident  
2 policy, or similar group credit insurance covering the person of the  
3 insured, when a customer obtains insurance and credit from a state char-  
4 tered banking institution or a federally chartered banking institution,  
5 then the credit and insurance transactions shall be completed through  
6 separate documents. The expense of insurance premiums may not be  
7 included in the primary credit transaction without the express written  
8 consent of the customer.

9 (e) State chartered banking institutions and federally chartered bank-  
10 ing institutions shall not extend credit, lease or sell property of any  
11 kind, or furnish any services, or fix or vary the consideration for any  
12 of the foregoing, on the condition or requirement that the customer  
13 obtain insurance from the state chartered banking institution or feder-  
14 ally chartered banking institution, its affiliate or subsidiary, or a  
15 particular insurer, agent or broker; provided, however, that this prohi-  
16 bition shall not prevent any state chartered banking institution or  
17 federally chartered banking institution from engaging in any activity  
18 described in this subdivision that would not violate section 106 of the  
19 Bank Holding Company Act Amendments of 1970 (12 USCA §1971 et seq.), as  
20 interpreted by the Board of Governors of the Federal Reserve System.  
21 This prohibition shall not prevent a state chartered banking institution  
22 or federally chartered banking institution from informing a customer  
23 that insurance is required in order to obtain a loan or credit, that  
24 loan or credit approval is contingent upon the customer's procurement of  
25 acceptable insurance, or that insurance is available from the state  
26 chartered banking institution or federally chartered banking institu-  
27 tion; provided, however, that the state chartered banking institution or  
28 federally chartered banking institution shall also inform the customer  
29 in writing that his or her choice of insurance provider shall not affect  
30 the state chartered banking institution's or federally chartered banking  
31 institution's credit decision or credit terms in any way. Such disclo-  
32 sure shall be given prior to or at the time that a state chartered bank-  
33 ing institution or federally chartered banking institution or person  
34 selling insurance on the premises thereof solicits the purchase of any  
35 insurance from a customer who has applied for a loan or extension of  
36 credit.

37 (f) No state chartered banking institution or federally chartered  
38 banking institution shall require a debtor, insurer, or insurance agent  
39 or broker to pay a separate charge in connection with the handling of  
40 insurance that is required in connection with a loan or other extension  
41 of credit or the provision of another traditional banking product solely  
42 because the insurance is being provided by an insurance agent or broker  
43 which is not the state chartered banking institution or federally char-  
44 tered banking institution or any subsidiary or affiliate thereof.

45 (g)] (C) Any state chartered banking institution or federally char-  
46 tered banking institution and any subsidiary or affiliate thereof which  
47 is licensed to sell insurance in this state shall maintain separate and  
48 distinct books and records relating to its insurance transactions,  
49 including all files relating to and reflecting consumer complaints, and  
50 such insurance books and records shall be made available to the super-  
51 intendent of insurance for inspection upon reasonable notice.

52 [9.] 8. Any rules or regulations promulgated by the banking board  
53 pursuant to former sections fourteen-g and fourteen-h of this chapter  
54 prior to September first, two thousand seven, AND ANY RESOLUTIONS  
55 ADOPTED BY THE BANKING BOARD PURSUANT TO THIS SECTION AFTER SEPTEMBER  
56 FIRST, TWO THOUSAND SEVEN AND BEFORE THE EFFECTIVE DATE OF THE CHAPTER

1 OF THE LAWS OF TWO THOUSAND ELEVEN WHICH AMENDED THIS SUBDIVISION,  
2 including any such rules [and], regulations AND RESOLUTIONS which in  
3 whole or in part impose conditions, qualifications or restrictions on  
4 any federally permitted powers authorized thereby which exceed the  
5 conditions, qualifications or restrictions imposed on the same when  
6 exercised by a federally chartered banking institution, shall remain in  
7 full force and effect on or after such date, unless any such rule [or],  
8 regulation OR RESOLUTION is thereafter superseded, modified, or revoked  
9 by the [banking board] SUPERINTENDENT pursuant to the provisions of  
10 subdivisions three and four of this section.

11 S 88-a. Subdivision 8 of section 12-a of the banking law is REPEALED.

12 S 89. The functions and powers possessed by and all of the obligations  
13 and duties of the banking board, as established pursuant to the banking  
14 law, shall be transferred and assigned to, assumed by and devolved upon  
15 the superintendent.

16 S 90. Section 14 of the banking law, as amended by chapter 684 of the  
17 laws of 1938, the opening paragraph, paragraphs (a), (d), (e), and (f)  
18 of subdivision 1 as amended by chapter 315 of the laws of 2008, para-  
19 graphs (b) and (c) of subdivision 1 as amended by chapter 652 of the  
20 laws of 1988, paragraph (cc) of subdivision 1 as amended by chapter 115  
21 of the laws of 1981, paragraph (g) of subdivision 1 as amended and para-  
22 graphs (h), (i), (ii), (k), (m), (n), (o), (p), (q), and (qq) of subdi-  
23 vision 1 as relettered by chapter 360 of the laws of 1984, paragraph  
24 (i) of subdivision 1 as amended by chapter 766 of the laws of 1975,  
25 paragraph (ii) of subdivision 1 as added by chapter 226 of the laws of  
26 1943, paragraphs (j) and (l) of subdivision 1 as amended by chapter 154  
27 of the laws of 2007, paragraph (s) of subdivision 1 as amended by chap-  
28 ter 613 of the laws of 1993, and paragraph (t) of subdivision 1 as sepa-  
29 rately relettered by chapters 360 and 789 of the laws of 1984, paragraph  
30 (qq) as added by chapter 15 of the laws of 1980, is amended to read as  
31 follows:

32 S 14. [Powers of the banking board] ADDITIONAL POWERS OF THE SUPER-  
33 INTENDENT. 1. For the purpose of effectuating the policy declared in  
34 section ten of this article, WITHOUT LIMITING ANY OTHER POWERS THAT THE  
35 SUPERINTENDENT IS PERMITTED BY LAW TO EXERCISE, the [banking board]  
36 SUPERINTENDENT shall have THE power[, by a three-fifths vote of all its  
37 members,] to make, alter and amend [resolutions,] ORDERS, rules and  
38 regulations not inconsistent with law. Such ORDERS, rules[, AND regu-  
39 lations [and resolutions] shall be brought to the attention of those  
40 affected thereby in a manner [to be] prescribed by [the board] LAW.  
41 Without limiting the foregoing power, [resolutions] ORDERS or rules or  
42 regulations may be so adopted for the following specific purposes:

43 (a) To approve organization certificates and articles of association,  
44 private bankers' certificates and applications of foreign corporations  
45 for licenses to do business in this state, [submitted to it by the  
46 superintendent] as provided in this article.

47 (b) To determine the purposes for which and the extent to which capi-  
48 tal notes or debentures shall be considered and treated as capital stock  
49 of corporate banking organizations; but capital notes or debentures  
50 shall not be considered or treated as capital stock for the purposes of  
51 sections one hundred ten and one hundred eleven of this chapter.

52 (c) To grant permission to a trust company, including a national bank,  
53 to establish one or more common trust funds upon application and after  
54 inquiry concerning the qualifications of such trust company to maintain  
55 and manage the same, and to regulate the conduct and management of any  
56 common trust fund and for such purpose, but not by way of limitation of

1 the foregoing power, to prescribe (1) the records and accounts to be  
2 kept of such common trust funds; (2) the procedure to be followed in  
3 adding moneys to or withdrawing moneys or investments from any such  
4 common trust fund; (3) the methods and standards to be employed in  
5 determining the value of such common trust funds and of the assets and  
6 investments thereof; (4) the maximum amount of moneys of any estate,  
7 trust or fund which may be invested in any common trust fund; and (5)  
8 the maximum proportionate share of any such common trust fund which may  
9 be apportioned to any estate, trust or fund; and in connection with such  
10 powers to classify the corporations maintaining such common trust funds  
11 according to the population of the city, town or village in which the  
12 principal offices of such corporations are respectively located and to  
13 prescribe the minimum total of any such common trust fund and the  
14 permissible limits of investment therein in accordance with such classi-  
15 fication.

16 (cc) To approve the incorporation by or on behalf of trust companies  
17 and national banks with trust powers of a mutual trust investment compa-  
18 ny to form a medium for the common investment of funds held by trust  
19 companies, including national banks, acting as executors, administra-  
20 tors, guardians, inter-vivos or testamentary trustees or committees or  
21 conservators either alone or with individual co-fiduciaries, and any  
22 amendments of the certificate of incorporation of such mutual trust  
23 investment company, and to regulate the conduct and management of such  
24 mutual trust investment company and for such purpose, but not by way of  
25 limitation of the foregoing power, to prescribe (1) the records and  
26 accounts to be kept by such mutual trust investment company; (2) the  
27 procedure to be followed in the sale or redemption of stocks or shares  
28 therein; (3) the methods and standards to be employed in determining the  
29 value of such shares in the mutual trust investment company and the  
30 assets and investments thereof; and (4) the maximum proportionate shares  
31 of any such mutual trust investment company which may be apportioned or  
32 sold to any one trust company or national bank.

33 (d) To authorize a bank or a trust company to invest in the capital  
34 stock of, or any other equity interest in, any corporation, partnership,  
35 unincorporated association, limited liability company, or other entity  
36 not included among the corporations or other entities for which invest-  
37 ment in the capital stock or other equity interest is expressly author-  
38 ized by this chapter.

39 (e) To authorize a savings bank to invest in the capital stock, capi-  
40 tal notes and debentures of a trust company or other corporation, as  
41 provided in article six of this chapter.

42 (f) To authorize a savings and loan association to invest in the capi-  
43 tal stock, capital notes and debentures of a trust company or other  
44 corporation, as provided in article ten of this chapter.

45 (g) To prescribe from time to time: (1) the rates of interest which  
46 may be paid on deposits with any banking organization and with any  
47 branch or agency of a foreign banking corporation; and (2) the rates of  
48 dividends which may be paid on shares of any savings and loan associ-  
49 ation or credit union, and to prohibit the payment of such interest or  
50 such dividends by any banking organization or by any branch of a foreign  
51 banking corporation. Interest or dividend rates so prescribed need not  
52 be uniform.

53 (h) To limit and regulate withdrawals of deposits or shares from any  
54 banking organization, if the [board] SUPERINTENDENT shall find that such  
55 limitation and regulation are necessary because of the existence of

1 unusual and extraordinary circumstances. [The board shall enter such  
2 finding on its records.]

3 (i) To prescribe from time to time reserves against deposits to be  
4 maintained by banks and trust companies pursuant to article three of  
5 this chapter; provided that no reserve requirement imposed [by the  
6 board] against either time or demand deposits shall require any bank or  
7 trust company to maintain total reserves in an amount greater than it  
8 would be required to maintain if it were at the time a member of the  
9 federal reserve system; and provided further, however, that a bank or  
10 trust company not a member of the federal reserve system may be author-  
11 ized [by the board] to maintain total reserves against deposits in an  
12 amount lower than the reserves required by article three of this chapter  
13 to be maintained, either in individual cases or by general regulations  
14 [of the board] on such basis as the [board] SUPERINTENDENT may deem  
15 reasonable or appropriate in view of the character of the business tran-  
16 sacted by such bank or trust company.

17 [(ii) To exempt from reserve requirements prescribed by or pursuant to  
18 this chapter deposits payable to the United States by any banking organ-  
19 ization arising solely as a result of subscriptions made by or through  
20 any such banking organization for United States government securities  
21 issued under the authority of the second liberty bond act as amended.]

22 (j) To grant permission to officers, directors, clerks or employees of  
23 banks and trust companies to engage in the issue, flotation, underwrit-  
24 ing, public sale or distribution at wholesale or retail, or through  
25 syndicate participation of stocks, bonds or other similar securities,  
26 and to revoke such permission, both as provided in this chapter.

27 (k) To prescribe the methods and standards to be used (1) in making  
28 the examinations provided for in this chapter, and (2) in valuing the  
29 assets of banking organizations.

30 (l) To prescribe the form and contents of periodical reports of condi-  
31 tion to be rendered to the superintendent by banks, trust companies,  
32 private bankers and branches of foreign banking corporations, and the  
33 manner of publication of such reports.

34 (m) To postpone or omit the calling for and rendering of reports  
35 provided for by this chapter if the [board] SUPERINTENDENT shall find  
36 that such postponement or omission is necessary because of the existence  
37 of unusual and extraordinary circumstances. [The board shall enter such  
38 finding on its records.]

39 (n) To define what is an unsafe manner of conducting the business of  
40 banking organizations.

41 (o) To define what is a safe or unsafe condition of a banking organ-  
42 ization.

43 (p) To make variations from the requirements of this chapter, provided  
44 such variations are in harmony with the spirit of the law, if the  
45 [board] SUPERINTENDENT shall find that such variations are necessary  
46 because of the existence of unusual and extraordinary circumstances.  
47 [The board shall enter such finding on its records.]

48 (q) To establish safe and sound methods of banking and safeguard the  
49 interests of depositors, creditors, shareholders and stockholders gener-  
50 ally in times of emergency.

51 (qq) To permit any banking organization, national banking association,  
52 federal mutual savings bank, federal savings and loan association and  
53 federal credit union to offer graduated payment mortgages which shall  
54 conform to the provisions of section two hundred seventy-nine of the  
55 real property law.

(s) To permit authorized lenders, as defined by section two hundred eighty or two hundred eighty-a of the real property law, to offer reverse mortgage loans which shall conform to the provisions of section two hundred eighty or two hundred eighty-a of the real property law.

[(t) To exercise any other power conferred upon the board by law.]

2. The board shall consider and make recommendations upon any matter which the superintendent may submit to it for recommendations, and pass upon and determine any matter which he shall submit to it for determination.

3. The board shall submit to the superintendent proposals for any amendments to this chapter which it deems desirable.]

S 91. Whenever the term banking board shall appear in any law or regulation other than a section amended in this act, such term shall be deemed to refer to the superintendent.

S 92. Section 15 of the banking law is REPEALED.

S 93. Section 16 of the banking law is REPEALED.

S 94. Section 9-q of the banking law is REPEALED.

S 95. Section 6 of chapter 322 of the laws of 2007, amending the banking law relating to the power of banks, private bankers, trust companies, savings banks, savings and loan associations, credit unions and foreign banking corporations to exercise the rights of national banks, federal savings associations, federal credit unions and federal branches and agencies of foreign banks, as amended by chapter 122 of the laws of 2009, is amended to read as follows:

S 6. This act shall take effect immediately; provided, however that sections one, two, three and four of this act shall take effect September 1, 2007[; and provided further that sections one, two, three and four of this act shall expire and be deemed repealed September 10, 2011; and provided further that any federally permitted powers approved under section three of this act shall remain in full force and effect on and after such repeal date and shall not be affected by such repeal].

S 95-a. Section 7 of chapter 3 of the laws of 1997, amending the banking law and the insurance law relating to authorizing the banking board to permit banks and trust companies to exercise the rights of national banks, as amended by chapter 122 of the laws of 2009, is amended to read as follows:

S 7. This act shall take effect immediately provided that section two of this act shall take effect on the thirtieth day after it shall have become a law and shall apply to violations prescribed in section 44 of the banking law that occur on or after such date[; and provided further that sections one, three, four and five shall expire and be deemed repealed September 10, 2011; and provided further that any rules and regulations promulgated pursuant to sections one, three, four and five shall remain in full force and effect on and after such expiration date and shall not be affected by such expiration date].

S 96. Subdivision 2 of section 75-g of the banking law is REPEALED.

S 97. Paragraph b of subdivision 19 of section 42 of the banking law, as added by chapter 322 of the laws of 2007, is amended to read as follows:

b. [Every recommendation to be made to the banking board pursuant to subdivision four of section twelve-a of this article, which shall include a description of the recommended federally permitted power, a reference to the state chartered banking institutions which shall be permitted to exercise such power, and the date of the meeting of the banking board at which such recommendation is expected to be considered]

THE INTENTION OF THE SUPERINTENDENT TO ISSUE AN ORDER PURSUANT TO SUBDI-

VISION FOUR OF SECTION TWELVE-A OF THIS ARTICLE, WHICH SHALL INCLUDE A DESCRIPTION OF THE PROPOSED FEDERALLY PERMITTED POWER AND A REFERENCE TO THE STATE-CHARTERED BANKING INSTITUTIONS WHICH SHALL BE PERMITTED TO EXERCISE SUCH POWER.

S 98. Transfer of powers of the banking and insurance departments. The functions and powers possessed by and all of the obligations and duties of the banking and insurance departments, as established pursuant to the insurance law, the banking law and other laws, shall be transferred and assigned to, and assumed by and devolved upon, the department of financial regulation.

S 99. Abolition of the banking and insurance departments. Upon the transfer pursuant to this act of the functions and powers possessed by and all of the obligations and duties of the banking and insurance departments, as established pursuant to the banking law, the insurance law and other laws, the banking and insurance departments shall be abolished.

S 100. Continuity of authority of the banking and insurance departments. Except as herein otherwise provided, upon the transfer pursuant to this act of the functions and powers possessed by, and all of the obligations and duties of, the banking and insurance departments as established pursuant to the banking law, the insurance law and other laws, to the department of financial regulation as prescribed by this act, for the purpose of succession, all functions, powers, duties and obligations of the department of financial regulation shall be deemed and be held to constitute the continuation of such functions, powers, duties and obligations and not a different agency.

S 101. Transfer of records of the banking and insurance departments. Upon the transfer pursuant to this act of the functions and powers possessed by and all of the obligations and duties of the banking and insurance departments as established pursuant to the banking law, the insurance law and other laws, to the department of financial regulation as prescribed by this act, all books, papers, records and property pertaining to the banking and insurance departments shall be transferred to and maintained by the department of financial regulation.

S 102. Completion of unfinished business of the banking and insurance departments. Upon the transfer pursuant to this act of the functions and powers possessed by and all of the obligations and duties of the banking and insurance departments as established pursuant to the banking law, the insurance law and other laws, to the department of financial regulation as prescribed by this act, any business or other matter undertaken or commenced by the banking and insurance departments pertaining to or connected with the functions, powers, obligations and duties so transferred and assigned to the department of financial regulation may be conducted or completed by the department of financial regulation.

S 103. Terms occurring in laws, contracts or other documents of or pertaining to the banking and insurance departments. Upon the transfer pursuant to this act of the functions and powers possessed by and all of the obligations and duties of the banking and insurance departments as established pursuant to the banking law, the insurance law and other laws, as prescribed by this act, whenever the banking and insurance departments and the superintendents thereof, the functions, powers, obligations and duties of which are transferred to the department of financial regulation are referred to or designated in any law, regulation, contract or document pertaining to the functions, powers, obligations and duties transferred and assigned pursuant to this act, such reference or designation shall be deemed to refer to the department of

1 financial regulation and its superintendent. In the case of any boards  
2 or other organizations where the superintendents of both the banking  
3 department and the insurance department both sit, the references or  
4 designations shall be deemed to refer solely to superintendent of the  
5 department of financial regulation.

6 S 104. (a) Wherever the terms "insurance department", "department of  
7 insurance" or "department" appear in the insurance law, such terms are  
8 hereby changed to "department of financial regulation".

9 (b) Wherever the terms "banking department", "department of banking"  
10 or "department" appear in the banking law, such terms are hereby changed  
11 to "department of financial regulation".

12 (c) Wherever the terms "insurance department", "department of insur-  
13 ance", "banking department" or "department of banking" appears in the  
14 consolidated or unconsolidated laws of this state other than the banking  
15 law or the insurance law, such terms are hereby changed to "department  
16 of financial regulation".

17 (d) Wherever the terms "superintendent of insurance" or "superinten-  
18 dent" appear in the insurance law, such terms are hereby changed to  
19 "superintendent of financial regulation".

20 (e) Wherever the terms "superintendent of banks" or "superintendent"  
21 appear in the banking law, such terms are hereby changed to "superinten-  
22 dent of financial regulation".

23 (f) Wherever the terms "superintendent of insurance" or "superinten-  
24 dent of banks" appears in the consolidated or unconsolidated laws of  
25 this state other than the banking law or the insurance law, such term is  
26 hereby changed to "superintendent of financial regulation".

27 (g) The legislative bill drafting commission is hereby directed to  
28 effectuate this provision, and shall be guided by a memorandum of  
29 instruction setting forth the specific provisions of law to be amended.  
30 Such memorandum shall be transmitted to the legislative bill drafting  
31 commission within sixty days of enactment of this provision. Such memo-  
32 randum shall be issued jointly by the governor, the temporary president  
33 of the senate and the speaker of the assembly, or by the delegate of  
34 each.

35 S 105. Existing rights and remedies of or pertaining to the banking  
36 and insurance departments preserved. Upon the transfer pursuant to this  
37 act of the functions and powers possessed by and all of the obligations  
38 and duties of the banking and insurance departments as established  
39 pursuant to the banking law, the insurance law and other laws, to the  
40 department of financial regulation as prescribed by this act, no exist-  
41 ing right or remedy of the state, including the banking and insurance  
42 departments, shall be lost, impaired or affected by reason of this act.

43 S 106. Pending actions and proceedings of or pertaining to the banking  
44 or insurance departments. Upon the transfer pursuant to this act of the  
45 functions and powers possessed by and all of the obligations and duties  
46 of the banking and insurance departments as established pursuant to the  
47 banking law, the insurance law and other laws, to the department of  
48 financial regulation as prescribed by this act, no action or proceeding  
49 pending on the effective date of this act, brought by or against the  
50 banking or insurance departments or the superintendents thereof shall be  
51 affected by any provision of this act, but the same may be prosecuted or  
52 defended in the name of the New York state department of financial regu-  
53 lation. In all such actions and proceedings, the New York state depart-  
54 ment of financial regulation, upon application to the court, shall be  
55 substituted as a party.

1 S 107. Continuation of rules and regulations of or pertaining to the  
2 banking and insurance departments. Upon the transfer pursuant to this  
3 act of the functions and powers possessed by and all the obligations and  
4 duties of the banking and insurance departments as established pursuant  
5 to the banking law, the insurance law and other laws, to the department  
6 of financial regulation as prescribed by this act, all rules, regu-  
7 lations, acts, orders, determinations, decisions, licenses, registra-  
8 tions and charters of the banking and insurance departments, pertaining  
9 to the functions transferred and assigned by this act to the department  
10 of financial regulation in force at the time of such transfer, assign-  
11 ment, assumption or devolution shall continue in force and effect as  
12 rules, regulations, acts, determinations and decisions of the department  
13 of financial regulation until duly modified or repealed.

14 S 108. Transfer of appropriations heretofore made to the banking and  
15 insurance departments. Upon the transfer pursuant to this act of the  
16 functions and powers possessed by and all of the obligations and duties  
17 of the banking and insurance departments as established pursuant to the  
18 banking law, the insurance law and other laws, to the department of  
19 financial regulation as prescribed by this act, all appropriations and  
20 reappropriations which shall have been made available as of the date of  
21 such transfer to the banking department or the insurance department or  
22 segregated pursuant to law, to the extent of remaining unexpended or  
23 unencumbered balances thereof, whether allocated or unallocated and  
24 whether obligated or unobligated, shall be transferred to and made  
25 available for use and expenditure by the department of financial regu-  
26 lation and shall be payable on vouchers certified or approved by the  
27 commissioner of taxation and finance, on audit and warrant of the comp-  
28 troller. Payments of liabilities for expenses of personnel services,  
29 maintenance and operation which shall have been incurred as of the date  
30 of such transfer by the banking and insurance departments, and for  
31 liabilities incurred and to be incurred in completing its affairs shall  
32 also be made on vouchers certified or approved by the superintendent of  
33 the department of financial regulation, on audit and warrant of the  
34 comptroller.

35 S 109. Transfer of employees. Provision shall be made for the transfer  
36 of all employees from the banking department and the insurance depart-  
37 ment into the department of financial regulation. Employees so trans-  
38 ferred shall be transferred without further examination or qualification  
39 to the same or similar titles and shall remain in the same collective  
40 bargaining unit and shall retain their respective civil service classi-  
41 fication, status and rights pursuant to their collective bargaining unit  
42 and collective bargaining agreement.

43 S 110. No later than April first, two thousand eleven, the director of  
44 the budget shall notify the superintendent of the level of the depart-  
45 ment's expenses that will be incurred for the fiscal year beginning  
46 April first, two thousand eleven related to the department's regulation  
47 and supervision of the state's banking and insurance industries. Such  
48 notification shall separately detail the department's level of expenses  
49 to be incurred with respect to the regulation and supervision of the  
50 banking industry, the department's level of expenses to be incurred for  
51 regulation and supervision of the insurance industry, and the depart-  
52 ment's level of general expenses that are allocable to both the insur-  
53 ance and banking industries. The superintendent shall subsequently  
54 employ the provisions of section seventeen of the banking law and  
55 section three hundred thirty-two of the insurance law to assess the  
56 department's incurred costs in order to appropriately charge persons or

1 entities that are licensed, registered, organized, authorized, incorpo-  
2 rated or otherwise formed pursuant to the provisions of the banking law  
3 or insurance law.

4 S 111. Coordination of services. In an effort to create greater cost  
5 efficiencies and cost savings, the superintendent of financial regu-  
6 lation shall coordinate administrative, clerical and human resource  
7 functions, or any other resources and functions, including but not  
8 limited to office space and materials and supplies in accordance with  
9 the transfer of powers set forth in this act.

10 S 112. Provision for acting superintendent. Upon the effective date of  
11 this chapter, the governor shall designate an acting superintendent, who  
12 shall be entitled to exercise all of the authority of the superintendent  
13 until such time as a superintendent shall be confirmed and qualified,  
14 provided that the governor shall nominate a superintendent within sixty  
15 days of such effective date.

16 S 113. Severability. If any clause, sentence, paragraph, section or  
17 part of this act shall be adjudged by any court of competent jurisdic-  
18 tion to be invalid, such judgment shall not affect, impair or invalidate  
19 the remainder thereof, but shall be confined in its operation to the  
20 clause, sentence, paragraph, section or part thereof directly involved  
21 in the controversy in which such judgment shall have been rendered.

22 S 114. This act shall take effect April 1, 2011; provided, however,  
23 that:

24 (a) sections fifteen and sixteen of this act shall take effect April  
25 1, 2012;

26 (b) any officer or employee of the department of financial regulation  
27 whose holdings as of the close of business on March 31, 2011 conflict  
28 with section 501 of the financial regulation and protection law, as  
29 added by section one of this act, shall have until April 1, 2012 to  
30 dispose of non-conforming holdings or otherwise bring such non-conform-  
31 ing holdings into compliance with such section 501; and

32 (c) the amendments to section 2803-s of the public health law made by  
33 section forty-six of this act shall take effect on the same date and in  
34 the same manner as chapter 539 of the laws of 2010 takes effect.

## 35 PART B

36 Section 1. The article heading of article 21 of the executive law, as  
37 added by chapter 463 of the laws of 1992, is amended to read as follows:

### 38 [NEW YORK STATE] OFFICE FOR 39 THE PREVENTION OF DOMESTIC VIOLENCE

40 S 2. Section 575 of the executive law, as added by chapter 463 of the  
41 laws of 1992, paragraph (e) of subdivision 3 as amended and subdivision  
42 9 as added by chapter 368 of the laws of 1997, paragraph (b) of subdivi-  
43 sion 4 as separately amended by section 4 of part A1 and section 69 of  
44 part A of chapter 56 of the laws of 2010, paragraphs (c), (d) and (e) of  
45 subdivision 4 as amended and subdivisions 7 and 8 as added by chapter  
46 396 of the laws of 1994, and subdivision 10 as added by chapter 297 of  
47 the laws of 1998, is amended to read as follows:

48 S 575. [New York state office] OFFICE for the prevention of domestic  
49 violence. 1. Establishment of office. There is hereby established with-  
50 in the [executive department the "New York state] DIVISION OF CRIMINAL  
51 JUSTICE SERVICES THE office for the prevention of domestic violence["],  
52 hereinafter in this section referred to as the "office". REFERENCES TO  
53 "COMMISSIONER" IN THIS SECTION SHALL MEAN THE COMMISSIONER OF THE DIVI-  
54 SION OF CRIMINAL JUSTICE SERVICES.

1 1-A. THE OFFICE SHALL BE HEADED BY A DIRECTOR, WHO SHALL BE APPOINTED  
2 BY THE COMMISSIONER OF THE DIVISION OF CRIMINAL JUSTICE SERVICES SUBJECT  
3 TO THE APPROVAL OF THE GOVERNOR. THE DIRECTOR SHALL SERVE AS A SPECIAL  
4 ADVISOR TO THE GOVERNOR REGARDING MATTERS PERTAINING TO THE PREVENTION  
5 OF AND RESPONSE TO DOMESTIC VIOLENCE, AND SHALL, IN CONSULTATION WITH  
6 THE COMMISSIONER, COORDINATE AND RECOMMEND POLICY RELATING TO THE  
7 PREVENTION OF DOMESTIC VIOLENCE THROUGHOUT THE STATE. THE COMMISSIONER  
8 SHALL APPOINT STAFF AND PERFORM SUCH OTHER FUNCTIONS TO ENSURE THE EFFI-  
9 CIENT OPERATION OF THE OFFICE WITHIN THE AMOUNTS MADE AVAILABLE THEREFOR  
10 BY APPROPRIATION.

11 2. Duties and responsibilities. The office shall advise the governor  
12 and the legislature on the most effective ways for state government to  
13 respond to the problem of domestic violence. In fulfilling this respon-  
14 sibility, the office shall consult with experts, service providers and  
15 representative organizations in the field of domestic violence and shall  
16 act as an advocate for domestic violence victims and programs.

17 3. Activities. In addition, the office shall develop and implement  
18 policies and programs designed to assist victims of domestic violence  
19 and their families, and to provide education and prevention, training  
20 and technical assistance. Such domestic violence-related activities  
21 shall include, but not be limited to:

22 (a) Serving as a clearinghouse for information and materials;

23 (b) Developing and coordinating community outreach and public educa-  
24 tion throughout the state;

25 (c) Developing and delivering training to professionals, including but  
26 not limited to professionals in the fields of:

27 (i) domestic violence;

28 (ii) health and mental health;

29 (iii) social and human services;

30 (iv) public education;

31 (v) law enforcement and criminal justice;

32 (vi) alcohol and substance abuse.

33 (d) Developing and promoting school-based prevention programs;

34 (e) Providing technical assistance to state and local government  
35 bodies and other agencies and to private not-for-profit corporations, on  
36 effective policies and responses to domestic violence, including devel-  
37 opment of [a] model domestic violence policies[, pursuant to subdivi-  
38 sions seven, eight and nine of this section];

39 (f) Promoting and facilitating interagency cooperation among state  
40 agencies and intergovernmental cooperation between different levels of  
41 government in the state in the delivery and/or funding of services;

42 (g) Operating as an advocate for domestic violence services and  
43 victims;

44 (h) Undertaking program and services needs assessments on its own  
45 initiative or at the request of the governor, the legislature or service  
46 providers;

47 (i) Examining the relationship between domestic violence and other  
48 problems and making recommendations for effective policy response;

49 (j) Collecting data, conducting research, and holding public hearings;

50 (k) Making periodic reports to the governor and the legislature recom-  
51 mending policy and program directions and reviewing the activities of  
52 the office;

53 (l) Any other activities including the [making of] RECOMMENDATION TO  
54 THE COMMISSIONER OF THE DIVISION OF CRIMINAL JUSTICE SERVICES FOR THE  
55 CREATION and promulgation of rules and regulations deemed necessary to  
56 facilitate the prevention of domestic violence within the scope and

purview of this article which are not otherwise inconsistent with any other provisions of law.

4. Advisory council. (a) An advisory council is hereby established to make recommendations on domestic violence related issues and effective strategies for the prevention of domestic violence, to assist in the development of appropriate policies and priorities for effective intervention, public education and advocacy, and to facilitate and assure communication and coordination of efforts among state agencies and between different levels of government, state, federal, and municipal, for the prevention of domestic violence.

(b) The advisory council shall consist of nine members and [fourteen] SIXTEEN ex-officio members. Each member shall be appointed to serve for a term of three years and shall continue in office until a successor appointed member is made. A member appointed to fill a vacancy shall be appointed for the unexpired term of the member he or she is to succeed. All of the members shall be individuals with expertise in the area of domestic violence. Three members shall be appointed by the governor, two members shall be appointed upon the recommendation of the temporary president of the senate, two members shall be appointed upon the recommendation of the speaker of the assembly, one member shall be appointed upon the recommendation of the minority leader of the senate, and one member shall be appointed upon the recommendation of the minority leader of the assembly. The ex-officio members of the advisory board shall consist of [one representative from the staff of each of the following state departments and divisions] THE DIRECTOR OF THE OFFICE, WHO SHALL CHAIR THE COUNCIL, AND THE FOLLOWING MEMBERS OR THEIR DESIGNEES: THE COMMISSIONER OF THE office of temporary and disability [services] ASSISTANCE; THE COMMISSIONER OF THE department of health; THE COMMISSIONER OF THE education department; THE COMMISSIONER OF THE office of mental health; THE COMMISSIONER OF THE office of alcoholism and substance abuse services; [division of criminal justice services;] THE DIRECTOR OF THE office of probation and correctional alternatives; THE COMMISSIONER OF THE office of children and family services; THE DIRECTOR OF THE office of victim services; THE CHIEF ADMINISTRATIVE JUDGE OF THE office of court administration; THE COMMISSIONER OF THE department of labor; THE DIRECTOR OF THE state office for the aging; THE COMMISSIONER OF THE department of correctional services; and the [division] CHAIRMAN OF THE BOARD of parole, THE CHIEF EXECUTIVE OFFICER OF THE NEW YORK STATE COALITION AGAINST DOMESTIC VIOLENCE; AND THE EXECUTIVE DIRECTOR OF THE NEW YORK STATE COALITION AGAINST SEXUAL ASSAULT.

(c) [The governor shall appoint a member as chair of the advisory council to serve at the pleasure of the governor.

(d)] The advisory council shall meet as often as deemed necessary by the chair [or executive director] but in no event less than two times per year.

[(e)] The members of the advisory council shall receive no salary or other compensation for their services but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of their duties within amounts made available by appropriation therefor subject to the approval of the director of the budget. The ex-officio members of the advisory council shall receive no additional compensation for their services on the advisory council above the salary they receive from the respective departments or divisions that employ them.

5. [Executive director. (a) The governor shall appoint an executive director of the office who shall serve at the pleasure of the governor.

(b) The executive director shall receive an annual salary fixed by the governor within the amounts appropriated specifically therefor and shall be entitled to reimbursement for reasonable expenses incurred in connection with the performance of the director's duties.

(c) The executive director shall appoint staff and perform such other functions to ensure the efficient operation of the office.

6.] Assistance of other agencies. The office may request and shall receive in a timely manner from any department, division, board, bureau, commission or agency of the state, such information and assistance as shall enable it to properly carry out its powers and duties pursuant to this article.

[7. Model domestic violence policy for counties. (a) The office shall convene a task force of county level municipal officials, municipal police and members of the judiciary, or their representatives, and directors of domestic violence programs, including representatives from a statewide advocacy organization for the prevention of domestic violence, to develop a model domestic violence policy for counties. For the purposes of this subdivision, "county" shall have the same meaning as such term is defined in section three of the county law, except that the city of New York shall be deemed to be one county. The office shall give due consideration to the recommendations of the governor, the temporary president of the senate and the speaker of the assembly for participation by any person on the task force, and shall make reasonable efforts to assure regional balance in membership.

(b) The purpose of the model policy shall be to provide consistency and coordination by and between county agencies and departments, including criminal justice agencies and the judiciary, and, as appropriate, by municipalities or other jurisdictions within the county and other governmental agencies and departments, by assuring that best practices, policies, protocols and procedures are used to address the issue of domestic violence, and to secure the safety of the victim including, but not limited to:

(i) response, investigation and arrest policies by police agencies;

(ii) response by other criminal justice agencies, including disposition of domestic violence complaints, the provision of information and orders of protection;

(iii) response by human services and health agencies, including identification, assessment, intervention and referral policies and responses to victims and the perpetrators of domestic violence;

(iv) training and appropriate and relevant measures for periodic evaluation of community efforts; and

(v) other issues as shall be appropriate and relevant for the task force to develop such policy.

(c) Such model policy shall be reviewed by the task force to assure consistency with existing law and shall be made the subject of public hearings convened by the office throughout the state at places and at times which are convenient for attendance by the public, after which the policy shall be reviewed by the task force and amended as necessary to reflect concerns raised at the hearings. If approved by the task force, such model policy shall be provided as approved with explanation of its provisions to the governor and the legislature not later than two years after the effective date of this subdivision. Notification of the availability of such model domestic violence policy shall be made by the office to every county in the state, and copies of the policy shall be made available to them upon request.

(d) The office in consultation with the task force, providers of service, the advisory council and others, including representatives of a statewide advocacy organization for the prevention domestic violence, shall provide technical support, information and encouragement to counties to implement the provisions of the model policy on domestic violence.

(e) Nothing contained in this subdivision shall be deemed to prevent the governing body of a county from designating a local advisory committee to investigate the issues, work with providers of domestic violence programs and other interested parties, and to aid in the implementation of the policy required by this subdivision. Such governing body or advisory committee may request and shall receive technical assistance from the office for the development of such a policy. Implementation of the model domestic violence policy may take place in a form considered appropriate by the governing body of a county, including guidelines, regulations and local laws.

(f) The office shall survey county governments within four years of the effective date of this subdivision to determine the level of compliance with the model domestic violence policy, and shall take such steps as shall be necessary to aid county governments in the implementation of such policy.

8. State domestic violence policy. (a) The office shall survey every state agency to determine any activities, programs, rules, regulations, guidelines or statutory requirements that have a direct or indirect bearing on the state's efforts and abilities to address the issue of domestic violence including, but not limited to, the provision of services to victims and their families. Within two years of the effective date of this subdivision, the office shall compile such information and provide a report, with appropriate comments and recommendations, to the governor and the legislature. For the purposes of this subdivision, "state agency" shall have the same meaning as such term is defined in section two-a of the state finance law.

(b) Within three years of the effective date of this subdivision the office shall recommend a state domestic violence policy consistent with statute and best practice, policies, procedures and protocols to the governor and the legislature. The purpose of such model policy shall be to provide consistency and coordination by and between state agencies and departments to address the issue of domestic violence. In developing such model policy, the office shall consult with a statewide advocacy organization for the prevention of domestic violence, and shall assure that the advisory council reviews all data and recommendations and shall not submit such model policy until approved by the advisory council. Such recommendations shall be provided exclusive of any study or report the office is required to undertake pursuant to a chapter of the laws of nineteen hundred ninety-four, entitled "the family protection and domestic violence intervention act of 1994".

(c)] 6. No state agency shall promulgate a rule pursuant to the state administrative procedure act, or adopt a guideline or other procedure, including a request for proposals, directly or indirectly affecting the provision of services to victims of domestic violence, or the provision of services by residential or non-residential domestic violence programs, as such terms are defined in section four hundred fifty-nine-a of the social services law, or establish a grant program directly or indirectly affecting such victims of domestic violence or providers of service, without first consulting the office, which shall provide all comments in response to such rules, guidelines or procedures in writing

1 directly to the chief executive officer of such agency, to the adminis-  
2 trative regulations review committee and to the appropriate committees  
3 of the legislature having jurisdiction of the subject matter addressed  
4 within two weeks of receipt thereof, provided that failure of the office  
5 to respond as required herein shall not otherwise impair the ability of  
6 such state agency to promulgate a rule. This paragraph shall not apply  
7 to an appropriation which finances a contract with a not-for-profit  
8 organization which has been identified for a state agency without the  
9 use of a request for proposals.

10 [9. Model domestic violence employee awareness and assistance policy.  
11 (a) The office shall convene a task force including members of the busi-  
12 ness community, employees, employee organizations, representatives from  
13 the department of labor and the empire state development corporation,  
14 and directors of domestic violence programs, including representatives  
15 of statewide advocacy organizations for the prevention of domestic  
16 violence, to develop a model domestic violence employee awareness and  
17 assistance policy for businesses.

18 The office shall give due consideration to the recommendations of the  
19 governor, the temporary president of the senate, and the speaker of the  
20 assembly for participation by any person on the task force, and shall  
21 make reasonable efforts to assure regional balance in membership.

22 (b) The purpose of the model employee awareness and assistance policy  
23 shall be to provide businesses with the best practices, policies, proto-  
24 cols and procedures in order that they ascertain domestic violence  
25 awareness in the workplace, assist affected employees, and provide a  
26 safe and helpful working environment for employees currently or poten-  
27 tially experiencing the effects of domestic violence. The model plan  
28 shall include but not be limited to:

29 (i) the establishment of a definite corporate policy statement recog-  
30 nizing domestic violence as a workplace issue as well as promoting the  
31 need to maintain job security for those employees currently involved in  
32 domestic violence disputes;

33 (ii) policy and service publication requirements, including posting  
34 said policies and service availability pamphlets in break rooms, on  
35 bulletin boards, restrooms and other communication methods;

36 (iii) a listing of current domestic violence community resources such  
37 as shelters, crisis intervention programs, counseling and case manage-  
38 ment programs, legal assistance and advocacy opportunities for affected  
39 employees;

40 (iv) measures to ensure workplace safety including, where appropriate,  
41 designated parking areas, escort services and other affirmative safe-  
42 guards;

43 (v) training programs and protocols designed to educate employees and  
44 managers in how to recognize, approach and assist employees experiencing  
45 domestic violence, including both victims and batterers; and

46 (vi) other issues as shall be appropriate and relevant for the task  
47 force in developing such model policy.

48 (c) Such model policy shall be reviewed by the task force to assure  
49 consistency with existing law and shall be made the subject of public  
50 hearings convened by the office throughout the state at places and at  
51 times which are convenient for attendance by the public, after which the  
52 policy shall be reviewed by the task force and amended as necessary to  
53 reflect concerns raised at the hearings. If approved by the task force,  
54 such model policy shall be provided as approved with explanation of its  
55 provisions to the governor and the legislature not later than one year  
56 after the effective date of this subdivision. The office shall make

1 every effort to notify businesses of the availability of such model  
2 domestic violence employee awareness and assistance policy.

3 (d) The office in consultation with the task force, providers of  
4 services, the advisory council, the department of labor, the empire  
5 state development corporation, and representatives of statewide advocacy  
6 organizations for the prevention of domestic violence, shall provide  
7 technical support, information, and encouragement to businesses to  
8 implement the provisions of the model domestic violence employee aware-  
9 ness and assistance policy.

10 (e) Nothing contained in this subdivision shall be deemed to prevent  
11 businesses from adopting their own domestic violence employee awareness  
12 and assistance policy.

13 (f) The office shall survey businesses within four years of the effec-  
14 tive date of this section to determine the level of model policy  
15 adoption amongst businesses and shall take steps necessary to promote  
16 the further adoption of such policy.

17 10. New York state address confidentiality program. The office shall  
18 study and issue a report to the governor and the legislature on the  
19 advisability and feasibility of creating an address confidentiality  
20 program in New York state to allow victims of domestic violence who have  
21 left abusive relationships to keep new addresses confidential. The study  
22 shall include, but not be limited to, an analysis of the various types  
23 of public records involved in domestic violence cases in order to deter-  
24 mine the appropriateness of such records for such program, the potential  
25 effects of an address confidentiality program on the record-keeping  
26 practices of state and local agencies, issues concerning inter-agency  
27 cooperation, enforcement and procedure, the impact on the court system  
28 and any fiscal ramifications. The office shall consult with experts,  
29 service providers and representative organizations in the field of  
30 domestic violence, other states which have created similar programs, the  
31 division of criminal justice services and the department of state. The  
32 office shall complete such study and report within one year of the  
33 effective date of this subdivision.]

34 S 3. Section 576 of the executive law is REPEALED.

35 S 4. Transfer of employees. Notwithstanding any other provision of  
36 law, rule, or regulation to the contrary, upon the transfer of functions  
37 from the New York state office for the prevention of domestic violence  
38 to the division of criminal justice services pursuant to subdivision 1-a  
39 of section 575 of the executive law, as added by section two of this  
40 act, all employees of the New York state office for the prevention of  
41 domestic violence shall be transferred to the division of criminal  
42 justice services. Employees transferred pursuant to this section shall  
43 be transferred without further examination or qualification and shall  
44 retain their respective civil service classifications, status and  
45 collective bargaining unit designations and collective bargaining agree-  
46 ments.

47 S 5. Transfer of records. All books, papers, and property of the New  
48 York state office for the prevention of domestic violence shall be  
49 deemed to be in the possession of the commissioner of the division of  
50 criminal justice services. All books, papers, and property of the New  
51 York state office for the prevention of domestic violence shall continue  
52 to be maintained by the division of criminal justice services.

53 S 6. Continuity of authority. For the purpose of succession of all  
54 functions, powers, duties and obligations transferred and assigned to,  
55 devolved upon and assumed by it pursuant to this act, the division of  
56 criminal justice services shall be deemed and held to constitute the

continuation of the New York state office for the prevention of domestic violence.

S 7. Completion of unfinished business. Any business or other matter undertaken or commenced by the New York state office for the prevention of domestic violence or the director thereof pertaining to or connected with the functions, powers, obligations and duties hereby transferred and assigned to the division of criminal justice services and pending on the effective date of this act, may be conducted and completed by the division of criminal justice services in the same manner and under the same terms and conditions and with the same effect as if conducted and completed by the New York state office for the prevention of domestic violence.

S 8. Continuation of rules and regulations. All rules, regulations, acts, orders, determinations, and decisions of the New York state office for the prevention of domestic violence pertaining to the functions and powers herein transferred and assigned, in force at the time of such transfer and assumption, shall continue in full force and effect as rules, regulations, acts, orders, determinations and decisions of the division of criminal justice services until duly modified or abrogated by the commissioner of the division of criminal justice services.

S 9. Terms occurring in laws, contracts and other documents. Whenever the New York state office for the prevention of domestic violence or the director thereof, is referred to or designated in any law, contract or document pertaining to the functions, powers, obligations and duties hereby transferred to and assigned to the division of criminal justice services or the commissioner of the division of criminal justice services, such reference or designation shall be deemed to refer to the division of criminal justice services or commissioner of the division of criminal justice services, as applicable.

S 10. Existing rights and remedies preserved. No existing right or remedy of any character shall be lost, impaired or affected by any provisions of this act.

S 11. Pending actions and proceedings. No action or proceeding pending at the time when this act shall take effect, brought by or against the New York state office for the prevention of domestic violence or the director thereof, shall be affected by any provision of this act, but the same may be prosecuted or defended in the name of the commissioner of the division of criminal justice services or the division of criminal justice services. In all such actions and proceedings, the commissioner of the division of criminal justice services, upon application of the court, shall be substituted as a party.

S 12. Transfer of appropriations heretofore made. All appropriations or reappropriations heretofore made to the New York state office for the prevention of domestic violence to the extent of remaining unexpended or unencumbered balance thereof, whether allocated or unallocated and whether obligated or unobligated, are hereby transferred to and made available for use and expenditure by the division of criminal justice services subject to the approval of the director of the budget for the same purposes for which originally appropriated or reappropriated and shall be payable on vouchers certified or approved by the commissioner of the division of criminal justice services on audit and warrant of the comptroller.

S 13. Transfer of assets and liabilities. All assets and liabilities of the New York state office for the prevention of domestic violence are hereby transferred to and assumed by the division of criminal justice services.

1 S 14. The opening paragraph and subdivision (a) of section 214-b of  
2 the executive law, as added by chapter 222 of the laws of 1994, are  
3 amended to read as follows:

4 The superintendent shall, for all members of the state police includ-  
5 ing new and veteran officers, develop, maintain and disseminate, in  
6 consultation with the [state] office for the prevention of domestic  
7 violence, written policies and procedures consistent with article eight  
8 of the family court act and applicable provisions of the criminal proce-  
9 dure and domestic relations laws, regarding the investigation of and  
10 intervention in incidents of family offenses. Such policies and proce-  
11 dures shall make provision for education and training in the interpreta-  
12 tion and enforcement of New York's family offense laws, including but  
13 not limited to:

14 (a) intake and recording of victim statements, on a standardized  
15 "domestic violence incident report form" promulgated by the state divi-  
16 sion of criminal justice services in consultation with the superinten-  
17 dent and with the [state] DIRECTOR OF THE office for the prevention of  
18 domestic violence, and the investigation thereof so as to ascertain  
19 whether a crime has been committed against the victim by a member of the  
20 victim's family or household as such terms are defined in section eight  
21 hundred twelve of the family court act and section 530.11 of the crimi-  
22 nal procedure law;

23 S 15. Subdivision 1 of section 221-a of the executive law, as sepa-  
24 rately amended by sections 14 and 67 of part A of chapter 56 of the laws  
25 of 2010, is amended to read as follows:

26 1. The superintendent, in consultation with the division of criminal  
27 justice services[,] AND THE office of court administration[, and the  
28 office for the prevention of domestic violence,] shall develop a compre-  
29 hensive plan for the establishment and maintenance of a statewide  
30 computerized registry of all orders of protection issued pursuant to  
31 articles four, five, six and eight of the family court act, section  
32 530.12 of the criminal procedure law and, insofar as they involve  
33 victims of domestic violence as defined by section four hundred fifty-  
34 nine-a of the social services law, section 530.13 of the criminal proce-  
35 dure law and sections two hundred forty and two hundred fifty-two of the  
36 domestic relations law, and orders of protection issued by courts of  
37 competent jurisdiction in another state, territorial or tribal jurisdic-  
38 tion, special orders of conditions issued pursuant to subparagraph (i)  
39 or (ii) of paragraph (o) of subdivision one of section 330.20 of the  
40 criminal procedure law insofar as they involve a victim or victims of  
41 domestic violence as defined by subdivision one of section four hundred  
42 fifty-nine-a of the social services law or a designated witness or  
43 witnesses to such domestic violence, and all warrants issued pursuant to  
44 sections one hundred fifty-three and eight hundred twenty-seven of the  
45 family court act, and arrest and bench warrants as defined in subdivi-  
46 sions twenty-eight, twenty-nine and thirty of section 1.20 of the crimi-  
47 nal procedure law, insofar as such warrants pertain to orders of  
48 protection or temporary orders of protection; provided, however, that  
49 warrants issued pursuant to section one hundred fifty-three of the fami-  
50 ly court act pertaining to articles three, seven and ten of such act and  
51 section 530.13 of the criminal procedure law shall not be included in  
52 the registry. The superintendent shall establish and maintain such  
53 registry for the purposes of ascertaining the existence of orders of  
54 protection, temporary orders of protection, warrants and special orders  
55 of conditions, and for enforcing the provisions of paragraph (b) of  
56 subdivision four of section 140.10 of the criminal procedure law.

1 S 16. The opening paragraph of subdivision 15 of section 837 of the  
2 executive law, as amended by chapter 626 of the laws of 1997, is amended  
3 to read as follows:

4 Promulgate, in consultation with the superintendent of state police  
5 and the [state] DIRECTOR OF THE office for the prevention of domestic  
6 violence, a standardized "domestic violence incident report form" for  
7 use by state and local law enforcement agencies in the reporting,  
8 recording and investigation of all alleged incidents of domestic  
9 violence, regardless of whether an arrest is made as a result of such  
10 investigation. Such form shall be prepared in multiple parts, one of  
11 which shall be immediately provided to the victim, and shall include  
12 designated spaces for: the recordation of the results of the investi-  
13 gation by the law enforcement agency and the basis for any action taken;  
14 the recordation of a victim's allegations of domestic violence; the age  
15 and gender of the victim and the alleged offender or offenders; and  
16 immediately thereunder a space on which the victim may sign and verify  
17 such victim's allegations. Such form shall also include, but not be  
18 limited to spaces to identify:

19 S 17. Paragraph (f) of subdivision 3 of section 840 of the executive  
20 law, as amended by section 5 of part Q of chapter 56 of the laws of  
21 2009, is amended to read as follows:

22 (f) Develop, maintain and disseminate, in consultation with the  
23 [state] office for the prevention of domestic violence, written policies  
24 and procedures consistent with article eight of the family court act and  
25 applicable provisions of the criminal procedure and domestic relations  
26 laws, regarding the investigation of and intervention by new and veteran  
27 police officers in incidents of family offenses. Such policies and  
28 procedures shall make provisions for education and training in the  
29 interpretation and enforcement of New York's family offense laws,  
30 including but not limited to:

31 (1) intake and recording of victim statements, on a standardized  
32 "domestic violence incident report form" promulgated by the division of  
33 criminal justice services in consultation with the superintendent of  
34 state police, representatives of local police forces and the [state]  
35 DIRECTOR OF THE office for the prevention of domestic violence, and the  
36 investigation thereof so as to ascertain whether a crime has been  
37 committed against the victim by a member of the victim's family or  
38 household as such terms are defined in section eight hundred twelve of  
39 the family court act and section 530.11 of the criminal procedure law;  
40 and

41 (2) the need for immediate intervention in family offenses including  
42 the arrest and detention of alleged offenders, pursuant to subdivision  
43 four of section 140.10 of the criminal procedure law, and notifying  
44 victims of their rights, including but not limited to immediately  
45 providing the victim with the written notice required in subdivision six  
46 of section 530.11 of the criminal procedure law and subdivision five of  
47 section eight hundred twelve of the family court act;

48 S 18. Section 10-a of the labor law, as added by chapter 527 of the  
49 laws of 1995, is amended to read as follows:

50 S 10-a. Domestic violence policy. The commissioner shall study the  
51 issue of employees separated from employment due to acts of domestic  
52 violence as referred to in and qualified by section four hundred fifty-  
53 nine-a of the social services law. The commissioner shall consult with  
54 the [New York state] office for the prevention of domestic violence and  
55 its advisory council, the department of social services, the division of  
56 women and members of the public in preparing such study. Such study

1 shall include a review of case histories in which unemployment compen-  
2 sation was sought and an analysis of the policies in other states. A  
3 copy of such study shall be transmitted to the temporary president of  
4 the senate and the speaker of the assembly on or before January  
5 fifteenth, nineteen hundred ninety-six and shall contain policy recom-  
6 mendations.

7 S 19. Section 10-b of the labor law, as added by chapter 368 of the  
8 laws of 1997, is amended to read as follows:

9 S 10-b. Domestic violence employee awareness and assistance. The  
10 commissioner shall assist the office for the prevention of domestic  
11 violence in the creation, approval and dissemination of [the] A model  
12 domestic violence employee awareness and assistance policy [as further  
13 defined in subdivision nine of section five hundred seventy-five of the  
14 executive law]. Upon completion and approval of the model [plan as  
15 outlined in subdivision nine of section five hundred seventy-five of the  
16 executive law] POLICY, the commissioner shall assist in the promotion of  
17 the model policy to businesses in New York state.

18 S 20. The opening paragraph of subdivision 2 of section 2803-p of the  
19 public health law, as added by chapter 271 of the laws of 1997, is  
20 amended to read as follows:

21 Every hospital having maternity and newborn services shall provide  
22 information concerning family violence to parents of newborn infants at  
23 any time prior to the discharge of the mother. Such information shall  
24 also be provided by every diagnostic and treatment center offering  
25 prenatal care services to women upon an initial prenatal care visit.  
26 The commissioner shall, in consultation with the [state] office for the  
27 prevention of domestic violence and the department of social services,  
28 prepare, produce and transmit such notice to such facilities in quanti-  
29 ties sufficient to comply with the requirements of this section. Such  
30 notice shall contain information which shall include but not be limited  
31 to the effects of family violence and the services available to women  
32 and children experiencing family violence.

33 S 21. Subdivision 1 of section 111-v of the social services law, as  
34 added by chapter 398 of the laws of 1997, is amended to read as follows:

35 1. The department, in consultation with appropriate agencies including  
36 but not limited to the [New York state] office for the prevention of  
37 domestic violence, shall by regulation prescribe and implement safe-  
38 guards on the confidentiality, integrity, accuracy, access, and the use  
39 of all confidential information and other data handled or maintained,  
40 including data obtained pursuant to section one hundred eleven-o of this  
41 article and including such information and data maintained in the auto-  
42 mated child support enforcement system. Such information and data shall  
43 be maintained in a confidential manner designed to protect the privacy  
44 rights of the parties and shall not be disclosed except for the purpose  
45 of, and to the extent necessary to, establish paternity, or establish,  
46 modify or enforce an order of support.

47 S 22. Subdivision (a) of section 483-ee of the social services law, as  
48 amended by section 5 of part A-1 of chapter 56 of the laws of 2010, is  
49 amended to read as follows:

50 (a) There is established an interagency task force on trafficking in  
51 persons, which shall consist of the following members or their desig-  
52 nees: (1) the commissioner of the division of criminal justice services;  
53 (2) the commissioner of the office of temporary and disability assist-  
54 ance; (3) the commissioner of health; (4) the commissioner of the office  
55 of mental health; (5) the commissioner of labor; (6) the commissioner of  
56 the office of children and family services; (7) the commissioner of the

1 office of alcoholism and substance abuse services; (8) the director of  
2 the office of victim services; (9) the [executive] director of the  
3 office for the prevention of domestic violence; and (10) the superinten-  
4 dent of the division of state police; and others as may be necessary to  
5 carry out the duties and responsibilities under this section. The task  
6 force will be co-chaired by the commissioners of the division of crimi-  
7 nal justice services and the office of temporary and disability assist-  
8 ance, or their designees. It shall meet as often as is necessary and  
9 under circumstances as are appropriate to fulfilling its duties under  
10 this section.

11 S 23. Subdivision 6 of section 530.11 of the criminal procedure law,  
12 as amended by chapter 224 of the laws of 1994, is amended to read as  
13 follows:

14 6. Notice. Every police officer, peace officer or district attorney  
15 investigating a family offense under this article shall advise the  
16 victim of the availability of a shelter or other services in the commu-  
17 nity, and shall immediately give the victim written notice of the legal  
18 rights and remedies available to a victim of a family offense under the  
19 relevant provisions of the criminal procedure law, the family court act  
20 and the domestic relations law. Such notice shall be prepared in Spanish  
21 and English and if necessary, shall be delivered orally, and shall  
22 include but not be limited to the following statement:

23 "If you are the victim of domestic violence, you may request that the  
24 officer assist in providing for your safety and that of your children,  
25 including providing information on how to obtain a temporary order of  
26 protection. You may also request that the officer assist you in obtain-  
27 ing your essential personal effects and locating and taking you, or  
28 assist in making arrangements to take you, and your children to a safe  
29 place within such officer's jurisdiction, including but not limited to a  
30 domestic violence program, a family member's or a friend's residence, or  
31 a similar place of safety. When the officer's jurisdiction is more than  
32 a single county, you may ask the officer to take you or make arrange-  
33 ments to take you and your children to a place of safety in the county  
34 where the incident occurred. If you or your children are in need of  
35 medical treatment, you have the right to request that the officer assist  
36 you in obtaining such medical treatment. You may request a copy of any  
37 incident reports at no cost from the law enforcement agency. You have  
38 the right to seek legal counsel of your own choosing and if you proceed  
39 in family court and if it is determined that you cannot afford an attor-  
40 ney, one must be appointed to represent you without cost to you.

41 You may ask the district attorney or a law enforcement officer to file  
42 a criminal complaint. You also have the right to file a petition in the  
43 family court when a family offense has been committed against you. You  
44 have the right to have your petition and request for an order of  
45 protection filed on the same day you appear in court, and such request  
46 must be heard that same day or the next day court is in session. Either  
47 court may issue an order of protection from conduct constituting a fami-  
48 ly offense which could include, among other provisions, an order for the  
49 respondent or defendant to stay away from you and your children. The  
50 family court may also order the payment of temporary child support and  
51 award temporary custody of your children. If the family court is not in  
52 session, you may seek immediate assistance from the criminal court in  
53 obtaining an order of protection.

54 The forms you need to obtain an order of protection are available from  
55 the family court and the local criminal court (the addresses and tele-  
56 phone numbers shall be listed). The resources available in this communi-

ty for information relating to domestic violence, treatment of injuries, and places of safety and shelters can be accessed by calling the following 800 numbers (the statewide English and Spanish language 800 numbers shall be listed and space shall be provided for local domestic violence hotline telephone numbers).

Filing a criminal complaint or a family court petition containing allegations that are knowingly false is a crime."

The division of criminal justice services in consultation with the [state] DIRECTOR OF THE office for the prevention of domestic violence shall prepare the form of such written notice consistent with provisions of this section and distribute copies thereof to the appropriate law enforcement officials pursuant to subdivision nine of section eight hundred forty-one of the executive law.

Additionally, copies of such notice shall be provided to the chief administrator of the courts to be distributed to victims of family offenses through the criminal court at such time as such persons first come before the court and to the state department of health for distribution to all hospitals defined under article twenty-eight of the public health law. No cause of action for damages shall arise in favor of any person by reason of any failure to comply with the provisions of this subdivision except upon a showing of gross negligence or willful misconduct.

S 24. Paragraph 2 of subdivision (a) of section 249-b of the family court act, as added by chapter 476 of the laws of 2009, is amended to read as follows:

2. provide for the development of training programs with the input of and in consultation with the [state] office for the prevention of domestic violence. Such training programs must include the dynamics of domestic violence and its effect on victims and on children, and the relationship between such dynamics and the issues considered by the court, including, but not limited to, custody, visitation and child support. Such training programs along with the providers of such training must be approved by the office of court administration following consultation with and input from the [state] office for the prevention of domestic violence; and

S 25. Subdivision 5 of section 812 of the family court act, as amended by chapter 224 of the laws of 1994, is amended to read as follows:

5. Notice. Every police officer, peace officer or district attorney investigating a family offense under this article shall advise the victim of the availability of a shelter or other services in the community, and shall immediately give the victim written notice of the legal rights and remedies available to a victim of a family offense under the relevant provisions of the criminal procedure law, the family court act and the domestic relations law. Such notice shall be available in English and Spanish and, if necessary, shall be delivered orally and shall include but not be limited to the following statement:

"If you are the victim of domestic violence, you may request that the officer assist in providing for your safety and that of your children, including providing information on how to obtain a temporary order of protection. You may also request that the officer assist you in obtaining your essential personal effects and locating and taking you, or assist in making arrangement to take you, and your children to a safe place within such officer's jurisdiction, including but not limited to a domestic violence program, a family member's or a friend's residence, or a similar place of safety. When the officer's jurisdiction is more than a single county, you may ask the officer to take you or make arrange-

ments to take you and your children to a place of safety in the county where the incident occurred. If you or your children are in need of medical treatment, you have the right to request that the officer assist you in obtaining such medical treatment. You may request a copy of any incident reports at no cost from the law enforcement agency. You have the right to seek legal counsel of your own choosing and if you proceed in family court and if it is determined that you cannot afford an attorney, one must be appointed to represent you without cost to you.

You may ask the district attorney or a law enforcement officer to file a criminal complaint. You also have the right to file a petition in the family court when a family offense has been committed against you. You have the right to have your petition and request for an order of protection filed on the same day you appear in court, and such request must be heard that same day or the next day court is in session. Either court may issue an order of protection from conduct constituting a family offense which could include, among other provisions, an order for the respondent or defendant to stay away from you and your children. The family court may also order the payment of temporary child support and award temporary custody of your children. If the family court is not in session, you may seek immediate assistance from the criminal court in obtaining an order of protection.

The forms you need to obtain an order of protection are available from the family court and the local criminal court (the addresses and telephone numbers shall be listed). The resources available in this community for information relating to domestic violence, treatment of injuries, and places of safety and shelters can be accessed by calling the following 800 numbers (the statewide English and Spanish language 800 numbers shall be listed and space shall be provided for local domestic violence hotline telephone numbers).

Filing a criminal complaint or a family court petition containing allegations that are knowingly false is a crime."

The division of criminal justice services in consultation with the [state] DIRECTOR OF THE office for the prevention of domestic violence shall prepare the form of such written notice consistent with the provisions of this section and distribute copies thereof to the appropriate law enforcement officials pursuant to subdivision nine of section eight hundred forty-one of the executive law. Additionally, copies of such notice shall be provided to the chief administrator of the courts to be distributed to victims of family offenses through the family court at such time as such persons first come before the court and to the state department of health for distribution to all hospitals defined under article twenty-eight of the public health law. No cause of action for damages shall arise in favor of any person by reason of any failure to comply with the provisions of this subdivision except upon a showing of gross negligence or willful misconduct.

S 26. Section 621 of the executive law is amended by adding two new subdivisions 1-a and 1-b to read as follows:

1-A. "DIVISION" SHALL MEAN THE DIVISION OF CRIMINAL JUSTICE SERVICES.

1-B. "COMMISSIONER" SHALL MEAN THE COMMISSIONER OF THE DIVISION OF CRIMINAL JUSTICE SERVICES.

S 27. Section 622 of the executive law, as added by section 7 of part A-1 of chapter 56 of the laws of 2010, is amended to read as follows:

S 622. Office of victim services. There is hereby created in the [executive department] DIVISION OF CRIMINAL JUSTICE SERVICES, the office of victim services, hereinafter in this article referred to as the "office". The office shall be headed by a director, who shall be

1 appointed by the COMMISSIONER, SUBJECT TO THE APPROVAL OF THE governor  
2 [for a term of three years]. The director, IN CONSULTATION WITH THE  
3 COMMISSIONER, shall coordinate and recommend policy relating to the  
4 provision of services to crime victims. The [director] COMMISSIONER  
5 shall appoint staff and perform such other functions to ensure the effi-  
6 cient operation of the office within the amounts made available therefor  
7 by appropriation.

8 S 28. Section 623 of the executive law, as amended by section 8 of  
9 part A-1 of chapter 56 of the laws of 2010, paragraph (a) of subdivision  
10 20 as separately amended by sections 37 and 71 of part A of chapter 56  
11 of the laws of 2010, is amended to read as follows:

12 S 623. Powers and duties of the office. The office shall have the  
13 following powers and duties:

14 1. To [establish and maintain a principal office and such other  
15 offices within the state as it may deem necessary.

16 2. To appoint a secretary, counsel, clerks and such other employees  
17 and agents as it may deem necessary, fix their compensation within the  
18 limitations provided by law, and prescribe their duties.

19 3. To adopt, promulgate, amend and rescind] RECOMMEND TO THE COMMIS-  
20 SIONER suitable rules and regulations to carry out the provisions and  
21 purposes of this article, including rules for the determination of  
22 claims, rules for the approval of attorneys' fees for representation  
23 before the office and/or before the appellate division upon judicial  
24 review as provided for in section six hundred twenty-nine of this arti-  
25 cle, and rules for the authorization of qualified persons to assist  
26 claimants in the preparation of claims for presentation to the office.

27 [4.] 2. To request from the division of state police, from county or  
28 municipal police departments and agencies and from any other state or  
29 municipal department or agency, or public authority, and the same are  
30 hereby authorized to provide, such assistance and data as will enable  
31 the office to carry out its functions and duties.

32 [5.] 3. To hear and determine all claims for awards filed with the  
33 office pursuant to this article, and to reinvestigate or reopen cases as  
34 necessary.

35 [6.] 4. To direct medical examination of victims.

36 [7.] 5. To hold hearings, administer oaths or affirmations, examine  
37 any person under oath or affirmation and to issue subpoenas requiring  
38 the attendance and giving of testimony of witnesses and require the  
39 production of any books, papers, documentary or other evidence. The  
40 powers provided in this subdivision may be delegated by the COMMISSION-  
41 ER, AFTER CONSULTATION WITH THE director, to any member or employee of  
42 the [office] DIVISION. A subpoena issued under this subdivision shall  
43 be regulated by the civil practice law and rules.

44 [8.] 6. To take or cause to be taken affidavits or depositions within  
45 or without the state.

46 [9.] 7. To establish and maintain a special investigative unit to  
47 expedite processing of claims by senior citizens and special emergency  
48 situations[, and to promote the establishment of a volunteer program of  
49 home visitation to elderly and invalid victims of violent crime].

50 [10.] 8. To advise and assist the governor in developing policies  
51 designed to recognize the legitimate rights, needs and interests of  
52 crime victims.

53 [11.] 9. To coordinate state programs and activities relating to crime  
54 victims.

1 [12.] 10. To cooperate with and assist political subdivisions of the  
2 state and not-for-profit organizations in the development of local  
3 programs for crime victims.

4 [13.] 11. To study the operation of laws and procedures affecting  
5 crime victims and recommend to the governor and legislature proposals to  
6 improve the administration and effectiveness of such laws.

7 [14.] 12. To establish an advisory council to assist in formulation of  
8 policies on the problems of crime victims and to provide recommendations  
9 to the director to improve the delivery of services to victims by the  
10 office.

11 [15.] 13. To work with national associations, statewide coalitions,  
12 regional coalitions, victim service providers, and other advocates to  
13 address and advance the rights and interests of crime victims of the  
14 state.

15 [16.] 14. To promote and conduct studies, research, analyses and  
16 investigations of matters affecting the interests of crime victims.

17 [17.] 15. To coordinate training opportunities for crime victim advo-  
18 cates and service providers.

19 [18.] 16. To serve as a clearinghouse for information relating to  
20 crime victims' problems and programs.

21 [19.] 17. To accept, with the approval of the governor, as agent of  
22 the state, any grant including federal grants, or any gift for the  
23 purposes of this article. Any monies so received may be expended by the  
24 office to effectuate any purpose of this article, subject to the appli-  
25 cable provisions of the state finance law.

26 [20.] 18. To render each year to the governor and to the legislature, on  
27 or before December first of each year, a written report on the office's  
28 activities including, but not limited to, specific information on each  
29 of the subdivisions of this section, and the manner in which the rights,  
30 needs and interests of crime victims are being addressed by the state's  
31 criminal justice system. Such report shall also include, but not be  
32 limited to:

33 (a) Information transmitted by the office of probation and correction-  
34 al alternatives under subdivision five of section 390.30 of the criminal  
35 procedure law and subdivision seven of section 351.1 of the family court  
36 act which the office shall compile, review and make recommendations on  
37 how to promote the use of restitution and encourage its enforcement.

38 (b) Information relating to the implementation of and compliance with  
39 article twenty-three of this chapter by the criminal justice agencies  
40 and the "crime victim-related agencies" of the state. Such report shall  
41 also include but not be limited to information regarding crime victim  
42 service programs, including:

43 (1) the programs funded by the office;

44 (2) other sources of funding for crime victims service programs;

45 (3) an assessment of the adequacy of the current level of appropri-  
46 ation to the office to meet the reasonable needs of crime victims  
47 service programs for funding under section six hundred thirty-one-a of  
48 this article; and

49 (4) an estimate of the reasonable needs of programs in the next fiscal  
50 year.

51 21. To make grants to local crime victim service programs and carry  
52 out related duties under section six hundred thirty-one-a of this arti-  
53 cle.

54 22. To delegate to specified employees of the office the power to  
55 disallow claims under circumstances where regulations of the office  
56 provide for disallowance without prejudice to the reopening of claims.]

1 S 29. Subdivisions 1 and 1-a of section 625-a of the executive law,  
2 subdivision 1 as amended by section 15 of part A-1 of chapter 56 of the  
3 laws of 2010, and subdivision 1-a as added by chapter 416 of the laws of  
4 1979, are amended to read as follows:

5 1. Every police station, precinct house, any appropriate location  
6 where a crime may be reported and any location required by the rules and  
7 regulations of the [office] DIVISION shall have available informative  
8 booklets, pamphlets and other pertinent written information, including  
9 information cards, to be supplied by the [office] DIVISION, relating to  
10 the availability of crime victims compensation including all necessary  
11 application blanks required to be filed with the office and shall  
12 display prominently posters giving notification of the existence and  
13 general provisions of this article, those provisions of the penal law  
14 that prohibit the intimidation of crime victims and the location of the  
15 nearest crime victim service program. The COMMISSIONER, IN CONSULTATION  
16 WITH THE office, may issue guidelines for the location of such display  
17 and shall provide posters, application forms, information cards and  
18 general information. Every victim who reports a crime in any manner  
19 whatsoever shall be given notice about the rights of crime victims and  
20 the existence of all relevant local victim's assistance programs and  
21 services pursuant to section six hundred twenty-five-b of this article,  
22 and supplied by the person receiving the report with information, appli-  
23 cation blanks, and information cards which shall clearly state: (a) that  
24 crime victims may be eligible for state compensation benefits; (b) the  
25 address and phone number of the office; (c) that police and district  
26 attorneys can help protect victims against harassment and intimidation;  
27 (d) the addresses and phone numbers of local victim service programs,  
28 where appropriate, or space for inserting that information; or (e) any  
29 other information the office deems appropriate. Such cards shall be  
30 designed by the DIVISION, IN CONSULTATION WITH THE office [in consulta-  
31 tion with] AND local police, and shall be printed and distributed by the  
32 [office] DIVISION. The [office] DIVISION shall develop a system for  
33 distributing a sufficient supply of the information cards referred to in  
34 this subdivision, to all the appropriate designated locations, which  
35 shall include a schedule for meeting that requirement.

36 1-a. Every general hospital established under the laws of this state,  
37 which maintains facilities for providing out-patient emergency medical  
38 care, shall display prominently in its emergency room posters giving  
39 notification of the existence and general provisions of this chapter.  
40 The [board] DIVISION, IN CONSULTATION WITH THE OFFICE, may issue guide-  
41 lines for the location of such display and shall provide posters, appli-  
42 cation forms and general information regarding the provision of this  
43 chapter to each such hospital.

44 S 30. Subdivision 1 of section 625-b of the executive law, as amended  
45 by section 16 of part A-1 of chapter 56 of the laws of 2010, is amended  
46 to read as follows:

47 1. The commissioner [of the division of criminal justice services] in  
48 cooperation with the office shall develop and implement a standardized  
49 procedure to be used by police officers, county sheriffs' departments  
50 and state police officers whereby victims of crime are notified about  
51 the rights of crime victims and the existence of programs designed to  
52 assist crime victims.

53 S 31. The opening paragraph and paragraph (f) of subdivision 1 and  
54 subdivision 2 of section 627 of the executive law, as added by section  
55 18 of part A-1 of chapter 56 of the laws of 2010, are amended to read as  
56 follows:

1 The office shall determine claims in accordance with rules and regu-  
2 lations RECOMMENDED BY THE DIRECTOR AND promulgated by the [director]  
3 COMMISSIONER. Such rules and regulations must provide for:

4 (f) expedited determination of claims with respect to a livery opera-  
5 tor VICTIM within thirty days of the date upon which the claim was  
6 accepted for filing, as well as standards for awards of loss of earnings  
7 or support granted pursuant to rules and regulations promulgated in  
8 accordance with the provisions of this subdivision and subdivision three  
9 of section six hundred thirty-one of this article. Each award for loss  
10 of earnings pursuant to rules and regulations promulgated in accordance  
11 with this subdivision made with respect to a claim involving a livery  
12 operator assault victim shall be for such period of time as the office  
13 determines that the livery operator assault victim is unable to work and  
14 has lost earnings as a result of such assault, in an amount not to  
15 exceed twenty thousand dollars. Such award shall be distributed in  
16 increments of five hundred dollars per week. Each award for loss of  
17 support pursuant to rules and regulations promulgated in accordance with  
18 this subdivision made with respect to a claim involving a livery opera-  
19 tor homicide victim shall be in the amount of twenty thousand dollars,  
20 distributed in increments of five hundred dollars per week; and

21 2. The claimant may, within thirty days after receipt of the decision  
22 of the office regarding a claim, make an application in writing to the  
23 director of the office for reconsideration of such decision. The direc-  
24 tor, or his or her designee, shall consider such applications in accord-  
25 ance with rules and regulations RECOMMENDED BY THE DIRECTOR AND promul-  
26 gated by the [director] COMMISSIONER and may affirm or modify the  
27 decision. The decision of the director, or his or her designee, shall  
28 become the final determination of the office regarding the claim.

29 S 32. Paragraph (e) of subdivision 6 of section 631 of the executive  
30 law, as amended by section 22 of part A-1 of chapter 56 of the laws of  
31 2010, is amended to read as follows:

32 (e) The COMMISSIONER, UPON RECOMMENDATION OF THE director, shall  
33 promulgate such rules and regulations as are necessary for the implemen-  
34 tation of this section.

35 S 33. Subdivision 1 and the opening paragraph of subdivision 2 of  
36 section 631-a of the executive law, as amended by section 27 of part A-1  
37 of chapter 56 of the laws of 2010, are amended to read as follows:

38 1. The DIVISION, AFTER CONSULTATION WITH THE office shall make grants,  
39 within amounts appropriated for that purpose, for crime victim service  
40 programs to provide services to crime victims and witnesses. These  
41 programs shall be operated at the community level by not-for-profit  
42 organizations, by agencies of local government or by any combination  
43 thereof. Crime victim service programs may be designed to serve crime  
44 victims and witnesses in general in a particular community, or may be  
45 designed to serve a category of persons with special needs relating to a  
46 particular kind of crime.

47 The COMMISSIONER, UPON RECOMMENDATION OF THE director, shall promul-  
48 gate regulations[, ] relating to these grants, including guidelines for  
49 its determinations.

50 S 34. Subparagraph (iv) of paragraph (a) of subdivision 7 of section  
51 632-a of the executive law, as amended by section 24 of part A-1 of  
52 chapter 56 of the laws of 2010, is amended to read as follows:

53 (iv) The COMMISSIONER, UPON RECOMMENDATION OF THE director, shall  
54 adopt, promulgate, amend and repeal administrative rules and regulations  
55 governing the procedures to be followed with respect to hearings,  
56 including rules and regulations for the administrative appeal of a deci-

1 sion made pursuant to this paragraph, provided such rules and regu-  
2 lations are consistent with the provisions of this subdivision.

3 S 35. Subdivisions 5 and 6 of section 634 of the executive law, as  
4 amended by section 26 of part A-1 of chapter 56 of the laws of 2010, are  
5 amended to read as follows:

6 5. The director shall RECOMMEND AND THE COMMISSIONER SHALL adopt rules  
7 and regulations to carry out the provisions and purposes of this  
8 section.

9 6. The [office] DIVISION shall compile information on the number of  
10 cases submitted to the attorney general, the number of actions insti-  
11 tuted by the attorney general to recover payments made to crime victims,  
12 the dollar amount of recoveries made in such actions both on behalf of  
13 the state and any awards made to victims who intervene in such actions.  
14 [The office shall include this information, and any recommendations to  
15 the governor and legislature to improve the collection of awards, in its  
16 annual report.]

17 S 36. Subdivision 3-a of section 844-b of the executive law is  
18 REPEALED.

19 S 37. Transfer of employees. Notwithstanding any other provision of  
20 law, rule, or regulation to the contrary, upon the transfer of functions  
21 from the office of victim services to the division of criminal justice  
22 services pursuant to section 622 of the executive law, as amended by  
23 section twenty-seven of this act, all employees of the office of victim  
24 services shall be transferred to the division of criminal justice  
25 services. Employees transferred pursuant to this section shall be trans-  
26 ferred without further examination or qualification and shall retain  
27 their respective civil service classifications, status and collective  
28 bargaining unit designations and collective bargaining agreements.

29 S 38. Transfer of records. All books, papers, and property of the  
30 office of victim services shall be deemed to be in possession of the  
31 commissioner of the division of criminal justice services. All books,  
32 papers, and property of the office of victim services shall continue to  
33 be maintained by the division of criminal justice services.

34 S 39. Continuity of authority. For the purpose of succession of all  
35 functions, powers, duties and obligations transferred and assigned to,  
36 devolved upon and assumed by it pursuant to this act, the division of  
37 criminal justice services shall be deemed and held to constitute the  
38 continuation of the office of victim services.

39 S 40. Completion of unfinished business. Any business or other matter  
40 undertaken or commenced by the office of victim services or the director  
41 thereof pertaining to or connected with the functions, powers, obli-  
42 gations and duties hereby transferred and assigned to the division of  
43 criminal justice services and pending on the effective date of this act,  
44 may be conducted and completed by the division of criminal justice  
45 services in the same manner and under the same terms and conditions and  
46 with the same effect as if conducted and completed by the office of  
47 victim services.

48 S 41. Continuation of rules and regulations. All rules, regulations,  
49 acts, orders, determinations, and decisions of the office of victim  
50 services pertaining to the functions and powers herein transferred and  
51 assigned, in force at the time of such transfer and assumption, shall  
52 continue in full force and effect as rules, regulations, acts, orders,  
53 determinations and decisions of the division of criminal justice  
54 services until duly modified or abrogated by the commissioner of the  
55 division of criminal justice services.

1 S 42. Terms occurring in laws, contracts and other documents. Whenever  
2 the office of victim services or the commissioner thereof, is referred  
3 to or designated in any law, contract or document pertaining to the  
4 functions, powers, obligations and duties hereby transferred to and  
5 assigned to the division of criminal justice services or the commission-  
6 er of the division of criminal justice services, such reference or  
7 designation shall be deemed to refer to the division of criminal justice  
8 services or commissioner of the division of criminal justice services,  
9 as applicable.

10 S 43. Existing rights and remedies preserved. No existing right or  
11 remedy of any character shall be lost, impaired or affected by any  
12 provisions of this act.

13 S 44. Pending actions and proceedings. No action or proceeding pending  
14 at the time when this act shall take effect, brought by or against the  
15 office of victim services or the director thereof, shall be affected by  
16 any provision of this act, but the same may be prosecuted or defended in  
17 the name of the commissioner of the division of criminal justice  
18 services or the division of criminal justice services. In all such  
19 actions and proceedings, the commissioner of the division of criminal  
20 justice services, upon application of the court, shall be substituted as  
21 a party.

22 S 45. Transfer of appropriations heretofore made. All appropriations  
23 or reappropriations heretofore made to the office of victim services to  
24 the extent of remaining unexpended or unencumbered balance thereof,  
25 whether allocated or unallocated and whether obligated or unobligated,  
26 are hereby transferred to and made available for use and expenditure by  
27 the division of criminal justice services subject to the approval of the  
28 director of the budget for the same purposes for which originally appro-  
29 priated or reappropriated and shall be payable on vouchers certified or  
30 approved by the commissioner of the division of criminal justice  
31 services on audit and warrant of the comptroller.

32 S 46. Transfer of assets and liabilities. All assets and liabilities  
33 of the office of victim services are hereby transferred to and assumed  
34 by the division of criminal justice services.

35 S 47. Intentionally Omitted.

36 S 48. Section 41 of the correction law, as added by chapter 865 of the  
37 laws of 1975, is amended to read as follows:

38 S 41. State commission of correction[; organization]. 1. There shall  
39 be within the [executive department] DIVISION OF CRIMINAL JUSTICE  
40 SERVICES a state commission of correction. It shall consist of three  
41 persons to be appointed by the governor[, by and with the advice and  
42 consent of the senate]. The governor shall designate one of the  
43 appointed members as [chairman] CHAIR to serve as such at the pleasure  
44 of the governor. The [members] CHAIR shall devote full time to [their]  
45 THE duties OF THAT OFFICE and shall BE THE ONLY SALARIED MEMBER AND hold  
46 no other salaried public position. THE REMAINING MEMBERS SHALL, WHEN  
47 PERFORMING THE WORK OF THE COMMISSION, BE COMPENSATED AT A RATE OF TWO  
48 HUNDRED FIFTY DOLLARS PER DAY, TOGETHER WITH AN ALLOWANCE FOR ACTUAL AND  
49 NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES. NOTHING  
50 IN THIS SECTION SHALL IMPAIR THE INDEPENDENCE OF THE COMMISSION WITH  
51 RESPECT TO ITS CONSTITUTIONAL ROLE.

52 2. The members shall hold office for terms of five years; provided  
53 that of the three members first appointed, AFTER APRIL 1, 2010, one  
54 shall serve for a term of two years, one shall serve for a term of three  
55 years and one shall serve for a term of five years from January first  
56 next succeeding their appointment. No NON-SALARIED member shall serve

1 for more than ten years. Any member of the commission may be removed by  
2 the governor for cause after an opportunity to be heard in his OR HER  
3 defense.

4 3. Any member chosen to fill a vacancy created other than by expira-  
5 tion of term shall be appointed for the unexpired term of the member  
6 whom he is to succeed. Vacancies caused by expiration of term or other-  
7 wise shall be filled in the same manner as original appointments.

8 S 49. Section 42 of the correction law, as added by chapter 865 of the  
9 laws of 1975, paragraphs 1 and 2 of subdivision (a) as amended by chap-  
10 ter 309 of the laws of 1996, paragraph 4 of subdivision (a) as amended  
11 by chapter 55 of the laws of 1992, is amended to read as follows:

12 S 42. Citizen's policy and complaint review council; organization;  
13 functions, powers and duties. (a) 1. There shall be within the commis-  
14 sion a citizen's policy and complaint review council. It shall consist  
15 of nine persons to be appointed by the governor[, by and with the advice  
16 and consent of the senate]. One person so appointed shall have served in  
17 the armed forces of the United States [in Indochina at any time from the  
18 first day of January, nineteen hundred sixty-three, to an including the  
19 seventh day of May, nineteen hundred seventy-five] who was discharged  
20 therefrom under other than dishonorable conditions, or shall be a duly  
21 licensed mental health professional who has professional experience or  
22 training with regard to post-traumatic stress syndrome. One person so  
23 appointed shall be an attorney admitted to practice in this state. One  
24 person so appointed shall be a former inmate of a correctional facility.  
25 One person so appointed shall be a former correction officer. One person  
26 so appointed shall be a former resident of [a division for youth] AN  
27 OFFICE OF CHILDREN AND FAMILY SERVICES secure center. One person so  
28 appointed shall be a former employee of the [division for youth] OFFICE  
29 OF CHILDREN AND FAMILY SERVICES who has directly supervised youth in a  
30 secure residential center operated by the [division] OFFICE. In addi-  
31 tion, the [governor shall designate one of the full-time members other  
32 than the chairman of the commission as chairman of the council to serve  
33 as such at the pleasure of the governor] CHAIR OF THE COMMISSION SHALL  
34 SERVE AS CHAIR OF THE COUNCIL.

35 2. The nine appointed members of the council shall hold office for  
36 five years; provided that of the seven members first appointed, two  
37 shall be appointed for a term of one year, two shall be appointed for a  
38 term of two years, one shall be appointed for a term of three years, one  
39 shall be appointed for a term of four years and one shall be appointed  
40 for a term of five years from January first next succeeding their  
41 appointment. Any appointed member of the council may be removed by the  
42 governor for cause after an opportunity to be heard in his OR HER  
43 defense.

44 3. Any member chosen to fill [in] a vacancy created other than by  
45 expiration of term shall be appointed for the unexpired term of the  
46 member whom he OR SHE is to succeed. Vacancies caused by the expiration  
47 of term or otherwise shall be filled in the same manner as original  
48 appointments.

49 4. The members of the council other than the chairman shall receive no  
50 compensation for their services but each member other than the chairman  
51 shall be entitled to receive his or her actual and necessary expenses  
52 incurred in the performance of his or her duties.

53 5. No appointed member of the council shall qualify or enter upon the  
54 duties of [his] office, or remain therein, while [he] SUCH MEMBER is an  
55 officer or employee of the department of correctional services or any  
56 correctional facility or is in a position where he OR SHE exercises

1 administrative supervision over any correctional facility. The council  
2 shall have such staff as shall be necessary to assist it in the perform-  
3 ance of its duties within the amount of the appropriation therefor as  
4 determined by the [chairman of the commission] COMMISSIONER OF THE DIVI-  
5 SION OF CRIMINAL JUSTICE SERVICES.

6 (b) The council and each member thereof shall have the following func-  
7 tions, powers and duties:

8 1. To investigate, review or take such other action as shall be deemed  
9 necessary or proper with respect to complaints or grievances regarding  
10 any local correctional facility or part thereof as shall be called to  
11 its attention in writing.

12 2. To have access, at any and all times, to any local correctional  
13 facility or part thereof and to all books, records, and data pertaining  
14 to any local correctional facility which are deemed necessary for carry-  
15 ing out the council's functions, powers and duties.

16 3. To obtain from administrators, officers or employees of any local  
17 correctional facility any information deemed necessary for the purpose  
18 of carrying out its functions, powers and duties.

19 4. To request and receive temporary office space in any local correc-  
20 tional facility for the purpose of carrying out its functions, powers  
21 and duties.

22 5. To report periodically to the commission and, where appropriate, to  
23 make such recommendations as are necessary to fulfill the purposes of  
24 this article to the commission and to the administrator of any local  
25 correctional facility.

26 (c) In addition to the functions, powers and duties prescribed by  
27 subdivision (b) of this section, the council shall:

28 1. Advise and assist the commission in developing policies, plans and  
29 programs for improving the commission's performance of its duties and  
30 for coordinating the efforts of the commission and of correctional offi-  
31 cials to improve conditions of care, treatment, safety, supervision,  
32 rehabilitation, recreation, training and education in correctional  
33 facilities;

34 2. [Foster and promote research and study in areas of correctional  
35 policy and program development deemed necessary or desirable by the  
36 commission or the council;

37 3.] Meet at least once per calendar month at a time and place desig-  
38 nated by the [chairman] CHAIR of the council.

39 S 50. Section 43 of the correction law, as added by chapter 865 of the  
40 laws of 1975, subdivisions 1 and 2 as amended by chapter 379 of the laws  
41 of 1988, is amended to read as follows:

42 S 43. Correction medical review board; organization. 1. There shall be  
43 within the commission a correction medical review board. It shall  
44 consist of six persons to be appointed by the governor [by and with the  
45 advice and consent of the senate]. In addition, the [governor shall  
46 designate one of the full-time members other than the chairman of the  
47 commission and the chairman of the council as chairman of the board to  
48 serve as such at the pleasure of the governor] CHAIR OF THE COMMISSION  
49 SHALL SERVE AS CHAIR OF THE BOARD. Of the appointed members of the board  
50 one shall be a physician duly licensed to practice in this state; one  
51 shall be a physician duly licensed to practice in this state and a board  
52 certified forensic pathologist; one shall be a physician duly licensed  
53 to practice in this state and shall be a board certified forensic  
54 psychiatrist; one shall be an attorney admitted to practice in this  
55 state; two shall be members appointed at large.

2. The six appointed members of the board shall hold office for five years; provided that of the two members first appointed, after December thirty-first, nineteen hundred eighty-seven who are not appointed to succeed any other member of the board, one shall be appointed for a term of four years and one shall be appointed for a term of five years from January first next succeeding their appointment. Any appointed member of the board may be removed by the governor for cause after an opportunity to be heard in his OR HER defense.

3. Any member chosen to fill a vacancy created other than by expiration of term shall be appointed for the unexpired term of the member whom he OR SHE is to succeed. Vacancies caused by expiration of term or otherwise shall be filled in the same manner as original appointments.

4. The members of the board shall receive no compensation for their services but each member shall be entitled to receive his actual and necessary expenses incurred in the performance of his OR HER duties.

S 51. Section 44 of the correction law, as added by chapter 865 of the laws of 1975, is amended to read as follows:

S 44. [Chairman] ORGANIZATION of commission. 1. The [chairman] CHAIR shall be the executive officer of the commission, the board and the council.

2. The [chairman] COMMISSIONER OF THE DIVISION OF CRIMINAL JUSTICE SERVICES, UPON CONSULTATION WITH THE CHAIR, may appoint such assistants, officers and employees, committees and consultants for the board and the council as he OR SHE may determine necessary, prescribe their powers and duties, fix their compensation and provide for reimbursement of their expenses within amounts appropriated therefor.

3. The [chairman] COMMISSIONER OF THE DIVISION OF CRIMINAL JUSTICE SERVICES, UPON CONSULTATION WITH THE CHAIR, may, from time to time, create, abolish, transfer and consolidate bureaus and other units within the commission, the board and the council not expressly established by law as he OR SHE may determine necessary for the efficient operation of the commission, the board and the council, subject to the approval of the director of the budget.

4. The [chairman] CHAIR may request and receive from any department, division, board, bureau, commission or other agency of the state or any political subdivision thereof or any public authority such assistance, information and data as will enable the commission, the board and the council properly to carry out its functions, powers and duties.

S 52. Section 45 of the correction law, as added by chapter 865 of the laws of 1975, subdivision 3 as amended by section 1 of part Q of chapter 56 of the laws of 2009, subdivisions 6 and 10 as amended by section 7 of part Q of chapter 56 of the laws of 2009, subdivision 6-a as added by chapter 577 of the laws of 1979, subdivision 6-b as added by chapter 309 of the laws of 1996, subdivision 8 as amended by section 2 of part D of chapter 63 of the laws of 2005, paragraph (b) of subdivision 8 as amended by section 4 of part H of chapter 56 of the laws of 2009, is amended to read as follows:

S 45. Functions, powers and duties of the commission. The commission shall have the following functions, powers and duties:

1. Advise and assist the governor in developing policies, plans and programs for improving the administration of correctional facilities and the delivery of services therein.

2. Make recommendations to administrators of correctional facilities for improving the administration of such correctional facilities and the delivery of services therein.

1 3. Except in circumstances involving health, safety or alleged  
2 violations of established standards of the commission, visit[,] and  
3 inspect correctional facilities consistent with a schedule determined by  
4 the [chairman] CHAIR of the commission, taking into consideration avail-  
5 able resources, workload and staffing, and appraise the management of  
6 such correctional facilities with specific attention to matters such as  
7 safety, security, health of inmates, sanitary conditions, rehabilitative  
8 programs, disturbance and fire prevention and control preparedness, and  
9 adherence to laws and regulations governing the rights of inmates.

10 4. Establish procedures to assure effective investigation of griev-  
11 ances of, and conditions affecting, inmates of local correctional facil-  
12 ities. Such procedures shall include but not be limited to receipt of  
13 written complaints, interviews of persons, and on-site monitoring of  
14 conditions. In addition, the commission shall establish procedures for  
15 the speedy and impartial review of grievances referred to it by the  
16 commissioner of the department of correctional services.

17 5. Ascertain and recommend such system of employing inmates of correc-  
18 tional facilities as may, in the opinion of said commission, be for the  
19 best interest of the public and of said inmates and not in conflict with  
20 the provisions of the constitution or laws of the state relating to the  
21 employment of inmates.

