

7642

2015-2016 Regular Sessions

I N   A S S E M B L Y

May 20, 2015

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Introduced by M. of A. LENTOL, LUPARDO, HEASTIE, AUBRY, WEINSTEIN, O'DONNELL, FARRELL, HEVESI, BLAKE, SEPULVEDA, MOSLEY, RAMOS, HOOPER, COOK, PERRY, WRIGHT, ARROYO, ORTIZ, RIVERA, PEOPLES-STOKES, ROBINSON, TITUS, CRESPO, MOYA, ROBERTS, KIM, ROZIC, SOLAGES, DAVILA, PICHARDO, LINARES, BARRON, BICHOTTE, DILAN, JEAN-PIERRE, JOYNER, PERSAUD, WALKER, RICHARDSON -- read once and referred to the Committee on Codes

AN ACT to amend the family court act, in relation to family court proceedings, jurisdiction of the court, the definition of juvenile delinquent, the definition of a designated felony act, the procedures regarding the adjustment of cases from criminal courts to family court, the age at which children may be tried as an adult for various felonies, and the manner in which courts handle juvenile delinquent cases; to amend the social services law, in relation to state reimbursement for expenditures made by social services districts for various services; to amend the social services law, in relation to the definitions of juvenile delinquent and persons in need of supervision; to amend the penal law, in relation to the definition of infancy and the authorized dispositions, sentences, and periods of post-release supervision for juvenile offenders; to amend the criminal procedure law, in relation to the definition of juvenile offender; to amend the criminal procedure law, in relation to the arrest of a juvenile offender without a warrant; in relation to conditional sealing of certain convictions for offenses committed by a defendant twenty years of age or younger; in relation to removal of certain proceedings to family court; in relation to joinder of offenses and consolidation of indictments; in relation to appearances and hearings for and placements of certain juvenile offenders; in relation to raising the age for juvenile offender status; in relation to creating a youth part for certain proceedings involving juvenile offenders; to amend the correction law, in relation to requiring that no county jail be used for the confinement of persons under the age of eighteen; to amend the education law, in relation to certain contracts with the office of children and family services; to amend the education law, in relation to the possession of a gun on school grounds by a student; to amend the executive law,

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

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in relation to persons in need of supervision or youthful offenders; and to amend the vehicle and traffic law, in relation to convictions; and in relation to suspension, revocation and reissuance of licenses and registrations; and to repeal certain provisions of the correction law relating to the housing of prisoners and other persons in custody

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

1 Section 1. Paragraph (vi) of subdivision (a) of section 115 of the  
2 family court act, as amended by chapter 222 of the laws of 1994, is  
3 amended to read as follows:

4 (vi) proceedings concerning juvenile delinquency as set forth in arti-  
5 cle three OF THIS ACT THAT ARE COMMENCED IN FAMILY COURT.

6 S 2. Subdivision (e) of section 115 of the family court act, as added  
7 by chapter 222 of the laws of 1994, is amended to read as follows:

8 (e) The family court has concurrent jurisdiction with the criminal  
9 court over all family offenses as defined in article eight of this act  
10 AND HAS CONCURRENT JURISDICTION WITH THE YOUTH PART OF A SUPERIOR COURT  
11 OVER ANY JUVENILE DELINQUENCY PROCEEDING RESULTING FROM THE REMOVAL OF  
12 THE CASE TO THE FAMILY COURT PURSUANT TO ARTICLE SEVEN HUNDRED  
13 TWENTY-FIVE OF THE CRIMINAL PROCEDURE LAW.

14 S 3. Subdivision (b) of section 117 of the family court act, as  
15 amended by chapter 7 of the laws of 2007, is amended to read as follows:

16 (b) For every juvenile delinquency proceeding under article three OF  
17 THIS ACT involving an allegation of an act committed by a person which,  
18 if done by an adult, would [be a crime (i) defined in sections 125.27  
19 (murder in the first degree); 125.25 (murder in the second degree);  
20 135.25 (kidnapping in the first degree); or 150.20 (arson in the first  
21 degree) of the penal law committed by a person thirteen, fourteen or  
22 fifteen years of age; or such conduct committed as a sexually motivated  
23 felony, where authorized pursuant to section 130.91 of the penal law;  
24 (ii) defined in sections 120.10 (assault in the first degree); 125.20  
25 (manslaughter in the first degree); 130.35 (rape in the first degree);  
26 130.50 (criminal sexual act in the first degree); 135.20 (kidnapping in  
27 the second degree), but only where the abduction involved the use or  
28 threat of use of deadly physical force; 150.15 (arson in the second  
29 degree); or 160.15 (robbery in the first degree) of the penal law  
30 committed by a person thirteen, fourteen or fifteen years of age; or  
31 such conduct committed as a sexually motivated felony, where authorized  
32 pursuant to section 130.91 of the penal law; (iii) defined in the penal  
33 law as an attempt to commit murder in the first or second degree or  
34 kidnapping in the first degree committed by a person thirteen, fourteen  
35 or fifteen years of age; or such conduct committed as a sexually moti-  
36 vated felony, where authorized pursuant to section 130.91 of the penal  
37 law; (iv) defined in section 140.30 (burglary in the first degree);  
38 subdivision one of section 140.25 (burglary in the second degree);  
39 subdivision two of section 160.10 (robbery in the second degree) of the  
40 penal law; or section 265.03 of the penal law, where such machine gun or  
41 such firearm is possessed on school grounds, as that phrase is defined  
42 in subdivision fourteen of section 220.00 of the penal law committed by  
43 a person fourteen or fifteen years of age; or such conduct committed as  
44 a sexually motivated felony, where authorized pursuant to section 130.91  
45 of the penal law; (v) defined in section 120.05 (assault in the second  
46 degree) or 160.10 (robbery in the second degree) of the penal law

1 committed by a person fourteen or fifteen years of age but only where  
2 there has been a prior finding by a court that such person has previous-  
3 ly committed an act which, if committed by an adult, would be the crime  
4 of assault in the second degree, robbery in the second degree or any  
5 designated felony act specified in clause (i), (ii) or (iii) of this  
6 subdivision regardless of the age of such person at the time of the  
7 commission of the prior act; or (vi) other than a misdemeanor, committed  
8 by a person at least seven but less than sixteen years of age, but only  
9 where there has been two prior findings by the court that such person  
10 has committed a prior act which, if committed by an adult would be a  
11 felony] CONSTITUTE A DESIGNATED FELONY ACT AS DEFINED IN SUBDIVISION  
12 EIGHT OF SECTION 301.2 OF SUCH ARTICLE:

13 (i) There is hereby established in the family court in the city of New  
14 York at least one "designated felony act part." Such part or parts shall  
15 be held separate from all other proceedings of the court, and shall have  
16 jurisdiction over all proceedings involving such an allegation THAT ARE  
17 NOT REFERRED TO THE YOUTH PART OF A SUPERIOR COURT. All such proceedings  
18 shall be originated in or be transferred to this part from other parts  
19 as they are made known to the court.

20 (ii) Outside the city of New York, all proceedings involving such an  
21 allegation shall have a hearing preference over every other proceeding  
22 in the court, except proceedings under article ten OF THIS ACT.

23 S 4. Subdivision 1 of section 301.2 of the family court act, as added  
24 by chapter 920 of the laws of 1982, is amended to read as follows:

25 1. "Juvenile delinquent" means a person [over seven and less than  
26 sixteen years of age, who, having committed an act that would constitute  
27 a crime if committed by an adult, (a) is not criminally responsible for  
28 such conduct by reason of infancy, or (b) is the defendant in an action  
29 ordered removed from a criminal court to the family court pursuant to  
30 article seven hundred twenty-five of the criminal procedure law]:

31 (A) WHO IS:

32 (I) TEN OR ELEVEN YEARS OF AGE WHO COMMITTED AN ACT THAT WOULD CONSTI-  
33 TUTE A CRIME AS DEFINED IN SECTION 125.25 (MURDER IN THE SECOND DEGREE)  
34 OF THE PENAL LAW IF COMMITTED BY AN ADULT; OR

35 (II) AT LEAST TWELVE YEARS OF AGE AND LESS THAN EIGHTEEN YEARS OF AGE  
36 WHO COMMITTED AN ACT THAT WOULD CONSTITUTE A CRIME IF COMMITTED BY AN  
37 ADULT; OR

38 (III) SIXTEEN OR SEVENTEEN YEARS OF AGE WHO COMMITTED A VIOLATION OF  
39 PARAGRAPH (A) OF SUBDIVISION TWO OF SECTION SIXTY-FIVE-B OF THE ALCOHOL-  
40 IC BEVERAGE CONTROL LAW PROVIDED, HOWEVER, THAT SUCH PERSON SHALL ONLY  
41 BE DEEMED TO BE A JUVENILE DELINQUENT FOR THE PURPOSES OF IMPOSING  
42 LICENSE SANCTIONS IN ACCORDANCE WITH SUBDIVISION FOUR OF SECTION 352.2  
43 OF THIS ARTICLE; AND

44 (B) WHO IS EITHER:

45 (I) NOT CRIMINALLY RESPONSIBLE FOR SUCH CONDUCT BY REASON OF INFANCY;  
46 OR

47 (II) THE DEFENDANT IN AN ACTION BASED ON SUCH ACT THAT HAS BEEN  
48 ORDERED REMOVED TO THE FAMILY COURT PURSUANT TO ARTICLE SEVEN HUNDRED  
49 TWENTY-FIVE OF THE CRIMINAL PROCEDURE LAW.

50 S 5. Subdivisions 8 and 9 of section 301.2 of the family court act,  
51 subdivision 8 as amended by chapter 7 of the laws of 2007 and subdivi-  
52 sion 9 as added by chapter 920 of the laws of 1982, are amended to read  
53 as follows:

54 8. "Designated felony act" means an act which, if done by an adult,  
55 would be a crime: (i) defined in sections [125.27 (murder in the first  
56 degree);] 125.25 (murder in the second degree); 135.25 (kidnapping in

1 the first degree); or 150.20 (arson in the first degree) of the penal  
2 law committed by a person thirteen, fourteen [or], fifteen, SIXTEEN, OR  
3 SEVENTEEN years of age; or such conduct committed as a sexually moti-  
4 vated felony, where authorized pursuant to section 130.91 of the penal  
5 law; (ii) defined in sections 120.10 (assault in the first degree);  
6 125.20 (manslaughter in the first degree); 130.35 (rape in the first  
7 degree); 130.50 (criminal sexual act in the first degree); 130.70  
8 (aggravated sexual abuse in the first degree); 135.20 (kidnapping in the  
9 second degree) but only where the abduction involved the use or threat  
10 of use of deadly physical force; 150.15 (arson in the second degree) or  
11 160.15 (robbery in the first degree) of the penal law committed by a  
12 person thirteen, fourteen [or], fifteen, SIXTEEN, OR SEVENTEEN years of  
13 age; or such conduct committed as a sexually motivated felony, where  
14 authorized pursuant to section 130.91 of the penal law; (iii) defined in  
15 the penal law as an attempt to commit murder in the first or second  
16 degree or kidnapping in the first degree committed by a person thirteen,  
17 fourteen [or], fifteen, SIXTEEN, OR SEVENTEEN years of age; or such  
18 conduct committed as a sexually motivated felony, where authorized  
19 pursuant to section 130.91 of the penal law; (iv) defined in section  
20 140.30 (burglary in the first degree); subdivision one of section 140.25  
21 (burglary in the second degree); subdivision two of section 160.10  
22 (robbery in the second degree) of the penal law; or section 265.03 of  
23 the penal law, where such machine gun or such firearm is possessed on  
24 school grounds, as that phrase is defined in subdivision fourteen of  
25 section 220.00 of the penal law committed by a person fourteen or  
26 fifteen years of age; or such conduct committed as a sexually motivated  
27 felony, where authorized pursuant to section 130.91 of the penal law;  
28 (v) defined in section 120.05 (assault in the second degree) or 160.10  
29 (robbery in the second degree) of the penal law committed by a person  
30 fourteen [or], fifteen, SIXTEEN OR SEVENTEEN years of age but only where  
31 there has been a prior finding by a court that such person has previous-  
32 ly committed an act which, if committed by an adult, would be the crime  
33 of assault in the second degree, robbery in the second degree or any  
34 designated felony act specified in paragraph (i), (ii), or (iii) of this  
35 subdivision regardless of the age of such person at the time of the  
36 commission of the prior act; [or] (vi) other than a misdemeanor commit-  
37 ted by a person at least [seven] TWELVE but less than [sixteen] EIGHTEEN  
38 years of age, but only where there has been two prior findings by the  
39 court that such person has committed a prior felony; OR (VII) DEFINED IN  
40 SECTION 490.25 (CRIME OF TERRORISM); 490.45 (CRIMINAL POSSESSION OF A  
41 CHEMICAL OR BIOLOGICAL WEAPON IN THE FIRST DEGREE); 490.55 (CRIMINAL  
42 POSSESSION OF A CHEMICAL OR BIOLOGICAL WEAPON IN THE SECOND DEGREE); OR  
43 130.95 (PREDATORY SEXUAL ASSAULT) OF THE PENAL LAW COMMITTED BY A PERSON  
44 SIXTEEN OR SEVENTEEN YEARS OLD.

45 9. "Designated class A felony act" means a designated felony act  
46 [defined in paragraph (i) of subdivision eight] THAT WOULD CONSTITUTE A  
47 CLASS A FELONY IF COMMITTED BY AN ADULT.

48 S 6. Subdivision 1 of section 302.1 of the family court act, as added  
49 by chapter 920 of the laws of 1982, is amended to read as follows:

50 1. The family court has exclusive original jurisdiction over any  
51 proceeding to determine whether a person is a juvenile delinquent  
52 COMMENCED IN FAMILY COURT AND CONCURRENT JURISDICTION WITH THE YOUTH  
53 PART OF A SUPERIOR COURT OVER ANY SUCH PROCEEDING REMOVED TO THE FAMILY  
54 COURT PURSUANT TO ARTICLE SEVEN HUNDRED TWENTY-FIVE OF THE CRIMINAL  
55 PROCEDURE LAW.

1 S 6-a. Section 302.1 of the family court act is amended by adding a  
2 new subdivision 3 to read as follows:

3 3. WHENEVER A CRIME AND A TRAFFIC INFRACTION ARISE OUT OF THE SAME  
4 TRANSACTION OR OCCURRENCE, A CHARGE ALLEGING BOTH OFFENSES MAY BE MADE  
5 RETURNABLE BEFORE THE COURT HAVING JURISDICTION OVER THE CRIME. NOTHING  
6 HEREIN PROVIDED SHALL BE CONSTRUED TO PREVENT A COURT, HAVING JURISDIC-  
7 TION OVER A CRIMINAL CHARGE RELATING TO TRAFFIC OR A TRAFFIC INFRACTION,  
8 FROM LAWFULLY ENTERING A JUDGMENT OF CONVICTION, WHETHER OR NOT BASED ON  
9 A PLEA OF GUILTY, FOR AN OFFENSE CLASSIFIED AS A TRAFFIC INFRACTION.

10 S 7. Section 304.1 of the family court act, as added by chapter 920 of  
11 the laws of 1982, subdivision 2 as amended by chapter 419 of the laws of  
12 1987, is amended to read as follows:

13 S 304.1. Detention. 1. A facility certified by the state [division for  
14 youth] OFFICE OF CHILDREN AND FAMILY SERVICES as a juvenile DETENTION  
15 facility must be operated in conformity with the regulations of the  
16 state [division for youth and shall be subject to the visitation and  
17 inspection of the state board of social welfare] OFFICE OF CHILDREN AND  
18 FAMILY SERVICES.

19 2. No child to whom the provisions of this article may apply shall be  
20 detained in any prison, jail, lockup, or other place used for adults  
21 convicted of crime or under arrest and charged with crime without the  
22 approval of the state [division for youth] OFFICE OF CHILDREN AND FAMILY  
23 SERVICES in the case of each child and the statement of its reasons  
24 therefor. The state [division for youth] OFFICE OF CHILDREN AND FAMILY  
25 SERVICES shall promulgate and publish the rules which it shall apply in  
26 determining whether approval should be granted pursuant to this subdivi-  
27 sion.

28 3. [The detention of a child under ten years of age in a secure  
29 detention facility shall not be directed under any of the provisions of  
30 this article.

31 4.] A detention facility which receives a child under subdivision four  
32 of section 305.2 shall immediately notify the child's parent or other  
33 person legally responsible for his OR HER care or, if such legally  
34 responsible person is unavailable the person with whom the child  
35 resides, that he OR SHE has been placed in detention.

36 S 8. Subdivision 1 of section 304.2 of the family court act, as added  
37 by chapter 683 of the laws of 1984, is amended to read as follows:

38 (1) Upon application by the presentment agency, OR UPON APPLICATION BY  
39 THE PROBATION SERVICE AS PART OF THE ADJUSTMENT OF A CASE, the court may  
40 issue a temporary order of protection against a respondent for good  
41 cause shown, ex parte or upon notice, at any time after a juvenile is  
42 taken into custody, pursuant to section 305.1 or 305.2 or upon the issu-  
43 ance of an appearance ticket pursuant to section 307.1 or upon the  
44 filing of a petition pursuant to section 310.1.

45 S 9. Subdivision 1 of section 305.1 of the family court act, as added  
46 by chapter 920 of the laws of 1982, is amended to read as follows:

47 1. A private person may take a child [under the age of sixteen] WHO  
48 MAY BE SUBJECT TO THE PROVISIONS OF THIS ARTICLE FOR COMMITTING AN ACT  
49 THAT WOULD BE A CRIME IF COMMITTED BY AN ADULT into custody in cases in  
50 which [he] SUCH PRIVATE PERSON may arrest an adult for a crime under  
51 section 140.30 of the criminal procedure law.

52 S 10. Subdivision 2 of section 305.2 of the family court act, as added  
53 by chapter 920 of the laws of 1982, is amended to read as follows:

54 2. An officer may take a child [under the age of sixteen] WHO MAY BE  
55 SUBJECT TO THE PROVISIONS OF THIS ARTICLE FOR COMMITTING AN ACT THAT  
56 WOULD BE A CRIME IF COMMITTED BY AN ADULT into custody without a warrant

1 in cases in which [he] THE OFFICER may arrest a person for a crime under  
2 article one hundred forty of the criminal procedure law.

3 S 11. Paragraph (b) of subdivision 4 of section 305.2 of the family  
4 court act, as amended by chapter 492 of the laws of 1987, is amended to  
5 read as follows:

6 (b) forthwith and with all reasonable speed take the child directly,  
7 and without his first being taken to the police station house, to the  
8 family court located in the county in which the act occasioning the  
9 taking into custody allegedly was committed, OR, WHEN THE FAMILY COURT  
10 IS NOT IN SESSION, TO THE MOST ACCESSIBLE MAGISTRATE, IF ANY, DESIGNATED  
11 BY THE APPELLATE DIVISION OF THE SUPREME COURT IN THE APPLICABLE DEPART-  
12 MENT TO CONDUCT A HEARING UNDER SECTION 307.4 OF THIS PART, unless the  
13 officer determines that it is necessary to question the child, in which  
14 case he OR SHE may take the child to a facility designated by the chief  
15 administrator of the courts as a suitable place for the questioning of  
16 children or, upon the consent of a parent or other person legally  
17 responsible for the care of the child, to the child's residence and  
18 there question him OR HER for a reasonable period of time; or

19 S 12. Subdivision 1 of section 306.1 of the family court act, as  
20 amended by chapter 645 of the laws of 1996, is amended to read as  
21 follows:

22 1. Following the arrest of a child alleged to be a juvenile delin-  
23 quent, or the filing of a delinquency petition involving a child who has  
24 not been arrested, the arresting officer or other appropriate police  
25 officer or agency shall take or cause to be taken fingerprints of such  
26 child if:

27 (a) the child is eleven years of age or older and the crime which is  
28 the subject of the arrest or which is charged in the petition consti-  
29 tutes a class [A or B] A-1 felony; [or]

30 (b) THE CHILD IS TWELVE YEARS OF AGE OR OLDER AND THE CRIME WHICH IS  
31 THE SUBJECT OF THE ARREST OR WHICH IS CHARGED IN THE PETITION CONSTI-  
32 TUTES A CLASS A OR B FELONY; OR

33 (C) the child is thirteen years of age or older and the crime which is  
34 the subject of the arrest or which is charged in the petition consti-  
35 tutes a class C, D or E felony.

36 S 13. Section 307.3 of the family court act, as added by chapter 920  
37 of the laws of 1982, subdivisions 1 and 2 as amended by chapter 419 of  
38 the laws of 1987, is amended to read as follows:

39 S 307.3. Rules of court authorizing release before filing of petition.  
40 1. The agency responsible for operating a detention facility pursuant to  
41 section two hundred eighteen-a of the county law, five hundred [ten-a]  
42 THREE of the executive law or other applicable provisions of law, shall  
43 release a child in custody before the filing of a petition to the custo-  
44 dy of his OR HER parents or other person legally responsible for his OR  
45 HER care, or if such legally responsible person is unavailable, to a  
46 person with whom he OR SHE resides, when the events occasioning the  
47 taking into custody do not appear to involve allegations that the child  
48 committed a delinquent act.

49 2. When practicable such agency may release a child before the filing  
50 of a petition to the custody of his OR HER parents or other person  
51 legally responsible for his OR HER care, or if such legally responsible  
52 person is unavailable, to a person with whom he OR SHE resides, when the  
53 events occasioning the taking into custody appear to involve allegations  
54 that the child committed a delinquent act; PROVIDED, HOWEVER, THAT SUCH  
55 AGENCY MUST RELEASE THE CHILD IF:

(A) SUCH EVENTS APPEAR TO INVOLVE ONLY ALLEGATIONS THAT THE CHILD COMMITTED ACTS THAT WOULD CONSTITUTE MORE THAN A VIOLATION BUT NO MORE THAN A MISDEMEANOR IF COMMITTED BY AN ADULT IF:

(I) THE ALLEGED ACTS DID NOT RESULT IN ANY PHYSICAL INJURY AS DEFINED IN SUBDIVISION NINE OF SECTION 10.00 OF THE PENAL LAW TO ANOTHER PERSON; AND

(II) THE CHILD WAS ASSESSED AT A LOW RISK ON THE APPLICABLE DETENTION RISK ASSESSMENT INSTRUMENT APPROVED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES UNLESS THE AGENCY DETERMINES THAT DETENTION IS NECESSARY BECAUSE THE RESPONDENT OTHERWISE POSES AN IMMINENT RISK TO PUBLIC SAFETY AND STATES THE REASONS FOR SUCH DETERMINATION IN THE CHILD'S RECORD; OR

(B) SUCH EVENTS APPEAR TO INVOLVE ALLEGATIONS THAT THE CHILD COMMITTED ACTS THAT WOULD CONSTITUTE A FELONY IF COMMITTED BY AN ADULT IF:

(I) THE ALLEGED ACTS DID NOT RESULT IN ANY PHYSICAL INJURY AS DEFINED IN SUBDIVISION NINE OF SECTION 10.00 OF THE PENAL LAW TO ANOTHER PERSON;

(II) THE CHILD DOES NOT HAVE ANY PRIOR ADJUDICATIONS FOR AN ACT THAT WOULD CONSTITUTE A FELONY IF COMMITTED BY AN ADULT;

(III) THE CHILD HAS NO MORE THAN ONE PRIOR ADJUDICATION FOR AN ACT THAT WOULD CONSTITUTE A MISDEMEANOR IF COMMITTED BY AN ADULT AND THAT ACT ALSO DID NOT RESULT IN ANY PHYSICAL INJURY TO ANOTHER PERSON; AND

(IV) THE CHILD WAS ASSESSED AT A LOW RISK ON THE APPLICABLE DETENTION RISK ASSESSMENT INSTRUMENT APPROVED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES UNLESS THE AGENCY DETERMINES THAT DETENTION IS NECESSARY BECAUSE THE RESPONDENT OTHERWISE POSES AN IMMINENT RISK TO PUBLIC SAFETY AND STATES THE REASONS FOR SUCH DETERMINATION IN THE CHILD'S RECORD.

3. If a child is released under this section, the child and the person legally responsible for his OR HER care shall be issued a family court appearance ticket in accordance with section 307.1.

4. If the agency for any reason does not release a child under this section, such child shall be brought before the appropriate family court, OR WHEN SUCH FAMILY COURT IS NOT IN SESSION, TO THE MOST ACCESSIBLE MAGISTRATE, IF ANY, DESIGNATED BY THE APPELLATE DIVISION OF THE SUPREME COURT IN THE APPLICABLE DEPARTMENT; PROVIDED, HOWEVER, THAT IF SUCH FAMILY COURT IS NOT IN SESSION AND IF A MAGISTRATE IS NOT AVAILABLE, SUCH YOUTH SHALL BE BROUGHT BEFORE SUCH FAMILY COURT within seventy-two hours or the next day the court is in session, whichever is sooner. Such agency shall thereupon file an application for an order pursuant to section 307.4 and shall forthwith serve a copy of the application upon the appropriate presentment agency. Nothing in this subdivision shall preclude the adjustment of suitable cases pursuant to section 308.1.

S 14. Intentionally omitted.

S 15. Section 308.1 of the family court act, as added by chapter 920 of the laws of 1982, subdivision 2 as amended by section 3 of part V of chapter 55 of the laws of 2012, subdivision 4 as amended by chapter 264 of the laws of 2003, subdivisions 5 and 8 as amended by chapter 398 of the laws of 1983, and subdivision 6 as amended by chapter 663 of the laws of 1985, is amended to read as follows:

S 308.1. [Rules of court for preliminary] PRELIMINARY procedure; ADJUSTMENT OF CASES. 1. [Rules of court shall authorize and determine the circumstances under which the] THE probation service may confer with any person seeking to have a juvenile delinquency petition filed, the potential respondent and other interested persons concerning the advisability of requesting that a petition be filed IN ACCORDANCE WITH THIS SECTION.

1 2. (A) Except as provided in subdivisions three [and], four, AND THIR-  
2 TEEN of this section, the probation service [may, in accordance with  
3 rules of court,] SHALL ATTEMPT TO adjust [suitable cases] A CASE before  
4 a petition is filed. SUCH ATTEMPTS MAY INCLUDE THE USE OF A JUVENILE  
5 REVIEW BOARD COMPRISED OF APPROPRIATE COMMUNITY MEMBERS TO WORK WITH THE  
6 CHILD AND HIS OR HER FAMILY ON DEVELOPING RECOMMENDED ADJUSTMENT ACTIV-  
7 ITIES. THE PROBATION SERVICE MAY STOP ATTEMPTING TO ADJUST SUCH A CASE  
8 IF IT DETERMINES THAT THERE IS NO SUBSTANTIAL LIKELIHOOD THAT THE CHILD  
9 WILL BENEFIT FROM ATTEMPTS AT ADJUSTMENT IN THE TIME REMAINING FOR  
10 ADJUSTMENT OR THE TIME FOR ADJUSTMENT HAS EXPIRED.

11 (B) The inability of the respondent or his or her family to make  
12 restitution shall not be a factor in a decision to adjust a case or in a  
13 recommendation to the presentment agency pursuant to subdivision six of  
14 this section.

15 (C) Nothing in this section shall prohibit the probation service or  
16 the court from directing a respondent to obtain employment and to make  
17 restitution from the earnings from such employment. Nothing in this  
18 section shall prohibit the probation service or the court from directing  
19 an eligible person to complete an education reform program in accordance  
20 with section four hundred fifty-eight-1 of the social services law.

21 3. The probation service shall not ATTEMPT TO adjust a case THAT  
22 COMMENCED IN FAMILY COURT in which the child has allegedly committed a  
23 designated felony act THAT INVOLVES ALLEGATIONS THAT THE CHILD CAUSED  
24 PHYSICAL INJURY TO A PERSON unless [it] THE PROBATION SERVICE has  
25 received the written approval of the court.

26 4. The probation service shall not ATTEMPT TO adjust a case in which  
27 the child has allegedly committed a delinquent act which would be a  
28 crime defined in section 120.25, (reckless endangerment in the first  
29 degree), subdivision one of section 125.15, (manslaughter in the second  
30 degree), subdivision one of section 130.25, (rape in the third degree),  
31 subdivision one of section 130.40, (criminal sexual act in the third  
32 degree), subdivision one or two of section 130.65, (sexual abuse in the  
33 first degree), section 135.65, (coercion in the first degree), section  
34 140.20, (burglary in the third degree), section 150.10, (arson in the  
35 third degree), section 160.05, (robbery in the third degree), subdivi-  
36 sion two[, ] OR three [or four] of section 265.02, (criminal possession  
37 of a weapon in the third degree), section 265.03, (criminal possession  
38 of a weapon in the second degree), or section 265.04, (criminal  
39 possession of a [dangerous] weapon in the first degree) of the penal law  
40 where the child has previously had one or more adjustments of a case in  
41 which such child allegedly committed an act which would be a crime spec-  
42 ified in this subdivision unless it has received written approval from  
43 the court and the appropriate presentment agency.

44 5. The fact that a child is detained prior to the filing of a petition  
45 shall not preclude the probation service from adjusting a case; upon  
46 adjusting such a case the probation service shall notify the detention  
47 facility to release the child.

48 6. The probation service shall not transmit or otherwise communicate  
49 to the presentment agency any statement made by the child to a probation  
50 officer. However, the probation service may make a recommendation  
51 regarding adjustment of the case to the presentment agency and provide  
52 such information, including any report made by the arresting officer and  
53 record of previous adjustments and arrests, as it shall deem relevant.

54 7. No statement made to the probation service prior to the filing of a  
55 petition may be admitted into evidence at a fact-finding hearing or, if



1 the proceeding is transferred to a criminal court, at any time prior to  
2 a conviction.

3 8. The probation service may not prevent any person who wishes to  
4 request that a petition be filed from having access to the appropriate  
5 presentment agency for that purpose.

6 9. Efforts at adjustment [pursuant to rules of court] under this  
7 section may not extend for a period of more than two months [without],  
8 OR, FOR A PERIOD OF MORE THAN FOUR MONTHS IF THE PROBATION SERVICE  
9 DETERMINES THAT ADJUSTMENT BEYOND THE FIRST TWO MONTHS IS WARRANTED  
10 BECAUSE DOCUMENTED BARRIERS TO ADJUSTMENT EXIST OR CHANGES NEED TO BE  
11 MADE TO THE CHILD'S SERVICES PLAN, EXCEPT UPON leave of the court, which  
12 may extend the ADJUSTMENT period for an additional two months.

13 10. If a case is not adjusted by the probation service, such service  
14 shall notify the appropriate presentment agency of that fact within  
15 forty-eight hours or the next court day, whichever occurs later.

16 11. The probation service may not be authorized under this section to  
17 compel any person to appear at any conference, produce any papers, or  
18 visit any place.

19 12. The probation service shall certify to the division of criminal  
20 justice services and to the appropriate police department or law  
21 enforcement agency whenever it adjusts a case in which the potential  
22 respondent's fingerprints were taken pursuant to section 306.1 in any  
23 manner other than the filing of a petition for juvenile delinquency for  
24 an act which, if committed by an adult, would constitute a felony,  
25 provided, however, in the case of a child [eleven or] twelve years of  
26 age, such certification shall be made only if the act would constitute a  
27 class A or B felony, OR, IN THE CASE OF A CHILD ELEVEN YEARS OF AGE,  
28 SUCH CERTIFICATION SHALL BE MADE ONLY IF THE ACT WOULD CONSTITUTE A  
29 CLASS A-1 FELONY.

30 13. The [provisions of this section] PROBATION SERVICE shall not  
31 [apply] ATTEMPT TO ADJUST A CASE where the petition is an order of  
32 removal to the family court pursuant to article seven hundred twenty-  
33 five of the criminal procedure law UNLESS IT HAS RECEIVED THE WRITTEN  
34 APPROVAL OF THE COURT.

35 14. WHERE WRITTEN APPROVAL IS REQUIRED PRIOR TO ADJUSTMENT ATTEMPTS,  
36 THE PROBATION DEPARTMENT SHALL SEEK SUCH APPROVAL.

37 S 16. Paragraph (c) of subdivision 3 of section 311.1 of the family  
38 court act, as added by chapter 920 of the laws of 1982, is amended to  
39 read as follows:

40 (c) the fact that the respondent is a person [under sixteen years of]  
41 OF THE NECESSARY age TO BE A JUVENILE DELINQUENT at the time of the  
42 alleged act or acts;

43 S 17. Subdivision 1 of section 320.5 of the family court act, as added  
44 by chapter 920 of the laws of 1982, is amended to read as follows:

45 1. At the initial appearance, the court in its discretion may (A)  
46 release the respondent or (B) direct his detention.

47 S 18. Subdivision 3 of section 320.5 of the family court act is  
48 amended by adding a new paragraph (a-1) to read as follows:

49 (A-1) NOTWITHSTANDING PARAGRAPH (A) OF THIS SUBDIVISION, THE COURT  
50 SHALL NOT DIRECT DETENTION IF:

51 (I) SUCH EVENTS APPEAR TO INVOLVE ONLY ALLEGATIONS THAT THE CHILD  
52 COMMITTED ACTS THAT WOULD CONSTITUTE MORE THAN A VIOLATION BUT NO MORE  
53 THAN A MISDEMEANOR IF COMMITTED BY AN ADULT IF:

54 (1) THE ALLEGED ACTS DID NOT RESULT IN ANY PHYSICAL INJURY AS DEFINED  
55 IN SUBDIVISION NINE OF SECTION 10.00 OF THE PENAL LAW TO ANOTHER PERSON;  
56 AND

(2) THE CHILD WAS ASSESSED AT A LOW RISK ON THE APPLICABLE DETENTION RISK ASSESSMENT INSTRUMENT APPROVED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES UNLESS THE AGENCY DETERMINES THAT DETENTION IS NECESSARY BECAUSE THE RESPONDENT OTHERWISE POSES AN IMMINENT RISK TO PUBLIC SAFETY AND STATES THE REASONS FOR SUCH DETERMINATION IN THE CHILD'S RECORD; OR

(II) SUCH EVENTS APPEAR TO INVOLVE ALLEGATIONS THAT THE CHILD COMMITTED ACTS THAT WOULD CONSTITUTE A FELONY IF COMMITTED BY AN ADULT IF:

(1) THE ALLEGED ACTS DID NOT RESULT IN ANY PHYSICAL INJURY AS DEFINED IN SUBDIVISION NINE OF SECTION 10.00 OF THE PENAL LAW TO ANOTHER PERSON;

(2) THE CHILD DOES NOT HAVE ANY PRIOR ADJUDICATIONS FOR AN ACT THAT WOULD CONSTITUTE A FELONY IF COMMITTED BY AN ADULT;

(3) THE CHILD HAS NO MORE THAN ONE PRIOR ADJUDICATION FOR AN ACT THAT WOULD CONSTITUTE A MISDEMEANOR IF COMMITTED BY AN ADULT AND THAT ACT ALSO DID NOT RESULT IN ANY PHYSICAL INJURY TO ANOTHER PERSON; AND

(4) THE CHILD WAS ASSESSED AT A LOW RISK ON THE APPLICABLE DETENTION RISK ASSESSMENT INSTRUMENT APPROVED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES UNLESS THE AGENCY DETERMINES THAT DETENTION IS NECESSARY BECAUSE THE RESPONDENT OTHERWISE POSES AN IMMINENT RISK TO PUBLIC SAFETY AND STATES THE REASONS FOR SUCH DETERMINATION IN THE CHILD'S RECORD.

S 19. Subdivision 5 of section 322.2 of the family court act, as added by chapter 920 of the laws of 1982, paragraphs (a) and (d) as amended by chapter 41 of the laws of 2010, is amended to read as follows:

5. (a) If the court finds that there is probable cause to believe that the respondent committed a felony, it shall order the respondent committed to the custody of the commissioner of mental health or the commissioner of [mental retardation and] THE OFFICE FOR PEOPLE WITH developmental disabilities for an initial period not to exceed one year from the date of such order. Such period may be extended annually upon further application to the court by the commissioner having custody or his or her designee. Such application must be made not more than sixty days prior to the expiration of such period on forms that have been prescribed by the chief administrator of the courts. At that time, the commissioner must give written notice of the application to the respondent, the counsel representing the respondent and the mental hygiene legal service if the respondent is at a residential facility. Upon receipt of such application, the court must conduct a hearing to determine the issue of capacity. If, at the conclusion of a hearing conducted pursuant to this subdivision, the court finds that the respondent is no longer incapacitated, he or she shall be returned to the family court for further proceedings pursuant to this article. If the court is satisfied that the respondent continues to be incapacitated, the court shall authorize continued custody of the respondent by the commissioner for a period not to exceed one year. Such extensions shall not continue beyond a reasonable period of time necessary to determine whether the respondent will attain the capacity to proceed to a fact finding hearing in the foreseeable future but in no event shall continue beyond the respondent's eighteenth birthday OR, IF THE RESPONDENT WAS AT LEAST SIXTEEN YEARS OF AGE WHEN THE ACT WAS COMMITTED, BEYOND THE RESPONDENT'S TWENTY-FIRST BIRTHDAY.

