

7845

I N S E N A T E

May 17, 2016

Introduced by Sen. AVELLA -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families

AN ACT to amend the family court act, the education law, the social services law and the executive law, in relation to dispositional options and services for juvenile delinquents and persons in need of supervision

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

1 Section 1. Paragraphs (a) and (b) of subdivision 2 of section 352.2 of
2 the family court act, paragraph (a) as amended by chapter 880 of the
3 laws of 1985 and paragraph (b) as amended by chapter 145 of the laws of
4 2000, are amended to read as follows:
5 (a) In determining an appropriate order, the court shall consider AND
6 DIRECT A DISPOSITION THAT SPECIFICALLY MEETS the needs and best inter-
7 ests of the respondent as well as the need for protection of the commu-
8 nity. If the respondent has committed a designated felony act, the court
9 shall determine the appropriate disposition in accord with section 353.5
10 OF THIS PART. In all other cases, the court shall order the least
11 restrictive available alternative enumerated in subdivision one OF THIS
12 SECTION which is consistent with the needs and best interests of the
13 respondent and the need for protection of the community. WHERE APPRO-
14 PRIATE, THE COURT SHALL INCLUDE IN ITS ORDER A DIRECTION FOR A LOCAL
15 SOCIAL SERVICES, MENTAL HEALTH, DEVELOPMENTAL DISABILITIES OR PROBATION
16 OFFICIAL OR AN OFFICIAL OF THE OFFICE OF CHILDREN AND FAMILY SERVICES,
17 OFFICE OF MENTAL HEALTH OR OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABIL-
18 ITIES, AS APPLICABLE, TO PROVIDE OR ARRANGE FOR THE PROVISION OF
19 SERVICES OR ASSISTANCE TO THE RESPONDENT AND HIS OR HER FAMILY TO
20 FURTHER THE GOALS OF THIS SECTION. SUCH ORDER REGARDING A LOCAL SOCIAL
21 SERVICES OFFICIAL SHALL NOT INCLUDE THE PROVISION OF ANY SERVICE OR
22 ASSISTANCE TO THE RESPONDENT AND HIS OR HER FAMILY THAT IS NOT AUTHOR-
23 IZED OR REQUIRED TO BE MADE AVAILABLE PURSUANT TO THE COUNTY CHILD AND
24 FAMILY SERVICES PLAN THEN IN EFFECT. IN ANY ORDER ISSUED PURSUANT TO
25 THIS SECTION, THE COURT MAY REQUIRE THE OFFICIAL TO MAKE PERIODIC

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

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1 PROGRESS REPORTS TO THE COURT ON THE IMPLEMENTATION OF SUCH ORDER.
2 VIOLATION OF SUCH ORDER SHALL BE SUBJECT TO PUNISHMENT PURSUANT TO
3 SECTION SEVEN HUNDRED FIFTY-THREE OF THE JUDICIARY LAW.

4 (b) In an order of disposition entered pursuant to section 353.3 or
5 353.4 of this [chapter] PART, or where the court has determined pursuant
6 to section 353.5 of this [chapter] PART that restrictive placement is
7 not required, which order places the respondent with the commissioner of
8 social services or with the office of children and family services for
9 placement with an authorized agency or class of authorized agencies or
10 in such facilities designated by the office of children and family
11 services as are eligible for federal reimbursement pursuant to title
12 IV-E of the social security act, the court in its order shall determine
13 (i) that continuation in the respondent's home would be contrary to the
14 best interests of the respondent; or in the case of a respondent for
15 whom the court has determined that continuation in his or her home would
16 not be contrary to the best interests of the respondent, that continua-
17 tion in the respondent's home would be contrary to the need for
18 protection of the community; (ii) that where appropriate, and where
19 consistent with the need for protection of the community, reasonable
20 efforts were made prior to the date of the dispositional hearing to
21 prevent or eliminate the need for removal of the respondent from his or
22 her home, or if the [child] RESPONDENT was removed from his or her home
23 prior to the dispositional hearing, where appropriate and where consist-
24 ent with the need for safety of the community, whether reasonable
25 efforts were made to make it possible for the [child] RESPONDENT to
26 safely return home. If the court determines that reasonable efforts to
27 prevent or eliminate the need for removal of the [child] RESPONDENT from
28 the home were not made but that the lack of such efforts was appropriate
29 under the circumstances, or consistent with the need for protection of
30 the community, or both, the court order shall include such a finding;
31 and (iii) in the case of a [child] RESPONDENT who has attained the age
32 of [sixteen] FOURTEEN, the services needed, if any, to assist the
33 [child] RESPONDENT to make the transition from foster care to independ-
34 ent living. WHERE THE COURT DETERMINES THAT REASONABLE EFFORTS IN THE
35 FORM OF SERVICES OR ASSISTANCE TO THE RESPONDENT AND HIS OR HER FAMILY
36 WOULD MAKE IT POSSIBLE FOR THE RESPONDENT TO SAFELY RETURN HOME OR TO
37 MAKE THE TRANSITION TO INDEPENDENT LIVING, THE COURT MAY INCLUDE IN ITS
38 ORDER A DIRECTION FOR SUCH SERVICES OR ASSISTANCE IN ACCORDANCE WITH
39 PARAGRAPH (A) OF THIS SUBDIVISION. ANY ORDER OF PLACEMENT PURSUANT TO
40 SECTION 353.3 OF THIS PART SHALL PROVIDE THAT ANY RESPONDENT UNDER TWEN-
41 TY-ONE YEARS OF AGE, WHO HAS NOT RECEIVED A HIGH SCHOOL DIPLOMA, BE
42 ACCORDED EDUCATIONAL SERVICES, INCLUDING SPECIAL EDUCATIONAL SERVICES,
43 IF APPLICABLE, IN ACCORDANCE WITH THE EDUCATION LAW AND REGULATIONS
44 PROMULGATED BY THE COMMISSIONER OF EDUCATION IN ORDER THAT ANY CREDITS
45 ACCRUED SHALL BE TRANSFERABLE TO ANY SCHOOL TO WHICH THE RESPONDENT IS
46 TRANSFERRED FOLLOWING THE PLACEMENT.

