

S. 2006

A. 3006

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

January 21, 2015

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

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

AN ACT to amend the education law, in relation to contracts for excellence, apportionment of school aid, the teachers of tomorrow teacher recruitment and retention program and waivers from certain duties; to amend the state finance law, in relation to moneys appropriated from the commercial gaming revenue fund; to amend chapter 756 of the laws of 1992, relating to funding a program for work force education conducted by the consortium for worker education in New York city, in relation to reimbursements for the 2015-2016 school year; to amend chapter 756 of the laws of 1992, relating to funding a program for work force education conducted by the consortium for worker education in New York city, in relation to withholding a portion of employment preparation education aid and in relation to extending the effectiveness of such chapter; to amend chapter 169 of the laws of 1994 relating to certain provisions related to the 1994-95 state operations, aid to localities, capital projects and debt service budgets; to amend chapter 82 of the laws of 1995, amending the education law and other laws relating to state aid to school districts and the appropriation of funds for the support of government; to amend section 7 of chapter 472 of the laws of 1998 amending the education law relating to the lease of school buses by school districts; to amend chapter 147 of the laws of 2001 amending the education law relating to conditional appointment of school district, charter school or BOCES employees; to amend chapter 425 of the laws of 2002 amending the education law relating to the provision of supplemental educational services, attendance at a safe public school and the suspension of pupils who bring a firearm to or possess a firearm at a school, in relation to the effectiveness thereof; to amend chapter 101 of the laws of 2003 amending the education law relating to implementation of the No Child Left Behind Act of 2001, in relation to extending the expiration of certain provisions of such chapters; allocates school bus driver

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

LBD12572-01-5

training grants to school districts and boards of cooperative education services; allows for eligible school districts to receive special apportionments for salary expenses; allows for eligible school districts to receive special apportionments for public pension accruals; allows any moneys appropriated to the state education department to be suballocated to other state departments or agencies and/or shall be made available for specific payment of aid; allows the city school district of the city of Rochester to purchase services as a non-component school district; specifies amounts of state funds set aside for each school district for the purpose of the development, maintenance or expansion of magnet schools or magnet school programs; prohibits moneys appropriated for the support of public libraries to be used for library construction (Part A); to amend the education law, in relation to streamlining higher education program approvals for SUNY and CUNY (Part B); to amend the education law, in relation to creating the New York state get on your feet loan forgiveness program (Part C); to amend the education law, in relation to eligibility requirements and conditions governing general awards, academic performance awards and student loans; eligibility requirements for assistance under the higher education opportunity programs and the collegiate science and technology entry program; the definition of "resident"; financial aid opportunities for students of the state university of New York, the city university of New York and community colleges; and the program requirements for the New York state college choice tuition savings program; and to repeal subdivision 3 of section 661 of such law relating thereto (Part D); to amend the education law and the tax law, in relation to enacting the "education tax credit act" (Part E); to amend the banking law, in relation to creating a standard financial aid award letter (Part F); to amend the education law, the business corporation law, the partnership law and the limited liability company law, in relation to certified public accountants (Part G); to amend the education law, in relation to the implementation by all colleges and universities in the state of New York of sexual assault, dating violence, domestic violence, and stalking prevention and response policies and procedures (Part H); to amend the social services law, in relation to increasing the standards of monthly need for aged, blind and disabled persons living in the community (Part I); 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 indict-

ments; 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, in relation to persons in need of supervision or youthful offenders; to amend part K of chapter 57 of the laws of 2012, amending the education law, relating to authorizing the board of cooperative educational services to enter into contracts with the commissioner of children and family services to provide certain services, in relation to making such provisions permanent; to repeal certain sections of the family court act relating to custody and detention of juvenile and youthful offenders; to repeal section 180.75 of the criminal procedure law relating to proceedings upon a felony complaint against a juvenile offender; and to repeal certain provisions of the correction law relating to the housing of prisoners and other persons in custody (Part J); to amend the social services law, in relation to state reimbursement and subsidies for the adoption of children (Part K); to amend the social services law, the family court act, the public health law and the executive law, in relation to implementing provisions required by the federal preventing sex trafficking and strengthening families act (Part L); to utilize reserves in the mortgage insurance fund for various housing purposes (Part M); to amend the labor law, in relation to the minimum wage (Part N); to amend the labor law, in relation to authorized absences by healthcare professionals who volunteer to fight the Ebola virus disease overseas; and providing for the repeal of such provisions upon expiration thereof (Part O); to amend the labor law, the workers' compensation law and chapter 784 of the laws of 1951, constituting the New York state defense emergency act, in relation to eliminating certain fees charged by the department of labor; and to repeal certain provisions of the labor law and the workers' compensation law relating thereto (Part P); and to amend the education law, in relation to requiring experiential learning as a requirement for graduation (Part Q)

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

1 Section 1. This act enacts into law major components of legislation
2 which are necessary to implement the state fiscal plan for the 2015-2016
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through Q. The effective date for each particular
5 provision contained within such Part is set forth in the last section of
6 such Part. Any provision in any section contained within a Part, includ-
7 ing the effective date of the Part, which makes a reference to a section
8 "of this act", when used in connection with that particular component,
9 shall be deemed to mean and refer to the corresponding section of the
10 Part in which it is found. Section three of this act sets forth the
11 general effective date of this act.

PART A

1 Section 1. Paragraph e of subdivision 1 of section 211-d of the educa-
2 tion law, as amended by section 1 of part A of chapter 56 of the laws of
3 2014, is amended to read as follows:

4 e. Notwithstanding paragraphs a and b of this subdivision, a school
5 district that submitted a contract for excellence for the two thousand
6 eight--two thousand nine school year shall submit a contract for excel-
7 lence for the two thousand nine--two thousand ten school year in
8 conformity with the requirements of subparagraph (vi) of paragraph a of
9 subdivision two of this section unless all schools in the district are
10 identified as in good standing and provided further that, a school
11 district that submitted a contract for excellence for the two thousand
12 nine--two thousand ten school year, unless all schools in the district
13 are identified as in good standing, shall submit a contract for excel-
14 lence for the two thousand eleven--two thousand twelve school year which
15 shall, notwithstanding the requirements of subparagraph (vi) of para-
16 graph a of subdivision two of this section, provide for the expenditure
17 of an amount which shall be not less than the product of the amount
18 approved by the commissioner in the contract for excellence for the two
19 thousand nine--two thousand ten school year, multiplied by the
20 district's gap elimination adjustment percentage and provided further
21 that, a school district that submitted a contract for excellence for the
22 two thousand eleven--two thousand twelve school year, unless all schools
23 in the district are identified as in good standing, shall submit a
24 contract for excellence for the two thousand twelve--two thousand thir-
25 teen school year which shall, notwithstanding the requirements of
26 subparagraph (vi) of paragraph a of subdivision two of this section,
27 provide for the expenditure of an amount which shall be not less than
28 the amount approved by the commissioner in the contract for excellence
29 for the two thousand eleven--two thousand twelve school year and
30 provided further that, a school district that submitted a contract for
31 excellence for the two thousand twelve--two thousand thirteen school
32 year, unless all schools in the district are identified as in good
33 standing, shall submit a contract for excellence for the two thousand
34 thirteen--two thousand fourteen school year which shall, notwithstanding
35 the requirements of subparagraph (vi) of paragraph a of subdivision two
36 of this section, provide for the expenditure of an amount which shall be
37 not less than the amount approved by the commissioner in the contract
38 for excellence for the two thousand twelve--two thousand thirteen school
39 year and provided further that, a school district that submitted a
40 contract for excellence for the two thousand thirteen--two thousand
41 fourteen school year, unless all schools in the district are identified
42 as in good standing, shall submit a contract for excellence for the two
43 thousand fourteen--two thousand fifteen school year which shall,
44 notwithstanding the requirements of subparagraph (vi) of paragraph a of
45 subdivision two of this section, provide for the expenditure of an
46 amount which shall be not less than the amount approved by the commis-
47 sioner in the contract for excellence for the two thousand thirteen--two
48 thousand fourteen school year; AND PROVIDED FURTHER THAT, A SCHOOL
49 DISTRICT THAT SUBMITTED A CONTRACT FOR EXCELLENCE FOR THE TWO THOUSAND
50 FOURTEEN--TWO THOUSAND FIFTEEN SCHOOL YEAR, UNLESS ALL SCHOOLS IN THE
51 DISTRICT ARE IDENTIFIED AS IN GOOD STANDING, SHALL SUBMIT A CONTRACT FOR
52 EXCELLENCE FOR THE TWO THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN SCHOOL
53 YEAR WHICH SHALL, NOTWITHSTANDING THE REQUIREMENTS OF SUBPARAGRAPH (VI)
54 OF PARAGRAPH A OF SUBDIVISION TWO OF THIS SECTION, PROVIDE FOR THE
55 EXPENDITURE OF AN AMOUNT WHICH SHALL BE NOT LESS THAN THE AMOUNT
56 APPROVED BY THE COMMISSIONER IN THE CONTRACT FOR EXCELLENCE FOR THE TWO

1 THOUSAND FOURTEEN--TWO THOUSAND FIFTEEN SCHOOL YEAR. For purposes of
2 this paragraph, the "gap elimination adjustment percentage" shall be
3 calculated as the sum of one minus the quotient of the sum of the school
4 district's net gap elimination adjustment for two thousand ten--two
5 thousand eleven computed pursuant to chapter fifty-three of the laws of
6 two thousand ten, making appropriations for the support of government,
7 plus the school district's gap elimination adjustment for two thousand
8 eleven--two thousand twelve as computed pursuant to chapter fifty-three
9 of the laws of two thousand eleven, making appropriations for the
10 support of the local assistance budget, including support for general
11 support for public schools, divided by the total aid for adjustment
12 computed pursuant to chapter fifty-three of the laws of two thousand
13 eleven, making appropriations for the local assistance budget, including
14 support for general support for public schools. Provided, further, that
15 such amount shall be expended to support and maintain allowable programs
16 and activities approved in the two thousand nine--two thousand ten
17 school year or to support new or expanded allowable programs and activ-
18 ities in the current year.

19 S 2. The closing paragraph of subdivision 5-a of section 3602 of the
20 education law, as amended by section 8 of part A of chapter 57 of the
21 laws of 2013, is amended to read as follows:

22 For the two thousand eight--two thousand nine school year, each school
23 district shall be entitled to an apportionment equal to the product of
24 fifteen percent and the additional apportionment computed pursuant to
25 this subdivision for the two thousand seven--two thousand eight school
26 year. For the two thousand nine--two thousand ten through two thousand
27 [fourteen] FIFTEEN--two thousand [fifteen] SIXTEEN school years, each
28 school district shall be entitled to an apportionment equal to the
29 amount set forth for such school district as "SUPPLEMENTAL PUB EXCESS
30 COST" under the heading "2008-09 BASE YEAR AIDS" in the school aid
31 computer listing produced by the commissioner in support of the budget
32 for the two thousand nine--two thousand ten school year and entitled
33 "SA0910".

34 S 3. Subdivision 12 of section 3602 of the education law, as amended
35 by section 10 of part A of chapter 57 of the laws of 2013, is amended to
36 read as follows:

37 12. Academic enhancement aid. A school district that as of April first
38 of the base year has been continuously identified as a district in need
39 of improvement for at least five years shall, for the two thousand
40 eight--two thousand nine school year, be entitled to an additional
41 apportionment equal to the positive remainder, if any, of (a) the lesser
42 of fifteen million dollars or the product of the total foundation aid
43 base, as defined by paragraph j of subdivision one of this section,
44 multiplied by ten percent (0.10), less (b) the positive remainder of (i)
45 the sum of the total foundation aid apportioned pursuant to subdivision
46 four of this section and the supplemental educational improvement grants
47 apportioned pursuant to subdivision eight of section thirty-six hundred
48 forty-one of this article, less (ii) the total foundation aid base.

49 For the two thousand nine--two thousand ten through two thousand four-
50 teen--two thousand fifteen school years, each school district shall be
51 entitled to an apportionment equal to the amount set forth for such
52 school district as "EDUCATION GRANTS, ACADEMIC EN" under the heading
53 "2008-09 BASE YEAR AIDS" in the school aid computer listing produced by
54 the commissioner in support of the budget for the two thousand nine--two
55 thousand ten school year and entitled "SA0910", and such apportionment
56 shall be deemed to satisfy the state obligation to provide an apportion-

1 ment pursuant to subdivision eight of section thirty-six hundred forty-
2 one of this article.

3 FOR THE TWO THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN YEAR, EACH SCHOOL
4 DISTRICT SHALL BE ENTITLED TO AN APPORTIONMENT EQUAL TO THE AMOUNT SET
5 FORTH FOR SUCH SCHOOL DISTRICT AS "ACADEMIC ENHANCEMENT" UNDER THE HEAD-
6 ING "2014-15 ESTIMATED AIDS" IN THE SCHOOL AID COMPUTER LISTING PRODUCED
7 BY THE COMMISSIONER IN SUPPORT OF THE BUDGET FOR THE TWO THOUSAND FOUR-
8 TEEN--TWO THOUSAND FIFTEEN SCHOOL YEAR AND ENTITLED "SA141-5", AND SUCH
9 APPORTIONMENT SHALL BE DEEMED TO SATISFY THE STATE OBLIGATION TO PROVIDE
10 AN APPORTIONMENT PURSUANT TO SUBDIVISION EIGHT OF SECTION THIRTY-SIX
11 HUNDRED FORTY-ONE OF THIS ARTICLE.

12 S 4. The opening paragraph of subdivision 16 of section 3602 of the
13 education law, as amended by section 11 of part A of chapter 57 of the
14 laws of 2013, is amended to read as follows:

15 Each school district shall be eligible to receive a high tax aid
16 apportionment in the two thousand eight--two thousand nine school year,
17 which shall equal the greater of (i) the sum of the tier 1 high tax aid
18 apportionment, the tier 2 high tax aid apportionment and the tier 3 high
19 tax aid apportionment or (ii) the product of the apportionment received
20 by the school district pursuant to this subdivision in the two thousand
21 seven--two thousand eight school year, multiplied by the due-minimum
22 factor, which shall equal, for districts with an alternate pupil wealth
23 ratio computed pursuant to paragraph b of subdivision three of this
24 section that is less than two, seventy percent (0.70), and for all other
25 districts, fifty percent (0.50). Each school district shall be eligible
26 to receive a high tax aid apportionment in the two thousand nine--two
27 thousand ten through two thousand twelve--two thousand thirteen school
28 years in the amount set forth for such school district as "HIGH TAX AID"
29 under the heading "2008-09 BASE YEAR AIDS" in the school aid computer
30 listing produced by the commissioner in support of the budget for the
31 two thousand nine--two thousand ten school year and entitled "SA0910".
32 Each school district shall be eligible to receive a high tax aid appor-
33 tionment in the two thousand thirteen--two thousand fourteen [school
34 year and the two thousand fourteen--two thousand fifteen] THROUGH TWO
35 THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN school [year] YEARS equal to the
36 greater of (1) the amount set forth for such school district as "HIGH
37 TAX AID" under the heading "2008-09 BASE YEAR AIDS" in the school aid
38 computer listing produced by the commissioner in support of the budget
39 for the two thousand nine--two thousand ten school year and entitled
40 "SA0910" or (2) the amount set forth for such school district as "HIGH
41 TAX AID" under the heading "2013-14 ESTIMATED AIDS" in the school aid
42 computer listing produced by the commissioner in support of the execu-
43 tive budget for the 2013-14 fiscal year and entitled "BT131-4".

44 S 5. The opening paragraph of subdivision 10 of section 3602-e of the
45 education law, as amended by section 21 of part A of chapter 56 of the
46 laws of 2014, is amended to read as follows:

47 Notwithstanding any provision of law to the contrary, for aid payable
48 in the two thousand eight--two thousand nine school year, the grant to
49 each eligible school district for universal prekindergarten aid shall be
50 computed pursuant to this subdivision, and for the two thousand nine--
51 two thousand ten and two thousand ten--two thousand eleven school years,
52 each school district shall be eligible for a maximum grant equal to the
53 amount computed for such school district for the base year in the elec-
54 tronic data file produced by the commissioner in support of the two
55 thousand nine--two thousand ten education, labor and family assistance
56 budget, provided, however, that in the case of a district implementing

1 programs for the first time or implementing expansion programs in the
2 two thousand eight--two thousand nine school year where such programs
3 operate for a minimum of ninety days in any one school year as provided
4 in section 151-1.4 of the regulations of the commissioner, for the two
5 thousand nine--two thousand ten and two thousand ten--two thousand elev-
6 en school years, such school district shall be eligible for a maximum
7 grant equal to the amount computed pursuant to paragraph a of subdivi-
8 sion nine of this section in the two thousand eight--two thousand nine
9 school year, and for the two thousand eleven--two thousand twelve school
10 year each school district shall be eligible for a maximum grant equal to
11 the amount set forth for such school district as "UNIVERSAL PREKINDER-
12 GARTEN" under the heading "2011-12 ESTIMATED AIDS" in the school aid
13 computer listing produced by the commissioner in support of the enacted
14 budget for the 2011-12 school year and entitled "SA111-2", and for two
15 thousand twelve--two thousand thirteen[, two thousand thirteen--two
16 thousand fourteen and two thousand fourteen--two thousand fifteen]
17 THROUGH TWO THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN school years each
18 school district shall be eligible for a maximum grant equal to the
19 greater of (i) the amount set forth for such school district as
20 "UNIVERSAL PREKINDERGARTEN" under the heading "2010-11 BASE YEAR AIDS"
21 in the school aid computer listing produced by the commissioner in
22 support of the enacted budget for the 2011-12 school year and entitled
23 "SA111-2", or (ii) the amount set forth for such school district as
24 "UNIVERSAL PREKINDERGARTEN" under the heading "2010-11 BASE YEAR AIDS"
25 in the school aid computer listing produced by the commissioner on May
26 fifteenth, two thousand eleven pursuant to paragraph b of subdivision
27 twenty-one of section three hundred five of this chapter, and provided
28 further that the maximum grant shall not exceed the total actual grant
29 expenditures incurred by the school district in the current school year
30 as approved by the commissioner.

31 S 6. The opening paragraph of section 3609-a of the education law, as
32 amended by section 4 of part A of chapter 56 of the laws of 2014, is
33 amended to read as follows:

34 For aid payable in the two thousand seven--two thousand eight school
35 year through the [two thousand thirteen--two thousand fourteen] TWO
36 THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN school year, "moneys apportioned"
37 shall mean the lesser of (i) the sum of one hundred percent of the
38 respective amount set forth for each school district as payable pursuant
39 to this section in the school aid computer listing for the current year
40 produced by the commissioner in support of the budget which includes the
41 appropriation for the general support for public schools for the
42 prescribed payments and individualized payments due prior to April first
43 for the current year plus the apportionment payable during the current
44 school year pursuant to subdivision six-a and subdivision fifteen of
45 section thirty-six hundred two of this part minus any reductions to
46 current year aids pursuant to subdivision seven of section thirty-six
47 hundred four of this part or any deduction from apportionment payable
48 pursuant to this chapter for collection of a school district basic
49 contribution as defined in subdivision eight of section forty-four
50 hundred one of this chapter, less any grants provided pursuant to
51 subparagraph two-a of paragraph b of subdivision four of section nine-
52 ty-two-c of the state finance law, LESS ANY GRANTS PROVIDED PURSUANT TO
53 SUBDIVISION SIX OF SECTION NINETY-SEVEN-NNNN OF THE STATE FINANCE LAW,
54 less any grants provided pursuant to subdivision twelve of section thir-
55 ty-six hundred forty-one of this article, or (ii) the apportionment
56 calculated by the commissioner based on data on file at the time the

1 payment is processed; provided however, that for the purposes of any
2 payments made pursuant to this section prior to the first business day
3 of June of the current year, moneys apportioned shall not include any
4 aids payable pursuant to subdivisions six and fourteen, if applicable,
5 of section thirty-six hundred two of this part as current year aid for
6 debt service on bond anticipation notes and/or bonds first issued in the
7 current year or any aids payable for full-day kindergarten for the
8 current year pursuant to subdivision nine of section thirty-six hundred
9 two of this part. The definitions of "base year" and "current year" as
10 set forth in subdivision one of section thirty-six hundred two of this
11 part shall apply to this section. For aid payable in the two thousand
12 fourteen--two thousand fifteen school year, reference to such "school
13 aid computer listing for the current year" shall mean the printouts
14 entitled "SA141-5".

15 S 7. The education law is amended by adding a new section 3609-h to
16 read as follows:

17 S 3609-H. MONEYS APPORTIONED TO SCHOOL DISTRICTS FOR COMMERCIAL GAMING
18 GRANTS PURSUANT TO SUBDIVISION SIX OF SECTION NINETY-SEVEN-NNNN OF THE
19 STATE FINANCE LAW, WHEN AND HOW PAYABLE COMMENCING JULY FIRST, TWO THOU-
20 SAND FOURTEEN. NOTWITHSTANDING THE PROVISIONS OF SECTION THIRTY-SIX
21 HUNDRED NINE-A OF THIS PART, APPORTIONMENTS PAYABLE PURSUANT TO SUBDIVI-
22 SION SIX OF SECTION NINETY-SEVEN-NNNN OF THE STATE FINANCE LAW SHALL BE
23 PAID PURSUANT TO THIS SECTION. THE DEFINITIONS OF "BASE YEAR" AND
24 "CURRENT YEAR" AS SET FORTH IN SUBDIVISION ONE OF SECTION THIRTY-SIX
25 HUNDRED TWO OF THIS PART SHALL APPLY TO THIS SECTION.

26 1. THE MONEYS APPORTIONED BY THE COMMISSIONER TO SCHOOL DISTRICTS
27 PURSUANT TO SUBDIVISION SIX OF SECTION NINETY-SEVEN-NNNN OF THE STATE
28 FINANCE LAW FOR THE TWO THOUSAND FOURTEEN-TWO THOUSAND FIFTEEN SCHOOL
29 YEAR AND THEREAFTER SHALL BE PAID AS A COMMERCIAL GAMING GRANT, AS
30 COMPUTED PURSUANT TO SUCH SUBDIVISION, AS FOLLOWS:

31 A. FOR THE TWO THOUSAND FOURTEEN--TWO THOUSAND FIFTEEN SCHOOL YEAR,
32 ONE HUNDRED PERCENT OF SUCH GRANT SHALL BE PAID ON THE SAME DATE AS THE
33 PAYMENT COMPUTED PURSUANT TO CLAUSE (V) OF SUBPARAGRAPH THREE OF PARA-
34 GRAPH B OF SUBDIVISION ONE OF SECTION THIRTY-SIX HUNDRED NINE-A OF THIS
35 ARTICLE.

36 B. FOR THE TWO THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN SCHOOL YEAR AND
37 THEREAFTER, SEVENTY PERCENT OF SUCH GRANT SHALL BE PAID ON THE SAME DATE
38 AS THE PAYMENT COMPUTED PURSUANT TO CLAUSE (II) OF SUBPARAGRAPH THREE OF
39 PARAGRAPH B OF SUBDIVISION ONE OF SECTION THIRTY-SIX HUNDRED NINE-A OF
40 THIS ARTICLE, AND THIRTY PERCENT OF SUCH GRANT SHALL BE PAID ON THE SAME
41 DATE AS THE PAYMENT COMPUTED PURSUANT TO CLAUSE (V) OF SUBPARAGRAPH
42 THREE OF PARAGRAPH B OF SUBDIVISION ONE OF SECTION THIRTY-SIX HUNDRED
43 NINE-A OF THIS ARTICLE.

44 2. ANY PAYMENT TO A SCHOOL DISTRICT PURSUANT TO THIS SECTION SHALL BE
45 GENERAL RECEIPTS OF THE DISTRICT AND MAY BE USED FOR ANY LAWFUL PURPOSE
46 OF THE DISTRICT.

47 S 8. Paragraph b of subdivision 2 of section 3612 of the education
48 law, as amended by section 5 of part A of chapter 56 of the laws of
49 2014, is amended to read as follows:

50 b. Such grants shall be awarded to school districts, within the limits
51 of funds appropriated therefor, through a competitive process that takes
52 into consideration the magnitude of any shortage of teachers in the
53 school district, the number of teachers employed in the school district
54 who hold temporary licenses to teach in the public schools of the state,
55 the number of provisionally certified teachers, the fiscal capacity and
56 geographic sparsity of the district, the number of new teachers the

1 school district intends to hire in the coming school year and the number
2 of summer in the city student internships proposed by an eligible school
3 district, if applicable. Grants provided pursuant to this section shall
4 be used only for the purposes enumerated in this section. Notwithstand-
5 ing any other provision of law to the contrary, a city school district
6 in a city having a population of one million or more inhabitants receiv-
7 ing a grant pursuant to this section may use no more than eighty percent
8 of such grant funds for any recruitment, retention and certification
9 costs associated with transitional certification of teacher candidates
10 for the school years two thousand one--two thousand two through [two
11 thousand fourteen--two thousand fifteen] TWO THOUSAND FIFTEEN--TWO THOU-
12 SAND SIXTEEN.

13 S 9. Subdivision 6 of section 4402 of the education law, as amended by
14 section 9 of part A of chapter 56 of the laws of 2014, is amended to
15 read as follows:

16 6. Notwithstanding any other law, rule or regulation to the contrary,
17 the board of education of a city school district with a population of
18 one hundred twenty-five thousand or more inhabitants shall be permitted
19 to establish maximum class sizes for special classes for certain
20 students with disabilities in accordance with the provisions of this
21 subdivision. For the purpose of obtaining relief from any adverse fiscal
22 impact from under-utilization of special education resources due to low
23 student attendance in special education classes at the middle and
24 secondary level as determined by the commissioner, such boards of educa-
25 tion shall, during the school years nineteen hundred ninety-five--nine-
26 ty-six through June thirtieth, two thousand [fifteen] SIXTEEN of the two
27 thousand [fourteen] FIFTEEN--two thousand [fifteen] SIXTEEN school year,
28 be authorized to increase class sizes in special classes containing
29 students with disabilities whose age ranges are equivalent to those of
30 students in middle and secondary schools as defined by the commissioner
31 for purposes of this section by up to but not to exceed one and two
32 tenths times the applicable maximum class size specified in regulations
33 of the commissioner rounded up to the nearest whole number, provided
34 that in a city school district having a population of one million or
35 more, classes that have a maximum class size of fifteen may be increased
36 by no more than one student and provided that the projected average
37 class size shall not exceed the maximum specified in the applicable
38 regulation, provided that such authorization shall terminate on June
39 thirtieth, two thousand. Such authorization shall be granted upon filing
40 of a notice by such a board of education with the commissioner stating
41 the board's intention to increase such class sizes and a certification
42 that the board will conduct a study of attendance problems at the
43 secondary level and will implement a corrective action plan to increase
44 the rate of attendance of students in such classes to at least the rate
45 for students attending regular education classes in secondary schools of
46 the district. Such corrective action plan shall be submitted for
47 approval by the commissioner by a date during the school year in which
48 such board increases class sizes as provided pursuant to this subdivi-
49 sion to be prescribed by the commissioner. Upon at least thirty days
50 notice to the board of education, after conclusion of the school year in
51 which such board increases class sizes as provided pursuant to this
52 subdivision, the commissioner shall be authorized to terminate such
53 authorization upon a finding that the board has failed to develop or
54 implement an approved corrective action plan.

55 S 10. The education law is amended by adding a new section 4403-a to
56 read as follows:

1 S 4403-A. WAIVERS FROM CERTAIN DUTIES. 1. A LOCAL SCHOOL DISTRICT,
2 APPROVED PRIVATE SCHOOL OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES MAY
3 SUBMIT AN APPLICATION FOR A WAIVER FROM ANY REQUIREMENT IMPOSED ON SUCH
4 DISTRICT, SCHOOL OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES PURSUANT
5 TO SECTION FORTY-FOUR HUNDRED TWO OR SECTION FORTY-FOUR HUNDRED THREE OF
6 THIS ARTICLE, AND REGULATIONS PROMULGATED THEREUNDER, FOR A SPECIFIC
7 SCHOOL YEAR. SUCH APPLICATION SHALL BE SUBMITTED AT LEAST SIXTY DAYS IN
8 ADVANCE OF THE PROPOSED DATE ON WHICH THE WAIVER WOULD BE EFFECTIVE AND
9 SHALL BE IN A FORM PRESCRIBED BY THE COMMISSIONER.

10 2. BEFORE SUBMITTING AN APPLICATION FOR A WAIVER, THE LOCAL SCHOOL
11 DISTRICT, APPROVED PRIVATE SCHOOL OR BOARD OF COOPERATIVE EDUCATIONAL
12 SERVICES SHALL PROVIDE NOTICE OF THE PROPOSED WAIVER TO THE PARENTS OR
13 PERSONS IN A PARENTAL RELATIONSHIP TO THE STUDENTS THAT WOULD BE
14 IMPACTED BY THE WAIVER IF GRANTED. SUCH NOTICE SHALL BE IN A FORM AND
15 MANNER THAT WOULD ENSURE THAT SUCH PARENTS OR PERSONS IN A PARENTAL
16 RELATIONSHIP WOULD BE AWARE OF ALL RELEVANT CHANGES THAT WOULD OCCUR
17 UNDER THE WAIVER, AND SHALL INCLUDE INFORMATION ON THE FORM, MANNER AND
18 DATE BY WHICH PARENTS MAY SUBMIT WRITTEN COMMENTS ON THE PROPOSED WAIV-
19 ER. THE LOCAL SCHOOL DISTRICT, APPROVED PRIVATE SCHOOL, OR BOARD OF
20 COOPERATIVE EDUCATIONAL SERVICES SHALL PROVIDE AT LEAST SIXTY DAYS FOR
21 SUCH PARENTS OR PERSONS IN A PARENTAL RELATIONSHIP TO SUBMIT WRITTEN
22 COMMENTS, AND SHALL INCLUDE IN THE WAIVER APPLICATION SUBMITTED TO THE
23 COMMISSIONER PURSUANT TO SUBDIVISION ONE OF THIS SECTION ANY WRITTEN
24 COMMENTS RECEIVED FROM SUCH PARENTS OR PERSONS IN A PARENTAL RELATION TO
25 SUCH STUDENTS.

26 3. THE COMMISSIONER MAY GRANT A WAIVER FROM ANY REQUIREMENT IMPOSED ON
27 A LOCAL SCHOOL DISTRICT, APPROVED PRIVATE SCHOOL OR BOARD OF COOPERATIVE
28 EDUCATIONAL SERVICES PURSUANT TO SECTION FORTY-FOUR HUNDRED TWO OR
29 SECTION FORTY-FOUR HUNDRED THREE OF THIS ARTICLE, UPON A FINDING THAT
30 SUCH WAIVER WOULD ENABLE A LOCAL SCHOOL DISTRICT, APPROVED PRIVATE
31 SCHOOL OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES TO IMPLEMENT AN
32 INNOVATIVE SPECIAL EDUCATION PROGRAM THAT IS CONSISTENT WITH APPLICABLE
33 FEDERAL REQUIREMENTS, AND WOULD ENHANCE STUDENT ACHIEVEMENT AND/OR
34 OPPORTUNITIES FOR PLACEMENT IN REGULAR CLASSES AND PROGRAMS. IN MAKING
35 SUCH DETERMINATION, THE COMMISSIONER SHALL CONSIDER ANY COMMENTS
36 RECEIVED BY THE LOCAL SCHOOL DISTRICT, APPROVED PRIVATE SCHOOL OR BOARD
37 OF COOPERATIVE EDUCATIONAL SERVICES FROM PARENTS OR PERSONS IN A
38 PARENTAL RELATION TO THE STUDENTS THAT WOULD BE DIRECTLY AFFECTED BY THE
39 WAIVER IF GRANTED.

40 4. ANY LOCAL SCHOOL DISTRICT, APPROVED PRIVATE SCHOOL OR BOARD OF
41 COOPERATIVE EDUCATIONAL SERVICES GRANTED A WAIVER SHALL SUBMIT AN ANNUAL
42 REPORT TO THE COMMISSIONER REGARDING THE OPERATION AND EVALUATION OF THE
43 PROGRAM NO LATER THAN THIRTY DAYS AFTER THE END OF EACH SCHOOL YEAR FOR
44 WHICH A WAIVER IS GRANTED.

45 S 11. Subparagraph (i) of paragraph a of subdivision 10 of section
46 4410 of the education law is amended by adding a new clause (C) to read
47 as follows:

48 (C) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR REGULATION TO
49 THE CONTRARY, FOR THE TWO THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN SCHOOL
50 YEAR AND THEREAFTER, TO BE PHASED-IN OVER NO MORE THAN FOUR YEARS START-
51 ING IN THE TWO THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN SCHOOL YEAR, THE
52 COMMISSIONER, SUBJECT TO THE APPROVAL OF THE DIRECTOR OF THE BUDGET,
53 SHALL ESTABLISH REGIONAL TUITION RATES FOR SPECIAL EDUCATION ITINERANT
54 SERVICES BASED ON AVERAGE ACTUAL COSTS IN ACCORDANCE WITH A METHODOLOGY
55 ESTABLISHED PURSUANT TO SUBDIVISION FOUR OF SECTION FORTY-FOUR HUNDRED
56 FIVE OF THIS ARTICLE.

1 S 12. Section 97-nnnn of the state finance law is amended by adding a
2 new subdivision 6 to read as follows:

3 6. A. MONEYS APPROPRIATED FROM THE FUND FOR THE TWO THOUSAND FOUR-
4 TEEN--TWO THOUSAND FIFTEEN AND TWO THOUSAND FIFTEEN--TWO THOUSAND
5 SIXTEEN SCHOOL YEARS, FOR THE PURPOSES OF PROVIDING AID PURSUANT TO
6 PARAGRAPH A OF SUBDIVISION THREE OF THIS SECTION SHALL BE APPORTIONED
7 AND PAID BY THE EDUCATION DEPARTMENT ON OR AFTER APRIL FIRST, TWO THOU-
8 SAND FIFTEEN.

9 B. EACH SCHOOL DISTRICT ELIGIBLE TO RECEIVE TOTAL FOUNDATION AID
10 PURSUANT TO SECTION THIRTY-SIX HUNDRED TWO OF THE EDUCATION LAW SHALL
11 RECEIVE A COMMERCIAL GAMING GRANT IN AN AMOUNT EQUAL TO THE PRODUCT OF
12 THE AMOUNT OF THE APPROPRIATION OF SUCH COMMERCIAL GAMING GRANTS FOR THE
13 CURRENT STATE FISCAL YEAR MULTIPLIED BY THE DISTRICT'S COMMERCIAL GAMING
14 RATIO. THE "COMMERCIAL GAMING RATIO" SHALL BE EQUAL TO THE QUOTIENT OF
15 THE MONEYS APPORTIONED FOR SUCH DISTRICT PURSUANT TO SECTION THIRTY-SIX
16 HUNDRED NINE-A OF THE EDUCATION LAW AS SET FORTH IN THE SCHOOL AID
17 COMPUTER LISTING PRODUCED BY THE COMMISSIONER IN SUPPORT OF THE ENACTED
18 STATE BUDGET FOR THE CURRENT SCHOOL YEAR, DIVIDED BY THE SUM OF SUCH
19 MONEYS APPORTIONED FOR ALL SCHOOL DISTRICTS AS SET FORTH IN SUCH SCHOOL
20 AID COMPUTER LISTING IN SUPPORT OF THE ENACTED STATE BUDGET FOR THE
21 CURRENT SCHOOL YEAR.

22 MONEYS TO BE APPROPRIATED FROM THE FUND IN ANY STATE FISCAL YEAR,
23 COMMENCING ON AND AFTER APRIL FIRST, TWO THOUSAND FIFTEEN, FOR THE
24 PURPOSES OF PROVIDING AID PURSUANT TO THIS SUBPARAGRAPH SHALL BE APPOR-
25 TIONED AND PAID BY THE EDUCATION DEPARTMENT PURSUANT TO SECTION THIRTY-
26 SIX HUNDRED NINE-H OF THE EDUCATION LAW.

27 S 13. Subdivision b of section 2 of chapter 756 of the laws of 1992,
28 relating to funding a program for work force education conducted by the
29 consortium for worker education in New York city, as amended by section
30 12 of part A of chapter 56 of the laws of 2014, is amended to read as
31 follows:

32 b. Reimbursement for programs approved in accordance with subdivision
33 a of this section [for the 2011--2012 school year shall not exceed 62.9
34 percent of the lesser of such approvable costs per contact hour or
35 twelve dollars and fifteen cents per contact hour, reimbursement] for
36 the 2012--2013 school year shall not exceed 63.3 percent of the lesser
37 of such approvable costs per contact hour or twelve dollars and thirty-
38 five cents per contact hour, reimbursement for the 2013--2014 school
39 year shall not exceed 62.3 percent of the lesser of such approvable
40 costs per contact hour or twelve dollars and sixty-five cents per
41 contact hour, [and] reimbursement for the 2014--2015 school year shall
42 not exceed 61.6 percent of the lesser of such approvable costs per
43 contact hour or [eight] THIRTEEN dollars per contact hour, AND
44 REIMBURSEMENT FOR THE 2015--2016 SCHOOL YEAR SHALL NOT EXCEED 60.7
45 PERCENT OF THE LESSER OF SUCH APPROVABLE COSTS PER CONTACT HOUR OR THIR-
46 TEEN DOLLARS AND FORTY CENTS PER CONTACT HOUR where a contact hour
47 represents sixty minutes of instruction services provided to an eligible
48 adult. Notwithstanding any other provision of law to the contrary, [for
49 the 2011--2012 school year such contact hours shall not exceed one
50 million seven hundred one thousand five hundred seventy (1,701,570)
51 hours; whereas] for the 2012--2013 school year such contact hours shall
52 not exceed one million six hundred sixty-four thousand five hundred
53 thirty-two (1,664,532) hours; whereas for the 2013--2014 school year
54 such contact hours shall not exceed one million six hundred forty-nine
55 thousand seven hundred forty-six (1,649,746) hours; whereas for the
56 2014--2015 school year such contact hours shall not exceed one million

1 [six hundred twenty-five thousand (1,625,000)] SIX HUNDRED EIGHTEEN
2 THOUSAND NINE HUNDRED TWENTY-NINE (1,618,929) hours; WHEREAS FOR THE
3 2015--2016 SCHOOL YEAR SUCH CONTACT HOURS SHALL NOT EXCEED ONE MILLION
4 FOUR HUNDRED FOURTEEN THOUSAND FIVE HUNDRED FOURTEEN (1,414,514) HOURS.
5 Notwithstanding any other provision of law to the contrary, the appor-
6 tionment calculated for the city school district of the city of New York
7 pursuant to subdivision 11 of section 3602 of the education law shall be
8 computed as if such contact hours provided by the consortium for worker
9 education, not to exceed the contact hours set forth herein, were eligi-
10 ble for aid in accordance with the provisions of such subdivision 11 of
11 section 3602 of the education law.

12 S 14. Section 4 of chapter 756 of the laws of 1992, relating to fund-
13 ing a program for work force education conducted by the consortium for
14 worker education in New York city, is amended by adding a new subdivi-
15 sion t to read as follows:

16 T. THE PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY AFTER THE
17 COMPLETION OF PAYMENTS FOR THE 2015--2016 SCHOOL YEAR. NOTWITHSTANDING
18 ANY INCONSISTENT PROVISIONS OF LAW, THE COMMISSIONER OF EDUCATION SHALL
19 WITHHOLD A PORTION OF EMPLOYMENT PREPARATION EDUCATION AID DUE TO THE
20 CITY SCHOOL DISTRICT OF THE CITY OF NEW YORK TO SUPPORT A PORTION OF THE
21 COSTS OF THE WORK FORCE EDUCATION PROGRAM. SUCH MONEYS SHALL BE CREDITED
22 TO THE ELEMENTARY AND SECONDARY EDUCATION FUND-LOCAL ASSISTANCE ACCOUNT
23 AND SHALL NOT EXCEED ELEVEN MILLION FIVE HUNDRED THOUSAND DOLLARS (\$11,
24 500,000).

25 S 15. Section 6 of chapter 756 of the laws of 1992, relating to fund-
26 ing a program for work force education conducted by the consortium for
27 worker education in New York city, as amended by section 14 of part A of
28 chapter 56 of the laws of 2014, is amended to read as follows:

29 S 6. This act shall take effect July 1, 1992, and shall be deemed
30 repealed on June 30, [2015] 2016.

31 S 16. Subdivision 1 of section 167 of chapter 169 of the laws of 1994,
32 relating to certain provisions related to the 1994-95 state operations,
33 aid to localities, capital projects and debt service budgets, as amended
34 by section 15 of part A of chapter 56 of the laws of 2014, is amended to
35 read as follows:

36 1. Sections one through seventy of this act shall be deemed to have
37 been in full force and effect as of April 1, 1994 provided, however,
38 that sections one, two, twenty-four, twenty-five and twenty-seven
39 through seventy of this act shall expire and be deemed repealed on March
40 31, 2000; provided, however, that section twenty of this act shall apply
41 only to hearings commenced prior to September 1, 1994, and provided
42 further that section twenty-six of this act shall expire and be deemed
43 repealed on March 31, 1997; and provided further that sections four
44 through fourteen, sixteen, and eighteen, nineteen and twenty-one through
45 twenty-one-a of this act shall expire and be deemed repealed on March
46 31, 1997; and provided further that sections three, fifteen, seventeen,
47 twenty, twenty-two and twenty-three of this act shall expire and be
48 deemed repealed on March 31, [2016] 2017.

49 S 17. Subdivisions 22 and 24 of section 140 of chapter 82 of the laws
50 of 1995, amending the education law and other laws relating to state aid
51 to school districts and the appropriation of funds for the support of
52 government, as amended by section 16 of part A of chapter 56 of the laws
53 of 2014, are amended to read as follows:

54 (22) sections one hundred twelve, one hundred thirteen, one hundred
55 fourteen, one hundred fifteen and one hundred sixteen of this act shall
56 take effect on July 1, 1995; provided, however, that section one hundred

thirteen of this act shall remain in full force and effect until July 1, [2015] 2016 at which time it shall be deemed repealed;

(24) sections one hundred eighteen through one hundred thirty of this act shall be deemed to have been in full force and effect on and after July 1, 1995; provided further, however, that the amendments made pursuant to section one hundred twenty-four of this act shall be deemed to be repealed on and after July 1, [2015] 2016;

S 18. Section 7 of chapter 472 of the laws of 1998, amending the education law relating to the lease of school buses by school districts, as amended by section 26 of part A of chapter 57 of the laws of 2013, is amended to read as follows:

S 7. This act shall take effect September 1, 1998, and shall expire and be deemed repealed September 1, [2015] 2017.

S 19. Section 12 of chapter 147 of the laws of 2001, amending the education law relating to conditional appointment of school district, charter school or BOCES employees, as amended by section 18 of part A of chapter 56 of the laws of 2014, is amended to read as follows:

S 12. This act shall take effect on the same date as chapter 180 of the laws of 2000 takes effect, and shall expire July 1, [2015] 2016 when upon such date the provisions of this act shall be deemed repealed.

S 20. Section 4 of chapter 425 of the laws of 2002, amending the education law relating to the provision of supplemental educational services, attendance at a safe public school and the suspension of pupils who bring a firearm to or possess a firearm at a school, as amended by section 19 of part A of chapter 56 of the laws of 2014, is amended to read as follows:

S 4. This act shall take effect July 1, 2002 and shall expire and be deemed repealed June 30, [2015] 2016.

S 21. Section 5 of chapter 101 of the laws of 2003, amending the education law relating to implementation of the No Child Left Behind Act of 2001, as amended by section 20 of part A of chapter 56 of the laws of 2014, is amended to read as follows:

S 5. This act shall take effect immediately; provided that sections one, two and three of this act shall expire and be deemed repealed on June 30, [2015] 2016.

S 22. School bus driver training. In addition to apportionments otherwise provided by section 3602 of the education law, for aid payable in the 2015-2016 school year, the commissioner of education shall allocate school bus driver training grants to school districts and boards of cooperative educational services pursuant to sections 3650-a, 3650-b and 3650-c of the education law, or for contracts directly with not-for-profit educational organizations for the purposes of this section. Such payments shall not exceed four hundred thousand dollars (\$400,000) per school year.

S 23. Special apportionment for salary expenses. a. Notwithstanding any other provision of law, upon application to the commissioner of education, not sooner than the first day of the second full business week of June 2016 and not later than the last day of the third full business week of June 2016, a school district eligible for an apportionment pursuant to section 3602 of the education law shall be eligible to receive an apportionment pursuant to this section, for the school year ending June 30, 2016, for salary expenses incurred between April 1 and June 30, 2015 and such apportionment shall not exceed the sum of (i) the deficit reduction assessment of 1990--1991 as determined by the commissioner of education, pursuant to paragraph f of subdivision 1 of section 3602 of the education law, as in effect through June 30, 1993, plus (ii)

1 186 percent of such amount for a city school district in a city with a
2 population in excess of 1,000,000 inhabitants, plus (iii) 209 percent of
3 such amount for a city school district in a city with a population of
4 more than 195,000 inhabitants and less than 219,000 inhabitants accord-
5 ing to the latest federal census, plus (iv) the net gap elimination
6 adjustment for 2010--2011, as determined by the commissioner of educa-
7 tion pursuant to chapter 53 of the laws of 2010, plus (v) the gap elimi-
8 nation adjustment for 2011--2012 as determined by the commissioner of
9 education pursuant to subdivision 17 of section 3602 of the education
10 law, and provided further that such apportionment shall not exceed such
11 salary expenses. Such application shall be made by a school district,
12 after the board of education or trustees have adopted a resolution to do
13 so and in the case of a city school district in a city with a population
14 in excess of 125,000 inhabitants, with the approval of the mayor of such
15 city.

16 b. The claim for an apportionment to be paid to a school district
17 pursuant to subdivision a of this section shall be submitted to the
18 commissioner of education on a form prescribed for such purpose, and
19 shall be payable upon determination by such commissioner that the form
20 has been submitted as prescribed. Such approved amounts shall be payable
21 on the same day in September of the school year following the year in
22 which application was made as funds provided pursuant to subparagraph
23 (4) of paragraph b of subdivision 4 of section 92-c of the state finance
24 law, on the audit and warrant of the state comptroller on vouchers
25 certified or approved by the commissioner of education in the manner
26 prescribed by law from moneys in the state lottery fund and from the
27 general fund to the extent that the amount paid to a school district
28 pursuant to this section exceeds the amount, if any, due such school
29 district pursuant to subparagraph (2) of paragraph a of subdivision 1 of
30 section 3609-a of the education law in the school year following the
31 year in which application was made.

32 c. Notwithstanding the provisions of section 3609-a of the education
33 law, an amount equal to the amount paid to a school district pursuant to
34 subdivisions a and b of this section shall first be deducted from the
35 following payments due the school district during the school year
36 following the year in which application was made pursuant to subpara-
37 graphs (1), (2), (3), (4) and (5) of paragraph a of subdivision 1 of
38 section 3609-a of the education law in the following order: the lottery
39 apportionment payable pursuant to subparagraph (2) of such paragraph
40 followed by the fixed fall payments payable pursuant to subparagraph (4)
41 of such paragraph and then followed by the district's payments to the
42 teachers' retirement system pursuant to subparagraph (1) of such para-
43 graph, and any remainder to be deducted from the individualized payments
44 due the district pursuant to paragraph b of such subdivision shall be
45 deducted on a chronological basis starting with the earliest payment due
46 the district.

47 S 24. Special apportionment for public pension accruals. a. Notwith-
48 standing any other provision of law, upon application to the commission-
49 er of education, not later than June 30, 2016, a school district eligi-
50 ble for an apportionment pursuant to section 3602 of the education law
51 shall be eligible to receive an apportionment pursuant to this section,
52 for the school year ending June 30, 2016 and such apportionment shall
53 not exceed the additional accruals required to be made by school
54 districts in the 2004--2005 and 2005--2006 school years associated with
55 changes for such public pension liabilities. The amount of such addi-
56 tional accrual shall be certified to the commissioner of education by

1 the president of the board of education or the trustees or, in the case
2 of a city school district in a city with a population in excess of
3 125,000 inhabitants, the mayor of such city. Such application shall be
4 made by a school district, after the board of education or trustees have
5 adopted a resolution to do so and in the case of a city school district
6 in a city with a population in excess of 125,000 inhabitants, with the
7 approval of the mayor of such city.

8 b. The claim for an apportionment to be paid to a school district
9 pursuant to subdivision a of this section shall be submitted to the
10 commissioner of education on a form prescribed for such purpose, and
11 shall be payable upon determination by such commissioner that the form
12 has been submitted as prescribed. Such approved amounts shall be payable
13 on the same day in September of the school year following the year in
14 which application was made as funds provided pursuant to subparagraph
15 (4) of paragraph b of subdivision 4 of section 92-c of the state finance
16 law, on the audit and warrant of the state comptroller on vouchers
17 certified or approved by the commissioner of education in the manner
18 prescribed by law from moneys in the state lottery fund and from the
19 general fund to the extent that the amount paid to a school district
20 pursuant to this section exceeds the amount, if any, due such school
21 district pursuant to subparagraph (2) of paragraph a of subdivision 1 of
22 section 3609-a of the education law in the school year following the
23 year in which application was made.

24 c. Notwithstanding the provisions of section 3609-a of the education
25 law, an amount equal to the amount paid to a school district pursuant to
26 subdivisions a and b of this section shall first be deducted from the
27 following payments due the school district during the school year
28 following the year in which application was made pursuant to subpara-
29 graphs (1), (2), (3), (4) and (5) of paragraph a of subdivision 1 of
30 section 3609-a of the education law in the following order: the lottery
31 apportionment payable pursuant to subparagraph (2) of such paragraph
32 followed by the fixed fall payments payable pursuant to subparagraph (4)
33 of such paragraph and then followed by the district's payments to the
34 teachers' retirement system pursuant to subparagraph (1) of such para-
35 graph, and any remainder to be deducted from the individualized payments
36 due the district pursuant to paragraph b of such subdivision shall be
37 deducted on a chronological basis starting with the earliest payment due
38 the district.

39 S 25. a. Notwithstanding any other law, rule or regulation to the
40 contrary, any moneys appropriated to the state education department may
41 be suballocated to other state departments or agencies, as needed, to
42 accomplish the intent of the specific appropriations contained therein.

43 b. Notwithstanding any other law, rule or regulation to the contrary,
44 moneys appropriated to the state education department from the general
45 fund/aid to localities, local assistance account-001, shall be for
46 payment of financial assistance, as scheduled, net of disallowances,
47 refunds, reimbursement and credits.

48 c. Notwithstanding any other law, rule or regulation to the contrary,
49 all moneys appropriated to the state education department for aid to
50 localities shall be available for payment of aid heretofore or hereafter
51 to accrue and may be suballocated to other departments and agencies to
52 accomplish the intent of the specific appropriations contained therein.

53 d. Notwithstanding any other law, rule or regulation to the contrary,
54 moneys appropriated to the state education department for general
55 support for public schools may be interchanged with any other item of
56 appropriation for general support for public schools within the general

1 fund local assistance account office of prekindergarten through grade
2 twelve education programs.

3 S 26. Notwithstanding the provision of any law, rule, or regulation to
4 the contrary, the city school district of the city of Rochester, upon
5 the consent of the board of cooperative educational services of the
6 supervisory district serving its geographic region may purchase from
7 such board for the 2015--2016 school year, as a non-component school
8 district, services required by article 19 of the education law.

9 S 27. The amounts specified in this section shall be a set aside from
10 the state funds which each such district is receiving from the total
11 foundation aid: for the purpose of the development, maintenance or
12 expansion of magnet schools or magnet school programs for the 2015--2016
13 school year. To the city school district of the city of New York there
14 shall be paid forty-eight million one hundred seventy-five thousand
15 dollars (\$48,175,000) including five hundred thousand dollars (\$500,000)
16 for the Andrew Jackson High School; to the Buffalo city school district,
17 twenty-one million twenty-five thousand dollars (\$21,025,000); to the
18 Rochester city school district, fifteen million dollars (\$15,000,000);
19 to the Syracuse city school district, thirteen million dollars
20 (\$13,000,000); to the Yonkers city school district, forty-nine million
21 five hundred thousand dollars (\$49,500,000); to the Newburgh city school
22 district, four million six hundred forty-five thousand dollars
23 (\$4,645,000); to the Poughkeepsie city school district, two million four
24 hundred seventy-five thousand dollars (\$2,475,000); to the Mount Vernon
25 city school district, two million dollars (\$2,000,000); to the New
26 Rochelle city school district, one million four hundred ten thousand
27 dollars (\$1,410,000); to the Schenectady city school district, one
28 million eight hundred thousand dollars (\$1,800,000); to the Port Chester
29 city school district, one million one hundred fifty thousand dollars
30 (\$1,150,000); to the White Plains city school district, nine hundred
31 thousand dollars (\$900,000); to the Niagara Falls city school district,
32 six hundred thousand dollars (\$600,000); to the Albany city school
33 district, three million five hundred fifty thousand dollars
34 (\$3,550,000); to the Utica city school district, two million dollars
35 (\$2,000,000); to the Beacon city school district, five hundred sixty-six
36 thousand dollars (\$566,000); to the Middletown city school district,
37 four hundred thousand dollars (\$400,000); to the Freeport union free
38 school district, four hundred thousand dollars (\$400,000); to the Green-
39 burgh central school district, three hundred thousand dollars
40 (\$300,000); to the Amsterdam city school district, eight hundred thou-
41 sand dollars (\$800,000); to the Peekskill city school district, two
42 hundred thousand dollars (\$200,000); and to the Hudson city school
43 district, four hundred thousand dollars (\$400,000). Notwithstanding the
44 provisions of this section, a school district receiving a grant pursuant
45 to this section may use such grant funds for: (i) any instructional or
46 instructional support costs associated with the operation of a magnet
47 school; or (ii) any instructional or instructional support costs associ-
48 ated with implementation of an alternative approach to reduction of
49 racial isolation and/or enhancement of the instructional program and
50 raising of standards in elementary and secondary schools of school
51 districts having substantial concentrations of minority students. The
52 commissioner of education shall not be authorized to withhold magnet
53 grant funds from a school district that used such funds in accordance
54 with this paragraph, notwithstanding any inconsistency with a request
55 for proposals issued by such commissioner. For the purpose of attendance
56 improvement and dropout prevention for the 2015--2016 school year, for

1 any city school district in a city having a population of more than one
2 million, the setaside for attendance improvement and dropout prevention
3 shall equal the amount set aside in the base year. For the 2015--2016
4 school year, it is further provided that any city school district in a
5 city having a population of more than one million shall allocate at
6 least one-third of any increase from base year levels in funds set aside
7 pursuant to the requirements of this subdivision to community-based
8 organizations. Any increase required pursuant to this subdivision to
9 community-based organizations must be in addition to allocations
10 provided to community-based organizations in the base year. For the
11 purpose of teacher support for the 2015--2016 school year: to the city
12 school district of the city of New York, sixty-two million seven hundred
13 seven thousand dollars (\$62,707,000); to the Buffalo city school
14 district, one million seven hundred forty-one thousand dollars
15 (\$1,741,000); to the Rochester city school district, one million seven-
16 ty-six thousand dollars (\$1,076,000); to the Yonkers city school
17 district, one million one hundred forty-seven thousand dollars
18 (\$1,147,000); and to the Syracuse city school district, eight hundred
19 nine thousand dollars (\$809,000). All funds made available to a school
20 district pursuant to this section shall be distributed among teachers
21 including prekindergarten teachers and teachers of adult vocational and
22 academic subjects in accordance with this section and shall be in addi-
23 tion to salaries heretofore or hereafter negotiated or made available;
24 provided, however, that all funds distributed pursuant to this section
25 for the current year shall be deemed to incorporate all funds distrib-
26 uted pursuant to former subdivision 27 of section 3602 of the education
27 law for prior years. In school districts where the teachers are repres-
28 ented by certified or recognized employee organizations, all salary
29 increases funded pursuant to this section shall be determined by sepa-
30 rate collective negotiations conducted pursuant to the provisions and
31 procedures of article 14 of the civil service law, notwithstanding the
32 existence of a negotiated agreement between a school district and a
33 certified or recognized employee organization.