22 6. [Promulgate] RECOMMEND TO THE COMMISSIONER OF THE DIVISION OF CRIM-  
23 INAL JUSTICE SERVICES rules and regulations establishing minimum stand-  
24 ards for the review of the construction or improvement of correctional  
25 facilities and the care, custody, correction, treatment, supervision,  
26 discipline, and other correctional programs for all persons confined in  
27 correctional facilities. [Such] ANY SUCH rules and regulations PROMUL-  
28 GATED BY THE COMMISSIONER OF THE DIVISION OF CRIMINAL JUSTICE SERVICES  
29 shall be forwarded to the governor, the temporary president of the  
30 senate and the speaker of the assembly no later than January first,  
31 nineteen hundred seventy-six and annually thereafter.

32 6-a. [Promulgate] RECOMMEND TO THE COMMISSIONER OF THE DIVISION OF  
33 CRIMINAL JUSTICE SERVICES, WHO SHALL PROMULGATE, rules and regulations  
34 to assure that persons in custody in local correctional facilities,  
35 including persons awaiting arraignment, are furnished or have access to  
36 the type of food required by their religious dietary rules or medically  
37 prescribed diets, if any.

38 6-b. [Promulgate] RECOMMEND TO THE COMMISSIONER OF THE DIVISION OF  
39 CRIMINAL JUSTICE SERVICES, WHO SHALL PROMULGATE, rules and regulations,  
40 in consultation with the division for youth, establishing minimum stand-  
41 ards for the care, custody, rehabilitation, treatment, supervision,  
42 discipline and other programs for correctional facilities operated by  
43 the division for youth.

44 7. Place such members of its staff as [it] THE COMMISSIONER OF THE  
45 DIVISION OF CRIMINAL JUSTICE SERVICES deems appropriate as monitors in  
46 any local correctional facility which, in the judgment of the commission  
47 AND THE COMMISSIONER OF THE DIVISION OF CRIMINAL JUSTICE SERVICES,  
48 presents an imminent danger to the health, safety or security of the  
49 inmates or employees of such correctional facility or of the public.

50 8. (a) Close any correctional facility which is unsafe, unsanitary or  
51 inadequate to provide for the separation and classification of prisoners  
52 required by law or which has not adhered to or complied with the rules  
53 or regulations promulgated with respect to any such facility by the  
54 [commission] COMMISSIONER OF THE DIVISION OF CRIMINAL JUSTICE SERVICES  
55 pursuant to the provisions of subdivision six of this section; provided,  
56 however, that before such facility may be closed due to conditions which

1 are unsafe, unsanitary or inadequate to provide for the separation and  
2 classification of prisoners, the commission shall cause a citation to be  
3 mailed to the appropriate municipal or other official at least ten days  
4 before the return day thereof directing the responsible authorities  
5 designated to appear before such commission at the time and place set  
6 forth in the citation, and show cause why such correctional facility  
7 should not be closed. After a hearing thereon or upon the failure to  
8 appear, such commission is empowered to order such facility designated  
9 in the citation closed within twenty days, during which time the  
10 respondent authority may review such order in the manner provided in  
11 article seventy-eight of the civil practice law and rules, in the  
12 supreme court. Fifteen days after the order to close has been served by  
13 a registered letter upon the appropriate official if no court review has  
14 been taken, and fifteen days after the order of such commission has been  
15 confirmed by the court, in case of court review, such facility design-  
16 ated in the order shall be closed, and it shall be unlawful to confine  
17 or detain any person therein and any officer confining or detaining any  
18 person therein shall be guilty of a class A misdemeanor.

19 (b) Before a correctional facility as defined in subdivision four of  
20 section two of this chapter, may be closed for a reason other than those  
21 set forth in paragraph (a) of this subdivision, the provisions of  
22 section seventy-nine-a of this chapter shall be adhered to.

23 10. Approve or reject plans and specifications for the construction or  
24 improvement of correctional facilities that directly affect the health  
25 of inmates and staff, safety, or security.

26 12. Make an annual report to the governor and legislature concerning  
27 its work and the work of the board and the council during the preceding  
28 year, and such further interim reports to the governor, or to the gover-  
29 nor and legislature, as it shall deem advisable, or as shall be required  
30 by the governor.

31 13. Accept, with the approval of the COMMISSIONER OF THE DIVISION OF  
32 CRIMINAL JUSTICE SERVICES AND THE governor, as agent of the state any  
33 grant, including federal grants, or any gift for any of the purposes of  
34 this article. Any moneys so received may be expended by the [commission]  
35 COMMISSIONER OF THE DIVISION OF CRIMINAL JUSTICE SERVICES to effectuate  
36 any purpose of this article, subject to the same limitations as to  
37 approval of expenditures and audit as are prescribed for state moneys  
38 appropriated for the purposes of this article.

39 14. [Enter] SUBJECT TO THE APPROVAL OF THE COMMISSIONER OF THE DIVI-  
40 SION OF CRIMINAL JUSTICE SERVICES, ENTER into contracts with any person,  
41 firm, corporation, municipality, or governmental agency.

42 15. [Adopt] RECOMMEND THAT THE COMMISSIONER OF THE DIVISION OF CRIMI-  
43 NAL JUSTICE SERVICES ADOPT, amend or rescind such rules and regulations  
44 as may be necessary or convenient to the performance of the functions,  
45 powers and duties of the commission.

46 16. [Do] SUBJECT TO THE APPROVAL OF THE COMMISSIONER OF THE DIVISION  
47 OF CRIMINAL JUSTICE SERVICES, DO all other things necessary or conven-  
48 ient to carry out its functions, powers and duties expressly set forth  
49 in this article.

50 S 53. Subdivisions 1 and 4 of section 46 of the correction law, as  
51 added by chapter 865 of the laws of 1975, are amended to read as  
52 follows:

53 1. The commission, any member or any employee designated by the  
54 [commission] CHAIR must be granted access at any and all times to any  
55 correctional facility or part thereof and to all books, records, and  
56 data pertaining to any correctional facility deemed necessary for carry-

ing out the commission's functions, powers and duties. The commission, any member or any employee designated by the [chairman] CHAIR may require from the officers or employees of a correctional facility any information deemed necessary for the purpose of carrying out the commission's functions, powers and duties.

4. In any case where any rule or regulation promulgated by the [commission] COMMISSIONER OF THE DIVISION OF CRIMINAL JUSTICE SERVICES pursuant to subdivision six of section forty-five or the laws relating to the construction, management and affairs of any correctional facility or the care, treatment and discipline of its inmates, are being or are about to be violated, the commission shall notify the person in charge or control of the facility of such violation, recommend remedial action, and direct such person to comply with the rule, regulation or law, as the case may be. Upon the failure of such person to comply with the rule, regulation or law the commission may apply to the supreme court for an order directed to such person requiring compliance with such rule, regulation or law. Upon such application the court may issue such order as may be just and a failure to comply with the order of the court shall be a contempt of court and punishable as such.

S 54. Paragraphs (d) and (e) of subdivision 1 of section 47 of the correction law, as added by chapter 865 of the laws of 1975, are amended to read as follows:

(d) Upon review of the cause of death and circumstances surrounding the death of any inmate, the board shall submit its report thereon to the commission AND THE COMMISSIONER OF THE DIVISION OF CRIMINAL JUSTICE SERVICES and, where appropriate, make recommendations to prevent the recurrence of such deaths to the commission, THE COMMISSIONER OF THE DIVISION OF CRIMINAL JUSTICE SERVICES and the administrator of the appropriate correctional facility.

(e) Investigate and report to the commission AND THE COMMISSIONER OF THE DIVISION OF CRIMINAL JUSTICE SERVICES on the condition of systems for the delivery of medical care to inmates of correctional facilities and where appropriate recommend such changes as it shall deem necessary and proper to improve the quality and availability of such medical care.

S 55. Transfer of employees. Notwithstanding any other provision of law, rule, or regulation to the contrary, upon the transfer of functions from the state commission of correction to the division of criminal justice services pursuant to section 41 of the correction law, as amended by section 48 of this act, all employees of the state commission of correction shall be transferred to the division of criminal justice services. Employees transferred pursuant to this section shall be transferred without further examination or qualification and shall retain their respective civil service classifications, status and collective bargaining unit designations and collective bargaining agreements.

S 56. Transfer of records. All books, papers, and property of the state commission of correction shall be deemed to be in the possession of the commissioner of the division of criminal justice services. All books, papers, and property of the state commission of correction shall continue to be maintained by the division of criminal justice services.

S 57. Continuity of authority. For the purpose of succession of all functions, powers, duties and obligations transferred and assigned to, devolved upon and assumed by it pursuant to this act, the division of criminal justice services shall be deemed and held to constitute the continuation of the state commission of correction.

S 58. Completion of unfinished business. Any business or other matter undertaken or commenced by the state commission of correction or the

1 chair thereof pertaining to or connected with the functions, powers,  
2 obligations and duties hereby transferred and assigned to the division  
3 of criminal justice services and pending on the effective date of this  
4 act, may be conducted and completed by the division of criminal justice  
5 services in the same manner and under the same terms and conditions and  
6 with the same effect as if conducted and completed by the state commis-  
7 sion of correction.

8 S 58-a. Continuation of rules and regulations. All rules, regulations,  
9 acts, orders, determinations, and decisions of the state commission of  
10 correction pertaining to the functions and powers herein transferred and  
11 assigned, in force at the time of such transfer and assumption, shall  
12 continue in full force and effect as rules, regulations, acts, orders,  
13 determinations and decisions of the division of criminal justice  
14 services until duly modified or abrogated by the commissioner of the  
15 division of criminal justice services.

16 S 59. Terms occurring in laws, contracts and other documents. Whenever  
17 the state commission of correction or the chair thereof is referred to  
18 or designated in any law, contract or document pertaining to the func-  
19 tions, powers, obligations and duties hereby transferred to and assigned  
20 to the division of criminal justice services or the commissioner of the  
21 division of criminal justice services, such reference or designation  
22 shall be deemed to refer to the division of criminal justice services or  
23 commissioner of the division of criminal justice services, as applica-  
24 ble.

25 S 60. Existing rights and remedies preserved. No existing right or  
26 remedy of any character shall be lost, impaired or affected by any  
27 provisions of this act.

28 S 61. Pending actions and proceedings. No action or proceeding pending  
29 at the time when this act shall take effect, brought by or against the  
30 state commission of correction or the chair thereof, shall be affected  
31 by any provision of this act, but the same may be prosecuted or defended  
32 in the name of the commissioner of the division of criminal justice  
33 services or the division of criminal justice services. In all such  
34 actions and proceedings, the commissioner of the division of criminal  
35 justice services, upon application of the court, shall be substituted as  
36 a party.

37 S 62. Transfer of appropriations heretofore made. All appropriations  
38 or reappropriations heretofore made to the state commission of  
39 correction to the extent of remaining unexpended or unencumbered balance  
40 thereof, whether allocated or unallocated and whether obligated or unob-  
41 ligated, are hereby transferred to and made available for use and  
42 expenditure by the division of criminal justice services subject to the  
43 approval of the director of the budget for the same purposes for which  
44 originally appropriated or reappropriated and shall be payable on vouch-  
45 ers certified or approved by the commissioner of the division of crimi-  
46 nal justice services on audit and warrant of the comptroller.

47 S 63. Transfer of assets and liabilities. All assets and liabilities  
48 of the state commission or correction are hereby transferred to and  
49 assumed by the division of criminal justice services.

50 S 63-a. Subdivision 2 of section 89-a of the correction law, as added  
51 by chapter 409 of the laws of 1991, is amended to read as follows:

52 2. Notwithstanding any other provisions of law, no variance authoriz-  
53 ing an alternate correctional facility to exceed its design capacity  
54 shall be granted after March fifteenth, nineteen hundred ninety-two  
55 unless the mayor of the city of New York submits, together with the  
56 variance request, a certificate of emergency demonstrating the need for

1 such variance and that reasonable alternatives to the granting of the  
2 variance do not exist, and containing a detailed summary of measures  
3 that will be taken to restore compliance with such design capacity. The  
4 [chairman] CHAIR of the state commission of correction shall transmit,  
5 in a timely manner, notice of such request to the chairmen of the senate  
6 crime and correction committee and the assembly correction committee.

7 S 64. Section 500-k of the correction law, as amended by chapter 476  
8 of the laws of 1970, is amended to read as follows:

9 S 500-k. Treatment of inmates. Subdivisions five and six of section  
10 one hundred thirty-seven of this chapter relating to the treatment of  
11 inmates in state correctional facilities are applicable to inmates  
12 confined in county jails; except that the report required by paragraph  
13 (d) of subdivision six of such section shall be made to a person desig-  
14 nated to receive such report in the rules and regulations of the DIVI-  
15 SION OF CRIMINAL JUSTICE SERVICES, PROMULGATED AFTER CONSULTATION WITH  
16 THE state commission of correction, or in any county or city where there  
17 is a department of correction, to the head of such department.

18 S 65. Section 500-k of the correction law, as amended by chapter 2 of  
19 the laws of 2008, is amended to read as follows:

20 S 500-k. Treatment of inmates. Subdivisions five and six of section  
21 one hundred thirty-seven of this chapter, except paragraphs (d) and (e)  
22 of subdivision six of such section, relating to the treatment of inmates  
23 in state correctional facilities are applicable to inmates confined in  
24 county jails; except that the report required by paragraph (f) of subdi-  
25 vision six of such section shall be made to a person designated to  
26 receive such report in the rules and regulations of the DIVISION OF  
27 CRIMINAL JUSTICE SERVICES, PROMULGATED AFTER CONSULTATION WITH THE state  
28 commission of correction, or in any county or city where there is a  
29 department of correction, to the head of such department.

30 S 66. Subdivision 2 of section 504 of the correction law, as amended  
31 by section 8 of part Q of chapter 56 of the laws of 2009, is amended to  
32 read as follows:

33 2. Where the jail in a county becomes unfit or unsafe for the confine-  
34 ment of some or all of the inmates due to an inmate disturbance or other  
35 extraordinary circumstances, including but not limited to a natural  
36 disaster, unanticipated deficiencies in the structural integrity of a  
37 facility or the inability to provide one or more inmates with essential  
38 services such as medical care, upon the request of the municipal offi-  
39 cial as defined in subdivision four of section forty of this chapter and  
40 no other suitable place within the county nor the jail of any other  
41 county is immediately available to house some or all of the inmates, the  
42 commissioner of correctional services may, in his or her sole  
43 discretion, make available, upon such terms and conditions as he OR SHE  
44 may deem appropriate, all or any part of a state correctional institu-  
45 tion for the confinement of some or all of such inmates as an adjunct to  
46 the county jail for a period not to exceed thirty days. However, if the  
47 county jail remains unfit or unsafe for the confinement of some or all  
48 of such inmates beyond thirty days, the state commission of correction,  
49 with the consent of the commissioner of correctional services, may  
50 extend the availability of a state correctional institution for one or  
51 more additional thirty day periods. The COMMISSIONER OF THE DIVISION OF  
52 CRIMINAL JUSTICE SERVICES, UPON RECOMMENDATION OF THE state commission  
53 of correction, shall promulgate rules and regulations governing the  
54 temporary transfer of inmates to state correctional institutions from  
55 county jails including but not limited to provisions for confinement of  
56 such inmates in the nearest correctional facility, to the maximum extent

practicable, taking into account necessary security. The commissioner of correctional services may, in his or her sole discretion, based on standards promulgated by the department, determine whether a county shall reimburse the state for any or all of the actual costs of confinement as approved by the director of the division of the budget. On or before the expiration of each thirty day period, the state commission of correction must make an appropriate designation pursuant to subdivision one if the county jail remains unfit or unsafe for the confinement of some or all of the inmates and consent to the continued availability of a state correctional institution as required for herein. The superintendence, management and control of a state correctional institution or part thereof made available pursuant hereto and the inmates housed therein shall be as directed by the commissioner of correctional services.

S 67. Subdivision (g) of section 601 of the correction law, as added by chapter 640 of the laws of 1988 and as relettered by section 2 of part D of chapter 56 of the laws of 2008, is amended to read as follows:

(g) The COMMISSIONER OF THE DIVISION OF CRIMINAL JUSTICE SERVICES, UPON CONSULTATION WITH THE state commission of correction, shall promulgate a rule and regulation which prescribes the manner in which confidential material shall be transmitted between local correctional facilities.

S 68. Subdivision 5 of section 804 of the correction law, as added by chapter 680 of the laws of 1967, is amended to read as follows:

5. The COMMISSIONER OF THE DIVISION OF CRIMINAL JUSTICE SERVICES, IN CONSULTATION WITH THE state commission of correction, shall promulgate record keeping rules and regulations for the granting, withholding, forfeiture, cancellation and restoration of allowances authorized by this section.

S 69. Subdivision 4 of section 804-a of the correction law, as added by chapter 220 of the laws of 1987, is amended to read as follows:

4. The COMMISSIONER OF THE DIVISION OF CRIMINAL JUSTICE SERVICES, IN CONSULTATION WITH THE state commission of correction, shall promulgate record keeping rules and regulations for the granting, withholding, forfeiture, cancellation and restoration of allowances authorized by this section.

S 70. Paragraph (f) of subdivision 1 of section 169 of the executive law, as separately amended by section 11 of part A-1 and section 10 of part O of chapter 56 of the laws of 2010, is amended to read as follows:

(f) executive director of adirondack park agency, commissioners of the state liquor authority, commissioners of the state civil service commission, [members of state commission of correction,] members of unemployment insurance appeal board, and members of the workers' compensation board.

S 71. Subdivision 1 of section 265 of the executive law, as amended by section 31 of part A of chapter 56 of the law of 2010, is amended to read as follows:

1. In administering the provisions of this article, the office may perform such other and further acts and recommend to the commissioner of the division of criminal justice services such rules and regulations it deems necessary, proper or desirable to carry out the purpose of this article and not otherwise inconsistent with the other provisions of this article, chapter or any other provision of law. This shall include, but not be limited to, the office's consultation with the chief administrative judge of the office of court administration, the [chairman] CHAIR of the state commission of correction and the commissioner of alcoholism and substance abuse services.

1 S 72. Paragraph (o) of subdivision 1 of section 2782 of the public  
2 health law, as added by chapter 584 of the laws of 1988, is amended to  
3 read as follows:

4 (o) an employee or agent of the [commission of correction] DIVISION OF  
5 CRIMINAL JUSTICE SERVICES, in accordance with paragraph (a) of subdivi-  
6 sion two of section twenty-seven hundred eighty-six of this article, to  
7 the extent the employee or agent is authorized to access records  
8 containing such information in order to carry out the [commission's]  
9 STATE COMMISSION OF CORRECTION'S functions, powers and duties with  
10 respect to the protected individual, pursuant to article three of the  
11 correction law.

12 S 73. Paragraph (a) of subdivision 2 of section 2786 of the public  
13 health law, as added by chapter 584 of the laws of 1988, is amended to  
14 read as follows:

15 (a) Each state agency authorized pursuant to this article to obtain  
16 confidential HIV related information shall, in consultation with the  
17 department of health, promulgate regulations: (1) to provide safeguards  
18 to prevent discrimination, abuse or other adverse actions directed  
19 toward protected individuals; (2) to prohibit the disclosure of such  
20 information except in accordance with this article; (3) to seek to  
21 protect individuals in contact with the protected individual when such  
22 contact creates a significant risk of contracting or transmitting HIV  
23 infection through the exchange of body fluids, and (4) to establish  
24 criteria for determining when it is reasonably necessary for a provider  
25 of a health or social service or the state agency or a local government  
26 agency to have or to use confidential HIV related information for super-  
27 vision, monitoring, investigation, or administration and for determining  
28 which employees and agents may, in the ordinary course of business of  
29 the agency or provider, be authorized to access confidential HIV related  
30 information pursuant to the provisions of paragraphs (l) and (m) of  
31 subdivision one and subdivision six of section twenty-seven hundred  
32 eighty-two of this article; and provided further that such regulations  
33 shall be promulgated by the [chairperson] COMMISSIONER OF THE DIVISION  
34 OF CRIMINAL JUSTICE SERVICES IN CONSULTATION WITH THE CHAIR of the  
35 commission of correction where disclosure is made pursuant to paragraphs  
36 (n) and (o) of subdivision one of section twenty-seven hundred eighty-  
37 two of this article.

38 S 74. Subdivision 2 of section 285 of the education law, as added by  
39 section 6 of part 0 of chapter 57 of the laws of 2005, is amended to  
40 read as follows:

41 2. The commissioner is authorized to expend up to one hundred seven-  
42 ty-five thousand dollars annually to provide grants to public library  
43 systems operating under an approved plan of service for provision of  
44 services to county jail facilities. Such formula grants shall assist the  
45 library system in making available to the inmate population of such  
46 facility or facilities the library resources of such system. Such grants  
47 shall be available to each public library system in such manner as to  
48 insure that the ratio of the amount each system is eligible to receive  
49 equals the ratio of the number of inmates served by the county jail  
50 facility to the total number of inmates served by county jail facilities  
51 in the state as of July first of the year preceding the calendar year in  
52 which the state aid to public library systems is to be paid. Inmate  
53 populations shall be certified by the [New York] state commission of  
54 correction. The commissioner shall adopt any regulations necessary to  
55 carry out the purposes and provisions of this subdivision.

1 S 75. Paragraph e of subdivision 7 of section 3202 of the education  
2 law, as added by chapter 683 of the laws of 1986, is amended to read as  
3 follows:

4 e. The COMMISSIONER OF THE DIVISION OF CRIMINAL JUSTICE SERVICES, IN  
5 CONSULTATION WITH THE CHAIR OF THE state commission of correction shall  
6 promulgate rules and regulations in consultation with the commissioner  
7 which shall require each correctional facility operated by a county or  
8 the city of New York to cooperate with the school district or board of  
9 cooperative educational services providing educational services and to  
10 comply with the requirements of this subdivision.

11 S 76. Subdivision 3 of section 240 of the executive law, as amended by  
12 section 1 of part A of chapter 56 of the laws of 2010, is amended to  
13 read as follows:

14 3. The commissioner[, in consultation with the director,] shall  
15 appoint staff and perform such other functions to ensure the efficient  
16 operation of the office within the amounts made available therefor by  
17 appropriation.

18 S 77. Paragraph (f) of subdivision 1 of section 169 of the executive  
19 law, as separately amended by section 11 of part A-1 and section 10 of  
20 part O of chapter 56 of the laws of 2010, is amended to read as follows:

21 (f) executive director of adirondack park agency, commissioners of the  
22 state liquor authority, commissioners of the state civil service commis-  
23 sion, [members of state commission of correction,] members of unemploy-  
24 ment insurance appeal board, and members of the workers' compensation  
25 board.

26 S 78. This act shall take effect immediately, provided that the amend-  
27 ments to subdivision (a) of section 483-ee of the social services law  
28 made by section twenty-two of this act shall not affect the repeal of  
29 such section and shall be deemed repealed therewith; and provided that  
30 the amendments to subdivision 1 of section 265 of the executive law made  
31 by section seventy-one of this act shall not affect the repeal of such  
32 section and shall be deemed repealed therewith; and provided that  
33 section sixty-five of this act shall take effect on the same date and in  
34 the same manner as chapter 1 of the laws of 2008, as amended, takes  
35 effect.

## 36 PART C

37 Section 1. This act enacts into law major components of legislation  
38 which are necessary to implement the state fiscal plan for the 2011-2012  
39 state fiscal year. Each component is wholly contained within a Subpart  
40 identified as Subparts A and B. The effective date for each particular  
41 provision contained within such Subpart is set forth in the last section  
42 of such Subpart. Any provision in any section contained within a  
43 Subpart, including the effective date of the Subpart, which makes a  
44 reference to a section "of this act", when used in connection with  
45 that particular component, shall be deemed to mean and refer to the  
46 corresponding section of the Subpart in which it is found. Section three  
47 of this act sets forth the general effective date of this act.

## 48 SUBPART A

49 Section 1. Legislative intent. New York's sentencing structure has  
50 undergone a number of profound and fundamental changes over the last  
51 seventeen years. Starting in 1995, the state has moved steadily from an  
52 indeterminate sentencing format to a determinate sentencing format. The

1 state now requires determinate sentences for violent felony offenders,  
2 drug offenders, and sex offenders who are sentenced to state prison.  
3 These determinately sentenced offenders are no longer eligible for a  
4 discretionary release on parole. Instead, the date of their release from  
5 prison is governed solely and exclusively by their behavior while incar-  
6 cerated.

7 Similarly, with the enactment of the presumptive release statute for  
8 certain non-violent offenders with indeterminate sentences, the parole  
9 release decision is increasingly made by corrections officials. As a  
10 consequence, the board of parole's workload is lighter and its important  
11 business is being handled by fewer members than are currently authorized  
12 by law. The board's workload will continue to diminish as the overall  
13 mix of the inmate population continues to evolve.

14 Another fundamental change occurred in 1996 when the legislature  
15 changed the penal law to include as an express purpose of imprisonment,  
16 the promotion of inmates' successful and productive reentry into socie-  
17 ty. Toward this end, many new responsibilities have been placed on both  
18 corrections officials and parole officials to ready inmates for their  
19 release into the community such as: obtaining their birth certificates  
20 and social security cards prior to release, preparing Medicaid applica-  
21 tions as warranted, securing identification cards from the department of  
22 motor vehicles, and providing them with voter registration forms. In  
23 addition, transitional services programs have now become mandatory for  
24 all inmates. Transition accountability plans will be developed for each  
25 inmate, starting with their time in general confinement and culminating  
26 with the inmate's successful reintegration into the community. Further-  
27 more, direct linkages with local agencies have been greatly enhanced  
28 with the creation of Re-entry Task Forces throughout the state.

29 As a result of the evolution of the sentencing structure and focus on  
30 reentry the historical separation of the department of correctional  
31 services and the division of parole is no longer warranted. In view of  
32 the commonality of purpose governing the fundamental missions of both  
33 agencies, a single new state agency should be created to oversee the  
34 combined responsibilities of both and, in effect, provide for a seamless  
35 network for the care, custody, treatment and supervision of a person,  
36 from the day a sentence of state imprisonment commences, until the day  
37 such person is discharged from supervision in the community. This not  
38 only will enhance public safety by achieving better outcomes for the  
39 greatest number of individuals being released from prison, but also will  
40 allow for greater efficiencies and the elimination of duplicative  
41 responsibilities, thus resulting in significant savings for the state.

42 While housed in the new state agency, it is fundamental that the board  
43 of parole retain its authority to make release decisions based on the  
44 board members' independent judgment and application of statutory crite-  
45 ria. To this end, the legislation makes clear that the board shall  
46 continue to exercise its independence when determining the appropriate-  
47 ness of granting inmates discretionary release to parole supervision.  
48 The new agency's provision of administrative support will not undermine  
49 the board's independent decision-making authority.

50 S 1-a. Subdivisions 1, 2 and 18 of section 2 of the correction law,  
51 subdivisions 1 and 2 as separately amended by chapter 475 and 476 of the  
52 laws of 1970 and subdivision 18 as amended by section 1 of part AAA of  
53 chapter 56 of the laws of 2009, are amended and a new subdivision 31 is  
54 added to read as follows:

55 1. "Department" means the state department of [correctional services]  
56 CORRECTIONS AND COMMUNITY SUPERVISION;

1 2. "Commissioner" means the state commissioner of [correctional  
2 services] CORRECTIONS AND COMMUNITY SUPERVISION;

3 18. "Alcohol and substance abuse treatment correctional annex." A  
4 medium security correctional facility consisting of one or more residen-  
5 tial dormitories, which provide intensive alcohol and substance abuse  
6 treatment services to inmates who: (i) are otherwise eligible for tempo-  
7 rary release, or (ii) stand convicted of a felony defined in article two  
8 hundred twenty or two hundred twenty-one of the penal law, and are with-  
9 in six months of being an eligible inmate as that term is defined in  
10 subdivision two of section eight hundred fifty-one of this chapter  
11 including such inmates who are participating in such program pursuant to  
12 subdivision six of section 60.04 of the penal law. Notwithstanding the  
13 foregoing provisions of this subdivision, any inmate to be enrolled in  
14 this program pursuant to subdivision six of section 60.04 of the penal  
15 law shall be governed by the same rules and regulations promulgated by  
16 the department, including without limitation those rules and regulations  
17 establishing requirements for completion and those rules and regulations  
18 governing discipline and removal from the program. No such period of  
19 court ordered corrections based drug abuse treatment pursuant to this  
20 subdivision shall be required to extend beyond the defendant's condi-  
21 tional release date. Such treatment services may be provided by one or  
22 more outside service providers pursuant to contractual agreements with  
23 [both] the department [and the division of parole], provided, however,  
24 that any such provider shall be required to continue to provide, either  
25 directly or through formal or informal agreement with other providers,  
26 alcohol and substance abuse treatment services to inmates who have  
27 successfully participated in such provider's incarcerative treatment  
28 services and who have been PRESUMPTIVELY RELEASED, paroled [or], condi-  
29 tionally released OR RELEASED TO POST RELEASE SUPERVISION under the  
30 supervision of the [division of parole] DEPARTMENT and who are, as a  
31 condition of [their parole or conditional] SUCH release, required to  
32 participate in alcohol or substance abuse treatment. Such incarcerative  
33 services shall be provided in the facility in accordance with minimum  
34 standards promulgated by the department after consultation with the  
35 office of alcoholism and substance abuse services. Such services to  
36 parolees shall be provided in accordance with standards promulgated by  
37 the [division of parole] DEPARTMENT after consultation with the office  
38 of alcoholism and substance abuse services. Notwithstanding any other  
39 provision of law, any person who has successfully completed no less than  
40 six months of intensive alcohol and substance abuse treatment services  
41 in one of the department's eight designated alcohol and substance abuse  
42 treatment correctional annexes having a combined total capacity of two  
43 thousand five hundred fifty beds may be transferred to a program oper-  
44 ated by or at a residential treatment facility, provided however, that a  
45 person under a determinate sentence as a second felony drug offender for  
46 a class B felony offense defined in article two hundred twenty of the  
47 penal law, who was sentenced pursuant to section 70.70 of such law,  
48 shall not be eligible to be transferred to a program operated at a resi-  
49 dential treatment facility until the time served under imprisonment for  
50 his or her determinate sentence, including any jail time credited pursu-  
51 ant to subdivision three of section 70.30 of the penal law, shall be at  
52 least nine months. The commissioner shall report annually to the tempo-  
53 rary president of the senate and the speaker of the assembly commencing  
54 January first, [nineteen hundred ninety-two as to the efficacy of such  
55 programs including but not limited to a comparative analysis of state-  
56 operated and private sector provision of treatment services and recidiv-

ism. Such report shall also include] TWO THOUSAND TWELVE the number of inmates received by the department during the reporting period who are subject to a sentence which includes enrollment in substance abuse treatment in accordance with subdivision six of section 60.04 of the penal law, the number of such inmates who are not placed in such treatment program and the reasons for such occurrences.

31. "COMMUNITY SUPERVISION" MEANS THE SUPERVISION OF INDIVIDUALS RELEASED INTO THE COMMUNITY ON TEMPORARY RELEASE, PRESUMPTIVE RELEASE, PAROLE, CONDITIONAL RELEASE, POST RELEASE SUPERVISION OR MEDICAL PAROLE.

S 2. Subdivision 18 of section 2 of the correction law, as amended by chapter 738 of the laws of 2004, is amended to read as follows:

18. "Alcohol and substance abuse treatment correctional annex." A medium security correctional facility consisting of one or more residential dormitories which provide intensive alcohol and substance abuse treatment services to inmates who: (i) are otherwise eligible for temporary release, or (ii) stand convicted of a felony defined in article two hundred twenty or two hundred twenty-one of the penal law, and are within six months of being an eligible inmate as that term is defined in subdivision two of section eight hundred fifty-one of this chapter including such inmates who are participating in such program pursuant to subdivision six of section 60.04 of the penal law. Notwithstanding the foregoing provisions of this subdivision, any inmate to be enrolled in this program pursuant to subdivision six of section 60.04 of the penal law shall be governed by the same rules and regulations promulgated by the department, including without limitation those rules and regulations establishing requirements for completion and those rules and regulations governing discipline and removal from the program. No such period of court ordered corrections based drug abuse treatment pursuant to this subdivision shall be required to extend beyond the defendant's conditional release date. Such treatment services may be provided by one or more outside service providers pursuant to contractual agreements with [both] the department [and the division of parole], provided, however, that any such provider shall be required to continue to provide, either directly or through formal or informal agreement with other providers, alcohol and substance abuse treatment services to inmates who have successfully participated in such provider's incarcerative treatment services and who have been PRESUMPTIVELY RELEASED, paroled [or], conditionally released OR RELEASED TO POST RELEASE SUPERVISION under the supervision of the [division of parole] DEPARTMENT and who are, as a condition of [their parole or conditional] SUCH release, required to participate in alcohol or substance abuse treatment. Such incarcerative services shall be provided in the facility in accordance with minimum standards promulgated by the department after consultation with the office of alcoholism and substance abuse services. Such services to parolees shall be provided in accordance with standards promulgated by the [division of parole] DEPARTMENT after consultation with the office of alcoholism and substance abuse services. The commissioner shall report annually to the majority leader of the senate and the speaker of the assembly commencing January first, [nineteen hundred ninety-two as to the efficacy of such programs including but not limited to a comparative analysis of state-operated and private sector provision of treatment services and recidivism. Such report shall also include] TWO THOUSAND TWELVE the number of inmates received by the department during the reporting period who are subject to a sentence which includes enrollment in substance abuse treatment in accordance with subdivision six of

section 60.04 of the penal law, the number of such inmates who are not placed in such treatment program and the reasons for such occurrences.

S 3. The article heading of article 2 of the correction law, as amended by chapter 475 of the laws of 1970, is amended to read as follows:

DEPARTMENT OF [CORRECTIONAL SERVICES; STATE BOARD OF PAROLE]  
CORRECTIONS AND  
COMMUNITY SUPERVISION

S 4. Section 5 of the correction law, as added by chapter 475 of the laws of 1970, subdivision 4 as added by chapter 547 of the laws of 1995, subdivision 5 as added by chapter 448 of the laws of 2000 and subdivision 6 as added by chapter 7 of the laws of 2007, is amended to read as follows:

S 5. Department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION; commissioner. 1. There shall be in the state government a department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION. The head of the department shall be the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, who shall be appointed by the governor, by and with the advice and consent of the senate, and hold office at the pleasure of the governor by whom he was appointed and until his successor is appointed and has qualified.

2. The commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION shall be the chief executive officer of the department.

3. The principal office of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION shall be in the county of Albany.

4. The commissioner is hereby authorized and empowered to convert the sentence of a person serving an indeterminate sentence of imprisonment, except a person serving a sentence with a maximum term of life imprisonment, to a determinate sentence of imprisonment equal to two-thirds of the maximum or aggregate maximum term imposed where such conversion is necessary to make such person eligible for transfer either to federal custody or to foreign countries under treaties that provide for the voluntary transfer of such persons on the execution of penal sentences entered into by the government of the United States with foreign countries.

5. The commissioner upon request, may in his or her discretion, authorize the purchase and presentation of a flag of the state of New York to the person designated to dispose of the remains of a deceased correction officer OR PAROLE OFFICER.

6. The commissioner shall have the discretion to enter into agreements with the commissioner of mental health for the provision of security services relating to article ten of the mental hygiene law.

S 5. Section 7 of the correction law, as amended by chapter 519 of the laws of 1980, and subdivision 4 as added by chapter 35 of the laws of 1984, is amended to read as follows:

S 7. Organization of department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION; officers and employees; delegation by commissioner. 1. The commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION may, from time to time, create, abolish, transfer and consolidate divisions, bureaus and other units within the department not expressly established by law as he OR SHE may determine necessary for the efficient operation of the department, subject to the approval of the director of the budget.

2. The commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION may appoint such deputies, directors, assistants and other officers and employees as may be needed for the performance of his

OR HER duties and may prescribe their powers and duties and fix their compensation within the amounts appropriated therefor.

3. The commissioner may by order filed in the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION delegate any of his OR HER powers to or direct any of his OR HER duties to be performed by a deputy commissioner or a head of a division or bureau of such department.

4. The commissioner shall not appoint any person as a correction officer OR PAROLE OFFICER, unless such person has attained his twenty-first birthday.

S 6. Section 8 of the correction law, as added by chapter 887 of the laws of 1983, subdivision 2 as amended by chapter 358 of the laws of 1984, subdivisions 3, 6, and 7 as amended by chapter 354 of the laws of 1986, and subdivision 4 as amended by chapter 205 of the laws of 2002, is amended to read as follows:

S 8. Testing of certain applicants for employment. 1. Any applicant for employment with the department as a correction officer at a facility of the department, shall be tested in accordance with the requirements of this section.

2. The department is hereby authorized to conduct, or to enter into agreements necessary for conducting tests for psychological screening of applicants covered by this section. Any such tests shall consist of at least three independent psychological instruments and shall meet the level of the art for psychological instruments to be used in a validation study developed for selection of such applicants. Such psychological instruments shall be used in testing and selection of applicants for positions referred to in subdivision one of this section. Persons who have been determined by a psychologist licensed under the laws of this state as suffering from psychotic disorders, serious character disorders, or other disorders which could hinder performance on the job may be deemed ineligible for appointment; provided, however, that other components of the employee selection process may be taken into consideration in reaching the determination as to whether a candidate is deemed eligible or ineligible for certification to a list of eligible candidates. The department's testing program shall include a component consisting of criteria related validity studies or other validity studies acceptable under relevant federal law governing equal employment.

3. The commissioner or his OR HER designee shall advise those candidates who have been deemed ineligible for appointment through psychological screening and shall notify such persons of their right to appeal their disqualification. A person so deemed may apply to the commissioner for a review of the findings within thirty days of the date of notification. The commissioner shall refer the matter to an independent advisory board to review any recommendation. A copy of the advisory board's recommendations shall be promptly forwarded to the parties and to the commissioner. If the advisory board's recommendation is rejected by the commissioner, wholly or in part, the commissioner shall state his OR HER reasons for such rejection in writing.

4. The advisory board shall consist of three members who shall be selected by the president of the civil service commission. The membership of the board shall consist of: A psychologist[,] and a psychiatrist, both of whom shall be licensed under the laws of this state, and a third member who shall be a representative of the department of civil service. The department of civil service shall maintain a list of alternate board members comprised of psychologists and psychiatrists,

1 licensed under the laws of this state, and representatives nominated by  
2 the president of the civil service commission, who shall sit on the  
3 advisory board in the event a designated member is unable to serve,  
4 provided, however, THAT at all times the advisory board must be  
5 comprised of a psychiatrist, a psychologist and a representative of the  
6 department of civil service. Each of the members of the advisory board  
7 and their alternates so selected shall serve at the pleasure of the  
8 president of the civil service commission. Each of the members and  
9 alternates so selected shall be reimbursed for services and actual costs  
10 at a per diem rate not to exceed nine hundred dollars for the psychia-  
11 trist, seven hundred dollars for the psychologist and six hundred  
12 dollars for the representative of the civil service department;  
13 provided, however, that if any member of or alternate to the advisory  
14 board is an employee of the state of New York, then such representative  
15 shall only receive reimbursement for actual costs incurred.

16 5. The commissioner or his OR HER designee shall advise the department  
17 of civil service of those persons who have been determined under this  
18 section as being eligible for appointment from any list of eligible  
19 candidates.

20 6. Notwithstanding any other provision of law, the results of the  
21 tests administered pursuant to this section shall be used solely for the  
22 qualification of a candidate for correction officer and the validation  
23 of the psychological instruments utilized. For all other purposes, the  
24 results of the examination shall be confidential and the records sealed  
25 by the department of [correctional services] CORRECTIONS AND COMMUNITY  
26 SUPERVISION, and not be available to any other agency or person except  
27 by authorization of the applicant or, upon written notice by order of a  
28 court of this state or the United States.

29 7. Prior to March first of each year, the commissioner of the depart-  
30 ment of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION  
31 will report to the governor, president of the senate and speaker of the  
32 assembly on the conduct of the psychological testing program and the  
33 results of such program in improving the quality of correction officer  
34 candidates.

35 S 7. Intentionally omitted.

36 S 8. The correction law is amended by adding a new section 10 to read  
37 as follows:

38 S 10. PAROLE OFFICERS. 1. EMPLOYEES IN THE DEPARTMENT WHO PERFORM THE  
39 DUTIES OF SUPERVISING INMATES RELEASED ON COMMUNITY SUPERVISION SHALL BE  
40 PAROLE OFFICERS.

41 2. NO PERSON SHALL BE ELIGIBLE FOR THE POSITION OF PAROLE OFFICER WHO  
42 IS UNDER TWENTY-ONE YEARS OF AGE OR WHO DOES NOT POSSESS A BACCALAUREATE  
43 DEGREE CONFERRED BY A POST-SECONDARY INSTITUTION ACCREDITED BY AN  
44 ACCREDITING AGENCY RECOGNIZED BY THE UNITED STATES OFFICE OF EDUCATION,  
45 OR WHO IS NOT FIT PHYSICALLY, MENTALLY AND MORALLY. PAROLE OFFICER  
46 SELECTION SHALL BE BASED ON DEFINITE QUALIFICATIONS AS TO CHARACTER,  
47 ABILITY AND TRAINING WITH AN EMPHASIS ON CAPACITY AND ABILITY TO PROVIDE  
48 A BALANCED APPROACH TO INFLUENCING HUMAN BEHAVIOR AND TO USE JUDGMENT IN  
49 THE ENFORCEMENT OF THE RULES AND REGULATIONS OF COMMUNITY SUPERVISION.  
50 PAROLE OFFICERS SHALL BE PERSONS LIKELY TO EXERCISE A STRONG AND HELPFUL  
51 INFLUENCE UPON PERSONS PLACED UNDER THEIR SUPERVISION WHILE RETAINING  
52 THE GOAL OF PROTECTING SOCIETY.

53 3. THE COMMISSIONER, ACTING IN COOPERATION WITH THE CIVIL SERVICE  
54 COMMISSION, SHALL ESTABLISH STANDARDS, PRELIMINARY REQUISITES AND REQUI-  
55 SITES TO GOVERN THE SELECTION AND APPOINTMENT OF PAROLE OFFICERS.

1 4. A PAROLE OR WARRANT OFFICER, IN PERFORMING OR IN ATTEMPTING TO  
2 PERFORM AN ARREST PURSUANT TO AND IN CONFORMANCE WITH THE PROVISIONS OF  
3 ARTICLE ONE HUNDRED FORTY OF THE CRIMINAL PROCEDURE LAW, SHALL BE DEEMED  
4 TO HAVE PERFORMED SUCH ACTIONS, RELATING TO SUCH ARREST, IN THE COURSE  
5 OF EMPLOYMENT IN THE DEPARTMENT FOR PURPOSES OF DISABILITY OR DEATH FROM  
6 ANY INJURIES ARISING THEREFROM. THE PROVISIONS OF THIS SUBDIVISION SHALL  
7 APPLY WHETHER OR NOT SUCH PAROLE OR WARRANT OFFICER WAS ON DUTY FOR THE  
8 DEPARTMENT AT THE TIME OF PERFORMING SUCH ACTIONS OR PERFORMED SUCH  
9 ACTIONS OUTSIDE OF HIS OR HER REGULAR OR USUAL DUTIES WITHIN THE DEPART-  
10 MENT.

11 S 9. The correction law is amended by adding a new section 11 to read  
12 as follows:

13 S 11. HEARING OFFICERS. 1. THE COMMISSIONER SHALL APPOINT HEARING  
14 OFFICERS WHO SHALL BE AUTHORIZED TO CONDUCT PAROLE REVOCATION  
15 PROCEEDINGS. A HEARING OFFICER CONDUCTING SUCH PROCEEDINGS SHALL CONSID-  
16 ER ONLY THE EVIDENCE THAT IS INTRODUCED AT SUCH HEARING AND SHALL BE  
17 REQUIRED TO MAKE A WRITTEN DECISION IN ACCORDANCE WITH STANDARDS AND  
18 RULES ADOPTED BY THE DEPARTMENT.

19 2. THE COMMISSIONER, ACTING IN COOPERATION WITH THE CIVIL SERVICE  
20 COMMISSION, SHALL ESTABLISH STANDARDS, PRELIMINARY REQUISITES AND REQUI-  
21 SITES TO GOVERN THE SELECTION AND APPOINTMENT OF HEARING OFFICERS. SUCH  
22 STANDARDS AND REQUISITES SHALL BE DESIGNED TO ASSURE THAT PERSONS  
23 SELECTED AS HEARING OFFICERS HAVE THE ABILITY TO CONDUCT PAROLE REVOC-  
24 ATION PROCEEDINGS FAIRLY AND IMPARTIALLY. SUCH STANDARDS SHALL NOT  
25 REQUIRE PRIOR EXPERIENCE AS A PAROLE OFFICER.

26 S 10. Section 18 of the correction law, as amended by chapter 708 of  
27 the laws of 1984 and subdivision 1 as amended by chapter 306 of the laws  
28 of 1985, is amended to read as follows:

29 S 18. Superintendents of correctional facilities. 1. Each correction-  
30 al facility shall have a superintendent who shall be appointed by the  
31 commissioner [of correctional services]. Each such superintendent shall  
32 be in the non-competitive-confidential class but shall be appointed from  
33 employees of the department who have at least three years of experience  
34 in correctional work in the department and (i) who have a permanent  
35 civil service appointment of salary grade twenty-seven or higher or who  
36 have a salary equivalent to a salary grade of twenty-seven or higher for  
37 correctional facilities with an inmate population capacity of four  
38 hundred or more inmates, or (ii) who have a permanent civil service  
39 appointment of salary grade twenty-three or higher or who have a salary  
40 equivalent to a salary grade of twenty-three or higher for correctional  
41 facilities with an inmate population capacity of fewer than four hundred  
42 inmates; provided that for correctional facilities of either capacity,  
43 the employee shall be appointed superintendent at the hiring rate set  
44 forth in section nineteen of this article or such other rate as may be  
45 appropriate, subject to the approval of the director of the budget;  
46 provided that in no event shall the salary upon appointment exceed the  
47 job rate. Such superintendents shall serve at the pleasure of the  
48 commissioner and shall have such other qualifications as may be  
49 prescribed by the commissioner [of correctional services], based on  
50 differences in duties, levels of responsibility, size and character of  
51 the correctional facility, knowledge, skills and abilities required, and  
52 other factors affecting the position.

53 2. Subject to the rules and statutory powers of the commissioner [of  
54 correctional services], or rules approved by him OR HER, the superinten-  
55 dent of a correctional facility shall have the supervision and manage-  
56 ment thereof.

1 3. Subject to the direction of the commissioner [of correctional  
2 services], and of the deputy and assistant commissioners in their  
3 respective fields of supervision, the superintendent of a correctional  
4 facility shall direct the work and define the duties of all officers and  
5 subordinates of the facility.

6 S 11. Subdivision 1 of section 24 of the correction law, as added by  
7 chapter 283 of the laws of 1972, is amended to read as follows:

8 1. No civil action shall be brought in any court of the state, except  
9 by the attorney general on behalf of the state, against any officer or  
10 employee of the department, WHICH FOR PURPOSES OF THIS SECTION SHALL  
11 INCLUDE MEMBERS OF THE STATE BOARD OF PAROLE, in his OR HER personal  
12 capacity, for damages arising out of any act done or the failure to  
13 perform any act within the scope of the employment and in the discharge  
14 of the duties by such officer or employee.

15 S 12. Section 29 of the correction law, as added by chapter 654 of the  
16 laws of 1974, subdivision 1 as amended by chapter 598 of the laws of  
17 1990 and subdivision 4 as amended by section 1 of part R of chapter 56  
18 of the laws of 2005, is amended to read as follows:

19 S 29. Department statistics. 1. The department shall continue to  
20 collect, maintain, and analyze statistical and other information and  
21 data with respect to persons subject to the jurisdiction of the depart-  
22 ment, including but not limited to: (a) the number of such persons:  
23 placed in the custody of the department, assigned to a specific depart-  
24 ment program, accorded [temporary release, paroled or conditionally  
25 released, paroled or conditionally released] COMMUNITY SUPERVISION and  
26 declared delinquent, recommitted to a state correctional institution  
27 upon revocation of [parole or conditional release] COMMUNITY  
28 SUPERVISION, or [discharge] DISCHARGED upon maximum expiration of  
29 sentence; (b) the criminal history of such persons; (c) the social,  
30 educational, and vocational circumstances of any such persons; and, (d)  
31 the institutional[, parole and conditional release] AND COMMUNITY SUPER-  
32 VISION programs and THE behavior of such persons. Provided, however, in  
33 the event any statistical information on the ethnic background of the  
34 inmate population of a correctional facility or facilities is collected  
35 by the department, such statistical information shall contain, but not  
36 be limited to, the following ethnic categories: (i) Caucasian; (ii)  
37 Asian; (iii) American Indian; (iv) Afro-American/Black; and (v) Spanish  
38 speaking/Hispanic which category shall include, but not be limited to,  
39 the following subcategories consisting of: (1) Puerto Ricans; (2)  
40 Cubans; (3) Dominicans; and (4) other Hispanic nationalities.

41 2. The commissioner [of correctional services] shall make rules as to  
42 the privacy of records, statistics and other information collected,  
43 obtained and maintained by the department, its institutions or the board  
44 of parole and information obtained in an official capacity by officers,  
45 employees or members thereof.

46 3. The commissioner [of correctional services] shall have access to  
47 records and criminal statistics collected by the division of criminal  
48 justice services and the commissioner of criminal justice services shall  
49 have access to records and criminal statistics collected by the depart-  
50 ment of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION,  
51 as the [commissioners] COMMISSIONER of [correctional services]  
52 CORRECTIONS AND COMMUNITY SUPERVISION and THE COMMISSIONER OF criminal  
53 justice services shall mutually determine.

54 4. The commissioner [of the department of correctional services] shall  
55 provide an annual report to the legislature on the staffing of  
56 correction officers and correction sergeants in state correctional

1 facilities. Such report shall include, but not be limited to the follow-  
2 ing factors: the number of security posts on the current plot plan for  
3 each facility that have been closed on a daily basis, by correctional  
4 facility security classification (minimum, medium and maximum); the  
5 number of security positions eliminated by correctional facility since  
6 two thousand compared to the number of inmates incarcerated in each such  
7 facility; a breakdown by correctional facility security classification  
8 (minimum, medium, and maximum) of the staff hours of overtime worked, by  
9 year since two thousand and the annual aggregate costs related to this  
10 overtime. In addition, such report shall be delineated by correctional  
11 facility security classification, the annual number of security posi-  
12 tions eliminated, the number of closed posts and amount of staff hours  
13 of overtime accrued as well as the overall overtime expenditures that  
14 resulted. Such report shall be provided to the chairs of the senate  
15 finance, assembly ways and means, senate crime and corrections and  
16 assembly correction committees by December thirty-first.

17 S 13. Subdivision 3 of section 40 of the correction law, as amended by  
18 chapter 309 of the laws of 1996, is amended to read as follows:

19 3. "Correctional facility" means any institution operated by the state  
20 department of [correctional services] CORRECTIONS AND COMMUNITY SUPER-  
21 VISION, any local correctional facility, or any place used, pursuant to  
22 a contract with the state or a municipality, for the detention of  
23 persons charged with or convicted of a crime, or, for the purpose of  
24 this article only, a secure facility operated by the [state division for  
25 youth] OFFICE OF CHILDREN AND FAMILY SERVICES.

26 S 14. Paragraph 5 of subdivision (a) of section 42 of the correction  
27 law, as added by chapter 865 of the laws of 1975, is amended to read as  
28 follows:

29 5. No appointed member of the council shall qualify or enter upon the  
30 duties of his office, or remain therein, while he is an officer or  
31 employee of the department of [correctional services] CORRECTIONS AND  
32 COMMUNITY SUPERVISION or any correctional facility or is in a position  
33 where he exercises administrative supervision over any correctional  
34 facility. The council shall have such staff as shall be necessary to  
35 assist it in the performance of its duties within the amount of the  
36 appropriation therefor as determined by the chairman of the commission.

37 S 15. Subdivision 4 of section 45 of the correction law, as added by  
38 chapter 865 of the laws of 1975, is amended to read as follows:

39 4. Establish procedures to assure effective investigation of griev-  
40 ances of, and conditions affecting, inmates of local correctional facil-  
41 ities. Such procedures shall include but not be limited to receipt of  
42 written complaints, interviews of persons, and on-site monitoring of  
43 conditions. In addition, the commission shall establish procedures for  
44 the speedy and impartial review of grievances referred to it by the  
45 commissioner of the department of [correctional services] CORRECTIONS  
46 AND COMMUNITY SUPERVISION.

47 S 16. The opening paragraph of paragraph (a) of subdivision 8 of  
48 section 71 of the correction law, as amended by chapter 508 of the laws  
49 of 2010, is amended to read as follows:

50 In each year in which the federal decennial census is taken but in  
51 which the United States bureau of the census does not implement a policy  
52 of reporting incarcerated persons at each such person's residential  
53 address prior to incarceration, the department of [correctional  
54 services] CORRECTIONS AND COMMUNITY SUPERVISION shall by September first  
55 of that same year deliver to the legislative task force on demographic  
56 research and reapportionment the following information for each incar-

cerated person subject to the jurisdiction of the department and located in this state on the date for which the decennial census reports population:

S 17. Subdivision 2 of section 72-b of the correction law, as added by section 48 of part B of chapter 58 of the laws of 2004, is amended to read as follows:

2. No inmate about to be paroled, conditionally released, transferred, released or discharged shall be referred to any adult home, enriched housing program or residence for adults, as defined in section two of the social services law, where the department of [correctional services or state division of parole] CORRECTIONS AND COMMUNITY SUPERVISION has received written notice that the facility has been placed on the "do not refer list" pursuant to subdivision fifteen of section four hundred sixty-d of the social services law.

S 18. Section 75 of the correction law, as added by section 8 of part 00 of chapter 56 of the laws of 2010, is amended to read as follows:

S 75. Notice of voting rights. Upon the discharge from a correctional facility of any person whose maximum sentence of imprisonment has expired OR UPON A PERSON'S DISCHARGE FROM COMMUNITY SUPERVISION, the department shall notify such person of his or her right to vote and provide such person with a form of application for voter registration together with written information distributed by the board of elections on the importance and the mechanics of voting.

S 19. Section 112 of the correction law, as amended by chapter 476 of the laws of 1970, is amended to read as follows:

S 112. Powers and duties of commissioner [of correction] relating to correctional facilities AND COMMUNITY SUPERVISION. 1. The commissioner of [correction] CORRECTIONS AND COMMUNITY SUPERVISION shall have the superintendence, management and control of the correctional facilities in the department and of the inmates confined therein, and of all matters relating to the government, discipline, policing, contracts and fiscal concerns thereof. He OR SHE shall have the power and it shall be his OR HER duty to inquire into all matters connected with said correctional facilities. He OR SHE shall make such rules and regulations, not in conflict with the statutes of this state, for the government of the officers and other employees of the department assigned to said facilities, and in regard to the duties to be performed by them, and for the government and discipline of each correctional facility, as he OR SHE may deem proper, and shall cause such rules and regulations to be recorded by the superintendent of the facility, and a copy thereof to be furnished to each employee assigned to the facility. He OR SHE shall also prescribe a system of accounts and records to be kept at each correctional facility, which system shall be uniform at all of said facilities, and he OR SHE shall also make rules and regulations for a record of photographs and other means of identifying each inmate received into said facilities. He OR SHE shall appoint and remove, subject to the civil service law and rules, subordinate officers and other employees of the department who are assigned to correctional facilities.

2. THE COMMISSIONER SHALL HAVE THE MANAGEMENT AND CONTROL OF INMATES RELEASED ON COMMUNITY SUPERVISION AND OF ALL MATTERS RELATING TO SUCH PERSONS' EFFECTIVE REENTRY INTO THE COMMUNITY AND THE REVOCATION OF THEIR SUPERVISION STATUS, AS WELL AS ALL CONTRACTS AND FISCAL CONCERNS THEREOF. THE COMMISSIONER SHALL HAVE THE POWER AND IT SHALL BE HIS OR HER DUTY TO INQUIRE INTO ALL MATTERS CONNECTED WITH SAID COMMUNITY SUPERVISION. THE COMMISSIONER SHALL MAKE SUCH RULES AND REGULATIONS, NOT

1 IN CONFLICT WITH THE STATUTES OF THIS STATE, FOR THE GOVERNMENT OF THE  
2 OFFICERS AND OTHER EMPLOYEES OF THE DEPARTMENT ASSIGNED TO SAID COMMUNI-  
3 TY SUPERVISION, AND IN REGARD TO THE DUTIES TO BE PERFORMED BY THEM, AS  
4 HE OR SHE DEEMS PROPER AND SHALL CAUSE SUCH RULES AND REGULATIONS TO BE  
5 FURNISHED TO EACH EMPLOYEE ASSIGNED TO PERFORM COMMUNITY SUPERVISION.  
6 THE COMMISSIONER SHALL ALSO PRESCRIBE A SYSTEM OF ACCOUNTS AND RECORDS  
7 TO BE KEPT, WHICH SHALL BE UNIFORM. THE COMMISSIONER SHALL ALSO MAKE  
8 RULES AND REGULATIONS FOR A RECORD OF PHOTOGRAPHS AND OTHER MEANS OF  
9 IDENTIFYING EACH INMATE RELEASED TO COMMUNITY SUPERVISION. THE COMMIS-  
10 SIONER SHALL APPOINT OFFICERS AND OTHER EMPLOYEES OF THE DEPARTMENT WHO  
11 ARE ASSIGNED TO PERFORM COMMUNITY SUPERVISION.

12 3. The commissioner [of correction] may require reports from the  
13 superintendent or any other officer or employee of the department  
14 assigned to any correctional facility OR TO PERFORM COMMUNITY SUPER-  
15 VISION in relation to his OR HER conduct as such officer or employee,  
16 and shall have the power to inquire into any improper conduct which may  
17 be alleged to have been committed by any person at any correctional  
18 facility OR IN THE COURSE OF HIS OR HER PERFORMANCE OF COMMUNITY SUPER-  
19 VISION, and for that purpose to issue subpoenas to compel the attendance  
20 of witnesses, and the production before him OR HER of books, writings  
21 and papers. A subpoena issued under this section shall be regulated by  
22 the civil practice law and rules. [The commissioner of correction is  
23 authorized and empowered to lease the railroad, constructed under and by  
24 the authority of the laws of eighteen hundred and seventy-eight, chapter  
25 one hundred and forty-eight, for such term of years and upon such terms  
26 and conditions as shall be approved of, in writing, by the governor and  
27 comptroller of this state.]

28 S 20. Section 113 of the correction law, as amended by chapter 145 of  
29 the laws of 1979, is amended to read as follows:

30 S 113. Absence of inmate for funeral and deathbed visits [or to report  
31 at an induction center for preinduction examination] authorized. The  
32 commissioner [of correctional services] may permit any inmate confined  
33 by the department except one awaiting the sentence of death to attend  
34 the funeral of his or her father, mother, guardian or former guardian,  
35 child, brother, sister, husband, wife, grandparent, grandchild, ances-  
36 tral uncle or ancestral aunt within the state, or to visit such individ-  
37 ual during his or her illness if death be imminent [or to report to an  
38 induction center for the purpose of being examined for possible  
39 induction into the armed forces of the United States]; but the exercise  
40 of such power shall be subject to such rules and regulations as the  
41 commissioner [of correctional services] shall prescribe, respecting the  
42 granting of such permission, duration of absence from the institution,  
43 custody, transportation and care of the inmate, and guarding against  
44 escape. Any expense incurred under the provisions of this section, with  
45 respect to any inmate permitted to attend a funeral or visit a relative  
46 during last illness, shall be deemed an expense of maintenance of the  
47 institution and be paid from moneys available therefor; but the super-  
48 intendent, if the rules and regulations of the commissioner [of correc-  
49 tional services] shall so provide, may allow the inmate or anyone in his  
50 behalf to reimburse the state for such expense. [Any expense of custo-  
51 dial officers incurred in delivering and returning inmates to and from  
52 an induction center shall be deemed an expense of the institution and be  
53 paid from moneys available therefor but expenses of such inmates shall  
54 not be defrayed by the institution or department or the state.]

55 S 21. Subdivision 2 of section 125 of the correction law, as amended  
56 by chapter 55 of the laws of 1992, is amended to read as follows:

1     2. The superintendent of each of said facilities shall furnish to each  
2 inmate who shall be discharged or released from said facility by pardon,  
3 parole, conditional release or otherwise, except such inmates as are  
4 released for return for resentencing or new trial or upon a certificate of  
5 reasonable doubt, and except such inmates who are released to partic-  
6 ipate in a program outside the facility who are required to return to  
7 the facility, suitable clothing adapted to the season in which he OR SHE  
8 is discharged not to exceed sixty-five dollars in value and transporta-  
9 tion to the county of his OR HER conviction or to such other place as  
10 the commissioner [of correctional services] may designate. In addition,  
11 the commissioner shall take such steps as are necessary to ensure that  
12 inmates have at least forty dollars available upon release.

13     S 22. Subdivision 6 of section 138 of the correction law, as added by  
14 chapter 231 of the laws of 1975, is amended to read as follows:

15     6. All rules and regulations pertaining to inmates established by the  
16 department of [correctional services] CORRECTIONS AND COMMUNITY SUPER-  
17 VISION and all rules and regulations pertaining to inmates established  
18 by any institutional staff at any state correctional facility shall be  
19 reviewed annually by the commissioner of the department of [correctional  
20 services] CORRECTIONS AND COMMUNITY SUPERVISION.

21     S 23. Subdivision 1 of section 170 of the correction law, as amended  
22 by chapter 166 of the laws of 1991, is amended to read as follows:

23     1. The commissioner [of correctional services] shall not, nor shall  
24 any other authority whatsoever, make any contract by which the labor or  
25 time of any inmate in any state or local correctional facility in this  
26 state, or the product or profit of his work, shall be contracted, let,  
27 farmed out, given or sold to any person, firm, association or corpo-  
28 ration; except that the inmates in said correctional institutions may  
29 work for, and the products of their labor may be disposed of to, the  
30 state or any political subdivision thereof, any public institution owned  
31 or managed and controlled by the state, or any political subdivision  
32 thereof.

33     S 24. Subdivision 1 of section 171 of the correction law, as amended  
34 by chapter 364 of the laws of 1983, is amended to read as follows:

35     1. The commissioner [of correctional services] and the superintendents  
36 and officials of all penitentiaries in the state may cause inmates in  
37 the state correctional facilities and such penitentiaries who are phys-  
38 ically capable thereof to be employed for not to exceed eight hours of  
39 each day other than Sundays and public holidays. Notwithstanding any  
40 other provision of this section, however, the commissioner and super-  
41 intendents of state correctional facilities may employ inmates on a  
42 volunteer basis on Sundays and public holidays in specialized areas of  
43 the facility, including kitchen areas, vehicular garages, rubbish pickup  
44 and grounds maintenance, providing, however, that inmates so employed  
45 shall be allowed an alternative free day within the normal work week.

46     S 25. Subdivision 3 of section 177 of the correction law, as amended  
47 by chapter 166 of the laws of 1991, is amended to read as follows:

48     3. However, for the purpose of distributing, marketing or sale of the  
49 whole or any part of the product of any correctional facility in the  
50 state, other than by said state correctional facilities, to the state or  
51 to any political subdivisions thereof or to any public institutions  
52 owned or managed and controlled by the state, or by any political subdi-  
53 visions thereof, or to any public corporation, authority, or eleemosy-  
54 nary association funded in whole or in part by any federal, state or  
55 local funds, the sheriff of any such local correctional facility and the  
56 commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPER-

1 VISION may enter into a contract or contracts which may determine the  
2 kinds and qualities of articles to be produced by such institution and  
3 the method of distribution and sale thereof by the commissioner of  
4 [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or under  
5 his OR HER direction, either in separate lots or in combination with the  
6 products of other such institutions and with the products produced by  
7 inmates in state correctional facilities. Such contracts may fix and  
8 determine any and all terms and conditions for the disposition of such  
9 products and the disposition of proceeds of sale thereof and any and all  
10 other terms and conditions as may be agreed upon, not inconsistent with  
11 the constitution. However, no such contract shall be for a period of  
12 more than one year and any prices fixed by such contract shall be the  
13 prices established pursuant to section one hundred eighty-six of this  
14 article for like articles or shall be approved by the department of  
15 [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION and the  
16 director of the budget on presentation to them of a copy of such  
17 contract or proposed contract, and provided further that any distrib-  
18 ution or diversification of industries provided for by such contract  
19 shall be in accordance with the rules and regulations established by the  
20 department of [correctional services] CORRECTIONS AND COMMUNITY SUPER-  
21 VISION or shall be approved by such department on presentation to it of  
22 a copy of such contract or proposed contract.

23 S 26. Subdivision 1 of section 183 of the correction law, as amended  
24 by chapter 464 of the laws of 1981, is amended to read as follows:

25 1. It shall be the duty of the commissioner [of correctional services]  
26 to distribute, among the correctional institutions under his jurisdic-  
27 tion, the labor and industries assigned to said institutions, due regard  
28 being had to the location and convenience of the prisons, and of the  
29 other institutions to be supplied, the machinery now therein and the  
30 number of prisoners, in order to secure the best service and distrib-  
31 ution of the labor, and to employ the prisoners, so far as practicable,  
32 in occupations in which they will be most likely to obtain employment  
33 after their discharge from imprisonment. The commissioner [of correc-  
34 tional services] shall change or dispose of the present plants and  
35 machinery in said institutions now used in industries which shall be  
36 discontinued, and which can not be used in the industries hereafter to  
37 be carried on in said prisons, due effort to be made by full notice to  
38 probable purchasers, in case of sales of industries or machinery, to  
39 obtain the best price possible for the property sold, and good will of  
40 the business to be discontinued.

41 S 27. Subdivision 2 of section 184 of the correction law, as amended  
42 by chapter 166 of the laws of 1991, is amended to read as follows:

43 2. All such articles manufactured or prepared in the state correction-  
44 al facilities, or by inmates, and not required for use therein, shall be  
45 of the styles, patterns, designs and qualities fixed by the department  
46 of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, except  
47 where the same have been or may be fixed by the office of general  
48 services in the executive department. Such articles may be furnished to  
49 the state, or to any political subdivision thereof, or for or to any  
50 public institution owned or managed and controlled by the state, or any  
51 political subdivision thereof, government of the United States or to any  
52 state of the United States or subdivision thereof or to any public  
53 corporation, authority, or eleemosynary association funded in whole or  
54 in part by any federal, state or local funds, at and for such prices as  
55 shall be fixed and determined as hereinafter provided, upon the requi-  
56 sitions of the proper officials thereof. No article so manufactured or

1 prepared shall be purchased from any other source, for the state or  
2 public institutions of the state, or the political subdivisions thereof,  
3 or public benefit corporations, authorities or commissions, unless the  
4 commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPER-  
5 VISION shall certify that the same can not be furnished upon such requi-  
6 sition, and no claim therefor shall be audited or paid without such  
7 certificate.

8 S 28. Section 185 of the correction law, as amended by chapter 166 of  
9 the laws of 1991, is amended to read as follows:

10 S 185. Estimates of articles required to be furnished. On or before  
11 July first in each year, the proper officials of the state, and the  
12 political subdivisions thereof, and of the institutions of the state, or  
13 political subdivisions thereof, shall report to the department of  
14 [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION estimates  
15 for the ensuing year of the amount of supplies of different kinds  
16 required to be purchased by them that can be furnished by the correc-  
17 tional facilities in the state. The commissioner of [correctional  
18 services] CORRECTIONS AND COMMUNITY SUPERVISION is authorized to make  
19 regulations for said reports, to provide for the manner in which requi-  
20 sitions shall be made for supplies, and to provide for the proper diver-  
21 sification of the industries in the correctional facilities.

22 S 29. Subdivision 2 of section 186 of the correction law, as amended  
23 by chapter 166 of the laws of 1991, is amended to read as follows:

24 2. The prices established by the commissioner shall be based upon  
25 costs as determined pursuant to this subdivision, but shall not exceed a  
26 reasonable fair market price determined at or within ninety days before  
27 the time of sale. Fair market price as used herein means the price at  
28 which a vendor of the same or similar product or service who is regular-  
29 ly engaged in the business of selling such product or service offers to  
30 sell such a product or service under similar terms in the same market.  
31 However, the price established by the commissioner for license plates  
32 sold to the New York state department of motor vehicles shall in no  
33 event exceed an amount approved by the director of the budget.

34 First instance appropriations to the department of [correctional  
35 services] CORRECTIONS AND COMMUNITY SUPERVISION for correctional indus-  
36 tries shall be reimbursed pursuant to an agreement with the director of  
37 the budget. In the absence of a first instance appropriation, costs  
38 shall be determined in accordance with an agreement between the commis-  
39 sioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION  
40 and the director of the budget. Any such agreement shall include, among  
41 other provisions deemed necessary by the budget director for the  
42 purposes of enabling programmatic overview and fiscal controls, one or  
43 more methodologies for the determination of costs attributable to  
44 correctional industries or to any product manufactured in the insti-  
45 tutions of the department or distributed, marketed or sold by the  
46 commissioner pursuant to this section, section one hundred seventy-seven  
47 of this article or section one hundred seventy-five of the state finance  
48 law.

49 S 30. Section 187 of the correction law, as amended by chapter 166 of  
50 the laws of 1991, is amended to read as follows:

51 S 187. Earnings of inmates. 1. Every inmate confined in a state  
52 correctional facility, subject to the rules and regulations of the  
53 department of [correctional services] CORRECTIONS AND COMMUNITY SUPER-  
54 VISION, and every inmate confined in a local correctional facility, in  
55 the discretion of the sheriff thereof, may receive compensation for work  
56 performed during his or her imprisonment. Such compensation shall be

1 graded by the department of [correctional services] CORRECTIONS AND  
2 COMMUNITY SUPERVISION with regard to inmates employed in prison indus-  
3 tries, based upon the work performed by such prisoners for prisoners  
4 confined in state correctional facilities, and by the sheriffs in all  
5 local correctional facilities for inmates confined therein.

6 2. The department of [correctional services] CORRECTIONS AND COMMUNITY  
7 SUPERVISION shall adopt rules, subject to the approval of the director  
8 of the budget, for establishing in all of the state correctional facili-  
9 ties a system of compensation for the inmates confined therein. Such  
10 rules shall provide for the payment of compensation to each inmate, who  
11 shall meet the requirements established by the department of [correc-  
12 tional services] CORRECTIONS AND COMMUNITY SUPERVISION, based upon the  
13 work performed by such inmates.

14 3. The department shall prepare graded wage schedules for inmates,  
15 which [schedule] SCHEDULES shall be based upon classifications according  
16 to the value of work performed by each. Such schedules need not be  
17 uniform in all institutions. The rules of the department shall also  
18 provide for the establishment of a credit system for each inmate and the  
19 manner in which such earnings shall be paid to the inmate or his OR HER  
20 dependents or held in trust for him OR HER until his OR HER release.

21 4. Any compensation paid to an inmate under this article shall be  
22 based on the work performed by such inmate. Compensation may be paid  
23 from moneys appropriated to the department and available to facilities  
24 for nonpersonal service.

25 S 31. Section 198 of the correction law, as added by chapter 240 of  
26 the laws of 1974, is amended to read as follows:

27 S 198. Inmate occupational therapy fund. 1. The commissioner of  
28 [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION may  
29 authorize the superintendent or director of any correctional institution  
30 to establish an inmate occupational therapy fund for the receipt of  
31 proceeds from a product sold, as authorized by section one hundred nine-  
32 ty-seven OF THIS ARTICLE, by one or more inmates as incident to an  
33 avocational or vocational project approved by the commissioner, includ-  
34 ing but not limited to, art, music, drama, handicraft, or sports.

35 2. Pursuant to rules, regulations or directions of the commissioner,  
36 moneys of the fund may: (a) be made available to the superintendent or  
37 director to be used for the general benefit of the inmates of the  
38 correctional institution wherein the product was produced, including but  
39 not limited to, furnishing materials and supplies to an inmate or  
40 inmates for an avocational or vocational project and the transporting of  
41 a product thereof for sale, display or otherwise and for recreational  
42 activities; or (b) be disbursed as follows: (i) an amount equal to the  
43 proceeds from the sale of a product produced by one inmate may be depos-  
44 ited to the account of such inmate pursuant to section one hundred  
45 sixteen of [the correction law] THIS CHAPTER; or (ii) an amount equal to  
46 the proceeds from the sale of a product produced by two or more inmates  
47 may be divided equally among such inmates and deposited to their respec-  
48 tive accounts pursuant to section one hundred sixteen of [the correction  
49 law] THIS CHAPTER.

50 3. In determining the amount of the proceeds from a sale of a product  
51 that may be deposited to the account of an inmate, the commissioner [of  
52 correctional services] may provide for the deduction from the sum of the  
53 proceeds the reasonable expenses of the department of [correctional  
54 services] CORRECTIONS AND COMMUNITY SUPERVISION incident to the sale,  
55 including but not limited to, the value of materials and supplies for  
56 the production of the product supplied without financial charge to the

inmate and the expenses of transporting the product for sale or display or otherwise.  
S 32. The correction law is amended by adding a new article 8 to read as follows:

## ARTICLE 8

## COMMUNITY SUPERVISION

- SECTION 201. AUTHORITY AND RESPONSIBILITY FOR COMMUNITY SUPERVISION.  
202. CONDITIONS OF RELEASE; GENERALLY.  
203. ADDITIONAL CONDITIONS OF RELEASE FOR SEX OFFENDERS.  
204. MANDATORY CONDITIONS OF RELEASE.  
205. PROCEDURES FOR REVOCATION.  
206. APPEALS.  
207. MERIT TERMINATION OF SENTENCE AND DISCHARGE FROM PRESUMPTIVE RELEASE, PAROLE, CONDITIONAL RELEASE AND RELEASE TO POST-RELEASE SUPERVISION.  
208. APPLICATIONS FOR PRESUMPTIVE RELEASE OR CONDITIONAL RELEASE.  
209. COOPERATION.  
210. COMPACTS WITH OTHER STATES FOR OUT-OF-STATE PAROLEE SUPERVISION.  
211. INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION.  
212. INTERSTATE HEARING FOR PAROLE VIOLATION.  
213. DEPUTIZATION OF OUT-OF-STATE OFFICERS.

S 201. AUTHORITY AND RESPONSIBILITY FOR COMMUNITY SUPERVISION. 1. THE DEPARTMENT SHALL HAVE RESPONSIBILITY FOR THE PREPARATION OF REPORTS AND OTHER DATA REQUIRED BY THE STATE BOARD OF PAROLE IN THE EXERCISE OF ITS INDEPENDENT DECISION MAKING FUNCTIONS.

2. IN ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER, THE DEPARTMENT SHALL SUPERVISE INMATES RELEASED TO COMMUNITY SUPERVISION, EXCEPT THAT THE DEPARTMENT MAY CONSENT TO THE SUPERVISION OF A RELEASED INMATE BY THE UNITED STATES PAROLE COMMISSION PURSUANT TO THE WITNESS SECURITY ACT OF NINETEEN HUNDRED EIGHTY-FOUR.

3. TO FACILITATE THE SUPERVISION OF ALL INMATES RELEASED TO COMMUNITY SUPERVISION, THE COMMISSIONER SHALL CONSIDER THE IMPLEMENTATION OF A PROGRAM OF GRADUATED SANCTIONS, INCLUDING BUT NOT LIMITED TO THE UTILIZATION OF A RISK AND NEEDS ASSESSMENT INSTRUMENT THAT WOULD BE ADMINISTERED TO ALL INMATES ELIGIBLE FOR COMMUNITY SUPERVISION. SUCH A PROGRAM WOULD INCLUDE VARIOUS COMPONENTS INCLUDING APPROACHES THAT CONCENTRATE SUPERVISION ON NEW RELEASES, ALTERNATIVES TO INCARCERATION FOR TECHNICAL PAROLE VIOLATORS AND THE USE OF ENHANCED TECHNOLOGIES.

4. THE DEPARTMENT SHALL CONDUCT SUCH INVESTIGATIONS AS MAY BE NECESSARY IN CONNECTION WITH ALLEGED VIOLATIONS OF COMMUNITY SUPERVISION.

5. THE DEPARTMENT SHALL ASSIST INMATES ELIGIBLE FOR COMMUNITY SUPERVISION AND INMATES WHO ARE ON COMMUNITY SUPERVISION TO SECURE EMPLOYMENT, EDUCATIONAL OR VOCATIONAL TRAINING, AND HOUSING.

6. THE DEPARTMENT SHALL HAVE THE DUTY TO PROVIDE WRITTEN NOTICE TO INMATES PRIOR TO RELEASE TO COMMUNITY SUPERVISION OR PURSUANT TO SUBDIVISION SIX OF SECTION 410.91 OF THE CRIMINAL PROCEDURE LAW OF ANY REQUIREMENT TO REPORT TO THE OFFICE OF VICTIM SERVICES ANY FUNDS OF A CONVICTED PERSON AS DEFINED IN SECTION SIX HUNDRED THIRTY-TWO-A OF THE EXECUTIVE LAW, THE PROCEDURE FOR SUCH REPORTING AND ANY POTENTIAL PENALTY FOR A FAILURE TO COMPLY.

7. THE DEPARTMENT SHALL ENCOURAGE APPRENTICESHIP TRAINING OF SUCH PERSONS THROUGH THE ASSISTANCE AND COOPERATION OF INDUSTRIAL, COMMERCIAL AND LABOR ORGANIZATIONS.

1 8. THE DEPARTMENT MAY ESTABLISH A COMMUNITY SUPERVISION TRANSITION  
2 PROGRAM, WHICH IS HEREBY DEFINED AS COMMUNITY-BASED RESIDENTIAL FACILI-  
3 TIES DESIGNED TO AID COMMUNITY SUPERVISION VIOLATORS TO DEVELOP AN  
4 INCREASED CAPACITY FOR ADJUSTMENT TO COMMUNITY LIVING. PRESUMPTIVE  
5 RELEASEES, PAROLEES, CONDITIONAL RELEASEES AND THOSE UNDER POST-RELEASE  
6 SUPERVISION WHO HAVE EITHER (A) BEEN FOUND PURSUANT TO SECTION TWO  
7 HUNDRED FIVE OF THIS ARTICLE TO HAVE VIOLATED ONE OR MORE CONDITIONS OF  
8 RELEASE IN AN IMPORTANT RESPECT, OR (B) ALLEGEDLY VIOLATED ONE OR MORE  
9 OF SUCH CONDITIONS UPON A FINDING OF PROBABLE CAUSE AT A PRELIMINARY  
10 HEARING OR UPON THE WAIVER THEREOF MAY BE PLACED IN A COMMUNITY SUPER-  
11 VISION TRANSITION FACILITY. PLACEMENT IN SUCH A FACILITY UPON A FINDING  
12 OF PROBABLE CAUSE OR THE WAIVER THEREOF SHALL NOT PRECLUDE THE CONDUCT  
13 OF A REVOCATION HEARING, NOR, ABSENT A WAIVER, OPERATE TO DENY THE  
14 RELEASEE'S RIGHT TO SUCH REVOCATION HEARING.

15 9. (A) THE DEPARTMENT SHALL COLLECT A FEE OF THIRTY DOLLARS PER MONTH,  
16 FROM ALL PERSONS OVER THE AGE OF EIGHTEEN WHO AFTER THE EFFECTIVE DATE  
17 OF THIS SUBDIVISION ARE SUPERVISED ON PRESUMPTIVE RELEASE, PAROLE,  
18 CONDITIONAL RELEASE OR POST-RELEASE SUPERVISION. THE DEPARTMENT SHALL  
19 WAIVE ALL OR PART OF SUCH FEE WHERE, BECAUSE OF THE INDIGENCE OF THE  
20 OFFENDER, THE PAYMENT OF SAID FEE WOULD WORK AN UNREASONABLE HARDSHIP ON  
21 THE PERSON CONVICTED, HIS OR HER IMMEDIATE FAMILY, OR ANY OTHER PERSON  
22 WHO IS DEPENDENT ON SUCH PERSON FOR FINANCIAL SUPPORT.

23 (B) THE SUPERVISION FEE AUTHORIZED BY THIS SUBDIVISION SHALL NOT  
24 CONSTITUTE NOR BE IMPOSED AS A CONDITION OF COMMUNITY SUPERVISION.

25 (C) IN THE EVENT OF NON-PAYMENT OF ANY FEES THAT HAVE NOT BEEN WAIVED,  
26 THE DEPARTMENT MAY SEEK TO ENFORCE PAYMENT IN ANY MANNER PERMITTED BY  
27 LAW FOR ENFORCEMENT OF A DEBT OWED TO THE STATE.

28 (D) NOTHING CONTAINED IN THIS SUBDIVISION AFFECTS OR LIMITS THE  
29 PROVISIONS OF SECTION TWO HUNDRED TEN OF THIS ARTICLE, RELATING TO OUT-  
30 OF-STATE PAROLE SUPERVISION. PRIOR TO A TRANSFER OF PAROLE SUPERVISION  
31 TO ANOTHER STATE, THE DEPARTMENT SHALL ELIMINATE ANY SUPERVISION FEE  
32 IMPOSED PURSUANT TO THIS SUBDIVISION. THE DEPARTMENT MAY COLLECT A FEE,  
33 PURSUANT TO THIS SUBDIVISION AND REGULATIONS PROMULGATED THEREUNDER,  
34 FROM ANY PERSON WHOSE PAROLE SUPERVISION IS TRANSFERRED TO THIS STATE  
35 FROM ANOTHER.

36 10. THE DEPARTMENT SHALL HAVE THE POWER TO GRANT AND REVOKE CERTIF-  
37 ICATES OF RELIEF FROM DISABILITIES AND CERTIFICATES OF GOOD CONDUCT AS  
38 PROVIDED FOR BY LAW.

39 11. IN ANY CASE WHERE A PERSON IS ENTITLED TO JAIL TIME CREDIT UNDER  
40 THE PROVISIONS OF PARAGRAPH (C) OF SUBDIVISION THREE OF SECTION 70.40 OF  
41 THE PENAL LAW, TO CERTIFY TO THE PERSON IN CHARGE OF THE INSTITUTION IN  
42 WHICH SUCH PERSON'S SENTENCE IS BEING SERVED THE AMOUNT OF SUCH CREDIT.

43 12. THE DEPARTMENT SHALL SUPERVISE ALL PERSONS WHO ARE SUBJECT TO A  
44 REGIMEN OF STRICT AND INTENSIVE SUPERVISION AND TREATMENT PURSUANT TO  
45 ARTICLE TEN OF THE MENTAL HYGIENE LAW. THE DEPARTMENT SHALL ISSUE AND  
46 PERIODICALLY UPDATE RULES AND REGULATIONS CONCERNING THE SUPERVISION OF  
47 SUCH PERSONS IN CONSULTATION WITH THE OFFICE OF SEX OFFENDER MANAGEMENT  
48 IN THE DIVISION OF CRIMINAL JUSTICE SERVICES.

49 13. THE DEPARTMENT SHALL PERFORM SUCH OTHER FUNCTIONS AS ARE NECESSARY  
50 AND PROPER IN FURTHERANCE OF THE OBJECTIVE OF MAINTAINING AN EFFECTIVE,  
51 EFFICIENT AND FAIR SYSTEM OF COMMUNITY SUPERVISION.

52 S 202. CONDITIONS OF RELEASE; GENERALLY. THE DEPARTMENT SHALL HAVE THE  
53 POWER AND DUTY OF DETERMINING THE CONDITIONS OF RELEASE OF THE PERSON  
54 WHO MAY BE RELEASED TO COMMUNITY SUPERVISION UNDER AN INDETERMINATE OR  
55 DETERMINATE SENTENCE OF IMPRISONMENT.

1 S 203. ADDITIONAL CONDITIONS OF RELEASE FOR SEX OFFENDERS. 1. THE  
2 COMMISSIONER SHALL PROMULGATE RULES AND REGULATIONS THAT SHALL INCLUDE  
3 GUIDELINES AND PROCEDURES ON THE PLACEMENT OF SEX OFFENDERS DESIGNATED  
4 AS LEVEL TWO OR LEVEL THREE OFFENDERS PURSUANT TO ARTICLE SIX-C OF THIS  
5 CHAPTER. SUCH REGULATIONS SHALL PROVIDE INSTRUCTION ON CERTAIN FACTORS  
6 TO BE CONSIDERED WHEN INVESTIGATING AND APPROVING THE RESIDENCE OF LEVEL  
7 TWO OR LEVEL THREE SEX OFFENDERS RELEASED ON PRESUMPTIVE RELEASE,  
8 PAROLE, CONDITIONAL RELEASE OR POST-RELEASE SUPERVISION. SUCH FACTORS  
9 SHALL INCLUDE THE FOLLOWING:

10 (A) THE LOCATION OF OTHER SEX OFFENDERS REQUIRED TO REGISTER UNDER THE  
11 SEX OFFENDER REGISTRATION ACT, SPECIFICALLY WHETHER THERE IS A CONCEN-  
12 TRATION OF REGISTERED SEX OFFENDERS IN A CERTAIN RESIDENTIAL AREA OR  
13 MUNICIPALITY;

14 (B) THE NUMBER OF REGISTERED SEX OFFENDERS RESIDING AT A PARTICULAR  
15 PROPERTY;

16 (C) THE PROXIMITY OF ENTITIES WITH VULNERABLE POPULATIONS;

17 (D) ACCESSIBILITY TO FAMILY MEMBERS, FRIENDS OR OTHER SUPPORTIVE  
18 SERVICES, INCLUDING, BUT NOT LIMITED TO, LOCALLY AVAILABLE SEX OFFENDER  
19 TREATMENT PROGRAMS WITH PREFERENCE FOR PLACEMENT OF SUCH INDIVIDUALS  
20 INTO PROGRAMS THAT HAVE DEMONSTRATED EFFECTIVENESS IN REDUCING SEX  
21 OFFENDER RECIDIVISM AND INCREASING PUBLIC SAFETY; AND

22 (E) THE AVAILABILITY OF PERMANENT, STABLE HOUSING IN ORDER TO REDUCE  
23 THE LIKELIHOOD THAT SUCH OFFENDERS WILL BE TRANSIENT.

24 2. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, WHERE A  
25 PERSON SERVING A SENTENCE FOR AN OFFENSE DEFINED IN ARTICLE ONE HUNDRED  
26 THIRTY, ONE HUNDRED THIRTY-FIVE OR TWO HUNDRED SIXTY-THREE OR SECTION  
27 255.25, 255.26 OR 255.27 OF THE PENAL LAW AND THE VICTIM OF SUCH OFFENSE  
28 WAS UNDER THE AGE OF EIGHTEEN AT THE TIME OF SUCH OFFENSE OR SUCH PERSON  
29 HAS BEEN DESIGNATED A LEVEL THREE SEX OFFENDER PURSUANT TO ARTICLE SIX-C  
30 OF THIS CHAPTER, IS RELEASED ON COMMUNITY SUPERVISION IT SHALL BE  
31 REQUIRED, AS A MANDATORY CONDITION OF SUCH RELEASE, THAT SUCH SENTENCED  
32 OFFENDER SHALL REFRAIN FROM KNOWINGLY ENTERING INTO OR UPON ANY SCHOOL  
33 GROUNDS, AS THAT TERM IS DEFINED IN SUBDIVISION FOURTEEN OF SECTION  
34 220.00 OF THE PENAL LAW, OR ANY OTHER FACILITY OR INSTITUTION PRIMARILY  
35 USED FOR THE CARE OR TREATMENT OF PERSONS UNDER THE AGE OF EIGHTEEN  
36 WHILE ONE OR MORE OF SUCH PERSONS UNDER THE AGE OF EIGHTEEN ARE PRESENT,  
37 PROVIDED, HOWEVER, THAT WHEN SUCH SENTENCED OFFENDER IS A REGISTERED  
38 STUDENT OR PARTICIPANT OR AN EMPLOYEE OF SUCH FACILITY OR INSTITUTION OR  
39 ENTITY CONTRACTING THEREWITH OR HAS A FAMILY MEMBER ENROLLED IN SUCH  
40 FACILITY OR INSTITUTION, SUCH SENTENCED OFFENDER MAY, WITH THE WRITTEN  
41 AUTHORIZATION OF HIS OR HER PAROLE OFFICER AND THE SUPERINTENDENT OR  
42 CHIEF ADMINISTRATOR OF SUCH FACILITY, INSTITUTION OR GROUNDS, ENTER SUCH  
43 FACILITY, INSTITUTION OR UPON SUCH GROUNDS FOR THE LIMITED PURPOSES  
44 AUTHORIZED BY THE PAROLE OFFICER AND SUPERINTENDENT OR CHIEF OFFICER.  
45 NOTHING IN THIS SUBDIVISION SHALL BE CONSTRUED AS RESTRICTING ANY LAWFUL  
46 CONDITION OF SUPERVISION THAT MAY BE IMPOSED ON SUCH SENTENCED OFFENDER.

47 3. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, WHERE A  
48 PERSON SERVING A SENTENCE FOR AN OFFENSE FOR WHICH REGISTRATION AS A SEX  
49 OFFENDER IS REQUIRED PURSUANT TO SUBDIVISION TWO OR THREE OF SECTION ONE  
50 HUNDRED SIXTY-EIGHT-A OF THIS CHAPTER, AND THE VICTIM OF SUCH OFFENSE  
51 WAS UNDER THE AGE OF EIGHTEEN AT THE TIME OF SUCH OFFENSE, OR SUCH  
52 PERSON HAS BEEN DESIGNATED A LEVEL THREE SEX OFFENDER PURSUANT TO ARTI-  
53 CLE SIX-C OF THIS CHAPTER, OR THE INTERNET WAS USED TO FACILITATE THE  
54 COMMISSION OF THE CRIME, IS RELEASED ON COMMUNITY SUPERVISION, IT SHALL  
55 BE REQUIRED, AS A MANDATORY CONDITION OF SUCH RELEASE, THAT SUCH  
56 SENTENCED OFFENDER SHALL BE PROHIBITED FROM USING THE INTERNET TO ACCESS

1 PORNOGRAPHIC MATERIAL, ACCESS A COMMERCIAL SOCIAL NETWORKING WEBSITE,  
2 COMMUNICATE WITH OTHER INDIVIDUALS OR GROUPS FOR THE PURPOSE OF PROMOT-  
3 ING SEXUAL RELATIONS WITH PERSONS UNDER THE AGE OF EIGHTEEN, AND COMMU-  
4 NICATE WITH A PERSON UNDER THE AGE OF EIGHTEEN WHEN SUCH OFFENDER IS  
5 OVER THE AGE OF EIGHTEEN, PROVIDED, HOWEVER, THAT THE DEPARTMENT MAY  
6 PERMIT AN OFFENDER TO USE THE INTERNET TO COMMUNICATE WITH A PERSON  
7 UNDER THE AGE OF EIGHTEEN WHEN SUCH OFFENDER IS THE PARENT OF A MINOR  
8 CHILD AND IS NOT OTHERWISE PROHIBITED FROM COMMUNICATING WITH SUCH  
9 CHILD. NOTHING IN THIS SUBDIVISION SHALL BE CONSTRUED AS RESTRICTING ANY  
10 OTHER LAWFUL CONDITION OF SUPERVISION THAT MAY BE IMPOSED ON SUCH  
11 SENTENCED OFFENDER. AS USED IN THIS SUBDIVISION, A "COMMERCIAL SOCIAL  
12 NETWORKING WEBSITE" SHALL MEAN ANY BUSINESS, ORGANIZATION OR OTHER ENTI-  
13 TY OPERATING A WEBSITE THAT PERMITS PERSONS UNDER EIGHTEEN YEARS OF AGE  
14 TO BE REGISTERED USERS FOR THE PURPOSE OF ESTABLISHING PERSONAL  
15 RELATIONSHIPS WITH OTHER USERS, WHERE SUCH PERSONS UNDER EIGHTEEN YEARS  
16 OF AGE MAY: (I) CREATE WEB PAGES OR PROFILES THAT PROVIDE INFORMATION  
17 ABOUT THEMSELVES WHERE SUCH WEB PAGES OR PROFILES ARE AVAILABLE TO THE  
18 PUBLIC OR TO OTHER USERS; (II) ENGAGE IN DIRECT OR REAL TIME COMMUNI-  
19 CATION WITH OTHER USERS, SUCH AS A CHAT ROOM OR INSTANT MESSENGER; AND  
20 (III) COMMUNICATE WITH PERSONS OVER EIGHTEEN YEARS OF AGE; PROVIDED,  
21 HOWEVER, THAT, FOR PURPOSES OF THIS SUBDIVISION, A COMMERCIAL SOCIAL  
22 NETWORKING WEBSITE SHALL NOT INCLUDE A WEBSITE THAT PERMITS USERS TO  
23 ENGAGE IN SUCH OTHER ACTIVITIES AS ARE NOT ENUMERATED IN THIS SECTION.

24 4. THE DEPARTMENT SHALL HAVE THE DUTY, PRIOR TO THE RELEASE TO COMMU-  
25 NITY SUPERVISION OF AN INMATE DESIGNATED A LEVEL TWO OR THREE SEX OFFEN-  
26 DER PURSUANT TO THE SEX OFFENDER REGISTRATION ACT, TO PROVIDE NOTIFICA-  
27 TION TO THE LOCAL SOCIAL SERVICES DISTRICT IN THE COUNTY IN WHICH THE  
28 INMATE EXPECTS TO RESIDE, WHEN INFORMATION AVAILABLE OR ANY OTHER  
29 PRE-RELEASE PROCEDURES INDICATES THAT SUCH INMATE IS LIKELY TO SEEK TO  
30 ACCESS LOCAL SOCIAL SERVICES FOR HOMELESS PERSONS. THE DEPARTMENT SHALL  
31 PROVIDE SUCH NOTICE, WHEN PRACTICABLE, THIRTY DAYS OR MORE BEFORE SUCH  
32 INMATE'S RELEASE, BUT IN ANY EVENT, IN ADVANCE OF SUCH INMATE'S ARRIVAL  
33 IN THE JURISDICTION OF SUCH LOCAL SOCIAL SERVICES DISTRICT.