47 S 2. Paragraphs (e) and (f) of subdivision 3 of section 353.2 of the
48 family court act, paragraph (e) as added by chapter 920 of the laws of
49 1982 and paragraph (f) as amended by chapter 465 of the laws of 1992,
50 are amended to read as follows:

51 (e) COOPERATE WITH A PROGRAM OF INTENSIVE SUPERVISION BY THE PROBATION
52 DEPARTMENT DURING THE PERIOD OF PROBATION OR A SPECIFIED PORTION THERE-
53 OF, TO THE EXTENT AVAILABLE IN THE COUNTY, UPON A FINDING ON THE RECORD
54 BY THE COURT THAT, ABSENT COOPERATION WITH SUCH A PROGRAM, PLACEMENT OF
55 THE RESPONDENT WOULD BE NECESSARY. SUCH A PROGRAM SHALL BE CONDUCTED IN
56 ACCORDANCE WITH REGULATIONS TO BE PROMULGATED BY THE DIVISION OF

1 PROBATION AND CORRECTIONAL ALTERNATIVES AND MAY REQUIRE THE RESPONDENT,
2 AMONG OTHER CONDITIONS, TO COMPLY WITH A COMMUNITY-BASED REHABILITATIVE
3 PROGRAM AND/OR A PROGRAM OF ELECTRONIC MONITORING TO THE EXTENT AVAIL-
4 ABLE IN THE COUNTY, AS PROVIDED BY SUBDIVISION ONE OF SECTION TWO
5 HUNDRED FORTY-THREE OF THE EXECUTIVE LAW;

6 (F) obtain permission from the probation officer for any absence from
7 respondent's residence in excess of two weeks; and

8 [(f)] (G) with the consent of the [division for youth] OFFICE OF CHIL-
9 DREN AND FAMILY SERVICES OR, IN A DISTRICT WITH A CLOSE TO HOME PROGRAM,
10 SUCH DISTRICT, spend a specified portion of the probation period, not
11 exceeding one year, in a non-secure facility provided by the [division
12 for youth] OFFICE OF CHILDREN AND FAMILY SERVICES pursuant to article
13 nineteen-G of the executive law OR, IN A DISTRICT WITH A CLOSE TO HOME
14 PROGRAM, A NONSECURE FACILITY OPERATED IN SUCH PROGRAM.

15 S 3. Subdivision 6 of section 353.2 of the family court act, as added
16 by chapter 920 of the laws of 1982, is amended to read as follows:

17 6. The maximum period of probation shall not exceed two years, WHICH
18 MAY INCLUDE INTENSIVE SUPERVISION IN COOPERATION WITH A COMMUNITY-BASED
19 REHABILITATIVE PROGRAM, IN ACCORDANCE WITH PARAGRAPH (E) OF SUBDIVISION
20 THREE OF THIS SECTION, TO THE EXTENT AVAILABLE UP TO THE TERM OF
21 PROBATION. If the court finds at the conclusion of the original period
22 and after a hearing that exceptional circumstances require an additional
23 year of probation, the court may continue the probation for an addi-
24 tional year.