34 S 28. Support of public libraries. The moneys appropriated for the
35 support of public libraries by a chapter of the laws of 2015 enacting
36 the aid to localities budget shall be apportioned for the 2015-2016
37 state fiscal year in accordance with the provisions of sections 271,
38 272, 273, 282, 284, and 285 of the education law as amended by the
39 provisions of this chapter and the provisions of this section, provided
40 that library construction aid pursuant to section 273-a of the educa-
41 tion law shall not be payable from the appropriations for the support of
42 public libraries and provided further that no library, library system or
43 program, as defined by the commissioner of education, shall receive less
44 total system or program aid than it received for the year 2001-2002
45 except as a result of a reduction adjustment necessary to conform to the
46 appropriations for support of public libraries.

47 Notwithstanding any other provision of law to the contrary the moneys
48 appropriated for the support of public libraries for the year 2015-2016
49 by a chapter of the laws of 2015 enacting the education, labor and fami-
50 ly assistance budget shall fulfill the state's obligation to provide
51 such aid and, pursuant to a plan developed by the commissioner of educa-
52 tion and approved by the director of the budget, the aid payable to
53 libraries and library systems pursuant to such appropriations shall be
54 reduced proportionately to assure that the total amount of aid payable
55 does not exceed the total appropriations for such purpose.

S 29. Severability. The provisions of this act shall be severable, and if the application of any clause, sentence, paragraph, subdivision, section or part of this act to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not necessarily affect, impair or invalidate the application of any such clause, sentence, paragraph, subdivision, section, part of this act or remainder thereof, as the case may be, to any other person or circumstance, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

S 30. This act shall take effect immediately, and shall be deemed to have been in full force and effect on and after April 1, 2015, provided, however, that:

1. Sections one, eight, nine, thirteen, fourteen, twenty-two, twenty-six and twenty-seven of this act shall take effect July 1, 2015.

2. Sections seven and twelve of this act shall take effect April 1, 2014.

3. Section six of this act shall take effect July 1, 2014.

4. Section eleven of this act shall take effect April 1, 2015 and shall first apply to reimbursement for services and programs provided pursuant to section 4410 of the education law in the 2015-16 school year.

5. The amendments to chapter 756 of the laws of 1992, relating to funding a program for work force education conducted by a consortium for worker education in New York City, made by sections thirteen and fourteen of this act shall not affect the repeal of such chapter and shall be deemed repealed therewith.

6. Section seventeen of this act shall take effect immediately and shall be deemed to have been in full force and effect on and after the effective date of section 140 of chapter 82 of the laws of 1995.

PART B

Section 1. Section 355 of the education law is amended by adding a new subdivision 20 to read as follows:

20. NOTWITHSTANDING ANY LAW, RULE, OR REGULATION TO THE CONTRARY, ANY NEW CURRICULUM OR PROGRAM OF STUDY OFFERED BY A FOUR YEAR COLLEGE OR COMMUNITY COLLEGE THAT DOES NOT REQUIRE BOARD OF REGENTS APPROVAL OF A MASTER PLAN AMENDMENT AND THAT IS APPROVED BY THE BOARD OF TRUSTEES SHALL BE DEEMED REGISTERED WITH THE DEPARTMENT. THE BOARD OF TRUSTEES SHALL NOTIFY THE DEPARTMENT WITHIN THIRTY DAYS OF ANY SUCH APPROVALS. NOTHING IN THIS SUBDIVISION SHALL BE DEEMED TO LIMIT THE DEPARTMENT'S EXISTING AUTHORITY TO ACT ON COMPLAINTS CONCERNING THE INSTITUTION, INCLUDING THE AUTHORITY TO DE-REGISTER THE PROGRAM.

S 2. Section 6206 of the education law is amended by adding a new subdivision 18 to read as follows:

18. NOTWITHSTANDING ANY LAW, RULE, OR REGULATION TO THE CONTRARY, ANY NEW CURRICULUM OR PROGRAM OF STUDY OFFERED BY A FOUR YEAR COLLEGE OR COMMUNITY COLLEGE THAT DOES NOT REQUIRE BOARD OF REGENTS APPROVAL OF A MASTER PLAN AMENDMENT AND THAT IS APPROVED BY THE BOARD OF TRUSTEES SHALL BE DEEMED REGISTERED WITH THE DEPARTMENT. THE BOARD OF TRUSTEES SHALL NOTIFY THE DEPARTMENT WITHIN THIRTY DAYS OF ANY SUCH APPROVALS. NOTHING IN THIS SUBDIVISION SHALL BE DEEMED TO LIMIT THE DEPARTMENT'S EXISTING AUTHORITY TO ACT ON COMPLAINTS CONCERNING THE INSTITUTION, INCLUDING THE AUTHORITY TO DE-REGISTER THE PROGRAM.

1 S 3. This act shall take effect immediately and shall be deemed to
2 have been in full force and effect on and after April 1, 2015.

3 PART C

4 Section 1. The education law is amended by adding a new section 679-g
5 to read as follows:

6 S 679-G. NEW YORK STATE GET ON YOUR FEET LOAN FORGIVENESS PROGRAM. 1.
7 PURPOSE. THE PRESIDENT SHALL GRANT STUDENT LOAN FORGIVENESS AWARDS FOR
8 THE PURPOSE OF ALLEVIATING THE BURDEN OF FEDERAL STUDENT LOAN DEBT FOR
9 RECENT NEW YORK STATE COLLEGE GRADUATES.

10 2. ELIGIBILITY. TO BE ELIGIBLE FOR AN AWARD PURSUANT TO THIS SECTION,
11 AN APPLICANT SHALL: (A) HAVE GRADUATED FROM A HIGH SCHOOL LOCATED IN NEW
12 YORK STATE OR ATTENDED AN APPROVED NEW YORK STATE PROGRAM FOR A STATE
13 HIGH SCHOOL EQUIVALENCY DIPLOMA AND RECEIVED SUCH HIGH SCHOOL EQUIVALEN-
14 CY DIPLOMA; (B) HAVE GRADUATED AND OBTAINED AN UNDERGRADUATE DEGREE FROM
15 A COLLEGE OR UNIVERSITY WITH ITS HEADQUARTERS LOCATED IN NEW YORK STATE
16 IN OR AFTER THE TWO THOUSAND FOURTEEN--FIFTEEN ACADEMIC YEAR; (C) APPLY
17 FOR THIS PROGRAM WITHIN TWO YEARS OF COLLEGE GRADUATION; (D) BE A
18 PARTICIPANT IN A FEDERAL INCOME-DRIVEN REPAYMENT PLAN WHOSE PAYMENT
19 AMOUNT IS GENERALLY TEN PERCENT OF DISCRETIONARY INCOME; (E) HAVE INCOME
20 OF LESS THAN FIFTY THOUSAND DOLLARS; (F) BE A RESIDENT OF NEW YORK
21 STATE; AND (G) WORK IN NEW YORK STATE, IF EMPLOYED. FOR PURPOSES OF THIS
22 PROGRAM, "INCOME" SHALL BE THE TOTAL ADJUSTED GROSS INCOME OF THE APPLI-
23 CANT, THE APPLICANT'S SPOUSE AND THE APPLICANT'S PARENTS AS REPORTED ON
24 THE PRIOR YEAR'S FILED NEW YORK STATE INCOME TAX RETURN.

25 3. AWARDS. AN APPLICANT WHOSE ANNUAL INCOME IS LESS THAN FIFTY THOU-
26 SAND DOLLARS SHALL BE ELIGIBLE TO RECEIVE AN AWARD EQUAL TO ONE HUNDRED
27 PERCENT OF HIS OR HER MONTHLY FEDERAL INCOME-DRIVEN REPAYMENT PLAN
28 PAYMENTS FOR THE FIRST TWO YEARS OF REPAYMENT UNDER THE FEDERAL PROGRAM.

29 4. RULES AND REGULATIONS. THE CORPORATION IS AUTHORIZED TO PROMULGATE
30 RULES AND REGULATIONS, AND MAY PROMULGATE EMERGENCY REGULATIONS NECES-
31 SARY FOR THE IMPLEMENTATION OF THE PROVISIONS OF THIS SECTION.

32 S 2. This act shall take effect immediately and shall be deemed to
33 have been in full force and effect on and after April 1, 2015.

34 PART D

35 Section 1. This act shall be known and may be cited as the "New York
36 state DREAM Act".

37 S 2. Subdivision 3 of section 661 of the education law is REPEALED.

38 S 3. Paragraph a of subdivision 5 of section 661 of the education law,
39 as amended by chapter 466 of the laws of 1977, is amended to read as
40 follows:

41 a. (I) Except as provided in subdivision two of section six hundred
42 seventy-four OF THIS PART AND SUBPARAGRAPH (II) OF THIS PARAGRAPH, an
43 applicant for an award at the undergraduate level of study must either
44 [(i)] (A) have been a legal resident of the state for at least one year
45 immediately preceding the beginning of the semester, quarter or term of
46 attendance for which application for assistance is made, or [(ii)] (B)
47 be a legal resident of the state and have been a legal resident during
48 his OR HER last two semesters of high school either prior to graduation,
49 or prior to admission to college. Provided further that persons shall be
50 eligible to receive awards under section six hundred sixty-eight or
51 section six hundred sixty-nine OF THIS PART who are currently legal
52 residents of the state and are otherwise qualified.

(II) AN APPLICANT WHO IS NOT A LEGAL RESIDENT OF THE STATE ELIGIBLE PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH, BUT IS A UNITED STATES CITIZEN, AN ALIEN LAWFULLY ADMITTED FOR PERMANENT RESIDENCE IN THE UNITED STATES, AN INDIVIDUAL OF A CLASS OF REFUGEES PAROLED BY THE ATTORNEY GENERAL OF THE UNITED STATES UNDER HIS OR HER PAROLE AUTHORITY PERTAINING TO THE ADMISSION OF ALIENS TO THE UNITED STATES, OR AN APPLICANT WITHOUT LAWFUL IMMIGRATION STATUS SHALL BE ELIGIBLE FOR AN AWARD AT THE UNDERGRADUATE LEVEL OF STUDY PROVIDED THAT THE STUDENT:

(A) ATTENDED A REGISTERED NEW YORK STATE HIGH SCHOOL FOR TWO OR MORE YEARS, GRADUATED FROM A REGISTERED NEW YORK STATE HIGH SCHOOL, LIVED CONTINUOUSLY IN NEW YORK STATE WHILE ATTENDING AN APPROVED NEW YORK STATE HIGH SCHOOL, APPLIED FOR ATTENDANCE AT THE INSTITUTION OF HIGHER EDUCATION FOR THE UNDERGRADUATE STUDY FOR WHICH AN AWARD IS SOUGHT, AND ATTENDED WITHIN FIVE YEARS OF RECEIVING A NEW YORK STATE HIGH SCHOOL DIPLOMA; OR

(B) ATTENDED AN APPROVED NEW YORK STATE PROGRAM FOR A STATE HIGH SCHOOL EQUIVALENCY DIPLOMA, LIVED CONTINUOUSLY IN NEW YORK STATE WHILE ATTENDING AN APPROVED NEW YORK STATE PROGRAM FOR A GENERAL EQUIVALENCY DIPLOMA, RECEIVED A STATE HIGH SCHOOL EQUIVALENCY DIPLOMA, SUBSEQUENTLY APPLIED FOR ATTENDANCE AT THE INSTITUTION OF HIGHER EDUCATION FOR THE UNDERGRADUATE STUDY FOR WHICH AN AWARD IS SOUGHT, EARNED ADMISSION BASED ON THAT GENERAL EQUIVALENCY DIPLOMA, AND ATTENDED THE INSTITUTION OF HIGHER EDUCATION FOR THE UNDERGRADUATE STUDY FOR WHICH AN AWARD IS SOUGHT WITHIN FIVE YEARS OF RECEIVING A STATE HIGH SCHOOL EQUIVALENCY DIPLOMA; OR

(C) IS OTHERWISE ELIGIBLE FOR THE PAYMENT OF TUITION AND FEES AT A RATE NO GREATER THAN THAT IMPOSED FOR RESIDENT STUDENTS OF THE STATE UNIVERSITY OF NEW YORK, THE CITY UNIVERSITY OF NEW YORK OR COMMUNITY COLLEGES AS PRESCRIBED IN SUBPARAGRAPH EIGHT OF PARAGRAPH H OF SUBDIVISION TWO OF SECTION THREE HUNDRED FIFTY-FIVE OR PARAGRAPH (A) OF SUBDIVISION SEVEN OF SECTION SIX THOUSAND TWO HUNDRED SIX OF THIS CHAPTER.

PROVIDED, FURTHER, THAT A STUDENT WITHOUT LAWFUL IMMIGRATION STATUS SHALL ALSO BE REQUIRED TO FILE AN AFFIDAVIT WITH SUCH INSTITUTION OF HIGHER EDUCATION STATING THAT THE STUDENT HAS FILED AN APPLICATION TO LEGALIZE HIS OR HER IMMIGRATION STATUS, OR WILL FILE SUCH AN APPLICATION AS SOON AS HE OR SHE IS ELIGIBLE TO DO SO.

S 4. Paragraph b of subdivision 5 of section 661 of the education law, as amended by chapter 466 of the laws of 1977, is amended to read as follows:

b. [An] (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, AN applicant for an award at the graduate level of study must either [(i)] (A) have been a legal resident of the state for at least one year immediately preceding the beginning of the semester, quarter or term of attendance for which application for assistance is made, or [(ii)] (B) be a legal resident of the state and have been a legal resident during his OR HER last academic year of undergraduate study and have continued to be a legal resident until matriculation in the graduate program.

(II) AN APPLICANT WHO IS NOT A LEGAL RESIDENT OF THE STATE ELIGIBLE PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH, BUT IS A UNITED STATES CITIZEN, AN ALIEN LAWFULLY ADMITTED FOR PERMANENT RESIDENCE IN THE UNITED STATES, AN INDIVIDUAL OF A CLASS OF REFUGEES PAROLED BY THE ATTORNEY GENERAL OF THE UNITED STATES UNDER HIS OR HER PAROLE AUTHORITY PERTAINING TO THE ADMISSION OF ALIENS TO THE UNITED STATES, OR AN APPLICANT WITHOUT LAWFUL IMMIGRATION STATUS SHALL BE ELIGIBLE FOR AN AWARD AT THE GRADUATE LEVEL OF STUDY PROVIDED THAT THE STUDENT:

1 (A) ATTENDED A REGISTERED NEW YORK STATE HIGH SCHOOL FOR TWO OR MORE
2 YEARS, GRADUATED FROM A REGISTERED NEW YORK STATE HIGH SCHOOL, LIVED
3 CONTINUOUSLY IN NEW YORK STATE WHILE ATTENDING AN APPROVED NEW YORK
4 STATE HIGH SCHOOL, APPLIED FOR ATTENDANCE AT THE INSTITUTION OF HIGHER
5 EDUCATION FOR THE GRADUATE STUDY FOR WHICH AN AWARD IS SOUGHT, AND
6 ATTENDED WITHIN TEN YEARS OF RECEIVING A NEW YORK STATE HIGH SCHOOL
7 DIPLOMA; OR

8 (B) ATTENDED AN APPROVED NEW YORK STATE PROGRAM FOR A STATE HIGH
9 SCHOOL EQUIVALENCY DIPLOMA, LIVED CONTINUOUSLY IN NEW YORK STATE WHILE
10 ATTENDING AN APPROVED NEW YORK STATE PROGRAM FOR A GENERAL EQUIVALENCY
11 DIPLOMA, RECEIVED A STATE HIGH SCHOOL EQUIVALENCY DIPLOMA, SUBSEQUENTLY
12 APPLIED FOR ATTENDANCE AT THE INSTITUTION OF HIGHER EDUCATION FOR THE
13 GRADUATE STUDY FOR WHICH AN AWARD IS SOUGHT, AND ATTENDED THE INSTITU-
14 TION OF HIGHER EDUCATION FOR THE GRADUATE STUDY FOR WHICH AN AWARD IS
15 SOUGHT WITHIN TEN YEARS OF RECEIVING A STATE HIGH SCHOOL EQUIVALENCY
16 DIPLOMA; OR

17 (C) IS OTHERWISE ELIGIBLE FOR THE PAYMENT OF TUITION AND FEES AT A
18 RATE NO GREATER THAN THAT IMPOSED FOR RESIDENT STUDENTS OF THE STATE
19 UNIVERSITY OF NEW YORK, THE CITY UNIVERSITY OF NEW YORK OR COMMUNITY
20 COLLEGES AS PRESCRIBED IN SUBPARAGRAPH EIGHT OF PARAGRAPH H OF SUBDIVI-
21 SION TWO OF SECTION THREE HUNDRED FIFTY-FIVE OR PARAGRAPH (A) OF SUBDI-
22 VISION SEVEN OF SECTION SIX THOUSAND TWO HUNDRED SIX OF THIS CHAPTER.

23 PROVIDED, FURTHER, THAT A STUDENT WITHOUT LAWFUL IMMIGRATION STATUS
24 SHALL ALSO BE REQUIRED TO FILE AN AFFIDAVIT WITH SUCH INSTITUTION OF
25 HIGHER EDUCATION STATING THAT THE STUDENT HAS FILED AN APPLICATION TO
26 LEGALIZE HIS OR HER IMMIGRATION STATUS, OR WILL FILE SUCH AN APPLICATION
27 AS SOON AS HE OR SHE IS ELIGIBLE TO DO SO.

28 S 5. Paragraph d of subdivision 5 of section 661 of the education law,
29 as amended by chapter 844 of the laws of 1975, is amended to read as
30 follows:

31 d. If an applicant for an award allocated on a geographic basis has
32 more than one residence in this state, his OR HER residence for the
33 purpose of this article shall be his OR HER place of actual residence
34 during the major part of the year while attending school, as determined
35 by the commissioner; AND FURTHER PROVIDED THAT AN APPLICANT WHO DOES NOT
36 HAVE A RESIDENCE IN THIS STATE AND IS ELIGIBLE FOR AN AWARD PURSUANT TO
37 SUBPARAGRAPH (II) OF PARAGRAPH A OR SUBPARAGRAPH (II) OF PARAGRAPH B OF
38 THIS SUBDIVISION SHALL BE DEEMED TO RESIDE IN THE GEOGRAPHIC AREA OF THE
39 INSTITUTION OF HIGHER EDUCATION IN WHICH HE OR SHE ATTENDS FOR PURPOSES
40 OF AN AWARD ALLOCATED ON A GEOGRAPHIC BASIS.

41 S 6. Paragraph e of subdivision 5 of section 661 of the education law,
42 as added by chapter 630 of the laws of 2005, is amended to read as
43 follows:

44 e. Notwithstanding any other provision of this article to the contra-
45 ry, the New York state [residency] eligibility [requirement] REQUIRE-
46 MENTS for receipt of awards [is] SET FORTH IN PARAGRAPHS A AND B OF THIS
47 SUBDIVISION ARE waived for a member, or the spouse or dependent of a
48 member, of the armed forces of the United States on full-time active
49 duty and stationed in this state.

50 S 7. Clauses (i) and (ii) of subparagraph 8 of paragraph h of subdivi-
51 sion 2 of section 355 of the education law, as added by chapter 327 of
52 the laws of 2002, are amended to read as follows:

53 (i) attended an approved New York high school for two or more years,
54 graduated from an approved New York high school, LIVED CONTINUOUSLY IN
55 NEW YORK STATE WHILE ATTENDING AN APPROVED NEW YORK HIGH SCHOOL, and
56 applied for attendance [at] AND ATTENDED an institution or educational

unit of the state university within five years of receiving a New York state high school diploma; or

(ii) attended an approved New York state program for general equivalency diploma exam preparation, received a general equivalency diploma issued within New York state, LIVED CONTINUOUSLY IN NEW YORK STATE WHILE ATTENDING AN APPROVED NEW YORK STATE PROGRAM FOR GENERAL EQUIVALENCY DIPLOMA EXAM PREPARATION, and SUBSEQUENTLY applied for attendance [at], EARNED ADMISSION BASED ON THAT GENERAL EQUIVALENCY DIPLOMA, AND ATTENDED an institution or educational unit of the state university within five years of receiving a general equivalency diploma issued within New York state; or

S 8. Subparagraphs (i) and (ii) of paragraph (a-1) of subdivision 7 of section 6206 of the education law, as amended by chapter 260 of the laws of 2011, are amended to read as follows:

(i) attended an approved New York high school for two or more years, graduated from an approved New York high school, LIVED CONTINUOUSLY IN NEW YORK STATE WHILE ATTENDING AN APPROVED NEW YORK HIGH SCHOOL, and applied for attendance [at] AND ATTENDED an institution or educational unit of the city university within five years of receiving a New York state high school diploma; or

(ii) attended an approved New York state program for general equivalency diploma exam preparation, received a general equivalency diploma issued within New York state, LIVED CONTINUOUSLY IN NEW YORK STATE WHILE ATTENDING AN APPROVED NEW YORK STATE PROGRAM FOR GENERAL EQUIVALENCY DIPLOMA EXAM PREPARATION, and SUBSEQUENTLY applied for attendance [at], EARNED ADMISSION BASED ON THAT GENERAL EQUIVALENCY DIPLOMA, AND ATTENDED an institution or educational unit of the city university within five years of receiving a general equivalency diploma issued within New York state; or

S 8-a. Paragraph (a) of subdivision 7 of section 6206 of the education law, as amended by chapter 327 of the laws of 2002, the opening paragraph as amended by section 2 of part 0 of chapter 58 of the laws of 2006, is amended to read as follows:

(a) The board of trustees shall establish positions, departments, divisions and faculties; appoint and in accordance with the provisions of law fix salaries of instructional and non-instructional employees therein; establish and conduct courses and curricula; prescribe conditions of student admission, attendance and discharge; and shall have the power to determine in its discretion whether tuition shall be charged and to regulate tuition charges, and other instructional and non-instructional fees and other fees and charges at the educational units of the city university. The trustees shall review any proposed community college tuition increase and the justification for such increase. The justification provided by the community college for such increase shall include a detailed analysis of ongoing operating costs, capital, debt service expenditures, and all revenues. The trustees shall not impose a differential tuition charge based upon need or income. All students enrolled in programs leading to like degrees at the senior colleges shall be charged a uniform rate of tuition, except for differential tuition rates based on state residency. The trustees shall further provide that the payment of tuition and fees by any student who is not a resident of New York state, other than a non-immigrant alien within the meaning of paragraph (15) of subsection (a) of section 1101 of title 8 of the United States Code, shall be paid at a rate or charge no greater than that imposed for students who are residents of the state if such student:

1 (i) attended an approved New York high school for two or more years,
2 graduated from an approved New York high school, LIVED CONTINUOUSLY IN
3 NEW YORK STATE WHILE ATTENDING AN APPROVED NEW YORK HIGH SCHOOL, and
4 applied for attendance [at] AND ATTENDED an institution or educational
5 unit of the city university within five years of receiving a New York
6 state high school diploma; or

7 (ii) attended an approved New York state program for general equiv-
8 alency diploma exam preparation, received a general equivalency diploma
9 issued within New York state, LIVED CONTINUOUSLY IN NEW YORK STATE WHILE
10 ATTENDING AN APPROVED NEW YORK STATE PROGRAM FOR GENERAL EQUIVALENCY
11 DIPLOMA EXAM PREPARATION, and SUBSEQUENTLY applied for attendance [at],
12 EARNED ADMISSION BASED ON THAT GENERAL EQUIVALENCY DIPLOMA, AND ATTENDED
13 an institution or educational unit of the city university within five
14 years of receiving a general equivalency diploma issued within New York
15 state; or

16 (iii) was enrolled in an institution or educational unit of the city
17 university in the fall semester or quarter of the two thousand one--two
18 thousand two academic year and was authorized by such institution or
19 educational unit to pay tuition at the rate or charge imposed for
20 students who are residents of the state.

21 A student without lawful immigration status shall also be required to
22 file an affidavit with such institution or educational unit stating that
23 the student has filed an application to legalize his or her immigration
24 status, or will file such an application as soon as he or she is eligi-
25 ble to do so. The trustees shall not adopt changes in tuition charges
26 prior to the enactment of the annual budget. The board of trustees may
27 accept as partial reimbursement for the education of veterans of the
28 armed forces of the United States who are otherwise qualified such sums
29 as may be authorized by federal legislation to be paid for such educa-
30 tion. The board of trustees may conduct on a fee basis extension courses
31 and courses for adult education appropriate to the field of higher
32 education. In all courses and courses of study it may, in its
33 discretion, require students to pay library, laboratory, locker, break-
34 age and other instructional and non-instructional fees and meet the cost
35 of books and consumable supplies. In addition to the foregoing fees and
36 charges, the board of trustees may impose and collect fees and charges
37 for student government and other student activities and receive and
38 expend them as agent or trustee.

39 S 9. Subdivision 5 of section 6301 of the education law, as amended by
40 chapter 327 of the laws of 2002, is amended to read as follows:

41 5. "Resident." A person who has resided in the state for a period of
42 at least one year and in the county, city, town, intermediate school
43 district, school district or community college region, as the case may
44 be, for a period of at least six months, both immediately preceding the
45 date of such person's registration in a community college or, for the
46 purposes of section sixty-three hundred five of this article, his or her
47 application for a certificate of residence; provided, however, that this
48 term shall include any student who is not a resident of New York state,
49 other than a non-immigrant alien within the meaning of paragraph (15) of
50 subsection (a) of section 1101 of title 8 of the United States Code, if
51 such student:

52 (i) attended an approved New York high school for two or more years,
53 graduated from an approved New York high school, LIVED CONTINUOUSLY IN
54 NEW YORK STATE WHILE ATTENDING AN APPROVED NEW YORK HIGH SCHOOL, and
55 applied for attendance [at an institution or educational unit of the

1 state university] AND ATTENDED A COMMUNITY COLLEGE within five years of
2 receiving a New York state high school diploma; or

3 (ii) attended an approved New York state program for general equiv-
4 alency diploma exam preparation, received a general equivalency diploma
5 issued within New York state, LIVED CONTINUOUSLY IN NEW YORK STATE WHILE
6 ATTENDING AN APPROVED NEW YORK STATE PROGRAM FOR GENERAL EQUIVALENCY
7 DIPLOMA EXAM PREPARATION, and SUBSEQUENTLY applied for attendance [at an
8 institution or educational unit of the state university], EARNED ADMIS-
9 SION BASED ON THAT GENERAL EQUIVALENCY DIPLOMA, AND ATTENDED A COMMUNITY
10 COLLEGE within five years of receiving a general equivalency diploma
11 issued within New York state; or

12 (iii) was enrolled in [an institution or educational unit of the state
13 university] A COMMUNITY COLLEGE in the fall semester or quarter of the
14 two thousand one--two thousand two academic year and was authorized by
15 such [institution or educational unit] COMMUNITY COLLEGE to pay tuition
16 at the rate or charge imposed for students who are residents of the
17 state.

18 Provided, further, that a student without lawful immigration status
19 shall also be required to file an affidavit with such [institution or
20 educational unit] COMMUNITY COLLEGE stating that the student has filed
21 an application to legalize his or her immigration status, or will file
22 such an application as soon as he or she is eligible to do so.

23 In the event that a person qualified as above for state residence, but
24 has been a resident of two or more counties in the state during the six
25 months immediately preceding his OR HER application for a certificate of
26 residence pursuant to section sixty-three hundred five of this chapter,
27 the charges to the counties of residence shall be allocated among the
28 several counties proportional to the number of months, or major fraction
29 thereof, of residence in each county.

30 S 10. Paragraph d of subdivision 3 of section 6451 of the education
31 law, as amended by chapter 149 of the laws of 1972, is amended to read
32 as follows:

33 d. Any necessary supplemental financial assistance, which may include
34 the cost of books and necessary maintenance for such enrolled students,
35 INCLUDING STUDENTS WITHOUT LAWFUL IMMIGRATION STATUS PROVIDED THAT THE
36 STUDENT MEETS THE REQUIREMENTS SET FORTH IN SUBPARAGRAPH (II) OF PARA-
37 GRAPH A OR SUBPARAGRAPH (II) OF PARAGRAPH B OF SUBDIVISION FIVE OF
38 SECTION SIX HUNDRED SIXTY-ONE OF THIS CHAPTER, AS APPLICABLE; provided,
39 however, that such supplemental financial assistance shall be furnished
40 pursuant to criteria promulgated by the commissioner with the approval
41 of the director of the budget.

42 S 11. Subparagraph (v) of paragraph a of subdivision 4 of section 6452
43 of the education law, as added by chapter 917 of the laws of 1970, is
44 amended to read as follows:

45 (v) Any necessary supplemental financial assistance, which may include
46 the cost of books and necessary maintenance for such students, INCLUDING
47 STUDENTS WITHOUT LAWFUL IMMIGRATION STATUS PROVIDED THAT THE STUDENT
48 MEETS THE REQUIREMENTS SET FORTH IN SUBPARAGRAPH (II) OF PARAGRAPH A OR
49 SUBPARAGRAPH (II) OF PARAGRAPH B OF SUBDIVISION FIVE OF SECTION SIX
50 HUNDRED SIXTY-ONE OF THIS CHAPTER, AS APPLICABLE; provided, however,
51 that such supplemental financial assistance shall be furnished pursuant
52 to criteria promulgated by such universities and approved by the regents
53 and the director of the budget.

54 S 12. Paragraph (a) of subdivision 2 of section 6455 of the education
55 law, as added by chapter 285 of the laws of 1986, is amended to read as
56 follows:

1 (a) (I) Undergraduate science and technology entry program moneys may
2 be used for tutoring, counseling, remedial and special summer courses,
3 supplemental financial assistance, program administration, and other
4 activities which the commissioner may deem appropriate. To be eligible
5 for undergraduate collegiate science and technology entry program
6 support, a student must be a resident of New York [who is], OR MEET THE
7 REQUIREMENTS OF SUBPARAGRAPH (II) OF THIS PARAGRAPH, AND MUST BE either
8 economically disadvantaged or from a minority group historically under
9 represented in the scientific, technical, health and health-related
10 professions, and [who demonstrates] MUST DEMONSTRATE interest in and a
11 potential for a professional career if provided special services. Eligi-
12 ble students must be in good academic standing, enrolled full time in an
13 approved, undergraduate level program of study, as defined by the
14 regents.

15 (II) AN APPLICANT WHO IS NOT A LEGAL RESIDENT OF THE STATE ELIGIBLE
16 PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH, BUT IS A UNITED STATES
17 CITIZEN, AN ALIEN LAWFULLY ADMITTED FOR PERMANENT RESIDENCE IN THE
18 UNITED STATES, AN INDIVIDUAL OF A CLASS OF REFUGEES PAROLED BY THE
19 ATTORNEY GENERAL OF THE UNITED STATES UNDER HIS OR HER PAROLE AUTHORITY
20 PERTAINING TO THE ADMISSION OF ALIENS TO THE UNITED STATES, OR AN APPLI-
21 CANT WITHOUT LAWFUL IMMIGRATION STATUS SHALL BE ELIGIBLE FOR AN AWARD AT
22 THE UNDERGRADUATE LEVEL OF STUDY PROVIDED THAT THE STUDENT:

23 (A) ATTENDED A REGISTERED NEW YORK STATE HIGH SCHOOL FOR TWO OR MORE
24 YEARS, GRADUATED FROM A REGISTERED NEW YORK STATE HIGH SCHOOL, LIVED
25 CONTINUOUSLY IN NEW YORK STATE WHILE ATTENDING AN APPROVED NEW YORK
26 STATE HIGH SCHOOL, APPLIED FOR ATTENDANCE AT THE INSTITUTION OF HIGHER
27 EDUCATION FOR THE UNDERGRADUATE STUDY FOR WHICH AN AWARD IS SOUGHT, AND
28 ATTENDED WITHIN FIVE YEARS OF RECEIVING A NEW YORK STATE HIGH SCHOOL
29 DIPLOMA; OR

30 (B) ATTENDED AN APPROVED NEW YORK STATE PROGRAM FOR A STATE HIGH
31 SCHOOL EQUIVALENCY DIPLOMA, LIVED CONTINUOUSLY IN NEW YORK STATE WHILE
32 ATTENDING AN APPROVED NEW YORK STATE PROGRAM FOR A GENERAL EQUIVALENCY
33 DIPLOMA, RECEIVED A STATE HIGH SCHOOL EQUIVALENCY DIPLOMA, SUBSEQUENTLY
34 APPLIED FOR ATTENDANCE AT THE INSTITUTION OF HIGHER EDUCATION FOR THE
35 UNDERGRADUATE STUDY FOR WHICH AN AWARD IS SOUGHT, EARNED ADMISSION BASED
36 ON THAT GENERAL EQUIVALENCY DIPLOMA, AND ATTENDED THE INSTITUTION OF
37 HIGHER EDUCATION FOR THE UNDERGRADUATE STUDY FOR WHICH AN AWARD IS
38 SOUGHT WITHIN FIVE YEARS OF RECEIVING A STATE HIGH SCHOOL EQUIVALENCY
39 DIPLOMA; OR

40 (C) IS OTHERWISE ELIGIBLE FOR THE PAYMENT OF TUITION AND FEES AT A
41 RATE NO GREATER THAN THAT IMPOSED FOR RESIDENT STUDENTS OF THE STATE
42 UNIVERSITY OF NEW YORK, THE CITY UNIVERSITY OF NEW YORK OR COMMUNITY
43 COLLEGES AS PRESCRIBED IN SUBPARAGRAPH EIGHT OF PARAGRAPH H OF SUBDIVI-
44 SION TWO OF SECTION THREE HUNDRED FIFTY-FIVE OR PARAGRAPH (A) OF SUBDI-
45 VISION SEVEN OF SECTION SIX THOUSAND TWO HUNDRED SIX OF THIS CHAPTER.

46 PROVIDED, FURTHER, THAT A STUDENT WITHOUT LAWFUL IMMIGRATION STATUS
47 SHALL ALSO BE REQUIRED TO FILE AN AFFIDAVIT WITH SUCH INSTITUTION OF
48 HIGHER EDUCATION STATING THAT THE STUDENT HAS FILED AN APPLICATION TO
49 LEGALIZE HIS OR HER IMMIGRATION STATUS, OR WILL FILE SUCH AN APPLICATION
50 AS SOON AS HE OR SHE IS ELIGIBLE TO DO SO.

51 S 13. Paragraph (a) of subdivision 3 of section 6455 of the education
52 law, as added by chapter 285 of the laws of 1986, is amended to read as
53 follows:

54 (a) (I) Graduate science and technology entry program moneys may be
55 used for recruitment, academic enrichment, career planning, supplemental
56 financial assistance, review for licensing examinations, program admin-

1 istration, and other activities which the commissioner may deem appro-
2 priate. To be eligible for graduate collegiate science and technology
3 entry program support, a student must be a resident of New York [who
4 is], OR MEET THE REQUIREMENTS OF SUBPARAGRAPH (II) OF THIS PARAGRAPH,
5 AND MUST BE either economically disadvantaged or from a minority group
6 historically underrepresented in the scientific, technical and health-
7 related professions. Eligible students must be in good academic stand-
8 ing, enrolled full time in an approved graduate level program, as
9 defined by the regents.

10 (II) AN APPLICANT WHO IS NOT A LEGAL RESIDENT OF THE STATE ELIGIBLE
11 PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH, BUT IS A UNITED STATES
12 CITIZEN, AN ALIEN LAWFULLY ADMITTED FOR PERMANENT RESIDENCE IN THE
13 UNITED STATES, AN INDIVIDUAL OF A CLASS OF REFUGEES PAROLED BY THE
14 ATTORNEY GENERAL OF THE UNITED STATES UNDER HIS OR HER PAROLE AUTHORITY
15 PERTAINING TO THE ADMISSION OF ALIENS TO THE UNITED STATES, OR AN APPLI-
16 CANT WITHOUT LAWFUL IMMIGRATION STATUS SHALL BE ELIGIBLE FOR AN AWARD AT
17 THE GRADUATE LEVEL OF STUDY PROVIDED THAT THE STUDENT:

18 (A) ATTENDED A REGISTERED NEW YORK STATE HIGH SCHOOL FOR TWO OR MORE
19 YEARS, GRADUATED FROM A REGISTERED NEW YORK STATE HIGH SCHOOL, LIVED
20 CONTINUOUSLY IN NEW YORK STATE WHILE ATTENDING AN APPROVED NEW YORK
21 STATE HIGH SCHOOL, APPLIED FOR ATTENDANCE AT THE INSTITUTION OF HIGHER
22 EDUCATION FOR THE GRADUATE STUDY FOR WHICH AN AWARD IS SOUGHT, AND
23 ATTENDED WITHIN TEN YEARS OF RECEIVING A NEW YORK STATE HIGH SCHOOL
24 DIPLOMA; OR

25 (B) ATTENDED AN APPROVED NEW YORK STATE PROGRAM FOR A STATE HIGH
26 SCHOOL EQUIVALENCY DIPLOMA, LIVED CONTINUOUSLY IN NEW YORK STATE WHILE
27 ATTENDING AN APPROVED NEW YORK STATE PROGRAM FOR A GENERAL EQUIVALENCY
28 DIPLOMA, RECEIVED A STATE HIGH SCHOOL EQUIVALENCY DIPLOMA, SUBSEQUENTLY
29 APPLIED FOR ATTENDANCE AT THE INSTITUTION OF HIGHER EDUCATION FOR THE
30 GRADUATE STUDY FOR WHICH AN AWARD IS SOUGHT, AND ATTENDED THE INSTITU-
31 TION OF HIGHER EDUCATION FOR THE GRADUATE STUDY FOR WHICH AN AWARD IS
32 SOUGHT WITHIN TEN YEARS OF RECEIVING A STATE HIGH SCHOOL EQUIVALENCY
33 DIPLOMA; OR

34 (C) IS OTHERWISE ELIGIBLE FOR THE PAYMENT OF TUITION AND FEES AT A
35 RATE NO GREATER THAN THAT IMPOSED FOR RESIDENT STUDENTS OF THE STATE
36 UNIVERSITY OF NEW YORK, THE CITY UNIVERSITY OF NEW YORK OR COMMUNITY
37 COLLEGE AS PRESCRIBED IN SUBPARAGRAPH EIGHT OF PARAGRAPH H OF SUBDIVI-
38 SION TWO OF SECTION THREE HUNDRED FIFTY-FIVE OR PARAGRAPH (A) OF SUBDI-
39 VISION SEVEN OF SECTION SIX THOUSAND TWO HUNDRED SIX OF THIS CHAPTER.

40 PROVIDED, FURTHER, THAT A STUDENT WITHOUT LAWFUL IMMIGRATION STATUS
41 SHALL ALSO BE REQUIRED TO FILE AN AFFIDAVIT WITH SUCH INSTITUTION OF
42 HIGHER EDUCATION STATING THAT THE STUDENT HAS FILED AN APPLICATION TO
43 LEGALIZE HIS OR HER IMMIGRATION STATUS, OR WILL FILE SUCH AN APPLICATION
44 AS SOON AS HE OR SHE IS ELIGIBLE TO DO SO.

45 S 14. Subparagraph (i) of paragraph a of subdivision 2 of section
46 695-e of the education law, as amended by chapter 593 of the laws of
47 2003, is amended to read as follows:

48 (i) the name, address and social security number [or], employer iden-
49 tification number, OR INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER of the
50 account owner UNLESS A FAMILY TUITION ACCOUNT THAT WAS IN EFFECT PRIOR
51 TO THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND FIFTEEN
52 THAT AMENDED THIS SUBPARAGRAPH DOES NOT ALLOW FOR A TAXPAYER IDENTIFICA-
53 TION NUMBER, IN WHICH CASE A TAXPAYER IDENTIFICATION NUMBER SHALL BE
54 ALLOWED UPON THE EXPIRATION OF THE CONTRACT;

1 S 15. Subparagraph (iii) of paragraph a of subdivision 2 of section
2 695-e of the education law, as amended by chapter 593 of the laws of
3 2003, is amended to read as follows:

4 (iii) the name, address, and social security number, EMPLOYER IDEN-
5 TIFICATION NUMBER, OR INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER of the
6 designated beneficiary, UNLESS A FAMILY TUITION ACCOUNT THAT WAS IN
7 EFFECT PRIOR TO THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO
8 THOUSAND FIFTEEN THAT AMENDED THIS SUBPARAGRAPH DOES NOT ALLOW FOR A
9 TAXPAYER IDENTIFICATION NUMBER, IN WHICH CASE A TAXPAYER IDENTIFICATION
10 NUMBER SHALL BE ALLOWED UPON THE EXPIRATION OF THE CONTRACT; and

11 S 16. The president of the higher education services corporation shall
12 establish an application form and procedures that shall allow a student
13 applicant that meets the requirements set forth in subparagraph (ii) of
14 paragraph a or subparagraph (ii) of paragraph b of subdivision 5 of
15 section 661 of the education law to apply directly to the higher educa-
16 tion services corporation for applicable awards without having to submit
17 information to any other state or federal agency. All information
18 contained with the applications filed with such corporation shall be
19 deemed confidential, except that the corporation shall be entitled to
20 release information to participating institutions as necessary for the
21 administration of financial aid programs and to the extent required
22 pursuant to article six of the public officers law or otherwise required
23 by law.

24 S 17. The higher education services corporation is authorized to
25 promulgate rules and regulations, and may promulgate emergency regu-
26 lations, necessary for the implementation of the provisions of this act.

27 S 18. This act shall take effect on the ninetieth day after the issu-
28 ance of regulations and the development of an application form by the
29 president of the higher education services corporation or on the nineti-
30 eth day after it shall have become a law, whichever shall be later;
31 provided however, notwithstanding the foregoing, this act shall not take
32 effect unless the legislature enacts, by no later than March 31, 2015, a
33 chapter of law identical to legislation submitted by the Governor pursu-
34 ant to Article VII of the New York Constitution as Part E of legislative
35 bill numbers S. 2006 and A. 3006 relating to an education tax credit
36 program that would make available \$100 million in tax credits annually
37 to provide a tax credit incentive to encourage individual and business
38 donations to support public schools' educational improvement programs as
39 well as public and non-public school scholarships for elementary and
40 secondary school students. Provided, that the amendments to paragraph
41 (a) of subdivision 7 of section 6206 of the education law, made by
42 section eight-a of this act, shall take effect upon the expiration and
43 repeal of the amendments to such paragraph made by section 4 of chapter
44 260 of the laws of 2011 pursuant to section 16 of chapter 260 of the
45 laws of 2011, as amended. Provided further, however, that the amend-
46 ments to subparagraphs (i) and (ii) of paragraph (a-1) of subdivision 7
47 of section 6206 of the education law made by section eight of this act
48 shall not affect the expiration of such paragraph and shall be deemed to
49 expire therewith; provided that the president of the higher education
50 services corporation shall notify the legislative bill drafting commis-
51 sion upon the occurrence of the issuance of regulations and the develop-
52 ment of an application form provided for in this section in order that
53 the commission may maintain an accurate and timely effective data base
54 of the official text of the laws of the state of New York in furtherance
55 of effectuating the provisions of section 44 of the legislative law and
56 section 70-b of the public officers law.

1

PART E

2 Section 1. Short title. This act shall be known and may be cited as
3 the "education tax credit act".

4 S 2. The education law is amended by adding a new article 25 to read
5 as follows:

6

ARTICLE 25

7

EDUCATION TAX CREDIT PROGRAM

8 SECTION 1209. SHORT TITLE.

9 1210. DEFINITIONS.

10 1211. APPROVAL TO ISSUE CERTIFICATES OF RECEIPT.

11 1212. APPLICATIONS FOR APPROVAL TO ISSUE CERTIFICATES OF
12 RECEIPT.

13 1213. APPLICATION APPROVAL FOR CERTIFICATES OF RECEIPTS.

14 1214. REVOCATION OF APPROVAL TO ISSUE CERTIFICATES OF RECEIPT.

15 1215. REPORTING AND RECORDKEEPING.

16 1216. JOINT ANNUAL REPORT.

17 1217. COMMISSIONER; POWERS.

18 S 1209. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS
19 THE "EDUCATION TAX CREDIT PROGRAM".

20 S 1210. DEFINITIONS. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING
21 TERMS SHALL HAVE THE FOLLOWING MEANINGS:

22 1. "AUTHORIZED CONTRIBUTION" MEANS THE CONTRIBUTION AMOUNT THAT IS
23 LISTED ON THE CONTRIBUTION AUTHORIZATION CERTIFICATE ISSUED TO A TAXPAY-
24 ER.

25 2. "CONTRIBUTION" MEANS A DONATION PAID BY CASH, CHECK, ELECTRONIC
26 FUNDS TRANSFER, DEBIT CARD OR CREDIT CARD THAT IS MADE BY A TAXPAYER
27 DURING THE TAXABLE YEAR.

28 3. "EDUCATIONAL PROGRAM" MEANS AN ACADEMIC OR SIMILAR PROGRAM OF A
29 PUBLIC SCHOOL THAT ENHANCES THE CURRICULUM OR ACADEMIC PROGRAM OF THE
30 PUBLIC SCHOOL, OR PROVIDES A PRE-KINDERGARTEN PROGRAM TO A PUBLIC
31 SCHOOL. FOR PURPOSES OF THIS DEFINITION, THE INSTRUCTION, MATERIALS,
32 PROGRAMS AND OTHER ACTIVITIES OFFERED BY OR THROUGH AN EDUCATIONAL
33 PROGRAM MAY INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING FEATURES: (A)
34 INSTRUCTION OR MATERIALS PROMOTING HEALTH, PHYSICAL EDUCATION, AND FAMI-
35 LY AND CONSUMER SCIENCES; LITERARY, PERFORMING AND VISUAL ARTS; MATH-
36 EMATICS, SOCIAL STUDIES, TECHNOLOGY AND SCIENTIFIC ACHIEVEMENT; (B)
37 INSTRUCTION OR PROGRAMMING TO MEET THE EDUCATION NEEDS OF AT-RISK
38 STUDENTS OR STUDENTS WITH DISABILITIES, INCLUDING TUTORING OR COUN-
39 SELING; OR (C) THE USE OF SPECIALIZED INSTRUCTIONAL MATERIALS, INSTRU-
40 TORS OR INSTRUCTION NOT PROVIDED BY A PUBLIC SCHOOL.

41 4. "EDUCATIONAL SCHOLARSHIP ORGANIZATION" MEANS AN ENTITY THAT: (A) IS
42 EXEMPT FROM TAXATION UNDER PARAGRAPH THREE OF SUBSECTION (C) OF SECTION
43 FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE; (B) USES AT LEAST NINETY
44 PERCENT OF THE QUALIFIED CONTRIBUTIONS RECEIVED DURING THE CALENDAR YEAR
45 AND ANY INCOME DERIVED FROM QUALIFIED CONTRIBUTIONS DURING SUCH YEAR FOR
46 SCHOLARSHIPS; (C) PROVIDES MORE THAN FIFTY PERCENT OF ITS SCHOLARSHIPS
47 DURING A CALENDAR YEAR TO ELIGIBLE PUPILS WHO RESIDE IN A HOUSEHOLD THAT
48 HAS AN INCOME NOT TO EXCEED ONE HUNDRED FIFTY PERCENT OF THE INCOME
49 QUALIFICATION REQUIRED FOR THE REDUCED PRICE SCHOOL LUNCHES UNDER THE
50 NATIONAL SCHOOL LUNCH ACT, PROVIDED HOWEVER FOR THE PURPOSES OF AN
51 EDUCATIONAL SCHOLARSHIP ORGANIZATION FULFILLING SUCH REQUIREMENT, AN
52 EDUCATIONAL SCHOLARSHIP ORGANIZATION MAY ENTER INTO AN AGREEMENT WITH
53 ANOTHER EDUCATIONAL SCHOLARSHIP ORGANIZATION OR ORGANIZATIONS TO JOINTLY
54 REPORT THEIR SCHOLARSHIP INFORMATION TO MEET SUCH REQUIREMENT; (D)
55 DEPOSITS AND HOLDS QUALIFIED CONTRIBUTIONS AND ANY INCOME DERIVED FROM

1 QUALIFIED CONTRIBUTIONS IN AN ACCOUNT THAT IS SEPARATE FROM THE ORGAN-
2 IZATION'S OPERATING OR OTHER FUNDS UNTIL SUCH QUALIFIED CONTRIBUTIONS OR
3 INCOME ARE WITHDRAWN FOR USE; (E) PROVIDES SCHOLARSHIPS TO ELIGIBLE
4 PUPILS FOR USE AT NOT FEWER THAN THREE QUALIFIED SCHOOLS; AND (F) IS
5 APPROVED TO ISSUE CERTIFICATES OF RECEIPT PURSUANT TO THIS ARTICLE.

6 5. "ELIGIBLE PUPIL" MEANS A CHILD WHO IS: (A) A RESIDENT OF THIS
7 STATE; (B) OF SCHOOL AGE IN ACCORDANCE WITH SUBDIVISION ONE OF SECTION
8 THIRTY-TWO HUNDRED TWO OF THIS CHAPTER OR WHO IS FOUR YEARS OF AGE ON OR
9 BEFORE DECEMBER FIRST OF THE YEAR IN WHICH SUCH CHILD IS ENROLLED IN A
10 PRE-KINDERGARTEN PROGRAM; (C) ATTENDS OR IS ABOUT TO ATTEND A QUALIFIED
11 SCHOOL; AND (D) RESIDES IN A HOUSEHOLD WHICH HAS A FEDERAL ADJUSTED
12 GROSS INCOME OF TWO HUNDRED FIFTY THOUSAND DOLLARS OR LESS, PROVIDED
13 HOWEVER, FOR HOUSEHOLDS WITH THREE OR MORE DEPENDENT CHILDREN, SUCH
14 INCOME LEVEL SHALL BE INCREASED BY TEN THOUSAND DOLLARS PER DEPENDENT
15 CHILD, NOT TO EXCEED THREE HUNDRED THOUSAND DOLLARS.

16 6. "LOCAL EDUCATION FUND" MEANS A NOT-FOR-PROFIT ENTITY WHICH: (A) IS
17 EXEMPT FROM TAXATION UNDER PARAGRAPH THREE OF SUBSECTION (C) OF SECTION
18 FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE; (B) IS ESTABLISHED FOR
19 THE PURPOSE OF SUPPORTING AT LEAST ONE PUBLIC SCHOOL OR A PUBLIC SCHOOL
20 DISTRICT LOCATED IN THIS STATE; (C) USES AT LEAST NINETY PERCENT OF THE
21 QUALIFIED CONTRIBUTIONS RECEIVED DURING THE CALENDAR YEAR AND ANY INCOME
22 DERIVED FROM QUALIFIED CONTRIBUTIONS DURING SUCH MONTHS TO SUPPORT THE
23 PUBLIC SCHOOL OR SCHOOLS OR PUBLIC SCHOOL DISTRICT OR DISTRICTS THAT
24 SUCH FUND HAS BEEN ESTABLISHED TO SUPPORT; (D) DEPOSITS AND HOLDS QUALI-
25 FIED CONTRIBUTIONS AND ANY INCOME DERIVED FROM QUALIFIED CONTRIBUTIONS
26 IN AN ACCOUNT THAT IS SEPARATE FROM THE FUND'S OPERATING OR OTHER FUNDS
27 UNTIL SUCH QUALIFIED CONTRIBUTIONS OR INCOME ARE WITHDRAWN FOR USE; AND
28 (E) IS APPROVED TO ISSUE CERTIFICATES OF RECEIPT PURSUANT TO THIS ARTI-
29 CLE.

30 7. "NON-PUBLIC SCHOOL" MEANS ANY NOT-FOR-PROFIT PRE-KINDERGARTEN
31 PROGRAM OR ELEMENTARY OR SECONDARY SECTARIAN OR NONSECTARIAN SCHOOL
32 LOCATED IN THIS STATE, OTHER THAN A PUBLIC SCHOOL, THAT PROVIDES
33 INSTRUCTION AT ONE OR MORE LOCATIONS TO AN ELIGIBLE PUPIL IN ACCORDANCE
34 WITH SUBDIVISION TWO OF SECTION THIRTY-TWO HUNDRED FOUR OF THIS CHAPTER.

35 8. "PUBLIC EDUCATION ENTITY" MEANS A PUBLIC SCHOOL DISTRICT OR A
36 PUBLIC SCHOOL IN THIS STATE, PROVIDED THAT SUCH PUBLIC SCHOOL DISTRICT
37 OR PUBLIC SCHOOL: (A) DEPOSITS AND HOLDS QUALIFIED CONTRIBUTIONS AND ANY
38 INCOME DERIVED FROM SUCH QUALIFIED CONTRIBUTIONS IN AN ACCOUNT THAT IS
39 SEPARATE FROM THE PUBLIC SCHOOL OR PUBLIC SCHOOL DISTRICT'S OPERATING OR
40 OTHER FUNDS UNTIL SUCH QUALIFIED CONTRIBUTIONS OR INCOME ARE WITHDRAWN
41 FOR USE; AND (B) IS APPROVED TO RECEIVE AUTHORIZED CONTRIBUTIONS AND
42 ISSUE CERTIFICATES OF RECEIPT PURSUANT TO THIS ARTICLE.

43 9. "PUBLIC SCHOOL" MEANS ANY FREE ELEMENTARY OR SECONDARY SCHOOL IN
44 THIS STATE PURSUANT TO ARTICLE ELEVEN OF THE CONSTITUTION, BUT SHALL NOT
45 INCLUDE A CHARTER SCHOOL AUTHORIZED BY ARTICLE FIFTY-SIX OF THIS CHAP-
46 TER.

47 10. "QUALIFIED CONTRIBUTION" MEANS THE AUTHORIZED CONTRIBUTION MADE BY
48 A TAXPAYER TO A PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZA-
49 TION, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION
50 LISTED IN THE CONTRIBUTION AUTHORIZATION CERTIFICATE ISSUED TO THE
51 TAXPAYER FOR WHICH THE TAXPAYER HAS RECEIVED A CERTIFICATE OF RECEIPT
52 FROM SUCH ENTITY, FUND OR ORGANIZATION. A CONTRIBUTION DOES NOT QUALIFY
53 IF THE TAXPAYER DESIGNATES THE TAXPAYER'S CONTRIBUTION TO AN ENTITY OR
54 ORGANIZATION FOR THE DIRECT BENEFIT OF ANY PARTICULAR OR SPECIFIED
55 STUDENT.

1 11. "QUALIFIED SCHOOL" MEANS A PUBLIC SCHOOL OR NON-PUBLIC SCHOOL
2 LOCATED IN THIS STATE.

3 12. "SCHOLARSHIP" MEANS AN EDUCATIONAL SCHOLARSHIP OR TUITION GRANT
4 AWARDED TO AN ELIGIBLE PUPIL TO ATTEND A QUALIFIED SCHOOL IN AN AMOUNT
5 NOT TO EXCEED THE TUITION CHARGED TO ATTEND SUCH SCHOOL LESS ANY OTHER
6 EDUCATIONAL SCHOLARSHIP OR TUITION GRANT RECEIVED BY SUCH ELIGIBLE PUPIL
7 OR HIS OR HER PARENT, PARENTS, LEGAL GUARDIAN, OR LEGAL GUARDIANS FOR
8 SUCH ELIGIBLE PUPIL'S TUITION; PROVIDED, HOWEVER, IN THE CASE OF AN
9 ELIGIBLE PUPIL ATTENDING A PUBLIC SCHOOL OF A DISTRICT OF WHICH SUCH
10 PUPIL IS NOT A RESIDENT, THE AMOUNT OF THE EDUCATIONAL SCHOLARSHIP OR
11 TUITION GRANT AWARDED MAY NOT EXCEED THE TUITION CHARGED BY THE PUBLIC
12 SCHOOL PURSUANT TO PARAGRAPH D OF SUBDIVISION FOUR OF SECTION THIRTY-TWO
13 HUNDRED TWO OF THIS CHAPTER, BUT ONLY IF THE SCHOOL DISTRICT OF WHICH
14 SUCH PUPIL IS A RESIDENT IS NOT REQUIRED TO PAY FOR SUCH TUITION.