34 S 204. MANDATORY CONDITIONS OF RELEASE. 1. NOTWITHSTANDING ANY OTHER  
35 PROVISION OF LAW, WHERE A PERSON IS SERVING A SENTENCE FOR A VIOLATION  
36 OF SECTION 120.03, 120.04, 120.04-A, 125.12, 125.13 OR 125.14 OF THE  
37 PENAL LAW, OR A FELONY AS DEFINED IN PARAGRAPH (C) OF SUBDIVISION ONE OF  
38 SECTION ELEVEN HUNDRED NINETY-THREE OF THE VEHICLE AND TRAFFIC LAW, IF  
39 SUCH PERSON IS RELEASED ON PAROLE OR CONDITIONAL RELEASE THE DEPARTMENT  
40 SHALL REQUIRE AS A MANDATORY CONDITION OF SUCH RELEASE, THAT SUCH PERSON  
41 INSTALL AND MAINTAIN, IN ACCORDANCE WITH THE PROVISIONS OF SECTION ELEV-  
42 EN HUNDRED NINETY-EIGHT OF THE VEHICLE AND TRAFFIC LAW, AN IGNITION  
43 INTERLOCK DEVICE IN ANY MOTOR VEHICLE OWNED OR OPERATED BY SUCH PERSON  
44 DURING THE TERM OF SUCH PAROLE OR CONDITIONAL RELEASE FOR SUCH CRIME.  
45 PROVIDED FURTHER, HOWEVER, THE DEPARTMENT MAY NOT OTHERWISE AUTHORIZE  
46 THE OPERATION OF A MOTOR VEHICLE BY ANY PERSON WHOSE LICENSE OR PRIVI-  
47 LEGE TO OPERATE A MOTOR VEHICLE HAS BEEN REVOKED PURSUANT TO THE  
48 PROVISIONS OF THE VEHICLE AND TRAFFIC LAW.

49 2. WHERE APPROPRIATE, THE DEPARTMENT SHALL REQUIRE AS A CONDITION OF  
50 RELEASE UNDER SECTIONS TWO HUNDRED FIFTY-NINE-E AND TWO HUNDRED  
51 FIFTY-NINE-F OF THE EXECUTIVE LAW THAT A MEDICAL PAROLEE BE SUPERVISED  
52 ON AN INTENSIVE CASELOAD AT A REDUCED SUPERVISION RATIO.

53 S 205. PROCEDURES FOR REVOCATION. 1. THE DEPARTMENT SHALL HAVE THE  
54 POWER TO REVOKE THE COMMUNITY SUPERVISION STATUS OF ANY PERSON WHO HAS  
55 VIOLATED THE CONDITIONS OF HIS OR HER RELEASE AND TO AUTHORIZE THE ISSU-  
56 ANCE OF A WARRANT FOR THE RE-TAKING OF SUCH PERSONS. FOR PURPOSES OF

1 THIS SECTION THE TERM COMMUNITY SUPERVISION SHALL NOT INCLUDE A PERSON  
2 RELEASED ON TEMPORARY RELEASE.

3 2. IF THE PAROLE OFFICER HAVING CHARGE OF A PERSON RELEASED TO COMMU-  
4 NITY SUPERVISION OR A PERSON RECEIVED UNDER THE UNIFORM ACT FOR OUT-OF-  
5 STATE PAROLEE SUPERVISION SHALL HAVE REASONABLE CAUSE TO BELIEVE THAT  
6 SUCH PERSON HAS LAPSED INTO CRIMINAL WAYS OR COMPANY, OR HAS VIOLATED  
7 ONE OR MORE CONDITIONS OF HIS OR HER COMMUNITY SUPERVISION, SUCH PAROLE  
8 OFFICER SHALL REPORT SUCH FACT TO HIS OR HER IMMEDIATE SUPERVISOR, OR TO  
9 ANY OFFICER OF THE DEPARTMENT DESIGNATED BY THE COMMISSIONER, AND THERE-  
10 UPON A WARRANT MAY BE ISSUED FOR THE RETAKING OF SUCH PERSON AND FOR HIS  
11 OR HER TEMPORARY DETENTION IN ACCORDANCE WITH THE RULES OF THE DEPART-  
12 MENT.

13 (A) A WARRANT ISSUED PURSUANT TO THIS SECTION SHALL CONSTITUTE SUFFI-  
14 CIENT AUTHORITY TO THE SUPERINTENDENT OR OTHER PERSON IN CHARGE OF ANY  
15 JAIL, PENITENTIARY, LOCKUP OR DETENTION PEN TO WHOM IT IS DELIVERED TO  
16 HOLD IN TEMPORARY DETENTION THE PERSON NAMED THEREIN; EXCEPT THAT A  
17 WARRANT ISSUED WITH RESPECT TO A PERSON WHO HAS BEEN RELEASED ON MEDICAL  
18 PAROLE PURSUANT TO SECTION TWO HUNDRED FIFTY-NINE-E OR TWO HUNDRED  
19 FIFTY-NINE-F OF THE EXECUTIVE LAW AND WHOSE PAROLE IS BEING REVOKED  
20 PURSUANT TO THIS SUBDIVISION SHALL CONSTITUTE AUTHORITY FOR THE IMMEDI-  
21 ATE PLACEMENT OF THE PAROLEE ONLY INTO THE CUSTODY OF THE DEPARTMENT OF  
22 CORRECTIONS AND COMMUNITY SUPERVISION TO HOLD IN TEMPORARY DETENTION. A  
23 WARRANT ISSUED PURSUANT TO THIS SECTION SHALL ALSO CONSTITUTE SUFFICIENT  
24 AUTHORITY TO THE PERSON IN CHARGE OF A DRUG TREATMENT CAMPUS, AS DEFINED  
25 IN SUBDIVISION TWENTY OF SECTION TWO OF THIS CHAPTER, TO HOLD THE PERSON  
26 NAMED THEREIN, IN ACCORDANCE WITH THE PROCEDURAL REQUIREMENTS OF THIS  
27 SECTION, FOR A PERIOD OF AT LEAST NINETY DAYS TO COMPLETE AN INTENSIVE  
28 DRUG TREATMENT PROGRAM AS AN ALTERNATIVE TO COMMUNITY SUPERVISION, AND  
29 SHALL ALSO CONSTITUTE SUFFICIENT AUTHORITY FOR RETURN OF THE PERSON  
30 NAMED THEREIN TO LOCAL CUSTODY TO HOLD IN TEMPORARY DETENTION FOR  
31 FURTHER REVOCATION PROCEEDINGS IN THE EVENT SAID PERSON DOES NOT  
32 SUCCESSFULLY COMPLETE THE INTENSIVE DRUG TREATMENT PROGRAM. THE DEPART-  
33 MENT'S RULES SHALL PROVIDE FOR CANCELLATION OF DELINQUENCY AND RESTORA-  
34 TION TO COMMUNITY SUPERVISION UPON THE SUCCESSFUL COMPLETION OF THE  
35 PROGRAM.

36 (B) A WARRANT ISSUED FOR A COMMUNITY SUPERVISION VIOLATOR MAY BE  
37 EXECUTED BY ANY PAROLE OFFICER OR ANY OFFICER AUTHORIZED TO SERVE CRIMI-  
38 NAL PROCESS OR ANY PEACE OFFICER, WHO IS ACTING PURSUANT TO HIS OR HER  
39 SPECIAL DUTIES, OR POLICE OFFICER. ANY SUCH OFFICER TO WHOM SUCH WARRANT  
40 SHALL BE DELIVERED IS AUTHORIZED AND REQUIRED TO EXECUTE SUCH WARRANT BY  
41 TAKING SUCH PERSON AND HAVING HIM OR HER DETAINED AS PROVIDED IN THIS  
42 SUBDIVISION.

43 (C) WHERE THE ALLEGED VIOLATOR IS DETAINED IN ANOTHER STATE PURSUANT  
44 TO SUCH WARRANT AND IS NOT UNDER PAROLE SUPERVISION PURSUANT TO THE  
45 UNIFORM ACT FOR OUT-OF-STATE PAROLEE SUPERVISION OR WHERE AN ALLEGED  
46 VIOLATOR UNDER PAROLE SUPERVISION PURSUANT TO THE UNIFORM ACT FOR  
47 OUT-OF-STATE PAROLEE SUPERVISION IS DETAINED IN A STATE OTHER THAN THE  
48 RECEIVING STATE, THE WARRANT WILL NOT BE DEEMED TO BE EXECUTED UNTIL THE  
49 ALLEGED VIOLATOR IS DETAINED EXCLUSIVELY ON THE BASIS OF SUCH WARRANT  
50 AND THE DEPARTMENT HAS RECEIVED NOTIFICATION THAT THE ALLEGED VIOLATOR

51 (I) HAS FORMALLY WAIVED EXTRADITION TO THIS STATE OR (II) HAS BEEN  
52 ORDERED EXTRADITED TO THIS STATE PURSUANT TO A JUDICIAL DETERMINATION.  
53 THE ALLEGED VIOLATOR WILL NOT BE CONSIDERED TO BE WITHIN THE CONVENIENCE  
54 AND PRACTICAL CONTROL OF THE DEPARTMENT UNTIL THE WARRANT IS DEEMED TO  
55 BE EXECUTED.

(D) A PERSON WHO SHALL HAVE BEEN TAKEN INTO CUSTODY PURSUANT TO THIS SUBDIVISION FOR VIOLATION OF ONE OR MORE CONDITIONS OF COMMUNITY SUPERVISION SHALL, INsofar AS PRACTICABLE, BE INCARCERATED IN THE COUNTY OR CITY IN WHICH THE ARREST OCCURRED.

3. PRELIMINARY HEARING. (A) WITHIN FIFTEEN DAYS AFTER THE WARRANT FOR RETAKING AND TEMPORARY DETENTION HAS BEEN EXECUTED, UNLESS THE RELEASEE HAS BEEN CONVICTED OF A NEW CRIME COMMITTED WHILE UNDER COMMUNITY SUPERVISION, THE DEPARTMENT SHALL AFFORD THE ALLEGED COMMUNITY SUPERVISION VIOLATOR A PRELIMINARY REVOCATION HEARING BEFORE A HEARING OFFICER OR OTHER APPROPRIATE OFFICIAL DESIGNATED BY THE COMMISSIONER. SUCH HEARING OFFICER OR DESIGNEE SHALL NOT HAVE HAD ANY PRIOR SUPERVISORY INVOLVEMENT OVER THE ALLEGED VIOLATOR.

(B) THE PRELIMINARY COMMUNITY SUPERVISION REVOCATION HEARING SHALL BE CONDUCTED AT AN APPROPRIATE CORRECTIONAL FACILITY OR SUCH OTHER PLACE REASONABLY CLOSE TO THE AREA IN WHICH THE ALLEGED VIOLATION OCCURRED.

(C) THE ALLEGED VIOLATOR SHALL, WITHIN THREE DAYS OF THE EXECUTION OF THE WARRANT, BE GIVEN WRITTEN NOTICE OF THE TIME, PLACE AND PURPOSE OF THE HEARING, UNLESS HE OR SHE IS DETAINED PURSUANT TO THE PROVISIONS OF PARAGRAPH (C) OF SUBDIVISION TWO OF THIS SECTION. IN THOSE INSTANCES, THE ALLEGED VIOLATOR SHALL BE GIVEN WRITTEN NOTICE OF THE TIME, PLACE AND PURPOSE OF THE HEARING WITHIN FIVE DAYS OF THE EXECUTION OF THE WARRANT. THE NOTICE SHALL STATE:

(I) WHAT CONDITIONS OF COMMUNITY SUPERVISION ARE ALLEGED TO HAVE BEEN VIOLATED, AND IN WHAT MANNER;

(II) THAT SUCH PERSON SHALL HAVE THE RIGHT TO APPEAR AND SPEAK ON HIS OR HER OWN BEHALF;

(III) THAT HE OR SHE SHALL HAVE THE RIGHT TO INTRODUCE LETTERS AND DOCUMENTS;

(IV) THAT HE OR SHE MAY PRESENT WITNESSES WHO CAN GIVE RELEVANT INFORMATION TO THE HEARING OFFICER OR DESIGNEE; AND

(V) THAT HE OR SHE HAS THE RIGHT TO CONFRONT THE WITNESSES AGAINST HIM OR HER. ADVERSE WITNESSES MAY BE COMPELLED TO ATTEND THE PRELIMINARY HEARING, UNLESS THE ALLEGED VIOLATOR HAS BEEN CONVICTED OF A NEW CRIME WHILE ON SUPERVISION OR UNLESS THE HEARING OFFICER OR DESIGNEE FINDS GOOD CAUSE FOR THEIR NON-ATTENDANCE. AS FAR AS PRACTICABLE OR FEASIBLE, ANY ADDITIONAL DOCUMENTS HAVING BEEN COLLECTED OR PREPARED THAT SUPPORT THE CHARGE SHALL BE DELIVERED TO THE ALLEGED VIOLATOR.

(D) THE PRELIMINARY HEARING SHALL BE SCHEDULED TO TAKE PLACE NO LATER THAN FIFTEEN DAYS FROM THE DATE OF EXECUTION OF THE WARRANT. THE STANDARD OF PROOF AT THE PRELIMINARY HEARING SHALL BE PROBABLE CAUSE TO BELIEVE THAT THE PERSON ON COMMUNITY SUPERVISION HAS VIOLATED ONE OR MORE CONDITIONS OF HIS OR HER COMMUNITY SUPERVISION IN AN IMPORTANT RESPECT. PROOF OF CONVICTION OF A CRIME COMMITTED WHILE UNDER COMMUNITY SUPERVISION SHALL CONSTITUTE PROBABLE CAUSE FOR THE PURPOSES OF THIS SECTION.

(E) AT THE PRELIMINARY HEARING, THE HEARING OFFICER OR DESIGNEE SHALL REVIEW THE VIOLATION CHARGES WITH THE ALLEGED VIOLATOR, DIRECT THE PRESENTATION OF EVIDENCE CONCERNING THE ALLEGED VIOLATION, RECEIVE THE STATEMENTS OF WITNESSES AND DOCUMENTARY EVIDENCE ON BEHALF OF THE ALLEGED VIOLATOR, AND ALLOW CROSS EXAMINATION OF THOSE WITNESSES IN ATTENDANCE.

(F) AT THE CONCLUSION OF THE PRELIMINARY HEARING, THE HEARING OFFICER OR DESIGNEE SHALL INFORM THE ALLEGED VIOLATOR OF HIS OR HER DECISION AS TO WHETHER THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PERSON ON COMMUNITY SUPERVISION HAS VIOLATED ONE OR MORE CONDITIONS OF HIS OR HER COMMUNITY SUPERVISION IN AN IMPORTANT RESPECT. BASED SOLELY ON THE

EVIDENCE ADDUCED AT THE HEARING, THE HEARING OFFICER OR DESIGNEE SHALL DETERMINE WHETHER THERE IS PROBABLE CAUSE TO BELIEVE THAT SUCH PERSON HAS VIOLATED HIS OR HER COMMUNITY SUPERVISION IN AN IMPORTANT RESPECT. THE HEARING OFFICER OR DESIGNEE SHALL STATE IN WRITING THE REASONS FOR HIS OR HER DETERMINATION AND THE EVIDENCE RELIED ON. A COPY OF THE WRITTEN FINDINGS SHALL BE SENT TO BOTH THE ALLEGED VIOLATOR AND HIS OR HER COUNSEL.

(G) IF THE HEARING OFFICER OR DESIGNEE IS SATISFIED THAT THERE IS NO PROBABLE CAUSE TO BELIEVE THAT SUCH PERSON HAS VIOLATED ONE OR MORE CONDITIONS OF COMMUNITY SUPERVISION IN AN IMPORTANT RESPECT, HE OR SHE SHALL DISMISS THE NOTICE OF VIOLATION AND DIRECT SUCH PERSON BE RESTORED TO COMMUNITY SUPERVISION.

(H) IF THE HEARING OFFICER OR DESIGNEE IS SATISFIED THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT SUCH PERSON HAS VIOLATED ONE OR MORE CONDITIONS OF COMMUNITY SUPERVISION IN AN IMPORTANT RESPECT, HE OR SHE SHALL SO FIND.

4. A PERSON ON COMMUNITY SUPERVISION WHO HAS EITHER (A) BEEN FOUND TO HAVE VIOLATED ONE OR MORE CONDITIONS OF COMMUNITY SUPERVISION IN AN IMPORTANT RESPECT, OR (B) ALLEGEDLY VIOLATED ONE OR MORE OF SUCH CONDITIONS UPON A FINDING OF PROBABLE CAUSE AT A PRELIMINARY HEARING OR UPON THE WAIVER THEREOF MAY BE PLACED IN A COMMUNITY SUPERVISION TRANSITION FACILITY. PLACEMENT IN SUCH A FACILITY UPON A FINDING OF PROBABLE CAUSE OR THE WAIVER THEREOF SHALL NOT PRECLUDE THE CONDUCT OF A REVOCATION HEARING, NOR, ABSENT A WAIVER, OPERATE TO DENY THE RIGHT TO SUCH REVOCATION HEARING.

5. IF A FINDING OF PROBABLE CAUSE IS MADE PURSUANT TO THIS SUBDIVISION EITHER BY A DETERMINATION AT A PRELIMINARY HEARING OR BY THE WAIVER THEREOF, OR IF THE RELEASEE HAS BEEN CONVICTED OF A NEW CRIME WHILE UNDER COMMUNITY SUPERVISION, THE DEPARTMENT'S RULES SHALL PROVIDE FOR (A) DECLARING SUCH PERSON TO BE DELINQUENT AS SOON AS PRACTICABLE AND SHALL REQUIRE REASONABLE AND APPROPRIATE ACTION TO MAKE A FINAL DETERMINATION WITH RESPECT TO THE ALLEGED VIOLATION OR (B) ORDERING SUCH PERSON TO BE RESTORED TO COMMUNITY SUPERVISION UNDER SUCH CIRCUMSTANCES AS IT MAY DEEM APPROPRIATE OR (C) WHEN A PERSON ON COMMUNITY SUPERVISION HAS BEEN CONVICTED OF A NEW FELONY COMMITTED WHILE UNDER SUCH COMMUNITY SUPERVISION AND A NEW INDETERMINATE OR DETERMINATE SENTENCE HAS BEEN IMPOSED, THE RULES SHALL PROVIDE FOR A FINAL DECLARATION OF DELINQUENCY. THE INMATE SHALL THEN BE NOTIFIED IN WRITING THAT HIS OR HER RELEASE HAS BEEN REVOKED ON THE BASIS OF THE NEW CONVICTION AND A COPY OF THE COMMITMENT SHALL ACCOMPANY SAID NOTIFICATION. THE INMATE'S NEXT APPEARANCE BEFORE THE STATE BOARD OF PAROLE SHALL BE GOVERNED BY THE LEGAL REQUIREMENTS OF SAID NEW INDETERMINATE OR DETERMINATE SENTENCE, OR SHALL OCCUR AS SOON AFTER A FINAL REVERSAL OF THE CONVICTION AS IS PRACTICABLE.

6. REVOCATION HEARING. (A) IF THE ALLEGED VIOLATOR REQUESTS A LOCAL REVOCATION HEARING, HE OR SHE SHALL BE GIVEN A REVOCATION HEARING REASONABLY NEAR THE PLACE OF THE ALLEGED VIOLATION OR ARREST IF HE OR SHE HAS NOT BEEN CONVICTED OF A CRIME COMMITTED WHILE UNDER SUPERVISION.

(B) IF THERE ARE TWO OR MORE ALLEGED VIOLATIONS, THE HEARING MAY BE CONDUCTED NEAR THE PLACE OF THE VIOLATION CHIEFLY RELIED UPON AS A BASIS FOR THE ISSUANCE OF THE WARRANT.

(C) IF A LOCAL REVOCATION HEARING IS NOT ORDERED PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION THE ALLEGED VIOLATOR SHALL BE GIVEN A REVOCATION HEARING UPON HIS OR HER RETURN TO A STATE CORRECTIONAL FACILITY.

(D) REVOCATION HEARINGS SHALL BE SCHEDULED TO BE HELD WITHIN NINETY DAYS OF THE PROBABLE CAUSE DETERMINATION. HOWEVER, IF AN ALLEGED VIOLA-

1 TOR REQUESTS AND RECEIVES ANY POSTPONEMENT OF HIS OR HER REVOCATION  
2 HEARING, OR CONSENTS TO A POSTPONED REVOCATION PROCEEDING, OR IF AN  
3 ALLEGED VIOLATOR, BY HIS OR HER ACTIONS OTHERWISE PRECLUDES THE PROMPT  
4 CONDUCT OF SUCH PROCEEDINGS, THE TIME LIMIT MAY BE EXTENDED.

5 (E) THE REVOCATION HEARING SHALL BE CONDUCTED BY A HEARING OFFICER,  
6 WHOSE DECISION SHALL BE BASED SOLELY UPON THE EVIDENCE INTRODUCED AT  
7 SUCH HEARING. THE DETERMINATION OF THE HEARING OFFICER SHALL BE DEEMED A  
8 JUDICIAL FUNCTION AND SHALL NOT BE REVIEWABLE IF DONE IN ACCORDANCE WITH  
9 LAW.

10 (F) BOTH THE ALLEGED VIOLATOR AND AN ATTORNEY WHO HAS FILED A NOTICE  
11 OF APPEARANCE ON HIS OR HER BEHALF IN ACCORDANCE WITH THE RULES OF THE  
12 DEPARTMENT SHALL BE GIVEN WRITTEN NOTICE OF THE DATE, PLACE AND TIME OF  
13 THE HEARING AS SOON AS POSSIBLE, BUT AT LEAST FOURTEEN DAYS PRIOR TO THE  
14 SCHEDULED DATE.

15 (G) THE ALLEGED VIOLATOR SHALL BE GIVEN WRITTEN NOTICE OF THE RIGHTS  
16 ENUMERATED IN PARAGRAPH (C) OF SUBDIVISION THREE OF THIS SECTION, AS  
17 WELL AS OF HIS OR HER RIGHT TO PRESENT MITIGATING EVIDENCE RELEVANT TO  
18 RESTORATION TO COMMUNITY SUPERVISION AND HIS OR HER RIGHT TO COUNSEL.

19 (H) THE ALLEGED VIOLATOR SHALL BE PERMITTED REPRESENTATION BY COUNSEL  
20 AT THE REVOCATION HEARING. IN ANY CASE WHERE SUCH PERSON IS FINANCIALLY  
21 UNABLE TO RETAIN COUNSEL, THE CRIMINAL COURT OF THE CITY OF NEW YORK,  
22 THE COUNTY COURT OR DISTRICT COURT IN THE COUNTY WHERE THE VIOLATION IS  
23 ALLEGED TO HAVE OCCURRED OR WHERE THE HEARING IS HELD, SHALL ASSIGN  
24 COUNSEL IN ACCORDANCE WITH THE COUNTY OR CITY PLAN FOR REPRESENTATION  
25 PLACED IN OPERATION PURSUANT TO ARTICLE EIGHTEEN-B OF THE COUNTY LAW. HE  
26 OR SHE SHALL HAVE THE RIGHT TO CONFRONT AND CROSS-EXAMINE ADVERSE  
27 WITNESSES, UNLESS THERE IS GOOD CAUSE FOR THEIR NON-ATTENDANCE AS DETER-  
28 MINED BY THE HEARING OFFICER; PRESENT WITNESSES AND DOCUMENTARY EVIDENCE  
29 IN DEFENSE OF THE CHARGES; AND PRESENT WITNESSES AND DOCUMENTARY  
30 EVIDENCE RELEVANT TO THE QUESTION WHETHER REINCARCERATION OF THE ALLEGED  
31 VIOLATOR IS APPROPRIATE.

32 (I) AT THE REVOCATION HEARING, THE CHARGES SHALL BE READ AND THE  
33 ALLEGED VIOLATOR SHALL BE PERMITTED TO PLEAD NOT GUILTY, GUILTY, GUILTY  
34 WITH EXPLANATION OR TO STAND MUTE. AS TO EACH CHARGE, EVIDENCE SHALL BE  
35 INTRODUCED THROUGH WITNESSES AND DOCUMENTS, IF ANY, IN SUPPORT OF THAT  
36 CHARGE. AT THE CONCLUSION OF EACH WITNESS'S DIRECT TESTIMONY, HE OR SHE  
37 SHALL BE MADE AVAILABLE FOR CROSS-EXAMINATION. IF THE ALLEGED VIOLATOR  
38 INTENDS TO PRESENT A DEFENSE TO THE CHARGES OR TO PRESENT EVIDENCE OF  
39 MITIGATING CIRCUMSTANCES, THE ALLEGED VIOLATOR SHALL DO SO AFTER PRESEN-  
40 TATION OF ALL THE EVIDENCE IN SUPPORT OF A VIOLATION OF COMMUNITY SUPER-  
41 VISION.

42 (J) ALL PERSONS GIVING EVIDENCE AT THE REVOCATION HEARING SHALL BE  
43 SWORN BEFORE GIVING ANY TESTIMONY AS PROVIDED BY LAW.

44 (K) AT THE CONCLUSION OF THE HEARING THE HEARING OFFICER MAY SUSTAIN  
45 ANY OR ALL OF THE VIOLATION CHARGES OR MAY DISMISS ANY OR ALL OF THE  
46 VIOLATION CHARGES. HE OR SHE MAY SUSTAIN A VIOLATION CHARGE ONLY IF THE  
47 CHARGE IS SUPPORTED BY A PREPONDERANCE OF THE EVIDENCE ADDUCED.

48 (L) IF THE HEARING OFFICER IS NOT SATISFIED THAT THERE IS A PREPONDER-  
49 ANCE OF EVIDENCE IN SUPPORT OF THE VIOLATION, HE OR SHE SHALL DISMISS  
50 THE VIOLATION, CANCEL THE DELINQUENCY AND RESTORE THE PERSON TO COMMUNI-  
51 TY SUPERVISION.

52 (M) IF THE HEARING OFFICER IS SATISFIED THAT THERE IS A PREPONDERANCE  
53 OF EVIDENCE THAT THE ALLEGED VIOLATOR VIOLATED ONE OR MORE CONDITIONS OF  
54 COMMUNITY SUPERVISION IN AN IMPORTANT RESPECT, HE OR SHE SHALL SO FIND.  
55 FOR EACH VIOLATION SO FOUND, THE HEARING OFFICER MAY (I) DIRECT THAT THE  
56 PERSON BE RESTORED TO COMMUNITY SUPERVISION; (II) AS AN ALTERNATIVE TO

1 REINCARCERATION, DIRECT THE PERSON BE PLACED IN A COMMUNITY SUPERVISION  
2 TRANSITION FACILITY FOR A PERIOD NOT TO EXCEED ONE HUNDRED EIGHTY DAYS  
3 AND SUBSEQUENT RESTORATION TO COMMUNITY SUPERVISION; (III) IN THE CASE  
4 OF A PERSON ON COMMUNITY SUPERVISION DIRECT THE VIOLATOR'S REINCARCERA-  
5 TION AND FIX A DATE FOR RE-RELEASE TO COMMUNITY SUPERVISION PURSUANT TO  
6 THE PROVISIONS OF PARAGRAPH (O) OF THIS SUBDIVISION; OR (IV) IN THE CASE  
7 OF PERSONS RELEASED TO A PERIOD OF POST-RELEASE SUPERVISION, DIRECT THE  
8 VIOLATOR'S REINCARCERATION UP TO BALANCE OF THE REMAINING PERIOD OF  
9 POST-RELEASE SUPERVISION, NOT TO EXCEED FIVE YEARS; PROVIDED, HOWEVER,  
10 THAT A DEFENDANT SERVING A TERM OF POST-RELEASE SUPERVISION FOR A  
11 CONVICTION OF A FELONY SEX OFFENSE DEFINED IN SECTION 70.80 OF THE PENAL  
12 LAW MAY BE SUBJECT TO A FURTHER PERIOD OF IMPRISONMENT UP TO THE BALANCE  
13 OF THE REMAINING PERIOD OF POST-RELEASE SUPERVISION. IF THE VIOLATOR IS  
14 PLACED IN A COMMUNITY SUPERVISION TRANSITION FACILITY OR RESTORED TO  
15 COMMUNITY SUPERVISION, THE HEARING OFFICER MAY IMPOSE SUCH OTHER CONDI-  
16 TIONS OF COMMUNITY SUPERVISION AS HE OR SHE MAY DEEM APPROPRIATE, AS  
17 AUTHORIZED BY RULES OF THE DEPARTMENT.

18 (N) IF THE HEARING OFFICER SUSTAINS ANY VIOLATIONS, HE OR SHE MUST  
19 PREPARE A WRITTEN STATEMENT, TO BE MADE AVAILABLE TO THE ALLEGED VIOLA-  
20 TOR AND HIS OR HER COUNSEL, INDICATING THE EVIDENCE RELIED UPON AND THE  
21 REASONS FOR REVOKING COMMUNITY SUPERVISION, AND FOR THE DISPOSITION  
22 MADE.

23 (O) FOR THE VIOLATOR SERVING AN INDETERMINATE SENTENCE WHO WHILE  
24 RE-INCARCERATED HAS NOT BEEN FOUND TO HAVE COMMITTED A SERIOUS DISCIPLI-  
25 NARY INFRACTION, SUCH VIOLATOR SHALL BE RE-RELEASED ON THE DATE FIXED AT  
26 THE REVOCATION HEARING. FOR THE VIOLATOR SERVING AN INDETERMINATE  
27 SENTENCE WHO HAS BEEN FOUND TO HAVE COMMITTED A SERIOUS DISCIPLINARY  
28 INFRACTION WHILE RE-INCARCERATED, THE DEPARTMENT SHALL REFER THE VIOLA-  
29 TOR TO THE STATE BOARD OF PAROLE FOR CONSIDERATION FOR RE-RELEASE TO  
30 COMMUNITY SUPERVISION. UPON SUCH REFERRAL THE BOARD MAY WAIVE THE  
31 PERSONAL INTERVIEW BETWEEN A MEMBER OR MEMBERS OF THE BOARD AND THE  
32 VIOLATOR TO DETERMINE THE SUITABILITY FOR RE-RELEASE; PROVIDED, HOWEVER,  
33 THAT THE BOARD SHALL RETAIN THE AUTHORITY TO SUSPEND THE DATE FIXED FOR  
34 RE-RELEASE AND TO REQUIRE A PERSONAL INTERVIEW BASED ON THE VIOLATOR'S  
35 INSTITUTIONAL RECORD OR ON SUCH OTHER BASIS AS IS AUTHORIZED BY THE  
36 RULES AND REGULATIONS OF THE BOARD. IF AN INTERVIEW IS REQUIRED, THE  
37 BOARD SHALL NOTIFY THE VIOLATOR OF THE TIME OF SUCH INTERVIEW IN ACCORD-  
38 ANCE WITH THE RULES AND REGULATIONS OF THE BOARD.

39 7. REVOCATION OF COMMUNITY SUPERVISION SHALL NOT PREVENT RE-PAROLE OR  
40 RE-RELEASE, PROVIDED SUCH RE-PAROLE OR RE-RELEASE IS NOT INCONSISTENT  
41 WITH ANY OTHER PROVISIONS OF LAW. WHEN THERE HAS BEEN A REVOCATION OF  
42 THE PERIOD OF POST-RELEASE SUPERVISION IMPOSED ON A FELONY SEX OFFENDER  
43 WHO OWES THREE YEARS OR MORE ON SUCH PERIOD IMPOSED PURSUANT TO SUBDIVI-  
44 SION TWO-A OF SECTION 70.45 OF THE PENAL LAW, AND A TIME ASSESSMENT OF  
45 THREE YEARS OR MORE HAS BEEN IMPOSED, THE VIOLATOR SHALL BE REVIEWED BY  
46 THE BOARD OF PAROLE AND MAY BE RESTORED TO POST-RELEASE SUPERVISION ONLY  
47 AFTER SERVING THREE YEARS OF THE TIME ASSESSMENT, AND ONLY UPON A DETER-  
48 MINATION BY THE BOARD OF PAROLE MADE IN ACCORDANCE WITH THE PROCEDURES  
49 SET FORTH IN SECTION TWO HUNDRED FIFTY-NINE-B OF THE EXECUTIVE LAW.  
50 EVEN IF THE HEARING OFFICER HAS IMPOSED A TIME ASSESSMENT OF A CERTAIN  
51 NUMBER OF YEARS OF THREE YEARS OR MORE, THE VIOLATOR SHALL NOT BE  
52 RELEASED AT OR BEFORE THE EXPIRATION OF THAT TIME ASSESSMENT, UNLESS THE  
53 BOARD AUTHORIZES SUCH RELEASE, THE PERIOD OF POST-RELEASE SUPERVISION  
54 EXPIRES OR RELEASE IS OTHERWISE AUTHORIZED BY LAW. IF A TIME ASSESSMENT  
55 OF LESS THAN THREE YEARS WAS IMPOSED UPON SUCH A VIOLATOR, THE VIOLATOR  
56 SHALL BE RELEASED UPON THE EXPIRATION OF SUCH TIME ASSESSMENT, UNLESS HE

OR SHE IS SUBJECT TO FURTHER IMPRISONMENT OR CONFINEMENT UNDER ANY OTHER LAW.

8. IF THE ALLEGED VIOLATION IS NOT SUSTAINED AND THE ALLEGED VIOLATOR IS RESTORED TO COMMUNITY SUPERVISION, THE INTERRUPTIONS SPECIFIED IN SUBDIVISION THREE OF SECTION 70.40 OF THE PENAL LAW SHALL NOT APPLY, BUT THE TIME SPENT IN CUSTODY IN ANY STATE OR LOCAL CORRECTIONAL INSTITUTION SHALL BE CREDITED AGAINST THE TERM OF THE SENTENCE.

9. WHERE THERE IS REASONABLE CAUSE TO BELIEVE THAT A PERSON UNDER COMMUNITY SUPERVISION HAS ABSCONDED FROM COMMUNITY SUPERVISION, THE DEPARTMENT MAY DECLARE SUCH PERSON TO BE DELINQUENT. THIS SUBDIVISION SHALL NOT BE CONSTRUED TO DENY SUCH PERSON A PRELIMINARY REVOCATION HEARING UPON HIS OR HER RETAKING, NOR TO RELIEVE THE DEPARTMENT OF ANY OBLIGATION IT MAY HAVE TO EXERCISE DUE DILIGENCE TO RETAKE THE ALLEGED ABSCONDER, NOR TO RELIEVE THE PAROLEE OR RELEASEE OF ANY OBLIGATION HE OR SHE MAY HAVE TO COMPLY WITH THE CONDITIONS OF HIS OR HER RELEASE.

S 206. APPEALS. 1. DETERMINATIONS MADE PURSUANT TO SUBDIVISION SIX OF SECTION TWO HUNDRED FIVE OF THIS ARTICLE MAY BE APPEALED IN ACCORDANCE WITH RULES PROMULGATED BY THE DEPARTMENT. THE RULES OF THE DEPARTMENT MAY SPECIFY A TIME WITHIN WHICH ANY APPEAL SHALL BE TAKEN AND RESOLVED.

2. ALL DETERMINATIONS MADE BY THE STATE BOARD OF PAROLE PURSUANT TO SECTIONS TWO HUNDRED FIFTY-NINE-B, TWO HUNDRED FIFTY-NINE-E OR TWO HUNDRED FIFTY-NINE-F OF THE EXECUTIVE LAW MAY BE APPEALED IN ACCORDANCE WITH THE RULES PROMULGATED BY THE DEPARTMENT. THE RULES OF THE DEPARTMENT MAY SPECIFY A TIME WITHIN WHICH ANY APPEAL SHALL BE TAKEN AND RESOLVED. THE FINAL DETERMINATION OF THE APPEAL SHALL BE MADE BY THE STATE BOARD OF PAROLE PURSUANT TO PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION TWO HUNDRED FIFTY-NINE-B.

3. UPON AN APPEAL OF A REVOCATION OF COMMUNITY SUPERVISION TO THE COMMISSIONER OR HIS OR HER DESIGNEE, THE INMATE MAY BE REPRESENTED BY AN ATTORNEY. WHERE THE INMATE IS FINANCIALLY UNABLE TO PROVIDE FOR HIS OR HER OWN ATTORNEY, UPON REQUEST AN ATTORNEY SHALL BE ASSIGNED PURSUANT TO THE PROVISIONS OF PARAGRAPH (H) OF SUBDIVISION SIX OF SECTION TWO HUNDRED FIVE OF THIS ARTICLE.

4. (A) THE DEPARTMENT SHALL PROVIDE FOR THE MAKING OF A VERBATIM RECORD OF EACH PRELIMINARY AND FINAL REVOCATION HEARING, EXCEPT WHEN THE DECISION OF THE HEARING OFFICER OR DESIGNEE AFTER SUCH HEARINGS RESULTS IN A DISMISSAL OF ALL CHARGED VIOLATIONS OF COMMUNITY SUPERVISION.

(B) THE CHAIRMAN OF THE BOARD OF PAROLE SHALL MAKE AVAILABLE TO THE DEPARTMENT SUCH RECORDS OR RECORDING AS ARE NECESSARY TO CONDUCT THE APPEAL.

5. WHENEVER ANY DEAF PERSON PARTICIPATES IN A PRELIMINARY HEARING OR REVOCATION HEARING, THERE SHALL BE APPOINTED A QUALIFIED INTERPRETER WHO IS CERTIFIED BY A RECOGNIZED NATIONAL OR NEW YORK STATE CREDENTIALING AUTHORITY TO INTERPRET THE PROCEEDINGS TO AND THE STATEMENTS OR TESTIMONY OF SUCH DEAF PERSON. THE DEPARTMENT SHALL DETERMINE A REASONABLE FEE FOR ALL SUCH INTERPRETING SERVICES, THE COST OF WHICH SHALL BE A CHARGE UPON THE DEPARTMENT.

S 207. MERIT TERMINATION OF SENTENCE AND DISCHARGE FROM PRESUMPTIVE RELEASE, PAROLE, CONDITIONAL RELEASE AND RELEASE TO POST-RELEASE SUPERVISION. 1. THE DEPARTMENT MAY GRANT TO ANY PERSON A MERIT TERMINATION OF SENTENCE FROM PRESUMPTIVE RELEASE, PAROLE, CONDITIONAL RELEASE OR RELEASE TO POST-RELEASE SUPERVISION PRIOR TO THE EXPIRATION OF THE FULL TERM OR MAXIMUM TERM, PROVIDED IT IS DETERMINED BY THE DEPARTMENT THAT SUCH MERIT TERMINATION IS IN THE BEST INTERESTS OF SOCIETY, SUCH PERSON IS NOT REQUIRED TO REGISTER AS A SEX OFFENDER PURSUANT TO ARTICLE SIX-C OF THIS CHAPTER, AND SUCH PERSON IS NOT ON PRESUMPTIVE RELEASE, PAROLE,

1 CONDITIONAL RELEASE OR RELEASE TO POST-RELEASE SUPERVISION FROM A TERM  
2 OF IMPRISONMENT IMPOSED FOR ANY OF THE FOLLOWING OFFENSES, OR FOR AN  
3 ATTEMPT TO COMMIT ANY OF THE FOLLOWING OFFENSES:

4 (A) A VIOLENT FELONY OFFENSE AS DEFINED IN SECTION 70.02 OF THE PENAL  
5 LAW;

6 (B) MURDER IN THE FIRST DEGREE OR MURDER IN THE SECOND DEGREE;

7 (C) AN OFFENSE DEFINED IN ARTICLE ONE HUNDRED THIRTY OF THE PENAL LAW;

8 (D) UNLAWFUL IMPRISONMENT IN THE FIRST DEGREE, KIDNAPPING IN THE FIRST  
9 DEGREE, OR KIDNAPPING IN THE SECOND DEGREE, IN WHICH THE VICTIM IS LESS  
10 THAN SEVENTEEN YEARS OLD AND THE OFFENDER IS NOT THE PARENT OF THE  
11 VICTIM;

12 (E) AN OFFENSE DEFINED IN ARTICLE TWO HUNDRED THIRTY OF THE PENAL LAW  
13 INVOLVING THE PROSTITUTION OF A PERSON LESS THAN NINETEEN YEARS OLD;

14 (F) DISSEMINATING INDECENT MATERIAL TO MINORS IN THE FIRST DEGREE OR  
15 DISSEMINATING INDECENT MATERIAL TO MINORS IN THE SECOND DEGREE;

16 (G) INCEST;

17 (H) AN OFFENSE DEFINED IN ARTICLE TWO HUNDRED SIXTY-THREE OF THE PENAL  
18 LAW;

19 (I) A HATE CRIME AS DEFINED IN SECTION 485.05 OF THE PENAL LAW; OR

20 (J) AN OFFENSE DEFINED IN ARTICLE FOUR HUNDRED NINETY OF THE PENAL  
21 LAW.

22 2. A MERIT TERMINATION GRANTED BY THE DEPARTMENT UNDER THIS SECTION  
23 SHALL CONSTITUTE A TERMINATION OF THE SENTENCE WITH RESPECT TO WHICH IT  
24 WAS GRANTED. NO SUCH MERIT TERMINATION SHALL BE GRANTED UNLESS THE  
25 DEPARTMENT IS SATISFIED THAT TERMINATION OF SENTENCE FROM PRESUMPTIVE  
26 RELEASE, PAROLE, CONDITIONAL RELEASE OR POST-RELEASE SUPERVISION IS IN  
27 THE BEST INTEREST OF SOCIETY, AND THAT THE PAROLEE OR RELEASEE, OTHER-  
28 WISE FINANCIALLY ABLE TO COMPLY WITH AN ORDER OF RESTITUTION AND THE  
29 PAYMENT OF ANY MANDATORY SURCHARGE PREVIOUSLY IMPOSED BY A COURT OF  
30 COMPETENT JURISDICTION, HAS MADE A GOOD FAITH EFFORT TO COMPLY THERE-  
31 WITH.

32 3. A MERIT TERMINATION OF SENTENCE MAY BE GRANTED AFTER TWO YEARS OF  
33 PRESUMPTIVE RELEASE, PAROLE, CONDITIONAL RELEASE OR RELEASE TO POST-RE-  
34 LEASE SUPERVISION TO A PERSON SERVING A SENTENCE FOR A CLASS A FELONY  
35 OFFENSE AS DEFINED IN ARTICLE TWO HUNDRED TWENTY OF THE PENAL LAW. A  
36 MERIT TERMINATION OF SENTENCE MAY BE GRANTED TO ALL OTHER ELIGIBLE  
37 PERSONS AFTER ONE YEAR OF PRESUMPTIVE RELEASE, PAROLE, CONDITIONAL  
38 RELEASE OR RELEASE TO POST-RELEASE SUPERVISION.

39 4. THE DEPARTMENT MUST GRANT TERMINATION OF SENTENCE AFTER THREE YEARS  
40 OF UNREVOKED PRESUMPTIVE RELEASE OR PAROLE TO A PERSON SERVING AN INDE-  
41 TERMINATE SENTENCE FOR A CLASS A FELONY OFFENSE DEFINED IN ARTICLE TWO  
42 HUNDRED TWENTY OF THE PENAL LAW, AND MUST GRANT TERMINATION OF SENTENCE  
43 AFTER TWO YEARS OF UNREVOKED PRESUMPTIVE RELEASE OR PAROLE TO A PERSON  
44 SERVING AN INDETERMINATE SENTENCE FOR ANY OTHER FELONY OFFENSE DEFINED  
45 IN ARTICLE TWO HUNDRED TWENTY OR TWO HUNDRED TWENTY-ONE OF THE PENAL  
46 LAW.

47 5. THE COMMISSIONER SHALL PROMULGATE RULES AND REGULATIONS GOVERNING  
48 THE ISSUANCE OF MERIT TERMINATIONS OF SENTENCE AND DISCHARGES FROM  
49 PRESUMPTIVE RELEASE, PAROLE, CONDITIONAL RELEASE OR POST-RELEASE SUPER-  
50 VISION TO ASSURE THAT SUCH TERMINATIONS AND DISCHARGES ARE CONSISTENT  
51 WITH PUBLIC SAFETY.

52 6. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION TO THE CONTRA-  
53 RY, WHERE A TERM OF POST-RELEASE SUPERVISION IN EXCESS OF FIVE YEARS HAS  
54 BEEN IMPOSED ON A PERSON CONVICTED OF A CRIME DEFINED IN ARTICLE ONE  
55 HUNDRED THIRTY OF THE PENAL LAW, INCLUDING A SEXUALLY MOTIVATED FELONY,  
56 THE DEPARTMENT MAY GRANT A DISCHARGE FROM POST-RELEASE SUPERVISION PRIOR

TO THE EXPIRATION OF THE MAXIMUM TERM OF POST-RELEASE SUPERVISION. SUCH A DISCHARGE MAY BE GRANTED ONLY AFTER THE PERSON HAS SERVED AT LEAST FIVE YEARS OF POST-RELEASE SUPERVISION, AND ONLY TO A PERSON WHO HAS BEEN ON UNREVOKED POST-RELEASE SUPERVISION FOR AT LEAST THREE CONSECUTIVE YEARS. NO SUCH DISCHARGE SHALL BE GRANTED UNLESS THE DEPARTMENT:

(A) CONSULTS WITH ANY LICENSED PSYCHOLOGIST, QUALIFIED PSYCHIATRIST, OR OTHER MENTAL HEALTH PROFESSIONAL WHO IS PROVIDING CARE OR TREATMENT TO THE SUPERVISEE;

(B) DETERMINES THAT A DISCHARGE FROM POST-RELEASE SUPERVISION IS IN THE BEST INTERESTS OF SOCIETY; AND

(C) IS SATISFIED THAT THE SUPERVISEE, OTHERWISE FINANCIALLY ABLE TO COMPLY WITH AN ORDER OF RESTITUTION AND THE PAYMENT OF ANY MANDATORY SURCHARGE, SEX OFFENDER REGISTRATION FEE, OR DNA DATA BANK FEE PREVIOUSLY IMPOSED BY A COURT OF COMPETENT JURISDICTION, HAS MADE A GOOD FAITH EFFORT TO COMPLY THEREWITH. BEFORE MAKING A DETERMINATION TO DISCHARGE A PERSON FROM A PERIOD OF POST-RELEASE SUPERVISION, THE DEPARTMENT MAY REQUEST THAT THE COMMISSIONER OF THE OFFICE OF MENTAL HEALTH ARRANGE A PSYCHIATRIC EVALUATION OF THE SUPERVISEE. A DISCHARGE GRANTED UNDER THIS SECTION SHALL CONSTITUTE A TERMINATION OF THE SENTENCE WITH RESPECT TO WHICH IT WAS GRANTED.

S 208. APPLICATIONS FOR PRESUMPTIVE RELEASE OR CONDITIONAL RELEASE. 1. ALL REQUESTS FOR PRESUMPTIVE RELEASE OR CONDITIONAL RELEASE SHALL BE MADE IN WRITING ON FORMS PRESCRIBED AND FURNISHED BY THE DEPARTMENT. WITHIN ONE MONTH FROM THE DATE ANY SUCH APPLICATION IS RECEIVED, IF IT APPEARS THAT THE APPLICANT IS ELIGIBLE FOR PRESUMPTIVE RELEASE OR CONDITIONAL RELEASE OR WILL BE ELIGIBLE FOR SUCH RELEASE DURING SUCH MONTH, THE CONDITIONS OF RELEASE SHALL BE FIXED IN ACCORDANCE WITH RULES PRESCRIBED BY THE DEPARTMENT. SUCH CONDITIONS SHALL BE SUBSTANTIALLY THE SAME AS CONDITIONS IMPOSED UPON PAROLEES.

2. NO PERSON SHALL BE PRESUMPTIVELY RELEASED OR CONDITIONALLY RELEASED, UNLESS THE APPLICANT HAS AGREED IN WRITING TO THE CONDITIONS OF RELEASE. THE AGREEMENT SHALL STATE IN PLAIN, EASILY UNDERSTANDABLE LANGUAGE THE CONSEQUENCES OF A VIOLATION OF ONE OR MORE OF THE CONDITIONS OF RELEASE.

S 209. COOPERATION. IT SHALL BE THE DUTY OF THE COMMISSIONER OF CORRECTIONS AND COMMUNITY SUPERVISION TO INSURE THAT ALL OFFICERS AND EMPLOYEES OF THE DEPARTMENT SHALL AT ALL TIMES COOPERATE WITH THE BOARD OF PAROLE AND SHALL FURNISH TO SUCH MEMBERS OF THE BOARD OF PAROLE SUCH INFORMATION AS MAY BE NECESSARY TO ENABLE THEM TO PERFORM THEIR INDEPENDENT DECISION MAKING FUNCTIONS.

S 210. COMPACTS WITH OTHER STATES FOR OUT-OF-STATE PAROLEE SUPERVISION. 1. THE GOVERNOR IS HEREBY AUTHORIZED AND DIRECTED TO ENTER INTO A COMPACT ON BEHALF OF THE STATE OF NEW YORK WITH ANY STATE OF THE UNITED STATES LEGALLY JOINING THEREIN IN THE FORM SUBSTANTIALLY AS FOLLOWS:

#### A COMPACT

ENTERED INTO BY AND AMONG THE CONTRACTING STATES, SIGNATORIES HERETO, WITH THE CONSENT OF THE CONGRESS OF THE UNITED STATES OF AMERICA, GRANTED BY AN ACT ENTITLED "AN ACT GRANTING THE CONSENT OF CONGRESS TO ANY TWO OR MORE STATES TO ENTER INTO AGREEMENTS OR COMPACTS FOR COOPERATIVE EFFORT AND MUTUAL ASSISTANCE IN THE PREVENTION OF CRIME AND FOR OTHER PURPOSES."

THE CONTRACTING STATES SOLEMNLY AGREE:

(1) THAT IT SHALL BE COMPETENT FOR THE DULY CONSTITUTED JUDICIAL AND ADMINISTRATIVE AUTHORITIES OF A STATE PARTY TO THIS COMPACT (HEREIN CALLED "SENDING STATE") TO PERMIT ANY PERSON CONVICTED OF AN OFFENSE

1 WITHIN SUCH STATE AND PLACED ON PROBATION OR RELEASED ON PAROLE TO  
2 RESIDE IN ANY OTHER STATE PARTY TO THIS COMPACT (HEREIN CALLED "RECEIV-  
3 ING STATE") WHILE ON PROBATION OR PAROLE, IF:

4 (A) SUCH PERSON IS IN FACT A RESIDENT OF OR HAS HIS OR HER FAMILY  
5 RESIDING WITHIN THE RECEIVING STATE AND CAN OBTAIN EMPLOYMENT THERE;

6 (B) THOUGH NOT A RESIDENT OF THE RECEIVING STATE AND NOT HAVING HIS OR  
7 HER FAMILY RESIDING THERE, THE RECEIVING STATE CONSENTS TO SUCH PERSON  
8 BEING SENT THERE. BEFORE GRANTING SUCH PERMISSION, OPPORTUNITY SHALL BE  
9 GRANTED TO THE RECEIVING STATE TO INVESTIGATE THE HOME AND PROSPECTIVE  
10 EMPLOYMENT OF SUCH PERSON. A RESIDENT OF THE RECEIVING STATE, WITHIN THE  
11 MEANING OF THIS SECTION, IS ONE WHO HAS BEEN AN ACTUAL INHABITANT OF  
12 SUCH STATE CONTINUOUSLY FOR MORE THAN ONE YEAR PRIOR TO HIS OR HER  
13 COMING TO THE SENDING STATE AND HAS NOT RESIDED WITHIN THE SENDING STATE  
14 MORE THAN SIX CONTINUOUS MONTHS IMMEDIATELY PRECEDING THE COMMISSION OF  
15 THE OFFENSE FOR WHICH HE OR SHE HAS BEEN CONVICTED.

16 (2) THAT EACH RECEIVING STATE WILL ASSUME THE DUTIES OF VISITATION OF  
17 AND SUPERVISION OVER PROBATIONERS OR PAROLEES OF ANY SENDING STATE AND  
18 IN THE EXERCISE OF THOSE DUTIES WILL BE GOVERNED BY THE SAME STANDARDS  
19 THAT PREVAIL FOR ITS OWN PROBATIONERS AND PAROLEES.

20 (3) THAT DULY ACCREDITED OFFICERS OF A SENDING STATE MAY AT ALL TIMES  
21 ENTER A RECEIVING STATE AND THERE APPREHEND AND RETAKE ANY PERSON ON  
22 PROBATION OR PAROLE. FOR THAT PURPOSE NO FORMALITIES WILL BE REQUIRED  
23 OTHER THAN ESTABLISHING THE AUTHORITY OF THE OFFICER AND THE IDENTITY OF  
24 THE PERSON TO BE RETAKEN. ALL LEGAL REQUIREMENTS TO OBTAIN EXTRADITION  
25 OF FUGITIVES FROM JUSTICE ARE HEREBY EXPRESSLY WAIVED ON THE PART OF  
26 STATES PARTY HERETO, AS TO SUCH PERSONS. THE DECISION OF THE SENDING  
27 STATE TO RETAKE A PERSON ON PROBATION OR PAROLE SHALL BE CONCLUSIVE UPON  
28 AND NOT REVIEWABLE WITHIN THE RECEIVING STATE; PROVIDED, HOWEVER, THAT  
29 IF AT THE TIME WHEN A STATE SEEKS TO RETAKE A PROBATIONER OR PAROLEE  
30 THERE SHOULD BE PENDING AGAINST HIM WITHIN THE RECEIVING STATE ANY CRIM-  
31 INAL CHARGE, OR HE SHOULD BE SUSPECTED OF HAVING COMMITTED WITHIN SUCH  
32 STATE A CRIMINAL OFFENSE, HE SHALL NOT BE RETAKEN WITHOUT THE CONSENT OF  
33 THE RECEIVING STATE UNTIL DISCHARGED FROM PROSECUTION OR FROM IMPRISON-  
34 MENT FOR SUCH OFFENSE.

35 (4) THAT THE DULY ACCREDITED OFFICERS OF THE SENDING STATE WILL BE  
36 PERMITTED TO TRANSPORT PRISONERS BEING RETAKEN THROUGH ANY AND ALL  
37 STATES PARTIES TO THIS COMPACT, WITHOUT INTERFERENCE.

38 (5) THAT THE GOVERNOR OF EACH STATE MAY DESIGNATE AN OFFICER WHO,  
39 ACTING JOINTLY WITH LIKE OFFICERS OF OTHER CONTRACTING STATES, IF AND  
40 WHEN APPOINTED, SHALL PROMULGATE SUCH RULES AND REGULATIONS AS MAY BE  
41 DEEMED NECESSARY TO MORE EFFECTIVELY CARRY OUT THE TERMS OF THIS  
42 COMPACT.

43 (6) THAT THIS COMPACT SHALL BECOME OPERATIVE IMMEDIATELY UPON ITS  
44 RATIFICATION BY ANY STATE AS BETWEEN IT AND ANY OTHER STATE OR STATES SO  
45 RATIFYING. WHEN RATIFIED IT SHALL HAVE THE FULL FORCE AND EFFECT OF LAW  
46 WITHIN SUCH STATE, THE FORM OF RATIFICATION TO BE IN ACCORDANCE WITH THE  
47 LAWS OF THE RATIFYING STATE.

48 (7) THAT THIS COMPACT SHALL CONTINUE IN FORCE AND REMAIN BINDING UPON  
49 EACH RATIFYING STATE UNTIL RENOUNCED BY IT. THE DUTIES AND OBLIGATIONS  
50 HEREUNDER OF A RENOUNCING STATE SHALL CONTINUE AS TO PAROLEES OR PROBA-  
51 TIONERS RESIDING THEREIN AT THE TIME OF WITHDRAWAL UNTIL RETAKEN OR  
52 FINALLY DISCHARGED BY THE SENDING STATE. RENUNCIATION OF THIS COMPACT  
53 SHALL BE BY THE SAME AUTHORITY WHICH RATIFIED IT, BY SENDING SIX MONTHS'  
54 NOTICE IN WRITING OF ITS INTENTION TO WITHDRAW FROM THE COMPACT TO THE  
55 OTHER STATES PARTY HERETO.

2. THE COMMISSIONER SHALL HAVE POWER AND SHALL BE CHARGED WITH THE DUTY OF PROMULGATING SUCH RULES AND REGULATIONS AS MAY BE DEEMED NECESSARY TO CARRY OUT THE TERMS OF A COMPACT ENTERED INTO BY THE STATE PURSUANT TO THIS SECTION.

3. IF ANY SECTION, SENTENCE, SUBDIVISION OR CLAUSE OF THIS SECTION IS FOR ANY REASON HELD INVALID OR TO BE UNCONSTITUTIONAL, SUCH DECISION SHALL NOT AFFECT THE VALIDITY OF THE REMAINING PORTIONS OF THIS SECTION.

4. THIS SECTION MAY BE CITED AS THE UNIFORM ACT FOR OUT-OF-STATE PAROLEE SUPERVISION.

S 211. INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION; THE INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION AS SET FORTH IN THIS SECTION IS HEREBY ADOPTED, ENACTED INTO LAW AND ENTERED INTO WITH ALL OTHER JURISDICTIONS JOINING THEREIN. THE COMPACT SHALL BE AS FOLLOWS:

INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION

ARTICLE I PURPOSE.

ARTICLE II DEFINITIONS.

ARTICLE III THE COMPACT COMMISSION.

ARTICLE IV THE STATE COUNCIL.

ARTICLE V POWERS AND DUTIES OF THE INTERSTATE COMMISSION.

ARTICLE VI ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION.

ARTICLE VII ACTIVITIES OF THE INTERSTATE COMMISSION.

ARTICLE VIII RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION.

ARTICLE IX OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION BY THE INTERSTATE COMMISSION.

ARTICLE X FINANCE.

ARTICLE XI COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT.

ARTICLE XII WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL ENFORCEMENT.

ARTICLE XIII SEVERABILITY AND CONSTRUCTION.

ARTICLE XIV BINDING EFFECT OF COMPACT AND OTHER LAWS.

ARTICLE 1

PURPOSE

THE COMPACTING STATES TO THIS INTERSTATE COMPACT RECOGNIZE THAT EACH STATE IS RESPONSIBLE FOR THE SUPERVISION OF ADULT OFFENDERS IN THE COMMUNITY WHO ARE AUTHORIZED PURSUANT TO THE BYLAWS AND RULES OF THIS COMPACT TO TRAVEL ACROSS STATE LINES BOTH TO AND FROM EACH COMPACTING STATE IN SUCH A MANNER AS TO TRACK THE LOCATION OF OFFENDERS, TRANSFER SUPERVISION AUTHORITY IN AN ORDERLY AND EFFICIENT MANNER, AND WHEN NECESSARY RETURN OFFENDERS TO THE ORIGINATING JURISDICTIONS. THE COMPACTING STATES ALSO RECOGNIZE THAT CONGRESS, BY ENACTING THE CRIME CONTROL ACT, 4 U.S.C. SECTION 112 (1965), HAS AUTHORIZED AND ENCOURAGED COMPACTS FOR COOPERATIVE EFFORTS AND MUTUAL ASSISTANCE IN THE PREVENTION OF CRIME. IT IS THE PURPOSE OF THIS COMPACT AND THE INTERSTATE COMMISSION CREATED PURSUANT TO THIS COMPACT, THROUGH MEANS OF JOINT AND COOPERATIVE ACTION AMONG THE COMPACTING STATES: TO PROVIDE THE FRAMEWORK FOR THE PROMOTION OF PUBLIC SAFETY AND PROTECT THE RIGHTS OF VICTIMS THROUGH THE CONTROL AND REGULATION OF THE INTERSTATE MOVEMENT OF OFFENDERS IN THE COMMUNITY; TO PROVIDE FOR THE EFFECTIVE TRACKING, SUPERVISION AND REHABILITATION OF THESE OFFENDERS BY THE SENDING AND RECEIVING STATES; AND TO EQUITABLY DISTRIBUTE THE COSTS, BENEFITS AND OBLIGATIONS OF THE COMPACT AMONG THE COMPACTING STATES. IN ADDITION, THIS COMPACT WILL: CREATE AN INTERSTATE COMMISSION WHICH WILL ESTABLISH UNIFORM PROCEDURES TO MANAGE THE MOVEMENT BETWEEN STATES OF ADULTS PLACED UNDER COMMUNITY SUPERVISION AND RELEASED TO THE COMMUNITY UNDER THE JURISDICTION OF COURTS, PAROLING AUTHORITIES, CORRECTIONS OR OTHER CRIMINAL JUSTICE AGENCIES WHICH WILL PROMULGATE RULES TO ACHIEVE THE PURPOSE OF THIS

1 COMPACT; ENSURE AN OPPORTUNITY FOR INPUT AND TIMELY NOTICE TO VICTIMS  
2 AND TO JURISDICTIONS WHERE DEFINED OFFENDERS ARE AUTHORIZED TO TRAVEL OR  
3 TO RELOCATE ACROSS STATE LINES; ESTABLISH A SYSTEM OF UNIFORM DATA  
4 COLLECTION, ACCESS TO INFORMATION ON ACTIVE CASES BY AUTHORIZED CRIMINAL  
5 JUSTICE OFFICIALS, AND REGULAR REPORTING OF COMPACT ACTIVITIES TO HEADS  
6 OF STATE COUNCILS, STATE EXECUTIVE, JUDICIAL AND LEGISLATIVE BRANCHES,  
7 AND CRIMINAL JUSTICE ADMINISTRATORS; MONITOR COMPLIANCE WITH RULES  
8 GOVERNING INTERSTATE MOVEMENT OF OFFENDERS AND INITIATE INTERVENTIONS TO  
9 ADDRESS AND CORRECT NON-COMPLIANCE; AND COORDINATE TRAINING AND EDUCA-  
10 TION REGARDING REGULATIONS OF INTERSTATE MOVEMENT OF OFFENDERS FOR OFFI-  
11 CIALS INVOLVED IN SUCH ACTIVITY. THE COMPACTING STATES RECOGNIZE THAT  
12 THERE IS NO "RIGHT" OF ANY OFFENDER TO LIVE IN ANOTHER STATE AND THAT  
13 DULY ACCREDITED OFFICERS OF A SENDING STATE MAY AT ALL TIMES ENTER A  
14 RECEIVING STATE AND THERE APPREHEND AND RETAKE ANY OFFENDER UNDER SUPER-  
15 VISION SUBJECT TO THE PROVISIONS OF THIS COMPACT AND BYLAWS AND RULES  
16 PROMULGATED THERETO. IT IS THE POLICY OF THE COMPACTING STATES THAT THE  
17 ACTIVITIES CONDUCTED BY THE INTERSTATE COMMISSION CREATED BY THIS  
18 COMPACT ARE THE FORMATION OF PUBLIC POLICIES AND ARE THEREFORE PUBLIC  
19 BUSINESS.

20 ARTICLE II  
21 DEFINITIONS

22 AS USED IN THIS COMPACT, UNLESS THE CONTEXT CLEARLY REQUIRES A DIFFER-  
23 ENT CONSTRUCTION:

24 (A) "ADULT" MEANS BOTH INDIVIDUALS LEGALLY CLASSIFIED AS ADULTS AND  
25 JUVENILES TREATED AS ADULTS BY COURT ORDER, STATUTE OR OPERATION OF LAW.

26 (B) "BY-LAWS" MEANS THOSE BY-LAWS ESTABLISHED BY THE INTERSTATE  
27 COMMISSION FOR ITS GOVERNANCE, OR FOR DIRECTING OR CONTROLLING THE  
28 INTERSTATE COMMISSION'S ACTIONS OR CONDUCT.

29 (C) "COMPACT ADMINISTRATOR" MEANS THE INDIVIDUAL IN EACH COMPACTING  
30 STATE APPOINTED PURSUANT TO THE TERMS OF THIS COMPACT RESPONSIBLE FOR  
31 THE ADMINISTRATION AND MANAGEMENT OF THE STATE'S SUPERVISION AND TRANS-  
32 FER OF OFFENDERS SUBJECT TO THE TERMS OF THIS COMPACT, THE RULES ADOPTED  
33 BY THE INTERSTATE COMMISSION AND POLICIES ADOPTED BY THE STATE COUNCIL  
34 UNDER THIS COMPACT.

35 (D) "COMPACTING STATE" MEANS ANY STATE WHICH HAS ENACTED THE ENABLING  
36 LEGISLATION FOR THIS COMPACT.

37 (E) "COMMISSIONER" MEANS THE VOTING REPRESENTATIVE OF EACH COMPACTING  
38 STATE APPOINTED PURSUANT TO ARTICLE III OF THIS COMPACT.

39 (F) "INTERSTATE COMMISSION" MEANS THE INTERSTATE COMMISSION FOR ADULT  
40 OFFENDER SUPERVISION ESTABLISHED BY THIS COMPACT.

41 (G) "MEMBER" MEANS THE COMMISSIONER OF A COMPACTING STATE OR DESIGNEE,  
42 WHO SHALL BE A PERSON OFFICIALLY CONNECTED WITH THE COMMISSIONER.

43 (H) "NON-COMPACTING STATE" MEANS ANY STATE WHICH HAS NOT ENACTED THE  
44 ENABLING LEGISLATION FOR THIS COMPACT.

45 (I) "OFFENDER" MEANS AN ADULT PLACED UNDER, OR SUBJECT TO, SUPERVISION  
46 AS THE RESULT OF THE COMMISSION OF A CRIMINAL OFFENSE AND RELEASED TO  
47 THE COMMUNITY UNDER THE JURISDICTION OF COURTS, PAROLING AUTHORITIES,  
48 CORRECTIONS OR OTHER CRIMINAL JUSTICE AGENCIES.

49 (J) "PERSON" MEANS ANY INDIVIDUAL, CORPORATION, BUSINESS ENTERPRISE OR  
50 OTHER LEGAL ENTITY, EITHER PUBLIC OR PRIVATE.

51 (K) "RULES" MEANS ACTS OF THE INTERSTATE COMMISSION, DULY PROMULGATED  
52 PURSUANT TO ARTICLE VIII OF THIS COMPACT, SUBSTANTIALLY AFFECTING INTER-  
53 ESTED PARTIES IN ADDITION TO THE INTERSTATE COMMISSION, WHICH SHALL HAVE  
54 THE FORCE AND EFFECT OF LAW IN THE COMPACTING STATES.

1 (L) "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT OF COLUM-  
2 BIA AND ANY OTHER TERRITORIAL POSSESSIONS OF THE UNITED STATES.

3 (M) "STATE COUNCIL" MEANS THE RESIDENT MEMBERS OF THE STATE COUNCIL  
4 FOR INTERSTATE ADULT OFFENDER SUPERVISION CREATED BY EACH STATE UNDER  
5 ARTICLE IV OF THIS COMPACT.

### 6 ARTICLE III

#### 7 THE COMPACT COMMISSION

8 THE COMPACTING STATES HEREBY CREATE THE "INTERSTATE COMMISSION FOR  
9 ADULT OFFENDER SUPERVISION". THE INTERSTATE COMMISSION SHALL BE A BODY  
10 CORPORATE AND JOINT AGENCY OF THE COMPACTING STATES. THE INTERSTATE  
11 COMMISSION SHALL HAVE ALL THE RESPONSIBILITIES, POWERS AND DUTIES SET  
12 FORTH IN THIS COMPACT, INCLUDING THE POWER TO SUE AND BE SUED, AND SUCH  
13 ADDITIONAL POWERS AS MAY BE CONFERRED UPON IT BY SUBSEQUENT ACTION OF  
14 THE RESPECTIVE LEGISLATURES OF THE COMPACTING STATES IN ACCORDANCE WITH  
15 THE TERMS OF THIS COMPACT.

16 THE INTERSTATE COMMISSION SHALL CONSIST OF COMMISSIONERS SELECTED AND  
17 APPOINTED BY RESIDENT MEMBERS OF A STATE COUNCIL FOR INTERSTATE ADULT  
18 OFFENDER SUPERVISION FOR EACH STATE. IN ADDITION TO THE COMMISSIONERS  
19 WHO ARE THE VOTING REPRESENTATIVES OF EACH STATE, THE INTERSTATE COMMIS-  
20 SION SHALL INCLUDE INDIVIDUALS WHO ARE NOT COMMISSIONERS BUT WHO ARE  
21 MEMBERS OF INTERESTED ORGANIZATIONS; SUCH NON-COMMISSIONER MEMBERS MUST  
22 INCLUDE A MEMBER OF THE NATIONAL ORGANIZATIONS OF GOVERNORS, LEGISLA-  
23 TORS, STATE CHIEF JUSTICES, ATTORNEYS GENERAL AND CRIME VICTIMS. ALL  
24 NON-COMMISSIONER MEMBERS OF THE INTERSTATE COMMISSION SHALL BE EX-OFFI-  
25 CIO (NONVOTING) MEMBERS. THE INTERSTATE COMMISSION MAY PROVIDE IN ITS  
26 BY-LAWS FOR SUCH ADDITIONAL, EX-OFFICIO, NON-VOTING MEMBERS AS IT DEEMS  
27 NECESSARY.

28 EACH COMPACTING STATE REPRESENTED AT ANY MEETING OF THE INTERSTATE  
29 COMMISSION IS ENTITLED TO ONE VOTE. A MAJORITY OF THE COMPACTING STATES  
30 SHALL CONSTITUTE A QUORUM FOR THE TRANSACTION OF BUSINESS, UNLESS A  
31 LARGER QUORUM IS REQUIRED BY THE BY-LAWS OF THE INTERSTATE COMMISSION.  
32 THE INTERSTATE COMMISSION SHALL MEET A LEAST ONCE EACH CALENDAR YEAR.  
33 THE CHAIRPERSON MAY CALL ADDITIONAL MEETINGS AND, UPON THE REQUEST OF  
34 TWENTY-SEVEN OR MORE COMPACTING STATES, SHALL CALL ADDITIONAL MEETINGS.  
35 PUBLIC NOTICE SHALL BE GIVEN OF ALL MEETINGS AND MEETINGS SHALL BE OPEN  
36 TO THE PUBLIC.

37 THE INTERSTATE COMMISSION SHALL ESTABLISH AN EXECUTIVE COMMITTEE WHICH  
38 SHALL INCLUDE COMMISSION OFFICERS, MEMBERS AND OTHERS AS SHALL BE DETER-  
39 MINED BY THE BY-LAWS. THE EXECUTIVE COMMITTEE SHALL HAVE THE POWER TO  
40 ACT ON BEHALF OF THE INTERSTATE COMMISSION DURING PERIODS WHEN THE  
41 INTERSTATE COMMISSION IS NOT IN SESSION, WITH THE EXCEPTION OF RULEMAK-  
42 ING AND/OR AMENDMENT TO THE COMPACT. THE EXECUTIVE COMMITTEE OVERSEES  
43 THE DAY-TO-DAY ACTIVITIES MANAGED BY THE EXECUTIVE DIRECTOR AND INTER-  
44 STATE COMMISSION STAFF; ADMINISTERS ENFORCEMENT AND COMPLIANCE WITH THE  
45 PROVISIONS OF THE COMPACT, ITS BY-LAWS AND AS DIRECTED BY THE INTERSTATE  
46 COMMISSION AND PERFORMS OTHER DUTIES AS DIRECTED BY THE COMMISSION OR  
47 SET FORTH IN THE BY-LAWS.

### 48 ARTICLE IV

#### 49 THE STATE COUNCIL

50 EACH MEMBER STATE SHALL CREATE A STATE COUNCIL FOR INTERSTATE ADULT  
51 OFFENDER SUPERVISION WHICH SHALL BE RESPONSIBLE FOR THE APPOINTMENT OF  
52 THE COMMISSIONER WHO SHALL SERVE ON THE INTERSTATE COMMISSION FROM THAT  
53 STATE. EACH STATE COUNCIL SHALL APPOINT AS ITS COMMISSIONER THE COMPACT  
54 ADMINISTRATOR FROM THAT STATE TO SERVE ON THE INTERSTATE COMMISSION IN  
55 SUCH CAPACITY UNDER OR PURSUANT TO APPLICABLE LAW OF THE MEMBER STATE.  
56 WHILE EACH MEMBER STATE MAY DETERMINE THE MEMBERSHIP OF ITS OWN STATE

COUNCIL, ITS MEMBERSHIP MUST INCLUDE AT LEAST ONE REPRESENTATIVE FROM THE LEGISLATIVE, JUDICIAL AND EXECUTIVE BRANCHES OF GOVERNMENT, VICTIMS GROUPS AND COMPACT ADMINISTRATORS. EACH COMPACTING STATE RETAINS THE RIGHT TO DETERMINE THE QUALIFICATIONS OF THE COMPACT ADMINISTRATOR WHO SHALL BE APPOINTED BY THE STATE COUNCIL OR BY THE GOVERNOR IN CONSULTATION WITH THE LEGISLATURE AND THE JUDICIARY. IN ADDITION TO APPOINTMENT OF ITS COMMISSIONER TO THE NATIONAL INTERSTATE COMMISSION, EACH STATE COUNCIL SHALL EXERCISE OVERSIGHT AND ADVOCACY CONCERNING ITS PARTICIPATION IN INTERSTATE COMMISSION ACTIVITIES AND OTHER DUTIES AS MAY BE DETERMINED BY EACH MEMBER STATE INCLUDING BUT NOT LIMITED TO, DEVELOPMENT OF POLICY CONCERNING OPERATIONS AND PROCEDURES OF THE COMPACT WITHIN THAT STATE. THE COMPACT ADMINISTRATOR SHALL BE APPOINTED BY THE GOVERNOR IN CONSULTATION WITH THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY AND THE CHIEF JUDGE OF THE COURT OF APPEALS. THE STATE COUNCIL SHALL APPOINT THE COMPACT ADMINISTRATOR TO SERVE ON THE INTERSTATE COMMISSION PURSUANT TO THIS SECTION.

#### ARTICLE V

##### POWERS AND DUTIES OF THE INTERSTATE COMMISSION

THE INTERSTATE COMMISSION SHALL HAVE THE FOLLOWING POWERS:

(A) TO ADOPT A SEAL AND SUITABLE BY-LAWS GOVERNING THE MANAGEMENT AND OPERATION OF THE INTERSTATE COMMISSION;

(B) TO PROMULGATE RULES WHICH SHALL HAVE THE FORCE AND EFFECT OF STATUTORY LAW AND SHALL BE BINDING IN THE COMPACTING STATES TO THE EXTENT AND IN THE MANNER PROVIDED IN THIS COMPACT;

(C) TO OVERSEE, SUPERVISE AND COORDINATE THE INTERSTATE MOVEMENT OF OFFENDERS SUBJECT TO THE TERMS OF THIS COMPACT AND ANY BY-LAWS ADOPTED AND RULES PROMULGATED BY THE COMPACT COMMISSION;

(D) TO ENFORCE COMPLIANCE WITH COMPACT PROVISIONS, INTERSTATE COMMISSION RULES, AND BY-LAWS USING ALL NECESSARY AND PROPER MEANS, INCLUDING BUT NOT LIMITED TO, THE USE OF JUDICIAL ORDER;

(E) TO ESTABLISH AND MAINTAIN OFFICES;

(F) TO PURCHASE AND MAINTAIN INSURANCE AND BONDS;

(G) TO BORROW, ACCEPT OR CONTRACT FOR SERVICES OF PERSONNEL, INCLUDING, BUT NOT LIMITED TO, MEMBERS AND THEIR STAFFS;

(H) TO ESTABLISH AND APPOINT COMMITTEES AND HIRE STAFF WHICH IT DEEMS NECESSARY FOR THE CARRYING OUT OF ITS FUNCTIONS INCLUDING, BUT NOT LIMITED TO, AN EXECUTIVE COMMITTEE AS REQUIRED BY ARTICLE III OF THIS COMPACT WHICH SHALL HAVE THE POWER TO ACT ON BEHALF OF THE INTERSTATE COMMISSION IN CARRYING OUT ITS POWERS AND DUTIES PURSUANT TO THIS COMPACT;

(I) TO ELECT OR APPOINT SUCH OFFICERS, ATTORNEYS, EMPLOYEES, AGENTS OR CONSULTANTS, AND TO FIX THEIR COMPENSATION, DEFINE THEIR DUTIES AND DETERMINE THEIR QUALIFICATIONS; AND TO ESTABLISH THE INTERSTATE COMMISSION'S PERSONNEL POLICIES AND PROGRAMS RELATING TO, AMONG OTHER THINGS, CONFLICTS OF INTEREST, RATES OF COMPENSATION AND QUALIFICATIONS OF PERSONNEL;

(J) TO ACCEPT ANY AND ALL DONATIONS AND GRANTS OF MONEY, EQUIPMENT, SUPPLIES, MATERIALS AND SERVICES, AND TO RECEIVE, UTILIZE AND DISPOSE OF SAME;

(K) TO LEASE, PURCHASE, ACCEPT CONTRIBUTIONS OR DONATIONS OF, OR OTHERWISE TO OWN, HOLD, IMPROVE OR USE ANY PROPERTY, REAL, PERSONAL OR MIXED;

(L) TO SELL, CONVEY, MORTGAGE, PLEDGE, LEASE, EXCHANGE, ABANDON OR OTHERWISE DISPOSE OF ANY PROPERTY, REAL, PERSONAL OR MIXED;

(M) TO ESTABLISH A BUDGET AND MAKE EXPENDITURES AND LEVY DUES AS PROVIDED IN ARTICLE X OF THIS COMPACT;

1 (N) TO SUE AND BE SUED;  
2 (O) TO PROVIDE FOR DISPUTE RESOLUTION AMONG COMPACTING STATES;  
3 (P) TO PERFORM SUCH FUNCTIONS AS MAY BE NECESSARY OR APPROPRIATE TO  
4 ACHIEVE THE PURPOSES OF THIS COMPACT;  
5 (Q) TO REPORT ANNUALLY TO THE LEGISLATURES, GOVERNORS, JUDICIARY AND  
6 STATE COUNCILS OF THE COMPACTING STATES CONCERNING THE ACTIVITIES OF THE  
7 INTERSTATE COMMISSION DURING THE PRECEDING YEAR. SUCH REPORTS SHALL ALSO  
8 INCLUDE ANY RECOMMENDATIONS THAT MAY HAVE BEEN ADOPTED BY THE INTERSTATE  
9 COMMISSION;  
10 (R) TO COORDINATE EDUCATION, TRAINING AND PUBLIC AWARENESS REGARDING  
11 THE INTERSTATE MOVEMENT OF OFFENDERS FOR OFFICIALS INVOLVED IN SUCH  
12 ACTIVITY; AND  
13 (S) TO ESTABLISH UNIFORM STANDARDS FOR THE REPORTING, COLLECTING AND  
14 EXCHANGING OF DATA.

## ARTICLE VI

## ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

16 (A) BY-LAWS. THE INTERSTATE COMMISSION SHALL, BY A MAJORITY OF THE  
17 MEMBERS, WITHIN TWELVE MONTHS OF THE FIRST INTERSTATE COMMISSION MEET-  
18 ING, ADOPT BY-LAWS TO GOVERN ITS CONDUCT AS MAY BE NECESSARY OR APPRO-  
19 PRIATE TO CARRY OUT THE PURPOSES OF THE COMPACT, INCLUDING, BUT NOT  
20 LIMITED TO:

22 1. ESTABLISHING THE FISCAL YEAR OF THE INTERSTATE COMMISSION;  
23 2. ESTABLISHING AN EXECUTIVE COMMITTEE AND SUCH OTHER COMMITTEES AS  
24 MAY BE NECESSARY;

25 3. PROVIDING REASONABLE STANDARDS AND PROCEDURES:

26 A. FOR THE ESTABLISHMENT OF COMMITTEES, AND

27 B. GOVERNING ANY GENERAL OR SPECIFIC DELEGATION OF ANY AUTHORITY OR  
28 FUNCTION OF THE INTERSTATE COMMISSION;

29 4. PROVIDING REASONABLE PROCEDURES FOR CALLING AND CONDUCTING MEETINGS  
30 OF THE INTERSTATE COMMISSION, AND ENSURING REASONABLE NOTICE OF EACH  
31 SUCH MEETING;

32 5. ESTABLISHING THE TITLES AND RESPONSIBILITIES OF THE OFFICERS OF THE  
33 INTERSTATE COMMISSION;

34 6. PROVIDING REASONABLE STANDARDS AND PROCEDURES FOR THE ESTABLISHMENT  
35 OF THE PERSONNEL POLICIES AND PROGRAMS OF THE INTERSTATE COMMISSION.  
36 NOTWITHSTANDING ANY CIVIL SERVICE OR OTHER SIMILAR LAWS OF ANY COMPACT-  
37 ING STATE, THE BY-LAWS SHALL EXCLUSIVELY GOVERN THE PERSONNEL POLICIES  
38 AND PROGRAMS OF THE INTERSTATE COMMISSION;

39 7. PROVIDING A MECHANISM FOR WINDING UP THE OPERATIONS OF THE INTER-  
40 STATE COMMISSION AND THE EQUITABLE RETURN OF ANY SURPLUS FUNDS THAT MAY  
41 EXIST UPON THE TERMINATION OF THE COMPACT AFTER THE PAYMENT AND/OR  
42 RESERVING OF ALL OF ITS DEBTS AND OBLIGATIONS;

43 8. PROVIDING TRANSITION RULES FOR "START UP" ADMINISTRATION OF THE  
44 COMPACT; AND

45 9. ESTABLISHING STANDARDS AND PROCEDURES FOR COMPLIANCE AND TECHNICAL  
46 ASSISTANCE IN CARRYING OUT THE COMPACT.

47 (B) OFFICERS AND STAFF. THE INTERSTATE COMMISSION SHALL, BY A MAJORITY  
48 OF THE MEMBERS, ELECT FROM AMONG ITS MEMBERS A CHAIRPERSON AND A VICE  
49 CHAIRPERSON, EACH OF WHOM SHALL HAVE SUCH AUTHORITIES AND DUTIES AS MAY  
50 BE SPECIFIED IN THE BY-LAWS. THE CHAIRPERSON OR, IN HIS OR HER ABSENCE  
51 OR DISABILITY, THE VICE CHAIRPERSON, SHALL PRESIDE AT ALL MEETINGS OF  
52 THE INTERSTATE COMMISSION. THE OFFICERS SO ELECTED SHALL SERVE WITHOUT  
53 COMPENSATION OR REMUNERATION FROM THE INTERSTATE COMMISSION; PROVIDED  
54 THAT, SUBJECT TO THE AVAILABILITY OF BUDGETED FUNDS, THE OFFICERS SHALL  
55 BE REIMBURSED FOR ANY ACTUAL AND NECESSARY COSTS AND EXPENSES INCURRED

1 BY THEM IN THE PERFORMANCE OF THEIR DUTIES AND RESPONSIBILITIES AS OFFI-  
2 CERS OF THE INTERSTATE COMMISSION.

3 THE INTERSTATE COMMISSION SHALL, THROUGH ITS EXECUTIVE COMMITTEE,  
4 APPOINT OR RETAIN AN EXECUTIVE DIRECTOR FOR SUCH PERIOD, UPON SUCH TERMS  
5 AND CONDITIONS AND FOR SUCH COMPENSATION AS THE INTERSTATE COMMISSION  
6 MAY DEEM APPROPRIATE. THE EXECUTIVE DIRECTOR SHALL SERVE AS SECRETARY TO  
7 THE INTERSTATE COMMISSION, AND HIRE AND SUPERVISE SUCH OTHER STAFF AS  
8 MAY BE AUTHORIZED BY THE INTERSTATE COMMISSION, BUT SHALL NOT BE A  
9 MEMBER.

10 (C) CORPORATE RECORDS OF THE INTERSTATE COMMISSION. THE INTERSTATE  
11 COMMISSION SHALL MAINTAIN ITS CORPORATE BOOKS AND RECORDS IN ACCORDANCE  
12 WITH THE BY-LAWS.

13 (D) QUALIFIED IMMUNITY, DEFENSE AND INDEMNIFICATION. THE MEMBERS,  
14 OFFICERS, EXECUTIVE DIRECTOR AND EMPLOYEES OF THE INTERSTATE COMMISSION  
15 SHALL BE IMMUNE FROM SUIT AND LIABILITY, EITHER PERSONALLY OR IN THEIR  
16 OFFICIAL CAPACITY, FOR ANY CLAIM FOR DAMAGE TO OR LOSS OF PROPERTY OR  
17 PERSONAL INJURY OR OTHER CIVIL LIABILITY CAUSE OR ARISING OUT OF ANY  
18 ACTUAL OR ALLEGED ACT, ERROR OR OMISSION THAT OCCURRED WITHIN THE SCOPE  
19 OF INTERSTATE COMMISSION EMPLOYMENT, DUTIES OR RESPONSIBILITIES;  
20 PROVIDED, THAT NOTHING IN THIS SUBDIVISION SHALL BE CONSTRUED TO PROTECT  
21 ANY SUCH PERSON FROM SUIT AND/OR LIABILITY FOR ANY DAMAGE, LOSS, INJURY  
22 OR LIABILITY CAUSED BY THE INTENTIONAL OR WILLFUL AND WANTON MISCONDUCT  
23 OF ANY SUCH PERSON. THE INTERSTATE COMMISSION SHALL DEFEND THE COMMIS-  
24 SIONER OF A COMPACTING STATE, OR HIS OR HER REPRESENTATIVES OR EMPLOY-  
25 EES, OR THE INTERSTATE COMMISSION'S REPRESENTATIVES OR EMPLOYEES, IN ANY  
26 CIVIL ACTION SEEKING TO IMPOSE LIABILITY, ARISING OUT OF ANY ACTUAL OR  
27 ALLEGED ACT, ERROR OR OMISSION THAT OCCURRED WITHIN THE SCOPE OF INTER-  
28 STATE COMMISSION EMPLOYMENT, DUTIES OR RESPONSIBILITIES, OR THAT THE  
29 DEFENDANT HAD A REASONABLE BASIS FOR BELIEVING OCCURRED WITHIN THE SCOPE  
30 OF INTERSTATE COMMISSION EMPLOYMENT, DUTIES OR RESPONSIBILITIES;  
31 PROVIDED, THAT THE ACTUAL OR ALLEGED ACT, ERROR OR OMISSION DID NOT  
32 RESULT FROM INTENTIONAL WRONGDOING ON THE PART OF SUCH PERSON.

33 THE INTERSTATE COMMISSION SHALL INDEMNIFY AND HOLD THE COMMISSIONER OF  
34 A COMPACTING STATE, THE APPOINTED DESIGNEE OR EMPLOYEES, OR THE INTER-  
35 STATE COMMISSION'S REPRESENTATIVES OR EMPLOYEES, HARMLESS IN THE AMOUNT  
36 OF ANY SETTLEMENT OR JUDGMENT OBTAINED AGAINST SUCH PERSONS ARISING OUT  
37 OF ANY ACTUAL OR ALLEGED ACT, ERROR OR OMISSION THAT OCCURRED WITHIN THE  
38 SCOPE OF INTERSTATE COMMISSION EMPLOYMENT, DUTIES OR RESPONSIBILITIES,  
39 OR THAT SUCH PERSONS HAD A REASONABLE BASIS FOR BELIEVING OCCURRED WITH-  
40 IN THE SCOPE OF INTERSTATE COMMISSION EMPLOYMENT, DUTIES OR RESPONSIBIL-  
41 ITIES, PROVIDED, THAT THE ACTUAL OR ALLEGED ACT, ERROR OR OMISSION DID  
42 NOT RESULT FROM GROSS NEGLIGENCE OR INTENTIONAL WRONGDOING ON THE PART  
43 OF SUCH PERSON.

#### 44 ARTICLE VII

##### 45 ACTIVITIES OF THE INTERSTATE COMMISSION

46 THE INTERSTATE COMMISSION SHALL MEET AND TAKE SUCH ACTIONS AS ARE  
47 CONSISTENT WITH THE PROVISIONS OF THIS COMPACT.

48 EXCEPT AS OTHERWISE PROVIDED IN THIS COMPACT AND UNLESS A GREATER  
49 PERCENTAGE IS REQUIRED BY THE BY-LAWS, IN ORDER TO CONSTITUTE AN ACT OF  
50 THE INTERSTATE COMMISSION, SUCH ACT SHALL HAVE BEEN TAKEN AT A MEETING  
51 OF THE INTERSTATE COMMISSION AND SHALL HAVE RECEIVED AN AFFIRMATIVE VOTE  
52 OF A MAJORITY OF THE MEMBERS PRESENT.

53 EACH MEMBER OF THE INTERSTATE COMMISSION SHALL HAVE THE RIGHT AND  
54 POWER TO CAST A VOTE TO WHICH COMPACTING STATE IS ENTITLED AND TO  
55 PARTICIPATE IN THE BUSINESS AND AFFAIRS OF THE INTERSTATE COMMISSION. A  
56 MEMBER SHALL VOTE IN PERSON ON BEHALF OF THE STATE AND SHALL NOT DELE-

GATE A VOTE TO ANOTHER MEMBER STATE. HOWEVER, A STATE COUNCIL SHALL APPOINT ANOTHER AUTHORIZED REPRESENTATIVE, IN THE ABSENCE OF THE COMMISSIONER FROM THAT STATE, TO CAST A VOTE ON BEHALF OF THE MEMBER STATE AT A SPECIFIED MEETING. THE BY-LAWS MAY PROVIDE FOR MEMBERS' PARTICIPATION IN MEETINGS BY TELEPHONE OR OTHER MEANS OF TELECOMMUNICATION OR ELECTRONIC COMMUNICATION. ANY VOTING CONDUCTED BY TELEPHONE, OR OTHER MEANS OF TELECOMMUNICATION OR ELECTRONIC COMMUNICATION SHALL BE SUBJECT TO THE SAME QUORUM REQUIREMENTS OF MEETINGS WHERE MEMBERS ARE PRESENT IN PERSON.

THE INTERSTATE COMMISSION SHALL MEET AT LEAST ONCE DURING EACH CALENDAR YEAR. THE CHAIRPERSON OF THE INTERSTATE COMMISSION MAY CALL ADDITIONAL MEETINGS AT ANY TIME AND, UPON THE REQUEST OF A MAJORITY OF THE MEMBERS, SHALL CALL ADDITIONAL MEETINGS.

THE INTERSTATE COMMISSION'S BY-LAWS SHALL ESTABLISH CONDITIONS AND PROCEDURES UNDER WHICH THE INTERSTATE COMMISSION SHALL MAKE ITS INFORMATION AND OFFICIAL RECORDS AVAILABLE TO THE PUBLIC FOR INSPECTION OR COPYING. THE INTERSTATE COMMISSION MAY EXEMPT FROM DISCLOSURE ANY INFORMATION OR OFFICIAL RECORDS TO THE EXTENT THEY WOULD ADVERSELY AFFECT PERSONAL PRIVACY RIGHTS OR PROPRIETARY INTERESTS. IN PROMULGATING SUCH RULES, THE INTERSTATE COMMISSION MAY MAKE AVAILABLE TO LAW ENFORCEMENT AGENCIES RECORDS AND INFORMATION OTHERWISE EXEMPT FROM DISCLOSURE, AND MAY ENTER INTO AGREEMENTS WITH LAW ENFORCEMENT AGENCIES TO RECEIVE OR EXCHANGE INFORMATION OR RECORDS SUBJECT TO NONDISCLOSURE AND CONFIDENTIALITY PROVISIONS.

PUBLIC NOTICE SHALL BE GIVEN OF ALL MEETINGS AND ALL MEETINGS SHALL BE OPEN TO THE PUBLIC, EXCEPT AS SET FORTH IN THE RULES OR AS OTHERWISE PROVIDED IN THE COMPACT. THE INTERSTATE COMMISSION SHALL PROMULGATE RULES CONSISTENT WITH THE PRINCIPLES CONTAINED IN THE "GOVERNMENT IN SUNSHINE ACT," 5 U.S.C. SECTION 552(B), AS MAY BE AMENDED. THE INTERSTATE COMMISSION AND ANY OF ITS COMMITTEES MAY CLOSE A MEETING TO THE PUBLIC WHERE IT DETERMINES BY A TWO-THIRDS VOTE THAT AN OPEN MEETING WOULD BE LIKELY TO:

(A) RELATE SOLELY TO THE INTERSTATE COMMISSION'S INTERNAL PERSONNEL PRACTICES AND PROCEDURES;

(B) DISCLOSE MATTERS SPECIFICALLY EXEMPTED FROM DISCLOSURE BY STATUTE;

(C) DISCLOSE TRADE SECRETS OR COMMERCIAL OR FINANCIAL INFORMATION WHICH IS PRIVILEGED OR CONFIDENTIAL;

(D) INVOLVE ACCUSING ANY PERSON OF A CRIME, OR FORMALLY CENSURING ANY PERSON;

(E) DISCLOSE INFORMATION OF A PERSONAL NATURE WHERE DISCLOSURE WOULD CONSTITUTE A CLEARLY UNWARRANTED INVASION OF PERSONAL PRIVACY;

(F) DISCLOSE INVESTIGATORY RECORDS COMPILED FOR LAW ENFORCEMENT PURPOSES;

(G) DISCLOSE INFORMATION CONTAINED IN OR RELATED TO EXAMINATION, OPERATING OR CONDITION REPORTS PREPARED BY, OR ON BEHALF OF OR FOR THE USE OF, THE INTERSTATE COMMISSION WITH RESPECT TO A REGULATED ENTITY FOR THE PURPOSE OF REGULATION OR SUPERVISION OF SUCH ENTITY;

(H) DISCLOSE INFORMATION, THE PREMATURE DISCLOSURE OF WHICH WOULD SIGNIFICANTLY ENDANGER THE LIFE OF A PERSON OR THE STABILITY OF A REGULATED ENTITY; OR

(I) SPECIFICALLY RELATE TO THE INTERSTATE COMMISSION'S ISSUANCE OF A SUBPOENA, OR ITS PARTICIPATION IN A CIVIL ACTION OR PROCEEDING.

FOR EVERY MEETING CLOSED PURSUANT TO THIS ARTICLE, THE INTERSTATE COMMISSION'S CHIEF LEGAL OFFICER SHALL PUBLICLY CERTIFY THAT, IN HIS OR HER OPINION, THE MEETING MAY BE CLOSED TO THE PUBLIC, AND SHALL REFERENCE EACH RELEVANT EXEMPTIVE PROVISION. THE INTERSTATE COMMISSION SHALL

KEEP MINUTES WHICH SHALL FULLY AND CLEARLY DESCRIBE ALL MATTERS DISCUSSED IN ANY MEETING AND SHALL PROVIDE A FULL AND ACCURATE SUMMARY OF ANY ACTIONS TAKEN, AND THE REASONS THEREFOR, INCLUDING A DESCRIPTION OF EACH OF THE VIEWS EXPRESSED ON ANY ITEM AND THE RECORD OF ANY ROLL CALL VOTE (REFLECTED IN THE VOTE OF EACH MEMBER ON THE QUESTION). ALL DOCUMENTS CONSIDERED IN CONNECTION WITH ANY ACTION SHALL BE IDENTIFIED IN SUCH MINUTES.