25 S 4. Subdivisions 2 and 4 of section 355.3 of the family court act,
26 subdivision 2 as added by chapter 920 of the laws of 1982, subdivision 4
27 as amended by chapter 454 of the laws of 1995 and paragraph (i) of
28 subdivision 4 as amended by chapter 145 of the laws of 2000, are amended
29 to read as follows:

30 2. The court shall conduct a hearing concerning the need for continu-
31 ing the placement. The respondent, the presentment agency and the agency
32 with [whom] WHICH the respondent has been placed shall be notified of
33 such hearing and shall have the opportunity to be heard [thereat]. If
34 the petition is filed within sixty days prior to the expiration of the
35 period of placement, the court shall first determine at such hearing
36 whether good cause has been shown. If good cause is not shown, the court
37 shall dismiss the petition.

38 4. At the conclusion of the hearing the court may, in its discretion,
39 order an extension of the placement for not more than one year, WHICH
40 MAY INCLUDE A PERIOD OF POST-RELEASE SUPERVISION AND AFTERCARE, OR MAY
41 DIRECT THAT THE RESPONDENT BE PLACED ON PROBATION FOR NOT MORE THAN ONE
42 YEAR, PURSUANT TO SECTION 353.2 OF THIS PART, OR MAY DIRECT THAT THE
43 RESPONDENT BE CONDITIONALLY DISCHARGED FOR NOT MORE THAN ONE YEAR,
44 PURSUANT TO SECTION 353.1 OF THIS PART, OR MAY ORDER THAT THE PETITION
45 FOR AN EXTENSION OF PLACEMENT BE DISMISSED. The court must consider and
46 determine in its order:

47 (i) that where appropriate, and where consistent with the need for the
48 protection of the community, reasonable efforts were made to make it
49 possible for the respondent to safely return to his or her home;

50 (ii) in the case of a respondent who has attained the age of [sixteen]
51 FOURTEEN, the services needed, if any, to assist the child to make the
52 transition from foster care to independent living; and

53 (iii) in the case of a child placed outside New York state, whether
54 the out-of-state placement continues to be appropriate and in the best
55 interests of the child.

1 WHERE THE COURT DETERMINES THAT REASONABLE EFFORTS IN THE FORM OF
2 SERVICES OR ASSISTANCE TO THE RESPONDENT AND HIS OR HER FAMILY WOULD
3 FURTHER THE RESPONDENT'S NEEDS AND BEST INTERESTS AND THE NEED FOR
4 PROTECTION OF THE COMMUNITY AND WOULD MAKE IT POSSIBLE FOR THE RESPOND-
5 ENT TO SAFELY RETURN HOME OR TO MAKE THE TRANSITION TO INDEPENDENT
6 LIVING, THE COURT MAY INCLUDE IN ITS ORDER A DIRECTION FOR SUCH SERVICES
7 OR ASSISTANCE IN ACCORDANCE WITH PARAGRAPH (A) OF SUBDIVISION TWO OF
8 SECTION 352.2 OF THIS PART. SUCH ORDER REGARDING A LOCAL SOCIAL SERVICES
9 OFFICIAL SHALL NOT INCLUDE THE PROVISION OF ANY SERVICE OR ASSISTANCE TO
10 THE RESPONDENT AND HIS OR HER FAMILY THAT IS NOT AUTHORIZED OR REQUIRED
11 TO BE MADE AVAILABLE PURSUANT TO THE COUNTY CHILD AND FAMILY SERVICES
12 PLAN THEN IN EFFECT. THE ORDER SHALL PROVIDE THAT ANY RESPONDENT UNDER
13 TWENTY-ONE YEARS OF AGE, WHO HAS NOT RECEIVED A HIGH SCHOOL DIPLOMA, BE
14 ACCORDED EDUCATIONAL SERVICES, INCLUDING SPECIAL EDUCATIONAL SERVICES,
15 IF APPLICABLE, IN ACCORDANCE WITH THE EDUCATION LAW AND REGULATIONS
16 PROMULGATED BY THE COMMISSIONER OF EDUCATION IN ORDER THAT ANY CREDITS
17 ACCRUED SHALL BE TRANSFERABLE TO ANY SCHOOL TO WHICH THE RESPONDENT IS
18 TRANSFERRED FOLLOWING THE PLACEMENT. WHERE THE HEARING ON THE EXTENSION
19 OF PLACEMENT HAS BEEN HELD IN CONJUNCTION WITH A PERMANENCY HEARING,
20 PURSUANT TO SUBDIVISION TWO OF SECTION 355.5 OF THIS PART, THE COURT
21 ORDER SHALL INCLUDE THE REQUIREMENTS OF SUBDIVISION SEVEN OF SUCH
22 SECTION.