(b) If a respondent is in the custody of the commissioner upon the respondent's eighteenth birthday, OR IF THE RESPONDENT WAS AT LEAST SIXTEEN YEARS OF AGE WHEN THE ACT RESULTING IN THE RESPONDENT'S PLACEMENT WAS COMMITTED, BEYOND THE RESPONDENT'S TWENTY-FIRST BIRTHDAY, the commissioner shall notify the clerk of the court that the respondent was in his custody on such date and the court shall dismiss the petition.

1 (c) If the court finds that there is probable cause to believe that  
2 the respondent has committed a designated felony act, the court shall  
3 require that treatment be provided in a residential facility within the  
4 appropriate office of the department of mental hygiene.

5 (d) The commissioner shall review the condition of the respondent  
6 within forty-five days after the respondent is committed to the custody  
7 of the commissioner. He or she shall make a second review within ninety  
8 days after the respondent is committed to his or her custody. Thereaft-  
9 er, he or she shall review the condition of the respondent every ninety  
10 days. The respondent and the counsel for the respondent, shall be noti-  
11 fied of any such review and afforded an opportunity to be heard. The  
12 commissioner having custody shall apply to the court for an order  
13 dismissing the petition whenever he or she determines that there is a  
14 substantial probability that the respondent will continue to be incapac-  
15 itated for the foreseeable future. At the time of such application the  
16 commissioner must give written notice of the application to the respond-  
17 ent, the presentment agency and the mental hygiene legal service if the  
18 respondent is at a residential facility. Upon receipt of such applica-  
19 tion, the court may on its own motion conduct a hearing to determine  
20 whether there is substantial probability that the respondent will  
21 continue to be incapacitated for the foreseeable future, and it must  
22 conduct such hearing if a demand therefor is made by the respondent or  
23 the mental hygiene legal service within ten days from the date that  
24 notice of the application was given to them. The respondent may apply to  
25 the court for an order of dismissal on the same ground.

26 S 20. Subdivisions 1 and 5 of section 325.1 of the family court act,  
27 subdivision 1 as amended by chapter 398 of the laws of 1983, subdivision  
28 5 as added by chapter 920 of the laws of 1982, are amended to read as  
29 follows:

30 1. At the initial appearance, if the respondent denies a charge  
31 contained in the petition and the court determines IN ACCORDANCE WITH  
32 THE REQUIREMENTS OF SECTION 320.5 OF THIS PART that [he] THE RESPONDENT  
33 shall be detained for more than three days pending a fact-finding hear-  
34 ing, the court shall schedule a probable-cause hearing to determine the  
35 issues specified in section 325.3 OF THIS PART.

36 5. Where the petition consists of an order of removal pursuant to  
37 article seven hundred twenty-five of the criminal procedure law, unless  
38 the removal was pursuant to subdivision three of section 725.05 of such  
39 law and the respondent was not afforded a probable cause hearing [pursu-  
40 ant to subdivision three of section 180.75 of such law for a reason  
41 other than his waiver thereof pursuant to subdivision two of section  
42 180.75 of such law], the petition shall be deemed to be based upon a  
43 determination that probable cause exists to believe the respondent is a  
44 juvenile delinquent and the respondent shall not be entitled to any  
45 further inquiry on the subject of whether probable cause exists. After  
46 the filing of any such petition the court must, however, exercise inde-  
47 pendent, de novo discretion with respect to release or detention as set  
48 forth in section 320.5.

49 S 21. Subdivisions 1 and 2 of section 340.2 of the family court act,  
50 as added by chapter 920 of the laws of 1982, are amended to read as  
51 follows:

52 1. [The] EXCEPT WHEN AUTHORIZED IN ACCORDANCE WITH SECTION 346.1 OF  
53 THIS PART INVOLVING A CASE REMOVED TO FAMILY COURT PURSUANT TO ARTICLE  
54 SEVEN HUNDRED TWENTY-FIVE OF THE CRIMINAL PROCEDURE LAW, THE judge who  
55 presides at the commencement of the fact-finding hearing shall continue

1 to preside until such hearing is concluded and an order entered pursuant  
2 to section 345.1 OF THIS PART unless a mistrial is declared.

3 2. The judge who presides at the fact-finding hearing or accepts an  
4 admission pursuant to section 321.3 OF THIS ARTICLE shall preside at any  
5 other subsequent hearing in the proceeding, including but not limited to  
6 the dispositional hearing EXCEPT WHERE THE CASE IS REMOVED TO FAMILY  
7 COURT PURSUANT TO ARTICLE SEVEN HUNDRED TWENTY-FIVE OF THE CRIMINAL  
8 PROCEDURE LAW AFTER A FACT-FINDING HEARING HAS OCCURRED.

9 S 21-a. Subdivision 2 of section 351.1 of the family court act, as  
10 amended by chapter 880 of the laws of 1985, is amended to read as  
11 follows:

12 2. Following a determination that a respondent committed a crime and  
13 prior to the dispositional hearing, the court shall order a probation  
14 investigation, A RISK AND NEEDS ASSESSMENT, and may order a diagnostic  
15 assessment. BASED UPON THE ASSESSMENT FINDINGS, THE PROBATION DEPARTMENT  
16 SHALL RECOMMEND TO THE COURT THAT THE RESPONDENT PARTICIPATE IN ANY  
17 SERVICES NECESSARY TO MITIGATE IDENTIFIED RISKS AND ADDRESS INDIVIDUAL  
18 NEEDS.

19 S 22. Paragraph (a) of subdivision 2 of section 352.2 of the family  
20 court act, as amended by chapter 880 of the laws of 1985, is amended to  
21 read as follows:

22 (a) In determining an appropriate order the court shall consider the  
23 needs and best interests of the respondent as well as the need for  
24 protection of the community. If the respondent has committed a desig-  
25 nated felony act the court shall determine the appropriate disposition  
26 in accord with section 353.5. In all other cases the court shall order  
27 the least restrictive available alternative enumerated in subdivision  
28 one OF THIS SECTION which is consistent with the needs and best inter-  
29 ests of the respondent and the need for protection of the community;  
30 PROVIDED, HOWEVER, THAT THE COURT SHALL NOT DIRECT THE PLACEMENT OF A  
31 RESPONDENT WITH A COMMISSIONER OF SOCIAL SERVICES OR THE OFFICE OF CHIL-  
32 DREN AND FAMILY SERVICES IF:

33 (I) SUCH EVENTS APPEAR TO INVOLVE ONLY ALLEGATIONS THAT THE CHILD  
34 COMMITTED ACTS THAT WOULD CONSTITUTE MORE THAN A VIOLATION BUT NO MORE  
35 THAN A MISDEMEANOR IF COMMITTED BY AN ADULT IF:

36 (1) THE ALLEGED ACTS DID NOT RESULT IN ANY PHYSICAL INJURY AS DEFINED  
37 IN SUBDIVISION NINE OF SECTION 10.00 OF THE PENAL LAW TO ANOTHER PERSON;  
38 AND

39 (2) THE CHILD WAS ASSESSED AT A LOW RISK ON THE APPLICABLE DETENTION  
40 RISK ASSESSMENT INSTRUMENT APPROVED BY THE OFFICE OF CHILDREN AND FAMILY  
41 SERVICES UNLESS THE AGENCY DETERMINES THAT DETENTION IS NECESSARY  
42 BECAUSE THE RESPONDENT OTHERWISE POSES AN IMMINENT RISK TO PUBLIC SAFETY  
43 AND STATES THE REASONS FOR SUCH DETERMINATION IN THE CHILD'S RECORD; OR

44 (II) SUCH EVENTS APPEAR TO INVOLVE ALLEGATIONS THAT THE CHILD COMMIT-  
45 TED ACTS THAT WOULD CONSTITUTE A FELONY IF COMMITTED BY AN ADULT IF:

46 (1) THE ALLEGED ACTS DID NOT RESULT IN ANY PHYSICAL INJURY AS DEFINED  
47 IN SUBDIVISION NINE OF SECTION 10.00 OF THE PENAL LAW TO ANOTHER PERSON;

48 (2) THE CHILD DOES NOT HAVE ANY PRIOR ADJUDICATIONS FOR AN ACT THAT  
49 WOULD CONSTITUTE A FELONY IF COMMITTED BY AN ADULT;

50 (3) THE CHILD HAS NO MORE THAN ONE PRIOR ADJUDICATION FOR AN ACT THAT  
51 WOULD CONSTITUTE A MISDEMEANOR IF COMMITTED BY AN ADULT AND THAT ACT  
52 ALSO DID NOT RESULT IN ANY PHYSICAL INJURY TO ANOTHER PERSON; AND

53 (4) THE CHILD WAS ASSESSED AT A LOW RISK ON THE APPLICABLE DETENTION  
54 RISK ASSESSMENT INSTRUMENT APPROVED BY THE OFFICE OF CHILDREN AND FAMILY  
55 SERVICES UNLESS THE AGENCY DETERMINES THAT DETENTION IS NECESSARY

1 BECAUSE THE RESPONDENT OTHERWISE POSES AN IMMINENT RISK TO PUBLIC SAFETY  
2 AND STATES THE REASONS FOR SUCH DETERMINATION IN THE CHILD'S RECORD.

3 S 22-a. Section 352.2 of the family court act is amended by adding a  
4 new subdivision 4 to read as follows:

5 4. WHERE A YOUTH RECEIVES A JUVENILE DELINQUENCY ADJUDICATION FOR  
6 CONDUCT COMMITTED WHEN THE YOUTH WAS AGE SIXTEEN OR OLDER THAT WOULD  
7 CONSTITUTE A CRIME UNDER THE VEHICLE AND TRAFFIC LAW, OR A VIOLATION OF  
8 PARAGRAPH (A) OF SUBDIVISION TWO OF SECTION SIXTY-FIVE-B OF THE ALCOHOL-  
9 IC BEVERAGE CONTROL LAW, THE COURT SHALL NOTIFY THE COMMISSIONER OF  
10 MOTOR VEHICLES OF SUCH ADJUDICATION. WHERE A YOUTH RECEIVES A JUVENILE  
11 DELINQUENCY ADJUDICATION FOR CONDUCT THAT WOULD CONSTITUTE A VIOLATION  
12 OF ANY OTHER PROVISION OF LAW WHICH ALLOWS FOR THE IMPOSITION OF A  
13 LICENSE AND REGISTRATION SANCTION, THE COURT SHALL NOTIFY THE COMMIS-  
14 SIONER OF MOTOR VEHICLES OF SUCH ADJUDICATION. THE COURT SHALL HAVE THE  
15 POWER TO IMPOSE ANY SUSPENSION OR REVOCATION OF DRIVING PRIVILEGES,  
16 IGNITION INTERLOCK DEVICES, ANY DRUG OR ALCOHOL REHABILITATION PROGRAM,  
17 VICTIM IMPACT PROGRAM, DRIVER RESPONSIBILITY ASSESSMENT, VICTIM ASSIST-  
18 ANCE FEE, AND SURCHARGE AS IS OTHERWISE REQUIRED UPON A CONVICTION OF A  
19 CRIME UNDER THE VEHICLE AND TRAFFIC LAW, OR AN OFFENSE FOR WHICH A  
20 LICENSE SANCTION IS REQUIRED, AND, FURTHER, SHALL NOTIFY THE COMMISSION-  
21 ER OF MOTOR VEHICLES OF SAID SUSPENSION OR REVOCATION.

22 S 23. Paragraph (a) of subdivision 1 and paragraphs (f) and (h) of  
23 subdivision 2 of section 353.2 of the family court act, paragraph (a) of  
24 subdivision 1 as added by chapter 920 of the laws of 1982, paragraphs  
25 (f) and (h) of subdivision 2 as amended by chapter 124 of the laws of  
26 1993, are amended to read as follows:

27 (a) placement of respondent is not or may not be necessary OR ALLOW-  
28 ABLE;

29 (f) make restitution or perform services for the public good pursuant  
30 to section 353.6, provided the respondent is over [ten] TWELVE years of  
31 age;

32 (h) comply with such other reasonable conditions as the court shall  
33 determine to be necessary or appropriate to ameliorate the conduct which  
34 gave rise to the filing of the petition or to prevent placement with the  
35 commissioner of social services or the [division for youth] OFFICE OF  
36 CHILDREN AND FAMILY SERVICES.

37 S 23-a. Paragraph (e) of subdivision 2 of section 353.2 of the family  
38 court act, as amended by chapter 124 of the laws of 1993, is amended to  
39 read as follows:

40 (e) co-operate with a mental health, social services or other appro-  
41 priate community facility or agency to which the respondent is referred,  
42 INCLUDING A FAMILY SUPPORT CENTER PURSUANT TO TITLE TWELVE OF ARTICLE  
43 SIX OF THE SOCIAL SERVICES LAW;

44 S 23-b. Subdivision 3 of section 353.2 of the family court act, as  
45 added by chapter 920 of the laws of 1982, paragraph (f) as amended by  
46 chapter 465 of the laws of 1992, is amended to read as follows:

47 3. When ordering a period of probation, the court may, as a condition  
48 of such order, further require that the respondent:

49 (a) meet with a probation officer when directed to do so by that offi-  
50 cer and permit the officer to visit the respondent at home or elsewhere;

51 (b) permit the probation officer to obtain information from any person  
52 or agency from whom respondent is receiving or was directed to receive  
53 diagnosis, treatment or counseling;

54 (c) permit the probation officer to obtain information from the  
55 respondent's school;

1 (d) co-operate with the probation officer in seeking to obtain and in  
2 accepting employment, and supply records and reports of earnings to the  
3 officer when requested to do so; AND

4 (e) obtain permission from the probation officer for any absence from  
5 respondent's residence in excess of two weeks[; and

6 (f) with the consent of the division for youth, spend a specified  
7 portion of the probation period, not exceeding one year, in a non-secure  
8 facility provided by the division for youth pursuant to article nine-  
9 teen-G of the executive law].

10 S 24. Subparagraph (iii) of paragraph (a) and paragraph (d) of subdi-  
11 vision 4 of section 353.5 of the family court act, as amended by section  
12 6 of subpart A of part G of chapter 57 of the laws of 2012, is amended  
13 to read as follows:

14 (iii) after the period set under subparagraph (ii) of this paragraph,  
15 the respondent shall be placed in a residential facility for a period of  
16 twelve months; provided, however, that if the respondent has been placed  
17 from a family court in a social services district operating an approved  
18 juvenile justice services close to home initiative pursuant to section  
19 four hundred four of the social services law FOR AN ACT COMMITTED WHEN  
20 THE RESPONDENT WAS UNDER SIXTEEN YEARS OF AGE, once the time frames in  
21 subparagraph (ii) of this paragraph are met:

22 (d) Upon the expiration of the initial period of placement, or any  
23 extension thereof, the placement may be extended in accordance with  
24 section 355.3 on a petition of any party or the office of children and  
25 family services, or, if applicable, a social services district operating  
26 an approved juvenile justice services close to home initiative pursuant  
27 to section four hundred four of the social services law, after a dispo-  
28 sitional hearing, for an additional period not to exceed twelve months,  
29 but no initial placement or extension of placement under this section  
30 may continue beyond the respondent's twenty-first birthday, OR, FOR AN  
31 ACT THAT WAS COMMITTED WHEN THE RESPONDENT WAS SIXTEEN YEARS OF AGE OR  
32 OLDER, THE RESPONDENT'S TWENTY-THIRD BIRTHDAY.

33 S 25. Paragraph (d) of subdivision 4 of section 353.5 of the family  
34 court act, as amended by chapter 398 of the laws of 1983, is amended to  
35 read as follows:

36 (d) Upon the expiration of the initial period of placement, or any  
37 extension thereof, the placement may be extended in accordance with  
38 section 355.3 on a petition of any party or the [division for youth]  
39 OFFICE OF CHILDREN AND FAMILY SERVICES after a dispositional hearing,  
40 for an additional period not to exceed twelve months, but no initial  
41 placement or extension of placement under this section may continue  
42 beyond the respondent's twenty-first birthday, OR, FOR AN ACT THAT WAS  
43 COMMITTED WHEN THE RESPONDENT WAS SIXTEEN YEARS OF AGE OR OLDER, THE  
44 RESPONDENT'S TWENTY-THIRD BIRTHDAY.

45 S 26. The opening paragraph of subdivision 1 of section 353.6 of the  
46 family court act, as amended by chapter 877 of the laws of 1983, is  
47 amended to read as follows:

48 At the conclusion of the dispositional hearing in cases involving  
49 respondents over [ten] TWELVE years of age the court may:

50 S 27. Section 354.1 of the family court act, as added by chapter 920  
51 of the laws of 1982, subdivisions 2, 6, and 7 as amended by chapter 645  
52 of the laws of 1996, subdivisions 4 and 5 as amended by chapter 398 of  
53 the laws of 1983, is amended to read as follows:

54 S 354.1. Retention and destruction of fingerprints of persons alleged  
55 to be juvenile delinquents. 1. If a person whose fingerprints, palm-  
56 prints or photographs were taken pursuant to section 306.1 or was

1 initially fingerprinted as a juvenile offender and the action is subse-  
2 quently removed to a family court pursuant to article seven hundred  
3 twenty-five of the criminal procedure law is adjudicated to be a juve-  
4 nile delinquent for a felony, the family court shall forward or cause to  
5 be forwarded to the division of criminal justice services notification  
6 of such adjudication and such related information as may be required by  
7 such division, provided, however, in the case of a person eleven [or  
8 twelve] years of age such notification shall be provided only if the act  
9 upon which the adjudication is based would constitute a class [A or B]  
10 A-1 felony OR, IN THE CASE OF A PERSON TWELVE YEARS OF AGE, SUCH NOTIFI-  
11 CATION SHALL BE PROVIDED ONLY IF THE ACT UPON WHICH THE ADJUDICATION IS  
12 BASED WOULD CONSTITUTE A CLASS A OR B FELONY.

13 2. If a person whose fingerprints, palmprints or photographs were  
14 taken pursuant to section 306.1 or was initially fingerprinted as a  
15 juvenile offender and the action is subsequently removed to family court  
16 pursuant to article seven hundred twenty-five of the criminal procedure  
17 law has had all petitions disposed of by the family court in any manner  
18 other than an adjudication of juvenile delinquency for a felony, but in  
19 the case of acts committed when such person was eleven [or twelve] years  
20 of age which would constitute a class [A or B] A-1 felony only, OR, IN  
21 THE CASE OF ACTS COMMITTED WHEN SUCH PERSON WAS TWELVE YEARS OF AGE  
22 WHICH WOULD CONSTITUTE A CLASS A OR B FELONY ONLY, all such finger-  
23 prints, palmprints, photographs, and copies thereof, and all information  
24 relating to such allegations obtained by the division of criminal  
25 justice services pursuant to section 306.1 shall be destroyed forthwith.  
26 The clerk of the court shall notify the commissioner of the division of  
27 criminal justice services and the heads of all police departments and  
28 law enforcement agencies having copies of such records, who shall  
29 destroy such records without unnecessary delay.

30 3. If the appropriate presentment agency does not originate a proceed-  
31 ing under section 310.1 for a case in which the potential respondent's  
32 fingerprints were taken pursuant to section 306.1, the presentment agen-  
33 cy shall serve a certification of such action upon the division of crim-  
34 inal justice services, and upon the appropriate police department or law  
35 enforcement agency.

36 4. If, following the taking into custody of a person alleged to be a  
37 juvenile delinquent and the taking and forwarding to the division of  
38 criminal justice services of such person's fingerprints but prior to  
39 referral to the probation department or to the family court, an officer  
40 or agency, elects not to proceed further, such officer or agency shall  
41 serve a certification of such election upon the division of criminal  
42 justice services.

43 5. Upon certification pursuant to subdivision twelve of section 308.1  
44 or subdivision three or four of this section, the department or agency  
45 shall destroy forthwith all fingerprints, palmprints, photographs, and  
46 copies thereof, and all other information obtained in the case pursuant  
47 to section 306.1. Upon receipt of such certification, the division of  
48 criminal justice services and all police departments and law enforcement  
49 agencies having copies of such records shall destroy them.

50 6. If a person fingerprinted pursuant to section 306.1 and subsequent-  
51 ly adjudicated a juvenile delinquent for a felony, but in the case of  
52 acts committed when such a person was eleven [or twelve] years of age  
53 which would constitute a class [A or B] A-1 felony only, OR, IN THE CASE  
54 OF ACTS COMMITTED WHEN SUCH A PERSON WAS TWELVE YEARS OF AGE WHICH WOULD  
55 CONSTITUTE A CLASS A OR B FELONY ONLY, is subsequently convicted of a  
56 crime, all fingerprints and related information obtained by the division

1 of criminal justice services pursuant to such section and not destroyed  
2 pursuant to subdivisions two, five and seven or subdivision twelve of  
3 section 308.1 shall become part of such division's permanent adult crim-  
4 inal record for that person, notwithstanding section 381.2 or 381.3.

5 7. When a person fingerprinted pursuant to section 306.1 and subse-  
6 quently adjudicated a juvenile delinquent for a felony, but in the case  
7 of acts committed when such person was eleven [or twelve] years of age  
8 which would constitute a class [A or B] A-1 felony only, OR, IN THE CASE  
9 OF ACTS COMMITTED WHEN SUCH A PERSON WAS TWELVE YEARS OF AGE WHICH WOULD  
10 CONSTITUTE A CLASS A OR B FELONY ONLY, reaches the age of twenty-one, or  
11 has been discharged from placement under this act for at least three  
12 years, whichever occurs later, and has no criminal convictions or pend-  
13 ing criminal actions which ultimately terminate in a criminal  
14 conviction, all fingerprints, palmprints, photographs, and related  
15 information and copies thereof obtained pursuant to section 306.1 in the  
16 possession of the division of criminal justice services, any police  
17 department, law enforcement agency or any other agency shall be  
18 destroyed forthwith. The division of criminal justice services shall  
19 notify the agency or agencies which forwarded fingerprints to such divi-  
20 sion pursuant to section 306.1 of their obligation to destroy those  
21 records in their possession. In the case of a pending criminal action  
22 which does not terminate in a criminal conviction, such records shall be  
23 destroyed forthwith upon such determination.

24 S 28. Subdivisions 1 and 6 of section 355.3 of the family court act,  
25 subdivision 1 as amended by chapter 398 of the laws of 1983, subdivision  
26 6 as amended by chapter 663 of the laws of 1985, are amended to read as  
27 follows:

28 1. In any case in which the respondent has been placed pursuant to  
29 section 353.3 the respondent, the person with whom the respondent has  
30 been placed, the commissioner of social services, or the [division for  
31 youth] OFFICE OF CHILDREN AND FAMILY SERVICES may petition the court to  
32 extend such placement. Such petition shall be filed at least sixty days  
33 prior to the expiration of the period of placement, except for good  
34 cause shown but in no event shall such petition be filed after the  
35 original expiration date.

36 6. Successive extensions of placement under this section may be grant-  
37 ed, but no placement may be made or continued beyond the respondent's  
38 eighteenth birthday without the child's consent FOR ACTS COMMITTED  
39 BEFORE THE RESPONDENT'S SIXTEENTH BIRTHDAY and in no event past the  
40 child's twenty-first birthday EXCEPT AS PROVIDED FOR IN SUBDIVISION FOUR  
41 OF SECTION 353.5.

42 S 29. Subdivision 5 of section 355.4 of the family court act, as added  
43 by chapter 479 of the laws of 1992, is amended to read as follows:

44 5. Nothing in this section shall: REQUIRE THAT CONSENT BE OBTAINED  
45 FROM THE YOUTH'S PARENT OR LEGAL GUARDIAN TO ANY MEDICAL, DENTAL, OR  
46 MENTAL HEALTH SERVICE AND TREATMENT WHEN NO CONSENT IS NECESSARY OR THE  
47 YOUTH IS AUTHORIZED BY LAW TO CONSENT ON HIS OR HER OWN BEHALF; preclude  
48 a youth from consenting on his or her own behalf to any medical, dental  
49 or mental health service and treatment where otherwise authorized by law  
50 to do so[, or the division for youth]; OR PRECLUDE THE OFFICER OF CHIL-  
51 DREN AND FAMILY SERVICES OR A SOCIAL SERVICES DISTRICT from petitioning  
52 the court pursuant to section two hundred thirty-three of this act, as  
53 appropriate.

54 S 30. Paragraph (b) of subdivision 3 of section 355.5 of the family  
55 court act, as amended by chapter 145 of the laws of 2000, is amended to  
56 read as follows:



(b) subsequent permanency hearings shall be held no later than every twelve months following the respondent's initial twelve months in placement BUT IN NO EVENT PAST THE RESPONDENT'S TWENTY-FIRST BIRTHDAY; provided, however, that they shall be held in conjunction with an extension of placement hearing held pursuant to section 355.3 of this [article] PART.

S 31. Subdivisions 2 and 6 of section 360.3 of the family court act, as added by chapter 920 of the laws of 1982, are amended to read as follows:

2. At the time of his OR HER first appearance following the filing of a petition of violation the court must: (a) advise the respondent of the contents of the petition and furnish him OR HER with a copy thereof; (b) determine whether the respondent should be released or detained pursuant to section 320.5, PROVIDED, HOWEVER, THAT NOTHING HEREIN SHALL AUTHORIZE A RESPONDENT TO BE DETAINED FOR A VIOLATION OF A CONDITION THAT WOULD NOT CONSTITUTE A CRIME IF COMMITTED BY AN ADULT UNLESS THE COURT DETERMINES (I) THAT THE RESPONDENT POSES A SPECIFIC IMMINENT THREAT TO PUBLIC SAFETY AND STATES THE REASONS FOR THE FINDING ON THE RECORD OR (II) THE RESPONDENT IS ON PROBATION FOR AN ACT THAT WOULD CONSTITUTE A VIOLENT FELONY AS DEFINED IN SECTION 70.02 OF THE PENAL LAW IF COMMITTED BY AN ADULT AND THE USE OF GRADUATED SANCTIONS HAVE BEEN EXHAUSTED WITHOUT SUCCESS; and (c) ask the respondent whether he OR SHE wishes to make any statement with respect to the violation. If the respondent makes a statement, the court may accept it and base its decision thereon; the provisions of subdivision two of section 321.3 shall apply in determining whether a statement should be accepted. If the court does not accept such statement or if the respondent does not make a statement, the court shall proceed with the hearing. Upon request, the court shall grant a reasonable adjournment to the respondent to enable him OR HER to prepare for the hearing.

6. At the conclusion of the hearing the court may revoke, continue or modify the order of probation or conditional discharge. If the court revokes the order, it shall order a different disposition pursuant to section 352.2, PROVIDED, HOWEVER, THAT NOTHING HEREIN SHALL AUTHORIZE THE PLACEMENT OF A RESPONDENT FOR A VIOLATION OF A CONDITION THAT WOULD NOT CONSTITUTE A CRIME IF COMMITTED BY AN ADULT UNLESS THE COURT DETERMINES (I) THAT THE RESPONDENT POSES A SPECIFIC IMMINENT THREAT TO PUBLIC SAFETY AND STATES THE REASONS FOR THE FINDING ON THE RECORD OR (II) THE RESPONDENT IS ON PROBATION FOR AN ACT THAT WOULD CONSTITUTE A VIOLENT FELONY AS DEFINED IN SECTION 70.02 OF THE PENAL LAW IF COMMITTED BY AN ADULT AND THE USE OF GRADUATED SANCTIONS HAVE BEEN EXHAUSTED WITHOUT SUCCESS. If the court continues the order of probation or conditional discharge, it shall dismiss the petition of violation.

S 32. Intentionally omitted.

S 33. Subdivisions (d) and (i) of section 712 of the family court act, subdivision (d) as amended by chapter 920 of the laws of 1982, and subdivision (i) as amended by chapter 38 of the laws of 2014, are amended and two new subdivisions (d-1) and (n) are added to read as follows:

(d) "Non-secure detention facility". [A facility characterized by the absence of physically restricting construction, hardware and procedures.] A FOSTER CARE PROGRAM CERTIFIED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES OR A CERTIFIED OR APPROVED FAMILY BOARDING HOME, OR IN A CITY HAVING A POPULATION OF FIVE MILLION OR MORE, A FOSTER CARE FACILITY ESTABLISHED AND MAINTAINED PURSUANT TO THE SOCIAL SERVICES LAW.

1 (D-1) "DETENTION FACILITY". A FOSTER CARE PROGRAM CERTIFIED BY THE  
2 OFFICE OF CHILDREN AND FAMILY SERVICES OR A CERTIFIED OR APPROVED FAMILY  
3 BOARDING HOME, OR IN A CITY HAVING A POPULATION OF FIVE MILLION OR MORE,  
4 A FOSTER CARE FACILITY ESTABLISHED AND MAINTAINED PURSUANT TO THE SOCIAL  
5 SERVICES LAW.

6 (i) "Diversion services". Services provided to children and families  
7 pursuant to section seven hundred thirty-five of this article for the  
8 purpose of avoiding the need to file a petition or direct the detention  
9 of the child. Diversion services shall include: efforts to adjust cases  
10 pursuant to this article before a petition is filed, or by order of the  
11 court, [after the petition is filed but before fact-finding is  
12 commenced;] AT ANY TIME; and preventive services provided in accordance  
13 with section four hundred nine-a of the social services law to avert the  
14 placement of the child into foster care, including crisis intervention  
15 and respite services. Diversion services may also include, in cases  
16 where any person is seeking to file a petition that alleges that the  
17 child has a substance use disorder or is in need of immediate detoxifi-  
18 cation or substance use disorder services, an assessment for substance  
19 use disorder; provided, however, that notwithstanding any other  
20 provision of law to the contrary, the designated lead agency shall not  
21 be required to pay for all or any portion of the costs of such assess-  
22 ment or substance use disorder or detoxification services, except in  
23 cases where medical assistance for needy persons may be used to pay for  
24 all or any portion of the costs of such assessment or services.

25 (N) "FAMILY SUPPORT CENTER". A PROGRAM ESTABLISHED PURSUANT TO TITLE  
26 TWELVE ARTICLE SIX OF THE SOCIAL SERVICES LAW.

27 S 34. Section 720 of the family court act, as amended by chapter 419  
28 of the laws of 1987, subdivision 3 as amended by section 9 of subpart B  
29 of part Q of chapter 58 of the laws of 2011, subdivision 5 as amended by  
30 section 3 of part E of chapter 57 of the laws of 2005, and paragraph (c)  
31 of subdivision 5 as added by section 8 of part G of chapter 58 of the  
32 laws of 2010, is amended to read as follows:

33 S 720. Detention. 1. No child to whom the provisions of this article  
34 may apply, shall be detained in any prison, jail, lockup, or other place  
35 used for adults convicted of crime or under arrest and charged with a  
36 crime.

37 2. The detention of a child in a secure detention facility shall not  
38 be directed under any of the provisions of this article.

39 3. Detention of a person alleged to be or adjudicated as a person in  
40 need of supervision shall, except as provided in subdivision four of  
41 this section, be authorized only in a foster care program certified by  
42 the office of children and family services, or a certified or approved  
43 family boarding home, [or a non-secure detention facility certified by  
44 the office] and in accordance with section seven hundred thirty-nine of  
45 this article. The setting of the detention shall take into account (a)  
46 the proximity to the community in which the person alleged to be or  
47 adjudicated as a person in need of supervision lives with such person's  
48 parents or to which such person will be discharged, and (b) the existing  
49 educational setting of such person and the proximity of such setting to  
50 the location of the detention setting.

51 4. Whenever detention is authorized and ordered pursuant to this arti-  
52 cle, for a person alleged to be or adjudicated as a person in need of  
53 supervision, a family court in a city having a population of one million  
54 or more shall, notwithstanding any other provision of law, direct  
55 detention in a foster care facility established and maintained pursuant  
56 to the social services law. In all other respects, the detention of such

1 a person in a foster care facility shall be subject to the identical  
2 terms and conditions for detention as are set forth in this article and  
3 in section two hundred thirty-five of this act.

4 5. (a) The court shall not order or direct detention under this arti-  
5 cle, unless the court determines that there is no substantial likelihood  
6 that the youth and his or her family will continue to benefit from  
7 diversion services, AND THAT CONTINUATION IN THE HOME WOULD NOT BE  
8 APPROPRIATE BECAUSE SUCH CONTINUATION WOULD (A) CONTINUE OR WORSEN THE  
9 CIRCUMSTANCES ALLEGED IN THE UNDERLYING PETITION, OR THAT CREATED THE  
10 NEED FOR A PETITION TO BE SOUGHT OR (B) CREATE A SAFETY RISK TO THE  
11 CHILD OR THE CHILD'S FAMILY and that all OTHER available alternatives to  
12 detention have been exhausted; and

13 (b) [Where the youth is sixteen years of age or older, the court shall  
14 not order or direct detention under this article, unless the court  
15 determines and states in its order that special circumstances exist to  
16 warrant such detention.

17 (c)] If the respondent may be a sexually exploited child as defined in  
18 subdivision one of section four hundred forty-seven-a of the social  
19 services law, the court may direct the respondent to an available short-  
20 term safe house as defined in subdivision two of section four hundred  
21 forty-seven-a of the social services law as an alternative to detention.

22 S 35. Intentionally omitted.

23 S 36. Section 728 of the family court act, subdivision (a) as amended  
24 by chapter 41 of the laws of 2010, subdivision (b) as amended by chapter  
25 419 of the laws of 1987, subdivision (d) as added by chapter 145 of the  
26 laws of 2000, paragraph (i) as added and paragraph (ii) of subdivision  
27 (d) as renumbered by section 5 of part E of chapter 57 of the laws of  
28 2005, and paragraph (iii) as amended and paragraph (iv) of subdivision  
29 (d) as added by section 10 of subpart B of part Q of chapter 58 of the  
30 laws of 2011, is amended to read as follows:

31 S 728. Discharge, release or detention by judge after hearing and  
32 before filing of petition in custody cases. (a) If a child in custody  
33 is brought before a judge of the family court before a petition is  
34 filed, the judge shall hold a hearing for the purpose of making a  
35 preliminary determination of whether the court appears to have jurisdic-  
36 tion over the child. At the commencement of the hearing, the judge shall  
37 advise the child of his or her right to remain silent, his or her right  
38 to be represented by counsel of his or her own choosing, and of the  
39 right to have an attorney assigned in accord with part four of article  
40 two of this act. The judge must also allow the child a reasonable time  
41 to send for his or her parents or other person or persons legally  
42 responsible for his or her care, and for counsel, and adjourn the hear-  
43 ing for that purpose.

44 (b) After hearing, the judge shall order the release of the child to  
45 the custody of his parent or other person legally responsible for his  
46 care if the court does not appear to have jurisdiction.

47 (c) An order of release under this section may, but need not, be  
48 conditioned upon the giving of a recognizance in accord with [sections]  
49 SECTION seven hundred twenty-four (b) (i).

50 (d) Upon a finding of facts and reasons which support a detention  
51 order pursuant to this section, the court shall also determine and state  
52 in any order directing detention:

53 (i) that there is no substantial likelihood that the youth and his or  
54 her family will continue to benefit from diversion services, THAT  
55 CONTINUATION IN THE HOME WOULD NOT BE APPROPRIATE BECAUSE SUCH CONTINUA-  
56 TION WOULD (A) CONTINUE OR WORSEN THE CIRCUMSTANCES ALLEGED IN THE

1 UNDERLYING PETITION, OR THAT CREATED THE NEED FOR A PETITION TO BE  
2 SOUGHT OR (B) CREATE A SAFETY RISK TO THE CHILD OR THE CHILD'S FAMILY  
3 and that all OTHER available alternatives to detention have been  
4 exhausted; and

5 (ii) whether continuation of the child in the child's home would be  
6 contrary to the best interests of the child based upon, and limited to,  
7 the facts and circumstances available to the court at the time of the  
8 hearing held in accordance with this section; and

9 (iii) where appropriate, whether reasonable efforts were made prior to  
10 the date of the court hearing that resulted in the detention order, to  
11 prevent or eliminate the need for removal of the child from his or her  
12 home or, if the child had been removed from his or her home prior to the  
13 court appearance pursuant to this section, where appropriate, whether  
14 reasonable efforts were made to make it possible for the child to safely  
15 return home; and

16 (iv) whether the setting of the detention takes into account the prox-  
17 imity to the community in which the person alleged to be or adjudicated  
18 as a person in need of supervision lives with such person's parents or  
19 to which such person will be discharged, and the existing educational  
20 setting of such person and the proximity of such setting to the location  
21 of the detention setting.