THE INTERSTATE COMMISSION SHALL COLLECT STANDARDIZED DATA CONCERNING THE INTERSTATE MOVEMENT OF OFFENDERS AS DIRECTED THROUGH ITS BY-LAWS AND RULES WHICH SHALL SPECIFY THE DATA TO BE COLLECTED, THE MEANS OF COLLECTION AND DATA EXCHANGE AND REPORTING REQUIREMENTS.

#### ARTICLE VIII

#### RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

THE INTERSTATE COMMISSION SHALL PROMULGATE RULES IN ORDER TO EFFECTIVELY AND EFFICIENTLY ACHIEVE THE PURPOSES OF THE COMPACT INCLUDING TRANSITION RULES GOVERNING ADMINISTRATION OF THE COMPACT DURING THE PERIOD IN WHICH IT IS BEING CONSIDERED AND ENACTED BY THE STATES.

RULEMAKING SHALL OCCUR PURSUANT TO THE CRITERIA SET FORTH IN THIS ARTICLE AND THE BY-LAWS AND RULES ADOPTED PURSUANT THERETO. SUCH RULEMAKING SHALL SUBSTANTIALLY CONFORM TO THE PRINCIPLES OF THE FEDERAL ADMINISTRATIVE PROCEDURE ACT, 5 U.S.C.S. SECTION 551 ET SEQ., AND THE FEDERAL ADVISORY COMMITTEE ACT, 5 U.S.C.S. APP. 2, SECTION 1 ET SEQ., AS MAY BE AMENDED (HEREINAFTER REFERRED TO AS "APA"). ALL RULES AND AMENDMENTS SHALL BECOME BINDING AS OF THE DATE SPECIFIED IN EACH RULE OR AMENDMENT.

IF A MAJORITY OF THE LEGISLATURES OF THE COMPACTING STATES REJECTS A RULE, BY ENACTMENT OF A STATUTE OR RESOLUTION IN THE SAME MANNER USED TO ADOPT THE COMPACT, THEN SUCH RULE SHALL HAVE NO FURTHER FORCE AND EFFECT IN ANY COMPACTING STATE.

WHEN PROMULGATING A RULE, THE INTERSTATE COMMISSION SHALL:

(A) PUBLISH THE PROPOSED RULE STATING WITH PARTICULARITY THE TEXT OF THE RULE WHICH IS PROPOSED AND THE REASON FOR THE PROPOSED RULE;

(B) ALLOW PERSONS TO SUBMIT WRITTEN DATA, FACTS, OPINIONS AND ARGUMENTS, WHICH INFORMATION SHALL BE PUBLICLY AVAILABLE;

(C) PROVIDE AN OPPORTUNITY FOR AN INFORMAL HEARING; AND

(D) PROMULGATE A FINAL RULE AND ITS EFFECTIVE DATE, IF APPROPRIATE, BASED ON THE RULEMAKING RECORD.

NOT LATER THAN SIXTY DAYS AFTER A RULE IS PROMULGATED, ANY INTERESTED PERSON MAY FILE A PETITION IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA OR IN THE FEDERAL DISTRICT COURT WHERE THE INTERSTATE COMMISSION PRINCIPAL OFFICE IS LOCATED FOR JUDICIAL REVIEW OF SUCH RULE. IF THE COURT FINDS THAT THE INTERSTATE COMMISSION'S ACTION IS NOT SUPPORTED BY SUBSTANTIAL EVIDENCE, (AS DEFINED IN THE APA), IN THE RULEMAKING RECORD, THE COURT SHALL HOLD THE RULE UNLAWFUL AND SET IT ASIDE. SUBJECTS TO BE ADDRESSED WITHIN TWELVE MONTHS AFTER THE FIRST MEETING MUST AT A MINIMUM INCLUDE:

1. NOTICE TO VICTIMS AND OPPORTUNITY TO BE HEARD;

2. OFFENDER REGISTRATION AND COMPLIANCE;

3. VIOLATIONS/RETURNS;

4. TRANSFER PROCEDURES AND FORMS;

5. ELIGIBILITY FOR TRANSFER;

6. COLLECTION OF RESTITUTION AND FEES FROM OFFENDERS;

7. DATA COLLECTION AND REPORTING;

8. THE LEVEL OF SUPERVISION TO BE PROVIDED BY THE RECEIVING STATE;

1 9. TRANSITION RULES GOVERNING THE OPERATION OF THE COMPACT AND THE  
2 INTERSTATE COMMISSION DURING ALL OR PART OF THE PERIOD BETWEEN THE  
3 EFFECTIVE DATE OF THE COMPACT AND THE DATE ON WHICH THE LAST ELIGIBLE  
4 STATE ADOPTS THE COMPACT; AND

5 10. MEDIATION, ARBITRATION AND DISPUTE RESOLUTION.

6 THE EXISTING RULES GOVERNING THE OPERATION OF THE PREVIOUS COMPACT  
7 SUPERSEDED BY THIS COMPACT SHALL BE NULL AND VOID TWELVE MONTHS AFTER  
8 THE FIRST MEETING OF THE INTERSTATE COMMISSION CREATED PURSUANT TO THIS  
9 COMPACT.

10 UPON DETERMINATION BY THE INTERSTATE COMMISSION THAT AN EMERGENCY  
11 EXISTS, IT MAY PROMULGATE AN EMERGENCY RULE WHICH SHALL BECOME EFFECTIVE  
12 IMMEDIATELY UPON ADOPTION, PROVIDED THAT THE USUAL RULEMAKING PROCEDURES  
13 PROVIDED HEREUNDER SHALL BE RETROACTIVELY APPLIED TO SAID RULE AS SOON  
14 AS REASONABLY POSSIBLE, IN NO EVENT LATER THAN NINETY DAYS AFTER THE  
15 EFFECTIVE DATE OF THE RULE.

#### 16 ARTICLE IX

#### 17 OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION BY THE INTERSTATE 18 COMMISSION

19 (A) OVERSIGHT. THE INTERSTATE COMMISSION SHALL OVERSEE THE INTERSTATE  
20 MOVEMENT OF ADULT OFFENDERS IN THE COMPACTING STATES AND SHALL MONITOR  
21 SUCH ACTIVITIES BEING ADMINISTERED IN NON-COMPACTING STATES WHICH MAY  
22 SIGNIFICANTLY AFFECT COMPACTING STATES.

23 THE COURTS AND EXECUTIVE AGENCIES IN EACH COMPACTING STATE SHALL  
24 ENFORCE THIS COMPACT AND SHALL TAKE ALL ACTIONS NECESSARY AND APPROPRI-  
25 ATE TO EFFECTUATE THE COMPACT'S PURPOSES AND INTENT. IN ANY JUDICIAL OR  
26 ADMINISTRATIVE PROCEEDING IN A COMPACTING STATE PERTAINING TO THE  
27 SUBJECT MATTER OF THIS COMPACT WHICH MAY AFFECT THE POWERS, RESPONSIBIL-  
28 ITIES OR ACTIONS OF THE INTERSTATE COMMISSION, THE INTERSTATE COMMISSION  
29 SHALL BE ENTITLED TO RECEIVE ALL SERVICE OF PROCESS IN ANY SUCH PROCEED-  
30 ING, AND SHALL HAVE STANDING TO INTERVENE IN THE PROCEEDING FOR ALL  
31 PURPOSES.

32 (B) DISPUTE RESOLUTION. THE COMPACTING STATES SHALL REPORT TO THE  
33 INTERSTATE COMMISSION ON ISSUES OR ACTIVITIES OF CONCERN TO THEM, AND  
34 COOPERATE WITH AND SUPPORT THE INTERSTATE COMMISSION IN THE DISCHARGE OF  
35 ITS DUTIES AND RESPONSIBILITIES.

36 THE INTERSTATE COMMISSION SHALL ATTEMPT TO RESOLVE ANY DISPUTES OR  
37 OTHER ISSUES WHICH ARE SUBJECT TO THE COMPACT AND WHICH MAY ARISE AMONG  
38 COMPACTING STATES AND NON-COMPACTING STATES.

39 THE INTERSTATE COMMISSION SHALL ENACT A BY-LAW OR PROMULGATE A RULE  
40 PROVIDING FOR BOTH MEDIATION AND BINDING DISPUTE RESOLUTION FOR DISPUTES  
41 AMONG THE COMPACTING STATES.

42 (C) ENFORCEMENT. THE INTERSTATE COMMISSION, IN THE REASONABLE EXERCISE  
43 OF ITS DISCRETION, SHALL ENFORCE THE PROVISIONS OF THIS COMPACT USING  
44 ANY OR ALL MEANS SET FORTH IN ARTICLE XII, SUBDIVISION (B), OF THIS  
45 COMPACT.

#### 46 ARTICLE X

#### 47 FINANCE

48 THE INTERSTATE COMMISSION SHALL PAY OR PROVIDE FOR THE PAYMENT OF THE  
49 REASONABLE EXPENSES OF ITS ESTABLISHMENT, ORGANIZATION AND ONGOING  
50 ACTIVITIES.

51 THE INTERSTATE COMMISSION SHALL LEVY ON AND COLLECT AN ANNUAL ASSESS-  
52 MENT FROM EACH COMPACTING STATE TO COVER THE COST OF THE INTERNAL OPER-  
53 ATIONS AND ACTIVITIES OF THE INTERSTATE COMMISSION AND ITS STAFF WHICH  
54 MUST BE IN A TOTAL AMOUNT SUFFICIENT TO COVER THE INTERSTATE COMMIS-  
55 SION'S ANNUAL BUDGET AS APPROVED EACH YEAR. THE AGGREGATE ANNUAL ASSESS-  
56 MENT AMOUNT SHALL BE ALLOCATED BASED UPON A FORMULA TO BE DETERMINED BY

1 THE INTERSTATE COMMISSION, TAKING INTO CONSIDERATION THE POPULATION OF  
2 THE STATE AND THE VOLUME OF INTERSTATE MOVEMENT OF OFFENDERS IN EACH  
3 COMPACTING STATE AND SHALL PROMULGATE A RULE BINDING UPON COMPACTING  
4 STATES WHICH GOVERNS SAID ASSESSMENT.

5 THE INTERSTATE COMMISSION SHALL NOT INCUR ANY OBLIGATIONS OF ANY KIND  
6 PRIOR TO SECURING THE FUNDS ADEQUATE TO MEET THE SAME; NOR SHALL THE  
7 INTERSTATE COMMISSION PLEDGE THE CREDIT OF ANY OF THE COMPACTING STATES,  
8 EXCEPT BY AND WITH THE AUTHORITY OF THE COMPACTING STATE.

9 THE INTERSTATE COMMISSION SHALL KEEP ACCURATE ACCOUNTS OF ALL RECEIPTS  
10 AND DISBURSEMENTS. THE RECEIPTS AND DISBURSEMENTS OF THE INTERSTATE  
11 COMMISSION SHALL BE SUBJECT TO THE AUDIT AND ACCOUNTING PROCEDURES  
12 ESTABLISHED UNDER ITS BY-LAWS. HOWEVER, ALL RECEIPTS AND DISBURSEMENTS  
13 OF FUNDS HANDLED BY THE INTERSTATE COMMISSION SHALL BE AUDITED YEARLY BY  
14 A CERTIFIED OR LICENSED PUBLIC ACCOUNTANT AND THE REPORT OF THE AUDIT  
15 SHALL BE INCLUDED IN AND BECOME PART OF THE ANNUAL REPORT OF THE INTER-  
16 STATE COMMISSION.

#### 17 ARTICLE XI

##### 18 COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

19 ANY STATE, AS DEFINED IN ARTICLE II OF THIS COMPACT, IS ELIGIBLE TO  
20 BECOME A COMPACTING STATE. THE COMPACT SHALL BECOME EFFECTIVE AND BIND-  
21 ING UPON LEGISLATIVE ENACTMENT OF THE COMPACT INTO LAW BY NO LESS THAN  
22 THIRTY-FIVE OF THE STATES. THE INITIAL EFFECTIVE DATE SHALL BE THE LATER  
23 OF JULY FIRST, TWO THOUSAND THREE, OR UPON ENACTMENT INTO LAW BY THE  
24 THIRTY-FIFTH JURISDICTION. THEREAFTER IT SHALL BECOME EFFECTIVE AND  
25 BINDING, AS TO ANY OTHER COMPACTING STATE AND IN THE STATE OF NEW YORK,  
26 UPON ENACTMENT OF THE COMPACT INTO LAW BY THAT STATE. THE GOVERNORS OF  
27 NON-MEMBER STATES OR THEIR DESIGNEES WILL BE INVITED TO PARTICIPATE IN  
28 INTERSTATE COMMISSION ACTIVITIES ON A NON-VOTING BASIS PRIOR TO ADOPTION  
29 OF THE COMPACT BY ALL STATES AND TERRITORIES OF THE UNITED STATES.

30 AMENDMENTS TO THE COMPACT MAY BE PROPOSED BY THE INTERSTATE COMMISSION  
31 FOR ENACTMENT BY THE COMPACTING STATES. NO AMENDMENT SHALL BECOME EFFEC-  
32 TIVE AND BINDING UPON THE INTERSTATE COMMISSION AND THE COMPACTING  
33 STATES UNLESS AND UNTIL IT IS ENACTED INTO LAW BY UNANIMOUS CONSENT OF  
34 THE COMPACTING STATES.

#### 35 ARTICLE XII

##### 36 WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL ENFORCEMENT

37 (A) WITHDRAWAL. ONCE EFFECTIVE, THE COMPACT SHALL CONTINUE IN FORCE  
38 AND REMAIN BINDING UPON EACH AND EVERY COMPACTING STATE; PROVIDED, THAT  
39 A COMPACTING STATE MAY WITHDRAW FROM THE COMPACT ("WITHDRAWING STATE")  
40 BY ENACTING A STATUTE SPECIFICALLY REPEALING THE STATUTE WHICH ENACTED  
41 THE COMPACT INTO LAW.

42 THE EFFECTIVE DATE OF WITHDRAWAL IS THE EFFECTIVE DATE OF THE REPEAL.

43 THE WITHDRAWING STATE SHALL IMMEDIATELY NOTIFY THE CHAIRPERSON OF THE  
44 INTERSTATE COMMISSION IN WRITING UPON THE INTRODUCTION OF LEGISLATION  
45 REPEALING THIS COMPACT IN THE WITHDRAWING STATE. THE INTERSTATE COMMIS-  
46 SION SHALL NOTIFY THE OTHER COMPACTING STATES OF THE WITHDRAWING STATE'S  
47 INTENT TO WITHDRAW WITHIN SIXTY DAYS OF ITS RECEIPT THEREOF.

48 THE WITHDRAWING STATE IS RESPONSIBLE FOR ALL ASSESSMENTS, OBLIGATIONS  
49 AND LIABILITIES INCURRED THROUGH THE EFFECTIVE DATE OF WITHDRAWAL,  
50 INCLUDING ANY OBLIGATIONS, THE PERFORMANCE OF WHICH EXTEND BEYOND THE  
51 EFFECTIVE DATE OF WITHDRAWAL. REINSTATEMENT FOLLOWING WITHDRAWAL OF ANY  
52 COMPACTING STATE SHALL OCCUR UPON THE WITHDRAWING STATE REENACTING THE  
53 COMPACT OR UPON SUCH LATER DATE AS DETERMINED BY THE INTERSTATE COMMIS-  
54 SION.

55 (B) DEFAULT. IF THE INTERSTATE COMMISSION DETERMINES THAT ANY COMPACT-  
56 ING STATE HAS AT ANY TIME DEFAULTED ("DEFAULTING STATE") IN THE PERFORM-

ANCES OF ANY OF ITS OBLIGATIONS OR RESPONSIBILITIES UNDER THIS COMPACT, THE BY-LAWS OR ANY DULY PROMULGATED RULES THE INTERSTATE COMMISSION MAY IMPOSE ANY OR ALL OF THE FOLLOWING PENALTIES:

1. FINES, FEES AND COSTS IN SUCH AMOUNTS AS ARE DEEMED TO BE REASONABLE AS FIXED BY THE INTERSTATE COMMISSION;

2. REMEDIAL TRAINING AND TECHNICAL ASSISTANCE AS DIRECTED BY THE INTERSTATE COMMISSION;

3. SUSPENSION AND TERMINATION OF MEMBERSHIP IN THE COMPACT. SUSPENSION SHALL BE IMPOSED ONLY AFTER ALL OTHER REASONABLE MEANS OF SECURING COMPLIANCE UNDER THE BY-LAWS AND RULES HAVE BEEN EXHAUSTED. IMMEDIATE NOTICE OF SUSPENSION SHALL BE GIVEN BY THE INTERSTATE COMMISSION TO THE GOVERNOR, THE CHIEF JUSTICE OR CHIEF JUDICIAL OFFICER OF THE STATE, THE MAJORITY AND MINORITY LEADERS OF THE DEFAULTING STATE'S LEGISLATURE, AND THE STATE COUNCIL.

THE GROUNDS FOR DEFAULT INCLUDE, BUT ARE NOT LIMITED TO, FAILURE OF A COMPACTING STATE TO PERFORM SUCH OBLIGATIONS OR RESPONSIBILITIES IMPOSED UPON IT BY THIS COMPACT, INTERSTATE COMMISSION BY-LAWS, OR DULY PROMULGATED RULES. THE INTERSTATE COMMISSION SHALL IMMEDIATELY NOTIFY THE DEFAULTING STATE IN WRITING OF THE PENALTY IMPOSED BY THE INTERSTATE COMMISSION ON THE DEFAULTING STATE PENDING A CURE OF THE DEFAULT. THE INTERSTATE COMMISSION SHALL STIPULATE THE CONDITIONS AND THE TIME PERIOD WITHIN WHICH THE DEFAULTING STATE MUST CURE ITS DEFAULT. IF THE DEFAULTING STATE FAILS TO CURE THE DEFAULT WITHIN THE TIME PERIOD SPECIFIED BY THE INTERSTATE COMMISSION, IN ADDITION TO ANY OTHER PENALTIES IMPOSED HEREIN, THE DEFAULTING STATE MAY BE TERMINATED FROM THE COMPACT UPON AN AFFIRMATIVE VOTE OF A MAJORITY OF THE COMPACTING STATES AND ALL RIGHTS, PRIVILEGES AND BENEFITS CONFERRED BY THIS COMPACT SHALL BE TERMINATED FROM THE EFFECTIVE DATE OF SUSPENSION. WITHIN SIXTY DAYS OF THE EFFECTIVE DATE OF TERMINATION OF A DEFAULTING STATE, THE INTERSTATE COMMISSION SHALL NOTIFY THE GOVERNOR, THE CHIEF JUSTICE OR CHIEF JUDICIAL OFFICER, THE MAJORITY AND MINORITY LEADERS OF THE DEFAULTING STATE'S LEGISLATURE, AND THE STATE COUNCIL OF SUCH TERMINATION.

THE DEFAULTING STATE IS RESPONSIBLE FOR ALL ASSESSMENTS, OBLIGATIONS AND LIABILITIES INCURRED THROUGH THE EFFECTIVE DATE OF TERMINATION INCLUDING ANY OBLIGATIONS, THE PERFORMANCE OF WHICH EXTENDS BEYOND THE EFFECTIVE DATE OF TERMINATION.

THE INTERSTATE COMMISSION SHALL NOT BEAR ANY COSTS RELATING TO THE DEFAULTING STATE UNLESS OTHERWISE MUTUALLY AGREED UPON BETWEEN THE INTERSTATE COMMISSION AND THE DEFAULTING STATE.

REINSTATEMENT FOLLOWING TERMINATION OF ANY COMPACTING STATE REQUIRES BOTH A REENACTMENT OF THE COMPACT BY THE DEFAULTING STATE AND THE APPROVAL OF THE INTERSTATE COMMISSION PURSUANT TO THE RULES.

(C) JUDICIAL ENFORCEMENT. THE INTERSTATE COMMISSION MAY, BY MAJORITY VOTE OF THE MEMBERS, INITIATE LEGAL ACTION IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA OR, AT THE DISCRETION OF THE INTERSTATE COMMISSION, IN THE FEDERAL DISTRICT WHERE THE INTERSTATE COMMISSION HAS ITS OFFICES TO ENFORCE COMPLIANCE WITH THE PROVISIONS OF THE COMPACT, ITS DULY PROMULGATED RULES AND BY-LAWS, AGAINST ANY COMPACTING STATE IN DEFAULT. IN THE EVENT JUDICIAL ENFORCEMENT IS NECESSARY THE PREVAILING PARTY SHALL BE AWARDED ALL COSTS OF SUCH LITIGATION INCLUDING REASONABLE ATTORNEYS' FEES.

(D) DISSOLUTION OF COMPACT. THE COMPACT DISSOLVES EFFECTIVE UPON THE DATE OF THE WITHDRAWAL OR DEFAULT OF THE COMPACTING STATE WHICH REDUCES MEMBERSHIP IN THE COMPACT TO ONE COMPACTING STATE.

UPON THE DISSOLUTION OF THIS COMPACT, THE COMPACT BECOMES NULL AND VOID AND SHALL BE OF NO FURTHER FORCE OR EFFECT, AND THE BUSINESS AND

1 AFFAIRS OF THE INTERSTATE COMMISSION SHALL BE WOUND UP AND ANY SURPLUS  
2 FUNDS SHALL BE DISTRIBUTED IN ACCORDANCE WITH THE BY-LAWS.

3 ARTICLE XIII

4 SEVERABILITY AND CONSTRUCTION

5 THE PROVISIONS OF THIS COMPACT SHALL BE SEVERABLE, AND IF ANY PHRASE,  
6 CLAUSE, SENTENCE OR PROVISION IS DEEMED UNENFORCEABLE, THE REMAINING  
7 PROVISIONS OF THE COMPACT SHALL BE ENFORCEABLE.

8 THE PROVISIONS OF THIS COMPACT SHALL BE LIBERALLY CONSTRUCTED TO  
9 EFFECTUATE ITS PURPOSES.

10 ARTICLE XIV

11 BINDING EFFECT OF COMPACT AND OTHER LAWS

12 (A) OTHER LAWS. NOTHING IN THIS COMPACT PREVENTS THE ENFORCEMENT OF  
13 ANY OTHER LAW OF A COMPACTING STATE THAT IS NOT INCONSISTENT WITH THIS  
14 COMPACT.

15 ALL COMPACTING STATES' LAWS CONFLICTING WITH THIS COMPACT ARE SUPER-  
16 SEDED TO THE EXTENT OF THE CONFLICT.

17 (B) BINDING EFFECT OF THE COMPACT. ALL LAWFUL ACTIONS OF THE INTER-  
18 STATE COMMISSION, INCLUDING ALL RULES AND BY-LAWS PROMULGATED BY THE  
19 INTERSTATE COMMISSION, ARE BINDING UPON THE COMPACTING STATES.

20 ALL AGREEMENTS BETWEEN THE INTERSTATE COMMISSION AND THE COMPACTING  
21 STATES ARE BINDING IN ACCORDANCE WITH THEIR TERMS.

22 UPON THE REQUEST OF A PARTY TO A CONFLICT OVER MEANING OR INTERPRETA-  
23 TION OF INTERSTATE COMMISSION ACTIONS, AND UPON A MAJORITY VOTE OF THE  
24 COMPACTING STATES, THE INTERSTATE COMMISSION MAY ISSUE ADVISORY OPINIONS  
25 REGARDING SUCH MEANING OR INTERPRETATION.

26 IN THE EVENT ANY PROVISION OF THIS COMPACT EXCEEDS THE CONSTITUTIONAL  
27 LIMITS IMPOSED ON THE LEGISLATURE OF ANY COMPACTING STATE, THE OBLI-  
28 GATIONS, DUTIES, POWERS OR JURISDICTION SOUGHT TO BE CONFERRED BY SUCH  
29 PROVISION UPON THE INTERSTATE COMMISSION SHALL BE INEFFECTIVE AND SUCH  
30 OBLIGATIONS, DUTIES, POWERS OR JURISDICTION SHALL REMAIN IN THE COMPACT-  
31 ING STATE AND SHALL BE EXERCISED BY THE AGENCY THEREOF TO WHICH SUCH  
32 OBLIGATIONS, DUTIES, POWERS OR JURISDICTION ARE DELEGATED BY LAW IN  
33 EFFECT AT THE TIME THIS COMPACT BECOMES EFFECTIVE.

34 S 212. INTERSTATE HEARING FOR PAROLE VIOLATION. 1. FOR THE PURPOSES OF  
35 THIS SECTION, "PRELIMINARY VIOLATION HEARING" MEANS A HEARING TO DETER-  
36 MINE WHETHER THERE ARE REASONABLE GROUNDS TO BELIEVE THAT A PERSON  
37 RELEASED ON PAROLE HAS VIOLATED THE CONDITIONS OF HIS OR HER PAROLE.

38 2. WHENEVER THERE IS REASONABLE CAUSE TO BELIEVE THAT A PERSON  
39 RELEASED ON PAROLE IN ANOTHER STATE, BUT UNDER THE SUPERVISION OF THIS  
40 STATE PURSUANT TO SECTION TWO HUNDRED TEN OF THIS ARTICLE HAS VIOLATED  
41 THE CONDITIONS THEREOF, A HEARING OFFICER OR DESIGNEE, UPON REQUEST OF  
42 THE SENDING STATE, MAY CONDUCT A PRELIMINARY VIOLATION HEARING UNLESS  
43 SUCH HEARING IS WAIVED BY THE PAROLEE.

44 3. WHENEVER THERE IS REASONABLE CAUSE TO BELIEVE THAT A PERSON  
45 RELEASED ON PAROLE IN THIS STATE, BUT UNDER THE PAROLE SUPERVISION OF  
46 ANOTHER STATE PURSUANT TO SECTION TWO HUNDRED TEN OF THIS ARTICLE HAS  
47 VIOLATED THE CONDITIONS THEREOF, ANY PERSON DULY AUTHORIZED IN SUCH  
48 OTHER STATE TO CONDUCT PRELIMINARY VIOLATION HEARINGS, UPON REQUEST OF  
49 THE COMMISSIONER, MAY CONDUCT SUCH HEARING, UNLESS SUCH HEARING IS  
50 WAIVED BY THE PAROLEE. THE PRELIMINARY VIOLATION HEARING AND THE DETER-  
51 MINATIONS MADE THEREAT SHALL HAVE THE SAME FORCE AND EFFECT AS A PRELIM-  
52 INARY VIOLATION HEARING CONDUCTED IN THIS STATE BY THE DEPARTMENT.

53 4. WHENEVER A PRELIMINARY VIOLATION HEARING IS CONDUCTED IN ANOTHER  
54 STATE PURSUANT TO THIS SECTION, THE ALLEGED VIOLATOR MUST BE AFFORDED A  
55 FINAL HEARING WITHIN NINETY DAYS FROM THE DATE OF HIS OR HER RETURN TO  
56 THIS STATE.

1 S 213. DEPUTIZATION OF OUT-OF-STATE OFFICERS. THE COMMISSIONER IS  
2 HEREBY AUTHORIZED AND EMPOWERED TO DEPUTIZE ANY PAROLE OFFICER OR PEACE  
3 OFFICER OF ANOTHER STATE TO ACT AS AN OFFICER AND AGENT OF THIS STATE IN  
4 EFFECTING THE RETURN OF ANY PERSON WHO HAS VIOLATED THE TERMS AND CONDI-  
5 TIONS OF PAROLE OR PROBATION AS GRANTED BY THIS STATE.

6 ANY DEPUTIZATION PURSUANT TO THIS SECTION SHALL BE IN WRITING AND ANY  
7 PERSON AUTHORIZED TO ACT AS AN AGENT OF THIS STATE PURSUANT HERETO SHALL  
8 CARRY FORMAL EVIDENCE OF HIS OR HER DEPUTIZATION AND SHALL PRODUCE THE  
9 SAME UPON DEMAND.

10 THE COMMISSIONER IS HEREBY AUTHORIZED, SUBJECT TO THE APPROVAL OF THE  
11 COMPTROLLER, TO ENTER INTO CONTRACTS WITH SIMILAR OFFICIALS OF ANY OTHER  
12 STATE OR STATES FOR THE PURPOSE OF SHARING AN EQUITABLE PORTION OF THE  
13 COST OF EFFECTING THE RETURN OF ANY PERSON WHO HAS VIOLATED THE TERMS  
14 AND CONDITIONS OF PAROLE OR PROBATION AS GRANTED BY THIS STATE.

15 S 33. Section 202 of the correction law, as added by section thirty-  
16 two of this act, is amended to read as follows:

17 S 202. Conditions of release; generally. The department shall have the  
18 power and duty of determining the conditions of release of the person  
19 who may be released to community supervision under an indeterminate or  
20 determinate sentence of imprisonment AND OF DETERMINING THE CONDITIONS  
21 OF SUPERVISION FOR INMATES SERVING A DEFINITE SENTENCE OF IMPRISONMENT  
22 WHO MAY BE CONDITIONALLY RELEASED BY THE STATE BOARD OF PAROLE PURSUANT  
23 TO SUBDIVISION TWO OF SECTION 70.40 OF THE PENAL LAW.

24 S 34. Subdivision 5 of section 205 of the correction law, as added by  
25 section thirty-two of this act, is REPEALED, and a new subdivision 5 is  
26 added to read as follows:

27 5. IF A FINDING OF PROBABLE CAUSE IS MADE PURSUANT TO THIS SUBDIVISION  
28 EITHER BY DETERMINATION AT A PRELIMINARY HEARING OR BY THE WAIVER THERE-  
29 OF, OR IF THE RELEASEE HAS BEEN CONVICTED OF A NEW CRIME WHILE UNDER  
30 COMMUNITY SUPERVISION, THE DEPARTMENT'S RULES SHALL PROVIDE FOR (A)  
31 DECLARING SUCH PERSON TO BE DELINQUENT AS SOON AS PRACTICABLE AND SHALL  
32 REQUIRE REASONABLE AND APPROPRIATE ACTION TO MAKE A FINAL DETERMINATION  
33 WITH RESPECT TO THE ALLEGED VIOLATION OR (B) ORDERING SUCH PERSON TO BE  
34 RESTORED TO COMMUNITY SUPERVISION UNDER SUCH CIRCUMSTANCES AS IT MAY  
35 DEEM APPROPRIATE OR (C) WHEN A PERSON ON COMMUNITY SUPERVISION HAS BEEN  
36 CONVICTED OF A NEW FELONY COMMITTED WHILE UNDER HIS OR HER COMMUNITY  
37 SUPERVISION AND A NEW INDETERMINATE SENTENCE HAS BEEN IMPOSED, THE  
38 DEPARTMENT'S RULES SHALL PROVIDE FOR A FINAL DECLARATION OF DELINQUENCY.  
39 THE INMATE SHALL THEN BE NOTIFIED IN WRITING THAT HIS OR HER RELEASE HAS  
40 BEEN REVOKED ON THE BASIS OF THE NEW CONVICTION AND A COPY OF THE  
41 COMMITMENT SHALL ACCOMPANY SAID NOTIFICATION. THE INMATE'S NEXT APPEAR-  
42 ANCE BEFORE THE STATE BOARD OF PAROLE SHALL BE GOVERNED BY THE LEGAL  
43 REQUIREMENTS OF SAID NEW INDETERMINATE SENTENCE, OR SHALL OCCUR AS SOON  
44 AFTER A FINAL REVERSAL OF THE CONVICTION AS IS PRACTICABLE.

45 S 35. Subdivision 5 of section 400 of the correction law, as added by  
46 chapter 766 of the laws of 1976, is amended to read as follows:

47 (5) "Inmate" means a person committed to the custody of the department  
48 of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, or a  
49 person convicted of a crime and committed to the custody of the sheriff,  
50 the county jail, or a local department of correction.

51 S 36. Subparagraph 3 of paragraph c of subdivision 7 of section 500-b  
52 of the correction law, as amended by chapter 574 of the laws of 1985, is  
53 amended to read as follows:

54 (3) records, to the extent relevant and known to the chief administra-  
55 tive officer, maintained by the department of [correctional services]  
56 CORRECTIONS AND COMMUNITY SUPERVISION and/or any local correctional

1 facility in this state and which are accessible and available to the  
2 chief administrative officer; and

3 S 37. Article 12-B of the executive law is REPEALED.

4 S 38. The executive law is amended by adding a new article 12-B to  
5 read as follows:

6 ARTICLE 12-B

7 STATE BOARD OF PAROLE

8 SECTION 259. BOARD OF PAROLE; ORGANIZATION.

9 259-A. BOARD OF PAROLE; FUNCTIONS, POWERS AND DUTIES.

10 259-B. PROCEDURES FOR THE CONDUCT OF THE WORK OF THE STATE BOARD  
11 OF PAROLE.

12 259-C. DISCHARGE OF SENTENCE.

13 259-D. ACCESS TO INSTITUTIONS.

14 259-E. RELEASE ON MEDICAL PAROLE FOR TERMINALLY ILL INMATES.

15 259-F. RELEASE ON MEDICAL PAROLE FOR INMATES SUFFERING FROM  
16 SIGNIFICANT DEBILITATING ILLNESSES.

17 S 259. BOARD OF PAROLE; ORGANIZATION. 1. THERE SHALL BE IN THE DEPART-  
18 MENT OF CORRECTIONS AND COMMUNITY SUPERVISION A STATE BOARD OF PAROLE,  
19 WHICH SHALL POSSESS THE POWERS AND DUTIES HEREINAFTER SPECIFIED. THE  
20 BOARD SHALL FUNCTION INDEPENDENTLY OF THE DEPARTMENT REGARDING ALL OF  
21 ITS DECISION MAKING FUNCTIONS, AS WELL AS ANY OTHER POWERS AND DUTIES  
22 SPECIFIED IN THIS ARTICLE; PROVIDED, HOWEVER, THAT THE BOARD SHALL OPER-  
23 ATE UNDER THE ADMINISTRATIVE SUPERVISION OF THE DEPARTMENT OF  
24 CORRECTIONS AND COMMUNITY SUPERVISION AND MEMBERS OF THE BOARD SHALL  
25 ABIDE BY ALL ADMINISTRATIVE POLICIES, PROCEDURES AND REGULATIONS OF THE  
26 DEPARTMENT.

27 2. SUCH BOARD SHALL CONSIST OF NOT MORE THAN THIRTEEN MEMBERS  
28 APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE. THE  
29 TERM OF OFFICE OF EACH MEMBER OF SUCH BOARD SHALL BE FOR SIX YEARS;  
30 PROVIDED, HOWEVER, THAT ANY MEMBER CHOSEN TO FILL A VACANCY OCCURRING  
31 OTHERWISE THAN BY EXPIRATION OF TERM SHALL BE APPOINTED FOR THE REMAIN-  
32 DER OF THE UNEXPIRED TERM OF THE MEMBER WHOM HE OR SHE IS TO SUCCEED. IN  
33 THE EVENT OF THE INABILITY TO ACT OF ANY MEMBER, THE GOVERNOR MAY  
34 APPOINT SOME COMPETENT INFORMED PERSON TO ACT IN HIS OR HER STEAD DURING  
35 THE CONTINUANCE OF SUCH DISABILITY.

36 3. EACH MEMBER OF THE BOARD SHALL HAVE BEEN AWARDED A DEGREE FROM AN  
37 ACCREDITED FOUR-YEAR COLLEGE OR UNIVERSITY OR A GRADUATE DEGREE FROM  
38 SUCH COLLEGE OR UNIVERSITY OR ACCREDITED GRADUATE SCHOOL AND SHALL HAVE  
39 HAD AT LEAST FIVE YEARS OF EXPERIENCE IN ONE OR MORE OF THE FIELDS OF  
40 CRIMINOLOGY, ADMINISTRATION OF CRIMINAL JUSTICE, LAW ENFORCEMENT, SOCI-  
41 OLOGY, LAW, SOCIAL WORK, CORRECTIONS, PSYCHOLOGY, PSYCHIATRY OR MEDI-  
42 CINE.

43 4. THE GOVERNOR SHALL DESIGNATE ONE OF THE MEMBERS OF THE BOARD AS  
44 CHAIRMAN TO SERVE IN SUCH CAPACITY AT THE PLEASURE OF THE GOVERNOR OR  
45 UNTIL THE MEMBER'S TERM OF OFFICE EXPIRES AND A SUCCESSOR IS DESIGNATED  
46 IN ACCORDANCE WITH LAW, WHICHEVER FIRST OCCURS.

47 5. THE MEMBERS OF THE STATE BOARD OF PAROLE SHALL NOT HOLD ANY OTHER  
48 PUBLIC OFFICE; NOR SHALL THEY, AT ANY TIME OF THEIR APPOINTMENT NOR  
49 DURING THEIR INCUMBENCY, SERVE AS A REPRESENTATIVE OF ANY POLITICAL  
50 PARTY ON AN EXECUTIVE COMMITTEE OR OTHER GOVERNING BODY THEREOF, NOR AS  
51 AN EXECUTIVE OFFICER OR EMPLOYEE OF ANY POLITICAL COMMITTEE, ORGANIZA-  
52 TION OR ASSOCIATION.

53 6. EACH MEMBER OF THE STATE BOARD OF PAROLE SHALL RECEIVE FOR HIS OR  
54 HER SERVICES AN ANNUAL SALARY TO BE FIXED BY THE GOVERNOR WITHIN THE  
55 AMOUNT APPROPRIATED THEREFOR. EACH MEMBER OF SUCH BOARD SHALL ALSO

1 RECEIVE HIS OR HER NECESSARY EXPENSES ACTUALLY INCURRED IN THE DISCHARGE  
2 OF HIS OR HER DUTIES.

3 7. ANY MEMBER OF THE STATE BOARD OF PAROLE MAY BE REMOVED BY THE  
4 GOVERNOR FOR CAUSE AFTER AN OPPORTUNITY TO BE HEARD.

5 8. EXCEPT AS OTHERWISE PROVIDED BY LAW, A MAJORITY OF THE STATE BOARD  
6 OF PAROLE SHALL CONSTITUTE A QUORUM FOR THE TRANSACTION OF ALL BUSINESS  
7 OF THE BOARD.

8 S 259-A. BOARD OF PAROLE; FUNCTIONS, POWERS AND DUTIES. THE STATE  
9 BOARD OF PAROLE SHALL:

10 1. HAVE THE POWER AND DUTY OF DETERMINING WHICH INMATES SERVING AN  
11 INDETERMINATE OR DETERMINATE SENTENCE OF IMPRISONMENT MAY BE RELEASED ON  
12 PAROLE, OR ON MEDICAL PAROLE PURSUANT TO SECTION TWO HUNDRED  
13 FIFTY-NINE-E OR SECTION TWO HUNDRED FIFTY-NINE-F OF THIS ARTICLE;

14 2. HAVE THE POWER AND DUTY TO IMPOSE CERTAIN CONDITIONS OF MEDICAL  
15 PAROLE WHEN AN INMATE IS RELEASED ON MEDICAL PAROLE PURSUANT TO SECTION  
16 TWO HUNDRED FIFTY-NINE-E OR SECTION TWO HUNDRED FIFTY-NINE-F OF THIS  
17 ARTICLE;

18 3. UTILIZE WRITTEN PROCEDURES IN MAKING PAROLE DECISIONS AS REQUIRED  
19 BY LAW. SUCH WRITTEN PROCEDURES MAY CONSIST OF A RISK AND NEEDS ASSESS-  
20 MENT INSTRUMENT THAT ASSISTS MEMBERS OF THE STATE BOARD OF PAROLE IN  
21 DETERMINING WHICH INMATES ARE APPROPRIATE FOR RELEASE TO PAROLE SUPER-  
22 VISION;

23 4. HAVE THE AUTHORITY TO MAKE RECOMMENDATIONS TO THE GOVERNOR WITH  
24 RESPECT TO INMATES UNDER CONSIDERATION BY THE GOVERNOR FOR PARDON OR  
25 COMMUTATION OF SENTENCE;

26 5. MAKE RULES FOR THE CONDUCT OF ITS WORK, A COPY OF SUCH RULES AND OF  
27 ANY AMENDMENTS THERETO TO BE FILED BY THE CHAIRMAN WITH THE SECRETARY OF  
28 STATE;

29 6. TRANSMIT A REPORT OF THE WORK OF THE STATE BOARD OF PAROLE FOR THE  
30 PRECEDING CALENDAR YEAR TO THE GOVERNOR AND THE LEGISLATURE ANNUALLY;  
31 AND

32 7. DETERMINE WHICH INMATES SERVING A DEFINITE SENTENCE OF IMPRISONMENT  
33 MAY BE CONDITIONALLY RELEASED FROM AN INSTITUTION IN WHICH HE OR SHE IS  
34 CONFINED IN ACCORDANCE WITH SUBDIVISION TWO OF SECTION 70.40 OF THE  
35 PENAL LAW. THE OFFICIAL IN CHARGE OF EACH INSTITUTION WHEREIN ANY PERSON  
36 IS CONFINED UNDER A DEFINITE SENTENCE OF IMPRISONMENT, ALL OFFICERS AND  
37 EMPLOYEES THEREOF AND ALL OTHER PUBLIC OFFICIALS SHALL AT ALL TIMES  
38 COOPERATE WITH THE BOARD OF PAROLE, AND SHALL FURNISH TO SUCH BOARD SUCH  
39 INFORMATION AS MAY BE REQUIRED BY THE BOARD TO PERFORM ITS FUNCTIONS  
40 HEREUNDER. THE MEMBERS OF THE BOARD SHALL AT ALL TIMES BE GIVEN FREE  
41 ACCESS TO ALL PERSONS CONFINED IN ANY SUCH INSTITUTIONS UNDER SUCH  
42 SENTENCES AND SHALL BE FURNISHED WITH APPROPRIATE WORKING SPACE IN SUCH  
43 INSTITUTIONS FOR SUCH PURPOSE WITHOUT CHARGE THEREFOR. IT SHALL BE THE  
44 DUTY OF THE CLERK OF THE COURT, THE COMMISSIONER OF MENTAL HEALTH AND  
45 ALL PROBATION OFFICERS AND OTHER APPROPRIATE OFFICIALS TO SEND SUCH  
46 INFORMATION AS MAY BE IN THEIR POSSESSION OR UNDER THEIR CONTROL TO THE  
47 CHAIRMAN OF THE BOARD OF PAROLE UPON REQUEST IN ORDER TO FACILITATE THE  
48 WORK OF THE BOARD.

49 S 259-B. PROCEDURES FOR THE CONDUCT OF THE WORK OF THE STATE BOARD OF  
50 PAROLE. 1. MINIMUM PERIODS OF IMPRISONMENT. FOR ANY INMATES WHOSE MINI-  
51 MUM PERIOD OF IMPRISONMENT WAS FIXED BY THE BOARD, THE BOARD MAY PROVIDE  
52 BY RULE FOR THE MAKING OF SUBSEQUENT DETERMINATIONS REDUCING SUCH MINI-  
53 MUM PERIOD THAT SHALL NOT BE REDUCED TO LESS THAN ONE YEAR. NOTIFICATION  
54 OF SUCH DETERMINATION AND OF ANY SUBSEQUENT DETERMINATIONS AND OF THE  
55 REASONS THEREFOR SHALL BE FURNISHED IN WRITING TO THE SENTENCED PERSON

1 AND TO THE PERSON IN CHARGE OF THE INSTITUTION AS SOON AS PRACTICABLE.  
2 SUCH REASONS SHALL BE GIVEN IN DETAIL AND NOT IN CONCLUSORY TERMS.

3 2. PAROLE. (A)(I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS  
4 PARAGRAPH, AT LEAST ONE MONTH PRIOR TO THE DATE ON WHICH AN INMATE MAY  
5 BE PAROLED PURSUANT TO SUBDIVISION ONE OF SECTION 70.40 OF THE PENAL  
6 LAW, A MEMBER OR MEMBERS AS DETERMINED BY THE RULES OF THE BOARD SHALL  
7 PERSONALLY INTERVIEW SUCH INMATE AND DETERMINE WHETHER HE OR SHE SHOULD  
8 BE PAROLED IN ACCORDANCE WITH THIS ARTICLE. IF PAROLE IS NOT GRANTED  
9 UPON SUCH REVIEW, THE INMATE SHALL BE INFORMED IN WRITING WITHIN TWO  
10 WEEKS OF SUCH APPEARANCE OF THE REASONS FOR SUCH DENIAL OF PAROLE. SUCH  
11 REASONS SHALL BE GIVEN IN DETAIL AND NOT IN CONCLUSORY TERMS. THE BOARD  
12 SHALL SPECIFY A DATE NOT MORE THAN TWENTY-FOUR MONTHS FROM SUCH DETERMI-  
13 NATION FOR RECONSIDERATION, AND THE PROCEDURES TO BE FOLLOWED UPON  
14 RECONSIDERATION SHALL BE THE SAME. IF THE INMATE IS RELEASED, HE OR SHE  
15 SHALL BE GIVEN A COPY OF THE CONDITIONS OF COMMUNITY SUPERVISION BY THE  
16 DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION.

17 (II) ANY INMATE WHO IS SCHEDULED FOR PRESUMPTIVE RELEASE PURSUANT TO  
18 SECTION EIGHT HUNDRED SIX OF THE CORRECTION LAW SHALL NOT APPEAR BEFORE  
19 THE PAROLE BOARD AS PROVIDED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH,  
20 UNLESS SUCH INMATE'S SCHEDULED PRESUMPTIVE RELEASE IS FORFEITED,  
21 CANCELED, OR RESCINDED SUBSEQUENTLY AS PROVIDED IN SUCH LAW. IN SUCH  
22 EVENT, THE INMATE SHALL APPEAR BEFORE THE PAROLE BOARD FOR RELEASE  
23 CONSIDERATION AS PROVIDED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH AS SOON  
24 THEREAFTER AS IS PRACTICABLE.

25 (B) PERSONS PAROLED FROM AN INSTITUTION UNDER THE JURISDICTION OF THE  
26 DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION, THE OFFICE OF  
27 MENTAL HEALTH OR THE OFFICE OF CHILDREN AND FAMILY SERVICES SHALL, WHILE  
28 ON PAROLE, BE UNDER THE JURISDICTION OF THE DEPARTMENT OF CORRECTIONS  
29 AND COMMUNITY SUPERVISION UNTIL EXPIRATION OF THE MAXIMUM TERM OR PERIOD  
30 OF SENTENCE, INCLUDING ANY PERIOD OF POST-RELEASE SUPERVISION, OR RETURN  
31 TO THE CUSTODY OF THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPER-  
32 VISION.

33 (C) DISCRETIONARY RELEASE ON PAROLE SHALL NOT BE GRANTED MERELY AS A  
34 REWARD FOR GOOD CONDUCT OR EFFICIENT PERFORMANCE OF DUTIES WHILE  
35 CONFINED, BUT AFTER CONSIDERING IF THERE IS A REASONABLE PROBABILITY  
36 THAT, IF SUCH INMATE IS RELEASED, HE OR SHE WILL LIVE AND REMAIN AT  
37 LIBERTY WITHOUT VIOLATING THE LAW, AND THAT HIS OR HER RELEASE IS NOT  
38 INCOMPATIBLE WITH THE WELFARE OF SOCIETY AND WILL NOT SO DEPRECATE THE  
39 SERIOUSNESS OF HIS OR HER CRIME AS TO UNDERMINE RESPECT FOR THE LAW. IN  
40 MAKING THE PAROLE RELEASE DECISION, THE FOLLOWING SHALL BE CONSIDERED:

41 (I) THE SERIOUSNESS OF THE OFFENSE WITH DUE CONSIDERATION TO THE TYPE  
42 AND LENGTH OF SENTENCE; (II) RECOMMENDATIONS OF THE SENTENCING COURT,  
43 THE DISTRICT ATTORNEY, AND THE ATTORNEY FOR THE INMATE; (III) THE  
44 PRE-SENTENCE PROBATION REPORT, AS WELL AS CONSIDERATION OF ANY MITIGAT-  
45 ING AND AGGRAVATING FACTORS AND ACTIVITIES FOLLOWING ARREST AND PRIOR TO  
46 CONFINEMENT; (IV) PRIOR CRIMINAL RECORD, INCLUDING THE NATURE AND  
47 PATTERN OF OFFENSES, ADJUSTMENT TO ANY PREVIOUS PROBATION OR PAROLE  
48 SUPERVISION AND INSTITUTIONAL CONFINEMENT; (V) THE INSTITUTIONAL RECORD  
49 INCLUDING PROGRAM GOALS AND ACCOMPLISHMENTS, ACADEMIC ACHIEVEMENTS,  
50 VOCATIONAL EDUCATION, TRAINING OR WORK ASSIGNMENTS, THERAPY AND INTER-  
51 ACTIONS WITH STAFF AND INMATES; (VI) PERFORMANCE, IF ANY, AS A PARTIC-  
52 IPANT IN A TEMPORARY RELEASE PROGRAM; (VII) RELEASE PLANS INCLUDING  
53 COMMUNITY RESOURCES, EMPLOYMENT, EDUCATION, TRAINING AND SUPPORT  
54 SERVICES AVAILABLE TO THE INMATE; (VIII) ANY DEPORTATION ORDER ISSUED BY  
55 THE FEDERAL GOVERNMENT AGAINST THE INMATE WHILE IN THE CUSTODY OF THE  
56 DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION AND ANY RECOMMENDA-

1 TION REGARDING DEPORTATION MADE BY THE COMMISSIONER OF THE DEPARTMENT OF  
2 CORRECTIONS AND COMMUNITY SUPERVISION PURSUANT TO SECTION ONE HUNDRED  
3 FORTY-SEVEN OF THE CORRECTION LAW; (IX) ANY STATEMENT MADE TO THE BOARD  
4 BY THE CRIME VICTIM OR THE VICTIM'S REPRESENTATIVE, WHERE THE CRIME  
5 VICTIM IS DECEASED OR IS MENTALLY OR PHYSICALLY INCAPACITATED; AND (X)  
6 THE LENGTH OF THE DETERMINATE SENTENCE TO WHICH THE INMATE WOULD BE  
7 SUBJECT HAD HE OR SHE RECEIVED A SENTENCE PURSUANT TO SECTION 70.70 OR  
8 SECTION 70.71 OF THE PENAL LAW FOR A FELONY DEFINED IN ARTICLE TWO  
9 HUNDRED TWENTY OR ARTICLE TWO HUNDRED TWENTY-ONE OF THE PENAL LAW.

10 (D) IN THE CASE OF AN ORAL STATEMENT MADE IN ACCORDANCE WITH SUBDIVI-  
11 SION ONE OF SECTION 440.50 OF THE CRIMINAL PROCEDURE LAW, THE PAROLE  
12 BOARD MEMBER SHALL PRESENT A WRITTEN REPORT OF THE STATEMENT TO THE  
13 PAROLE BOARD. A CRIME VICTIM'S REPRESENTATIVE SHALL MEAN THE CRIME  
14 VICTIM'S CLOSEST SURVIVING RELATIVE, THE COMMITTEE OR GUARDIAN OF SUCH  
15 PERSON, OR THE LEGAL REPRESENTATIVE OF ANY SUCH PERSON. SUCH STATEMENT  
16 SUBMITTED BY THE VICTIM OR VICTIM'S REPRESENTATIVE MAY INCLUDE INFORMA-  
17 TION CONCERNING THREATENING OR INTIMIDATING CONDUCT TOWARD THE VICTIM,  
18 THE VICTIM'S REPRESENTATIVE, OR THE VICTIM'S FAMILY, MADE BY THE PERSON  
19 SENTENCED AND OCCURRING AFTER THE SENTENCING. SUCH INFORMATION MAY  
20 INCLUDE, BUT NEED NOT BE LIMITED TO, THE THREATENING OR INTIMIDATING  
21 CONDUCT OF ANY OTHER PERSON WHO OR WHICH IS DIRECTED BY THE PERSON  
22 SENTENCED. WHERE A CRIME VICTIM OR VICTIM'S REPRESENTATIVE OR OTHER  
23 PERSON SUBMITS TO THE PAROLE BOARD A WRITTEN STATEMENT CONCERNING THE  
24 RELEASE OF AN INMATE, THE PAROLE BOARD SHALL KEEP THAT INDIVIDUAL'S NAME  
25 AND ADDRESS CONFIDENTIAL. THE DEPARTMENT OF CORRECTIONS AND COMMUNITY  
26 SUPERVISION SHALL PROVIDE TOLL FREE TELEPHONE ACCESS FOR CRIME VICTIMS.

27 (E) (I) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPHS (A), (B), (C) AND  
28 (D) OF THIS SUBDIVISION, AFTER THE INMATE HAS SERVED HIS OR HER MINIMUM  
29 PERIOD OF IMPRISONMENT IMPOSED BY THE COURT, OR AT ANY TIME AFTER THE  
30 INMATE'S PERIOD OF IMPRISONMENT HAS COMMENCED FOR AN INMATE SERVING A  
31 DETERMINATE OR INDETERMINATE TERM OF IMPRISONMENT, PROVIDED THAT THE  
32 INMATE HAS HAD A FINAL ORDER OF DEPORTATION ISSUED AGAINST HIM OR HER  
33 AND PROVIDED FURTHER THAT THE INMATE IS NOT CONVICTED OF EITHER AN A-I  
34 FELONY OFFENSE OTHER THAN AN A-I FELONY OFFENSE AS DEFINED IN ARTICLE  
35 TWO HUNDRED TWENTY OF THE PENAL LAW OR A VIOLENT FELONY OFFENSE AS  
36 DEFINED IN SECTION 70.02 OF THE PENAL LAW, IF THE INMATE IS SUBJECT TO  
37 DEPORTATION BY THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT, IN  
38 ADDITION TO THE CRITERIA SET FORTH IN PARAGRAPH (C) OF THIS SUBDIVISION,  
39 THE BOARD MAY CONSIDER, AS A FACTOR WARRANTING EARLIER RELEASE, THE FACT  
40 THAT SUCH INMATE WILL BE DEPORTED, AND MAY GRANT PAROLE FROM AN INDETER-  
41 MINATE SENTENCE OR RELEASE FOR DEPORTATION FROM A DETERMINATE SENTENCE  
42 TO SUCH INMATE CONDITIONED SPECIFICALLY ON HIS OR HER PROMPT DEPORTA-  
43 TION. THE BOARD MAY MAKE SUCH CONDITIONAL GRANT OF EARLY PAROLE FROM AN  
44 INDETERMINATE SENTENCE OR RELEASE FOR DEPORTATION FROM A DETERMINATE  
45 SENTENCE ONLY WHERE IT HAS RECEIVED FROM THE UNITED STATES IMMIGRATION  
46 AND CUSTOMS ENFORCEMENT ASSURANCE (A) THAT AN ORDER OF DEPORTATION WILL  
47 BE EXECUTED OR THAT PROCEEDINGS WILL PROMPTLY BE COMMENCED FOR THE  
48 PURPOSE OF DEPORTATION UPON RELEASE OF THE INMATE FROM THE CUSTODY OF  
49 THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION, AND (B) THAT  
50 THE INMATE, IF GRANTED PAROLE OR RELEASE FOR DEPORTATION PURSUANT TO  
51 THIS PARAGRAPH, WILL NOT BE RELEASED FROM THE CUSTODY OF THE UNITED  
52 STATES IMMIGRATION AND CUSTOMS ENFORCEMENT, UNLESS SUCH RELEASE BE AS A  
53 RESULT OF DEPORTATION, WITHOUT PROVIDING THE DEPARTMENT OF CORRECTIONS  
54 AND COMMUNITY SUPERVISION A REASONABLE OPPORTUNITY TO ARRANGE FOR  
55 EXECUTION OF ITS WARRANT FOR THE RETAKING OF SUCH PERSON.

1 (II) AN INMATE WHO HAS BEEN GRANTED PAROLE FROM AN INDETERMINATE  
2 SENTENCE OR RELEASE FOR DEPORTATION FROM A DETERMINATE SENTENCE PURSUANT  
3 TO THIS PARAGRAPH SHALL BE DELIVERED TO THE CUSTODY OF THE UNITED STATES  
4 IMMIGRATION AND CUSTOMS ENFORCEMENT ALONG WITH A WARRANT FOR HIS OR HER  
5 RETAKING TO BE EXECUTED IN THE EVENT OF HIS OR HER RELEASE FROM SUCH  
6 CUSTODY OTHER THAN BY DEPORTATION. IN THE EVENT THAT SUCH PERSON IS NOT  
7 DEPORTED, THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION SHALL  
8 EXECUTE THE WARRANT, EFFECT HIS OR HER RETURN TO THE CUSTODY OF THE  
9 DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION AND WITHIN SIXTY  
10 DAYS AFTER SUCH RETURN, PROVIDED THAT THE PERSON IS SERVING AN INDETER-  
11 MINATE SENTENCE AND THE MINIMUM PERIOD OF IMPRISONMENT HAS BEEN SERVED,  
12 THE BOARD OF PAROLE SHALL PERSONALLY INTERVIEW HIM OR HER TO DETERMINE  
13 WHETHER HE OR SHE SHOULD BE PAROLED IN ACCORDANCE WITH THE PROVISIONS OF  
14 PARAGRAPHS (A), (B), (C) AND (D) OF THIS SUBDIVISION. THE RETURN OF A  
15 PERSON GRANTED PAROLE FROM AN INDETERMINATE SENTENCE OR RELEASE FOR  
16 DEPORTATION FROM A DETERMINATE SENTENCE PURSUANT TO THIS PARAGRAPH FOR  
17 THE REASON SET FORTH HEREIN SHALL NOT BE DEEMED TO BE A PAROLE DELIN-  
18 QUENCY AND THE INTERRUPTIONS SPECIFIED IN SUBDIVISION THREE OF SECTION  
19 70.40 OF THE PENAL LAW SHALL NOT APPLY, BUT THE TIME SPENT IN THE CUSTO-  
20 DY OF THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT SHALL BE  
21 CREDITED AGAINST THE TERM OF THE SENTENCE IN ACCORDANCE WITH THE RULES  
22 SPECIFIED IN PARAGRAPH (C) OF THAT SUBDIVISION. NOTWITHSTANDING ANY  
23 OTHER PROVISION OF LAW, ANY INMATE GRANTED PAROLE FROM AN INDETERMINATE  
24 SENTENCE OR RELEASE FOR DEPORTATION FROM A DETERMINATE SENTENCE PURSUANT  
25 TO THIS PARAGRAPH WHO IS SUBSEQUENTLY COMMITTED TO THE CUSTODY OF THE  
26 DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION FOR A FELONY OFFENSE  
27 COMMITTED AFTER RELEASE PURSUANT TO THIS PARAGRAPH SHALL HAVE HIS OR HER  
28 PAROLE ELIGIBILITY DATE ON THE INDETERMINATE SENTENCE FOR THE NEW FELONY  
29 OFFENSE, OR HIS OR HER CONDITIONAL RELEASE DATE ON THE DETERMINATE  
30 SENTENCE FOR THE NEW FELONY OFFENSE, AS THE CASE MAY BE, EXTENDED BY THE  
31 AMOUNT OF TIME BETWEEN THE DATE ON WHICH SUCH INMATE WAS RELEASED FROM  
32 THE CUSTODY OF THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION  
33 PURSUANT TO THIS PARAGRAPH AND THE DATE ON WHICH SUCH INMATE WOULD  
34 OTHERWISE HAVE COMPLETED SERVICE OF THE MINIMUM PERIOD OF IMPRISONMENT  
35 ON THE PRIOR FELONY OFFENSE.

36 (F) NOTWITHSTANDING THE REQUIREMENTS OF PARAGRAPH (A) OF THIS SUBDIVI-  
37 SION, THE DETERMINATION TO PAROLE AN INMATE WHO HAS SUCCESSFULLY  
38 COMPLETED THE SHOCK INCARCERATION PROGRAM PURSUANT TO ARTICLE  
39 TWENTY-SIX-A OF THE CORRECTION LAW MAY BE MADE WITHOUT A PERSONAL INTER-  
40 VIEW OF THE INMATE AND SHALL BE MADE IN ACCORDANCE WITH PROCEDURES SET  
41 FORTH IN THE RULES OF THE BOARD. IF PAROLE IS NOT GRANTED, THE TIME  
42 PERIOD FOR RECONSIDERATION SHALL NOT EXCEED THE COURT IMPOSED MINIMUM.

43 3. APPEALS. (A) ALL DETERMINATIONS MADE PURSUANT TO THIS SECTION MAY  
44 BE APPEALED IN ACCORDANCE WITH SECTION TWO HUNDRED SIX OF THE CORRECTION  
45 LAW. ANY BOARD MEMBER WHO PARTICIPATED IN THE DECISION FROM WHICH THE  
46 APPEAL IS TAKEN MAY NOT PARTICIPATE IN THE RESOLUTION OF THAT APPEAL.

47 (B) UPON AN APPEAL TO THE BOARD, THE INMATE MAY BE REPRESENTED BY AN  
48 ATTORNEY. WHERE THE INMATE IS FINANCIALLY UNABLE TO PROVIDE FOR HIS OR  
49 HER OWN ATTORNEY, THE CRIMINAL COURT OF THE CITY OF NEW YORK, THE COUNTY  
50 COURT OR DISTRICT COURT IN THE COUNTY WHERE THE INTERVIEW WAS HELD,  
51 SHALL ASSIGN COUNSEL IN ACCORDANCE WITH THE COUNTY OR CITY PLAN FOR  
52 REPRESENTATION PLACED IN OPERATION PURSUANT TO ARTICLE EIGHTEEN-B OF THE  
53 COUNTY LAW.

54 4. ACTIONS OF THE BOARD. ANY ACTION BY THE BOARD OR A MEMBER THEREOF  
55 PURSUANT TO THIS ARTICLE SHALL BE DEEMED A JUDICIAL FUNCTION AND SHALL  
56 NOT BE REVIEWABLE IF DONE IN ACCORDANCE WITH LAW.

1 5. RECORD OF PROCEEDINGS. (A) THE BOARD SHALL PROVIDE FOR THE MAKING  
2 OF A VERBATIM RECORD OF EACH PAROLE RELEASE INTERVIEW.

3 (B) THE CHAIRMAN OF THE BOARD OF PAROLE SHALL MAINTAIN RECORDS OF ALL  
4 PAROLE INTERVIEWS FOR A PERIOD OF TWENTY-FIVE YEARS FROM THE DATE OF THE  
5 PAROLE RELEASE INTERVIEW OR UNTIL EXPIRATION OF THE MAXIMUM TERM OF  
6 SENTENCE.

7 6. DEAF PERSON BEFORE THE BOARD. WHENEVER ANY DEAF PERSON PARTICIPATES  
8 IN A PAROLE RELEASE INTERVIEW, THERE SHALL BE APPOINTED A QUALIFIED  
9 INTERPRETER WHO IS CERTIFIED BY A RECOGNIZED NATIONAL OR NEW YORK STATE  
10 CREDENTIALING AUTHORITY TO INTERPRET THE PROCEEDINGS TO AND THE STATE-  
11 MENTS OR TESTIMONY OF SUCH DEAF PERSON.

12 S 259-C. DISCHARGE OF SENTENCE. EXCEPT WHERE A DETERMINATE SENTENCE  
13 WAS IMPOSED FOR A FELONY, OTHER THAN A FELONY DEFINED IN ARTICLE TWO  
14 HUNDRED TWENTY OR ARTICLE TWO HUNDRED TWENTY-ONE OF THE PENAL LAW, IF  
15 THE BOARD OF PAROLE IS SATISFIED THAT AN ABSOLUTE DISCHARGE FROM  
16 PRESUMPTIVE RELEASE, PAROLE, CONDITIONAL RELEASE OR RELEASE TO A PERIOD  
17 OF POST-RELEASE SUPERVISION IS IN THE BEST INTERESTS OF SOCIETY, THE  
18 BOARD MAY GRANT SUCH A DISCHARGE PRIOR TO THE EXPIRATION OF THE FULL  
19 TERM OR MAXIMUM TERM TO ANY PERSON WHO HAS BEEN ON UNREVOKED COMMUNITY  
20 SUPERVISION FOR AT LEAST THREE CONSECUTIVE YEARS. A DISCHARGE GRANTED  
21 UNDER THIS SECTION SHALL CONSTITUTE A TERMINATION OF THE SENTENCE WITH  
22 RESPECT TO WHICH IT WAS GRANTED. NO SUCH DISCHARGE SHALL BE GRANTED  
23 UNLESS THE BOARD OF PAROLE IS SATISFIED THAT THE PAROLEE OR RELEASEE,  
24 OTHERWISE FINANCIALLY ABLE TO COMPLY WITH AN ORDER OF RESTITUTION AND  
25 THE PAYMENT OF ANY MANDATORY SURCHARGE, SEX OFFENDER REGISTRATION FEE OR  
26 DNA DATABANK FEE PREVIOUSLY IMPOSED BY A COURT OF COMPETENT JURISDIC-  
27 TION, HAS MADE A GOOD FAITH EFFORT TO COMPLY THEREWITH.

28 S 259-D. ACCESS TO INSTITUTIONS. MEMBERS OF THE BOARD OF PAROLE SHALL  
29 HAVE ACCESS TO ALL INMATES CONFINED IN INSTITUTIONS UNDER THE JURISDIC-  
30 TION OF THE DEPARTMENT OF CORRECTION AND COMMUNITY SUPERVISION, THE  
31 OFFICE OF CHILDREN AND FAMILY SERVICES AND THE OFFICE OF MENTAL HEALTH  
32 IN ORDER TO ENABLE THEM TO PERFORM THEIR FUNCTIONS, PROVIDED, HOWEVER,  
33 THAT THE OFFICE OF MENTAL HEALTH MAY TEMPORARILY RESTRICT SUCH ACCESS  
34 WHERE IT DETERMINES, FOR SIGNIFICANT CLINICAL REASONS, THAT SUCH ACCESS  
35 WOULD INTERFERE WITH ITS CARE AND TREATMENT OF A MENTALLY ILL INMATE. IF  
36 UNDER THE PROVISIONS OF THIS SECTION AN INMATE IS NOT ACCESSIBLE FOR  
37 RELEASE CONSIDERATION BY THE BOARD, THAT INMATE SHALL BE SCHEDULED TO  
38 SEE THE BOARD IN THE MONTH IMMEDIATELY SUBSEQUENT TO THE MONTH WITHIN  
39 WHICH HE OR SHE WAS NOT AVAILABLE.

40 S 259-E. RELEASE ON MEDICAL PAROLE FOR TERMINALLY ILL INMATES. 1. (A)  
41 THE BOARD SHALL HAVE THE POWER TO RELEASE ON MEDICAL PAROLE ANY INMATE  
42 SERVING AN INDETERMINATE OR DETERMINATE SENTENCE OF IMPRISONMENT WHO,  
43 PURSUANT TO SUBDIVISION TWO OF THIS SECTION, HAS BEEN CERTIFIED TO BE  
44 SUFFERING FROM A TERMINAL CONDITION, DISEASE OR SYNDROME AND TO BE SO  
45 DEBILITATED OR INCAPACITATED AS TO CREATE A REASONABLE PROBABILITY THAT  
46 HE OR SHE IS PHYSICALLY OR COGNITIVELY INCAPABLE OF PRESENTING ANY  
47 DANGER TO SOCIETY, PROVIDED, HOWEVER, THAT NO INMATE SERVING A SENTENCE  
48 IMPOSED UPON A CONVICTION FOR MURDER IN THE FIRST DEGREE OR AN ATTEMPT  
49 OR CONSPIRACY TO COMMIT MURDER IN THE FIRST DEGREE SHALL BE ELIGIBLE FOR  
50 SUCH RELEASE, AND PROVIDED FURTHER THAT NO INMATE SERVING A SENTENCE  
51 IMPOSED UPON A CONVICTION FOR ANY OF THE FOLLOWING OFFENSES SHALL BE  
52 ELIGIBLE FOR SUCH RELEASE UNLESS IN THE CASE OF AN INDETERMINATE  
53 SENTENCE HE OR SHE HAS SERVED AT LEAST ONE-HALF OF THE MINIMUM PERIOD OF  
54 THE SENTENCE AND IN THE CASE OF A DETERMINATE SENTENCE HE OR SHE HAS  
55 SERVED AT LEAST ONE-HALF OF THE TERM OF HIS OR HER DETERMINATE SENTENCE:  
56 MURDER IN THE SECOND DEGREE, MANSLAUGHTER IN THE FIRST DEGREE, ANY

1 OFFENSE DEFINED IN ARTICLE ONE HUNDRED THIRTY OF THE PENAL LAW OR AN  
2 ATTEMPT TO COMMIT ANY OF THESE OFFENSES. SOLELY FOR THE PURPOSE OF  
3 DETERMINING MEDICAL PAROLE ELIGIBILITY PURSUANT TO THIS SECTION, SUCH  
4 ONE-HALF OF THE MINIMUM PERIOD OF THE INDETERMINATE SENTENCE AND  
5 ONE-HALF OF THE TERM OF THE DETERMINATE SENTENCE SHALL NOT BE CREDITED  
6 WITH ANY TIME SERVED UNDER THE JURISDICTION OF THE STATE DEPARTMENT OF  
7 CORRECTIONS AND COMMUNITY SUPERVISION PRIOR TO THE COMMENCEMENT OF SUCH  
8 SENTENCE PURSUANT TO THE OPENING PARAGRAPH OF SUBDIVISION ONE OF SECTION  
9 70.30 OF THE PENAL LAW OR SUBDIVISION TWO-A OF SECTION 70.30 OF THE  
10 PENAL LAW, EXCEPT TO THE EXTENT AUTHORIZED BY SUBDIVISION THREE OF  
11 SECTION 70.30 OF THE PENAL LAW.

12 (B) SUCH RELEASE SHALL BE GRANTED ONLY AFTER THE BOARD CONSIDERS  
13 WHETHER, IN LIGHT OF THE INMATE'S MEDICAL CONDITION, THERE IS A REASON-  
14 ABLE PROBABILITY THAT THE INMATE, IF RELEASED, WILL LIVE AND REMAIN AT  
15 LIBERTY WITHOUT VIOLATING THE LAW, AND THAT SUCH RELEASE IS NOT INCOM-  
16 PATIBLE WITH THE WELFARE OF SOCIETY AND WILL NOT SO DEPRECATE THE SERI-  
17 OUSNESS OF THE CRIME AS TO UNDERMINE RESPECT FOR THE LAW, AND SHALL BE  
18 SUBJECT TO THE LIMITS AND CONDITIONS SPECIFIED IN SUBDIVISION FOUR OF  
19 THIS SECTION. EXCEPT AS SET FORTH IN PARAGRAPH (A) OF THIS SUBDIVISION,  
20 SUCH RELEASE MAY BE GRANTED AT ANY TIME DURING THE TERM OF AN INMATE'S  
21 SENTENCE, NOTWITHSTANDING ANY OTHER PROVISION OF LAW.

22 (C) THE BOARD SHALL AFFORD NOTICE TO THE SENTENCING COURT, THE  
23 DISTRICT ATTORNEY AND THE ATTORNEY FOR THE INMATE THAT THE INMATE IS  
24 BEING CONSIDERED FOR RELEASE PURSUANT TO THIS SECTION AND THE PARTIES  
25 RECEIVING NOTICE SHALL HAVE FIFTEEN DAYS TO COMMENT ON THE RELEASE OF  
26 THE INMATE. RELEASE ON MEDICAL PAROLE SHALL NOT BE GRANTED UNTIL THE  
27 EXPIRATION OF THE COMMENT PERIOD PROVIDED FOR IN THIS PARAGRAPH.

28 2. (A) THE COMMISSIONER OF THE DEPARTMENT OF CORRECTIONS AND COMMUNITY  
29 SUPERVISION, ON THE COMMISSIONER'S OWN INITIATIVE OR AT THE REQUEST OF  
30 AN INMATE, OR AN INMATE'S SPOUSE, RELATIVE OR ATTORNEY, MAY, IN THE  
31 EXERCISE OF SUCH COMMISSIONER'S DISCRETION, DIRECT THAT AN INVESTIGATION  
32 BE UNDERTAKEN TO DETERMINE WHETHER A DIAGNOSIS SHOULD BE MADE OF AN  
33 INMATE WHO APPEARS TO BE SUFFERING FROM A TERMINAL CONDITION, DISEASE OR  
34 SYNDROME. ANY SUCH MEDICAL DIAGNOSIS SHALL BE MADE BY A PHYSICIAN  
35 LICENSED TO PRACTICE MEDICINE IN THIS STATE PURSUANT TO SECTION  
36 SIXTY-FIVE HUNDRED TWENTY-FOUR OF THE EDUCATION LAW. SUCH PHYSICIAN  
37 SHALL EITHER BE EMPLOYED BY THE DEPARTMENT OF CORRECTIONS AND COMMUNITY  
38 SUPERVISION, SHALL RENDER PROFESSIONAL SERVICES AT THE REQUEST OF THE  
39 DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION, OR SHALL BE  
40 EMPLOYED BY A HOSPITAL OR MEDICAL FACILITY USED BY THE DEPARTMENT OF  
41 CORRECTIONS AND COMMUNITY SUPERVISION FOR THE MEDICAL TREATMENT OF  
42 INMATES. THE DIAGNOSIS SHALL BE REPORTED TO THE COMMISSIONER OF  
43 CORRECTIONS AND COMMUNITY SUPERVISION AND SHALL INCLUDE, BUT SHALL NOT  
44 BE LIMITED TO, A DESCRIPTION OF THE TERMINAL CONDITION, DISEASE OR  
45 SYNDROME SUFFERED BY THE INMATE, A PROGNOSIS CONCERNING THE LIKELIHOOD  
46 THAT THE INMATE WILL NOT RECOVER FROM SUCH TERMINAL CONDITION, DISEASE  
47 OR SYNDROME, A DESCRIPTION OF THE INMATE'S PHYSICAL OR COGNITIVE INCA-  
48 PACITY WHICH SHALL INCLUDE A PREDICTION RESPECTING THE LIKELY DURATION  
49 OF THE INCAPACITY, AND A STATEMENT BY THE PHYSICIAN OF WHETHER THE  
50 INMATE IS SO DEBILITATED OR INCAPACITATED AS TO BE SEVERELY RESTRICTED  
51 IN HIS OR HER ABILITY TO SELF-AMBULATE OR TO PERFORM SIGNIFICANT NORMAL  
52 ACTIVITIES OF DAILY LIVING. THIS REPORT ALSO SHALL INCLUDE A RECOMMENDA-  
53 TION OF THE TYPE AND LEVEL OF SERVICES AND TREATMENT THE INMATE WOULD  
54 REQUIRE IF GRANTED MEDICAL PAROLE AND A RECOMMENDATION FOR THE TYPES OF  
55 SETTINGS IN WHICH THE SERVICES AND TREATMENT SHOULD BE GIVEN.

1 (B) THE COMMISSIONER OF THE DEPARTMENT OF CORRECTIONS AND COMMUNITY  
2 SUPERVISION, OR THE COMMISSIONER'S DESIGNEE, SHALL REVIEW THE DIAGNOSIS  
3 AND MAY CERTIFY THAT THE INMATE IS SUFFERING FROM SUCH TERMINAL CONDI-  
4 TION, DISEASE OR SYNDROME AND THAT THE INMATE IS SO DEBILITATED OR INCA-  
5 PACITATED AS TO CREATE A REASONABLE PROBABILITY THAT HE OR SHE IS PHYS-  
6 ICALLY OR COGNITIVELY INCAPABLE OF PRESENTING ANY DANGER TO SOCIETY. IF  
7 SUCH COMMISSIONER DOES NOT SO CERTIFY THEN THE INMATE SHALL NOT BE  
8 REFERRED TO THE BOARD OF PAROLE FOR CONSIDERATION FOR RELEASE ON MEDICAL  
9 PAROLE. IF SUCH COMMISSIONER DOES SO CERTIFY, THEN SUCH COMMISSIONER  
10 SHALL, WITHIN SEVEN WORKING DAYS OF RECEIPT OF SUCH DIAGNOSIS, REFER THE  
11 INMATE TO THE BOARD OF PAROLE FOR CONSIDERATION FOR RELEASE ON MEDICAL  
12 PAROLE. HOWEVER, NO SUCH REFERRAL OF AN INMATE TO THE BOARD OF PAROLE  
13 SHALL BE MADE UNLESS THE INMATE HAS BEEN EXAMINED BY A PHYSICIAN AND  
14 DIAGNOSED AS HAVING A TERMINAL CONDITION, DISEASE OR SYNDROME AS PREVI-  
15 OUSLY DESCRIBED IN THIS SUBSECTION AT SOME TIME SUBSEQUENT TO SUCH  
16 INMATE'S ADMISSION TO A FACILITY OPERATED BY THE DEPARTMENT OF  
17 CORRECTIONS AND COMMUNITY SUPERVISION.

18 (C) WHEN THE COMMISSIONER OF THE DEPARTMENT OF CORRECTIONS AND COMMU-  
19 NITY SUPERVISION REFERS AN INMATE TO THE BOARD, SUCH COMMISSIONER SHALL  
20 PROVIDE AN APPROPRIATE MEDICAL DISCHARGE PLAN ESTABLISHED BY THE DEPART-  
21 MENT OF CORRECTIONS AND COMMUNITY SUPERVISION. THE DEPARTMENT OF  
22 CORRECTIONS AND COMMUNITY SUPERVISION IS AUTHORIZED TO REQUEST ASSIST-  
23 ANCE FROM THE DEPARTMENT OF HEALTH AND FROM THE COUNTY IN WHICH THE  
24 INMATE RESIDED OR COMMITTED HIS OR HER CRIME, WHICH SHALL PROVIDE  
25 ASSISTANCE WITH RESPECT TO THE DEVELOPMENT AND IMPLEMENTATION OF A  
26 DISCHARGE PLAN, INCLUDING POTENTIAL PLACEMENTS OF A RELEASEE. THE  
27 DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION AND THE DEPARTMENT  
28 OF HEALTH SHALL JOINTLY DEVELOP STANDARDS FOR THE MEDICAL DISCHARGE PLAN  
29 THAT ARE APPROPRIATELY ADAPTED TO THE CRIMINAL JUSTICE SETTING, BASED ON  
30 STANDARDS ESTABLISHED BY THE DEPARTMENT OF HEALTH FOR HOSPITAL MEDICAL  
31 DISCHARGE PLANNING. THE BOARD MAY POSTPONE ITS DECISION PENDING  
32 COMPLETION OF AN ADEQUATE DISCHARGE PLAN, OR MAY DENY RELEASE BASED ON  
33 INADEQUACY OF THE DISCHARGE PLAN.

34 3. ANY CERTIFICATION BY THE COMMISSIONER OF THE DEPARTMENT OF  
35 CORRECTIONS AND COMMUNITY SUPERVISION OR THE COMMISSIONER'S DESIGNEE  
36 PURSUANT TO THIS SECTION SHALL BE DEEMED A JUDICIAL FUNCTION AND SHALL  
37 NOT BE REVIEWABLE IF DONE IN ACCORDANCE WITH LAW.

38 4. (A) MEDICAL PAROLE GRANTED PURSUANT TO THIS SECTION SHALL BE FOR A  
39 PERIOD OF SIX MONTHS.

40 (B) THE BOARD SHALL REQUIRE AS A CONDITION OF RELEASE ON MEDICAL  
41 PAROLE THAT THE RELEASEE AGREE TO REMAIN UNDER THE CARE OF A PHYSICIAN  
42 WHILE ON MEDICAL PAROLE AND IN A HOSPITAL ESTABLISHED PURSUANT TO ARTI-  
43 CLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW, A HOSPICE ESTABLISHED PURSU-  
44 ANT TO ARTICLE FORTY OF THE PUBLIC HEALTH LAW OR ANY OTHER PLACEMENT  
45 THAT CAN PROVIDE APPROPRIATE MEDICAL CARE AS SPECIFIED IN THE MEDICAL  
46 DISCHARGE PLAN REQUIRED BY SUBDIVISION TWO OF THIS SECTION. THE MEDICAL  
47 DISCHARGE PLAN SHALL STATE THAT THE AVAILABILITY OF THE PLACEMENT HAS  
48 BEEN CONFIRMED, AND BY WHOM. NOTWITHSTANDING ANY OTHER PROVISION OF LAW,  
49 WHEN AN INMATE WHO QUALIFIES FOR RELEASE UNDER THIS SECTION IS COGNI-  
50 TIVELY INCAPABLE OF SIGNING THE REQUISITE DOCUMENTATION TO EFFECTUATE  
51 THE MEDICAL DISCHARGE PLAN AND, AFTER A DILIGENT SEARCH NO PERSON HAS  
52 BEEN IDENTIFIED WHO COULD OTHERWISE BE APPOINTED AS THE INMATE'S GUARDI-  
53 AN BY A COURT OF COMPETENT JURISDICTION, THEN, SOLELY FOR THE PURPOSE OF  
54 IMPLEMENTING THE MEDICAL DISCHARGE PLAN, THE FACILITY HEALTH SERVICES  
55 DIRECTOR AT THE FACILITY WHERE THE INMATE IS CURRENTLY INCARCERATED

1 SHALL BE LAWFULLY EMPOWERED TO ACT AS THE INMATE'S GUARDIAN FOR THE  
2 PURPOSE OF EFFECTUATING THE MEDICAL DISCHARGE.

3 (C) PURSUANT TO SECTION TWO HUNDRED FOUR OF THE CORRECTION LAW THE  
4 DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION MAY REQUIRE AS A  
5 CONDITION OF RELEASE THAT MEDICAL PAROLEES BE SUPERVISED ON INTENSIVE  
6 CASELOADS AT REDUCED SUPERVISION RATIOS.

7 (D) THE BOARD SHALL REQUIRE AS A CONDITION OF RELEASE ON MEDICAL  
8 PAROLE THAT THE RELEASEE UNDERGO PERIODIC MEDICAL EXAMINATIONS AND A  
9 MEDICAL EXAMINATION AT LEAST ONE MONTH PRIOR TO THE EXPIRATION OF THE  
10 PERIOD OF MEDICAL PAROLE AND, FOR THE PURPOSES OF MAKING A DECISION  
11 PURSUANT TO PARAGRAPH (E) OF THIS SUBDIVISION, THAT THE RELEASEE PROVIDE  
12 THE BOARD WITH A REPORT, PREPARED BY THE TREATING PHYSICIAN, OF THE  
13 RESULTS OF SUCH EXAMINATION. SUCH REPORT SHALL SPECIFICALLY STATE WHETH-  
14 ER OR NOT THE PAROLEE CONTINUES TO SUFFER FROM A TERMINAL CONDITION,  
15 DISEASE OR SYNDROME, AND TO BE SO DEBILITATED OR INCAPACITATED AS TO BE  
16 SEVERELY RESTRICTED IN HIS OR HER ABILITY TO SELF-AMBULATE OR TO PERFORM  
17 SIGNIFICANT NORMAL ACTIVITIES OF DAILY LIVING.

18 (E) PRIOR TO THE EXPIRATION OF THE PERIOD OF MEDICAL PAROLE THE BOARD  
19 SHALL REVIEW THE MEDICAL EXAMINATION REPORT REQUIRED BY PARAGRAPH (D) OF  
20 THIS SUBDIVISION AND MAY AGAIN GRANT MEDICAL PAROLE PURSUANT TO THIS  
21 SECTION; PROVIDED, HOWEVER, THAT THE PROVISIONS OF PARAGRAPH (C) OF  
22 SUBDIVISION ONE AND SUBDIVISION TWO OF THIS SECTION SHALL NOT APPLY.

23 (F) IF THE UPDATED MEDICAL REPORT PRESENTED TO THE BOARD STATES THAT A  
24 PAROLEE RELEASED PURSUANT TO THIS SECTION IS NO LONGER SO DEBILITATED OR  
25 INCAPACITATED AS TO CREATE A REASONABLE PROBABILITY THAT HE OR SHE IS  
26 PHYSICALLY OR COGNITIVELY INCAPABLE OF PRESENTING ANY DANGER TO SOCIETY  
27 OR IF THE RELEASEE FAILS TO SUBMIT THE UPDATED MEDICAL REPORT THEN THE  
28 BOARD MAY NOT MAKE A NEW GRANT OF MEDICAL PAROLE PURSUANT TO PARAGRAPH  
29 (E) OF THIS SUBDIVISION. WHERE THE BOARD HAS NOT GRANTED MEDICAL PAROLE  
30 PURSUANT TO SUCH PARAGRAPH (E) THE BOARD SHALL PROMPTLY CONDUCT THROUGH  
31 ONE OF ITS MEMBERS A HEARING TO DETERMINE WHETHER THE RELEASEE IS  
32 SUFFERING FROM A TERMINAL CONDITION, DISEASE OR SYNDROME AND IS SO  
33 DEBILITATED OR INCAPACITATED AS TO CREATE A REASONABLE PROBABILITY THAT  
34 HE OR SHE IS PHYSICALLY OR COGNITIVELY INCAPABLE OF PRESENTING ANY  
35 DANGER TO SOCIETY AND DOES NOT PRESENT A DANGER TO SOCIETY. IF THE BOARD  
36 MAKES SUCH A DETERMINATION THEN IT MAY MAKE A NEW GRANT OF MEDICAL  
37 PAROLE PURSUANT TO THE STANDARDS OF PARAGRAPH (B) OF SUBDIVISION ONE OF  
38 THIS SECTION. AT THE HEARING, THE RELEASEE SHALL HAVE THE RIGHT TO  
39 REPRESENTATION BY COUNSEL, INCLUDING THE RIGHT, IF THE RELEASEE IS  
40 FINANCIALLY UNABLE TO RETAIN COUNSEL, TO HAVE THE APPROPRIATE COURT  
41 ASSIGN COUNSEL IN ACCORDANCE WITH THE COUNTY OR CITY PLAN FOR REPRESENTATION  
42 PLACED IN OPERATION PURSUANT TO ARTICLE EIGHTEEN-B OF THE COUNTY  
43 LAW.

44 (G) THE HEARING AND DETERMINATION PROVIDED FOR BY PARAGRAPH (F) OF  
45 THIS SUBDIVISION SHALL BE CONCLUDED WITHIN THE SIX MONTH PERIOD OF  
46 MEDICAL PAROLE. IF THE BOARD DOES NOT RENEW THE GRANT OF MEDICAL PAROLE,  
47 IT SHALL ORDER THAT THE RELEASEE BE RETURNED IMMEDIATELY TO THE CUSTODY  
48 OF THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION.

49 (H) IN ADDITION TO THE PROCEDURES SET FORTH IN PARAGRAPH (F) OF THIS  
50 SUBDIVISION, MEDICAL PAROLE MAY BE REVOKED AT ANY TIME UPON ANY OF THE  
51 GROUNDS SPECIFIED IN SUBDIVISION TWO OF SECTION TWO HUNDRED FIVE OF THE  
52 CORRECTION LAW AND IN ACCORDANCE WITH THE PROCEDURES SPECIFIED IN SUBDI-  
53 VISION TWO OF SECTION TWO HUNDRED FIVE OF THE CORRECTION LAW.

54 (I) A RELEASEE WHO IS ON MEDICAL PAROLE AND WHO BECOMES ELIGIBLE FOR  
55 PAROLE PURSUANT TO THE PROVISIONS OF SUBDIVISION TWO OF SECTION TWO

1 HUNDRED FIFTY-NINE-B OF THIS ARTICLE SHALL BE ELIGIBLE FOR PAROLE  
2 CONSIDERATION PURSUANT TO SUCH SUBDIVISION.

3 5. A DENIAL OF RELEASE ON MEDICAL PAROLE OR EXPIRATION OF MEDICAL  
4 PAROLE IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH (F) OF SUBDIVISION  
5 FOUR OF THIS SECTION SHALL NOT PRECLUDE THE INMATE FROM REAPPLYING FOR  
6 MEDICAL PAROLE OR OTHERWISE AFFECT AN INMATE'S ELIGIBILITY FOR ANY OTHER  
7 FORM OF RELEASE PROVIDED FOR BY LAW.

8 6. TO THE EXTENT THAT ANY PROVISION OF THIS SECTION REQUIRES DISCLO-  
9 SURE OF MEDICAL INFORMATION FOR THE PURPOSE OF PROCESSING AN APPLICATION  
10 OR MAKING A DECISION, REGARDING RELEASE ON MEDICAL PAROLE OR RENEWAL OF  
11 MEDICAL PAROLE, OR FOR THE PURPOSE OF APPROPRIATELY SUPERVISING A PERSON  
12 RELEASED ON MEDICAL PAROLE, AND THAT SUCH DISCLOSURE WOULD OTHERWISE BE  
13 PROHIBITED BY ARTICLE TWENTY-SEVEN-F OF THE PUBLIC HEALTH LAW, THE  
14 PROVISIONS OF THIS SECTION SHALL BE CONTROLLING.

15 7. THE COMMISSIONER OF THE DEPARTMENT OF CORRECTIONS AND COMMUNITY  
16 SUPERVISION AND THE CHAIRMAN OF THE BOARD OF PAROLE SHALL BE AUTHORIZED  
17 TO PROMULGATE RULES AND REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS  
18 SECTION.

19 8. ANY DECISION MADE BY THE BOARD PURSUANT TO THIS SECTION MAY BE  
20 APPEALED PURSUANT TO SUBDIVISION THREE OF SECTION TWO HUNDRED  
21 FIFTY-NINE-B OF THIS ARTICLE.

22 9. THE CHAIRMAN SHALL REPORT ANNUALLY TO THE GOVERNOR, THE TEMPORARY  
23 PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY, THE CHAIR-  
24 PERSONS OF THE ASSEMBLY AND SENATE CODES COMMITTEES, THE CHAIRPERSON OF  
25 THE SENATE CRIME AND CORRECTION COMMITTEE, AND THE CHAIRPERSON OF THE  
26 ASSEMBLY CORRECTION COMMITTEE THE NUMBER OF INMATES WHO HAVE APPLIED FOR  
27 MEDICAL PAROLE; THE NUMBER WHO HAVE BEEN GRANTED MEDICAL PAROLE; THE  
28 NATURE OF THE ILLNESS OF THE APPLICANTS, THE COUNTIES TO WHICH THEY HAVE  
29 BEEN RELEASED AND THE NATURE OF THE PLACEMENT PURSUANT TO THE MEDICAL  
30 DISCHARGE PLAN; THE CATEGORIES OF REASONS FOR DENIAL FOR THOSE WHO HAVE  
31 BEEN DENIED; THE NUMBER OF RELEASEES WHO HAVE BEEN GRANTED AN ADDITIONAL  
32 PERIOD OR PERIODS OF MEDICAL PAROLE AND THE NUMBER OF SUCH GRANTS; THE  
33 NUMBER OF RELEASEES ON MEDICAL PAROLE WHO HAVE BEEN REINCARCERATED WITH  
34 THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION AND THE REASONS  
35 FOR RETURN.

36 S 259-F. RELEASE ON MEDICAL PAROLE FOR INMATES SUFFERING FROM SIGNIF-  
37 ICANT DEBILITATING ILLNESSES. 1. (A) THE BOARD SHALL HAVE THE POWER TO  
38 RELEASE ON MEDICAL PAROLE ANY INMATE SERVING AN INDETERMINATE OR DETER-  
39 MINATE SENTENCE OF IMPRISONMENT WHO, PURSUANT TO SUBDIVISION TWO OF THIS  
40 SECTION, HAS BEEN CERTIFIED TO BE SUFFERING FROM A SIGNIFICANT AND  
41 PERMANENT NON-TERMINAL CONDITION, DISEASE OR SYNDROME THAT HAS RENDERED  
42 THE INMATE SO PHYSICALLY OR COGNITIVELY DEBILITATED OR INCAPACITATED AS  
43 TO CREATE A REASONABLE PROBABILITY THAT HE OR SHE DOES NOT PRESENT ANY  
44 DANGER TO SOCIETY, PROVIDED, HOWEVER, THAT NO INMATE SERVING A SENTENCE  
45 IMPOSED UPON A CONVICTION FOR MURDER IN THE FIRST DEGREE OR AN ATTEMPT  
46 OR CONSPIRACY TO COMMIT MURDER IN THE FIRST DEGREE SHALL BE ELIGIBLE FOR  
47 SUCH RELEASE, AND PROVIDED FURTHER THAT NO INMATE SERVING A SENTENCE  
48 IMPOSED UPON A CONVICTION FOR ANY OF THE FOLLOWING OFFENSES SHALL BE  
49 ELIGIBLE FOR SUCH RELEASE UNLESS IN THE CASE OF AN INDETERMINATE  
50 SENTENCE HE OR SHE HAS SERVED AT LEAST ONE-HALF OF THE MINIMUM PERIOD OF  
51 THE SENTENCE AND IN THE CASE OF A DETERMINATE SENTENCE HE OR SHE HAS  
52 SERVED AT LEAST ONE-HALF OF THE TERM OF HIS OR HER DETERMINATE SENTENCE:  
53 MURDER IN THE SECOND DEGREE, MANSLAUGHTER IN THE FIRST DEGREE, ANY  
54 OFFENSE DEFINED IN ARTICLE ONE HUNDRED THIRTY OF THE PENAL LAW OR AN  
55 ATTEMPT TO COMMIT ANY OF THESE OFFENSES. SOLELY FOR THE PURPOSE OF  
56 DETERMINING MEDICAL PAROLE ELIGIBILITY PURSUANT TO THIS SECTION, SUCH

ONE-HALF OF THE MINIMUM PERIOD OF THE INDETERMINATE SENTENCE AND ONE-HALF OF THE TERM OF THE DETERMINATE SENTENCE SHALL NOT BE CREDITED WITH ANY TIME SERVED UNDER THE JURISDICTION OF THE STATE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION PRIOR TO THE COMMENCEMENT OF SUCH SENTENCE PURSUANT TO THE OPENING PARAGRAPH OF SUBDIVISION ONE OF SECTION 70.30 OF THE PENAL LAW OR SUBDIVISION TWO-A OF SECTION 70.30 OF THE PENAL LAW, EXCEPT TO THE EXTENT AUTHORIZED BY SUBDIVISION THREE OF SECTION 70.30 OF THE PENAL LAW.