23 S 5. Subdivision 3 of section 355.4 of the family court act, as added
24 by chapter 479 of the laws of 1992, is amended to read as follows:

25 3. Subject to regulations of the department of health, routine
26 medical, dental and mental health services and treatment is defined for
27 the purposes of this section to mean any routine diagnosis or treatment,
28 including without limitation the administration of medications or nutri-
29 tion, the extraction of bodily fluids for analysis, and dental care
30 performed with a local anesthetic. Routine mental health treatment shall
31 not include [psychiatric] administration of PSYCHOTROPIC medication
32 unless it is part of an ongoing mental health plan or unless it is
33 otherwise authorized by law. ROUTINE, EMERGENCY OR OTHER MENTAL HEALTH
34 TREATMENT, INCLUDING ADMINISTRATION OF PSYCHOTROPIC MEDICATION, SHALL BE
35 PROVIDED BY LICENSED MENTAL HEALTH PROFESSIONALS AS AUTHORIZED BY LAW.

36 S 6. Paragraph (a) of subdivision 2 of section 754 of the family court
37 act, as amended by chapter 7 of the laws of 1999 and subparagraph (ii)
38 as amended by section 20 of part L of chapter 56 of the laws of 2015, is
39 amended to read as follows:

40 (a) IN DETERMINING AN APPROPRIATE ORDER, THE COURT SHALL CONSIDER AND
41 DIRECT A DISPOSITION THAT SPECIFICALLY MEETS THE NEEDS AND BEST INTER-
42 ESTS OF THE RESPONDENT. The order shall state the court's reasons for
43 the particular disposition. If the court places the [child] RESPONDENT
44 in accordance with section seven hundred fifty-six of this part, the
45 court in its order shall determine: (i) whether continuation in the
46 [child's] RESPONDENT'S home would be contrary to the RESPONDENT'S best
47 interest [of the child] and where appropriate, that reasonable efforts
48 were made prior to the date of the dispositional hearing held pursuant
49 to this article to prevent or eliminate the need for removal of the
50 [child] RESPONDENT from his or her home and, if the [child] RESPONDENT
51 was removed from his or her home prior to the date of such hearing, that
52 such removal was in the [child's] RESPONDENT'S best interest and, where
53 appropriate, reasonable efforts were made to make it possible for the
54 [child] RESPONDENT to return safely home. If the court determines that
55 reasonable efforts to prevent or eliminate the need for removal of the
56 [child] RESPONDENT from the home were not made but that the lack of such

1 efforts was appropriate under the circumstances, the court order shall
2 include such a finding; and (ii) in the case of a [child] RESPONDENT who
3 has attained the age of fourteen, the services needed, if any, to assist
4 the [child] RESPONDENT to make the transition from foster care to inde-
5 pendent living. WHERE APPROPRIATE, INCLUDING, BUT NOT LIMITED TO, WHERE
6 THE COURT DETERMINES THAT REASONABLE EFFORTS IN THE FORM OF SERVICES OR
7 ASSISTANCE TO THE RESPONDENT AND HIS OR HER FAMILY WOULD MAKE IT POSSI-
8 BLE FOR THE RESPONDENT TO SAFELY RETURN HOME OR TO MAKE THE TRANSITION
9 TO INDEPENDENT LIVING, THE COURT SHALL INCLUDE IN ITS ORDER A DIRECTION
10 FOR A LOCAL SOCIAL SERVICES, MENTAL HEALTH, DEVELOPMENTAL DISABILITIES
11 OR PROBATION OFFICIAL OR AN OFFICIAL OF THE OFFICE OF MENTAL HEALTH OR
12 OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES, AS APPLICABLE, TO
13 PROVIDE OR ARRANGE FOR THE PROVISION OF SERVICES OR ASSISTANCE TO THE
14 RESPONDENT AND HIS OR HER FAMILY TO FURTHER THE GOALS OF THIS SECTION.
15 SUCH ORDER REGARDING A LOCAL SOCIAL SERVICES OFFICIAL SHALL NOT INCLUDE
16 THE PROVISION OF ANY SERVICE OR ASSISTANCE TO THE RESPONDENT AND HIS OR
17 HER FAMILY THAT IS NOT AUTHORIZED OR REQUIRED TO BE MADE AVAILABLE
18 PURSUANT TO THE COUNTY CHILD AND FAMILY SERVICES PLAN THEN IN EFFECT. IN
19 ANY ORDER ISSUED PURSUANT TO THIS SECTION, THE COURT MAY REQUIRE THE
20 OFFICIAL MAKE PERIODIC PROGRESS REPORTS TO THE COURT ON THE IMPLEMENTA-
21 TION OF SUCH ORDER. VIOLATION OF SUCH ORDER SHALL BE SUBJECT TO PUNISH-
22 MENT PURSUANT TO SECTION SEVEN HUNDRED FIFTY-THREE OF THE JUDICIARY LAW.
23 Nothing in this subdivision shall be construed to modify the standards
24 for directing detention set forth in section seven hundred thirty-nine
25 of this article.