22 S 37. Intentionally omitted.

23 S 38. Section 735 of the family court act, as added by section 7 of  
24 part E of chapter 57 of the laws of 2005, subdivision (b) as amended by  
25 chapter 38 of the laws of 2014, and paragraph (i) of subdivision (d) as  
26 amended by chapter 535 of the laws of 2011, is amended to read as  
27 follows:

28 S 735. Preliminary procedure; diversion services. (a) Each county and  
29 any city having a population of one million or more shall offer diver-  
30 sion services as defined in section seven hundred twelve of this article  
31 to youth who are at risk of being the subject of a person in need of  
32 supervision petition. Such services shall be designed to provide an  
33 immediate response to families in crisis, to identify and utilize appro-  
34 priate alternatives to detention and to divert youth from being the  
35 subject of a petition in family court. Each county and such city shall  
36 designate either the local social services district or the probation  
37 department as lead agency for the purposes of providing diversion  
38 services.

39 (b) The designated lead agency shall:

40 (i) confer with any person seeking to file a petition, the youth who  
41 may be a potential respondent, his or her family, and other interested  
42 persons, concerning the provision of diversion services before any peti-  
43 tion may be filed; and

44 (ii) diligently attempt to prevent the filing of a petition under this  
45 article or, after the petition is filed, to prevent the placement of the  
46 youth into foster care IN ACCORDANCE WITH SECTION SEVEN HUNDRED  
47 FIFTY-SIX OF THIS ARTICLE; and

48 (iii) assess whether the youth would benefit from residential respite  
49 services; and

50 (iv) ASSESS WHETHER THE YOUTH IS A SEXUALLY EXPLOITED CHILD AS DEFINED  
51 IN SECTION FOUR HUNDRED FORTY-SEVEN-A OF THE SOCIAL SERVICES LAW AND, IF  
52 SO, WHETHER SUCH YOUTH SHOULD BE REFERRED TO A SAFE HOUSE; AND

53 (V) determine whether alternatives to detention are appropriate to  
54 avoid remand of the youth to detention;

55 (VI) DETERMINE WHETHER THE YOUTH AND HIS OR HER FAMILY SHOULD BE  
56 REFERRED TO AN AVAILABLE FAMILY SUPPORT CENTER; [and]

(VII) ASSESS WHETHER REMAINING IN THE HOME WOULD CAUSE THE CONTINUATION OR WORSENING OF THE CIRCUMSTANCES THAT CREATED THE NEED FOR A PETITION TO BE SOUGHT, OR CREATE A SAFETY RISK TO THE CHILD OR THE CHILD'S FAMILY; AND

[(v)] (VIII) determine whether an assessment of the youth for substance use disorder by an office of alcoholism and substance abuse services certified provider is necessary when a person seeking to file a petition alleges in such petition that the youth is suffering from a substance use disorder which could make the youth a danger to himself or herself or others. Provided, however, that notwithstanding any other provision of law to the contrary, the designated lead agency shall not be required to pay for all or any portion of the costs of such assessment or for any substance use disorder or detoxification services, except in cases where medical assistance for needy persons may be used to pay for all or any portion of the costs of such assessment or services. The office of alcoholism and substance abuse services shall make a list of its certified providers available to the designated lead agency.

(c) Any person or agency seeking to file a petition pursuant to this article which does not have attached thereto the documentation required by subdivision (g) of this section shall be referred by the clerk of the court to the designated lead agency which shall schedule and hold, on reasonable notice to the potential petitioner, the youth and his or her parent or other person legally responsible for his or her care, at least one conference in order to determine the factual circumstances and determine whether the youth and his or her family should receive diversion services pursuant to this section. Diversion services shall include clearly documented diligent attempts to provide appropriate services to the youth and his or her family unless it is determined that there is no substantial likelihood that the youth and his or her family will benefit from further diversion attempts. Notwithstanding the provisions of section two hundred sixteen-c of this act, the clerk shall not accept for filing under this part any petition that does not have attached thereto the documentation required by subdivision (g) of this section.

(d) Diversion services shall include documented diligent attempts to engage the youth and his or her family in appropriately targeted community-based services, but shall not be limited to:

(i) providing, at the first contact, information on the availability of or a referral to services in the geographic area where the youth and his or her family are located that may be of benefit in avoiding the need to file a petition under this article; including the availability, for up to twenty-one days, of a residential respite program, if the youth and his or her parent or other person legally responsible for his or her care agree, and the availability of other non-residential crisis intervention programs such as A FAMILY SUPPORT CENTER, family crisis counseling or alternative dispute resolution programs or an educational program as defined in section four hundred fifty-eight-1 of the social services law.

(ii) scheduling and holding at least one conference with the youth and his or her family and the person or representatives of the entity seeking to file a petition under this article concerning alternatives to filing a petition and services that are available. Diversion services shall include clearly documented diligent attempts to provide appropriate services to the youth and his or her family before it may be determined that there is no substantial likelihood that the youth and his or her family will benefit from further attempts.

(iii) where the entity seeking to file a petition is a school district or local educational agency, the designated lead agency shall review the steps taken by the school district or local educational agency to improve the youth's attendance and/or conduct in school and attempt to engage the school district or local educational agency in further diversion attempts, if it appears from review that such attempts will be beneficial to the youth.

(e) The designated lead agency shall maintain a written record with respect to each youth and his or her family for whom it considers providing or provides diversion services pursuant to this section. The record shall be made available to the court at or prior to the initial appearance of the youth in any proceeding initiated pursuant to this article.

(f) Efforts to prevent the filing of a petition pursuant to this section may extend until the designated lead agency determines that there is no substantial likelihood that the youth and his or her family will benefit from further attempts. Efforts at diversion pursuant to this section may continue after the filing of a petition where the designated lead agency determines that the youth and his or her family will benefit from further attempts to prevent PLACEMENT OF the youth from entering foster care IN ACCORDANCE WITH SECTION SEVEN HUNDRED FIFTY-SIX OF THIS ARTICLE.

(g) (i) The designated lead agency shall promptly give written notice to the potential petitioner whenever attempts to prevent the filing of a petition have terminated, and shall indicate in such notice whether efforts were successful. The notice shall also detail the diligent attempts made to divert the case if a determination has been made that there is no substantial likelihood that the youth will benefit from further attempts. No persons in need of supervision petition may be filed pursuant to this article during the period the designated lead agency is providing diversion services. A finding by the designated lead agency that the case has been successfully diverted shall constitute presumptive evidence that the underlying allegations have been successfully resolved in any petition based upon the same factual allegations. No petition may be filed pursuant to this article by the parent or other person legally responsible for the youth where diversion services have been terminated because of the failure of the parent or other person legally responsible for the youth to consent to or actively participate.

(ii) The clerk of the court shall accept a petition for filing only if it has attached thereto the following:

(A) if the potential petitioner is the parent or other person legally responsible for the youth, a notice from the designated lead agency indicating there is no bar to the filing of the petition as the potential petitioner consented to and actively participated in diversion services; and

(B) a notice from the designated lead agency stating that it has terminated diversion services because it has determined that there is no substantial likelihood that the youth and his or her family will benefit from further attempts, and that the case has not been successfully diverted.

(h) No statement made to the designated lead agency or to any agency or organization to which the potential respondent, prior to the filing of the petition, or if the petition has been filed, prior to the time the respondent has been notified that attempts at diversion will not be made or have been terminated, or prior to the commencement of a fact-finding hearing if attempts at diversion have not terminated previously,

1 may be admitted into evidence at a fact-finding hearing or, if the  
2 proceeding is transferred to a criminal court, at any time prior to a  
3 conviction.

4 S 38-a. Subdivision (b) of section 742 of the family court act, as  
5 amended by section 9 of part E of chapter 57 of the laws of 2005, is  
6 amended to read as follows:

7 (b) At the initial appearance of the respondent, the court shall  
8 review any termination of diversion services pursuant to such section,  
9 and the documentation of diligent attempts to provide appropriate  
10 services and determine whether such efforts or services provided are  
11 sufficient [and]. THE COURT may, AT ANY TIME, subject to the provisions  
12 of section seven hundred forty-eight of this article, order that addi-  
13 tional diversion attempts be undertaken by the designated lead agency.  
14 The court may order the youth and the parent or other person legally  
15 responsible for the youth to participate in diversion services. If the  
16 designated lead agency thereafter determines that the case has been  
17 successfully resolved, it shall so notify the court, and the court shall  
18 dismiss the petition.

19 S 38-b. Subdivision (a) of section 749 of the family court act, as  
20 amended by section 4 of part V of chapter 55 of the laws of 2012, is  
21 amended to read as follows:

22 (a) (i) Upon or after a fact-finding hearing, the court may, upon its  
23 own motion or upon a motion of a party to the proceeding, order that the  
24 proceeding be "adjourned in contemplation of dismissal". An adjournment  
25 in contemplation of dismissal is an adjournment of the proceeding, for a  
26 period not to exceed six months with a view to ultimate dismissal of the  
27 petition in furtherance of justice. Upon issuing such an order, upon  
28 such permissible terms and conditions as the rules of court shall  
29 define, the court must release the individual.

30 (ii) The court may, as a condition of an adjournment in contemplation  
31 of dismissal order: (A) in cases where the record indicates that the  
32 consumption of alcohol may have been a contributing factor, require the  
33 respondent to attend and complete an alcohol awareness program estab-  
34 lished pursuant to section 19.25 of the mental hygiene law; or (B) in  
35 cases where the record indicates that cyberbullying or sexting was the  
36 basis of the petition, require an eligible person to complete an educa-  
37 tion reform program in accordance with section four hundred  
38 fifty-eight-1 of the social services law; OR (C) PARTICIPATE IN SERVICES  
39 INCLUDING BUT NOT LIMITED TO THOSE PROVIDED BY FAMILY SUPPORT CENTERS.

40 (iii) Upon application of the petitioner, or upon the court's own  
41 motion, made at any time during the duration of the order, the court may  
42 restore the matter to the calendar. If the proceeding is not so  
43 restored, the petition is at the expiration of the order, deemed to have  
44 been dismissed by the court in furtherance of justice.

45 S 38-c. Section 751 of the family court act, as amended by chapter 100  
46 of the laws of 1993, is amended to read as follows:

47 S 751. Order dismissing petition. If the allegations of a petition  
48 under this article are not established, the court shall dismiss the  
49 petition. The court may in its discretion dismiss a petition under this  
50 article, in the interests of justice where attempts have been made to  
51 adjust the case as provided for in sections seven hundred thirty-five  
52 and seven hundred forty-two of this article and the probation service  
53 has exhausted its efforts to successfully adjust such case as a result  
54 of the petition's failure to provide reasonable assistance to the  
55 probation service. IN DISMISSING A PETITION PURSUANT TO THIS SECTION,

1 THE COURT SHALL CONSIDER WHETHER A REFERRAL OF SERVICES WOULD BE APPRO-  
2 PRIATE TO MEET THE NEEDS OF THE RESPONDENT AND HIS OR HER FAMILY.

3 S 39. Section 754 of the family court act, subdivision 1 as designated  
4 by chapter 878 of the laws of 1976, paragraph (c) of subdivision 1 as  
5 amended by section 4 of part V of chapter 383 of the laws of 2001, the  
6 closing paragraph of subdivision 1 as added by section 5 of part V of  
7 chapter 55 of the laws of 2012, subdivision 2 as amended by chapter 7 of  
8 the laws of 1999, subparagraph (ii) of paragraph (a) of subdivision 2 as  
9 amended by section 20 of part L of chapter 56 of the laws of 2015 and  
10 the closing paragraph of paragraph (b) of subdivision 2 as amended by  
11 section 21 of part L of chapter 56 of the laws of 2015 is amended to  
12 read as follows:

13 S 754. Disposition on adjudication of person in need of supervision.  
14 1. Upon an adjudication of person in need of supervision, the court  
15 shall enter an order of disposition:

16 (a) Discharging the respondent with warning;

17 (b) Suspending judgment in accord with section seven hundred fifty-  
18 five OF THIS PART;

19 (c) Continuing the proceeding and placing the respondent in accord  
20 with section seven hundred fifty-six OF THIS PART; provided, however,  
21 that the court shall not place the respondent in accord with section  
22 seven hundred fifty-six where the respondent is sixteen years of age or  
23 older, unless the court determines and states in its order that special  
24 circumstances exist to warrant such placement; or

25 (d) Putting the respondent on probation in accord with section seven  
26 hundred fifty-seven OF THIS PART.

27 The court may order an eligible person to complete an education reform  
28 program in accordance with section four hundred fifty-eight-1 of the  
29 social services law, as part of a disposition pursuant to paragraph (a),  
30 (b) or (d) of this subdivision. THE COURT MAY ALSO ORDER SERVICES,  
31 INCLUDING THOSE PROVIDED BY A FAMILY SUPPORT CENTER, AS PART OF A DISPO-  
32 SITION PURSUANT TO PARAGRAPH (A), (B) OR (D) OF THIS SUBDIVISION.

33 2. (a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE  
34 COURT SHALL NOT ORDER PLACEMENT WITH THE LOCAL COMMISSIONER OF SOCIAL  
35 SERVICES PURSUANT TO SECTION SEVEN HUNDRED FIFTY-SIX OF THIS PART UNLESS  
36 THE COURT FINDS AND STATES IN WRITING THAT:

37 (I) NO APPROPRIATE SUITABLE RELATIVE OR SUITABLE PRIVATE PERSON IS  
38 AVAILABLE FOR PLACEMENT PURSUANT TO SECTION SEVEN HUNDRED FIFTY-SIX OF  
39 THIS PART; AND

40 (II) PLACEMENT IN THE CHILD'S HOME WOULD NOT BE APPROPRIATE BECAUSE  
41 SUCH PLACEMENT WOULD:

42 (A) CONTINUE OR WORSEN THE CIRCUMSTANCES ALLEGED IN THE UNDERLYING  
43 PETITION OR,

44 (B) CREATE A SAFETY RISK TO THE CHILD OR THE CHILD'S FAMILY.

45 (B) The order shall state the court's reasons for the particular  
46 disposition. If the court places the child in accordance with section  
47 seven hundred fifty-six of this part, the court in its order shall  
48 determine: (i) whether continuation in the child's home would be contra-  
49 ry to the best interest of the child and where appropriate, that reason-  
50 able efforts were made prior to the date of the dispositional hearing  
51 held pursuant to this article to prevent or eliminate the need for  
52 removal of the child from his or her home and, if the child was removed  
53 from his or her home prior to the date of such hearing, that such  
54 removal was in the child's best interest and, where appropriate, reason-  
55 able efforts were made to make it possible for the child to return safe-  
56 ly home. If the court determines that reasonable efforts to prevent or



eliminate the need for removal of the child from the home were not made but that the lack of such efforts was appropriate under the circumstances, the court order shall include such a finding; and (ii) in the case of a child who has attained the age of fourteen, the services needed, if any, to assist the child to make the transition from foster care to independent living. Nothing in this subdivision shall be construed to modify the standards for directing detention set forth in section seven hundred thirty-nine of this article.

[(b)] (C) For the purpose of this section, reasonable efforts to prevent or eliminate the need for removing the child from the home of the child or to make it possible for the child to return safely to the home of the child shall not be required where the court determines that:

(i) the parent of such child has subjected the child to aggravated circumstances, as defined in subdivision (g) of section seven hundred twelve of this article;

(ii) the parent of such child has been convicted of (A) murder in the first degree as defined in section 125.27 or murder in the second degree as defined in section 125.25 of the penal law and the victim was another child of the parent; or (B) manslaughter in the first degree as defined in section 125.20 or manslaughter in the second degree as defined in section 125.15 of the penal law and the victim was another child of the parent, provided, however, that the parent must have acted voluntarily in committing such crime;

(iii) the parent of such child has been convicted of an attempt to commit any of the crimes set forth in subparagraphs (i) and (ii) of this paragraph, and the victim or intended victim was the child or another child of the parent; or has been convicted of criminal solicitation as defined in article one hundred, conspiracy as defined in article one hundred five or criminal facilitation as defined in article one hundred fifteen of the penal law for conspiring, soliciting or facilitating any of the foregoing crimes, and the victim or intended victim was the child or another child of the parent;

(iv) the parent of such child has been convicted of assault in the second degree as defined in section 120.05, assault in the first degree as defined in section 120.10 or aggravated assault upon a person less than eleven years old as defined in section 120.12 of the penal law, and the commission of one of the foregoing crimes resulted in serious physical injury to the child or another child of the parent;

(v) the parent of such child has been convicted in any other jurisdiction of an offense which includes all of the essential elements of any crime specified in subparagraph (ii), (iii) or (iv) of this paragraph, and the victim of such offense was the child or another child of the parent; or

(vi) the parental rights of the parent to a sibling of such child have been involuntarily terminated;

unless the court determines that providing reasonable efforts would be in the best interests of the child, not contrary to the health and safety of the child, and would likely result in the reunification of the parent and the child in the foreseeable future. The court shall state such findings in its order.

If the court determines that reasonable efforts are not required because of one of the grounds set forth above, a permanency hearing shall be held within thirty days of the finding of the court that such efforts are not required. At the permanency hearing, the court shall determine the appropriateness of the permanency plan prepared by the social services official which shall include whether and when the child:

1 (A) will be returned to the parent; (B) should be placed for adoption  
2 with the social services official filing a petition for termination of  
3 parental rights; (C) should be referred for legal guardianship; (D)  
4 should be placed permanently with a fit and willing relative; or (E)  
5 should be placed in another planned permanent living arrangement with a  
6 significant connection to an adult willing to be a permanency resource  
7 for the child if the child is age sixteen or older and if the require-  
8 ments of subparagraph (E) of paragraph (iv) of subdivision (d) of  
9 section seven hundred fifty-six-a of this part have been met. The social  
10 services official shall thereafter make reasonable efforts to place the  
11 child in a timely manner and to complete whatever steps are necessary to  
12 finalize the permanent placement of the child as set forth in the  
13 permanency plan approved by the court. If reasonable efforts are deter-  
14 mined by the court not to be required because of one of the grounds set  
15 forth in this paragraph, the social services official may file a peti-  
16 tion for termination of parental rights in accordance with section three  
17 hundred eighty-four-b of the social services law.

18 [(c)] (D) For the purpose of this section, in determining reasonable  
19 efforts to be made with respect to a child, and in making such reason-  
20 able efforts, the child's health and safety shall be the paramount  
21 concern.

22 [(d)] (E) For the purpose of this section, a sibling shall include a  
23 half-sibling.

24 S 40. Section 755 of the family court act, subdivision (a) as amended  
25 by chapter 124 of the laws of 1993, is amended to read as follows:

26 S 755. Suspended judgment. (a) Rules of court shall define permissible  
27 terms and conditions of a suspended judgment. The court may order as a  
28 condition of a suspended judgment restitution, SERVICES, INCLUDING THOSE  
29 PROVIDED BY A FAMILY SUPPORT CENTER PURSUANT TO TITLE TWELVE OF ARTICLE  
30 SIX OF THE SOCIAL SERVICES LAW or services for public good pursuant to  
31 section seven hundred fifty-eight-a, and[, except when the respondent  
32 has been assigned to a facility in accordance with subdivision four of  
33 section five hundred four of the executive law,] in cases wherein the  
34 record indicates that the consumption of alcohol by the respondent may  
35 have been a contributing factor, the court may order attendance at and  
36 completion of an alcohol awareness program established pursuant to  
37 section 19.25 of the mental hygiene law.

38 (b) The maximum duration of any term or condition of a suspended judg-  
39 ment is one year, unless the court finds at the conclusion of that peri-  
40 od that exceptional circumstances require an additional period of one  
41 year.

42 S 41. Section 756 of the family court act, as amended by chapter 920  
43 of the laws of 1982, paragraph (i) of subdivision (a) as amended by  
44 chapter 309 of the laws of 1996, the opening paragraph of paragraph (ii)  
45 of subdivision (a) as amended by section 11 of part G of chapter 58 of  
46 the laws of 2010, subdivision (b) as amended by chapter 7 of the laws of  
47 1999, and subdivision (c) as amended by section 10 of part E of chapter  
48 57 of the laws of 2005, is amended to read as follows:

49 S 756. Placement. (a) (i) For purposes of section seven hundred  
50 fifty-four, the court may place the child in its own home or in the  
51 custody of a suitable relative or other suitable private person [or a  
52 commissioner of social services], subject to the orders of the court.

53 (ii) Where the child is placed with the commissioner of the local  
54 social services district, the court may direct the commissioner to place  
55 the child with an authorized agency or class of authorized agencies,  
56 including, if the court finds that the respondent is a sexually

1 exploited child as defined in subdivision one of section four hundred  
2 forty-seven-a of the social services law, an available long-term safe  
3 house. Unless the dispositional order provides otherwise, the court so  
4 directing shall include one of the following alternatives to apply in  
5 the event that the commissioner is unable to so place the child:

6 (1) the commissioner shall apply to the court for an order to stay,  
7 modify, set aside, or vacate such directive pursuant to the provisions  
8 of section seven hundred sixty-two or seven hundred sixty-three; or

9 (2) the commissioner shall return the child to the family court for a  
10 new dispositional hearing and order.

11 (b) Placements under this section may be for an initial period of  
12 [twelve months] NINETY DAYS. The court may extend a placement pursuant  
13 to section seven hundred fifty-six-a. In its discretion, the court may  
14 recommend restitution or require services for public good pursuant to  
15 section seven hundred fifty-eight-a in conjunction with an order of  
16 placement. [For the purposes of calculating the initial period of  
17 placement, such placement shall be deemed to have commenced sixty days  
18 after the date the child was removed from his or her home in accordance  
19 with the provisions of this article.] If the respondent has been in  
20 detention pending disposition, the initial period of placement ordered  
21 under this section shall be credited with and diminished by the amount  
22 of time spent by the respondent in detention prior to the commencement  
23 of the placement unless the court finds that all or part of such credit  
24 would not serve the best interests of the respondent.

25 (c) [A placement pursuant to this section with the commissioner of  
26 social services shall not be directed in any detention facility, but  
27 the] THE court may direct detention pending transfer to a placement  
28 authorized and ordered under this section for no more than [than  
29 fifteen] TEN days after such order of placement is made. Such direction  
30 shall be subject to extension pursuant to subdivision three of section  
31 three hundred ninety-eight of the social services law, upon written  
32 documentation to the office of children and family services that the  
33 youth is in need of specialized treatment or placement and the diligent  
34 efforts by the commissioner of social services to locate an appropriate  
35 placement.

36 S 42. Section 756-a of the family court act, as added by chapter 604  
37 of the laws of 1986, subdivision (a) as amended by chapter 309 of the  
38 laws of 1996, subdivisions (b) and (d) as amended by section 4 of part B  
39 of chapter 327 of the laws of 2007, paragraph (ii) of subdivision (d) as  
40 amended by section 22, paragraphs (iii), (iv) and (v) of subdivision (d)  
41 as amended by section 23 and subdivision (d-1) as amended by section 24  
42 of part L of chapter 56 of the laws of 2015, and subdivisions (c) and  
43 (e) as amended by chapter 7 of the laws of 1999, is amended to read as  
44 follows:

45 S 756-a. Extension of placement. (a) In any case in which the child  
46 has been placed pursuant to section seven hundred fifty-six, the child,  
47 the person with whom the child has been placed or the commissioner of  
48 social services may petition the court to extend such placement. Such  
49 petition shall be filed at least [sixty] THIRTY days prior to the expi-  
50 ration of the period of placement, except for good cause shown, but in  
51 no event shall such petition be filed after the original expiration  
52 date.

53 (b) The court shall conduct a permanency hearing concerning the need  
54 for continuing the placement. The child, the person with whom the child  
55 has been placed and the commissioner of social services shall be noti-  
56 fied of such hearing and shall have the right to be heard thereat.

1 (c) The provisions of section seven hundred forty-five shall apply at  
2 such permanency hearing. If the petition is filed within [sixty] THIRTY  
3 days prior to the expiration of the period of placement, the court shall  
4 first determine at such permanency hearing whether good cause has been  
5 shown. If good cause is not shown, the court shall dismiss the petition.

6 (d) At the conclusion of the permanency hearing the court may, in its  
7 discretion, order an extension of the placement for not more than [one  
8 year] NINETY DAYS. The court must consider and determine in its order:

9 (i) where appropriate, that reasonable efforts were made to make it  
10 possible for the child to safely return to his or her home, or if the  
11 permanency plan for the child is adoption, guardianship or some other  
12 permanent living arrangement other than reunification with the parent or  
13 parents of the child, reasonable efforts are being made to make and  
14 finalize such alternate permanent placement including consideration of  
15 appropriate in-state and out-of-state placements;

16 (ii) in the case of a child who has attained the age of fourteen, the  
17 services needed, if any, to assist the child to make the transition from  
18 foster care to independent living;

19 (iii) in the case of a child placed outside New York state, whether  
20 the out-of-state placement continues to be appropriate and in the best  
21 interests of the child;

22 (iv) whether and when the child: (A) will be returned to the parent;  
23 (B) should be placed for adoption with the social services official  
24 filing a petition for termination of parental rights; (C) should be  
25 referred for legal guardianship; (D) should be placed permanently with a  
26 fit and willing relative; or (E) should be placed in another planned  
27 permanent living arrangement with a significant connection to an adult  
28 willing to be a permanency resource for the child if the child is age  
29 sixteen or older and (1) the social services official has documented to  
30 the court: (I) intensive, ongoing, and, as of the date of the hearing,  
31 unsuccessful efforts made by the social services district to return the  
32 child home or secure a placement for the child with a fit and willing  
33 relative including adult siblings, a legal guardian, or an adoptive  
34 parent, including through efforts that utilize search technology includ-  
35 ing social media to find biological family members for children, (II)  
36 the steps the social services district is taking to ensure that (A) the  
37 child's foster family home or child care facility is following the  
38 reasonable and prudent parent standard in accordance with guidance  
39 provided by the United States department of health and human services,  
40 and (B) the child has regular, ongoing opportunities to engage in age or  
41 developmentally appropriate activities including by consulting with the  
42 child in an age-appropriate manner about the opportunities of the child  
43 to participate in activities; and (2) the social services district has  
44 documented to the court and the court has determined that there are  
45 compelling reasons for determining that it continues to not be in the  
46 best interest of the child to return home, be referred for termination  
47 of parental rights and placed for adoption, placed with a fit and will-  
48 ing relative, or placed with a legal guardian; and (3) the court has  
49 made a determination explaining why, as of the date of the hearing,  
50 another planned living arrangement with a significant connection to an  
51 adult willing to be a permanency resource for the child is the best  
52 permanency plan for the child; and

53 (v) where the child will not be returned home, consideration of appro-  
54 priate in-state and out-of-state placements.

55 (d-1) At the permanency hearing, the court shall consult with the  
56 respondent in an age-appropriate manner regarding the permanency plan;

provided, however, that if the respondent is age sixteen or older and the requested permanency plan for the respondent is placement in another planned permanent living arrangement with a significant connection to an adult willing to be a permanency resource for the respondent, the court must ask the respondent about the desired permanency outcome for the respondent.

(e) Pending final determination of a petition to extend such placement filed in accordance with the provisions of this section, the court may, on its own motion or at the request of the petitioner or respondent, enter one or more temporary orders extending a period of placement not to exceed thirty days upon satisfactory proof showing probable cause for continuing such placement and that each temporary order is necessary. The court may order additional temporary extensions, not to exceed a total of fifteen days, if the court is unable to conclude the hearing within the thirty day temporary extension period. In no event shall the aggregate number of days in extensions granted or ordered under this subdivision total more than forty-five days. The petition shall be dismissed if a decision is not rendered within the period of placement or any temporary extension thereof. Notwithstanding any provision of law to the contrary, the initial permanency hearing shall be held within [twelve months of the date the child was placed into care] A REASONABLE PERIOD OF TIME PRIOR TO THE EXPIRATION OF THE INITIAL PERIOD OF PLACEMENT pursuant to section seven hundred fifty-six [of this article] and no later than every twelve months thereafter. [For the purposes of this section, the date the child was placed into care shall be sixty days after the child was removed from his or her home in accordance with the provisions of this section.]

(f) Successive extensions of placement under this section may be granted, but no placement may be made or continued beyond the child's eighteenth birthday without his or her consent and in no event past his or her twenty-first birthday.

S 43. Section 757 of the family court act is amended by adding a new subdivision (e) to read as follows:

(E) THE COURT MAY ORDER SERVICES DEEMED APPROPRIATE TO ADDRESS THE CIRCUMSTANCES ALLEGED IN THE UNDERLYING PETITION INCLUDING SERVICES PROVIDED BY FAMILY SUPPORT CENTERS.

S 44. Section 758-a of the family court act, as amended by chapter 73 of the laws of 1979, subdivision 1 as amended by chapter 4 of the laws of 1987, paragraph (b) of subdivision 1 as amended by chapter 575 of the laws of 2007, subdivision 2 as amended by chapter 309 of the laws of 1996, and subdivision 3 as separately amended by chapter 568 of the laws of 1979, is amended to read as follows:

S 758-a. Restitution. 1. In cases involving acts of [infants] CHILDREN over [ten] TWELVE and less than [sixteen] EIGHTEEN years of age, the court may

(a) recommend as a condition of placement, or order as a condition of probation or suspended judgment, restitution in an amount representing a fair and reasonable cost to replace the property or repair the damage caused by the [infant] CHILD, not, however, to exceed one thousand dollars. [In the case of a placement, the court may recommend that the infant pay out of his or her own funds or earnings the amount of replacement or damage, either in a lump sum or in periodic payments in amounts set by the agency with which he is placed, and in the case of probation or suspended judgment, the] THE court may require that the [infant] CHILD pay out of his or her own funds or earnings the amount of

1 replacement or damage, either in a lump sum or in periodic payments in  
2 amounts set by the court; and/or

3 (b) order as a condition of placement, probation, or suspended judg-  
4 ment, services for the public good including in the case of a crime  
5 involving willful, malicious, or unlawful damage or destruction to real  
6 or personal property maintained as a cemetery plot, grave, burial place,  
7 or other place of interment of human remains, services for the mainte-  
8 nance and repair thereof, taking into consideration the age and physical  
9 condition of the [infant] CHILD.

10 2. If the court recommends restitution or requires services for the  
11 public good in conjunction with an order of placement pursuant to  
12 section seven hundred fifty-six, the placement shall be made only to an  
13 authorized agency which has adopted rules and regulations for the super-  
14 vision of such a program, which rules and regulations shall be subject  
15 to the approval of the state department of social services. Such rules  
16 and regulations shall include, but not be limited to provisions (i)  
17 assuring that the conditions of work, including wages, meet the stand-  
18 ards therefor prescribed pursuant to the labor law; (ii) affording  
19 coverage to the child under the workers' compensation law as an employee  
20 of such agency, department or institution; (iii) assuring that the enti-  
21 ty receiving such services shall not utilize the same to replace its  
22 regular employees; and (iv) providing for reports to the court not less  
23 frequently than every six months, unless the order provides otherwise.

24 3. If the court requires restitution or services for the public good  
25 as a condition of probation or suspended judgment, it shall provide that  
26 an agency or person supervise the restitution or services and that such  
27 agency or person report to the court not less frequently than every six  
28 months, unless the order provides otherwise. Upon the written notice  
29 sent by a school district to the court and the appropriate probation  
30 department or agency which submits probation recommendations or reports  
31 to the court, the court may provide that such school district shall  
32 supervise the performance of services for the public good.

33 4. The court, upon receipt of the reports provided for in subdivision  
34 two or three of this section may, on its own motion or the motion of any  
35 party or the agency, hold a hearing to determine whether the placement  
36 should be altered or modified.

37 S 45. Subdivision (f) of section 759 of the family court act, as  
38 amended by section 11 of part E of chapter 57 of the laws of 2005, is  
39 amended to read as follows:

40 (f) to participate in family counseling or other professional coun-  
41 seling activities, or other services, including SERVICES PROVIDED BY  
42 FAMILY SUPPORT CENTERS, alternative dispute resolution services  
43 conducted by an authorized person or an authorized agency to which the  
44 youth has been referred or placed, deemed necessary for the rehabili-  
45 tation of the youth, provided that such family counseling, other coun-  
46 seling activity or other necessary services are not contrary to such  
47 person's religious beliefs;

48 S 46. Section 768 of the family court act is amended to read as  
49 follows:

50 S 768. Successive petitions. If a petition under section seven hundred  
51 sixty-four is denied, it may not be renewed for a period of [ninety]  
52 THIRTY days after the denial, unless the order of denial permits renewal  
53 at an earlier time.

54 S 47. Section 153-k of the social services law is amended by adding  
55 two new subdivisions 2-a and 2-b to read as follows:

2-A. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, STATE REIMBURSEMENT SHALL BE MADE AVAILABLE FOR ONE HUNDRED PERCENT OF EXPENDITURES MADE BY SOCIAL SERVICES DISTRICTS, EXCLUSIVE OF ANY FEDERAL FUNDS MADE AVAILABLE FOR SUCH PURPOSES, FOR PREVENTIVE SERVICES, AFTERCARE SERVICES, INDEPENDENT LIVING SERVICES AND FOSTER CARE SERVICES PROVIDED TO YOUTH AGE SIXTEEN YEARS OF AGE OR OLDER WHEN SUCH SERVICES WOULD NOT OTHERWISE HAVE BEEN PROVIDED TO SUCH YOUTH ABSENT THE PROVISIONS IN A CHAPTER OF THE LAWS OF TWO THOUSAND FIFTEEN THAT INCREASED THE AGE OF JUVENILE JURISDICTION ABOVE FIFTEEN YEARS OF AGE.

2-B. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, STATE REIMBURSEMENT SHALL BE MADE AVAILABLE FOR ONE HUNDRED PERCENT OF EXPENDITURES MADE BY SOCIAL SERVICES DISTRICTS, EXCLUSIVE OF ANY FEDERAL FUNDS MADE AVAILABLE FOR SUCH PURPOSE, FOR FAMILY SUPPORT CENTERS ESTABLISHED PURSUANT TO TITLE TWELVE OF THIS ARTICLE.

S 48. Intentionally omitted.

S 49. Subdivisions 5 and 6 of section 371 of the social services law, subdivision 5 as added by chapter 690 of the laws of 1962, and subdivision 6 as amended by chapter 596 of the laws of 2000, are amended to read as follows:

5. "Juvenile delinquent" means a person [over seven and less than sixteen years of age who does any act which, if done by an adult, would constitute a crime] AS DEFINED IN SECTION 301.2 OF THE FAMILY COURT ACT.

6. "Person in need of supervision" means a person [less than eighteen years of age who is habitually truant or who is incorrigible, ungovernable or habitually disobedient and beyond the lawful control of a parent or other person legally responsible for such child's care, or other lawful authority] AS DEFINED IN SECTION SEVEN HUNDRED TWELVE OF THE FAMILY COURT ACT.

S 50. Article 6 of the social services law is amended by adding a new title 12 to read as follows:

## TITLE 12

### FAMILY SUPPORT CENTERS

SECTION 458-M. FAMILY SUPPORT CENTERS.

458-N. FUNDING FOR FAMILY SUPPORT CENTERS.

S 458-M. FAMILY SUPPORT CENTERS. 1. AS USED IN THIS TITLE, THE TERM "FAMILY SUPPORT CENTER" SHALL MEAN A PROGRAM ESTABLISHED PURSUANT TO THIS TITLE TO PROVIDE COMMUNITY-BASED SUPPORTIVE SERVICES TO YOUTH AT RISK OF BEING, OR ALLEGED OR ADJUDICATED TO BE PERSONS IN NEED OF SUPERVISION PURSUANT TO ARTICLE SEVEN OF THE FAMILY COURT ACT, AND THEIR FAMILIES. FAMILY SUPPORT CENTERS MAY ALSO PROVIDE COMMUNITY-BASED SUPPORTIVE SERVICES TO YOUTH WHO ARE ALLEGED OR ADJUDICATED TO BE JUVENILE DELINQUENTS PURSUANT TO ARTICLE THREE OF THE FAMILY COURT ACT.