(B) SUCH RELEASE SHALL BE GRANTED ONLY AFTER THE BOARD CONSIDERS WHETHER, IN LIGHT OF THE INMATE'S MEDICAL CONDITION, THERE IS A REASONABLE PROBABILITY THAT THE INMATE, IF RELEASED, WILL LIVE AND REMAIN AT LIBERTY WITHOUT VIOLATING THE LAW, AND THAT SUCH RELEASE IS NOT INCOMPATIBLE WITH THE WELFARE OF SOCIETY AND WILL NOT SO DEPRECATE THE SERIOUSNESS OF THE CRIME AS TO UNDERMINE RESPECT FOR THE LAW, AND SHALL BE SUBJECT TO THE LIMITS AND CONDITIONS SPECIFIED IN SUBDIVISION FOUR OF THIS SECTION. IN MAKING THIS DETERMINATION, THE BOARD SHALL CONSIDER: (I) THE NATURE AND SERIOUSNESS OF THE INMATE'S CRIME; (II) THE INMATE'S PRIOR CRIMINAL RECORD; (III) THE INMATE'S DISCIPLINARY, BEHAVIORAL AND REHABILITATIVE RECORD DURING THE TERM OF HIS OR HER INCARCERATION; (IV) THE AMOUNT OF TIME THE INMATE MUST SERVE BEFORE BECOMING ELIGIBLE FOR RELEASE PURSUANT TO SECTION TWO HUNDRED FIFTY-NINE-B OF THIS ARTICLE; (V) THE CURRENT AGE OF THE INMATE AND HIS OR HER AGE AT THE TIME OF THE CRIME; (VI) THE RECOMMENDATIONS OF THE SENTENCING COURT, THE DISTRICT ATTORNEY AND THE VICTIM OR THE VICTIM'S REPRESENTATIVE; (VII) THE NATURE OF THE INMATE'S MEDICAL CONDITION, DISEASE OR SYNDROME AND THE EXTENT OF MEDICAL TREATMENT OR CARE THAT THE INMATE WILL REQUIRE AS A RESULT OF THAT CONDITION, DISEASE OR SYNDROME; AND (VIII) ANY OTHER RELEVANT FACTOR. EXCEPT AS SET FORTH IN PARAGRAPH (A) OF THIS SUBDIVISION, SUCH RELEASE MAY BE GRANTED AT ANY TIME DURING THE TERM OF AN INMATE'S SENTENCE, NOTWITHSTANDING ANY OTHER PROVISION OF LAW.

(C) THE BOARD SHALL AFFORD NOTICE TO THE SENTENCING COURT, THE DISTRICT ATTORNEY, THE ATTORNEY FOR THE INMATE AND, WHERE NECESSARY PURSUANT TO SUBDIVISION TWO OF SECTION TWO HUNDRED FIFTY-NINE-B OF THIS ARTICLE, THE CRIME VICTIM, THAT THE INMATE IS BEING CONSIDERED FOR RELEASE PURSUANT TO THIS SECTION AND THE PARTIES RECEIVING NOTICE SHALL HAVE THIRTY DAYS TO COMMENT ON THE RELEASE OF THE INMATE. RELEASE ON MEDICAL PAROLE SHALL NOT BE GRANTED UNTIL THE EXPIRATION OF THE COMMENT PERIOD PROVIDED FOR IN THIS PARAGRAPH.

2. (A) THE COMMISSIONER OF THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION, ON THE COMMISSIONER'S OWN INITIATIVE OR AT THE REQUEST OF AN INMATE, OR AN INMATE'S SPOUSE, RELATIVE OR ATTORNEY, MAY, IN THE EXERCISE OF SUCH COMMISSIONER'S DISCRETION, DIRECT THAT AN INVESTIGATION BE UNDERTAKEN TO DETERMINE WHETHER A DIAGNOSIS SHOULD BE MADE OF AN INMATE WHO APPEARS TO BE SUFFERING FROM A SIGNIFICANT AND PERMANENT NON-TERMINAL AND INCAPACITATING CONDITION, DISEASE OR SYNDROME. ANY SUCH MEDICAL DIAGNOSIS SHALL BE MADE BY A PHYSICIAN LICENSED TO PRACTICE MEDICINE IN THIS STATE PURSUANT TO SECTION SIXTY-FIVE HUNDRED TWENTY-FOUR OF THE EDUCATION LAW. SUCH PHYSICIAN SHALL EITHER BE EMPLOYED BY THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION, SHALL RENDER PROFESSIONAL SERVICES AT THE REQUEST OF THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION, OR SHALL BE EMPLOYED BY A HOSPITAL OR MEDICAL FACILITY USED BY THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION FOR THE MEDICAL TREATMENT OF INMATES. THE DIAGNOSIS SHALL BE REPORTED TO THE COMMISSIONER OF THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION AND SHALL INCLUDE BUT SHALL NOT BE LIMITED TO A DESCRIPTION OF THE CONDITION, DISEASE OR SYNDROME SUFFERED BY THE

1 INMATE, A PROGNOSIS CONCERNING THE LIKELIHOOD THAT THE INMATE WILL NOT  
2 RECOVER FROM SUCH CONDITION, DISEASE OR SYNDROME, A DESCRIPTION OF THE  
3 INMATE'S PHYSICAL OR COGNITIVE INCAPACITY WHICH SHALL INCLUDE A PREDIC-  
4 TION RESPECTING THE LIKELY DURATION OF THE INCAPACITY, AND A STATEMENT  
5 BY THE PHYSICIAN OF WHETHER THE INMATE IS SO DEBILITATED OR INCAPACI-  
6 TATED AS TO BE SEVERELY RESTRICTED IN HIS OR HER ABILITY TO SELF-AMBU-  
7 LATE OR TO PERFORM SIGNIFICANT NORMAL ACTIVITIES OF DAILY LIVING. THIS  
8 REPORT ALSO SHALL INCLUDE A RECOMMENDATION OF THE TYPE AND LEVEL OF  
9 SERVICES AND TREATMENT THE INMATE WOULD REQUIRE IF GRANTED MEDICAL  
10 PAROLE AND A RECOMMENDATION FOR THE TYPES OF SETTINGS IN WHICH THE  
11 SERVICES AND TREATMENT SHOULD BE GIVEN.

12 (B) THE COMMISSIONER OF THE DEPARTMENT OF CORRECTIONS AND COMMUNITY  
13 SUPERVISION, OR THE COMMISSIONER'S DESIGNEE, SHALL REVIEW THE DIAGNOSIS  
14 AND MAY CERTIFY THAT THE INMATE IS SUFFERING FROM SUCH CONDITION,  
15 DISEASE OR SYNDROME AND THAT THE INMATE IS SO DEBILITATED OR INCAPACI-  
16 TATED AS TO CREATE A REASONABLE PROBABILITY THAT HE OR SHE IS PHYSICALLY  
17 OR COGNITIVELY INCAPABLE OF PRESENTING ANY DANGER TO SOCIETY. IF SUCH  
18 COMMISSIONER DOES NOT SO CERTIFY THEN THE INMATE SHALL NOT BE REFERRED  
19 TO THE BOARD OF PAROLE FOR CONSIDERATION FOR RELEASE ON MEDICAL PAROLE.  
20 IF SUCH COMMISSIONER DOES SO CERTIFY, THEN SUCH COMMISSIONER SHALL,  
21 WITHIN SEVEN WORKING DAYS OF RECEIPT OF SUCH DIAGNOSIS, REFER THE INMATE  
22 TO THE BOARD OF PAROLE FOR CONSIDERATION FOR RELEASE ON MEDICAL PAROLE.  
23 HOWEVER, NO SUCH REFERRAL OF AN INMATE TO THE BOARD OF PAROLE SHALL BE  
24 MADE UNLESS THE INMATE HAS BEEN EXAMINED BY A PHYSICIAN AND DIAGNOSED AS  
25 HAVING A CONDITION, DISEASE OR SYNDROME AS PREVIOUSLY DESCRIBED IN THIS  
26 SECTION AT SOME TIME SUBSEQUENT TO SUCH INMATE'S ADMISSION TO A FACILITY  
27 OPERATED BY THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION.

28 (C) WHEN THE COMMISSIONER OF THE DEPARTMENT OF CORRECTIONS AND COMMU-  
29 NITY SUPERVISION REFERS AN INMATE TO THE BOARD, THE COMMISSIONER SHALL  
30 PROVIDE AN APPROPRIATE MEDICAL DISCHARGE PLAN ESTABLISHED BY THE DEPART-  
31 MENT OF CORRECTIONS AND COMMUNITY SUPERVISION. THE DEPARTMENT OF  
32 CORRECTIONS AND COMMUNITY SUPERVISION IS AUTHORIZED TO REQUEST ASSIST-  
33 ANCE FROM THE DEPARTMENT OF HEALTH AND FROM THE COUNTY IN WHICH THE  
34 INMATE RESIDED OR COMMITTED HIS OR HER CRIME, WHICH SHALL PROVIDE  
35 ASSISTANCE WITH RESPECT TO THE DEVELOPMENT AND IMPLEMENTATION OF A  
36 DISCHARGE PLAN, INCLUDING POTENTIAL PLACEMENTS OF A RELEASEE. THE  
37 DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION AND THE DEPARTMENT  
38 OF HEALTH SHALL JOINTLY DEVELOP STANDARDS FOR THE MEDICAL DISCHARGE PLAN  
39 THAT ARE APPROPRIATELY ADAPTED TO THE CRIMINAL JUSTICE SETTING, BASED ON  
40 STANDARDS ESTABLISHED BY THE DEPARTMENT OF HEALTH FOR HOSPITAL MEDICAL  
41 DISCHARGE PLANNING. THE BOARD MAY POSTPONE ITS DECISION PENDING  
42 COMPLETION OF AN ADEQUATE DISCHARGE PLAN, OR MAY DENY RELEASE BASED ON  
43 INADEQUACY OF THE DISCHARGE PLAN.

44 3. ANY CERTIFICATION BY THE COMMISSIONER OF THE DEPARTMENT OF  
45 CORRECTIONS AND COMMUNITY SUPERVISION OR THE COMMISSIONER'S DESIGNEE  
46 PURSUANT TO THIS SECTION SHALL BE DEEMED A JUDICIAL FUNCTION AND SHALL  
47 NOT BE REVIEWABLE IF DONE IN ACCORDANCE WITH LAW.

48 4. (A) MEDICAL PAROLE GRANTED PURSUANT TO THIS SECTION SHALL BE FOR A  
49 PERIOD OF SIX MONTHS.

50 (B) THE BOARD SHALL REQUIRE AS A CONDITION OF RELEASE ON MEDICAL  
51 PAROLE THAT THE RELEASEE AGREE TO REMAIN UNDER THE CARE OF A PHYSICIAN  
52 WHILE ON MEDICAL PAROLE AND IN A HOSPITAL ESTABLISHED PURSUANT TO ARTI-  
53 CLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW, A HOSPICE ESTABLISHED PURSU-  
54 ANT TO ARTICLE FORTY OF THE PUBLIC HEALTH LAW OR ANY OTHER PLACEMENT,  
55 INCLUDING A RESIDENCE WITH FAMILY OR OTHERS, THAT CAN PROVIDE APPROPRI-  
56 ATE MEDICAL CARE AS SPECIFIED IN THE MEDICAL DISCHARGE PLAN REQUIRED BY

1 SUBDIVISION TWO OF THIS SECTION. THE MEDICAL DISCHARGE PLAN SHALL STATE  
2 THAT THE AVAILABILITY OF THE PLACEMENT HAS BEEN CONFIRMED, AND BY WHOM.  
3 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, WHEN AN INMATE WHO QUALIFIES  
4 FOR RELEASE UNDER THIS SECTION IS COGNITIVELY INCAPABLE OF SIGNING THE  
5 REQUISITE DOCUMENTATION TO EFFECTUATE THE MEDICAL DISCHARGE PLAN AND,  
6 AFTER A DILIGENT SEARCH NO PERSON HAS BEEN IDENTIFIED WHO COULD OTHER-  
7 WISE BE APPOINTED AS THE INMATE'S GUARDIAN BY A COURT OF COMPETENT  
8 JURISDICTION, THEN, SOLELY FOR THE PURPOSE OF IMPLEMENTING THE MEDICAL  
9 DISCHARGE PLAN, THE FACILITY HEALTH SERVICES DIRECTOR AT THE FACILITY  
10 WHERE THE INMATE IS CURRENTLY INCARCERATED SHALL BE LAWFULLY EMPOWERED  
11 TO ACT AS THE INMATE'S GUARDIAN FOR THE PURPOSE OF EFFECTUATING THE  
12 MEDICAL DISCHARGE.

13 (C) PURSUANT TO SECTION TWO HUNDRED FOUR OF THE CORRECTION LAW THE  
14 DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION MAY REQUIRE AS A  
15 CONDITION OF RELEASE THAT MEDICAL PAROLEES BE SUPERVISED ON INTENSIVE  
16 CASELOADS AT REDUCED SUPERVISION RATIOS.

17 (D) THE BOARD SHALL REQUIRE AS A CONDITION OF RELEASE ON MEDICAL  
18 PAROLE THAT THE RELEASEE UNDERGO PERIODIC MEDICAL EXAMINATIONS AND A  
19 MEDICAL EXAMINATION AT LEAST ONE MONTH PRIOR TO THE EXPIRATION OF THE  
20 PERIOD OF MEDICAL PAROLE AND, FOR THE PURPOSES OF MAKING A DECISION  
21 PURSUANT TO PARAGRAPH (E) OF THIS SUBDIVISION, THAT THE RELEASEE PROVIDE  
22 THE BOARD WITH A REPORT, PREPARED BY THE TREATING PHYSICIAN, OF THE  
23 RESULTS OF SUCH EXAMINATION. SUCH REPORT SHALL SPECIFICALLY STATE WHETH-  
24 ER OR NOT THE PAROLEE CONTINUES TO SUFFER FROM A SIGNIFICANT AND PERMA-  
25 NENT NON-TERMINAL AND DEBILITATING CONDITION, DISEASE OR SYNDROME, AND  
26 TO BE SO DEBILITATED OR INCAPACITATED AS TO BE SEVERELY RESTRICTED IN  
27 HIS OR HER ABILITY TO SELF-AMBULATE OR TO PERFORM SIGNIFICANT NORMAL  
28 ACTIVITIES OF DAILY LIVING.

29 (E) PRIOR TO THE EXPIRATION OF THE PERIOD OF MEDICAL PAROLE THE BOARD  
30 SHALL REVIEW THE MEDICAL EXAMINATION REPORT REQUIRED BY PARAGRAPH (D) OF  
31 THIS SUBDIVISION AND MAY AGAIN GRANT MEDICAL PAROLE PURSUANT TO THIS  
32 SECTION; PROVIDED, HOWEVER, THAT THE PROVISIONS OF PARAGRAPH (C) OF  
33 SUBDIVISION ONE AND SUBDIVISION TWO OF THIS SECTION SHALL NOT APPLY.

34 (F) IF THE UPDATED MEDICAL REPORT PRESENTED TO THE BOARD STATES THAT A  
35 PAROLEE RELEASED PURSUANT TO THIS SECTION IS NO LONGER SO DEBILITATED OR  
36 INCAPACITATED AS TO CREATE A REASONABLE PROBABILITY THAT HE OR SHE IS  
37 PHYSICALLY OR COGNITIVELY INCAPABLE OF PRESENTING ANY DANGER TO SOCIETY  
38 OR IF THE RELEASEE FAILS TO SUBMIT THE UPDATED MEDICAL REPORT THEN THE  
39 BOARD MAY NOT MAKE A NEW GRANT OF MEDICAL PAROLE PURSUANT TO PARAGRAPH  
40 (E) OF THIS SUBDIVISION. WHERE THE BOARD HAS NOT GRANTED MEDICAL PAROLE  
41 PURSUANT TO SUCH PARAGRAPH (E) THE BOARD SHALL PROMPTLY CONDUCT THROUGH  
42 ONE OF ITS MEMBERS A HEARING TO DETERMINE WHETHER THE RELEASEE IS  
43 SUFFERING FROM A SIGNIFICANT AND PERMANENT NON-TERMINAL AND INCAPACITAT-  
44 ING CONDITION, DISEASE OR SYNDROME AND IS SO DEBILITATED OR INCAPACI-  
45 TATED AS TO CREATE A REASONABLE PROBABILITY THAT HE OR SHE IS PHYSICALLY  
46 OR COGNITIVELY INCAPABLE OF PRESENTING ANY DANGER TO SOCIETY AND DOES  
47 NOT PRESENT A DANGER TO SOCIETY. IF THE BOARD MAKES SUCH A DETERMINATION  
48 THEN IT MAY MAKE A NEW GRANT OF MEDICAL PAROLE PURSUANT TO THE STANDARDS  
49 OF PARAGRAPH (B) OF SUBDIVISION ONE OF THIS SECTION. AT THE HEARING, THE  
50 RELEASEE SHALL HAVE THE RIGHT TO REPRESENTATION BY COUNSEL, INCLUDING  
51 THE RIGHT, IF THE RELEASEE IS FINANCIALLY UNABLE TO RETAIN COUNSEL, TO  
52 HAVE THE APPROPRIATE COURT ASSIGN COUNSEL IN ACCORDANCE WITH THE COUNTY  
53 OR CITY PLAN FOR REPRESENTATION PLACED IN OPERATION PURSUANT TO ARTICLE  
54 EIGHTEEN-B OF THE COUNTY LAW.

55 (G) THE HEARING AND DETERMINATION PROVIDED FOR BY PARAGRAPH (F) OF  
56 THIS SUBDIVISION SHALL BE CONCLUDED WITHIN THE SIX MONTH PERIOD OF

1 MEDICAL PAROLE. IF THE BOARD DOES NOT RENEW THE GRANT OF MEDICAL PAROLE,  
2 IT SHALL ORDER THAT THE RELEASEE BE RETURNED IMMEDIATELY TO THE CUSTODY  
3 OF THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION.

4 (H) IN ADDITION TO THE PROCEDURES SET FORTH IN PARAGRAPH (F) OF THIS  
5 SUBDIVISION, MEDICAL PAROLE MAY BE REVOKED AT ANY TIME UPON ANY OF THE  
6 GROUNDS SPECIFIED IN SUBDIVISION TWO OF SECTION TWO HUNDRED FIVE OF THE  
7 CORRECTION LAW AND IN ACCORDANCE WITH THE PROCEDURES SPECIFIED IN SUBDI-  
8 VISION TWO OF SECTION TWO HUNDRED FIVE OF THE CORRECTION LAW.

9 (I) A RELEASEE WHO IS ON MEDICAL PAROLE AND WHO BECOMES ELIGIBLE FOR  
10 PAROLE PURSUANT TO THE PROVISIONS OF SUBDIVISION TWO OF SECTION TWO  
11 HUNDRED FIFTY-NINE-B OF THIS ARTICLE SHALL BE ELIGIBLE FOR PAROLE  
12 CONSIDERATION PURSUANT TO SUCH SUBDIVISION.

13 5. A DENIAL OF RELEASE ON MEDICAL PAROLE OR EXPIRATION OF MEDICAL  
14 PAROLE IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH (F) OF SUBDIVISION  
15 FOUR OF THIS SECTION SHALL NOT PRECLUDE THE INMATE FROM REAPPLYING FOR  
16 MEDICAL PAROLE OR OTHERWISE AFFECT AN INMATE'S ELIGIBILITY FOR ANY OTHER  
17 FORM OF RELEASE PROVIDED FOR BY LAW.

18 6. TO THE EXTENT THAT ANY PROVISION OF THIS SECTION REQUIRES DISCLO-  
19 SURE OF MEDICAL INFORMATION FOR THE PURPOSE OF PROCESSING AN APPLICATION  
20 OR MAKING A DECISION, REGARDING RELEASE ON MEDICAL PAROLE OR RENEWAL OF  
21 MEDICAL PAROLE, OR FOR THE PURPOSE OF APPROPRIATELY SUPERVISING A PERSON  
22 RELEASED ON MEDICAL PAROLE, AND THAT SUCH DISCLOSURE WOULD OTHERWISE BE  
23 PROHIBITED BY ARTICLE TWENTY-SEVEN-F OF THE PUBLIC HEALTH LAW, THE  
24 PROVISIONS OF THIS SECTION SHALL BE CONTROLLING.

25 7. THE COMMISSIONER OF THE DEPARTMENT OF CORRECTIONS AND COMMUNITY  
26 SUPERVISION AND THE CHAIRMAN OF THE BOARD OF PAROLE SHALL BE AUTHORIZED  
27 TO PROMULGATE RULES AND REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS  
28 SECTION.

29 8. ANY DECISION MADE BY THE BOARD PURSUANT TO THIS SECTION MAY BE  
30 APPEALED PURSUANT TO SUBDIVISION THREE OF SECTION TWO HUNDRED  
31 FIFTY-NINE-B OF THIS ARTICLE.

32 9. THE CHAIRMAN OF THE BOARD SHALL REPORT ANNUALLY TO THE GOVERNOR,  
33 THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY,  
34 THE CHAIRPERSONS OF THE ASSEMBLY AND SENATE CODES COMMITTEES, THE CHAIR-  
35 PERSON OF THE SENATE CRIME AND CORRECTION COMMITTEE, AND THE CHAIRPERSON  
36 OF THE ASSEMBLY CORRECTION COMMITTEE THE NUMBER OF INMATES WHO HAVE  
37 APPLIED FOR MEDICAL PAROLE UNDER THIS SECTION; THE NUMBER WHO HAVE BEEN  
38 GRANTED MEDICAL PAROLE; THE NATURE OF THE ILLNESS OF THE APPLICANTS, THE  
39 COUNTIES TO WHICH THEY HAVE BEEN RELEASED AND THE NATURE OF THE PLACE-  
40 MENT PURSUANT TO THE MEDIAL DISCHARGE PLAN; THE CATEGORIES OF REASONS  
41 FOR DENIAL FOR THOSE WHO HAVE BEEN DENIED; THE NUMBER OF RELEASEES WHO  
42 HAVE BEEN GRANTED AN ADDITIONAL PERIOD OR PERIODS OF MEDICAL PAROLE AND  
43 THE NUMBER OF SUCH GRANTS; THE NUMBER OF RELEASEES ON MEDICAL PAROLE WHO  
44 HAVE BEEN REINCARCERATED WITH THE DEPARTMENT OF CORRECTIONS AND COMMUNI-  
45 TY SUPERVISION AND THE REASONS FOR RETURN.

46 S 39. Transfer of employees. Notwithstanding any other provision of  
47 law, rule, or regulation to the contrary, upon the transfer of functions  
48 from the department of correctional services, the division of parole and  
49 the state board of parole pursuant to this act, all employees of the  
50 department of correctional services, the division of parole and the  
51 state board of parole shall be transferred to the department of  
52 corrections and community supervision. Employees transferred pursuant to  
53 this section shall be transferred without further examination or quali-  
54 fication and shall retain their respective civil service classifica-  
55 tions, status and collective bargaining unit designations and collective  
56 bargaining agreements.

1 S 40. Transfer of records. All books, papers, and property of the  
2 department of correctional services, the division of parole and the  
3 state board of parole shall be deemed to be in the possession of the  
4 commissioner of the department of corrections and community supervision.  
5 All books, papers, and property of the department of correctional  
6 services, the division of parole and the state board of parole shall  
7 continue to be maintained by the department of corrections and community  
8 supervision.

9 S 41. Continuity of authority. For the purpose of succession of all  
10 functions, powers, duties and obligations transferred and assigned to,  
11 devolved upon and assumed by it pursuant to this act, the department of  
12 corrections and community supervision shall be deemed and held to  
13 constitute the continuation of the department of correctional services,  
14 the division of parole and the state board of parole.

15 S 42. Completion of unfinished business. Any business or other matter  
16 undertaken or commenced by the department of correctional services, the  
17 division of parole or the state board of parole pertaining to or  
18 connected with the functions, powers, obligations and duties hereby  
19 transferred and assigned to the department of corrections and community  
20 supervision and pending on the effective date of this act, may be  
21 conducted and completed by the department of corrections and community  
22 supervision or the board of parole in the same manner and under the same  
23 terms and conditions and with the same effect as if conducted and  
24 completed by the department of corrections, the division of parole or  
25 the state board of parole.

26 S 43. Continuation of rules and regulations. All rules, regulations,  
27 acts, orders, determinations, and decisions of the department of correc-  
28 tional services, the division of parole and the state board of parole  
29 pertaining to the functions and powers transferred and assigned pursuant  
30 to this act, in force at the time of such transfer and assumption, shall  
31 continue in full force and effect as rules, regulations, acts, orders,  
32 determinations and decisions of the department of corrections and commu-  
33 nity supervision or the board of parole until duly modified or abrogated  
34 by the commissioner of the department of corrections and community  
35 supervision or the chairman of the board of parole, as appropriate.

36 S 44. Terms occurring in laws, contracts and other documents. Whenever  
37 the department of correctional services, the division of parole or the  
38 board of parole, or the chairman or commissioner thereof, is referred to  
39 or designated in any law, contract or document pertaining to the func-  
40 tions, powers, obligations and duties hereby transferred to and assigned  
41 to the department of corrections and community supervision or the  
42 commissioner of the department of corrections and community supervision,  
43 such reference or designation shall be deemed to refer to the department  
44 of corrections and community supervision or the commissioner of the  
45 department of corrections and community supervision, as applicable.

46 S 45. Existing rights and remedies preserved. No existing right or  
47 remedy of any character shall be lost, impaired or affected by any  
48 provisions of this act.

49 S 46. Pending actions and proceedings. No action or proceeding pending  
50 at the time when this act shall take effect, brought by or against the  
51 department of correctional services, the division of parole or the state  
52 board of parole, or the chairman or commissioner thereof, shall be  
53 affected by any provision of this act, but the same may be prosecuted or  
54 defended in the name of the commissioner of the department of  
55 corrections and community supervision or the department of corrections  
56 and community supervision. In all such actions and proceedings, the

1 commissioner of the department of corrections and community supervision,  
2 upon application of the court, shall be substituted as a party.

3 S 47. Transfer of appropriations heretofore made. All appropriations  
4 or reappropriations heretofore made to the department of correctional  
5 services, the division of parole or the state board of parole to the  
6 extent of remaining unexpended or unencumbered balance thereof, whether  
7 allocated or unallocated and whether obligated or unobligated, are here-  
8 by transferred to and made available for use and expenditure by the  
9 department of corrections and community supervision subject to the  
10 approval of the director of the budget for the same purposes for which  
11 originally appropriated or reappropriated and shall be payable on vouch-  
12 ers certified or approved by the commissioner of the department of  
13 corrections and community supervision on audit and warrant of the comp-  
14 troller.

15 S 48. Transfer of assets and liabilities. All assets and liabilities  
16 of the department of correctional services, the division of parole and  
17 the state board of parole are hereby transferred to and assumed by the  
18 department of corrections and community supervision.

19 S 49. This act shall take effect immediately, provided, however:

20 (a) that the amendments to subdivision 18 of section 2 of the  
21 correction law made in section one-a of this act shall be subject to the  
22 expiration and reversion of such subdivision pursuant to chapter 55 of  
23 the laws of 1992, as amended, when upon such date the provisions of  
24 section two of this act shall take effect;

25 (b) that the amendments to section 8 of the correction law made by  
26 section six of this act shall not affect the expiration of such section  
27 and shall be deemed to expire therewith;

28 (c) sections thirty-three and thirty-four of this act shall take  
29 effect on the same date as the reversion of provisions of the sentencing  
30 reform act of 1995 pursuant to subdivision d of section 74 of chapter 3  
31 of the laws of 1995, as amended;

32 (d) that the amendments to paragraph c of subdivision 7 of section  
33 500-b of the correction law made by section thirty-six of this act shall  
34 not affect the repeal of such section and shall be deemed repealed ther-  
35 ewith; and

36 (e) that any member of the parole board appointed prior to the effec-  
37 tive date of this act shall continue to be a member of the parole board  
38 for the remainder of his or her term, in accordance with the public  
39 officers law.

40

#### SUBPART B

41 Section 1. Section 15-b of the correction law, as added by chapter 670  
42 of the laws of 1935, is amended to read as follows:

43 S 15-b. Education. The present director of vocational education shall  
44 be the director of education with the powers and duties of the director  
45 of education and hereafter shall be appointed by the commissioner. The  
46 director of education, at any time appointed, shall be a person whose  
47 education, training and experience shall cover fields of penology and of  
48 professional education. The educational qualifications shall include the  
49 satisfactory completion of three years of graduate work in education,  
50 penology, and allied fields. The head of the division of education shall  
51 have the direct supervision of all educational work in the department of  
52 [correction] CORRECTIONS AND COMMUNITY SUPERVISION and shall have full  
53 authority to visit and inspect all institutions of the department to  
54 observe, study, organize, and develop the educational activities of such

1 institutions in harmony with the general educational program of the  
2 department. He OR SHE shall be responsible to the commissioner and deputy  
3 commissioner [of correction] DESIGNATED BY THE COMMISSIONER.

4 S 2. Intentionally omitted.

5 S 3. Intentionally omitted.

6 S 4. Section 20 of the correction law is amended to read as follows:

7 S 20. Library. A library shall be provided in the department [of  
8 correction] containing the leading books on parole, probation and other  
9 correctional activities, together with reports and other documents on  
10 correlated topics of criminology and social work.

11 S 5. Section 23 of the correction law, as amended by chapter 476 of  
12 the laws of 1970 and as renumbered by chapter 475 of the laws of 1970,  
13 is amended to read as follows:

14 S 23. Transfer of inmates from one correctional facility to another;  
15 treatment in outside hospitals. 1. The commissioner [of correction]  
16 shall have the power to transfer inmates from one correctional facility  
17 to another. Whenever the transfer of inmates from one correctional  
18 facility to another shall be ordered by the commissioner [of  
19 correction], the superintendent of the facility from which the inmates  
20 are transferred shall take immediate steps to make the transfer. The  
21 transfer shall be in accordance with rules and regulations promulgated  
22 by the department for the safe delivery of such inmates to the desig-  
23 nated facility.

24 2. The commissioner [of correction], in his OR HER discretion, may by  
25 written order permit inmates to receive medical diagnosis and treatment  
26 in outside hospitals, upon the recommendation of the superintendent or  
27 director that such outside treatment or diagnosis is necessary by reason  
28 of inadequate facilities within the institution. Such inmates shall  
29 remain under the jurisdiction and in the custody of the department while  
30 in said outside hospital and said superintendent or director shall  
31 enforce proper measures in each case to safely maintain such jurisdic-  
32 tion and custody.

33 3. The cost of transporting inmates between facilities and to outside  
34 hospitals shall be paid from funds appropriated to the department [of  
35 correction] for such purpose.

36 S 6. Paragraph (b) of subdivision 3 and subdivisions 7 and 8 of  
37 section 70 of the correction law, paragraph (b) of subdivision 3 as  
38 amended by chapter 261 of the laws of 1987, subdivisions 7 and 8 as  
39 added by chapter 476 of the laws of 1970, are amended to read as  
40 follows:

41 (b) A correctional camp or a shock incarceration correctional facility  
42 may be established by the department (i) upon land controlled and desig-  
43 nated by the commissioner [of correctional services], or (ii) on land  
44 controlled and designated by the commissioner of parks, recreation and  
45 historic preservation or, in the sixth park region, by the commissioner  
46 of environmental conservation.

47 7. The commissioner [of correction] shall have the authority to enter  
48 into leases within the amount appropriated therefor, for the purpose of  
49 maintaining or establishing any correctional facility or any adjunct  
50 thereto.

51 8. The commissioner [of correction] is authorized to enter into  
52 contracts, within the amount appropriated therefor, with any university,  
53 social agency or qualified person to render professional services to any  
54 correctional facility.

55 S 7. Section 72-a of the correction law, as added by chapter 554 of  
56 the laws of 1986, is amended to read as follows:

1 S 72-a. Community treatment facilities. 1. Transfer of eligible  
2 inmate. Notwithstanding the provisions of section seventy-two of this  
3 chapter, any inmate confined in a correctional facility who is an  
4 "eligible inmate" as defined by subdivision two of section eight hundred  
5 fifty-one of this chapter and has been certified by the division of  
6 substance abuse services as being in need of substance abuse treatment  
7 and rehabilitation may be transferred by the commissioner to a community  
8 treatment facility.

9 2. Designation of facilities. A community treatment facility shall be  
10 designated by the director of the division of substance abuse services  
11 and the commissioner. Such facility shall be operated by a provider or  
12 sponsoring agency that has provided approved residential substance abuse  
13 treatment services for at least two years duration.

14 3. Operating standards. The commissioner, after consultation with the  
15 director of the division of substance abuse services, shall promulgate  
16 rules and regulations which provide for minimum standards of operation,  
17 including but not limited to the following:

18 (a) provision for adequate security and protection of the surrounding  
19 community;

20 (b) adequate physical plant standards;

21 (c) provisions for adequate program services, staffing, and record  
22 keeping; and

23 (d) provision for the general welfare of the inmates.

24 4. [Parole] COMMUNITY supervision. The department shall [contract  
25 with the division of parole] PROVIDE for the provision of [parole]  
26 COMMUNITY supervision services. [Pursuant to such contract, all] ALL  
27 inmates residing in a community treatment facility shall be assigned to  
28 parole officers for supervision. Such parole officers shall be responsi-  
29 ble [to the division of parole] for [the purpose of] providing such  
30 supervision. [As part of its supervisory functions the division shall be  
31 required to provide reports to the department every two months on each  
32 inmate under its supervision. Such reports shall include, but not be  
33 limited to:

34 (a) an evaluation of the inmate's participation in such program; and

35 (b) a statement of any problems relative to an inmate's participation  
36 in such program and the manner in which such problems were resolved; and

37 (c) a recommendation with respect to the inmate's continued partic-  
38 ipation in the program.]

39 5. Reports. The department and the division of substance abuse  
40 services shall jointly issue quarterly reports including a description  
41 of those facilities [which] THAT have been designated as community  
42 treatment facilities, the number of inmates confined in each facility, a  
43 description of the programs within each facility, and the number of  
44 absconders, if any, as well as the nature and number of re-arrests, if  
45 any, during the [individuals' parole] INDIVIDUAL'S period OF COMMUNITY  
46 SUPERVISION. Copies of such reports, as well as copies of any inspection  
47 report issued by the department or the commission on correction shall be  
48 sent to the director of the budget, the chairman of the senate finance  
49 [comittee] COMMITTEE, the chairman of the senate crime and correction  
50 committee, the chairman of the assembly ways and means [comittee]  
51 COMMITTEE and the chairman of the assembly committee on codes.

52 6. Reimbursement. (a) The commissioner, in consultation with the  
53 director of the division of substance abuse services, shall enter into  
54 an agreement with the division of substance abuse services whereby the  
55 division of substance abuse services will contract with community treat-  
56 ment facilities for provision of services pursuant to this section with-

1 in amounts made available by the department. Each contract shall provide  
2 for frequent visitation, inspection of the facility, and enforcement of  
3 the minimum standards and shall authorize the supervision of inmates  
4 residing in a community treatment facility by parole officers.

5 (b) The commissioner shall promulgate rules and regulations specifying  
6 those costs related to the general operation of community treatment  
7 facilities [which] THAT shall be eligible for reimbursement. Such eligi-  
8 ble costs shall not include debt service, whether principal or interest,  
9 or costs for which state or federal aid or reimbursement is otherwise  
10 available. Such rules and regulations shall be subject to the approval  
11 of the director of the budget.

12 (c) The [division] DEPARTMENT shall not contract for [provisions]  
13 PROVISION of services to more than fifty inmates at any one facility.

14 (d) At least thirty days prior to final approval of any such contract,  
15 a copy of the proposed contract shall be sent to the director of the  
16 budget, the chairman of the senate finance committee, the chairman of  
17 the senate crime and correction committee, the chairman of the assembly  
18 ways and means committee, and the chairman of the assembly committee on  
19 codes.

20 S 8. Section 73 of the correction law, as added by chapter 476 of the  
21 laws of 1970, subdivision 6 as amended by chapter 843 of the laws of  
22 1980, is amended to read as follows:

23 S 73. Residential treatment facilities. 1. The commissioner may  
24 transfer any inmate of a correctional facility who is eligible for  
25 [parole] COMMUNITY SUPERVISION or who will become eligible for [parole]  
26 COMMUNITY SUPERVISION within six months after the date of transfer or  
27 who has one year or less remaining to be served under his OR HER  
28 sentence to a residential treatment facility and such person may be  
29 allowed to go outside the facility during reasonable and necessary hours  
30 to engage in any activity reasonably related to his OR HER rehabili-  
31 tation and in accordance with the program established for him OR HER.  
32 While outside the facility he OR SHE shall be at all times in the custo-  
33 dy of the department [of correction] and under [the] ITS supervision [of  
34 the state division of parole].

35 2. The [division of parole] DEPARTMENT shall be responsible for secur-  
36 ing appropriate education, on-the-job training and employment for  
37 inmates transferred to residential treatment facilities. The [division]  
38 DEPARTMENT also shall supervise such inmates during their participation  
39 in activities outside any such facility and at all times while they are  
40 outside any such facility.

41 3. Programs directed toward the rehabilitation and total reintegration  
42 into the community of persons transferred to a residential treatment  
43 facility shall be established [jointly by the department of correction  
44 and the division of parole]. Each inmate shall be assigned a specific  
45 program by the superintendent of the facility and a written memorandum  
46 of such program shall be delivered to him OR HER.

47 4. If at any time the superintendent of a residential treatment facil-  
48 ity is of the opinion that any aspect of the program assigned to an  
49 individual is inconsistent with the welfare or safety of the community  
50 or of the facility or its inmates, the superintendent may suspend such  
51 program or any part thereof and restrict the inmate's activities in any  
52 manner that is necessary and appropriate. Upon taking such action the  
53 superintendent shall promptly notify the commissioner [of correction]  
54 and pending decision by the commissioner, the superintendent may keep  
55 such inmate under such security as may be necessary.

1 5. The commissioner may at any time and for any reason transfer an  
2 inmate from a residential treatment facility to another correctional  
3 facility. [The chairman of the state board of parole may request the  
4 commissioner of correction to transfer a person out of a residential  
5 treatment facility if at any time the chairman is of the opinion that  
6 such person should no longer be allowed to follow a program that permits  
7 him to engage in activities in the community. Upon receipt of any such  
8 request, the commissioner shall forthwith transfer the inmate to a  
9 correctional facility other than a residential treatment facility.]

10 6. Where a person who is an inmate of a residential treatment facility  
11 absconds, or fails to return thereto as specified in the program  
12 approved for him OR HER, he OR SHE may be arrested and returned by an  
13 officer or employee of the department [of correction or the division of  
14 parole] or by any peace officer, acting pursuant to his OR HER special  
15 duties, or police officer without a warrant; [or a member of the board  
16 of parole or an officer of the division of parole designated by such  
17 board] OR THE DEPARTMENT may issue a warrant for the retaking of such  
18 person. A warrant issued pursuant to this subdivision shall have the  
19 same force and effect, and shall be executed in the same manner, as a  
20 warrant issued for violation of [parole] COMMUNITY SUPERVISION.

21 7. The provisions of this chapter relating to good behavior allowances  
22 and conditional release shall apply to behavior of inmates while  
23 assigned to a residential treatment facility for behavior on the prem-  
24 ises and outside the premises of such facility and good behavior allow-  
25 ances may be granted, withheld, forfeited or cancelled in whole or in  
26 part for behavior outside the premises of the facility to the same  
27 extent and in the same manner as is provided for inmates within the  
28 premises of any facility.

29 8. The STATE board of parole may grant parole to any inmate of a resi-  
30 dential treatment facility at any time after he OR SHE becomes eligible  
31 therefor. Such parole shall be in accordance with provisions of law that  
32 would apply if the person were still confined in the facility from which  
33 he OR SHE was transferred, except that any personal appearance before  
34 the board may be at any place designated by the board.

35 9. The earnings of any inmate of a residential treatment facility  
36 shall be dealt with in accordance with the procedure set forth in  
37 section eight hundred [fifty-seven] SIXTY of this chapter.

38 10. The commissioner [of correction and the chairman of the board of  
39 parole are] IS authorized to [enter into an agreement for the] use [of]  
40 any residential treatment facility as a residence for persons who are on  
41 [parole or conditional release, and persons under supervision of the  
42 board of parole] COMMUNITY SUPERVISION. PERSONS who reside in such A  
43 facility shall be subject to conditions of [parole or release] COMMUNITY  
44 SUPERVISION imposed by the [board] DEPARTMENT.

45 S 9. Subdivision 3 of section 90 of the correction law, as added by  
46 chapter 478 of the laws of 1970, is amended to read as follows:

47 3. To expand the use of programs designed to bridge the gap between  
48 incarceration and activities in the community, through the use of insti-  
49 tutions operated by local government as facilities for residential  
50 treatment of persons in the custody of the state department of  
51 [correction] CORRECTIONS AND COMMUNITY SUPERVISION.

52 S 10. Section 91 of the correction law, as added by chapter 478 of the  
53 laws of 1970, is amended to read as follows:

54 S 91. Agreements for custody of definite sentence inmates. 1. The  
55 state commissioner of [correction] CORRECTIONS AND COMMUNITY SUPERVISION  
56 may enter into an agreement with any county or with the city of New York

1 to provide for custody by the state department of [correction]  
2 CORRECTIONS AND COMMUNITY SUPERVISION of persons who receive definite  
3 sentences of imprisonment with terms in excess of ninety days who other-  
4 wise would serve such sentences in the jail, workhouse, penitentiary or  
5 other local correctional institution maintained by such locality.

6 2. Any such agreement, except one that is made with the city of New  
7 York, may be made with the sheriff, warden, superintendent, local  
8 commissioner of correction or other person in charge of such county  
9 institution and shall be subject to the approval of the chief executive  
10 officer of the county. An agreement made with the city of New York may  
11 be made with the commissioner of correction of that city and shall be  
12 subject to the approval of the mayor.

13 3. An agreement made under this section shall not require the locality  
14 to pay the cost of treatment, maintenance and custody furnished by the  
15 state department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION  
16 and shall contain at least the following provisions:

17 (a) A provision specifying the minimum length of the term of imprison-  
18 ment of persons who may be received by the state department of  
19 [correction] CORRECTIONS AND COMMUNITY SUPERVISION under the agreement,  
20 which may be any term in excess of ninety days agreed to by the parties  
21 and which need not be the same in each agreement;

22 (b) A provision that no charge will be made to the state or to the  
23 state department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION  
24 or to any of its institutions during the pendency of such agreement for  
25 delivery of inmates to the state department of [correction] CORRECTIONS  
26 AND COMMUNITY SUPERVISION by officers of the locality, and that the  
27 provisions of section six hundred two of this chapter or of any similar  
28 law shall not apply for delivery of inmates during such time;

29 (c) A provision that no charge shall be made to or shall be payable by  
30 the state during the pendency of such agreement for the expense of main-  
31 taining parole violators pursuant to section two hundred sixteen of this  
32 chapter, for the expense of maintaining coram nobis prisoners pursuant  
33 to section six hundred one-b of this chapter, for the expense of main-  
34 taining felony prisoners pursuant to section six hundred one-c of this  
35 chapter, or for the expense of maintaining alternative local reformatory  
36 inmates pursuant to section eight hundred thirty-five in institutions  
37 maintained by the locality;

38 (d) A provision, approved by the state comptroller, for reimbursement  
39 of the state department of [correction] CORRECTIONS AND COMMUNITY SUPER-  
40 VISION by the locality for expenses incurred under subdivision two or  
41 three of section one hundred twenty-five of this chapter relating to  
42 clothing, money and transportation furnished upon release or discharge  
43 of inmates delivered to the state department of [correction] CORRECTIONS  
44 AND COMMUNITY SUPERVISION pursuant to the agreement;

45 (e) Designation of the correctional facility or facilities to which  
46 persons under sentences covered by the agreement are to be delivered;

47 (f) Any other provision the state commissioner of [correction]  
48 CORRECTIONS AND COMMUNITY SUPERVISION may deem necessary or appropriate;  
49 and

50 (g) A provision giving either party the right to cancel the agreement  
51 by giving the other party notice in writing, with cancellation to become  
52 effective on such date as may be specified in such notice.

53 4. A copy of such agreement shall be filed with the secretary of state  
54 and with the clerk of each court having jurisdiction to impose sentences  
55 covered by the agreement in the county or city to which it applies.

1 S 11. Section 92 of the correction law, as added by chapter 478 of the  
2 laws of 1970, is amended to read as follows:

3 S 92. Effect of agreement for custody of definite sentence inmates. 1.  
4 After a copy of an agreement made under section ninety-one of this arti-  
5 cle is filed with the secretary of state, all commitments under  
6 sentences covered by the agreement by courts in the county or city to  
7 which it applies shall be deemed to be to the custody of the state  
8 department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION and  
9 shall be so construed and interpreted irrespective of the institution or  
10 agency to which the commitments are made.

11 2. Any inmate who is serving a term of imprisonment covered by the  
12 agreement imposed prior to the filing of such agreement, and any inmate  
13 who is under consecutive definite sentences of imprisonment with an  
14 aggregate term of the length covered by the agreement, irrespective of  
15 whether one or more of such sentences was imposed prior to the filing of  
16 the agreement, may be transferred to the care of the state department of  
17 [correction] CORRECTIONS AND COMMUNITY SUPERVISION upon request of the  
18 head of the county or city institution and approval of the state commis-  
19 sioner of [correction] CORRECTIONS AND COMMUNITY SUPERVISION.

20 3. Inmates who are deemed committed to the custody of the state  
21 department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION under  
22 subdivision one of this section, or who may be transferred to the care  
23 of the state department of [correction] CORRECTIONS AND COMMUNITY SUPER-  
24 VISION under subdivision two of this section, shall be dealt with in all  
25 respects in the same manner as inmates committed to the custody of the  
26 state department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION.

27 4. In the event any such agreement is cancelled, inmates delivered to  
28 the state department of [correction] CORRECTIONS AND COMMUNITY SUPER-  
29 VISION prior to the date of cancellation shall continue to serve their  
30 sentences in the custody of such department and the provisions of such  
31 agreement shall continue to apply with respect to such inmates. A copy  
32 of the notice of cancellation shall be filed with the secretary of state  
33 and with the clerks of courts in the manner provided in subdivision four  
34 of section ninety-one of this article, and no inmates shall be delivered  
35 to the custody of the state department of [correction] CORRECTIONS AND  
36 COMMUNITY SUPERVISION under such agreement after the date on which such  
37 cancellation becomes effective.

38 S 12. Section 93 of the correction law, as added by chapter 478 of the  
39 laws of 1970, is amended to read as follows:

40 S 93. Temporary custody of sentenced inmates in emergencies. 1. When-  
41 ever a state of emergency shall be declared by the chief executive offi-  
42 cer of a local government pursuant to section two hundred nine-m of the  
43 general municipal law, the chief executive officer of the county in  
44 which such state of emergency is declared, or where a county or counties  
45 are wholly within a city the mayor of such city, may request the gover-  
46 nor to remove all or any number of sentenced inmates from institutions  
47 maintained by such county or city. Upon receipt of such request, if the  
48 governor is satisfied that the public interest so requires, the governor  
49 may, in his discretion, authorize and direct the state commissioner of  
50 [correction] CORRECTIONS AND COMMUNITY SUPERVISION to remove such  
51 inmates.

52 2. Upon receipt of any such direction the state commissioner of  
53 [correction] CORRECTIONS AND COMMUNITY SUPERVISION shall transport such  
54 inmates to any correctional facility in the department and such inmates  
55 shall be retained in the custody of the department, subject to all laws  
56 and rules and regulations pertaining to inmates in the custody of the

department, until returned to the institution from which they were removed or discharged or released in accordance with the law.

3. In the event that the state department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION does not have space in its correctional facilities to accommodate all or any number of the inmates so removed from a local institution, the commissioner [of correction] shall have the power to lodge any number of such inmates in any county jail, workhouse or penitentiary within the state that has room to receive them and such institution shall be required to receive such inmates. Inmates so lodged shall be subject to all rules and regulations pertaining to inmates committed to such institution until returned to the institution from which they were removed, or removed to a state correctional facility, or discharged or released in accordance with the law; provided, however, that inmates discharged or released from any such local institution shall be entitled to receive clothing, money and transportation from the state department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION to the same extent as inmates discharged or released from a state correctional facility.

4. When sentenced inmates have been removed from a penitentiary pursuant to this section, such penitentiary may be used for the purpose of detention of prisoners awaiting trial or for any other purpose to which a county jail may be put.

5. The original order of commitment and any other case record pertaining to inmates removed pursuant to this section shall be delivered to the head of any institution in which he OR SHE may be lodged and shall be returned to the institution from which he OR SHE was removed at the time of his return to such institution or upon his OR HER release or discharge in accordance with the law.

6. Inmates removed from a local institution pursuant to a request made under subdivision one of this section may be returned to such institution by the state commissioner of [correction] CORRECTIONS AND COMMUNITY SUPERVISION, subject to the approval of the governor, at any time such commissioner is satisfied that the return of such inmates is not inconsistent with the public interest.

7. The county or city maintaining the institution from which inmates are removed pursuant to subdivision one of this section shall be liable for all damages arising out of any act performed pursuant to this section and for reimbursement for the following items:

(a) The cost of clothing, money and transportation furnished to any inmate who is released or discharged prior to the return of such inmate to the institution from which he OR SHE is removed shall be paid to the state department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION; and

(b) The cost of maintaining any inmate in a county jail, workhouse or penitentiary shall be paid to the local government that maintains such institution. Such cost shall be the actual per capita daily cost, as certified to the state commissioner of [correction] CORRECTIONS AND COMMUNITY SUPERVISION.

S 13. Section 94 of the correction law, as added by chapter 478 of the laws of 1970, is amended to read as follows:

S 94. Use of local government institutions for residential treatment of persons under the custody of the state department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION. 1. The state commissioner of [correction] CORRECTIONS AND COMMUNITY SUPERVISION is hereby authorized to transfer any inmate under the care or custody of the department who is eligible to be transferred to a residential treatment facility under

1 section seventy-three of this chapter to any county jail, workhouse or  
2 penitentiary for the purpose of having such inmate engage in a residen-  
3 tial treatment facility program; provided, however, that:

4 (a) Such inmate has resided or was employed or has dependents or  
5 parents who reside in the county, or in a county that is contiguous to  
6 the county, in which the institution to which he would be transferred is  
7 located;

8 (b) Arrangements have been made for the education, on-the-job train-  
9 ing, employment or for some other rehabilitative treatment of such  
10 inmate in the county, or in a county that is contiguous to the county,  
11 in which the institution to which he would be transferred is located;  
12 and

13 (c) The sheriff, warden, superintendent, local commissioner of  
14 correction or other person in charge of the institution to which the  
15 inmate would be transferred consents to such transfer.

16 2. An inmate so transferred shall continue to be in the custody of the  
17 state department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION  
18 but shall, during the period of such transfer, be in the care of the  
19 head of the institution to which he OR SHE is transferred. The  
20 provisions of section seventy-three of this chapter shall apply in the  
21 case of any such transfer as fully and completely as if the inmate were  
22 transferred to a residential treatment facility, and the head of the  
23 institution to which the inmate is transferred and the officers and  
24 employees thereof shall have and may exercise all of the powers of the  
25 superintendent of a residential treatment facility with respect to the  
26 care or custody of such inmate.

27 In any case where an inmate is employed, however, the provisions of  
28 subdivision nine of such section seventy-three shall not apply and the  
29 wages or salary of such inmate shall be dealt with under the provisions  
30 applicable to a work release program in the type of institution to which  
31 he is transferred as provided in sections one hundred fifty-four, eight  
32 hundred seventy-two or eight hundred ninety-three as the case may be;  
33 and in the event such inmate is returned to a state correctional facili-  
34 ty, any balance remaining in the trust fund account shall be paid over  
35 to the superintendent of such facility and shall be deposited by him OR  
36 HER as inmates' funds pursuant to section one hundred sixteen of this  
37 chapter.

38 3. If at any time the head of a local institution to which an inmate  
39 is transferred under this section is of the opinion that continued care  
40 of such inmate in such institution is inconsistent with the welfare or  
41 safety of the community or of the institution or its inmates, he OR SHE  
42 may request the state commissioner to return such inmate to a state  
43 correctional facility and, upon the receipt of any such request, the  
44 commissioner shall cause such inmate to be so returned promptly and at  
45 the expense of the state department of [correction] CORRECTIONS AND  
46 COMMUNITY SUPERVISION.

47 4. The expenses of any such transfer shall be paid by the state  
48 department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION and the  
49 commissioner is hereby authorized to reimburse the local institution for  
50 a sum determined by the head of such institution and agreed to in  
51 advance by the [state] commissioner [of correction] to be the cost of  
52 food, lodging and clothing within the institution, and the actual and  
53 necessary food, travel and other expenses required for a program outside  
54 the institution, incurred or advanced by the institution; provided,  
55 however, that:

(a) In any case where the [state] commissioner [of correction] has a pending agreement with a locality under section ninety-one of this article, the [commissioner of correction] COMMISSIONER shall not reimburse the local institution for any cost incurred for food, lodging and clothing within the institution; and

(b) The wages or salary, if any, of such inmate shall be used for such reimbursement and shall be applied to defray any costs authorized to be paid under this section before any amount shall be paid by the commissioner [of correction] hereunder, and any such wages or salary may be so applied irrespective of the provisions of paragraph (a) of this subdivision.

S 14. Section 116 of the correction law, as amended by section 42 of part A-1 of chapter 56 of the laws of 2010, is amended to read as follows:

S 116. Inmates' funds. The warden or superintendent of each of the institutions within the jurisdiction of the department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION shall deposit at least once in each week to his OR HER credit as such warden, or superintendent, in such bank or banks as may be designated by the comptroller, all the moneys received by him OR HER as such warden, or superintendent, as inmates' funds, and send to the comptroller and also to the commissioner [of correction] monthly, a statement showing the amount so received and deposited. Such statement of deposits shall be certified by the proper officer of the bank receiving such deposit or deposits. The warden, or superintendent, shall also verify by his OR HER affidavit that the sum so deposited is all the money received by him OR HER as inmates' funds during the month. Any bank in which such deposits shall be made shall, before receiving any such deposits, file a bond with the comptroller of the state, subject to his OR HER approval, for such sum as he OR SHE shall deem necessary. Upon a certificate of approval issued by the director of the budget, pursuant to the provisions of section fifty-three of the state finance law, the amount of interest, if any, heretofore accrued and hereafter to accrue on moneys so deposited, heretofore and hereafter credited to the warden, or superintendent, by the bank from time to time, shall be available for expenditure by the warden, or superintendent, subject to the direction of the commissioner, for welfare work among the inmates in his custody. The withdrawal of moneys so deposited by such warden, or superintendent, as inmates' funds, including any interest so credited, shall be subject to his OR HER check. Each warden, or superintendent, shall each month provide the comptroller and also the commissioner with a record of all withdrawals from inmates' funds. As used in this section, the term "inmates' funds" means the funds in the possession of the inmate at the time of his OR HER admission into the institution, funds earned by him OR HER as provided in section one hundred eighty-seven of this chapter and any other funds received by him OR HER or on his OR HER behalf and deposited with such warden or superintendent in accordance with the rules and regulations of the commissioner. Whenever the total unencumbered value of funds in an inmate's account exceeds ten thousand dollars, the superintendent shall give written notice to the office of victim services.

S 15. Subdivision 2 of section 120 of the correction law, as added by chapter 202 of the laws of 2007, is amended to read as follows:

2. Nothing in this section shall limit in any way the authority of the commissioner, or any county or the city of New York, to enter into any contract authorized by subdivision eighteen of section two, section seventy-two-a, section seventy-three, section ninety-five, article

1 five-A or article twenty-six of this chapter, or to limit the responsi-  
2 bility of the [state division of parole] DEPARTMENT OF CORRECTIONS AND  
3 COMMUNITY SUPERVISION to supervise inmates or [parolees] PERSONS  
4 RELEASED TO COMMUNITY SUPERVISION while away from an institution pursu-  
5 ant to section seventy-two-a, section seventy-three or article twenty-  
6 six of this chapter or while confined at a drug treatment campus as  
7 defined in subdivision twenty of section two of this chapter.

8 S 16. Section 140-a of the correction law, as added by section 2 of  
9 part UU of chapter 56 of the laws of 2009, is amended to read as  
10 follows:

11 S 140-a. Pilot project for filing medical assistance applications for  
12 inmates prior to their release. 1. Subject to the availability of an  
13 appropriation of no less than two hundred thousand dollars, the commis-  
14 sioner, after consultation with the chairman of the [division] STATE  
15 BOARD of parole, the commissioner of the department of health, and the  
16 commissioner of the office of temporary and disability assistance, shall  
17 establish a pilot program at a designated correctional facility for the  
18 purpose of filing applications for enrollment in the medical assistance  
19 program established under title eleven of article five of the social  
20 services law for eligible inmates prior to their release to the communi-  
21 ty; provided, however, that the commissioner shall not establish such  
22 pilot program at the Orleans correctional facility. For purposes of this  
23 pilot program, eligible inmates shall not include any inmates who were  
24 receiving such medical assistance immediately prior to their commitment  
25 to the department and whose medical assistance was thereafter suspended  
26 pursuant to the provisions of subdivision one-a of section three hundred  
27 sixty-six of the social services law.

28 2. In determining the facility where the pilot program shall be estab-  
29 lished, the commissioner shall give due consideration to the following  
30 factors, which shall include, but not be limited to: (i) the degree to  
31 which pre-release services and re-entry services are either already  
32 available at such facility or can be made readily available at such  
33 facility; (ii) the proximity of the facility to the communities to which  
34 the eligible inmates will be released; (iii) the availability of commu-  
35 nity linkages which would facilitate the preparation and submission of  
36 such medical assistance applications for eligible inmates; and (iv) the  
37 recommendations of the commissioner of the office of temporary and disa-  
38 bility assistance, the commissioner of the department of health and the  
39 chairman of the [division] STATE BOARD of parole.

40 3. The commissioner may use the appropriation for this pilot program  
41 to establish one or more department positions to perform any responsi-  
42 bilities [which] THAT may arise in connection with the preparation and  
43 submission of such medical assistance applications. The commissioner may  
44 also use the appropriation to enter into any contract with one or more  
45 outside individuals or entities to provide any services that may be  
46 needed in connection with this pilot program. Further, all or a portion  
47 of the funds appropriated for the pilot program may be transferred to  
48 another state agency in order to establish positions to perform any  
49 responsibilities which may be necessary to operate the pilot program.

50 4. Applications for medical assistance shall be submitted to the  
51 statewide enrollment center established by contract with the department  
52 of health pursuant to subdivision twenty-four of section two hundred six  
53 of the public health law in sufficient time before the anticipated  
54 release, conditional release or discharge of the eligible inmate to  
55 permit the enrollment center to process the application prior to such  
56 inmate's release from the custody; provided, however, that where the

1 eligible inmate will be released to the same county where the pilot  
2 program is established, the application for medical assistance may be  
3 filed with the local county department of social services.

4 5. Upon receipt of an application filed pursuant to this section, the  
5 centralized statewide enrollment center shall determine the eligibility  
6 of such inmate for enrollment in the medical assistance program estab-  
7 lished under title eleven of article five of the social services law.  
8 Such determination shall be based on whether the inmate, except for his  
9 or her status as an inmate, would be eligible to receive medical assist-  
10 ance. Notwithstanding any inconsistent provision of law, enrollment in  
11 the medical assistance program shall be effective on the date an eligi-  
12 ble inmate is released, conditionally released or discharged from custo-  
13 dy in a department facility to the community. The commissioner, the  
14 commissioner of the state department of health and the chairman of the  
15 state [division] BOARD of parole shall determine the process for issuing  
16 the medical assistance identification card so that the applicant will  
17 receive appropriate documentation of [his/her] HIS OR HER eligibility of  
18 medical assistance either upon release or as soon thereafter as practi-  
19 cable.

20 6. After the pilot program becomes operational, the commissioner shall  
21 periodically monitor all indicators related to the preparation and proc-  
22 essing of inmate applications which shall include, but not be limited  
23 to: (i) the degree to which all of the requisite information for an  
24 application can be obtained while the inmate is incarcerated by the  
25 department; (ii) the average processing times to prepare and complete  
26 applications; (iii) the most effective manner for the transmittal of a  
27 completed application for an eligibility determination; (iv) the average  
28 amount of time required before an eligibility determination can be  
29 completed and the necessary medical assistance eligibility card is  
30 provided to the eligible individual; and (v) the identification of  
31 issues and factors which may prevent, impede, or delay the preparation  
32 and submission of applications, which could be ameliorated by modifica-  
33 tions to existing laws, rules and regulations, or policies and proce-  
34 dures.

35 7. After the pilot program has been operational for a period of twelve  
36 months, or sooner if determined to be appropriate by the commissioner, a  
37 report shall be prepared by the commissioner and submitted to the gover-  
38 nor, the temporary president of the senate and the speaker of the assem-  
39 bly on the factors listed in subdivision six of this section. Such  
40 report shall also include any recommendations for additional legislative  
41 enactments that may be needed, or new appropriations that may be  
42 required, to improve, enhance and subsequently expand the program to  
43 other correctional facilities as determined to be appropriate by the  
44 commissioner, with the ultimate goal to assist as many inmates as feasi-  
45 ble to submit applications for medical assistance prior to their release  
46 to the community.

47 8. The [division] STATE BOARD of parole shall assist the department in  
48 any manner necessary to assure that the purposes and objective of this  
49 section are effectively accomplished.

50 9. The commissioner and the commissioner of the department of health  
51 may promulgate rules and regulations necessary for the uniform and time-  
52 ly preparation, submission, acceptance and processing of applications by  
53 eligible inmates prior to their release from custody.

54 S 17. Section 148 of the correction law, as amended by chapter 81 of  
55 the laws of 1964, is amended to read as follows:

1 S 148. Psychiatric and diagnostic clinics. The commissioner of  
2 [correction and the chairman of the board of parole are] CORRECTIONS AND  
3 COMMUNITY SUPERVISION IS hereby authorized and directed to assist and  
4 cooperate with the commissioner of mental [hygiene] HEALTH in the estab-  
5 lishment and conduct of such psychiatric and diagnostic clinics in the  
6 institutions and facilities under their jurisdiction as such commission-  
7 ers [and chairman] may deem necessary within the amount appropriated  
8 therefor. The persons conducting the work of such clinics shall deter-  
9 mine the physical and mental condition of all inmates serving an inde-  
10 terminate term, having a minimum of one day and a maximum of natural  
11 life, and of such other inmates whose criminal record, behavior or other  
12 factors indicate to those in charge of such clinics the need of study  
13 and treatment. The work of the clinics shall include scientific study  
14 and psychiatric evaluation of each such inmate, including his OR HER  
15 career and life history, investigation of the cause of the crime and  
16 recommendations for the care, training and employment of such inmates  
17 with a view to their reformation and to the protection of society. Each  
18 of the different phases of the work of the clinics shall be so coordi-  
19 nated with all the other phases of clinic work as to be a part of a  
20 unified and comprehensive scheme in the study and treatment of such  
21 inmates. After classification in the clinics the inmate sentenced to  
22 state prison shall be certified to the warden and recommendation made to  
23 the commissioner of [correction] CORRECTIONS AND COMMUNITY SUPERVISION  
24 as to their disposition.

25 S 18. Section 168-g of the correction law, as added by chapter 192 of  
26 the laws of 1995, is amended to read as follows:

27 S 168-g. Prior convictions; duty to inform and register. 1. The  
28 [division of parole] DEPARTMENT or [department] OFFICE of probation and  
29 correctional alternatives in accordance with risk factors pursuant to  
30 section one hundred sixty-eight-1 of this article shall determine the  
31 duration of registration and notification for every sex offender who on  
32 the effective date of this article is then on [parole] COMMUNITY SUPER-  
33 VISION or probation for an offense provided for in subdivision two or  
34 three of section one hundred sixty-eight-a of this article.

35 2. Every sex offender who on the effective date of this article is  
36 then on [parole] COMMUNITY SUPERVISION or probation for an offense  
37 provided for in subdivision two or three of section one hundred sixty-  
38 eight-a of this article shall within ten calendar days of such determi-  
39 nation register with his parole or probation officer. On each anniver-  
40 sary of the sex offender's initial registration date thereafter, the  
41 provisions of section one hundred sixty-eight-f of this article shall  
42 apply. Any sex offender who fails or refuses to so comply shall be  
43 subject to the same penalties as otherwise provided for in this article  
44 which would be imposed upon a sex offender who fails or refuses to so  
45 comply with the provisions of this article on or after such effective  
46 date.

47 3. It shall be the duty of the parole or probation officer to inform  
48 and register such sex offender according to the requirements imposed by  
49 this article. A parole or probation officer shall give one copy of the  
50 form to the sex offender and shall, within three calendar days, send two  
51 copies electronically or otherwise to the [division] DEPARTMENT which  
52 shall forward one copy electronically or otherwise to the law enforce-  
53 ment agency having jurisdiction where the sex offender resides upon his  
54 [parole] OR HER COMMUNITY SUPERVISION, probation, or [upon any form of  
55 state or] local conditional release.

1 4. A petition for relief from this section is permitted to any sex  
2 offender required to register while released [on parole] TO COMMUNITY  
3 SUPERVISION or probation pursuant to section one hundred sixty-eight-o  
4 of this article.

5 S 19. Subdivision 1 of section 168-1 of the correction law, as added  
6 by chapter 192 of the laws of 1995, is amended to read as follows:

7 1. There shall be a board of examiners of sex offenders which shall  
8 possess the powers and duties hereinafter specified. Such board shall  
9 consist of five members appointed by the governor. Three members [who]  
10 shall be experts in the field of the behavior and treatment of sex  
11 offenders AND shall be employees of the [division of parole and the  
12 remaining two members shall be from the] department. The term of office  
13 of each member of such board shall be for six years; provided, however,  
14 that any member chosen to fill a vacancy occurring otherwise than by  
15 expiration of term shall be appointed for the remainder of the unexpired  
16 term of the member whom he OR SHE is to succeed. In the event of the  
17 inability to act of any member, the governor may appoint some competent  
18 informed person to act in his OR HER stead during the continuance of  
19 such disability.

20 S 20. Section 168-m of the correction law, as amended by chapter 453  
21 of the laws of 1999, is amended to read as follows:

22 S 168-m. Review. Notwithstanding any other provision of law to the  
23 contrary, any state or local correctional facility, hospital or institu-  
24 tion, district attorney, law enforcement agency, probation department,  
25 [division] STATE BOARD of parole, court or child protective agency shall  
26 forward relevant information pertaining to a sex offender to be  
27 discharged, paroled, released to post-release supervision or released to  
28 the board for review no later than one hundred twenty days prior to the  
29 release or discharge and the board shall make recommendations as  
30 provided in subdivision six of section one hundred sixty-eight-1 of this  
31 article within sixty days of receipt of the information. Information may  
32 include, but may not be limited to all or a portion of the arrest file,  
33 prosecutor's file, probation or parole file, child protective file,  
34 court file, commitment file, medical file and treatment file pertaining  
35 to such person. Such person shall be permitted to submit to the board  
36 any information relevant to the review. Upon application of the sex  
37 offender or the district attorney, the court shall seal any portion of  
38 the board's file pertaining to the sex offender [which] THAT contains  
39 material that is confidential under any state or federal law; provided,  
40 however, that in any subsequent proceedings in which the sex offender  
41 who is the subject of the sealed record is a party and which requires  
42 the board to provide a recommendation to the court pursuant to this  
43 article, such sealed record shall be available to the sex offender, the  
44 district attorney, the court and the attorney general where the attorney  
45 general is a party, or represents a party, in the proceeding.

46 S 21. Subdivision 1 of section 184 of the correction law, as amended  
47 by chapter 166 of the laws of 1991, is amended to read as follows:

48 1. The commissioner [of correctional services] is authorized and  
49 directed to cause to be manufactured or prepared by the inmates in the  
50 state correctional facilities, such articles as are needed and used  
51 therein, and also, such articles as are required by the state or poli-  
52 tical subdivisions thereof, and in the buildings, offices and public  
53 institutions owned or managed and controlled by the state, including  
54 articles and materials to be used in the erection of the buildings, and  
55 including material for the construction, improvement or repair of high-  
56 ways, streets and roads.

1 S 22. Subdivisions 1 and 3 of section 186 of the correction law, as  
2 amended by chapter 166 of the laws of 1991 and subdivision 3 as amended  
3 by chapter 83 of the laws of 1995, are amended to read as follows:

4 1. The commissioner [of correctional services] shall establish the  
5 prices at which all services performed, and all articles manufactured in  
6 the correctional facilities in this state, and furnished to the state,  
7 or the political subdivisions thereof, or to the public institutions  
8 thereof, or to public benefit corporations, authorities or commissions.  
9 However, prices for goods or services furnished by the local correction-  
10 al facilities to or for the county in which they are located, or the  
11 political subdivisions thereof, shall be fixed by the board of supervi-  
12 sors of such counties, except the counties located within New York city,  
13 in which the prices shall be fixed by the commissioner [of correction].  
14 It shall also be the duty of such boards, respectively, to classify the  
15 buildings, offices and institutions owned or managed and controlled by  
16 the state, and the political subdivisions thereof, and to fix and deter-  
17 mine the styles, patterns, designs and qualities of the articles to be  
18 manufactured for such buildings, offices and public institutions, except  
19 where the same have been fixed or their specifications approved by the  
20 office of general services in the executive department. So far as prac-  
21 ticable, all supplies used in such buildings, offices and public insti-  
22 tutions shall be uniform for each class, and of the styles, patterns,  
23 designs and qualities that can be manufactured in the correctional  
24 facilities in this state.

25 3. A purchaser of any such product or services may, at any time prior  
26 to or within thirty days of the time of sale, appeal the purchase price  
27 on the basis that it unreasonably exceeds fair market price. Such  
28 appeal shall be raised in a form to be provided for by the commissioner  
29 pursuant to rule and shall include a verified statement setting forth  
30 the basis of an alternative fair market price determined according to  
31 the standards for establishing prices set forth in subdivision two of  
32 this section.

33 An appeal brought by such a purchaser as to the reasonableness of the  
34 fair market price established pursuant to subdivision two of this  
35 section shall be decided by majority vote of a three-member price review  
36 board consisting of the director of the budget, the commissioner [of  
37 correctional services] and the commissioner of the office of general  
38 services or their representatives.

39 All hearings before such price review board shall be governed by the  
40 rules to be adopted and prescribed by such board. The hearings of such  
41 board may, in the discretion of a majority of its members, be open to  
42 the public, but shall not be bound by the technical rules of evidence.  
43 The price review board shall permit the parties to such an appeal to  
44 present such evidence, in person or through their attorneys, as the  
45 board may deem necessary for its determination. A stenographic record  
46 shall be kept of any proceeding before such board and the decision of  
47 the board shall be in writing and state the reasons for such decision.

48 The decision of such board as to the reasonableness of the price  
49 established by the commissioner shall be conclusive on all parties. If  
50 the board finds that a price unreasonably exceeds the fair market price,  
51 it may adjust the sales price with respect to such purchaser. Prices so  
52 adjusted shall otherwise apply prospectively to purchases made subse-  
53 quent to such adjustment until such time as new prices are established  
54 pursuant to subdivision two of this section. In the event that payment  
55 has been made, upon such adjustment of price, any excess paid to the  
56 state shall be refunded to such purchaser on a voucher signed by the

1 commissioner within amounts available therefor or at the option of the  
2 purchaser, the commissioner may credit such excess amount toward any  
3 future purchase.

4 S 23. Section 190 of the correction law is amended to read as follows:

5 S 190. Monthly statement of receipts and expenditures for industries.  
6 The warden of each of the state prisons shall, on the first of each  
7 month, make a full detailed statement of all materials, machinery or  
8 other property procured, and of the cost thereof, and of the expendi-  
9 tures made during the last preceding month for manufacturing purposes,  
10 together with a statement of all materials then on hand to be manufac-  
11 tured, or in process of manufacture, or manufactured, and of machinery,  
12 fixtures or other appurtenances for the purpose of carrying on the labor  
13 of the prisoners, and the amount and kinds of work done, and the earn-  
14 ings realized, and the total amount of moneys coming into his OR HER  
15 hands as such warden during such last preceding month as the proceeds of  
16 the labor of the prisoners at such prison, which statement shall be  
17 verified by the oath of such warden to be just and true, and shall be by  
18 him OR HER forwarded to the department [of correction].

19 S 24. Subdivisions 1 and 2 of section 275 of the correction law, as  
20 added by section 1 of part SS of chapter 56 of the laws of 2009, are  
21 amended to read as follows:

22 1. If a person who has been granted conditional release pursuant to  
23 this article resides or desires to reside in a place other than the one  
24 located within the jurisdiction of the commission which has legal custo-  
25 dy of such person, such commission, or any member thereof, may designate  
26 any other commission established pursuant to this article, or the  
27 [parole board] DEPARTMENT, to assume custody of such person and may so  
28 transfer custody upon the consent of such other commission or the  
29 [parole board] DEPARTMENT.

30 2. Where custody of a person who has been granted conditional release  
31 pursuant to this article is transferred pursuant to subdivision one of  
32 this section, upon designation and prior to transfer, the commission  
33 making the designation shall notify the commission which has been desig-  
34 nated to receive custody of such transfer or the [parole board] DEPART-  
35 MENT. The commission making the designation shall immediately forward  
36 its entire case record regarding such person to the receiving commission  
37 or the [parole board] DEPARTMENT. The commission to which legal custody  
38 has been transferred, or the [parole board] DEPARTMENT, shall assume the  
39 same powers and duties exercised by the designating commission and shall  
40 have the sole custody of such person.

41 S 25. Section 315 of the correction law is REPEALED.

42 S 26. Article 17 of the correction law is REPEALED.

43 S 27. Article 18 of the correction law is REPEALED.

44 S 28. Subdivisions 2 and 3 of section 504 of the correction law,  
45 subdivision 2 as amended by section 8 of part Q of chapter 56 of the  
46 laws of 2009 and subdivision 3 as amended by chapter 799 of the laws of  
47 1974, are amended to read as follows:

48 2. Where the jail in a county becomes unfit or unsafe for the confine-  
49 ment of some or all of the inmates due to an inmate disturbance or other  
50 extraordinary circumstances, including but not limited to a natural  
51 disaster, unanticipated deficiencies in the structural integrity of a  
52 facility or the inability to provide one or more inmates with essential  
53 services such as medical care, upon the request of the municipal offi-  
54 cial as defined in subdivision four of section forty of this chapter and  
55 no other suitable place within the county nor the jail of any other  
56 county is immediately available to house some or all of the inmates, the

1 commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPER-  
2 VISION may, in his or her sole discretion, make available, upon such  
3 terms and conditions as he OR SHE may deem appropriate, all or any part  
4 of a state correctional institution for the confinement of some or all  
5 of such inmates as an adjunct to the county jail for a period not to  
6 exceed thirty days. However, if the county jail remains unfit or unsafe  
7 for the confinement of some or all of such inmates beyond thirty days,  
8 the state commission of correction, with the consent of the commissioner  
9 of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, may  
10 extend the availability of a state correctional institution for one or  
11 more additional thirty day periods. The state commission of correction  
12 shall promulgate rules and regulations governing the temporary transfer  
13 of inmates to state correctional institutions from county jails, includ-  
14 ing but not limited to provisions for confinement of such inmates in the  
15 nearest correctional facility, to the maximum extent practicable, taking  
16 into account necessary security. The commissioner of [correctional  
17 services] CORRECTIONS AND COMMUNITY SUPERVISION may, in his or her sole  
18 discretion, based on standards promulgated by the department, determine  
19 whether a county shall reimburse the state for any or all of the actual  
20 costs of confinement as approved by the director of the division of the  
21 budget. On or before the expiration of each thirty day period, the state  
22 commission of correction must make an appropriate designation pursuant  
23 to subdivision one if the county jail remains unfit or unsafe for the  
24 confinement of some or all of the inmates and consent to the continued  
25 availability of a state correctional institution as required for herein.  
26 The superintendence, management and control of a state correctional  
27 institution or part thereof made available pursuant hereto and the  
28 inmates housed therein shall be as directed by the commissioner of  
29 [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION.

30 3. The county clerk must serve a copy of the designation, duly certi-  
31 fied by him OR HER, under his OR HER official seal, on the sheriff and  
32 keeper of the jail of the county designated. The sheriff of that county  
33 must, upon the delivery of the sheriff of the county for which the  
34 designation is made, receive into his OR HER jail, and there safely  
35 keep, all persons who may be lawfully confined therein, pursuant to this  
36 article; and he OR SHE is responsible for their safekeeping, as if he OR  
37 SHE was sheriff of the county for which the designation is made.

38 S 29. The opening paragraph, subdivisions 2, 3, 4 and 6 of section  
39 601-d of the correction law, as added by chapter 141 of the laws of  
40 2008, are amended to read as follows:

41 This section shall apply only to inmates in the custody of the commis-  
42 sioner, and releasees under the supervision of the [division of parole]  
43 DEPARTMENT, upon whom a determinate sentence was imposed between Septem-  
44 ber first, nineteen hundred ninety-eight, and the effective date of this  
45 section, which was required by law to include a term of post-release  
46 supervision:

47 2. Whenever it shall appear to the satisfaction of the department that  
48 an inmate in its custody[,] or [to the satisfaction of the division of  
49 parole] that a releasee under its supervision, is a designated person,  
50 [such agency] THE DEPARTMENT shall make notification of that fact to the  
51 court that sentenced such person, and to the inmate or releasee.

52 3. If a sentencing court that has received such notice, after review-  
53 ing the sentencing minutes, if available, is or becomes aware that a  
54 term of post-release supervision was in fact pronounced at the prior  
55 sentencing of such person, it shall issue a superseding commitment order  
56 reflecting that fact, accompanied by a written explanation of the basis

1 for that conclusion, and send such order and explanation to the [agency  
2 that provided the notice] DEPARTMENT, to the defendant, and to the  
3 attorney who appeared for the defendant in connection with the judgment  
4 or sentence or, if the defendant is currently represented concerning his  
5 or her conviction or sentence or with respect to an appeal from his or  
6 her sentence, such present counsel.

7 4. (a) If the sentencing court shall not have issued a superseding  
8 commitment order, reflecting imposition of a term of post-release super-  
9 vision, within ten days after receiving notice pursuant to subdivision  
10 two of this section, then the sentencing court shall appoint counsel  
11 pursuant to section seven hundred twenty-two of the county law, provide  
12 a copy of the notice pursuant to subdivision two of this section to such  
13 counsel, and calendar such person for a court appearance which shall  
14 occur no later than twenty days after receipt of said notice. At such  
15 court appearance, the court shall furnish a copy of such notice and the  
16 proceeding date pursuant to paragraph (c) of this subdivision to the  
17 district attorney, the designated person, assigned counsel and the  
18 department [or the division of parole].

19 (b) The court shall promptly seek to obtain sentencing minutes, plea  
20 minutes and any other records and shall provide copies to the parties  
21 and conduct any reconstruction proceedings that may be necessary to  
22 determine whether to resentence such person.

23 (c) The court shall commence a proceeding to consider resentence no  
24 later than thirty days after receiving notice pursuant to subdivision  
25 two of this section.

26 (d) The court shall, no later than forty days after receipt of such  
27 notice, issue and enter a written determination and order, copies of  
28 which shall be immediately provided to the district attorney, the desig-  
29 nated person, his or her counsel and the department [or the division of  
30 parole] along with any sentencing minutes pursuant to section 380.70 of  
31 the criminal procedure law.

32 (e) The designated person may, with counsel, knowingly consent to  
33 extend the time periods specified in paragraphs (c) and (d) of this  
34 subdivision. The people may apply to the court for an extension of ten  
35 days on the basis of extraordinary circumstances that preclude final  
36 resolution within such period of the question of whether the defendant  
37 will be resentenced. The department [or the division of parole] shall be  
38 notified by the court of any such extension.

39 6. In any case in which the department [or division of parole] noti-  
40 fies the court of a designated person, and has not been informed that  
41 the court has made a determination in accordance with paragraph (d) of  
42 subdivision four of this section (unless extended pursuant to paragraph  
43 (e) of such subdivision), [then such agency] THE DEPARTMENT may notify  
44 the court that it has not received a determination and, in any event,  
45 shall adjust its records with respect to post-release supervision noting  
46 that the court has not, in accordance with subdivision four of this  
47 section, imposed a sentence of post-release supervision.

48 S 30. Section 605-a of the correction law, as added by chapter 476 of  
49 the laws of 1970, is amended to read as follows:

50 S 605-a. Transportation of female inmates. Whenever any female inmate  
51 is conveyed to an institution [in] UNDER THE JURISDICTION OF the state  
52 department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION pursu-  
53 ant to sentence or commitment, such female inmate shall be accompanied  
54 by at least one female officer.

55 S 31. Section 619 of the correction law, as added by chapter 911 of  
56 the laws of 1983, is amended to read as follows:

1 S 619. Cooperation with authorized agencies of the department of  
2 social services. It shall be the duty of an official of any institution  
3 under the jurisdiction of the commissioner of [correctional services]  
4 CORRECTIONS AND COMMUNITY SUPERVISION to cooperate with an authorized  
5 agency of the department of social services in making suitable arrange-  
6 ments for an inmate confined therein to visit with his or her child  
7 pursuant to subdivision seven of section three hundred eighty-four-b of  
8 the social services law.

9 S 32. Subdivisions 1, 4 and 6 of section 702 of the correction law,  
10 subdivisions 1 and 4 as amended by chapter 342 of the laws of 1972 and  
11 subdivision 6 as amended by chapter 720 of the laws of 2006, are amended  
12 to read as follows:

13 1. Any court of this state may, in its discretion, issue a certificate  
14 of relief from disabilities to an eligible offender for a conviction  
15 that occurred in such court, if the court either (a) imposed a [revoka-  
16 ble] REVOCABLE sentence or (b) imposed a sentence other than one  
17 executed by commitment to an institution under the jurisdiction of the  
18 state department of [correctional services] CORRECTIONS AND COMMUNITY  
19 SUPERVISION. Such certificate may be issued (i) at the time sentence is  
20 pronounced, in which case it may grant relief from forfeitures, as well  
21 as from disabilities, or (ii) at any time thereafter, in which case it  
22 shall apply only to disabilities.

23 4. Where the court has imposed a [revokable] REVOCABLE sentence and  
24 the certificate of relief from disabilities is issued prior to the expi-  
25 ration or termination of the time which the court may revoke such  
26 sentence, the certificate shall be deemed to be a temporary certificate  
27 until such time as the court's authority to revoke the sentence has  
28 expired or is terminated. While temporary, such certificate (a) may be  
29 revoked by the court for violation of the conditions of the sentence,  
30 and (b) shall be revoked by the court if it revokes the sentence and  
31 commits the person to an institution under the jurisdiction of the state  
32 department of [correctional services] CORRECTIONS AND COMMUNITY SUPER-  
33 VISION. Any such revocation shall be upon notice and after an opportu-  
34 nity to be heard. If the certificate is not so revoked, it shall become  
35 a permanent certificate upon expiration or termination of the court's  
36 authority to revoke the sentence.

37 6. Any written report submitted to the court pursuant to this section  
38 is confidential and may not be made available to any person or public or  
39 private agency except where specifically required or permitted by stat-  
40 ute or upon specific authorization of the court. However, upon the  
41 court's receipt of such report, the court shall provide a copy of such  
42 report, or direct that such report be provided to the applicant's attor-  
43 ney, or the applicant himself, if he OR SHE has no attorney. In its  
44 discretion, the court may except from disclosure a part or parts of the  
45 report which are not relevant to the granting of a certificate, or  
46 sources of information which have been obtained on a promise of confi-  
47 dentiality, or any other portion thereof, disclosure of which would not  
48 be in the interest of justice. The action of the court excepting infor-  
49 mation from disclosure shall be subject to appellate review. The court,  
50 in its discretion, may hold a conference in open court or in chambers to  
51 afford an applicant an opportunity to controvert or to comment upon any  
52 portions of the report. The court may also conduct a summary hearing at  
53 the conference on any matter relevant to the granting of the application  
54 and may take testimony under oath.

55 S 33. Intentionally omitted.

1 S 34. Section 703 of the correction law, as amended by chapter 342 of  
2 the laws of 1972, the section heading as amended by chapter 931 of the  
3 laws of 1976, subdivision 1 as amended by chapter 475 of the laws of  
4 1974, subdivision 6 as added by chapter 378 of the laws of 1988 and  
5 subdivision 7 as added by section 3 of part 00 of chapter 56 of the laws  
6 of 2010, is amended to read as follows:

7 S 703. Certificates of relief from disabilities issued by the [board  
8 of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION. 1. The  
9 [state board of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPER-  
10 VISION shall have the power to issue a certificate of relief from disa-  
11 bilities to:

12 (a) any eligible offender who has been committed to an institution  
13 under the jurisdiction of the state department of [correctional  
14 services] CORRECTIONS AND COMMUNITY SUPERVISION. Such certificate may  
15 be issued by the [board] DEPARTMENT at the time the offender is released  
16 from such institution under the [board's] DEPARTMENT'S supervision or  
17 otherwise or at any time thereafter;

18 (b) any eligible offender who resides within this state and whose  
19 judgment of conviction was rendered by a court in any other jurisdic-  
20 tion.

21 2. Where the [board of parole] DEPARTMENT has issued a certificate of  
22 relief from disabilities, the [board] DEPARTMENT may at any time issue a  
23 new certificate enlarging the relief previously granted.

24 3. The [board of parole] DEPARTMENT shall not issue any certificate of  
25 relief from disabilities pursuant to subdivisions one or two, unless the  
26 [board] DEPARTMENT is satisfied that:

27 (a) The person to whom it is to be granted is an eligible offender, as  
28 defined in section seven hundred;

29 (b) The relief to be granted by the certificate is consistent with the  
30 rehabilitation of the eligible offender; and

31 (c) The relief to be granted by the certificate is consistent with the  
32 public interest.

33 4. Any certificate of relief from disabilities issued by the [board of  
34 parole] DEPARTMENT to an eligible offender who at time of the issuance  
35 of the certificate is under the [board's] DEPARTMENT'S supervision,  
36 shall be deemed to be a temporary certificate until such time as the  
37 eligible offender is discharged from the [board's] DEPARTMENT'S super-  
38 vision, and, while temporary, such certificate may be revoked by the  
39 [board] DEPARTMENT for violation of the conditions of [parole or  
40 release] COMMUNITY SUPERVISION. Revocation shall be upon notice to the  
41 [parolee] RELEASEE, who shall be accorded an opportunity to explain the  
42 violation prior to decision thereon. If the certificate is not so  
43 revoked, it shall become a permanent certificate upon expiration or  
44 termination of the [board's] DEPARTMENT'S jurisdiction over the [offen-  
45 der] INDIVIDUAL.

46 5. In granting or revoking a certificate of relief from disabilities  
47 the action of the [board of parole shall be by unanimous vote of the  
48 members authorized to grant or revoke parole. Such action] DEPARTMENT  
49 shall be deemed a judicial function and shall not be reviewable if done  
50 according to law.

51 6. For the purpose of determining whether such certificate shall be  
52 issued, the [board] DEPARTMENT may conduct an investigation of the  
53 applicant.

54 7. Presumption based on federal recommendation. Where a certificate of  
55 relief from disabilities is sought pursuant to paragraph (b) of subdivi-  
56 sion one of this section on a judgment of conviction rendered by a

1 federal district court in this state and the [board of parole] DEPART-  
2 MENT is in receipt of a written recommendation in favor of the issuance  
3 of such certificate from the chief probation officer of the district,  
4 the [board] DEPARTMENT shall issue the requested certificate, unless it  
5 finds that the requirements of paragraphs (a), (b) and (c) of subdivi-  
6 sion three of this section have not been satisfied; or that the inter-  
7 ests of justice would not be advanced by the issuance of the certif-  
8 icate.

9 S 35. Section 703-b of the correction law, as added by chapter 931 of  
10 the laws of 1976, subdivisions 1 and 3 as amended by, subdivision 2 as  
11 added by and subdivisions 4 and 5 as renumbered by chapter 386 of the  
12 laws of 1985, is amended to read as follows:

13 S 703-b. Issuance of certificate of good conduct. 1. The [state board  
14 of parole, or any three members thereof by unanimous vote,] DEPARTMENT  
15 OF CORRECTIONS AND COMMUNITY SUPERVISION shall have the power to issue a  
16 certificate of good conduct to any person previously convicted of a  
17 crime in this state, when the [board] DEPARTMENT is satisfied that:

18 (a) The applicant has conducted himself OR HERSELF in a manner  
19 warranting such issuance for a minimum period in accordance with the  
20 provisions of subdivision three of this section;

21 (b) The relief to be granted by the certificate is consistent with the  
22 rehabilitation of the applicant; and

23 (c) The relief to be granted is consistent with the public interest.

24 2. The [state board of parole, or any three members thereof by unani-  
25 mous vote,] DEPARTMENT shall have the power to issue a certificate of  
26 good conduct to any person previously convicted of a crime in any other  
27 jurisdiction, when the [board] DEPARTMENT is satisfied that:

28 (a) The applicant has demonstrated that there exist specific facts and  
29 circumstances, and specific sections of New York state law that have an  
30 adverse impact on the applicant and warrant the application for relief  
31 to be made in New York; and

32 (b) The provisions of paragraphs (a), (b) and (c) of subdivision one  
33 of this section have been met.

34 3. The minimum period of good conduct by the individual referred to in  
35 paragraph (a) of subdivision one of this section, shall be as follows:  
36 where the most serious crime of which the individual was convicted is a  
37 misdemeanor, the minimum period of good conduct shall be one year; where  
38 the most serious crime of which the individual was convicted is a class  
39 C, D or E felony, the minimum period of good conduct shall be three  
40 years; and, where the most serious crime of which the individual was  
41 convicted is a class B or A felony, the minimum period of good conduct  
42 shall be five years. Criminal acts committed outside the state shall be  
43 classified as acts committed within the state based on the maximum  
44 sentence that could have been imposed based upon such conviction pursu-  
45 ant to the laws of such foreign jurisdiction. Such minimum period of  
46 good conduct by the individual shall be measured either from the date of  
47 the payment of any fine imposed upon him OR HER or the suspension of  
48 sentence, or from the date of his OR HER unrevoked release from custody  
49 by parole, commutation or termination of his OR HER sentence. The  
50 [board] DEPARTMENT shall have power and it shall be its duty to investi-  
51 gate all persons when such application is made and to grant or deny the  
52 same within a reasonable time after the making of the application.

53 4. Where the [board of parole] DEPARTMENT has issued a certificate of  
54 good conduct, the [board] DEPARTMENT may at any time issue a new certif-  
55 icate enlarging the relief previously granted.

1 5. Any certificate of good conduct by the [board of parole] DEPARTMENT  
2 to an individual who at time of the issuance of the certificate is under  
3 the [board's] DEPARTMENT'S supervision, shall be deemed to be a tempo-  
4 rary certificate until such time as the individual is discharged from  
5 the [board's] DEPARTMENT'S supervision, and, while temporary, such  
6 certificate may be revoked by the [board] DEPARTMENT for violation of  
7 the conditions of [parole or release] COMMUNITY SUPERVISION. Revocation  
8 shall be upon notice to the [parolee] RELEASEE, who shall be accorded an  
9 opportunity to explain the violation prior to decision thereon. If the  
10 certificate is not so revoked, it shall become a permanent certificate  
11 upon expiration or termination of the [board's] DEPARTMENT'S jurisdic-  
12 tion over the individual.

13 S 36. Section 705 of the correction law, as added by chapter 654 of  
14 the laws of 1966, subdivision 1 as amended by section 49 of part A of  
15 chapter 56 of the laws of 2010, is amended to read as follows:

16 S 705. Forms and filing. 1. All applications, certificates and orders  
17 of revocation necessary for the purposes of this article shall be upon  
18 forms prescribed pursuant to agreement among the state commissioner of  
19 [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, the  
20 chairman of the state board of parole and the administrator of the state  
21 judicial conference. Such forms relating to certificates of relief from  
22 disabilities shall be distributed by the office of probation and correc-  
23 tional alternatives and forms relating to certificates of good conduct  
24 shall be distributed by the [chairman of the board of parole] COMMIS-  
25 SIONER OF THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION.

26 2. Any court or [board] DEPARTMENT issuing or revoking any certificate  
27 pursuant to this article shall immediately file a copy of the certifi-  
28 cate, or of the order of revocation, with the New York state identifi-  
29 cation and intelligence system.

30 S 37. Paragraphs (a), (b) and (c) of subdivision 1 and subdivisions 3,  
31 4 and 5 of section 803 of the correction law, paragraph (a) of subdivi-  
32 sion 1, subdivisions 3, 4 and 5 as amended and paragraphs (b) and (c) of  
33 subdivision 1 as added by chapter 3 of the laws of 1995, are amended to  
34 read as follows:

35 (a) Every person confined in an institution of the department or a  
36 facility in the department of mental [hygiene] HEALTH serving an inde-  
37 terminate or determinate sentence of imprisonment, except a person serv-  
38 ing a sentence with a maximum term of life imprisonment, may receive  
39 time allowance against the term or maximum term of his OR HER sentence  
40 imposed by the court. Such allowances may be granted for good behavior  
41 and efficient and willing performance of duties assigned or progress and  
42 achievement in an assigned treatment program, and may be withheld,  
43 forfeited or canceled in whole or in part for bad behavior, violation of  
44 institutional rules or failure to perform properly in the duties or  
45 program assigned.

46 (b) A person serving an indeterminate sentence of imprisonment may  
47 receive time allowance against the maximum term of his OR HER sentence  
48 not to exceed one-third of the maximum term imposed by the court.

49 (c) A person serving a determinate sentence of imprisonment may  
50 receive time allowance against the term of his OR HER sentence not to  
51 exceed one-seventh of the term imposed by the court.