26 S 7. Subdivision (a) of section 756 of the family court act is amended
27 by adding a new paragraph (iii) to read as follows:

28 (III) THE ORDER SHALL PROVIDE THAT ANY RESPONDENT UNDER THE AGE OF
29 TWENTY-ONE YEARS BE ACCORDED EDUCATIONAL SERVICES, INCLUDING SPECIAL
30 EDUCATIONAL SERVICES, IF APPLICABLE, IN ACCORDANCE WITH THE EDUCATION
31 LAW AND REGULATIONS PROMULGATED BY THE COMMISSIONER OF EDUCATION IN
32 ORDER THAT ANY CREDITS ACCRUED SHALL BE TRANSFERABLE TO ANY SCHOOL TO
33 WHICH THE RESPONDENT IS TRANSFERRED FOLLOWING THE PLACEMENT. THE ORDER
34 SHALL FURTHER PROVIDE THAT ANY ROUTINE, EMERGENCY OR OTHER MENTAL HEALTH
35 TREATMENT, INCLUDING ADMINISTRATION OF PSYCHOTROPIC MEDICATION, IF ANY,
36 SHALL BE PROVIDED BY LICENSED MENTAL HEALTH PROFESSIONALS AS AUTHORIZED
37 BY LAW.

38 S 8. Section 756-a of the family court act is amended by adding a new
39 subdivision (d-2) to read as follows:

40 (D-2)(I) THE ORDER SHALL PROVIDE THAT ANY RESPONDENT UNDER THE AGE OF
41 TWENTY-ONE YEARS BE ACCORDED EDUCATIONAL SERVICES, INCLUDING SPECIAL
42 EDUCATIONAL SERVICES, IF APPLICABLE, IN ACCORDANCE WITH THE EDUCATION
43 LAW AND REGULATIONS PROMULGATED BY THE COMMISSIONER OF EDUCATION IN
44 ORDER THAT ANY CREDITS ACCRUED SHALL BE TRANSFERABLE TO ANY SCHOOL TO
45 WHICH THE RESPONDENT IS TRANSFERRED FOLLOWING THE PLACEMENT. THE ORDER
46 SHALL FURTHER PROVIDE THAT ANY ROUTINE, EMERGENCY OR OTHER MENTAL HEALTH
47 TREATMENT, INCLUDING ADMINISTRATION OF PSYCHOTROPIC MEDICATION, IF ANY,
48 SHALL BE PROVIDED BY LICENSED MENTAL HEALTH PROFESSIONALS AS AUTHORIZED
49 BY LAW.

50 (II) WHERE APPROPRIATE, INCLUDING, BUT NOT LIMITED TO, WHERE THE COURT
51 DETERMINES THAT REASONABLE EFFORTS IN THE FORM OF SERVICES OR ASSISTANCE
52 TO THE RESPONDENT AND HIS OR HER FAMILY WOULD MAKE IT POSSIBLE FOR THE
53 RESPONDENT TO SAFELY RETURN HOME OR TO MAKE THE TRANSITION TO INDEPEND-
54 ENT LIVING, THE COURT SHALL INCLUDE IN ITS ORDER A DIRECTION FOR A LOCAL
55 SOCIAL SERVICES, MENTAL HEALTH, DEVELOPMENTAL DISABILITIES OR PROBATION
56 OFFICIAL OR AN OFFICIAL OF THE OFFICE OF MENTAL HEALTH OR OFFICE FOR