15 13. "SCHOOL IMPROVEMENT ORGANIZATION" MEANS A NOT-FOR-PROFIT ENTITY
16 WHICH: (A) IS EXEMPT FROM TAXATION UNDER PARAGRAPH THREE OF SUBSECTION
17 (C) OF SECTION FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE; (B) USES
18 AT LEAST NINETY PERCENT OF THE QUALIFIED CONTRIBUTIONS RECEIVED DURING
19 THE CALENDAR YEAR AND ANY INCOME DERIVED FROM QUALIFIED CONTRIBUTIONS
20 DURING SUCH MONTHS TO ASSIST PUBLIC SCHOOLS OR PUBLIC SCHOOL DISTRICTS
21 LOCATED IN THIS STATE IN THEIR PROVISION OF EDUCATIONAL PROGRAMS, EITHER
22 BY MAKING CONTRIBUTIONS TO ONE OR MORE PUBLIC SCHOOLS OR PUBLIC SCHOOL
23 DISTRICTS LOCATED IN THIS STATE OR PROVIDING EDUCATIONAL PROGRAMS TO, OR
24 IN CONJUNCTION WITH, ONE OR MORE PUBLIC SCHOOLS OR PUBLIC SCHOOL
25 DISTRICTS LOCATED IN THIS STATE; (C) DEPOSITS AND HOLDS QUALIFIED
26 CONTRIBUTIONS AND ANY INCOME DERIVED FROM QUALIFIED CONTRIBUTIONS IN AN
27 ACCOUNT THAT IS SEPARATE FROM THE ORGANIZATION'S OPERATING OR OTHER
28 FUNDS UNTIL SUCH QUALIFIED CONTRIBUTIONS OR INCOME ARE WITHDRAWN FOR
29 USE; AND (D) IS APPROVED TO ISSUE CERTIFICATES OF RECEIPT PURSUANT TO
30 THIS ARTICLE. SUCH TERM INCLUDES A PRE-KINDERGARTEN PROGRAM OR NOT-FOR-
31 PROFIT ENTITY THAT ALLOWS THE TAXPAYER TO CHOOSE TO DONATE TO A PROGRAM,
32 PROJECT OR INITIATIVE FOR USE IN A PUBLIC SCHOOL.

33 S 1211. APPROVAL TO ISSUE CERTIFICATES OF RECEIPT. 1. PUBLIC SCHOOLS
34 AND PUBLIC SCHOOL DISTRICTS. ALL PUBLIC SCHOOLS AND PUBLIC SCHOOL
35 DISTRICTS SHALL BE APPROVED TO ISSUE CERTIFICATES OF RECEIPT FOR QUALI-
36 FIED CONTRIBUTIONS IN ACCORDANCE WITH SECTION FORTY-TWO OF THE TAX LAW,
37 PROVIDED, THAT SUCH PUBLIC SCHOOL OR PUBLIC SCHOOL DISTRICT SHALL NOT BE
38 APPROVED IF EITHER: (A) SUCH PUBLIC SCHOOL OR PUBLIC SCHOOL DISTRICT
39 FAILS TO DEPOSIT AND HOLD QUALIFIED CONTRIBUTIONS AND ANY INCOME DERIVED
40 FROM QUALIFIED CONTRIBUTIONS IN AN ACCOUNT THAT IS SEPARATE FROM THE
41 SCHOOL OR SCHOOL DISTRICT'S OPERATING OR OTHER FUNDS UNTIL SUCH QUALI-
42 FIED CONTRIBUTIONS OR INCOME ARE WITHDRAWN FOR USE; OR (B) THE COMMIS-
43 SIONER HAS REVOKED SUCH APPROVAL FOR SUCH PUBLIC SCHOOL OR PUBLIC SCHOOL
44 DISTRICT PURSUANT TO SECTION TWELVE HUNDRED FOURTEEN OF THIS ARTICLE.

45 2. SCHOOL IMPROVEMENT ORGANIZATIONS, EDUCATIONAL SCHOLARSHIP ORGANIZA-
46 TIONS AND LOCAL EDUCATION FUNDS. NO SCHOOL IMPROVEMENT ORGANIZATION,
47 EDUCATIONAL SCHOLARSHIP ORGANIZATION OR LOCAL EDUCATION FUND SHALL ISSUE
48 ANY CERTIFICATES OF RECEIPT WITHOUT FILING AN APPLICATION PURSUANT TO
49 SECTION TWELVE HUNDRED TWELVE OF THIS ARTICLE AND RECEIVING APPROVAL
50 PURSUANT TO SECTION TWELVE HUNDRED THIRTEEN OF THIS ARTICLE.

51 S 1212. APPLICATIONS FOR APPROVAL TO ISSUE CERTIFICATES OF RECEIPT.
52 EACH SCHOOL IMPROVEMENT ORGANIZATION, EDUCATIONAL SCHOLARSHIP ORGANIZA-
53 TION AND LOCAL EDUCATION FUND SHALL SUBMIT AN APPLICATION TO THE COMMIS-
54 SIONER FOR APPROVAL TO ISSUE CERTIFICATES OF RECEIPT IN THE FORM AND
55 MANNER PRESCRIBED BY THE COMMISSIONER, PROVIDED THAT SUCH APPLICATION
56 SHALL INCLUDE: (A) SUBMISSION OF DOCUMENTATION THAT SUCH SCHOOL IMPROVE-

MENT ORGANIZATION, LOCAL EDUCATION FUND OR EDUCATIONAL SCHOLARSHIP ORGANIZATION HAS BEEN GRANTED EXEMPTION FROM TAXATION UNDER PARAGRAPH THREE OF SUBSECTION (C) OF SECTION FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE; (B) A LIST OF NAMES AND ADDRESSES OF ALL MEMBERS OF THE GOVERNING BOARD OF THE SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND OR EDUCATIONAL SCHOLARSHIP ORGANIZATION; AND (C) AN EDUCATIONAL SCHOLARSHIP ORGANIZATION SHALL PROVIDE CRITERIA FOR THE AWARDING OF SCHOLARSHIPS TO ELIGIBLE STUDENTS.

S 1213. APPLICATION APPROVAL FOR CERTIFICATES OF RECEIPT. 1. IN GENERAL. THE COMMISSIONER SHALL REVIEW EACH APPLICATION TO ISSUE CERTIFICATES OF RECEIPT PURSUANT TO THIS ARTICLE. THE COMMISSIONER SHALL PUBLISH CRITERIA USED TO DETERMINE SELECTION AND ESTABLISH AN APPEALS PROCESS FOR APPLICATIONS THAT ARE NOT APPROVED.

2. NOTIFICATION. APPLICANTS SHALL BE NOTIFIED OF THE COMMISSIONER'S DETERMINATION WITHIN FIVE BUSINESS DAYS OF THE DETERMINATION.

S 1214. REVOCATION OF APPROVAL TO ISSUE CERTIFICATES OF RECEIPT. THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF TAXATION AND FINANCE, MAY REVOKE THE APPROVAL OF A SCHOOL IMPROVEMENT ORGANIZATION, EDUCATIONAL SCHOLARSHIP ORGANIZATION, LOCAL EDUCATION FUND, PUBLIC SCHOOL OR PUBLIC SCHOOL DISTRICT TO ISSUE CERTIFICATES OF RECEIPT UPON A FINDING THAT SUCH ORGANIZATION, FUND, SCHOOL OR SCHOOL DISTRICT HAS VIOLATED THIS ARTICLE OR SECTION FORTY-TWO OF THE TAX LAW. THESE VIOLATIONS SHALL INCLUDE, BUT NOT BE LIMITED TO, ANY OF THE FOLLOWING: (A) FAILURE TO MEET THE REQUIREMENTS OF THIS ARTICLE OR SECTION FORTY-TWO OF THE TAX LAW; (B) THE FAILURE TO MAINTAIN FULL AND ADEQUATE RECORDS WITH RESPECT TO THE RECEIPT OF QUALIFIED CONTRIBUTIONS; (C) THE FAILURE TO SUPPLY SUCH RECORDS TO THE COMMISSIONER, DEPARTMENT OF TAXATION AND FINANCE, OR THE DEPARTMENT WHEN REQUESTED; OR (D) THE FAILURE TO PROVIDE NOTICE TO THE DEPARTMENT OF TAXATION AND FINANCE OF THE ISSUANCE OR NON-ISSUANCE OF CERTIFICATES OF RECEIPT PURSUANT TO SECTION FORTY-TWO OF THE TAX LAW; PROVIDED, HOWEVER, THAT THE COMMISSIONER SHALL NOT REVOKE APPROVAL PURSUANT TO THIS SECTION BASED UPON A VIOLATION OF TAX LAW UNLESS THE COMMISSIONER OF TAXATION AND FINANCE AGREES THAT REVOCATION IS WARRANTED; AND PROVIDED FURTHER THAT THE COMMISSIONER SHALL NOT REVOKE APPROVAL PURSUANT TO THIS SECTION WHEN THE FAILURE TO COMPLY IS DUE TO CLERICAL ERROR AND NOT NEGLIGENCE OR INTENTIONAL DISREGARD FOR THE LAW. WITHIN FIVE DAYS OF THE DETERMINATION REVOKING APPROVAL, THE COMMISSIONER SHALL PROVIDE NOTICE OF SUCH REVOCATION TO THE EDUCATIONAL SCHOLARSHIP ORGANIZATION, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, PUBLIC SCHOOL, OR PUBLIC SCHOOL DISTRICT AND TO THE DEPARTMENT OF TAXATION AND FINANCE. THE COMMISSIONER SHALL ESTABLISH AN APPEALS PROCESS FOR DETERMINATIONS REVOKING APPROVALS.

S 1215. REPORTING AND RECORDKEEPING. 1. REPORTING. EACH EDUCATIONAL SCHOLARSHIP ORGANIZATION, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, PUBLIC SCHOOL AND PUBLIC SCHOOL DISTRICT THAT RECEIVES QUALIFIED CONTRIBUTIONS SHALL REPORT TO THE COMMISSIONER AND THE DEPARTMENT OF TAXATION AND FINANCE BY JANUARY THIRTY-FIRST OF EACH CALENDAR YEAR. SUCH REPORT SHALL BE IN THE FORM AND MANNER PRESCRIBED BY THE COMMISSIONER IN CONSULTATION WITH THE COMMISSIONER OF TAXATION AND FINANCE.

2. RECORDKEEPING. EACH EDUCATIONAL SCHOLARSHIP ORGANIZATION, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, PUBLIC SCHOOL AND PUBLIC SCHOOL DISTRICT THAT ISSUED AT LEAST ONE CERTIFICATE OF RECEIPT SHALL MAINTAIN RECORDS INCLUDING: (A) NOTIFICATIONS RECEIVED FROM THE DEPARTMENT OF TAXATION AND FINANCE; (B) NOTIFICATIONS MADE TO THE DEPARTMENT OF TAXATION AND FINANCE; (C) COPIES OF QUALIFIED CONTRIBUTIONS RECEIVED; (D) COPIES OF THE DEPOSIT OF SUCH QUALIFIED CONTRIBUTIONS; (E) COPIES OF

1 ISSUED CERTIFICATES OF RECEIPT; (F) ANNUAL FINANCIAL STATEMENTS; (G) IN
2 THE CASE OF SCHOOL IMPROVEMENT ORGANIZATIONS, EDUCATIONAL SCHOLARSHIP
3 ORGANIZATIONS AND LOCAL EDUCATION FUNDS, THE APPLICATION SUBMITTED
4 PURSUANT TO SECTION TWELVE HUNDRED TWELVE OF THIS ARTICLE AND THE
5 APPROVAL ISSUED BY THE COMMISSIONER; AND (H) ANY OTHER INFORMATION
6 PRESCRIBED BY THE COMMISSIONER. SUCH RECORDS SHALL BE MAINTAINED BY THE
7 ENTITY OR ORGANIZATION FOR FIVE YEARS.

8 S 1216. JOINT ANNUAL REPORT. ON OR BEFORE THE LAST DAY OF MAY FOR EACH
9 CALENDAR YEAR, THE COMMISSIONER OF TAXATION AND FINANCE AND THE COMMIS-
10 SIONER, JOINTLY, SHALL SUBMIT A WRITTEN REPORT AS PROVIDED IN SUBDIVI-
11 SION (K) OF SECTION FORTY-TWO OF THE TAX LAW.

12 S 1217. COMMISSIONER; POWERS. THE COMMISSIONER SHALL PROMULGATE ON AN
13 EMERGENCY BASIS REGULATIONS NECESSARY FOR THE IMPLEMENTATION OF THIS
14 SECTION. THE COMMISSIONER SHALL MAKE ANY APPLICATION REQUIRED TO BE
15 FILED PURSUANT TO THIS ARTICLE AVAILABLE TO APPLICANTS WITHIN SIXTY DAYS
16 OF THE EFFECTIVE DATE OF THIS ARTICLE.

17 S 3. The education law is amended by adding a new section 1503-a to
18 read as follows:

19 S 1503-A. POWER TO ACCEPT AND SOLICIT GIFTS AND DONATIONS. 1. THE
20 TRUSTEES OR BOARDS OF EDUCATION OF ALL SCHOOL DISTRICTS ORGANIZED BY
21 SPECIAL LAWS OR PURSUANT TO THE PROVISIONS OF A GENERAL LAW ARE HEREBY
22 AUTHORIZED AND EMPOWERED TO ACCEPT GIFTS, DONATIONS, AND CONTRIBUTIONS
23 TO THE DISTRICT AND TO SOLICIT THE SAME.

24 2. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER OR OF ANY OTHER
25 GENERAL OR SPECIAL LAW TO THE CONTRARY, THE RECEIPT OF SUCH GIFTS,
26 DONATIONS AND CONTRIBUTIONS MADE PURSUANT TO ARTICLE TWENTY-FIVE OF THIS
27 CHAPTER, AND ANY INCOME DERIVED THEREFROM, SHALL BE DISREGARDED FOR THE
28 PURPOSES OF ALL APPORTIONMENTS, COMPUTATIONS, AND DETERMINATIONS OF
29 STATE AID.

30 S 4. The tax law is amended by adding a new section 42 to read as
31 follows:

32 S 42. EDUCATION TAX CREDIT. (A) DEFINITIONS. FOR THE PURPOSES OF THIS
33 SECTION, THE FOLLOWING TERMS HAVE THE SAME DEFINITION AS IN SECTION
34 TWELVE HUNDRED TEN OF THE EDUCATION LAW: "AUTHORIZED CONTRIBUTION",
35 "CONTRIBUTION", "EDUCATIONAL PROGRAM", "EDUCATIONAL SCHOLARSHIP ORGAN-
36 IZATION", "ELIGIBLE PUPIL", "LOCAL EDUCATION FUND", "NON-PUBLIC SCHOOL",
37 "PUBLIC EDUCATION ENTITY", "PUBLIC SCHOOL", "QUALIFIED CONTRIBUTION",
38 "QUALIFIED SCHOOL", "SCHOLARSHIP", AND "SCHOOL IMPROVEMENT ORGANIZA-
39 TION".

40 (B) ALLOWANCE OF CREDIT. A TAXPAYER SUBJECT TO TAX UNDER ARTICLE
41 NINE-A OR TWENTY-TWO OF THIS CHAPTER SHALL BE ALLOWED AN EDUCATION TAX
42 CREDIT AGAINST SUCH TAX, PURSUANT TO THE PROVISIONS REFERENCED IN SUBDI-
43 VISION (1) OF THIS SECTION, WITH RESPECT TO QUALIFIED CONTRIBUTIONS MADE
44 DURING THE TAXABLE YEAR.

45 (C) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT SHALL BE THE LESSER OF
46 SEVENTY-FIVE PERCENT OF THE TAXPAYER'S TOTAL QUALIFIED CONTRIBUTIONS OR
47 ONE MILLION DOLLARS. IF THE TAXPAYER IS A PARTNER IN A PARTNERSHIP OR
48 SHAREHOLDER OF A NEW YORK S CORPORATION, THEN THE CAP IMPOSED BY THE
49 PRECEDING SENTENCE SHALL BE APPLIED AT THE ENTITY LEVEL, SO THAT THE
50 AGGREGATE CREDIT ALLOWED TO ALL THE PARTNERS OR SHAREHOLDERS OF EACH
51 SUCH ENTITY IN THE TAXABLE YEAR DOES NOT EXCEED ONE MILLION DOLLARS.

52 (D) INFORMATION TO BE POSTED ON THE DEPARTMENT'S WEBSITE. BEGINNING ON
53 THE SIXTEENTH DAY OF JANUARY OF EACH YEAR, THE COMMISSIONER SHALL MAIN-
54 TAIN ON THE DEPARTMENT'S WEBSITE A RUNNING TOTAL OF THE AMOUNT OF AVAIL-
55 ABLE CREDIT FOR WHICH TAXPAYERS MAY APPLY PURSUANT TO THIS SECTION.
56 ADDITIONALLY, THE COMMISSIONER SHALL MAINTAIN ON THE DEPARTMENT'S

WEBSITE A LIST OF THE SCHOOL IMPROVEMENT ORGANIZATIONS, LOCAL EDUCATION FUNDS AND EDUCATIONAL SCHOLARSHIP ORGANIZATIONS APPROVED TO ISSUE CERTIFICATES OF RECEIPT PURSUANT TO ARTICLE TWENTY-FIVE OF THE EDUCATION LAW. THE COMMISSIONER SHALL ALSO MAINTAIN ON THE DEPARTMENT'S WEBSITE A LIST OF PUBLIC EDUCATION ENTITIES, SCHOOL IMPROVEMENT ORGANIZATIONS, LOCAL EDUCATION FUNDS AND EDUCATIONAL SCHOLARSHIP ORGANIZATIONS WHOSE APPROVAL TO ISSUE CERTIFICATES OF RECEIPT HAS BEEN REVOKED ALONG WITH THE DATE OF SUCH REVOCATION.

(E) APPLICATIONS FOR CONTRIBUTION AUTHORIZATION CERTIFICATES. PRIOR TO MAKING A CONTRIBUTION TO A PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION, THE TAXPAYER SHALL APPLY TO THE DEPARTMENT FOR A CONTRIBUTION AUTHORIZATION CERTIFICATE FOR SUCH CONTRIBUTION. SUCH APPLICATION SHALL BE IN THE FORM AND MANNER PRESCRIBED BY THE DEPARTMENT. THE DEPARTMENT MAY ALLOW TAXPAYERS TO MAKE MULTIPLE APPLICATIONS ON THE SAME FORM, PROVIDED THAT EACH CONTRIBUTION LISTED ON SUCH APPLICATION SHALL BE TREATED AS A SEPARATE APPLICATION AND THAT THE DEPARTMENT SHALL ISSUE SEPARATE CONTRIBUTION AUTHORIZATION CERTIFICATES FOR EACH SUCH APPLICATION.

(F) CONTRIBUTION AUTHORIZATION CERTIFICATES. 1. ISSUANCE OF CERTIFICATES. THE COMMISSIONER SHALL ISSUE CONTRIBUTION AUTHORIZATION CERTIFICATES IN TWO PHASES. IN PHASE ONE, WHICH BEGINS ON THE FIRST DAY OF JANUARY AND ENDS ON THE FIFTEENTH DAY OF JANUARY, THE COMMISSIONER SHALL ACCEPT APPLICATIONS FOR CONTRIBUTION AUTHORIZATION CERTIFICATES BUT SHALL NOT ISSUE ANY SUCH CERTIFICATES. COMMENCING AFTER THE SIXTEENTH DAY OF JANUARY, THE COMMISSIONER SHALL ISSUE CONTRIBUTION AUTHORIZATION CERTIFICATES FOR APPLICATIONS RECEIVED DURING PHASE ONE, PROVIDED THAT IF THE AGGREGATE TOTAL OF THE CONTRIBUTIONS FOR WHICH APPLICATIONS HAVE BEEN RECEIVED DURING PHASE ONE EXCEEDS THE AMOUNT OF THE CREDIT CAP IN SUBDIVISION (H) OF THIS SECTION, THE AUTHORIZED CONTRIBUTION AMOUNT LISTED ON EACH CONTRIBUTION AUTHORIZATION CERTIFICATE SHALL EQUAL THE PRO-RATA SHARE OF THE CREDIT CAP. IF THE CREDIT CAP IS NOT EXCEEDED, PHASE TWO COMMENCES ON JANUARY SIXTEENTH AND ENDS ON NOVEMBER FIRST. THE COMMISSIONER SHALL ISSUE CONTRIBUTION AUTHORIZATION CERTIFICATES ON A FIRST-COME FIRST SERVE BASIS BASED UPON THE DATE THE DEPARTMENT RECEIVED THE TAXPAYER'S APPLICATION FOR SUCH CERTIFICATE; PROVIDED, HOWEVER, THAT IF ON ANY DAY THE DEPARTMENT RECEIVES APPLICATIONS REQUESTING CONTRIBUTION AUTHORIZATION CERTIFICATES FOR CONTRIBUTIONS THAT IN THE AGGREGATE EXCEED THE AMOUNT OF THE REMAINING AVAILABLE CREDIT ON SUCH DAY, THE AUTHORIZED CONTRIBUTION AMOUNT LISTED IN EACH CONTRIBUTION AUTHORIZATION CERTIFICATE SHALL BE THE TAXPAYER'S PRO-RATA SHARE OF THE REMAINING AVAILABLE CREDIT. FOR PURPOSES OF DETERMINING A TAXPAYER'S PRO-RATA SHARE OF REMAINING AVAILABLE CREDIT, THE COMMISSIONER SHALL MULTIPLY THE AMOUNT OF REMAINING AVAILABLE CREDIT BY A FRACTION, THE NUMERATOR OF WHICH EQUALS THE TOTAL CONTRIBUTION AMOUNT LISTED ON THE TAXPAYER'S APPLICATION AND THE DENOMINATOR OF WHICH EQUALS THE AGGREGATE AMOUNT OF CONTRIBUTIONS LISTED ON THE APPLICATIONS FOR CONTRIBUTION AUTHORIZATION CERTIFICATES RECEIVED ON SUCH DAY. CONTRIBUTION AUTHORIZATION CERTIFICATES FOR APPLICATIONS RECEIVED DURING PHASE ONE SHALL BE MAILED NO LATER THAN THE FIFTH DAY OF FEBRUARY. CONTRIBUTION AUTHORIZATION CERTIFICATES FOR APPLICATIONS RECEIVED DURING PHASE TWO SHALL BE MAILED WITHIN TWENTY DAYS OF RECEIPT OF SUCH APPLICATIONS. PROVIDED, HOWEVER, THAT NO CONTRIBUTION AUTHORIZATION CERTIFICATES FOR APPLICATIONS RECEIVED DURING PHASE TWO SHALL BE ISSUED UNTIL ALL OF THE CONTRIBUTION AUTHORIZATION CERTIFICATES FOR APPLICATIONS RECEIVED DURING PHASE ONE HAVE BEEN ISSUED.

2. CONTRIBUTION AUTHORIZATION CERTIFICATE CONTENTS. EACH CONTRIBUTION AUTHORIZATION CERTIFICATE SHALL STATE: (I) THE DATE SUCH CERTIFICATE WAS ISSUED; (II) THE DATE BY WHICH THE AUTHORIZED CONTRIBUTIONS LISTED IN THE CERTIFICATE MUST BE MADE, WHICH SHALL BE NO LATER THAN NOVEMBER THIRTIETH OF THE YEAR FOR WHICH THE CONTRIBUTION AUTHORIZATION CERTIFICATE WAS ISSUED; (III) THE TAXPAYER'S NAME AND ADDRESS; (IV) THE AMOUNT OF AUTHORIZED CONTRIBUTIONS; (V) THE CONTRIBUTION AUTHORIZATION CERTIFICATE'S CERTIFICATE NUMBER; (VI) THE NAME AND ADDRESS OF THE PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND OR EDUCATIONAL SCHOLARSHIP ORGANIZATION FOR WHICH THE TAXPAYER MAY MAKE THE AUTHORIZED CONTRIBUTION; AND (VII) ANY OTHER INFORMATION THAT THE COMMISSIONER DEEMS NECESSARY.

3. NOTIFICATION OF THE ISSUANCE OF A CONTRIBUTION AUTHORIZATION CERTIFICATE. UPON ISSUANCE OF A CONTRIBUTION AUTHORIZATION CERTIFICATE, THE COMMISSIONER SHALL NOTIFY THE EDUCATIONAL SCHOLARSHIP ORGANIZATION, PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION OR LOCAL EDUCATION FUND OF THE ISSUANCE OF THE CONTRIBUTION AUTHORIZATION CERTIFICATE TO A TAXPAYER. SUCH NOTIFICATION SHALL INCLUDE: (I) THE TAXPAYER'S NAME AND ADDRESS; (II) THE DATE SUCH CERTIFICATE WAS ISSUED; (III) THE DATE BY WHICH THE AUTHORIZED CONTRIBUTION LISTED IN THE NOTIFICATION MUST BE MADE BY THE TAXPAYER; (IV) THE AMOUNT OF THE AUTHORIZED CONTRIBUTION; (V) CONTRIBUTION AUTHORIZATION CERTIFICATE; AND (VI) ANY OTHER INFORMATION THAT THE COMMISSIONER DEEMS NECESSARY.

(G) CERTIFICATE OF RECEIPT. 1. IN GENERAL. NO PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION SHALL ISSUE A CERTIFICATE OF RECEIPT FOR ANY CONTRIBUTION MADE BY A TAXPAYER UNLESS SUCH PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION HAS BEEN APPROVED TO ISSUE CERTIFICATES OF RECEIPT PURSUANT TO ARTICLE TWENTY-FIVE OF THE EDUCATION LAW. NO PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION SHALL ISSUE A CERTIFICATE OF RECEIPT FOR A CONTRIBUTION MADE BY A TAXPAYER UNLESS SUCH PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION HAS RECEIVED NOTICE FROM THE DEPARTMENT THAT THE DEPARTMENT ISSUED A CREDIT AUTHORIZATION CERTIFICATE TO THE TAXPAYER FOR SUCH CONTRIBUTION.

2. TIMELY CONTRIBUTION. IF A TAXPAYER MAKES AN AUTHORIZED CONTRIBUTION TO THE PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION SET FORTH ON THE AUTHORIZATION CERTIFICATE ISSUED TO THE TAXPAYER NO LATER THAN THE DATE BY WHICH SUCH AUTHORIZED CONTRIBUTION IS REQUIRED TO BE MADE, SUCH PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION SHALL, WITHIN THIRTY DAYS OF RECEIPT OF THE AUTHORIZED CONTRIBUTION, ISSUE TO THE TAXPAYER A WRITTEN CERTIFICATE OF RECEIPT; PROVIDED, HOWEVER, THAT IF THE TAXPAYER CONTRIBUTES AN AMOUNT THAT IS LESS THAN THE AMOUNT LISTED ON THE TAXPAYER'S CONTRIBUTION AUTHORIZATION CERTIFICATE, THE TAXPAYER SHALL NOT BE ISSUED A CERTIFICATE OF RECEIPT FOR SUCH CONTRIBUTION.

3. CERTIFICATE OF RECEIPT CONTENTS. EACH CERTIFICATE OF RECEIPT SHALL STATE: (I) THE NAME AND ADDRESS OF THE ISSUING PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION; (II) THE TAXPAYER'S NAME AND ADDRESS; (III) THE DATE FOR EACH CONTRIBUTION; (IV) THE AMOUNT OF EACH CONTRIBUTION AND THE CORRESPONDING CONTRIBUTION AUTHORIZATION CERTIFICATE NUMBER; (V) THE

1 TOTAL AMOUNT OF CONTRIBUTIONS; AND (VI) ANY OTHER INFORMATION THAT THE
2 COMMISSIONER DEEMS NECESSARY.

3 4. NOTIFICATION TO THE DEPARTMENT FOR THE ISSUANCE OF A CERTIFICATE OF
4 RECEIPT. UPON THE ISSUANCE OF A CERTIFICATE OF RECEIPT, THE ISSUING
5 PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCA-
6 TION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION SHALL, WITHIN THIRTY
7 DAYS OF ISSUING THE CERTIFICATE OF RECEIPT, PROVIDE THE DEPARTMENT WITH
8 NOTIFICATION OF THE ISSUANCE OF SUCH CERTIFICATE IN THE FORM AND MANNER
9 PRESCRIBED BY THE DEPARTMENT.

10 5. NOTIFICATION TO THE DEPARTMENT OF THE NON-ISSUANCE OF A CERTIFICATE
11 OF RECEIPT. EACH PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZA-
12 TION, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION THAT
13 RECEIVED NOTIFICATION FROM THE DEPARTMENT PURSUANT TO SUBDIVISION (D) OF
14 THIS SECTION REGARDING THE ISSUANCE OF A CONTRIBUTION AUTHORIZATION
15 CERTIFICATE TO A TAXPAYER SHALL, WITHIN THIRTY DAYS OF THE EXPIRATION
16 DATE FOR SUCH AUTHORIZED CONTRIBUTION, PROVIDE NOTIFICATION TO THE
17 DEPARTMENT FOR EACH TAXPAYER THAT FAILED TO MAKE THE AUTHORIZED CONTRIB-
18 UTION TO SUCH PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION,
19 LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION IN THE
20 FORM AND MANNER PRESCRIBED BY THE DEPARTMENT.

21 6. FAILURE TO NOTIFY THE DEPARTMENT. WITHIN THIRTY DAYS OF DISCOVERY
22 OF THE FAILURE OF ANY PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGAN-
23 IZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION
24 TO COMPLY WITH THE NOTIFICATION REQUIREMENTS PRESCRIBED BY PARAGRAPHS
25 FOUR AND FIVE OF THIS SUBDIVISION, THE COMMISSIONER SHALL ISSUE A NOTICE
26 OF COMPLIANCE FAILURE TO SUCH ENTITY, PROGRAM FUND OR ORGANIZATION. SUCH
27 ENTITY, PROGRAM FUND OR ORGANIZATION SHALL HAVE THIRTY DAYS FROM THE
28 DATE OF SUCH NOTICE TO MAKE THE NOTIFICATIONS PRESCRIBED BY PARAGRAPHS
29 FOUR AND FIVE OF THIS SUBDIVISION. SUCH PERIOD MAY BE EXTENDED FOR AN
30 ADDITIONAL THIRTY DAYS UPON THE REQUEST OF THE ENTITY, PROGRAM FUND OR
31 ORGANIZATION. UPON THE EXPIRATION OF THE PERIOD FOR COMPLIANCE SET FORTH
32 IN THE NOTICE PRESCRIBED BY THIS PARAGRAPH, THE COMMISSIONER SHALL NOTI-
33 FY THE COMMISSIONER OF EDUCATION THAT SUCH ENTITY, PROGRAM FUND OR
34 ORGANIZATION FAILED TO MAKE THE NOTIFICATIONS PRESCRIBED BY PARAGRAPHS
35 FOUR AND FIVE OF THIS SUBDIVISION.

36 (H) CREDIT CAP. THE MAXIMUM PERMITTED CREDITS UNDER THIS SECTION
37 AVAILABLE ANNUALLY TO ALL TAXPAYERS FOR QUALIFIED CONTRIBUTIONS FOR
38 CALENDAR YEAR TWO THOUSAND SIXTEEN AND ALL FOLLOWING YEARS SHALL BE ONE
39 HUNDRED MILLION DOLLARS. THE MAXIMUM PERMITTED CREDITS UNDER THIS
40 SECTION FOR QUALIFIED CONTRIBUTIONS SHALL BE ALLOCATED FIFTY PERCENT TO
41 PUBLIC EDUCATION ENTITIES, SCHOOL IMPROVEMENT ORGANIZATIONS, AND LOCAL
42 EDUCATION FUNDS AND FIFTY PERCENT TO EDUCATIONAL SCHOLARSHIP ORGANIZA-
43 TIONS.

44 (I) ADDITIONS TO THE CREDIT CAP. UNISSUED CERTIFICATES OF RECEIPT. ANY
45 AMOUNTS FOR WHICH THE DEPARTMENT RECEIVES NOTIFICATION OF NON-ISSUANCE
46 OF A CERTIFICATE OF RECEIPT SHALL BE ADDED TO THE CAP PRESCRIBED IN
47 SUBDIVISION (H) OF THIS SECTION FOR THE IMMEDIATELY FOLLOWING YEAR.

48 (J) OTHER REQUIREMENTS; MISCELLANEOUS. 1. RECORD KEEPING. EACH TAXPAY-
49 ER SHALL, FOR EACH TAXABLE YEAR FOR WHICH THE EDUCATION TAX CREDIT
50 PROVIDED FOR UNDER THIS SECTION IS CLAIMED, MAINTAIN RECORDS OF THE
51 FOLLOWING INFORMATION: (I) CONTRIBUTION AUTHORIZATION CERTIFICATES
52 OBTAINED PURSUANT TO SUBDIVISION (F) OF THIS SECTION, AND (II) CERTIF-
53 ICATES OF RECEIPT OBTAINED PURSUANT TO SUBDIVISION (G) OF THIS SECTION.

54 2. REGULATIONS. THE COMMISSIONER IS HEREBY AUTHORIZED TO PROMULGATE
55 AND ADOPT ON AN EMERGENCY BASIS REGULATIONS NECESSARY FOR THE IMPLEMEN-
56 TATION OF THIS SECTION.

1 (K) JOINT ANNUAL REPORT. ON OR BEFORE THE LAST DAY OF MAY FOR EACH
2 CALENDAR YEAR, FOR THE IMMEDIATELY PRECEDING YEAR, THE COMMISSIONER AND
3 THE COMMISSIONER OF EDUCATION SHALL JOINTLY SUBMIT A WRITTEN REPORT TO
4 THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE
5 ASSEMBLY, THE CHAIRMAN OF THE SENATE FINANCE COMMITTEE AND THE CHAIRMAN
6 OF THE ASSEMBLY WAYS AND MEANS COMMITTEE REGARDING THE CREDIT. SUCH
7 REPORT SHALL CONTAIN INFORMATION FOR ARTICLES NINE-A AND TWENTY-TWO OF
8 THIS CHAPTER, RESPECTIVELY, REGARDING: (I) THE NUMBER OF APPLICATIONS
9 RECEIVED; (II) THE NUMBER OF AND AGGREGATE VALUE OF THE CONTRIBUTION
10 AUTHORIZATION CERTIFICATES ISSUED FOR CONTRIBUTIONS TO PUBLIC EDUCATION
11 ENTITIES, SCHOOL IMPROVEMENT ORGANIZATIONS, LOCAL EDUCATION FUNDS, AND
12 EDUCATIONAL SCHOLARSHIP ORGANIZATIONS, RESPECTIVELY; (III) THE GEOGRAPH-
13 ICAL DISTRIBUTION BY COUNTY, TO THE EXTENT FEASIBLE, OF (A) THE APPLICA-
14 TIONS FOR CONTRIBUTION AUTHORIZATION CERTIFICATES, DISTRIBUTION BY THE
15 COUNTY, TO THE EXTENT FEASIBLE, OF (B) THE PUBLIC EDUCATION ENTITIES,
16 SCHOOL IMPROVEMENT ORGANIZATIONS, LOCAL EDUCATION FUNDS, AND EDUCATIONAL
17 SCHOLARSHIP ORGANIZATIONS LISTED ON THE ISSUED CONTRIBUTION AUTHORI-
18 ZATION CERTIFICATES; AND (IV) INFORMATION, INCLUDING GEOGRAPHICAL
19 DISTRIBUTION BY COUNTY, TO THE EXTENT FEASIBLE, OF THE NUMBER OF ELIGI-
20 BLE PUPILS THAT RECEIVED SCHOLARSHIPS, THE NUMBER OF QUALIFIED SCHOOLS
21 ATTENDED BY ELIGIBLE PUPILS THAT RECEIVED SUCH SCHOLARSHIPS, AND THE
22 AVERAGE VALUE OF SCHOLARSHIPS RECEIVED BY SUCH ELIGIBLE PUPILS. THE
23 COMMISSIONER AND DESIGNATED EMPLOYEES OF THE DEPARTMENT AND THE COMMIS-
24 SIONER OF EDUCATION AND DESIGNATED EMPLOYEES OF THE DEPARTMENT OF EDUCA-
25 TION SHALL BE ALLOWED AND ARE DIRECTED TO SHARE AND EXCHANGE INFORMATION
26 REGARDING THE SCHOOL IMPROVEMENT ORGANIZATIONS, LOCAL EDUCATION FUNDS
27 AND EDUCATIONAL SCHOLARSHIP ORGANIZATIONS THAT APPLIED FOR APPROVAL TO
28 BE AUTHORIZED TO RECEIVE QUALIFIED CONTRIBUTIONS; AND THE PUBLIC EDUCA-
29 TION ENTITIES, SCHOOL IMPROVEMENT ORGANIZATIONS, LOCAL EDUCATION FUNDS,
30 AND EDUCATIONAL SCHOLARSHIP ORGANIZATIONS AUTHORIZED TO ISSUE CERTIF-
31 ICATES OF RECEIPT, INCLUDING INFORMATION CONTAINED IN OR DERIVED FROM
32 APPLICATION FORMS AND REPORTS SUBMITTED TO THE DEPARTMENT OF EDUCATION
33 OR THE COMMISSIONER OF EDUCATION.

34 (L) CROSS REFERENCES. FOR APPLICATION OF THE CREDIT PROVIDED FOR IN
35 THIS SECTION, SEE THE FOLLOWING PROVISIONS OF THIS CHAPTER:

36 (1) ARTICLE 9-A: SECTION 210-B; SUBDIVISION 50;

37 (2) ARTICLE 22: SECTION 606, SUBSECTION (CCC);

38 S 5. Paragraph (b) of subdivision 9 of section 208 of the tax law is
39 amended by adding a new subparagraph 22 to read as follows:

40 (22) THE AMOUNT OF ANY FEDERAL DEDUCTION FOR CHARITABLE CONTRIBUTIONS
41 ALLOWED UNDER SECTION ONE HUNDRED SEVENTY OF THE INTERNAL REVENUE CODE
42 TO THE EXTENT SUCH CONTRIBUTIONS ARE USED AS THE BASIS OF THE CALCU-
43 LATION OF THE EDUCATION TAX CREDIT ALLOWED UNDER SUBDIVISION FIFTY OF
44 SECTION TWO HUNDRED TEN-B OF THIS ARTICLE.

45 S 6. Section 210-B of the tax law is amended by adding a new subdivi-
46 sion 50 to read as follows:

47 50. EDUCATION TAX CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE
48 ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION FORTY-TWO OF
49 THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

50 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION
51 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR THAT YEAR TO LESS
52 THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF
53 SECTION TWO HUNDRED TEN OF THIS ARTICLE. IF THE AMOUNT OF CREDIT ALLOW-
54 ABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH
55 AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX ON THE FIXED DOLLAR MINIMUM
56 THE EXCESS ALLOWED FOR A TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOW-

ING YEAR OR YEARS FOR UP TO FIVE YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

S 7. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding a new clause (xli) to read as follows:

(XLI) EDUCATION TAX CREDIT
UNDER SUBSECTION (CCC)

AMOUNT OF CREDIT UNDER
SUBDIVISION FIFTY OF SECTION
TWO HUNDRED TEN-B

S 8. Section 606 of the tax law is amended by adding a new subsection (ccc) to read as follows:

(CCC) EDUCATION TAX CREDIT. ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT TO BE COMPUTED AS PROVIDED IN SECTION FORTY-TWO OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE. IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS ALLOWED FOR A TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS FOR UP TO FIVE YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

S 9. Subsection (g) of section 615 of the tax law is amended by adding a new paragraph 3 to read as follows:

(3) WITH RESPECT TO AN INDIVIDUAL WHO HAS CLAIMED THE EDUCATION TAX CREDIT FOR QUALIFIED CONTRIBUTIONS PURSUANT TO SUBDIVISION (CCC) OF SECTION SIX HUNDRED SIX OF THIS ARTICLE, THE TAXPAYER'S NEW YORK ITEMIZED DEDUCTION SHALL BE REDUCED BY ANY CHARITABLE CONTRIBUTION DEDUCTION ALLOWED UNDER SECTION ONE HUNDRED SEVENTY OF THE INTERNAL REVENUE CODE WITH RESPECT TO SUCH QUALIFIED CONTRIBUTIONS.

S 10. Severability. If any provision of this section or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the section which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared to be severable.

S 11. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2016; provided however, notwithstanding the foregoing, this act shall not take effect unless the legislature enacts, by no later than March 31, 2015, a chapter of law identical to legislation submitted by the Governor pursuant to Article VII of the New York Constitution as Part D of legislative bill numbers S.2006 and A.3006 relating to the establishment by the president of the higher education services corporation of an application form and procedures that shall allow a student applicant that meets the requirements set forth in subparagraph (ii) of paragraph (a) or subparagraph (ii) of paragraph b of subdivision 5 of section 661 of the education law to apply directly to the higher education services corporation for applicable awards without having to submit information to any other state or federal agency.

PART F

Section 1. The banking law is amended by adding a new section 9-w to read as follows:

S 9-W. STANDARD FINANCIAL AID AWARD LETTER. THE SUPERINTENDENT OF FINANCIAL SERVICES IN CONSULTATION WITH THE PRESIDENT OF THE HIGHER EDUCATION SERVICES CORPORATION SHALL DEVELOP A STANDARD FINANCIAL AID AWARD LETTER WHICH SHALL CLEARLY DELINEATE (A) THE ESTIMATED COST OF ATTENDANCE, (B) ALL FINANCIAL AID OFFERED, WITH AN EXPLANATION AS TO

1 WHICH COMPONENTS WILL REQUIRE REPAYMENT, (C) ANY EXPECTED STUDENT AND/OR
2 FAMILY CONTRIBUTION, (D) CAMPUS-SPECIFIC GRADUATION, MEDIAN BORROWING,
3 AND LOAN DEFAULT RATES, AND (E) ANY OTHER INFORMATION AS DETERMINED BY
4 THE SUPERINTENDENT IN CONSULTATION WITH THE PRESIDENT. THE SUPERINTEN-
5 DENT SHALL PUBLISH AND MAKE AVAILABLE SUCH STANDARD LETTER BY DECEMBER
6 THIRTY-FIRST, TWO THOUSAND FIFTEEN AND THEREAFTER. EACH COLLEGE, VOCA-
7 TIONAL INSTITUTION, AND ANY OTHER INSTITUTION THAT OFFERS AN APPROVED
8 PROGRAM AS DEFINED IN SECTION SIX HUNDRED ONE OF THE EDUCATION LAW SHALL
9 UTILIZE THE STANDARD LETTER ISSUED BY THE DEPARTMENT OF FINANCIAL
10 SERVICES IN RESPONDING TO ALL FINANCIAL AID APPLICANTS FOR THE TWO THOU-
11 SAND SIXTEEN--TWO THOUSAND SEVENTEEN ACADEMIC YEAR AND THEREAFTER. THE
12 SUPERINTENDENT SHALL PROMULGATE REGULATIONS IMPLEMENTING THIS SECTION.

13 S 2. This act shall take effect immediately and shall be deemed to
14 have been in full force and effect on and after April 1, 2015.

15 PART G

16 Section 1. Section 7408 of the education law is amended by adding a
17 new subdivision 6 to read as follows:

18 6. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY FIRM ESTABLISHED TO
19 LAWFULLY ENGAGE IN THE PRACTICE OF PUBLIC ACCOUNTANCY PURSUANT TO ARTI-
20 CLE FIFTEEN OF THE BUSINESS CORPORATION LAW, ARTICLES ONE AND EIGHT-B OF
21 THE PARTNERSHIP LAW, OR ARTICLES TWELVE AND THIRTEEN OF THE LIMITED
22 LIABILITY COMPANY LAW SHALL BE DEEMED AUTHORIZED TO REGISTER PURSUANT TO
23 THIS SECTION.

24 S 2. Section 1503 of the business corporation law is amended by adding
25 a new paragraph (h) to read as follows:

26 (H) ANY FIRM ESTABLISHED FOR THE BUSINESS PURPOSE OF INCORPORATING AS
27 A PROFESSIONAL SERVICE CORPORATION FORMED TO LAWFULLY ENGAGE IN THE
28 PRACTICE OF PUBLIC ACCOUNTANCY, AS SUCH PRACTICE IS RESPECTIVELY DEFINED
29 UNDER ARTICLE ONE HUNDRED FORTY-NINE OF THE EDUCATION LAW SHALL BE
30 REQUIRED TO SHOW (1) THAT A SIMPLE MAJORITY OF THE OWNERSHIP OF THE
31 FIRM, IN TERMS OF FINANCIAL INTERESTS, INCLUDING OWNERSHIP-BASED COMPEN-
32 SATION, AND VOTING RIGHTS HELD BY THE FIRM'S OWNERS, BELONGS TO INDIVID-
33 UALS LICENSED TO PRACTICE PUBLIC ACCOUNTANCY IN SOME STATE, AND (2) THAT
34 ALL SHAREHOLDERS OF A PROFESSIONAL SERVICE CORPORATION WHOSE PRINCIPAL
35 PLACE OF BUSINESS IS IN THIS STATE, AND WHO ARE ENGAGED IN THE PRACTICE
36 OF PUBLIC ACCOUNTANCY IN THIS STATE, HOLD A VALID LICENSE ISSUED UNDER
37 SECTION SEVENTY-FOUR HUNDRED FOUR OF THE EDUCATION LAW OR ARE PUBLIC
38 ACCOUNTANTS LICENSED UNDER SECTION SEVENTY-FOUR HUNDRED FIVE OF THE
39 EDUCATION LAW. ALTHOUGH FIRMS MAY INCLUDE NON-LICENSEE OWNERS, THE FIRM
40 AND ITS OWNERS MUST COMPLY WITH RULES PROMULGATED BY THE STATE BOARD FOR
41 PUBLIC ACCOUNTANCY. NOTWITHSTANDING THE PROVISIONS OF THIS PARAGRAPH, A
42 FIRM INCORPORATED UNDER THIS SECTION MAY NOT HAVE NON-LICENSEE OWNERS IF
43 THE FIRM'S NAME INCLUDES THE WORDS "CERTIFIED PUBLIC ACCOUNTANT," OR
44 "CERTIFIED PUBLIC ACCOUNTANTS," OR THE ABBREVIATIONS "CPA" OR "CPAS".
45 EACH NON-LICENSEE OWNER OF A FIRM THAT IS INCORPORATED UNDER THIS
46 SECTION SHALL BE (1) A NATURAL PERSON WHO ACTIVELY PARTICIPATES IN THE
47 BUSINESS OF THE FIRM OR ITS AFFILIATED ENTITIES, OR (2) AN ENTITY,
48 INCLUDING, BUT NOT LIMITED TO, A PARTNERSHIP OR PROFESSIONAL CORPO-
49 RATION, PROVIDED EACH BENEFICIAL OWNER OF AN EQUITY INTEREST IN SUCH
50 ENTITY IS A NATURAL PERSON WHO ACTIVELY PARTICIPATES IN THE BUSINESS
51 CONDUCTED BY THE FIRM OR ITS AFFILIATED ENTITIES. FOR PURPOSES OF THIS
52 SUBDIVISION, "ACTIVELY PARTICIPATE" MEANS TO PROVIDE SERVICES TO CLIENTS
53 OR TO OTHERWISE INDIVIDUALLY TAKE PART IN THE DAY-TO-DAY BUSINESS OR
54 MANAGEMENT OF THE FIRM. SUCH A FIRM SHALL HAVE ATTACHED TO ITS CERTIF-

1 ICATE OF INCORPORATION A CERTIFICATE OR CERTIFICATES DEMONSTRATING THE
2 FIRM'S COMPLIANCE WITH THIS PARAGRAPH, IN LIEU OF THE CERTIFICATE OR
3 CERTIFICATES REQUIRED BY SUBPARAGRAPH (II) OF PARAGRAPH (B) OF THIS
4 SECTION.

5 S 3. Section 1507 of the business corporation law is amended by adding
6 a new paragraph (c) to read as follows:

7 (C) ANY FIRM ESTABLISHED FOR THE BUSINESS PURPOSE OF INCORPORATING AS
8 A PROFESSIONAL SERVICE CORPORATION PURSUANT TO PARAGRAPH (H) OF SECTION
9 FIFTEEN HUNDRED THREE OF THIS ARTICLE MAY ISSUE SHARES TO INDIVIDUALS
10 WHO ARE AUTHORIZED BY LAW TO PRACTICE IN THIS STATE A PROFESSION WHICH
11 SUCH CORPORATION IS AUTHORIZED TO PRACTICE AND WHO ARE OR HAVE BEEN
12 ENGAGED IN THE PRACTICE OF SUCH PROFESSION IN SUCH CORPORATION OR A
13 PREDECESSOR ENTITY, OR WHO WILL ENGAGE IN THE PRACTICE OF SUCH PROFES-
14 SION IN SUCH CORPORATION WITHIN THIRTY DAYS OF THE DATE SUCH SHARES ARE
15 ISSUED AND MAY ALSO ISSUE SHARES TO EMPLOYEES OF THE CORPORATION NOT
16 LICENSED AS CERTIFIED PUBLIC ACCOUNTANTS, PROVIDED THAT:

17 (I) AT LEAST FIFTY-ONE PERCENT OF THE OUTSTANDING SHARES OF STOCK OF
18 THE CORPORATION ARE OWNED BY CERTIFIED PUBLIC ACCOUNTANTS,

19 (II) AT LEAST FIFTY-ONE PERCENT OF THE DIRECTORS ARE CERTIFIED PUBLIC
20 ACCOUNTANTS,

21 (III) AT LEAST FIFTY-ONE PERCENT OF THE OFFICERS ARE CERTIFIED PUBLIC
22 ACCOUNTANTS,

23 (IV) THE PRESIDENT, THE CHAIRPERSON OF THE BOARD OF DIRECTORS AND THE
24 CHIEF EXECUTIVE OFFICER OR OFFICERS ARE CERTIFIED PUBLIC ACCOUNTANTS.
25 NO SHAREHOLDER OF A FIRM ESTABLISHED FOR THE BUSINESS PURPOSE OF INCOR-
26 PORATING AS A PROFESSIONAL SERVICE CORPORATION PURSUANT TO PARAGRAPH (H)
27 OF SECTION FIFTEEN HUNDRED THREE OF THIS ARTICLE SHALL ENTER INTO A
28 VOTING TRUST AGREEMENT, PROXY OR ANY OTHER TYPE OF AGREEMENT VESTING IN
29 ANOTHER PERSON, OTHER THAN ANOTHER SHAREHOLDER OF THE SAME CORPORATION,
30 THE AUTHORITY TO EXERCISE VOTING POWER OF ANY OR ALL OF HIS OR HER
31 SHARES. ALL SHARES ISSUED, AGREEMENTS MADE OR PROXIES GRANTED IN
32 VIOLATION OF THIS SECTION SHALL BE VOID.

33 S 4. Section 1508 of the business corporation law is amended by adding
34 a new paragraph (c) to read as follows:

35 (C) THE DIRECTORS AND OFFICERS OF ANY FIRM ESTABLISHED FOR THE BUSI-
36 NESS PURPOSE OF INCORPORATING AS A PROFESSIONAL SERVICE CORPORATION
37 PURSUANT TO PARAGRAPH (H) OF SECTION FIFTEEN HUNDRED THREE OF THIS ARTI-
38 CLE MAY INCLUDE INDIVIDUALS WHO ARE NOT LICENSED TO PRACTICE PUBLIC
39 ACCOUNTANCY, PROVIDED HOWEVER THAT AT LEAST FIFTY-ONE PERCENT OF THE
40 DIRECTORS, AT LEAST FIFTY-ONE PERCENT OF THE OFFICERS AND THE PRESIDENT,
41 THE CHAIRPERSON OF THE BOARD OF DIRECTORS AND THE CHIEF EXECUTIVE OFFI-
42 CER OR OFFICERS ARE AUTHORIZED BY LAW TO PRACTICE IN THIS STATE A
43 PROFESSION WHICH SUCH CORPORATION IS AUTHORIZED TO PRACTICE, AND ARE
44 EITHER SHAREHOLDERS OF SUCH CORPORATION OR ENGAGED IN THE PRACTICE OF
45 THEIR PROFESSIONS IN SUCH CORPORATION.

46 S 5. Section 1509 of the business corporation law, as amended by chap-
47 ter 550 of the laws of 2011, is amended to read as follows:

48 S 1509. Disqualification of shareholders, directors, officers and
49 employees.

50 If any shareholder, director, officer or employee of a professional
51 service corporation, including a design professional service corpo-
52 ration, OR ANY FIRM ESTABLISHED FOR THE BUSINESS PURPOSE OF INCORPORAT-
53 ING AS A PROFESSIONAL SERVICE CORPORATION PURSUANT TO PARAGRAPH (H) OF
54 SECTION FIFTEEN HUNDRED THREE OF THIS ARTICLE, who has been rendering
55 professional service to the public becomes legally disqualified to prac-
56 tice his profession within this state, he shall sever all employment

1 with, and financial interests (other than interests as a creditor) in,
2 such corporation forthwith or as otherwise provided in section 1510 of
3 this article. All provisions of law regulating the rendering of profes-
4 sional services by a person elected or appointed to a public office
5 shall be applicable to a shareholder, director, officer and employee of
6 such corporation in the same manner and to the same extent as if fully
7 set forth herein. Such legal disqualification to practice his profession
8 within this state shall be deemed to constitute an irrevocable offer by
9 the disqualified shareholder to sell his shares to the corporation,
10 pursuant to the provisions of section 1510 of this article or of the
11 certificate of incorporation, by-laws or agreement among the corporation
12 and all shareholders, whichever is applicable. Compliance with the terms
13 of such offer shall be specifically enforceable in the courts of this
14 state. A professional service corporation's failure to enforce compli-
15 ance with this provision shall constitute a ground for forfeiture of its
16 certificate of incorporation and its dissolution.

17 S 6. Paragraph (a) of section 1511 of the business corporation law, as
18 amended by chapter 550 of the laws of 2011, is amended and new paragraph
19 (c) is added to read as follows:

20 (a) No shareholder of a professional service corporation [or], INCLUD-
21 ING a design professional service corporation, OR ANY FIRM ESTABLISHED
22 FOR THE BUSINESS PURPOSE OF INCORPORATING AS A PROFESSIONAL SERVICE
23 CORPORATION PURSUANT TO PARAGRAPH (H) OF SECTION FIFTEEN HUNDRED THREE
24 OF THIS ARTICLE, may sell or transfer his shares in such corporation
25 except to another individual who is eligible to have shares issued to
26 him by such corporation or except in trust to another individual who
27 would be eligible to receive shares if he were employed by the corpo-
28 ration. Nothing herein contained shall be construed to prohibit the
29 transfer of shares by operation of law or by court decree. No transfer-
30 ee of shares by operation of law or court decree may vote the shares for
31 any purpose whatsoever except with respect to corporate action under
32 sections 909 and 1001 of this chapter. The restriction in the preceding
33 sentence shall not apply, however, where such transferee would be eligi-
34 ble to have shares issued to him if he were an employee of the corpo-
35 ration and, if there are other shareholders, a majority of such other
36 shareholders shall fail to redeem the shares so transferred, pursuant to
37 section 1510 of this article, within sixty days of receiving written
38 notice of such transfer. Any sale or transfer, except by operation of
39 law or court decree or except for a corporation having only one share-
40 holder, may be made only after the same shall have been approved by the
41 board of directors, or at a shareholders' meeting specially called for
42 such purpose by such proportion, not less than a majority, of the
43 outstanding shares as may be provided in the certificate of incorpo-
44 ration or in the by-laws of such professional service corporation. At
45 such shareholders' meeting the shares held by the shareholder proposing
46 to sell or transfer his shares may not be voted or counted for any
47 purpose, unless all shareholders consent that such shares be voted or
48 counted. The certificate of incorporation or the by-laws of the profes-
49 sional service corporation, or the professional service corporation and
50 the shareholders by private agreement, may provide, in lieu of or in
51 addition to the foregoing provisions, for the alienation of shares and
52 may require the redemption or purchase of such shares by such corpo-
53 ration at prices and in a manner specifically set forth therein. The
54 existence of the restrictions on the sale or transfer of shares, as
55 contained in this article and, if applicable, in the certificate of
56 incorporation, by-laws, stock purchase or stock redemption agreement,

1 shall be noted conspicuously on the face or back of every certificate
2 for shares issued by a professional service corporation. Any sale or
3 transfer in violation of such restrictions shall be void.

4 (C) A FIRM ESTABLISHED FOR THE BUSINESS PURPOSE OF INCORPORATING AS A
5 PROFESSIONAL SERVICE CORPORATION PURSUANT TO PARAGRAPH (H) OF SECTION
6 FIFTEEN HUNDRED THREE OF THIS ARTICLE, SHALL PURCHASE OR REDEEM THE
7 SHARES OF A NON-LICENSED PROFESSIONAL SHAREHOLDER IN THE CASE OF HIS OR
8 HER TERMINATION OF EMPLOYMENT WITHIN THIRTY DAYS AFTER SUCH TERMINATION.
9 A FIRM ESTABLISHED FOR THE BUSINESS PURPOSE OF INCORPORATING AS A
10 PROFESSIONAL SERVICE CORPORATION PURSUANT TO PARAGRAPH (H) OF SECTION
11 FIFTEEN HUNDRED THREE OF THIS ARTICLE, SHALL NOT BE REQUIRED TO PURCHASE
12 OR REDEEM THE SHARES OF A TERMINATED NON-LICENSED PROFESSIONAL SHARE-
13 HOLDER IF SUCH SHARES, WITHIN THIRTY DAYS AFTER SUCH TERMINATION, ARE
14 SOLD OR TRANSFERRED TO ANOTHER EMPLOYEE OF THE CORPORATION PURSUANT TO
15 THIS ARTICLE.