52 3. The commissioner of [correctional services] CORRECTIONS AND COMMU-  
53 NITY SUPERVISION shall promulgate rules and regulations for the grant-  
54 ing, withholding, forfeiture, cancellation and restoration of allowances  
55 authorized by this section in accordance with the criteria herein speci-  
56 fied. Such rules and regulations shall include provisions designating

1 the person or committee in each correctional institution delegated to  
2 make discretionary determinations with respect to the allowances, the  
3 books and records to be kept, and a procedure for review of the institu-  
4 tional determinations by the commissioner.

5 4. No person shall have the right to demand or require the allowances  
6 authorized by this section. The decision of the commissioner of [correc-  
7 tional services] CORRECTIONS AND COMMUNITY SUPERVISION as to the grant-  
8 ing, withholding, forfeiture, cancellation or restoration of such allow-  
9 ances shall be final and shall not be reviewable if made in accordance  
10 with law.

11 5. Time allowances granted prior to any release [on parole or prior to  
12 any conditional release] TO COMMUNITY SUPERVISION shall be forfeited and  
13 shall not be restored if the [paroled or conditionally] released person  
14 is returned to an institution under the jurisdiction of the state  
15 department of [correctional services] CORRECTIONS AND COMMUNITY SUPER-  
16 VISION for violation of [parole, violation of the conditions of release]  
17 COMMUNITY SUPERVISION or by reason of a conviction for a crime committed  
18 while on [parole or conditional release] COMMUNITY SUPERVISION. A  
19 person who is so returned may, however, subsequently receive time allow-  
20 ances against the remaining portion of his OR HER term, maximum term or  
21 aggregate maximum term pursuant to this section and provided such  
22 remaining portion of his OR HER term, maximum term, or aggregate maximum  
23 term is more than one year.

24 S 38. Subdivisions 3, 4 and 5 of section 803 of the correction law, as  
25 amended by chapter 126 of the laws of 1987, are amended to read as  
26 follows:

27 3. The commissioner of [correctional services] CORRECTIONS AND COMMU-  
28 NITY SUPERVISION shall promulgate rules and regulations for the grant-  
29 ing, withholding, forfeiture, cancellation and restoration of allowances  
30 authorized by this section in accordance with the criteria herein speci-  
31 fied. Such rules and regulations shall include provisions designating  
32 the person or committee in each correctional institution delegated to  
33 make discretionary determinations with respect to the allowances, the  
34 books and records to be kept, and a procedure for review of the institu-  
35 tional determinations by the commissioner.

36 4. No person shall have the right to demand or require the allowances  
37 authorized by this section. The decision of the commissioner of [correc-  
38 tional services] CORRECTIONS AND COMMUNITY SUPERVISION as to the grant-  
39 ing, withholding, forfeiture, cancellation or restoration of such allow-  
40 ances shall be final and shall not be reviewable if made in accordance  
41 with law.

42 5. Time allowances granted prior to any release [on parole or prior to  
43 any conditional release] TO COMMUNITY SUPERVISION shall be forfeited and  
44 shall not be restored if the [paroled or conditionally] released person  
45 is returned to an institution under the jurisdiction of the state  
46 department of [correctional services] CORRECTIONS AND COMMUNITY SUPER-  
47 VISION for violation of [parole, violation of the conditions of release]  
48 COMMUNITY SUPERVISION or by reason of a conviction for a crime committed  
49 while on [parole or conditional release] COMMUNITY SUPERVISION. A  
50 person who is so returned may, however, subsequently receive time allow-  
51 ances against the remaining portion of his maximum or aggregate maximum  
52 term or period not to exceed in the aggregate one-third of such portion  
53 provided such remaining portion of his OR HER maximum or aggregate maxi-  
54 mum term or period is more than one year.

55 S 39. Subdivision 6 of section 804 of the correction law, as added by  
56 chapter 680 of the laws of 1967, is amended to read as follows:

1 6. Notwithstanding anything to the contrary in this section, in any  
2 case where a person is serving a definite sentence in an institution  
3 under the jurisdiction of the state department of [correction]  
4 CORRECTIONS AND COMMUNITY SUPERVISION, subdivisions three and four of  
5 section eight hundred three of this chapter shall apply.

6 S 40. Subdivisions 3 and 6 of section 806 of the correction law, as  
7 added by section 5 of part E of chapter 62 of the laws of 2003, are  
8 amended to read as follows:

9 3. Any inmate eligible for presumptive release pursuant to this  
10 section shall be required to apply for such release pursuant to section  
11 [two hundred fifty-nine-g of the executive law. Upon release from the  
12 department of correctional services, such person shall be in the legal  
13 custody of the division of parole as provided in subdivisions two,  
14 three, four, five, six and seven of section two hundred fifty-nine-i of  
15 the executive law] TWO HUNDRED EIGHT OF THIS CHAPTER.

16 6. Any eligible inmate who is not released pursuant to subdivision one  
17 or two of this section shall be considered for discretionary release on  
18 parole pursuant to the provisions of section eight hundred five of this  
19 article or section two hundred [fifty-nine-i] FIFTY-NINE-B of the execu-  
20 tive law, whichever is applicable.

21 S 41. Subdivision 1 of section 851 of the correction law, as amended  
22 by chapter 554 of the laws of 1986, is amended to read as follows:

23 1. "Institution" means any institution under the jurisdiction of the  
24 state department of [correctional services] CORRECTIONS AND COMMUNITY  
25 SUPERVISION or an institution designated by the commissioner pursuant to  
26 section seventy-two-a of this chapter.

27 S 41-a. Subdivision 1 of section 851 of the correction law, as amended  
28 by chapter 691 of the laws of 1977, is amended to read as follows:

29 1. "Institution" means any institution under the jurisdiction of the  
30 state department of [correctional services] CORRECTIONS AND COMMUNITY  
31 SUPERVISION.

32 S 41-b. Subdivision 1 of section 851 of the correction law, as added  
33 by chapter 472 of the laws of 1969, is amended to read as follows:

34 1. "Institution" means any institution under the jurisdiction of the  
35 state department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION.

36 S 42. The closing paragraph of subdivision 2 of section 851 of the  
37 correction law, as added by chapter 3 of the laws of 1995, is amended to  
38 read as follows:

39 The governor, by executive order, may exclude or limit the partic-  
40 ipation of any class of otherwise eligible inmates from participation in  
41 a temporary release program. Nothing in this paragraph shall be  
42 construed to affect either the validity of any executive order previous-  
43 ly issued limiting the participation of otherwise eligible inmates in  
44 such program or the authority of the commissioner [of the department of  
45 correctional services] to impose appropriate regulations limiting such  
46 participation.

47 S 43. The closing paragraph of subdivision 2 of section 851 of the  
48 correction law, as added by chapter 3 of the laws of 1995, is amended to  
49 read as follows:

50 The governor, by executive order, may exclude or limit the partic-  
51 ipation of any class of otherwise eligible inmates from participation in  
52 a temporary release program. Nothing in this paragraph shall be  
53 construed to affect either the validity of any executive order previous-  
54 ly issued limiting the participation of otherwise eligible inmates in  
55 such program or the authority of the commissioner [of the department of

1 correctional services] to impose appropriate regulations limiting such  
2 participation.

3 S 43-a. Subdivision 5 of section 851 of the correction law, as added  
4 by chapter 472 of the laws of 1969, is amended to read as follows:

5 5. "Work release committee" means the body of persons, which may  
6 include members of the public, appointed pursuant to regulations promul-  
7 gated by the commissioner [of correction] for the purpose of formulat-  
8 ing, modifying and revoking work release programs at an institution.

9 S 44. Subdivision 5 of section 852 of the correction law, as amended  
10 by chapter 495 of the laws of 1981, is amended to read as follows:

11 5. All inmates participating in temporary release programs shall be  
12 assigned to parole officers for supervision. [Such parole officers shall  
13 be responsible to the division of parole for the purpose of providing  
14 such supervision. The division shall provide to the department super-  
15 vision in accordance with the contract required by subdivision six of  
16 this section.] As part of [its] THE PAROLE OFFICER'S supervisory func-  
17 tions [the division] HE OR SHE shall be required to provide reports [to  
18 the department] every two months on each inmate under [its] HIS OR HER  
19 supervision. Such reports shall include but not be limited to:

20 (a) an evaluation of the individual's participation in such program;

21 (b) a statement of any problems and the manner in which such problems  
22 were resolved relative to an individual's participation in such  
23 programs; and

24 (c) a recommendation with respect to the individual's continued  
25 participation in the program.

26 S 44-a. Subdivision 6 of section 852 of the correction law is  
27 REPEALED.

28 S 45. Subdivision 2 of section 852 of the correction law, as added by  
29 chapter 472 of the laws of 1969, is amended to read as follows:

30 2. The [division of parole] DEPARTMENT shall be responsible for secur-  
31 ing appropriate education, on-the-job training and employment opportu-  
32 nities for [eligible] ELIGIBLE inmates[. The division also] AND shall  
33 supervise inmates during their participation in work release programs  
34 outside the premises of institutions.

35 S 46. Subdivision 2 of section 854 of the correction law, as added by  
36 chapter 472 of the laws of 1969, is amended to read as follows:

37 2. If the inmate violates any provision of the program, or any rule or  
38 regulation promulgated by the commissioner of [correction] CORRECTIONS  
39 AND COMMUNITY SUPERVISION for conduct of inmates participating in work  
40 release programs, he OR SHE shall be subject to disciplinary measures to  
41 the same extent as if he OR SHE violated a rule or regulation of the  
42 commissioner for conduct of inmates within the premises of the institu-  
43 tion.

44 S 47. Subdivision 6 of section 855 of the correction law, as amended  
45 by chapter 843 of the laws of 1980, is amended to read as follows:

46 6. In order for an applicant to accept a program of temporary release,  
47 such inmate shall agree to be bound by all the terms and conditions  
48 thereof and shall indicate such agreement by signing the memorandum of  
49 the program immediately below a statement reading as follows: "I accept  
50 the foregoing program and agree to be bound by the terms and conditions  
51 thereof. I understand that I will be under the supervision of the state  
52 department of [correctional services] CORRECTIONS AND COMMUNITY SUPER-  
53 VISION while I am away from the premises of the institution and I agree  
54 to comply with the instructions of any parole officer or other employee  
55 of the department assigned to supervise me. I understand that my partic-  
56 ipation in the program is a privilege which may be revoked at any time,

1 and that if I violate any provision of the program I may be taken into  
2 custody by any peace officer or police officer and I will be subject to  
3 disciplinary procedures. I further understand that if I intentionally  
4 fail to return to the institution at or before the time specified in the  
5 memorandum I may be found guilty of a felony." Such agreement shall be  
6 placed on file at the institution from which such temporary release is  
7 granted.

8 S 48. Subdivisions 2, 3 and 4 of section 853 of the correction law, as  
9 added by chapter 472 of the laws of 1969, are amended to read as  
10 follows:

11 2. If the work release committee determines that a work release  
12 program for the applicant is consistent with the safety of the communi-  
13 ty, is in the best interests of rehabilitation of the applicant, and is  
14 consistent with rules and regulations of the commissioner [of  
15 correction], the committee[, with the assistance of the division of  
16 parole,] shall develop a suitable program of work release for the appli-  
17 cant.

18 3. The committee shall then prepare a memorandum setting forth the  
19 details of the work release program, including the extended bounds of  
20 confinement and any other matter required by rules or regulations of the  
21 commissioner [of correction]. Such memorandum shall be transmitted to  
22 the warden who may approve or reject the program. If the warden approves  
23 the program, he OR SHE shall indicate such approval in writing by sign-  
24 ing the memorandum. If the warden rejects the program, such decision  
25 shall be reviewed by the commissioner [of correction].

26 4. In order for an applicant to accept a program of work release, he  
27 OR SHE shall agree to be bound by all the terms and conditions thereof  
28 and shall indicate such agreement by signing the memorandum of the  
29 program immediately below a statement reading as follows: "I accept the  
30 foregoing program and agree to be bound by the terms and conditions  
31 thereof. I understand that I will be under the supervision of the [State  
32 Division of Parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION  
33 while I am away from the premises of the institution and I agree to  
34 comply with the instructions of any parole officer assigned to supervise  
35 me. I will carry a copy of this memorandum on my person at all times  
36 while I am away from the premises of the institution and I will exhibit  
37 it to any peace officer upon his OR HER request. I understand that my  
38 participation in the program is a privilege which may be revoked at any  
39 time, and that if I violate any provision of the program I may be taken  
40 into custody by any peace officer and I will be subject to disciplinary  
41 procedures. I further understand that if I intentionally fail to return  
42 to the institution at or before the time specified in the memorandum I  
43 may be found guilty of a felony."

44 S 49. The opening paragraph of subdivision 1 of section 1304 of the  
45 abandoned property law, as amended by chapter 471 of the laws of 1980,  
46 is amended to read as follows:

47 The following unclaimed property belonging or credited to a  
48 discharged, deceased or escaped person in an institution under the  
49 jurisdiction of the department of social services, the department of  
50 health, the department of mental [hygiene] HEALTH, the executive depart-  
51 ment, or the department of [correctional services] CORRECTIONS AND  
52 COMMUNITY SUPERVISION shall be deemed abandoned property:

53 S 50. Subdivisions 1, 1-a and 4 of section 126 of the alcoholic bever-  
54 age control law, subdivisions 1 and 4 as amended by chapter 366 of the  
55 laws of 1992 and subdivision 1-a as amended by chapter 367 of the laws  
56 of 1992, are amended to read as follows:

1     1. Except as provided in subdivision one-a of this section, a person  
2 who has been convicted of a felony or any of the misdemeanors mentioned  
3 in section eleven hundred forty-six of the former penal law as in force  
4 and effect immediately prior to September first, nineteen hundred  
5 sixty-seven, or of an offense defined in section 230.20 or 230.40 of the  
6 penal law, unless subsequent to such conviction such person shall have  
7 received an executive pardon therefor removing this disability, a  
8 certificate of good conduct granted by the [board of parole] DEPARTMENT  
9 OF CORRECTIONS AND COMMUNITY SUPERVISION, or a certificate of relief  
10 from disabilities granted by the [board of parole] DEPARTMENT OF  
11 CORRECTIONS AND COMMUNITY SUPERVISION or a court of this state pursuant  
12 to the provisions of article twenty-three of the correction law to  
13 remove the disability under this section because of such conviction.

14     1-a. Notwithstanding the provision of subdivision one of this section,  
15 a corporation holding a license to traffic in alcoholic beverages shall  
16 not, upon conviction of a felony or any of the misdemeanors or offenses  
17 described in subdivision one of this section, be automatically forbidden  
18 to traffic in alcoholic beverages, but the application for a license by  
19 such a corporation shall be subject to denial, and the license of such a  
20 corporation shall be subject to revocation or suspension by the authori-  
21 ty pursuant to section one hundred eighteen of this chapter, consistent  
22 with the provisions of article twenty-three-A of the correction law. For  
23 any felony conviction by a court other than a court of this state, the  
24 authority may request the [board of parole] DEPARTMENT OF CORRECTIONS  
25 AND COMMUNITY SUPERVISION to investigate and review the facts and  
26 circumstances concerning such a conviction, and [the board of parole]  
27 SUCH DEPARTMENT shall, if so requested, submit its findings to the  
28 authority as to whether the corporation has conducted itself in a manner  
29 such that discretionary review by the authority would not be inconsis-  
30 tent with the public interest. The [division of parole] DEPARTMENT OF  
31 CORRECTIONS AND COMMUNITY SUPERVISION may charge the licensee or appli-  
32 cant a fee equivalent to the expenses of an appropriate investigation  
33 under this subdivision. For any conviction rendered by a court of this  
34 state, the authority may request the corporation, if the corporation is  
35 eligible for a certificate of relief from disabilities, to seek such a  
36 certificate from the court which rendered the conviction and to submit  
37 such a certificate as part of the authority's discretionary review proc-  
38 ess.

39     4. A copartnership or a corporation, unless each member of the part-  
40 nership, or each of the principal officers and directors of the corpo-  
41 ration, is a citizen of the United States or an alien lawfully admitted  
42 for permanent residence in the United States, not less than twenty-one  
43 years of age, and has not been convicted of any felony or any of the  
44 misdemeanors, specified in section eleven hundred forty-six of the  
45 former penal law as in force and effect immediately prior to September  
46 first, nineteen hundred sixty-seven, or of an offense defined in section  
47 230.20 or 230.40 of the penal law, or if so convicted has received,  
48 subsequent to such conviction, an executive pardon therefor removing  
49 this disability a certificate of good conduct granted by the [board of  
50 parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION, or a  
51 certificate of relief from disabilities granted by the [board of parole]  
52 DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION or a court of this  
53 state pursuant to the provisions of article twenty-three of the  
54 correction law to remove the disability under this section because of  
55 such conviction; provided however that a corporation which otherwise  
56 conforms to the requirements of this section and chapter may be licensed

1 if each of its principal officers and more than one-half of its direc-  
2 tors are citizens of the United States or aliens lawfully admitted for  
3 permanent residence in the United States; and provided further that a  
4 corporation organized under the not-for-profit corporation law or the  
5 education law which otherwise conforms to the requirements of this  
6 section and chapter may be licensed if each of its principal officers  
7 and more than one-half of its directors are not less than twenty-one  
8 years of age and none of its directors are less than eighteen years of  
9 age; and provided further that a corporation organized under the not-  
10 for-profit corporation law or the education law and located on the prem-  
11 ises of a college as defined by section two of the education law which  
12 otherwise conforms to the requirements of this section and chapter may  
13 be licensed if each of its principal officers and each of its directors  
14 are not less than eighteen years of age.

15 S 51. Subparagraph (i) of paragraph 1 and paragraph 3 of subdivision  
16 (f) of section 1101 of the civil practice law and rules, as added by  
17 section 1 of part D of chapter 412 of the laws of 1999, are amended to  
18 read as follows:

19 (i) in the case of a state inmate who has been transferred from anoth-  
20 er state correctional facility, the court shall obtain a trust fund  
21 account statement for the six month period from the central office of  
22 the department of [correctional services] CORRECTIONS AND COMMUNITY  
23 SUPERVISION in Albany; or

24 3. The institution at which an inmate is confined, or the central  
25 office for the department of [correctional services] CORRECTIONS AND  
26 COMMUNITY SUPERVISION, whichever is applicable, shall promptly provide  
27 the trust fund account statement to the inmate as required by this  
28 subdivision.

29 S 52. Section 5011 of the civil practice law and rules, as amended by  
30 section 50 of part A-1 of chapter 56 of the laws of 2010, is amended to  
31 read as follows:

32 S 5011. Definition and content of judgment. A judgment is the determi-  
33 nation of the rights of the parties in an action or special proceeding  
34 and may be either interlocutory or final. A judgment shall refer to, and  
35 state the result of, the verdict or decision, or recite the default upon  
36 which it is based. A judgment may direct that property be paid into  
37 court when the party would not have the benefit or use or control of  
38 such property or where special circumstances make it desirable that  
39 payment or delivery to the party entitled to it should be withheld. In  
40 any case where damages are awarded to an inmate serving a sentence of  
41 imprisonment with the state department of [correctional services]  
42 CORRECTIONS AND COMMUNITY SUPERVISION or to a prisoner confined at a  
43 local correctional facility, the court shall give prompt written notice  
44 to the office of victim services, and at the same time shall direct that  
45 no payment be made to such inmate or prisoner for a period of thirty  
46 days following the date of entry of the order containing such direction.

47 S 53. Subdivision 1 of section 50-a of the civil rights law, as  
48 amended by chapter 137 of the laws of 2002, is amended to read as  
49 follows:

50 1. All personnel records[,] used to evaluate performance toward  
51 continued employment or promotion, under the control of any police agen-  
52 cy or department of the state or any political subdivision thereof  
53 including authorities or agencies maintaining police forces of individ-  
54 uals defined as police officers in section 1.20 of the criminal proce-  
55 dure law and such personnel records under the control of a sheriff's  
56 department or a department of correction of individuals employed as

1 correction officers and such personnel records under the control of a  
2 paid fire department or force of individuals employed as firefighters or  
3 firefighter/paramedics and such personnel records under the control of  
4 the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPER-  
5 VISION for individuals defined as peace officers pursuant to subdivi-  
6 sions twenty-three and twenty-three-a of section 2.10 of the criminal  
7 procedure law shall be considered confidential and not subject to  
8 inspection or review without the express written consent of such police  
9 officer, firefighter, firefighter/paramedic, correction officer or peace  
10 officer within the [division of parole] DEPARTMENT OF CORRECTIONS AND  
11 COMMUNITY SUPERVISION except as may be mandated by lawful court order.

12 S 54. Subdivision 2 of section 61 of the civil rights law, as amended  
13 by chapter 320 of the laws of 2006, is amended to read as follows:

14 2. If the petitioner stands convicted of a violent felony offense as  
15 defined in section 70.02 of the penal law or a felony defined in article  
16 one hundred twenty-five of such law or any of the following provisions  
17 of such law sections 130.25, 130.30, 130.40, 130.45, 255.25, 255.26,  
18 255.27, article two hundred sixty-three, 135.10, 135.25, 230.05, 230.06,  
19 subdivision two of section 230.30 or 230.32, and is currently confined  
20 as an inmate in any correctional facility or currently under the super-  
21 vision of the [state division of parole] DEPARTMENT OF CORRECTIONS AND  
22 COMMUNITY SUPERVISION or a county probation department as a result of  
23 such conviction, the petition shall for each such conviction specify  
24 such felony conviction, the date of such conviction or convictions, and  
25 the court in which such conviction or convictions were entered.

26 S 55. Subdivision 2 of section 62 of the civil rights law, as amended  
27 by chapter 320 of the laws of 2006, is amended to read as follows:

28 2. If the petition be to change the name of a person currently  
29 confined as an inmate in any correctional facility or currently under  
30 the supervision of the [state division of parole] DEPARTMENT OF  
31 CORRECTIONS AND COMMUNITY SUPERVISION or a county probation department  
32 as a result of a conviction for a violent felony offense as defined in  
33 section 70.02 of the penal law or a felony defined in article one  
34 hundred twenty-five of such law or any of the following provisions of  
35 such law sections 130.25, 130.30, 130.40, 130.45, 255.25, 255.26,  
36 255.27, article two hundred sixty-three, 135.10, 135.25, 230.05, 230.06,  
37 subdivision two of section 230.30 or 230.32, notice of the time and  
38 place when and where the petition will be presented shall be served, in  
39 like manner as a notice of a motion upon an attorney in an action, upon  
40 the district attorney of every county in which such person has been  
41 convicted of such felony and upon the court or courts in which the  
42 sentence for such felony was entered. Unless a shorter period of time is  
43 ordered by the court, said notice shall be served upon each such  
44 district attorney and court or courts not less than sixty days prior to  
45 the date on which such petition is noticed to be heard.

46 S 56. Subdivision 2 and paragraph (a) of subdivision 3 of section 79  
47 of the civil rights law, as amended by chapter 687 of the laws of 1973,  
48 are amended to read as follows:

49 2. A sentence of imprisonment in a state correctional institution for  
50 any term less than for life or a sentence of imprisonment in a state  
51 correctional institution for an indeterminate term, having a minimum of  
52 one day and a maximum of natural life shall not be deemed to suspend the  
53 right or capacity of any person so sentenced to commence and prosecute  
54 an action or proceeding in any court within this state or before a body  
55 or officer exercising judicial, quasi-judicial or administrative func-  
56 tions within this state; provided, however, that where at the time of

1 the commencement and during the prosecution of such action or proceeding  
2 such person is an inmate of a state correctional institution, he shall  
3 not appear at any place other than within the institution for any  
4 purpose related to such action or proceeding unless upon a subpoena  
5 issued by the court before whom such action or proceeding is pending or,  
6 where such action or proceeding is pending before a body or officer,  
7 before a judge to whom a petition for habeas corpus could be made under  
8 subdivision (b) of section seven thousand two of the civil practice law  
9 and rules upon motion of any party and upon a determination that such  
10 person's appearance is essential to the proper and just disposition of  
11 the action or proceeding. Unless the court orders otherwise, a motion  
12 for such subpoena shall be made on at least two days' notice to the  
13 commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPER-  
14 VISION.

15 (a) Except as provided in paragraph (b), the state shall not be liable  
16 for any expense of or related to any such action or proceeding, includ-  
17 ing but not limited to the expense of or related to transporting the  
18 inmate to, or lodging or guarding him at any place other than in a state  
19 correctional institution. The [Department] DEPARTMENT of [Correctional  
20 Services] CORRECTIONS AND COMMUNITY SUPERVISION shall not be required to  
21 perform any services related to such action or proceeding, including but  
22 not limited to transporting the inmate to or lodging or guarding him at  
23 any place other than a state correctional institution unless and until  
24 the [Department] DEPARTMENT has received payment for such services.

25 S 57. Subdivisions 1 and 2 and paragraph (a) of subdivision 3 of  
26 section 79-a of the civil rights law, subdivision 1 as amended by chap-  
27 ter 118 of the laws of 1981 and subdivision 2 and paragraph (a) of  
28 subdivision 3 as added by chapter 687 of the laws of 1973, are amended  
29 to read as follows:

30 1. Except as provided in subdivisions two and three, a person  
31 sentenced to imprisonment for life is thereafter deemed civilly dead;  
32 provided, that such a person may marry while on [parole] COMMUNITY  
33 SUPERVISION, or after he OR SHE has been discharged from [parole] COMMU-  
34 NITY SUPERVISION, if otherwise capable of contracting a valid marriage.  
35 A marriage contracted pursuant to this section by a person while he OR  
36 SHE is on [parole] COMMUNITY SUPERVISION, without prior written approval  
37 of the [board of parole] COMMISSIONER OF CORRECTIONS AND COMMUNITY  
38 SUPERVISION, shall be ground for revocation of the [parole] COMMUNITY  
39 SUPERVISION. This section shall not be deemed to impair the validity of  
40 a marriage between a person sentenced to imprisonment for life and his  
41 OR HER spouse.

42 2. A sentence to imprisonment for life shall not be deemed to suspend  
43 the right or capacity of any person so sentenced to commence, prosecute  
44 or defend an action or proceeding in any court within this state or  
45 before a body or officer exercising judicial, quasi-judicial or adminis-  
46 trative functions within this state; provided, however, that where at  
47 the time of the commencement and during the prosecution or defense of  
48 such action or proceeding such person is an inmate of a state correc-  
49 tional institution, he OR SHE shall not appear at any place other than  
50 within the institution for any purpose related to such action or  
51 proceeding unless upon a subpoena issued by the court before whom such  
52 action or proceeding is pending or, where such action or proceeding is  
53 pending before a body or officer, before a judge to whom a petition for  
54 habeas corpus could be made under subdivision (b) of section seven thou-  
55 sand two of the civil practice law and rules upon motion of any party  
56 and upon a determination that such person's appearance is essential to

1 the proper and just disposition of the action or proceeding. Unless the  
2 court orders otherwise, a motion for such subpoena shall be made on at  
3 least two days' notice to the commissioner of [correctional services]  
4 CORRECTIONS AND COMMUNITY SUPERVISION.

5 (a) Except as provided in paragraph (b), the state shall not be liable  
6 for any expense of or related to any such action or proceeding, includ-  
7 ing but not limited to the expense of or related to transporting the  
8 inmate to, or lodging or guarding him OR HER at any place other than in  
9 a state correctional institution. The [Department] DEPARTMENT of  
10 [Correctional Services] CORRECTIONS AND COMMUNITY SUPERVISION shall not  
11 be required to perform any services related to such action or proceed-  
12 ing, including but not limited to transporting the inmate to or lodging  
13 or guarding him OR HER at any place other than a state correctional  
14 institution unless and until the [Department] DEPARTMENT has received  
15 payment for such services.

16 S 58. Subparagraphs (ii) and (iv) of paragraph (c) of subdivision 4 of  
17 section 58 of the civil service law, as amended by chapter 190 of the  
18 laws of 2008, are amended to read as follows:

19 (ii) Notwithstanding any other provision of law, in any jurisdiction,  
20 other than a city with a population of one million or more or the state  
21 department of [correctional services] CORRECTIONS AND COMMUNITY SUPER-  
22 VISION, which does not administer examinations for designation to detec-  
23 tive or investigator, any person who has received permanent appointment  
24 to the position of police officer, correction officer of any rank or  
25 deputy sheriff and is temporarily assigned to perform the duties of  
26 detective or investigator shall, whenever such assignment to the duties  
27 of a detective or investigator exceeds eighteen months, be permanently  
28 designated as a detective or investigator and receive the compensation  
29 ordinarily paid to persons in such designation.

30 (iv) Detectives and investigators designated since September twenty-  
31 third, nineteen hundred ninety and prior to February twenty-fourth,  
32 nineteen hundred ninety-five by any state, county, town, village or city  
33 (other than a city with a population of one million or more or the state  
34 department of [correctional services] CORRECTIONS AND COMMUNITY SUPER-  
35 VISION) police, correction or sheriffs department, pursuant to the  
36 provisions of this paragraph in effect during such period, who continue  
37 to serve in such positions, shall retain their detective or investigator  
38 status without any right to retroactive financial entitlement.

39 S 59. Subdivision 2 of section 59-a of the civil service law, as  
40 amended by chapter 190 of the laws of 2008, is amended to read as  
41 follows:

42 2. Notwithstanding the provisions of this chapter or any provisions to  
43 the contrary contained in any general, special, or local laws, any  
44 person holding a permanent competitive class appointment as a police  
45 officer, correction officer of any rank or deputy sheriff in a police  
46 force, police department or sheriffs department in a jurisdiction other  
47 than a city with a population of one million or more or the state  
48 department of [correctional services] CORRECTIONS AND COMMUNITY SUPER-  
49 VISION, who was serving in a detective or investigator capacity, as  
50 designated by such police force, police department or sheriffs depart-  
51 ment, on the date such position was classified by the local civil  
52 service commission having jurisdiction and for at least eighteen months  
53 immediately preceding such date, shall receive a permanent appointment  
54 to a detective or investigator position, in such title as may be proper-  
55 ly classified by the local civil service commission having jurisdiction,  
56 without further examination or qualifications and shall have all the

1 rights and privileges of the jurisdictional class to which such position  
2 may be allocated.

3 S 60. Subparagraph 6 of paragraph b and the opening paragraphs of  
4 paragraphs g and j of subdivision 1 of section 130 of the civil service  
5 law, subparagraph 6 of paragraph b as added by chapter 4 of the laws of  
6 2007, the opening paragraph of paragraph g as added by chapter 214 of  
7 the laws of 2009 and the opening paragraph of paragraph j as added by  
8 chapter 152 of the laws of 2010, are amended to read as follows:

9 (6) Effective on the dates indicated in paragraph i of this subdivi-  
10 sion, salary grades for positions in the competitive, non-competitive  
11 and labor classes of the classified service of the state of New York in  
12 the collective negotiating unit designated as the security supervisors  
13 unit established pursuant to article fourteen of this chapter who are  
14 police officers pursuant to subdivision thirty-four of section 1.20 of  
15 the criminal procedure law, except those members designated as police  
16 officers pursuant to chapter six hundred ninety-three of the laws of two  
17 thousand six, shall be as prescribed in paragraph i of this subdivision.  
18 Effective on the dates indicated in paragraph j of this subdivision,  
19 salary grades for positions in the competitive, non-competitive and  
20 labor classes of the classified service of the state of New York in the  
21 collective negotiating unit designated as the security supervisors unit  
22 established pursuant to article fourteen of this chapter who are  
23 employed by the state department of [correctional services] CORRECTIONS  
24 AND COMMUNITY SUPERVISION and are designated as peace officers pursuant  
25 to subdivision twenty-five of section 2.10 of the criminal procedure law  
26 shall be as prescribed in paragraph j of this subdivision.

27 Pursuant to the terms of an interest arbitration award issued pursuant  
28 to subdivision four of section two hundred nine of this chapter covering  
29 members of the security services collective negotiating unit who are  
30 employed within the state department of [correctional services]  
31 CORRECTIONS AND COMMUNITY SUPERVISION and who are designated as peace  
32 officers pursuant to section 2.10 of the criminal procedure law, effec-  
33 tive on the dates indicated, salary grades for such unit members shall  
34 be as follows:

35 Pursuant to the terms of an agreement between the state and an employ-  
36 ee organization entered into pursuant to article fourteen of [the civil  
37 service law] THIS CHAPTER covering members of the collective negotiating  
38 unit designated as security supervisors who are employed by the state  
39 department of [correctional services] CORRECTIONS AND COMMUNITY SUPER-  
40 VISION and are designated as peace officers pursuant to subdivision  
41 twenty-five of section 2.10 of the criminal procedure law, effective on  
42 the dates indicated, salary grades for such unit members shall be as  
43 follows:

44 S 61. Subdivision 2 of section 134 of the civil service law, as  
45 amended by chapter 373 of the laws of 1958, is amended to read as  
46 follows:

47 2. Any person employed by the state in any institution under the  
48 jurisdiction of the department of mental [hygiene] HEALTH, the depart-  
49 ment of [correction] CORRECTIONS AND COMMUNITY SUPERVISION, the depart-  
50 ment of health or the department of social welfare, or in the state  
51 barge canal system, or in the New York state school for the blind, Bata-  
52 via, or in the New York state veterans' rest camp, Mt. McGregor, whose  
53 hours of labor are limited to forty hours per week, or six days per  
54 week, by law or administrative regulation, who is not allowed time off  
55 by the appointing officer, during any fiscal year commencing on or after  
56 April first, nineteen hundred forty-six, for any holiday, pass day or

vacation period which he was eligible to receive by law or by administrative regulation, shall, upon the approval of the superintendent or other head of such institution or department and the director of the budget, be entitled to compensation therefor at the hourly rate of pay received by such employee, or shall be allowed an equivalent amount of time off in lieu of such compensation.

S 62. Subdivisions 1, 2 and 3 of section 136 of the civil service law, subdivisions 1 and 3 as separately amended by chapters 471 and 474 of the laws of 1980, and subdivision 2 as amended by chapter 74 of the laws of 2000, are amended to read as follows:

1. The term "teacher", for purposes of this section, means any employee of a state facility or institution in the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES in the executive department and in the departments of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, health, mental hygiene and social services holding a position the principal duty of which is the teaching or instruction of patients or inmates, or the direct supervision of such teaching or instruction, including an institution education director, as determined by the department of civil service subject to approval of the director of the budget.

2. The annual salary of a teacher shall be determined in accordance with the provisions of this article. Commencing July first, two thousand, the total salary which a teacher would otherwise be entitled to receive for any year beginning on July first shall be paid over either (a) a period of consecutive months beginning with the first day of the facility's or institution's academic year, as determined by the employer, and ending with the last day of the facility's or institution's academic year, as determined by the employer or, in the case of a teacher in the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, over a period of ten consecutive months designated by the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or (b) a period of twelve months from September first to August thirty-first. Any such teacher who is required to work in his position or in any other position allocated to a salary grade in section one hundred thirty of this chapter in the period of time that is outside the facility's or institution's academic year, as determined by the employer or, in the case of a teacher in the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION in the two month period outside of the ten consecutive months designated by the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION shall receive additional compensation therefor. If such work is performed in his regular position or title or in a position the title of which is allocated to the same salary grade as his regular position, he shall receive additional compensation therefor at the hourly rate of pay received by him in his regular position. If such work is performed in a position having a title allocated to a lower salary grade than the salary grade to which the title of his regular position is allocated, he shall receive additional compensation therefor at the hourly rate of pay of the job rate of the grade of the position in which such work is performed, or at such job rate plus the additional increment or increments of such grade if he would be entitled to such additional increment or increments were he then appointed to such position; provided, however, that when such hourly rate exceeds the hourly rate of pay received by him in his regular position, his additional compensation shall be at the hourly rate of pay of his regular position. When such work is performed in a position allocated to a salary grade higher than the

1 salary grade to which his regular position is allocated, he shall  
2 receive additional compensation therefor at the hourly rate of pay of  
3 the rate of compensation to which he would be entitled if he were perma-  
4 nently promoted to the position in which such work is performed.

5 3. Teachers shall not be subject to the rules governing sick leaves,  
6 vacations, time allowances and other conditions of employment in the  
7 classified service of the state established pursuant to PARAGRAPH (C) OF  
8 subdivision one [(c)] of section six of the civil service law. The  
9 director of the [division for youth] OFFICE OF CHILDREN AND FAMILY  
10 SERVICES, the commissioner of [correctional services] CORRECTIONS AND  
11 COMMUNITY SUPERVISION, the commissioner of health, the commissioner of  
12 mental [hygiene] HEALTH and the commissioner of social services, respec-  
13 tively, shall adopt regulations for sick leaves, vacations, time allow-  
14 ances and other conditions of employment which shall be applicable to  
15 teachers under its or his jurisdiction and, notwithstanding any other  
16 provision of law, such rules may provide for cash payment of the mone-  
17 tary value of accumulated and unused vacation and time allowances grant-  
18 ed in lieu of overtime compensation standing to the credit of an employ-  
19 ee at the time of his separation from service or his entrance into the  
20 armed forces of the United States for active duty (other than for train-  
21 ing) as defined in title ten of the United States code, whether or not  
22 such entrance constitutes a separation from service, and for the payment  
23 of the monetary value of his accumulated and unused time allowances  
24 granted in lieu of overtime compensation standing to the credit of an  
25 employee at the time of his appointment, promotion or transfer to another  
26 department or agency of the state. Such rules shall be subject to  
27 approval of the state civil service commission.

28 S 63. Paragraph (a) of subdivision 1 of section 178 of the civil  
29 service law, as added by chapter 390 of the laws of 2005, is amended to  
30 read as follows:

31 (a) "Assailant" means a person arrested and charged with a crime, as  
32 defined in section 10.00 of the penal law, or a person committed to,  
33 certified to, or placed in the custody of the department of  
34 [corrections] CORRECTIONS AND COMMUNITY SUPERVISION or any other correc-  
35 tional facility or county jail.

36 S 64. Subdivision 2, the opening paragraph and paragraph (f) of subdi-  
37 vision 4 of section 209 of the civil service law, subdivision 2 and the  
38 opening paragraph of subdivision 4 as amended by chapter 234 of the laws  
39 of 2008, paragraph (f) of subdivision 4 as amended by chapter 179 of the  
40 laws of 2008, are amended to read as follows:

41 2. Public employers are hereby empowered to enter into written agree-  
42 ments with recognized or certified employee organizations setting forth  
43 procedures to be invoked in the event of disputes which reach an impasse  
44 in the course of collective negotiations. Such agreements may include  
45 the undertaking by each party to submit unresolved issues to impartial  
46 arbitration. In the absence or upon the failure of such procedures,  
47 public employers and employee organizations may request the board to  
48 render assistance as provided in this section, or the board may render  
49 such assistance on its own motion, as provided in subdivision three of  
50 this section, or, in regard to officers or members of any organized fire  
51 department, or any unit of the public employer which previously was a  
52 part of an organized fire department whose primary mission includes the  
53 prevention and control of aircraft fires, police force or police depart-  
54 ment of any county, city, town, village or fire or police district, or  
55 detective-investigators, or rackets investigators employed in the office  
56 of a district attorney of a county, or in regard to any organized unit

1 of troopers, commissioned or noncommissioned officers of the division of  
2 state police, or in regard to investigators, senior investigators and  
3 investigator specialists of the division of state police, or in regard  
4 to members of collective negotiating units designated as security  
5 services and security supervisors who are police officers, who are  
6 forest ranger captains or who are employed by the state department of  
7 [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION and are  
8 designated as peace officers pursuant to subdivision twenty-five of  
9 section 2.10 of the criminal procedure law, or in regard to members of  
10 the collective negotiating unit designated as the agency law enforcement  
11 services unit who are police officers pursuant to subdivision thirty-  
12 four of section 1.20 of the criminal procedure law or who are forest  
13 rangers, or in regard to organized units of deputy sheriffs who are  
14 engaged directly in criminal law enforcement activities that aggregate  
15 more than fifty per centum of their service as certified by the county  
16 sheriff and are police officers pursuant to subdivision thirty-four of  
17 section 1.20 of the criminal procedure law as certified by the municipal  
18 police training council or Suffolk county correction officers or Suffolk  
19 county park police, as provided in subdivision four of this section.

20 On request of either party or upon its own motion, as provided in  
21 subdivision two of this section, and in the event the board determines  
22 that an impasse exists in collective negotiations between such employee  
23 organization and a public employer as to the conditions of employment of  
24 officers or members of any organized fire department, or any other unit  
25 of the public employer which previously was a part of an organized fire  
26 department whose primary mission includes the prevention and control of  
27 aircraft fires, police force or police department of any county, city,  
28 town, village or fire or police district, and detective-investigators,  
29 criminal investigators or rackets investigators employed in the office  
30 of a district attorney, or as to the conditions of employment of members  
31 of any organized unit of troopers, commissioned or noncommissioned offi-  
32 cers of the division of state police or as to the conditions of employ-  
33 ment of members of any organized unit of investigators, senior investi-  
34 gators and investigator specialists of the division of state police, or  
35 as to the terms and conditions of employment of members of collective  
36 negotiating units designated as security services and security supervi-  
37 sors, who are police officers, who are forest ranger captains or who are  
38 employed by the state department of [correctional services] CORRECTIONS  
39 AND COMMUNITY SUPERVISION and are designated as peace officers pursuant  
40 to subdivision twenty-five of section 2.10 of the criminal procedure  
41 law, or in regard to members of the collective negotiating unit desig-  
42 nated as the agency law enforcement services unit who are police offi-  
43 cers pursuant to subdivision thirty-four of section 1.20 of the criminal  
44 procedure law or who are forest rangers, or as to the conditions of  
45 employment of any organized unit of deputy sheriffs who are engaged  
46 directly in criminal law enforcement activities that aggregate more than  
47 fifty per centum of their service as certified by the county sheriff and  
48 are police officers pursuant to subdivision thirty-four of section 1.20  
49 of the criminal procedure law as certified by the municipal police  
50 training council or Suffolk county correction officers or Suffolk county  
51 park police, the board shall render assistance as follows:

52 (f) With regard to any members of collective negotiating units desig-  
53 nated as security services or security supervisors, who are police offi-  
54 cers, who are forest ranger captains or who are employed by the state  
55 department of [correctional services] CORRECTIONS AND COMMUNITY SUPER-  
56 VISION and are designated as peace officers pursuant to subdivision

1 twenty-five of section 2.10 of the criminal procedure law, or in regard  
2 to members of the collective negotiating unit designated as the agency  
3 law enforcement services unit who are police officers pursuant to subdi-  
4 vision thirty-four of section 1.20 of the criminal procedure law or who  
5 are forest rangers, or in regard to detective-investigators, criminal  
6 investigators or rackets investigators employed in the office of a  
7 district attorney of a county contained within a city with a population  
8 of one million or more, the provisions of this section shall only apply  
9 to the terms of collective bargaining agreements directly relating to  
10 compensation, including, but not limited to, salary, stipends, location  
11 pay, insurance, medical and hospitalization benefits; and shall not  
12 apply to non-compensatory issues including, but not limited to, job  
13 security, disciplinary procedures and actions, deployment or scheduling,  
14 or issues relating to eligibility for overtime compensation which shall  
15 be governed by other provisions proscribed by law.

16 S 65. Section 217-a of the county law, as added by chapter 134 of the  
17 laws of 1984, is amended to read as follows:

18 S 217-a. Qualification for employment as a county correction officer.  
19 A county may adopt the provisions contained in section twenty-two-a of  
20 the correction law relating to qualifications of its officials who may  
21 thereafter be appointed in a law enforcement capacity in any of its  
22 penal correctional institutions. Any determination that would otherwise  
23 be made by the commissioner or his OR HER designee of the department of  
24 [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION under the  
25 provisions of section twenty-two-a of the correction law, shall, if such  
26 provisions are so adopted, be made by the appointing authority for such  
27 officials.

28 S 66. Subdivision 4 of section 652 of the county law is amended to  
29 read as follows:

30 4. Before the appointment by a sheriff of any person as an undersher-  
31 iff or a deputy, other than a person deputed to do particular acts, the  
32 sheriff shall require such person to, and such person shall, submit to  
33 the sheriff fingerprints of [the two hands of] such person, IN THE FORM  
34 AND MANNER PRESCRIBED BY THE DIVISION OF CRIMINAL JUSTICE SERVICES, and  
35 it shall thereupon be the duty of the sheriff to compare, or cause to be  
36 compared such fingerprints with fingerprints filed with the division of  
37 criminal [identification of the state department of correction] JUSTICE  
38 SERVICES; provided, however, that in any case where the fingerprints of  
39 any such person shall once have been submitted pursuant to this section  
40 and are on file in the office of the sheriff, no new submission thereof  
41 shall be required, nor shall the sheriff be required to make or cause to  
42 be made such comparison if such comparison shall have been made previ-  
43 ously and certification thereof by such department is on file in his  
44 office.

45 S 67. Subdivision 9 of section 10 of the court of claims act, as added  
46 by section 2 of part D of chapter 412 of the laws of 1999, is amended to  
47 read as follows:

48 9. A claim of any inmate in the custody of the department of [correc-  
49 tional services] CORRECTIONS AND COMMUNITY SUPERVISION for recovery of  
50 damages for injury to or loss of personal property may not be filed  
51 unless and until the inmate has exhausted the personal property claims  
52 administrative remedy, established for inmates by the department. Such  
53 claim must be filed and served within one hundred twenty days after the  
54 date on which the inmate has exhausted such remedy.

1 S 68. Subdivision 6-a of section 20 of the court of claims act, as  
2 amended by section 46 of part A-1 of chapter 56 of the laws of 2010, is  
3 amended to read as follows:

4 6-a. Notwithstanding the provisions of subdivisions five, five-a and  
5 six of this section, in any case where a judgment or any part thereof is  
6 to be paid to an inmate serving a sentence of imprisonment with the  
7 state department of [correctional services] CORRECTIONS AND COMMUNITY  
8 SUPERVISION or to a prisoner confined at a local correctional facility,  
9 the comptroller shall give written notice, if required pursuant to  
10 subdivision two of section six hundred thirty-two-a of the executive  
11 law, to the office of victim services that such judgment shall be paid  
12 thirty days after the date of such notice.

13 S 69. Section 20-a of the court of claims act, as amended by chapter  
14 62 of the laws of 2001, is amended to read as follows:

15 S 20-a. Settlement of claims. Notwithstanding any inconsistent  
16 provision of this act or of the state finance law, the comptroller shall  
17 examine, audit, and certify for payment the settlement of any claim  
18 filed in the court of claims for injuries to personal property, real  
19 property, or for personal injuries caused by the tort of an officer or  
20 employee of the state while acting as such officer or employee, provided  
21 that a stipulation of settlement executed by the parties shall have been  
22 approved by order of the court. No such stipulation shall be executed on  
23 behalf of the state without, after consultation with the director of the  
24 budget, the approval of the head of the department or agency having  
25 supervision of the officer or employee alleged to have caused the inju-  
26 ries and of the attorney general. The attorney general shall cause a  
27 review to be made within the department of law of all cases filed in the  
28 court of claims to determine which cases are appropriate for possible  
29 settlement. Payment of any claim made pursuant to the approval of a  
30 settlement by the court shall be made from the funds appropriated for  
31 the purpose of payment of judgments against the state pursuant to  
32 section twenty of this act. In any case where payment is to be made to  
33 an inmate serving a sentence of imprisonment with the state department  
34 of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or to a  
35 prisoner confined at a local correctional facility, the procedures set  
36 forth in subdivision six-a of section twenty of this article shall be  
37 followed. On or before January fifteenth the comptroller, in consulta-  
38 tion with the department of law and other agencies as may be appropri-  
39 ate, shall submit to the governor and the legislature an annual account-  
40 ing of settlements paid pursuant to this section during the preceding  
41 and current fiscal years. Such accounting shall include, but not be  
42 limited to the number, type and amount of claims so paid, as well as an  
43 estimate of claims to be paid during the remainder of the current fiscal  
44 year and during the following fiscal year.

45 S 70. Subdivisions 23, 23-a and 25 of section 2.10 of the criminal  
46 procedure law, subdivisions 23 and 25 as added by chapter 843 of the  
47 laws of 1980, and subdivision 23-a as added by chapter 404 of the laws  
48 of 2000, are amended to read as follows:

49 23. Parole officers or warrant officers in the [division of parole]  
50 DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION.

51 23-a. Parole revocation specialists in the [division of parole]  
52 DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION; provided, however,  
53 that nothing in this subdivision shall be deemed to authorize such  
54 employee to carry, possess, repair or dispose of a firearm unless the  
55 appropriate license therefor has been issued pursuant to section 400.00  
56 of the penal law.

25. Officials, as designated by the commissioner of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION pursuant to rules of the department, and correction officers of any state correctional facility or of any penal correctional institution.

S 71. Section 120.55 of the criminal procedure law, as amended by chapter 456 of the laws of 1981, is amended to read as follows:

S 120.55 [Warrant] WARRANT of arrest; [defendant] DEFENDANT under parole or probation supervision.

If the defendant named within a warrant of arrest issued by a local criminal court pursuant to the provisions of this article, or by a superior court issued pursuant to subdivision three of section 210.10 of [such] THIS chapter, is under the supervision of the state [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION or a local or state probation department, then a warrant for his OR HER arrest may be executed by a parole officer or probation officer, when authorized by his OR HER probation director, within his OR HER geographical area of employment. The execution of the warrant by a parole officer or probation officer shall be upon the same conditions and conducted in the same manner as provided for execution of a warrant by a police officer.

S 72. Subdivisions 1, 2, 3 and 5 of section 140.10 of the criminal procedure law, subdivisions 1, 2 and 3 as amended by chapter 997 of the laws of 1970, paragraph (a) of subdivision 2 as amended by chapter 300 of the laws of 2003, and subdivision 5 as amended by chapter 476 of the laws of 2009, are amended to read as follows:

S 140.10 Arrest without a warrant; by police officer; when and where authorized.

1. Subject to the provisions of subdivision two, a police officer may arrest a person for:

(a) Any offense when he OR SHE has reasonable cause to believe that such person has committed such offense in his OR HER presence; and

(b) A crime when he OR SHE has reasonable cause to believe that such person has committed such crime, whether in his OR HER presence or otherwise.

2. A police officer may arrest a person for a petty offense, pursuant to subdivision one, only when:

(a) Such offense was committed or believed by him or her to have been committed within the geographical area of such police officer's employment or within one hundred yards of such geographical area; and

(b) Such arrest is made in the county in which such offense was committed or believed to have been committed or in an adjoining county; except that the police officer may follow such person in continuous close pursuit, commencing either in the county in which the offense was or is believed to have been committed or in an adjoining county, in and through any county of the state, and may arrest him OR HER in any county in which he OR SHE apprehends him OR HER.

3. A police officer may arrest a person for a crime, pursuant to subdivision one, whether or not such crime was committed within the geographical area of such police officer's employment, and he OR SHE may make such arrest within the state, regardless of the situs of the commission of the crime. In addition, he OR SHE may, if necessary, pursue such person outside the state and may arrest him OR HER in any state the laws of which contain provisions equivalent to those of section 140.55.

5. Upon investigating a report of a crime or offense between members of the same family or household as such terms are defined in section 530.11 of this chapter and section eight hundred twelve of the family

1 court act, a law enforcement officer shall prepare and file a written  
2 report of the incident, on a form promulgated pursuant to section eight  
3 hundred thirty-seven of the executive law, including statements made by  
4 the victim and by any witnesses, and make any additional reports  
5 required by local law enforcement policy or regulations. Such report  
6 shall be prepared and filed, whether or not an arrest is made as a  
7 result of the officers' investigation, and shall be retained by the law  
8 enforcement agency for a period of not less than four years. Where the  
9 reported incident involved an offense committed against a person who is  
10 sixty-five years of age or older a copy of the report required by this  
11 subdivision shall be sent to the New York state committee for the coor-  
12 dination of police services to elderly persons established pursuant to  
13 section eight hundred forty-four-b of the executive law. Where the  
14 reported incident involved an offense committed by an individual known  
15 by the law enforcement officer to be under probation or parole super-  
16 vision, he or she shall transmit a copy of the report as soon as practi-  
17 cable to the supervising probation department or the [division of  
18 parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION.

19 S 73. Paragraph (d) of subdivision 1 of section 160.50 of the criminal  
20 procedure law, as amended by chapter 169 of the laws of 1994, is amended  
21 to read as follows:

22 (d) such records shall be made available to the person accused or to  
23 such person's designated agent, and shall be made available to (i) a  
24 prosecutor in any proceeding in which the accused has moved for an order  
25 pursuant to section 170.56 or 210.46 of this chapter, or (ii) a law  
26 enforcement agency upon ex parte motion in any superior court, if such  
27 agency demonstrates to the satisfaction of the court that justice  
28 requires that such records be made available to it, or (iii) any state  
29 or local officer or agency with responsibility for the issuance of  
30 licenses to possess guns, when the accused has made application for such  
31 a license, or (iv) the New York state [division of parole] DEPARTMENT OF  
32 CORRECTIONS AND COMMUNITY SUPERVISION when the accused is on parole  
33 supervision as a result of conditional release or a parole release  
34 granted by the New York state board of parole, and the arrest which is  
35 the subject of the inquiry is one which occurred while the accused was  
36 under such supervision or (v) any prospective employer of a police offi-  
37 cer or peace officer as those terms are defined in subdivisions thirty-  
38 three and thirty-four of section 1.20 of this chapter, in relation to an  
39 application for employment as a police officer or peace officer;  
40 provided, however, that every person who is an applicant for the posi-  
41 tion of police officer or peace officer shall be furnished with a copy  
42 of all records obtained under this paragraph and afforded an opportunity  
43 to make an explanation thereto, or (vi) the probation department respon-  
44 sible for supervision of the accused when the arrest which is the  
45 subject of the inquiry is one which occurred while the accused was under  
46 such supervision; and

47 S 74. Paragraph (d) of subdivision 1 of section 160.55 of the criminal  
48 procedure law, as amended by chapter 476 of the laws of 2009, is amended  
49 to read as follows:

50 (d) the records referred to in paragraph (c) of this subdivision shall  
51 be made available to the person accused or to such person's designated  
52 agent, and shall be made available to (i) a prosecutor in any proceeding  
53 in which the accused has moved for an order pursuant to section 170.56  
54 or 210.46 of this chapter, or (ii) a law enforcement agency upon ex  
55 parte motion in any superior court, if such agency demonstrates to the  
56 satisfaction of the court that justice requires that such records be

1 made available to it, or (iii) any state or local officer or agency with  
2 responsibility for the issuance of licenses to possess guns, when the  
3 accused has made application for such a license, or (iv) the New York  
4 state [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY  
5 SUPERVISION when the accused is under parole supervision as a result of  
6 conditional release or parole release granted by the New York state  
7 board of parole and the arrest which is the subject of the inquiry is  
8 one which occurred while the accused was under such supervision, or (v)  
9 the probation department responsible for supervision of the accused when  
10 the arrest which is the subject of the inquiry is one which occurred  
11 while the accused was under such supervision, or (vi) a police agency,  
12 probation department, sheriff's office, district attorney's office,  
13 department of correction of any municipality and parole department, for  
14 law enforcement purposes, upon arrest in instances in which the individ-  
15 ual stands convicted of harassment in the second degree, as defined in  
16 section 240.26 of the penal law, committed against a member of the same  
17 family or household as the defendant, as defined in subdivision one of  
18 section 530.11 of this chapter, and determined pursuant to subdivision  
19 eight-a of section 170.10 of this title; and

20 S 75. Subdivisions 4 and 5 of section 380.50 of the criminal procedure  
21 law, as amended by chapter 7 of the laws of 2007, are amended to read as  
22 follows:

23 4. Regardless of whether the victim requests to make a statement with  
24 regard to the defendant's sentence, where the defendant is committed to  
25 the custody of the department of [correctional services] CORRECTIONS AND  
26 COMMUNITY SUPERVISION upon a sentence of imprisonment for conviction of  
27 a violent felony offense as defined in section 70.02 of the penal law or  
28 a felony defined in article one hundred twenty-five of such law, or a  
29 sex offense as defined in subdivision (p) of section 10.03 of the mental  
30 hygiene law, within sixty days of the imposition of sentence the prose-  
31 cutor shall provide the victim with a form, prepared and distributed by  
32 the commissioner of the department of [correctional services]  
33 CORRECTIONS AND COMMUNITY SUPERVISION, on which the victim may indicate  
34 a demand to be informed of the escape, absconding, discharge, parole,  
35 conditional release, release to post-release supervision, transfer to  
36 the custody of the office of mental health pursuant to article ten of  
37 the mental hygiene law, or release from confinement under article ten of  
38 the mental hygiene law of the person so imprisoned. If the victim  
39 submits a completed form to the prosecutor, it shall be the duty of the  
40 prosecutor to mail promptly such form to the department of [correctional  
41 services] CORRECTIONS AND COMMUNITY SUPERVISION.

42 5. Following the receipt of such form from the prosecutor, it shall be  
43 the duty of the department of [correctional services] CORRECTIONS AND  
44 COMMUNITY SUPERVISION or, where the person is committed to the custody  
45 of the office of mental health, at the time such person is discharged,  
46 paroled, conditionally released, released to post-release supervision,  
47 or released from confinement under article ten of the mental hygiene  
48 law, to notify the victim of such occurrence by certified mail directed  
49 to the address provided by the victim. In the event such person escapes  
50 or absconds from a facility under the jurisdiction of the department of  
51 [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, it shall  
52 be the duty of such department to notify immediately the victim of such  
53 occurrence at the most current address or telephone number provided by  
54 the victim in the most reasonable and expedient possible manner. In the  
55 event such escapee or absconder is subsequently taken into custody by  
56 the department of [correctional services] CORRECTIONS AND COMMUNITY

1 SUPERVISION, it shall be the duty of such department to notify the  
2 victim of such occurrence by certified mail directed to the address  
3 provided by the victim within forty-eight hours of regaining such custo-  
4 dy. In the case of a person who escapes or absconds from confinement  
5 under article ten of the mental hygiene law, the office of mental health  
6 shall notify the victim or victims in accordance with the procedures set  
7 forth in subdivision (g) of section 10.10 of the mental hygiene law. In  
8 no case shall the state be held liable for failure to provide any notice  
9 required by this subdivision.

10 S 76. Subdivisions 1, 6 and 8 of section 410.91 of the criminal proce-  
11 dure law, subdivision 1 as amended by chapter 121 of the laws of 2010  
12 and subdivisions 6 and 8 as added by chapter 3 of the laws of 1995, are  
13 amended to read as follows:

14 1. A sentence of parole supervision is an indeterminate sentence of  
15 imprisonment, or a determinate sentence of imprisonment imposed pursuant  
16 to paragraphs (b) and (d) of subdivision three of section 70.70 of the  
17 penal law, which may be imposed upon an eligible defendant, as defined  
18 in subdivision two of this section. If an indeterminate sentence, such  
19 sentence shall have a minimum term and a maximum term within the ranges  
20 specified by subdivisions three and four of section 70.06 of the penal  
21 law. If a determinate sentence, such sentence shall have a term within  
22 the ranges specified by subparagraphs (iii) and (iv) of paragraph (b) of  
23 subdivision three of section 70.70 of the penal law. Provided, however,  
24 if the court directs that the sentence be executed as a sentence of  
25 parole supervision, it shall remand the defendant for immediate delivery  
26 to a reception center operated by the state department of [correctional  
27 services] CORRECTIONS AND COMMUNITY SUPERVISION, in accordance with  
28 section 430.20 of this chapter and section six hundred one of the  
29 correction law, for a period not to exceed ten days. An individual who  
30 receives such a sentence shall be placed under the immediate supervision  
31 of the [state division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNI-  
32 TY SUPERVISION and must comply with the conditions of parole, which  
33 shall include an initial placement in a drug treatment campus for a  
34 period of ninety days at which time the defendant shall be released  
35 therefrom.

36 6. Upon delivery of the defendant to the reception center, he or she  
37 shall be given a copy of the conditions of parole by a representative of  
38 the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPER-  
39 VISION and shall acknowledge receipt of a copy of the conditions in  
40 writing. The conditions shall be established in accordance with article  
41 [twelve-B] EIGHT of the [executive] CORRECTION law and the rules and  
42 regulations of the [division of parole] DEPARTMENT OF CORRECTIONS AND  
43 COMMUNITY SUPERVISION. Thereafter and while the parolee is participating  
44 in the intensive drug treatment program provided at the drug treatment  
45 campus, the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY  
46 SUPERVISION shall assess the parolee's special needs and shall develop  
47 an intensive program of parole supervision that will address the  
48 parolee's substance abuse history and which shall include periodic  
49 urinalysis testing. Unless inappropriate, such program shall include the  
50 provision of treatment services by a community-based substance abuse  
51 service provider which has a contract with the [division of parole]  
52 DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION.

53 8. If the parole officer having charge of a person sentenced to parole  
54 supervision pursuant to this section has reasonable cause to believe  
55 that such person has violated the conditions of his or her parole, the  
56 procedures of [subdivision three of] section two hundred [fifty-nine-i]

1 FIVE of the [executive] CORRECTION law shall apply to the issuance of a  
2 warrant and the conduct of further proceedings; provided, however, that  
3 a parole violation warrant issued for a violation committed while the  
4 parolee is being supervised at a drug treatment campus shall constitute  
5 authority for the immediate placement of the parolee into a correctional  
6 facility operated by the department of [correctional services]  
7 CORRECTIONS AND COMMUNITY SUPERVISION, which to the extent practicable  
8 shall be reasonably proximate to the place at which the violation  
9 occurred, to hold in temporary detention pending completion of the  
10 procedures required by [subdivision three of] section two hundred  
11 [fifty-nine-i] FIVE of the [executive] CORRECTION law.

12 S 77. Subdivisions 2 and 4 of section 430.20 of the criminal procedure  
13 law, as amended by chapter 3 of the laws of 1995, are amended to read as  
14 follows:

15 2. Indeterminate and determinate sentences. In the case of an indeter-  
16 minate or determinate sentence of imprisonment, commitment must be to  
17 the custody of the state department of [correctional services]  
18 CORRECTIONS AND COMMUNITY SUPERVISION as provided in subdivision one of  
19 section 70.20 of the penal law. The order of commitment must direct that  
20 the defendant be delivered to an institution designated by the commis-  
21 sioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION  
22 in accordance with the provisions of the correction law.

23 4. Certain resentences. When a sentence of imprisonment that has been  
24 imposed on a defendant is vacated and a new sentence is imposed on such  
25 defendant for the same offense, or for an offense based upon the same  
26 act, if the term of the new definite or determinate sentence or the  
27 maximum term of the new indeterminate sentence so imposed is less than  
28 or equal to that of the vacated sentence:

29 (a) where the time served by the defendant on the vacated sentence is  
30 equal to or greater than the term or maximum term of the new sentence,  
31 the new sentence shall be deemed to be served in its entirety and the  
32 defendant shall not be committed to a correctional facility pursuant to  
33 said sentence; and

34 (b) where the defendant was under the supervision of a local condi-  
35 tional release commission or the [division of parole] DEPARTMENT OF  
36 CORRECTIONS AND COMMUNITY SUPERVISION at the time the sentence was  
37 vacated, then the commitment shall direct that said conditional release  
38 or parole be recommenced, and the defendant shall not be committed to a  
39 correctional facility pursuant to said sentence, except as a result of  
40 revocation of parole or of conditional release; and

41 (c) where the defendant was not under the supervision of the [division  
42 of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION at the  
43 time the indeterminate or determinate sentence was vacated, but would  
44 immediately be eligible for conditional release from the new indetermi-  
45 nate or determinate sentence, the court shall ascertain from the depart-  
46 ment of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION  
47 whether the defendant has earned a sufficient amount of good time under  
48 the vacated sentence so as to require the conditional release of the  
49 defendant under the new sentence; in the event the defendant has earned  
50 a sufficient amount of good time, the court shall stay execution of  
51 sentence until the defendant surrenders at a correctional facility  
52 pursuant to the direction of the department of [correctional services]  
53 CORRECTIONS AND COMMUNITY SUPERVISION, which shall occur no later than  
54 sixty days after imposition of sentence; upon said stay of execution,  
55 the court clerk shall immediately mail to the commissioner of [correc-  
56 tional services] CORRECTIONS AND COMMUNITY SUPERVISION a certified copy

1 of the commitment reflecting said stay of execution and the name, mail-  
2 ing address and telephone number of the defendant's legal represen-  
3 tative; in the event the defendant fails to surrender as directed by the  
4 department of [correctional services] CORRECTIONS AND COMMUNITY SUPER-  
5 VISION, the department shall notify the court which shall thereafter  
6 remand the defendant to custody pursuant to section 430.30 of this arti-  
7 cle; and

8 (d) upon the resentence of a defendant as described in this subdivi-  
9 sion, the court clerk shall immediately mail a certified copy of the  
10 commitment to the commissioner of [correctional services] CORRECTIONS  
11 AND COMMUNITY SUPERVISION if the vacated sentence or the new sentence is  
12 an indeterminate or determinate sentence and no mailing is required by  
13 paragraph (c) of this subdivision; additionally, the court clerk shall  
14 immediately mail a certified copy of the new commitment to the head of  
15 the appropriate local correctional facility if the vacated sentence or  
16 the new sentence is a definite sentence.

17 S 78. Subdivisions 2 and 4 of section 430.20 of the criminal procedure  
18 law, subdivision 2 as amended by chapter 788 of the laws of 1971 and  
19 subdivision 4 as amended by chapter 370 of the laws of 1994, are amended  
20 to read as follows:

21 2. Indeterminate [and reformatory] sentences. In the case of an inde-  
22 terminate [or reformatory] sentence of imprisonment, commitment must be  
23 to the custody of the state department of [correctional services]  
24 CORRECTIONS AND COMMUNITY SUPERVISION as provided in subdivision one of  
25 section 70.20 [and section 75.05] of the penal law. The order of commit-  
26 ment must direct that the defendant be delivered to an institution  
27 designated by the commissioner of [correctional services] CORRECTIONS  
28 AND COMMUNITY SUPERVISION in accordance with the provisions of the  
29 correction law.

30 4. Certain resentences. When a sentence of imprisonment that has been  
31 imposed on a defendant is vacated and a new sentence is imposed on such  
32 defendant for the same offense, or for an offense based upon the same  
33 act, if the term of the new definite sentence or the maximum term of the  
34 new indeterminate sentence so imposed is less than or equal to that of  
35 the vacated sentence:

36 (a) where the time served by the defendant on the vacated sentence is  
37 equal to or greater than the term or maximum term of the new sentence,  
38 the new sentence shall be deemed to be served in its entirety and the  
39 defendant shall not be committed to a correctional facility pursuant to  
40 said sentence; and

41 (b) where the defendant was under the supervision of a local condi-  
42 tional release commission or the [division of parole] DEPARTMENT OF  
43 CORRECTIONS AND COMMUNITY SUPERVISION at the time the sentence was  
44 vacated, then the commitment shall direct that said conditional release  
45 or parole be recommenced, and the defendant shall not be committed to a  
46 correctional facility pursuant to said sentence, except as a result of  
47 revocation of parole or of conditional release; and

48 (c) where the defendant was not under the supervision of the [division  
49 of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION at the  
50 time the indeterminate sentence was vacated, but would immediately be  
51 eligible for conditional release from the new indeterminate sentence,  
52 the court shall ascertain from the department of [correctional services]  
53 CORRECTIONS AND COMMUNITY SUPERVISION whether the defendant has earned a  
54 sufficient amount of good time under the vacated sentence so as to  
55 require the conditional release of the defendant under the new sentence;  
56 in the event the defendant has earned a sufficient amount of good time,

1 the court shall stay execution of sentence until the defendant surren-  
2 ders at a correctional facility pursuant to the direction of the depart-  
3 ment of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION,  
4 which shall occur no later than sixty days after imposition of sentence;  
5 upon said stay of execution, the court clerk shall immediately mail to  
6 the commissioner of [correctional services] CORRECTIONS AND COMMUNITY  
7 SUPERVISION a certified copy of the commitment reflecting said stay of  
8 execution and the name, mailing address and telephone number of the  
9 defendant's legal representative; in the event the defendant fails to  
10 surrender as directed by the department of [correctional services]  
11 CORRECTIONS AND COMMUNITY SUPERVISION, the department shall notify the  
12 court which shall thereafter remand the defendant to custody pursuant to  
13 section 430.30 of this article; and

14 (d) upon the resentencing of a defendant as described in this subdivi-  
15 sion, the court clerk shall immediately mail a certified copy of the  
16 commitment to the commissioner of [correctional services] CORRECTIONS  
17 AND COMMUNITY SUPERVISION if the vacated sentence or the new sentence is  
18 an indeterminate sentence and no mailing is required by paragraph (c) of  
19 this subdivision; additionally, the court clerk shall immediately mail a  
20 certified copy of the new commitment to the head of the appropriate  
21 local correctional facility if the vacated sentence or the new sentence  
22 is a definite sentence.

23 S 79. Subdivision 1 of section 440.46 of the criminal procedure law,  
24 as added by section 9 of part AAA of chapter 56 of the laws of 2009, is  
25 amended to read as follows:

26 1. Any person in the custody of the department of [correctional  
27 services] CORRECTIONS AND COMMUNITY SUPERVISION convicted of a class B  
28 felony offense defined in article two hundred twenty of the penal law  
29 which was committed prior to January thirteenth, two thousand five, who  
30 is serving an indeterminate sentence with a maximum term of more than  
31 three years, may, except as provided in subdivision five of this  
32 section, upon notice to the appropriate district attorney, apply to be  
33 resentenced to a determinate sentence in accordance with sections 60.04  
34 and 70.70 of the penal law in the court which imposed the sentence.

35 S 80. Subdivision 1 of section 440.50 of the criminal procedure law,  
36 as amended by chapter 186 of the laws of 2005, is amended to read as  
37 follows:

38 1. Upon the request of a victim of a crime, or in any event in all  
39 cases in which the final disposition includes a conviction of a violent  
40 felony offense as defined in section 70.02 of the penal law or a felony  
41 defined in article one hundred twenty-five of such law, the district  
42 attorney shall, within sixty days of the final disposition of the case,  
43 inform the victim by letter of such final disposition. If such final  
44 disposition results in the commitment of the defendant to the custody of  
45 the department of [correctional services] CORRECTIONS AND COMMUNITY  
46 SUPERVISION for an indeterminate sentence, the notice provided to the  
47 crime victim shall also inform the victim of his or her right to submit  
48 a written, audiotaped, or videotaped victim impact statement to the  
49 [state division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY  
50 SUPERVISION or to meet personally with a member of the state board of  
51 parole at a time and place separate from the personal interview between  
52 a member or members of the board and the inmate and make such a state-  
53 ment, subject to procedures and limitations contained in rules of the  
54 board, [both] pursuant to subdivision two of section two hundred  
55 [fifty-nine-i] FIFTY-NINE-B of the executive law. The right of the  
56 victim under this subdivision to submit a written victim impact state-

1 ment or to meet personally with a member of the state board of parole  
2 applies to each personal interview between a member or members of the  
3 board and the inmate.

4 S 81. Subdivisions 8 and 9 of section 530.12 of the criminal procedure  
5 law, subdivision 8 as amended by section 5 of part D of chapter 56 of  
6 the laws of 2008, and subdivision 9 as amended by chapter 530 of the  
7 laws of 1980, are amended to read as follows:

8 8. In any proceeding in which an order of protection or temporary  
9 order of protection or a warrant has been issued under this section, the  
10 clerk of the court shall issue to the complainant and defendant and  
11 defense counsel and to any other person affected by the order a copy of  
12 the order of protection or temporary order of protection and ensure that  
13 a copy of the order of protection or temporary order of protection be  
14 transmitted to the local correctional facility where the individual is  
15 or will be detained, the state or local correctional facility where the  
16 individual is or will be imprisoned, and the supervising probation  
17 department or [division of parole] DEPARTMENT OF CORRECTIONS AND COMMU-  
18 NITY SUPERVISION where the individual is under probation or parole  
19 supervision. The presentation of a copy of such order or a warrant to  
20 any peace officer acting pursuant to his OR HER special duties or police  
21 officer shall constitute authority for him OR HER to arrest a person who  
22 has violated the terms of such order and bring such person before the  
23 court and, otherwise, so far as lies within his OR HER power, to aid in  
24 securing the protection such order was intended to afford.

25 9. If no warrant, order or temporary order of protection has been  
26 issued by the court, and an act alleged to be a family offense as  
27 defined in section 530.11 of this chapter is the basis of the arrest,  
28 the magistrate shall permit the complainant to file a petition, informa-  
29 tion or accusatory instrument and for reasonable cause shown, shall  
30 thereupon hold such respondent or defendant, admit to, fix or accept  
31 bail, or parole him OR HER for hearing before the family court or appro-  
32 priate criminal court as the complainant shall choose in accordance with  
33 the provisions of section 530.11 of this chapter.

34 S 82. Subdivision 6 of section 530.13 of the criminal procedure law,  
35 as amended by section 6 of part D of chapter 56 of the laws of 2008, is  
36 amended to read as follows:

37 6. In any proceeding in which an order of protection or temporary  
38 order of protection or a warrant has been issued under this section, the  
39 clerk of the court shall issue to the victim and the defendant and  
40 defense counsel and to any other person affected by the order, a copy of  
41 the order of protection or temporary order of protection and ensure that  
42 a copy of the order of protection or temporary order of protection be  
43 transmitted to the local correctional facility where the individual is  
44 or will be detained, the state or local correctional facility where the  
45 individual is or will be imprisoned, and the supervising probation  
46 department or [division of parole] DEPARTMENT OF CORRECTIONS AND COMMU-  
47 NITY SUPERVISION where the individual is under probation or parole  
48 supervision. The presentation of a copy of such order or a warrant to  
49 any police officer or peace officer acting pursuant to his OR HER  
50 special duties shall constitute authority for him OR HER to arrest a  
51 person who has violated the terms of such order and bring such person  
52 before the court and, otherwise, so far as lies within his OR HER power,  
53 to aid in securing the protection such order was intended to afford.

54 S 83. Subdivisions 4, 5 and 6 of section 530.70 of the criminal proce-  
55 dure law, subdivisions 4 and 5 as added and subdivision 6 as renumbered

by chapter 565 of the laws of 1988 and subdivision 6 as amended by chapter 456 of the laws of 1981, are amended to read as follows:

4. The issuing court may authorize the delegation of such warrant. Where the issuing court has so authorized, a police officer to whom a bench warrant is addressed may delegate another police officer to whom it is not addressed to execute such warrant as his OR HER agent when:

(a) He OR SHE has reasonable cause to believe that the defendant is in a particular county other than the one in which the warrant is returnable; and

(b) The geographical area of employment of the delegated police officer embraces the locality where the arrest is to be made.

5. Under circumstances specified in subdivision four, the police officer to whom the bench warrant is addressed may inform the delegated officer, by telecommunication, mail or any other means, of the issuance of the warrant, of the offense charged in the underlying accusatory instrument and of all other pertinent details, and may request him OR HER to act as his OR HER agent in arresting the defendant pursuant to such bench warrant. Upon such request, the delegated police officer is to the same extent as the delegating officer, authorized to make such arrest pursuant to the bench warrant within the geographical area of such delegated officer's employment. Upon so arresting the defendant, he OR SHE must without unnecessary delay deliver the defendant or cause him OR HER to be delivered to the custody of the police officer by whom he OR SHE was so delegated, and the latter must then without unnecessary delay bring the defendant before the court in which such bench warrant is returnable.

6. A bench warrant may be executed by an officer of the state [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION or a probation officer when the person named within the warrant is under the supervision of the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION or a department of probation and the probation officer is authorized by his OR HER probation director, as the case may be. The warrant must be executed upon the same conditions and in the same manner as is otherwise provided for execution by a police officer.

S 84. Section 570.54 of the criminal procedure law, subdivisions 2 and 3 as amended by chapter 2 of the laws of 1980, is amended to read as follows:

S 570.54 Application for issuance of requisition; by whom made; contents.

1. When the return to this state of a person charged with crime in this state is required, the district attorney of the county in which the offense was committed, or, if the offense is one which is cognizable by him OR HER, the attorney general shall present to the governor his OR HER written application for a requisition for the return of the person charged, in which application shall be stated the name of the person so charged, the crime charged against him OR HER, the approximate time, place and circumstances of its commission, the state in which he OR SHE is believed to be, including the location of the accused therein at the time the application is made and certifying that, in the opinion of the said district attorney or attorney general the ends of justice require the arrest and return of the accused to this state for trial and that the proceeding is not instituted to enforce a private claim.

2. When there is required the return to this state of a person who has been convicted of a crime in this state and has escaped from confinement or broken the terms of his OR HER bail, probation or parole, the district attorney of the county in which the offense was committed,

1 [the parole board, or] the warden of the institution or sheriff of the  
2 county, from which escape was made, or the commissioner of the state  
3 department of [correctional services] CORRECTIONS AND COMMUNITY SUPER-  
4 VISION or his OR HER designee shall present to the governor a written  
5 application for a requisition for the return of such person, in which  
6 application shall be stated the name of the person, the crime of which  
7 he OR SHE was convicted, the circumstances of his OR HER escape from  
8 confinement or of the breach of the terms of his OR HER bail, probation  
9 or parole, the state in which he OR SHE is believed to be, including the  
10 location of the person therein at the time the application is made.

11 3. The application shall be verified by affidavit, shall be executed  
12 in duplicate and shall be accompanied by two certified copies of the  
13 accusatory instrument stating the offense with which the accused is  
14 charged, or of the judgment of conviction or of the sentence. The  
15 district attorney, attorney general, [parole board,] warden, sheriff or  
16 the commissioner of the state department of [correctional services]  
17 CORRECTIONS AND COMMUNITY SUPERVISION or his OR HER designee may also  
18 attach such further affidavits and other documents in duplicate as he OR  
19 SHE shall deem proper to be submitted with such application. One copy of  
20 the application, with the action of the governor indicated by endorse-  
21 ment thereon, and one of the certified copies of the accusatory instru-  
22 ment, or of the judgment of conviction or the sentence shall be filed in  
23 the office of the secretary of state to remain of record in that office.  
24 The other copies of all papers shall be forwarded with the governor's  
25 requisition.

26 S 85. Section 570.56 of the criminal procedure law, as amended by  
27 chapter 193 of the laws of 1995, is amended to read as follows:  
28 S 570.56 Expense of extradition.

29 The expenses of extradition must be borne by the county from which the  
30 application for a requisition comes or, where the application is made by  
31 the attorney general, by the county in which the offense was committed.  
32 In the case of extradition of a person who has been convicted of a crime  
33 in this state and has escaped from a state prison or reformatory, the  
34 expense of extradition shall be borne by the department of [correctional  
35 services] CORRECTIONS AND COMMUNITY SUPERVISION. Where a person has  
36 broken the terms of his OR HER parole from a state prison or reformato-  
37 ry, the expense of extradition shall be borne by the state [division of  
38 parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION. Where a  
39 person has broken the terms of his OR HER bail or probation, the expense  
40 of extradition shall be borne by the county. Where a person has been  
41 convicted but not yet confined to a prison, or has been sentenced for a  
42 felony to a county jail or penitentiary and escapes, the expenses of  
43 extradition shall be charged to the county from whose custody the escape  
44 is effected. Nothing in this section shall preclude a county[, ] OR the  
45 department of [correctional services or the state division of parole]  
46 CORRECTIONS AND COMMUNITY SUPERVISION, as the case may be, from collect-  
47 ing the expenses involved in extradition from the person who was extrad-  
48 ited.

49 S 86. Section 650.10 of the criminal procedure law, as amended by  
50 chapter 550 of the laws of 1978, is amended to read as follows:

51 S 650.10 Securing attendance of prisoner in this state as witness in  
52 proceeding without the state.

53 If a judge of a court of record in any other state, which by its laws  
54 has made provision for commanding a prisoner within that state to attend  
55 and testify in this state, certifies under the seal of that court that  
56 there is a criminal prosecution pending in such court or that a grand

1 jury investigation has commenced, and that a person confined in a New  
2 York state correctional institution or prison within the department of  
3 [correction] CORRECTIONS AND COMMUNITY SUPERVISION, other than a person  
4 confined as criminally mentally ill, or as a defective delinquent, or  
5 confined in the death house awaiting execution, is a material witness in  
6 such prosecution or investigation and that his OR HER presence is  
7 required for a specified number of days, upon presentment of such  
8 certificate to a judge of a superior court in the county where the  
9 person is confined, upon notice to the attorney general, such judge,  
10 shall fix a time and place for a hearing and shall make an order  
11 directed to the person having custody of the prisoner requiring that  
12 such prisoner be produced at the hearing.

13 If at such hearing the judge determines that the prisoner is a materi-  
14 al and necessary witness in the requesting state, the judge shall issue  
15 an order directing that the prisoner attend in the court where the pros-  
16 ecution or investigation is pending, upon such terms and conditions as  
17 the judge prescribes, including among other things, provision for the  
18 return of the prisoner at the conclusion of his OR HER testimony, proper  
19 safeguards on his OR HER custody, and proper financial reimbursement or  
20 other payment by the demanding jurisdiction for all expenses incurred in  
21 the production and return of the prisoner.

22 The attorney general is authorized as agent for the state of New York,  
23 when in his OR HER judgment it is necessary, to enter into such agree-  
24 ments with the appropriate authorities of the demanding jurisdiction as  
25 he OR SHE determines necessary to ensure proper compliance with the  
26 order of the court.

27 S 87. Subdivisions 1, 2 and 4 of section 720.35 of the criminal proce-  
28 dure law, subdivision 1 as amended by chapter 452 of the laws of 1992,  
29 subdivision 2 as amended by chapter 412 of the laws of 2001 and subdivi-  
30 sion 4 as added by chapter 7 of the laws of 2007, are amended to read as  
31 follows:

32 1. A youthful offender adjudication is not a judgment of conviction  
33 for a crime or any other offense, and does not operate as a disquali-  
34 fication of any person so adjudged to hold public office or public  
35 employment or to receive any license granted by public authority but  
36 shall be deemed a conviction only for the purposes of transfer of super-  
37 vision and custody pursuant to section two hundred [fifty-nine-m] TEN of  
38 the [executive] CORRECTION law.

39 2. Except where specifically required or permitted by statute or upon  
40 specific authorization of the court, all official records and papers,  
41 whether on file with the court, a police agency or the division of crim-  
42 inal justice services, relating to a case involving a youth who has been  
43 adjudicated a youthful offender, are confidential and may not be made  
44 available to any person or public or private agency, other than the  
45 designated educational official of the public or private elementary or  
46 secondary school in which the youth is enrolled as a student provided  
47 that such local educational official shall only have made available a  
48 notice of such adjudication and shall not have access to any other offi-  
49 cial records and papers, such youth or such youth's designated agent  
50 (but only where the official records and papers sought are on file with  
51 a court and request therefor is made to that court or to a clerk there-  
52 of), an institution to which such youth has been committed, the [divi-  
53 sion of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION and  
54 a probation department of this state that requires such official records  
55 and papers for the purpose of carrying out duties specifically author-  
56 ized by law; provided, however, that information regarding an order of

1 protection or temporary order of protection issued pursuant to section  
2 530.12 of this chapter or a warrant issued in connection therewith may  
3 be maintained on the statewide automated order of protection and warrant  
4 registry established pursuant to section two hundred twenty-one-a of the  
5 executive law during the period that such order of protection or tempo-  
6 rary order of protection is in full force and effect or during which  
7 such warrant may be executed. Such confidential information may be made  
8 available pursuant to law only for purposes of adjudicating or enforcing  
9 such order of protection or temporary order of protection and, where  
10 provided to a designated educational official, as defined in section  
11 380.90 of this chapter, for purposes related to the execution of the  
12 student's educational plan, where applicable, successful school adjust-  
13 ment and reentry into the community. Such notification shall be kept  
14 separate and apart from such student's school records and shall be  
15 accessible only by the designated educational official. Such notifica-  
16 tion shall not be part of such student's permanent school record and  
17 shall not be appended to or included in any documentation regarding such  
18 student and shall be destroyed at such time as such student is no longer  
19 enrolled in the school district. At no time shall such notification be  
20 used for any purpose other than those specified in this subdivision.

21 4. Notwithstanding subdivision two of this section, whenever a person  
22 is adjudicated a youthful offender and the conviction that was vacated  
23 and replaced by the youthful offender finding was for a sex offense as  
24 that term is defined in article ten of the mental hygiene law, all  
25 records pertaining to the youthful offender adjudication shall be  
26 included in those records and reports that may be obtained by the  
27 commissioner of mental health or the commissioner of [mental retardation  
28 and developmental disabilities] DEVELOPMENTAL DISABILITIES, as appropri-  
29 ate; the case review panel; and the attorney general pursuant to section  
30 10.05 of the mental hygiene law.

31 S 88. Paragraph b of subdivision 1 of section 272 of the education  
32 law, as amended by chapter 787 of the laws of 1978, is amended to read  
33 as follows:

34 b. The "area served" by a public library system for the purposes of  
35 this article shall mean the area which the public library system  
36 proposes to serve in its approved plan of service. In determining the  
37 population of the area served by the public library system the popu-  
38 lation shall be deemed to be that shown by the latest federal census for  
39 the political subdivisions in the area served. Such population shall be  
40 certified in the same manner as provided by section fifty-four of the  
41 state finance law except that such population shall include the reserva-  
42 tion and school Indian population and inmates of state institutions  
43 under the direction, supervision or control of the state department of  
44 [correction] CORRECTIONS AND COMMUNITY SUPERVISION, the state department  
45 of mental [hygiene] HEALTH and the state department of social welfare.  
46 In the event that any of the political subdivisions receiving library  
47 service are included within a larger political subdivision which is a  
48 part of the public library system the population used for the purposes  
49 of computing state aid shall be the population of the larger political  
50 subdivision, provided however, that where any political subdivision  
51 within a larger political subdivision shall have taken an interim census  
52 since the last census taken of the larger political subdivision, the  
53 population of the larger political subdivision may be adjusted to  
54 reflect such interim census and, as so adjusted, may be used until the  
55 next census of such larger political subdivision. In the event that the  
56 area served is not coterminous with a political subdivision, the popu-

lation of which is shown on such census, or the area in square miles of which is available from official sources, such population and area shall be determined, for the purpose of computation of state aid pursuant to section two hundred seventy-three OF THIS PART by applying to the population and area in square miles of such political subdivision, the ratio which exists between the assessed valuation of the portion of such political subdivision included within the area served and the total assessed valuation of such political subdivision.

S 89. Subparagraph 3 of paragraph a of subdivision 9 of section 605 of the education law, as amended by chapter 523 of the laws of 1992, is amended to read as follows:

(3) The applicant must agree to practice medicine in an area in New York state designated as having a shortage of physicians. The regents, after consultation with the commissioners of health, [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, mental health and [mental retardation and] developmental disabilities, shall designate those regions and facilities of New York state which have a shortage of physicians for the purposes of this section and establish relative rankings thereof.

S 90. Subdivision 6 of section 6542 of the education law, as amended by chapter 179 of the laws of 1992, is amended to read as follows:

6. Notwithstanding any other provision of this article, nothing shall prohibit a physician employed by or rendering services to the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION under contract from supervising no more than four physician assistants or specialist assistants in his practice for the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION.

S 91. Subdivision 16-a of section 3-102 of the election law, as added by section 10 of part 00 of chapter 56 of the laws of 2010, is amended to read as follows:

16-a. provide the department of [correctional services and the division of parole] CORRECTIONS AND COMMUNITY SUPERVISION with a sufficient number of voter registration forms to allow the department of [correctional services and the division of parole] CORRECTIONS AND COMMUNITY SUPERVISION to comply with the duty to provide such voter registration forms to persons upon the expiration of their maximum sentence of imprisonment. Such voter registration forms shall be addressed to the state board of elections.

S 92. Subdivision 3 of section 11-0707 of the environmental conservation law, as amended by chapter 319 of the laws of 2003, is amended to read as follows:

3. Any person who is a patient at any facility in this state maintained by the United States Veterans' Administration or at any hospital or sanatorium for treatment of tuberculosis maintained by the state or any municipal corporation thereof or resident patient at any institution of the department of [Mental Hygiene] MENTAL HEALTH, or resident patient at the rehabilitation hospital of the department of Health, or at any rest camp maintained by the state through the Division of Veterans' Affairs in the Executive Department or any inmate of a conservation work camp within the youth rehabilitation facility of the department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION, or any inmate of a youth opportunity or youth rehabilitation center within the Office of Children and Family Services, any resident of a nursing home or residential health care facility as defined in subdivisions two and three of section twenty-eight hundred one of the public health law, or any staff member or volunteer accompanying or assisting one or more residents of

1 such nursing home or residential health care facility on an outing  
2 authorized by the administrator of such nursing home or residential  
3 health care facility may take fish as if he held a fishing license,  
4 except that he may not take bait fish by net or trap, if he has on his  
5 person an authorization upon a form furnished by the department contain-  
6 ing such identifying information and data as may be required by it, and  
7 signed by the superintendent or other head of such facility, institu-  
8 tion, hospital, sanitarium, nursing home, residential health care facil-  
9 ity or rest camp, as the case may be, or by a staff physician thereat  
10 duly authorized so to do by the superintendent or other head thereof.  
11 Such authorization with respect to inmates of said conservation work  
12 camps shall be limited to areas under the care, custody and control of  
13 the department.

14 S 93. Subdivision 1 of section 21 of the executive law, as amended by  
15 section 2 of part B of chapter 56 of the laws of 2010, is amended to  
16 read as follows:

17 1. There is hereby created in the executive department a disaster  
18 preparedness commission consisting of the commissioners of transporta-  
19 tion, health, division of criminal justice services, education, social  
20 services, economic development, agriculture and markets, housing and  
21 community renewal, general services, labor, environmental conservation,  
22 mental health, parks, recreation and historic preservation, [correction-  
23 al services] CORRECTIONS AND COMMUNITY SUPERVISION and children and  
24 family services, the president of the New York state energy research and  
25 development authority, the superintendents of state police, insurance,  
26 banking, the secretary of state, the state fire administrator, the chair  
27 of the public service commission, the adjutant general, the directors of  
28 the offices within the division of homeland security and emergency  
29 services, the office for technology, and the office of victim services,  
30 the chairs of the thruway authority, the metropolitan transportation  
31 authority, the port authority of New York and New Jersey, the chief  
32 professional officer of the state coordinating chapter of the American  
33 Red Cross and three additional members, to be appointed by the governor,  
34 two of whom shall be chief executives. Each member agency may designate  
35 an officer of that agency, with responsibility for disaster preparedness  
36 matters, who may represent that agency on the commission. The commis-  
37 sioner of the division of homeland security and emergency services shall  
38 serve as chair of the commission, and the governor shall designate the  
39 vice chair of the commission. The members of the commission, except  
40 those who serve ex officio, shall be allowed their actual and necessary  
41 expenses incurred in the performance of their duties under this article  
42 but shall receive no additional compensation for services rendered  
43 pursuant to this article.

44 S 94. Paragraph (a) of subdivision 1 of section 169 of the executive  
45 law, as amended by section 20 of part B of chapter 56 of the laws of  
46 2010, is amended to read as follows:

47 (a) commissioner of [correctional services] CORRECTIONS AND COMMUNITY  
48 SUPERVISION, commissioner of education, commissioner of health, commis-  
49 sioner of mental health, commissioner of [mental retardation and] devel-  
50 opmental disabilities, commissioner of children and family services,  
51 commissioner of temporary and disability assistance, chancellor of the  
52 state university of New York, commissioner of transportation, commis-  
53 sioner of environmental conservation, superintendent of state police,  
54 commissioner of general services and commissioner of the division of  
55 homeland security and emergency services;

1 S 95. Section 354-a of the executive law, as separately amended by  
2 sections 34 and 68 of part A of chapter 56 of the laws of 2010, is  
3 amended to read as follows:

4 S 354-a. Information on status of veterans receiving assistance.  
5 Departments, divisions, bureaus, boards, commissions and agencies of the  
6 state and political subdivisions thereof, which provide assistance,  
7 treatment, counseling, care, supervision or custody in service areas  
8 involving health, mental health, family services, criminal justice or  
9 employment, including but not limited to the office of alcoholism and  
10 substance abuse services, office of mental health, office of probation  
11 and correctional alternatives, office of children and family services,  
12 office of temporary and disability assistance, department of health,  
13 department of labor, local workforce investment boards, office [of  
14 mental retardation and] FOR PEOPLE WITH developmental disabilities, AND  
15 department of [correctional services and division of parole] CORRECTIONS  
16 AND COMMUNITY SUPERVISION, shall request assisted persons to provide  
17 information with regard to their veteran status and military experi-  
18 ences. Individuals identifying themselves as veterans shall be advised  
19 that the division of veterans' affairs and local veterans' service agen-  
20 cies established pursuant to section three hundred fifty-seven of this  
21 article provide assistance to veterans regarding benefits under federal  
22 and state law. Information regarding veterans status and military  
23 service provided by assisted persons solely to implement this section  
24 shall be protected as personal confidential information under article  
25 six-A of the public officers law against disclosure of confidential  
26 material, and used only to assist in the diagnosis, treatment, assess-  
27 ment and handling of the veteran's problems within the agency requesting  
28 such information and in referring the veteran to the division of veter-  
29 ans' affairs for information and assistance with regard to benefits and  
30 entitlements under federal and state law.

31 S 96. Paragraph a of subdivision 1 of section 374 of the executive  
32 law, as amended by chapter 243 of the laws of 1997, is amended to read  
33 as follows:

34 a. Two members, to be appointed by the governor, from among the  
35 commissioners of the departments of economic development, [correctional  
36 services] CORRECTIONS AND COMMUNITY SUPERVISION, education, health,  
37 labor, mental health and social services, office of general services,  
38 division of housing and community renewal, and the superintendent of  
39 insurance.

40 S 97. Subdivisions 4, 5, 6 and 7 of section 508 of the executive law,  
41 subdivision 4 as amended by chapter 41 of the laws of 2010, subdivisions  
42 5 and 6 as added by chapter 481 of the laws of 1978, subdivision 7 as  
43 separately amended by chapters 308 and 316 of the laws of 1983 and such  
44 section as renumbered by chapter 465 of the laws of 1992, are amended to  
45 read as follows:

46 4. The [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES may  
47 apply to the sentencing court for permission to transfer a youth not  
48 less than sixteen nor more than eighteen years of age to the department  
49 of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION. Such  
50 application shall be made upon notice to the youth, who shall be enti-  
51 tled to be heard upon the application and to be represented by counsel.  
52 The court shall grant the application if it is satisfied that there is  
53 no substantial likelihood that the youth will benefit from the programs  
54 offered by the [division] OFFICE facilities.