2. FAMILY SUPPORT CENTERS SHALL PROVIDE COMPREHENSIVE SERVICES TO SUCH CHILDREN AND THEIR FAMILIES, EITHER DIRECTLY OR THROUGH REFERRALS WITH PARTNER AGENCIES, INCLUDING, BUT NOT LIMITED TO:

(A) RAPID FAMILY ASSESSMENTS AND SCREENINGS;

(B) CRISIS INTERVENTION;

(C) FAMILY MEDIATION AND SKILLS BUILDING;

(D) MENTAL AND BEHAVIORAL HEALTH SERVICES, AS DEFINED IN SUBDIVISION FIFTY-EIGHT OF SECTION 1.03 OF THE MENTAL HYGIENE LAW, INCLUDING COGNITIVE INTERVENTIONS;

(E) CASE MANAGEMENT;

(F) RESPITE SERVICES; AND

(G) OTHER FAMILY SUPPORT SERVICES.

3. TO THE EXTENT PRACTICABLE, THE SERVICES THAT ARE PROVIDED SHALL BE TRAUMA SENSITIVE, FAMILY FOCUSED, GENDER-RESPONSIVE, WHERE APPROPRIATE,

1 AND EVIDENCE AND/OR STRENGTH BASED AND SHALL BE TAILORED TO THE INDIVID-  
2 UALIZED NEEDS OF THE CHILD AND FAMILY BASED ON THE ASSESSMENTS AND  
3 SCREENINGS CONDUCTED BY SUCH FAMILY SUPPORT CENTER.

4 4. FAMILY SUPPORT CENTERS SHALL HAVE THE CAPACITY TO SERVE FAMILIES  
5 OUTSIDE OF REGULAR BUSINESS HOURS INCLUDING EVENINGS OR WEEKENDS.

6 S 458-N. FUNDING FOR FAMILY SUPPORT CENTERS. 1. NOTWITHSTANDING ANY  
7 OTHER PROVISION OF LAW TO THE CONTRARY, STATE REIMBURSEMENT SHALL BE  
8 MADE AVAILABLE FOR ONE HUNDRED PERCENT OF EXPENDITURES MADE BY SOCIAL  
9 SERVICES DISTRICTS, EXCLUSIVE OF ANY FEDERAL FUNDS MADE AVAILABLE FOR  
10 SUCH PURPOSE, FOR FAMILY SUPPORT CENTERS STATEWIDE.

11 2. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, FAMILY  
12 SUPPORT CENTERS SHALL BE ESTABLISHED IN EACH SOCIAL SERVICES DISTRICT  
13 THROUGHOUT THE STATE WITH THE APPROVAL OF THE OFFICE OF CHILDREN AND  
14 FAMILY SERVICES, PROVIDED HOWEVER THAT TWO OR MORE SOCIAL SERVICES  
15 DISTRICTS MAY JOIN TOGETHER TO ESTABLISH, OPERATE AND MAINTAIN A FAMILY  
16 SUPPORT CENTER AND MAY MAKE AND PERFORM AGREEMENTS IN CONNECTION THERE-  
17 WITH.

18 3. SOCIAL SERVICES DISTRICTS MAY CONTRACT WITH NOT-FOR-PROFIT CORPO-  
19 RATIONS OR UTILIZE EXISTING PROGRAMS TO OPERATE FAMILY SUPPORT CENTERS  
20 IN ACCORDANCE WITH THE PROVISIONS OF THIS TITLE AND THE SPECIFIC PROGRAM  
21 REQUIREMENTS ISSUED BY THE OFFICE. FAMILY SUPPORT CENTERS SHALL HAVE  
22 SUFFICIENT CAPACITY TO PROVIDE SERVICES TO YOUTH WITHIN THE SOCIAL  
23 SERVICES DISTRICT OR DISTRICTS WHO ARE AT RISK OF BECOMING, ALLEGED OR  
24 ADJUDICATED TO BE PERSONS IN NEED OF SUPERVISION PURSUANT TO ARTICLE  
25 SEVEN OF THE FAMILY COURT ACT, AND THEIR FAMILIES. IN ADDITION, TO THE  
26 EXTENT PRACTICABLE, FAMILY SUPPORT CENTERS MAY PROVIDE SERVICES TO YOUTH  
27 WHO ARE ALLEGED OR ADJUDICATED UNDER ARTICLE THREE OF THE FAMILY COURT  
28 ACT.

29 4. SOCIAL SERVICES DISTRICTS RECEIVING FUNDING UNDER THIS TITLE SHALL  
30 REPORT TO THE OFFICE OF CHILDREN AND FAMILY SERVICES, IN THE FORM AND  
31 MANNER AND AT SUCH TIMES AS DETERMINED BY THE OFFICE, ON THE PERFORMANCE  
32 OUTCOMES OF ANY FAMILY SUPPORT CENTER LOCATED WITHIN SUCH DISTRICT THAT  
33 RECEIVES FUNDING UNDER THIS TITLE.

34 S 51. Subdivisions 3 and 11 of section 398 of the social services law,  
35 subdivision 3 as amended by chapter 419 of the laws of 1987, paragraph  
36 (c) of subdivision 3 as amended by section 19 of part E of chapter 57 of  
37 the laws of 2005, subdivision 11 as added by chapter 514 of the laws of  
38 1976, are amended to read as follows:

39 3. As to delinquent children and persons in need of supervision:

40 (a) Investigate complaints as to alleged delinquency of a child.

41 (b) Bring such case of alleged delinquency when necessary before the  
42 family court.

43 (c) Receive within fifteen days from the order of placement as a  
44 public charge any delinquent child committed or placed or IN THE CASE OF  
45 A person in need of supervision placed, TEN DAYS, in his or her care by  
46 the family court provided, however, that the commissioner of the social  
47 services district with whom the child is placed may apply to the state  
48 commissioner or his or her designee for approval of an additional  
49 fifteen days, OR IN THE CASE OF A PERSON IN NEED OF SUPERVISION, TEN  
50 DAYS, upon written documentation to the office of children and family  
51 services that the youth is in need of specialized treatment or placement  
52 and the diligent efforts by the commissioner of social services to  
53 locate an appropriate placement.

54 11. In the case of a child who is adjudicated a person in need of  
55 supervision or a juvenile delinquent and is placed by the family court  
56 with the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES and



1 who is placed by [the division for youth] SUCH OFFICE with an authorized  
2 agency pursuant to court order, the social services official shall make  
3 expenditures in accordance with the regulations of the department for  
4 the care and maintenance of such child during the term of such placement  
5 subject to state reimbursement pursuant to SECTION ONE HUNDRED  
6 FIFTY-THREE-K OF this title[, or article nineteen-G of the executive law  
7 in applicable cases].

8 S 52. Subdivision 8 of section 404 of the social services law, as  
9 added by section 1 of subpart A of part G of chapter 57 of the laws of  
10 2012, is amended to read as follows:

11 8. (a) Notwithstanding any other provision of law to the contrary[,]  
12 EXCEPT AS PROVIDED FOR IN PARAGRAPH (A-1) OF THIS SUBDIVISION, eligible  
13 expenditures during the applicable time periods made by a social  
14 services district for an approved juvenile justice services close to  
15 home initiative shall, if approved by the department of family assist-  
16 ance, be subject to reimbursement with state funds only up to the extent  
17 of an annual appropriation made specifically therefor, after first  
18 deducting therefrom any federal funds properly received or to be  
19 received on account thereof; provided, however, that when such funds  
20 have been exhausted, a social services district may receive state  
21 reimbursement from other available state appropriations for that state  
22 fiscal year for eligible expenditures for services that otherwise would  
23 be reimbursable under such funding streams. Any claims submitted by a  
24 social services district for reimbursement for a particular state fiscal  
25 year for which the social services district does not receive state  
26 reimbursement from the annual appropriation for the approved close to  
27 home initiative may not be claimed against that district's appropriation  
28 for the initiative for the next or any subsequent state fiscal year.

29 (i) State funding for reimbursement shall be, subject to appropri-  
30 ation, in the following amounts: for state fiscal year 2013-14,  
31 \$35,200,000 adjusted by any changes in such amount required by subpara-  
32 graphs (ii) and (iii) of this paragraph; for state fiscal year 2014-15,  
33 \$41,400,000 adjusted to include the amount of any changes made to the  
34 state fiscal year 2013-14 appropriation under subparagraphs (ii) and  
35 (iii) of this paragraph plus any additional changes required by such  
36 subparagraphs; and, such reimbursement shall be, subject to appropri-  
37 ation, for all subsequent state fiscal years in the amount of the prior  
38 year's actual appropriation adjusted by any changes required by subpara-  
39 graphs (ii) and (iii) of this paragraph.

40 (ii) The reimbursement amounts set forth in subparagraph (i) of this  
41 paragraph shall be increased or decreased by the percentage that the  
42 average of the most recently approved maximum state aid rates for group  
43 residential foster care programs is higher or lower than the average of  
44 the approved maximum state aid rates for group residential foster care  
45 programs in existence immediately prior to the most recently approved  
46 rates.

47 (iii) The reimbursement amounts set forth in subparagraph (i) of this  
48 paragraph shall be increased if either the population of alleged juve-  
49 nile delinquents who receive a probation intake or the total population  
50 of adjudicated juvenile delinquents placed on probation combined with  
51 the population of adjudicated juvenile delinquents placed out of their  
52 homes in a setting other than a secure facility pursuant to section  
53 352.2 of the family court act, increases by at least ten percent over  
54 the respective population in the annual baseline year. The baseline year  
55 shall be the period from July first, two thousand ten through June thir-  
56 tieth, two thousand eleven or the most recent twelve month period for

1 which there is complete data, whichever is later. In each successive  
2 year, the population of the previous July first through June thirtieth  
3 period shall be compared to the baseline year for determining any  
4 adjustments to a state fiscal year appropriation. When either population  
5 increases by ten percent or more, the reimbursement will be adjusted by  
6 a percentage equal to the larger of the percentage increase in either  
7 the number of probation intakes for alleged juvenile delinquents or the  
8 total population of adjudicated juvenile delinquents placed on probation  
9 combined with the population of adjudicated juvenile delinquents placed  
10 out of their homes in a setting other than a secure facility pursuant to  
11 section 352.2 of the family court act.

12 (iv) The social services district and/or the New York city department  
13 of probation shall provide an annual report including the data required  
14 to calculate the population adjustment to the New York city office of  
15 management and budget, the division of criminal justice services and the  
16 state division of the budget no later than the first day of September  
17 following the close of the previous July first through June thirtieth  
18 period.

19 (A-1) STATE REIMBURSEMENT SHALL BE MADE AVAILABLE FOR ONE HUNDRED  
20 PERCENT OF ELIGIBLE EXPENDITURES MADE BY A SOCIAL SERVICES DISTRICT,  
21 EXCLUSIVE OF ANY FEDERAL FUNDS MADE AVAILABLE FOR SUCH PURPOSES, FOR  
22 APPROVED JUVENILE JUSTICE SERVICES UNDER AN APPROVED CLOSE TO HOME  
23 INITIATIVE PROVIDED TO YOUTH AGE SIXTEEN YEARS OF AGE OR OLDER WHEN SUCH  
24 SERVICES WOULD NOT OTHERWISE HAVE BEEN PROVIDED TO SUCH YOUTH ABSENT THE  
25 PROVISIONS IN A CHAPTER OF THE LAWS OF TWO THOUSAND FIFTEEN THAT  
26 INCREASED THE AGE OF JUVENILE JURISDICTION ABOVE FIFTEEN YEARS OF AGE.

27 (b) The department of family assistance is authorized, in its  
28 discretion, to make advances to a social services district in antic-  
29 ipation of the state reimbursement provided for in this section.

30 (c) A social services district shall conduct eligibility determi-  
31 nations for federal and state funding and submit claims for reimburse-  
32 ment in such form and manner and at such times and for such periods as  
33 the department of family assistance shall determine.

34 (d) Notwithstanding any inconsistent provision of law or regulation of  
35 the department of family assistance, state reimbursement shall not be  
36 made for any expenditure made for the duplication of any grant or allow-  
37 ance for any period.

38 (e) Claims submitted by a social services district for reimbursement  
39 shall be paid after deducting any expenditures defrayed by fees, third  
40 party reimbursement, and any non-tax levy funds including any donated  
41 funds.

42 (f) The office of children and family services shall not reimburse any  
43 claims for expenditures for residential services that are submitted more  
44 than twenty-two months after the calendar quarter in which the expendi-  
45 tures were made.

46 (g) Notwithstanding any other provision of law, the state shall not be  
47 responsible for reimbursing a social services district and a district  
48 shall not seek state reimbursement for any portion of any state disal-  
49 lowance or sanction taken against the social services district, or any  
50 federal disallowance attributable to final federal agency decisions or  
51 to settlements made, when such disallowance or sanction results from the  
52 failure of the social services district to comply with federal or state  
53 requirements, including, but not limited to, failure to document eligi-  
54 bility for the federal or state funds in the case record. To the extent  
55 that the social services district has sufficient claims other than those  
56 that are subject to disallowance or sanction to draw down the full annu-

1 al appropriation, such disallowance or sanction shall not result in a  
2 reduction in payment of state funds to the district unless the district  
3 requests that the department use a portion of the appropriation toward  
4 meeting the district's responsibility to repay the federal government  
5 for the disallowance or sanction and any related interest payments.

6 (h) Rates for residential services. (i) The office shall establish the  
7 rates, in accordance with section three hundred ninety-eight-a of this  
8 chapter, for any non-secure facilities established under an approved  
9 juvenile justice services close to home initiative. For any such non-se-  
10 cure facility that will be used primarily by the social services  
11 district with an approved close to home initiative, final authority for  
12 establishment of such rates and any adjustments thereto shall reside  
13 with the office, but such rates and any adjustments thereto shall be  
14 established only upon the request of, and in consultation with, such  
15 social services district.

16 (ii) A social services district with an approved juvenile justice  
17 services close to home initiative for juvenile delinquents placed in  
18 limited secure settings shall have the authority to establish and  
19 adjust, on an annual or regular basis, maintenance rates for limited  
20 secure facilities providing residential services under such initiative.  
21 Such rates shall not be subject to the provisions of section three  
22 hundred ninety-eight-a of this chapter but shall be subject to maximum  
23 cost limits established by the office of children and family services.

24 S 53. Paragraph (a) of subdivision 1 of section 409-a of the social  
25 services law, as amended by chapter 87 of the laws of 1993, subparagraph  
26 (i) as amended by chapter 342 of the laws of 2010, and subparagraph (ii)  
27 as amended by section 22 of part C of chapter 83 of the laws of 2002, is  
28 amended to read as follows:

29 (a) A social services official shall provide preventive services to a  
30 child and his or her family, in accordance with the family's service  
31 plan as required by section four hundred nine-e of this chapter and the  
32 social services district's child welfare services plan submitted and  
33 approved pursuant to section four hundred nine-d of this chapter, upon a  
34 finding by such official that (i) the child will be placed, returned to  
35 or continued in foster care unless such services are provided and that  
36 it is reasonable to believe that by providing such services the child  
37 will be able to remain with or be returned to his or her family, and for  
38 a former foster care youth under the age of twenty-one who was previous-  
39 ly placed in the care and custody or custody and guardianship of the  
40 local commissioner of social services or other officer, board or depart-  
41 ment authorized to receive children as public charges where it is  
42 reasonable to believe that by providing such services the former foster  
43 care youth will avoid a return to foster care or (ii) the child is the  
44 subject of a petition under article seven of the family court act, or  
45 has been determined by the assessment service established pursuant to  
46 section two hundred forty-three-a of the executive law, or by the  
47 probation service where no such assessment service has been designated,  
48 to be at risk of being the subject of such a petition, and the social  
49 services official determines that the child is at risk of placement into  
50 foster care. Such finding shall be entered in the child's uniform case  
51 record established and maintained pursuant to section four hundred  
52 nine-f of this chapter. The commissioner shall promulgate regulations to  
53 assist social services officials in making determinations of eligibility  
54 for mandated preventive services pursuant to this [subparagraph] PARA-  
55 GRAPH.

1 S 54. Section 30.00 of the penal law, as amended by chapter 481 of the  
2 laws of 1978, subdivision 2 as amended by chapter 7 of the laws of 2007,  
3 is amended to read as follows:

4 S 30.00 Infancy.

5 1. Except as provided in [subdivision] SUBDIVISIONS two AND THREE of  
6 this section, a person less than [sixteen] EIGHTEEN years old is not  
7 criminally responsible for conduct.

8 2. A person thirteen, fourteen [or], fifteen, SIXTEEN, OR SEVENTEEN  
9 years of age is criminally responsible for acts constituting murder in  
10 the second degree as defined in subdivisions one and two of section  
11 125.25 and in subdivision three of such section provided that the under-  
12 lying crime for the murder charge is one for which such person is crimi-  
13 nally responsible or for such conduct as a sexually motivated felony,  
14 where authorized pursuant to section 130.91 of [the penal law] THIS  
15 CHAPTER; and a person fourteen [or], fifteen, SIXTEEN OR SEVENTEEN years  
16 of age is criminally responsible for acts constituting the crimes  
17 defined in section 135.25 (kidnapping in the first degree); 150.20  
18 (arson in the first degree); subdivisions one and two of section 120.10  
19 (assault in the first degree); 125.20 (manslaughter in the first  
20 degree); subdivisions one and two of section 130.35 (rape in the first  
21 degree); subdivisions one and two of section 130.50 (criminal sexual act  
22 in the first degree); 130.70 (aggravated sexual abuse in the first  
23 degree); 140.30 (burglary in the first degree); subdivision one of  
24 section 140.25 (burglary in the second degree); 150.15 (arson in the  
25 second degree); 160.15 (robbery in the first degree); subdivision two of  
26 section 160.10 (robbery in the second degree) of this chapter; or  
27 section 265.03 of this chapter, where such machine gun or such firearm  
28 is possessed on school grounds, as that phrase is defined in subdivision  
29 fourteen of section 220.00 of this chapter; or defined in this chapter  
30 as an attempt to commit murder in the second degree or kidnapping in the  
31 first degree, or for such conduct as a sexually motivated felony, where  
32 authorized pursuant to section 130.91 of [the penal law] THIS CHAPTER.

33 3. A PERSON SIXTEEN OR SEVENTEEN YEARS OF AGE IS CRIMINALLY RESPONSI-  
34 BLE FOR ACTS CONSTITUTING THE CRIMES DEFINED IN SECTION 490.25 (CRIME OF  
35 TERRORISM); 490.45 (CRIMINAL POSSESSION OF A CHEMICAL WEAPON OR BIOLOG-  
36 ICAL WEAPON IN THE FIRST DEGREE); 490.55 (CRIMINAL USE OF A CHEMICAL  
37 WEAPON OR BIOLOGICAL WEAPON IN THE FIRST DEGREE); 490.50 (CRIMINAL USE  
38 OF A CHEMICAL WEAPON OR BIOLOGICAL WEAPON IN THE SECOND DEGREE); 130.95  
39 (PREDATORY SEXUAL ASSAULT) OF THIS CHAPTER.

40 4. In any prosecution for an offense, lack of criminal responsibility  
41 by reason of infancy, as defined in this section, is a defense.

42 S 55. Subdivision 2 of section 60.02 of the penal law, as amended by  
43 chapter 471 of the laws of 1980, is amended to read as follows:

44 (2) If the sentence is to be imposed upon a youthful offender finding  
45 which has been substituted for a conviction for any felony, the court  
46 must impose a sentence authorized to be imposed upon a person convicted  
47 of a class E felony provided, however, that (A) the court must not  
48 impose a sentence of [conditional discharge or] unconditional discharge  
49 if the youthful offender finding was substituted for a conviction of a  
50 felony defined in article two hundred twenty of this chapter.

51 S 56. Section 60.10 of the penal law, as amended by chapter 411 of the  
52 laws of 1979, is amended to read as follows:

53 S 60.10 Authorized disposition; juvenile offender.

54 1. When a juvenile offender is convicted of a crime, the court shall  
55 sentence the defendant to imprisonment in accordance with section 70.05

1 or sentence [him] THE DEFENDANT upon a youthful offender finding in  
2 accordance with section 60.02 of this chapter.

3 2. Subdivision one of this section shall apply when sentencing a juve-  
4 nile offender notwithstanding the provisions of any other law that deals  
5 with the authorized sentence for persons who are not juvenile offenders.  
6 Provided, however, that the limitation prescribed by this section shall  
7 not be deemed or construed to bar use of a conviction of a juvenile  
8 offender, other than a juvenile offender who has been adjudicated a  
9 youthful offender pursuant to section 720.20 of the criminal procedure  
10 law, as a previous or predicate felony offender under section 70.04,  
11 70.06, 70.07, 70.08, [or 70.10,], OR 70.80 when sentencing a person who  
12 commits a felony after [he] SUCH PERSON has reached the age of [sixteen]  
13 EIGHTEEN.

14 S 57. Paragraph (b) of subdivision 2 of section 70.05 of the penal  
15 law, as added by chapter 481 of the laws of 1978, is amended and a new  
16 paragraph (b-1) is added to read as follows:

17 (b) For [the] A class [A] A-I felony [of arson in the first degree, or  
18 for the class A felony of kidnapping in the first degree] OTHER THAN  
19 MURDER IN THE SECOND DEGREE, the term shall be fixed by the court, and  
20 shall be at least twelve years but shall not exceed fifteen years;

21 (B-1) FOR A CLASS A-II FELONY THE TERM SHALL BE FIXED BY THE COURT AND  
22 SHALL BE AT LEAST TEN YEARS BUT SHALL NOT EXCEED FOURTEEN YEARS.

23 S 57-a. Paragraph (b) of subdivision 3 of section 70.05 of the penal  
24 law, as added by chapter 481 of the laws of 1978, is amended and a new  
25 subdivision (b-1) is added to read as follows:

26 (b) For [the] A class [A] A-I felony [of arson in the first degree, or  
27 for the class A felony of kidnapping in the first degree] OTHER THAN  
28 MURDER IN THE SECOND DEGREE, the minimum period of imprisonment shall be  
29 fixed by the court and shall be not less than four years but shall not  
30 exceed six years; and

31 (B-1) FOR A CLASS A-II FELONY, THE MINIMUM PERIOD OF IMPRISONMENT  
32 SHALL BE FIXED BY THE COURT AND SHALL BE NOT LESS THAN THREE YEARS BUT  
33 SHALL NOT EXCEED FIVE YEARS.

34 S 58. Subdivision 1 of section 70.20 of the penal law, as amended by  
35 section 124 of subpart B of part C of chapter 62 of the laws of 2011, is  
36 amended to read as follows:

37 1. [(a)] Indeterminate or determinate sentence. Except as provided in  
38 subdivision four of this section, when an indeterminate or determinate  
39 sentence of imprisonment is imposed, the court shall commit the defend-  
40 ant to the custody of the state department of corrections and community  
41 supervision for the term of his or her sentence and until released in  
42 accordance with the law; provided, however, that a defendant sentenced  
43 pursuant to subdivision seven of section 70.06 shall be committed to the  
44 custody of the state department of corrections and community supervision  
45 for immediate delivery to a reception center operated by the department.

46 [(b) The court in committing a defendant who is not yet eighteen years  
47 of age to the department of corrections and community supervision shall  
48 inquire as to whether the parents or legal guardian of the defendant, if  
49 present, will grant to the minor the capacity to consent to routine  
50 medical, dental and mental health services and treatment.

51 (c) Notwithstanding paragraph (b) of this subdivision, where the court  
52 commits a defendant who is not yet eighteen years of age to the custody  
53 of the department of corrections and community supervision in accordance  
54 with this section and no medical consent has been obtained prior to said  
55 commitment, the commitment order shall be deemed to grant the capacity

1 to consent to routine medical, dental and mental health services and  
2 treatment to the person so committed.

3 (d) Nothing in this subdivision shall preclude a parent or legal guar-  
4 dian of an inmate who is not yet eighteen years of age from making a  
5 motion on notice to the department of corrections and community super-  
6 vision pursuant to article twenty-two of the civil practice law and  
7 rules and section one hundred forty of the correction law, objecting to  
8 routine medical, dental or mental health services and treatment being  
9 provided to such inmate under the provisions of paragraph (b) of this  
10 subdivision.

11 (e) Nothing in this section shall require that consent be obtained  
12 from the parent or legal guardian, where no consent is necessary or  
13 where the defendant is authorized by law to consent on his or her own  
14 behalf to any medical, dental, and mental health service or treatment.]

15 S 59. Subdivision 2 of section 70.20 of the penal law, as amended by  
16 chapter 437 of the laws of 2013, is amended to read as follows:

17 2. [(a)] Definite sentence. Except as provided in subdivision four of  
18 this section, when a definite sentence of imprisonment is imposed, the  
19 court shall commit the defendant to the county or regional correctional  
20 institution for the term of his sentence and until released in accord-  
21 ance with the law.

22 [(b) The court in committing a defendant who is not yet eighteen years  
23 of age to the local correctional facility shall inquire as to whether  
24 the parents or legal guardian of the defendant, if present, will grant  
25 to the minor the capacity to consent to routine medical, dental and  
26 mental health services and treatment.

27 (c) Nothing in this subdivision shall preclude a parent or legal guar-  
28 dian of an inmate who is not yet eighteen years of age from making a  
29 motion on notice to the local correction facility pursuant to article  
30 twenty-two of the civil practice law and rules and section one hundred  
31 forty of the correction law, objecting to routine medical, dental or  
32 mental health services and treatment being provided to such inmate under  
33 the provisions of paragraph (b) of this subdivision.]

34 S 60. Subdivision 4 of section 70.20 of the penal law, as amended by  
35 section 124 of subpart B of part C of chapter 62 of the laws of 2011, is  
36 amended to read as follows:

37 4. (a) Notwithstanding any other provision of law to the contrary, a  
38 juvenile offender[, ] or a juvenile offender who is adjudicated a youth-  
39 ful offender and given an indeterminate or a definite sentence, AND WHO  
40 IS UNDER THE AGE OF TWENTY-ONE AT THE TIME OF SENTENCING, shall be  
41 committed to the custody of the commissioner of the office of children  
42 and family services who shall arrange for the confinement of such offen-  
43 der in [secure] facilities of the office. The release or transfer of  
44 such offenders from the office of children and family services shall be  
45 governed by section five hundred eight of the executive law. IF THE  
46 JUVENILE OFFENDER IS CONVICTED OR ADJUDICATED A YOUTHFUL OFFENDER AND IS  
47 TWENTY-ONE YEARS OF AGE OR OLDER AT THE TIME OF SENTENCING, HE OR SHE  
48 SHALL BE DELIVERED TO THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPER-  
49 VISION.

50 (A-1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, A  
51 PERSON WHO IS SENTENCED TO AN INDETERMINATE SENTENCE AS AN ADULT FOR  
52 COMMITTING A CRIME WHEN HE OR SHE WAS SIXTEEN OR SEVENTEEN YEARS OF AGE  
53 WHO IS SENTENCED ON OR AFTER DECEMBER FIRST, TWO THOUSAND FIFTEEN TO A  
54 TERM OF AT LEAST ONE YEAR OF IMPRISONMENT AND WHO IS UNDER THE AGE OF  
55 EIGHTEEN AT THE TIME HE OR SHE IS SENTENCED SHALL BE COMMITTED TO THE  
56 CUSTODY OF THE COMMISSIONER OF THE OFFICE OF CHILDREN AND FAMILY

SERVICES WHO SHALL ARRANGE FOR THE CONFINEMENT OF SUCH OFFENDER IN FACILITIES OF THE OFFICE. THE RELEASE OR TRANSFER OF SUCH OFFENDERS FROM THE OFFICE OF CHILDREN AND FAMILY SERVICES SHALL BE GOVERNED BY SECTION FIVE HUNDRED EIGHT OF THE EXECUTIVE LAW.

(b) The court in committing [a juvenile offender and youthful offender] AN OFFENDER UNDER EIGHTEEN YEARS OF AGE to the custody of the office of children and family services shall inquire as to whether the parents or legal guardian of the youth, if present, will consent for the office of children and family services to provide routine medical, dental and mental health services and treatment.

(c) Notwithstanding paragraph (b) of this subdivision, where the court commits an offender to the custody of the office of children and family services in accordance with this section and no medical consent has been obtained prior to said commitment, the commitment order shall be deemed to grant consent for the office of children and family services to provide for routine medical, dental and mental health services and treatment to the offender so committed.

(d) Nothing in this subdivision shall preclude a parent or legal guardian of an offender who is not yet eighteen years of age from making a motion on notice to the office of children and family services pursuant to article twenty-two of the civil practice law and rules objecting to routine medical, dental or mental health services and treatment being provided to such offender 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 offender is authorized by law to consent on his or her own behalf to any medical, dental and mental health service or treatment.

S 60-a. Paragraph (f) of subdivision 1 of section 70.30 of the penal law, as added by chapter 481 of the laws of 1978 and relettered by chapter 3 of the laws of 1995, is amended to read as follows:

(f) The aggregate maximum term of consecutive sentences imposed upon a juvenile offender for two or more crimes, not including a class A felony, committed before he has reached the age of sixteen, shall, if it exceeds ten years, be deemed to be ten years. If consecutive indeterminate sentences imposed upon a juvenile offender include a sentence for [the] A class A felony [of arson in the first degree or for the class A felony of kidnapping in the first degree] OTHER THAN MURDER IN THE SECOND DEGREE, then the aggregate maximum term of such sentences shall, if it exceeds fifteen years, be deemed to be fifteen years. Where the aggregate maximum term of two or more consecutive sentences is reduced by a calculation made pursuant to this paragraph, the aggregate minimum period of imprisonment, if it exceeds one-half of the aggregate maximum term as so reduced, shall be deemed to be one-half of the aggregate maximum term as so reduced.

S 61. Intentionally omitted.

S 62. Subdivision 18 of section 10.00 of the penal law, as amended by chapter 7 of the laws of 2007, is amended to read as follows:

18. "Juvenile offender" means (1) a person thirteen years old who is criminally responsible for acts constituting murder in the second degree as defined in subdivisions one and two of section 125.25 of this chapter or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of [the penal law; and] THIS CHAPTER;

(2) a person fourteen [or], fifteen, SIXTEEN OR SEVENTEEN years old who is criminally responsible for acts constituting the crimes defined in subdivisions one and two of section 125.25 (murder in the second

1 degree) and in subdivision three of such section provided that the  
2 underlying crime for the murder charge is one for which such person is  
3 criminally responsible; section 135.25 (kidnapping in the first degree);  
4 150.20 (arson in the first degree); subdivisions one and two of section  
5 120.10 (assault in the first degree); 125.20 (manslaughter in the first  
6 degree); subdivisions one and two of section 130.35 (rape in the first  
7 degree); subdivisions one and two of section 130.50 (criminal sexual act  
8 in the first degree); 130.70 (aggravated sexual abuse in the first  
9 degree); 140.30 (burglary in the first degree); subdivision one of  
10 section 140.25 (burglary in the second degree); 150.15 (arson in the  
11 second degree); 160.15 (robbery in the first degree); subdivision two of  
12 section 160.10 (robbery in the second degree) of this chapter; or  
13 section 265.03 of this chapter, where such machine gun or such firearm  
14 is possessed on school grounds, as that phrase is defined in subdivision  
15 fourteen of section 220.00 of this chapter; or defined in this chapter  
16 as an attempt to commit murder in the second degree or kidnapping in the  
17 first degree, or such conduct as a sexually motivated felony, where  
18 authorized pursuant to section 130.91 of [the penal law] THIS CHAPTER;  
19 AND

20 (3) A PERSON SIXTEEN OR SEVENTEEN YEARS OF AGE IS CRIMINALLY RESPONSI-  
21 BLE FOR ACTS CONSTITUTING THE CRIMES DEFINED IN SECTION 490.25 (CRIME OF  
22 TERRORISM); 490.45 (CRIMINAL POSSESSION OF A CHEMICAL WEAPON OR BIOLOG-  
23 ICAL WEAPON IN THE FIRST DEGREE); 490.55 (CRIMINAL USE OF A CHEMICAL  
24 WEAPON OR BIOLOGICAL WEAPON IN THE FIRST DEGREE); 490.50 (CRIMINAL USE  
25 OF A CHEMICAL WEAPON OR BIOLOGICAL WEAPON IN THE SECOND DEGREE); 130.95  
26 (PREDATORY SEXUAL ASSAULT) OF THIS CHAPTER.

27 S 63. Subdivision 42 of section 1.20 of the criminal procedure law, as  
28 amended by chapter 7 of the laws of 2007, is amended to read as follows:

29 42. "Juvenile offender" means (1) a person, thirteen years old who is  
30 criminally responsible for acts constituting murder in the second degree  
31 as defined in subdivisions one and two of section 125.25 of the penal  
32 law, or such conduct as a sexually motivated felony, where authorized  
33 pursuant to section 130.91 of the penal law; [and] (2) a person fourteen  
34 [or], fifteen, SIXTEEN OR SEVENTEEN years old who is criminally respon-  
35 sible for acts constituting the crimes defined in subdivisions one and  
36 two of section 125.25 (murder in the second degree) and in subdivision  
37 three of such section provided that the underlying crime for the murder  
38 charge is one for which such person is criminally responsible; section  
39 135.25 (kidnapping in the first degree); 150.20 (arson in the first  
40 degree); subdivisions one and two of section 120.10 (assault in the  
41 first degree); 125.20 (manslaughter in the first degree); subdivisions  
42 one and two of section 130.35 (rape in the first degree); subdivisions  
43 one and two of section 130.50 (criminal sexual act in the first degree);  
44 130.70 (aggravated sexual abuse in the first degree); 140.30 (burglary  
45 in the first degree); subdivision one of section 140.25 (burglary in the  
46 second degree); 150.15 (arson in the second degree); 160.15 (robbery in  
47 the first degree); subdivision two of section 160.10 (robbery in the  
48 second degree) of the penal law; or section 265.03 of the penal law,  
49 where such machine gun or such firearm is possessed on school grounds,  
50 as that phrase is defined in subdivision fourteen of section 220.00 of  
51 the penal law; or defined in the penal law as an attempt to commit  
52 murder in the second degree or kidnapping in the first degree, or such  
53 conduct as a sexually motivated felony, where authorized pursuant to  
54 section 130.91 of the penal law; AND (3) A PERSON SIXTEEN OR SEVENTEEN  
55 YEARS OF AGE IS CRIMINALLY RESPONSIBLE FOR ACTS CONSTITUTING THE CRIMES  
56 DEFINED IN SECTION 490.25 (CRIME OF TERRORISM); 490.45 (CRIMINAL



1 POSSESSION OF A CHEMICAL WEAPON OR BIOLOGICAL WEAPON IN THE FIRST  
2 DEGREE); 490.55 (CRIMINAL USE OF A CHEMICAL WEAPON OR BIOLOGICAL WEAPON  
3 IN THE FIRST DEGREE); 490.50 (CRIMINAL USE OF A CHEMICAL WEAPON OR  
4 BIOLOGICAL WEAPON IN THE SECOND DEGREE); 130.95 (PREDATORY SEXUAL  
5 ASSAULT) OF THIS CHAPTER.

6 S 63-a. The article heading of article 100 of the criminal procedure  
7 law, as added by chapter 996 of the laws of 1970, is amended to read as  
8 follows:

9 --COMMENCEMENT OF ACTION IN LOCAL  
10 CRIMINAL COURT OR YOUTH PART OF A SUPERIOR COURT--[LOCAL  
11 CRIMINAL COURT] ACCUSATORY INSTRUMENTS

12 S 63-b. The first undesignated paragraph of section 100.05 of the  
13 criminal procedure law, as added by chapter 996 of the laws of 1970, is  
14 amended to read as follows:

15 A criminal action is commenced by the filing of an accusatory instru-  
16 ment with a criminal court, OR, IN THE CASE OF A JUVENILE OFFENDER, THE  
17 YOUTH PART OF THE SUPERIOR COURT, and if more than one such instrument  
18 is filed in the course of the same criminal action, such action  
19 commences when the first of such instruments is filed. The only way in  
20 which a criminal action can be commenced in a superior court is by the  
21 filing therewith by a grand jury of an indictment against a defendant  
22 who has never been held by a local criminal court for the action of such  
23 grand jury with respect to any charge contained in such indictment;  
24 PROVIDED, HOWEVER, THAT WHEN THE CRIMINAL ACTION IS COMMENCED AGAINST A  
25 JUVENILE OFFENDER, SUCH CRIMINAL ACTION, WHATEVER THE FORM OF COMMENCE-  
26 MENT, SHALL BE FILED IN THE YOUTH PART OF THE SUPERIOR COURT OR, IF THE  
27 YOUTH PART IS NOT IN SESSION, FILED WITH THE MOST ACCESSIBLE MAGISTRATE  
28 DESIGNATED BY THE APPELLATE DIVISION OF THE SUPREME COURT IN THE APPLI-  
29 CABLE DEPARTMENT TO ACT AS A YOUTH PART. Otherwise, a criminal action  
30 can be commenced only in a local criminal court, by the filing therewith  
31 of a local criminal court accusatory instrument, namely:

32 S 63-c. The section heading and subdivision 5 of section 100.10 of the  
33 criminal procedure law, as added by chapter 996 of the laws of 1970, are  
34 amended to read as follows:

35 Local criminal court AND YOUTH PART OF THE SUPERIOR COURT accusatory  
36 instruments; definitions thereof.

37 5. A "felony complaint" is a verified written accusation by a person,  
38 filed with a local criminal court, OR YOUTH PART OF THE SUPERIOR COURT,  
39 charging one or more other persons with the commission of one or more  
40 felonies. It serves as a basis for the commencement of a criminal  
41 action, but not as a basis for prosecution thereof.