16 S 7. Paragraph (a) of section 1512 of the business corporation law, as
17 amended by chapter 550 of the laws of 2011, is amended to read as
18 follows:

19 (a) Notwithstanding any other provision of law, the name of a profes-
20 sional service corporation, including a design professional service
21 corporation AND ANY FIRM ESTABLISHED FOR THE BUSINESS PURPOSE OF INCOR-
22 PORATING AS A PROFESSIONAL SERVICE CORPORATION PURSUANT TO PARAGRAPH (H)
23 OF SECTION FIFTEEN HUNDRED THREE OF THIS ARTICLE, may contain any word
24 which, at the time of incorporation, could be used in the name of a
25 partnership practicing a profession which the corporation is authorized
26 to practice, and may not contain any word which could not be used by
27 such a partnership. Provided, however, the name of a professional
28 service corporation may not contain the name of a deceased person unless

29 (1) such person's name was part of the corporate name at the time of
30 such person's death; or

31 (2) such person's name was part of the name of an existing partnership
32 and at least two-thirds of such partnership's partners become sharehold-
33 ers of the corporation.

34 S 8. Section 1514 of the business corporation law is amended by adding
35 a new paragraph (c) to read as follows:

36 (C) EACH FIRM ESTABLISHED FOR THE BUSINESS PURPOSE OF INCORPORATING AS
37 A PROFESSIONAL SERVICE CORPORATION PURSUANT TO PARAGRAPH (H) OF SECTION
38 FIFTEEN HUNDRED THREE OF THIS ARTICLE SHALL, AT LEAST ONCE EVERY THREE
39 YEARS ON OR BEFORE THE DATE PRESCRIBED BY THE LICENSING AUTHORITY,
40 FURNISH A STATEMENT TO THE LICENSING AUTHORITY LISTING THE NAMES AND
41 RESIDENCE ADDRESSES OF EACH SHAREHOLDER, DIRECTOR AND OFFICER OF SUCH
42 CORPORATION AND CERTIFY AS THE DATE OF CERTIFICATION AND AT ALL TIMES
43 OVER THE ENTIRE THREE YEAR PERIOD THAT:

44 (I) AT LEAST FIFTY-ONE PERCENT OF THE OUTSTANDING SHARES OF STOCK OF
45 THE CORPORATION ARE AND WERE OWNED BY CERTIFIED PUBLIC ACCOUNTANTS,

46 (II) AT LEAST FIFTY-ONE PERCENT OF THE DIRECTORS ARE AND WERE CERTI-
47 FIED PUBLIC ACCOUNTANTS,

48 (III) AT LEAST FIFTY-ONE PERCENT OF THE OFFICERS ARE AND WERE CERTI-
49 FIED PUBLIC ACCOUNTANTS,

50 (IV) THE PRESIDENT, THE CHAIRPERSON OF THE BOARD OF DIRECTORS AND THE
51 CHIEF EXECUTIVE OFFICER OR OFFICERS ARE AND WERE CERTIFIED PUBLIC
52 ACCOUNTANTS.

53 THE STATEMENT SHALL BE SIGNED BY THE PRESIDENT OR ANY CERTIFIED PUBLIC
54 ACCOUNTANT VICE-PRESIDENT AND ATTESTED TO BY THE SECRETARY OR ANY
55 ASSISTANT SECRETARY OF THE CORPORATION.

1 S 9. Paragraph (d) of section 1525 of the business corporation law, as
2 added by chapter 505 of the laws of 1983, is amended to read as follows:

3 (d) "Foreign professional service corporation" means a professional
4 service corporation, whether or not denominated as such, organized under
5 the laws of a jurisdiction other than this state, all of the sharehold-
6 ers, directors and officers of which are authorized and licensed to
7 practice the profession for which such corporation is licensed to do
8 business; except that all shareholders, directors and officers of a
9 foreign professional service corporation which provides health services
10 in this state shall be licensed in this state. NOTWITHSTANDING ANY OTHER
11 PROVISION OF LAW A FOREIGN PROFESSIONAL SERVICE CORPORATION FORMED TO
12 LAWFULLY ENGAGE IN THE PRACTICE OF PUBLIC ACCOUNTANCY, AS SUCH PRACTICE
13 IS RESPECTIVELY DEFINED UNDER ARTICLE ONE HUNDRED FORTY-NINE OF THE
14 EDUCATION LAW, SHALL BE REQUIRED TO SHOW (1) THAT A SIMPLE MAJORITY OF
15 THE OWNERSHIP OF THE FIRM, IN TERMS OF FINANCIAL INTERESTS, INCLUDING
16 OWNERSHIP-BASED COMPENSATION, AND VOTING RIGHTS HELD BY THE FIRM'S
17 OWNERS, BELONGS TO INDIVIDUALS LICENSED TO PRACTICE PUBLIC ACCOUNTANCY
18 IN SOME STATE, AND (2) THAT ALL SHAREHOLDERS OF A FOREIGN PROFESSIONAL
19 SERVICE CORPORATION WHOSE PRINCIPAL PLACE OF BUSINESS IS IN THIS STATE,
20 AND WHO ARE ENGAGED IN THE PRACTICE OF PUBLIC ACCOUNTANCY IN THIS STATE,
21 HOLD A VALID LICENSE ISSUED UNDER SECTION SEVENTY-FOUR HUNDRED FOUR OF
22 THE EDUCATION LAW OR ARE PUBLIC ACCOUNTANTS LICENSED UNDER SECTION
23 SEVENTY-FOUR HUNDRED FIVE OF THE EDUCATION LAW. ALTHOUGH FIRMS MAY
24 INCLUDE NON-LICENSEE OWNERS, THE FIRM AND ITS OWNERS MUST COMPLY WITH
25 RULES PROMULGATED BY THE STATE BOARD FOR PUBLIC ACCOUNTANCY. NOTWITH-
26 STANDING THE FOREGOING, A FIRM REGISTERED UNDER THIS SECTION MAY NOT
27 HAVE NON-LICENSEE OWNERS IF THE FIRM'S NAME INCLUDES THE WORDS "CERTI-
28 FIED PUBLIC ACCOUNTANT," OR "CERTIFIED PUBLIC ACCOUNTANTS," OR THE
29 ABBREVIATIONS "CPA" OR "CPAS." EACH NON-LICENSEE OWNER OF A FIRM THAT IS
30 INCORPORATED UNDER THIS SECTION SHALL BE (1) A NATURAL PERSON WHO
31 ACTIVELY PARTICIPATES IN THE BUSINESS OF THE FIRM OR ITS AFFILIATED
32 ENTITIES, OR (2) AN ENTITY, INCLUDING, BUT NOT LIMITED TO, A PARTNERSHIP
33 OR PROFESSIONAL CORPORATION, PROVIDED EACH BENEFICIAL OWNER OF AN EQUITY
34 INTEREST IN SUCH ENTITY IS A NATURAL PERSON WHO ACTIVELY PARTICIPATES IN
35 THE BUSINESS CONDUCTED BY THE FIRM OR ITS AFFILIATED ENTITIES. FOR
36 PURPOSES OF THIS SUBDIVISION, "ACTIVELY PARTICIPATE" MEANS TO PROVIDE
37 SERVICES TO CLIENTS OR TO OTHERWISE INDIVIDUALLY TAKE PART IN THE
38 DAY-TO-DAY BUSINESS OR MANAGEMENT OF THE FIRM.

39 S 10. The fourteenth undesignated paragraph of section 2 of the part-
40 nership law, as added by chapter 576 of the laws of 1994, is amended to
41 read as follows:

42 "Professional partnership" means (1) a partnership without limited
43 partners each of whose partners is a professional authorized by law to
44 render a professional service within this state, (2) a partnership with-
45 out limited partners each of whose partners is a professional, at least
46 one of whom is authorized by law to render a professional service within
47 this state or (3) a partnership without limited partners authorized by,
48 or holding a license, certificate, registration or permit issued by the
49 licensing authority pursuant to the education law to render a profes-
50 sional service within this state; except that all partners of a profes-
51 sional partnership that provides medical services in this state must be
52 licensed pursuant to article 131 of the education law to practice medi-
53 cine in this state and all partners of a professional partnership that
54 provides dental services in this state must be licensed pursuant to
55 article 133 of the education law to practice dentistry in this state;
56 [and further] except that all partners of a professional partnership

1 that provides professional engineering, land surveying, architectural
2 and/or landscape architectural services in this state must be licensed
3 pursuant to article 145, article 147 and/or article 148 of the education
4 law to practice one or more of such professions in this state; AND
5 FURTHER EXCEPT THAT ALL PARTNERS OF A PROFESSIONAL PARTNERSHIP THAT
6 PROVIDES PUBLIC ACCOUNTANCY SERVICES, WHOSE PRINCIPAL PLACE OF BUSINESS
7 IS IN THIS STATE AND WHO PROVIDE PUBLIC ACCOUNTANCY SERVICES, MUST BE
8 LICENSED PURSUANT TO ARTICLE 149 OF THE EDUCATION LAW TO PRACTICE PUBLIC
9 ACCOUNTANCY IN THIS STATE. NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW
10 A PROFESSIONAL PARTNERSHIP FORMED TO LAWFULLY ENGAGE IN THE PRACTICE OF
11 PUBLIC ACCOUNTANCY, AS SUCH PRACTICE IS RESPECTIVELY DEFINED UNDER ARTI-
12 CLE 149 OF THE EDUCATION LAW, SHALL BE REQUIRED TO SHOW (1) THAT A
13 SIMPLE MAJORITY OF THE OWNERSHIP OF THE FIRM, IN TERMS OF FINANCIAL
14 INTERESTS, INCLUDING OWNERSHIP-BASED COMPENSATION, AND VOTING RIGHTS
15 HELD BY THE FIRM'S OWNERS, BELONGS TO INDIVIDUALS LICENSED TO PRACTICE
16 PUBLIC ACCOUNTANCY IN SOME STATE, AND (2) THAT ALL SHAREHOLDERS OF A
17 PROFESSIONAL PARTNERSHIP WHOSE PRINCIPAL PLACE OF BUSINESS IS IN THIS
18 STATE, AND WHO ARE ENGAGED IN THE PRACTICE OF PUBLIC ACCOUNTANCY IN THIS
19 STATE, HOLD A VALID LICENSE ISSUED UNDER SECTION 7404 OF THE EDUCATION
20 LAW OR ARE PUBLIC ACCOUNTANTS LICENSED UNDER SECTION 7405 OF THE EDUCA-
21 TION LAW. ALTHOUGH FIRMS MAY INCLUDE NON-LICENSEE OWNERS, THE FIRM AND
22 ITS OWNERS MUST COMPLY WITH RULES PROMULGATED BY THE STATE BOARD FOR
23 PUBLIC ACCOUNTANCY. NOTWITHSTANDING THE FOREGOING, A FIRM REGISTERED
24 UNDER THIS SECTION MAY NOT HAVE NON-LICENSEE OWNERS IF THE FIRM'S NAME
25 INCLUDES THE WORDS "CERTIFIED PUBLIC ACCOUNTANT," OR "CERTIFIED PUBLIC
26 ACCOUNTANTS," OR THE ABBREVIATIONS "CPA" OR "CPAS." EACH NON-LICENSEE
27 OWNER OF A FIRM THAT IS INCORPORATED UNDER THIS SECTION SHALL BE (1) A
28 NATURAL PERSON WHO ACTIVELY PARTICIPATES IN THE BUSINESS OF THE FIRM OR
29 ITS AFFILIATED ENTITIES, OR (2) AN ENTITY, INCLUDING, BUT NOT LIMITED
30 TO, A PARTNERSHIP OR PROFESSIONAL CORPORATION, PROVIDED EACH BENEFICIAL
31 OWNER OF AN EQUITY INTEREST IN SUCH ENTITY IS A NATURAL PERSON WHO
32 ACTIVELY PARTICIPATES IN THE BUSINESS CONDUCTED BY THE FIRM OR ITS
33 AFFILIATED ENTITIES. FOR PURPOSES OF THIS SUBDIVISION, "ACTIVELY PARTIC-
34 IPATE" MEANS TO PROVIDE SERVICES TO CLIENTS OR TO OTHERWISE INDIVIDUALLY
35 TAKE PART IN THE DAY-TO-DAY BUSINESS OR MANAGEMENT OF THE FIRM.

36 S 10-a. The fourteenth undesignated paragraph of section 2 of the
37 partnership law, as amended by chapter 475 of the laws of 2014, is
38 amended to read as follows:

39 "Professional partnership" means (1) a partnership without limited
40 partners each of whose partners is a professional authorized by law to
41 render a professional service within this state, (2) a partnership with-
42 out limited partners each of whose partners is a professional, at least
43 one of whom is authorized by law to render a professional service within
44 this state or (3) a partnership without limited partners authorized by,
45 or holding a license, certificate, registration or permit issued by the
46 licensing authority pursuant to the education law to render a profes-
47 sional service within this state; except that all partners of a profes-
48 sional partnership that provides medical services in this state must be
49 licensed pursuant to article 131 of the education law to practice medi-
50 cine in this state and all partners of a professional partnership that
51 provides dental services in this state must be licensed pursuant to
52 article 133 of the education law to practice dentistry in this state;
53 [and further] except that all partners of a professional partnership
54 that provides professional engineering, land surveying, geologic, archi-
55 tectural and/or landscape architectural services in this state must be
56 licensed pursuant to article 145, article 147 and/or article 148 of the

1 education law to practice one or more of such professions in this state;
2 AND FURTHER EXCEPT THAT ALL PARTNERS OF A PROFESSIONAL PARTNERSHIP THAT
3 PROVIDES PUBLIC ACCOUNTANCY SERVICES, WHOSE PRINCIPAL PLACE OF BUSINESS
4 IS IN THIS STATE AND WHO PROVIDE PUBLIC ACCOUNTANCY SERVICES, MUST BE
5 LICENSED PURSUANT TO ARTICLE 149 OF THE EDUCATION LAW TO PRACTICE PUBLIC
6 ACCOUNTANCY IN THIS STATE. NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW
7 A PROFESSIONAL PARTNERSHIP FORMED TO LAWFULLY ENGAGE IN THE PRACTICE OF
8 PUBLIC ACCOUNTANCY, AS SUCH PRACTICE IS RESPECTIVELY DEFINED UNDER ARTI-
9 CLE 149 OF THE EDUCATION LAW, SHALL BE REQUIRED TO SHOW (1) THAT A
10 SIMPLE MAJORITY OF THE OWNERSHIP OF THE FIRM, IN TERMS OF FINANCIAL
11 INTERESTS, INCLUDING OWNERSHIP-BASED COMPENSATION, AND VOTING RIGHTS
12 HELD BY THE FIRM'S OWNERS, BELONGS TO INDIVIDUALS LICENSED TO PRACTICE
13 PUBLIC ACCOUNTANCY IN SOME STATE, AND (2) THAT ALL SHAREHOLDERS OF A
14 PROFESSIONAL PARTNERSHIP WHOSE PRINCIPAL PLACE OF BUSINESS IS IN THIS
15 STATE, AND WHO ARE ENGAGED IN THE PRACTICE OF PUBLIC ACCOUNTANCY IN THIS
16 STATE, HOLD A VALID LICENSE ISSUED UNDER SECTION 7404 OF THE EDUCATION
17 LAW OR ARE PUBLIC ACCOUNTANTS LICENSED UNDER SECTION 7405 OF THE EDUCA-
18 TION LAW. ALTHOUGH FIRMS MAY INCLUDE NON-LICENSEE OWNERS, THE FIRM AND
19 ITS OWNERS MUST COMPLY WITH RULES PROMULGATED BY THE STATE BOARD FOR
20 PUBLIC ACCOUNTANCY. NOTWITHSTANDING THE FOREGOING, A FIRM REGISTERED
21 UNDER THIS SECTION MAY NOT HAVE NON-LICENSEE OWNERS IF THE FIRM'S NAME
22 INCLUDES THE WORDS "CERTIFIED PUBLIC ACCOUNTANT," OR "CERTIFIED PUBLIC
23 ACCOUNTANTS," OR THE ABBREVIATIONS "CPA" OR "CPAS." EACH NON-LICENSEE
24 OWNER OF A FIRM THAT IS INCORPORATED UNDER THIS SECTION SHALL BE (1) A
25 NATURAL PERSON WHO ACTIVELY PARTICIPATES IN THE BUSINESS OF THE FIRM OR
26 ITS AFFILIATED ENTITIES, OR (2) AN ENTITY, INCLUDING, BUT NOT LIMITED
27 TO, A PARTNERSHIP OR PROFESSIONAL CORPORATION, PROVIDED EACH BENEFICIAL
28 OWNER OF AN EQUITY INTEREST IN SUCH ENTITY IS A NATURAL PERSON WHO
29 ACTIVELY PARTICIPATES IN THE BUSINESS CONDUCTED BY THE FIRM OR ITS
30 AFFILIATED ENTITIES. FOR PURPOSES OF THIS SUBDIVISION, "ACTIVELY PARTIC-
31 IPATE" MEANS TO PROVIDE SERVICES TO CLIENTS OR TO OTHERWISE INDIVIDUALLY
32 TAKE PART IN THE DAY-TO-DAY BUSINESS OR MANAGEMENT OF THE FIRM.

33 S 11. Subdivision (q) of section 121-1500 of the partnership law, as
34 amended by chapter 554 of the laws of 2013, is amended to read as
35 follows:

36 (q) Each partner of a registered limited liability partnership formed
37 to provide medical services in this state must be licensed pursuant to
38 article 131 of the education law to practice medicine in this state and
39 each partner of a registered limited liability partnership formed to
40 provide dental services in this state must be licensed pursuant to arti-
41 cle 133 of the education law to practice dentistry in this state. Each
42 partner of a registered limited liability partnership formed to provide
43 veterinary services in this state must be licensed pursuant to article
44 135 of the education law to practice veterinary medicine in this state.
45 EACH PARTNER OF A REGISTERED LIMITED LIABILITY PARTNERSHIP FORMED TO
46 PROVIDE PUBLIC ACCOUNTANCY SERVICES, WHOSE PRINCIPAL PLACE OF BUSINESS
47 IS IN THIS STATE AND WHO PROVIDES PUBLIC ACCOUNTANCY SERVICES, MUST BE
48 LICENSED PURSUANT TO ARTICLE 149 OF THE EDUCATION LAW TO PRACTICE PUBLIC
49 ACCOUNTANCY IN THIS STATE. Each partner of a registered limited liabil-
50 ity partnership formed to provide professional engineering, land survey-
51 ing, architectural and/or landscape architectural services in this state
52 must be licensed pursuant to article 145, article 147 and/or article 148
53 of the education law to practice one or more of such professions in this
54 state. Each partner of a registered limited liability partnership formed
55 to provide licensed clinical social work services in this state must be
56 licensed pursuant to article 154 of the education law to practice clin-

1 ical social work in this state. Each partner of a registered limited
2 liability partnership formed to provide creative arts therapy services
3 in this state must be licensed pursuant to article 163 of the education
4 law to practice creative arts therapy in this state. Each partner of a
5 registered limited liability partnership formed to provide marriage and
6 family therapy services in this state must be licensed pursuant to arti-
7 cle 163 of the education law to practice marriage and family therapy in
8 this state. Each partner of a registered limited liability partnership
9 formed to provide mental health counseling services in this state must
10 be licensed pursuant to article 163 of the education law to practice
11 mental health counseling in this state. Each partner of a registered
12 limited liability partnership formed to provide psychoanalysis services
13 in this state must be licensed pursuant to article 163 of the education
14 law to practice psychoanalysis in this state. Each partner of a regis-
15 tered limited liability partnership formed to provide applied behavior
16 analysis service in this state must be licensed or certified pursuant to
17 article 167 of the education law to practice applied behavior analysis
18 in this state. NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW A LIMITED
19 LIABILITY PARTNERSHIP FORMED TO LAWFULLY ENGAGE IN THE PRACTICE OF
20 PUBLIC ACCOUNTANCY, AS SUCH PRACTICE IS RESPECTIVELY DEFINED UNDER ARTI-
21 CLE 149 OF THE EDUCATION LAW, SHALL BE REQUIRED TO SHOW (1) THAT A
22 SIMPLE MAJORITY OF THE OWNERSHIP OF THE FIRM, IN TERMS OF FINANCIAL
23 INTERESTS, INCLUDING OWNERSHIP-BASED COMPENSATION, AND VOTING RIGHTS
24 HELD BY THE FIRM'S OWNERS, BELONGS TO INDIVIDUALS LICENSED TO PRACTICE
25 PUBLIC ACCOUNTANCY IN SOME STATE, AND (2) THAT ALL PARTNERS OF A LIMITED
26 LIABILITY PARTNERSHIP WHOSE PRINCIPAL PLACE OF BUSINESS IS IN THIS
27 STATE, AND WHO ARE ENGAGED IN THE PRACTICE OF PUBLIC ACCOUNTANCY IN THIS
28 STATE, HOLD A VALID LICENSE ISSUED UNDER SECTION 7404 OF THE EDUCATION
29 LAW OR ARE PUBLIC ACCOUNTANTS LICENSED UNDER SECTION 7405 OF THE EDUCA-
30 TION LAW. ALTHOUGH FIRMS MAY INCLUDE NON-LICENSEE OWNERS, THE FIRM AND
31 ITS OWNERS MUST COMPLY WITH RULES PROMULGATED BY THE STATE BOARD FOR
32 PUBLIC ACCOUNTANCY. NOTWITHSTANDING THE FOREGOING, A FIRM REGISTERED
33 UNDER THIS SECTION MAY NOT HAVE NON-LICENSEE OWNERS IF THE FIRM'S NAME
34 INCLUDES THE WORDS "CERTIFIED PUBLIC ACCOUNTANT," OR "CERTIFIED PUBLIC
35 ACCOUNTANTS," OR THE ABBREVIATIONS "CPA" OR "CPAS." EACH NON-LICENSEE
36 OWNER OF A FIRM THAT IS INCORPORATED UNDER THIS SECTION SHALL BE (1) A
37 NATURAL PERSON WHO ACTIVELY PARTICIPATES IN THE BUSINESS OF THE FIRM OR
38 ITS AFFILIATED ENTITIES, OR (2) AN ENTITY, INCLUDING, BUT NOT LIMITED
39 TO, A PARTNERSHIP OR PROFESSIONAL CORPORATION, PROVIDED EACH BENEFICIAL
40 OWNER OF AN EQUITY INTEREST IN SUCH ENTITY IS A NATURAL PERSON WHO
41 ACTIVELY PARTICIPATES IN THE BUSINESS CONDUCTED BY THE FIRM OR ITS
42 AFFILIATED ENTITIES. FOR PURPOSES OF THIS SUBDIVISION, "ACTIVELY PARTIC-
43 IPATE" MEANS TO PROVIDE SERVICES TO CLIENTS OR TO OTHERWISE INDIVIDUALLY
44 TAKE PART IN THE DAY-TO-DAY BUSINESS OR MANAGEMENT OF THE FIRM.

45 S 11-a. Subdivision (q) of section 121-1500 of the partnership law, as
46 amended by chapter 475 of the laws of 2014, is amended to read as
47 follows:

48 (q) Each partner of a registered limited liability partnership formed
49 to provide medical services in this state must be licensed pursuant to
50 article 131 of the education law to practice medicine in this state and
51 each partner of a registered limited liability partnership formed to
52 provide dental services in this state must be licensed pursuant to arti-
53 cle 133 of the education law to practice dentistry in this state. Each
54 partner of a registered limited liability partnership formed to provide
55 veterinary services in this state must be licensed pursuant to article
56 135 of the education law to practice veterinary medicine in this state.

1 EACH PARTNER OF A REGISTERED LIMITED LIABILITY PARTNERSHIP FORMED TO
2 PROVIDE PUBLIC ACCOUNTANCY SERVICES, WHOSE PRINCIPAL PLACE OF BUSINESS
3 IS IN THIS STATE AND WHO PROVIDES PUBLIC ACCOUNTANCY SERVICES, MUST BE
4 LICENSED PURSUANT TO ARTICLE 149 OF THE EDUCATION LAW TO PRACTICE PUBLIC
5 ACCOUNTANCY IN THIS STATE. Each partner of a registered limited liabil-
6 ity partnership formed to provide professional engineering, land survey-
7 ing, geological services, architectural and/or landscape architectural
8 services in this state must be licensed pursuant to article 145, article
9 147 and/or article 148 of the education law to practice one or more of
10 such professions in this state. Each partner of a registered limited
11 liability partnership formed to provide licensed clinical social work
12 services in this state must be licensed pursuant to article 154 of the
13 education law to practice clinical social work in this state. Each part-
14 ner of a registered limited liability partnership formed to provide
15 creative arts therapy services in this state must be licensed pursuant
16 to article 163 of the education law to practice creative arts therapy in
17 this state. Each partner of a registered limited liability partnership
18 formed to provide marriage and family therapy services in this state
19 must be licensed pursuant to article 163 of the education law to prac-
20 tice marriage and family therapy in this state. Each partner of a regis-
21 tered limited liability partnership formed to provide mental health
22 counseling services in this state must be licensed pursuant to article
23 163 of the education law to practice mental health counseling in this
24 state. Each partner of a registered limited liability partnership formed
25 to provide psychoanalysis services in this state must be licensed pursu-
26 ant to article 163 of the education law to practice psychoanalysis in
27 this state. Each partner of a registered limited liability partnership
28 formed to provide applied behavior analysis service in this state must
29 be licensed or certified pursuant to article 167 of the education law to
30 practice applied behavior analysis in this state. NOTWITHSTANDING ANY
31 OTHER PROVISIONS OF LAW A LIMITED LIABILITY PARTNERSHIP FORMED TO
32 LAWFULLY ENGAGE IN THE PRACTICE OF PUBLIC ACCOUNTANCY, AS SUCH PRACTICE
33 IS RESPECTIVELY DEFINED UNDER ARTICLE 149 OF THE EDUCATION LAW, SHALL BE
34 REQUIRED TO SHOW (1) THAT A SIMPLE MAJORITY OF THE OWNERSHIP OF THE
35 FIRM, IN TERMS OF FINANCIAL INTERESTS, INCLUDING OWNERSHIP-BASED COMPEN-
36 SATION, AND VOTING RIGHTS HELD BY THE FIRM'S OWNERS, BELONGS TO INDIVID-
37 UALS LICENSED TO PRACTICE PUBLIC ACCOUNTANCY IN SOME STATE, AND (2) THAT
38 ALL PARTNERS OF A LIMITED LIABILITY PARTNERSHIP WHOSE PRINCIPAL PLACE OF
39 BUSINESS IS IN THIS STATE, AND WHO ARE ENGAGED IN THE PRACTICE OF PUBLIC
40 ACCOUNTANCY IN THIS STATE, HOLD A VALID LICENSE ISSUED UNDER SECTION
41 7404 OF THE EDUCATION LAW OR ARE PUBLIC ACCOUNTANTS LICENSED UNDER
42 SECTION 7405 OF THE EDUCATION LAW. ALTHOUGH FIRMS MAY INCLUDE NON-LI-
43 CENSEE OWNERS, THE FIRM AND ITS OWNERS MUST COMPLY WITH RULES PROMULGAT-
44 ED BY THE STATE BOARD FOR PUBLIC ACCOUNTANCY. NOTWITHSTANDING THE FORE-
45 GOING, A FIRM REGISTERED UNDER THIS SECTION MAY NOT HAVE NON-LICENSEE
46 OWNERS IF THE FIRM'S NAME INCLUDES THE WORDS "CERTIFIED PUBLIC ACCOUNT-
47 ANT," OR "CERTIFIED PUBLIC ACCOUNTANTS," OR THE ABBREVIATIONS "CPA" OR
48 "CPAS." EACH NON-LICENSEE OWNER OF A FIRM THAT IS INCORPORATED UNDER
49 THIS SECTION SHALL BE (1) A NATURAL PERSON WHO ACTIVELY PARTICIPATES IN
50 THE BUSINESS OF THE FIRM OR ITS AFFILIATED ENTITIES, OR (2) AN ENTITY,
51 INCLUDING, BUT NOT LIMITED TO, A PARTNERSHIP OR PROFESSIONAL CORPO-
52 RATION, PROVIDED EACH BENEFICIAL OWNER OF AN EQUITY INTEREST IN SUCH
53 ENTITY IS A NATURAL PERSON WHO ACTIVELY PARTICIPATES IN THE BUSINESS
54 CONDUCTED BY THE FIRM OR ITS AFFILIATED ENTITIES. FOR PURPOSES OF THIS
55 SUBDIVISION, "ACTIVELY PARTICIPATE" MEANS TO PROVIDE SERVICES TO CLIENTS

1 OR TO OTHERWISE INDIVIDUALLY TAKE PART IN THE DAY-TO-DAY BUSINESS OR
2 MANAGEMENT OF THE FIRM.

3 S 12. Subdivision (q) of section 121-1502 of the partnership law, as
4 amended by chapter 554 of the laws of 2013, is amended to read as
5 follows:

6 (q) Each partner of a foreign limited liability partnership which
7 provides medical services in this state must be licensed pursuant to
8 article 131 of the education law to practice medicine in the state and
9 each partner of a foreign limited liability partnership which provides
10 dental services in the state must be licensed pursuant to article 133 of
11 the education law to practice dentistry in this state. Each partner of a
12 foreign limited liability partnership which provides veterinary service
13 in the state shall be licensed pursuant to article 135 of the education
14 law to practice veterinary medicine in this state. Each partner of a
15 foreign limited liability partnership which provides professional engi-
16 neering, land surveying, architectural and/or landscape architectural
17 services in this state must be licensed pursuant to article 145, article
18 147 and/or article 148 of the education law to practice one or more of
19 such professions. EACH PARTNER OF A FOREIGN REGISTERED LIMITED LIABILITY
20 PARTNERSHIP FORMED TO PROVIDE PUBLIC ACCOUNTANCY SERVICES, WHOSE PRINCI-
21 PAL PLACE OF BUSINESS IS IN THIS STATE AND WHO PROVIDES PUBLIC ACCOUN-
22 TANCY SERVICES, MUST BE LICENSED PURSUANT TO ARTICLE 149 OF THE EDUCA-
23 TION LAW TO PRACTICE PUBLIC ACCOUNTANCY IN THIS STATE. Each partner of a
24 foreign limited liability partnership which provides licensed clinical
25 social work services in this state must be licensed pursuant to article
26 154 of the education law to practice licensed clinical social work in
27 this state. Each partner of a foreign limited liability partnership
28 which provides creative arts therapy services in this state must be
29 licensed pursuant to article 163 of the education law to practice crea-
30 tive arts therapy in this state. Each partner of a foreign limited
31 liability partnership which provides marriage and family therapy
32 services in this state must be licensed pursuant to article 163 of the
33 education law to practice marriage and family therapy in this state.
34 Each partner of a foreign limited liability partnership which provides
35 mental health counseling services in this state must be licensed pursu-
36 ant to article 163 of the education law to practice mental health coun-
37 seling in this state. Each partner of a foreign limited liability part-
38 nership which provides psychoanalysis services in this state must be
39 licensed pursuant to article 163 of the education law to practice
40 psychoanalysis in this state. Each partner of a foreign limited liabil-
41 ity partnership which provides applied behavior analysis services in
42 this state must be licensed or certified pursuant to article 167 of the
43 education law to practice applied behavior analysis in this state.
44 NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW A FOREIGN LIMITED LIABILITY
45 PARTNERSHIP FORMED TO LAWFULLY ENGAGE IN THE PRACTICE OF PUBLIC ACCOUN-
46 TANCY, AS SUCH PRACTICE IS RESPECTIVELY DEFINED UNDER ARTICLE 149 OF THE
47 EDUCATION LAW, SHALL BE REQUIRED TO SHOW (1) THAT A SIMPLE MAJORITY OF
48 THE OWNERSHIP OF THE FIRM, IN TERMS OF FINANCIAL INTERESTS, INCLUDING
49 OWNERSHIP-BASED COMPENSATION, AND VOTING RIGHTS HELD BY THE FIRM'S
50 OWNERS, BELONGS TO INDIVIDUALS LICENSED TO PRACTICE PUBLIC ACCOUNTANCY
51 IN SOME STATE, AND (2) THAT ALL PARTNERS OF A FOREIGN LIMITED LIABILITY
52 PARTNERSHIP WHOSE PRINCIPAL PLACE OF BUSINESS IS IN THIS STATE, AND WHO
53 ARE ENGAGED IN THE PRACTICE OF PUBLIC ACCOUNTANCY IN THIS STATE, HOLD A
54 VALID LICENSE ISSUED UNDER SECTION 7404 OF THE EDUCATION LAW OR ARE
55 PUBLIC ACCOUNTANTS LICENSED UNDER SECTION 7405 OF THE EDUCATION LAW.
56 ALTHOUGH FIRMS MAY INCLUDE NON-LICENSEE OWNERS, THE FIRM AND ITS OWNERS

1 MUST COMPLY WITH RULES PROMULGATED BY THE STATE BOARD FOR PUBLIC ACCOUN-
2 TANCY. NOTWITHSTANDING THE FOREGOING, A FIRM REGISTERED UNDER THIS
3 SECTION MAY NOT HAVE NON-LICENSEE OWNERS IF THE FIRM'S NAME INCLUDES THE
4 WORDS "CERTIFIED PUBLIC ACCOUNTANT," OR "CERTIFIED PUBLIC ACCOUNTANTS,"
5 OR THE ABBREVIATIONS "CPA" OR "CPAS." EACH NON-LICENSEE OWNER OF A FIRM
6 THAT IS INCORPORATED UNDER THIS SECTION SHALL BE (1) A NATURAL PERSON
7 WHO ACTIVELY PARTICIPATES IN THE BUSINESS OF THE FIRM OR ITS AFFILIATED
8 ENTITIES, OR (2) AN ENTITY, INCLUDING, BUT NOT LIMITED TO, A PARTNERSHIP
9 OR PROFESSIONAL CORPORATION, PROVIDED EACH BENEFICIAL OWNER OF AN EQUITY
10 INTEREST IN SUCH ENTITY IS A NATURAL PERSON WHO ACTIVELY PARTICIPATES IN
11 THE BUSINESS CONDUCTED BY THE FIRM OR ITS AFFILIATED ENTITIES. FOR
12 PURPOSES OF THIS SUBDIVISION, "ACTIVELY PARTICIPATE" MEANS TO PROVIDE
13 SERVICES TO CLIENTS OR TO OTHERWISE INDIVIDUALLY TAKE PART IN THE
14 DAY-TO-DAY BUSINESS OR MANAGEMENT OF THE FIRM.

15 S 12-a. Subdivision (q) of section 121-1502 of the partnership law, as
16 amended by chapter 475 of the laws of 2014, is amended to read as
17 follows:

18 (q) Each partner of a foreign limited liability partnership which
19 provides medical services in this state must be licensed pursuant to
20 article 131 of the education law to practice medicine in the state and
21 each partner of a foreign limited liability partnership which provides
22 dental services in the state must be licensed pursuant to article 133 of
23 the education law to practice dentistry in this state. Each partner of
24 a foreign limited liability partnership which provides veterinary
25 service in the state shall be licensed pursuant to article 135 of the
26 education law to practice veterinary medicine in this state. Each part-
27 ner of a foreign limited liability partnership which provides profes-
28 sional engineering, land surveying, geological services, architectural
29 and/or landscape architectural services in this state must be licensed
30 pursuant to article 145, article 147 and/or article 148 of the education
31 law to practice one or more of such professions. EACH PARTNER OF A
32 FOREIGN REGISTERED LIMITED LIABILITY PARTNERSHIP FORMED TO PROVIDE
33 PUBLIC ACCOUNTANCY SERVICES, WHOSE PRINCIPAL PLACE OF BUSINESS IS IN
34 THIS STATE AND WHO PROVIDES PUBLIC ACCOUNTANCY SERVICES, MUST BE
35 LICENSED PURSUANT TO ARTICLE 149 OF THE EDUCATION LAW TO PRACTICE PUBLIC
36 ACCOUNTANCY IN THIS STATE. Each partner of a foreign limited liability
37 partnership which provides licensed clinical social work services in
38 this state must be licensed pursuant to article 154 of the education law
39 to practice licensed clinical social work in this state. Each partner of
40 a foreign limited liability partnership which provides creative arts
41 therapy services in this state must be licensed pursuant to article 163
42 of the education law to practice creative arts therapy in this state.
43 Each partner of a foreign limited liability partnership which provides
44 marriage and family therapy services in this state must be licensed
45 pursuant to article 163 of the education law to practice marriage and
46 family therapy in this state. Each partner of a foreign limited liabil-
47 ity partnership which provides mental health counseling services in this
48 state must be licensed pursuant to article 163 of the education law to
49 practice mental health counseling in this state. Each partner of a
50 foreign limited liability partnership which provides psychoanalysis
51 services in this state must be licensed pursuant to article 163 of the
52 education law to practice psychoanalysis in this state. Each partner of
53 a foreign limited liability partnership which provides applied behavior
54 analysis services in this state must be licensed or certified pursuant
55 to article 167 of the education law to practice applied behavior analy-
56 sis in this state. NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW A FOREIGN

1 LIMITED LIABILITY PARTNERSHIP FORMED TO LAWFULLY ENGAGE IN THE PRACTICE
2 OF PUBLIC ACCOUNTANCY, AS SUCH PRACTICE IS RESPECTIVELY DEFINED UNDER
3 ARTICLE 149 OF THE EDUCATION LAW, SHALL BE REQUIRED TO SHOW (1) THAT A
4 SIMPLE MAJORITY OF THE OWNERSHIP OF THE FIRM, IN TERMS OF FINANCIAL
5 INTERESTS, INCLUDING OWNERSHIP-BASED COMPENSATION, AND VOTING RIGHTS
6 HELD BY THE FIRM'S OWNERS, BELONGS TO INDIVIDUALS LICENSED TO PRACTICE
7 PUBLIC ACCOUNTANCY IN SOME STATE, AND (2) THAT ALL PARTNERS OF A FOREIGN
8 LIMITED LIABILITY PARTNERSHIP WHOSE PRINCIPAL PLACE OF BUSINESS IS IN
9 THIS STATE, AND WHO ARE ENGAGED IN THE PRACTICE OF PUBLIC ACCOUNTANCY IN
10 THIS STATE, HOLD A VALID LICENSE ISSUED UNDER SECTION 7404 OF THE EDUCA-
11 TION LAW OR ARE PUBLIC ACCOUNTANTS LICENSED UNDER SECTION 7405 OF THE
12 EDUCATION LAW. ALTHOUGH FIRMS MAY INCLUDE NON-LICENSEE OWNERS, THE FIRM
13 AND ITS OWNERS MUST COMPLY WITH RULES PROMULGATED BY THE STATE BOARD FOR
14 PUBLIC ACCOUNTANCY. NOTWITHSTANDING THE FOREGOING, A FIRM REGISTERED
15 UNDER THIS SECTION MAY NOT HAVE NON-LICENSEE OWNERS IF THE FIRM'S NAME
16 INCLUDES THE WORDS "CERTIFIED PUBLIC ACCOUNTANT," OR "CERTIFIED PUBLIC
17 ACCOUNTANTS," OR THE ABBREVIATIONS "CPA" OR "CPAS." EACH NON-LICENSEE
18 OWNER OF A FIRM THAT IS INCORPORATED UNDER THIS SECTION SHALL BE (1) A
19 NATURAL PERSON WHO ACTIVELY PARTICIPATES IN THE BUSINESS OF THE FIRM OR
20 ITS AFFILIATED ENTITIES, OR (2) AN ENTITY, INCLUDING, BUT NOT LIMITED
21 TO, A PARTNERSHIP OR PROFESSIONAL CORPORATION, PROVIDED EACH BENEFICIAL
22 OWNER OF AN EQUITY INTEREST IN SUCH ENTITY IS A NATURAL PERSON WHO
23 ACTIVELY PARTICIPATES IN THE BUSINESS CONDUCTED BY THE FIRM OR ITS
24 AFFILIATED ENTITIES. FOR PURPOSES OF THIS SUBDIVISION, "ACTIVELY
25 PARTICIPATE" MEANS TO PROVIDE SERVICES TO CLIENTS OR TO OTHERWISE INDI-
26 VIDUALLY TAKE PART IN THE DAY-TO-DAY BUSINESS OR MANAGEMENT OF THE FIRM.

27 S 13. Subdivision (h) of section 121-101 of the partnership law, as
28 added by chapter 950 of the laws of 1990, is amended to read as follows:

29 (h) "Limited partnership" and "domestic limited partnership" mean,
30 unless the context otherwise requires, a partnership (i) formed by two
31 or more persons pursuant to this article or which complies with subdivi-
32 sion (a) of section 121-1202 of this article and (ii) having one or more
33 general partners and one or more limited partners. NOTWITHSTANDING ANY
34 OTHER PROVISIONS OF LAW A LIMITED PARTNERSHIP OR DOMESTIC LIMITED PART-
35 NERSHIP FORMED TO LAWFULLY ENGAGE IN THE PRACTICE OF PUBLIC ACCOUNTANCY,
36 AS SUCH PRACTICE IS RESPECTIVELY DEFINED UNDER ARTICLE 149 OF THE EDUCA-
37 TION LAW SHALL BE REQUIRED TO SHOW (1) THAT A SIMPLE MAJORITY OF THE
38 OWNERSHIP OF THE FIRM, IN TERMS OF FINANCIAL INTERESTS, INCLUDING OWNER-
39 SHIP-BASED COMPENSATION, AND VOTING RIGHTS HELD BY THE FIRM'S OWNERS,
40 BELONGS TO INDIVIDUALS LICENSED TO PRACTICE PUBLIC ACCOUNTANCY IN SOME
41 STATE, AND (2) THAT ALL PARTNERS OF A LIMITED PARTNERSHIP OR DOMESTIC
42 LIMITED PARTNERSHIP, WHOSE PRINCIPAL PLACE OF BUSINESS IS IN THIS STATE,
43 AND WHO ARE ENGAGED IN THE PRACTICE OF PUBLIC ACCOUNTANCY IN THIS STATE,
44 HOLD A VALID LICENSE ISSUED UNDER SECTION 7404 OF THE EDUCATION LAW OR
45 ARE PUBLIC ACCOUNTANTS LICENSED UNDER SECTION 7405 OF THE EDUCATION LAW.
46 ALTHOUGH FIRMS MAY INCLUDE NON-LICENSEE OWNERS, THE FIRM AND ITS OWNERS
47 MUST COMPLY WITH RULES PROMULGATED BY THE STATE BOARD FOR PUBLIC ACCOUN-
48 TANCY. NOTWITHSTANDING THE FOREGOING, A FIRM REGISTERED UNDER THIS
49 SECTION MAY NOT HAVE NON-LICENSEE OWNERS IF THE FIRM'S NAME INCLUDES THE
50 WORDS "CERTIFIED PUBLIC ACCOUNTANT," OR "CERTIFIED PUBLIC ACCOUNTANTS,"
51 OR THE ABBREVIATIONS "CPA" OR "CPAS." EACH NON-LICENSEE OWNER OF A FIRM
52 THAT IS REGISTERED UNDER THIS SECTION SHALL BE (1) A NATURAL PERSON WHO
53 ACTIVELY PARTICIPATES IN THE BUSINESS OF THE FIRM OR ITS AFFILIATED
54 ENTITIES, OR (2) AN ENTITY, INCLUDING, BUT NOT LIMITED TO, A PARTNERSHIP
55 OR PROFESSIONAL CORPORATION, PROVIDED EACH BENEFICIAL OWNER OF AN EQUITY
56 INTEREST IN SUCH ENTITY IS A NATURAL PERSON WHO ACTIVELY PARTICIPATES IN

1 THE BUSINESS CONDUCTED BY THE FIRM OR ITS AFFILIATED ENTITIES. FOR
2 PURPOSES OF THIS SUBDIVISION, "ACTIVELY PARTICIPATE" MEANS TO PROVIDE
3 SERVICES TO CLIENTS OR TO OTHERWISE INDIVIDUALLY TAKE PART IN THE
4 DAY-TO-DAY BUSINESS OR MANAGEMENT OF THE FIRM.

5 S 14. Subdivision (b) of section 1207 of the limited liability company
6 law, as amended by chapter 554 of the laws of 2013, is amended to read
7 as follows:

8 (b) With respect to a professional service limited liability company
9 formed to provide medical services as such services are defined in arti-
10 cle 131 of the education law, each member of such limited liability
11 company must be licensed pursuant to article 131 of the education law to
12 practice medicine in this state. With respect to a professional service
13 limited liability company formed to provide dental services as such
14 services are defined in article 133 of the education law, each member of
15 such limited liability company must be licensed pursuant to article 133
16 of the education law to practice dentistry in this state. With respect
17 to a professional service limited liability company formed to provide
18 veterinary services as such services are defined in article 135 of the
19 education law, each member of such limited liability company must be
20 licensed pursuant to article 135 of the education law to practice veter-
21 inary medicine in this state. With respect to a professional service
22 limited liability company formed to provide professional engineering,
23 land surveying, architectural and/or landscape architectural services as
24 such services are defined in article 145, article 147 and article 148 of
25 the education law, each member of such limited liability company must be
26 licensed pursuant to article 145, article 147 and/or article 148 of the
27 education law to practice one or more of such professions in this state.
28 WITH RESPECT TO A PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY FORMED
29 TO PROVIDE PUBLIC ACCOUNTANCY SERVICES AS SUCH SERVICES ARE DEFINED IN
30 ARTICLE 149 OF THE EDUCATION LAW EACH MEMBER OF SUCH LIMITED LIABILITY
31 COMPANY WHOSE PRINCIPAL PLACE OF BUSINESS IS IN THIS STATE AND WHO
32 PROVIDES PUBLIC ACCOUNTANCY SERVICES, MUST BE LICENSED PURSUANT TO ARTI-
33 CLE 149 OF THE EDUCATION LAW TO PRACTICE PUBLIC ACCOUNTANCY IN THIS
34 STATE. With respect to a professional service limited liability company
35 formed to provide licensed clinical social work services as such
36 services are defined in article 154 of the education law, each member of
37 such limited liability company shall be licensed pursuant to article 154
38 of the education law to practice licensed clinical social work in this
39 state. With respect to a professional service limited liability company
40 formed to provide creative arts therapy services as such services are
41 defined in article 163 of the education law, each member of such limited
42 liability company must be licensed pursuant to article 163 of the educa-
43 tion law to practice creative arts therapy in this state. With respect
44 to a professional service limited liability company formed to provide
45 marriage and family therapy services as such services are defined in
46 article 163 of the education law, each member of such limited liability
47 company must be licensed pursuant to article 163 of the education law to
48 practice marriage and family therapy in this state. With respect to a
49 professional service limited liability company formed to provide mental
50 health counseling services as such services are defined in article 163
51 of the education law, each member of such limited liability company must
52 be licensed pursuant to article 163 of the education law to practice
53 mental health counseling in this state. With respect to a professional
54 service limited liability company formed to provide psychoanalysis
55 services as such services are defined in article 163 of the education
56 law, each member of such limited liability company must be licensed

1 pursuant to article 163 of the education law to practice psychoanalysis
2 in this state. With respect to a professional service limited liability
3 company formed to provide applied behavior analysis services as such
4 services are defined in article 167 of the education law, each member of
5 such limited liability company must be licensed or certified pursuant to
6 article 167 of the education law to practice applied behavior analysis
7 in this state. NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW A PROFES-
8 SIONAL SERVICE LIMITED LIABILITY COMPANY FORMED TO LAWFULLY ENGAGE IN
9 THE PRACTICE OF PUBLIC ACCOUNTANCY, AS SUCH PRACTICE IS RESPECTIVELY
10 DEFINED UNDER ARTICLE 149 OF THE EDUCATION LAW SHALL BE REQUIRED TO SHOW
11 (1) THAT A SIMPLE MAJORITY OF THE OWNERSHIP OF THE FIRM, IN TERMS OF
12 FINANCIAL INTERESTS, INCLUDING OWNERSHIP-BASED COMPENSATION, AND VOTING
13 RIGHTS HELD BY THE FIRM'S OWNERS, BELONGS TO INDIVIDUALS LICENSED TO
14 PRACTICE PUBLIC ACCOUNTANCY IN SOME STATE, AND (2) THAT ALL MEMBERS OF A
15 LIMITED PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY, WHOSE PRINCIPAL
16 PLACE OF BUSINESS IS IN THIS STATE, AND WHO ARE ENGAGED IN THE PRACTICE
17 OF PUBLIC ACCOUNTANCY IN THIS STATE, HOLD A VALID LICENSE ISSUED UNDER
18 SECTION 7404 OF ARTICLE 149 OF THE EDUCATION LAW OR ARE PUBLIC ACCOUNT-
19 ANTS LICENSED UNDER SECTION 7405 OF ARTICLE 149 OF THE EDUCATION LAW.
20 ALTHOUGH FIRMS MAY INCLUDE NON-LICENSEE OWNERS, THE FIRM AND ITS OWNERS
21 MUST COMPLY WITH RULES PROMULGATED BY THE STATE BOARD FOR PUBLIC ACCOUN-
22 TANCY. NOTWITHSTANDING THE FOREGOING, A FIRM REGISTERED UNDER THIS
23 SECTION MAY NOT HAVE NON-LICENSEE OWNERS IF THE FIRM'S NAME INCLUDES THE
24 WORDS "CERTIFIED PUBLIC ACCOUNTANT," OR "CERTIFIED PUBLIC ACCOUNTANTS,"
25 OR THE ABBREVIATIONS "CPA" OR "CPAS." EACH NON-LICENSEE OWNER OF A FIRM
26 THAT IS REGISTERED UNDER THIS SECTION SHALL BE (1) A NATURAL PERSON WHO
27 ACTIVELY PARTICIPATES IN THE BUSINESS OF THE FIRM OR ITS AFFILIATED
28 ENTITIES, OR (2) AN ENTITY, INCLUDING, BUT NOT LIMITED TO, A PARTNERSHIP
29 OR PROFESSIONAL CORPORATION, PROVIDED EACH BENEFICIAL OWNER OF AN EQUITY
30 INTEREST IN SUCH ENTITY IS A NATURAL PERSON WHO ACTIVELY PARTICIPATES IN
31 THE BUSINESS CONDUCTED BY THE FIRM OR ITS AFFILIATED ENTITIES. FOR
32 PURPOSES OF THIS SUBDIVISION, "ACTIVELY PARTICIPATE" MEANS TO PROVIDE
33 SERVICES TO CLIENTS OR TO OTHERWISE INDIVIDUALLY TAKE PART IN THE
34 DAY-TO-DAY BUSINESS OR MANAGEMENT OF THE FIRM.

35 S 14-a. Subdivision (b) of section 1207 of the limited liability
36 company law, as amended by chapter 475 of the laws of 2014, is amended
37 to read as follows:

38 (b) With respect to a professional service limited liability company
39 formed to provide medical services as such services are defined in arti-
40 cle 131 of the education law, each member of such limited liability
41 company must be licensed pursuant to article 131 of the education law to
42 practice medicine in this state. With respect to a professional service
43 limited liability company formed to provide dental services as such
44 services are defined in article 133 of the education law, each member of
45 such limited liability company must be licensed pursuant to article 133
46 of the education law to practice dentistry in this state. With respect
47 to a professional service limited liability company formed to provide
48 veterinary services as such services are defined in article 135 of the
49 education law, each member of such limited liability company must be
50 licensed pursuant to article 135 of the education law to practice veter-
51 inary medicine in this state. With respect to a professional service
52 limited liability company formed to provide professional engineering,
53 land surveying, architectural, landscape architectural and/or geological
54 services as such services are defined in article 145, article 147 and
55 article 148 of the education law, each member of such limited liability
56 company must be licensed pursuant to article 145, article 147 and/or

1 article 148 of the education law to practice one or more of such
2 professions in this state. WITH RESPECT TO A PROFESSIONAL SERVICE
3 LIMITED LIABILITY COMPANY FORMED TO PROVIDE PUBLIC ACCOUNTANCY SERVICES
4 AS SUCH SERVICES ARE DEFINED IN ARTICLE 149 OF THE EDUCATION LAW EACH
5 MEMBER OF SUCH LIMITED LIABILITY COMPANY WHOSE PRINCIPAL PLACE OF BUSI-
6 NESS IS IN THIS STATE AND WHO PROVIDES PUBLIC ACCOUNTANCY SERVICES, MUST
7 BE LICENSED PURSUANT TO ARTICLE 149 OF THE EDUCATION LAW TO PRACTICE
8 PUBLIC ACCOUNTANCY IN THIS STATE. With respect to a professional service
9 limited liability company formed to provide licensed clinical social
10 work services as such services are defined in article 154 of the educa-
11 tion law, each member of such limited liability company shall be
12 licensed pursuant to article 154 of the education law to practice
13 licensed clinical social work in this state. With respect to a profes-
14 sional service limited liability company formed to provide creative arts
15 therapy services as such services are defined in article 163 of the
16 education law, each member of such limited liability company must be
17 licensed pursuant to article 163 of the education law to practice crea-
18 tive arts therapy in this state. With respect to a professional service
19 limited liability company formed to provide marriage and family therapy
20 services as such services are defined in article 163 of the education
21 law, each member of such limited liability company must be licensed
22 pursuant to article 163 of the education law to practice marriage and
23 family therapy in this state. With respect to a professional service
24 limited liability company formed to provide mental health counseling
25 services as such services are defined in article 163 of the education
26 law, each member of such limited liability company must be licensed
27 pursuant to article 163 of the education law to practice mental health
28 counseling in this state. With respect to a professional service limited
29 liability company formed to provide psychoanalysis services as such
30 services are defined in article 163 of the education law, each member of
31 such limited liability company must be licensed pursuant to article 163
32 of the education law to practice psychoanalysis in this state. With
33 respect to a professional service limited liability company formed to
34 provide applied behavior analysis services as such services are defined
35 in article 167 of the education law, each member of such limited liabil-
36 ity company must be licensed or certified pursuant to article 167 of the
37 education law to practice applied behavior analysis in this state.
38 NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW A PROFESSIONAL SERVICE
39 LIMITED LIABILITY COMPANY FORMED TO LAWFULLY ENGAGE IN THE PRACTICE OF
40 PUBLIC ACCOUNTANCY, AS SUCH PRACTICE IS RESPECTIVELY DEFINED UNDER ARTI-
41 CLE 149 OF THE EDUCATION LAW SHALL BE REQUIRED TO SHOW (1) THAT A SIMPLE
42 MAJORITY OF THE OWNERSHIP OF THE FIRM, IN TERMS OF FINANCIAL INTERESTS,
43 INCLUDING OWNERSHIP-BASED COMPENSATION, AND VOTING RIGHTS HELD BY THE
44 FIRM'S OWNERS, BELONGS TO INDIVIDUALS LICENSED TO PRACTICE PUBLIC
45 ACCOUNTANCY IN SOME STATE, AND (2) THAT ALL MEMBERS OF A LIMITED PROFES-
46 SIONAL SERVICE LIMITED LIABILITY COMPANY, WHOSE PRINCIPAL PLACE OF BUSI-
47 NESS IS IN THIS STATE, AND WHO ARE ENGAGED IN THE PRACTICE OF PUBLIC
48 ACCOUNTANCY IN THIS STATE, HOLD A VALID LICENSE ISSUED UNDER SECTION
49 7404 OF ARTICLE 149 OF THE EDUCATION LAW OR ARE PUBLIC ACCOUNTANTS
50 LICENSED UNDER SECTION 7405 OF ARTICLE 149 OF THE EDUCATION LAW.
51 ALTHOUGH FIRMS MAY INCLUDE NON-LICENSEE OWNERS, THE FIRM AND ITS OWNERS
52 MUST COMPLY WITH RULES PROMULGATED BY THE STATE BOARD FOR PUBLIC ACCOUN-
53 TANCY. NOTWITHSTANDING THE FOREGOING, A FIRM REGISTERED UNDER THIS
54 SECTION MAY NOT HAVE NON-LICENSEE OWNERS IF THE FIRM'S NAME INCLUDES THE
55 WORDS "CERTIFIED PUBLIC ACCOUNTANT," OR "CERTIFIED PUBLIC ACCOUNTANTS,"
56 OR THE ABBREVIATIONS "CPA" OR "CPAS." EACH NON-LICENSEE OWNER OF A FIRM

1 THAT IS REGISTERED UNDER THIS SECTION SHALL BE (1) A NATURAL PERSON WHO
2 ACTIVELY PARTICIPATES IN THE BUSINESS OF THE FIRM OR ITS AFFILIATED
3 ENTITIES, OR (2) AN ENTITY, INCLUDING, BUT NOT LIMITED TO, A PARTNERSHIP
4 OR PROFESSIONAL CORPORATION, PROVIDED EACH BENEFICIAL OWNER OF AN EQUITY
5 INTEREST IN SUCH ENTITY IS A NATURAL PERSON WHO ACTIVELY PARTICIPATES IN
6 THE BUSINESS CONDUCTED BY THE FIRM OR ITS AFFILIATED ENTITIES. FOR
7 PURPOSES OF THIS SUBDIVISION, "ACTIVELY PARTICIPATE" MEANS TO PROVIDE
8 SERVICES TO CLIENTS OR TO OTHERWISE INDIVIDUALLY TAKE PART IN THE
9 DAY-TO-DAY BUSINESS OR MANAGEMENT OF THE FIRM.