1 PEOPLE WITH DEVELOPMENTAL DISABILITIES, AS APPLICABLE, TO PROVIDE OR
2 ARRANGE FOR THE PROVISION OF SERVICES OR ASSISTANCE TO THE RESPONDENT
3 AND HIS OR HER FAMILY TO FURTHER THE GOALS OF THIS SECTION. SUCH ORDER
4 REGARDING A LOCAL SOCIAL SERVICES OFFICIAL SHALL NOT INCLUDE THE
5 PROVISION OF ANY SERVICE OR ASSISTANCE TO THE RESPONDENT AND HIS OR HER
6 FAMILY THAT IS NOT AUTHORIZED OR REQUIRED TO BE MADE AVAILABLE PURSUANT
7 TO THE COUNTY CHILD AND FAMILY SERVICES PLAN THEN IN EFFECT. IN ANY
8 ORDER ISSUED PURSUANT TO THIS SECTION, THE COURT MAY REQUIRE THE OFFI-
9 CIAL TO MAKE PERIODIC PROGRESS REPORTS TO THE COURT ON THE IMPLEMENTA-
10 TION OF SUCH ORDER. VIOLATION OF SUCH ORDER SHALL BE SUBJECT TO PUNISH-
11 MENT PURSUANT TO SECTION SEVEN HUNDRED FIFTY-THREE OF THE JUDICIARY LAW.

12 S 9. Subdivision (b) of section 757 of the family court act, as
13 amended by chapter 920 of the laws of 1982, is amended and a new subdi-
14 vision (e) is added to read as follows:

15 (b) The maximum period of probation shall not exceed one year, WHICH
16 MAY INCLUDE INTENSIVE SUPERVISION IN COOPERATION WITH A COMMUNITY-BASED
17 REHABILITATIVE PROGRAM, IN ACCORDANCE WITH SUBDIVISION (E) OF THIS
18 SECTION, TO THE EXTENT AVAILABLE, DURING ALL OR PART OF THE TERM OF
19 PROBATION. If the court finds at the conclusion of the original period
20 that exceptional circumstances require an additional year of probation,
21 the court may continue probation for an additional year.

22 (E) IF THE RESPONDENT HAS BEEN FOUND TO BE A PERSON IN NEED OF SUPER-
23 VISION, AND IF THE COURT FURTHER FINDS THAT, ABSENT INTENSIVE SUPER-
24 VISION, THE RESPONDENT WOULD BE PLACED PURSUANT TO SECTION SEVEN HUNDRED
25 FIFTY-SIX OF THIS PART, THE COURT MAY DIRECT THE RESPONDENT TO COOPERATE
26 WITH A PROGRAM OF INTENSIVE SUPERVISION, WHICH MAY INCLUDE COMPLIANCE
27 WITH A COMMUNITY-BASED REHABILITATIVE PROGRAM, DURING ALL OR PART OF THE
28 TERM OF PROBATION. THE LOCAL PROBATION DEPARTMENT MAY PROVIDE INTENSIVE
29 SUPERVISION TO RESPONDENTS SO DIRECTED PURSUANT TO THIS SUBDIVISION IN
30 ACCORDANCE WITH REGULATIONS TO BE PROMULGATED BY THE STATE DIVISION OF
31 PROBATION AND CORRECTIONAL ALTERNATIVES PURSUANT TO SUBDIVISION ONE OF
32 SECTION TWO HUNDRED FORTY-THREE OF THE EXECUTIVE LAW.

33 S 10. Subdivisions 1 and 2 of section 112 of the education law, as
34 amended by section 62 of Part A of chapter 3 of the laws of 2005, are
35 amended to read as follows:

36 1. The department shall establish and enforce standards of instruc-
37 tion, personnel qualifications and other requirements for education
38 services or programs, as determined by rules of the regents and regu-
39 lations of the commissioner, with respect to the individual requirements
40 of children who are in full-time residential care in facilities or homes
41 operated or supervised by any state department or agency or political
42 subdivision AND SHALL REQUIRE THAT CREDITS ACCRUED BY CHILDREN IN
43 PROGRAMS THAT CONFORM TO SUCH STANDARDS SHALL BE TRANSFERABLE TO ANY
44 SCHOOL TO WHICH THE CHILD IS TRANSFERRED FOLLOWING THE RESIDENTIAL CARE.
45 THE REGULATIONS SHALL DIRECT THE SCHOOL DISTRICT TO COOPERATE, TO THE
46 EXTENT POSSIBLE, WITH THE AGENCY WITH WHICH THE CHILD IS PLACED TO COOR-
47 DINATE THE TIMING OF THE CHILD'S RELEASE FROM THE PROGRAM WITH ENROLL-
48 MENT IN SCHOOL SO AS TO BE MINIMALLY DISRUPTIVE FOR THE CHILD AND
49 FURTHER HIS OR HER BEST INTERESTS. The department shall cooperate with
50 the office of children and family services, the department of mental
51 hygiene and local departments of social services with respect to educa-
52 tional and vocational training programs for children placed with,
53 committed to or under the supervision of such agencies. The department
54 shall promulgate regulations requiring the cooperation of local school
55 districts in facilitating the [prompt] enrollment WITHIN NO MORE THAN
56 FIVE BUSINESS DAYS of children who are released or conditionally