55 5. The [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES may  
56 transfer an offender not less than eighteen nor more than twenty-one

1 years of age to the department of [correctional services] CORRECTIONS  
2 AND COMMUNITY SUPERVISION if the director of the division certifies to  
3 the commissioner of [correctional services] CORRECTIONS AND COMMUNITY  
4 SUPERVISION that there is no substantial likelihood that the youth will  
5 benefit from the programs offered by [division] OFFICE facilities.

6 6. At age twenty-one, all juvenile offenders shall be transferred to  
7 the custody of the department of [correctional services] CORRECTIONS AND  
8 COMMUNITY SUPERVISION for confinement pursuant to the correction law.

9 7. While in the custody of the [division for youth] OFFICE OF CHILDREN  
10 AND FAMILY SERVICES, an offender shall be subject to the rules and regu-  
11 lations of the [division] OFFICE, except that his parole, temporary  
12 release and discharge shall be governed by the laws applicable to  
13 inmates of state correctional facilities and his transfer to state  
14 hospitals in the office of mental health shall be governed by section  
15 five hundred seventeen of this chapter. The director of the [division  
16 for youth] OFFICE OF CHILDREN AND FAMILY SERVICES shall, however, estab-  
17 lish and operate temporary release programs at [division for youth]  
18 OFFICE OF CHILDREN AND FAMILY SERVICES facilities for eligible juvenile  
19 offenders and contract with the [division of parole] DEPARTMENT OF  
20 CORRECTIONS AND COMMUNITY SUPERVISION for the provision of parole super-  
21 vision services for temporary releasees. The rules and regulations for  
22 these programs shall not be inconsistent with the laws for temporary  
23 release applicable to inmates of state correctional facilities. For the  
24 purposes of temporary release programs for juvenile offenders only, when  
25 referred to or defined in article twenty-six of the correction law,  
26 "institution" shall mean any facility designated by the director of the  
27 [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES, "depart-  
28 ment" shall mean the [division for youth] OFFICE OF CHILDREN AND FAMILY  
29 SERVICES, "inmate" shall mean a juvenile offender residing in [a divi-  
30 sion for youth] AN OFFICE OF CHILDREN AND FAMILY SERVICES facility, and  
31 "commissioner" shall mean the director of the [division for youth]  
32 OFFICE OF CHILDREN AND FAMILY SERVICES. Time spent in [division for  
33 youth] OFFICE OF CHILDREN AND FAMILY SERVICES facilities and in juvenile  
34 detention facilities shall be credited towards the sentence imposed in  
35 the same manner and to the same extent applicable to inmates of state  
36 correctional facilities.

37 S 98. Subdivision 2 of section 510-c of the executive law, as amended  
38 by chapter 465 of the laws of 1992, is amended to read as follows:

39 2. Except as provided in subdivision three of this section, any child  
40 who has been placed with the division shall be deemed to have been  
41 discharged therefrom if, during the period provided in the order of  
42 placement or extension thereof, the child is convicted of a crime or  
43 adjudicated a youthful offender, and is committed to an institution in  
44 the department of [correctional services] CORRECTIONS AND COMMUNITY  
45 SUPERVISION or department of mental [hygiene] HEALTH, or receives a one  
46 year sentence in a local correctional facility.

47 S 99. Paragraph (b) of subdivision 4 of section 575 of the executive  
48 law, as separately amended by section 69 of part A and section 4 of part  
49 A-1 of chapter 56 of the laws of 2010, is amended to read as follows:

50 (b) The advisory council shall consist of nine members and fourteen  
51 ex-officio members. Each member shall be appointed to serve for a term  
52 of three years and shall continue in office until a successor appointed  
53 member is made. A member appointed to fill a vacancy shall be appointed  
54 for the unexpired term of the member he or she is to succeed. All of the  
55 members shall be individuals with expertise in the area of domestic  
56 violence. Three members shall be appointed by the governor, two members

1 shall be appointed upon the recommendation of the temporary president of  
2 the senate, two members shall be appointed upon the recommendation of  
3 the speaker of the assembly, one member shall be appointed upon the  
4 recommendation of the minority leader of the senate, and one member  
5 shall be appointed upon the recommendation of the minority leader of the  
6 assembly. The ex-officio members of the advisory board shall consist of  
7 one representative from the staff of each of the following state depart-  
8 ments and divisions: office of temporary and disability services;  
9 department of health; education department; office of mental health;  
10 office of alcoholism and substance abuse services; division of criminal  
11 justice services; office of probation and correctional alternatives;  
12 office of children and family services; office of victim services;  
13 office of court administration; department of labor; state office for  
14 the aging; department of [correctional services] CORRECTIONS AND COMMU-  
15 NITY SUPERVISION; and the division of parole.

16 S 100. Paragraph (c) of subdivision 1 of section 632-a of the execu-  
17 tive law, as amended by section 24 of part A-1 of chapter 56 of the laws  
18 of 2010, is amended to read as follows:

19 (c) "Funds of a convicted person" means all funds and property  
20 received from any source by a person convicted of a specified crime, or  
21 by the representative of such person as defined in subdivision six of  
22 section six hundred twenty-one of this article excluding child support  
23 and earned income, where such person:

24 (i) is an inmate serving a sentence with the department of [correc-  
25 tional services] CORRECTIONS AND COMMUNITY SUPERVISION or a prisoner  
26 confined at a local correctional facility or federal correctional insti-  
27 tute, and includes funds that a superintendent, sheriff or municipal  
28 official receives on behalf of an inmate or prisoner and deposits in an  
29 inmate account to the credit of the inmate pursuant to section one  
30 hundred sixteen of the correction law or deposits in a prisoner account  
31 to the credit of the prisoner pursuant to section five hundred-c of the  
32 correction law; or

33 (ii) is not an inmate or prisoner but who is serving a sentence of  
34 probation or conditional discharge or is presently subject to an undisc-  
35 charged indeterminate, determinate or definite term of imprisonment or  
36 period of post-release supervision or term of supervised release, but  
37 shall include earned income earned during a period in which such person  
38 was not in compliance with the conditions of his or her probation,  
39 parole, conditional release, period of post-release supervision by the  
40 [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION  
41 or term of supervised release with the United States probation office or  
42 United States parole commission. For purposes of this subparagraph, such  
43 period of non-compliance shall be measured, as applicable, from the  
44 earliest date of delinquency determined by the [board or division of  
45 parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION, or from the  
46 earliest date on which a declaration of delinquency is filed pursuant to  
47 section 410.30 of the criminal procedure law and thereafter sustained,  
48 or from the earliest date of delinquency determined in accordance with  
49 applicable federal law, rules or regulations, and shall continue until a  
50 final determination sustaining the violation has been made by the trial  
51 court, [board or division of parole] THE DEPARTMENT OF CORRECTIONS AND  
52 COMMUNITY SUPERVISION, or appropriate federal authority; or

53 (iii) is no longer subject to a sentence of probation or conditional  
54 discharge or indeterminate, determinate or definite term of imprisonment  
55 or period of post-release supervision or term of supervised release, and  
56 where within the previous three years: the full or maximum term or peri-

1 od terminated or expired or such person was granted a discharge by [a]  
2 THE STATE board of parole OR THE DEPARTMENT OF CORRECTIONS AND COMMUNITY  
3 SUPERVISION pursuant to applicable law, or granted a discharge or termi-  
4 nation from probation pursuant to applicable law or granted a discharge  
5 or termination under applicable federal or state law, rules or regu-  
6 lations prior to the expiration of such full or maximum term or period;  
7 and includes only: (A) those funds paid to such person as a result of  
8 any interest, right, right of action, asset, share, claim, recovery or  
9 benefit of any kind that the person obtained, or that accrued in favor  
10 of such person, prior to the expiration of such sentence, term or peri-  
11 od; (B) any recovery or award collected in a lawsuit after expiration of  
12 such sentence where the right or cause of action accrued prior to the  
13 expiration or service of such sentence; and (C) earned income earned  
14 during a period in which such person was not in compliance with the  
15 conditions of his or her probation, parole, conditional release, period  
16 of post-release supervision by the [division of parole] DEPARTMENT OF  
17 CORRECTIONS AND COMMUNITY SUPERVISION or term of supervised release with  
18 the United States probation office or United States parole commission.  
19 For purposes of this subparagraph, such period of non-compliance shall  
20 be measured, as applicable, from the earliest date of delinquency deter-  
21 mined by the [board or division of parole] DEPARTMENT OF CORRECTIONS AND  
22 COMMUNITY SUPERVISION, or from the earliest date on which a declaration  
23 of delinquency is filed pursuant to section 410.30 of the criminal  
24 procedure law and thereafter sustained, or from the earliest date of  
25 delinquency determined in accordance with applicable federal law, rules  
26 or regulations, and shall continue until a final determination sustain-  
27 ing the violation has been made by the trial court, [board or division  
28 of parole] THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION, or  
29 appropriate federal authority.

30 S 101. Paragraph (b) of subdivision 2 of section 632-a of the execu-  
31 tive law, as amended by section 24 of part A-1 of chapter 56 of the laws  
32 of 2010, is amended to read as follows:

33 (b) Notwithstanding subparagraph (ii) of paragraph (a) of this subdi-  
34 vision, whenever the payment or obligation to pay involves funds of a  
35 convicted person that a superintendent, sheriff or municipal official  
36 receives or will receive on behalf of an inmate serving a sentence with  
37 the department of [correctional services] CORRECTIONS AND COMMUNITY  
38 SUPERVISION or prisoner confined at a local correctional facility and  
39 deposits or will deposit in an inmate account to the credit of the  
40 inmate or in a prisoner account to the credit of the prisoner, and the  
41 value, combined value or aggregate value of such funds exceeds or will  
42 exceed ten thousand dollars, the superintendent, sheriff or municipal  
43 official shall also give written notice to the office.

44 S 102. Subdivision 9 of section 835 of the executive law, as amended  
45 by section 39 of part A of chapter 56 of the laws of 2010, is amended to  
46 read as follows:

47 9. "Qualified agencies" means courts in the unified court system, the  
48 administrative board of the judicial conference, probation departments,  
49 sheriffs' offices, district attorneys' offices, the state department of  
50 [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, the  
51 department of correction of any municipality, the insurance frauds  
52 bureau of the state department of insurance, the office of professional  
53 medical conduct of the state department of health for the purposes of  
54 section two hundred thirty of the public health law, the child protec-  
55 tive services unit of a local social services district when conducting  
56 an investigation pursuant to subdivision six of section four hundred

twenty-four of the social services law, the office of Medicaid inspector general, the temporary state commission of investigation, the criminal investigations bureau of the banking department, police forces and departments having responsibility for enforcement of the general criminal laws of the state and the Onondaga County Center for Forensic Sciences Laboratory when acting within the scope of its law enforcement duties.

S 103. Paragraph (h) of subdivision 1 of section 840 of the executive law, as amended by chapter 843 of the laws of 1980, is amended to read as follows:

(h) Exemptions from particular provisions of this article in the case of any city having a population of one million or more, or in the case of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION if in its opinion the standards of police officer or peace officer training established and maintained by such city or department are higher than those established pursuant to this article; or revocation in whole or in part of such exemption, if in its opinion the standards of police officer or peace officer training established and maintained by such city or department are lower than those established pursuant to this article.

S 104. Subdivision 4 of section 995-c of the executive law, as amended by section 65 of part A of chapter 56 of the laws of 2010, is amended to read as follows:

4. The commissioner of the division of criminal justice services, in consultation with the commission, the commissioner of health, [the division of parole,] the director of the office of probation and correctional alternatives and the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, shall promulgate rules and regulations governing the procedures for notifying designated offenders of the requirements of this section.

S 105. The article heading of article 12-B of the executive law, as added by chapter 904 of the laws of 1977, is amended to read as follows:

STATE [DIVISION] BOARD OF PAROLE

S 106. Section 31 of the executive law, as amended by section 11 of part B of chapter 56 of the laws of 2010, is amended to read as follows:

S 31. Divisions. There shall be in the executive department the following divisions:

1. The division of the budget.
2. The division of military and naval affairs.
3. The office of general services.
4. The division of state police.
5. [The division of parole.
- 6.] The division of housing.
- [7] 6. The division of alcoholic beverage control.
- [8] 7. The division of human rights.
- [9] 8. The division of veterans' affairs.
- [10] 9. The division of homeland security and emergency services.
- [11] 10. Office for technology.

The governor may establish, consolidate, or abolish additional divisions and bureaus.

S 107. Subdivision 1 of section 643 of the executive law, as separately amended by section 38 of part A and section 1 of part A-1 of chapter 56 of the laws of 2010, is amended to read as follows:

1. As used in this section, "crime victim-related agency" means any agency of state government which provides services to or deals directly with crime victims, including (a) the office of children and family

1 services, the office for the aging, the division of veterans affairs,  
2 THE OFFICE OF PROBATION and correctional alternatives, the [division of  
3 parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION, THE office  
4 of victim services, the department of motor vehicles, the office of  
5 vocational rehabilitation, the workers' compensation board, the depart-  
6 ment of health, the division of criminal justice services, the office of  
7 mental health, every transportation authority and the division of state  
8 police, and (b) any other agency so designated by the governor within  
9 ninety days of the effective date of this section.

10 S 108. Subdivision 8 of section 837-a of the executive law, as added  
11 by section 1 of part L of chapter 56 of the laws of 2006, is amended to  
12 read as follows:

13 8. Present to the governor, temporary president of the senate, minori-  
14 ty leader of the senate, speaker of the assembly and the minority leader  
15 of the assembly an annual report about the function and effectiveness of  
16 the Operation IMPACT program. Such report shall include, but not be  
17 limited to, crime data obtained, analyzed and used by each Operation  
18 IMPACT partnership in participating counties and affected municipalities  
19 including the number of arrests made by law enforcement as a direct  
20 result of the Operation IMPACT program including any available demo-  
21 graphic information about the persons arrested and prosecuted and the  
22 disposition of such matters, and any other information related to the  
23 program's effectiveness in reducing crime. Such report shall also  
24 include information about crime reduction strategies developed by Opera-  
25 tion IMPACT partnerships, the number of state police and [division of  
26 parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION personnel  
27 participating in Operation IMPACT activities, and a description of  
28 training supplied to local Operation IMPACT participants. The initial  
29 report required by this paragraph shall be presented by December thir-  
30 ty-first, two thousand six. Thereafter, an annual report shall be  
31 presented no later than December thirty-first of each year.

32 S 108-a. The sixth undesignated paragraph of section 2 of section 1 of  
33 chapter 359 of the laws of 1968, constituting the facilities development  
34 corporation act, as amended by chapter 240 of the laws of 1974, is  
35 amended to read as follows:

36 It is hereby found and declared that the acquisition, construction,  
37 reconstruction, rehabilitation and improvement of facilities for the  
38 department of [correctional services] CORRECTIONS AND COMMUNITY SUPER-  
39 VISION are public purposes which are essential to enable comprehensive  
40 modernization of the state's programs of [correctional services]  
41 CORRECTIONS. To assure that such purposes are carried out, it is  
42 further found and declared that the facilities development corporation  
43 should be empowered in [cooperation] COOPERATION with the department of  
44 [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION to provide  
45 for the acquisition, construction, reconstruction, rehabilitation and  
46 improvement of facilities for the department of [correctional services]  
47 CORRECTIONS AND COMMUNITY SUPERVISION.

48 S 109. Subdivision 3-b of section 3 of section 1 of chapter 359 of the  
49 laws of 1968, constituting the facilities development corporation act,  
50 as added by chapter 337 of the laws of 1972, is amended to read as  
51 follows:

52 3-b. "Facility for the department of [correctional services]  
53 CORRECTIONS AND COMMUNITY SUPERVISION" means real property, a building,  
54 a unit within a building, or any structure on or improvement to real  
55 property of any kind or description essential, necessary or useful in  
56 the program of the department of [correctional services] CORRECTIONS AND

1 COMMUNITY SUPERVISION, including all usual attendant and related facili-  
2 ties, fixtures, equipment, and connections for utility services or any  
3 combinations thereof, designed, acquired, constructed, reconstructed,  
4 rehabilitated and improved, or otherwise provided for the department of  
5 [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION.

6 S 110. Subdivision 10 of section 5 of section 1 of chapter 359 of the  
7 laws of 1968, constituting the facilities development corporation act,  
8 as amended by chapter 337 of the laws of 1972, is amended to read as  
9 follows:

10 10. To design, construct, acquire, reconstruct, rehabilitate and  
11 improve health facilities, facilities for the department of [correction-  
12 al services] CORRECTIONS AND COMMUNITY SUPERVISION and mental [hygiene]  
13 HEALTH facilities, or cause such facilities to be designed, constructed,  
14 acquired, reconstructed, rehabilitated and improved, in accordance with  
15 the provisions of this act.

16 S 111. Subdivision 7 of section 6 of section 1 of chapter 359 of the  
17 laws of 1968, constituting the facilities development corporation act,  
18 as added by chapter 337 of the laws of 1972, is amended to read as  
19 follows:

20 7. To provide facilities for the department of [correctional services]  
21 CORRECTIONS AND COMMUNITY SUPERVISION.

22 S 112. Section 7-a of section 1 of chapter 359 of the laws of 1968,  
23 constituting the facilities development corporation act, as amended by  
24 chapter 240 of the laws of 1974, is amended to read as follows:

25 S 7-a. Relationship with the state department of [correctional  
26 services] CORRECTIONS AND COMMUNITY SUPERVISION. The corporation, upon  
27 the issuance by the director of the budget of a certificate of approval  
28 segregating funds to pay for their corporate services, shall design,  
29 construct, reconstruct, rehabilitate, improve, and equip facilities for  
30 the department of [correctional services] CORRECTIONS AND COMMUNITY  
31 SUPERVISION or cause facilities to be designed, constructed, recon-  
32 structed, rehabilitated, improved, and equipped. The corporation shall  
33 also assist and cooperate with and shall make its personnel and services  
34 fully available to the commissioner of [correctional services]  
35 CORRECTIONS AND COMMUNITY SUPERVISION and the department of [correction-  
36 al services] CORRECTIONS AND COMMUNITY SUPERVISION in matters relating  
37 to their responsibilities for site selection, acquisition of and capital  
38 planning relating to facilities for the department of [correctional  
39 services] CORRECTIONS AND COMMUNITY SUPERVISION. During the course of  
40 construction, acquisition, reconstruction, rehabilitation and improve-  
41 ment of such facilities, the corporation shall consult with the commis-  
42 sioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION  
43 and the personnel of the department of [correctional services]  
44 CORRECTIONS AND COMMUNITY SUPERVISION as the work progresses in matters  
45 relating to space requirements, site plans, architectural concept and  
46 substantial changes in the plans and specifications therefor and in  
47 matters relating to the original furnishings, equipment, machinery, and  
48 apparatus needed to furnish and equip such facilities upon the  
49 completion of the work. The commissioner of [correctional services]  
50 CORRECTIONS AND COMMUNITY SUPERVISION and the department of [correction-  
51 al services] CORRECTIONS AND COMMUNITY SUPERVISION shall assist and  
52 cooperate with the corporation in such matters.

53 S 113. Subdivision (b) of section 213 of the family court act is  
54 amended to read as follows:

55 (b) Rules of court shall as soon as practicable implement this section  
56 by prescribing appropriate forms for reports and may require such addi-

tional information as may be appropriate. The administrative board of the judicial conference may request the state department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION and the state department of social welfare to assist it in the preparation and processing of reports under this section, and those departments, when so requested, shall render such assistance as is possible.

S 114. The sixth undesignated paragraph of section 842 of the family court act, as added by section 8 of part D of chapter 56 of the laws of 2008, is amended to read as follows:

In any proceeding in which an order of protection or temporary order of protection or a warrant has been issued under this section, the clerk of the court shall issue to the petitioner and respondent and his counsel and to any other person affected by the order a copy of the order of protection or temporary order of protection and ensure that a copy of the order of protection or temporary order of protection be transmitted to the local correctional facility where the individual is or will be detained, the state or local correctional facility where the individual is or will be imprisoned, and the supervising probation department or [division of parole] THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION where the individual is under probation or parole supervision.

S 115. The second undesignated paragraph of section 69 of the general business law, as amended by section 1 of part A of chapter 62 of the laws of 2003, is amended to read as follows:

Nothing in this section shall be construed to forbid the sale of parts and components produced by inmate labor in correctional industry programs of the government of the United States or any state of the United States, or any political subdivision thereof, to the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION'S division of correctional industries for use in its manufacturing operations.

S 116. Section 70 of the general municipal law, as amended by section 40 of part A-1 of chapter 56 of the laws of 2010, is amended to read as follows:

S 70. Payment of judgments against municipal corporation. When a final judgment for a sum of money shall be recovered against a municipal corporation, and the execution thereof shall not be stayed pursuant to law, or the time for such stay shall have expired, the treasurer or other financial officer of such corporation having sufficient moneys in his hands belonging to the corporation not otherwise specifically appropriated, shall pay such judgment upon the production of a certified copy of the docket thereof. Notwithstanding the provisions of any other law to the contrary, in any case where payment for any reason is to be made to an inmate serving a sentence of imprisonment with the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or to a prisoner confined at a local correctional facility, the treasurer or other financial officer shall give written notice, if required pursuant to subdivision two of section six hundred thirty-two-a of the executive law, to the office of victim services that such payment shall be made thirty days after the date of such notice.

S 117. Subdivision 1 of section 168 of the labor law, as amended by chapter 90 of the laws of 1947, is amended to read as follows:

1. This section shall apply to all persons employed by the state in the ward, cottage, colony, kitchen and dining room, and guard service personnel in any hospital, school, prison, reformatory or other institution within or subject to the jurisdiction, supervision, control or visitation of the department of [correction] CORRECTIONS AND COMMUNITY

1 SUPERVISION, the department of health, the department of mental  
2 [hygiene] HEALTH, the department of social welfare or the division of  
3 veterans' affairs in the executive department, and engaged in the  
4 performance of such duties as nursing, guarding or attending the  
5 inmates, patients, wards or other persons kept or housed in such insti-  
6 tutions, or in protecting and guarding the buildings and/or grounds  
7 thereof, or in preparing or serving food therein.

8 S 118. Subdivision 13 of section 83-m of the legislative law, as added  
9 by section 2 of part XX of chapter 57 of the laws of 2010, is amended to  
10 read as follows:

11 13. (a) The task force shall specify the form in which the department  
12 of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION shall  
13 provide such information required to be reported to the task force  
14 pursuant to subdivision eight of section seventy-one of the correction  
15 law.

16 (b) Upon receipt of such information for each incarcerated person  
17 subject to the jurisdiction of the department of [correctional services]  
18 CORRECTIONS AND COMMUNITY SUPERVISION, the task force shall determine  
19 the census block corresponding to the street address of each such  
20 person's residential address prior to incarceration (if any), and the  
21 census block corresponding to the street address of the correctional  
22 facility in which such person was held subject to the jurisdiction of  
23 such department. Until such time as the United States bureau of the  
24 census shall implement a policy of reporting each such incarcerated  
25 person at such person's residential address prior to incarceration, the  
26 task force shall use such data to develop a database in which all incar-  
27 cerated persons shall be, where possible, allocated for redistricting  
28 purposes, such that each geographic unit reflects incarcerated popu-  
29 lations at their respective residential addresses prior to incarceration  
30 rather than at the addresses of such correctional facilities. For all  
31 incarcerated persons whose residential address prior to incarceration  
32 was outside of the state, or for whom the task force cannot identify  
33 their prior residential address, and for all persons confined in a  
34 federal correctional facility on census day, the task force shall  
35 consider those persons to have been counted at an address unknown and  
36 persons at such unknown address shall not be included in such data set  
37 created pursuant to this paragraph. The task force shall develop and  
38 maintain such amended population data set and shall make such amended  
39 data set available to local governments, as defined in subdivision eight  
40 of section two of the municipal home rule law, and for the drawing of  
41 assembly and senate districts. The assembly and senate districts shall  
42 be drawn using such amended population data set.

43 (c) Notwithstanding any other provision of law, the information  
44 required to be provided pursuant to subdivision eight of section seven-  
45 ty-one of the correction law shall be treated as confidential and shall  
46 not be disclosed by the task force except as aggregated by census block  
47 for purpose specified in this subdivision.

48 S 118-a. Subdivisions (a) and (m) of section 10.03 of the mental  
49 hygiene law, subdivision (a) as amended by chapter 168 of the laws of  
50 2010 and subdivision (m) as added by chapter 7 of the laws of 2007, are  
51 amended to read as follows:

52 (a) "Agency with jurisdiction" as to a person means that agency which,  
53 during the period in question, would be the agency responsible for  
54 supervising or releasing such person, and can include the department of  
55 [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, the

1 office of mental health, AND the office for people with developmental  
2 disabilities[, and the division of parole].

3 (m) "Release" and "released" means release, conditional release or  
4 discharge from confinement, from COMMUNITY supervision by the [division  
5 of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION, or from  
6 an order of observation, commitment, recommitment or retention.

7 S 118-b. Subdivisions (a) and (b) of section 10.05 of the mental  
8 hygiene law, subdivision (a) as amended by chapter 168 of the laws of  
9 2010 and subdivision (b) as added by chapter 7 of the laws of 2007, are  
10 amended to read as follows:

11 (a) The commissioner of mental health, in consultation with the  
12 commissioner of the department of [correctional services] CORRECTIONS  
13 AND COMMUNITY SUPERVISION and the commissioner of developmental disabil-  
14 ities, shall establish a case review panel consisting of at least  
15 fifteen members, any three of whom may sit as a team to review a partic-  
16 ular case. At least two members of each team shall be professionals in  
17 the field of mental health or the field of developmental disabilities,  
18 as appropriate, with experience in the treatment, diagnosis, risk  
19 assessment or management of sex offenders. To the extent practicable,  
20 the workload of the case review panel should be evenly distributed among  
21 its members. Members of the case review panel and psychiatric examiners  
22 should be free to exercise independent professional judgment without  
23 pressure or retaliation for the exercise of that judgment from any  
24 source.

25 (b) When it appears to an agency with jurisdiction[, other than the  
26 division of parole,] that a person who may be a detained sex offender is  
27 nearing an anticipated release FROM CONFINEMENT, the agency shall give  
28 notice of that fact to the attorney general and to the commissioner of  
29 mental health. [When the division of parole is the agency with juris-  
30 diction, it may give such notice.] WHEN IT APPEARS TO AN AGENCY WITH  
31 JURISDICTION THAT A PERSON WHO MAY BE A DETAINED SEX OFFENDER IS NEARING  
32 AN ANTICIPATED RELEASE FROM COMMUNITY SUPERVISION, THE AGENCY MAY GIVE  
33 SUCH NOTICE. The agency with jurisdiction shall seek to give such notice  
34 at least one hundred twenty days prior to the person's anticipated  
35 release, but failure to give notice within such time period shall not  
36 affect the validity of such notice or any subsequent action, including  
37 the filing of a sex offender civil management petition.

38 S 118-c. Subdivision (k) of section 10.06 of the mental hygiene law,  
39 as amended by section 1 of part H of chapter 58 of the laws of 2009, is  
40 amended to read as follows:

41 (k) At the conclusion of the hearing, the court shall determine wheth-  
42 er there is probable cause to believe that the respondent is a sex  
43 offender requiring civil management. If the court determines that proba-  
44 ble cause has not been established, the court shall issue an order  
45 dismissing the petition, and the respondent's release shall be in  
46 accordance with other applicable provisions of law. If the court deter-  
47 mines that probable cause has been established: (i) the court shall  
48 order that the respondent be committed to a secure treatment facility  
49 designated by the commissioner for care, treatment and control upon his  
50 or her release, provided, however, that a respondent who otherwise would  
51 be required to be transferred to a secure treatment facility may, upon a  
52 written consent signed by the respondent and his or her counsel, consent  
53 to remain in the custody of the department of [correctional services]  
54 CORRECTIONS AND COMMUNITY SUPERVISION pending the outcome of the  
55 proceedings under this article, and that such consent may be revoked in  
56 writing at any time; (ii) the court shall set a date for trial in

1 accordance with subdivision (a) of section 10.07 of this article; and  
2 (iii) the respondent shall not be released pending the completion of  
3 such trial.

4 S 118-d. Subdivisions (c) and (d) of section 10.10 of the mental  
5 hygiene law, as added by chapter 7 of the laws of 2007, are amended to  
6 read as follows:

7 (c) The commissioner, or the commissioner of the department of  
8 [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, or other  
9 government entity responsible for the care and custody of respondents,  
10 shall be authorized to employ appropriate safety and security measures,  
11 as he or she deems necessary to ensure the safety of the public, during  
12 court proceedings and in the transport of persons committed or undergo-  
13 ing any proceedings under this article. Such commissioner shall provide  
14 training in the use of safe and appropriate security interventions to  
15 employees responsible for transporting persons under this article.

16 (d) The commissioner shall have the discretion to enter into agree-  
17 ments with the department of [correctional services] CORRECTIONS AND  
18 COMMUNITY SUPERVISION for the provision of security services relating to  
19 this article.

20 S 118-e. Paragraphs 1 and 2 of subdivision (a), paragraph 1 of subdi-  
21 vision (b), subdivision (c), paragraph 1 of subdivision (d) and subdivi-  
22 sion (f) of section 10.11 of the mental hygiene law, as added by chapter  
23 7 of the laws of 2007, are amended to read as follows:

24 (1) Before ordering the release of a person to a regimen of strict and  
25 intensive supervision and treatment pursuant to this article, the court  
26 shall order that the [division of parole] DEPARTMENT OF CORRECTIONS AND  
27 COMMUNITY SUPERVISION recommend supervision requirements to the court.  
28 These supervision requirements, which shall be developed in consultation  
29 with the commissioner, may include but need not be limited to, electron-  
30 ic monitoring or global positioning satellite tracking for an appropri-  
31 ate period of time, polygraph monitoring, specification of residence or  
32 type or residence, prohibition of contact with identified past or poten-  
33 tial victims, strict and intensive supervision by a parole officer, and  
34 any other lawful and necessary conditions that may be imposed by a  
35 court. In addition, after consultation with the psychiatrist, psychol-  
36 ogist or other professional primarily treating the respondent, the  
37 commissioner shall recommend a specific course of treatment. A copy of  
38 the recommended requirements for supervision and treatment shall be  
39 given to the attorney general and the respondent and his or her counsel  
40 a reasonable time before the court issues its written order pursuant to  
41 this section.

42 (2) Before issuing its written order, the court shall afford the  
43 parties an opportunity to be heard, and shall consider any additional  
44 submissions by the respondent and the attorney general concerning the  
45 proposed conditions of the regimen of strict and intensive supervision  
46 and treatment. The court shall issue an order specifying the conditions  
47 of the regimen of strict and intensive supervision and treatment, which  
48 shall include specified supervision requirements and compliance with a  
49 specified course of treatment. A written statement of the conditions of  
50 the regimen of strict and intensive supervision and treatment shall be  
51 given to the respondent and to his or her counsel, any designated  
52 service providers or treating professionals, the commissioner, the  
53 attorney general and the supervising parole officer. The court shall  
54 require the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY  
55 SUPERVISION to take appropriate actions to implement the supervision  
56 plan and assure compliance with the conditions of the regimen of strict

1 and intensive supervision and treatment. A regimen of strict and inten-  
2 sive supervision does not toll the running of any form of supervision in  
3 criminal cases, including but not limited to post-release supervision  
4 and parole.

5 (1) Persons ordered into a regimen of strict and intensive supervision  
6 and treatment pursuant to this article shall be subject to a minimum of  
7 six face-to-face supervision contacts and six collateral contacts per  
8 month. Such minimum contact requirements shall continue unless subse-  
9 quently modified by the court or the [division of parole] DEPARTMENT OF  
10 CORRECTIONS AND COMMUNITY SUPERVISION.

11 (c) An order for a regimen of strict and intensive supervision and  
12 treatment places the person in the custody and control of the [state  
13 division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION.  
14 A person ordered to undergo a regimen of strict and intensive super-  
15 vision and treatment pursuant to this article is subject to lawful  
16 conditions set by the court and the [division of parole] DEPARTMENT OF  
17 CORRECTIONS AND COMMUNITY SUPERVISION.

18 (1) A person's regimen of strict and intensive supervision and treat-  
19 ment may be revoked if such a person violates a condition of strict and  
20 intensive supervision. If a parole officer has reasonable cause to  
21 believe that the person has violated a condition of the regimen of  
22 strict and intensive supervision and treatment or, if there is an oral  
23 or written evaluation or report by a treating professional indicating  
24 that the person may be a dangerous sex offender requiring confinement, a  
25 parole officer authorized in the same manner as provided in [subpara-  
26 graph (i) of paragraph (a) of subdivision three of section two hundred  
27 fifty-nine-i of the executive law] SUBDIVISION TWO OF SECTION TWO  
28 HUNDRED FIVE OF THE CORRECTION LAW may take the person into custody and  
29 transport the person for lodging in a secure treatment facility or a  
30 local correctional facility for an evaluation by a psychiatric examiner,  
31 which evaluation shall be conducted within five days. A parole officer  
32 may take the person, under custody, to a psychiatric center for prompt  
33 evaluation, and at the end of the examination, return the person to the  
34 place of lodging. A parole officer, as authorized by this paragraph, may  
35 direct a peace officer, acting pursuant to his or her special duties, or  
36 a police officer who is a member of an authorized police department or  
37 force or of a sheriff's department, to take the person into custody and  
38 transport the person as provided in this paragraph. It shall be the duty  
39 of such peace officer or police officer to take into custody and trans-  
40 port any such person upon receiving such direction. The [division of  
41 parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION shall  
42 promptly notify the attorney general and the mental hygiene legal  
43 service, when a person is taken into custody pursuant to this paragraph.  
44 No provision of this section shall preclude the [division of parole]  
45 DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION from proceeding with  
46 a revocation hearing as authorized by subdivision [three of section two  
47 hundred fifty-nine-i of the executive law] TWO OF SECTION TWO HUNDRED  
48 FIVE OF THE CORRECTION LAW.

49 (f) The court may modify or terminate the conditions of the regimen of  
50 strict and intensive supervision and treatment on the petition of the  
51 supervising parole officer, the commissioner or the attorney general.  
52 Such petition shall be served on the respondent and the respondent's  
53 counsel. A person subject to a regimen of strict and intensive super-  
54 vision and treatment pursuant to this article may petition every two  
55 years for modification or termination, commencing no sooner than two  
56 years after the regimen of strict and intensive supervision and treat-

ment commenced, with service of such petition on the attorney general, the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION, and the commissioner. Upon receipt of a petition for modification or termination pursuant to this section, the court may require the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION and the commissioner to provide a report concerning the person's conduct while subject to a regimen of strict and intensive supervision and treatment. If more than one petition is filed, the petitions may be considered in a single hearing.

S 118-f. Subdivision (h) of section 19.07 of the mental hygiene law, as added by section 16 of part AAA of chapter 56 of the laws of 2009, is amended to read as follows:

(h) The office of alcoholism and substance abuse services shall monitor programs providing care and treatment to inmates in correctional facilities operated by the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION who have a history of alcohol or substance abuse or dependence. The office shall also develop guidelines for the operation of alcohol and substance abuse treatment programs in such correctional facilities in order to ensure that such programs sufficiently meet the needs of inmates with a history of alcohol or substance abuse or dependence and promote the successful transition to treatment in the community upon release. No later than the first day of December of each year, the office shall submit a report regarding the adequacy and effectiveness of alcohol and substance abuse treatment programs operated by the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION to the governor, the temporary president of the senate, the speaker of the assembly, the chairman of the senate committee on crime victims, crime and correction, and the chairman of the assembly committee on correction.

S 118-g. Paragraphs 2 and 3 of subdivision (a) of section 19.09 of the mental hygiene law, paragraph 2 as amended by section 45 of part A of chapter 56 of the laws of 2010 and paragraph 3 as amended by chapter 601 of the laws of 2007, are amended to read as follows:

(2) Upon the request of a state agency, including but not limited to the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, the office of probation and correctional alternatives, AND the office of children and family services, [and the board of parole,] the commissioner shall have the power to provide alcoholism, substance abuse, and chemical dependence services either directly or through agreements with local certified or approved providers to persons in the custody or under the jurisdiction of the requesting agency within amounts available and within priorities established through the planning process.

(3) The commissioner may coordinate alcoholism, alcohol abuse, substance abuse, substance dependence and chemical dependence related activities in all departments of the state by convening at regular intervals a coordinating committee of representatives of the departments of health, [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, labor, economic development, education, and motor vehicles, and the office of temporary and disability assistance and any other department or agency having an interest therein.

S 118-h. Subdivisions (e), (f), (g), (i) and (j) of section 29.27 of the mental hygiene law, as added by chapter 766 of the laws of 1976, are amended to read as follows:

(e) When the director of the facility in which the inmate-patient is in custody finds that the inmate-patient is no longer mentally ill or no

1 longer requires hospitalization for care and treatment, he shall so  
2 notify the inmate-patient and commissioner of [correctional services]  
3 CORRECTIONS AND COMMUNITY SUPERVISION or, in the case of an inmate-pa-  
4 tient coming from a jail or correctional institution operated by local  
5 government, the officer in charge of the jail or correctional institu-  
6 tion from which the inmate-patient was committed. The commissioner of  
7 [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or such  
8 officer, as the case may be, shall immediately arrange to take such  
9 inmate-patient into custody and return him to a correctional facility or  
10 to the jail or correctional institution operated by local government.

11 (f) Upon delivery of the inmate-patient to the representative of the  
12 commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPER-  
13 VISION or of an officer in charge of a jail or correctional institution  
14 operated by local government, the responsibility of the department and  
15 its facilities for the custody of the inmate-patient shall terminate.  
16 Where the inmate is returned to a state correctional facility, the  
17 department shall continue to be responsible for the inmate-patient's  
18 psychiatric care if the inmate-patient upon his return is in a program  
19 established pursuant to section four hundred one of the correction law.

20 (g) If an inmate-patient in the custody of the department escapes from  
21 custody, immediate notice shall be given to the commissioner of [correc-  
22 tional services] CORRECTIONS AND COMMUNITY SUPERVISION or, in the case  
23 of an inmate-patient coming from a jail or correctional institution  
24 operated by local government, to the officer in charge of such jail or  
25 correctional institution. Notice shall also be given to appropriate law  
26 enforcement authorities.

27 (i) Upon release of an inmate-patient from a facility, the director  
28 shall forward a copy of all health and psychiatric records to the  
29 commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPER-  
30 VISION or to the officer in charge of a jail or correctional institution  
31 operated by local government, as the case may be.

32 (j) If the sentence for which an inmate-patient is confined expires or  
33 is vacated or modified by court order, the director shall so notify the  
34 commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPER-  
35 VISION or such officer in charge of a jail or correctional institution  
36 operated by local government, as appropriate.

37 S 118-i. Paragraph 10 of subdivision (c) of section 33.13 of the  
38 mental hygiene law, as amended by chapter 168 of the laws of 2010, is  
39 amended to read as follows:

40 10. to a correctional facility, when the chief administrative officer  
41 has requested such information with respect to a named inmate of such  
42 correctional facility as defined by subdivision three of section forty  
43 of the correction law or to the [division of parole] DEPARTMENT OF  
44 CORRECTIONS AND COMMUNITY SUPERVISION, when the [division] DEPARTMENT  
45 has requested such information with respect to a person under its juris-  
46 diction or an inmate of a state correctional facility, when such inmate  
47 is within four weeks of release from such institution to [the jurisdic-  
48 tion of the division of parole] COMMUNITY SUPERVISION. Information  
49 released pursuant to this paragraph may be limited to a summary of the  
50 record, including but not limited to: the basis for referral to the  
51 facility; the diagnosis upon admission and discharge; a diagnosis and  
52 description of the patient's or client's current mental condition; the  
53 current course of treatment, medication and therapies; and the facili-  
54 ty's recommendation for future mental hygiene services, if any. Such  
55 information may be forwarded to the department of [correctional  
56 services] CORRECTIONS AND COMMUNITY SUPERVISION staff in need of such

1 information for the purpose of making a determination regarding an  
2 inmate's health care, security, safety or ability to participate in  
3 programs. In the event an inmate is transferred, the sending correctional  
4 facility shall forward, upon request, such summaries to the chief  
5 administrative officer of any correctional facility to which the inmate  
6 is subsequently incarcerated. The office of mental health and the office  
7 for people with developmental disabilities, in consultation with the  
8 commission of correction and the [division of parole] DEPARTMENT OF  
9 CORRECTIONS AND COMMUNITY SUPERVISION, shall promulgate rules and regu-  
10 lations to implement the provisions of this paragraph.

11 S 118-j. Subdivision (z) of section 45.07 of the mental hygiene law,  
12 as added by chapter 1 of the laws of 2008, is amended to read as  
13 follows:

14 (z) Monitor and make recommendations regarding the quality of care  
15 provided to inmates with serious mental illness, including those who are  
16 in a residential mental health treatment unit or segregated confinement  
17 in facilities operated by the department of [correctional services]  
18 CORRECTIONS AND COMMUNITY SUPERVISION, and oversee compliance with para-  
19 graphs (d) and (e) of subdivision six of section one hundred thirty-sev-  
20 en, and section four hundred one, of the correction law. Such responsi-  
21 bilities shall be carried out in accordance with section four hundred  
22 one-a of the correction law.

23 S 119. Clause (c.) of subparagraph 13 of paragraph (a) of subdivision  
24 1 of section 10 of the municipal home rule law, as amended by section 3  
25 of part XX of chapter 57 of the laws of 2010, is amended to read as  
26 follows:

27 (c.) As used in this subparagraph the term "population" shall mean  
28 residents, citizens, or registered voters. For such purposes, no person  
29 shall be deemed to have gained or lost a residence, or to have become a  
30 resident of a local government, as defined in subdivision eight of  
31 section two of this chapter, by reason of being subject to the jurisdic-  
32 tion of the department of [correctional services] CORRECTIONS AND COMMU-  
33 NITY SUPERVISION and present in a state correctional facility pursuant  
34 to such jurisdiction. A population base for such a plan of apportionment  
35 shall utilize the latest statistical information obtainable from an  
36 official enumeration done at the same time for all the residents, citi-  
37 zens, or registered voters of the local government. Such a plan may  
38 allocate, by extrapolation or any other rational method, such latest  
39 statistical information to representation areas or units of local  
40 government, provided that any plan containing such an allocation shall  
41 have annexed thereto as an appendix, a detailed explanation of the allo-  
42 cation.

43 S 120. Subdivisions 6 and 7 of section 60.04 of the penal law, subdi-  
44 vision 6 as added by chapter 738 of the laws of 2004 and subdivision 7  
45 as added by section 18 of part AAA of chapter 56 of the laws of 2009,  
46 are amended to read as follows:

47 6. Substance abuse treatment. When the court imposes a sentence of  
48 imprisonment which requires a commitment to the state department of  
49 [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION upon a  
50 person who stands convicted of a controlled substance or marihuana  
51 offense, the court may, upon motion of the defendant in its discretion,  
52 issue an order directing that the department of [correctional services]  
53 CORRECTIONS AND COMMUNITY SUPERVISION enroll the defendant in the  
54 comprehensive alcohol and substance abuse treatment program in an alco-  
55 hol and substance abuse correctional annex as defined in subdivision  
56 eighteen of section two of the correction law, provided that the defend-

1 ant will satisfy the statutory eligibility criteria for participation in  
2 such program. Notwithstanding the foregoing provisions of this subdivi-  
3 sion, any defendant to be enrolled in such program pursuant to this  
4 subdivision shall be governed by the same rules and regulations promul-  
5 gated by the department of [correctional services] CORRECTIONS AND  
6 COMMUNITY SUPERVISION, including without limitation those rules and  
7 regulations establishing requirements for completion and those rules and  
8 regulations governing discipline and removal from the program. No such  
9 period of court ordered corrections based drug abuse treatment pursuant  
10 to this subdivision shall be required to extend beyond the defendant's  
11 conditional release date.

12 7. a. Shock incarceration participation. When the court imposes a  
13 sentence of imprisonment which requires a commitment to the department  
14 of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION upon a  
15 person who stands convicted of a controlled substance or marihuana  
16 offense, upon motion of the defendant, the court may issue an order  
17 directing that the department of [correctional services] CORRECTIONS AND  
18 COMMUNITY SUPERVISION enroll the defendant in the shock incarceration  
19 program as defined in article twenty-six-A of the correction law,  
20 provided that the defendant is an eligible inmate, as described in  
21 subdivision one of section eight hundred sixty-five of the correction  
22 law. Notwithstanding the foregoing provisions of this subdivision, any  
23 defendant to be enrolled in such program pursuant to this subdivision  
24 shall be governed by the same rules and regulations promulgated by the  
25 department of [correctional services] CORRECTIONS AND COMMUNITY SUPER-  
26 VISION, including without limitation those rules and regulations estab-  
27 lishing requirements for completion and such rules and regulations  
28 governing discipline and removal from the program.

29 b. (i) In the event that an inmate designated by court order for  
30 enrollment in the shock incarceration program requires a degree of  
31 medical care or mental health care that cannot be provided at a shock  
32 incarceration facility, the department, in writing, shall notify the  
33 inmate, provide a proposal describing a proposed alternative-to-shock-  
34 incarceration program, and notify him or her that he or she may object  
35 in writing to placement in such alternative-to-shock-incarceration  
36 program. If the inmate objects in writing to placement in such alterna-  
37 tive-to-shock-incarceration program, the department of [correctional  
38 services] CORRECTIONS AND COMMUNITY SUPERVISION shall notify the  
39 sentencing court, provide such proposal to the court, and arrange for  
40 the inmate's prompt appearance before the court. The court shall provide  
41 the proposal and notice of a court appearance to the people, the inmate  
42 and the appropriate defense attorney. After considering the proposal and  
43 any submissions by the parties, and after a reasonable opportunity for  
44 the people, the inmate and counsel to be heard, the court may modify its  
45 sentencing order accordingly, notwithstanding the provisions of section  
46 430.10 of the criminal procedure law.

47 (ii) An inmate who successfully completes an alternative-to-shock-  
48 incarceration program within the department of [correctional services]  
49 CORRECTIONS AND COMMUNITY SUPERVISION shall be treated in the same  
50 manner as a person who has successfully completed the shock incarcera-  
51 tion program, as set forth in subdivision four of section eight hundred  
52 sixty-seven of the correction law.

53 S 121. Subdivision 8 of section 60.35 of the penal law, as amended by  
54 section 1 of part E of chapter 56 of the laws of 2004, is amended to  
55 read as follows:

1     8. Subdivision one of section 130.10 of the criminal procedure law  
2 notwithstanding, at the time that the mandatory surcharge, sex offender  
3 registration fee or DNA databank fee, crime victim assistance fee or  
4 supplemental sex offender victim fee is imposed a town or village court  
5 may, and all other courts shall, issue and cause to be served upon the  
6 person required to pay the mandatory surcharge, sex offender registra-  
7 tion fee or DNA databank fee, crime victim assistance fee or supple-  
8 mental sex offender victim fee, a summons directing that such person  
9 appear before the court regarding the payment of the mandatory  
10 surcharge, sex offender registration fee or DNA databank fee, crime  
11 victim assistance fee or supplemental sex offender victim fee, if after  
12 sixty days from the date it was imposed it remains unpaid. The desig-  
13 nated date of appearance on the summons shall be set for the first day  
14 court is in session falling after the sixtieth day from the imposition  
15 of the mandatory surcharge, sex offender registration fee or DNA data-  
16 bank fee, crime victim assistance fee or supplemental sex offender  
17 victim fee. The summons shall contain the information required by subdi-  
18 vision two of section 130.10 of the criminal procedure law except that  
19 in substitution for the requirement of paragraph (c) of such subdivision  
20 the summons shall state that the person served must appear at a date,  
21 time and specific location specified in the summons if after sixty days  
22 from the date of issuance the mandatory surcharge, sex offender regis-  
23 tration fee or DNA databank fee, crime victim assistance fee or supple-  
24 mental sex offender victim fee remains unpaid. The court shall not issue  
25 a summons under this subdivision to a person who is being sentenced to a  
26 term of confinement in excess of sixty days in jail or in the department  
27 of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION. The  
28 mandatory surcharges, sex offender registration fee and DNA databank  
29 fees, crime victim assistance fees and supplemental sex offender victim  
30 fees for those persons shall be governed by the provisions of section  
31 60.30 of this article.

32     S 122. Paragraph (b) of subdivision 2 of section 70.02 of the penal  
33 law, as separately amended by chapters 764 and 765 of the laws of 2005,  
34 is amended to read as follows:

35     (b) Except as provided in paragraph (b-1) of this subdivision, subdi-  
36 vision six of section 60.05 and subdivision four of this section, the  
37 sentence imposed upon a person who stands convicted of a class D violent  
38 felony offense, other than the offense of criminal possession of a weap-  
39 on in the third degree as defined in subdivision [four,] five, seven or  
40 eight of section 265.02 or criminal sale of a firearm in the third  
41 degree as defined in section 265.11, must be in accordance with the  
42 applicable provisions of this chapter relating to sentencing for class D  
43 felonies provided, however, that where a sentence of imprisonment is  
44 imposed which requires a commitment to the state department of [correc-  
45 tional services] CORRECTIONS AND COMMUNITY SUPERVISION, such sentence  
46 shall be a determinate sentence in accordance with paragraph (c) of  
47 subdivision three of this section.

48     S 123. Subdivision 7 of section 70.06 of the penal law, as amended by  
49 chapter 738 of the laws of 2004, is amended to read as follows:

50     7. Notwithstanding any other provision of law, in the case of a person  
51 sentenced for a specified offense or offenses as defined in subdivision  
52 five of section 410.91 of the criminal procedure law, who stands  
53 convicted of no other felony offense, who has not previously been  
54 convicted of either a violent felony offense as defined in section 70.02  
55 of this article, a class A felony offense or a class B felony offense,  
56 and is not under the jurisdiction of or awaiting delivery to the depart-

ment of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, the court may direct that such sentence be executed as a parole supervision sentence as defined in and pursuant to the procedures prescribed in section 410.91 of the criminal procedure law.

S 124. Section 70.20 of the penal law, as amended by chapter 303 of the laws of 1981, subdivision 1 as separately amended by chapters 3 and 516 of the laws of 1995, paragraphs (b), (c), (d) and (e) of subdivision 1 as added by chapter 516 of the laws of 1995, subdivision 2-a as added by chapter 1 of the laws of 1995, subdivision 3 as amended by chapter 3 of the laws of 1995, subdivision 4 as amended by chapter 479 of the laws of 1992, paragraph (a) of subdivision 4 as separately amended by chapter 465 of the laws of 1992 and paragraphs (d) and (e) of subdivision 4 as relettered and subdivision 5 as designated by chapter 516 of the laws of 1995, is amended to read as follows:

S 70.20 Place of imprisonment.

1. (a) Indeterminate or determinate sentence. Except as provided in subdivision four of this section, when an indeterminate or determinate sentence of imprisonment is imposed, the court shall commit the defendant to the custody of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION for the term of his or her sentence and until released in accordance with the law; provided, however, that a defendant sentenced pursuant to subdivision seven of section 70.06 shall be committed to the custody of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION for immediate delivery to a reception center operated by the department.

(b) The court in committing a defendant who is not yet eighteen years of age to the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION shall inquire as to whether the parents or legal guardian of the defendant, if present, will grant to the minor the capacity to consent to routine medical, dental and mental health services and treatment.

(c) Notwithstanding paragraph (b) of this subdivision, where the court commits a defendant who is not yet eighteen years of age to the custody of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION in accordance with this section and no medical consent has been obtained prior to said commitment, the commitment order shall be deemed to grant the capacity to consent to routine medical, dental and mental health services and treatment to the person so committed.

(d) Nothing in this subdivision shall preclude a parent or legal guardian of an inmate who is not yet eighteen years of age from making a motion on notice to the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION pursuant to article twenty-two of the civil practice law and rules and section one hundred forty of the correction law, objecting to routine medical, dental or mental health services and treatment being provided to such inmate under the provisions of paragraph (b) of this subdivision.

(e) Nothing in this section shall require that consent be obtained from the parent or legal guardian, where no consent is necessary or where the defendant is authorized by law to consent on his or her own behalf to any medical, dental, and mental health service or treatment.

2. Definite sentence. Except as provided in subdivision four of this section, when a definite sentence of imprisonment is imposed, the court shall commit the defendant to the county or regional correctional institution for the term of his sentence and until released in accordance with the law.

1 2-a. Sentence of life imprisonment without parole. When a sentence of  
2 life imprisonment without parole is imposed, the court shall commit the  
3 defendant to the custody of the state department of [correctional  
4 services] CORRECTIONS AND COMMUNITY SUPERVISION for the remainder of the  
5 life of the defendant.

6 3. Undischarged imprisonment in other jurisdiction. When a defendant  
7 who is subject to an undischarged term of imprisonment, imposed at a  
8 previous time by a court of another jurisdiction, is sentenced to an  
9 additional term or terms of imprisonment by a court of this state to run  
10 concurrently with such undischarged term, as provided in subdivision  
11 four of section 70.25, the return of the defendant to the custody of the  
12 appropriate official of the other jurisdiction shall be deemed a commit-  
13 ment for such portion of the term or terms of the sentence imposed by  
14 the court of this state as shall not exceed the said undischarged term.  
15 The defendant shall be committed to the custody of the state department  
16 of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION if the  
17 additional term or terms are indeterminate or determinate or to the  
18 appropriate county or regional correctional institution if the said term  
19 or terms are definite for such portion of the term or terms of the  
20 sentence imposed as shall exceed such undischarged term or until  
21 released in accordance with law. If such additional term or terms  
22 imposed shall run consecutively to the said undischarged term, the  
23 defendant shall be committed as provided in subdivisions one and two of  
24 this section.

25 4. (a) Notwithstanding any other provision of law to the contrary, a  
26 juvenile offender, or a juvenile offender who is adjudicated a youthful  
27 offender and given an indeterminate or a definite sentence, shall be  
28 committed to the custody of the [director of the division for  
29 youth] COMMISSIONER OF THE OFFICE OF CHILDREN AND FAMILY SERVICES who  
30 shall arrange for the confinement of such offender in secure facilities  
31 of the [division] OFFICE. The release or transfer of such offenders  
32 from the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES  
33 shall be governed by section five hundred eight of the executive law.

34 (b) The court in committing a juvenile offender and youthful offender  
35 to the custody of the [division for youth] OFFICE OF CHILDREN AND FAMILY  
36 SERVICES shall inquire as to whether the parents or legal guardian of  
37 the youth, if present, will consent for the [division] OFFICE OF CHIL-  
38 DREN AND FAMILY SERVICES to provide routine medical, dental and mental  
39 health services and treatment.

40 (c) Notwithstanding paragraph (b) of this subdivision, where the court  
41 commits an offender to the custody of the [division for youth] OFFICE OF  
42 CHILDREN AND FAMILY SERVICES in accordance with this section and no  
43 medical consent has been obtained prior to said commitment, the commit-  
44 ment order shall be deemed to grant consent for the [division for youth]  
45 OFFICE OF CHILDREN AND FAMILY SERVICES to provide for routine medical,  
46 dental and mental health services and treatment to the offender so  
47 committed.

48 (d) Nothing in this subdivision shall preclude a parent or legal guar-  
49 dian of an offender who is not yet eighteen years of age from making a  
50 motion on notice to the [division for youth] OFFICE OF CHILDREN AND  
51 FAMILY SERVICES pursuant to article twenty-two of the civil practice law  
52 and rules objecting to routine medical, dental or mental health services  
53 and treatment being provided to such offender under the provisions of  
54 paragraph (b) of this subdivision.

55 (e) Nothing in this section shall require that consent be obtained  
56 from the parent or legal guardian, where no consent is necessary or

1 where the offender is authorized by law to consent on his or her own  
2 behalf to any medical, dental and mental health service or treatment.

3 5. Subject to regulations of the department of health, routine  
4 medical, dental and mental health services and treatment is defined for  
5 the purposes of this section to mean any routine diagnosis or treatment,  
6 including without limitation the administration of medications or nutri-  
7 tion, the extraction of bodily fluids for analysis, and dental care  
8 performed with a local anesthetic. Routine mental health treatment shall  
9 not include psychiatric administration of medication unless it is part  
10 of an ongoing mental health plan or unless it is otherwise authorized by  
11 law.

12 S 125. Subdivisions 1 and 3 of section 70.20 of the penal law, subdi-  
13 vision 1 as amended by chapter 516 of the laws of 1995 and subdivision 3  
14 as amended by chapter 303 of the laws of 1981, are amended to read as  
15 follows:

16 1. (a) Indeterminate sentence. Except as provided in subdivision four  
17 of this section, when an indeterminate sentence of imprisonment is  
18 imposed, the court shall commit the defendant to the custody of the  
19 state department of [correctional services] CORRECTIONS AND COMMUNITY  
20 SUPERVISION for the term of his or her sentence and until released in  
21 accordance with the law.

22 (b) The court in committing a defendant who is not yet eighteen years  
23 of age to the department of [correctional services] CORRECTIONS AND  
24 COMMUNITY SUPERVISION shall inquire as to whether the parents or legal  
25 guardian of the defendant, if present, will grant to the minor the  
26 capacity to consent to routine medical, dental and mental health  
27 services and treatment.

28 (c) Notwithstanding paragraph (b) of this subdivision, where the court  
29 commits a defendant who is not yet eighteen years of age to the custody  
30 of the department of [correctional services] CORRECTIONS AND COMMUNITY  
31 SUPERVISION in accordance with this section and no medical consent has  
32 been obtained prior to said commitment, the commitment order shall be  
33 deemed to grant the capacity to consent to routine medical, dental and  
34 mental health services and treatment to the person so committed.

35 (d) Nothing in this subdivision shall preclude a parent or legal guar-  
36 dian of an inmate who is not yet eighteen years of age from making a  
37 motion on notice to the department of [correctional services]  
38 CORRECTIONS AND COMMUNITY SUPERVISION pursuant to article twenty-two of  
39 the civil practice law and rules and section one hundred forty of the  
40 correction law, objecting to routine medical, dental or mental health  
41 services and treatment being provided to such inmate under the  
42 provisions of paragraph (b) of this subdivision.

43 (e) Nothing in this section shall require that consent be obtained  
44 from the parent or legal guardian, where no consent is necessary or  
45 where the defendant is authorized by law to consent on his or her own  
46 behalf to any medical, dental, and mental health service or treatment.

47 3. Undischarged imprisonment in other jurisdiction. When a defendant  
48 who is subject to an undischarged term of imprisonment, imposed at a  
49 previous time by a court of another jurisdiction, is sentenced to an  
50 additional term or terms of imprisonment by a court of this state to run  
51 concurrently with such undischarged term, as provided in subdivision  
52 four of section 70.25, the return of the defendant to the custody of the  
53 appropriate official of the other jurisdiction shall be deemed a commit-  
54 ment for such portion of the term or terms of the sentence imposed by  
55 the court of this state as shall not exceed the said undischarged term.  
56 The defendant shall be committed to the custody of the state department

1 of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION if the  
2 additional term or terms are indeterminate or to the appropriate county  
3 or regional correctional institution if the said term or terms are defi-  
4 nite for such portion of the term or terms of the sentence imposed as  
5 shall exceed such undischarged term or until released in accordance with  
6 law. If such additional term or terms imposed shall run consecutively to  
7 the said undischarged term, the defendant shall be committed as provided  
8 in subdivisions one and two of this section.

9 S 126. The opening paragraph of subdivision 1 and subdivisions 6 and 7  
10 of section 70.30 of the penal law, the opening paragraph of subdivision  
11 1 as amended by chapter 3 of the laws of 1995, subdivision 6 as amended  
12 by chapter 465 of the laws of 1974 and subdivision 7 as amended by chap-  
13 ter 392 of the laws of 1988, are amended to read as follows:

14 An indeterminate or determinate sentence of imprisonment commences  
15 when the prisoner is received in an institution under the jurisdiction  
16 of the state department of [correctional services] CORRECTIONS AND  
17 COMMUNITY SUPERVISION. Where a person is under more than one indetermi-  
18 nate or determinate sentence, the sentences shall be calculated as  
19 follows:

20 6. Escape. When a person who is serving a sentence of imprisonment  
21 escapes from custody, the escape shall interrupt the sentence and such  
22 interruption shall continue until the return of the person to the insti-  
23 tution in which the sentence was being served or, if the sentence was  
24 being served in an institution under the jurisdiction of the state  
25 department of [correctional services] CORRECTIONS AND COMMUNITY SUPER-  
26 VISION, to an institution under the jurisdiction of that department. Any  
27 time spent by such person in custody from the date of escape to the date  
28 the sentence resumes shall be credited against the term or maximum term  
29 of the interrupted sentence, provided:

30 (a) That such custody was due to an arrest or surrender based upon the  
31 escape; or

32 (b) That such custody arose from an arrest on another charge which  
33 culminated in a dismissal or an acquittal; or

34 (c) That such custody arose from an arrest on another charge which  
35 culminated in a conviction, but in such case, if a sentence of imprison-  
36 ment was imposed, the credit allowed shall be limited to the portion of  
37 the time spent in custody that exceeds the period, term or maximum term  
38 of imprisonment imposed for such conviction.

39 7. Absconding from temporary release or furlough program. When a  
40 person who is serving a sentence of imprisonment is permitted to leave  
41 an institution to participate in a program of work release or furlough  
42 program as such term is defined in section six hundred thirty-one of the  
43 correction law, or in the case of an institution under the jurisdiction  
44 of the state department of [correctional services] CORRECTIONS AND  
45 COMMUNITY SUPERVISION or a facility under the jurisdiction of the state  
46 [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES to partic-  
47 ipate in a program of temporary release, fails to return to the institu-  
48 tion or facility at or before the time prescribed for his OR HER return,  
49 such failure shall interrupt the sentence and such interruption shall  
50 continue until the return of the person to the institution in which the  
51 sentence was being served or, if the sentence was being served in an  
52 institution under the jurisdiction of the state department of [correc-  
53 tional services] CORRECTIONS AND COMMUNITY SUPERVISION or a facility  
54 under the jurisdiction of the state [division for youth] OFFICE OF CHIL-  
55 DREN AND FAMILY SERVICES to an institution under the jurisdiction of  
56 that department or a facility under the jurisdiction of that [division]

OFFICE. Any time spent by such person in an institution from the date of his OR HER failure to return to the date his OR HER sentence resumes shall be credited against the term or maximum term of the interrupted sentence, provided:

(a) That such incarceration was due to an arrest or surrender based upon the failure to return; or

(b) That such incarceration arose from an arrest on another charge which culminated in a dismissal or an acquittal; or

(c) That such custody arose from an arrest on another charge which culminated in a conviction, but in such case, if a sentence of imprisonment was imposed, the credit allowed shall be limited to the portion of the time spent in custody that exceeds the period, term or maximum term of imprisonment imposed for such conviction.

S 127. The opening paragraph of subdivision 1 of section 70.30 of the penal law, as amended by chapter 481 of the laws of 1978, is amended to read as follows:

An indeterminate sentence of imprisonment commences when the prisoner is received in an institution under the jurisdiction of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION. Where a person is under more than one indeterminate sentence, the sentences shall be calculated as follows:

S 127-a. Section 70.35 of the penal law, as amended by chapter 3 of the laws of 1995, is amended to read as follows:

S 70.35 Merger of certain definite and indeterminate or determinate sentences.

The service of an indeterminate or determinate sentence of imprisonment shall satisfy any definite sentence of imprisonment imposed on a person for an offense committed prior to the time the indeterminate or determinate sentence was imposed, except as provided in paragraph (b) of subdivision five of section 70.25 of this article. A person who is serving a definite sentence at the time an indeterminate or determinate sentence is imposed shall be delivered to the custody of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION to commence service of the indeterminate or determinate sentence immediately unless the person is serving a definite sentence pursuant to paragraph (b) of subdivision five of section 70.25 of this article. In any case where the indeterminate or determinate sentence is revoked or vacated, the person shall receive credit against the definite sentence for each day spent in the custody of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION.

S 127-b. Section 70.35 of the penal law, as amended by chapter 527 of the laws of 1989, is amended to read as follows:

S 70.35 Merger of certain definite and indeterminate sentences.

The service of an indeterminate sentence of imprisonment shall satisfy any definite sentence of imprisonment imposed on a person for an offense committed prior to the time the indeterminate sentence was imposed, except as provided in paragraph (b) of subdivision five of section 70.25 of this article. A person who is serving a definite sentence at the time an indeterminate sentence is imposed shall be delivered to the custody of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION to commence service of the indeterminate sentence immediately unless the person is serving a definite sentence pursuant to paragraph (b) of subdivision five of section 70.25 of this article. In any case where the indeterminate sentence is revoked or vacated, the person shall receive credit against the definite sentence for each day

1 spent in the custody of the state department of [correctional services]  
2 CORRECTIONS AND COMMUNITY SUPERVISION.

3 S 127-c. Paragraph (a) of subdivision 1 of section 70.40 of the penal  
4 law, as amended by chapter 3 of the laws of 1995, subparagraph (i) as  
5 amended by chapter 435 of the laws of 1997, subparagraph (v) as amended  
6 by section 7 of part J of chapter 56 of the laws of 2009, is amended to  
7 read as follows:

8 (a) Release on parole shall be in the discretion of the state board of  
9 parole, and such person shall continue service of his OR HER sentence or  
10 sentences while on parole, in accordance with and subject to the  
11 provisions of the executive law AND THE CORRECTION LAW.

12 (i) A person who is serving one or more than one indeterminate  
13 sentence of imprisonment may be paroled from the institution in which he  
14 OR SHE is confined at any time after the expiration of the minimum or  
15 the aggregate minimum period of the sentence or sentences or, where  
16 applicable, the minimum or aggregate minimum period reduced by the merit  
17 time allowance granted pursuant to paragraph (d) of subdivision one of  
18 section eight hundred three of the correction law.

19 (ii) A person who is serving one or more than one determinate sentence  
20 of imprisonment shall be ineligible for discretionary release on parole.

21 (iii) A person who is serving one or more than one indeterminate  
22 sentence of imprisonment and one or more than one determinate sentence  
23 of imprisonment, which run concurrently may be paroled at any time after  
24 the expiration of the minimum period of imprisonment of the indetermi-  
25 nate sentence or sentences, or upon the expiration of six-sevenths of  
26 the term of imprisonment of the determinate sentence or sentences,  
27 whichever is later.

28 (iv) A person who is serving one or more than one indeterminate  
29 sentence of imprisonment and one or more than one determinate sentence  
30 of imprisonment which run consecutively may be paroled at any time after  
31 the expiration of the sum of the minimum or aggregate minimum period of  
32 the indeterminate sentence or sentences and six-sevenths of the term or  
33 aggregate term of imprisonment of the determinate sentence or sentences.

34 (v) Notwithstanding any other subparagraph of this paragraph, a person  
35 may be paroled from the institution in which he OR SHE is confined at  
36 any time on medical parole pursuant to section two hundred  
37 [fifty-nine-r] FIFTY-NINE-E or section two hundred [fifty-nine-s]  
38 FIFTY-NINE-F of the executive law or for deportation pursuant to para-  
39 graph (d) of subdivision two of section two hundred [fifty-nine-i]  
40 FIFTY-NINE-B of the executive law or after the successful completion of  
41 a shock incarceration program pursuant to article twenty-six-A of the  
42 correction law.

43 S 127-d. Paragraph (a) of subdivision 1 of section 70.40 of the penal  
44 law, as separately amended by chapter 261 of the laws of 1987 and chap-  
45 ter 55 of the laws of 1992, subparagraph (i) as added by chapter 3 of  
46 the laws of 1995, is amended to read as follows:

47 (a) (I) A person who is serving one or more than one indeterminate  
48 sentence of imprisonment may be paroled from the institution in which he  
49 OR SHE is confined at any time after the expiration of the minimum or  
50 the aggregate minimum period of imprisonment of the sentence or  
51 sentences or after the successful completion of a shock incarceration  
52 program, as defined in article twenty-six-A of the correction law,  
53 whichever is sooner. Release on parole shall be in the discretion of the  
54 state board of parole, and such person shall continue service of his OR  
55 HER sentence or sentences while on parole, in accordance with and  
56 subject to the provisions of the executive law AND THE CORRECTION LAW.

1 [(i)] (II) A person who is serving one or more than one indeterminate  
2 sentence of imprisonment may be paroled from the institution in which he  
3 OR SHE is confined at any time after the expiration of the minimum or  
4 the aggregate minimum period of the sentence or sentences.

5 S 127-d-1. Paragraph (b) of subdivision 1 of section 70.40 of the  
6 penal law, as amended by chapter 1 of the laws of 1998, is amended to  
7 read as follows:

8 (b) A person who is serving one or more than one indeterminate or  
9 determinate sentence of imprisonment shall, if he OR SHE so requests, be  
10 conditionally released from the institution in which he OR SHE is  
11 confined when the total good behavior time allowed to him OR HER, pursu-  
12 ant to the provisions of the correction law, is equal to the unserved  
13 portion of his OR HER term, maximum term or aggregate maximum term;  
14 provided, however, that (i) in no event shall a person serving one or  
15 more indeterminate sentence of imprisonment and one or more determinate  
16 sentence of imprisonment which run concurrently be conditionally  
17 released until serving at least six-sevenths of the determinate term of  
18 imprisonment which has the longest unexpired time to run and (ii) in no  
19 event shall a person be conditionally released prior to the date on  
20 which such person is first eligible for discretionary parole release.  
21 The conditions of release, including those governing post-release super-  
22 vision, shall be such as may be imposed by the [state board of parole]  
23 DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION in accordance with  
24 the provisions of the [executive] CORRECTION law.

25 Every person so released shall be under the supervision of the state  
26 [board of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION  
27 for a period equal to the unserved portion of the term, maximum term,  
28 aggregate maximum term, or period of post-release supervision.

29 S 127-e. Paragraph (b) of subdivision 1 of section 70.40 of the penal  
30 law, as separately amended by chapter 467 of the laws of 1979 and chap-  
31 ter 1 of the laws of 1998, the closing paragraph as separately amended  
32 by chapter 148 of the laws of 1975 and chapter 1 of the laws of 1998, is  
33 amended to read as follows:

34 (b) A person who is serving one or more than one indeterminate  
35 sentence of imprisonment shall, if he OR SHE so requests, be condi-  
36 tionally released from the institution in which he OR SHE is confined  
37 when the total good behavior time allowed to him OR HER, pursuant to the  
38 provisions of the correction law, is equal to the unserved portion of  
39 his OR HER maximum or aggregate maximum term. The conditions of release,  
40 including those governing post-release supervision, shall be such as may  
41 be imposed by the [state board of parole] DEPARTMENT OF CORRECTIONS AND  
42 COMMUNITY SUPERVISION in accordance with the provisions of the [execu-  
43 tive] CORRECTION law.

44 Every person so released shall be under the supervision of the [state  
45 board of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION for  
46 a period equal to the unserved portion of the maximum, aggregate maximum  
47 term, or period of post-release supervision.

48 S 127-f. Paragraph (c) of subdivision 1 of section 70.40 of the penal  
49 law, as added by section 13 of part E of chapter 62 of the laws of 2003,  
50 is amended to read as follows:

51 (c) A person who is serving one or more than one indeterminate  
52 sentence of imprisonment shall, if he or she so requests, be released  
53 from the institution in which he or she is confined if granted presump-  
54 tive release pursuant to section eight hundred six of the correction  
55 law. The conditions of release shall be such as may be imposed by the  
56 [state board of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPER-

1 VISION in accordance with the provisions of the [executive] CORRECTION  
2 law. Every person so released shall be under the supervision of the  
3 [state board of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPER-  
4 VISION for a period equal to the unserved portion of his or her maximum  
5 or aggregate maximum term unless discharged in accordance with law.

6 S 127-g. Subdivision 2 of section 70.40 of the penal law, as amended  
7 by section 4 of part SS of chapter 56 of the laws of 2009, is amended to  
8 read as follows:

9 2. Definite sentence. A person who is serving one or more than one  
10 definite sentence of imprisonment with a term or aggregate term in  
11 excess of ninety days, and is eligible for release according to the  
12 criteria set forth in paragraphs (a), (b) and (c) of subdivision one of  
13 section two hundred seventy-three of the correction law, may, if he or  
14 she so requests, be conditionally released from the institution in which  
15 he or she is confined at any time after service of sixty days of that  
16 term, exclusive of credits allowed under subdivisions four and six of  
17 section 70.30. In computing service of sixty days, the credit allowed  
18 for jail time under subdivision three of section 70.30 shall be calcu-  
19 lated as time served. Conditional release from such institution shall be  
20 in the discretion of the parole board, or a local conditional release  
21 commission established pursuant to article twelve of the correction law,  
22 provided, however that where such release is by a local conditional  
23 release commission, the person must be serving a definite sentence with  
24 a term in excess of one hundred twenty days and may only be released  
25 after service of ninety days of such term. In computing service of nine-  
26 ty days, the credit allowed for jail time under subdivision three of  
27 section 70.30 of this article shall be calculated as time served. A  
28 conditional release granted under this subdivision shall be upon such  
29 conditions as may be imposed by the [parole board] DEPARTMENT OF  
30 CORRECTIONS AND COMMUNITY SUPERVISION, in accordance with the provisions  
31 of the [executive] CORRECTION law, or a local conditional release  
32 commission in accordance with the provisions of the correction law.

33 Conditional release shall interrupt service of the sentence or  
34 sentences and the remaining portion of the term or aggregate term shall  
35 be held in abeyance. Every person so released shall be under the super-  
36 vision of the [parole board] DEPARTMENT OF CORRECTIONS AND COMMUNITY  
37 SUPERVISION or a local probation department and in the custody of the  
38 local conditional release commission in accordance with article twelve  
39 of the correction law, for a period of one year. The local probation  
40 department shall cause complete records to be kept of every person  
41 released to its supervision pursuant to this subdivision. The [division  
42 of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION may  
43 supply to a local probation department and the local conditional release  
44 commission custody information and records maintained on persons under  
45 the supervision of such local probation department to aid in the  
46 performance of its supervision responsibilities. Compliance with the  
47 conditions of release during the period of supervision shall satisfy the  
48 portion of the term or aggregate term that has been held in abeyance.

49 S 127-h. Paragraphs (a) and (b) of subdivision 3 of section 70.40 of  
50 the penal law, paragraph (a) as amended by section 14 of part E of chap-  
51 ter 62 of the laws of 2003, paragraph (b) as amended by section 5 of  
52 part SS of chapter 56 of the laws of 2009, are amended to read as  
53 follows:

54 (a) When a person is alleged to have violated the terms of presumptive  
55 release or parole and the [state board of parole] DEPARTMENT OF  
56 CORRECTIONS AND COMMUNITY SUPERVISION has declared such person to be

delinquent, the declaration of delinquency shall interrupt the person's sentence as of the date of the delinquency and such interruption shall continue until the return of the person to an institution under the jurisdiction of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION.

(b) When a person is alleged to have violated the terms of his OR HER conditional release or post-release supervision and has been declared delinquent by the [parole board] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION or the local conditional release commission having supervision over such person, the declaration of delinquency shall interrupt the period of supervision or post-release supervision as of the date of the delinquency. For a conditional release, such interruption shall continue until the return of the person to the institution from which he OR SHE was released or, if he OR SHE was released from an institution under the jurisdiction of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, to an institution under the jurisdiction of that department. Upon such return, the person shall resume service of his OR HER sentence. For a person released to post-release supervision, the provisions of section 70.45 shall apply.

S 127-i. Subdivision 1-a of section 70.45 of the penal law, as added by chapter 7 of the laws of 2007, is amended to read as follows:

1-a. When, following a final hearing, a time assessment has been imposed upon a person convicted of a felony sex offense who owes three years or more on a period of post-release supervision, imposed pursuant to subdivision two-a of this section, such defendant, after serving three years of the time assessment, shall be reviewed by the board of parole and may be re-released to post-release supervision only upon a determination by the board of parole made in accordance with subdivision [two] SEVEN of section [two hundred fifty-nine-i of the executive] TWO HUNDRED FIVE OF THE CORRECTION law. If re-release is not granted, the board shall specify a date not more than twenty-four months from such determination for reconsideration, and the procedures to be followed upon reconsideration shall be the same. If a time assessment of less than three years is imposed upon such a defendant, the defendant shall be released upon the expiration of such time assessment, unless he or she is subject to further imprisonment or confinement under any provision of law.

S 127-j. Subdivisions 3, 4 and 5 of section 70.45 of the penal law, as added by chapter 1 of the laws of 1998, paragraph (d) of subdivision 5 as amended by section 5 of part E of chapter 56 of the laws of 2007, are amended to read as follows:

3. Conditions of post-release supervision. The [board of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION shall establish and impose conditions of post-release supervision in the same manner and to the same extent as it may establish and impose conditions in accordance with the [executive] CORRECTION law upon persons who are granted parole or conditional release; provided that, notwithstanding any other provision of law, the [board of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION may impose as a condition of post-release supervision that for a period not exceeding six months immediately following release from the underlying term of imprisonment the person be transferred to and participate in the programs of a residential treatment facility as that term is defined in subdivision six of section two of the correction law. Upon release from the underlying term of imprisonment, the person shall be furnished with a written statement setting

1 forth the conditions of post-release supervision in sufficient detail to  
2 provide for the person's conduct and supervision.

3 4. Revocation of post-release supervision. An alleged violation of any  
4 condition of post-release supervision shall be initiated, heard and  
5 determined in accordance with the provisions of [subdivisions three and  
6 four of] section [two hundred fifty-nine-i of the executive law] TWO  
7 HUNDRED FIVE OF THE CORRECTION LAW.

8 5. Calculation of service of period of post-release supervision. A  
9 period or periods of post-release supervision shall be calculated and  
10 served as follows:

11 (a) A period of post-release supervision shall commence upon the  
12 person's release from imprisonment to supervision by the [division of  
13 parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION and shall  
14 interrupt the running of the determinate sentence or sentences of impri-  
15 sonment and the indeterminate sentence or sentences of imprisonment, if  
16 any. The remaining portion of any maximum or aggregate maximum term  
17 shall then be held in abeyance until the successful completion of the  
18 period of post-release supervision or the person's return to the custody  
19 of the [department of correctional services] DEPARTMENT OF CORRECTIONS  
20 AND COMMUNITY SUPERVISION, whichever occurs first.

21 (b) Upon the completion of the period of post-release supervision, the  
22 running of such sentence or sentences of imprisonment shall resume and  
23 only then shall the remaining portion of any maximum or aggregate maxi-  
24 mum term previously held in abeyance be credited with and diminished by  
25 such period of post-release supervision. The person shall then be under  
26 the jurisdiction of the [division of parole] DEPARTMENT OF CORRECTIONS  
27 AND COMMUNITY SUPERVISION for the remaining portion of such maximum or  
28 aggregate maximum term.

29 (c) When a person is subject to two or more periods of post-release  
30 supervision, such periods shall merge with and be satisfied by discharge  
31 of the period of post-release supervision having the longest unexpired  
32 time to run; provided, however, any time served upon one period of post-  
33 release supervision shall not be credited to any other period of post-  
34 release supervision except as provided in subdivision five of section  
35 70.30 of this article.

36 (d) When a person is alleged to have violated a condition of post-re-  
37 lease supervision and the [division of parole] DEPARTMENT OF CORRECTIONS  
38 AND COMMUNITY SUPERVISION has declared such person to be delinquent: (i)  
39 the declaration of delinquency shall interrupt the period of post-re-  
40 lease supervision; (ii) such interruption shall continue until the  
41 person is restored to post-release supervision; (iii) if the person is  
42 restored to post-release supervision without being returned to the  
43 department of [correctional services] CORRECTIONS AND COMMUNITY SUPER-  
44 VISION, any time spent in custody from the date of delinquency until  
45 restoration to post-release supervision shall first be credited to the  
46 maximum or aggregate maximum term of the sentence or sentences of impri-  
47 sonment, but only to the extent authorized by subdivision three of  
48 section 70.40 of this article. Any time spent in custody solely pursuant  
49 to such delinquency after completion of the maximum or aggregate maximum  
50 term of the sentence or sentences of imprisonment shall be credited to  
51 the period of post-release supervision, if any; and (iv) if the person  
52 is ordered returned to the department of [correctional services]  
53 CORRECTIONS AND COMMUNITY SUPERVISION, the person shall be required to  
54 serve the time assessment before being re-released to post-release  
55 supervision. In the event the balance of the remaining period of post-  
56 release supervision is six months or less, such time assessment may be

1 up to six months unless a longer period is authorized pursuant to subdi-  
2 vision one of this section. The time assessment shall commence upon the  
3 issuance of a determination after a final hearing that the person has  
4 violated one or more conditions of supervision. While serving such  
5 assessment, the person shall not receive any good behavior allowance  
6 pursuant to section eight hundred three of the correction law. Any time  
7 spent in custody from the date of delinquency until return to the  
8 department of [correctional services] CORRECTIONS AND COMMUNITY SUPER-  
9 VISION shall first be credited to the maximum or aggregate maximum term  
10 of the sentence or sentences of imprisonment, but only to the extent  
11 authorized by subdivision three of section 70.40 of this article. The  
12 maximum or aggregate maximum term of the sentence or sentences of impri-  
13 sonment shall run while the person is serving such time assessment in  
14 the custody of the department of [correctional services] CORRECTIONS AND  
15 COMMUNITY SUPERVISION. Any time spent in custody solely pursuant to  
16 such delinquency after completion of the maximum or aggregate maximum  
17 term of the sentence or sentences of imprisonment shall be credited to  
18 the period of post-release supervision, if any.

19 (e) Notwithstanding paragraph (d) of this subdivision, in the event a  
20 person is sentenced to one or more additional indeterminate or determi-  
21 nate term or terms of imprisonment prior to the completion of the period  
22 of post-release supervision, such period of post-release supervision  
23 shall be held in abeyance and the person shall be committed to the  
24 custody of the department of [correctional services] CORRECTIONS AND  
25 COMMUNITY SUPERVISION in accordance with the requirements of the prior  
26 and additional terms of imprisonment.

27 (f) When a person serving a period of post-release supervision is  
28 returned to the department of [correctional services] CORRECTIONS AND  
29 COMMUNITY SUPERVISION pursuant to an additional consecutive sentence of  
30 imprisonment and without a declaration of delinquency, such period of  
31 post-release supervision shall be held in abeyance while the person is  
32 in the custody of the department of [correctional services] CORRECTIONS  
33 AND COMMUNITY SUPERVISION. Such period of post-release supervision  
34 shall resume running upon the person's re-release.

35 S 127-k. Paragraph (d) of subdivision 3 of section 70.70 of the penal  
36 law, as added by chapter 738 of the laws of 2004, is amended to read as  
37 follows:

38 (d) Sentence of parole supervision. In the case of a person sentenced  
39 for a specified offense or offenses as defined in subdivision five of  
40 section 410.91 of the criminal procedure law, who stands convicted of no  
41 other felony offense, who has not previously been convicted of either a  
42 violent felony offense as defined in section 70.02 of this article, a  
43 class A felony offense or a class B felony offense, and is not under the  
44 jurisdiction of or awaiting delivery to the department of [correctional  
45 services] CORRECTIONS AND COMMUNITY SUPERVISION, the court may direct  
46 that a determinate sentence imposed pursuant to this subdivision shall  
47 be executed as a parole supervision sentence as defined in and pursuant  
48 to the procedures prescribed in section 410.91 of the criminal procedure  
49 law.

50 S 127-l. Subdivision 1 of section 85.15 of the penal law, as amended  
51 by chapter 3 of the laws of 1995, is amended to read as follows:

52 1. Indeterminate and determinate sentences. The service of an indeter-  
53 minate or a determinate sentence of imprisonment shall satisfy any  
54 sentence of intermittent imprisonment imposed on a person for an offense  
55 committed prior to the time the indeterminate or determinate sentence  
56 was imposed. A person who is serving a sentence of intermittent impri-

sonment at the time an indeterminate or a determinate sentence of imprisonment is imposed shall be delivered to the custody of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION to commence service of the indeterminate or determinate sentence immediately.

S 127-m. Subdivision 1 of section 85.15 of the penal law, as added by chapter 477 of the laws of 1970, is amended to read as follows:

1. Indeterminate and reformatory sentences. The service of an indeterminate or a reformatory sentence of imprisonment shall satisfy any sentence of intermittent imprisonment imposed on a person for an offense committed prior to the time the indeterminate or reformatory sentence was imposed. A person who is serving a sentence of intermittent imprisonment at the time an indeterminate or a reformatory sentence of imprisonment is imposed shall be delivered to the custody of the state department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION to commence service of the indeterminate or reformatory sentence immediately.

S 127-n. Section 205.17 of the penal law, as amended by chapter 460 of the laws of 1983, is amended to read as follows:

S 205.17 Absconding from temporary release in the first degree.

A person is guilty of absconding from temporary release in the first degree when having been released from confinement in a correctional institution under the jurisdiction of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or a facility under the jurisdiction of the state [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES to participate in a program of temporary release, he OR SHE intentionally fails to return to the institution or facility of his OR HER confinement at or before the time prescribed for his OR HER return.

Absconding from temporary release in the first degree is a class E felony.

S 127-o. Section 205.19 of the penal law, as added by chapter 554 of the laws of 1986, is amended to read as follows:

S 205.19 Absconding from a community treatment facility.

A person is guilty of absconding from a community treatment facility when having been released from confinement from a correctional institution under the jurisdiction of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION by transfer to a community treatment facility, he OR SHE leaves such facility without authorization or he OR SHE intentionally fails to return to the community treatment facility at or before the time prescribed for his OR HER return.

Absconding from a community treatment facility is a class E felony.

S 127-p. Section 240.32 of the penal law, as separately amended by chapters 422 and 441 of the laws of 2000, is amended to read as follows:

S 240.32 Aggravated harassment of an employee by an inmate.

An inmate or respondent is guilty of aggravated harassment of an employee by an inmate when, with intent to harass, annoy, threaten or alarm a person in a facility whom he OR SHE knows or reasonably should know to be an employee of such facility or the [division of] BOARD OF parole or the office of mental health, or a probation department, bureau or unit or a police officer, he OR SHE causes or attempts to cause such employee to come into contact with blood, seminal fluid, urine or feces, by throwing, tossing or expelling such fluid or material.

For purposes of this section, "inmate" means an inmate or detainee in a correctional facility, local correctional facility or a hospital, as

such term is defined in subdivision two of section four hundred of the correction law. For purposes of this section, "respondent" means a juvenile in a secure facility operated and maintained by the office of children and family services who is placed with or committed to the office of children and family services. For purposes of this section, "facility" means a correctional facility or local correctional facility, hospital, as such term is defined in subdivision two of section four hundred of the correction law, or a secure facility operated and maintained by the office of children and family services.

Aggravated harassment of an employee by an inmate is a class E felony.

S 127-q. Paragraphs (e) and (f) of subdivision 3 of section 130.05 of the penal law, paragraph (e) as amended by chapter 1 of the laws of 2000, subparagraph (iv) of paragraph (e) as added and paragraph (f) as amended by chapter 335 of the laws of 2007, are amended to read as follows:

(e) committed to the care and custody of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or a hospital, as such term is defined in subdivision two of section four hundred of the correction law, and the actor is an employee, not married to such person, who knows or reasonably should know that such person is committed to the care and custody of such department or hospital. For purposes of this paragraph, "employee" means (i) an employee of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION who performs professional duties: (A) in a state correctional facility consisting of providing custody, medical or mental health services, counseling services, educational programs, or vocational training for inmates; OR

[(ii) an employee of the division of parole who performs professional duties] (B) in a state correctional facility and who provides institutional parole services [pursuant to section two hundred fifty-nine-e of the executive law]; or

[(iii)] (II) an employee of the office of mental health who performs professional duties in a state correctional facility or hospital, as such term is defined in subdivision two of section four hundred of the correction law, consisting of providing custody, or medical or mental health services for such inmates; or

[(iv)] (III) a person, including a volunteer, providing direct services to inmates in the state correctional facility in which the victim is confined at the time of the offense pursuant to a contractual arrangement with the state department of correctional services or, in the case of a volunteer, a written agreement with such department, provided that the person received written notice concerning the provisions of this paragraph; or

(f) committed to the care and custody of a local correctional facility, as such term is defined in subdivision two of section forty of the correction law, and the actor is an employee, not married to such person, who knows or reasonably should know that such person is committed to the care and custody of such facility. For purposes of this paragraph, "employee" means an employee of the local correctional facility where the person is committed who performs professional duties consisting of providing custody, medical or mental health services, counseling services, educational services, or vocational training for inmates. For purposes of this paragraph, "employee" shall also mean a person, including a volunteer or a government employee of the state [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION or a local health, education or probation agency, providing direct services to

1 inmates in the local correctional facility in which the victim is  
2 confined at the time of the offense pursuant to a contractual arrange-  
3 ment with the local correctional department or, in the case of such a  
4 volunteer or government employee, a written agreement with such depart-  
5 ment, provided that such person received written notice concerning the  
6 provisions of this paragraph; or

7 S 127-r. Subdivision 1 of section 10 of the public buildings law, as  
8 added by chapter 83 of the laws of 1995, is amended to read as follows:

9 1. Except as provided in subdivision two of this section, whenever the  
10 head of any agency, board, division or commission, with the approval of  
11 the director of the budget, (a) shall certify to the commissioner of  
12 general services that any property on state land or on land under lease  
13 to the state and consisting of buildings with or without fixtures  
14 attached thereto, and any other improvements upon such lands, are unfit,  
15 not adapted or not needed for use by such agency, board, division or  
16 commission and (b) shall recommend for reasons to be stated, that the  
17 said property should be disposed of, the commissioner of general  
18 services shall, after causing an investigation to be made, dispose of  
19 said property by sale or demolition as will best promote the public  
20 interest. Public notice of a proposed sale where the value of the prop-  
21 erty to be sold exceeds five thousand dollars shall be given by adver-  
22 tising at least once in a newspaper published and having a general  
23 circulation in the county in which such lands are located and in such  
24 other newspaper or newspapers as the commissioner of general services  
25 may deem to be necessary. Such advertisement shall give a general  
26 description and location of the property and the terms of the sale and  
27 the date on which proposals for the same will be received by the commis-  
28 sioner of general services. Should any or all of the offers so received  
29 be deemed by the commissioner of general services to be too low, he or  
30 she may dispose of such property so advertised at private sale within  
31 ninety days of the opening of the bids, provided that no such private  
32 sale shall be consummated at a price lower than that submitted as a  
33 result of public advertising. The commissioner of general services shall  
34 also have the power to demolish such property either by contract or, if  
35 such property is located on lands which are under the jurisdiction of  
36 the department of [correctional services] CORRECTIONS AND COMMUNITY  
37 SUPERVISION, the work of such demolition may be done by the inmates of  
38 the institution where such property is located, provided however that  
39 the commissioner of [correctional services] CORRECTIONS AND COMMUNITY  
40 SUPERVISION shall consent to the employment of the inmates for the work  
41 of demolition. The provisions of this subdivision shall be effective  
42 notwithstanding the provisions of any other general or special law  
43 relating to the disposal of buildings with the fixtures attached thereto  
44 or of any improvements upon lands belonging to or under lease to the  
45 state, and any such statute or parts thereof relating to such disposal  
46 of buildings, fixtures and improvements insofar as they are inconsistent  
47 with the provisions of this section are hereby superseded. A record of  
48 any such sale shall be filed with the state agency head above referred  
49 to and the proceeds of such sale or disposal shall be paid into the  
50 treasury of the state to the credit of the capital projects fund.

51 S 127-s. Subdivision 26 of section 206 of the public health law, as  
52 added by section 1 of chapter 419 of the laws of 2009, is amended to  
53 read as follows:

54 26. The commissioner is hereby authorized and directed to review any  
55 policy or practice instituted in facilities operated by the department  
56 of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION regard-

1 ing human immunodeficiency virus (HIV), acquired immunodeficiency  
2 syndrome (AIDS), and hepatitis C (HCV) including the prevention of the  
3 transmission of HIV and HCV and the treatment of AIDS, HIV and HCV among  
4 inmates. Such review shall be performed annually and shall focus on  
5 whether such HIV, AIDS or HCV policy or practice is consistent with  
6 current, generally accepted medical standards and procedures used to  
7 prevent the transmission of HIV and HCV and to treat AIDS, HIV and HCV  
8 among the general public. In performing such reviews, in order to deter-  
9 mine the quality and adequacy of care and treatment provided, department  
10 personnel are authorized to enter correctional facilities and inspect  
11 policy and procedure manuals and medical protocols, interview health  
12 services providers and inmate-patients, review medical grievances, and  
13 inspect a representative sample of medical records of inmates known to  
14 be infected with HIV or HCV or have AIDS. Prior to initiating a review  
15 of a correctional system, the commissioner shall inform the public,  
16 including patients, their families and patient advocates, of the sched-  
17 uled review and invite them to provide the commissioner with relevant  
18 information. Upon the completion of such review, the department shall,  
19 in writing, approve such policy or practice as instituted in facilities  
20 operated by the department of [correctional services] CORRECTIONS AND  
21 COMMUNITY SUPERVISION or, based on specific, written recommendations,  
22 direct the department of [correctional services] CORRECTIONS AND COMMU-  
23 NITY SUPERVISION to prepare and implement a corrective plan to address  
24 deficiencies in areas where such policy or practice fails to conform to  
25 current, generally accepted medical standards and procedures. The  
26 commissioner shall monitor the implementation of such corrective plans  
27 and shall conduct such further reviews as the commissioner deems neces-  
28 sary to ensure that identified deficiencies in HIV, AIDS and HCV poli-  
29 cies and practices are corrected. All written reports pertaining to  
30 reviews provided for in this subdivision shall be maintained, under such  
31 conditions as the commissioner shall prescribe, as public information  
32 available for public inspection.