10 S 15. Subdivisions (a) and (f) of section 1301 of the limited liabil-
11 ity company law, subdivision (a) as amended by chapter 554 of the laws
12 of 2013 and subdivision (f) as amended by chapter 170 of the laws of
13 1996, are amended to read as follows:

14 (a) "Foreign professional service limited liability company" means a
15 professional service limited liability company, whether or not denomi-
16 nated as such, organized under the laws of a jurisdiction other than
17 this state, (i) each of whose members and managers, if any, is a profes-
18 sional authorized by law to render a professional service within this
19 state and who is or has been engaged in the practice of such profession
20 in such professional service limited liability company or a predecessor
21 entity, or will engage in the practice of such profession in the profes-
22 sional service limited liability company within thirty days of the date
23 such professional becomes a member, or each of whose members and manag-
24 ers, if any, is a professional at least one of such members is author-
25 ized by law to render a professional service within this state and who
26 is or has been engaged in the practice of such profession in such
27 professional service limited liability company or a predecessor entity,
28 or will engage in the practice of such profession in the professional
29 service limited liability company within thirty days of the date such
30 professional becomes a member, or (ii) authorized by, or holding a
31 license, certificate, registration or permit issued by the licensing
32 authority pursuant to, the education law to render a professional
33 service within this state; except that all members and managers, if any,
34 of a foreign professional service limited liability company that
35 provides health services in this state shall be licensed in this state.
36 With respect to a foreign professional service limited liability company
37 which provides veterinary services as such services are defined in arti-
38 cle 135 of the education law, each member of such foreign professional
39 service limited liability company shall be licensed pursuant to article
40 135 of the education law to practice veterinary medicine. With respect
41 to a foreign professional service limited liability company which
42 provides medical services as such services are defined in article 131 of
43 the education law, each member of such foreign professional service
44 limited liability company must be licensed pursuant to article 131 of
45 the education law to practice medicine in this state. With respect to a
46 foreign professional service limited liability company which provides
47 dental services as such services are defined in article 133 of the
48 education law, each member of such foreign professional service limited
49 liability company must be licensed pursuant to article 133 of the educa-
50 tion law to practice dentistry in this state. With respect to a foreign
51 professional service limited liability company which provides profes-
52 sional engineering, land surveying, architectural and/or landscape
53 architectural services as such services are defined in article 145,
54 article 147 and article 148 of the education law, each member of such
55 foreign professional service limited liability company must be licensed
56 pursuant to article 145, article 147 and/or article 148 of the education

1 law to practice one or more of such professions in this state. WITH
2 RESPECT TO A FOREIGN PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY
3 WHICH PROVIDES PUBLIC ACCOUNTANCY SERVICES AS SUCH SERVICES ARE DEFINED
4 IN ARTICLE 149 OF THE EDUCATION LAW, EACH MEMBER OF SUCH FOREIGN PROFES-
5 SIONAL SERVICE LIMITED LIABILITY COMPANY WHOSE PRINCIPAL PLACE OF BUSI-
6 NESS IS IN THIS STATE AND WHO PROVIDES PUBLIC ACCOUNTANCY SERVICES,
7 SHALL BE LICENSED PURSUANT TO ARTICLE 149 OF THE EDUCATION LAW TO PRAC-
8 TICE PUBLIC ACCOUNTANCY IN THIS STATE. With respect to a foreign profes-
9 sional service limited liability company which provides licensed clin-
10 ical social work services as such services are defined in article 154 of
11 the education law, each member of such foreign professional service
12 limited liability company shall be licensed pursuant to article 154 of
13 the education law to practice clinical social work in this state. With
14 respect to a foreign professional service limited liability company
15 which provides creative arts therapy services as such services are
16 defined in article 163 of the education law, each member of such foreign
17 professional service limited liability company must be licensed pursuant
18 to article 163 of the education law to practice creative arts therapy in
19 this state. With respect to a foreign professional service limited
20 liability company which provides marriage and family therapy services as
21 such services are defined in article 163 of the education law, each
22 member of such foreign professional service limited liability company
23 must be licensed pursuant to article 163 of the education law to prac-
24 tice marriage and family therapy in this state. With respect to a
25 foreign professional service limited liability company which provides
26 mental health counseling services as such services are defined in arti-
27 cle 163 of the education law, each member of such foreign professional
28 service limited liability company must be licensed pursuant to article
29 163 of the education law to practice mental health counseling in this
30 state. With respect to a foreign professional service limited liability
31 company which provides psychoanalysis services as such services are
32 defined in article 163 of the education law, each member of such foreign
33 professional service limited liability company must be licensed pursuant
34 to article 163 of the education law to practice psychoanalysis in this
35 state. With respect to a foreign professional service limited liability
36 company which provides applied behavior analysis services as such
37 services are defined in article 167 of the education law, each member of
38 such foreign professional service limited liability company must be
39 licensed or certified pursuant to article 167 of the education law to
40 practice applied behavior analysis in this state. NOTWITHSTANDING ANY
41 OTHER PROVISIONS OF LAW A FOREIGN PROFESSIONAL SERVICE LIMITED LIABILITY
42 COMPANY FORMED TO LAWFULLY ENGAGE IN THE PRACTICE OF PUBLIC ACCOUNTANCY,
43 AS SUCH PRACTICE IS RESPECTIVELY DEFINED UNDER ARTICLE 149 OF THE EDU-
44 CATION LAW SHALL BE REQUIRED TO SHOW (1) THAT A SIMPLE MAJORITY OF THE
45 OWNERSHIP OF THE FIRM, IN TERMS OF FINANCIAL INTERESTS, INCLUDING OWNER-
46 SHIP-BASED COMPENSATION, AND VOTING RIGHTS HELD BY THE FIRM'S OWNERS,
47 BELONGS TO INDIVIDUALS LICENSED TO PRACTICE PUBLIC ACCOUNTANCY IN SOME
48 STATE, AND (2) THAT ALL MEMBERS OF A FOREIGN LIMITED PROFESSIONAL
49 SERVICE LIMITED LIABILITY COMPANY, WHOSE PRINCIPAL PLACE OF BUSINESS IS
50 IN THIS STATE, AND WHO ARE ENGAGED IN THE PRACTICE OF PUBLIC ACCOUNTANCY
51 IN THIS STATE, HOLD A VALID LICENSE ISSUED UNDER SECTION 7404 OF THE
52 EDUCATION LAW OR ARE PUBLIC ACCOUNTANTS LICENSED UNDER SECTION 7405 OF
53 THE EDUCATION LAW. ALTHOUGH FIRMS MAY INCLUDE NON-LICENSEE OWNERS, THE
54 FIRM AND ITS OWNERS MUST COMPLY WITH RULES PROMULGATED BY THE STATE
55 BOARD FOR PUBLIC ACCOUNTANCY. NOTWITHSTANDING THE FOREGOING, A FIRM
56 REGISTERED UNDER THIS SECTION MAY NOT HAVE NON-LICENSEE OWNERS IF THE

1 FIRM'S NAME INCLUDES THE WORDS "CERTIFIED PUBLIC ACCOUNTANT," OR "CERTI-
2 FIED PUBLIC ACCOUNTANTS," OR THE ABBREVIATIONS "CPA" OR "CPAS." EACH
3 NON-LICENSEE OWNER OF A FIRM THAT IS REGISTERED UNDER THIS SECTION SHALL
4 BE (1) A NATURAL PERSON WHO ACTIVELY PARTICIPATES IN THE BUSINESS OF THE
5 FIRM OR ITS AFFILIATED ENTITIES, OR (2) AN ENTITY, INCLUDING, BUT NOT
6 LIMITED TO, A PARTNERSHIP OR PROFESSIONAL CORPORATION, PROVIDED EACH
7 BENEFICIAL OWNER OF AN EQUITY INTEREST IN SUCH ENTITY IS A NATURAL
8 PERSON WHO ACTIVELY PARTICIPATES IN THE BUSINESS CONDUCTED BY THE FIRM
9 OR ITS AFFILIATED ENTITIES. FOR PURPOSES OF THIS SUBDIVISION, "ACTIVELY
10 PARTICIPATE" MEANS TO PROVIDE SERVICES TO CLIENTS OR TO OTHERWISE INDI-
11 VIDUALLY TAKE PART IN THE DAY-TO-DAY BUSINESS OR MANAGEMENT OF THE FIRM.
12 (f) "Professional partnership" means (1) a partnership without limited
13 partners each of whose partners is a professional authorized by law to
14 render a professional service within this state, (2) a partnership with-
15 out limited partners each of whose partners is a professional, at least
16 one of whom is authorized by law to render a professional service within
17 this state or (3) a partnership without limited partners authorized by,
18 or holding a license, certificate, registration or permit issued by the
19 licensing authority pursuant to the education law to render a profes-
20 sional service within this state; except that all partners of a profes-
21 sional partnership that provides medical services in this state must be
22 licensed pursuant to article 131 of the education law to practice medi-
23 cine in this state and all partners of a professional partnership that
24 provides dental services in this state must be licensed pursuant to
25 article 133 of the education law to practice dentistry in this state;
26 except that all partners of a professional partnership that provides
27 veterinary services in this state must be licensed pursuant to article
28 135 of the education law to practice veterinary medicine in this state;
29 and further except that all partners of a professional partnership that
30 provides professional engineering, land surveying, architectural, and/or
31 landscape architectural services in this state must be licensed pursuant
32 to article 145, article 147 and/or article 148 of the education law to
33 practice one or more of such professions. WITH RESPECT TO A PROFESSIONAL
34 PARTNERSHIP WHICH PROVIDES PUBLIC ACCOUNTANCY SERVICES AS SUCH SERVICES
35 ARE DEFINED IN ARTICLE 149 OF THE EDUCATION LAW, EACH MEMBER OF SUCH
36 PROFESSIONAL PARTNERSHIP WHOSE PRINCIPAL PLACE OF BUSINESS IS IN THIS
37 STATE AND WHO PROVIDES PUBLIC ACCOUNTANCY SERVICES, SHALL BE LICENSED
38 PURSUANT TO ARTICLE 149 OF THE EDUCATION LAW TO PRACTICE PUBLIC ACCOUN-
39 TANCY. NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW A PROFESSIONAL PART-
40 NERSHIP FORMED TO LAWFULLY ENGAGE IN THE PRACTICE OF PUBLIC ACCOUNTANCY,
41 AS SUCH PRACTICE IS RESPECTIVELY DEFINED UNDER ARTICLE 149 OF THE EDUCA-
42 TION LAW SHALL BE REQUIRED TO SHOW (1) THAT A SIMPLE MAJORITY OF THE
43 OWNERSHIP OF THE FIRM, IN TERMS OF FINANCIAL INTERESTS, INCLUDING OWNER-
44 SHIP-BASED COMPENSATION, AND VOTING RIGHTS HELD BY THE FIRM'S OWNERS,
45 BELONGS TO INDIVIDUALS LICENSED TO PRACTICE PUBLIC ACCOUNTANCY IN SOME
46 STATE, AND (2) THAT ALL MEMBERS OF A LIMITED PROFESSIONAL PARTNERSHIP,
47 WHOSE PRINCIPAL PLACE OF BUSINESS IS IN THIS STATE, AND WHO ARE ENGAGED
48 IN THE PRACTICE OF PUBLIC ACCOUNTANCY IN THIS STATE, HOLD A VALID
49 LICENSE ISSUED UNDER SECTION 7404 OF THE EDUCATION LAW OR ARE PUBLIC
50 ACCOUNTANTS LICENSED UNDER SECTION 7405 OF THE EDUCATION LAW. ALTHOUGH
51 FIRMS MAY INCLUDE NON-LICENSEE OWNERS, THE FIRM AND ITS OWNERS MUST
52 COMPLY WITH RULES PROMULGATED BY THE STATE BOARD FOR PUBLIC ACCOUNTANCY.
53 NOTWITHSTANDING THE FOREGOING, A FIRM REGISTERED UNDER THIS SECTION MAY
54 NOT HAVE NON-LICENSEE OWNERS IF THE FIRM'S NAME INCLUDES THE WORDS
55 "CERTIFIED PUBLIC ACCOUNTANT," OR "CERTIFIED PUBLIC ACCOUNTANTS," OR THE
56 ABBREVIATIONS "CPA" OR "CPAS." EACH NON-LICENSEE OWNER OF A FIRM THAT

1 IS REGISTERED UNDER THIS SECTION SHALL BE (1) A NATURAL PERSON WHO
2 ACTIVELY PARTICIPATES IN THE BUSINESS OF THE FIRM OR ITS AFFILIATED
3 ENTITIES, OR (2) AN ENTITY, INCLUDING, BUT NOT LIMITED TO, A PARTNERSHIP
4 OR PROFESSIONAL CORPORATION, PROVIDED EACH BENEFICIAL OWNER OF AN EQUITY
5 INTEREST IN SUCH ENTITY IS A NATURAL PERSON WHO ACTIVELY PARTICIPATES IN
6 THE BUSINESS CONDUCTED BY THE FIRM OR ITS AFFILIATED ENTITIES. FOR
7 PURPOSES OF THIS SUBDIVISION, "ACTIVELY PARTICIPATE" MEANS TO PROVIDE
8 SERVICES TO CLIENTS OR TO OTHERWISE INDIVIDUALLY TAKE PART IN THE
9 DAY-TO-DAY BUSINESS OR MANAGEMENT OF THE FIRM.

10 S 15-a. Subdivisions (a) and (f) of section 1301 of the limited
11 liability company law, as amended by chapter 475 of the laws of 2014,
12 are amended to read as follows:

13 (a) "Foreign professional service limited liability company" means a
14 professional service limited liability company, whether or not denomi-
15 nated as such, organized under the laws of a jurisdiction other than
16 this state, (i) each of whose members and managers, if any, is a profes-
17 sional authorized by law to render a professional service within this
18 state and who is or has been engaged in the practice of such profession
19 in such professional service limited liability company or a predecessor
20 entity, or will engage in the practice of such profession in the profes-
21 sional service limited liability company within thirty days of the date
22 such professional becomes a member, or each of whose members and manag-
23 ers, if any, is a professional at least one of such members is author-
24 ized by law to render a professional service within this state and who
25 is or has been engaged in the practice of such profession in such
26 professional service limited liability company or a predecessor entity,
27 or will engage in the practice of such profession in the professional
28 service limited liability company within thirty days of the date such
29 professional becomes a member, or (ii) authorized by, or holding a
30 license, certificate, registration or permit issued by the licensing
31 authority pursuant to, the education law to render a professional
32 service within this state; except that all members and managers, if any,
33 of a foreign professional service limited liability company that
34 provides health services in this state shall be licensed in this state.
35 With respect to a foreign professional service limited liability company
36 which provides veterinary services as such services are defined in arti-
37 cle 135 of the education law, each member of such foreign professional
38 service limited liability company shall be licensed pursuant to article
39 135 of the education law to practice veterinary medicine. With respect
40 to a foreign professional service limited liability company which
41 provides medical services as such services are defined in article 131 of
42 the education law, each member of such foreign professional service
43 limited liability company must be licensed pursuant to article 131 of
44 the education law to practice medicine in this state. With respect to a
45 foreign professional service limited liability company which provides
46 dental services as such services are defined in article 133 of the
47 education law, each member of such foreign professional service limited
48 liability company must be licensed pursuant to article 133 of the educa-
49 tion law to practice dentistry in this state. With respect to a foreign
50 professional service limited liability company which provides profes-
51 sional engineering, land surveying, geologic, architectural and/or land-
52 scape architectural services as such services are defined in article
53 145, article 147 and article 148 of the education law, each member of
54 such foreign professional service limited liability company must be
55 licensed pursuant to article 145, article 147 and/or article 148 of the
56 education law to practice one or more of such professions in this state.

1 WITH RESPECT TO A FOREIGN PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY
2 WHICH PROVIDES PUBLIC ACCOUNTANCY SERVICES AS SUCH SERVICES ARE DEFINED
3 IN ARTICLE 149 OF THE EDUCATION LAW, EACH MEMBER OF SUCH FOREIGN PROFES-
4 SIONAL SERVICE LIMITED LIABILITY COMPANY WHOSE PRINCIPAL PLACE OF BUSI-
5 NESS IS IN THIS STATE AND WHO PROVIDES PUBLIC ACCOUNTANCY SERVICES,
6 SHALL BE LICENSED PURSUANT TO ARTICLE 149 OF THE EDUCATION LAW TO PRAC-
7 TICE PUBLIC ACCOUNTANCY IN THIS STATE. With respect to a foreign profes-
8 sional service limited liability company which provides licensed clin-
9 ical social work services as such services are defined in article 154 of
10 the education law, each member of such foreign professional service
11 limited liability company shall be licensed pursuant to article 154 of
12 the education law to practice clinical social work in this state. With
13 respect to a foreign professional service limited liability company
14 which provides creative arts therapy services as such services are
15 defined in article 163 of the education law, each member of such foreign
16 professional service limited liability company must be licensed pursuant
17 to article 163 of the education law to practice creative arts therapy in
18 this state. With respect to a foreign professional service limited
19 liability company which provides marriage and family therapy services as
20 such services are defined in article 163 of the education law, each
21 member of such foreign professional service limited liability company
22 must be licensed pursuant to article 163 of the education law to prac-
23 tice marriage and family therapy in this state. With respect to a
24 foreign professional service limited liability company which provides
25 mental health counseling services as such services are defined in arti-
26 cle 163 of the education law, each member of such foreign professional
27 service limited liability company must be licensed pursuant to article
28 163 of the education law to practice mental health counseling in this
29 state. With respect to a foreign professional service limited liability
30 company which provides psychoanalysis services as such services are
31 defined in article 163 of the education law, each member of such foreign
32 professional service limited liability company must be licensed pursuant
33 to article 163 of the education law to practice psychoanalysis in this
34 state. With respect to a foreign professional service limited liability
35 company which provides applied behavior analysis services as such
36 services are defined in article 167 of the education law, each member of
37 such foreign professional service limited liability company must be
38 licensed or certified pursuant to article 167 of the education law to
39 practice applied behavior analysis in this state. NOTWITHSTANDING ANY
40 OTHER PROVISIONS OF LAW A FOREIGN PROFESSIONAL SERVICE LIMITED LIABILITY
41 COMPANY FORMED TO LAWFULLY ENGAGE IN THE PRACTICE OF PUBLIC ACCOUNTANCY,
42 AS SUCH PRACTICE IS RESPECTIVELY DEFINED UNDER ARTICLE 149 OF THE EDU-
43 CATION LAW SHALL BE REQUIRED TO SHOW (1) THAT A SIMPLE MAJORITY OF THE
44 OWNERSHIP OF THE FIRM, IN TERMS OF FINANCIAL INTERESTS, INCLUDING OWNER-
45 SHIP-BASED COMPENSATION, AND VOTING RIGHTS HELD BY THE FIRM'S OWNERS,
46 BELONGS TO INDIVIDUALS LICENSED TO PRACTICE PUBLIC ACCOUNTANCY IN SOME
47 STATE, AND (2) THAT ALL MEMBERS OF A FOREIGN LIMITED PROFESSIONAL
48 SERVICE LIMITED LIABILITY COMPANY, WHOSE PRINCIPAL PLACE OF BUSINESS IS
49 IN THIS STATE, AND WHO ARE ENGAGED IN THE PRACTICE OF PUBLIC ACCOUNTANCY
50 IN THIS STATE, HOLD A VALID LICENSE ISSUED UNDER SECTION 7404 OF THE
51 EDUCATION LAW OR ARE PUBLIC ACCOUNTANTS LICENSED UNDER SECTION 7405 OF
52 THE EDUCATION LAW. ALTHOUGH FIRMS MAY INCLUDE NON-LICENSEE OWNERS, THE
53 FIRM AND ITS OWNERS MUST COMPLY WITH RULES PROMULGATED BY THE STATE
54 BOARD FOR PUBLIC ACCOUNTANCY. NOTWITHSTANDING THE FOREGOING, A FIRM
55 REGISTERED UNDER THIS SECTION MAY NOT HAVE NON-LICENSEE OWNERS IF THE
56 FIRM'S NAME INCLUDES THE WORDS "CERTIFIED PUBLIC ACCOUNTANT," OR "CERTI-

1 FIED PUBLIC ACCOUNTANTS," OR THE ABBREVIATIONS "CPA" OR "CPAS." EACH
2 NON-LICENSEE OWNER OF A FIRM THAT IS REGISTERED UNDER THIS SECTION SHALL
3 BE (1) A NATURAL PERSON WHO ACTIVELY PARTICIPATES IN THE BUSINESS OF THE
4 FIRM OR ITS AFFILIATED ENTITIES, OR (2) AN ENTITY, INCLUDING, BUT NOT
5 LIMITED TO, A PARTNERSHIP OR PROFESSIONAL CORPORATION, PROVIDED EACH
6 BENEFICIAL OWNER OF AN EQUITY INTEREST IN SUCH ENTITY IS A NATURAL
7 PERSON WHO ACTIVELY PARTICIPATES IN THE BUSINESS CONDUCTED BY THE FIRM
8 OR ITS AFFILIATED ENTITIES. FOR PURPOSES OF THIS SUBDIVISION, "ACTIVELY
9 PARTICIPATE" MEANS TO PROVIDE SERVICES TO CLIENTS OR TO OTHERWISE INDI-
10 VIDUALLY TAKE PART IN THE DAY-TO-DAY BUSINESS OR MANAGEMENT OF THE FIRM.

11 (f) "Professional partnership" means (1) a partnership without limited
12 partners each of whose partners is a professional authorized by law to
13 render a professional service within this state, (2) a partnership with-
14 out limited partners each of whose partners is a professional, at least
15 one of whom is authorized by law to render a professional service within
16 this state or (3) a partnership without limited partners authorized by,
17 or holding a license, certificate, registration or permit issued by the
18 licensing authority pursuant to the education law to render a profes-
19 sional service within this state; except that all partners of a profes-
20 sional partnership that provides medical services in this state must be
21 licensed pursuant to article 131 of the education law to practice medi-
22 cine in this state and all partners of a professional partnership that
23 provides dental services in this state must be licensed pursuant to
24 article 133 of the education law to practice dentistry in this state;
25 except that all partners of a professional partnership that provides
26 veterinary services in this state must be licensed pursuant to article
27 135 of the education law to practice veterinary medicine in this state;
28 and further except that all partners of a professional partnership that
29 provides professional engineering, land surveying, geologic, architec-
30 tural, and/or landscape architectural services in this state must be
31 licensed pursuant to article 145, article 147 and/or article 148 of the
32 education law to practice one or more of such professions. WITH RESPECT
33 TO A PROFESSIONAL PARTNERSHIP WHICH PROVIDES PUBLIC ACCOUNTANCY SERVICES
34 AS SUCH SERVICES ARE DEFINED IN ARTICLE 149 OF THE EDUCATION LAW, EACH
35 MEMBER OF SUCH PROFESSIONAL PARTNERSHIP WHOSE PRINCIPAL PLACE OF BUSI-
36 NESS IS IN THIS STATE AND WHO PROVIDES PUBLIC ACCOUNTANCY SERVICES,
37 SHALL BE LICENSED PURSUANT TO ARTICLE 149 OF THE EDUCATION LAW TO PRAC-
38 TICE PUBLIC ACCOUNTANCY. NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW A
39 PROFESSIONAL PARTNERSHIP FORMED TO LAWFULLY ENGAGE IN THE PRACTICE OF
40 PUBLIC ACCOUNTANCY, AS SUCH PRACTICE IS RESPECTIVELY DEFINED UNDER ARTI-
41 CLE 149 OF THE EDUCATION LAW SHALL BE REQUIRED TO SHOW (1) THAT A SIMPLE
42 MAJORITY OF THE OWNERSHIP OF THE FIRM, IN TERMS OF FINANCIAL INTERESTS,
43 INCLUDING OWNERSHIP-BASED COMPENSATION, AND VOTING RIGHTS HELD BY THE
44 FIRM'S OWNERS, BELONGS TO INDIVIDUALS LICENSED TO PRACTICE PUBLIC
45 ACCOUNTANCY IN SOME STATE, AND (2) THAT ALL MEMBERS OF A LIMITED PROFES-
46 SIONAL PARTNERSHIP, WHOSE PRINCIPAL PLACE OF BUSINESS IS IN THIS STATE,
47 AND WHO ARE ENGAGED IN THE PRACTICE OF PUBLIC ACCOUNTANCY IN THIS STATE,
48 HOLD A VALID LICENSE ISSUED UNDER SECTION 7404 OF THE EDUCATION LAW OR
49 ARE PUBLIC ACCOUNTANTS LICENSED UNDER SECTION 7405 OF THE EDUCATION LAW.
50 ALTHOUGH FIRMS MAY INCLUDE NON-LICENSEE OWNERS, THE FIRM AND ITS OWNERS
51 MUST COMPLY WITH RULES PROMULGATED BY THE STATE BOARD FOR PUBLIC ACCOUN-
52 TANCY. NOTWITHSTANDING THE FOREGOING, A FIRM REGISTERED UNDER THIS
53 SECTION MAY NOT HAVE NON-LICENSEE OWNERS IF THE FIRM'S NAME INCLUDES THE
54 WORDS "CERTIFIED PUBLIC ACCOUNTANT," OR "CERTIFIED PUBLIC ACCOUNTANTS,"
55 OR THE ABBREVIATIONS "CPA" OR "CPAS." EACH NON-LICENSEE OWNER OF A FIRM
56 THAT IS REGISTERED UNDER THIS SECTION SHALL BE (1) A NATURAL PERSON WHO

1 ACTIVELY PARTICIPATES IN THE BUSINESS OF THE FIRM OR ITS AFFILIATED
2 ENTITIES, OR (2) AN ENTITY, INCLUDING, BUT NOT LIMITED TO, A PARTNERSHIP
3 OR PROFESSIONAL CORPORATION, PROVIDED EACH BENEFICIAL OWNER OF AN EQUITY
4 INTEREST IN SUCH ENTITY IS A NATURAL PERSON WHO ACTIVELY PARTICIPATES IN
5 THE BUSINESS CONDUCTED BY THE FIRM OR ITS AFFILIATED ENTITIES. FOR
6 PURPOSES OF THIS SUBDIVISION, "ACTIVELY PARTICIPATE" MEANS TO PROVIDE
7 SERVICES TO CLIENTS OR TO OTHERWISE INDIVIDUALLY TAKE PART IN THE
8 DAY-TO-DAY BUSINESS OR MANAGEMENT OF THE FIRM.

9 S 16. This act shall take effect immediately; provided, however, that
10 sections ten-a, eleven-a, twelve-a, fourteen-a and fifteen-a of this act
11 shall take effect on the same date as sections 25, 26, 27, 22, and 23,
12 respectively, of chapter 475 of the laws of 2014 take effect.

13 PART H

14 Section 1. The education law is amended by adding a new article 129-B
15 to read as follows:

16 ARTICLE 129-B

17 IMPLEMENTATION BY COLLEGES AND UNIVERSITIES OF SEXUAL
18 ASSAULT, DATING VIOLENCE, DOMESTIC VIOLENCE, AND STALKING
19 PREVENTION AND RESPONSE POLICIES AND PROCEDURES

20 SECTION 6439. GENERAL PROVISIONS.

21 6440. DEFINITION OF AFFIRMATIVE CONSENT TO SEXUAL ACTIVITY.

22 6441. POLICY FOR ALCOHOL AND/OR DRUG USE AMNESTY IN SEXUAL VIOLENCE
23 CASES.

24 6442. VICTIM AND SURVIVOR BILL OF RIGHTS.

25 6443 RESPONSE TO REPORTS.

26 6444. CAMPUS CLIMATE ASSESSMENTS.

27 6445. OPTIONS FOR CONFIDENTIAL DISCLOSURE.

28 6446. STUDENT ONBOARDING AND ONGOING EDUCATION.

29 6447. PRIVACY IN LEGAL CHALLENGES TO CONDUCT FINDINGS.

30 S 6439. GENERAL PROVISIONS. 1. THE TRUSTEES OR OTHER GOVERNING BOARD
31 OF EACH COLLEGE AND UNIVERSITY CHARTERED BY THE REGENTS OR INCORPORATED
32 BY SPECIAL ACT OF THE LEGISLATURE AND WHICH MAINTAINS A CAMPUS, UNLESS
33 OTHERWISE PROVIDED, SHALL ADOPT WRITTEN RULES FOR IMPLEMENTING ALL POLI-
34 CIES REQUIRED PURSUANT TO THIS ARTICLE AND FOR THE MAINTENANCE OF PUBLIC
35 ORDER ON COLLEGE CAMPUSES AND OTHER COLLEGE PROPERTY USED FOR EDUCA-
36 TIONAL PURPOSES AND PROVIDE A PROGRAM FOR THE ENFORCEMENT THEREOF. SUCH
37 POLICIES SHALL ALSO APPLY TO CONDUCT THAT HAS A NEXUS TO A COLLEGE OR
38 UNIVERSITY PROGRAM AND/OR TAKES PLACE OUTSIDE OF A COLLEGE OR UNIVERSITY
39 PROPERTY BUT IS IN VIOLATION OF FEDERAL, STATE OR LOCAL LAW.

40 2. SEXUAL ASSAULT, DOMESTIC VIOLENCE, DATING VIOLENCE AND STALKING
41 AFFECT THOUSANDS OF COLLEGE AND UNIVERSITY STUDENTS IN NEW YORK STATE
42 AND ACROSS THE NATION. IN ADDITION TO THE TRAUMA CAUSED BY SUCH
43 VIOLENCE, MANY VICTIMS AND SURVIVORS DROP OUT OF SCHOOL, EXPERIENCE
44 DIFFICULTY WORKING, AND SEE PROMISING OPPORTUNITIES CUT SHORT. WHILE IT
45 IS NOT JUST COLLEGE OR UNIVERSITY STUDENTS THAT EXPERIENCE THESE CRIMES,
46 THESE INSTITUTIONS HAVE UNIQUE OPPORTUNITIES TO EDUCATE MEMBERS OF THE
47 COLLEGE COMMUNITY ABOUT THESE CRIMES AND INCIDENTS SO THAT WE CAN BETTER
48 SAFEGUARD STUDENTS. THEREFORE, EACH COLLEGE AND UNIVERSITY MUST DEVELOP
49 AND IMPLEMENT THE POLICIES REQUIRED PURSUANT TO THIS ARTICLE.

50 3. EACH COLLEGE AND UNIVERSITY SHALL ANNUALLY FILE WITH THE DEPARTMENT
51 ON OR BEFORE THE FIRST DAY OF JULY A CERTIFICATE OF COMPLIANCE WITH THE
52 PROVISIONS OF THIS ARTICLE.

1 4. IF A COLLEGE OR UNIVERSITY FAILS TO FILE A CERTIFICATE OF COMPLI-
2 ANCE PURSUANT TO SUBDIVISION THREE OF THIS SECTION WITHIN SIXTY DAYS OF
3 THE TIME REQUIRED, SUCH COLLEGE OR UNIVERSITY SHALL NOT BE ELIGIBLE TO
4 RECEIVE ANY STATE AID OR ASSISTANCE UNTIL SUCH CERTIFICATE OF COMPLIANCE
5 IS DULY FILED.

6 5. EACH COLLEGE AND UNIVERSITY SHALL FILE A COPY OF ALL WRITTEN RULES
7 AND POLICIES ADOPTED AS REQUIRED IN THIS ARTICLE WITH THE DEPARTMENT ON
8 OR BEFORE THE FIRST DAY OF JULY, TWO THOUSAND SIXTEEN, AND ONCE EVERY
9 TEN YEARS THEREAFTER, EXCEPT THAT THE SECOND FILING SHALL COINCIDE WITH
10 THE REQUIRED FILING UNDER ARTICLE ONE HUNDRED TWENTY-NINE-A OF THIS
11 CHAPTER, AND CONTINUE ON THE SAME CYCLE THEREAFTER.

12 6. A COPY OF SUCH RULES AND POLICIES SHALL BE GIVEN BY EACH COLLEGE
13 AND UNIVERSITY TO ALL STUDENTS ENROLLED IN SAID COLLEGE OR UNIVERSITY.
14 EACH COLLEGE AND UNIVERSITY SHALL ALSO POST SUCH RULES AND POLICIES ON
15 ITS WEBSITE IN AN EASILY ACCESSIBLE MANNER TO THE PUBLIC.

16 7. COLLEGES AND UNIVERSITIES SHALL REFER TO APPLICABLE STATE AND
17 FEDERAL LAW, REGULATIONS AND POLICY GUIDANCE IN DEVELOPING AND IMPLE-
18 MENTING THE POLICIES REQUIRED PURSUANT TO THIS ARTICLE, INCLUDING REFER-
19 ENCE TO STATE AND FEDERAL DEFINITIONS OF TERMS NOT SPECIFICALLY DEFINED
20 HEREIN.

21 S 6440. DEFINITION OF AFFIRMATIVE CONSENT TO SEXUAL ACTIVITY. EACH
22 COLLEGE AND UNIVERSITY SHALL ADOPT A UNIFORM DEFINITION OF AFFIRMATIVE
23 CONSENT IN THEIR CODE OF STUDENT CONDUCT OR SIMILAR DOCUMENT GOVERNING
24 STUDENT BEHAVIOR. THIS DEFINITION SHALL STATE THAT "AFFIRMATIVE CONSENT
25 IS A CLEAR, UNAMBIGUOUS, KNOWING, INFORMED, AND VOLUNTARY AGREEMENT
26 BETWEEN ALL PARTICIPANTS TO ENGAGE IN SEXUAL ACTIVITY. CONSENT IS
27 ACTIVE, NOT PASSIVE. SILENCE OR LACK OF RESISTANCE CANNOT BE INTERPRETED
28 AS CONSENT. SEEKING AND HAVING CONSENT ACCEPTED IS THE RESPONSIBILITY OF
29 THE PERSON(S) INITIATING EACH SPECIFIC SEXUAL ACT REGARDLESS OF WHETHER
30 THE PERSON INITIATING THE ACT IS UNDER THE INFLUENCE OF DRUGS AND/OR
31 ALCOHOL. CONSENT TO ANY SEXUAL ACT OR PRIOR CONSENSUAL SEXUAL ACTIVITY
32 BETWEEN OR WITH ANY PARTY DOES NOT CONSTITUTE CONSENT TO ANY OTHER SEXU-
33 AL ACT. THE DEFINITION OF CONSENT DOES NOT VARY BASED UPON A PARTIC-
34 IPANT'S SEX, SEXUAL ORIENTATION, GENDER IDENTITY OR GENDER EXPRESSION.
35 CONSENT MAY BE INITIALLY GIVEN BUT WITHDRAWN AT ANY TIME. WHEN CONSENT
36 IS WITHDRAWN OR CANNOT BE GIVEN, SEXUAL ACTIVITY MUST STOP. CONSENT
37 CANNOT BE GIVEN WHEN A PERSON IS INCAPACITATED. INCAPACITATION OCCURS
38 WHEN AN INDIVIDUAL LACKS THE ABILITY TO FULLY AND KNOWINGLY CHOOSE TO
39 PARTICIPATE IN SEXUAL ACTIVITY. INCAPACITATION INCLUDES IMPAIRMENT DUE
40 TO DRUGS OR ALCOHOL (WHETHER SUCH USE IS VOLUNTARY OR INVOLUNTARY), THE
41 LACK OF CONSCIOUSNESS OR BEING ASLEEP, BEING INVOLUNTARILY RESTRAINED,
42 IF ANY OF THE PARTIES ARE UNDER THE AGE OF 17, OR IF AN INDIVIDUAL
43 OTHERWISE CANNOT CONSENT. CONSENT CANNOT BE GIVEN WHEN IT IS THE RESULT
44 OF ANY COERCION, INTIMIDATION, FORCE, OR THREAT OF HARM."

45 S 6441. POLICY FOR ALCOHOL AND/OR DRUG USE AMNESTY IN SEXUAL VIOLENCE
46 CASES. 1. A BYSTANDER WHO REPORTS IN GOOD FAITH OR A VICTIM REPORTING
47 SEXUAL VIOLENCE TO COLLEGE OR UNIVERSITY OFFICIALS OR LAW ENFORCEMENT
48 SHALL NOT BE SUBJECT TO CAMPUS CONDUCT ACTION FOR VIOLATIONS OF ALCOHOL
49 AND DRUG USE POLICIES OCCURRING AT OR NEAR THE TIME OF THE INCIDENT.
50 EACH COLLEGE AND UNIVERSITY SHALL ADOPT AND IMPLEMENT THE FOLLOWING
51 POLICY: "THE HEALTH AND SAFETY OF EVERY STUDENT AT THE
52 (COLLEGE/UNIVERSITY) IS OF UTMOST IMPORTANCE. (COLLEGE/UNIVERSITY)
53 RECOGNIZES THAT STUDENTS WHO HAVE BEEN DRINKING AND/OR USING DRUGS
54 (WHETHER SUCH USE IS VOLUNTARY OR INVOLUNTARY) AT THE TIME A SEXUAL
55 VIOLENCE INCIDENT OCCURS MAY BE HESITANT TO REPORT SUCH INCIDENTS DUE TO
56 FEAR OF POTENTIAL CONSEQUENCES FOR THEIR OWN CONDUCT.

(COLLEGE/UNIVERSITY) STRONGLY ENCOURAGES STUDENTS TO REPORT INCIDENTS OF SEXUAL VIOLENCE TO CAMPUS OFFICIALS. A BYSTANDER REPORTING IN GOOD FAITH OR A VICTIM/SURVIVOR REPORTING A SEXUAL VIOLENCE INCIDENT TO (COLLEGE/UNIVERSITY) OFFICIALS OR LAW ENFORCEMENT WILL NOT BE SUBJECT TO CAMPUS CONDUCT ACTION FOR VIOLATIONS OF ALCOHOL AND/OR DRUG USE POLICIES OCCURRING AT OR NEAR THE TIME OF THE SEXUAL VIOLENCE INCIDENT."

2. FOR PURPOSES OF THIS ARTICLE, THE TERM "SEXUAL VIOLENCE" SHALL MEAN PHYSICAL SEXUAL ACTS PERPETRATED AGAINST A PERSON'S WILL OR PERPETRATED WHERE A PERSON IS INCAPABLE OF GIVING CONSENT INCLUDING, BUT NOT LIMITED TO, RAPE, SEXUAL ASSAULT, SEXUAL BATTERY, SEXUAL ABUSE, AND SEXUAL COERCION. THE TERM "BYSTANDER" SHALL MEAN A PERSON WHO OBSERVES A CRIME, IMPENDING CRIME, CONFLICT, UNACCEPTABLE BEHAVIOR, OR CONDUCT THAT IS IN VIOLATION OF RULES OR POLICIES OF A COLLEGE OR UNIVERSITY.

S 6442. VICTIM AND SURVIVOR BILL OF RIGHTS. 1. EACH COLLEGE AND UNIVERSITY SHALL ADOPT A VICTIM AND SURVIVOR BILL OF RIGHTS. THIS BILL OF RIGHTS SHALL STATE THE FOLLOWING: "ALL VICTIMS AND SURVIVORS HAVE THE RIGHT TO: (A) MAKE A REPORT TO LOCAL LAW ENFORCEMENT AND/OR STATE POLICE; (B) HAVE DISCLOSURES OF SEXUAL VIOLENCE TREATED SERIOUSLY; (C) MAKE A DECISION ABOUT WHETHER OR NOT TO DISCLOSE A CRIME OR INCIDENT AND PARTICIPATE IN THE CONDUCT OR CRIMINAL JUSTICE PROCESS FREE FROM OUTSIDE PRESSURES FROM COLLEGE/UNIVERSITY OFFICIALS; (D) BE TREATED WITH DIGNITY AND TO RECEIVE FROM COLLEGE/UNIVERSITY OFFICIALS COURTEOUS, FAIR, AND RESPECTFUL HEALTH CARE AND COUNSELING SERVICES; (E) BE FREE FROM ANY SUGGESTION THAT THE VICTIM/SURVIVOR IS AT FAULT WHEN THESE CRIMES AND VIOLATIONS ARE COMMITTED, OR SHOULD HAVE ACTED IN A DIFFERENT MANNER TO AVOID SUCH A CRIME; (F) DESCRIBE THE INCIDENT TO AS FEW INDIVIDUALS AS PRACTICABLE AND NOT TO BE REQUIRED TO UNNECESSARILY REPEAT A DESCRIPTION OF THE INCIDENT; (G) BE FREE FROM RETALIATION BY THE COLLEGE/UNIVERSITY, THE ACCUSED, AND/OR THEIR FRIENDS, FAMILY AND ACQUAINTANCES; AND (H) EXERCISE CIVIL RIGHTS AND PRACTICE OF RELIGION WITHOUT INTERFERENCE BY THE INVESTIGATIVE, CRIMINAL JUSTICE, OR CONDUCT PROCESS OF THE COLLEGE/UNIVERSITY."

2. IN ACCORDANCE WITH PROVISIONS OF THIS SECTION, EACH COLLEGE AND UNIVERSITY SHALL LIST THE FOLLOWING OPTIONS IN BRIEF: VICTIMS AND SURVIVORS HAVE MANY OPTIONS THAT CAN BE PURSUED SIMULTANEOUSLY, INCLUDING ONE OR MORE OF THE FOLLOWING: (A) RECEIVE RESOURCES, SUCH AS COUNSELING AND MEDICAL ATTENTION; (B) CONFIDENTIALLY OR ANONYMOUSLY DISCLOSE A CRIME OR VIOLATION; (C) MAKE A REPORT TO AN EMPLOYEE WITH THE AUTHORITY TO ADDRESS COMPLAINTS, INCLUDING THE TITLE IX COORDINATOR, A STUDENT CONDUCT EMPLOYEE, A HUMAN RESOURCES EMPLOYEE, UNIVERSITY POLICE OR CAMPUS SECURITY, OR FAMILY COURT OR CIVIL COURT; AND (D) MAKE A REPORT TO LOCAL LAW ENFORCEMENT AND/OR STATE POLICE.

3. THIS BILL OF RIGHTS SHALL BE DISTRIBUTED ANNUALLY TO STUDENTS, MADE AVAILABLE ON EACH COLLEGE AND UNIVERSITY WEBSITE, AND POSTED IN EACH CAMPUS RESIDENCE HALL, DINING HALL, AND STUDENT UNION OR CAMPUS CENTER AND SHALL INCLUDE LINKS OR INFORMATION TO FILE A REPORT AND SEEK A RESPONSE, PURSUANT TO SECTION SIXTY-FOUR HUNDRED FORTY-THREE OF THIS ARTICLE, AND THE OPTIONS FOR CONFIDENTIAL DISCLOSURE PURSUANT TO SECTION SIXTY-FOUR HUNDRED FORTY-FOUR OF THIS ARTICLE.

S 6443. RESPONSE TO REPORTS. 1. IN ACCORDANCE WITH THE VICTIM/SURVIVOR BILL OF RIGHTS SET FORTH IN SECTION SIXTY-FOUR HUNDRED FORTY-TWO OF THIS ARTICLE AND THE RIGHT OF VICTIMS AND SURVIVORS TO MAKE A REPORT TO LOCAL LAW ENFORCEMENT AND/OR STATE POLICE, EACH COLLEGE AND UNIVERSITY SHALL ENSURE THAT VICTIMS AND SURVIVORS ARE PROVIDED WITH THE FOLLOWING INFORMATION:

A. THE RIGHT TO NOTIFY LOCAL LAW ENFORCEMENT AND/OR STATE POLICE;

1 B. THE RIGHT TO REPORT CONFIDENTIALLY THE INCIDENT TO COLLEGE OR
2 UNIVERSITY OFFICIALS, WHO MAY MAINTAIN CONFIDENTIALITY PURSUANT TO
3 APPLICABLE LAWS, AND CAN ASSIST IN OBTAINING SERVICES FOR THE VICTIMS
4 AND SURVIVORS;

5 C. THE RIGHT TO DISCLOSE CONFIDENTIALLY THE INCIDENT AND OBTAIN
6 SERVICES FROM NEW YORK STATE, NEW YORK CITY, OR COUNTY SERVICES;

7 D. THE RIGHT TO REPORT THE INCIDENT TO COLLEGE OR UNIVERSITY OFFICIALS
8 WHO CAN OFFER PRIVACY AND CAN ASSIST IN OBTAINING RESOURCES;

9 E. THE RIGHT TO FILE A CRIMINAL COMPLAINT WITH UNIVERSITY POLICE
10 AND/OR CAMPUS SECURITY;

11 F. THE RIGHT TO FILE A REPORT OF SEXUAL ASSAULT, DOMESTIC VIOLENCE,
12 DATING VIOLENCE, AND/OR STALKING, AND THE RIGHT TO CONSULT THE TITLE IX
13 COORDINATOR FOR INFORMATION AND ASSISTANCE. REPORTS SHALL BE INVESTI-
14 GATED IN ACCORDANCE WITH COLLEGE OR UNIVERSITY POLICY AND A
15 VICTIM/SURVIVOR'S IDENTITY SHALL REMAIN PRIVATE AT ALL TIMES IF SAID
16 VICTIM/SURVIVOR WISHES TO MAINTAIN CONFIDENTIALITY;

17 G. WHEN THE ACCUSED IS AN EMPLOYEE, THE RIGHT TO REPORT THE INCIDENT
18 TO THE COLLEGE OR UNIVERSITY HUMAN RESOURCES AUTHORITY OR THE RIGHT TO
19 REQUEST THAT A CONFIDENTIAL OR PRIVATE EMPLOYEE ASSIST IN REPORTING TO
20 THE APPROPRIATE HUMAN RESOURCES AUTHORITY. DISCIPLINARY PROCEEDINGS WILL
21 BE CONDUCTED IN ACCORDANCE WITH APPLICABLE COLLECTIVE BARGAINING AGREE-
22 MENTS. WHEN THE ACCUSED IS AN EMPLOYEE OF AN AFFILIATED ENTITY OR VENDOR
23 OF THE COLLEGE, COLLEGE OR UNIVERSITY OFFICIALS WILL, AT THE REQUEST OF
24 THE VICTIM/SURVIVOR, ASSIST IN REPORTING TO THE APPROPRIATE OFFICE OF
25 THE VENDOR OR AFFILIATED ENTITY AND, IF THE RESPONSE OF THE VENDOR OR
26 AFFILIATED ENTITY IS NOT DEEMED SUFFICIENT BY THE COLLEGE OR UNIVERSITY
27 OFFICIALS, ASSIST IN OBTAINING A PERSONA NON GRATA LETTER, SUBJECT TO
28 LEGAL REQUIREMENTS AND COLLEGE POLICY;

29 H. THE RIGHT TO WITHDRAW A COMPLAINT OR INVOLVEMENT FROM THE COLLEGE
30 OR UNIVERSITY PROCESS AT ANY TIME.

31 2. EACH COLLEGE AND UNIVERSITY SHALL ENSURE THAT VICTIMS AND SURVIVORS
32 HAVE INFORMATION ABOUT RESOURCES, INCLUDING INTERVENTION, MENTAL HEALTH
33 COUNSELING, AND MEDICAL. THE POLICY SHALL ALSO PROVIDE INFORMATION ON
34 SEXUALLY TRANSMITTED INFECTIONS, SEXUAL ASSAULT FORENSIC EXAMINATIONS,
35 AND RESOURCES AVAILABLE THROUGH THE OFFICE OF VICTIM SERVICES, ESTAB-
36 LISHED PURSUANT TO SECTION SIX HUNDRED TWENTY-TWO OF THE EXECUTIVE LAW.

37 3. EACH COLLEGE AND UNIVERSITY SHALL ENSURE THAT VICTIMS AND SURVIVORS
38 HAVE THE FOLLOWING PROTECTIONS AND ACCOMMODATIONS:

39 A. WHEN THE ACCUSED IS A STUDENT, TO HAVE THE COLLEGE ISSUE A "NO
40 CONTACT ORDER," WHEREBY CONTINUED CONTACT WITH THE PROTECTED INDIVIDUAL
41 WOULD BE A VIOLATION OF COLLEGE OR UNIVERSITY POLICY SUBJECT TO ADDI-
42 TIONAL CONDUCT CHARGES; IF THE ACCUSED AND A PROTECTED PERSON OBSERVE
43 EACH OTHER IN A PUBLIC PLACE, IT IS THE RESPONSIBILITY OF THE ACCUSED TO
44 LEAVE THE AREA IMMEDIATELY AND WITHOUT DIRECTLY CONTACTING THE PROTECTED
45 PERSON;

46 B. TO HAVE ASSISTANCE FROM UNIVERSITY POLICE OR CAMPUS SECURITY OR
47 OTHER COLLEGE OR UNIVERSITY OFFICIALS IN OBTAINING AN ORDER OF
48 PROTECTION OR, IF OUTSIDE OF NEW YORK STATE, AN EQUIVALENT PROTECTIVE OR
49 RESTRAINING ORDER;

50 C. TO RECEIVE A COPY OF THE ORDER OF PROTECTION OR EQUIVALENT AND HAVE
51 AN OPPORTUNITY TO MEET OR SPEAK WITH A COLLEGE OR UNIVERSITY OFFICIAL
52 WHO CAN EXPLAIN THE ORDER AND ANSWER QUESTIONS ABOUT IT, INCLUDING
53 INFORMATION FROM THE ORDER ABOUT THE ACCUSED'S RESPONSIBILITY TO STAY
54 AWAY FROM THE PROTECTED PERSON OR PERSONS; THAT BURDEN DOES NOT REST ON
55 THE PROTECTED PERSON OR PERSONS;

1 D. A RIGHT TO AN EXPLANATION OF THE CONSEQUENCES FOR VIOLATING THESE
2 ORDERS, INCLUDING BUT NOT LIMITED TO ARREST, ADDITIONAL CONDUCT CHARGES,
3 AND INTERIM SUSPENSION;

4 E. TO RECEIVE ASSISTANCE FROM UNIVERSITY POLICE OR CAMPUS SECURITY IN
5 EFFECTING AN ARREST WHEN AN INDIVIDUAL VIOLATES AN ORDER OF PROTECTION
6 OR, IF UNIVERSITY POLICE OR CAMPUS SECURITY DOES NOT POSSESS ARRESTING
7 POWERS, THEN TO CALL ON AND ASSIST LOCAL LAW ENFORCEMENT IN EFFECTING AN
8 ARREST FOR VIOLATING SUCH AN ORDER;

9 F. WHEN THE ACCUSED IS A STUDENT AND PRESENTS A CONTINUING THREAT TO
10 THE HEALTH AND SAFETY OF THE COMMUNITY, TO SUBJECT THE ACCUSED TO INTER-
11 IM SUSPENSION PENDING THE OUTCOME OF A CONDUCT PROCESS;

12 G. WHEN THE ACCUSED IS NOT A STUDENT BUT IS A MEMBER OF THE COLLEGE
13 COMMUNITY AND PRESENTS A CONTINUING THREAT TO THE HEALTH AND SAFETY OF
14 THE COMMUNITY, TO SUBJECT THE ACCUSED TO INTERIM MEASURES IN ACCORDANCE
15 WITH APPLICABLE COLLECTIVE BARGAINING AGREEMENTS, EMPLOYEE HANDBOOKS,
16 AND RULES AND POLICIES OF THE COLLEGE OR UNIVERSITY;

17 H. WHEN THE ACCUSED IS NOT A MEMBER OF THE COLLEGE COMMUNITY, TO HAVE
18 ASSISTANCE FROM UNIVERSITY POLICE OR CAMPUS SECURITY OR OTHER COLLEGE OR
19 UNIVERSITY OFFICIALS IN OBTAINING A PERSONA NON GRATA LETTER, SUBJECT TO
20 APPLICABLE LEGAL REQUIREMENTS AND POLICIES; AND

21 I. TO OBTAIN REASONABLE AND AVAILABLE INTERIM MEASURES AND ACCOMMO-
22 DATIONS THAT EFFECT A CHANGE IN ACADEMIC, HOUSING, EMPLOYMENT, TRANSPOR-
23 TATION, OR OTHER APPLICABLE ARRANGEMENTS IN ORDER TO ENSURE SAFETY,
24 PREVENT RETALIATION, AND AVOID AN ONGOING HOSTILE ENVIRONMENT.

25 4. EACH COLLEGE AND UNIVERSITY SHALL ENSURE THAT STUDENTS PARTICIPAT-
26 ING IN THE STUDENT CONDUCT OR JUDICIAL PROCESS BE AFFORDED THE FOLLOWING
27 RIGHTS AND RESPONSIBILITIES:

28 A. THE RIGHT TO FILE STUDENT CONDUCT CHARGES AGAINST THE ACCUSED.
29 CONDUCT PROCEEDINGS ARE GOVERNED BY THE PROCEDURES SET FORTH IN COLLEGE
30 OR UNIVERSITY RULES AS WELL AS FEDERAL AND NEW YORK STATE LAW, INCLUD-
31 ING, WHERE APPLICABLE, THE DUE PROCESS PROVISIONS OF THE UNITED STATES
32 CONSTITUTION AND NEW YORK STATE CONSTITUTION.

33 B. THROUGHOUT CONDUCT PROCEEDINGS, THE ACCUSED AND THE VICTIM/SURVIVOR
34 SHALL BE PROVIDED:

35 (1) THE SAME OPPORTUNITY TO HAVE ACCESS TO AN ADVISOR OF THEIR CHOICE,
36 WHERE PARTICIPATION OF THE ADVISOR IN ANY PROCEEDING SHALL BE IN COMPLI-
37 ANCE WITH APPLICABLE FEDERAL LAWS AND THE STUDENT CODE OF CONDUCT.

38 (2) THE RIGHT TO A PROMPT RESPONSE TO ANY COMPLAINT AND TO HAVE THE
39 COMPLAINT INVESTIGATED AND ADJUDICATED IN AN IMPARTIAL, TIMELY, AND
40 THOROUGH MANNER BY INDIVIDUALS WHO RECEIVE ANNUAL TRAINING IN CONDUCTING
41 INVESTIGATIONS OF SEXUAL VIOLENCE, THE EFFECTS OF TRAUMA, AND OTHER
42 ISSUES RELATED TO SEXUAL VIOLENCE INCLUDING BUT NOT LIMITED TO SEXUAL
43 ASSAULT, DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING.

44 (3) THE RIGHT TO AN INVESTIGATION AND PROCESS THAT IS FAIR, IMPARTIAL,
45 AND PROVIDES A MEANINGFUL OPPORTUNITY TO BE HEARD.

46 (4) THE RIGHT TO RECEIVE WRITTEN OR ELECTRONIC NOTICE OF ANY MEETING
47 OR HEARING THEY ARE REQUIRED TO OR ARE ELIGIBLE TO ATTEND.

48 (5) THE RIGHT TO HAVE A CONDUCT PROCESS RUN CONCURRENTLY WITH A CRIMI-
49 NAL JUSTICE INVESTIGATION AND PROCEEDING, EXCEPT FOR TEMPORARY DELAYS AS
50 REQUESTED BY EXTERNAL MUNICIPAL ENTITIES WHILE LAW ENFORCEMENT GATHERS
51 EVIDENCE. TO COMPLY WITH FEDERAL LAW, TEMPORARY DELAYS SHOULD NOT LAST
52 MORE THAN TEN DAYS EXCEPT WHEN LAW ENFORCEMENT SPECIFICALLY REQUESTS AND
53 JUSTIFIES A LONGER DELAY.