42 S 63-d. The section heading of section 100.40 of the criminal proce-  
43 dure law, as added by chapter 996 of the laws of 1970, is amended to  
44 read as follows:

45 S 100.40 Local criminal court AND YOUTH PART OF THE SUPERIOR COURT accu-  
46 satory instruments; sufficiency on face.

47 S 63-e. The criminal procedure law is amended by adding a new section  
48 100.60 to read as follows:

49 S 100.60 YOUTH PART OF THE SUPERIOR COURT ACCUSATORY INSTRUMENTS; IN  
50 WHAT COURTS FILED.

51 ANY YOUTH PART OF THE SUPERIOR COURT ACCUSATORY INSTRUMENT MAY BE  
52 FILED WITH THE YOUTH PART OF THE SUPERIOR COURT OF A PARTICULAR COUNTY  
53 WHEN AN OFFENSE CHARGED THEREIN WAS ALLEGEDLY COMMITTED IN SUCH COUNTY  
54 OR THAT PART THEREOF OVER WHICH SUCH COURT HAS JURISDICTION.

1 S 63-f. The article heading of article 110 of the criminal procedure  
2 law, as added by chapter 996 of the laws of 1970, is amended to read as  
3 follows:

4 --REQUIRING DEFENDANT'S APPEARANCE  
5 IN LOCAL CRIMINAL COURT OR YOUTH PART OF SUPERIOR COURT  
6 FOR ARRAIGNMENT

7 S 63-g. The section heading and subdivisions 1 and 2 of section 110.10  
8 of the criminal procedure law, as added by chapter 996 of the laws of  
9 1970, and subdivision 1 and subdivision 2, are amended to read as  
10 follows:

11 S 110.10 Methods of requiring defendant's appearance in local criminal  
12 court OR YOUTH PART OF THE SUPERIOR COURT for arraignment;  
13 in general.

14 1. After a criminal action has been commenced in a local criminal  
15 court OR YOUTH PART OF THE SUPERIOR COURT by the filing of an accusatory  
16 instrument therewith, a defendant who has not been arraigned in the  
17 action and has not come under the control of the court may under certain  
18 circumstances be compelled or required to appear for arraignment upon  
19 such accusatory instrument by:

20 (a) The issuance and execution of a warrant of arrest, as provided in  
21 article one hundred twenty; or

22 (b) The issuance and service upon him of a summons, as provided in  
23 article one hundred thirty; or

24 (c) Procedures provided in articles five hundred sixty, five hundred  
25 seventy, five hundred eighty, five hundred ninety and six hundred for  
26 securing attendance of defendants in criminal actions who are not at  
27 liberty within the state.

28 2. Although no criminal action against a person has been commenced in  
29 any court, he may under certain circumstances be compelled or required  
30 to appear in a local criminal court OR YOUTH PART OF A SUPERIOR COURT  
31 for arraignment upon an accusatory instrument to be filed therewith at  
32 or before the time of his appearance by:

33 (a) An arrest made without a warrant, as provided in article one  
34 hundred forty; or

35 (b) The issuance and service upon him of an appearance ticket, as  
36 provided in article one hundred fifty.

37 S 63-h. Section 110.20 of the criminal procedure law, as added by  
38 chapter 996 of the laws of 1970, is amended to read as follows:

39 S 110.20 Local criminal court OR YOUTH PART OF THE SUPERIOR COURT accu-  
40 satory instruments; notice thereof to district attorney.

41 When a criminal action in which a crime is charged is commenced in a  
42 local criminal court, other than the criminal court of the city of New  
43 York, OR YOUTH PART OF THE SUPERIOR COURT, a copy of the accusatory  
44 instrument shall be promptly transmitted to the appropriate district  
45 attorney upon or prior to the arraignment of the defendant on the accu-  
46 satory instrument. If a police officer or a peace officer is the  
47 complainant or the filer of a simplified information, or has arrested  
48 the defendant or brought him before the local criminal court OR YOUTH  
49 PART OF THE SUPERIOR COURT on behalf of an arresting person pursuant to  
50 subdivision one of section 140.20, such officer or his agency shall  
51 transmit the copy of the accusatory instrument to the appropriate  
52 district attorney. In all other cases, the clerk of the court in which  
53 the defendant is arraigned shall so transmit it.

54 S 63-i. The first undesignated paragraph of subdivision 1 of section  
55 120.20 of the criminal procedure law, as amended by chapter 506 of the  
56 laws of 2000, is amended to read as follows:

1 When a criminal action has been commenced in a local criminal court OR  
2 YOUTH PART OF THE SUPERIOR COURT by the filing therewith of an accusato-  
3 ry instrument, other than a simplified traffic information, against a  
4 defendant who has not been arraigned upon such accusatory instrument and  
5 has not come under the control of the court with respect thereto:

6 S 63-j. Section 120.30 of the criminal procedure law, as added by  
7 chapter 996 of the laws of 1970, is amended to read as follows:

8 S 120.30 Warrant of arrest; by what courts issuable and in what courts  
9 returnable.

10 1. A warrant of arrest may be issued only by the local criminal court  
11 OR YOUTH PART OF THE SUPERIOR COURT with which the underlying accusatory  
12 instrument has been filed, and it may be made returnable in such issuing  
13 court only.

14 2. The particular local criminal court or courts OR YOUTH PART OF  
15 SUPERIOR COURT with which any particular local criminal court OR YOUTH  
16 PART OF THE SUPERIOR COURT accusatory instrument may be filed for the  
17 purpose of obtaining a warrant of arrest are determined, generally, by  
18 the provisions of section 100.55 OR 100.60, AS APPLICABLE. If, however,  
19 a particular accusatory instrument may pursuant to said section 100.55  
20 be filed with a particular town court and such town court is not avail-  
21 able at the time such instrument is sought to be filed and a warrant  
22 obtained, such accusatory instrument may be filed with the town court of  
23 any adjoining town of the same county. If such instrument may be filed  
24 pursuant to said section 100.55 with a particular village court and such  
25 village court is not available at the time, it may be filed with the  
26 town court of the town embracing such village, or if such town court is  
27 not available either, with the town court of any adjoining town of the  
28 same county.

29 S 63-k. Section 120.55 of the criminal procedure law, as amended by  
30 section 71 of subpart B of part C of chapter 62 of the laws of 2011, is  
31 amended to read as follows:

32 S 120.55 Warrant of arrest; defendant under parole or probation super-  
33 vision.

34 If the defendant named within a warrant of arrest issued by a local  
35 criminal court OR YOUTH PART OF THE SUPERIOR COURT pursuant to the  
36 provisions of this article, or by a superior court issued pursuant to  
37 subdivision three of section 210.10 of this chapter, is under the super-  
38 vision of the state department of corrections and community supervision  
39 or a local or state probation department, then a warrant for his or her  
40 arrest may be executed by a parole officer or probation officer, when  
41 authorized by his or her probation director, within his or her geograph-  
42 ical area of employment. The execution of the warrant by a parole offi-  
43 cer or probation officer shall be upon the same conditions and conducted  
44 in the same manner as provided for execution of a warrant by a police  
45 officer.

46 S 63-l. Subdivision 1 of section 120.70 of the criminal procedure law,  
47 as added by chapter 996 of the laws of 1970, is amended to read as  
48 follows:

49 1. A warrant of arrest issued by a district court, by the New York  
50 City criminal court, THE YOUTH PART OF A SUPERIOR COURT or by a superior  
51 court judge sitting as a local criminal court may be executed anywhere  
52 in the state.

53 S 63-m. Section 120.90 of the criminal procedure law, as amended by  
54 chapter 424 of the laws of 1998, subdivision 8 as amended by chapter 96  
55 of the laws of 2010, is amended to read as follows:

56 S 120.90 Warrant of arrest; procedure after arrest.

1     1.     Upon arresting a defendant for any offense pursuant to a warrant  
2 of arrest in the county in which the warrant is returnable or in any  
3 adjoining county, or upon so arresting him for a felony in any other  
4 county, a police officer, if he be one to whom the warrant is addressed,  
5 must without unnecessary delay bring the defendant before the local  
6 criminal court OR YOUTH PART OF THE SUPERIOR COURT in which such warrant  
7 is returnable.

8     2.     Upon arresting a defendant for any offense pursuant to a warrant  
9 of arrest in a county adjoining the county in which the warrant is  
10 returnable, or upon so arresting him for a felony in any other county, a  
11 police officer, if he be one delegated to execute the warrant pursuant  
12 to section 120.60, must without unnecessary delay deliver the defendant  
13 or cause him to be delivered to the custody of the officer by whom he  
14 was so delegated, and the latter must then proceed as provided in subdi-  
15 vision one.

16     3.     Upon arresting a defendant for an offense other than a felony  
17 pursuant to a warrant of arrest in a county other than the one in which  
18 the warrant is returnable or one adjoining it, a police officer, if he  
19 be one to whom the warrant is addressed, must inform the defendant that  
20 he has a right to appear before a local criminal court of the county of  
21 arrest for the purpose of being released on his own recognizance or  
22 having bail fixed. If the defendant does not desire to avail himself of  
23 such right, the officer must request him to endorse such fact upon the  
24 warrant, and upon such endorsement the officer must without unnecessary  
25 delay bring him before the court in which the warrant is returnable. If  
26 the defendant does desire to avail himself of such right, or if he  
27 refuses to make the aforementioned endorsement, the officer must without  
28 unnecessary delay bring him before a local criminal court of the county  
29 of arrest. Such court must release the defendant on his own recogni-  
30 zance or fix bail for his appearance on a specified date in the court in  
31 which the warrant is returnable. If the defendant is in default of  
32 bail, the officer must without unnecessary delay bring him before the  
33 court in which the warrant is returnable.

34     4.     Upon arresting a defendant for an offense other than a felony  
35 pursuant to a warrant of arrest in a county other than the one in which  
36 the warrant is returnable or one adjoining it, a police officer, if he  
37 be one delegated to execute the warrant pursuant to section 120.60, may  
38 hold the defendant in custody in the county of arrest for a period not  
39 exceeding two hours for the purpose of delivering him to the custody of  
40 the officer by whom he was delegated to execute such warrant. If the  
41 delegating officer receives custody of the defendant during such period,  
42 he must proceed as provided in subdivision three. Otherwise, the deleg-  
43 ated officer must inform the defendant that he has a right to appear  
44 before a local criminal court for the purpose of being released on his  
45 own recognizance or having bail fixed. If the defendant does not desire  
46 to avail himself of such right, the officer must request him to make,  
47 sign and deliver to him a written statement of such fact, and if the  
48 defendant does so, the officer must retain custody of him but must with-  
49 out unnecessary delay deliver him or cause him to be delivered to the  
50 custody of the delegating police officer. If the defendant does desire  
51 to avail himself of such right, or if he refuses to make and deliver the  
52 aforementioned statement, the delegated or arresting officer must with-  
53 out unnecessary delay bring him before a local criminal court of the  
54 county of arrest and must submit to such court a written statement  
55 reciting the material facts concerning the issuance of the warrant, the  
56 offense involved, and all other essential matters relating thereto.

1 Upon the submission of such statement, such court must release the  
2 defendant on his own recognizance or fix bail for his appearance on a  
3 specified date in the court in which the warrant is returnable. If the  
4 defendant is in default of bail, the officer must retain custody of him  
5 but must without unnecessary delay deliver him or cause him to be deliv-  
6 ered to the custody of the delegating officer. Upon receiving such  
7 custody, the latter must without unnecessary delay bring the defendant  
8 before the court in which the warrant is returnable.

9 5. Whenever a police officer is required pursuant to this section to  
10 bring an arrested defendant before a town court in which a warrant of  
11 arrest is returnable, and if such town court is not available at the  
12 time, such officer must, if a copy of the underlying accusatory instru-  
13 ment has been attached to the warrant pursuant to section 120.40,  
14 instead bring such defendant before any village court embraced, in whole  
15 or in part, by such town, or any local criminal court of an adjoining  
16 town or city of the same county or any village court embraced, in whole  
17 or in part, by such adjoining town. When the court in which the warrant  
18 is returnable is a village court which is not available at the time, the  
19 officer must in such circumstances bring the defendant before the town  
20 court of the town embracing such village or any other village court  
21 within such town or, if such town court or village court is not avail-  
22 able either, before the local criminal court of any town or city of the  
23 same county which adjoins such embracing town or, before the local crim-  
24 inal court of any village embraced in whole or in part by such adjoining  
25 town. When the court in which the warrant is returnable is a city court  
26 which is not available at the time, the officer must in such circum-  
27 stances bring the defendant before the local criminal court of any  
28 adjoining town or village embraced in whole or in part by such adjoining  
29 town of the same county.

30 5-A. WHENEVER A POLICE OFFICER IS REQUIRED, PURSUANT TO THIS SECTION,  
31 TO BRING AN ARRESTED DEFENDANT BEFORE A YOUTH PART OF A SUPERIOR COURT  
32 IN WHICH A WARRANT OF ARREST IS RETURNABLE, AND IF SUCH COURT IS NOT  
33 AVAILABLE AT THE TIME, SUCH OFFICER MUST BRING SUCH DEFENDANT BEFORE THE  
34 MOST ACCESSIBLE MAGISTRATE DESIGNATED BY THE APPELLATE DIVISION OF THE  
35 SUPREME COURT IN THE APPLICABLE DEPARTMENT TO ACT AS A YOUTH PART.

36 6. Before bringing a defendant arrested pursuant to a warrant before  
37 the local criminal court OR YOUTH PART OF A SUPERIOR COURT in which such  
38 warrant is returnable, a police officer must without unnecessary delay  
39 perform all fingerprinting and other preliminary police duties required  
40 in the particular case. In any case in which the defendant is not  
41 brought by a police officer before such court but, following his arrest  
42 in another county for an offense specified in subdivision one of section  
43 160.10, is released by a local criminal court of such other county on  
44 his own recognizance or on bail for his appearance on a specified date  
45 before the local criminal court before which the warrant is returnable,  
46 the latter court must, upon arraignment of the defendant before it,  
47 direct that he be fingerprinted by the appropriate officer or agency,  
48 and that he appear at an appropriate designated time and place for such  
49 purpose.

50 7. Upon arresting a juvenile offender, the police officer shall imme-  
51 diately notify the parent or other person legally responsible for his  
52 care or the person with whom he is domiciled, that the juvenile offender  
53 has been arrested, and the location of the facility where he is being  
54 detained.

55 8. Upon arresting a defendant, other than a juvenile offender, for  
56 any offense pursuant to a warrant of arrest, a police officer shall,

1 upon the defendant's request, permit the defendant to communicate by  
2 telephone provided by the law enforcement facility where the defendant  
3 is held to a phone number located anywhere in the United States or Puer-  
4 to Rico, for the purposes of obtaining counsel and informing a relative  
5 or friend that he or she has been arrested, unless granting the call  
6 will compromise an ongoing investigation or the prosecution of the  
7 defendant.

8 S 63-n. Subdivision 1 of section 130.10 of the criminal procedure law,  
9 as amended by chapter 446 of the laws of 1993, is amended to read as  
10 follows:

11 1. A summons is a process issued by a local criminal court directing a  
12 defendant designated in an information, a prosecutor's information, a  
13 felony complaint or a misdemeanor complaint filed with such court, OR A  
14 YOUTH PART OF A SUPERIOR COURT DIRECTING A DEFENDANT DESIGNATED IN A  
15 FELONY COMPLAINT, or by a superior court directing a defendant desig-  
16 nated in an indictment filed with such court, to appear before it at a  
17 designated future time in connection with such accusatory instrument.  
18 The sole function of a summons is to achieve a defendant's court appear-  
19 ance in a criminal action for the purpose of arraignment upon the accu-  
20 satory instrument by which such action was commenced.

21 S 63-o. Section 130.30 of the criminal procedure law, as amended by  
22 chapter 506 of the laws of 2000, is amended to read as follows:  
23 S 130.30 Summons; when issuable.

24 A local criminal court OR YOUTH PART OF THE SUPERIOR COURT may issue a  
25 summons in any case in which, pursuant to section 120.20, it is author-  
26 ized to issue a warrant of arrest based upon an information, a  
27 prosecutor's information, a felony complaint or a misdemeanor complaint.  
28 If such information, prosecutor's information, felony complaint or  
29 misdemeanor complaint is not sufficient on its face as prescribed in  
30 section 100.40, and if the court is satisfied that on the basis of the  
31 available facts or evidence it would be impossible to draw and file an  
32 authorized accusatory instrument that is sufficient on its face, the  
33 court must dismiss the accusatory instrument. A superior court may issue  
34 a summons in any case in which, pursuant to section 210.10, it is  
35 authorized to issue a warrant of arrest based upon an indictment.

36 S 63-p. Subdivision 1 of section 140.20 of the criminal procedure law  
37 is amended by adding a new paragraph (e) to read as follows:

38 (E) IF THE ARREST IS FOR A PERSON UNDER THE AGE OF EIGHTEEN, SUCH  
39 PERSON SHALL BE BROUGHT BEFORE THE YOUTH PART OF THE SUPERIOR COURT. IF  
40 THE YOUTH PART IS NOT IN SESSION, SUCH PERSON SHALL BE BROUGHT BEFORE  
41 THE MOST ACCESSIBLE MAGISTRATE DESIGNATED BY THE APPELLATE DIVISION OF  
42 THE SUPREME COURT IN THE APPLICABLE DEPARTMENT TO ACT AS A YOUTH PART.

43 S 64. Subdivision 6 of section 140.20 of the criminal procedure law,  
44 as added by chapter 411 of the laws of 1979, is amended to read as  
45 follows:

46 6. Upon arresting a juvenile offender without a warrant, the police  
47 officer shall immediately notify the parent or other person legally  
48 responsible for his OR HER care or the person with whom he OR SHE is  
49 domiciled, that the juvenile offender has been arrested, and the  
50 location of the facility where he OR SHE is being detained. IF THE OFFI-  
51 CER DETERMINES THAT IT IS NECESSARY TO QUESTION A JUVENILE OFFENDER OR A  
52 CHILD UNDER EIGHTEEN YEARS OF AGE WHO FITS WITHIN THE DEFINITION OF A  
53 JUVENILE OFFENDER AS DEFINED IN SECTION 30.00 OF THE PENAL LAW, THE  
54 OFFICER MUST TAKE THE JUVENILE TO A FACILITY DESIGNATED BY THE CHIEF  
55 ADMINISTRATOR OF THE COURTS AS A SUITABLE PLACE FOR THE QUESTIONING OF  
56 CHILDREN OR, UPON THE CONSENT OF A PARENT OR OTHER PERSON LEGALLY

1 RESPONSIBLE FOR THE CARE OF THE JUVENILE, TO THE JUVENILE'S RESIDENCE  
2 AND THERE QUESTION HIM OR HER FOR A REASONABLE PERIOD OF TIME. A JUVE-  
3 NILE SHALL NOT BE QUESTIONED PURSUANT TO THIS SECTION UNLESS THE JUVE-  
4 NILE AND A PERSON REQUIRED TO BE NOTIFIED PURSUANT TO THIS SUBDIVISION,  
5 IF PRESENT, HAVE BEEN ADVISED:

6 (A) OF THE JUVENILE'S RIGHT TO REMAIN SILENT;

7 (B) THAT THE STATEMENTS MADE BY THE JUVENILE MAY BE USED IN A COURT OF  
8 LAW;

9 (C) OF THE JUVENILE'S RIGHT TO HAVE AN ATTORNEY PRESENT AT SUCH QUES-  
10 TIONING; AND

11 (D) OF THE JUVENILE'S RIGHT TO HAVE AN ATTORNEY PROVIDED FOR HIM OR  
12 HER WITHOUT CHARGE IF HE OR SHE IS INDIGENT.

13 IN DETERMINING THE SUITABILITY OF QUESTIONING AND DETERMINING THE  
14 REASONABLE PERIOD OF TIME FOR QUESTIONING SUCH A JUVENILE OFFENDER, THE  
15 JUVENILE'S AGE, THE PRESENCE OR ABSENCE OF HIS OR HER PARENTS OR OTHER  
16 PERSONS LEGALLY RESPONSIBLE FOR HIS OR HER CARE AND NOTIFICATION PURSU-  
17 ANT TO THIS SUBDIVISION SHALL BE INCLUDED AMONG RELEVANT CONSIDERATIONS.

18 S 64-a. Subdivision 2 of section 140.27 of the criminal procedure law,  
19 as amended by chapter 843 of the laws of 1980, is amended to read as  
20 follows:

21 2. Upon arresting a person without a warrant, a peace officer, except  
22 as otherwise provided in subdivision three OR THREE-A, must without  
23 unnecessary delay bring him or cause him to be brought before a local  
24 criminal court, as provided in section 100.55 and subdivision one of  
25 section 140.20, and must without unnecessary delay file or cause to be  
26 filed therewith an appropriate accusatory instrument. If the offense  
27 which is the subject of the arrest is one of those specified in subdivi-  
28 sion one of section 160.10, the arrested person must be fingerprinted  
29 and photographed as therein provided. In order to execute the required  
30 post-arrest functions, such arresting peace officer may perform such  
31 functions himself or he may enlist the aid of a police officer for the  
32 performance thereof in the manner provided in subdivision one of section  
33 140.20.

34 S 64-b. Section 140.27 of the criminal procedure law is amended by  
35 adding a new subdivision 3-a to read as follows:

36 3-A. IF THE ARREST IS FOR A PERSON UNDER THE AGE OF EIGHTEEN, SUCH  
37 PERSON SHALL BE BROUGHT BEFORE THE YOUTH PART OF THE SUPERIOR COURT. IF  
38 THE YOUTH PART IS NOT IN SESSION, SUCH PERSON SHALL BE BROUGHT BEFORE  
39 THE MOST ACCESSIBLE MAGISTRATE DESIGNATED BY THE APPELLATE DIVISION OF  
40 THE SUPREME COURT IN THE APPLICABLE DEPARTMENT TO ACT AS A YOUTH PART.

41 S 65. Subdivision 5 of section 140.27 of the criminal procedure law,  
42 as added by chapter 411 of the laws of 1979, is amended to read as  
43 follows:

44 5. Upon arresting a juvenile offender without a warrant, the peace  
45 officer shall immediately notify the parent or other person legally  
46 responsible for his care or the person with whom he OR SHE is domiciled,  
47 that the juvenile offender has been arrested, and the location of the  
48 facility where he OR SHE is being detained. IF THE OFFICER DETERMINES  
49 THAT IT IS NECESSARY TO QUESTION A JUVENILE OFFENDER OR A CHILD UNDER  
50 EIGHTEEN YEARS OF AGE WHO FITS WITHIN THE DEFINITION OF A JUVENILE  
51 OFFENDER AS DEFINED IN SECTION 30.00 OF THE PENAL LAW THE OFFICER MUST  
52 TAKE THE JUVENILE TO A FACILITY DESIGNATED BY THE CHIEF ADMINISTRATOR OF  
53 THE COURTS AS A SUITABLE PLACE FOR THE QUESTIONING OF CHILDREN OR, UPON  
54 THE CONSENT OF A PARENT OR OTHER PERSON LEGALLY RESPONSIBLE FOR THE CARE  
55 OF THE JUVENILE, TO THE JUVENILE'S RESIDENCE AND THERE QUESTION HIM OR  
56 HER FOR A REASONABLE PERIOD OF TIME. A JUVENILE SHALL NOT BE QUESTIONED

PURSUANT TO THIS SECTION UNLESS THE JUVENILE AND A PERSON REQUIRED TO BE NOTIFIED PURSUANT TO THIS SUBDIVISION, IF PRESENT, HAVE BEEN ADVISED:

(A) OF THE JUVENILE'S RIGHT TO REMAIN SILENT;

(B) THAT THE STATEMENTS MADE BY THE JUVENILE MAY BE USED IN A COURT OF LAW;

(C) OF THE JUVENILE'S RIGHT TO HAVE AN ATTORNEY PRESENT AT SUCH QUESTIONING; AND

(D) OF THE JUVENILE'S RIGHT TO HAVE AN ATTORNEY PROVIDED FOR HIM OR HER WITHOUT CHARGE IF HE OR SHE IS INDIGENT.

IN DETERMINING THE SUITABILITY OF QUESTIONING AND DETERMINING THE REASONABLE PERIOD OF TIME FOR QUESTIONING SUCH A JUVENILE OFFENDER, THE JUVENILE'S AGE, THE PRESENCE OR ABSENCE OF HIS OR HER PARENTS OR OTHER PERSONS LEGALLY RESPONSIBLE FOR HIS OR HER CARE AND NOTIFICATION PURSUANT TO THIS SUBDIVISION SHALL BE INCLUDED AMONG RELEVANT CONSIDERATIONS.

S 66. Subdivision 5 of section 140.40 of the criminal procedure law, as added by chapter 411 of the laws of 1979, is amended to read as follows:

5. If a police officer takes an arrested juvenile offender into custody, the police officer shall immediately notify the parent or other person legally responsible for his OR HER care or the person with whom he OR SHE is domiciled, that the juvenile offender has been arrested, and the location of the facility where he OR SHE is being detained. IF THE OFFICER DETERMINES THAT IT IS NECESSARY TO QUESTION A JUVENILE OFFENDER OR A CHILD UNDER EIGHTEEN YEARS OF AGE WHO FITS WITHIN THE DEFINITION OF A JUVENILE OFFENDER AS DEFINED IN SECTION 30.00 OF THE PENAL LAW THE OFFICER MUST TAKE THE JUVENILE TO A FACILITY DESIGNATED BY THE CHIEF ADMINISTRATOR OF THE COURTS AS A SUITABLE PLACE FOR THE QUESTIONING OF CHILDREN OR, UPON THE CONSENT OF A PARENT OR OTHER PERSON LEGALLY RESPONSIBLE FOR THE CARE OF THE JUVENILE, TO THE JUVENILE'S RESIDENCE AND THERE QUESTION HIM OR HER FOR A REASONABLE PERIOD OF TIME. A JUVENILE SHALL NOT BE QUESTIONED PURSUANT TO THIS SECTION UNLESS THE JUVENILE AND A PERSON REQUIRED TO BE NOTIFIED PURSUANT TO THIS SUBDIVISION, IF PRESENT, HAVE BEEN ADVISED:

(A) OF THE JUVENILE'S RIGHT TO REMAIN SILENT;

(B) THAT THE STATEMENTS MADE BY THE JUVENILE MAY BE USED IN A COURT OF LAW;

(C) OF THE JUVENILE'S RIGHT TO HAVE AN ATTORNEY PRESENT AT SUCH QUESTIONING; AND

(D) OF THE JUVENILE'S RIGHT TO HAVE AN ATTORNEY PROVIDED FOR HIM OR HER WITHOUT CHARGE IF HE OR SHE IS INDIGENT.

IN DETERMINING THE SUITABILITY OF QUESTIONING AND DETERMINING THE REASONABLE PERIOD OF TIME FOR QUESTIONING SUCH A JUVENILE OFFENDER, THE JUVENILE'S AGE, THE PRESENCE OR ABSENCE OF HIS OR HER PARENTS OR OTHER PERSONS LEGALLY RESPONSIBLE FOR HIS OR HER CARE AND NOTIFICATION PURSUANT TO THIS SUBDIVISION SHALL BE INCLUDED AMONG RELEVANT CONSIDERATIONS.

S 66-a. Section 150.40 of the criminal procedure law is amended by adding a new subdivision 5 to read as follows:

5. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, ANY UNIFORM TRAFFIC TICKET ISSUED TO A PERSON SIXTEEN OR SEVENTEEN YEARS OF AGE PURSUANT TO A VIOLATION OF ANY PROVISION OF THE VEHICLE AND TRAFFIC LAW, OR ANY LOCAL LAW, CONSTITUTING A TRAFFIC INFRACTION SHALL BE RETURNABLE TO THE LOCAL CITY, TOWN, OR VILLAGE COURT, OR TRAFFIC VIOLATIONS BUREAU HAVING JURISDICTION.

S 67. The criminal procedure law is amended by adding a new section 160.56 to read as follows:



S 160.56 CONDITIONAL SEALING OF CERTAIN CONVICTIONS FOR OFFENSES COMMITTED BY A DEFENDANT TWENTY YEARS OF AGE OR YOUNGER OR BY A DEFENDANT CONVICTED AS A JUVENILE OFFENDER.

1. WHEN A DEFENDANT IS CONVICTED ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION, FOR ONE OR MORE ELIGIBLE OFFENSES, ALL OF WHICH WERE COMMITTED AS PART OF THE SAME CRIMINAL TRANSACTION AS DEFINED IN SUBDIVISION TWO OF SECTION 40.10 OF THIS CHAPTER WHICH OFFENSE OR OFFENSES WERE COMMITTED WHEN HE OR SHE WAS TWENTY YEARS OF AGE OR YOUNGER AND THE DEFENDANT HAD NO PRIOR CRIMINAL CONVICTIONS, THE COURT SHALL CERTIFY UPON CONVICTION THAT THE DEFENDANT IS APPARENTLY ELIGIBLE FOR CONDITIONAL SEALING AND SHALL SCHEDULE THE DEFENDANT'S CASE FOR REVIEW AT THE EXPIRATION OF THE TIME PERIOD SET FORTH IN SUBDIVISION TWO OF THIS SECTION. SUCH REVIEW SHALL NOT REQUIRE A MOTION OR APPEARANCE BY A DEFENDANT. UPON THE EXPIRATION OF THE TIME PERIOD SET FORTH IN SUBDIVISION TWO OF THIS SECTION, THE COURT SHALL NOTIFY THE DISTRICT ATTORNEY THAT THE CASE IS UNDER REVIEW. IF THE DISTRICT ATTORNEY DOES NOT PROVIDE NOTICE OF OPPOSITION TO SEALING WITHIN FORTY-FIVE DAYS OF RECEIPT OF THE NOTIFICATION AND THE COURT DETERMINES THAT THE DEFENDANT MEETS THE CRITERIA FOR SEALING AS SET FORTH IN THIS SECTION, THE COURT SHALL ORDER THAT THE RECORD BE CONDITIONALLY SEALED. IF THE DISTRICT ATTORNEY OPPOSES SEALING, HE OR SHE SHALL NOTIFY THE COURT AND THE DEFENDANT OF THE REASONS FOR OPPOSITION. IF THE COURT HAS DETERMINED, SUA SPONTE, OR THE DISTRICT ATTORNEY HAS NOTIFIED THE COURT, THAT THE DEFENDANT DOES NOT MEET THE CRITERIA FOR CONDITIONAL SEALING, THE COURT MUST PROVIDE THE DEFENDANT, ON NOTICE TO THE DISTRICT ATTORNEY, WITH NOTICE AND AN OPPORTUNITY TO DISPUTE SUCH FINDING.

WHENEVER THE COURT DETERMINES THAT ALL CRITERIA FOR SEALING HAVE BEEN SATISFIED AND ORDERS A RECORD CONDITIONALLY SEALED, THE CLERK OF THE COURT SHALL IMMEDIATELY NOTIFY THE COMMISSIONER OF THE DIVISION OF CRIMINAL JUSTICE SERVICES THAT THE CONVICTION OR CONVICTIONS SHALL BE CONDITIONALLY SEALED. FOR PURPOSES OF THIS SECTION, AN ELIGIBLE OFFENSE IS ANY MISDEMEANOR OR FELONY OTHER THAN A FELONY OFFENSE DEFINED IN ARTICLE ONE HUNDRED TWENTY-FIVE OF THE PENAL LAW, A VIOLENT FELONY OFFENSE DEFINED IN SECTION 70.02 OF THE PENAL LAW, A CLASS A FELONY OFFENSE DEFINED IN THE PENAL LAW, OR AN OFFENSE FOR WHICH REGISTRATION AS A SEX OFFENDER IS REQUIRED PURSUANT TO ARTICLE SIX-C OF THE CORRECTION LAW.

2. AN ELIGIBLE OFFENSE MAY BE CONDITIONALLY SEALED ONLY:

(A) AFTER THE FOLLOWING TIME PERIODS HAVE ELAPSED:

(I) FOR A MISDEMEANOR, AT LEAST ONE YEAR HAS PASSED SINCE: THE ENTRY OF THE JUDGMENT OR, IF THE DEFENDANT WAS SENTENCED TO A CONDITIONAL DISCHARGE OR A PERIOD OF PROBATION, INCLUDING A PERIOD OF INCARCERATION IMPOSED IN CONJUNCTION WITH A SENTENCE OF PROBATION OR CONDITIONAL DISCHARGE, THE COMPLETION OF THE DEFENDANT'S TERM OF PROBATION OR CONDITIONAL DISCHARGE, OR IF THE DEFENDANT WAS SENTENCED TO INCARCERATION, THE DEFENDANT'S RELEASE FROM INCARCERATION, WHICHEVER IS THE LONGEST; OR

(II) FOR AN ELIGIBLE FELONY, AT LEAST THREE YEARS HAVE PASSED SINCE: THE ENTRY OF THE JUDGMENT OR, IF THE DEFENDANT WAS SENTENCED TO A CONDITIONAL DISCHARGE OR A PERIOD OF PROBATION, INCLUDING A PERIOD OF INCARCERATION IMPOSED IN CONJUNCTION WITH A SENTENCE OF PROBATION OR CONDITIONAL DISCHARGE, THE COMPLETION OF THE DEFENDANT'S TERM OF PROBATION OR CONDITIONAL DISCHARGE, OR IF THE DEFENDANT WAS SENTENCED TO INCARCERATION, THE DEFENDANT'S RELEASE FROM INCARCERATION, WHICHEVER IS THE LONGEST; AND

(B) IF THE DEFENDANT HAS NOT BEEN CONVICTED OF ANY OTHER CRIME.

(C) FOR THE PURPOSES OF PARAGRAPH (A) OF THIS SUBDIVISION, WHERE THE DEFENDANT IS CONVICTED OF MORE THAN ONE ELIGIBLE OFFENSE, COMMITTED AS

PART OF THE SAME CRIMINAL TRANSACTION AS DEFINED IN SUBDIVISION TWO OF SECTION 40.10 OF THIS CHAPTER, THE LONGEST APPLICABLE TIME PERIOD SHALL APPLY.

2-A. NO RECORD SHALL BE SEALED PURSUANT TO THIS SECTION WHILE CHARGES ARE PENDING FOR ANY OFFENSE.

2-B. NO RECORD SHALL BE SEALED PURSUANT TO THIS SECTION WHILE THE DEFENDANT IS SUBJECT TO SUPERVISION BY THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION OR THE OFFICE OF CHILDREN AND FAMILY SERVICES. UPON THE SUCCESSFUL COMPLETION OF SUCH SUPERVISION, IF THE TIME PERIODS SET FORTH IN PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION HAVE ELAPSED FROM THE DATE OF DEFENDANT'S RELEASE FROM INCARCERATION, THE COURT MAY ORDER THE RECORD CONDITIONALLY SEALED PURSUANT TO THE PROVISIONS OF THIS SECTION.

3. WHEN A CONVICTION OR CONVICTIONS ARE SEALED PURSUANT TO THIS SECTION, ALL OFFICIAL RECORDS AND PAPERS RELATING TO THE ARREST, PROSECUTION, AND CONVICTION, INCLUDING ALL DUPLICATES AND COPIES THEREOF, ON FILE WITH THE DIVISION OF CRIMINAL JUSTICE SERVICES OR ANY COURT SHALL BE SEALED AND NOT MADE AVAILABLE TO ANY PERSON OR PUBLIC OR PRIVATE AGENCY; PROVIDED, HOWEVER, THE DIVISION SHALL RETAIN ANY FINGERPRINTS, PALMPRINTS AND PHOTOGRAPHS, OR DIGITAL IMAGES OF THE SAME.