1 released from residential facilities operated by or under contract with
2 the office of children and family services, the department of mental
3 hygiene and local departments of social services and in implementing
4 plans for release or conditional release submitted to the family court
5 pursuant to paragraph (c) of subdivision seven of section 353.3 AND
6 PARAGRAPH (III) OF SUBDIVISION (A) OF SECTION SEVEN HUNDRED FIFTY-SIX of
7 the family court act and the educational components of permanency hear-
8 ing reports submitted pursuant to section one thousand eighty-nine of
9 the family court act. Such regulations regarding the educational compo-
10 nents of permanency hearing reports submitted pursuant to section one
11 thousand eighty-nine of the family court act shall be developed in
12 conjunction with the office of children and family services. SUCH REGU-
13 LATIONS SHALL FACILITATE THE RETENTION OF CHILDREN PLACED OR REMANDED
14 INTO FOSTER CARE IN THEIR ORIGINAL SCHOOLS AND, IF THAT IS NOT FEASIBLE
15 OR DETERMINED TO BE IN THE CHILD'S BEST INTEREST, REQUIRE THE ENROLLMENT
16 OF THE CHILDREN IN SCHOOL AND TRANSFER OF NECESSARY RECORDS WITHIN NO
17 MORE THAN FIVE BUSINESS DAYS OF RECEIPT BY THE ORIGINAL SCHOOL OF NOTICE
18 OF THE CHILD'S PLACEMENT INTO FOSTER CARE. Nothing herein contained
19 shall be deemed to apply to responsibility for the provision or payment
20 of care, maintenance or other services subject to the provisions of the
21 executive law, mental hygiene law, social services law or any other law.

22 2. The commissioner shall prepare a report and submit it to the gover-
23 nor, the speaker of the assembly and the temporary president of the
24 senate by December thirty-first, nineteen hundred ninety-six and on
25 December thirty-first of each successive year. Such report shall
26 contain, for each facility operated by or under contract with the office
27 of children and family services that provides educational programs, an
28 assessment of each facility's compliance with the rules of the board of
29 regents, the regulations of the commissioner, and this chapter. Such
30 report shall include, but not be limited to: the number of youth receiv-
31 ing services under article eighty-nine of this chapter; the office's
32 activities undertaken as required by subdivisions one, two, four and
33 eight of section forty-four hundred three of this chapter; the number of
34 youth receiving bilingual education services; the number of youth eligi-
35 ble to receive limited English proficient services; interviews with
36 facility residents conducted during site visits; library services; the
37 ratio of teachers to students; the curriculum; the length of stay of
38 each youth and the number of hours of instruction provided; instruc-
39 tional technology utilized; the educational services provided following
40 the release and conditional release of the youth, including, but not
41 limited to, the implementation of requirements for the PROMPT enrollment
42 of such youth in school contained in plans for release and conditional
43 release submitted to the family court pursuant to paragraph (c) of
44 subdivision seven of section 353.3 AND PARAGRAPH (III) OF SUBDIVISION
45 (A) OF SECTION SEVEN HUNDRED FIFTY-SIX of the family court act and in
46 the educational components of permanency hearing reports submitted
47 pursuant to section one thousand eighty-nine of the family court act and
48 the compliance by local school districts with the regulations promulgat-
49 ed pursuant to subdivision one of this section; and any recommendations
50 to ensure compliance with the rules of regents, regulations of the
51 commissioner, and this chapter.

52 S 11. The opening paragraph of subdivision 1 of section 409-e of the
53 social services law, as amended by section 60 of part A of chapter 3 of
54 the laws of 2005, is amended to read as follows:

55 With respect to each child who is identified by a local social
56 services district as being considered for placement in foster care as

1 defined in section one thousand eighty-seven of the family court act by
2 a social services district, such district, within thirty days from the
3 date of such identification, shall perform an assessment of the child
4 and his or her family circumstances. Where a child has been removed from
5 his or her home AND PLACED INTO FOSTER CARE AS DEFINED IN SECTION ONE
6 THOUSAND EIGHTY-SEVEN OF THE FAMILY COURT ACT, DETENTION OR PLACEMENT
7 PURSUANT TO ARTICLE SEVEN OF THE FAMILY COURT ACT OR NONSECURE OR LIMIT-
8 ED SECURE PLACEMENT PURSUANT TO ARTICLE THREE OF THE FAMILY COURT ACT,
9 within thirty days of such removal, DETENTION OR PLACEMENT, the local
10 social services district shall perform an assessment of the child and
11 his or her family circumstances, or update any assessment performed when
12 the child was considered for placement. Any assessment shall be in
13 accordance with such uniform procedures and criteria as the office of
14 children and family services shall by regulation prescribe. Such assess-
15 ment shall include the following:

16 S 12. Subdivision 1 of section 243 of the executive law, as amended by
17 section 17 of part A of chapter 56 of the laws of 2010, is amended to
18 read as follows:

19 1. The office shall exercise general supervision over the adminis-
20 tration of probation services throughout the state, including probation
21 in family courts and shall collect statistical and other information and
22 make recommendations regarding the administration of probation services
23 in the courts. The office shall endeavor to secure the effective appli-
24 cation of the probation system and the enforcement of the probation laws
25 and the laws relating to family courts throughout the state. After
26 consultation with the state probation commission, the office shall
27 recommend to the commissioner general rules which shall regulate methods
28 and procedure in the administration of probation services, including
29 investigation of defendants prior to sentence, and children prior to
30 adjudication, supervision, case work, record keeping, and accounting,
31 program planning and research so as to secure the most effective appli-
32 cation of the probation system and the most efficient enforcement of the
33 probation laws throughout the state. SUCH RULES SHALL PERMIT THE ESTAB-
34 LISHMENT OF A PROGRAM OF INTENSIVE SUPERVISION FOR JUVENILES DIRECTED TO
35 RECEIVE SUCH SERVICES PURSUANT TO PARAGRAPH (E) OF SUBDIVISION THREE OF
36 SECTION 353.2 OR SUBDIVISION (E) OF SECTION SEVEN HUNDRED FIFTY-SEVEN OF
37 THE FAMILY COURT ACT, WHICH MAY REQUIRE PARTICIPATION BY THE JUVENILES
38 IN COMMUNITY-BASED REHABILITATIVE PROGRAMS. SUCH RULES SHALL INCLUDE,
39 BUT NOT BE LIMITED TO: (A) SPECIFICATION OF THE MAXIMUM CASELOAD LEVELS
40 AND TRAINING REQUIRED FOR INTENSIVE SUPERVISION PROBATION OFFICERS; (B)
41 THE FREQUENCY AND NATURE OF PROBATION CONTACTS WITH JUVENILES IN THE
42 PROGRAM, SCHOOLS AND OTHER AGENCIES; AND (C) SUPERVISION, TREATMENT AND
43 OTHER SERVICES TO BE PROVIDED TO SUCH JUVENILES. SUCH RULES SHALL
44 FURTHER PROVIDE FOR THE ESTABLISHMENT OF A PROGRAM OF ELECTRONIC MONI-
45 TORING FOR JUVENILES WHO ARE THE SUBJECTS OF JUVENILE DELINQUENCY
46 PETITIONS AND WOULD OTHERWISE BE DETAINED PRIOR TO DISPOSITION PURSUANT
47 TO SUBDIVISION THREE OF SECTION 320.5 OF THE FAMILY COURT ACT AND FOR
48 ADJUDICATED JUVENILE DELINQUENTS PLACED ON PROBATION ON CONDITION OF
49 COOPERATION WITH A PROGRAM OF ELECTRONIC MONITORING PURSUANT TO PARA-
50 GRAPH (E) OF SUBDIVISION THREE OF SECTION 353.2 OF THE FAMILY COURT ACT.
51 Such rules shall provide that the probation investigations ordered by
52 the court in designated felony act cases under subdivision one of
53 section 351.1 of the family court act shall have priority over other
54 cases arising under articles three and seven of such act. When duly
55 adopted by the commissioner, such rules shall be binding upon all
56 probation officers and when duly adopted shall have the force and effect

1 of law, but shall not supersede rules that may be adopted pursuant to
2 the family court act. The office shall keep informed as to the work of
3 all probation officers and shall from time to time inquire into and
4 report upon their conduct and efficiency. The office may investigate the
5 work of any probation bureau or probation officer and shall have access
6 to all records and probation offices. The office may issue subpoenas to
7 compel the attendance of witnesses or the production of books and
8 papers. The office may administer oaths and examine persons under oath.
9 The office may recommend to the appropriate authorities the removal of
10 any probation officer. The office may from time to time publish reports
11 regarding probation including probation in family courts, and the opera-
12 tion of the probation system including probation in family courts and
13 any other information regarding probation as the office may determine
14 provided expenditures for such purpose are within amounts appropriated
15 therefor.

16 S 13. This act shall take effect on the first of April next succeeding
17 the date on which it shall have become a law; provided, however, that
18 any regulations necessary for the implementation of this act shall be
19 promulgated on or before such effective date.