54 (6) THE RIGHT TO REVIEW AVAILABLE EVIDENCE IN THE CASE FILE.

(7) THE RIGHT TO A RANGE OF OPTIONS FOR PROVIDING TESTIMONY VIA ALTERNATIVE ARRANGEMENTS, INCLUDING TELEPHONE/VIDEOCONFERENCING OR TESTIFYING WITH A ROOM PARTITION.

(8) THE RIGHT TO EXCLUDE PRIOR SEXUAL HISTORY OR PAST MENTAL HEALTH HISTORY FROM ADMITTANCE IN THE COLLEGE DISCIPLINARY STAGE THAT DETERMINES RESPONSIBILITY. PAST SEXUAL VIOLENCE FINDINGS MAY BE ADMISSIBLE IN THE DISCIPLINARY STAGE THAT DETERMINES SANCTION.

(9) THE RIGHT TO ASK QUESTIONS OF THE DECISION MAKER AND VIA THE DECISION MAKER INDIRECTLY REQUEST RESPONSES FROM OTHER PARTIES AND ANY OTHER WITNESSES PRESENT.

(10) THE RIGHT TO MAKE AN IMPACT STATEMENT DURING THE POINT OF THE PROCEEDING WHERE THE DECISION MAKER IS DELIBERATING ON APPROPRIATE SANCTIONS.

(11) THE RIGHT TO SIMULTANEOUS (AMONG THE PARTIES) WRITTEN OR ELECTRONIC NOTIFICATION OF THE OUTCOME OF A CONDUCT PROCEEDING, INCLUDING THE SANCTION OR SANCTIONS.

(12) THE RIGHT TO KNOW THE SANCTION OR SANCTIONS THAT MAY BE IMPOSED ON THE ACCUSED BASED UPON THE OUTCOME OF THE CONDUCT PROCEEDING AND THE REASON FOR THE ACTUAL SANCTION IMPOSED. FOR STUDENTS FOUND RESPONSIBLE FOR COMMITTING SEXUAL ASSAULT, THE AVAILABLE SANCTIONS SHALL BE EITHER IMMEDIATE SUSPENSION WITH ADDITIONAL REQUIREMENTS OR EXPULSION.

C. THE RIGHT TO CHOOSE WHETHER TO DISCLOSE OR DISCUSS THE OUTCOME OF A CONDUCT HEARING.

S 6444. CAMPUS CLIMATE ASSESSMENTS. 1. EACH COLLEGE AND UNIVERSITY SHALL CONDUCT A CAMPUS CLIMATE ASSESSMENT AIMED AT ASCERTAINING GENERAL AWARENESS AND KNOWLEDGE OF PROVISIONS OF THIS ARTICLE, DEVELOPED USING STANDARD AND COMMONLY RECOGNIZED RESEARCH METHODS, AND SHALL CONDUCT SUCH ASSESSMENT NO LESS THAN EVERY OTHER YEAR.

2. THE ASSESSMENT SHALL INCLUDE QUESTIONS COVERING AT LEAST THE FOLLOWING TOPICS REGARDING STUDENT AND EMPLOYEE KNOWLEDGE ABOUT (A) THE TITLE IX COORDINATOR'S ROLE; (B) CAMPUS POLICIES AND PROCEDURES ADDRESSING SEXUAL ASSAULT; (C) HOW AND WHERE TO REPORT SEXUAL VIOLENCE AS A VICTIM, SURVIVOR OR WITNESS; (D) THE AVAILABILITY OF RESOURCES ON AND OFF CAMPUS, SUCH AS COUNSELING, HEALTH, AND ACADEMIC ASSISTANCE; (E) THE PREVALENCE OF VICTIMIZATION AND PERPETRATION OF SEXUAL ASSAULT, DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING ON AND OFF CAMPUS DURING A SET TIME PERIOD; (F) BYSTANDER ATTITUDES AND BEHAVIOR; AND (G) WHETHER VICTIMS AND SURVIVORS REPORTED TO THE COLLEGE OR UNIVERSITY AND/OR POLICE, AND REASONS WHY THEY DID OR DID NOT REPORT.

3. EACH COLLEGE AND UNIVERSITY SHALL TAKE STEPS TO ENSURE THAT ANSWERS TO SUCH ASSESSMENTS REMAIN ANONYMOUS AND NO INDIVIDUAL RESPONDENT IS IDENTIFIED.

4. EACH COLLEGE AND UNIVERSITY SHALL PUBLISH DETAILED RESULTS OF SUCH SURVEYS ON THEIR INTERNET WEBSITE PROVIDED THAT NO PERSONALLY IDENTIFIABLE INFORMATION OR INFORMATION WHICH CAN REASONABLY LEAD A READER TO IDENTIFY AN INDIVIDUAL RESPONDENT SHALL BE SHARED.

5. NOTHING IN THIS SECTION SHALL BE SUBJECT TO DISCOVERY OR ADMITTED INTO EVIDENCE IN A FEDERAL OR STATE COURT PROCEEDING OR CONSIDERED FOR OTHER PURPOSES IN ANY ACTION FOR DAMAGES BROUGHT BY A PRIVATE PARTY AGAINST A COLLEGE OR UNIVERSITY.

S 6445. OPTIONS FOR CONFIDENTIAL DISCLOSURE. IN ACCORDANCE WITH THE VICTIM/SURVIVOR BILL OF RIGHTS SET FORTH IN SECTION SIXTY-FOUR HUNDRED FORTY-TWO OF THIS ARTICLE, EACH COLLEGE AND UNIVERSITY SHALL ENSURE THAT VICTIMS AND SURVIVORS HAVE THE FOLLOWING INFORMATION: (A) INFORMATION REGARDING PRIVILEGED AND CONFIDENTIAL RESOURCES THEY MAY CONTACT REGARDING VIOLENCE; (B) INFORMATION ABOUT NON-PROFESSIONAL COUNSELORS AND

1 ADVOCATES THEY MAY CONTACT REGARDING VIOLENCE; (C) A PLAIN LANGUAGE
2 EXPLANATION OF THE DIFFERENCES BETWEEN PRIVACY AND CONFIDENTIALITY; (D)
3 INFORMATION ABOUT HOW THE COLLEGE OR UNIVERSITY WILL WEIGH A REQUEST FOR
4 CONFIDENTIALITY AND RESPOND TO SUCH A REQUEST. SUCH INFORMATION SHALL AT
5 MINIMUM INCLUDE THAT IF A VICTIM/SURVIVOR DISCLOSES AN INCIDENT TO A
6 COLLEGE OR UNIVERSITY EMPLOYEE WHO IS RESPONSIBLE FOR RESPONDING TO OR
7 REPORTING SEXUAL VIOLENCE OR SEXUAL HARASSMENT, BUT WISHES TO MAINTAIN
8 CONFIDENTIALITY OR DOES NOT CONSENT TO THE INSTITUTION'S REQUEST TO
9 INITIATE AN INVESTIGATION, THE TITLE IX COORDINATOR MUST WEIGH THE
10 REQUEST AGAINST THE COLLEGE OR UNIVERSITY'S OBLIGATION TO PROVIDE A
11 SAFE, NON-DISCRIMINATORY ENVIRONMENT FOR ALL MEMBERS OF ITS COMMUNITY.
12 THE COLLEGE OR UNIVERSITY WILL ASSIST WITH ACADEMIC, HOUSING, TRANSPOR-
13 TATION, EMPLOYMENT, AND OTHER REASONABLE AND AVAILABLE ACCOMMODATIONS
14 REGARDLESS OF REPORTING CHOICES. THE COLLEGE OR UNIVERSITY MAY TAKE
15 PROACTIVE STEPS, SUCH AS TRAINING OR AWARENESS EFFORTS, TO COMBAT SEXUAL
16 VIOLENCE IN A GENERAL WAY THAT DOES NOT IDENTIFY THOSE WHO DISCLOSE OR
17 THE INFORMATION DISCLOSED. THE COLLEGE OR UNIVERSITY MAY SEEK CONSENT
18 FROM THOSE WHO DISCLOSE PRIOR TO CONDUCTING AN INVESTIGATION. DECLINING
19 TO CONSENT TO AN INVESTIGATION WILL BE HONORED UNLESS THE COLLEGE OR
20 UNIVERSITY DETERMINES IN GOOD FAITH THAT FAILURE TO INVESTIGATE DOES NOT
21 ADEQUATELY MITIGATE A POTENTIAL RISK OF HARM TO THE DISCLOSING PERSON OR
22 OTHER MEMBERS OF THE COMMUNITY. HONORING SUCH A REQUEST MAY LIMIT THE
23 COLLEGE OR UNIVERSITY'S ABILITY TO MEANINGFULLY INVESTIGATE AND PURSUE
24 CONDUCT ACTION AGAINST AN ACCUSED INDIVIDUAL. IF THE COLLEGE OR UNIVER-
25 SITY DETERMINES THAT AN INVESTIGATION IS REQUIRED, IT WILL NOTIFY THE
26 DISCLOSING PERSON AND TAKE IMMEDIATE ACTION AS NECESSARY TO PROTECT AND
27 ASSIST THEM. FACTORS USED TO DETERMINE WHETHER TO HONOR A CONFIDENTIALI-
28 TY REQUEST INCLUDE, BUT ARE NOT LIMITED TO: (1) WHETHER THE ACCUSED HAS
29 A HISTORY OF VIOLENT BEHAVIOR OR IS A REPEAT OFFENDER; (2) WHETHER THE
30 INCIDENT REPRESENTS ESCALATION IN UNLAWFUL CONDUCT ON BEHALF OF THE
31 ACCUSED FROM PREVIOUSLY NOTED BEHAVIOR; (3) THE INCREASED RISK THAT THE
32 ACCUSED WILL COMMIT ADDITIONAL ACTS OF VIOLENCE; (4) WHETHER THE ACCUSED
33 USED A WEAPON OR FORCE; (5) WHETHER THE VICTIM/SURVIVOR IS A MINOR; AND
34 (6) WHETHER THE COLLEGE OR UNIVERSITY POSSESSES OTHER MEANS TO OBTAIN
35 EVIDENCE SUCH AS SECURITY FOOTAGE, AND WHETHER AVAILABLE INFORMATION
36 REVEALS A PATTERN OF PERPETRATION AT A GIVEN LOCATION OR BY A PARTICULAR
37 GROUP; (E) INFORMATION ABOUT PUBLIC AWARENESS AND ADVOCACY EVENTS,
38 INCLUDING GUARANTEES THAT IF AN INDIVIDUAL DISCLOSES INFORMATION THROUGH
39 A PUBLIC AWARENESS EVENT SUCH AS CANDLELIGHT VIGILS, PROTESTS, OR OTHER
40 PUBLIC EVENT, THE COLLEGE OR UNIVERSITY IS NOT OBLIGATED TO BEGIN AN
41 INVESTIGATION BASED ON SUCH INFORMATION. THE COLLEGE OR UNIVERSITY MAY
42 USE THE INFORMATION PROVIDED AT SUCH AN EVENT TO INFORM ITS EFFORTS FOR
43 ADDITIONAL EDUCATION AND PREVENTION EFFORTS; (F) INFORMATION ABOUT METH-
44 ODS TO ANONYMOUSLY DISCLOSE INCLUDING BUT NOT LIMITED TO INFORMATION ON
45 RELEVANT CONFIDENTIAL HOTLINES PROVIDED BY NEW YORK STATE AGENCIES AND
46 NOT-FOR-PROFIT ENTITIES; (G) INFORMATION REGARDING INSTITUTIONAL CRIME
47 REPORTING INCLUDING BUT NOT LIMITED TO: REPORTS OF CERTAIN CRIMES OCCUR-
48 RING IN SPECIFIC GEOGRAPHIC LOCATIONS THAT SHALL BE INCLUDED IN THE
49 COLLEGE OR UNIVERSITY ANNUAL SECURITY REPORT PURSUANT TO THE CLERY ACT,
50 20 U.S.C. 1092(F), IN AN ANONYMIZED MANNER THAT NEITHER IDENTIFIES THE
51 SPECIFICS OF THE CRIME OR THE IDENTITY OF THE VICTIM/SURVIVOR; THAT THE
52 COLLEGE OR UNIVERSITY IS OBLIGATED TO ISSUE TIMELY WARNINGS OF CRIMES
53 ENUMERATED IN THE CLERY ACT OCCURRING WITHIN RELEVANT GEOGRAPHY THAT
54 REPRESENT A SERIOUS OR CONTINUING THREAT TO STUDENTS AND EMPLOYEES,
55 EXCEPT IN THOSE CIRCUMSTANCES WHERE ISSUING SUCH A WARNING MAY COMPRO-
56 MISE CURRENT LAW ENFORCEMENT EFFORTS OR WHEN THE WARNING ITSELF COULD

POTENTIALLY IDENTIFY THE VICTIM/SURVIVOR; THAT A VICTIM OR SURVIVOR SHALL NOT BE IDENTIFIED IN A TIMELY WARNING; THAT THE FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT, 20 U.S.C. 1232(G), ALLOWS INSTITUTIONS TO SHARE INFORMATION WITH PARENTS WHEN (1) THERE IS A HEALTH OR SAFETY EMERGENCY, OR (2) WHEN THE STUDENT IS A DEPENDENT ON EITHER PARENT'S PRIOR YEAR FEDERAL INCOME TAX RETURN, AND THAT GENERALLY, THE COLLEGE OR UNIVERSITY SHALL NOT SHARE INFORMATION ABOUT A REPORT OF SEXUAL VIOLENCE WITH PARENTS WITHOUT THE PERMISSION OF THE VICTIM/SURVIVOR.

S 6446. STUDENT ONBOARDING AND ONGOING EDUCATION. 1. EACH COLLEGE AND UNIVERSITY SHALL ADOPT A COMPREHENSIVE STUDENT ONBOARDING AND ONGOING EDUCATION CAMPAIGN TO EDUCATE MEMBERS OF THE COLLEGE OR UNIVERSITY COMMUNITY ABOUT SEXUAL ASSAULT, DOMESTIC VIOLENCE, DATING VIOLENCE AND STALKING, IN COMPLIANCE WITH APPLICABLE FEDERAL LAWS, INCLUDING THE CLERY ACT AS AMENDED BY THE VIOLENCE AGAINST WOMEN ACT REAUTHORIZATION OF 2013, 20 U.S.C. 1092(F).

2. INCLUDED IN THIS CAMPAIGN IT SHALL BE A REQUIREMENT THAT ALL NEW FIRST-YEAR AND TRANSFER STUDENTS SHALL, DURING THE COURSE OF THEIR ONBOARDING TO THEIR COLLEGE OR UNIVERSITY, RECEIVE TRAINING ON THE FOLLOWING TOPICS, USING A METHOD AND MANNER APPROPRIATE TO THE INSTITUTIONAL CULTURE OF EACH COLLEGE OR UNIVERSITY: (A) THE COLLEGE OR UNIVERSITY PROHIBITS SEXUAL HARASSMENT, INCLUDING SEXUAL VIOLENCE, OTHER VIOLENCE OR THREATS OF VIOLENCE, AND WILL OFFER RESOURCES TO ANY VICTIMS AND SURVIVORS OF SUCH VIOLENCE WHILE TAKING ADMINISTRATIVE AND CONDUCT ACTION REGARDING ANY ACCUSED INDIVIDUAL WITHIN THE JURISDICTION OF THE COLLEGE OR UNIVERSITY; (B) RELEVANT DEFINITIONS INCLUDING, BUT NOT LIMITED TO, THE DEFINITIONS OF SEXUAL VIOLENCE AND CONSENT; (C) POLICIES APPLY EQUALLY TO ALL STUDENTS REGARDLESS OF SEXUAL ORIENTATION, GENDER IDENTITY, OR GENDER EXPRESSION; (D) THE ROLE OF THE TITLE IX COORDINATOR, UNIVERSITY POLICE OR CAMPUS SECURITY, AND OTHER RELEVANT OFFICES THAT ADDRESS SEXUAL VIOLENCE PREVENTION AND RESPONSE; (E) AWARENESS OF VIOLENCE, ITS IMPACT ON VICTIMS AND SURVIVORS AND THEIR FRIENDS AND FAMILY, AND ITS LONG-TERM IMPACT; (F) THE POLICIES REQUIRED BY SECTIONS SIXTY-FOUR HUNDRED FORTY-THREE AND SIXTY-FOUR HUNDRED FORTY-FOUR OF THIS ARTICLE, INCLUDING: (1) HOW TO REPORT SEXUAL VIOLENCE AND OTHER CRIMES CONFIDENTIALLY TO COLLEGE OR UNIVERSITY OFFICIALS, CAMPUS LAW ENFORCEMENT AND SECURITY, AND LOCAL LAW ENFORCEMENT; AND (2) HOW TO OBTAIN SERVICES AND SUPPORT; (G) BYSTANDER INTERVENTION AND THE IMPORTANCE OF TAKING ACTION, WHEN ONE CAN SAFELY DO SO, TO PREVENT VIOLENCE; (H) THE PROTECTIONS OF THE POLICY FOR ALCOHOL AND/OR DRUG USE AMNESTY IN SEXUAL VIOLENCE CASES AS OUTLINED IN SECTION SIXTY-FOUR HUNDRED FORTY-ONE OF THIS ARTICLE; (I) RISK ASSESSMENT AND REDUCTION INCLUDING, BUT NOT LIMITED TO, STEPS THAT POTENTIAL VICTIMS AND SURVIVORS AND BYSTANDERS CAN TAKE TO LOWER THE INCIDENCE OF SEXUAL VIOLENCE; AND (J) CONSEQUENCES AND SANCTIONS FOR INDIVIDUALS WHO COMMIT THESE CRIMES.

3. EACH COLLEGE AND UNIVERSITY SHALL CONDUCT THESE TRAININGS FOR ALL NEW STUDENTS, WHETHER FIRST-YEAR OR TRANSFER, UNDERGRADUATE, GRADUATE, OR PROFESSIONAL.

4. EACH COLLEGE AND UNIVERSITY SHALL USE MULTIPLE METHODS TO EDUCATE STUDENTS ABOUT VIOLENCE PREVENTION AND WILL ALSO SHARE INFORMATION ON SEXUAL VIOLENCE PREVENTION WITH PARENTS OF ENROLLING STUDENTS.

5. EACH COLLEGE AND UNIVERSITY SHALL OFFER TO ALL STUDENTS GENERAL AND SPECIALIZED TRAINING IN SEXUAL VIOLENCE PREVENTION. EACH COLLEGE AND UNIVERSITY SHALL CONDUCT A CAMPAIGN, COMPLIANT WITH THE REQUIREMENTS OF THE VIOLENCE AGAINST WOMEN ACT, 20 U.S.C. 1092(F), TO EDUCATE THE STUDENT POPULATION. FURTHER, EACH COLLEGE AND UNIVERSITY SHALL, AS APPROPRIATE, PROVIDE OR EXPAND SPECIFIC TRAINING TO INCLUDE GROUPS SUCH

1 AS INTERNATIONAL STUDENTS, STUDENTS THAT ARE ALSO EMPLOYEES, LEADERS AND
2 OFFICERS OF REGISTERED OR RECOGNIZED STUDENT ORGANIZATIONS, AND ONLINE
3 AND DISTANCE EDUCATION STUDENTS. EACH COLLEGE AND UNIVERSITY SHALL ALSO
4 PROVIDE SPECIFIC TRAINING TO MEMBERS OF GROUPS IDENTIFIED AS LIKELY TO
5 ENGAGE IN HIGH-RISK BEHAVIOR.

6 6. EACH COLLEGE AND UNIVERSITY SHALL REQUIRE THAT STUDENT LEADERS AND
7 OFFICERS OF STUDENT ORGANIZATIONS RECOGNIZED BY OR REGISTERED WITH THE
8 COLLEGE OR UNIVERSITY, AS WELL AS THOSE SEEKING RECOGNITION BY THE
9 COLLEGE OR UNIVERSITY, COMPLETE TRAINING ON SEXUAL VIOLENCE PREVENTION
10 AS PART OF THE APPROVAL PROCESS, AND EACH COLLEGE AND UNIVERSITY SHALL
11 REQUIRE THAT STUDENT-ATHLETES COMPLETE TRAINING ON SEXUAL VIOLENCE
12 PREVENTION PRIOR TO PARTICIPATING IN INTERCOLLEGIATE ATHLETIC COMPETI-
13 TION.

14 7. METHODS OF TRAINING AND EDUCATING STUDENTS MAY INCLUDE, BUT ARE NOT
15 LIMITED TO: (A) PRESIDENT'S WELCOME MESSAGING; (B) PEER THEATER AND PEER
16 EDUCATIONAL PROGRAMS; (C) ONLINE TRAINING; (D) SOCIAL MEDIA OUTREACH;
17 (E) FIRST-YEAR SEMINARS AND TRANSITIONAL COURSES; (F) COURSE SYLLABI;
18 (G) FACULTY TEACH-INS; (H) INSTITUTION-WIDE READING PROGRAMS; (I) POST-
19 ERS, BULLETIN BOARDS, AND OTHER TARGETED PRINT AND EMAIL MATERIALS; (J)
20 PROGRAMMING SURROUNDING LARGE RECURRING CAMPUS EVENTS; (K) PARTNERING
21 WITH NEIGHBORING COLLEGES AND UNIVERSITIES TO OFFER TRAINING AND EDUCA-
22 TION; (L) PARTNERING WITH STATE AND LOCAL COMMUNITY ORGANIZATIONS THAT
23 PROVIDE OUTREACH, SUPPORT, CRISIS INTERVENTION, COUNSELING AND OTHER
24 RESOURCES TO VICTIMS AND SURVIVORS OF CRIMES TO OFFER TRAINING AND
25 EDUCATION; AND (M) OUTREACH AND PARTNERING WITH LOCAL BUSINESSES THAT
26 ATTRACT STUDENTS TO ADVERTISE AND EDUCATE ABOUT THESE POLICIES.

27 8. EACH COLLEGE AND UNIVERSITY MUST ENGAGE IN AN OCCASIONAL ASSESSMENT
28 OF ITS PROGRAM AND POLICIES ESTABLISHED PURSUANT TO PROVISIONS OF THIS
29 ARTICLE, IN ORDER TO DETERMINE EFFECTIVENESS AND RELEVANCE FOR STUDENTS,
30 BY EITHER ASSESSING ITS OWN PROGRAMMING OR BY CONDUCTING A REVIEW OF
31 POLICIES OF OTHER COLLEGES AND UNIVERSITIES AND PUBLISHED STUDIES.

32 S 6447. PRIVACY IN LEGAL CHALLENGES TO CONDUCT FINDINGS. IN ANY
33 PROCEEDING BROUGHT AGAINST A COLLEGE OR UNIVERSITY CHARTERED BY THE
34 REGENTS OR INCORPORATED BY SPECIAL ACT OF THE LEGISLATURE AND WHICH
35 MAINTAINS A CAMPUS, CHALLENGING A FINDING THAT A STUDENT WAS RESPONSIBLE
36 FOR A VIOLATION OF THE COLLEGE OR UNIVERSITY RULES, THE PLEADINGS AND
37 OTHER PAPERS OF SUCH A PROCEEDING SHALL NOT NAME OR PROVIDE IDENTIFYING
38 INFORMATION ABOUT TESTIFYING WITNESSES (INCLUDING A VICTIM OR SURVIVOR
39 OF A CRIME) WITH THE EXCEPTION OF THE PETITIONER, INDIVIDUALS TESTIFYING
40 IN THEIR PROFESSIONAL OR EXPERT CAPACITY, AND WITNESSES WHO WAIVE THIS
41 RIGHT TO PRIVACY IN A NOTARIZED INSTRUMENT PRESENTED TO THE COURT.
42 WITNESSES SHALL BE IDENTIFIED ONLY AS NUMBERED WITNESSES.

43 S 2. This act shall take effect immediately; provided, however, that
44 sections sixty-four hundred thirty-nine, sixty-four hundred forty,
45 sixty-four hundred forty-two, sixty-four hundred forty-four and sixty-
46 four hundred forty-five of article 29-B of the education law, as added
47 by section one of this act, shall take effect on the one hundred eight-
48 ieth day after it shall have become a law; sections sixty-four hundred
49 forty-one and sixty-four hundred forty-six of article 29-B of the educa-
50 tion law, as added by section one of this act, shall take effect on the
51 sixtieth day after it shall have become a law, and section sixty-four
52 hundred forty-three of article 29-B of the education law, as added by
53 section one of this act, shall take effect on the four hundred twenty-
54 fifth day after it shall have become a law.

1 Section 1. Paragraphs (a), (b), (c) and (d) of subdivision 1 of
2 section 131-o of the social services law, as amended by section 1 of
3 part E of chapter 58 of the laws of 2014, are amended to read as
4 follows:

5 (a) in the case of each individual receiving family care, an amount
6 equal to at least [\$139.00] \$141.00 for each month beginning on or after
7 January first, two thousand [fourteen] FIFTEEN.

8 (b) in the case of each individual receiving residential care, an
9 amount equal to at least [\$160.00] \$163.00 for each month beginning on
10 or after January first, two thousand [fourteen] FIFTEEN.

11 (c) in the case of each individual receiving enhanced residential
12 care, an amount equal to at least [\$190.00] \$193.00 for each month
13 beginning on or after January first, two thousand [fourteen] FIFTEEN.

14 (d) for the period commencing January first, two thousand [fifteen]
15 SIXTEEN, the monthly personal needs allowance shall be an amount equal
16 to the sum of the amounts set forth in subparagraphs one and two of this
17 paragraph:

18 (1) the amounts specified in paragraphs (a), (b) and (c) of this
19 subdivision; and

20 (2) the amount in subparagraph one of this paragraph, multiplied by
21 the percentage of any federal supplemental security income cost of
22 living adjustment which becomes effective on or after January first, two
23 thousand [fifteen] SIXTEEN, but prior to June thirtieth, two thousand
24 [fifteen] SIXTEEN, rounded to the nearest whole dollar.

25 S 2. Paragraphs (a), (b), (c), (d), (e) and (f) of subdivision 2 of
26 section 209 of the social services law, as amended by section 2 of part
27 E of chapter 58 of the laws of 2014, are amended to read as follows:

28 (a) On and after January first, two thousand [fourteen] FIFTEEN, for
29 an eligible individual living alone, [\$808.00] \$820.00; and for an
30 eligible couple living alone, [\$1186.00] \$1204.00.

31 (b) On and after January first, two thousand [fourteen] FIFTEEN, for
32 an eligible individual living with others with or without in-kind
33 income, [\$744.00] \$756.00; and for an eligible couple living with others
34 with or without in-kind income, [\$1128.00] \$1146.00.

35 (c) On and after January first, two thousand [fourteen] FIFTEEN, (i)
36 for an eligible individual receiving family care, [\$987.48] \$999.48 if
37 he or she is receiving such care in the city of New York or the county
38 of Nassau, Suffolk, Westchester or Rockland; and (ii) for an eligible
39 couple receiving family care in the city of New York or the county of
40 Nassau, Suffolk, Westchester or Rockland, two times the amount set forth
41 in subparagraph (i) of this paragraph; or (iii) for an eligible individ-
42 ual receiving such care in any other county in the state, [\$949.48]
43 \$961.48; and (iv) for an eligible couple receiving such care in any
44 other county in the state, two times the amount set forth in subpara-
45 graph (iii) of this paragraph.

46 (d) On and after January first, two thousand [fourteen] FIFTEEN, (i)
47 for an eligible individual receiving residential care, [\$1156.00]
48 \$1168.00 if he or she is receiving such care in the city of New York or
49 the county of Nassau, Suffolk, Westchester or Rockland; and (ii) for an
50 eligible couple receiving residential care in the city of New York or
51 the county of Nassau, Suffolk, Westchester or Rockland, two times the
52 amount set forth in subparagraph (i) of this paragraph; or (iii) for an
53 eligible individual receiving such care in any other county in the
54 state, [\$1126.00] \$1138.00; and (iv) for an eligible couple receiving
55 such care in any other county in the state, two times the amount set
56 forth in subparagraph (iii) of this paragraph.

(e) (i) On and after January first, two thousand [fourteen] FIFTEEN, for an eligible individual receiving enhanced residential care, [\$1415.00] \$1427.00; and (ii) for an eligible couple receiving enhanced residential care, two times the amount set forth in subparagraph (i) of this paragraph.

(f) The amounts set forth in paragraphs (a) through (e) of this subdivision shall be increased to reflect any increases in federal supplemental security income benefits for individuals or couples which become effective on or after January first, two thousand [fifteen] SIXTEEN but prior to June thirtieth, two thousand [fifteen] SIXTEEN.

S 3. This act shall take effect December 31, 2015.

PART J

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

(vi) proceedings concerning juvenile delinquency as set forth in article three THAT ARE COMMENCED IN FAMILY COURT.

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

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

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

(b) For every juvenile delinquency proceeding under article three OF THIS ACT involving an allegation of an act committed by a person which, if done by an adult, would [be a crime (i) defined in sections 125.27 (murder in the first degree); 125.25 (murder in the second degree); 135.25 (kidnapping in the first degree); or 150.20 (arson in the first degree) of the penal law committed by a person thirteen, fourteen or fifteen years of age; or such conduct committed as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (ii) defined in sections 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); 130.35 (rape in the first degree); 130.50 (criminal sexual act in the first degree); 135.20 (kidnapping in the second degree), but only where the abduction involved the use or threat of use of deadly physical force; 150.15 (arson in the second degree); or 160.15 (robbery in the first degree) of the penal law committed by a person thirteen, fourteen or fifteen years of age; or such conduct committed as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (iii) defined in the penal law as an attempt to commit murder in the first or second degree or kidnapping in the first degree committed by a person thirteen, fourteen or fifteen years of age; or such conduct committed as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (iv) defined in section 140.30 (burglary in the first degree); subdivision one of section 140.25 (burglary in the second degree); subdivision two of section 160.10 (robbery in the second degree) of the penal law; or section 265.03 of the penal law, where such machine gun or such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 of the penal law committed by

1 a person fourteen or fifteen years of age; or such conduct committed as
2 a sexually motivated felony, where authorized pursuant to section 130.91
3 of the penal law; (v) defined in section 120.05 (assault in the second
4 degree) or 160.10 (robbery in the second degree) of the penal law
5 committed by a person fourteen or fifteen years of age but only where
6 there has been a prior finding by a court that such person has previous-
7 ly committed an act which, if committed by an adult, would be the crime
8 of assault in the second degree, robbery in the second degree or any
9 designated felony act specified in clause (i), (ii) or (iii) of this
10 subdivision regardless of the age of such person at the time of the
11 commission of the prior act; or (vi) other than a misdemeanor, committed
12 by a person at least seven but less than sixteen years of age, but only
13 where there has been two prior findings by the court that such person
14 has committed a prior act which, if committed by an adult would be a
15 felony] CONSTITUTE A DESIGNATED FELONY ACT AS DEFINED IN SUBDIVISION
16 EIGHT OF SECTION 301.2 OF SUCH ARTICLE:

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

24 (ii) Outside the city of New York, all proceedings involving such an
25 allegation shall have a hearing preference over every other proceeding
26 in the court, except proceedings under article ten.

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

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

35 (A) WHO IS:

36 (I) TEN OR ELEVEN YEARS OF AGE WHO COMMITTED AN ACT THAT WOULD CONSTI-
37 TUTE A CRIME AS DEFINED IN SECTION 125.27 (MURDER IN THE FIRST DEGREE)
38 OR 125.25 (MURDER IN THE SECOND DEGREE) OF THE PENAL LAW IF COMMITTED BY
39 AN ADULT; OR

40 (II) AT LEAST TWELVE YEARS OF AGE AND LESS THAN SIXTEEN YEARS OF AGE
41 WHO COMMITTED AN ACT THAT WOULD CONSTITUTE A CRIME IF COMMITTED BY AN
42 ADULT; OR

43 (III) SIXTEEN YEARS OF AGE OR COMMENCING JANUARY FIRST, TWO THOUSAND
44 EIGHTEEN, SIXTEEN OR SEVENTEEN YEARS OF AGE WHO COMMITTED AN ACT THAT
45 WOULD CONSTITUTE A CRIME, OR DISORDERLY CONDUCT AS DEFINED IN SECTION
46 240.20 OF THE PENAL LAW, OR HARASSMENT IN THE SECOND DEGREE AS DEFINED
47 IN SECTION 240.26 OF THE PENAL LAW IF COMMITTED BY AN ADULT; AND

48 (B) WHO IS EITHER:

49 (I) NOT CRIMINALLY RESPONSIBLE FOR SUCH CONDUCT BY REASON OF INFANCY;
50 OR

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

54 S 5. Subdivisions 8 and 9 of section 301.2 of the family court act,
55 subdivision 8 as amended by chapter 7 of the laws of 2007 and subdivi-

sion 9 as added by chapter 920 of the laws of 1982, are amended to read as follows:

8. "Designated felony act" means an act which, if done by an adult, would be a crime: (i) defined in sections 125.27 (murder in the first degree); 125.25 (murder in the second degree); 135.25 (kidnapping in the first degree); or 150.20 (arson in the first degree) of the penal law committed by a person thirteen, fourteen or fifteen years of age; or such conduct committed as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (ii) defined in sections 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); 130.35 (rape in the first degree); 130.50 (criminal sexual act in the first degree); 130.70 (aggravated sexual abuse in the first degree); 135.20 (kidnapping in the second degree) but only where the abduction involved the use or threat of use of deadly physical force; 150.15 (arson in the second degree) or 160.15 (robbery in the first degree) of the penal law committed by a person thirteen, fourteen or fifteen years of age; or such conduct committed as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (iii) defined in the penal law as an attempt to commit murder in the first or second degree or kidnapping in the first degree committed by a person thirteen, fourteen or fifteen years of age; or such conduct committed as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (iv) defined in section 140.30 (burglary in the first degree); subdivision one of section 140.25 (burglary in the second degree); subdivision two of section 160.10 (robbery in the second degree) of the penal law; or section 265.03 of the penal law, where such machine gun or such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 of the penal law committed by a person fourteen or fifteen years of age; or such conduct committed as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (v) defined in section 120.05 (assault in the second degree) or 160.10 (robbery in the second degree) of the penal law committed by a person fourteen or fifteen years of age but only where there has been a prior finding by a court that such person has previously committed an act which, if committed by an adult, would be the crime of assault in the second degree, robbery in the second degree or any designated felony act specified in paragraph (i), (ii), or (iii) of this subdivision regardless of the age of such person at the time of the commission of the prior act; [or] (vi) other than a misdemeanor committed by a person at least [seven] TWELVE but less than [sixteen] SEVENTEEN years of age, OR COMMENCING JANUARY FIRST, TWO THOUSAND EIGHTEEN A PERSON AT LEAST TWELVE BUT LESS THAN EIGHTEEN YEARS OF AGE, but only where there has been two prior findings by the court that such person has committed a prior felony; OR (VII) THAT CONSTITUTES A CLASS A FELONY; A VIOLENT FELONY OFFENSE AS DEFINED IN SUBDIVISION ONE OF SECTION 70.02 OF THE PENAL LAW; A FELONY OFFENSE DEFINED IN ARTICLE ONE HUNDRED TWENTY-FIVE OR FOUR HUNDRED NINETY OF THE PENAL LAW; VEHICULAR ASSAULT IN THE SECOND DEGREE AS DEFINED IN SECTION 120.03 OF THE PENAL LAW; VEHICULAR ASSAULT IN THE FIRST DEGREE AS DEFINED IN SECTION 120.04 OF THE PENAL LAW; AGGRAVATED VEHICULAR ASSAULT AS DEFINED IN SECTION 120.04-A OF THE PENAL LAW; MURDER IN THE SECOND DEGREE AS DEFINED IN SUBDIVISIONS ONE AND TWO OF SECTION 125.25 OF THE PENAL LAW AND IN SUBDIVISION THREE OF SUCH SECTION PROVIDED THAT THE UNDERLYING CRIME FOR THE MURDER CHARGE IS ONE FOR WHICH SUCH PERSON IS CRIMINALLY RESPONSIBLE; A SPECIFIED OFFENSE DEFINED IN SUBDIVISION TWO OF SECTION 130.90 OF THE PENAL LAW WHEN COMMITTED AS

1 A SEXUALLY MOTIVATED FELONY; TAMPERING WITH A WITNESS IN THE THIRD
2 DEGREE AS DEFINED BY SECTION 215.11, TAMPERING WITH A WITNESS IN THE
3 SECOND DEGREE AS DEFINED BY SECTION 215.12, OR TAMPERING WITH A WITNESS
4 IN THE FIRST DEGREE AS DEFINED BY SECTION 215.13 OF THE PENAL LAW,
5 PROVIDED SUCH OFFENSE IS COMMITTED IN RELATION TO A CRIMINAL PROCEEDING
6 FOR AN OFFENSE OR AN ATTEMPT OR CONSPIRACY TO COMMIT AN OFFENSE SPECI-
7 FIED IN THIS SUBDIVISION; AGGRAVATED CRIMINAL CONTEMPT AS DEFINED IN
8 SECTION 215.52 OF THE PENAL LAW; OR AN ATTEMPT OR CONSPIRACY TO COMMIT
9 ANY OFFENSE SPECIFIED IN THIS SUBDIVISION, PROVIDED SUCH ATTEMPT OR
10 CONSPIRACY IS A FELONY COMMITTED BY A PERSON SIXTEEN YEARS OLD OR,
11 COMMENCING JANUARY FIRST, TWO THOUSAND EIGHTEEN A PERSON SIXTEEN OR
12 SEVENTEEN YEARS OLD.

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

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

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

24 S 7. Section 304.1 of the family court act, as added by chapter 920 of
25 the laws of 1982, subdivision 2 as amended by chapter 419 of the laws of
26 1987, is amended to read as follows:

27 S 304.1. Detention. 1. A facility certified by the state [division for
28 youth] OFFICE OF CHILDREN AND FAMILY SERVICES as a juvenile DETENTION
29 facility must be operated in conformity with the regulations of the
30 state [division for youth and shall be subject to the visitation and
31 inspection of the state board of social welfare] OFFICE OF CHILDREN AND
32 FAMILY SERVICES.

33 2. No child to whom the provisions of this article may apply shall be
34 detained in any prison, jail, lockup, or other place used for adults
35 convicted of crime or under arrest and charged with crime without the
36 approval of the state [division for youth] OFFICE OF CHILDREN AND FAMILY
37 SERVICES in the case of each child and the statement of its reasons
38 therefor. The state [division for youth] OFFICE OF CHILDREN AND FAMILY
39 SERVICES shall promulgate and publish the rules which it shall apply in
40 determining whether approval should be granted pursuant to this subdivi-
41 sion.

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

45 4.] A detention facility which receives a child under subdivision four
46 of section 305.2 shall immediately notify the child's parent or other
47 person legally responsible for his care or, if such legally responsible
48 person is unavailable the person with whom the child resides, that he
49 has been placed in detention.

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

52 (1) Upon application by the presentment agency, OR UPON APPLICATION BY
53 THE PROBATION SERVICE AS PART OF THE ADJUSTMENT OF A CASE, the court may
54 issue a temporary order of protection against a respondent for good
55 cause shown, ex parte or upon notice, at any time after a juvenile is
56 taken into custody, pursuant to section 305.1 or 305.2 or upon the issu-

1 ance of an appearance ticket pursuant to section 307.1 or upon the
2 filing of a petition pursuant to section 310.1.

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

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

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

12 2. An officer may take a child [under the age of sixteen] WHO MAY BE
13 SUBJECT TO THE PROVISIONS OF THIS ARTICLE FOR COMMITTING AN ACT THAT
14 WOULD BE A CRIME IF COMMITTED BY AN ADULT into custody without a warrant
15 in cases in which [he] THE OFFICER may arrest a person for a crime under
16 article one hundred forty of the criminal procedure law.

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

20 (b) forthwith and with all reasonable speed take the child directly,
21 and without his first being taken to the police station house, to the
22 family court located in the county in which the act occasioning the
23 taking into custody allegedly was committed, OR, WHEN THE FAMILY COURT
24 IS NOT IN SESSION, TO THE MOST ACCESSIBLE MAGISTRATE, IF ANY, DESIGNATED
25 BY THE APPELLATE DIVISION OF THE SUPREME COURT IN THE APPLICABLE DEPART-
26 MENT TO CONDUCT A HEARING UNDER SECTION 307.4 OF THIS PART, unless the
27 officer determines that it is necessary to question the child, in which
28 case he may take the child to a facility designated by the chief admin-
29 istrator of the courts as a suitable place for the questioning of chil-
30 dren or, upon the consent of a parent or other person legally responsi-
31 ble for the care of the child, to the child's residence and there
32 question him for a reasonable period of time; or

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

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

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

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

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

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

53 S 307.3. Rules of court authorizing release before filing of petition.
54 1. The agency responsible for operating a detention facility pursuant to
55 section two hundred eighteen-a of the county law, five hundred [ten-a]
56 THREE of the executive law or other applicable provisions of law, shall

1 release a child in custody before the filing of a petition to the custo-
2 dy of his parents or other person legally responsible for his care, or
3 if such legally responsible person is unavailable, to a person with whom
4 he resides, when the events occasioning the taking into custody do not
5 appear to involve allegations that the child committed a delinquent act.

6 2. When practicable such agency may release a child before the filing
7 of a petition to the custody of his parents or other person legally
8 responsible for his care, or if such legally responsible person is
9 unavailable, to a person with whom he resides, when the events occasion-
10 ing the taking into custody appear to involve allegations that the child
11 committed a delinquent act; PROVIDED, HOWEVER, THAT SUCH AGENCY MUST
12 RELEASE THE CHILD IF:

13 (A) SUCH EVENTS APPEAR TO INVOLVE ONLY ALLEGATIONS THAT THE CHILD
14 COMMITTED ACTS THAT WOULD CONSTITUTE NO MORE THAN A VIOLATION IF COMMIT-
15 TED BY AN ADULT; OR

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

19 (I) THE ALLEGED ACTS DID NOT RESULT IN ANY PHYSICAL HARM TO ANOTHER
20 PERSON;

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

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

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

31 3. If a child is released under this section, the child and the person
32 legally responsible for his care shall be issued a family court appear-
33 ance ticket in accordance with section 307.1.

34 4. If the agency for any reason does not release a child under this
35 section, such child shall be brought before the appropriate family
36 court, OR WHEN SUCH FAMILY COURT IS NOT IN SESSION, TO THE MOST ACCESSI-
37 BLE MAGISTRATE, IF ANY, DESIGNATED BY THE APPELLATE DIVISION OF THE
38 SUPREME COURT IN THE APPLICABLE DEPARTMENT; PROVIDED, HOWEVER, THAT IF
39 SUCH FAMILY COURT IS NOT IN SESSION AND IF A MAGISTRATE IS NOT AVAIL-
40 ABLE, SUCH YOUTH SHALL BE BROUGHT BEFORE SUCH FAMILY COURT within seven-
41 ty-two hours or the next day the court is in session, whichever is soon-
42 er. Such agency shall thereupon file an application for an order
43 pursuant to section 307.4 and shall forthwith serve a copy of the appli-
44 cation upon the appropriate presentment agency. Nothing in this subdivi-
45 sion shall preclude the adjustment of suitable cases pursuant to section
46 308.1.

47 S 14. Paragraph (c) of subdivision 4 of section 307.4 of the family
48 court act, as added by chapter 920 of the laws of 1982, is amended to
49 read as follows:

50 (c) the events occasioning the taking into custody appear to involve
51 acts which constitute juvenile delinquency, unless the court finds and
52 states facts and reasons which would support a detention order pursuant
53 to section 320.5, OR, IN THE CASE OF A JUVENILE WHO IS CHARGED WITH AN
54 ACT ALLEGEDLY COMMITTED WHEN HE OR SHE WAS SIXTEEN YEARS OF AGE OR OLDER
55 THAT WOULD CONSTITUTE A CRIME IF COMMITTED BY AN ADULT, AN ORDER FOR
56 BAIL PURSUANT TO SECTION 320.5 OF THIS ARTICLE.

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

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

14 2. (A) Except as provided in subdivisions three [and], four, AND THIR-
15 TEEN of this section, the probation service may[, in accordance with
16 rules of court,] ATTEMPT TO adjust [suitable cases] A CASE before a
17 petition is filed IF THE PROBATION SERVICE DETERMINES THAT THE CASE IS
18 SUITABLE FOR ADJUSTMENT BASED ON THE ASSESSED LEVEL OF RISK THAT THE
19 YOUTH WILL COMMIT ANOTHER ACT THAT WOULD CONSTITUTE A CRIME AS DETER-
20 MINED BY A VALIDATED RISK ASSESSMENT INSTRUMENT AND THE EXTENT OF ANY
21 PHYSICAL INJURY TO THE VICTIM.

22 (B) IF A CHILD IS ASSESSED AT A LOW LEVEL OF RISK AND THE EVENTS IN
23 THE CASE APPEAR TO INVOLVE ONLY ALLEGATIONS THAT THE CHILD COMMITTED
24 ACTS THAT WOULD CONSTITUTE A VIOLATION OR A MISDEMEANOR IF COMMITTED BY
25 AN ADULT, THE PROBATION SERVICE MUST DILIGENTLY ATTEMPT TO ADJUST THE
26 CASE. SUCH ATTEMPTS MAY INCLUDE THE USE OF A JUVENILE REVIEW BOARD
27 COMPRISED OF APPROPRIATE COMMUNITY MEMBERS TO WORK WITH THE CHILD AND
28 HIS OR HER FAMILY ON DEVELOPING RECOMMENDED ADJUSTMENT ACTIVITIES. THE
29 PROBATION SERVICE MAY STOP ATTEMPTING TO ADJUST SUCH A CASE IF IT DETER-
30 MINES THAT THERE IS NO SUBSTANTIAL LIKELIHOOD THAT THE YOUTH WILL BENE-
31 FIT FROM ATTEMPTS AT ADJUSTMENT IN THE TIME REMAINING FOR ADJUSTMENT OR
32 THE TIME FOR ADJUSTMENT HAS EXPIRED.

33 (C) The inability of the respondent or his or her family to make
34 restitution shall not be a factor in a decision to adjust a case or in a
35 recommendation to the presentment agency pursuant to subdivision six of
36 this section.

37 (D) THE PROBATION SERVICE MAY MAKE AN APPLICATION TO THE COURT FOR A
38 TEMPORARY ORDER OF PROTECTION AS PART OF THE ADJUSTMENT OF A CASE IN
39 ACCORDANCE WITH SECTION 304.2 OF THIS ARTICLE.

40 (E) Nothing in this section shall prohibit the probation service or
41 the court from directing a respondent to obtain employment and to make
42 restitution from the earnings from such employment. Nothing in this
43 section shall prohibit the probation service or the court from directing
44 an eligible person to complete an education reform program in accordance
45 with section four hundred fifty-eight-1 of the social services law.

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

51 4. The probation service shall not ATTEMPT TO adjust a case in which
52 the child has allegedly committed a delinquent act which would be a
53 crime defined in section 120.25, (reckless endangerment in the first
54 degree), subdivision one of section 125.15, (manslaughter in the second
55 degree), subdivision one of section 130.25, (rape in the third degree),
56 subdivision one of section 130.40, (criminal sexual act in the third

1 degree), subdivision one or two of section 130.65, (sexual abuse in the
2 first degree), section 135.65, (coercion in the first degree), section
3 140.20, (burglary in the third degree), section 150.10, (arson in the
4 third degree), section 160.05, (robbery in the third degree), subdivi-
5 sion two, three or four of section 265.02, (criminal possession of a
6 weapon in the third degree), section 265.03, (criminal possession of a
7 weapon in the second degree), or section 265.04, (criminal possession of
8 a [dangerous] weapon in the first degree) of the penal law where the
9 child has previously had one or more adjustments of a case in which such
10 child allegedly committed an act which would be a crime specified in
11 this subdivision unless it has received written approval from the court
12 and the appropriate presentment agency.

13 5. The fact that a child is detained prior to the filing of a petition
14 shall not preclude the probation service from adjusting a case; upon
15 adjusting such a case the probation service shall notify the detention
16 facility to release the child.

17 6. The probation service shall not transmit or otherwise communicate
18 to the presentment agency any statement made by the child to a probation
19 officer. However, the probation service may make a recommendation
20 regarding adjustment of the case to the presentment agency and provide
21 such information, including any report made by the arresting officer and
22 record of previous adjustments and arrests, as it shall deem relevant.

23 7. No statement made to the probation service prior to the filing of a
24 petition may be admitted into evidence at a fact-finding hearing or, if
25 the proceeding is transferred to a criminal court, at any time prior to
26 a conviction.

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

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

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

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

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

54 13. The [provisions of this section] PROBATION SERVICE shall not
55 [apply] ATTEMPT TO ADJUST A CASE where the petition is an order of
56 removal to the family court pursuant to article seven hundred twenty-

1 five of the criminal procedure law UNLESS IT HAS RECEIVED THE WRITTEN
2 APPROVAL OF THE COURT.

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

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

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

11 1. At the initial appearance, the court in its discretion may (A)
12 release the respondent [or], (B) direct his detention, OR, (C) IN THE
13 CASE OF A RESPONDENT WHO IS CHARGED WITH AN ACT ALLEGEDLY COMMITTED WHEN
14 HE OR SHE WAS SIXTEEN YEARS OF AGE OR OLDER THAT WOULD BE A CRIME IF
15 COMMITTED BY AN ADULT, OR IN THE CASE OF SUCH A RESPONDENT WHOSE CASE
16 HAS BEEN REMOVED TO THE FAMILY COURT PURSUANT TO ARTICLE SEVEN HUNDRED
17 TWENTY-FIVE OF THE CRIMINAL PROCEDURE LAW, FIX BAIL PURSUANT TO PARA-
18 GRAPH (E) OF SUBDIVISION THREE OF THIS SECTION.

19 S 18. Subdivision 3 of section 320.5 of the family court act is
20 amended by adding two new paragraphs (a-1) and (e) to read as follows:

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

23 (I) THE EVENTS UNDERLYING THE INITIAL APPEARANCE APPEAR TO INVOLVE
24 ONLY ALLEGATIONS THAT THE CHILD COMMITTED ACTS THAT WOULD CONSTITUTE NO
25 MORE THAN A VIOLATION IF COMMITTED BY AN ADULT; OR

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

29 (1) THE ALLEGED ACTS DID NOT RESULT IN ANY PHYSICAL HARM TO ANOTHER
30 PERSON;

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

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

36 (4) THE RESPONDENT WAS ASSESSED AT A LOW RISK ON THE APPLICABLE
37 DETENTION RISK ASSESSMENT INSTRUMENT APPROVED BY THE OFFICE OF CHILDREN
38 AND FAMILY SERVICES UNLESS THE COURT DETERMINES THAT DETENTION IS NECES-
39 SARY BECAUSE THE RESPONDENT OTHERWISE POSES AN IMMINENT RISK TO PUBLIC
40 SAFETY AND STATES THE REASONS FOR SUCH DETERMINATION IN THE COURT ORDER.

41 (E) IN THE CASE OF A RESPONDENT WHO IS CHARGED WITH AN ACT ALLEGEDLY
42 COMMITTED WHEN HE OR SHE WAS SIXTEEN YEARS OF AGE OR OLDER THAT WOULD BE
43 A CRIME IF COMMITTED BY AN ADULT OR IN THE CASE OF A RESPONDENT WHOSE
44 CASE HAS BEEN REMOVED TO THE FAMILY COURT PURSUANT TO ARTICLE SEVEN
45 HUNDRED TWENTY-FIVE OF THE CRIMINAL PROCEDURE LAW, IF THE COURT FINDS
46 THAT THE RESPONDENT OTHERWISE MEETS THE CRITERIA FOR PLACEMENT IN
47 DETENTION AS SET FORTH IN PARAGRAPH (A) OF THIS SECTION AND THAT AVAIL-
48 ABLE ALTERNATIVES TO DETENTION, INCLUDING CONDITIONAL RELEASE, WOULD NOT
49 PREVENT SUCH RISK, THE COURT MAY CONSIDER THE RESPONDENT TO BE A PRINCI-
50 PAL UNDER SUBDIVISION ONE OF SECTION 500.10 OF THE CRIMINAL PROCEDURE
51 LAW; FIX BAIL IN ACCORDANCE WITH SECTION 510.30 OF THE CRIMINAL PROCE-
52 DURE LAW, AND ORDER BAIL IN ACCORDANCE WITH SECTION 530.10 OF THE CRIMI-
53 NAL PROCEDURE LAW AND THE RESPONDENT MAY POST BAIL IN ACCORDANCE WITH,
54 AND OTHERWISE BE SUBJECT TO THE APPLICABLE PROVISIONS OF, TITLE P OF
55 SUCH LAW.

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

4 5. (a) If the court finds that there is probable cause to believe
5 that the respondent committed a felony, it shall order the respondent
6 committed to the custody of the commissioner of mental health or the
7 commissioner of [mental retardation and] developmental disabilities for
8 an initial period not to exceed one year from the date of such order.
9 Such period may be extended annually upon further application to the
10 court by the commissioner having custody or his or her designee. Such
11 application must be made not more than sixty days prior to the expira-
12 tion of such period on forms that have been prescribed by the chief
13 administrator of the courts. At that time, the commissioner must give
14 written notice of the application to the respondent, the counsel repres-
15 enting the respondent and the mental hygiene legal service if the
16 respondent is at a residential facility. Upon receipt of such applica-
17 tion, the court must conduct a hearing to determine the issue of capaci-
18 ty. If, at the conclusion of a hearing conducted pursuant to this subdi-
19 vision, the court finds that the respondent is no longer incapacitated,
20 he or she shall be returned to the family court for further proceedings
21 pursuant to this article. If the court is satisfied that the respondent
22 continues to be incapacitated, the court shall authorize continued
23 custody of the respondent by the commissioner for a period not to exceed
24 one year. Such extensions shall not continue beyond a reasonable period
25 of time necessary to determine whether the respondent will attain the
26 capacity to proceed to a fact finding hearing in the foreseeable future
27 but in no event shall continue beyond the respondent's eighteenth birth-
28 day OR, IF THE RESPONDENT WAS AT LEAST SIXTEEN YEARS OF AGE WHEN THE ACT
29 WAS COMMITTED, BEYOND THE RESPONDENT'S TWENTY-FIRST BIRTHDAY.

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

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

40 (d) The commissioner shall review the condition of the respondent
41 within forty-five days after the respondent is committed to the custody
42 of the commissioner. He or she shall make a second review within ninety
43 days after the respondent is committed to his or her custody. Thereaft-
44 er, he or she shall review the condition of the respondent every ninety
45 days. The respondent and the counsel for the respondent, shall be noti-
46 fied of any such review and afforded an opportunity to be heard. The
47 commissioner having custody shall apply to the court for an order
48 dismissing the petition whenever he or she determines that there is a
49 substantial probability that the respondent will continue to be incapac-
50 itated for the foreseeable future. At the time of such application the
51 commissioner must give written notice of the application to the respond-
52 ent, the presentment agency and the mental hygiene legal service if the
53 respondent is at a residential facility. Upon receipt of such applica-
54 tion, the court may on its own motion conduct a hearing to determine
55 whether there is substantial probability that the respondent will
56 continue to be incapacitated for the foreseeable future, and it must

1 conduct such hearing if a demand therefor is made by the respondent or
2 the mental hygiene legal service within ten days from the date that
3 notice of the application was given to them. The respondent may apply to
4 the court for an order of dismissal on the same ground.

5 S 20. Subdivisions 1 and 5 of section 325.1 of the family court act,
6 subdivision 1 as amended by chapter 398 of the laws of 1983, subdivision
7 5 as added by chapter 920 of the laws of 1982, is amended to read as
8 follows:

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

15 5. Where the petition consists of an order of removal pursuant to
16 article seven hundred twenty-five of the criminal procedure law, unless
17 the removal was pursuant to subdivision three of section 725.05 of such
18 law and the respondent was not afforded a probable cause hearing pursu-
19 ant to subdivision [three] TWO of section [180.75] 722.20 of such law
20 [for a reason other than his waiver thereof pursuant to subdivision two
21 of section 180.75 of such law], the petition shall be deemed to be based
22 upon a determination that probable cause exists to believe the respond-
23 ent is a juvenile delinquent and the respondent shall not be entitled to
24 any further inquiry on the subject of whether probable cause exists.
25 After the filing of any such petition the court must, however, exercise
26 independent, de novo discretion with respect to release or detention as
27 set forth in section 320.5.