4. RECORDS SEALED PURSUANT TO THIS SECTION SHALL BE MADE AVAILABLE TO:

(A) THE DEFENDANT OR THE DEFENDANT'S DESIGNATED AGENT;

(B) QUALIFIED AGENCIES, AS DEFINED IN SUBDIVISION NINE OF SECTION EIGHT HUNDRED THIRTY-FIVE OF THE EXECUTIVE LAW, AND FEDERAL AND STATE LAW ENFORCEMENT AGENCIES, WHEN ACTING WITHIN THE SCOPE OF THEIR LAW ENFORCEMENT DUTIES;

(C) ANY STATE OR LOCAL OFFICER OR AGENCY WITH RESPONSIBILITY FOR THE ISSUANCE OF LICENSES TO POSSESS GUNS, WHEN THE PERSON HAS MADE APPLICATION FOR SUCH A LICENSE; OR

(D) ANY PROSPECTIVE EMPLOYER OF A POLICE OFFICER OR PEACE OFFICER AS THOSE TERMS ARE DEFINED IN SUBDIVISIONS THIRTY-THREE AND THIRTY-FOUR OF SECTION 1.20 OF THIS CHAPTER, IN RELATION TO AN APPLICATION FOR EMPLOYMENT AS A POLICE OFFICER OR PEACE OFFICER; PROVIDED, HOWEVER, THAT EVERY PERSON WHO IS AN APPLICANT FOR THE POSITION OF POLICE OFFICER OR PEACE OFFICER SHALL BE FURNISHED WITH A COPY OF ALL RECORDS OBTAINED UNDER THIS PARAGRAPH AND AFFORDED AN OPPORTUNITY TO MAKE AN EXPLANATION THERE-TO.

5. IF, SUBSEQUENT TO THE SEALING OF RECORDS PURSUANT TO THIS SECTION, THE PERSON WHO IS THE SUBJECT OF SUCH RECORDS IS ARRESTED FOR OR CHARGED WITH ANY MISDEMEANOR OR FELONY OFFENSE, SUCH RECORDS SHALL BE UNSEALED IMMEDIATELY AND REMAIN UNSEALED; PROVIDED, HOWEVER, THAT IF SUCH NEW MISDEMEANOR OR FELONY ARREST RESULTS IN A TERMINATION IN FAVOR OF THE ACCUSED AS DEFINED IN SUBDIVISION THREE OF SECTION 160.50 OF THIS ARTICLE OR BY CONVICTION FOR A NON-CRIMINAL OFFENSE AS DESCRIBED IN SECTION 160.55 OF THIS ARTICLE, SUCH UNSEALED RECORDS SHALL BE CONDITIONALLY SEALED PURSUANT TO THIS SECTION.

6. A DEFENDANT WHO WAS CONVICTED OF ONE OR MORE ELIGIBLE OFFENSES, PRIOR TO THE EFFECTIVE DATE OF THIS SECTION, ALL OF WHICH WERE COMMITTED AS PART OF THE SAME CRIMINAL TRANSACTION AS DEFINED IN SUBDIVISION TWO OF SECTION 40.10 OF THIS CHAPTER, MAY APPLY TO THE COURT OF CONVICTION, ON AN APPLICATION PROMULGATED BY THE DIVISION OF CRIMINAL JUSTICE SERVICES, FOR THE CONDITIONAL SEALING OF SUCH CONVICTION OR CONVICTIONS IF:

(A) THE OFFENSE WAS COMMITTED WHEN THE DEFENDANT WAS TWENTY YEARS OF AGE OR YOUNGER; AND

1 (B) THE APPLICABLE TIME PERIODS SPECIFIED IN SUBDIVISION TWO OF THIS  
2 SECTION HAVE ELAPSED; AND

3 (C) THE DEFENDANT HAS NOT BEEN CONVICTED OF ANY OTHER CRIME; AND

4 (D) NO CHARGES ARE PENDING FOR ANY CRIME.

5 THERE SHALL BE NO FEE ASSOCIATED WITH THIS APPLICATION AND NO PERSONAL  
6 APPEARANCE BY THE DEFENDANT IS REQUIRED.

7 7. WHEN AN APPLICATION IS MADE FOR SEALING PURSUANT TO SUBDIVISION SIX  
8 OF THIS SECTION, THE COURT SHALL NOTIFY THE DISTRICT ATTORNEY. IF THE  
9 DISTRICT ATTORNEY DOES NOT PROVIDE NOTICE OF OPPOSITION TO SEALING WITH-  
10 IN FORTY-FIVE DAYS OF RECEIPT OF THE APPLICATION AND THE COURT DETER-  
11 MINES THAT THE DEFENDANT MEETS THE CRITERIA FOR SEALING SET FORTH IN  
12 THIS SECTION AND THAT SEALING IS IN THE INTEREST OF JUSTICE, THE COURT  
13 SHALL ORDER THAT THE RECORD BE CONDITIONALLY SEALED IN THE MANNER SET  
14 FORTH IN THIS SECTION AND NOTIFY THE DIVISION OF CRIMINAL JUSTICE  
15 SERVICES OF THE SAME. IF THE DISTRICT ATTORNEY OPPOSES SEALING, HE OR  
16 SHE SHALL NOTIFY THE COURT AND THE DEFENDANT OF THE REASONS FOR OPPO-  
17 SITION. IF THE COURT HAS DETERMINED, SUA SPONTE, OR THE DISTRICT ATTOR-  
18 NEY HAS NOTIFIED THE COURT, THAT THE DEFENDANT DOES NOT MEET THE CRITE-  
19 RIA FOR CONDITIONAL SEALING, THE COURT MUST PROVIDE THE DEFENDANT, ON  
20 NOTICE TO THE DISTRICT ATTORNEY, WITH NOTICE AND AN OPPORTUNITY TO  
21 DISPUTE SUCH FINDING.

22 8. NO DEFENDANT SHALL BE REQUIRED OR PERMITTED TO WAIVE ELIGIBILITY  
23 FOR CONDITIONAL SEALING PURSUANT TO THIS SECTION AS PART OF A PLEA OF  
24 GUILTY, SENTENCE OR ANY AGREEMENT RELATED TO A CONVICTION FOR AN ELIGI-  
25 BLE OFFENSE AND ANY SUCH WAIVER SHALL BE DEEMED VOID AND WHOLLY UNEN-  
26 FORCEABLE.

27 S 68. Section 180.75 of the criminal procedure law, as added by chap-  
28 ter 481 of the laws of 1978, paragraph (b) of subdivision 3 as amended  
29 by chapter 920 of the laws of 1982, subdivision 4 as amended by chapter  
30 264 of the laws of 2003, and subdivisions 5 and 6 as added by chapter  
31 411 of the laws of 1979, is amended to read as follows:

32 S 180.75 Proceedings upon felony complaint; juvenile offender.

33 1. When THE YOUTH PART OF A SUPERIOR COURT IS NOT IN SESSION AND a  
34 juvenile offender is arraigned before [a local criminal court] THE MOST  
35 ACCESSIBLE MAGISTRATE DESIGNATED BY THE APPELLATE DIVISION OF THE  
36 SUPREME COURT IN THE APPLICABLE DEPARTMENT TO ACT AS A YOUTH PART, the  
37 provisions of this section shall apply in lieu of the provisions of  
38 sections 180.30, 180.50 and 180.70 of this article.

39 2. [If] WHETHER OR NOT the defendant waives a hearing upon the felony  
40 complaint, the court must [order that the defendant be held for the  
41 action of the grand jury of the appropriate superior court with respect  
42 to the charge or charges contained in the felony complaint] TRANSFER THE  
43 ACTION TO THE YOUTH PART OF THE SUPERIOR COURT. In such case the court  
44 must promptly transmit to such YOUTH PART OF THE superior court the  
45 order, the felony complaint, the supporting depositions and all other  
46 pertinent documents. Until such papers are received by the YOUTH PART  
47 OF THE superior court, the action is deemed to be still pending in the  
48 [local criminal court] COURT DESIGNATED BY THE APPELLATE DIVISION OF THE  
49 SUPREME COURT IN THE APPLICABLE DEPARTMENT TO ACT AS A YOUTH PART.

50 3. If there be a hearing, then at the conclusion of the hearing, the  
51 court must dispose of the felony complaint as follows:

52 (a) If there is reasonable cause to believe that the defendant commit-  
53 ted a crime for which a person under the age of [sixteen] EIGHTEEN is  
54 criminally responsible, the court must order that the defendant be held  
55 for the action of a grand jury of the appropriate superior court; or

(b) If there is not reasonable cause to believe that the defendant committed a crime for which a person under the age of [sixteen] EIGHTEEN, is criminally responsible but there is reasonable cause to believe that the defendant is a "juvenile delinquent" as defined in subdivision one of section 301.2 of the family court act, the court must specify the act or acts it found reasonable cause to believe the defendant did and direct that the action be removed to the family court in accordance with the provisions of article seven hundred twenty-five of this chapter; or

(c) If there is not reasonable cause to believe that the defendant committed any criminal act, the court must dismiss the felony complaint and discharge the defendant from custody if he is in custody, or if he is at liberty on bail, it must exonerate the bail.

4. Notwithstanding the provisions of subdivisions two and three of this section, [a local criminal] THE court shall, at the request of the district attorney, order removal of an action against a juvenile offender to the family court pursuant to the provisions of article seven hundred twenty-five of this chapter if, upon consideration of the criteria specified in subdivision two of section 210.43 of this chapter, it is determined that to do so would be in the interests of justice. Where, however, the felony complaint charges the juvenile offender with murder in the second degree as defined in section 125.25 of the penal law, rape in the first degree as defined in subdivision one of section 130.35 of the penal law, criminal sexual act in the first degree as defined in subdivision one of section 130.50 of the penal law, or an armed felony as defined in paragraph (a) of subdivision forty-one of section 1.20 of this chapter, a determination that such action be removed to the family court shall, in addition, be based upon a finding of one or more of the following factors: (i) mitigating circumstances that bear directly upon the manner in which the crime was committed; or (ii) where the defendant was not the sole participant in the crime, the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution; or (iii) possible deficiencies in proof of the crime.

5. Notwithstanding the provisions of subdivision two, three, or four, if a currently undetermined felony complaint against a juvenile offender is pending [in a local criminal court], and the defendant has not waived a hearing pursuant to subdivision two and a hearing pursuant to subdivision three has not commenced, the defendant may move in the YOUTH PART OF THE superior court which would exercise the trial jurisdiction of the offense or offenses charged were an indictment therefor to result, to remove the action to family court. The procedural rules of subdivisions one and two of section 210.45 of this chapter are applicable to a motion pursuant to this subdivision. Upon such motion, the [superior] court [shall be authorized to sit as a local criminal court to exercise the preliminary jurisdiction specified in subdivisions two and three of this section, and] shall proceed and determine the motion as provided in section 210.43 of this chapter; provided, however, that the exception provisions of paragraph (b) of subdivision one of such section 210.43 shall not apply when there is not reasonable cause to believe that the juvenile offender committed one or more of the crimes enumerated therein, and in such event the provisions of paragraph (a) thereof shall apply.

6. (a) If the court orders removal of the action to family court, it shall state on the record the factor or factors upon which its determination is based, and the court shall give its reasons for removal in detail and not in conclusory terms.

1 (b) the district attorney shall state upon the record the reasons for  
2 his consent to removal of the action to the family court where such  
3 consent is required. The reasons shall be stated in detail and not in  
4 conclusory terms.

5 (c) For the purpose of making a determination pursuant to subdivision  
6 four or five, the court may make such inquiry as it deems necessary. Any  
7 evidence which is not legally privileged may be introduced. If the  
8 defendant testifies, his testimony may not be introduced against him in  
9 any future proceeding, except to impeach his testimony at such future  
10 proceeding as inconsistent prior testimony.

11 (d) Where a motion for removal by the defendant pursuant to subdivi-  
12 sion five has been denied, no further motion pursuant to this section or  
13 section 210.43 of this chapter may be made by the juvenile offender with  
14 respect to the same offense or offenses.

15 (e) Except as provided by paragraph (f), this section shall not be  
16 construed to limit the powers of the grand jury.

17 (f) Where a motion by the defendant pursuant to subdivision five has  
18 been granted, there shall be no further proceedings against the juvenile  
19 offender in any local or superior criminal court INCLUDING THE YOUTH  
20 PART OF THE SUPERIOR COURT for the offense or offenses which were the  
21 subject of the removal order.

22 S 68-a. The opening paragraph of section 180.80 of the criminal proce-  
23 dure law, as amended by chapter 556 of the laws of 1982, is amended to  
24 read as follows:

25 Upon application of a defendant against whom a felony complaint has  
26 been filed with a local criminal court OR THE YOUTH PART OF A SUPERIOR  
27 COURT, and who, since the time of his arrest or subsequent thereto, has  
28 been held in custody pending disposition of such felony complaint, and  
29 who has been confined in such custody for a period of more than one  
30 hundred twenty hours or, in the event that a Saturday, Sunday or legal  
31 holiday occurs during such custody, one hundred forty-four hours, with-  
32 out either a disposition of the felony complaint or commencement of a  
33 hearing thereon, the [local criminal] court must release him on his own  
34 recognizance unless:

35 S 69. Subdivisions (a) and (b) of section 190.71 of the criminal  
36 procedure law, subdivision (a) as amended by chapter 7 of the laws of  
37 2007, subdivision (b) as added by chapter 481 of the laws of 1978, are  
38 amended to read as follows:

39 (a) Except as provided in subdivision six of section 200.20 of this  
40 chapter, a grand jury may not indict (i) a person thirteen years of age  
41 for any conduct or crime other than conduct constituting a crime defined  
42 in subdivisions one and two of section 125.25 (murder in the second  
43 degree) or such conduct as a sexually motivated felony, where authorized  
44 pursuant to section 130.91 of the penal law; (ii) a person fourteen  
45 [or], fifteen, SIXTEEN OR SEVENTEEN years of age for any conduct or  
46 crime other than conduct constituting a crime defined in subdivisions  
47 one and two of section 125.25 (murder in the second degree) and in  
48 subdivision three of such section provided that the underlying crime for  
49 the murder charge is one for which such person is criminally responsi-  
50 ble; 135.25 (kidnapping in the first degree); 150.20 (arson in the first  
51 degree); subdivisions one and two of section 120.10 (assault in the  
52 first degree); 125.20 (manslaughter in the first degree); subdivisions  
53 one and two of section 130.35 (rape in the first degree); subdivisions  
54 one and two of section 130.50 (criminal sexual act in the first degree);  
55 130.70 (aggravated sexual abuse in the first degree); 140.30 (burglary  
56 in the first degree); subdivision one of section 140.25 (burglary in the

1 second degree); 150.15 (arson in the second degree); 160.15 (robbery in  
2 the first degree); subdivision two of section 160.10 (robbery in the  
3 second degree) of the penal law; subdivision four of section 265.02 of  
4 the penal law, where such firearm is possessed on school grounds, as  
5 that phrase is defined in subdivision fourteen of section 220.00 of the  
6 penal law; or section 265.03 of the penal law, where such machine gun or  
7 such firearm is possessed on school grounds, as that phrase is defined  
8 in subdivision fourteen of section 220.00 of the penal law; or defined  
9 in the penal law as an attempt to commit murder in the second degree or  
10 kidnapping in the first degree, or such conduct as a sexually motivated  
11 felony, where authorized pursuant to section 130.91 of the penal law;  
12 AND (III) A PERSON SIXTEEN OR SEVENTEEN YEARS OF AGE IS CRIMINALLY  
13 RESPONSIBLE FOR ACTS CONSTITUTING THE CRIMES DEFINED IN SECTION 490.25  
14 (CRIME OF TERRORISM); 490.45 (CRIMINAL POSSESSION OF A CHEMICAL WEAPON  
15 OR BIOLOGICAL WEAPON IN THE FIRST DEGREE); 490.55 (CRIMINAL USE OF A  
16 CHEMICAL WEAPON OR BIOLOGICAL WEAPON IN THE FIRST DEGREE); 490.50 (CRIM-  
17 INAL USE OF A CHEMICAL WEAPON OR BIOLOGICAL WEAPON IN THE SECOND  
18 DEGREE); 130.95 (PREDATORY SEXUAL ASSAULT) OF THIS CHAPTER.

19 (b) A grand jury may vote to file a request to remove a charge to the  
20 family court if it finds that a person [thirteen, fourteen or fifteen]  
21 SEVENTEEN years of age OR YOUNGER did an act which, if done by a person  
22 over the age of [sixteen] EIGHTEEN, would constitute a crime provided  
23 (1) such act is one for which it may not indict; (2) it does not indict  
24 such person for a crime; and (3) the evidence before it is legally  
25 sufficient to establish that such person did such act and competent and  
26 admissible evidence before it provides reasonable cause to believe that  
27 such person did such act.

28 S 70. Subdivision 6 of section 200.20 of the criminal procedure law,  
29 as added by chapter 136 of the laws of 1980, is amended to read as  
30 follows:

31 6. Where an indictment charges at least one offense against a defend-  
32 ant who was under the age of [sixteen] EIGHTEEN at the time of the  
33 commission of the crime and who did not lack criminal responsibility for  
34 such crime by reason of infancy, the indictment may, in addition, charge  
35 in separate counts one or more other offenses for which such person  
36 would not have been criminally responsible by reason of infancy, if:

37 (a) the offense for which the defendant is criminally responsible and  
38 the one or more other offenses for which he OR SHE would not have been  
39 criminally responsible by reason of infancy are based upon the same act  
40 or upon the same criminal transaction, as that term is defined in subdi-  
41 vision two of section 40.10 of this chapter; or

42 (b) the offenses are of such nature that either proof of the first  
43 offense would be material and admissible as evidence in chief upon a  
44 trial of the second, or proof of the second would be material and admis-  
45 sible as evidence in chief upon a trial of the first.

46 S 71. Intentionally omitted.

47 S 72. Paragraph (g) of subdivision 5 of section 220.10 of the criminal  
48 procedure law, as amended by chapter 480 of the laws of 1976, subpara-  
49 graph (iii) as amended by chapter 264 of the laws of 2003, the second  
50 undesignated paragraph as amended by chapter 920 of the laws of 1982 and  
51 the closing paragraph as amended by chapter 411 of the laws of 1979, is  
52 amended to read as follows:

53 (g) Where the defendant is a juvenile offender, the provisions of  
54 paragraphs (a), (b), (c) and (d) of this subdivision shall not apply and  
55 any plea entered pursuant to subdivision three or four of this section,  
56 must be as follows:

1 (i) If the indictment charges a person fourteen [or], fifteen,  
2 SIXTEEN, OR SEVENTEEN years old with the crime of murder in the second  
3 degree any plea of guilty entered pursuant to subdivision three or four  
4 must be a plea of guilty of a crime for which the defendant is criminal-  
5 ly responsible;

6 (ii) If the indictment does not charge a crime specified in subpara-  
7 graph (i) of this paragraph, then any plea of guilty entered pursuant to  
8 subdivision three or four of this section must be a plea of guilty of a  
9 crime for which the defendant is criminally responsible unless a plea of  
10 guilty is accepted pursuant to subparagraph (iii) of this paragraph;

11 (iii) Where the indictment does not charge a crime specified in  
12 subparagraph (i) of this paragraph, the district attorney may recommend  
13 removal of the action to the family court. Upon making such recommenda-  
14 tion the district attorney [shall] MAY submit a subscribed memorandum  
15 setting forth: (1) a recommendation that the interests of justice would  
16 best be served by removal of the action to the family court; and (2) if  
17 the indictment charges a thirteen year old with the crime of murder in  
18 the second degree, or a fourteen [or], fifteen, SIXTEEN OR SEVENTEEN  
19 year old with the crimes of rape in the first degree as defined in  
20 subdivision one of section 130.35 of the penal law, or criminal sexual  
21 act in the first degree as defined in subdivision one of section 130.50  
22 of the penal law, or an armed felony as defined in paragraph (a) of  
23 subdivision forty-one of section 1.20 of this chapter specific factors,  
24 one or more of which reasonably supports the recommendation, showing,  
25 (i) mitigating circumstances that bear directly upon the manner in which  
26 the crime was committed, or (ii) where the defendant was not the sole  
27 participant in the crime, that the defendant's participation was rela-  
28 tively minor although not so minor as to constitute a defense to the  
29 prosecution, or (iii) possible deficiencies in proof of the crime, or  
30 (iv) where the juvenile offender has no previous adjudications of having  
31 committed a designated felony act, as defined in subdivision eight of  
32 section 301.2 of the family court act, regardless of the age of the  
33 offender at the time of commission of the act, that the criminal act was  
34 not part of a pattern of criminal behavior and, in view of the history  
35 of the offender, is not likely to be repeated.

36 If the court is of the opinion based on specific factors set forth in  
37 [the district attorney's memorandum] THIS SUBPARAGRAPH that the inter-  
38 ests of justice would best be served by removal of the action to the  
39 family court, a plea of guilty of a crime or act for which the defendant  
40 is not criminally responsible may be entered pursuant to subdivision  
41 three or four of this section, except that a thirteen year old charged  
42 with the crime of murder in the second degree may only plead to a desig-  
43 nated felony act, as defined in subdivision eight of section 301.2 of  
44 the family court act.

45 Upon accepting any such plea, the court must specify upon the record  
46 the portion or portions of the district attorney's statement the court  
47 is relying upon as the basis of its opinion and that it believes the  
48 interests of justice would best be served by removal of the proceeding  
49 to the family court. Such plea shall then be deemed to be a juvenile  
50 delinquency fact determination and the court upon entry thereof must  
51 direct that the action be removed to the family court in accordance with  
52 the provisions of article seven hundred twenty-five of this chapter.

53 S 72-a. Section 330.25 of the criminal procedure law, as added by  
54 chapter 481 of the laws of 1978, and subdivision 2 as amended by chapter  
55 920 of the laws of 1982, is amended to read as follows:

56 S 330.25 Removal after verdict.

1 1. Where a defendant is a juvenile offender who does not stand  
2 convicted of murder in the second degree, upon motion and with the  
3 consent of the district attorney, the action may be removed to the fami-  
4 ly court in the interests of justice pursuant to article seven hundred  
5 twenty-five of this chapter notwithstanding the verdict.

6 2. If the district attorney consents to the motion for removal pursu-  
7 ant to this section, [he shall file a subscribed memorandum with the  
8 court setting forth (1) a recommendation that] THE COURT, IN DETERMINING  
9 THE MOTION, SHALL CONSIDER: (1) WHETHER the interests of justice would  
10 best be served by removal of the action to the family court; and (2) if  
11 the conviction is of an offense set forth in paragraph (b) of subdivi-  
12 sion one of section 210.43 of this chapter, WHETHER specific factors  
13 EXIST, one or more of which reasonably [support] SUPPORTS the [recommen-  
14 dation] MOTION, showing, (i) mitigating circumstances that bear directly  
15 upon the manner in which the crime was committed, or (ii) where the  
16 defendant was not the sole participant in the crime, that the defend-  
17 ant's participation was relatively minor although not so minor as to  
18 constitute a defense to prosecution, or (iii) where the juvenile offen-  
19 der has no previous adjudications of having committed a designated felo-  
20 ny act, as defined in subdivision eight of section 301.2 of the family  
21 court act, regardless of the age of the offender at the time of commis-  
22 sion of the act, that the criminal act was not part of a pattern of  
23 criminal behavior and, in view of the history of the offender, is not  
24 likely to be repeated.

25 3. If the court is of the opinion, based upon the specific factors  
26 [set forth in the district attorney's memorandum] SHOWN TO THE COURT,  
27 that the interests of justice would best be served by removal of the  
28 action to the family court, the verdict shall be set aside and a plea of  
29 guilty of a crime or act for which the defendant is not criminally  
30 responsible may be entered pursuant to subdivision three or four of  
31 section 220.10 of this chapter. Upon accepting any such plea, the court  
32 must specify upon the record the [portion or portions of the district  
33 attorney's statement] FACTORS the court is relying upon as the basis of  
34 its opinion and that it believes the interests of justice would best be  
35 served by removal of the proceeding to the family court. Such plea  
36 shall then be deemed to be a juvenile delinquency fact determination and  
37 the court upon entry thereof must direct that the action be removed to  
38 the family court in accordance with the provisions of article seven  
39 hundred twenty-five of this chapter.

40 S 72-b. Subdivision 2 of section 410.40 of the criminal procedure law,  
41 as amended by chapter 652 of the laws of 2008, is amended to read as  
42 follows:

43 2. Warrant. (A) Where the probation officer has requested that a  
44 probation warrant be issued, the court shall, within seventy-two hours  
45 of its receipt of the request, issue or deny the warrant or take any  
46 other lawful action including issuance of a notice to appear pursuant to  
47 subdivision one of this section. If at any time during the period of a  
48 sentence of probation or of conditional discharge the court has reason-  
49 able grounds to believe that the defendant has violated a condition of  
50 the sentence, the court may issue a warrant to a police officer or to an  
51 appropriate peace officer directing him or her to take the defendant  
52 into custody and bring the defendant before the court without unneces-  
53 sary delay; provided, however, if the court in which the warrant is  
54 returnable is a superior court, and such court is not available, and the  
55 warrant is addressed to a police officer or appropriate probation offi-  
56 cer certified as a peace officer, such executing officer may UNLESS



1 OTHERWISE SPECIFIED UNDER PARAGRAPH (B) OF THIS SECTION, bring the  
2 defendant to the local correctional facility of the county in which such  
3 court sits, to be detained there until not later than the commencement  
4 of the next session of such court occurring on the next business day; or  
5 if the court in which the warrant is returnable is a local criminal  
6 court, and such court is not available, and the warrant is addressed to  
7 a police officer or appropriate probation officer certified as a peace  
8 officer, such executing officer must without unnecessary delay bring the  
9 defendant before an alternate local criminal court, as provided in  
10 subdivision five of section 120.90 of this chapter. A court which issues  
11 such a warrant may attach thereto a summary of the basis for the  
12 warrant. In any case where a defendant arrested upon the warrant is  
13 brought before a local criminal court other than the court in which the  
14 warrant is returnable, such local criminal court shall consider such  
15 summary before issuing a securing order with respect to the defendant.

16 (B) IF THE COURT IN WHICH THE WARRANT IS RETURNABLE IS A SUPERIOR  
17 COURT, AND SUCH COURT AND ITS YOUTH PART IS NOT AVAILABLE, AND THE  
18 WARRANT IS ADDRESSED TO A POLICE OFFICER OR APPROPRIATE PROBATION OFFI-  
19 CER CERTIFIED AS A PEACE OFFICER, SUCH EXECUTING OFFICER SHALL, WHERE A  
20 DEFENDANT IS SEVENTEEN YEARS OF AGE OR YOUNGER WHO ALLEGEDLY COMMITS AN  
21 OFFENSE OR A VIOLATION OF HIS OR HER PROBATION OR CONDITIONAL DISCHARGE  
22 IMPOSED FOR AN OFFENSE, BRING THE DEFENDANT TO A JUVENILE DETENTION  
23 FACILITY, TO BE DETAINED THERE UNTIL BROUGHT WITHOUT UNNECESSARY DELAY  
24 BEFORE THE MOST ACCESSIBLE MAGISTRATE DESIGNATED BY THE APPELLATE DIVI-  
25 SION OF THE SUPREME COURT IN THE APPLICABLE DEPARTMENT TO ACT AS A YOUTH  
26 PART.

27 S 73. Section 410.60 of the criminal procedure law, as amended by  
28 chapter 652 of the laws of 2008, is amended to read as follows:  
29 S 410.60 Appearance before court.

30 (A) A person who has been taken into custody pursuant to section  
31 410.40 or section 410.50 of this article for violation of a condition of  
32 a sentence of probation or a sentence of conditional discharge must  
33 forthwith be brought before the court that imposed the sentence. Where a  
34 violation of probation petition and report has been filed and the person  
35 has not been taken into custody nor has a warrant been issued, an  
36 initial court appearance shall occur within ten business days of the  
37 court's issuance of a notice to appear. If the court has reasonable  
38 cause to believe that such person has violated a condition of the  
39 sentence, it may commit him OR HER to the custody of the sheriff or fix  
40 bail or release such person on his OR HER own recognizance for future  
41 appearance at a hearing to be held in accordance with section 410.70 of  
42 this article. If the court does not have reasonable cause to believe  
43 that such person has violated a condition of the sentence, it must  
44 direct that he OR SHE be released.

45 (B) A JUVENILE OFFENDER WHO HAS BEEN TAKEN INTO CUSTODY PURSUANT TO  
46 SECTION 410.40 OR SECTION 410.50 OF THIS ARTICLE FOR VIOLATION OF A  
47 CONDITION OF A SENTENCE OF PROBATION OR A SENTENCE OF CONDITIONAL  
48 DISCHARGE MUST FORTHWITH BE BROUGHT BEFORE THE COURT THAT IMPOSED THE  
49 SENTENCE. WHERE A VIOLATION OF PROBATION PETITION AND REPORT HAS BEEN  
50 FILED AND THE PERSON HAS NOT BEEN TAKEN INTO CUSTODY NOR HAS A WARRANT  
51 BEEN ISSUED, AN INITIAL COURT APPEARANCE SHALL OCCUR WITHIN TEN BUSINESS  
52 DAYS OF THE COURT'S ISSUANCE OF A NOTICE TO APPEAR. IF THE COURT HAS  
53 REASONABLE CAUSE TO BELIEVE THAT SUCH PERSON HAS VIOLATED A CONDITION OF  
54 THE SENTENCE, IT MAY COMMIT HIM OR HER TO THE CUSTODY OF THE SHERIFF OR  
55 IN THE CASE OF A JUVENILE OFFENDER LESS THAN EIGHTEEN YEARS OF AGE TO  
56 THE CUSTODY OF THE OFFICE OF CHILDREN AND FAMILY SERVICES, OR FIX BAIL

1 OR RELEASE SUCH PERSON ON HIS OR HER OWN RECOGNIZANCE FOR FUTURE APPEAR-  
2 ANCE AT A HEARING TO BE HELD IN ACCORDANCE WITH SECTION 410.70 OF THIS  
3 ARTICLE. PROVIDED, HOWEVER, NOTHING HEREIN SHALL AUTHORIZE A JUVENILE TO  
4 BE DETAINED FOR A VIOLATION OF A CONDITION THAT WOULD NOT CONSTITUTE A  
5 CRIME IF COMMITTED BY AN ADULT UNLESS THE COURT DETERMINES (I) THAT THE  
6 JUVENILE POSES A SPECIFIC IMMINENT THREAT TO PUBLIC SAFETY AND STATES  
7 THE REASONS FOR THE FINDING ON THE RECORD OR (II) THE USE OF GRADUATED  
8 SANCTIONS HAS BEEN EXHAUSTED WITHOUT SUCCESS. IF THE COURT DOES NOT HAVE  
9 REASONABLE CAUSE TO BELIEVE THAT SUCH PERSON HAS VIOLATED A CONDITION OF  
10 THE SENTENCE, IT MUST DIRECT THAT THE JUVENILE BE RELEASED.

11 S 74. Subdivision 5 of section 410.70 of the criminal procedure law,  
12 as amended by chapter 17 of the laws of 2014, is amended to read as  
13 follows:

14 5. Revocation; modification; continuation. (A) At the conclusion of  
15 the hearing the court may revoke, continue or modify the sentence of  
16 probation or conditional discharge. Where the court revokes the  
17 sentence, it must impose sentence as specified in subdivisions three and  
18 four of section 60.01 of the penal law. Where the court continues or  
19 modifies the sentence, it must vacate the declaration of delinquency and  
20 direct that the defendant be released. If the alleged violation is  
21 sustained and the court continues or modifies the sentence, it may  
22 extend the sentence up to the period of interruption specified in subdi-  
23 vision two of section 65.15 of the penal law, but any time spent in  
24 custody in any correctional institution OR JUVENILE DETENTION FACILITY  
25 pursuant to section 410.40 OR 410.60 of this article shall be credited  
26 against the term of the sentence. Provided further, where the alleged  
27 violation is sustained and the court continues or modifies the sentence,  
28 the court may also extend the remaining period of probation up to the  
29 maximum term authorized by section 65.00 of the penal law. Provided,  
30 however, a defendant shall receive credit for the time during which he  
31 or she was supervised under the original probation sentence prior to any  
32 declaration of delinquency and for any time spent in custody pursuant to  
33 this article for an alleged violation of probation.

34 (B) NOTWITHSTANDING PARAGRAPH (A) OF THIS SUBDIVISION, NOTHING HEREIN  
35 SHALL AUTHORIZE THE PLACEMENT OF A JUVENILE FOR A VIOLATION OF A CONDI-  
36 TION THAT WOULD NOT CONSTITUTE A CRIME IF COMMITTED BY AN ADULT UNLESS  
37 THE COURT DETERMINES (I) THAT THE JUVENILE POSES A SPECIFIC IMMINENT  
38 THREAT TO PUBLIC SAFETY AND STATES THE REASONS FOR THE FINDING ON THE  
39 RECORD OR (II) THE USE OF GRADUATED SANCTIONS HAS BEEN EXHAUSTED WITHOUT  
40 SUCCESS.

41 S 75. The criminal procedure law is amended by adding a new section  
42 410.90-a to read as follows:

43 S 410.90-A SUPERIOR COURT; YOUTH PART.

44 NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS ARTICLE, ALL PROCEEDINGS  
45 RELATING TO A JUVENILE OFFENDER SHALL BE HEARD IN THE YOUTH PART OF THE  
46 SUPERIOR COURT HAVING JURISDICTION AND ANY INTRASTATE TRANSFERS UNDER  
47 THIS ARTICLE SHALL BE BETWEEN COURTS DESIGNATED AS A YOUTH PART PURSUANT  
48 TO ARTICLE SEVEN HUNDRED TWENTY-TWO OF THIS CHAPTER.

49 S 76. Section 510.15 of the criminal procedure law, as amended by  
50 chapter 411 of the laws of 1979, subdivision 1 as designated and subdi-  
51 vision 2 as added by chapter 359 of the laws of 1980, is amended to read  
52 as follows:

53 S 510.15 Commitment of principal under [sixteen] EIGHTEEN.

54 1. When a principal who is under the age of [sixteen] EIGHTEEN, is  
55 committed to the custody of the sheriff the court must direct that the  
56 principal be taken to and lodged in a place certified by the state

1 [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES as a juve-  
2 nile detention facility for the reception of children. Where such a  
3 direction is made the sheriff shall deliver the principal in accordance  
4 therewith and such person shall although lodged and cared for in a juve-  
5 nile detention facility continue to be deemed to be in the custody of  
6 the sheriff. No principal under the age [of sixteen] SPECIFIED to whom  
7 the provisions of this section may apply shall be detained in any pris-  
8 on, jail, lockup, or other place used for adults convicted of a crime or  
9 under arrest and charged with the commission of a crime without the  
10 approval of the [state division for youth] OFFICE OF CHILDREN AND FAMILY  
11 SERVICES in the case of each principal and the statement of its reasons  
12 therefor. The sheriff shall not be liable for any acts done to or by  
13 such principal resulting from negligence in the detention of and care  
14 for such principal, when the principal is not in the actual custody of  
15 the sheriff.

16 2. Except upon consent of the defendant or for good cause shown, in  
17 any case in which a new securing order is issued for a principal previ-  
18 ously committed to the custody of the sheriff pursuant to this section,  
19 such order shall further direct the sheriff to deliver the principal  
20 from a juvenile detention facility to the person or place specified in  
21 the order.

22 S 77. Subdivision 1 of section 720.10 of the criminal procedure law,  
23 as amended by chapter 411 of the laws of 1979, is amended to read as  
24 follows:

25 1. "Youth" means a person charged with a crime alleged to have been  
26 committed when he was at least sixteen years old and less than [nine-  
27 teen] TWENTY-ONE years old or a person charged with being a juvenile  
28 offender as defined in subdivision forty-two of section 1.20 of this  
29 chapter.