33 S 127-t. Subdivision 26 of section 206 of the public health law, as  
34 amended by section 2 of chapter 419 of the laws of 2009, is amended to  
35 read as follows:

36 26. The commissioner is hereby authorized and directed to review any  
37 policy or practice instituted in facilities operated by the department  
38 of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, and in  
39 all local correctional facilities, as defined in subdivision sixteen of  
40 section two of the correction law, regarding human immunodeficiency  
41 virus (HIV), acquired immunodeficiency syndrome (AIDS), and hepatitis C  
42 (HCV) including the prevention of the transmission of HIV and HCV and  
43 the treatment of AIDS, HIV and HCV among inmates. Such review shall be  
44 performed annually and shall focus on whether such HIV, AIDS or HCV  
45 policy or practice is consistent with current, generally accepted  
46 medical standards and procedures used to prevent the transmission of HIV  
47 and HCV and to treat AIDS, HIV and HCV among the general public. In  
48 performing such reviews, in order to determine the quality and adequacy  
49 of care and treatment provided, department personnel are authorized to  
50 enter correctional facilities and inspect policy and procedure manuals  
51 and medical protocols, interview health services providers and inmate-  
52 patients, review medical grievances, and inspect a representative sample  
53 of medical records of inmates known to be infected with HIV or HCV or  
54 have AIDS. Prior to initiating a review of a correctional system, the  
55 commissioner shall inform the public, including patients, their families  
56 and patient advocates, of the scheduled review and invite them to

1 provide the commissioner with relevant information. Upon the completion  
2 of such review, the department shall, in writing, approve such policy or  
3 practice as instituted in facilities operated by the department of  
4 [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, and in  
5 any local correctional facility, or, based on specific, written recom-  
6 mendations, direct the department of [correctional services] CORRECTIONS  
7 AND COMMUNITY SUPERVISION, or the authority responsible for the  
8 provision of medical care to inmates in local correctional facilities to  
9 prepare and implement a corrective plan to address deficiencies in areas  
10 where such policy or practice fails to conform to current, generally  
11 accepted medical standards and procedures. The commissioner shall moni-  
12 tor the implementation of such corrective plans and shall conduct such  
13 further reviews as the commissioner deems necessary to ensure that iden-  
14 tified deficiencies in HIV, AIDS and HCV policies and practices are  
15 corrected. All written reports pertaining to reviews provided for in  
16 this subdivision shall be maintained, under such conditions as the  
17 commissioner shall prescribe, as public information available for public  
18 inspection.

19 S 128. Subdivision 2 of section 579 of the public health law, as added  
20 by chapter 436 of the laws of 1993, is amended to read as follows:

21 2. This title shall not be applicable to and the department shall not  
22 have the power to regulate pursuant to this title: (a) any examination  
23 performed by a state or local government of materials derived from the  
24 human body for use in criminal identification or as evidence in a crimi-  
25 nal proceeding or for investigative purposes; (b) any test conducted  
26 pursuant to paragraph (c) of subdivision four of section eleven hundred  
27 ninety-four of the vehicle and traffic law and paragraph [(b)] (C) of  
28 subdivision [four] EIGHT of section 25.24 of the parks, recreation and  
29 historic preservation law; (c) any examination performed by a state or  
30 local agency of materials derived from the body of an inmate, pretrial  
31 releasee, parolee, conditional releasee or probationer to (i) determine,  
32 measure or otherwise describe the presence or absence of any substance  
33 whose possession, ingestion or use is prohibited by law, the rules of  
34 the department of [correctional services] CORRECTIONS AND COMMUNITY  
35 SUPERVISION, the conditions of release established by the board of  
36 parole, the conditions of release established by a court or a local  
37 conditional release commission or the conditions of any program to which  
38 such individuals are referred and (ii) to determine whether there has  
39 been a violation thereof; or (d) any examination performed by a coroner  
40 or medical examiner for the medical-legal investigation of a death.  
41 Nothing herein shall prevent the department from consulting with the  
42 division of criminal justice services, the department of [correctional  
43 services] CORRECTIONS AND COMMUNITY SUPERVISION, the state police, or  
44 any other state agency or commission, at the request of the division of  
45 criminal justice services, the department of [correctional services]  
46 CORRECTIONS AND COMMUNITY SUPERVISION, the state police, or such other  
47 agency or commission, concerning examination of materials for purposes  
48 other than public health.

49 S 129. Subdivision 8 of section 2780 of the public health law, as  
50 amended by chapter 786 of the laws of 1992, is amended to read as  
51 follows:

52 8. "Health or social service" means any public or private care, treat-  
53 ment, clinical laboratory test, counseling or educational service for  
54 adults or children, and acute, chronic, custodial, residential, outpa-  
55 tient, home or other health care provided pursuant to this chapter or  
56 the social services law; public assistance or care as defined in article

1 one of the social services law; employment-related services, housing  
2 services, foster care, shelter, protective services, day care, or  
3 preventive services provided pursuant to the social services law;  
4 services for the mentally disabled as defined in article one of the  
5 mental hygiene law; probation services, provided pursuant to articles  
6 twelve and twelve-A of the executive law; parole services, provided  
7 pursuant to article [twelve-B of the executive law] EIGHT OF THE  
8 CORRECTION LAW; [correctional services] CORRECTIONS AND COMMUNITY SUPER-  
9 VISION, provided pursuant to the correction law; detention and rehabili-  
10 tative services provided pursuant to article nineteen-G of the executive  
11 law; and the activities of the health care worker HIV/HBV advisory panel  
12 pursuant to article twenty-seven-DD of this chapter.

13 S 130. Subdivision 2 of section 2785-a of the public health law, as  
14 added by chapter 76 of the laws of 1995, is amended to read as follows:

15 2. At the time of communicating the test results to the subject or the  
16 victim, such public health officer shall directly provide the victim and  
17 person tested with (a) counseling or referrals for counseling for the  
18 purposes specified in subdivision five of section two thousand seven  
19 hundred eighty-one of this article; (b) counseling with regard to HIV  
20 disease and HIV testing in accordance with law and consistent with  
21 subdivision five of section two thousand seven hundred eighty-one of  
22 this article; and (c) appropriate health care and support services, or  
23 referrals to such available services. If at the time of communicating  
24 the test results, the person tested is in the custody of the department  
25 of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, [divi-  
26 sion for youth] OFFICE OF CHILDREN AND FAMILY SERVICES, office of mental  
27 health or a local correctional institution, the counseling and services  
28 required by this subdivision may be provided by a public health officer  
29 associated with the county or facility within which the person tested is  
30 confined.

31 S 131. Subdivision 4 of section 2994-cc of the public health law, as  
32 added by chapter 8 of the laws of 2010, is amended to read as follows:

33 4. (a) When the concurrence of a second physician is sought to fulfill  
34 the requirements for the issuance of a nonhospital order not to resusci-  
35 tate for patients in a correctional facility, such second physician  
36 shall be selected by the chief medical officer of the department of  
37 [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or his or  
38 her designee.

39 (b) When the concurrence of a second physician is sought to fulfill  
40 the requirements for the issuance of a nonhospital order not to resusci-  
41 tate for hospice and home care patients, such second physician shall be  
42 selected by the hospice medical director or hospice nurse coordinator  
43 designated by the medical director or by the home care services agency  
44 director of patient care services, as appropriate to the patient.

45 S 132. Subdivision 4 of section 4174 of the public health law, as  
46 amended by section 6 of part 00 of chapter 56 of the laws of 2010, is  
47 amended to read as follows:

48 4. No fee shall be charged for a search, certification, certificate,  
49 certified copy or certified transcript of a record to be used for school  
50 entrance, employment certificate or for purposes of public relief or  
51 when required by the veterans administration to be used in determining  
52 the eligibility of any person to participate in the benefits made avail-  
53 able by the veterans administration or when required by a board of  
54 elections for the purposes of determining voter eligibility or when  
55 requested by the department of [correctional services] CORRECTIONS AND  
56 COMMUNITY SUPERVISION or a local correctional facility as defined in

subdivision sixteen of section two of the correction law for the purpose of providing a certified copy or certified transcript of birth to an inmate in anticipation of such inmate's release from custody or when requested by the office of children and family services or an authorized agency for the purpose of providing a certified copy or certified transcript of birth to a youth placed in the custody of the local commissioner of social services or the custody of the office of children and family services pursuant to article three of the family court act in anticipation of such youth's discharge from placement.

S 133. Section 4179 of the public health law, as amended by section 7 part 00 of chapter 56 of the laws of 2010, is amended to read as follows:

S 4179. Vital records; fees; city of New York. Notwithstanding the provisions of paragraph one of subdivision a of section 207.13 of the health code of the city of New York, the department of health shall charge, and the applicant shall pay, for a search of two consecutive calendar years under one name and the issuance of a certificate of birth, death or termination of pregnancy, or a certification of birth or death, or a certification that the record cannot be found, a fee of fifteen dollars for each copy. Provided, however, that no such fee shall be charged when the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or a local correctional facility as defined in subdivision sixteen of section two of the correction law requests a certificate of birth or certification of birth for the purpose of providing such certificate of birth or certification of birth to an inmate in anticipation of such inmate's release from custody or when the office of children and family services or an authorized agency requests a certified copy or certified transcript of birth for a youth placed in the custody of the local commissioner of social services or the custody of the office of children and family services pursuant to article three of the family court act for the purpose of providing such certified copy or certified transcript of birth to such youth in anticipation of discharge from placement.

S 134. Paragraph (1) of subdivision 1 of section 2782 of the public health law, as added by chapter 584 of the laws of 1988, is amended to read as follows:

(1) an employee or agent of the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION, in accordance with paragraph (a) of subdivision two of section twenty-seven hundred eighty-six of this article, to the extent the employee or agent is authorized to access records containing such information in order to carry out the [division's] DEPARTMENT'S functions, powers and duties with respect to the protected individual, pursuant to section two hundred fifty-nine-a of the executive law;

S 135. Subdivision 8 of section 92 of the public officers law, as separately amended by section 40 of part A and section 2 of part A1 of chapter 56 and by chapter 491 of the laws of 2010, is amended to read as follows:

(8) Public safety agency record. The term "public safety agency record" means a record of the state commission of correction, the temporary state commission of investigation, the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, the office of children and family services, [the division of parole,] the office of victim services, the office of probation and correctional alternatives or the division of state police or of any agency or component thereof whose primary function is the enforcement of civil or criminal statutes if

1 such record pertains to investigation, law enforcement, confinement of  
2 persons in correctional facilities or supervision of persons pursuant to  
3 criminal conviction or court order, and any records maintained by the  
4 division of criminal justice services pursuant to sections eight hundred  
5 thirty-seven, eight hundred thirty-seven-a, eight hundred thirty-sev-  
6 en-b, eight hundred thirty-seven-c, eight hundred thirty-eight, eight  
7 hundred thirty-nine, and eight hundred forty-five of the executive law  
8 and by the department of state pursuant to section ninety-nine of the  
9 executive law.

10 S 136. Section 18 of the railroad law, as amended by chapter 840 of  
11 the laws of 1984, is amended to read as follows:

12 S 18. Railroads through public lands. The commissioner of general  
13 services may grant to any domestic or foreign railroad corporation land  
14 belonging to the people of the state, except the reservation at Niagara  
15 and the Concourse lands on Coney Island, which may be required for the  
16 purposes of its road on such terms as may be agreed upon by them; or a  
17 domestic railroad corporation may acquire title thereto by condemnation;  
18 and the county or town officers having charge of any land belonging to  
19 any county or town, required for a domestic railroad corporation for the  
20 purposes of its road, may grant such land to the corporation for such  
21 compensation as may be agreed upon. In case the land or any right,  
22 interest or easement therein, required by a domestic or foreign railroad  
23 corporation is used for prison purposes the commissioner of general  
24 services may grant such land, or any right, interest or easement there-  
25 in, provided the plans of such railroad corporation for the use of such  
26 prison lands, or such right, interest or easement therein, have the  
27 approval of the commissioner of [correctional services] CORRECTIONS AND  
28 COMMUNITY SUPERVISION.

29 S 137. Subdivision 3 and 4 of section 88 of the railroad law, as  
30 amended by chapter 247 of the laws of 1964, are amended to read as  
31 follows:

32 3. The corporation, express company or steamboat company making any  
33 such application shall cause the fingerprints of each proposed appointee  
34 to be taken [by a police agency] IN THE FORM AND MANNER PRESCRIBED BY  
35 THE DIVISION OF CRIMINAL JUSTICE SERVICES and [shall cause] one set of  
36 such fingerprints [to] SHALL be forwarded to the division of [identifi-  
37 cation, New York state department of correction, at Albany, New York]  
38 CRIMINAL JUSTICE SERVICES, and one set [of such fingerprints to be  
39 forwarded to the identification division,] TO THE federal bureau of  
40 investigation[, United States department of justice, at Washington,  
41 D. C., with the request that such]. SUCH fingerprints shall be searched  
42 by each agency against the fingerprint records in its files and be  
43 retained in the files of such agencies [and the further request that  
44 reports of the results of such searches shall be transmitted to the  
45 superintendent of state police].

46 4. Reports of the results of such searches [of the fingerprint records  
47 of the department of correction and of the department of justice] shall  
48 be reviewed by the superintendent of state police prior to granting an  
49 appointment[, ] to determine whether a proposed appointee is thereby  
50 shown to have been convicted of a crime in the state of New York or of  
51 any offense in any other place which if committed in the state of New  
52 York would have been a crime and no person who is determined by such  
53 review to have been so convicted shall receive an appointment under this  
54 section.

1 S 138. Subdivision a of section 63-a of the retirement and social  
2 security law, as added by chapter 722 of the laws of 1996, is amended to  
3 read as follows:

4 a. Any member in the uniformed personnel in institutions under the  
5 jurisdiction of the department of [correctional services] CORRECTIONS  
6 AND COMMUNITY SUPERVISION or a security hospital treatment assistant, as  
7 those terms are defined in subdivision i of section eighty-nine of this  
8 article, who becomes physically or mentally incapacitated for the  
9 performance of duties as the natural and proximate result of an injury,  
10 sustained in the performance or discharge of his or her duties by, or as  
11 the natural and proximate result of an act of any inmate or any person  
12 confined in an institution under the jurisdiction of the department of  
13 [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or office  
14 of mental health, or by any person who has been committed to such insti-  
15 tution by any court shall be paid a performance of duty disability  
16 retirement allowance equal to that which is provided in section sixty-  
17 three of this title, subject to the provisions of section sixty-four of  
18 this title.

19 S 139. Section 89 of the retirement and social security law, as  
20 amended by chapter 578 of the laws of 1989, subdivision i as amended by  
21 chapter 499 of the laws of 2006, is amended to read as follows:

22 S 89. Retirement of members in the uniformed personnel in institutions  
23 under the jurisdiction of the department of [correctional services]  
24 CORRECTIONS AND COMMUNITY SUPERVISION or who are security hospital  
25 treatment assistants; new plan. a. Any member in the uniformed personnel  
26 in institutions under the jurisdiction of the department of [correction-  
27 al services] CORRECTIONS AND COMMUNITY SUPERVISION, as hereinafter  
28 defined, who enters or re-enters service on or after the effective date  
29 of this section, or who is a security hospital treatment assistant who  
30 enters or reenters service on or after the effective date of the amend-  
31 ment permitting security hospital treatment assistants to be covered by  
32 this section, shall contribute on the basis provided for by this  
33 section.

34 b. Any member in the uniformed personnel in institutions under the  
35 jurisdiction of the department of [correctional services] CORRECTIONS  
36 AND COMMUNITY SUPERVISION, as hereinafter defined, who entered such  
37 service prior to the effective date of this section may, on or before  
38 September first, nineteen hundred sixty-six, elect to come under the  
39 provisions of this section. Such election shall be in writing and shall  
40 be duly executed and filed with the comptroller.

41 c. Any member in the uniformed personnel in institutions under the  
42 jurisdiction of the department of [correctional services] CORRECTIONS  
43 AND COMMUNITY SUPERVISION, as hereinafter defined, who entered such  
44 service prior to the effective date of this section, may, on or before  
45 December thirty-first, nineteen hundred sixty-six, elect to come under  
46 the provisions of this section. Such election shall be in writing and  
47 shall be duly executed and filed with the comptroller. Any such member  
48 who has made an election as set forth herein on or before December thir-  
49 ty-first, nineteen hundred sixty-five, shall be permitted to withdraw  
50 the same and in like manner make a new election on or before December  
51 thirty-first, nineteen hundred sixty-six.

52 d. A member who elects or is required to contribute in accordance with  
53 this section shall contribute, in lieu of the proportion of compensation  
54 as provided in section twenty-one of this article, a proportion of his  
55 OR HER compensation similarly determined. Such latter proportion shall  
56 be computed to provide at the time when he OR SHE shall first become

1 eligible for retirement under this section, an annuity equal to one-one  
2 hundredth of his OR HER final average salary for each year of service as  
3 a member rendered after May first, nineteen hundred sixty-five, and  
4 prior to the attainment of the age when he OR SHE shall first become  
5 eligible for retirement. Such member's rate of contribution pursuant to  
6 this section shall be appropriately reduced pursuant to section seven-  
7 ty-a of this article for such period of time as his OR HER employer  
8 contributes pursuant to such section toward pensions-providing-for-in-  
9 creased-take-home pay. No such member shall be required to continue  
10 contributions after completing twenty-five years of such service.

11 e. A member contributing on the basis of this section at the time of  
12 retirement, shall be entitled to retire after the completion of twenty-  
13 five years of total creditable service as defined in subdivision i of  
14 this section, or upon the attainment of age sixty, by filing an applica-  
15 tion therefor in a manner similar to that provided in section seventy of  
16 this article. He OR SHE thereupon shall receive, on retirement a retire-  
17 ment allowance consisting of:

18 1. An annuity, which shall be the actuarial equivalent of his OR HER  
19 accumulated contributions at the time of his OR HER retirement, plus,

20 2. A pension which, together with such annuity and a pension which is  
21 the actuarial equivalent of the reserves for-increased-take-home pay to  
22 which he OR SHE may then be entitled, if any, shall equal one-fiftieth  
23 of his OR HER final average salary for each year of creditable service  
24 in the uniformed personnel in institutions under the jurisdiction of the  
25 department of [correctional services] CORRECTIONS AND COMMUNITY SUPER-  
26 VISION or for each year of creditable service as a security hospital  
27 treatment assistant under the jurisdiction of the office of mental  
28 health, as hereinafter defined. This pension shall not exceed the  
29 amount needed to make the total amount of the benefits provided under  
30 paragraphs one and two of this subdivision e equal to one-half of his OR  
31 HER final average salary.

32 3. An additional pension equal to the pension for any creditable  
33 service rendered while not in the uniformed personnel in institutions  
34 under the jurisdiction of the department of [correctional services]  
35 CORRECTIONS AND COMMUNITY SUPERVISION and rendered while not serving as  
36 a security hospital treatment assistant under the jurisdiction of the  
37 office of mental health, as hereinafter defined, as provided under para-  
38 graphs two and three of subdivision a of section seventy-five of this  
39 article. This pension shall:

40 (a) Be payable only if such member has attained age sixty at the time  
41 of retirement and has not completed twenty-five years of service for  
42 which he receives credits under this article, and

43 (b) Not increase the total allowance to more than one-half of his OR  
44 HER final average salary.

45 For the purpose only of determining the amount of the pension provided  
46 herein, the annuity shall be computed as it would be:

47 (aa) if not reduced by the actuarial equivalent of any outstanding  
48 loan, and

49 (bb) if not increased by the actuarial equivalent of any additional  
50 contributions, and

51 (cc) if not reduced by reason of the member's election to decrease his  
52 OR HER annuity contributions to the retirement system in order to apply  
53 the amount of such reduction in payment of his contributions for old-age  
54 and survivors insurance coverage.

55 f. The increased pensions to members of the uniformed personnel in  
56 institutions under the jurisdiction of the department of [correctional

1 services] CORRECTIONS AND COMMUNITY SUPERVISION or to members who are  
2 security hospital treatment assistants under the jurisdiction of the  
3 office of mental health, as provided by this section, shall be paid from  
4 additional contributions made by the state on account of such member.  
5 The actuary of the retirement system shall compute the additional  
6 contribution of each member who elects to receive the special benefits  
7 provided under this section. Such additional contributions shall be  
8 computed on the basis of contributions during the prospective service of  
9 such member which will cover the liability of the retirement system for  
10 such extra pensions.

11 g. In computing the twenty-five years of completed service of a member  
12 in the uniformed personnel in institutions under the jurisdiction of the  
13 department of [correctional services] CORRECTIONS AND COMMUNITY SUPER-  
14 VISION or of a member who is a security hospital treatment assistant  
15 under the jurisdiction of the office of mental health, as hereinafter  
16 defined, full credit shall be given and full allowance shall be made for  
17 service of such member in war after world war 1 as defined in section  
18 two of this chapter, provided such member at the time of his OR HER  
19 entrance into the armed forces was in state service.

20 h. The provisions of this section shall be controlling notwithstanding  
21 any provision in this article to the contrary.

22 i. As used in this section, "uniformed persons" or "uniformed person-  
23 nel" in institutions under the jurisdiction of the department of  
24 [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or "secu-  
25 rity hospital treatment assistants" under the jurisdiction of the office  
26 of mental health mean officers or employees holding the titles herein-  
27 after set forth in institutions under the jurisdiction of the department  
28 of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or  
29 under the jurisdiction of the office of mental health, namely:  
30 correction officers, prison guards, correction sergeants, correction  
31 lieutenants, correction captains, deputy assistant superintendent or  
32 warden, deputy warden or deputy superintendent, superintendents and  
33 wardens, assistant director and director of correction reception center,  
34 director of correctional program, assistant director of correctional  
35 program, director of community correctional center, community correc-  
36 tional center assistant, correction hospital officers, male or female,  
37 correction hospital senior officers, correction hospital charge officer,  
38 correction hospital supervising officer, correction hospital security  
39 supervisor, correction hospital chief officer, correction youth camp  
40 officer, correction youth camp supervisor, assistant supervisor, correc-  
41 tional camp superintendent, assistant correctional camp superintendent,  
42 director of crisis intervention unit, assistant director of crisis  
43 intervention unit, security hospital treatment assistants, security  
44 hospital treatment assistants (Spanish speaking), security hospital  
45 senior treatment assistants, security hospital supervising treatment  
46 assistants and security hospital treatment chiefs. Previous service  
47 rendered under the titles by which such positions were formerly desig-  
48 nated and previous service rendered as a narcotic addiction control  
49 commission officer shall constitute creditable service. Notwithstanding  
50 any provision of law to the contrary, any employee of the department of  
51 [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION who became  
52 enrolled under this section by reason of employment as a uniformed  
53 person in an institution under the jurisdiction of the department of  
54 [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION shall be  
55 entitled to full retirement credit for, and full allowance shall be made  
56 under this section for the service of such employee, not to exceed

1 twelve years, while assigned to the training academy or central office,  
2 in the following titles, namely: correction officer, correction  
3 sergeant, correction lieutenant, correction captain, correctional  
4 services investigator, senior correctional services employee investi-  
5 gator, correctional services fire and safety coordinator, director of  
6 special housing and inmate disciplinary program, assistant director of  
7 special housing and inmate disciplinary program, assistant chief of  
8 investigations, director of CERT operations, correctional facility oper-  
9 ations specialist, director of security staffing project, correctional  
10 security technical services specialist, assistant commissioner and depu-  
11 ty commissioner.

12 j. Notwithstanding any provisions of subdivision a, b or i of this  
13 section to the contrary, a member who is in the collective negotiating  
14 unit designated as the security services unit and established pursuant  
15 to article fourteen of the civil service law and who has elected or is  
16 required to contribute in accordance with this section may, on or before  
17 March thirty-first, nineteen hundred seventy-three, elect to come under  
18 the provisions of section seventy-five-h of this article. Such election  
19 shall be duly executed and filed with the comptroller.

20 k. Any member who, on or before the effective date of this provision,  
21 is a security hospital treatment assistant under the jurisdiction of the  
22 office of mental health may, by filing an election within one year after  
23 the effective date of this provision, elect to be subject to the  
24 provisions of this section. Such election shall be in writing, shall be  
25 duly executed and filed with the comptroller and shall be irrevocable.

26 S 140. Section 89-n of the retirement and social security law, as  
27 added by chapter 573 of the laws of 1991, is amended to read as follows:

28 S 89-n. Computation of twenty-five years of service; correction offi-  
29 cers. a. Notwithstanding any inconsistent provision of law, in computing  
30 twenty-five years of completed service by correction officers in all  
31 counties, full credit shall be given and full allowance shall be made  
32 for service of such member as a correction officer employed by the city  
33 of New York, as a uniformed employee in an institution under the juris-  
34 diction of the department of [correctional services] CORRECTIONS AND  
35 COMMUNITY SUPERVISION, as a security hospital assistant under the juris-  
36 diction of the office of mental health, or as a correction officer in  
37 any county in which he or she was eligible to retire after twenty-five  
38 years of total creditable service.

39 b. Notwithstanding any inconsistent provision of law, in computing  
40 twenty-five years of completed service by state correction officers,  
41 full credit shall be given and full allowance shall be made for service  
42 of such members as a correction officer employed by the city of New York  
43 as a uniformed employee in an institution under the jurisdiction of the  
44 department of [correctional services] CORRECTIONS AND COMMUNITY SUPER-  
45 VISION, as a security hospital assistant under the jurisdiction of the  
46 office of mental health, or as a correction officer in any county in  
47 which he or she was eligible to retire after twenty-five years of total  
48 creditable service.

49 S 141. Subdivision a of section 444 of the retirement and social secu-  
50 rity law, as amended by chapter 625 of the laws of 2007, is amended to  
51 read as follows:

52 a. Except as provided in subdivision c of section four hundred forty-  
53 five-a of this article, subdivision c of section four hundred forty-  
54 five-b of this article, subdivision c of section four hundred forty-  
55 five-c of this article, subdivision c of section four hundred  
56 forty-five-d of this article as added by chapter four hundred seventy-

1 two of the laws of nineteen hundred ninety-five, subdivision c of  
2 section four hundred forty-five-e of this article, subdivision c of  
3 section four hundred forty-five-f of this article and subdivision c of  
4 section four hundred forty-five-h of this article, the maximum retire-  
5 ment benefit computed without optional modification provided to a member  
6 of a retirement system who is subject to the provisions of this article,  
7 other than a police officer, a firefighter, an investigator member of  
8 the New York city employees' retirement system, a member of the  
9 uniformed personnel in institutions under the jurisdiction of the New  
10 York city department of correction who receives a performance of duty  
11 disability retirement allowance, a member of the uniformed personnel in  
12 institutions under the jurisdiction of the department of [correctional  
13 services] CORRECTIONS AND COMMUNITY SUPERVISION or a security hospital  
14 treatment assistant, as those terms are defined in subdivision i of  
15 section eighty-nine of this chapter, who receives a performance of duty  
16 disability retirement allowance, a member of a teachers' retirement  
17 system, New York city employees' retirement system, New York city board  
18 of education retirement system or a member of the New York state and  
19 local employees' retirement system or a member of the New York city  
20 employees' retirement system or New York city board of education retire-  
21 ment system employed as a special officer, parking control specialist,  
22 school safety agent, campus peace officer, taxi and limousine inspector  
23 or a police communications member and who receives a performance of duty  
24 disability pension, from funds other than those based on a member's own  
25 or increased-take-home-pay contributions, shall, before any reduction  
26 for early retirement, be sixty per centum of the first fifteen thousand  
27 three hundred dollars of final average salary, and fifty per centum of  
28 final average salary in excess of fifteen thousand three hundred  
29 dollars, and forty per centum of final average salary in excess of twen-  
30 ty-seven thousand three hundred dollars, provided, however, that the  
31 benefits provided by subdivision c of section four hundred forty-five-d  
32 of this article as added by chapter four hundred seventy-two of the laws  
33 of nineteen hundred ninety-five based upon the additional member  
34 contributions required by subdivision d of such section four hundred  
35 forty-five-d shall be subject to the maximum retirement benefit computa-  
36 tions set forth in this section. The maximum retirement benefit computed  
37 without optional modification payable to a police officer, an investi-  
38 gator member of the New York city employees' retirement system or a  
39 firefighter shall equal that payable upon completion of thirty years of  
40 service, except that the maximum service retirement benefit computed  
41 without optional modification shall equal that payable upon completion  
42 of thirty-two years of service.

43 S 142. Section 450 of the retirement and social security law, as  
44 amended by chapter 489 of the laws of 1998, is amended to read as  
45 follows:

46 S 450. Definitions. For the purposes of this article: (1) the term  
47 "correction officer" shall mean members of the New York state and local  
48 employees' retirement system who are in a plan limited to uniformed  
49 personnel in institutions under the jurisdiction of the department of  
50 [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or members  
51 of such system who are also in titles defined in subdivision i of  
52 section eighty-nine of this chapter and correction members of the New  
53 York city employees' retirement system; (2) the term "police officer or  
54 firefighter" shall mean members of the New York state and local police  
55 and fire retirement system, the New York city police pension fund, New  
56 York city fire department pension fund, and housing police members and

transit police members of the New York city employees' retirement system; (3) the term "sanitation man" shall mean sanitation members of the New York city employees' retirement system; and (4) the term "investigator member" shall mean members who are police officers as defined in paragraph (g) of subdivision thirty-four of section 1.20 of the criminal procedure law.

S 143. Subdivision c of section 503 of the retirement and social security law, as amended by chapter 622 of the laws of 2004, is amended to read as follows:

c. A general member shall be eligible for early service retirement at age fifty-five with five years of credited service. A general member in the uniformed correction force of the New York city department of correction, who is not eligible for early service retirement pursuant to subdivision c of section five hundred four-a of this article or subdivision c of section five hundred four-b of this article or subdivision c of section five hundred four-d of this article, or a general member in the uniformed personnel in institutions under the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, as defined in subdivision i of section eighty-nine of this chapter or serving in institutions who is also in a title defined in such subdivision and who has made an election pursuant to the provisions of article seventeen of this chapter, shall also be eligible for early service retirement after twenty-five years of credited service.

S 144. Subdivisions d and e of section 504 of the retirement and social security law, subdivision d as amended by chapter 622 of the laws of 2004, and subdivision e as amended by chapter 578 of the laws of 1989, is amended to read as follows:

d. The early service retirement benefit for general members in the uniformed correction force of the New York city department of correction, who are not entitled to an early service retirement benefit pursuant to subdivision c of section five hundred four-a of this article or subdivision c of section five hundred four-b of this article or subdivision c of section five hundred four-d of this article, or for general members in the uniformed personnel in institutions under the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, as defined in subdivision i of section eighty-nine of this chapter, shall be a pension equal to one-fiftieth of final average salary times years of credited service at the completion of twenty-five years of service, but not in excess of fifty percent of final average salary.

e. The early service retirement benefit for uniformed personnel in institutions under the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, as defined in subdivision i of section eighty-nine of this chapter, or who are in titles defined in subdivision i of section eighty-nine of this chapter and who have made an election pursuant to the provisions of article seventeen of this chapter, shall be a pension equal to one-fiftieth of final average salary times years of credited service at the completion of twenty-five years of service, but not in excess of fifty percent of final average salary.

S 145. The opening paragraph of subdivision a of section 507-a of the retirement and social security law, as amended by chapter 578 of the laws of 1989, is amended to read as follows:

Application for a disability retirement allowance for a member in the uniformed personnel in institutions under the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPER-

VISION of New York state as defined in subdivision i of section eighty-nine of this chapter or for a member serving in institutions who is also in a title defined in such subdivision and who has made an election pursuant to the provisions of article seventeen of this chapter or the New York city department of correction may be made by:

S 146. Subdivision a of section 507-b of the retirement and social security law, as added by chapter 722 of the laws of 1996, is amended to read as follows:

a. Any member in the uniformed personnel in institutions under the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or a security hospital treatment assistant, as those terms are defined in subdivision i of section eighty-nine of this chapter, who becomes physically or mentally incapacitated for the performance of duties as the natural and proximate result of an injury, sustained in the performance or discharge of his or her duties by, or as a natural and proximate result of, an act of any inmate or any person confined in an institution under the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or office of mental health, or by any person who has been committed to such institution by any court shall be paid a performance of duty disability retirement allowance equal to that which is provided in section sixty-three of this chapter, subject to the provisions of section sixty-four of this chapter.

S 147. Subdivision f of section 511 of the retirement and social security law, as amended by chapter 667 of the laws of 1996, is amended to read as follows:

f. This section shall not apply to general members in the uniformed correction force of the New York city department of correction or to uniformed personnel in institutions under the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION and security hospital treatment assistants, as those terms are defined in subdivision i of section eighty-nine of this chapter.

S 148. Subdivisions b and d of section 516 of the retirement and social security law, subdivision b as amended by chapter 174 of the laws of 1989 and subdivision d as amended by chapter 622 of the laws of 2004, is amended to read as follows:

b. The deferred vested benefit of general members, except for general members in the uniformed correction force of the New York city department of correction or uniformed personnel in institutions under the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION as defined in subdivision i of section eighty-nine of this chapter, with twenty or more years of credited service shall be a pension commencing at normal retirement age equal to one-fiftieth of final average salary times years of credited service, not in excess of thirty years, less fifty percent of the primary social security retirement benefit, as provided in section five hundred eleven of this article. The deferred vested benefit of general members, except for general members in the uniformed correction force of the New York city department of correction or uniformed personnel in institutions under the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION as defined in subdivision i of section eighty-nine of this chapter, with less than twenty years of credited service shall be a pension commencing at normal retirement age equal to one-sixtieth of final average salary times years of credited service, less fifty percent of the primary social security retirement benefit, as provided in section five hundred eleven of this article.

Such deferred vested benefit may be paid in the form of an early service retirement benefit, or may be postponed until after normal retirement age, in which event the benefit will be subject to reduction or escalation as provided in subdivision c of section five hundred four of this article.

d. The deferred vested benefit of general members in the uniformed correction force of the New York city department of correction, who are not entitled to a deferred vested benefit under subdivision d of section five hundred four-a of this article or under subdivision d of section five hundred four-b of this article or under subdivision d of section five hundred four-d of this article, or of general members in the uniformed personnel in institutions under the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, as defined in subdivision i of section eighty-nine of this chapter, with twenty or more years of credited service shall be a pension commencing at normal retirement age equal to one-fiftieth of final average salary times years of credited service, not in excess of thirty years. The deferred vested benefit of general members in the uniformed correction force of the New York city department of correction, who are not entitled to a deferred vested benefit under subdivision d of section five hundred four-a of this article or under subdivision d of section five hundred four-b of this article or under subdivision d of section five hundred four-d of this article, or of general members in the uniformed personnel in institutions under jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, as defined in subdivision i of section eighty-nine of this chapter, with less than twenty years of credited service shall be a pension commencing at normal retirement age equal to one-sixtieth of final average salary times years of credited service. Such deferred vested benefit may be paid in the form of an early service retirement benefit, or may be postponed until after normal retirement age, in which event the benefit will be subject to reduction or escalation as provided in subdivision c of section five hundred four of this article.

S 149. Paragraph 2 of subdivision a of section 600 of the retirement and social security law, as amended by chapter 421 of the laws of 2006, is amended to read as follows:

2. (a) Members in the uniformed personnel in institutions under the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION of New York state, other than certain persons as defined in this section or the New York city department of correction.

(b) For purposes of this paragraph, certain persons means either:

(i) a person who is appointed to the title of superintendent, who has had at least seven years of service credited toward the retirement plan established pursuant to this article while employed by the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION and who elects the retirement plan established pursuant to this article within ninety days of his or her appointment. Such election shall be in writing, shall be duly executed and filed with the comptroller and shall be irrevocable as long as such person is in the title of superintendent; or

(ii) a person who serves in the title of superintendent as of April first, two thousand six, who has had at least seven years of service credited toward the retirement plan established pursuant to this article while employed by the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION and who elects the retirement plan established pursuant to this article on or before September thirtieth, two thousand

six. Such election shall be in writing, shall be duly executed and filed with the comptroller and shall be irrevocable as long as such person is in the title of superintendent.

(c) Any person in the title of superintendent who is eligible to make an election as described in this section but who does not make such election, shall remain a member of the retirement plan that persons appointed to the title of superintendent join who do not meet the above criteria.

S 150. Subdivision 8 of section 20 of the social services law, as added by chapter 568 of the laws of 2008, is amended to read as follows:

8. (a) The office of temporary and disability assistance shall promulgate rules and regulations for the administration of this subdivision. The rules and regulations shall provide for the conditions under which local social services officials determine the placement of applicants for and recipients of public assistance for whom a notice pursuant to [subdivision sixteen of] section two hundred [fifty-nine-c] THREE of the [executive] CORRECTION law, has been received and who are:

(i) determined to be in immediate need of shelter; and

(ii) designated a level two or level three sex offender pursuant to article six-C of the correction law.

(b) When making determinations in regard to the placement of such individuals in shelter, local social services officials shall consider the following factors:

(i) the location of other sex offenders required to register pursuant to the sex offender registration act, specifically whether there is a concentration of registered sex offenders in a certain residential area or municipality;

(ii) the number of registered sex offenders residing at a particular property;

(iii) proximity of the entities with vulnerable populations;

(iv) accessibility to family members, friends or other supportive services, including but not limited to locally available sex offender treatment programs with preference for placement of such individuals into programs that have demonstrated effectiveness in reducing sex offender recidivism and increasing public safety; and

(v) investigation and approval of such placement by the [state division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION.

S 151. Paragraph (g) of subdivision 5 of section 62 of the social services law, as added by chapter 55 of the laws of 1992, is amended to read as follows:

(g) (1) When a person applies for medical parole, and is in need of public assistance, including medical assistance, the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION shall cause an application for such assistance to be forwarded to the department of social services.

(2) Upon receipt of an application for public assistance, including medical assistance, forwarded by the [state] department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION for persons meeting the conditions of medical parole, financial eligibility for such assistance and care shall be determined by the New York state department of social services prior to the person's parole.

(3) Determination of continuing eligibility for public assistance, including medical assistance, and care will be the responsibility of the social services district into which such person is released.

(4) Any inconsistent provision of this chapter or other law notwithstanding, when a person is released on medical parole pursuant to

1 section two hundred [fifty-nine-r] FIFTY-NINE-E OR TWO HUNDRED  
2 FIFTY-NINE-F of the executive law and is in need of public assistance,  
3 including medical assistance, the social services district in which such  
4 person was convicted and from which he or she was committed to the  
5 custody of the [state] department of [correctional services] CORRECTIONS  
6 AND COMMUNITY SUPERVISION shall be responsible for the administrative  
7 costs of the initial and any subsequent eligibility determination and  
8 the costs of any public assistance, including medical assistance,  
9 following such persons release on medical parole for so long as such  
10 person is eligible therefor.

11 S 152. Subdivision 14 of section 131 of the social services law, as  
12 added by section 11 of part B of chapter 436 of the laws of 1997, is  
13 amended to read as follows:

14 14. (a) Notwithstanding any provision of this chapter or other law to  
15 the contrary, no public assistance shall be given to any individual who  
16 is (i) fleeing to avoid prosecution or custody or conviction under the  
17 laws of the place from which the individual flees for a crime, or an  
18 attempt to commit a crime, which is a felony under the laws of the place  
19 from which the individual flees or which, in the case of the state of  
20 New Jersey, is a high misdemeanor under the laws of such state or (ii)  
21 violating a condition of probation or parole imposed under federal or  
22 state law.

23 (b) For purposes of this section, if and to the extent permitted by  
24 federal law, a person shall be considered to be violating a condition of  
25 probation or parole only if:

26 (i) he or she is currently an absconder from probation or parole  
27 supervision and a warrant alleging such a violation is outstanding; or

28 (ii) he or she has been found by judicial determination to have  
29 violated probation or by administrative adjudication by the [division of  
30 parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION to have  
31 violated parole.

32 Such person shall be considered to be violating a condition of  
33 probation or parole only until he or she is restored to probation or  
34 parole supervision or released from custody, or until the expiration of  
35 the person's maximum period of imprisonment or supervision, whichever  
36 occurs first.

37 (c) A person considered to be violating a condition of probation or  
38 parole under this section shall include a person who is violating a  
39 condition of probation or parole imposed under federal law.

40 (d) For purposes of this section, probation or parole shall include  
41 conditional release, wherever applicable.

42 S 153. Subparagraph (k) of paragraph (A) of subdivision 4 of section  
43 422 of the social services law, as amended by chapter 12 of the laws of  
44 1996, is amended to read as follows:

45 (k) a probation service conducting an investigation pursuant to arti-  
46 cle three or seven or section six hundred fifty-three of the family  
47 court act where there is reason to suspect the child or the child's  
48 sibling may have been abused or maltreated and such child or sibling,  
49 parent, guardian or other person legally responsible for the child is a  
50 person named in an indicated report of child abuse or maltreatment and  
51 that such information is necessary for the making of a determination or  
52 recommendation to the court; or a probation service regarding a person  
53 about whom it is conducting an investigation pursuant to article three  
54 hundred ninety of the criminal procedure law, or a probation service or  
55 the [state division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY  
56 SUPERVISION regarding a person to whom the service or [division] DEPART-

MENT is providing supervision pursuant to article sixty of the penal law or [section two hundred fifty-nine-a of the executive law] ARTICLE EIGHT OF THE CORRECTION LAW, where the subject of investigation or supervision has been convicted of a felony under article one hundred twenty, one hundred twenty-five or one hundred thirty-five of the penal law or any felony or misdemeanor under article one hundred thirty, two hundred thirty-five, two hundred forty-five, two hundred sixty or two hundred sixty-three of the penal law, or has been indicted for any such felony and, as a result, has been convicted of a crime under the penal law, where the service or [division] DEPARTMENT requests the information upon a certification that such information is necessary to conduct its investigation, that there is reasonable cause to believe that the subject of an investigation is the subject of an indicated report and that there is reasonable cause to believe that such records are necessary to the investigation by the probation service or the [state division of parole] DEPARTMENT, provided, however, that only indicated reports shall be furnished pursuant to this subdivision;

S 154. Subdivision 11 of section 460-d of the social services law, as amended by section 42 of part B of chapter 58 of the laws of 2004, is amended to read as follows:

11. On or before issuance by the department to an adult care facility operator of official written notice of: the proposed revocation, suspension or denial of the operator's operating certificate; the limitation of the operating certificate with respect to new admissions; the issuance of a department order or commissioner's order; the seeking of equitable relief pursuant to this section; the proposed assessment of civil penalties for violations of the provisions of subparagraph two of paragraph (b) of subdivision seven of this section or placement on the "do not refer list" pursuant to subdivision fifteen of this section, written notice also shall be given to the appropriate office of the department of mental [hygiene] HEALTH, department of [correctional services, state division of parole] CORRECTIONS AND COMMUNITY SUPERVISION and local social services districts, and provided further that the department of health shall notify hospitals in the locality in which such facility is located that such notice has been issued. Upon resolution of such enforcement action the department shall notify the appropriate office of the department of mental [hygiene] HEALTH, department of [correctional services, state division of parole] CORRECTIONS AND COMMUNITY SUPERVISION, local social services districts and hospitals.

S 155. Subdivision 1 of section 102 of the state administrative procedure act, as amended by chapter 635 of the laws of 1995, is amended to read as follows:

1. "Agency" means any department, board, bureau, commission, division, office, council, committee or officer of the state, or a public benefit corporation or public authority at least one of whose members is appointed by the governor, authorized by law to make rules or to make final decisions in adjudicatory proceedings but shall not include the governor, agencies in the legislative and judicial branches, agencies created by interstate compact or international agreement, the division of military and naval affairs to the extent it exercises its responsibility for military and naval affairs, the division of state police, the identification and intelligence unit of the division of criminal justice services, the state insurance fund, the unemployment insurance appeal board, and except for purposes of subdivision one of section two hundred two-d of this chapter, the workers' compensation board and except for purposes of article two of this chapter, the [state division of parole

1 and the] department of [correctional services] CORRECTIONS AND COMMUNITY  
2 SUPERVISION.

3 S 156. Subdivision 12 of section 8 of the state finance law, as sepa-  
4 rately amended by chapters 305 and 477 of the laws of 1985, is amended  
5 to read as follows:

6 12. Notwithstanding any inconsistent provision of the court of claims  
7 act, examine, audit and certify for payment any claim submitted and  
8 approved by the head of any institution in the department of mental  
9 [hygiene] HEALTH, the department of [correctional services] CORRECTIONS  
10 AND COMMUNITY SUPERVISION, the department of health or the [division for  
11 youth] OFFICE OF CHILDREN AND FAMILY SERVICES for personal property  
12 damaged or destroyed by any inmate thereof, or for personal property of  
13 an employee damaged or destroyed without fault on his part, by a fire in  
14 said institution; or any claim submitted and approved by the head of any  
15 institution in the department of mental [hygiene] HEALTH or the [divi-  
16 sion for youth] OFFICE OF CHILDREN AND FAMILY SERVICES for real or  
17 personal property damaged or destroyed or for personal injuries caused  
18 by any patient during thirty days from the date of his escape from such  
19 institution; or any claim submitted and approved by the [chairman of the  
20 board of parole] COMMISSIONER OF THE DEPARTMENT OF CORRECTIONS AND  
21 COMMUNITY SUPERVISION for personal property of an employee damaged or  
22 destroyed without fault on his part as a result of actions unique to the  
23 performance of his official duties in accordance with rules and regu-  
24 lations promulgated by the [chairman] COMMISSIONER OF THE DEPARTMENT OF  
25 CORRECTIONS AND COMMUNITY SUPERVISION with the approval of the comp-  
26 troller; or any claim submitted and approved by the chief administrator  
27 of the courts for personal property of any judge or justice of the  
28 unified court system or of any nonjudicial officer or employee thereof  
29 damaged or destroyed, without fault on his part, by any party, witness,  
30 juror or bystander to court proceedings, provided no such claim may be  
31 certified for payment to a nonjudicial officer or employee who is in a  
32 collective negotiating unit until the chief administrator shall deliver  
33 to the comptroller a certificate that there is in effect with respect to  
34 such negotiating unit a written collective bargaining agreement with the  
35 state pursuant to article fourteen of the civil service law which  
36 provides therefor; or any claim submitted and approved by the super-  
37 intendent of state police for personal property of a member of the state  
38 police damaged or destroyed without fault on his part as a result of  
39 actions unique to the performance of police duties in accordance with  
40 rules and regulations promulgated by the superintendent with the  
41 approval of the comptroller; or any claim submitted and approved by the  
42 head of a state department or agency having employees in the security  
43 services unit or the security supervisors unit for personal property of  
44 a member of such units damaged or destroyed without fault on his part as  
45 a result of actions unique to the performance of law enforcement duties  
46 in accordance with rules and regulations promulgated by the department  
47 or agency head, after consultation with the employee organization  
48 representing such units and with the approval of the comptroller and  
49 payment of any such claim shall not exceed the sum of three hundred  
50 fifty dollars. Where an agreement between the state and an employee  
51 organization reached pursuant to the provisions of article fourteen of  
52 the civil service law provides for payments to be made to employees by  
53 an institution, such payments for claims not in excess of seventy-five  
54 dollars, or one hundred fifty dollars if otherwise provided in accord-  
55 ance with the terms of such agreement, may be made from a petty cash

1 account established pursuant to section one hundred fifteen of this  
2 chapter, and in the manner prescribed therein.

3 S 157. Subdivision 12-g of section 8 of the state finance law, as  
4 amended by section 37 of part A-1 of chapter 56 of the laws of 2010, is  
5 amended to read as follows:

6 12-g. Notwithstanding any other provision of the court of claims act  
7 or any other law to the contrary, thirty days before the comptroller  
8 issues a check for payment to an inmate serving a sentence of imprison-  
9 ment with the [state] department of [correctional services] CORRECTIONS  
10 AND COMMUNITY SUPERVISION or to a prisoner confined at a local correc-  
11 tional facility for any reason, including a payment made in satisfaction  
12 of any damage award in connection with any lawsuit brought by or on  
13 behalf of such inmate or prisoner against the state or any of its  
14 employees in federal court or any other court, the comptroller shall  
15 give written notice, if required pursuant to subdivision two of section  
16 six hundred thirty-two-a of the executive law, to the office of victim  
17 services that such payment shall be made thirty days after the date of  
18 such notice.

19 S 158. Subparagraph 4 of paragraph a of subdivision 1 of section 54 of  
20 the state finance law, as added by chapter 430 of the laws of 1997, is  
21 amended to read as follows:

22 (4) Population excludes the reservation and school Indian population  
23 and inmates of [state] institutions under the direction, supervision or  
24 control of the state department of [correctional services] CORRECTIONS  
25 AND COMMUNITY SUPERVISION and the state department of mental [hygiene]  
26 HEALTH and the inmates of state institutions operated and maintained by  
27 the [state division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES.

28 S 159. Subdivisions 3 and 4 of section 97-cc of the state finance law,  
29 as added by chapter 338 of the laws of 1989, are amended to read as  
30 follows:

31 3. Moneys within the rehabilitative alcohol and substance abuse treat-  
32 ment fund, upon appropriation by the legislature, shall be available [to  
33 the division of parole and] to the department of [correctional services]  
34 CORRECTIONS AND COMMUNITY SUPERVISION for the operation of alcohol and  
35 substance abuse treatment facilities, alcohol and substance abuse  
36 correctional annexes and residential treatment facilities, including,  
37 but not limited to, the payment of private sector treatment providers  
38 and for providing alcohol and substance abuse treatment services to  
39 persons under the supervision of the [division] DEPARTMENT OF  
40 CORRECTIONS AND COMMUNITY SUPERVISION.

41 4. Moneys, shall be payable from the fund on the audit and warrant of  
42 the comptroller on vouchers approved and certified by the commissioner  
43 of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION.

44 S 160. Section 97-ooo of the state finance law, as added by section 10  
45 of part B of chapter 57 of the laws of 1998, is amended to read as  
46 follows:

47 S 97-ooo. [Division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNI-  
48 TY SUPERVISION asset forfeiture account. 1. There is hereby established  
49 in the joint custody of the state comptroller and the [division of  
50 parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION a special  
51 account within the miscellaneous special revenue fund to be known as the  
52 [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION  
53 asset forfeiture account. Such account shall consist, subject to neces-  
54 sary federal approval, of moneys received by the [division of parole]  
55 DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION through the equita-  
56 ble sharing that is authorized in federal forfeiture actions.

1 2. The moneys of the account shall be available for purposes of devel-  
2 oping additional resources such as, but not limited to, obtaining equip-  
3 ment, establishing training programs, or accessing existing technology  
4 or databases.

5 3. The [chairman of the board] COMMISSIONER of [parole] THE DEPARTMENT  
6 OF CORRECTIONS AND COMMUNITY SUPERVISION shall report to the commission-  
7 er of the division of criminal justice services, the director of the  
8 budget, the chairman of the senate finance committee and the chairman of  
9 the assembly ways and means committee by October first, nineteen hundred  
10 ninety-eight and every six months thereafter, on the source and amounts  
11 of moneys in the account. Such report shall describe the amount of  
12 moneys received by the federal government and the [division of parole]  
13 DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION from the joint  
14 activities of the [division] DEPARTMENT and federal law enforcement  
15 agencies, the law enforcement activities which led to such forfeiture  
16 and the value of the assets so seized.

17 4. The moneys of such account shall be made available on the audit and  
18 warrant of the comptroller on vouchers certified or approved by the  
19 [chairman] COMMISSIONER of the [board of parole] DEPARTMENT OF  
20 CORRECTIONS AND COMMUNITY SUPERVISION.

21 S 161. Paragraphs (a) and (b) of subdivision 3 of section 99-m of the  
22 state finance law, as added by section 2 of part E of chapter 56 of the  
23 laws of 2005, are amended to read as follows:

24 (a) An individual or entity ("administrator"), appointed by the gover-  
25 nor in consultation with the temporary president of the senate, the  
26 speaker of the assembly, and representatives of eligible claimants,  
27 shall develop the compensation payment plan. Such administrator shall  
28 not be entitled to salary or remuneration for his/her services; however,  
29 reasonable expenses directly connected to the conduct of the administra-  
30 tor's duties shall be paid through the department of [correctional  
31 services] CORRECTIONS AND COMMUNITY SUPERVISION.

32 (b) The administrator shall receive from each claimant an accounting  
33 of the injuries suffered by the state employee victim during the course  
34 of the Attica riots. The administrator shall determine and promulgate to  
35 potential claimants through the department of [correctional services]  
36 CORRECTIONS AND COMMUNITY SUPERVISION the means and dates by which said  
37 accountings of injuries shall be submitted and determined. To the extent  
38 any inconsistency or discrepancy in accounts of injuries suffered is  
39 identified, the administrator may rely upon the assistance of the  
40 report, research, and documentation regarding the Attica riots compiled  
41 by the Attica task force created in March of two thousand one.

42 S 162. Section 125 of the state finance law, as amended by chapter 37  
43 of the laws of 1962, is amended to read as follows:

44 S 125. Fiscal supervision of certain institutions. Notwithstanding  
45 any other provision of law relative to the supervision and control by  
46 departments of any of the institutions under the jurisdiction and  
47 control of the [department of social welfare] OFFICE OF TEMPORARY AND  
48 DISABILITY ASSISTANCE, the department of health, the department of  
49 mental [hygiene] HEALTH and the department of [correction] CORRECTIONS  
50 AND COMMUNITY SUPERVISION on the first day of January, nineteen hundred  
51 thirty-nine and of any institution which shall hereafter be under the  
52 jurisdiction of such departments, such department shall have the powers  
53 and duties prescribed by this article with respect to such institution.  
54 This section shall not impair or affect the powers of the commissioner  
55 of general services under the provisions of article eleven of this chap-

1 ter with respect to estimates made pursuant to this section so far as  
2 they constitute a requisition for material, equipment or supplies.

3 S 163. Subdivision 1 of section 128 of the state finance law, as  
4 amended by chapter 471 of the laws of 1980, is amended to read as  
5 follows:

6 1. Any personal property, and any interest or increments accruing  
7 thereon, belonging or credited to a person in any institution under the  
8 jurisdiction of the [department of social services] OFFICE OF TEMPORARY  
9 AND DISABILITY ASSISTANCE, the department of health, the department of  
10 mental [hygiene] HEALTH, the executive department, or the department of  
11 [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION who shall  
12 have been discharged from such institution or who shall have died or  
13 escaped before discharge or before termination of sentence, which is in  
14 the custody of the proper officer of such institution, shall, if  
15 unclaimed by such discharged or escaped person or by the legal represen-  
16 tative of such deceased person for a period of six months after the  
17 discharge, decease or escape of such person, be fully inventoried and a  
18 copy of such inventory shall be filed with the commissioner of such  
19 department having jurisdiction over such institution and with the state  
20 comptroller.

21 S 164. Paragraph a of subdivision 2, paragraphs a and b of subdivision  
22 3, subparagraph (i) of paragraph a of subdivision 4, subdivision 5 and  
23 paragraphs a and d of subdivision 6 of section 162 of the state finance  
24 law, as added by chapter 83 of the laws of 1995 and paragraph a of  
25 subdivision 2 as amended by chapter 501 of the laws of 2002, are amended  
26 to read as follows:

27 a. Commodities produced by the [department of correctional services']  
28 correctional industries program OF THE DEPARTMENT OF CORRECTIONS AND  
29 COMMUNITY SUPERVISION and provided to the state pursuant to subdivision  
30 two of section one hundred eighty-four of the correction law;

31 [fa] A. By December thirty-first, nineteen hundred ninety-five, the  
32 commissioner, in consultation with the commissioners of [correctional  
33 services] CORRECTIONS AND COMMUNITY SUPERVISION, [social services] THE  
34 OFFICE OF CHILDREN AND FAMILY SERVICES, THE OFFICE OF TEMPORARY AND  
35 DISABILITY ASSISTANCE, mental health and education, shall prepare a list  
36 of all commodities and services that are available and are being  
37 provided as of said date, for purchase by state agencies, public benefit  
38 corporations or political subdivisions from those entities accorded  
39 preference or priority status under this section. Such list may include  
40 references to catalogs and other descriptive literature which are avail-  
41 able directly from any provider accorded preferred status under this  
42 section. The commissioner shall make this list available to prospective  
43 vendors, state agencies, public benefit corporations, political subdivi-  
44 sions and other interested parties. Thereafter, new or substantially  
45 different commodities or services may only be made available by  
46 preferred sources for purchase by more than one state agency, public  
47 benefit corporation or political subdivision after addition to said  
48 list.

49 b. After January first, nineteen hundred ninety-six, upon the applica-  
50 tion of the commissioner of [correctional services] CORRECTIONS AND  
51 COMMUNITY SUPERVISION, the commissioner of [social services] THE OFFICE  
52 OF CHILDREN AND FAMILY SERVICES, THE OFFICE OF TEMPORARY AND DISABILITY  
53 ASSISTANCE, the commissioner of mental health or the commissioner of  
54 education, or a non-profit-making facilitating agency designated by one  
55 of the said commissioners pursuant to paragraph e of subdivision six of  
56 this section, the state procurement council may recommend that the

1 commissioner: (i) add commodities or services to, or (ii) in order to  
2 insure that such list reflects current production and/or availability of  
3 commodities and services, delete at the request of a preferred source,  
4 commodities or services from, the list established by paragraph a of  
5 this subdivision. The council may make a non-binding recommendation to  
6 the relevant preferred source to delete a commodity or service from such  
7 list. Additions may be made only for new services or commodities, or for  
8 services or commodities that are substantially different from those  
9 reflected on said list for that provider. The decision to recommend the  
10 addition of services or commodities shall be based upon a review of  
11 relevant factors as determined by the council including costs and bene-  
12 fits to be derived from such addition and shall include an analysis by  
13 the office of general services conducted pursuant to subdivision six of  
14 this section. Unless the state procurement council shall make a recom-  
15 mendation to the commissioner on any such application within one hundred  
16 twenty days of receipt thereof, such application shall be deemed recom-  
17 mended. In the event that the state procurement council shall deny any  
18 such application, the commissioner or non-profit-making agency which  
19 submitted such application may, within thirty days of such denial,  
20 appeal such denial to the commissioner of general services who shall  
21 review all materials submitted to the state procurement council with  
22 respect to such application and who may request such further information  
23 or material as is deemed necessary. Within sixty days of receipt of all  
24 information or materials deemed necessary, the commissioner shall render  
25 a written final decision on the application which shall be binding upon  
26 the applicant and upon the state procurement council.

27 (i) When commodities are available, in the form, function and utility  
28 required by a state agency, public authority, commission, public benefit  
29 corporation or political subdivision, said commodities must be purchased  
30 first from the [department of correctional services'] correctional  
31 industries program OF THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPER-  
32 VISION;

33 5. Prices charged by the department of [correctional services]  
34 CORRECTIONS AND COMMUNITY SUPERVISION. The prices to be charged for  
35 commodities produced by the [department of correctional services']  
36 correctional industries program OF THE DEPARTMENT OF CORRECTIONS AND  
37 COMMUNITY SUPERVISION shall be established by the commissioner of  
38 [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION in accord-  
39 ance with section one hundred eighty-six of the correction law.

40 a. The prices established by the commissioner of [correctional  
41 services] CORRECTIONS AND COMMUNITY SUPERVISION shall be based upon  
42 costs as determined pursuant to this subdivision, but shall not exceed a  
43 reasonable fair market price determined at or within ninety days before  
44 the time of sale. Fair market price as used herein means the price at  
45 which a vendor of the same or similar product or service who is regular-  
46 ly engaged in the business of selling such product or service offers to  
47 sell such product or service under similar terms in the same market.  
48 Costs shall be determined in accordance with an agreement between the  
49 commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPER-  
50 VISION and the director of the budget.

51 b. A purchaser of any such product or service may, at any time prior  
52 to or within thirty days of the time of sale, appeal the purchase price  
53 in accordance with section one hundred eighty-six of the correction law,  
54 on the basis that it unreasonably exceeds fair market price. Such an  
55 appeal shall be decided by a majority vote of a three-member price  
56 review board consisting of the director of the budget, the commissioner

1 of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION and the  
2 commissioner or their representatives. The decision of the review board  
3 shall be final.

4 a. Except with respect to the [department of correctional services']  
5 correctional industries program OF THE DEPARTMENT OF CORRECTIONS AND  
6 COMMUNITY SUPERVISION, it shall be the duty of the commissioner to  
7 determine, and from time to time review, the prices of all commodities  
8 and to approve the price of all services provided by preferred sources  
9 as specified in this section offered to state agencies, political subdi-  
10 visions or public benefit corporations having their own purchasing  
11 office.

12 d. Such qualified charitable non-profit-making agencies for the blind  
13 and other severely disabled may make purchases of materials, equipment  
14 and supplies [from the department of correctional services' correctional  
15 industries program,] directly from the correctional industries program  
16 administered by the commissioner of [correctional services] CORRECTIONS  
17 AND COMMUNITY SUPERVISION, subject to such rules as may be established  
18 from time to time pursuant to the correction law; provided that the  
19 qualified charitable non-profit-making agency for the blind or other  
20 severely disabled shall accept sole responsibility for any payment due  
21 the department of [correctional services] CORRECTIONS AND COMMUNITY  
22 SUPERVISION.

23 S 165. Subparagraph (viii) of paragraph a of subdivision 3 of section  
24 163 of the state finance law, as added by chapter 83 of the laws of  
25 1995, is amended to read as follows:

26 (viii) The commissioner may permit and prescribe the conditions for,  
27 (A) any association, consortium or group of privately owned or municipi-  
28 pal, federal or state owned or operated hospitals, medical schools,  
29 other health related facilities or voluntary ambulance services, which  
30 have entered into a contract and made mutual arrangements for the joint  
31 purchase of commodities pursuant to section twenty-eight hundred three-a  
32 of the public health law; (B) any institution for the instruction of the  
33 deaf or of the blind listed in section forty-two hundred one of the  
34 education law; (C) any qualified non-profit-making agency for the blind  
35 approved by the commissioner of [social services] THE OFFICE OF CHILDREN  
36 AND FAMILY SERVICES OR THE OFFICE OF TEMPORARY AND DISABILITY  
37 ASSISTANCE; (D) any qualified charitable non-profit-making agency for  
38 the severely disabled approved by the commissioner of education; (E) any  
39 hospital or residential health care facility as defined in section twen-  
40 ty-eight hundred one of the public health law; (F) any private not-for-  
41 profit mental hygiene facility as defined in section 1.03 of the mental  
42 hygiene law; and (G) any public authority or public benefit corporation  
43 of the state, including the port authority of New York and New Jersey  
44 and the interstate environmental commission, to make purchases using  
45 centralized contracts for commodities. Such qualified non-profit-making  
46 agencies for the blind and severely disabled may make purchases from the  
47 [department of correctional services'] correctional industries program  
48 OF THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION subject to  
49 rules pursuant to the correction law.

50 S 166. Section 401 of the state technology law, as added by section 1  
51 of part E of chapter 1 of the laws of 2004, and as renumbered by chapter  
52 741 of the laws of 2005, is amended to read as follows:

53 S 401. Statewide wireless network advisory council. There is hereby  
54 established within the office for technology a statewide wireless  
55 network advisory council. The advisory council shall consist of twenty-  
56 seven members. The governor shall appoint two members and the temporary

1 president of the senate and the speaker of the assembly shall each  
2 appoint four members. One of the governor's appointments and three of  
3 the appointments of the temporary president of the senate and of the  
4 speaker of the assembly shall be a member, officer, or employee of a  
5 first responder organization that serves a municipal corporation. One  
6 each of the appointments of the temporary president of the senate and of  
7 the speaker of the assembly shall possess expertise in the field of  
8 communications technology but no appointee shall be the owner, princi-  
9 pal, or employee of an entity that has a contract with the state of New  
10 York or that vends communications products to any state or local govern-  
11 ment. An organization shall be considered a first responder organization  
12 if it provides policing, firefighting, or emergency medical services, as  
13 defined in subdivision eleven of section three hundred two of the  
14 retirement and social security law, subdivision two of section one  
15 hundred of the general municipal law, subdivisions one, two, three,  
16 four, five, six, and seven of section three thousand one of the public  
17 health law, and section six hundred fifty of the county law. In addi-  
18 tion, the temporary president of the senate and the speaker of the  
19 assembly shall each designate one member of their respective houses to  
20 serve on the advisory council. Ex officio members of the council shall  
21 be the director of the office of homeland security, the superintendent  
22 of the state police, the director of the office for technology, the  
23 commissioner of the department of health, the commissioner of the  
24 department of [correctional services] CORRECTIONS AND COMMUNITY SUPER-  
25 VISION, the commissioner of the department of transportation, the  
26 commissioner of the department of environmental conservation, the chair-  
27 person of the thruway authority, the state fire administrator of the  
28 office of fire prevention and control, the chief judge of the state, the  
29 commissioner of the division of criminal justice services, the chair-  
30 person of the metropolitan transportation authority, a designee of the  
31 law enforcement council and the designee of the mayor of the city of New  
32 York, or their designees. The chief information officer of New York  
33 state shall be the chair of the advisory council.

34 S 167. Section 2222-a of the surrogate's court procedure act, as  
35 amended by section 45 of part A-1 of chapter 56 of the laws of 2010, is  
36 amended to read as follows:

37 S 2222-a. Notice of legacy or distributive share payable to inmate or  
38 prisoner

39 Where the legatee, distributee or beneficiary is an inmate serving a  
40 sentence of imprisonment with the state department of [correctional  
41 services] CORRECTIONS AND COMMUNITY SUPERVISION or a prisoner confined  
42 at a local correctional facility, the court shall give prompt written  
43 notice to the office of victim services, and at the same time direct  
44 that no payment be made to such inmate or prisoner for a period of thir-  
45 ty days following the date of entry of the order containing such direc-  
46 tion.

47 S 168. Subdivision (d) of section 484 of the tax law, as added by  
48 chapter 860 of the laws of 1987, is amended to read as follows:

49 (d) The provisions of this article shall not be applicable to any sale  
50 as to which the tax imposed by section four hundred seventy-one of this  
51 chapter is not applicable or to a sale to the department of [correction-  
52 al services] CORRECTIONS AND COMMUNITY SUPERVISION of this state for  
53 sale to or use by inmates in institutions under the jurisdiction of such  
54 department.

55 S 169. Subdivision (c) of section 1846 of the tax law, as added by  
56 chapter 65 of the laws of 1985, is amended to read as follows:

(c) In the alternative, if the tax commission concludes that any cigarettes seized pursuant to this section, when offered at public sale, will bring a price less than the reasonably estimated price which the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION would have to pay for the purchase of such cigarettes for sale to or use by inmates in institutions under the jurisdiction of such department, the tax commission may dispose of such cigarettes by transferring them to the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION for sale to or use by inmates in such institutions.

S 170. Subdivision (c) of section 1846-a of the tax law, as added by chapter 61 of the laws of 1989, is amended to read as follows:

(c) In the alternative, if the commissioner concludes that any tobacco products seized pursuant to this section, when offered at public sale, will bring a price less than the reasonably estimated price which the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION would have to pay for the purchase of such tobacco products for sale to or use by inmates in institutions under the jurisdiction of such department, the commissioner may dispose of such tobacco products by transferring them to the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION for sale to or use by inmates in such institutions.

S 171. Section 25-a of the town law, as added by chapter 295 of the laws of 1949, is amended to read as follows:

S 25-a. Fingerprints of persons before appointment as town policemen, or as constables possessing powers in criminal matters. No person shall be appointed or reappointed a member of the police department, or a special policeman, or a constable not limited to powers and duties in civil actions and proceedings only, in any town, who shall not previously, for the purposes of this section, have submitted fingerprints [of his two hands] IN THE FORM AND MANNER PRESCRIBED BY THE DIVISION OF CRIMINAL JUSTICE SERVICES to the town board or other board or officer of the town empowered by law to make such appointment or reappointment, and it shall be the duty of such board or officer, before making such appointment or reappointment, to compare or cause to be compared such fingerprints with fingerprints filed with the division of criminal [identification of the state department of correction] JUSTICE SERVICES; provided, however, that in any case where the fingerprints of any such person shall once have been submitted pursuant to this section and are on file with the board empowered to make the appointment or reappointment, no new submission thereof shall be required, nor shall such board be required to make or cause to be made such comparison if such comparison shall have been made previously pursuant to this section and certification thereof by such department is on file with such board.

S 172. Section 109-a of the vehicle and traffic law, as amended by chapter 370 of the laws of 2000, is amended to read as follows:

S 109-a. Correction vehicle. Every vehicle operated in the city of New York by the New York city department of correction or the New York state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION while engaged in an emergency operation.

S 173. Subdivision 3 of section 10 of the workers' compensation law, as amended by chapter 244 of the laws of 2002, is amended to read as follows:

3. Notwithstanding any other provisions of this chapter, where a public safety worker, including but not limited to a firefighter, emergency medical technician, police officer, correction officer, civilian employee of the department of corrections AND COMMUNITY SUPERVISION or

1 other person employed by the state to work within a correctional facility maintained by the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, driver and medical observer, in the course of performing his or her duties, is exposed to the blood or other bodily fluids of another individual or individuals, the executive officer of the appropriate ambulance, fire or police district may authorize such public safety worker to obtain the care and treatment, including diagnosis, recommended medicine and other medical care needed to ascertain whether such individual was exposed to or contracted any communicable disease and such care and treatment shall be the responsibility of the insurance carrier of the appropriate ambulance, fire or police district or, if a public safety worker was not so exposed in the course of performing his or her duties for such a district, then such person shall be covered for the treatment provided for in this subdivision by the carrier of his or her employer when such person is acting in the scope of his or her employment. For the purpose of this subdivision, the term "public safety worker" shall include persons who act for payment or who act as volunteers in an organized group such as a rescue squad, police department, correctional facility, ambulance corps, fire department, or fire company.

21 S 174. This act shall take effect immediately, provided that:

22 1. the amendments to section 72-a of the correction law made by section seven of this act shall not affect the expiration of such section and shall expire and be deemed repealed therewith;

25 2. the amendments to section 91 of the correction law made by section ten of this act shall take effect on the same date as the reversion of such section as provided in section 8 of part H of chapter 56 of the laws of 2009, as amended;

29 3. the amendments to section 92 of the correction law made by section eleven of this act shall take effect on the same date as the reversion of such section as provided in section 8 of part H of chapter 56 of the laws of 2009, as amended;

33 4. the amendments to section 140-a of the correction law made by section sixteen of this act shall not affect the repeal of such section and shall be deemed repealed therewith;

36 5. the amendments to section 803 of the correction law made by section thirty-seven of this act shall be subject to the expiration of such section and shall expire and be deemed repealed therewith;

39 6. the amendments to section 803 of the correction law made by section thirty-eight of this act shall take effect on the same date as the reversion of such section as provided in section 74 of chapter 3 of the laws of 1995, as amended;

43 7. the amendments to section 806 of the correction law made by section forty of this act shall not affect the repeal of such section and shall expire and be deemed repealed therewith;

46 8. the amendments to subdivision 1 of section 851 of the correction law made by section forty-one of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 5 of chapter 554 of the laws of 1986, as amended, when upon such date the provisions of section forty-one-a of this act shall take effect;

51 9. the amendments to subdivision 1 of section 851 of the correction law made by section forty-one-a of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 10 of chapter 339 of the laws of 1972, as amended, when upon such date the provisions of section forty-one-b of this act shall take effect;

1 10. the amendments to the closing paragraph of subdivision 2 of  
2 section 851 of the correction law made by section forty-two of this act  
3 shall be subject to the expiration and reversion of such subdivision  
4 pursuant to section 46 of chapter 60 of the laws of 1994, as amended,  
5 when upon such date the provisions of section forty-three of this act  
6 shall take effect;

7 10-a. the amendments to subdivision 5 of section 851 of the correction  
8 law made by section forty-three-a of this act shall take effect upon the  
9 expirations of section 42 of chapter 60 of the laws of 1994, section 10  
10 of chapter 339 of the laws of 1972 and section 3 of chapter 554 of laws  
11 of 1986;

12 11. the amendments to subdivision 5 of section 852 of the correction  
13 law made by section forty-four of this act shall not affect the expira-  
14 tion and reversion of such section and shall expire and be deemed  
15 repealed therewith;

16 12. the amendments to subdivision 2 of section 852 of the correction  
17 law made by section forty-five of this act shall take effect on the same  
18 date as the reversion of such section as provided in section 10 of chap-  
19 ter 339 of the laws of 1972, as amended;

20 13. the amendments to subdivision 2 of section 854 of the correction  
21 law made by section forty-six of this act shall take effect on the same  
22 date as the reversion of section 856 as provided in section 10 of chap-  
23 ter 339 of the laws of 1972, as amended;

24 14. the amendments to subdivision 6 of section 855 of the correction  
25 law made by section forty-seven of this act shall be subject to the  
26 expiration and reversion of such section pursuant to section 10 of chap-  
27 ter 339 of the laws of 1972, as amended, when upon such date the  
28 provisions of section forty-eight of this act shall take effect;

29 15. the amendments to subdivision (f) of section 1101 of the civil  
30 practice law and rules made by section fifty-one of this act shall not  
31 affect the expiration and reversion of such subdivision and shall expire  
32 and be deemed repealed therewith;

33 16. the amendments to subdivisions 2 and 4 of section 209 of the civil  
34 service law made by section sixty-four of this act shall not affect the  
35 expiration of such subdivisions and shall expire and be deemed repealed  
36 therewith;

37 17. the amendments to subdivision 9 of section 10 of the court of  
38 claims act made by section sixty-seven of this act shall not affect the  
39 expiration of such subdivision and shall expire and be deemed repealed  
40 therewith;

41 18. the amendments to section 410.91 of the criminal procedure law  
42 made by section seventy-six of this act shall not affect the repeal of  
43 such section and shall expire and be deemed repealed therewith;

44 19. the amendments to subdivisions 2 and 4 of section 430.20 of the  
45 criminal procedure law made by section seventy-seven of this act shall  
46 be subject to the expiration and reversion of such subdivisions pursuant  
47 to section 74 of chapter 3 of the laws of 1995, as amended, when upon  
48 such date the provisions of section seventy-eight of this act shall take  
49 effect;

50 20. the amendments to section 83-m of the legislative law made by  
51 section one hundred eighteen of this act shall not affect the repeal of  
52 such section and shall expire and be deemed repealed therewith;

53 21. the amendments to subdivision 7 of section 70.06 of the penal law  
54 made by section one hundred twenty-three of this act shall not affect  
55 the repeal of such subdivision and shall expire and be deemed repealed  
56 therewith;

1 22. the amendments to subdivisions 1 and 3 of section 70.20 of the  
2 penal law made by section one hundred twenty-four of this act shall be  
3 subject to the expiration and reversion of such subdivisions pursuant to  
4 section 74 of chapter 3 of the laws of 1995, as amended, when upon such  
5 date the provisions of section one hundred twenty-five of this act shall  
6 take effect;

7 23. the amendments to the opening paragraph of subdivision 1 of  
8 section 70.30 of the penal law made by section one hundred twenty-six of  
9 this act shall be subject to the expiration and reversion of such para-  
10 graph pursuant to section 74 of chapter 3 of the laws of 1995, as  
11 amended, when upon such date the provisions of section one hundred twen-  
12 ty-seven of this act shall take effect;

13 24. the amendments to subdivision 7 of section 70.30 of the penal law  
14 made by section one hundred twenty-six of this act shall not affect the  
15 expiration of such subdivision and shall expire and be deemed repealed  
16 therewith;

17 25. the amendments to section 70.35 of the penal law made by section  
18 one hundred twenty-seven-a of this act shall be subject to the expira-  
19 tion and reversion of such section pursuant to section 74 of chapter 3  
20 of the laws of 1995, as amended, when upon such date the provisions of  
21 section one hundred twenty-seven-b of this act shall take effect;

22 26. the amendments to paragraph (a) of subdivision 1 of section 70.40  
23 of the penal law made by section one hundred twenty-seven-c of this act  
24 shall be subject to the expiration and reversion of such paragraph, when  
25 upon such date the provisions of section one hundred twenty-seven-d of  
26 this act shall take effect;

27 27. the amendments to paragraph (b) of subdivision 1 of section 70.40  
28 of the penal law made by section one hundred twenty-seven-d-1 of this  
29 act shall be subject to the expiration and reversion of such paragraph  
30 pursuant to section 74 of chapter 3 of the laws of 1995, as amended,  
31 when upon such date the provisions of section one hundred twenty-seven-e  
32 of this act shall take effect;

33 29. the amendments to paragraph (c) of subdivision 1 of section 70.40  
34 of the penal law made by section one hundred twenty-seven-f of this act  
35 shall not affect the repeal of such paragraph and shall expire and be  
36 deemed repealed therewith;

37 30. the amendments to subdivision 1 of section 85.15 of the penal law  
38 made by section one hundred twenty-seven-l of this act shall be subject  
39 to the expiration and reversion of such subdivision pursuant to section  
40 74 of chapter 3 of the laws of 1995, as amended, when upon such date the  
41 provisions of section one hundred twenty-seven-m of this act shall take  
42 effect;

43 31. the amendments to section 205.17 of the penal law made by section  
44 one hundred twenty-seven-n of this act shall not affect the expiration  
45 of such section and shall expire therewith;

46 32. the amendments to section 205.19 of the penal law made by section  
47 one hundred twenty-seven-o of this act shall not affect the expiration  
48 of such section and shall expire therewith;

49 33. the amendments to subdivision 26 of section 206 of the public  
50 health law made by section one hundred twenty-seven-t of this act shall  
51 take effect on the same date and in the same manner as section 2 of  
52 chapter 419 of the laws of 2009 takes effect;

53 34. the amendments to section 99-m of the state finance law made by  
54 section one hundred sixty-one of this act shall not affect the repeal of  
55 such section and shall expire and be deemed repealed therewith; and

1 35. the amendments to section 163 of the state finance law made by  
2 section one hundred sixty-five of this act shall not affect the repeal  
3 of such section and shall expire and be deemed repealed therewith.

4 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-  
5 sion, section or part of this act shall be adjudged by any court of  
6 competent jurisdiction to be invalid, such judgment shall not affect,  
7 impair, or invalidate the remainder thereof, but shall be confined in  
8 its operation to the clause, sentence, paragraph, subdivision, section  
9 or part thereof directly involved in the controversy in which such judg-  
10 ment shall have been rendered. It is hereby declared to be the intent of  
11 the legislature that this act would have been enacted even if such  
12 invalid provisions had not been included herein.

13 S 3. This act shall take effect immediately provided, however, that  
14 the applicable effective date of Subparts A and B of this act shall be  
15 as specifically set forth in the last section of such Subparts.

16 PART D

17 Section 1. Section 1 of chapter 174 of the laws of 1968, constituting  
18 the New York state urban development corporation act, is amended by  
19 adding a new section 44 to read as follows:

20 S 44. TRANSFER OF POWERS, FUNCTIONS AND AFFAIRS OF THE NEW YORK STATE  
21 FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION. 1. ECONOMIC DEVELOP-  
22 MENT EFFICIENCY. IN ORDER TO PROMOTE ECONOMIC DEVELOPMENT EFFICIENCY IN  
23 THE STATE OF NEW YORK, THE TRANSFER OF POWERS, FUNCTIONS AND AFFAIRS OF  
24 THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION TO  
25 THE CORPORATION IS HEREBY AUTHORIZED.

26 2. TRANSFER OF POWERS OF THE NEW YORK STATE FOUNDATION FOR SCIENCE,  
27 TECHNOLOGY AND INNOVATION. THE FUNCTIONS AND POWERS POSSESSED BY AND ALL  
28 OF THE OBLIGATIONS AND DUTIES OF THE NEW YORK STATE FOUNDATION FOR  
29 SCIENCE, TECHNOLOGY AND INNOVATION, AS ESTABLISHED PURSUANT TO ARTICLE  
30 10-A OF THE PUBLIC AUTHORITIES LAW AND ARTICLE 10-B OF THE EXECUTIVE LAW  
31 SHALL BE TRANSFERRED AND ASSIGNED TO, AND ASSUMED BY AND DEVOLVED UPON,  
32 THE CORPORATION. NOTWITHSTANDING THE FOREGOING, ANY PROGRAMS SPECIFIED  
33 IN LAW TO BE ADMINISTERED BY THE NEW YORK STATE FOUNDATION FOR SCIENCE,  
34 TECHNOLOGY AND INNOVATION SHALL BE ADMINISTERED BY THE CORPORATION ONLY  
35 TO THE EXTENT OF AVAILABLE APPROPRIATIONS.

36 3. ABOLITION OF THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY  
37 AND INNOVATION. UPON THE TRANSFER PURSUANT TO SUBDIVISION TWO OF THIS  
38 SECTION OF THE FUNCTIONS AND POWERS POSSESSED BY AND ALL OF THE OBLI-  
39 GATIONS AND DUTIES OF THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECH-  
40 NOLOGY AND INNOVATION, AS ESTABLISHED PURSUANT TO ARTICLE 10-A OF THE  
41 PUBLIC AUTHORITIES LAW AND ARTICLE 10-B OF THE EXECUTIVE LAW, THE NEW  
42 YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION SHALL BE  
43 ABOLISHED.

44 4. CONTINUITY OF AUTHORITY OF THE NEW YORK STATE FOUNDATION FOR  
45 SCIENCE, TECHNOLOGY AND INNOVATION. EXCEPT AS HEREIN OTHERWISE PROVIDED,  
46 UPON THE TRANSFER PURSUANT TO SUBDIVISION TWO OF THIS SECTION OF THE  
47 FUNCTIONS AND POWERS POSSESSED BY AND ALL OF THE OBLIGATIONS AND DUTIES  
48 OF THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION  
49 AS ESTABLISHED PURSUANT TO SUCH PROVISIONS OF THE EXECUTIVE LAW AND THE  
50 PUBLIC AUTHORITIES LAW TO THE CORPORATION AS PRESCRIBED BY SUBDIVISION  
51 TWO OF THIS SECTION FOR THE PURPOSE OF SUCCESSION OF ALL FUNCTIONS,  
52 POWERS, DUTIES AND OBLIGATIONS OF THE NEW YORK STATE FOUNDATION FOR  
53 SCIENCE, TECHNOLOGY AND INNOVATION, THE CORPORATION SHALL BE DEEMED TO

1 AND BE HELD TO CONSTITUTE THE CONTINUATION OF SUCH FUNCTIONS, POWERS,  
2 DUTIES AND OBLIGATIONS AND NOT A DIFFERENT AGENCY OR AUTHORITY.

3 5. TRANSFER OF RECORDS OF THE NEW YORK STATE FOUNDATION FOR SCIENCE,  
4 TECHNOLOGY AND INNOVATION. UPON THE TRANSFER PURSUANT TO SECTION TWO OF  
5 THIS ACT OF THE FUNCTIONS AND POWERS POSSESSED BY AND ALL OF THE OBLI-  
6 GATIONS AND DUTIES OF THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECH-  
7 NOLOGY AND INNOVATION AS ESTABLISHED PURSUANT TO SUCH PROVISIONS OF THE  
8 EXECUTIVE LAW AND THE PUBLIC AUTHORITIES LAW TO THE CORPORATION AS  
9 PRESCRIBED BY SUBDIVISION TWO OF THIS SECTION, ALL BOOKS, PAPERS,  
10 RECORDS AND PROPERTY PERTAINING TO THE NEW YORK STATE FOUNDATION FOR  
11 SCIENCE, TECHNOLOGY AND INNOVATION SHALL BE TRANSFERRED TO AND MAIN-  
12 TAINED BY THE CORPORATION.

13 6. COMPLETION OF UNFINISHED BUSINESS OF THE NEW YORK STATE FOUNDATION  
14 FOR SCIENCE, TECHNOLOGY AND INNOVATION. UPON THE TRANSFER PURSUANT TO  
15 SUBDIVISION TWO OF THIS SECTION OF THE FUNCTIONS AND POWERS POSSESSED BY  
16 AND ALL OF THE OBLIGATIONS AND DUTIES OF THE NEW YORK STATE FOUNDATION  
17 FOR SCIENCE, TECHNOLOGY AND INNOVATION AS ESTABLISHED PURSUANT TO SUCH  
18 PROVISIONS OF THE EXECUTIVE LAW AND THE PUBLIC AUTHORITIES LAW TO THE  
19 CORPORATION AS PRESCRIBED BY SUBDIVISION TWO OF THIS SECTION, ANY BUSI-  
20 NESS OR OTHER MATTER UNDERTAKEN OR COMMENCED BY THE NEW YORK STATE FOUN-  
21 DATION FOR SCIENCE, TECHNOLOGY AND INNOVATION PERTAINING TO OR CONNECTED  
22 WITH THE FUNCTIONS, POWERS, OBLIGATIONS AND DUTIES SO TRANSFERRED AND  
23 ASSIGNED TO THE CORPORATION MAY BE CONDUCTED OR COMPLETED BY THE CORPO-  
24 RATION.

25 7. TERMS OCCURRING IN LAWS, CONTRACTS OR OTHER DOCUMENTS OF OR  
26 PERTAINING TO THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND  
27 INNOVATION. UPON THE TRANSFER PURSUANT TO SUBDIVISION TWO OF THIS  
28 SECTION OF THE FUNCTIONS AND POWERS POSSESSED BY AND ALL OF THE OBLI-  
29 GATIONS AND DUTIES OF THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECH-  
30 NOLOGY AND INNOVATION AS ESTABLISHED PURSUANT TO SUCH PROVISIONS OF THE  
31 EXECUTIVE LAW AND THE PUBLIC AUTHORITIES LAW AS PRESCRIBED BY SUBDIVI-  
32 SION TWO OF THIS SECTION, WHENEVER THE NEW YORK STATE FOUNDATION FOR  
33 SCIENCE, TECHNOLOGY AND INNOVATION AND THE EXECUTIVE DIRECTOR THEREOF,  
34 THE FUNCTIONS, POWERS, OBLIGATIONS AND DUTIES OF WHICH ARE TRANSFERRED  
35 TO THE CORPORATION ARE REFERRED TO OR DESIGNATED IN ANY LAW, CONTRACT OR  
36 DOCUMENT PERTAINING TO THE FUNCTIONS, POWERS, OBLIGATIONS AND DUTIES  
37 TRANSFERRED AND ASSIGNED PURSUANT TO THIS SECTION, SUCH REFERENCE OR  
38 DESIGNATION SHALL BE DEEMED TO REFER TO THE CORPORATION AND ITS CHIEF  
39 EXECUTIVE OFFICER OR HIS OR HER DESIGNEE.

40 8. EXISTING RIGHTS AND REMEDIES OF OR PERTAINING TO THE NEW YORK STATE  
41 FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION PRESERVED. UPON THE  
42 TRANSFER PURSUANT TO SUBDIVISION TWO OF THIS SECTION OF THE FUNCTIONS  
43 AND POWERS POSSESSED BY AND ALL OF THE OBLIGATIONS AND DUTIES OF THE NEW  
44 YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION AS ESTAB-  
45 LISHED PURSUANT TO THE EXECUTIVE LAW AND THE PUBLIC AUTHORITIES LAW TO  
46 THE CORPORATION AS PRESCRIBED BY SUBDIVISION TWO OF THIS SECTION, NO  
47 EXISTING RIGHT OR REMEDY OF THE STATE, INCLUDING THE NEW YORK STATE  
48 FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION, SHALL BE LOST,  
49 IMPAIRED OR AFFECTED BY REASON OF THIS SECTION.

50 9. PENDING ACTIONS AND PROCEEDINGS OF OR PERTAINING TO THE NEW YORK  
51 STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION. UPON THE TRANS-  
52 FER PURSUANT TO SUBDIVISION TWO OF THIS SECTION OF THE FUNCTIONS AND  
53 POWERS POSSESSED BY AND ALL OF THE OBLIGATIONS AND DUTIES OF THE NEW  
54 YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION AS ESTAB-  
55 LISHED PURSUANT TO SUCH PROVISIONS OF THE EXECUTIVE LAW AND PUBLIC  
56 AUTHORITIES LAW TRANSFER TO THE CORPORATION AS PRESCRIBED BY SUBDIVISION

1 TWO OF THIS SECTION, NO ACTION OR PROCEEDING PENDING ON THE EFFECTIVE  
2 DATE OF THIS SECTION, BROUGHT BY OR AGAINST THE NEW YORK STATE FOUNDA-  
3 TION FOR SCIENCE, TECHNOLOGY AND INNOVATION OR EXECUTIVE DIRECTOR THERE-  
4 OF SHALL BE AFFECTED BY ANY PROVISION OF THIS SECTION, BUT THE SAME MAY  
5 BE PROSECUTED OR DEFENDED IN THE NAME OF THE CORPORATION. IN ALL SUCH  
6 ACTIONS AND PROCEEDINGS, THE CORPORATION, UPON APPLICATION TO THE COURT,  
7 SHALL BE SUBSTITUTED AS A PARTY.

8 10. CONTINUATION OF RULES AND REGULATIONS OF OR PERTAINING TO THE NEW  
9 YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION. UPON THE  
10 TRANSFER PURSUANT TO SUBDIVISION TWO OF THIS SECTION OF THE FUNCTIONS  
11 AND POWERS POSSESSED BY AND ALL THE OBLIGATIONS AND DUTIES OF THE NEW  
12 YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION AS ESTAB-  
13 LISHED PURSUANT TO SUCH PROVISIONS OF THE EXECUTIVE LAW AND THE PUBLIC  
14 AUTHORITIES LAW TRANSFER TO THE CORPORATION AS PRESCRIBED BY SUBDIVISION  
15 TWO OF THIS SECTION, ALL RULES, REGULATIONS, ACTS, DETERMINATIONS AND  
16 DECISIONS OF THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND  
17 INNOVATION, PERTAINING TO THE FUNCTIONS TRANSFERRED AND ASSIGNED BY THIS  
18 SECTION TO THE CORPORATION IN FORCE AT THE TIME OF SUCH TRANSFER,  
19 ASSIGNMENT, ASSUMPTION AND DEVOLUTION SHALL CONTINUE IN FORCE AND EFFECT  
20 AS RULES, REGULATIONS, ACTS, DETERMINATIONS AND DECISIONS OF THE CORPO-  
21 RATION UNTIL DULY MODIFIED OR REPEALED.

22 11. TRANSFER OF APPROPRIATIONS HERETOFORE MADE TO THE NEW YORK STATE  
23 FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION. UPON THE TRANSFER  
24 PURSUANT TO SUBDIVISION TWO OF THIS SECTION OF THE FUNCTIONS AND POWERS  
25 POSSESSED BY AND ALL OF THE OBLIGATIONS AND DUTIES OF THE NEW YORK STATE  
26 FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION AS ESTABLISHED PURSU-  
27 ANT TO SUCH PROVISIONS OF THE EXECUTIVE LAW AND THE PUBLIC AUTHORITIES  
28 LAW TO THE CORPORATION AS PRESCRIBED BY SUBDIVISION TWO OF THIS SECTION,  
29 ALL APPROPRIATIONS AND REAPPROPRIATIONS WHICH SHALL HAVE BEEN MADE  
30 AVAILABLE AS OF THE DATE OF SUCH TRANSFER TO THE NEW YORK STATE FOUNDA-  
31 TION FOR SCIENCE, TECHNOLOGY AND INNOVATION OR SEGREGATED PURSUANT TO  
32 LAW, TO THE EXTENT OF REMAINING UNEXPENDED OR UNENCUMBERED BALANCES  
33 THEREOF, WHETHER ALLOCATED OR UNALLOCATED AND WHETHER OBLIGATED OR UNOB-  
34 LIGATED, SHALL BE TRANSFERRED TO AND MADE AVAILABLE FOR USE AND EXPENDI-  
35 TURE BY THE CORPORATION AND SHALL BE PAYABLE ON VOUCHERS CERTIFIED OR  
36 APPROVED BY THE COMMISSIONER OF TAXATION AND FINANCE, ON AUDIT AND  
37 WARRANT OF THE COMPTROLLER. PAYMENTS OF LIABILITIES FOR EXPENSES OF  
38 PERSONAL SERVICES, MAINTENANCE AND OPERATION WHICH SHALL HAVE BEEN  
39 INCURRED AS OF THE DATE OF SUCH TRANSFER BY THE NEW YORK STATE FOUNDA-  
40 TION FOR SCIENCE, TECHNOLOGY AND INNOVATION, AND FOR LIABILITIES  
41 INCURRED AND TO BE INCURRED IN COMPLETING ITS AFFAIRS SHALL ALSO BE MADE  
42 ON VOUCHERS CERTIFIED OR APPROVED BY THE PRESIDENT OF THE CORPORATION,  
43 ON AUDIT AND WARRANT OF THE COMPTROLLER.

44 12. SEVERABILITY. IF ANY CLAUSE, SENTENCE, PARAGRAPH OR PART OF THIS  
45 SECTION SHALL BE ADJUDGED BY ANY COURT OF COMPETENT JURISDICTION TO BE  
46 INVALID, SUCH JUDGMENT SHALL NOT AFFECT, IMPAIR OR INVALIDATE THE  
47 REMAINDER THEREOF, BUT SHALL BE CONFINED IN ITS OPERATION TO THE CLAUSE,  
48 SENTENCE, PARAGRAPH OR PART THEREOF DIRECTLY INVOLVED IN THE CONTROVERSY  
49 IN WHICH SUCH JUDGMENT SHALL HAVE BEEN RENDERED.

50 S 2. Sections 3151 and 3152 of the public authorities law are  
51 REPEALED.

52 S 3. This act shall take effect immediately and shall be deemed to  
53 have been in full force and effect on and after April 1, 2011.

54 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-  
55 sion, section or part of this act shall be adjudged by any court of  
56 competent jurisdiction to be invalid, such judgment shall not affect,

1 impair, or invalidate the remainder thereof, but shall be confined in  
2 its operation to the clause, sentence, paragraph, subdivision, section  
3 or part thereof directly involved in the controversy in which such judg-  
4 ment shall have been rendered. It is hereby declared to be the intent of  
5 the legislature that this act would have been enacted even if such  
6 invalid provisions had not been included herein.

7 S 3. This act shall take effect immediately provided, however, that  
8 the applicable effective date of Parts A through D of this act shall be  
9 as specifically set forth in the last section of such Parts.