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

31 1. [The] EXCEPT WHEN AUTHORIZED IN ACCORDANCE WITH SECTION 346.1 OF
32 THIS PART INVOLVING A CASE REMOVED TO FAMILY COURT PURSUANT TO ARTICLE
33 SEVEN HUNDRED TWENTY-FIVE OF THE CRIMINAL PROCEDURE LAW, THE judge who
34 presides at the commencement of the fact-finding hearing shall continue
35 to preside until such hearing is concluded and an order entered pursuant
36 to section 345.1 OF THIS PART unless a mistrial is declared.

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

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

46 (a) In determining an appropriate order the court shall consider the
47 needs and best interests of the respondent as well as the need for
48 protection of the community. If the respondent has committed a desig-
49 nated felony act the court shall determine the appropriate disposition
50 in accord with section 353.5. In all other cases the court shall order
51 the least restrictive available alternative enumerated in subdivision
52 one OF THIS SECTION which is consistent with the needs and best inter-
53 ests of the respondent and the need for protection of the community;
54 PROVIDED, HOWEVER, THAT THE COURT SHALL NOT DIRECT THE PLACEMENT OF A
55 RESPONDENT WITH A COMMISSIONER OF SOCIAL SERVICES OR THE OFFICE OF CHIL-
56 DREN AND FAMILY SERVICES IF:

(I) THE RESPONDENT ONLY COMMITTED ACTS THAT WOULD CONSTITUTE NO MORE THAN A VIOLATION IF COMMITTED BY AN ADULT; OR

(II) THE RESPONDENT ONLY COMMITTED ACTS THAT WOULD CONSTITUTE MORE THAN A VIOLATION BUT NO MORE THAN A MISDEMEANOR IF COMMITTED BY AN ADULT IF:

(1) THE ACTS DID NOT RESULT IN ANY PHYSICAL HARM TO ANOTHER PERSON;

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

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

(4) THE RESPONDENT WAS ASSESSED AT A LOW RISK ON THE APPLICABLE PRE-DISPOSITIONAL RISK ASSESSMENT INSTRUMENT APPROVED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES UNLESS THE COURT DETERMINES THAT SUCH A PLACEMENT IS NECESSARY BECAUSE THE RESPONDENT OTHERWISE POSES AN IMMEDIATE RISK TO PUBLIC SAFETY AND STATES THE REASONS FOR SUCH DETERMINATION IN THE COURT ORDER.

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

(a) placement of respondent is not or may not be necessary OR ALLOWABLE;

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

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

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

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

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

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

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

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

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

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

S 24. Subparagraph (iii) of paragraph (a) and paragraph (d) of subdivision 4 of section 353.5 of the family court act, as amended by section

1 6 of subpart A of part G of chapter 57 of the laws of 2012, is amended
2 to read as follows:

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

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

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

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

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

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

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

43 S 354.1. Retention and destruction of fingerprints of persons alleged
44 to be juvenile delinquents. 1. If a person whose fingerprints, palm-
45 prints or photographs were taken pursuant to section 306.1 or was
46 initially fingerprinted as a juvenile offender and the action is subse-
47 quently removed to a family court pursuant to article seven hundred
48 twenty-five of the criminal procedure law is adjudicated to be a juve-
49 nile delinquent for a felony, the family court shall forward or cause to
50 be forwarded to the division of criminal justice services notification
51 of such adjudication and such related information as may be required by
52 such division, provided, however, in the case of a person eleven [or
53 twelve] years of age such notification shall be provided only if the act
54 upon which the adjudication is based would constitute a class [A or B]
55 A-1 felony OR, IN THE CASE OF A PERSON TWELVE YEARS OF AGE, SUCH NOTIFI-

CATION SHALL BE PROVIDED ONLY IF THE ACT UPON WHICH THE ADJUDICATION IS BASED WOULD CONSTITUTE A CLASS A OR B FELONY.

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

3. If the appropriate presentment agency does not originate a proceeding under section 310.1 for a case in which the potential respondent's fingerprints were taken pursuant to section 306.1, the presentment agency shall serve a certification of such action upon the division of criminal justice services, and upon the appropriate police department or law enforcement agency.

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

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

6. If a person fingerprinted pursuant to section 306.1 and subsequently adjudicated a juvenile delinquent for a felony, but in the case of acts committed when such a person was eleven [or twelve] years of age which would constitute a class [A or B] A-1 felony only, OR, IN THE CASE OF ACTS COMMITTED WHEN SUCH A PERSON WAS TWELVE YEARS OF AGE WHICH WOULD CONSTITUTE A CLASS A OR B FELONY ONLY, is subsequently convicted of a crime, all fingerprints and related information obtained by the division of criminal justice services pursuant to such section and not destroyed pursuant to subdivisions two, five and seven or subdivision twelve of section 308.1 shall become part of such division's permanent adult criminal record for that person, notwithstanding section 381.2 or 381.3.

7. When a person fingerprinted pursuant to section 306.1 and subsequently adjudicated a juvenile delinquent for a felony, but in the case of acts committed when such person was eleven [or twelve] years of age which would constitute a class [A or B] A-1 felony only, OR, IN THE CASE OF ACTS COMMITTED WHEN SUCH A PERSON WAS TWELVE YEARS OF AGE WHICH WOULD CONSTITUTE A CLASS A OR B FELONY, reaches the age of twenty-one, or has

1 been discharged from placement under this act for at least three years,
2 whichever occurs later, and has no criminal convictions or pending crim-
3 inal actions which ultimately terminate in a criminal conviction, all
4 fingerprints, palmprints, photographs, and related information and
5 copies thereof obtained pursuant to section 306.1 in the possession of
6 the division of criminal justice services, any police department, law
7 enforcement agency or any other agency shall be destroyed forthwith. The
8 division of criminal justice services shall notify the agency or agen-
9 cies which forwarded fingerprints to such division pursuant to section
10 306.1 of their obligation to destroy those records in their possession.
11 In the case of a pending criminal action which does not terminate in a
12 criminal conviction, such records shall be destroyed forthwith upon such
13 determination.

14 S 28. Subdivisions 1 and 6 of section 355.3 of the family court act,
15 subdivision 1 as amended by chapter 398 of the laws of 1983, subdivision
16 6 as amended by chapter 663 of the laws of 1985, are amended to read as
17 follows:

18 1. In any case in which the respondent has been placed pursuant to
19 section 353.3 the respondent, the person with whom the respondent has
20 been placed, the commissioner of social services, or the [division for
21 youth] OFFICE OF CHILDREN AND FAMILY SERVICES may petition the court to
22 extend such placement. Such petition shall be filed at least sixty days
23 prior to the expiration of the period of placement, except for good
24 cause shown but in no event shall such petition be filed after the
25 original expiration date.

26 6. Successive extensions of placement under this section may be grant-
27 ed, but no placement may be made or continued beyond the respondent's
28 eighteenth birthday without the child's consent and in no event past the
29 child's twenty-first birthday EXCEPT AS PROVIDED FOR IN PARAGRAPH (D) OF
30 SUBDIVISION TWO OF SECTION 353.5.

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

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

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

46 (b) subsequent permanency hearings shall be held no later than every
47 twelve months following the respondent's initial twelve months in place-
48 ment BUT IN NO EVENT PAST THE RESPONDENT'S TWENTY-FIRST BIRTHDAY;
49 provided, however, that they shall be held in conjunction with an exten-
50 sion of placement hearing held pursuant to section 355.3 of this [arti-
51 cle] PART.

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

55 2. At the time of his first appearance following the filing of a peti-
56 tion of violation the court must: (a) advise the respondent of the

1 contents of the petition and furnish him with a copy thereof; (b) deter-
2 mine whether the respondent should be released or detained pursuant to
3 section 320.5, PROVIDED, HOWEVER, THAT NOTHING HEREIN SHALL AUTHORIZE A
4 RESPONDENT TO BE DETAINED FOR A VIOLATION OF A CONDITION THAT WOULD NOT
5 CONSTITUTE A CRIME IF COMMITTED BY AN ADULT UNLESS THE COURT DETERMINES
6 (I) THAT THE RESPONDENT POSES A SPECIFIC IMMINENT THREAT TO PUBLIC SAFE-
7 TY AND STATES THE REASONS FOR THE FINDING ON THE RECORD OR (II) THE
8 RESPONDENT IS ON PROBATION FOR AN ACT THAT WOULD CONSTITUTE A VIOLENT
9 FELONY AS DEFINED IN SECTION 70.02 OF THE PENAL LAW IF COMMITTED BY AN
10 ADULT AND THE USE OF GRADUATED SANCTIONS HAVE BEEN EXHAUSTED WITHOUT
11 SUCCESS; and (c) ask the respondent whether he wishes to make any state-
12 ment with respect to the violation. If the respondent makes a statement,
13 the court may accept it and base its decision thereon; the provisions of
14 subdivision two of section 321.3 shall apply in determining whether a
15 statement should be accepted. If the court does not accept such state-
16 ment or if the respondent does not make a statement, the court shall
17 proceed with the hearing. Upon request, the court shall grant a reason-
18 able adjournment to the respondent to enable him to prepare for the
19 hearing.

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

33 S 32. Section 712 of the family court act, as amended by chapter 920
34 of the laws of 1982, subdivision (a) as amended by section 7 of part G
35 of chapter 58 of the laws of 2010, subdivision (b) as amended by chapter
36 465 of the laws of 1992, subdivision (g) as amended by section 2 of part
37 B of chapter 3 of the laws of 2005, subdivision (h) as added by chapter
38 7 of the laws of 1999, subdivision (i) as amended and subdivisions (j),
39 (k), (l) and (m) as added by chapter 38 of the laws of 2014, is amended
40 to read as follows:

41 S 712. Definitions. As used in this article, the following terms shall
42 have the following meanings:

43 (a) "Person in need of supervision". A person less than eighteen years
44 of age who does not attend school in accordance with the provisions of
45 part one of article sixty-five of the education law or who is incorrigi-
46 ble, ungovernable or habitually disobedient and beyond the lawful
47 control of a parent or other person legally responsible for such child's
48 care, or other lawful authority, or who violates the provisions of
49 section 221.05 or 230.00 of the penal law, or who appears to be a sexu-
50 ally exploited child as defined in paragraph (a), (c) or (d) of subdivi-
51 sion one of section four hundred forty-seven-a of the social services
52 law, but only if the child consents to the filing of a petition under
53 this article.

54 (b) ["Detention". The temporary care and maintenance of children away
55 from their own homes as defined in section five hundred two of the exec-
56 utive law.

1 (c) "Secure detention facility". A facility characterized by phys-
2 ically restricting construction, hardware and procedures.

3 (d) "Non-secure detention facility". A facility characterized by the
4 absence of physically restricting construction, hardware and procedures.

5 (e)] "Fact-finding hearing". A hearing to determine whether the
6 respondent did the acts alleged to show that he violated a law or is
7 incorrigible, ungovernable or habitually disobedient and beyond the
8 control of his parents, guardian or legal custodian.

9 [(f)] (C) "Dispositional hearing". A hearing to determine whether the
10 respondent requires supervision or treatment.

11 [(g)] (D) "Aggravated circumstances". Aggravated circumstances shall
12 have the same meaning as the definition of such term in subdivision (j)
13 of section one thousand twelve of this act.

14 [(h)] (E) "Permanency hearing". A hearing held in accordance with
15 paragraph (b) of subdivision two of section seven hundred fifty-four or
16 section seven hundred fifty-six-a of this article for the purpose of
17 reviewing the foster care status of the respondent and the appropriate-
18 ness of the permanency plan developed by the social services official on
19 behalf of such respondent.

20 [(i)] (F) "Diversion services". Services provided to children and
21 families pursuant to section seven hundred thirty-five of this article
22 for the purpose of avoiding the need to file a petition [or direct the
23 detention of the child]. Diversion services shall include: efforts to
24 adjust cases pursuant to this article before a petition is filed, or by
25 order of the court, after the petition is filed but before fact-finding
26 is commenced; and preventive services provided in accordance with
27 section four hundred nine-a of the social services law to avert the
28 placement of the child [into foster care], including crisis intervention
29 and respite services. Diversion services may also include, in cases
30 where any person is seeking to file a petition that alleges that the
31 child has a substance use disorder or is in need of immediate detoxifi-
32 cation or substance use disorder services, an assessment for substance
33 use disorder; provided, however, that notwithstanding any other
34 provision of law to the contrary, the designated lead agency shall not
35 be required to pay for all or any portion of the costs of such assess-
36 ment or substance use disorder or detoxification services, except in
37 cases where medical assistance for needy persons may be used to pay for
38 all or any portion of the costs of such assessment or services.

39 [(j)] (G) "Substance use disorder". The misuse of, dependence on, or
40 addiction to alcohol and/or legal or illegal drugs leading to effects
41 that are detrimental to the person's physical and mental health or the
42 welfare of others.

43 [(k)] (H) "Assessment for substance use disorder". Assessment by a
44 provider that has been certified by the office of alcoholism and
45 substance abuse services of a person less than eighteen years of age
46 where it is alleged that the youth is suffering from a substance use
47 disorder which could make a youth a danger to himself or herself or
48 others.

49 [(l)] (I) "A substance use disorder which could make a youth a danger
50 to himself or herself or others". A substance use disorder that is
51 accompanied by the dependence on, or the repeated use or abuse of, drugs
52 or alcohol to the point of intoxication such that the person is in need
53 of immediate detoxification or other substance use disorder services.

54 [(m)] (J) "Substance use disorder services". Substance use disorder
55 services shall have the same meaning as provided for in section 1.03 of
56 the mental hygiene law.

1 S 33. The part heading of part 2 of article 7 of the family court act
2 is amended to read as follows:

3 CUSTODY [AND DETENTION]

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

10 S 720. Detention PRECLUDED. [1.] THE DETENTION OF A CHILD SHALL NOT BE
11 DIRECTED UNDER ANY OF THE PROVISIONS OF THIS ARTICLE, EXCEPT AS OTHER-
12 WISE AUTHORIZED BY THE INTERSTATE COMPACT ON JUVENILES. No child to whom
13 the provisions of this article may apply, shall be detained in any pris-
14 on, jail, lockup, or other place used for adults convicted of crime or
15 under arrest and charged with a crime.

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

18 3. Detention of a person alleged to be or adjudicated as a person in
19 need of supervision shall, except as provided in subdivision four of
20 this section, be authorized only in a foster care program certified by
21 the office of children and family services, or a certified or approved
22 family boarding home, or a non-secure detention facility certified by
23 the office and in accordance with section seven hundred thirty-nine of
24 this article. The setting of the detention shall take into account (a)
25 the proximity to the community in which the person alleged to be or
26 adjudicated as a person in need of supervision lives with such person's
27 parents or to which such person will be discharged, and (b) the existing
28 educational setting of such person and the proximity of such setting to
29 the location of the detention setting.

30 4. Whenever detention is authorized and ordered pursuant to this arti-
31 cle, for a person alleged to be or adjudicated as a person in need of
32 supervision, a family court in a city having a population of one million
33 or more shall, notwithstanding any other provision of law, direct
34 detention in a foster care facility established and maintained pursuant
35 to the social services law. In all other respects, the detention of such
36 a person in a foster care facility shall be subject to the identical
37 terms and conditions for detention as are set forth in this article and
38 in section two hundred thirty-five of this act.

39 5. (a) The court shall not order or direct detention under this arti-
40 cle, unless the court determines that there is no substantial likelihood
41 that the youth and his or her family will continue to benefit from
42 diversion services and that all available alternatives to detention have
43 been exhausted; and

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

48 (c) If the respondent may be a sexually exploited child as defined in
49 subdivision one of section four hundred forty-seven-a of the social
50 services law, the court may direct the respondent to an available short-
51 term safe house as defined in subdivision two of section four hundred
52 forty-seven-a of the social services law as an alternative to
53 detention.]

54 S 35. Section 727 of the family court act is REPEALED.

55 S 36. Section 728 of the family court act, subdivision (a) as amended
56 by chapter 41 of the laws of 2010, subdivision (b) as amended by chapter

419 of the laws of 1987, subdivision (d) as added by chapter 145 of the laws of 2000, paragraph (i) as added and paragraph (ii) of subdivision (d) as renumbered by section 5 of part E of chapter 57 of the laws of 2005, and paragraph (iii) as amended and paragraph (iv) of subdivision (d) as added by section 10 of subpart B of part Q of chapter 58 of the laws of 2011, is amended to read as follows:

S 728. Discharge[,] OR release [or detention] by judge after hearing and before filing of petition in custody cases. (a) If a child in custody is brought before a judge of the family court before a petition is filed, the judge shall hold a hearing for the purpose of making a preliminary determination of whether the court appears to have jurisdiction over the child. At the commencement of the hearing, the judge shall advise the child of his or her right to remain silent, his or her right to be represented by counsel of his or her own choosing, and of the right to have an attorney assigned in accord with part four of article two of this act. The judge must also allow the child a reasonable time to send for his or her parents or other person or persons legally responsible for his or her care, and for counsel, and adjourn the hearing for that purpose.

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

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

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

(i) that there is no substantial likelihood that the youth and his or her family will continue to benefit from diversion services and that all available alternatives to detention have been exhausted; and

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

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

(iv) whether the setting of the detention takes into account the proximity to the community in which the person alleged to be or adjudicated as a person in need of supervision lives with such person's parents or to which such person will be discharged, and the existing educational setting of such person and the proximity of such setting to the location of the detention setting.]

S 37. Section 729 of the family court act is REPEALED.

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

S 735. Preliminary procedure; diversion services. (a) Each county and any city having a population of one million or more shall offer diver-

1 sion services as defined in section seven hundred twelve of this article
2 to youth who are at risk of being the subject of a person in need of
3 supervision petition. Such services shall be designed to provide an
4 immediate response to families in crisis[, to identify and utilize
5 appropriate alternatives to detention] and to divert youth from being
6 the subject of a petition in family court. Each county and such city
7 shall designate either the local social services district or the
8 probation department as lead agency for the purposes of providing diver-
9 sion services.

10 (b) The designated lead agency shall:

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

15 (ii) diligently attempt to prevent the filing of a petition under this
16 article or, after the petition is filed, to prevent the placement of the
17 youth [into foster care] IN ACCORDANCE WITH SECTION SEVEN HUNDRED
18 FIFTY-SIX OF THIS ARTICLE; and

19 (iii) assess whether the youth would benefit from residential respite
20 services; and

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

24 (V) determine whether [alternatives to detention are appropriate to
25 avoid remand of the youth to detention] THE YOUTH AND HIS OR HER FAMILY
26 SHOULD BE REFERRED TO AN AVAILABLE FAMILY SUPPORT CENTER; and

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

40 (c) Any person or agency seeking to file a petition pursuant to this
41 article which does not have attached thereto the documentation required
42 by subdivision (g) of this section shall be referred by the clerk of the
43 court to the designated lead agency which shall schedule and hold, on
44 reasonable notice to the potential petitioner, the youth and his or her
45 parent or other person legally responsible for his or her care, at least
46 one conference in order to determine the factual circumstances and
47 determine whether the youth and his or her family should receive diver-
48 sion services pursuant to this section. Diversion services shall include
49 clearly documented diligent attempts to provide appropriate services to
50 the youth and his or her family unless it is determined that there is no
51 substantial likelihood that the youth and his or her family will benefit
52 from further diversion attempts. Notwithstanding the provisions of
53 section two hundred sixteen-c of this act, the clerk shall not accept
54 for filing under this part any petition that does not have attached
55 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.

1 No petition may be filed pursuant to this article by the parent or other
2 person legally responsible for the youth where diversion services have
3 been terminated because of the failure of the parent or other person
4 legally responsible for the youth to consent to or actively participate.

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

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

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

17 (h) No statement made to the designated lead agency or to any agency
18 or organization to which the potential respondent, prior to the filing
19 of the petition, or if the petition has been filed, prior to the time
20 the respondent has been notified that attempts at diversion will not be
21 made or have been terminated, or prior to the commencement of a fact-
22 finding hearing if attempts at diversion have not terminated previously,
23 may be admitted into evidence at a fact-finding hearing or, if the
24 proceeding is transferred to a criminal court, at any time prior to a
25 conviction.

26 S 39. Section 739 of the family court act, as amended by chapter 920
27 of the laws of 1982, subdivision (a) as amended by section 10 of part G
28 of chapter 58 of the laws of 2010, subdivision (c) as added by chapter
29 145 of the laws of 2000, is amended to read as follows:

30 S 739. Release or [detention] REFERRAL after filing of petition and
31 prior to order of disposition. [(a)] After the filing of a petition
32 under section seven hundred thirty-two of this part, the court in its
33 discretion may release the respondent [or direct his or her detention].
34 If the respondent may be a sexually exploited child as defined in subdi-
35 vision one of section four hundred forty-seven-a of the social services
36 law, the court may direct the respondent to an available short-term safe
37 house [as an alternative to detention. However, the court shall not
38 direct detention unless it finds and states the facts and reasons for so
39 finding that unless the respondent is detained there is a substantial
40 probability that the respondent will not appear in court on the return
41 date and all available alternatives to detention have been exhausted.

42 (b) Unless the respondent waives a determination that probable cause
43 exists to believe that he is a person in need of supervision, no
44 detention under this section may last more than three days (i) unless
45 the court finds, pursuant to the evidentiary standards applicable to a
46 hearing on a felony complaint in a criminal court, that such probable
47 cause exists, or (ii) unless special circumstances exist, in which cases
48 such detention may be extended not more than an additional three days
49 exclusive of Saturdays, Sundays and public holidays.

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

53 (i) whether continuation of the respondent in the respondent's home
54 would be contrary to the best interests of the respondent based upon,
55 and limited to, the facts and circumstance available to the court at the
56 time of the court's determination in accordance with this section; and

(ii) where appropriate, whether reasonable efforts were made prior to the date of the court order directing detention in accordance with this section, to prevent or eliminate the need for removal of the respondent from his or her home or, if the respondent had been removed from his or her home prior to the court appearance pursuant to this section, where appropriate, whether reasonable efforts were made to make it possible for the respondent to safely return home].

S 40. Section 741-a of the family court act, as amended by section 3 of part B of chapter 327 of the laws of 2007, is amended to read as follows:

S 741-a. Notice and right to be heard. The foster parent caring for [the child] A SEXUALLY EXPLOITED CHILD PLACED IN ACCORDANCE WITH SECTION SEVEN HUNDRED FIFTY-SIX OF THIS ARTICLE or any pre-adoptive parent or relative providing care for the respondent shall be provided with notice of any permanency hearing held pursuant to this article by the social services official. Such foster parent, pre-adoptive parent or relative shall have the right to be heard at any such hearing; provided, however, no such foster parent, pre-adoptive parent or relative shall be construed to be a party to the hearing solely on the basis of such notice and right to be heard. The failure of the foster parent, pre-adoptive parent, or relative caring for the child to appear at a permanency hearing shall constitute a waiver of the right to be heard and such failure to appear shall not cause a delay of the permanency hearing nor shall such failure to appear be a ground for the invalidation of any order issued by the court pursuant to this section.

S 41. Section 747 of the family court act is REPEALED.

S 42. Section 748 of the family court act is REPEALED.

S 43. Subdivision (b) of section 749 of the family court act, as amended by chapter 806 of the laws of 1973, is amended to read as follows:

(b) On its own motion, the court may adjourn the proceedings on conclusion of a fact-finding hearing or during a dispositional hearing to enable it to make inquiry into the surroundings, conditions and capacities of the respondent. An [adjournment on the court's motion may not be for a period of more than ten days if the respondent is detained, in which case not more than a total of two such adjournments may be granted in the absence of special circumstances. If the respondent is not detained, an] adjournment may be for a reasonable time, but the total number of adjourned days may not exceed two months.

S 44. Paragraph (a) of subdivision 2 of section 754 of the family court act, as amended by chapter 7 of the laws of 1999, is amended to read as follows:

(a) The order shall state the court's reasons for the particular disposition. If the court places the child in accordance with section seven hundred fifty-six of this part, the court in its order shall determine: (i) whether continuation in the child's home would be contrary to the best interest of the child and where appropriate, that reasonable efforts were made prior to the date of the dispositional hearing held pursuant to this article to prevent or eliminate the need for removal of the child from his or her home and, if the child was removed from his or her home prior to the date of such hearing, that such removal was in the child's best interest and, where appropriate, reasonable efforts were made to make it possible for the child to return safely 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 circum-

stances, the court order shall include such a finding; and (ii) in the case of a child who has attained the age of sixteen, 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.]

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

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

(ii) [Where the child is placed] IF THE COURT FINDS THAT THE RESPONDENT IS A SEXUALLY EXPLOITED CHILD AS DEFINED IN SUBDIVISION ONE OF SECTION FOUR HUNDRED FORTY-SEVEN-A OF THE SOCIAL SERVICES LAW, THE COURT MAY PLACE THE CHILD with the commissioner of the local social services district[, the court] AND may direct the commissioner to place the child with an authorized agency or class of authorized agencies, including[, if the court finds that the respondent is a sexually exploited child as defined in subdivision one of section four hundred forty-seven-a of the social services law,] an available long-term safe house. Unless the dispositional order provides otherwise, the court so directing shall include one of the following alternatives to apply in the event that the commissioner is unable to so place the child:

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

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

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

(c) A placement pursuant to this section with the commissioner of social services shall not be directed in any detention facility, but the court may direct detention pending transfer to a placement authorized and ordered under this section for no more than fifteen days after such order of placement is made. Such direction shall be subject to extension pursuant to subdivision three of section three hundred ninety-eight of the social services law, upon written documentation to the office of children and family services that the youth is in need of

1 specialized treatment or placement and the diligent efforts by the
2 commissioner of social services to locate an appropriate placement.]

3 S 46. Section 758-a of the family court act, as amended by chapter 73
4 of the laws of 1979, subdivision 1 as amended by chapter 4 of the laws
5 of 1987, paragraph (b) of subdivision 1 as amended by chapter 575 of the
6 laws of 2007, subdivision 2 as amended by chapter 309 of the laws of
7 1996, and subdivision 3 as separately amended by chapter 568 of the laws
8 of 1979, is amended to amended to read as follows:

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

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

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

31 2. [If the court recommends restitution or requires services for the
32 public good in conjunction with an order of placement pursuant to
33 section seven hundred fifty-six, the placement shall be made only to an
34 authorized agency which has adopted rules and regulations for the super-
35 vision of such a program, which rules and regulations shall be subject
36 to the approval of the state department of social services. Such rules
37 and regulations shall include, but not be limited to provisions (i)
38 assuring that the conditions of work, including wages, meet the stand-
39 ards therefor prescribed pursuant to the labor law; (ii) affording
40 coverage to the child under the workers' compensation law as an employee
41 of such agency, department or institution; (iii) assuring that the enti-
42 ty receiving such services shall not utilize the same to replace its
43 regular employees; and (iv) providing for reports to the court not less
44 frequently than every six months, unless the order provides otherwise.

45 3.] If the court requires restitution or services for the public good
46 [as a condition of probation or suspended judgment], it shall provide
47 that an agency or person supervise the restitution or services and that
48 such agency or person report to the court not less frequently than every
49 six months, unless the order provides otherwise. Upon the written notice
50 sent by a school district to the court and the appropriate probation
51 department or agency which submits probation recommendations or reports
52 to the court, the court may provide that such school district shall
53 supervise the performance of services for the public good.

54 [4.] 3. The court, upon receipt of the reports provided for in subdi-
55 vision two [or three] of this section may, on its own motion or the

1 motion of any party or the agency, hold a hearing to determine whether
2 the [placement] CONDITION should be altered or modified.

3 S 47. Section 774 of the family court act is amended to read as
4 follows:

5 S 774. Action on petition for transfer. On receiving a petition under
6 section seven hundred seventy-three, the court may proceed under
7 sections seven hundred thirty-seven, seven hundred thirty-eight or seven
8 hundred thirty-nine with respect to the issuance of a summons or warrant
9 [and sections seven hundred twenty-seven and seven hundred twenty-nine
10 govern questions of detention and failure to comply with a promise to
11 appear]. Due notice of the petition and a copy of the petition shall
12 also be served personally or by mail upon the office of the locality
13 chargeable for the support of the person involved and upon the person
14 involved and his parents and other persons.

15 S 48. Section 153-k of the social services law is amended by adding a
16 new subdivision 2-a to read as follows:

17 2-A. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY,
18 COMMENCING JANUARY FIRST, TWO THOUSAND SEVENTEEN, STATE REIMBURSEMENT
19 SHALL BE MADE AVAILABLE FOR ONE HUNDRED PERCENT OF EXPENDITURES MADE BY
20 SOCIAL SERVICES DISTRICTS, EXCLUSIVE OF ANY FEDERAL FUNDS MADE AVAILABLE
21 FOR SUCH PURPOSES, FOR PREVENTIVE SERVICES, AFTERCARE SERVICES, INDE-
22 PENDENT LIVING SERVICES AND FOSTER CARE SERVICES PROVIDED TO YOUTH AGE
23 SIXTEEN YEARS OF AGE OR OLDER WHEN SUCH SERVICES WOULD NOT OTHERWISE
24 HAVE BEEN PROVIDED TO SUCH YOUTH ABSENT THE PROVISIONS IN A CHAPTER OF
25 THE LAWS OF TWO THOUSAND FIFTEEN THAT INCREASED THE AGE OF JUVENILE
26 JURISDICTION ABOVE FIFTEEN YEARS OF AGE.

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

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

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

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

42 TITLE 12

43 FAMILY SUPPORT CENTERS

44 SECTION 458-M. FAMILY SUPPORT CENTERS.

45 458-N. FUNDING FOR FAMILY SUPPORT CENTERS.

46 S 458-M. FAMILY SUPPORT CENTERS. 1. AS USED IN THIS TITLE, THE TERM
47 "FAMILY SUPPORT CENTER" SHALL MEAN A PROGRAM ESTABLISHED PURSUANT TO
48 THIS TITLE TO PROVIDE COMMUNITY-BASED SUPPORTIVE SERVICES TO CHILDREN
49 AND FAMILIES WITH THE GOAL OF PREVENTING A CHILD FROM BEING ADJUDICATED
50 A PERSON IN NEED OF SUPERVISION UNDER ARTICLE SEVEN OF THE FAMILY COURT
51 ACT.

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

55 (A) RAPID FAMILY ASSESSMENTS AND SCREENINGS;

56 (B) CRISIS INTERVENTION;

1 (C) FAMILY MEDIATION AND SKILLS BUILDING;
2 (D) MENTAL AND BEHAVIORAL HEALTH SERVICES INCLUDING COGNITIVE INTER-
3 VENTIONS;
4 (E) CASE MANAGEMENT;
5 (F) RESPITE SERVICES; AND
6 (G) OTHER FAMILY SUPPORT SERVICES.

7 3. TO THE EXTENT PRACTICABLE, THE SERVICES THAT ARE PROVIDED SHALL BE
8 TRAUMA SENSITIVE, FAMILY FOCUSED, GENDER-RESPONSIVE, WHERE APPROPRIATE,
9 AND EVIDENCE AND/OR STRENGTH BASED AND SHALL BE TAILORED TO THE INDIVID-
10 UALIZED NEEDS OF THE CHILD AND FAMILY BASED ON THE ASSESSMENTS AND
11 SCREENINGS CONDUCTED BY SUCH FAMILY SUPPORT CENTER.

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

14 S 458-N. FUNDING FOR FAMILY SUPPORT CENTERS. 1. NOTWITHSTANDING ANY
15 OTHER PROVISION OF LAW TO THE CONTRARY, TO THE EXTENT THAT FUNDS ARE
16 AVAILABLE FOR SUCH PURPOSE, THE OFFICE OF CHILDREN AND FAMILY SERVICES
17 SHALL DISTRIBUTE FUNDING TO THE HIGHEST NEED SOCIAL SERVICES DISTRICTS
18 TO CONTRACT WITH NOT-FOR-PROFIT CORPORATIONS TO OPERATE FAMILY SUPPORT
19 CENTERS IN ACCORDANCE WITH THE PROVISIONS OF THIS TITLE AND THE SPECIFIC
20 PROGRAM MODEL REQUIREMENTS ISSUED BY THE OFFICE.

21 2. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, WHEN
22 DETERMINING THE HIGHEST NEED SOCIAL SERVICES DISTRICTS PURSUANT TO THIS
23 SUBDIVISION, THE OFFICE MAY CONSIDER FACTORS THAT MAY INCLUDE, BUT ARE
24 NOT NECESSARILY LIMITED TO:

25 (A) THE TOTAL AMOUNT OF AVAILABLE FUNDING AND THE AMOUNT OF FUNDING
26 REQUIRED FOR FAMILY SUPPORT CENTERS TO MEET THE OBJECTIVES OUTLINED IN
27 SECTION 458-M OF THIS TITLE;

28 (B) RELEVANT, AVAILABLE STATISTICS REGARDING EACH DISTRICT, WHICH MAY
29 INCLUDE, BUT NOT NECESSARILY BE LIMITED TO:

30 (I) THE AVAILABILITY OF SERVICES WITHIN SUCH DISTRICT TO PREVENT OR
31 REDUCE DETENTION OR RESIDENTIAL PLACEMENT OF YOUTH PURSUANT TO ARTICLE
32 SEVEN OF THE FAMILY COURT ACT;

33 (II) RELATIVE TO THE YOUTH POPULATION OF SUCH SOCIAL SERVICES
34 DISTRICT:

35 (1) THE NUMBER OF PETITIONS FILED PURSUANT TO ARTICLE SEVEN OF THE
36 FAMILY COURT ACT; OR

37 (2) THE NUMBER OF PLACEMENTS OF YOUTH INTO RESIDENTIAL CARE OR
38 DETENTION PURSUANT TO ARTICLE SEVEN OF THE FAMILY COURT ACT;

39 (C) ANY REPORTED PERFORMANCE OUTCOMES REPORTED TO THE OFFICE PURSUANT
40 TO SUBDIVISION THREE OF THIS SECTION FOR PROGRAMS THAT PREVIOUSLY
41 RECEIVED FUNDING PURSUANT TO THIS TITLE; OR

42 (D) OTHER APPROPRIATE FACTORS AS DETERMINED BY THE OFFICE.

43 3. SOCIAL SERVICES DISTRICTS RECEIVING FUNDING UNDER THIS TITLE SHALL
44 REPORT TO THE OFFICE OF CHILDREN AND FAMILY SERVICES, IN THE FORM AND
45 MANNER AND AT SUCH TIMES AS DETERMINED BY THE OFFICE, ON THE PERFORMANCE
46 OUTCOMES OF ANY FAMILY SUPPORT CENTER LOCATED WITHIN SUCH DISTRICT THAT
47 RECEIVES FUNDING UNDER THIS TITLE.

48 S 51. Subdivisions 3, 3-a, 11 and 12 of section 398 of the social
49 services law, subdivision 3 as amended by chapter 419 of the laws of
50 1987, paragraph (c) of subdivision 3 as amended by section 19 of part E
51 of chapter 57 of the laws of 2005, subdivision 3-a as added by section 1
52 of subpart B of part G of chapter 57 of the laws of 2012, subdivision 11
53 as added by chapter 514 of the laws of 1976 and subdivision 12 as
54 amended by section 12 of subpart B of part Q of chapter 58 of the laws
55 of 2011, are amended to read as follows:

56 3. As to delinquent children [and persons in need of supervision]:

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

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

4 (c) Receive within fifteen days from the order of placement as a
5 public charge any delinquent child committed or placed [or person in
6 need of supervision placed] in his or her care by the family court
7 provided, however, that the commissioner of the social services district
8 with whom the child is placed may apply to the state commissioner or his
9 or her designee for approval of an additional fifteen days, upon written
10 documentation to the office of children and family services that the
11 youth is in need of specialized treatment or placement and the diligent
12 efforts by the commissioner of social services to locate an appropriate
13 placement.

14 [3-a. As to delinquent children:

15 (a)] (D) (1) Conditionally release any juvenile delinquent placed with
16 the district to aftercare whenever the district determines conditional
17 release to be consistent with the needs and best interests of such juve-
18 nile delinquent, that suitable care and supervision can be provided, and
19 that there is a reasonable probability that such juvenile delinquent can
20 be conditionally released without endangering public safety; provided,
21 however, that such conditional release shall be made in accordance with
22 the regulations of the office of children and family services, and
23 provided further that no juvenile delinquent while absent from a facili-
24 ty or program without the consent of the director of such facility or
25 program shall be conditionally released by the district solely by reason
26 of the absence.

27 (2) It shall be a condition of such release that a juvenile delinquent
28 so released shall continue to be the responsibility of the social
29 services district for the period provided in the order of placement.

30 (3) The social services district may provide clothing, services and
31 other necessities for any conditionally released juvenile delinquent, as
32 may be required, including medical care and services not provided to
33 such juvenile delinquent as medical assistance for needy persons pursu-
34 ant to title eleven of article five of this chapter.

35 (4) The social services district, pursuant to the regulations of the
36 office of children and family services, may cause a juvenile delinquent
37 to be returned to a facility operated and maintained by the district, or
38 an authorized agency under contract with the district, at any time with-
39 in the period of placement, where there is a violation of the conditions
40 of release or a change of circumstances.

41 (5) Juvenile delinquents conditionally released by a social services
42 district may be provided for as follows:

43 (i) If, in the opinion of the social services district, there is no
44 suitable parent, relative or guardian to whom a juvenile delinquent can
45 be conditionally released, and suitable care cannot otherwise be
46 secured, the district may conditionally release such juvenile delinquent
47 to the care of any other suitable person; provided that where such suit-
48 able person has no legal relationship with the juvenile, the district
49 shall advise such person of the procedures for obtaining custody or
50 guardianship of the juvenile.

51 (ii) If a conditionally released juvenile delinquent is subject to
52 article sixty-five of the education law or elects to participate in an
53 educational program leading to a high school diploma, he or she shall be
54 enrolled in a school or educational program leading to a high school
55 diploma following release, or, if such release occurs during the summer
56 recess, upon the commencement of the next school term. If a condi-

tionally released juvenile delinquent is not subject to article sixty-five of the education law, and does not elect to participate in an educational program leading to a high school diploma, steps shall be taken, to the extent possible, to facilitate his or her gainful employment or enrollment in a vocational program following release.

[(b)] (E) When a juvenile delinquent placed with the social services district is absent from placement without consent, such absence shall interrupt the calculation of time for his or her placement. Such interruption shall continue until such juvenile delinquent returns to the facility or authorized agency in which he or she was placed. Provided, however, that any time spent by a juvenile delinquent in custody from the date of absence to the date placement resumes shall be credited against the time of such placement provided that such custody:

(1) was due to an arrest or surrender based upon the absence; or

(2) arose from an arrest or surrender on another charge which did not culminate in a conviction, adjudication or adjustment.

[(c)] (F) In addition to the other requirements of this section, no juvenile delinquent placed with a social services district operating an approved juvenile justice services close to home initiative pursuant to section four hundred four of this chapter pursuant to a restrictive placement under the family court act shall be released except pursuant to section 353.5 of the family court act.

11. In the case of [a child who is adjudicated a person in need of supervision or] a juvenile delinquent and is placed by the family court with the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES and who is placed by [the division for youth] SUCH OFFICE with an authorized agency pursuant to court order, the social services official shall make expenditures in accordance with the regulations of the department for the care and maintenance of such child during the term of such placement subject to state reimbursement pursuant to SECTION ONE HUNDRED FIFTY-THREE-K OF this title[, or article nineteen-G of the executive law in applicable cases].

12. A social services official shall be permitted to place persons adjudicated [in need of supervision or] delinquent[, and alleged persons to be in need of supervision] in detention pending transfer to a placement, in the same foster care facilities as are providing care to destitute, neglected, abused or abandoned children. Such foster care facilities shall not provide care to a youth in the care of a social services official as a convicted juvenile offender.

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

8. (a) Notwithstanding any other provision of law to the contrary[,] EXCEPT AS PROVIDED FOR IN PARAGRAPH (A-1) OF THIS SUBDIVISION, eligible expenditures during the applicable time periods made by a social services district for an approved juvenile justice services close to home initiative shall, if approved by the department of family assistance, be subject to reimbursement with state funds only up to the extent of an annual appropriation made specifically therefor, after first deducting therefrom any federal funds properly received or to be received on account thereof; provided, however, that when such funds have been exhausted, a social services district may receive state reimbursement from other available state appropriations for that state fiscal year for eligible expenditures for services that otherwise would be reimbursable under such funding streams. Any claims submitted by a social services district for reimbursement for a particular state fiscal

1 year for which the social services district does not receive state
2 reimbursement from the annual appropriation for the approved close to
3 home initiative may not be claimed against that district's appropriation
4 for the initiative for the next or any subsequent state fiscal year.

5 (i) State funding for reimbursement shall be, subject to appropri-
6 ation, in the following amounts: for state fiscal year 2013-14,
7 \$35,200,000 adjusted by any changes in such amount required by subpara-
8 graphs (ii) and (iii) of this paragraph; for state fiscal year 2014-15,
9 \$41,400,000 adjusted to include the amount of any changes made to the
10 state fiscal year 2013-14 appropriation under subparagraphs (ii) and
11 (iii) of this paragraph plus any additional changes required by such
12 subparagraphs; and, such reimbursement shall be, subject to appropri-
13 ation, for all subsequent state fiscal years in the amount of the prior
14 year's actual appropriation adjusted by any changes required by subpara-
15 graphs (ii) and (iii) of this paragraph.

16 (ii) The reimbursement amounts set forth in subparagraph (i) of this
17 paragraph shall be increased or decreased by the percentage that the
18 average of the most recently approved maximum state aid rates for group
19 residential foster care programs is higher or lower than the average of
20 the approved maximum state aid rates for group residential foster care
21 programs in existence immediately prior to the most recently approved
22 rates.

23 (iii) The reimbursement amounts set forth in subparagraph (i) of this
24 paragraph shall be increased if either the population of alleged juve-
25 nile delinquents who receive a probation intake or the total population
26 of adjudicated juvenile delinquents placed on probation combined with
27 the population of adjudicated juvenile delinquents placed out of their
28 homes in a setting other than a secure facility pursuant to section
29 352.2 of the family court act, increases by at least ten percent over
30 the respective population in the annual baseline year. The baseline year
31 shall be the period from July first, two thousand ten through June thir-
32 tieth, two thousand eleven or the most recent twelve month period for
33 which there is complete data, whichever is later. In each successive
34 year, the population of the previous July first through June thirtieth
35 period shall be compared to the baseline year for determining any
36 adjustments to a state fiscal year appropriation. When either population
37 increases by ten percent or more, the reimbursement will be adjusted by
38 a percentage equal to the larger of the percentage increase in either
39 the number of probation intakes for alleged juvenile delinquents or the
40 total population of adjudicated juvenile delinquents placed on probation
41 combined with the population of adjudicated juvenile delinquents placed
42 out of their homes in a setting other than a secure facility pursuant to
43 section 352.2 of the family court act.

44 (iv) The social services district and/or the New York city department
45 of probation shall provide an annual report including the data required
46 to calculate the population adjustment to the New York city office of
47 management and budget, the division of criminal justice services and the
48 state division of the budget no later than the first day of September
49 following the close of the previous July first through June thirtieth
50 period.

51 (A-1) COMMENCING JANUARY FIRST, TWO THOUSAND SEVENTEEN, STATE
52 REIMBURSEMENT SHALL BE MADE AVAILABLE FOR ONE HUNDRED PERCENT OF ELIGI-
53 BLE EXPENDITURES MADE BY A SOCIAL SERVICES DISTRICT, EXCLUSIVE OF ANY
54 FEDERAL FUNDS MADE AVAILABLE FOR SUCH PURPOSES, FOR APPROVED JUVENILE
55 JUSTICE SERVICES UNDER AN APPROVED CLOSE TO HOME INITIATIVE PROVIDED TO
56 YOUTH AGE SIXTEEN YEARS OF AGE OR OLDER WHEN SUCH SERVICES WOULD NOT

1 OTHERWISE HAVE BEEN PROVIDED TO SUCH YOUTH ABSENT THE PROVISIONS IN A
2 CHAPTER OF THE LAWS OF TWO THOUSAND FIFTEEN THAT INCREASED THE AGE OF
3 JUVENILE JURISDICTION ABOVE FIFTEEN YEARS OF AGE.

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

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

11 (d) Notwithstanding any inconsistent provision of law or regulation of
12 the department of family assistance, state reimbursement shall not be
13 made for any expenditure made for the duplication of any grant or allow-
14 ance for any period.

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

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

23 (g) Notwithstanding any other provision of law, the state shall not be
24 responsible for reimbursing a social services district and a district
25 shall not seek state reimbursement for any portion of any state disal-
26 lowance or sanction taken against the social services district, or any
27 federal disallowance attributable to final federal agency decisions or
28 to settlements made, when such disallowance or sanction results from the
29 failure of the social services district to comply with federal or state
30 requirements, including, but not limited to, failure to document eligi-
31 bility for the federal or state funds in the case record. To the extent
32 that the social services district has sufficient claims other than those
33 that are subject to disallowance or sanction to draw down the full annu-
34 al appropriation, such disallowance or sanction shall not result in a
35 reduction in payment of state funds to the district unless the district
36 requests that the department use a portion of the appropriation toward
37 meeting the district's responsibility to repay the federal government
38 for the disallowance or sanction and any related interest payments.

39 (h) Rates for residential services. (i) The office shall establish the
40 rates, in accordance with section three hundred ninety-eight-a of this
41 chapter, for any non-secure facilities established under an approved
42 juvenile justice services close to home initiative. For any such non-se-
43 cure facility that will be used primarily by the social services
44 district with an approved close to home initiative, final authority for
45 establishment of such rates and any adjustments thereto shall reside
46 with the office, but such rates and any adjustments thereto shall be
47 established only upon the request of, and in consultation with, such
48 social services district.

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

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

6 (a) A social services official shall provide preventive services to a
7 child and his or her family, in accordance with the family's service
8 plan as required by section four hundred nine-e of this chapter and the
9 social services district's child welfare services plan submitted and
10 approved pursuant to section four hundred nine-d of this chapter, upon a
11 finding by such official that [(i)] the child will be placed, returned
12 to or continued in foster care unless such services are provided and
13 that it is reasonable to believe that by providing such services the
14 child will be able to remain with or be returned to his or her family,
15 and for a former foster care youth under the age of twenty-one who was
16 previously placed in the care and custody or custody and guardianship of
17 the local commissioner of social services or other officer, board or
18 department authorized to receive children as public charges where it is
19 reasonable to believe that by providing such services the former foster
20 care youth will avoid a return to foster care [or (ii) the child is the
21 subject of a petition under article seven of the family court act, or
22 has been determined by the assessment service established pursuant to
23 section two hundred forty-three-a of the executive law, or by the
24 probation service where no such assessment service has been designated,
25 to be at risk of being the subject of such a petition, and the social
26 services official determines that the child is at risk of placement into
27 foster care]. Such finding shall be entered in the child's uniform case
28 record established and maintained pursuant to section four hundred
29 nine-f of this chapter. The commissioner shall promulgate regulations to
30 assist social services officials in making determinations of eligibility
31 for mandated preventive services pursuant to this [subparagraph] PARA-
32 GRAPH.

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

36 S 30.00 Infancy.

37 1. Except as provided in [subdivision] SUBDIVISIONS two AND THREE of
38 this section, a person less than [sixteen] SEVENTEEN years old, OR,
39 COMMENCING JANUARY FIRST, TWO THOUSAND EIGHTEEN, A PERSON LESS THAN
40 EIGHTEEN YEARS OLD is not criminally responsible for conduct.

41 2. A person thirteen, fourteen [or], fifteen, OR SIXTEEN YEARS OF AGE
42 OR, COMMENCING JANUARY FIRST, TWO THOUSAND EIGHTEEN, A PERSON SEVENTEEN
43 years of age is criminally responsible for acts constituting murder in
44 the second degree as defined in subdivisions one and two of section
45 125.25 and in subdivision three of such section provided that the under-
46 lying crime for the murder charge is one for which such person is crimi-
47 nally responsible or for such conduct as a sexually motivated felony,
48 where authorized pursuant to section 130.91 of the penal law; and a
49 person fourteen [or], fifteen, OR SIXTEEN YEARS OF AGE OR, COMMENCING
50 JANUARY FIRST, TWO THOUSAND EIGHTEEN, SEVENTEEN years of age is crimi-
51 nally responsible for acts constituting the crimes defined in section
52 135.25 (kidnapping in the first degree); 150.20 (arson in the first
53 degree); subdivisions one and two of section 120.10 (assault in the
54 first degree); 125.20 (manslaughter in the first degree); subdivisions
55 one and two of section 130.35 (rape in the first degree); subdivisions
56 one and two of section 130.50 (criminal sexual act in the first degree);

1 130.70 (aggravated sexual abuse in the first degree); 140.30 (burglary
2 in the first degree); subdivision one of section 140.25 (burglary in the
3 second degree); 150.15 (arson in the second degree); 160.15 (robbery in
4 the first degree); subdivision two of section 160.10 (robbery in the
5 second degree) of this chapter; or section 265.03 of this chapter, where
6 such machine gun or such firearm is possessed on school grounds, as that
7 phrase is defined in subdivision fourteen of section 220.00 of this
8 chapter; or defined in this chapter as an attempt to commit murder in
9 the second degree or kidnapping in the first degree, or for such conduct
10 as a sexually motivated felony, where authorized pursuant to section
11 130.91 of the penal law.

12 3. A PERSON SIXTEEN OR, COMMENCING JANUARY FIRST, TWO THOUSAND EIGH-
13 TEEN, SEVENTEEN YEARS OF AGE IS CRIMINALLY RESPONSIBLE FOR ACTS CONSTI-
14 TUTING A VIOLENT FELONY DEFINED IN SECTION 70.02 OF THIS CHAPTER; ACTS
15 CONSTITUTING ANY CRIME IN THIS CHAPTER THAT IS CLASSIFIED AS A CLASS A
16 FELONY EXCEPTING THOSE CLASS A FELONIES WHICH REQUIRE, AS AN ELEMENT OF
17 THE OFFENSE, THAT THE DEFENDANT BE EIGHTEEN YEARS OF AGE OR OLDER; ACTS
18 CONSTITUTING THE CRIMES DEFINED IN SECTION 120.03 (VEHICULAR ASSAULT IN
19 THE SECOND DEGREE); 120.04 (VEHICULAR ASSAULT IN THE FIRST DEGREE);
20 120.04-A (AGGRAVATED VEHICULAR ASSAULT); 125.10 (CRIMINALLY NEGLIGENT
21 HOMICIDE); 125.11 (AGGRAVATED CRIMINALLY NEGLIGENT HOMICIDE); 125.12
22 (VEHICULAR MANSLAUGHTER IN THE SECOND DEGREE); 125.13 (VEHICULAR
23 MANSLAUGHTER IN THE FIRST DEGREE); 125.14 (AGGRAVATED VEHICULAR HOMI-
24 CIDE); 125.15 (MANSLAUGHTER IN THE SECOND DEGREE); 125.20 (MANSLAUGHTER
25 IN THE FIRST DEGREE); 125.21 (AGGRAVATED MANSLAUGHTER IN THE SECOND
26 DEGREE); 125.22 (AGGRAVATED MANSLAUGHTER IN THE FIRST DEGREE); 215.11
27 (TAMPERING WITH A WITNESS IN THE THIRD DEGREE) PROVIDED THAT THE CRIMI-
28 NAL PROCEEDING IN WHICH THE PERSON IS TAMPERING IS ONE FOR WHICH SUCH
29 PERSON IS CRIMINALLY RESPONSIBLE; 215.12 (TAMPERING WITH A WITNESS IN
30 THE SECOND DEGREE) PROVIDED THAT THE CRIMINAL PROCEEDING IN WHICH THE
31 PERSON IS TAMPERING IS ONE FOR WHICH SUCH PERSON IS CRIMINALLY RESPONSI-
32 BLE; 215.13 (TAMPERING WITH A WITNESS IN THE FIRST DEGREE) PROVIDED THAT
33 THE CRIMINAL PROCEEDING IN WHICH THE PERSON IS TAMPERING IS ONE FOR
34 WHICH SUCH PERSON IS CRIMINALLY RESPONSIBLE; 215.52 (AGGRAVATED CRIMINAL
35 CONTEMPT); ACTS CONSTITUTING A SPECIFIED OFFENSE DEFINED IN SUBDIVISION
36 TWO OF SECTION 130.91 OF THIS CHAPTER WHEN COMMITTED AS A SEXUALLY MOTI-
37 VATED FELONY; ACTS CONSTITUTING A SPECIFIED OFFENSE DEFINED IN SUBDIVI-
38 SION THREE OF SECTION 490.05 OF THIS CHAPTER WHEN COMMITTED AS AN ACT OF
39 TERRORISM; ACTS CONSTITUTING A FELONY DEFINED IN ARTICLE 490 OF THIS
40 CHAPTER; AND ACTS CONSTITUTING A CRIME SET FORTH IN SUBDIVISION ONE OF
41 SECTION 105.10 AND SECTION 105.15 PROVIDED THAT THE UNDERLYING CRIME FOR
42 THE CONSPIRACY CHARGE IS ONE FOR WHICH SUCH PERSON IS CRIMINALLY RESPON-
43 SIBLE. PROVIDED HOWEVER, A PERSON SIXTEEN OR SEVENTEEN YEARS OF AGE IS
44 CRIMINALLY RESPONSIBLE FOR ACTS CONSTITUTING AN OFFENSE SET FORTH IN THE
45 VEHICLE AND TRAFFIC LAW AND SHALL BE CONSIDERED A PERSON OVER THE AGE OF
46 EIGHTEEN FOR THE PROSECUTION OF ACTS CONSTITUTING AN OFFENSE SET FORTH
47 IN THE VEHICLE AND TRAFFIC LAW.

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

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

52 (2) If the sentence is to be imposed upon a youthful offender finding
53 which has been substituted for a conviction for any felony, AND THE
54 PERSON IS EIGHTEEN YEARS OF AGE OR YOUNGER, the court must impose a
55 sentence authorized to be imposed upon a person convicted of a class E
56 felony provided, however, that (A) the court must not impose a sentence

1 of [conditional discharge or] unconditional discharge if the youthful
2 offender finding was substituted for a conviction of a felony defined in
3 article two hundred twenty of this chapter; AND (B) NOTWITHSTANDING
4 PARAGRAPH (E) OF SUBDIVISION TWO OF SECTION 70.00 OF THIS TITLE, IF A
5 TERM OF IMPRISONMENT IS IMPOSED, SUCH TERM SHALL BE A DEFINITE SENTENCE
6 OF ONE YEAR OR LESS, OR A DETERMINATE SENTENCE, THE TERM OF WHICH MUST
7 BE AT LEAST ONE YEAR AND MUST NOT EXCEED THREE YEARS, AND MUST INCLUDE,
8 AS A PART THEREOF, A PERIOD OF POST-RELEASE SUPERVISION IN ACCORDANCE
9 WITH SUBDIVISION TWO-B OF SECTION 70.45 OF THIS CHAPTER. IN ANY CASE,
10 WHERE A COURT IMPOSES A SENTENCE OF IMPRISONMENT IN CONJUNCTION WITH A
11 SENTENCE OF PROBATION OR CONDITIONAL DISCHARGE, SUCH IMPRISONMENT TERM
12 SHALL NOT BE IN EXCESS OF SIX MONTHS, OR IN THE CASE OF AN INTERMITTENT
13 TERM, NOT IN EXCESS OF FOUR MONTHS IN ACCORDANCE WITH PARAGRAPH (D) OF
14 SUBDIVISION TWO OF SECTION 60.01 OF THIS ARTICLE.

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

17 S 60.10 Authorized disposition; juvenile offender.

18 1. WHEN A JUVENILE OFFENDER IS CONVICTED OF A CLASS A FELONY, OTHER
19 THAN MURDER IN THE SECOND DEGREE AS DEFINED BY SECTION 125.25, ARSON IN
20 THE FIRST DEGREE AS DEFINED BY SECTION 150.20 OR KIDNAPPING IN THE FIRST
21 DEGREE AS DEFINED BY SECTION 135.25 OF THIS CHAPTER, THE COURT SHALL
22 SENTENCE THE DEFENDANT TO IMPRISONMENT PURSUANT TO THE PROVISIONS OF
23 SECTION 70.00, 70.06, 70.07, 70.08, OR 70.71 OF THIS CHAPTER, AS APPLI-
24 CABLE. When a juvenile offender is convicted of [a] ANY OTHER crime, the
25 court shall sentence the defendant to imprisonment in accordance with
26 section 70.05 or sentence [him] THE DEFENDANT upon a youthful offender
27 finding in accordance with section 60.02 of this chapter.