30 S 78. Subdivision 3 of section 720.15 of the criminal procedure law,  
31 as amended by chapter 774 of the laws of 1985, is amended to read as  
32 follows:

33 3. The provisions of subdivisions one and two of this section requir-  
34 ing or authorizing the accusatory instrument filed against a youth to be  
35 sealed, and the arraignment and all proceedings in the action to be  
36 conducted in private shall not apply in connection with a pending charge  
37 of committing any [felony] SEX offense as defined in the penal law. [The  
38 provisions of subdivision one requiring the accusatory instrument filed  
39 against a youth to be sealed shall not apply where such youth has previ-  
40 ously been adjudicated a youthful offender or convicted of a crime.]

41 S 79. Subdivision 1 of section 720.20 of the criminal procedure law,  
42 as amended by chapter 652 of the laws of 1974, is amended to read as  
43 follows:

44 1. Upon conviction of an eligible youth, the court must order a pre-  
45 sentence investigation of the defendant. After receipt of a written  
46 report of the investigation and at the time of pronouncing sentence the  
47 court must determine whether or not the eligible youth is a youthful  
48 offender. Such determination shall be in accordance with the following  
49 criteria:

50 (a) If in the opinion of the court the interest of justice would be  
51 served by relieving the eligible youth from the onus of a criminal  
52 record and by not imposing an indeterminate term of imprisonment of more  
53 than four years, the court may, in its discretion, find the eligible  
54 youth is a youthful offender; [and]

55 (b) Where the conviction is had in a local criminal court and the  
56 eligible youth had not prior to commencement of trial or entry of a plea

1 of guilty been convicted of a crime or found a youthful offender, the  
2 court must find he is a youthful offender[.]; AND

3 (C) THERE SHALL BE A PRESUMPTION TO GRANT YOUTHFUL OFFENDER STATUS TO  
4 AN ELIGIBLE YOUTH WHO HAS NOT PREVIOUSLY BEEN CONVICTED AND SENTENCED OR  
5 ADJUDICATED FOR A FELONY, UNLESS THE DISTRICT ATTORNEY UPON MOTION WITH  
6 NOT LESS THAN SEVEN DAYS NOTICE TO SUCH PERSON OR HIS OR HER ATTORNEY  
7 DEMONSTRATES TO THE SATISFACTION OF THE COURT THAT THE INTERESTS OF  
8 JUSTICE REQUIRE OTHERWISE.

9 S 79-a. Subdivision 1 of section 720.35 of the criminal procedure law,  
10 as amended by chapter 402 of the laws of 2014, is amended to read as  
11 follows:

12 1. [A youthful] YOUTHFUL offender adjudication is not a judgment of  
13 conviction for a crime or any other offense, and does not operate as a  
14 disqualification of any person so adjudged to hold public office or  
15 public employment or to receive any license granted by public authority  
16 but shall be deemed a conviction only for the purposes of transfer of  
17 supervision and custody pursuant to section [two hundred fifty-nine-m]  
18 TWO HUNDRED FIFTY-NINE-MM of the executive law. A defendant for whom a  
19 youthful offender adjudication was substituted, who was originally  
20 charged with prostitution as defined in section 230.00 of the penal law  
21 or loitering for the purposes of prostitution as defined in subdivision  
22 two of section 240.37 of the penal law provided that the person does not  
23 stand charged with loitering for the purpose of patronizing a prosti-  
24 tute, for an offense allegedly committed when he or she was sixteen or  
25 seventeen years of age, shall be deemed a "sexually exploited child" as  
26 defined in subdivision one of section four hundred forty-seven-a of the  
27 social services law and therefore shall not be considered an adult for  
28 purposes related to the charges in the youthful offender proceeding or a  
29 proceeding under section 170.80 of this chapter.

30 S 80. The criminal procedure law is amended by adding a new article  
31 722 to read as follows:

#### 32 ARTICLE 722

#### 33 PROCEEDINGS AGAINST JUVENILE OFFENDERS; ESTABLISHMENT OF YOUTH

#### 34 PART AND RELATED PROCEDURES

#### 35 SECTION 722.00 PROBATION CASE PLANNING AND SERVICES.

#### 36 722.10 YOUTH PART OF THE SUPERIOR COURT ESTABLISHED.

#### 37 722.20 PROCEEDINGS IN A YOUTH PART OF SUPERIOR COURT.

#### 38 S 722.00 PROBATION CASE PLANNING AND SERVICES.

39 1. EVERY PROBATION DEPARTMENT SHALL CONDUCT A RISK AND NEEDS ASSESS-  
40 MENT WITH RESPECT TO ANY JUVENILE RELEASED ON RECOGNIZANCE, RELEASED  
41 UNDER SUPERVISION, OR POSTING BAIL FOLLOWING ARRAIGNMENT BY A YOUTH PART  
42 WITHIN ITS JURISDICTION. THE COURT SHALL ORDER ANY SUCH JUVENILE TO  
43 REPORT WITHIN SEVEN CALENDAR DAYS TO THE PROBATION DEPARTMENT FOR  
44 PURPOSES OF ASSESSMENT. BASED UPON THE ASSESSMENT FINDINGS, THE  
45 PROBATION DEPARTMENT SHALL REFER THE JUVENILE TO AVAILABLE SPECIALIZED  
46 AND EVIDENCE-BASED SERVICES TO MITIGATE ANY RISKS IDENTIFIED AND TO  
47 ADDRESS INDIVIDUAL NEEDS.

48 2. NOTHING SHALL PRECLUDE THE PROBATION DEPARTMENT AND JUVENILE FROM  
49 ENTERING INTO A VOLUNTARY WRITTEN/FORMAL CASE PLAN AS TO TERMS AND  
50 CONDITIONS TO BE MET, INCLUDING, BUT NOT LIMITED TO, REPORTING TO THE  
51 PROBATION DEPARTMENT AND OTHER PROBATION DEPARTMENT CONTACTS, UNDERGOING  
52 ALCOHOL, SUBSTANCE ABUSE, OR MENTAL HEALTH TESTING, PARTICIPATING IN  
53 SPECIFIC SERVICES, ADHERING TO SERVICE PROGRAM REQUIREMENTS, AND SCHOOL  
54 ATTENDANCE, WHERE APPLICABLE.

55 3. WHEN PREPARING A PRE-SENTENCE INVESTIGATION REPORT OF ANY SUCH  
56 YOUTH, THE PROBATION DEPARTMENT SHALL INCORPORATE A SUMMARY OF THE

ASSESSMENT FINDINGS, ANY REFERRALS AND PROGRESS WITH RESPECT TO MITIGATING RISK AND ADDRESSING ANY IDENTIFIED JUVENILE NEEDS.  
S 722.10 YOUTH PART OF THE SUPERIOR COURT ESTABLISHED.

1. THE CHIEF ADMINISTRATOR OF THE COURTS IS HEREBY DIRECTED TO ESTABLISH, IN A SUPERIOR COURT IN EACH COUNTY OF THE STATE THAT EXERCISES CRIMINAL JURISDICTION, A PART OF COURT TO BE KNOWN AS THE YOUTH PART OF THE SUPERIOR COURT FOR THE COUNTY IN WHICH SUCH COURT PRESIDES. JUDGES PRESIDING IN THE YOUTH PART SHALL RECEIVE TRAINING IN SPECIALIZED AREAS, INCLUDING, BUT NOT LIMITED TO, JUVENILE JUSTICE, ADOLESCENT DEVELOPMENT AND EFFECTIVE TREATMENT METHODS FOR REDUCING CRIME COMMISSION BY ADOLESCENTS. THE YOUTH PART SHALL HAVE EXCLUSIVE JURISDICTION OF ALL PROCEEDINGS IN RELATION TO JUVENILE OFFENDERS, EXCEPT AS PROVIDED IN SECTION 180.75 OF THIS CHAPTER.

2. THE CHIEF ADMINISTRATOR OF THE COURTS SHALL ALSO DIRECT THE PRESIDING JUSTICE OF THE APPELLATE DIVISION, IN EACH JUDICIAL DEPARTMENT OF THE STATE, TO DESIGNATE MAGISTRATES TO SERVE AS ACCESSIBLE MAGISTRATES, FOR THE PURPOSE OF ACTING AS A YOUTH PART FOR CERTAIN INITIAL PROCEEDINGS INVOLVING YOUTHS, AS PROVIDED BY LAW. MAGISTRATES SO DESIGNATED SHALL BE SUPERIOR COURT JUDGES AND JUDGES OF OTHER COURTS, IN EACH COUNTY OF THE STATE, THAT EXERCISE CRIMINAL JURISDICTION. A JUDGE PRESIDING AS SUCH A MAGISTRATE SHALL RECEIVE TRAINING IN SPECIALIZED AREAS, INCLUDING, BUT NOT LIMITED TO, JUVENILE JUSTICE, ADOLESCENT DEVELOPMENT AND EFFECTIVE TREATMENT METHODS FOR REDUCING CRIME COMMISSION BY ADOLESCENTS.

S 722.20 PROCEEDINGS IN A YOUTH PART OF SUPERIOR COURT.

1. WHEN A JUVENILE OFFENDER IS ARRAIGNED BEFORE A YOUTH PART OR TRANSFERRED TO A YOUTH PART PURSUANT TO SECTION 180.75 OF THIS CHAPTER, THE PROVISIONS OF THIS ARTICLE SHALL APPLY.

2. IF AN ACTION IS NOT REMOVED TO THE FAMILY COURT PURSUANT TO THE APPLICABLE PROVISIONS OF THIS CHAPTER, THE YOUTH PART SHALL HEAR THE CASE SITTING AS A CRIMINAL COURT OR, IN ITS DISCRETION, WHEN THE DEFENDANT IS SIXTEEN OR SEVENTEEN YEARS OF AGE THE YOUTH PART MAY RETAIN IT AS A JUVENILE DELINQUENCY PROCEEDING FOR ALL PURPOSES, AND SHALL MAKE SUCH PROCEEDING FULLY SUBJECT TO THE PROVISIONS AND GRANT ANY RELIEF AVAILABLE UNDER ARTICLE THREE OF THE FAMILY COURT ACT.

S 81. The opening paragraph of section 725.05 of the criminal procedure law, as added by chapter 481 of the laws of 1978, is amended to read as follows:

When a [court] YOUTH PART directs that an action or charge is to be removed to the family court the [court] YOUTH PART must issue an order of removal in accordance with this section. Such order must be as follows:

S 82. Section 725.20 of the criminal procedure law, as added by chapter 481 of the laws of 1978, subdivisions 1 and 2 as amended by chapter 411 of the laws of 1979, is amended to read as follows:

S 725.20 Record of certain actions removed.

1. The provisions of this section shall apply in any case where an order of removal to the family court is entered pursuant to a direction authorized by subdivision four of section 180.75, or section 210.43, or subparagraph (iii) of paragraph [(h)] (G) of subdivision five of section 220.10 of this chapter, or section 330.25 of this chapter.

2. When such an action is removed the court that directed the removal must cause the following additional records to be filed with the clerk of the county court or in the city of New York with the clerk of the supreme court of the county wherein the action was pending and with the division of criminal justice services:

1 (a) A certified copy of the order of removal;

2 (b) Where the direction is one authorized by subdivision four of  
3 section 180.75 of this chapter, a copy of [the] ANY statement of the  
4 district attorney made pursuant to paragraph (b) of subdivision six of  
5 section 180.75 of this chapter;

6 (c) Where the direction is authorized by section 180.75, a copy of  
7 the portion of the minutes containing the statement by the court pursu-  
8 ant to paragraph (a) of subdivision six of such section 180.75;

9 (d) Where the direction is one authorized by subparagraph (iii) of  
10 paragraph [(h)] (G) of subdivision five of section 220.10 or section  
11 330.25 of this chapter, a copy of the minutes of the plea of guilty,  
12 including the minutes of the memorandum submitted by the district attor-  
13 ney and the court;

14 (e) Where the direction is one authorized by subdivision one of  
15 section 210.43 of this chapter, a copy of that portion of the minutes  
16 containing [the] ANY statement by the court pursuant to paragraph (a) of  
17 subdivision five of section 210.43 OF THIS CHAPTER;

18 (f) Where the direction is one authorized by paragraph (b) of subdi-  
19 vision one of section 210.43 of this chapter, a copy of that portion of  
20 the minutes containing [the] ANY statement of the district attorney made  
21 pursuant to paragraph (b) of subdivision five of section 210.43 OF THIS  
22 CHAPTER; and

23 (g) In addition to the records specified in this subdivision, such  
24 further statement or submission of additional information pertaining to  
25 the proceeding in criminal court in accordance with standards estab-  
26 lished by the commissioner of the division of criminal justice services,  
27 subject to the provisions of subdivision three of this section.

28 3. It shall be the duty of said clerk to maintain a separate file for  
29 copies of orders and minutes filed pursuant to this section. Upon  
30 receipt of such orders and minutes the clerk must promptly delete such  
31 portions as would identify the defendant, but the clerk shall neverthe-  
32 less maintain a separate confidential system to enable correlation of  
33 the documents so filed with identification of the defendant. After  
34 making such deletions the orders and minutes shall be placed within the  
35 file and must be available for public inspection. Information permit-  
36 ting correlation of any such record with the identity of any defendant  
37 shall not be divulged to any person except upon order of a justice of  
38 the supreme court based upon a finding that the public interest or the  
39 interests of justice warrant disclosure in a particular cause for a  
40 particular case or for a particular purpose or use.

41 S 83. Subdivision 1 of section 500-a of the correction law is amended  
42 by adding a new paragraph (h) to read as follows:

43 (H) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, NO COUNTY JAIL SHALL  
44 BE USED FOR THE CONFINEMENT OF ANY PERSON UNDER THE AGE OF EIGHTEEN.  
45 PLACEMENT OF ANY PERSON WHO MAY NOT BE CONFINED TO A COUNTY JAIL PURSU-  
46 ANT TO THIS SUBDIVISION SHALL BE DETERMINED BY THE OFFICE OF CHILDREN  
47 AND FAMILY SERVICES.

48 S 84. Subdivision 4 of section 500-b of the correction law is  
49 REPEALED.

50 S 85. Subparagraph 3 of paragraph (c) of subdivision 8 of section  
51 500-b of the correction law is REPEALED.

52 S 86. Subdivision 13 of section 500-b of the correction law is  
53 REPEALED.

54 S 87. Intentionally omitted.

55 S 87-a. Intentionally omitted.

1 S 88. Subparagraph 1 of paragraph d of subdivision 3 of section 3214  
2 of the education law, as amended by chapter 425 of the laws of 2002, is  
3 amended to read as follows:

4 (1) Consistent with the federal gun-free schools act, any public  
5 school pupil who is determined under this subdivision to have brought a  
6 firearm to or possessed a firearm at a public school shall be suspended  
7 for a period of not less than one calendar year and any nonpublic school  
8 pupil participating in a program operated by a public school district  
9 using funds from the elementary and secondary education act of nineteen  
10 hundred sixty-five who is determined under this subdivision to have  
11 brought a firearm to or possessed a firearm at a public school or other  
12 premises used by the school district to provide such programs shall be  
13 suspended for a period of not less than one calendar year from partic-  
14 ipation in such program. The procedures of this subdivision shall apply  
15 to such a suspension of a nonpublic school pupil. A superintendent of  
16 schools, district superintendent of schools or community superintendent  
17 shall have the authority to modify this suspension requirement for each  
18 student on a case-by-case basis. The determination of a superintendent  
19 shall be subject to review by the board of education pursuant to para-  
20 graph c of this subdivision and the commissioner pursuant to section  
21 three hundred ten of this chapter. Nothing in this subdivision shall be  
22 deemed to authorize the suspension of a student with a disability in  
23 violation of the individuals with disabilities education act or article  
24 eighty-nine of this chapter. A superintendent shall refer the pupil  
25 under the age of [sixteen] EIGHTEEN who has been determined to have  
26 brought a weapon or firearm to school in violation of this subdivision  
27 to a presentment agency for a juvenile delinquency proceeding consistent  
28 with article three of the family court act except a student [fourteen or  
29 fifteen years of age] who qualifies for juvenile offender status under  
30 subdivision forty-two of section 1.20 of the criminal procedure law. A  
31 superintendent shall refer any pupil [sixteen] EIGHTEEN years of age or  
32 older or a student [fourteen or fifteen years of age] who qualifies for  
33 juvenile offender status under subdivision forty-two of section 1.20 of  
34 the criminal procedure law, who has been determined to have brought a  
35 weapon or firearm to school in violation of this subdivision to the  
36 appropriate law enforcement officials.

37 S 89. Intentionally omitted.

38 S 90. Paragraph b of subdivision 4 of section 3214 of the education  
39 law, as amended by chapter 181 of the laws of 2000, is amended to read  
40 as follows:

41 b. The school authorities may institute proceedings before a court  
42 having jurisdiction to determine the liability of a person in parental  
43 relation to contribute towards the maintenance of a school delinquent  
44 under [sixteen] SEVENTEEN years of age ordered to attend upon instruc-  
45 tion under confinement. If the court shall find the person in parental  
46 relation able to contribute towards the maintenance of such a minor, it  
47 may issue an order fixing the amount to be paid weekly.

48 S 91. Subdivisions 3 and 4 of section 246 of the executive law, as  
49 amended by section 10 of part D of chapter 56 of the laws of 2010, are  
50 amended to read as follows:

51 3. Applications from counties or the city of New York for state aid  
52 under this section shall be made by filing with the division of criminal  
53 justice services, a detailed plan, including cost estimates covering  
54 probation services for the fiscal year or portion thereof for which aid  
55 is requested. Included in such estimates shall be clerical costs and  
56 maintenance and operation costs as well as salaries of probation person-

nel, FAMILY ENGAGEMENT SPECIALISTS and such other pertinent information as the commissioner of the division of criminal justice services may require. Items for which state aid is requested under this section shall be duly designated in the estimates submitted. The commissioner of the division of criminal justice services, after consultation with the state probation commission and the director of the office of probation and correctional alternatives, shall approve such plan if it conforms to standards relating to the administration of probation services as specified in the rules adopted by him or her.

4. A. An approved plan and compliance with standards relating to the administration of probation services promulgated by the commissioner of the division of criminal justice services shall be a prerequisite to eligibility for state aid.

The commissioner of the division of criminal justice services may take into consideration granting additional state aid from an appropriation made for state aid for county probation services for counties or the city of New York when a county or the city of New York demonstrates that additional probation services were dedicated to intensive supervision programs[,] AND intensive programs for sex offenders [or programs defined as juvenile risk intervention services]. THE COMMISSIONER SHALL GRANT ADDITIONAL STATE AID FROM AN APPROPRIATION DEDICATED TO JUVENILE RISK INTERVENTION SERVICES COORDINATION BY PROBATION DEPARTMENTS WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO, PROBATION SERVICES PERFORMED UNDER ARTICLE THREE OF THE FAMILY COURT ACT OR ARTICLE SEVEN HUNDRED TWENTY-TWO OF THE CRIMINAL PROCEDURE LAW. The administration of such additional grants shall be made according to rules and regulations promulgated by the commissioner of the division of criminal justice services. Each county and the city of New York shall certify the total amount collected pursuant to section two hundred fifty-seven-c of this chapter. The commissioner of the division of criminal justice services shall thereupon certify to the comptroller for payment by the state out of funds appropriated for that purpose, the amount to which the county or the city of New York shall be entitled under this section. THE COMMISSIONER SHALL, SUBJECT TO AN APPROPRIATION MADE AVAILABLE FOR SUCH PURPOSE, ESTABLISH AND PROVIDE FUNDING TO PROBATION DEPARTMENTS FOR A CONTINUUM OF EVIDENCE-BASED INTERVENTION SERVICES FOR YOUTH ALLEGED OR ADJUDICATED JUVENILE DELINQUENTS PURSUANT TO ARTICLE THREE OF THE FAMILY COURT ACT OR FOR ELIGIBLE YOUTH BEFORE OR SENTENCED UNDER THE YOUTH PART IN ACCORDANCE WITH ARTICLE SEVEN HUNDRED TWENTY-TWO OF THE CRIMINAL PROCEDURE LAW.

B. ADDITIONAL STATE AID SHALL BE MADE IN AN AMOUNT NECESSARY TO PAY ONE HUNDRED PERCENT OF THE EXPENDITURES FOR EVIDENCE-BASED PRACTICES AND JUVENILE RISK AND EVIDENCE-BASED INTERVENTION SERVICES PROVIDED TO YOUTH AGED SIXTEEN YEARS OF AGE OR OLDER WHEN SUCH SERVICES WOULD NOT OTHERWISE HAVE BEEN PROVIDED ABSENT THE PROVISIONS OF A CHAPTER OF THE LAWS OF TWO THOUSAND FIFTEEN THAT INCREASED THE AGE OF JUVENILE JURISDICTION.

S 91-a. The executive law is amended by adding a new section 259-p to read as follows:

S 259-P. INTERSTATE DETENTION. 1. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A DEFENDANT SUBJECT TO SECTION TWO HUNDRED FIFTY-NINE-MM OF THIS ARTICLE, MAY BE DETAINED AS AUTHORIZED BY THE INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION.

2. A DEFENDANT SHALL BE DETAINED AT A LOCAL CORRECTIONAL FACILITY, EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION THREE OF THIS SECTION.



1 3. A DEFENDANT SEVENTEEN YEARS OF AGE OR YOUNGER WHO ALLEGEDLY COMMITS  
2 A CRIMINAL ACT OR VIOLATION OF HIS OR HER SUPERVISION SHALL BE DETAINED  
3 IN A JUVENILE DETENTION FACILITY.

4 S 91-b. Subdivision 16 of section 296 of the executive law, as sepa-  
5 rately amended by section 3 of part N and section 14 of part AAA of  
6 chapter 56 of the laws of 2009, is amended to read as follows:

7 16. It shall be an unlawful discriminatory practice, unless specif-  
8 ically required or permitted by statute, for any person, agency, bureau,  
9 corporation or association, including the state and any political subdivi-  
10 sion thereof, to make any inquiry about, whether in any form of appli-  
11 cation or otherwise, or to act upon adversely to the individual  
12 involved, any arrest or criminal accusation of such individual not then  
13 pending against that individual which was followed by a termination of  
14 that criminal action or proceeding in favor of such individual, as  
15 defined in subdivision two of section 160.50 of the criminal procedure  
16 law, or by a youthful offender adjudication, as defined in subdivision  
17 one of section 720.35 of the criminal procedure law, or by a conviction  
18 for a violation sealed pursuant to section 160.55 of the criminal proce-  
19 dure law or by a conviction which is sealed pursuant to section 160.56  
20 OR 160.58 of the criminal procedure law, in connection with the licens-  
21 ing, employment or providing of credit or insurance to such individual;  
22 provided, further, that no person shall be required to divulge informa-  
23 tion pertaining to any arrest or criminal accusation of such individual  
24 not then pending against that individual which was followed by a termi-  
25 nation of that criminal action or proceeding in favor of such individ-  
26 ual, as defined in subdivision two of section 160.50 of the criminal  
27 procedure law, or by a youthful offender adjudication, as defined in  
28 subdivision one of section 720.35 of the criminal procedure law, or by a  
29 conviction for a violation sealed pursuant to section 160.55 of the  
30 criminal procedure law, or by a conviction which is sealed pursuant to  
31 section 160.56 OR 160.58 of the criminal procedure law. The provisions  
32 of this subdivision shall not apply to the licensing activities of  
33 governmental bodies in relation to the regulation of guns, firearms and  
34 other deadly weapons or in relation to an application for employment as  
35 a police officer or peace officer as those terms are defined in subdivi-  
36 sions thirty-three and thirty-four of section 1.20 of the criminal  
37 procedure law; provided further that the provisions of this subdivision  
38 shall not apply to an application for employment or membership in any  
39 law enforcement agency with respect to any arrest or criminal accusation  
40 which was followed by a youthful offender adjudication, as defined in  
41 subdivision one of section 720.35 of the criminal procedure law, or by a  
42 conviction for a violation sealed pursuant to section 160.55 of the  
43 criminal procedure law, or by a conviction which is sealed pursuant to  
44 section 160.56 OR 160.58 of the criminal procedure law.

45 S 92. Section 502 of the executive law, as added by chapter 465 of the  
46 laws of 1992, subdivision 3 as amended by section 1 of subpart B of part  
47 Q of chapter 58 of the laws of 2011, is amended to read as follows:

48 S 502. Definitions. Unless otherwise specified in this article:

49 1. "Director" means the [director of the division for youth] COMMIS-  
50 SIONER OF THE OFFICE OF CHILDREN AND FAMILY SERVICES.

51 2. ["Division"] "DIVISION", "OFFICE" OR "DIVISION FOR YOUTH" means the  
52 [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES.

53 3. "Detention" means the temporary care and maintenance of youth held  
54 away from their homes pursuant to article three or seven of the family  
55 court act, or held pending a hearing for alleged violation of the condi-  
56 tions of release from an office of children and family services facility

1 or authorized agency, or held pending a hearing for alleged violation of  
2 the condition of parole as a juvenile offender, or held pending return  
3 to a jurisdiction other than the one in which the youth is held, or held  
4 pursuant to a securing order of a criminal court if the youth named  
5 therein as principal is charged as a juvenile offender or held pending a  
6 hearing on an extension of placement or held pending transfer to a  
7 facility upon commitment or placement by a court. Only alleged or  
8 convicted juvenile offenders who have not attained their [eighteenth]  
9 TWENTY-FIRST birthday shall be subject to detention in a detention  
10 facility.

11 4. For purposes of this article, the term "youth" shall [be synonymous  
12 with the term "child" and means] MEAN a person not less than [seven] TEN  
13 years of age and not more than [twenty] TWENTY-THREE years of age.

14 5. "Placement" means the transfer of a youth to the custody of the  
15 [division] OFFICE pursuant to the family court act.

16 6. "Commitment" means the transfer of a youth to the custody of the  
17 [division] OFFICE pursuant to the penal law.

18 7. "Conditional release" means the transfer of a youth from facility  
19 status to aftercare supervision under the continued custody of the  
20 [division] OFFICE.

21 8. "Discharge" means the termination of [division] OFFICE custody of a  
22 youth.

23 9. "Aftercare" means supervision of a youth on conditional release  
24 status under the continued custody of the division.

25 S 93. Subdivision 7 of section 503 of the executive law, as amended by  
26 section 2 of subpart B of part Q of chapter 58 of the laws of 2011, is  
27 amended to read as follows:

28 7. The person in charge of each detention facility shall keep a record  
29 of all time spent in such facility for each youth in care. The detention  
30 facility shall deliver a certified transcript of such record to the  
31 office, social services district, or other agency taking custody of the  
32 youth pursuant to article three [or seven] of the family court act,  
33 before, or at the same time as the youth is delivered to the office,  
34 district or other agency, as is appropriate.

35 S 94. Intentionally omitted.

36 S 95. Section 507-a of the executive law, as amended by chapter 465 of  
37 the laws of 1992, paragraph (a) of subdivision 1 as amended by chapter  
38 309 of the laws of 1996, is amended to read as follows:

39 S 507-a. Placement and commitment; procedures. 1. Youth may be placed  
40 in or committed to the custody of the [division] OFFICE OF CHILDREN AND  
41 FAMILY SERVICES:

42 (a) for placement, as a juvenile delinquent pursuant to the family  
43 court act; or

44 (b) for commitment pursuant to the penal law.

45 2. (a) Consistent with other provisions of law, only those youth who  
46 have reached the age of [seven] TEN, but who have not reached the age of  
47 twenty-one may be placed in[, committed to or remain in] the [divi-  
48 sion's] custody OF THE OFFICE OF CHILDREN AND FAMILY SERVICES. EXCEPT AS  
49 PROVIDED FOR IN PARAGRAPH (A-1) OF THIS SUBDIVISION, NO YOUTH WHO HAS  
50 REACHED THE AGE OF TWENTY-ONE MAY REMAIN IN CUSTODY OF THE OFFICE OF  
51 CHILDREN AND FAMILY SERVICES.

52 (A-1) (I) A YOUTH WHO IS COMMITTED TO THE OFFICE OF CHILDREN AND FAMI-  
53 LY SERVICES AS A JUVENILE OFFENDER OR YOUTHFUL OFFENDER MAY REMAIN IN  
54 THE CUSTODY OF THE OFFICE DURING THE PERIOD OF HIS OR HER SENTENCE  
55 BEYOND THE AGE OF TWENTY-ONE IN ACCORDANCE WITH THE PROVISIONS OF SUBDI-  
56 VISION FIVE OF SECTION FIVE HUNDRED EIGHT OF THIS ARTICLE BUT IN NO

1 EVENT MAY SUCH A YOUTH REMAIN IN THE CUSTODY OF THE OFFICE BEYOND HIS OR  
2 HER TWENTY-THIRD BIRTHDAY; AND (II) A YOUTH FOUND TO HAVE COMMITTED A  
3 DESIGNATED CLASS A FELONY ACT WHO IS RESTRICTIVELY PLACED WITH THE  
4 OFFICE UNDER SUBDIVISION FOUR OF SECTION 353.5 OF THE FAMILY COURT ACT  
5 FOR COMMITTING AN ACT ON OR AFTER THE YOUTH'S SIXTEENTH BIRTHDAY MAY  
6 REMAIN IN THE CUSTODY OF THE OFFICE OF CHILDREN AND FAMILY SERVICES UP  
7 TO THE AGE OF TWENTY-THREE IN ACCORDANCE WITH HIS OR HER PLACEMENT  
8 ORDER.

9 (A-2) Whenever it shall appear to the satisfaction of the [division]  
10 OFFICE OF CHILDREN AND FAMILY SERVICES that any youth placed therewith  
11 is not of proper age to be so placed or is not properly placed, or is  
12 mentally or physically incapable of being materially benefited by the  
13 program of the [division] OFFICE, the [division] OFFICE shall cause the  
14 return of such youth to the county from which placement was made.

15 (b) The [division] OFFICE shall deliver such youth to the custody of  
16 the placing court, along with the records provided to the [division]  
17 OFFICE pursuant to section five hundred seven-b of this article, there  
18 to be dealt with by the court in all respects as though no placement had  
19 been made.

20 (c) The cost and expense of the care and return of such youth incurred  
21 by the [division] OFFICE shall be reimbursed to the state by the social  
22 services district from which such youth was placed in the manner  
23 provided by section five hundred twenty-nine of this article.

24 3. The [division] OFFICE may photograph any youth in its custody.  
25 Such photograph may be used only for the purpose of assisting in the  
26 return of conditionally released children and runaways pursuant to  
27 section five hundred ten-b of this article. Such photograph shall be  
28 destroyed immediately upon the discharge of the youth from [division]  
29 OFFICE custody.

30 4. (a) A youth placed with or committed to the [division] OFFICE may,  
31 immediately following placement or commitment, be remanded to an appro-  
32 priate detention facility.

33 (b) The [division] OFFICE shall admit a [child] YOUTH placed [with the  
34 division] UNDER ITS CARE to a facility of the [division] OFFICE within  
35 fifteen days of the date of the order of placement with the [division]  
36 OFFICE and shall admit a juvenile offender committed to the [division]  
37 OFFICE to a facility of the [division] OFFICE within ten days of the  
38 date of the order of commitment to the [division] OFFICE, except as  
39 provided in section five hundred seven-b of this article.

40 5. Consistent with other provisions of law, in the discretion of the  
41 [director, youth] COMMISSIONER OF THE OFFICE OF CHILDREN AND FAMILY  
42 SERVICES, YOUTH PLACED WITHIN THE OFFICE UNDER THE FAMILY COURT ACT who  
43 attain the age of eighteen while in [division] custody OF THE OFFICE AND  
44 WHO ARE NOT REQUIRED TO REMAIN IN THE PLACEMENT WITH THE OFFICE AS A  
45 RESULT OF A DISPOSITIONAL ORDER OF THE FAMILY COURT may reside in a  
46 non-secure facility until the age of twenty-one, provided that such  
47 youth attend a full-time vocational or educational program and are like-  
48 ly to benefit from such program.

49 S 96. Section 508 of the executive law, as added by chapter 481 of the  
50 laws of 1978 and as renumbered by chapter 465 of the laws of 1992,  
51 subdivision 1 as amended by chapter 738 of the laws of 2004, subdivision  
52 2 as amended by chapter 572 of the laws of 1985, subdivisions 4, 5, 6  
53 and 7 as amended by section 97 of subpart B of part C of chapter 62 of  
54 the laws of 2011, subdivision 8 as added by chapter 560 of the laws of  
55 1984 and subdivision 9 as added by chapter 7 of the laws of 2007, is  
56 amended to read as follows:

1 S 508. Juvenile offender facilities. 1. The office of children and  
2 family services shall maintain [secure] facilities for the care and  
3 confinement of juvenile offenders committed [for an indeterminate,  
4 determinate or definite sentence] TO THE OFFICE pursuant to the sentenc-  
5 ing provisions of the penal law. Such facilities shall provide appropri-  
6 ate services to juvenile offenders including but not limited to residen-  
7 tial care, educational and vocational training, physical and mental  
8 health services, and employment counseling.

9 1-A. ANY NEW FACILITIES DEVELOPED BY THE OFFICE OF CHILDREN AND FAMILY  
10 SERVICES TO SERVE THE ADDITIONAL YOUTH PLACED WITH THE OFFICE AS A  
11 RESULT OF RAISING THE AGE OF JUVENILE JURISDICTION SHALL, TO THE EXTENT  
12 PRACTICABLE, CONSIST OF SMALLER, MORE HOME-LIKE FACILITIES LOCATED NEAR  
13 THE YOUTHS' HOMES AND FAMILIES THAT PROVIDE GENDER-RESPONSIVE PROGRAM-  
14 MING, SERVICES AND TREATMENT IN SMALL, CLOSELY SUPERVISED GROUPS THAT  
15 OFFER EXTENSIVE AND ON-GOING INDIVIDUAL ATTENTION AND ENCOURAGE SUPPORT-  
16 IVE PEER RELATIONSHIPS.

17 2. Juvenile offenders COMMITTED TO THE OFFICE FOR COMMITTING CRIMES  
18 PRIOR TO THE AGE OF SIXTEEN shall be confined in such facilities [until  
19 the age of twenty-one] IN ACCORDANCE WITH THEIR SENTENCES, and shall not  
20 be released, discharged or permitted home visits except pursuant to the  
21 provisions of this section.

22 [(a) The director of the division for youth may authorize the transfer  
23 of a juvenile offender in his custody, who has been convicted of  
24 burglary or robbery, to a school or center established and operated  
25 pursuant to title three of this article at any time after the juvenile  
26 offender has been confined in a division for youth secure facility for  
27 one year or one-half of his minimum sentence, whichever is greater.

28 (b) The director of the division for youth may authorize the transfer  
29 of a juvenile offender in his custody, who has been convicted of  
30 burglary or robbery, and who is within ninety days of release as estab-  
31 lished by the board of parole, to any facility established and operated  
32 pursuant to this article.

33 (c) A juvenile offender may be transferred as provided in paragraphs  
34 (a) and (b) herein, only after the director determines that there is no  
35 danger to public safety and that the offender shall substantially bene-  
36 fit from the programs and services of another division facility. In  
37 determining whether there is a danger to public safety the director  
38 shall consider: (i) the nature and circumstances of the offense includ-  
39 ing whether any physical injury involved was inflicted by the offender  
40 or another participant; (ii) the record and background of the offender;  
41 and (iii) the adjustment of the offender at division facilities.

42 (d) For a period of six months after a juvenile offender has been  
43 transferred pursuant to paragraph (a) or (b) herein, the juvenile offen-  
44 der may have only accompanied home visits. After completing six months  
45 of confinement following transfer from a secure facility, a juvenile  
46 offender may not have an unaccompanied home visit unless two accompanied  
47 home visits have already occurred. An "accompanied home visit" shall  
48 mean a home visit during which the juvenile offender shall be accompa-  
49 nied at all times while outside the facility by appropriate personnel of  
50 the division for youth designated pursuant to regulations of the direc-  
51 tor of the division.

52 (e) The director of the division for youth shall promulgate rules and  
53 regulations including uniform standards and procedures governing the  
54 transfer of juvenile offenders from secure facilities to other facili-  
55 ties and the return of such offenders to secure facilities. The rules  
56 and regulations shall provide a procedure for the referral of proposed

1 transfer cases by the secure facility director, and shall require a  
2 determination by the facility director that transfer of a juvenile  
3 offender to another facility is in the best interests of the division  
4 for youth and the juvenile offender and that there is no danger to  
5 public safety.

6 The rules and regulations shall further provide for the establishment  
7 of a division central office transfer committee to review transfer cases  
8 referred by the secure facility directors. The committee shall recommend  
9 approval of a transfer request to the director of the division only upon  
10 a clear showing by the secure facility director that the transfer is in  
11 the best interests of the division for youth and the juvenile offender  
12 and that there is no danger to public safety. In the case of the denial  
13 of the transfer request by the transfer committee, the juvenile offender  
14 shall remain at a secure facility. Notwithstanding the recommendation  
15 for approval of transfer by the transfer committee, the director of the  
16 division may deny the request for transfer if there is a danger to  
17 public safety or if the transfer is not in the best interests of the  
18 division for youth or the juvenile offender.

19 The rules and regulations shall further provide a procedure for the  
20 immediate return to a secure facility, without a hearing, of a juvenile  
21 offender transferred to another facility upon a determination by that  
22 facility director that there is a danger to public safety.]

23 3. The [division] OFFICE OF CHILDREN AND FAMILY SERVICES shall report  
24 in writing to the sentencing court and district attorney, not less than  
25 once every six months during the period of confinement, on the status,  
26 adjustment, programs and progress of the offender.

27 4. [The office of children and family services may apply to the  
28 sentencing court for permission to transfer a youth not less than  
29 sixteen nor more than eighteen years of age to the department of  
30 corrections and community supervision. Such application shall be made  
31 upon notice to the youth, who shall be entitled to be heard upon the  
32 application and to be represented by counsel. The court shall grant the  
33 application if it is satisfied that there is no substantial likelihood  
34 that the youth will benefit from the programs offered by the office  
35 facilities.

36 5.] The office of children and family services may transfer an offen-  
37 der not less than eighteen [nor more than twenty-one] years of age to  
38 the department of corrections and community supervision if the commis-  
39 sioner of the office certifies to the commissioner of corrections and  
40 community supervision that there is no substantial likelihood that the  
41 youth will benefit from the programs offered by office facilities.

42 [6. At age twenty-one, all] 5. (A) ALL juvenile offenders COMMITTED TO  
43 THE OFFICE FOR COMMITTING A CRIME PRIOR TO THE YOUTH'S SIXTEENTH BIRTH-  
44 DAY WHO STILL HAVE TIME LEFT ON THEIR SENTENCES OF IMPRISONMENT shall be  
45 transferred AT AGE TWENTY-THREE to the custody of the department of  
46 corrections and community supervision for confinement pursuant to the  
47 correction law.

48 [7.] (B) ALL OFFENDERS COMMITTED TO THE OFFICE FOR COMMITTING A CRIME  
49 ON OR AFTER THEIR SIXTEENTH BIRTHDAY WHO STILL HAVE TIME LEFT ON THEIR  
50 SENTENCES OF IMPRISONMENT SHALL BE TRANSFERRED TO THE CUSTODY OF THE  
51 DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION FOR CONFINEMENT  
52 PURSUANT TO THE CORRECTION LAW AFTER COMPLETING TWO YEARS OF CARE IN  
53 OFFICE OF CHILDREN AND FAMILY SERVICES FACILITIES UNLESS THEY ARE WITHIN  
54 FOUR MONTHS OF COMPLETING THE IMPRISONMENT PORTION OF THEIR SENTENCE AND  
55 THE OFFICE DETERMINES, IN ITS DISCRETION, ON A CASE-BY-CASE BASIS THAT  
56 THE YOUTH SHOULD BE PERMITTED TO REMAIN WITH THE OFFICE FOR THE ADDI-

TIONAL SHORT PERIOD OF TIME NECESSARY TO ENABLE THEM TO COMPLETE THEIR SENTENCE. IN MAKING SUCH A DETERMINATION, THE FACTORS THE OFFICE MAY CONSIDER INCLUDE, BUT ARE NOT LIMITED TO, THE AGE OF THE YOUTH, THE AMOUNT OF TIME REMAINING ON THE YOUTH'S SENTENCE OF IMPRISONMENT, THE LEVEL OF THE YOUTH'S PARTICIPATION IN THE PROGRAM, THE YOUTH'S EDUCATIONAL AND VOCATIONAL PROGRESS, THE OPPORTUNITIES AVAILABLE TO THE YOUTH THROUGH THE OFFICE AND THROUGH THE DEPARTMENT. NOTHING IN THIS PARAGRAPH SHALL AUTHORIZE A YOUTH TO REMAIN IN AN OFFICE FACILITY BEYOND HIS OR HER TWENTY-THIRD BIRTHDAY.

(C) ALL JUVENILE OFFENDERS WHO ARE ELIGIBLE TO BE RELEASED FROM AN OFFICE OF CHILDREN AND FAMILY SERVICES FACILITY BEFORE THEY ARE REQUIRED TO BE TRANSFERRED TO THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION AND WHO ARE ABLE TO COMPLETE THE FULL-TERM OF THEIR COMMUNITY SUPERVISION SENTENCES BEFORE THEY TURN TWENTY-THREE YEARS OF AGE SHALL REMAIN WITH THE OFFICE OF CHILDREN AND FAMILY SERVICES FOR COMMUNITY SUPERVISION.

(D) ALL JUVENILE OFFENDERS RELEASED FROM AN OFFICE OF CHILDREN AND FAMILY SERVICES FACILITY BEFORE THEY ARE TRANSFERRED TO THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION WHO ARE UNABLE TO COMPLETE THE FULL-TERM OF THEIR COMMUNITY SUPERVISION BEFORE THEY TURN TWENTY-THREE YEARS OF AGE SHALL BE UNDER THE SUPERVISION OF THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION UNTIL EXPIRATION OF THE MAXIMUM TERM.

6. While in the custody of the office of children and family services, an offender shall be subject to the rules and regulations of the office, except that his OR HER parole, temporary release and discharge shall be governed by the laws applicable to inmates of state correctional facilities and his OR HER transfer to state hospitals in the office of mental health shall be governed by section five hundred nine of this chapter. The commissioner of the office of children and family services shall, however, establish and operate temporary release programs at office of children and family services facilities for eligible juvenile offenders and [contract with the department of corrections and community supervision for the provision of parole] PROVIDE supervision [services] for temporary releasees. The rules and regulations for these programs shall not be inconsistent with the laws for temporary release applicable to inmates of state correctional facilities. For the purposes of temporary release programs for juvenile offenders only, when referred to or defined in article twenty-six of the correction law, "institution" shall mean any facility designated by the commissioner of the office of children and family services, "department" shall mean the office of children and family services, "inmate" shall mean a juvenile offender residing in an office of children and family services facility, and "commissioner" shall mean the [director] COMMISSIONER of the office of children and family services. Time spent in office of children and family services facilities and in juvenile detention facilities shall be credited towards the sentence imposed in the same manner and to the same extent applicable to inmates of state correctional facilities.

[8] 7. Whenever a juvenile offender or a juvenile offender adjudicated a youthful offender shall be delivered to the director of [a division for youth] AN OFFICE OF CHILDREN AND FAMILY SERVICES facility pursuant to a commitment to the [director of the division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES, the officer so delivering such person shall deliver to such facility director a certified copy of the sentence received by such officer from the clerk of the court by which such person shall have been sentenced, a copy of the report of the

1 probation officer's investigation and report, any other pre-sentence  
2 memoranda filed with the court, a copy of the person's fingerprint  
3 records, a detailed summary of available medical records, psychiatric  
4 records and reports relating to assaults, or other violent acts,  
5 attempts at suicide or escape by the person while in the custody of a  
6 local detention facility.

7 [9] 8. Notwithstanding any provision of law, including section five  
8 hundred one-c of this article, the office of children and family  
9 services shall make records pertaining to a person convicted of a sex  
10 offense as defined in subdivision (p) of section 10.03 of the mental  
11 hygiene law available upon request to the commissioner of mental health  
12 or the commissioner of [mental retardation and] THE OFFICE FOR PERSONS  
13 WITH developmental disabilities, as appropriate; a case review panel;  
14 and the attorney general; in accordance with the provisions of article  
15 ten of the mental hygiene law.

16 S 97. Subdivisions 1, 2, 4, 5 and 5-a of section 529 of the executive  
17 law, subdivisions 1, 4 and 5 as added by chapter 906 of the laws of  
18 1973, paragraph (c) of subdivision 1 as amended and paragraph (d) of  
19 subdivision 1 as added by chapter 881 of the laws of 1976, subdivision 2  
20 as amended by chapter 430 of the laws of 1991, paragraph (c) of subdivi-  
21 sion 5 as amended by chapter 722 of the laws of 1979 and subdivision 5-a  
22 as added by chapter 258 of the laws of 1974, are amended to read as  
23 follows:

24 1. Definitions. As used in this section:

25 (a) "authorized agency", "certified boarding home", "local charge" and  
26 "state charge" shall have the meaning ascribed to such terms by the  
27 social services law;

28 (b) "aftercare supervision" shall mean supervision of released or  
29 discharged youth, not in foster care; and,

30 (c) "foster care" shall mean residential care, maintenance and super-  
31 vision provided TO released or discharged youth, or youth otherwise in  
32 the custody of the [division for youth, in a division foster family home  
33 certified by the division.

34 (d) "division foster family home" means a service program provided in  
35 a home setting available to youth under the jurisdiction of the division  
36 for youth] OFFICE OF CHILDREN AND FAMILY SERVICES.

37 2. [Expenditures] EXCEPT AS PROVIDED IN SUBDIVISION FIVE OF THIS  
38 SECTION, EXPENDITURES made by the [division for youth] OFFICE OF CHIL-  
39 DREN AND FAMILY SERVICES for care, maintenance and supervision furnished  
40 youth, including alleged and adjudicated juvenile delinquents and  
41 persons in need of supervision, placed or referred, pursuant to titles  
42 two or three of this article, and juvenile offenders committed pursuant  
43 to section 70.05 of the penal law, in the [division's] OFFICE'S programs  
44 and facilities, shall be subject to reimbursement to the state by the  
45 social services district from which the youth was placed or by the  
46 social services district in which the juvenile offender resided at the  
47 time of commitment, in accordance with this section and the regulations  
48 of the [division,] OFFICE as follows: fifty percent of the amount  
49 expended for care, maintenance and supervision of local charges includ-  
50 ing juvenile offenders.

51 [4. Expenditures made by the division for youth] 3. THE COSTS for  
52 foster care PROVIDED BY VOLUNTARY AUTHORIZED AGENCIES TO JUVENILE DELIN-  
53 QUENTS PLACED IN THE CARE OF THE OFFICE OF CHILDREN AND FAMILY SERVICES  
54 shall be [subject to reimbursement to the state by] THE RESPONSIBILITY  
55 OF the social services district from which the youth was placed, AND  
56 SHALL BE SUBJECT TO REIMBURSEMENT FROM THE STATE in accordance with [the

1 regulations of the division, as follows: fifty percent of the amount  
2 expended for care, maintenance and supervision of local charges] SECTION  
3 ONE HUNDRED FIFTY-THREE-K OF THE SOCIAL SERVICES LAW.

4 [5] 4. (a) [Expenditures] EXCEPT AS PROVIDED IN SUBDIVISION FIVE OF  
5 THIS SECTION, EXPENDITURES made by the [division for youth] OFFICE OF  
6 CHILDREN AND FAMILY SERVICES for aftercare supervision shall be subject  
7 to reimbursement to the state by the social services district from which  
8 the youth was placed, in accordance with regulations of the [division]  
9 OFFICE, as follows: fifty percent of the amount expended for aftercare  
10 supervision of local charges.

11 (b) Expenditures made by social services districts for aftercare  
12 supervision of adjudicated juvenile delinquents and persons in need of  
13 supervision [provided (prior to the expiration of the initial or  
14 extended period of placement or commitment) by the aftercare staff of  
15 the facility from which the youth has been released or discharged, other  
16 than those under the jurisdiction of the division for youth, in which  
17 said youth was placed or committed, pursuant to directions of the family  
18 court,] shall be subject to reimbursement by the state[, upon approval  
19 by the division and in accordance with its regulations, as follows:

20 (1) the full amount expended by the district for aftercare supervision  
21 of state charges;

22 (2) fifty percent of the amount expended by the district for aftercare  
23 supervision of local charges] IN ACCORDANCE WITH SECTION ONE HUNDRED  
24 FIFTY-THREE-K OF THE SOCIAL SERVICES LAW.

25 (c) Expenditures made by the [division for youth] OFFICE OF CHILDREN  
26 AND FAMILY SERVICES for contracted programs and contracted services  
27 pursuant to subdivision seven of section five hundred one of this arti-  
28 cle, except with respect to urban homes and group homes, shall be  
29 subject to reimbursement to the state by the social services district  
30 from which the youth was placed, in accordance with this section and the  
31 regulations of the [division] OFFICE as follows: fifty percent of the  
32 amount expended for the operation and maintenance of such programs and  
33 services.

34 5. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, NO  
35 REIMBURSEMENT SHALL BE REQUIRED FROM A SOCIAL SERVICES DISTRICT FOR  
36 EXPENDITURES MADE BY THE OFFICE OF CHILDREN AND FAMILY SERVICES ON OR  
37 AFTER DECEMBER FIRST, TWO THOUSAND FIFTEEN FOR THE CARE, MAINTENANCE,  
38 SUPERVISION OR AFTERCARE SUPERVISION OF YOUTH AGE SIXTEEN YEARS OF AGE  
39 OR OLDER THAT WOULD NOT OTHERWISE HAVE BEEN MADE ABSENT THE PROVISIONS  
40 OF A CHAPTER OF THE LAWS OF TWO THOUSAND FIFTEEN THAT INCREASED THE AGE  
41 OF JUVENILE JURISDICTION ABOVE FIFTEEN YEARS OF AGE OR THAT AUTHORIZED  
42 THE PLACEMENT IN OFFICE OF CHILDREN AND FAMILY SERVICES FACILITIES OF  
43 CERTAIN OTHER YOUTH WHO COMMITTED A CRIME ON OR AFTER THEIR SIXTEENTH  
44 BIRTHDAYS.

45 5-a. The social services district responsible for reimbursement to the  
46 state shall remain the same if during a period of placement or extension  
47 thereof, a child commits a criminal act while in [a division] AN OFFICE  
48 OF CHILDREN AND FAMILY SERVICES facility, during an authorized absence  
49 therefrom or after absconding therefrom and is returned to the [divi-  
50 sion] OFFICE following adjudication or conviction for the act by a court  
51 with jurisdiction outside the boundaries of the social services district  
52 which was responsible for reimbursement to the state prior to such adju-  
53 dication or conviction.

54 S 98. Subdivision 1 and subparagraph (iii) of paragraph (a) of subdi-  
55 vision 3 of section 529-b of the executive law, as added by section 3 of



subpart B of part Q of chapter 58 of the laws of 2011, are amended to read as follows:

1. (a) Notwithstanding any provision of law to the contrary, eligible expenditures by an eligible municipality for services to divert youth at risk of, alleged to be, or adjudicated as juvenile delinquents or persons alleged or adjudicated to be in need of supervision, or youth alleged to be or convicted as juvenile offenders from placement in detention or in residential care shall be subject to state reimbursement under the supervision and treatment services for juveniles program for up to sixty-two percent of the municipality's expenditures, subject to available appropriations and exclusive of any federal funds made available for such purposes, not to exceed the municipality's distribution under the supervision and treatment services for juveniles program.

(b) The state funds appropriated for the supervision and treatment services for juveniles program shall be distributed to eligible municipalities by the office of children and family services based on a plan developed by the office which may consider historical information regarding the number of youth seen at probation intake for an alleged act of delinquency, THE NUMBER OF ALLEGED PERSONS IN NEED OF SUPERVISION RECEIVING DIVERSION SERVICES UNDER SECTION SEVEN HUNDRED THIRTY-FIVE OF THE FAMILY COURT ACT, the number of youth remanded to detention, the number of juvenile delinquents placed with the office, the number of juvenile delinquents and persons in need of supervision placed in residential care with the municipality, the municipality's reduction in the use of detention and residential placements, and other factors as determined by the office. Such plan developed by the office shall be subject to the approval of the director of the budget. The office is authorized, in its discretion, to make advance distributions to a municipality in anticipation of state reimbursement.

(iii) a description of how the services and programs proposed for funding will reduce the number of youth from the municipality who are detained and residentially OR OTHERWISE placed; how such services and programs are family-focused; and whether such services and programs are capable of being replicated across multiple sites;

S 99. Subdivisions 2, 4, 5, 6 and 7 of section 530 of the executive law, subdivisions 2 and 4 as amended by section 4 of subpart B of part Q of chapter 58 of the laws of 2011, paragraphs (a) and (d) of subdivision 2 as amended by section 1 of part M of chapter 57 of the laws of 2012, subdivision 5 as amended by chapter 920 of the laws of 1982, subparagraphs 1, 2 and 4 of paragraph (a) and paragraph (b) of subdivision 5 as amended by section 5 of subpart B of part Q of chapter 58 of the laws of 2011, subdivision 6 as amended by chapter 880 of the laws of 1976, and subdivision 7 as amended by section 6 of subpart B of part Q of chapter 58 of the laws of 2011, are amended and a new subdivision 8 is added to read as follows:

2. [Expenditures] EXCEPT AS PROVIDED FOR IN SUBDIVISION EIGHT OF THIS SECTION, EXPENDITURES made by municipalities in providing care, maintenance and supervision to youth in detention facilities designated pursuant to sections seven hundred twenty and 305.2 of the family court act and certified by [the division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES, shall be subject to reimbursement by the state, as follows:

(a) Notwithstanding any provision of law to the contrary, eligible expenditures by a municipality during a particular program year for the care, maintenance and supervision in foster care programs certified by the office of children and family services, certified or approved family boarding homes, and non-secure detention facilities certified by the

1 office for those youth alleged to be persons in need of supervision or  
2 adjudicated persons in need of supervision held pending transfer to a  
3 facility upon placement; and in secure and non-secure detention facili-  
4 ties certified by the office in accordance with section five hundred  
5 three of this article for those youth alleged to be juvenile delin-  
6 quents; adjudicated juvenile delinquents held pending transfer to a  
7 facility upon placement, and juvenile delinquents held at the request of  
8 the office of children and family services pending extension of place-  
9 ment hearings or release revocation hearings or while awaiting disposi-  
10 tion of such hearings; and youth alleged to be or convicted as juvenile  
11 offenders AND, YOUTH ALLEGED TO BE PERSONS IN NEED OF SUPERVISION OR  
12 ADJUDICATED PERSONS IN NEED OF SUPERVISION HELD PENDING TRANSFER TO A  
13 FACILITY UPON PLACEMENT IN FOSTER CARE PROGRAMS CERTIFIED BY THE OFFICE  
14 OF CHILDREN AND FAMILY SERVICES, CERTIFIED OR APPROVED FAMILY BOARDING  
15 HOMES, shall be subject to state reimbursement for up to fifty percent  
16 of the municipality's expenditures, exclusive of any federal funds made  
17 available for such purposes, not to exceed the municipality's distrib-  
18 ution from funds that have been appropriated specifically therefor for  
19 that program year. Municipalities shall implement the use of detention  
20 risk assessment instruments in a manner prescribed by the office so as  
21 to inform detention decisions. Notwithstanding any other provision of  
22 state law to the contrary, data necessary for completion of a detention  
23 risk assessment instrument may be shared among law enforcement,  
24 probation, courts, detention administrators, detention providers, and  
25 the attorney for the child upon retention or appointment; solely for the  
26 purpose of accurate completion of such risk assessment instrument, and a  
27 copy of the completed detention risk assessment instrument shall be made  
28 available to the applicable detention provider, the attorney for the  
29 child and the court.

30 (b) The state funds appropriated for juvenile detention services shall  
31 be distributed to eligible municipalities by the office of children and  
32 family services based on a plan developed by the office which may  
33 consider historical information regarding the number of youth remanded  
34 to detention, the municipality's reduction in the use of detention, the  
35 municipality's youth population, and other factors as determined by the  
36 office. Such plan developed by the office shall be subject to the  
37 approval of the director of the budget. The office is authorized, in its  
38 discretion, to make advance distributions to a municipality in antic-  
39 ipation of state reimbursement.

40 (c) A municipality may also use the funds distributed to it for juve-  
41 nile detention services under this section for a particular program year  
42 for sixty-two percent of a municipality's eligible expenditures for  
43 supervision and treatment services for juveniles programs approved under  
44 section five hundred twenty-nine-b of this title for services that were  
45 not reimbursed from a municipality's distribution under such program  
46 provided to at-risk, alleged or adjudicated juvenile delinquents or  
47 persons alleged or adjudicated to be in need of supervision, or alleged  
48 to be or convicted as juvenile offenders in community-based non-residen-  
49 tial settings. Any claims submitted by a municipality for reimbursement  
50 for detention services or supervision and treatment services for juve-  
51 niles provided during a particular program year for which the munici-  
52 pality does not receive state reimbursement from the municipality's  
53 distribution of detention services funds for that program year may not  
54 be claimed against the municipality's distribution of funds available  
55 under this section for the next applicable program year. The office may

1 require that such claims be submitted to the office electronically at  
2 such times and in the manner and format required by the office.

3 [(d)(i)] 2-A. (A) Notwithstanding any provision of law or regulation  
4 to the contrary, any information or data necessary for the development,  
5 validation or revalidation of the detention risk assessment instrument  
6 shall be shared among local probation departments, the office of  
7 probation and correctional alternatives and, where authorized by the  
8 division of criminal justice services, the entity under contract with  
9 the division to provide information technology services related to youth  
10 assessment and screening, the office of children and family services,  
11 and any entity under contract with the office of children and family  
12 services to provide services relating to the development, validation or  
13 revalidation of the detention risk assessment instrument. Any such  
14 information and data shall not be commingled with any criminal history  
15 database. Any information and data used and shared pursuant to this  
16 section shall only be used and shared for the purposes of this section  
17 and in accordance with this section. Such information shall be shared  
18 and received in a manner that protects the confidentiality of such  
19 information. The sharing, use, disclosure and redisclosure of such  
20 information to any person, office, or other entity not specifically  
21 authorized to receive it pursuant to this section or any other law is  
22 prohibited.

23 [(ii)] (B) The office of children and family services shall consult  
24 with individuals with professional research experience and expertise in  
25 criminal justice; social work; juvenile justice; and applied mathemat-  
26 ics, psychometrics and/or statistics to assist the office in determining  
27 the method it will use to: develop, validate and revalidate such  
28 detention risk assessment instrument; and analyze the effectiveness of  
29 the use of such detention risk assessment instrument in accomplishing  
30 its intended goals; and analyze, to the greatest extent possible any  
31 disparate impact on detention outcomes for juveniles based on race, sex,  
32 national origin, economic status and any other constitutionally  
33 protected class, regarding the use of such instrument. The office shall  
34 consult with such individuals regarding whether it is appropriate to  
35 attempt to analyze whether there is any such disparate impact based on  
36 sexual orientation and, if so, the best methods to conduct such analy-  
37 sis. The office shall take into consideration any recommendations given  
38 by such individuals involving improvements that could be made to such  
39 instrument and process.

40 [(iii)] (C) Data collected for the purposes of completing the  
41 detention risk assessment instrument from any source other than an offi-  
42 cially documented record shall be confirmed as soon as practicable.  
43 Should any data originally utilized in completing the risk assessment  
44 instrument be found to conflict with the officially documented record,  
45 the risk assessment instrument shall be completed with the officially  
46 documented data and any corresponding revision to the risk categori-  
47 zation shall be made. The office shall periodically revalidate any  
48 approved risk assessment instrument. The office shall conspicuously post  
49 any approved detention risk assessment instrument on its website and  
50 shall confer with appropriate stakeholders, including but not limited  
51 to, attorneys for children, presentment agencies, probation, and the  
52 family court, prior to revising any validated risk assessment instru-  
53 ment. Any such revised risk assessment instrument shall be subject to  
54 periodic empirical validation.

55 4. (a) The municipality must notify the office of children and family  
56 services of state aid received under other state aid formulas by each

1 detention facility for which the municipality is seeking reimbursement  
2 pursuant to this section, including but not limited to, aid for educa-  
3 tion, probation and mental health services.

4 (b) EXCEPT AS PROVIDED IN SUBDIVISION EIGHT OF THIS SECTION: (I) In  
5 computing reimbursement to the municipality pursuant to this section,  
6 the office shall insure that the aggregate of state aid under all state  
7 aid formulas shall not exceed fifty percent of the cost of care, mainte-  
8 nance and supervision provided to detainees eligible for state  
9 reimbursement under subdivision two of this section, exclusive of feder-  
10 al aid for such purposes not to exceed the amount of the municipality's  
11 distribution under the juvenile detention services program.

12 [(c)] (II) Reimbursement for administrative related expenditures as  
13 defined by the office of children and family services, for secure and  
14 nonsecure detention services shall not exceed seventeen percent of the  
15 total approved expenditures for facilities of twenty-five beds or more  
16 and shall not exceed twenty-one percent of the total approved expendi-  
17 tures for facilities with less than twenty-five beds.

18 5. (a) Except as provided in paragraph (b) of this subdivision, care,  
19 maintenance and supervision for the purpose of this section shall mean  
20 and include only:

21 (1) temporary care, maintenance and supervision provided TO alleged  
22 juvenile delinquents and persons in need of supervision in detention  
23 facilities certified pursuant to sections seven hundred twenty and 305.2  
24 of the family court act by the office of children and family services,  
25 pending adjudication of alleged delinquency or alleged need of super-  
26 vision by the family court, or pending transfer to institutions to which  
27 committed or placed by such court or while awaiting disposition by such  
28 court after adjudication or held pursuant to a securing order of a crim-  
29 inal court if the person named therein as principal is under [sixteen]  
30 EIGHTEEN YEARS OF AGE; or[,]

31 (1-A) TEMPORARY CARE, MAINTENANCE, AND SUPERVISION PROVIDED TO ALLEGED  
32 JUVENILE DELINQUENTS IN DETENTION FACILITIES CERTIFIED BY THE OFFICE OF  
33 CHILDREN AND FAMILY SERVICES, PENDING ADJUDICATION OF ALLEGED DELINQUEN-  
34 CY BY THE FAMILY COURT, OR PENDING TRANSFER TO INSTITUTIONS TO WHICH  
35 COMMITTED OR PLACED BY SUCH COURT OR WHILE AWAITING DISPOSITION BY SUCH  
36 COURT AFTER ADJUDICATION OR HELD PURSUANT TO A SECURING ORDER OF A CRIM-  
37 INAL COURT IF THE PERSON NAMED THEREIN AS PRINCIPAL IS UNDER TWENTY-ONE;  
38 OR

39 (2) temporary care, maintenance and supervision provided juvenile  
40 delinquents in approved detention facilities at the request of the  
41 office of children and family services pending release revocation hear-  
42 ings or while awaiting disposition after such hearings; or

43 (3) temporary care, maintenance and supervision in approved detention  
44 facilities for youth held pursuant to the family court act or the inter-  
45 state compact on juveniles, pending return to their place of residence  
46 or domicile[.]; OR

47 (4) temporary care, maintenance and supervision provided youth  
48 detained in foster care facilities or certified or approved family  
49 boarding homes pursuant to article seven of the family court act.

50 (b) Payments made for reserved accommodations, whether or not in full  
51 time use, approved AND CERTIFIED by the office of children and family  
52 services [and certified pursuant to sections seven hundred twenty and  
53 305.2 of the family court act], in order to assure that adequate accom-  
54 modations will be available for the immediate reception and proper care  
55 therein of youth for which detention costs are reimbursable pursuant to  
56 paragraph (a) of this subdivision, shall be reimbursed as expenditures

1 for care, maintenance and supervision under the provisions of this  
2 section, provided the office shall have given its prior approval for  
3 reserving such accommodations.

4 6. The [director of the division for youth] OFFICE OF CHILDREN AND  
5 FAMILY SERVICES may adopt, amend, or rescind all rules and regulations,  
6 subject to the approval of the director of the budget and certification  
7 to the chairmen of the senate finance and assembly ways and means  
8 committees, necessary to carry out the provisions of this section.

9 7. The agency administering detention for each county and the city of  
10 New York shall submit to the office of children and family services, at  
11 such times and in such form and manner and containing such information  
12 as required by the office of children and family services, an annual  
13 report on youth remanded pursuant to article three or seven of the fami-  
14 ly court act who are detained during each calendar year including,  
15 commencing January first, two thousand twelve, the risk level of each  
16 detained youth as assessed by a detention risk assessment instrument  
17 approved by the office of children and family services. The office may  
18 require that such data on detention use be submitted to the office elec-  
19 tronically. Such report shall include, but not be limited to, the reason  
20 for the court's determination in accordance with section 320.5 or seven  
21 hundred thirty-nine of the family court act, IF APPLICABLE, to detain  
22 the youth; the offense or offenses with which the youth is charged; and  
23 all other reasons why the youth remains detained. The office shall  
24 submit a compilation of all the separate reports to the governor and the  
25 legislature.

26 8. NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW TO THE CONTRARY, STATE  
27 REIMBURSEMENT SHALL BE MADE AVAILABLE FOR ONE HUNDRED PERCENT OF A  
28 MUNICIPALITY'S ELIGIBLE EXPENDITURES FOR THE CARE, MAINTENANCE AND  
29 SUPERVISION OF YOUTH SIXTEEN YEARS OF AGE OR OLDER IN NON-SECURE AND  
30 SECURE DETENTION FACILITIES WHEN SUCH DETENTION WOULD NOT OTHERWISE HAVE  
31 OCCURRED ABSENT THE PROVISIONS OF A CHAPTER OF THE LAWS OF TWO THOUSAND  
32 FIFTEEN THAT INCREASED THE AGE OF JUVENILE JURISDICTION ABOVE FIFTEEN  
33 YEARS OF AGE.

34 S 100. Section 109-c of the vehicle and traffic law, as added by  
35 section 1 of part E of chapter 60 of the laws of 2005, is amended to  
36 read as follows:

37 S 109-c. Conviction. 1. Any conviction as defined in subdivision  
38 thirteen of section 1.20 of the criminal procedure law; provided, howev-  
39 er, where a conviction or administrative finding in this state or anoth-  
40 er state results in a mandatory sanction against a commercial driver's  
41 license, as set forth in sections five hundred ten, five hundred ten-a,  
42 eleven hundred ninety-two and eleven hundred ninety-four of this chap-  
43 ter, conviction shall also mean an unvacated adjudication of guilt, or a  
44 determination that a person has violated or failed to comply with the  
45 law in a court of original jurisdiction or by an authorized administra-  
46 tive tribunal, an unvacated forfeiture of bail or collateral deposited  
47 to secure the person's appearance in court, a plea of guilty or nolo  
48 contendere accepted by the court, the payment of a fine or court cost,  
49 or violation of a condition of release without bail, regardless of  
50 whether or not the penalty is rebated, suspended, or probated.

51 2. A CONVICTION SHALL INCLUDE A JUVENILE DELINQUENCY ADJUDICATION FOR  
52 THE PURPOSES OF SECTIONS FIVE HUNDRED TEN; SUBDIVISION FIVE OF SECTION  
53 FIVE HUNDRED ELEVEN; FIVE HUNDRED FOURTEEN; FIVE HUNDRED TWENTY-THREE-A;  
54 SUBPARAGRAPH (II) OF PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION ELEVEN  
55 HUNDRED NINETY-THREE; SUBDIVISION TWO OF SECTION ELEVEN HUNDRED NINETY-  
56 THREE; ELEVEN HUNDRED NINETY-SIX; ELEVEN HUNDRED NINETY-EIGHT; ELEVEN

1 HUNDRED NINETY-EIGHT-A; ELEVEN HUNDRED NINETY-NINE; EIGHTEEN HUNDRED  
2 EIGHT; EIGHTEEN HUNDRED NINE; EIGHTEEN HUNDRED NINE-C; AND EIGHTEEN  
3 HUNDRED NINE-E OF THIS CHAPTER AND PARAGRAPH (A) OF SUBDIVISION SIX OF  
4 SECTION SIXTY-FIVE-B OF THE ALCOHOLIC BEVERAGE CONTROL LAW ONLY AND  
5 SOLELY FOR THE PURPOSES OF ALLOWING THE FAMILY COURT TO IMPOSE LICENSE  
6 AND REGISTRATION SANCTIONS, IGNITION INTERLOCK DEVICES, ANY DRUG OR  
7 ALCOHOL REHABILITATION PROGRAM, VICTIM IMPACT PROGRAM, DRIVER RESPONSI-  
8 BILITY ASSESSMENT, VICTIM ASSISTANCE FEE, SURCHARGE, AND ISSUING A STAY  
9 ORDER ON APPEAL. NOTHING IN THIS SUBDIVISION SHALL BE CONSTRUED AS  
10 LIMITING OR PRECLUDING THE ENFORCEMENT OF SECTION ELEVEN HUNDRED NINE-  
11 TY-TWO-A OF THIS CHAPTER AGAINST A PERSON UNDER THE AGE OF TWENTY-ONE.

12 S 100-a. Subdivision 1 of section 510 of the vehicle and traffic law,  
13 as amended by chapter 132 of the laws of 1986, is amended to read as  
14 follows:

15 1. Who may suspend or revoke. Any magistrate, justice or judge, in a  
16 city, in a town, or in a village, any supreme court justice, any county  
17 judge, any judge of a district court, ANY FAMILY COURT JUDGE, the super-  
18 intendent of state police and the commissioner of motor vehicles or any  
19 person deputized by him, shall have power to revoke or suspend the  
20 license to drive a motor vehicle or motorcycle of any person, or in the  
21 case of an owner, the registration, as provided herein.

22 S 100-b. Severability. If any clause, sentence, paragraph, subdivi-  
23 sion, section or part contained in any part of this act shall be  
24 adjudged by any court of competent jurisdiction to be invalid, such  
25 judgment shall not affect, impair, or invalidate the remainder thereof,  
26 but shall be confined in its operation to the clause, sentence, para-  
27 graph, subdivision, section or part contained in any part thereof  
28 directly involved in the controversy in which such judgment shall have  
29 been rendered. It is hereby declared to be the intent of the legislature  
30 that this act would have been enacted even if such invalid provisions  
31 had not been included herein.

32 S 101. This act shall take effect immediately; provided, however,  
33 that:

34 1. sections one through twenty-four, twenty-six through fifty-nine,  
35 sixty-one through sixty-six, sixty-eight through seventy-six, and eighty  
36 through one hundred-b of this act shall take effect on January 1, 2017;

37 2. sections sixty-seven, seventy-seven, seventy-eight, and seventy-  
38 nine of this act shall take effect on the sixtieth day after it shall  
39 have become a law;

40 3. the amendments to subparagraph (ii) of paragraph (a) of subdivision  
41 1 of section 409-a of the social services law, made by section fifty-  
42 three of this act shall not affect the expiration of such subparagraph  
43 and shall be deemed expired therewith;

44 4. the amendments to subdivision 4 of section 353.5 of the family  
45 court act made by section twenty-four of this act shall not affect the  
46 expiration and reversion of such subdivision and shall expire and be  
47 deemed repealed therewith, when upon such date the provisions of section  
48 twenty-five of this act shall take effect;

49 5. the amendments to section 153-k of the social services law made by  
50 section forty-seven of this act shall not affect the repeal of such  
51 section and shall expire and be deemed repealed therewith;

52 6. the amendments to section 404 of the social services law made by  
53 section fifty-two of this act shall not affect the repeal of such  
54 section and shall expire and be deemed repealed therewith;

1 7. the amendments to subdivision 1 of section 70.20 of the penal law  
2 made by section fifty-eight of this act shall not affect the expiration  
3 of such subdivision and shall expire and be deemed repealed therewith;

4 8. the amendments to paragraph (f) of subdivision 1 of section 70.30  
5 of the penal law made by section sixty-a of this act shall not affect  
6 the expiration of such paragraph and shall be deemed to expire there-  
7 with;

8 9. the amendments to subparagraph (ii) of paragraph (a) and the clos-  
9 ing paragraph of paragraph (b) of subdivision 2 of section 754 of the  
10 family court act made by section thirty-nine of this act and the amend-  
11 ments to paragraphs (ii), (iii), and (iv) of subdivision (d) and subdi-  
12 vision (d-1) of section 756-a of the family court act made by section  
13 forty-two of this act shall take effect on the same date and in the same  
14 manner as part L of chapter 56 of the laws of 2015 takes effect;

15 10. the amendments to subparagraph 1 of paragraph d of subdivision 3  
16 of section 3214 of the education law made by section eighty-eight of  
17 this act shall not affect the expiration of such paragraph and shall be  
18 deemed to expire therewith; and

19 11. the amendments to the second undesignated paragraph of subdivision  
20 4 of section 246 of the executive law made by section ninety-one of this  
21 act shall not affect the expiration of such paragraph and shall expire  
22 and be deemed repealed therewith.