28 2. Subdivision one of this section shall apply when sentencing a juve-
29 nile offender notwithstanding the provisions of any other law that deals
30 with the authorized sentence for persons who are not juvenile offenders.
31 Provided, however, that the limitation prescribed by this section shall
32 not be deemed or construed to bar use of a conviction of a juvenile
33 offender, other than a juvenile offender who has been adjudicated a
34 youthful offender pursuant to section 720.20 of the criminal procedure
35 law, EXCEPT AS PROVIDED IN SUBDIVISION THREE OF THIS SECTION as a previ-
36 ous or predicate felony offender under section 70.04, 70.06, 70.07,
37 70.08 [or], 70.10, 70.70, 70.71, 70.80, OR 485.10 OF THIS CHAPTER, when
38 sentencing a person who commits a felony after [he] SUCH PERSON has
39 reached the age of [sixteen] SEVENTEEN AS OF JANUARY FIRST, TWO THOUSAND
40 SEVENTEEN, AND EIGHTEEN AS OF JANUARY FIRST, TWO THOUSAND EIGHTEEN.

41 3. THE LIMITATION PRESCRIBED BY THIS SECTION SHALL NOT BE DEEMED OR
42 CONSTRUED TO BAR USE OF A CONVICTION OF A JUVENILE OFFENDER WHO HAS BEEN
43 ADJUDICATED A YOUTHFUL OFFENDER PURSUANT TO SECTION 720.20 OF THE CRIMI-
44 NAL PROCEDURE LAW FOR AN OFFENSE COMMITTED WHEN SUCH PERSON WAS SIXTEEN
45 OR SEVENTEEN YEARS OLD AS A PREVIOUS OR PREDICATE FELONY OFFENDER UNDER
46 SECTION 70.04, 70.06, 70.07, 70.08, 70.10, 70.70, 70.71, 70.80 OR 485.10
47 OF THIS CHAPTER, WHEN SENTENCING A PERSON WHO COMMITS A VIOLENT FELONY
48 AS DEFINED BY SUBDIVISION ONE OF SECTION 70.02 OF THIS TITLE AFTER SUCH
49 PERSON HAS REACHED THE AGE OF SEVENTEEN AS OF JANUARY FIRST, TWO THOU-
50 SAND SEVENTEEN AND EIGHTEEN AS OF JANUARY FIRST, TWO THOUSAND EIGHTEEN.

51 S 57. Section 70.05 of the penal law, as added by chapter 481 of the
52 laws of 1978, subdivision 1 as amended by chapter 615 of the laws of
53 1984, paragraph (e) of subdivision 2 as added and paragraph (c) of
54 subdivision 3 as amended by chapter 435 of the laws of 1998, paragraph
55 (a) of subdivision 3 as amended by chapter 174 of the laws of 2003, is
56 amended to read as follows:

1 S 70.05 Sentence of imprisonment for juvenile offender.

2 1. [Indeterminate sentence] SENTENCE. A sentence of imprisonment for
3 a JUVENILE OFFENDER CONVICTED OF A CLASS A felony OTHER THAN MURDER IN
4 THE SECOND DEGREE AS DEFINED BY SECTION 125.25, ARSON IN THE FIRST
5 DEGREE AS DEFINED BY SECTION 150.20 OR KIDNAPPING IN THE FIRST DEGREE AS
6 DEFINED BY SECTION 135.25 OF THIS CHAPTER, SHALL BE IMPOSED BY THE COURT
7 PURSUANT TO THE PROVISIONS OF SECTION 70.00, 70.06, 70.07, 70.08, OR
8 70.71 OF THIS CHAPTER, AS APPLICABLE. A SENTENCE OF IMPRISONMENT FOR THE
9 CLASS A-1 FELONY OF MURDER IN THE SECOND DEGREE committed by a juvenile
10 offender shall be an indeterminate sentence. When such a sentence is
11 imposed, the court shall impose [a] THE MINIMUM PERIOD OF IMPRISONMENT
12 AND maximum term in accordance with the provisions of subdivision two of
13 this section [and the minimum period of imprisonment shall be as
14 provided in subdivision three of this section]. EXCEPT AS PROVIDED HERE-
15 IN, A SENTENCE OF IMPRISONMENT FOR ANY OTHER FELONY COMMITTED BY A JUVE-
16 NILE OFFENDER SHALL BE A DETERMINATE SENTENCE. WHEN SUCH A SENTENCE IS
17 IMPOSED, THE COURT SHALL IMPOSE A TERM OF IMPRISONMENT IN WHOLE OR HALF
18 YEARS IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION THREE OF THIS
19 SECTION AND A PERIOD OF POST-RELEASE SUPERVISION IN ACCORDANCE WITH THE
20 PROVISIONS OF SUBDIVISION TWO-B OF SECTION 70.45 OF THIS ARTICLE. The
21 court shall further provide that where a juvenile offender is under
22 placement pursuant to article three of the family court act, any
23 sentence imposed pursuant to this section which is to be served consec-
24 utively with such placement shall be served in a facility designated
25 pursuant to subdivision four of section 70.20 of this article prior to
26 service of the placement in any previously designated facility.

27 2. [Maximum term of] INDETERMINATE sentence. [The maximum term of an
28 indeterminate sentence for a juvenile offender shall be at least three
29 years and the term shall be fixed as follows:

30 (a)] For the class A felony of murder in the second degree, the MAXI-
31 MUM term shall be life imprisonment; AND THE MINIMUM PERIOD OF IMPRISON-
32 MENT SHALL BE SPECIFIED IN THE SENTENCE AS FOLLOWS:

33 (A) WHERE THE DEFENDANT WAS THIRTEEN YEARS OLD AT THE TIME OF SUCH
34 OFFENSE, THE MINIMUM PERIOD OF IMPRISONMENT SHALL BE AT LEAST FIVE YEARS
35 BUT SHALL NOT EXCEED NINE YEARS;

36 (B) WHERE THE DEFENDANT WAS FOURTEEN YEARS OLD AT THE TIME OF SUCH
37 OFFENSE, THE MINIMUM PERIOD OF IMPRISONMENT SHALL BE AT LEAST SEVEN AND
38 ONE-HALF YEARS BUT SHALL NOT EXCEED FIFTEEN YEARS; AND

39 (C) WHERE THE DEFENDANT WAS SIXTEEN OR SEVENTEEN YEARS OLD AT THE TIME
40 OF SUCH OFFENSE, THE MINIMUM PERIOD OF IMPRISONMENT SHALL BE AT LEAST
41 TEN YEARS BUT SHALL NOT EXCEED FIFTEEN YEARS.

42 [(b)] 3. DETERMINATE SENTENCE. (A) For the class A felony of arson in
43 the first degree, or for the class A felony of kidnapping in the first
44 degree WHERE: (I) THE DEFENDANT WAS FOURTEEN OR FIFTEEN YEARS OLD AT THE
45 TIME OF SUCH OFFENSE the DETERMINATE term shall be fixed by the court,
46 and shall be at least [twelve] FOUR years but shall not exceed fifteen
47 years; AND (II) THE DEFENDANT WAS SIXTEEN OR SEVENTEEN YEARS OLD AT THE
48 TIME OF SUCH OFFENSE, THE DETERMINATE TERM SHALL BE FIXED BY THE COURT,
49 AND SHALL BE AT LEAST FOUR YEARS BUT SHALL NOT EXCEED TEN YEARS;

50 [(c)] (B) For a class B felony, WHERE: (I) THE DEFENDANT WAS FOURTEEN
51 OR FIFTEEN YEARS OLD AT THE TIME OF SUCH OFFENSE, the DETERMINATE term
52 shall be fixed by the court, and shall BE AT LEAST ONE YEAR BUT SHALL
53 not exceed [ten] SEVEN years; AND (II) THE DEFENDANT WAS SIXTEEN OR
54 SEVENTEEN YEARS OLD AT THE TIME OF SUCH OFFENSE, THE DETERMINATE TERM
55 SHALL BE FIXED BY THE COURT, AND SHALL BE AT LEAST ONE YEAR BUT SHALL
56 NOT EXCEED SEVEN YEARS; PROVIDED, HOWEVER, THAT WHERE THE DEFENDANT IS

1 CONVICTED OF A CLASS B VIOLENT FELONY AND THE COURT FINDS AGGRAVATING
2 CIRCUMSTANCES THAT BEAR DIRECTLY UPON THE MANNER IN WHICH THE CRIME WAS
3 COMMITTED, INCLUDING THE SEVERITY OF INJURY TO THE VICTIM AND THE GRAVI-
4 TY OF RISK TO PUBLIC SAFETY, THE COURT SHALL SENTENCE THE DEFENDANT
5 PURSUANT TO PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION 70.02 OF THIS
6 ARTICLE;

7 [(d)] (C) For a class C felony, WHERE: (I) THE DEFENDANT WAS FOURTEEN
8 OR FIFTEEN YEARS OLD AT THE TIME OF SUCH OFFENSE, the DETERMINATE term
9 shall be fixed by the court, and shall BE AT LEAST ONE YEAR BUT SHALL
10 not exceed [seven] FIVE years; and (II) THE DEFENDANT WAS SIXTEEN OR
11 SEVENTEEN YEARS OLD AT THE TIME OF SUCH OFFENSE, THE DETERMINATE TERM
12 SHALL BE FIXED BY THE COURT, AND SHALL BE AT LEAST ONE YEAR BUT SHALL
13 NOT EXCEED FIVE YEARS;

14 [(e)] (D) For a class D felony, WHERE: (I) THE DEFENDANT WAS FOURTEEN
15 OR FIFTEEN YEARS OLD AT THE TIME OF SUCH OFFENSE, the DETERMINATE term
16 shall be fixed by the court, and shall BE AT LEAST ONE YEAR BUT SHALL
17 not exceed [four] THREE years; AND (II) THE DEFENDANT WAS SIXTEEN OR
18 SEVENTEEN YEARS OLD AT THE TIME OF SUCH OFFENSE, THE DETERMINATE TERM
19 SHALL BE FIXED BY THE COURT, AND SHALL BE AT LEAST ONE YEAR BUT SHALL
20 NOT EXCEED THREE YEARS; AND

21 (E) FOR A CLASS E FELONY, WHERE THE DEFENDANT WAS SIXTEEN OR SEVENTEEN
22 YEARS OLD AT THE TIME OF SUCH OFFENSE, THE DETERMINATE TERM SHALL BE
23 FIXED BY THE COURT, AND SHALL BE AT LEAST ONE YEAR BUT SHALL NOT EXCEED
24 TWO YEARS.

25 [3. Minimum period of imprisonment. The minimum period of imprisonment
26 under an indeterminate sentence for a juvenile offender shall be speci-
27 fied in the sentence as follows:

28 (a) For the class A felony of murder in the second degree, the minimum
29 period of imprisonment shall be fixed by the court and shall be not less
30 than five years but shall not exceed nine years provided, however, that
31 where the sentence is for an offense specified in subdivision one or two
32 of section 125.25 of this chapter and the defendant was fourteen or
33 fifteen years old at the time of such offense, the minimum period of
34 imprisonment shall be not less than seven and one-half years but shall
35 not exceed fifteen years;

36 (b) For the class A felony of arson in the first degree, or for the
37 class A felony of kidnapping in the first degree, the minimum period of
38 imprisonment shall be fixed by the court and shall be not less than four
39 years but shall not exceed six years; and

40 (c) For a class B, C or D felony, the minimum period of imprisonment
41 shall be fixed by the court at one-third of the maximum term imposed.]

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

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

54 [(b) The court in committing a defendant who is not yet eighteen years
55 of age to the department of corrections and community supervision shall
56 inquire as to whether the parents or legal guardian of the defendant, if

1 present, will grant to the minor the capacity to consent to routine
2 medical, dental and mental health services and treatment.

3 (c) Notwithstanding paragraph (b) of this subdivision, where the court
4 commits a defendant who is not yet eighteen years of age to the custody
5 of the department of corrections and community supervision in accordance
6 with this section and no medical consent has been obtained prior to said
7 commitment, the commitment order shall be deemed to grant the capacity
8 to consent to routine medical, dental and mental health services and
9 treatment to the person so committed.

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

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

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

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

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

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

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

44 4. (a) Notwithstanding any other provision of law to the contrary, a
45 juvenile offender[,] or a juvenile offender who is adjudicated a youth-
46 ful offender [and], WHO IS given an indeterminate or a definite
47 sentence, AND WHO IS UNDER THE AGE OF TWENTY-ONE AT THE TIME OF SENTENC-
48 ING, shall be committed to the custody of the commissioner of the office
49 of children and family services who shall arrange for the confinement of
50 such offender in [secure] facilities of the office. The release or
51 transfer of such offenders from the office of children and family
52 services shall be governed by section five hundred eight of the execu-
53 tive law. IF THE JUVENILE OFFENDER OR JUVENILE OFFENDER WHO IS ADJUDI-
54 CATED A YOUTHFUL OFFENDER IS CONVICTED AND IS TWENTY-ONE YEARS OF AGE OR
55 OLDER AT THE TIME OF SENTENCING, HE OR SHE SHALL BE DELIVERED TO THE
56 DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION.

1 (A-1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, A
2 PERSON WHO IS CONVICTED AS AN ADULT FOR COMMITTING A CRIME, OTHER THAN A
3 VEHICLE AND TRAFFIC OFFENSE, WHEN HE OR SHE WAS SIXTEEN OR SEVENTEEN
4 YEARS OF AGE WHO IS SENTENCED ON OR AFTER DECEMBER FIRST, TWO THOUSAND
5 FIFTEEN TO A TERM OF AT LEAST ONE YEAR OF IMPRISONMENT AND WHO IS UNDER
6 THE AGE OF EIGHTEEN AT THE TIME HE OR SHE IS SENTENCED SHALL BE COMMIT-
7 TED TO THE CUSTODY OF THE COMMISSIONER OF THE OFFICE OF CHILDREN AND
8 FAMILY SERVICES WHO SHALL ARRANGE FOR THE CONFINEMENT OF SUCH OFFENDER
9 IN FACILITIES OF THE OFFICE. THE RELEASE OR TRANSFER OF SUCH OFFENDERS
10 FROM THE OFFICE OF CHILDREN AND FAMILY SERVICES SHALL BE GOVERNED BY
11 SECTION FIVE HUNDRED EIGHT OF THE EXECUTIVE LAW.

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

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

25 (d) Nothing in this subdivision shall preclude a parent or legal guar-
26 dian of an offender who is not yet eighteen years of age from making a
27 motion on notice to the office of children and family services pursuant
28 to article twenty-two of the civil practice law and rules objecting to
29 routine medical, dental or mental health services and treatment being
30 provided to such offender under the provisions of paragraph (b) of this
31 subdivision.

32 (e) Nothing in this section shall require that consent be obtained
33 from the parent or legal guardian, where no consent is necessary or
34 where the offender is authorized by law to consent on his or her own
35 behalf to any medical, dental and mental health service or treatment.

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

39 (f) [The aggregate maximum term of consecutive sentences imposed upon
40 a juvenile offender for two or more crimes, not including a class A
41 felony, committed before he has reached the age of sixteen, shall, if it
42 exceeds ten years, be deemed to be ten years. If consecutive indetermi-
43 nate sentences imposed upon a juvenile offender include a sentence for
44 the class A felony of arson in the first degree or for the class A felo-
45 ny of kidnapping in the first degree, then the aggregate maximum term of
46 such sentences shall, if it exceeds fifteen years, be deemed to be
47 fifteen years. Where the aggregate maximum term of two or more consec-
48 utive sentences is reduced by a calculation made pursuant to this para-
49 graph, the aggregate minimum period of imprisonment, if it exceeds one-
50 half of the aggregate maximum term as so reduced, shall be deemed to be
51 one-half of the aggregate maximum term as so reduced.] (I) THE AGGREGATE
52 TERM OR MAXIMUM TERM OF CONSECUTIVE SENTENCES IMPOSED UPON A JUVENILE
53 OFFENDER FOR TWO OR MORE CRIMES, OTHER THAN TWO OR MORE SENTENCES THAT
54 INCLUDE A SENTENCE FOR A CLASS A FELONY, OR A SENTENCE FOR A CLASS B
55 VIOLENT FELONY IMPOSED PURSUANT TO PARAGRAPH (A) OF SUBDIVISION THREE OF
56 SECTION 70.02 OF THIS ARTICLE, COMMITTED PRIOR TO THE TIME THE PERSON

1 WAS IMPRISONED UNDER ANY OF SUCH SENTENCES SHALL, IF IT EXCEEDS TEN
2 YEARS, BE DEEMED TO BE TEN YEARS, PROVIDED:

3 (A) WHERE ALL OF SUCH CONSECUTIVE SENTENCES ARE DETERMINATE AND THE
4 AGGREGATE TERM EXCEEDS TEN YEARS, THE JUVENILE OFFENDER SHALL BE DEEMED
5 TO BE SERVING A DETERMINATE TERM OF TEN YEARS; AND

6 (B) WHERE ALL OF SUCH CONSECUTIVE SENTENCES ARE INDETERMINATE AND THE
7 AGGREGATE MAXIMUM TERM EXCEEDS TEN YEARS, THE JUVENILE OFFENDER SHALL BE
8 DEEMED TO BE SERVING AN INDETERMINATE SENTENCE, THE MAXIMUM TERM OF
9 WHICH SHALL BE DEEMED TO BE TEN YEARS AND THE AGGREGATE MINIMUM PERIOD
10 OF WHICH, IF IT EXCEEDS FIVE YEARS, SHALL BE DEEMED TO BE FIVE YEARS;
11 AND

12 (C) WHERE ONE OR MORE OF SUCH CONSECUTIVE SENTENCES IS A DETERMINATE
13 SENTENCE AND ONE OR MORE OF WHICH IS AN INDETERMINATE SENTENCE:

14 (1) IF THE AGGREGATE TERM OF THE DETERMINATE SENTENCES IS EQUAL TO OR
15 EXCEEDS TEN YEARS, THE JUVENILE OFFENDER SHALL BE DEEMED TO BE SERVING A
16 DETERMINATE TERM OF TEN YEARS; AND

17 (2) IF THE TERM OR AGGREGATE TERM OF THE DETERMINATE SENTENCE OR
18 SENTENCES IS LESS THAN TEN YEARS, THE JUVENILE OFFENDER SHALL BE DEEMED
19 TO BE SERVING AN INDETERMINATE SENTENCE, THE MAXIMUM TERM OF WHICH SHALL
20 BE DEEMED TO BE TEN YEARS, AND THE MINIMUM PERIOD OF WHICH SHALL BE
21 DEEMED TO BE FIVE YEARS OR SIX-SEVENTHS OF THE TERM OR AGGREGATE TERM OF
22 THE DETERMINATE SENTENCE OR SENTENCES, WHICHEVER IS GREATER.

23 (II) THE AGGREGATE MAXIMUM TERM OF CONSECUTIVE SENTENCES IMPOSED UPON
24 A JUVENILE OFFENDER FOR TWO OR MORE CRIMES, AT LEAST ONE OF WHICH IS THE
25 CLASS A FELONY OF ARSON IN THE FIRST DEGREE AS DEFINED BY SECTION 150.20
26 OR KIDNAPPING IN THE FIRST DEGREE AS DEFINED BY SECTION 135.25 OF THIS
27 CHAPTER BUT NO OTHER CLASS A FELONY, AND DOES NOT INCLUDE A SENTENCE
28 IMPOSED FOR A CLASS B VIOLENT FELONY IMPOSED PURSUANT TO PARAGRAPH (A)
29 OF SUBDIVISION THREE OF SECTION 70.02 OF THIS ARTICLE, COMMITTED PRIOR
30 TO THE TIME THE PERSON WAS IMPRISONED UNDER ANY OF SUCH SENTENCES SHALL,
31 IF IT EXCEEDS FIFTEEN YEARS, BE DEEMED TO BE FIFTEEN YEARS, PROVIDED:

32 (A) WHERE ALL OF SUCH CONSECUTIVE SENTENCES ARE DETERMINATE AND THE
33 AGGREGATE TERM EXCEEDS FIFTEEN YEARS, THE JUVENILE OFFENDER SHALL BE
34 DEEMED TO BE SERVING A DETERMINATE TERM OF FIFTEEN YEARS; AND

35 (B) WHERE ALL OF SUCH CONSECUTIVE SENTENCES ARE INDETERMINATE AND THE
36 AGGREGATE MAXIMUM TERM EXCEEDS FIFTEEN YEARS, THE JUVENILE OFFENDER
37 SHALL BE DEEMED TO BE SERVING AN INDETERMINATE SENTENCE, THE MAXIMUM
38 TERM OF WHICH SHALL BE DEEMED TO BE FIFTEEN YEARS AND THE AGGREGATE
39 MINIMUM PERIOD OF WHICH, IF IT EXCEEDS SEVEN AND ONE-HALF YEARS, SHALL
40 BE DEEMED TO BE SEVEN AND ONE-HALF YEARS; AND

41 (C) WHERE ONE OR MORE OF SUCH CONSECUTIVE SENTENCES IS A DETERMINATE
42 SENTENCE AND ONE OR MORE OF WHICH IS AN INDETERMINATE SENTENCE:

43 (1) IF THE AGGREGATE TERM OF THE DETERMINATE SENTENCES IS EQUAL TO OR
44 EXCEEDS FIFTEEN YEARS, THE JUVENILE OFFENDER SHALL BE DEEMED TO BE SERV-
45 ING A DETERMINATE TERM OF FIFTEEN YEARS; AND

46 (2) IF THE TERM OR AGGREGATE TERM OF THE DETERMINATE SENTENCE OR
47 SENTENCES IS LESS THAN FIFTEEN YEARS, THE JUVENILE OFFENDER SHALL BE
48 DEEMED TO BE SERVING AN INDETERMINATE SENTENCE, THE MAXIMUM TERM OF
49 WHICH SHALL BE DEEMED TO BE FIFTEEN YEARS, AND THE MINIMUM PERIOD OF
50 WHICH SHALL BE DEEMED TO BE SEVEN AND ONE-HALF YEARS OR SIX-SEVENTHS OF
51 THE TERM OR AGGREGATE TERM OF THE DETERMINATE SENTENCE OR SENTENCES,
52 WHICHEVER IS GREATER.

53 S 61. Section 70.45 of the penal law is amended by adding a new subdi-
54 vision 2-b to read as follows:

55 2-B. PERIODS OF POST-RELEASE SUPERVISION FOR JUVENILE OFFENDERS AND
56 YOUTHFUL OFFENDERS. (A) THE PERIOD OF POST-RELEASE SUPERVISION FOR A

1 DETERMINATE SENTENCE IMPOSED UPON A YOUTHFUL OFFENDER OR A JUVENILE
2 OFFENDER ADJUDICATED A YOUTHFUL OFFENDER MUST BE FIXED BY THE COURT AT
3 ONE YEAR.

4 (B) THE PERIOD OF POST-RELEASE SUPERVISION FOR A DETERMINATE SENTENCE
5 IMPOSED UPON A JUVENILE OFFENDER NOT ADJUDICATED A YOUTHFUL OFFENDER
6 MUST BE FIXED BY THE COURT IN WHOLE OR HALF YEARS AS FOLLOWS:

7 (I) SUCH PERIOD SHALL BE ONE YEAR WHENEVER A DETERMINATE SENTENCE OF
8 IMPRISONMENT IS IMPOSED UPON A CONVICTION OF A CLASS D OR CLASS E FELONY
9 OFFENSE;

10 (II) SUCH PERIOD SHALL BE NOT LESS THAN ONE YEAR NOR MORE THAN TWO
11 YEARS WHENEVER A DETERMINATE SENTENCE OF IMPRISONMENT IS IMPOSED UPON A
12 CONVICTION OF A CLASS C FELONY OFFENSE;

13 (III) SUCH PERIOD SHALL BE NOT LESS THAN ONE YEAR NOR MORE THAN THREE
14 YEARS WHENEVER A DETERMINATE SENTENCE OF IMPRISONMENT IS IMPOSED UPON A
15 CONVICTION OF A CLASS B FELONY OFFENSE; PROVIDED, HOWEVER, THAT SUCH
16 PERIOD SHALL BE IMPOSED PURSUANT TO SUBDIVISION TWO OR TWO-A OF THIS
17 SECTION, AS APPLICABLE, WHENEVER A DETERMINATE SENTENCE IS IMPOSED UPON
18 A CONVICTION OF A CLASS B VIOLENT FELONY OFFENSE PURSUANT TO PARAGRAPH
19 (A) OF SUBDIVISION THREE OF SECTION 70.02 OF THIS ARTICLE; AND

20 (IV) SUCH PERIOD SHALL BE NOT LESS THAN ONE YEAR NOR MORE THAN FIVE
21 YEARS WHENEVER A DETERMINATE SENTENCE OF IMPRISONMENT IS IMPOSED UPON A
22 CONVICTION OF THE CLASS A FELONY OFFENSE OF ARSON IN THE FIRST DEGREE AS
23 DEFINED BY SECTION 150.20 OR KIDNAPPING IN THE FIRST DEGREE AS DEFINED
24 BY SECTION 135.25 OF THIS CHAPTER, AND A FIVE-YEAR PERIOD SHALL BE
25 IMPOSED PURSUANT TO SUBDIVISION TWO OF THIS SECTION WHENEVER A DETERMI-
26 NATE SENTENCE IMPOSED UPON A JUVENILE OFFENDER FOR ANY OTHER CLASS A
27 FELONY.

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

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

35 (2) a person fourteen [or], fifteen OR SIXTEEN YEARS OLD OR COMMENCING
36 JANUARY FIRST, TWO THOUSAND EIGHTEEN, SEVENTEEN years old who is crimi-
37 nally responsible for acts constituting the crimes defined in subdivi-
38 sions one and two of section 125.25 (murder in the second degree) and in
39 subdivision three of such section provided that the underlying crime for
40 the murder charge is one for which such person is criminally responsi-
41 ble; section 135.25 (kidnapping in the first degree); 150.20 (arson in
42 the first degree); subdivisions one and two of section 120.10 (assault
43 in the first degree); 125.20 (manslaughter in the first degree); subdi-
44 visions one and two of section 130.35 (rape in the first degree); subdi-
45 visions one and two of section 130.50 (criminal sexual act in the first
46 degree); 130.70 (aggravated sexual abuse in the first degree); 140.30
47 (burglary in the first degree); subdivision one of section 140.25
48 (burglary in the second degree); 150.15 (arson in the second degree);
49 160.15 (robbery in the first degree); subdivision two of section 160.10
50 (robbery in the second degree) of this chapter; or section 265.03 of
51 this chapter, where such machine gun or such firearm is possessed on
52 school grounds, as that phrase is defined in subdivision fourteen of
53 section 220.00 of this chapter; or defined in this chapter as an attempt
54 to commit murder in the second degree or kidnapping in the first degree,
55 or such conduct as a sexually motivated felony, where authorized pursu-
56 ant to section 130.91 of [the penal law] THIS CHAPTER; AND

1 (3) A PERSON SIXTEEN, OR COMMENCING JANUARY FIRST, TWO THOUSAND EIGH-
2 TEEN, A PERSON SIXTEEN OR SEVENTEEN YEARS OLD WHO IS CRIMINALLY RESPON-
3 SIBLE FOR ACTS CONSTITUTING A VIOLENT FELONY DEFINED IN SECTION 70.02 OF
4 THIS CHAPTER; ACTS CONSTITUTING ANY CRIME IN THIS CHAPTER THAT IS CLAS-
5 SIFIED AS A CLASS A FELONY EXCEPTING THOSE CLASS A FELONIES WHICH
6 REQUIRE, AS AN ELEMENT OF THE OFFENSE, THAT THE DEFENDANT BE EIGHTEEN
7 YEARS OF AGE OR OLDER; ACTS CONSTITUTING THE CRIMES DEFINED IN SECTION
8 120.03 (VEHICULAR ASSAULT IN THE SECOND DEGREE); 120.04 (VEHICULAR
9 ASSAULT IN THE FIRST DEGREE); 120.04-A (AGGRAVATED VEHICULAR ASSAULT);
10 125.10 (CRIMINALLY NEGLIGENT HOMICIDE); 125.11 (AGGRAVATED CRIMINALLY
11 NEGLIGENT HOMICIDE); 125.12 (VEHICULAR MANSLAUGHTER IN THE SECOND
12 DEGREE); 125.13 (VEHICULAR MANSLAUGHTER IN THE FIRST DEGREE); 125.14
13 (AGGRAVATED VEHICULAR HOMICIDE); 125.15 (MANSLAUGHTER IN THE SECOND
14 DEGREE); 125.20 (MANSLAUGHTER IN THE FIRST DEGREE); 125.21 (AGGRAVATED
15 MANSLAUGHTER IN THE SECOND DEGREE); 125.22 (AGGRAVATED MANSLAUGHTER IN
16 THE FIRST DEGREE); 215.11 (TAMPERING WITH A WITNESS IN THE THIRD DEGREE)
17 PROVIDED THAT THE CRIMINAL PROCEEDING IN WHICH THE PERSON IS TAMPERING
18 IS ONE FOR WHICH SUCH PERSON IS CRIMINALLY RESPONSIBLE; 215.12 (TAMPER-
19 ING WITH A WITNESS IN THE SECOND DEGREE) PROVIDED THAT THE CRIMINAL
20 PROCEEDING IN WHICH THE PERSON IS TAMPERING IS ONE FOR WHICH SUCH PERSON
21 IS CRIMINALLY RESPONSIBLE; 215.13 (TAMPERING WITH A WITNESS IN THE FIRST
22 DEGREE) PROVIDED THAT THE CRIMINAL PROCEEDING IN WHICH THE PERSON IS
23 TAMPERING IS ONE FOR WHICH SUCH PERSON IS CRIMINALLY RESPONSIBLE; 215.52
24 (AGGRAVATED CRIMINAL CONTEMPT); ACTS CONSTITUTING A SPECIFIED OFFENSE
25 DEFINED IN SUBDIVISION TWO OF SECTION 130.91 OF THIS CHAPTER WHEN
26 COMMITTED AS A SEXUALLY MOTIVATED FELONY; ACTS CONSTITUTING A SPECIFIED
27 OFFENSE DEFINED IN SUBDIVISION THREE OF SECTION 490.05 OF THIS CHAPTER
28 WHEN COMMITTED AS AN ACT OF TERRORISM; ACTS CONSTITUTING A FELONY
29 DEFINED IN ARTICLE FOUR HUNDRED NINETY OF THIS CHAPTER; AND ACTS CONSTI-
30 TUTING A CRIME SET FORTH IN SUBDIVISION ONE OF SECTION 105.10 AND
31 SECTION 105.15 OF THIS CHAPTER PROVIDED THAT THE UNDERLYING CRIME FOR
32 THE CONSPIRACY CHARGE IS ONE FOR WHICH SUCH PERSON IS CRIMINALLY RESPON-
33 SIBLE.

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

36 42. "Juvenile offender" means (1) a person, thirteen years old who is
37 criminally responsible for acts constituting murder in the second degree
38 as defined in subdivisions one and two of section 125.25 of the penal
39 law, or such conduct as a sexually motivated felony, where authorized
40 pursuant to section 130.91 of the penal law; [and] (2) a person fourteen
41 [or], fifteen OR SIXTEEN YEARS OLD, OR COMMENCING JANUARY FIRST, TWO
42 THOUSAND EIGHTEEN, SEVENTEEN years old who is criminally responsible for
43 acts constituting the crimes defined in subdivisions one and two of
44 section 125.25 (murder in the second degree) and in subdivision three of
45 such section provided that the underlying crime for the murder charge is
46 one for which such person is criminally responsible; section 135.25
47 (kidnapping in the first degree); 150.20 (arson in the first degree);
48 subdivisions one and two of section 120.10 (assault in the first
49 degree); 125.20 (manslaughter in the first degree); subdivisions one and
50 two of section 130.35 (rape in the first degree); subdivisions one and
51 two of section 130.50 (criminal sexual act in the first degree); 130.70
52 (aggravated sexual abuse in the first degree); 140.30 (burglary in the
53 first degree); subdivision one of section 140.25 (burglary in the second
54 degree); 150.15 (arson in the second degree); 160.15 (robbery in the
55 first degree); subdivision two of section 160.10 (robbery in the second
56 degree) of the penal law; or section 265.03 of the penal law, where such

1 machine gun or such firearm is possessed on school grounds, as that
2 phrase is defined in subdivision fourteen of section 220.00 of the penal
3 law; or defined in the penal law as an attempt to commit murder in the
4 second degree or kidnapping in the first degree, or such conduct as a
5 sexually motivated felony, where authorized pursuant to section 130.91
6 of the penal law; AND (3) A PERSON SIXTEEN OR, COMMENCING JANUARY FIRST,
7 TWO THOUSAND EIGHTEEN, A PERSON SIXTEEN OR SEVENTEEN YEARS OLD WHO IS
8 CRIMINALLY RESPONSIBLE FOR ACTS CONSTITUTING A VIOLENT FELONY DEFINED IN
9 SECTION 70.02 OF THE PENAL LAW; ACTS CONSTITUTING ANY CRIME IN THE PENAL
10 LAW THAT IS CLASSIFIED AS A CLASS A FELONY EXCEPTING THOSE CLASS A FELO-
11 NIES WHICH REQUIRE, AS AN ELEMENT OF THE OFFENSE, THAT THE DEFENDANT BE
12 EIGHTEEN YEARS OF AGE OR OLDER; ACTS CONSTITUTING THE CRIMES DEFINED IN
13 SECTION 120.03 (VEHICULAR ASSAULT IN THE SECOND DEGREE); 120.04 (VEHICU-
14 LAR ASSAULT IN THE FIRST DEGREE); 120.04-A (AGGRAVATED VEHICULAR
15 ASSAULT); 125.10 (CRIMINALLY NEGLIGENT HOMICIDE); 125.11 (AGGRAVATED
16 CRIMINALLY NEGLIGENT HOMICIDE); 125.12 (VEHICULAR MANSLAUGHTER IN THE
17 SECOND DEGREE); 125.13 (VEHICULAR MANSLAUGHTER IN THE FIRST DEGREE);
18 125.14 (AGGRAVATED VEHICULAR HOMICIDE); 125.15 (MANSLAUGHTER IN THE
19 SECOND DEGREE); 125.20 (MANSLAUGHTER IN THE FIRST DEGREE); 125.21
20 (AGGRAVATED MANSLAUGHTER IN THE SECOND DEGREE); 125.22 (AGGRAVATED
21 MANSLAUGHTER IN THE FIRST DEGREE); 215.11 (TAMPERING WITH A WITNESS IN
22 THE THIRD DEGREE) PROVIDED THAT THE CRIMINAL PROCEEDING IN WHICH THE
23 PERSON IS TAMPERING IS ONE FOR WHICH SUCH PERSON IS CRIMINALLY RESPONSI-
24 BLE; 215.12 (TAMPERING WITH A WITNESS IN THE SECOND DEGREE) PROVIDED
25 THAT THE CRIMINAL PROCEEDING IN WHICH THE PERSON IS TAMPERING IS ONE FOR
26 WHICH SUCH PERSON IS CRIMINALLY RESPONSIBLE; 215.13 (TAMPERING WITH A
27 WITNESS IN THE FIRST DEGREE) PROVIDED THAT THE CRIMINAL PROCEEDING IN
28 WHICH THE PERSON IS TAMPERING IS ONE FOR WHICH SUCH PERSON IS CRIMINALLY
29 RESPONSIBLE; 215.52 (AGGRAVATED CRIMINAL CONTEMPT); ACTS CONSTITUTING A
30 SPECIFIED OFFENSE DEFINED IN SUBDIVISION TWO OF SECTION 130.91 OF THE
31 PENAL LAW WHEN COMMITTED AS A SEXUALLY MOTIVATED FELONY; ACTS CONSTITUT-
32 ING A SPECIFIED OFFENSE DEFINED IN SUBDIVISION THREE OF SECTION 490.05
33 OF THE PENAL LAW WHEN COMMITTED AS AN ACT OF TERRORISM; ACTS CONSTITUT-
34 ING A FELONY DEFINED IN ARTICLE FOUR HUNDRED NINETY OF THE PENAL LAW;
35 AND ACTS CONSTITUTING A CRIME SET FORTH IN SUBDIVISION ONE OF SECTION
36 105.10 AND SECTION 105.15 OF THE PENAL LAW PROVIDED THAT THE UNDERLYING
37 CRIME FOR THE CONSPIRACY CHARGE IS ONE FOR WHICH SUCH PERSON IS CRIMI-
38 NALLY RESPONSIBLE.

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

42 6. Upon arresting a juvenile offender without a warrant, the police
43 officer shall immediately notify the parent or other person legally
44 responsible for his OR HER care or the person with whom he OR SHE is
45 domiciled, that the juvenile offender has been arrested, and the
46 location of the facility where he OR SHE is being detained. IF THE OFFI-
47 CER DETERMINES THAT IT IS NECESSARY TO QUESTION A JUVENILE OFFENDER OR A
48 CHILD UNDER EIGHTEEN YEARS OF AGE WHO FITS WITHIN THE DEFINITION OF A
49 JUVENILE OFFENDER AS DEFINED IN SECTION 30.00 OF THE PENAL LAW, THE
50 OFFICER MUST TAKE THE JUVENILE TO A FACILITY DESIGNATED BY THE CHIEF
51 ADMINISTRATOR OF THE COURTS AS A SUITABLE PLACE FOR THE QUESTIONING OF
52 CHILDREN OR, UPON THE CONSENT OF A PARENT OR OTHER PERSON LEGALLY
53 RESPONSIBLE FOR THE CARE OF THE JUVENILE, TO THE JUVENILE'S RESIDENCE
54 AND THERE QUESTION HIM OR HER FOR A REASONABLE PERIOD OF TIME. A JUVE-
55 NILE OFFENDER 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 65. Subdivision 5 of section 140.27 of the criminal procedure law, as added by chapter 411 of the laws of 1979, is amended to read as follows:

5. Upon arresting a juvenile offender without a warrant, the peace officer shall immediately notify the parent or other person legally responsible for his 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 OFFENDER 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 OFFENDER 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 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 FOR ONLY ONE ELIGIBLE OFFENSE, ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION, WHICH WAS COMMITTED WHEN HE OR SHE WAS TWENTY YEARS OF AGE OR YOUNGER AND THE DEFENDANT HAS 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 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 BY A PREPONDERANCE OF THE EVIDENCE 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 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 TWO 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; OR

(II) FOR AN ELIGIBLE FELONY, OTHER THAN A FELONY CONVICTION AS A JUVENILE OFFENDER AS DEFINED IN SUBDIVISION FORTY-TWO OF SECTION 1.20 OF THIS CHAPTER, AT LEAST FIVE 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; OR

(III) FOR A CONVICTION AS A JUVENILE OFFENDER, AS DEFINED IN SUBDIVISION FORTY-TWO OF SECTION 1.20 OF THIS CHAPTER, AT LEAST TEN 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.

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. 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 IS 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 EMPLOY-

MENT 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 ONLY ONE ELIGIBLE OFFENSE PRIOR TO THE EFFECTIVE DATE OF THIS SECTION 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 IF:

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

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

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

(D) NO CHARGES ARE PENDING FOR ANY CRIME.

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

7. WHEN AN APPLICATION IS MADE FOR SEALING PURSUANT TO SUBDIVISION SIX OF THIS SECTION, THE COURT SHALL NOTIFY THE DISTRICT ATTORNEY. IF THE DISTRICT ATTORNEY DOES NOT PROVIDE NOTICE OF OPPOSITION TO SEALING WITHIN FORTY-FIVE DAYS OF RECEIPT OF THE APPLICATION AND THE COURT DETERMINES THAT THE DEFENDANT MEETS THE CRITERIA FOR SEALING SET FORTH IN THIS SECTION AND THAT SEALING IS IN THE INTEREST OF JUSTICE, THE COURT MAY ORDER THAT THE RECORD BE CONDITIONALLY SEALED IN THE MANNER SET FORTH IN THIS SECTION AND NOTIFY THE DIVISION OF CRIMINAL JUSTICE SERVICES OF THE SAME. IF THE DISTRICT ATTORNEY OPPOSES THE APPLICATION, THE COURT SHALL SCHEDULE A HEARING UPON NOTICE TO ALL PARTIES. IF THE COURT, AT THE CONCLUSION OF THE HEARING DETERMINES BY A PREPONDERANCE OF THE EVIDENCE THAT SUCH CONVICTION SHOULD BE SEALED IN THE INTEREST OF JUSTICE, THE COURT SHALL ORDER THAT THE CONVICTION BE SEALED AND NOTIFY THE COMMISSIONER OF THE DIVISION OF CRIMINAL JUSTICE SERVICES OF THE SAME.

S 68. Section 180.75 of the criminal procedure law is REPEALED.

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

(a) Except as provided in subdivision six of section 200.20 of this chapter, a grand jury may not indict (i) a person thirteen years of age for any conduct or crime other than conduct constituting a crime defined in subdivisions one and two of section 125.25 (murder in the second degree) or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (ii) a person fourteen [or], fifteen, SIXTEEN OR COMMENCING JANUARY FIRST, TWO THOUSAND EIGHTEEN, SEVENTEEN years of age for any conduct or crime other than conduct constituting a crime defined in subdivisions one and two of section 125.25 (murder in the second degree) and in subdivision three of such

1 section provided that the underlying crime for the murder charge is one
2 for which such person is criminally responsible; 135.25 (kidnapping in
3 the first degree); 150.20 (arson in the first degree); subdivisions one
4 and two of section 120.10 (assault in the first degree); 125.20
5 (manslaughter in the first degree); subdivisions one and two of section
6 130.35 (rape in the first degree); subdivisions one and two of section
7 130.50 (criminal sexual act in the first degree); 130.70 (aggravated
8 sexual abuse in the first degree); 140.30 (burglary in the first
9 degree); subdivision one of section 140.25 (burglary in the second
10 degree); 150.15 (arson in the second degree); 160.15 (robbery in the
11 first degree); subdivision two of section 160.10 (robbery in the second
12 degree) of the penal law; subdivision four of section 265.02 of the
13 penal law, where such firearm is possessed on school grounds, as that
14 phrase is defined in subdivision fourteen of section 220.00 of the penal
15 law; or section 265.03 of the penal law, where such machine gun or such
16 firearm is possessed on school grounds, as that phrase is defined in
17 subdivision fourteen of section 220.00 of the penal law; or defined in
18 the penal law as an attempt to commit murder in the second degree or
19 kidnapping in the first degree, or such conduct as a sexually motivated
20 felony, where authorized pursuant to section 130.91 of the penal law;
21 (III) A PERSON SIXTEEN OR COMMENCING JANUARY FIRST, TWO THOUSAND EIGH-
22 TEEN, SEVENTEEN YEARS OF AGE FOR ANY CONDUCT OR CRIME OTHER THAN CONDUCT
23 CONSTITUTING A VIOLENT FELONY DEFINED IN SECTION 70.02 OF THE PENAL LAW;
24 A CRIME THAT IS CLASSIFIED AS A CLASS A FELONY EXCEPTING THOSE CLASS A
25 FELONIES WHICH REQUIRE, AS AN ELEMENT OF THE OFFENSE, THAT THE DEFENDANT
26 BE EIGHTEEN YEARS OF AGE OR OLDER; A CRIME DEFINED IN THE FOLLOWING
27 SECTIONS OF THE PENAL LAW: SECTION 120.03 (VEHICULAR ASSAULT IN THE
28 SECOND DEGREE); 120.04 (VEHICULAR ASSAULT IN THE FIRST DEGREE); 120.04-A
29 (AGGRAVATED VEHICULAR ASSAULT); 125.10 (CRIMINALLY NEGLIGENT HOMICIDE);
30 125.11 (AGGRAVATED CRIMINALLY NEGLIGENT HOMICIDE); 125.12 (VEHICULAR
31 MANSLAUGHTER IN THE SECOND DEGREE); 125.13 (VEHICULAR MANSLAUGHTER IN
32 THE FIRST DEGREE); 125.14 (AGGRAVATED VEHICULAR HOMICIDE); 125.15
33 (MANSLAUGHTER IN THE SECOND DEGREE); 125.20 (MANSLAUGHTER IN THE FIRST
34 DEGREE); 125.21 (AGGRAVATED MANSLAUGHTER IN THE SECOND DEGREE); 125.22
35 (AGGRAVATED MANSLAUGHTER IN THE FIRST DEGREE); 215.11 (TAMPERING WITH A
36 WITNESS IN THE THIRD DEGREE) PROVIDED THAT THE CRIMINAL PROCEEDING IN
37 WHICH THE PERSON IS TAMPERING IS ONE FOR WHICH SUCH PERSON IS CRIMINALLY
38 RESPONSIBLE; 215.12 (TAMPERING WITH A WITNESS IN THE SECOND DEGREE)
39 PROVIDED THAT THE CRIMINAL PROCEEDING IN WHICH THE PERSON IS TAMPERING
40 IS ONE FOR WHICH SUCH PERSON IS CRIMINALLY RESPONSIBLE; 215.13 (TAMPER-
41 ING WITH A WITNESS IN THE FIRST DEGREE) PROVIDED THAT THE CRIMINAL
42 PROCEEDING IN WHICH THE PERSON IS TAMPERING IS ONE FOR WHICH SUCH PERSON
43 IS CRIMINALLY RESPONSIBLE; 215.52 (AGGRAVATED CRIMINAL CONTEMPT); ACTS
44 CONSTITUTING A SPECIFIED OFFENSE DEFINED IN SUBDIVISION TWO OF SECTION
45 130.91 OF THE PENAL LAW WHEN COMMITTED AS A SEXUALLY MOTIVATED FELONY;
46 ACTS CONSTITUTING A SPECIFIED OFFENSE DEFINED IN SUBDIVISION THREE OF
47 SECTION 490.05 OF THE PENAL LAW WHEN COMMITTED AS AN ACT OF TERRORISM;
48 ACTS CONSTITUTING A FELONY DEFINED IN ARTICLE FOUR HUNDRED NINETY OF THE
49 PENAL LAW; AND ACTS CONSTITUTING A CRIME SET FORTH IN SUBDIVISION ONE OF
50 SECTION 105.10 AND SECTION 105.15 OF THE PENAL LAW PROVIDED THAT THE
51 UNDERLYING CRIME FOR THE CONSPIRACY CHARGE IS ONE FOR WHICH SUCH PERSON
52 IS CRIMINALLY RESPONSIBLE.

53 (b) A grand jury may vote to file a request to remove a charge to the
54 family court if it finds that a person [thirteen, fourteen or fifteen]
55 SIXTEEN, OR COMMENCING JANUARY FIRST, TWO THOUSAND EIGHTEEN, SEVENTEEN
56 years of age OR YOUNGER did an act which, if done by a person over the

1 age of sixteen, OR COMMENCING JANUARY FIRST, TWO THOUSAND EIGHTEEN,
2 SEVENTEEN, would constitute a crime provided (1) such act is one for
3 which it may not indict; (2) it does not indict such person for a crime;
4 and (3) the evidence before it is legally sufficient to establish that
5 such person did such act and competent and admissible evidence before it
6 provides reasonable cause to believe that such person did such act.

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

10 6. Where an indictment charges at least one offense against a defend-
11 ant who was under the age of [sixteen] SEVENTEEN, OR COMMENCING JANUARY
12 FIRST, TWO THOUSAND EIGHTEEN, EIGHTEEN at the time of the commission of
13 the crime and who did not lack criminal responsibility for such crime by
14 reason of infancy, the indictment may, in addition, charge in separate
15 counts one or more other offenses for which such person would not have
16 been criminally responsible by reason of infancy, if:

17 (a) the offense for which the defendant is criminally responsible and
18 the one or more other offenses for which he would not have been crimi-
19 nally responsible by reason of infancy are based upon the same act or
20 upon the same criminal transaction, as that term is defined in subdivi-
21 sion two of section 40.10 of this chapter; or

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

26 S 71. The opening paragraph of subdivision 1 and subdivision 5 of
27 section 210.43 of the criminal procedure law; as added by chapter 411 of
28 the laws of 1979, are amended to read as follows:

29 After [a motion by a juvenile offender, pursuant to subdivision five
30 of section 180.75 of this chapter, or after] arraignment of a juvenile
31 offender upon an indictment, the superior court may, on motion of any
32 party or on its own motion:

33 [5. a. If the court orders removal of the action to family court, it
34 shall state on the record the factor or factors upon which its determi-
35 nation is based, and, the court shall give its reasons for removal in
36 detail and not in conclusory terms.

37 b. The district attorney shall state upon the record the reasons for
38 his consent to removal of the action to the family court. The reasons
39 shall be stated in detail and not in conclusory terms.]

40 S 72. Paragraph (g) of subdivision 5 of section 220.10 of the criminal
41 procedure law, as amended by chapter 410 of the laws of 1979, subpara-
42 graph (iii) as amended by chapter 264 of the laws of 2003, the second
43 undesignated paragraph as amended by chapter 920 of the laws of the laws
44 of 1982 and the closing paragraph as amended by chapter 411 of the laws
45 of 1979, is amended to read as follows:

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

50 (i) If the indictment charges a person fourteen [or], fifteen OR
51 SIXTEEN, OR COMMENCING JANUARY FIRST, TWO THOUSAND EIGHTEEN, SEVENTEEN
52 years old with the crime of murder in the second degree any plea of
53 guilty entered pursuant to subdivision three or four must be a plea of
54 guilty of a crime for which the defendant is criminally responsible;

55 (ii) If the indictment does not charge a crime specified in subpara-
56 graph (i) of this paragraph, then any plea of guilty entered pursuant to

subdivision three or four of this section must be a plea of guilty of a crime for which the defendant is criminally responsible unless a plea of guilty is accepted pursuant to subparagraph (iii) of this paragraph;

(iii) Where the indictment does not charge a crime specified in subparagraph (i) of this paragraph, the district attorney may recommend removal of the action to the family court. Upon making such recommendation the district attorney shall submit a subscribed memorandum setting forth: (1) a recommendation that the interests of justice would best be served by removal of the action to the family court; and (2) if the indictment charges a thirteen year old with the crime of murder in the second degree, or a fourteen [or], fifteen OR SIXTEEN YEAR OLD, OR COMMENCING JANUARY FIRST TWO THOUSAND EIGHTEEN, SEVENTEEN year old with the crimes of rape in the first degree as defined in subdivision one of section 130.35 of the penal law, or 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 specific factors, one or more of which reasonably supports the recommendation, showing, (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, that 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, or (iv) where the juvenile offender has no previous adjudications of having committed a designated felony act, as defined in subdivision eight of section 301.2 of the family court act, regardless of the age of the offender at the time of commission of the act, that the criminal act was not part of a pattern of criminal behavior and, in view of the history of the offender, is not likely to be repeated.

If the court is of the opinion based on specific factors set forth in the district attorney's memorandum that the interests of justice would best be served by removal of the action to the family court, a plea of guilty of a crime or act for which the defendant is not criminally responsible may be entered pursuant to subdivision three or four of this section, except that a thirteen year old charged with the crime of murder in the second degree may only plead to a designated felony act, as defined in subdivision eight of section 301.2 of the family court act.

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

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

(A) A person who has been taken into custody pursuant to section 410.40 or section 410.50 of this article for violation of a condition of a sentence of probation or a sentence of conditional discharge must forthwith be brought before the court that imposed the sentence. Where a violation of probation petition and report has been filed and the person has not been taken into custody nor has a warrant been issued, an initial court appearance shall occur within ten business days of the

1 court's issuance of a notice to appear. If the court has reasonable
2 cause to believe that such person has violated a condition of the
3 sentence, it may commit him OR HER to the custody of the sheriff or fix
4 bail or release such person on his OR HER own recognizance for future
5 appearance at a hearing to be held in accordance with section 410.70 of
6 this article. If the court does not have reasonable cause to believe
7 that such person has violated a condition of the sentence, it must
8 direct that he OR SHE be released.

9 (B) A JUVENILE OFFENDER WHO HAS BEEN TAKEN INTO CUSTODY PURSUANT TO
10 SECTION 410.40 OR SECTION 410.50 OF THIS ARTICLE FOR VIOLATION OF A
11 CONDITION OF A SENTENCE OF PROBATION OR A SENTENCE OF CONDITIONAL
12 DISCHARGE MUST FORTHWITH BE BROUGHT BEFORE THE COURT THAT IMPOSED THE
13 SENTENCE. WHERE A VIOLATION OF PROBATION PETITION AND REPORT HAS BEEN
14 FILED AND THE PERSON HAS NOT BEEN TAKEN INTO CUSTODY NOR HAS A WARRANT
15 BEEN ISSUED, AN INITIAL COURT APPEARANCE SHALL OCCUR WITHIN TEN BUSINESS
16 DAYS OF THE COURT'S ISSUANCE OF A NOTICE TO APPEAR. IF THE COURT HAS
17 REASONABLE CAUSE TO BELIEVE THAT SUCH PERSON HAS VIOLATED A CONDITION OF
18 THE SENTENCE, IT MAY COMMIT HIM OR HER TO THE CUSTODY OF THE SHERIFF OR
19 FIX BAIL OR RELEASE SUCH PERSON ON HIS OR HER OWN RECOGNIZANCE FOR
20 FUTURE APPEARANCE AT A HEARING TO BE HELD IN ACCORDANCE WITH SECTION
21 410.70 OF THIS ARTICLE. PROVIDED, HOWEVER, NOTHING HEREIN SHALL AUTHOR-
22 IZE A JUVENILE TO BE DETAINED FOR A VIOLATION OF A CONDITION THAT WOULD
23 NOT CONSTITUTE A CRIME IF COMMITTED BY AN ADULT UNLESS THE COURT DETER-
24 MINES (I) THAT THE JUVENILE POSES A SPECIFIC IMMINENT THREAT TO PUBLIC
25 SAFETY AND STATES THE REASONS FOR THE FINDING ON THE RECORD OR (II) THE
26 JUVENILE IS ON PROBATION FOR AN ACT THAT WOULD CONSTITUTE A VIOLENT
27 FELONY AS DEFINED IN SECTION 70.02 OF THE PENAL LAW IF COMMITTED BY AN
28 ADULT AND THE USE OF GRADUATED SANCTIONS HAS BEEN EXHAUSTED WITHOUT
29 SUCCESS. IF THE COURT DOES NOT HAVE REASONABLE CAUSE TO BELIEVE THAT
30 SUCH PERSON HAS VIOLATED A CONDITION OF THE SENTENCE, IT MUST DIRECT
31 THAT THE JUVENILE BE RELEASED.

32 S 74. Subdivision 5 of section 410.70 of the penal law, as amended by
33 chapter 17 of the laws of 2014, is amended to read as follows:

34 5. Revocation; modification; continuation. (A) At the conclusion of
35 the hearing the court may revoke, continue or modify the sentence of
36 probation or conditional discharge. Where the court revokes the
37 sentence, it must impose sentence as specified in subdivisions three and
38 four of section 60.01 of the penal law. Where the court continues or
39 modifies the sentence, it must vacate the declaration of delinquency and
40 direct that the defendant be released. If the alleged violation is
41 sustained and the court continues or modifies the sentence, it may
42 extend the sentence up to the period of interruption specified in subdi-
43 vision two of section 65.15 of the penal law, but any time spent in
44 custody in any correctional institution pursuant to section 410.60 of
45 this article shall be credited against the term of the sentence.
46 Provided further, where the alleged violation is sustained and the court
47 continues or modifies the sentence, the court may also extend the
48 remaining period of probation up to the maximum term authorized by
49 section 65.00 of the penal law. Provided, however, a defendant shall
50 receive credit for the time during which he or she was supervised under
51 the original probation sentence prior to any declaration of delinquency
52 and for any time spent in custody pursuant to this article for an
53 alleged violation of probation.

54 (B) NOTWITHSTANDING PARAGRAPH (A) OF THIS SUBDIVISION, NOTHING HEREIN
55 SHALL AUTHORIZE THE PLACEMENT OF A JUVENILE FOR A VIOLATION OF A CONDI-
56 TION THAT WOULD NOT CONSTITUTE A CRIME IF COMMITTED BY AN ADULT UNLESS

THE COURT DETERMINES (I) THAT THE JUVENILE POSES A SPECIFIC IMMINENT THREAT TO PUBLIC SAFETY AND STATES THE REASONS FOR THE FINDING ON THE RECORD OR (II) THE JUVENILE 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 HAS BEEN EXHAUSTED WITHOUT SUCCESS.

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

S 410.90-A SUPERIOR COURT; YOUTH PART.

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

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

S 510.15 Commitment of principal under [sixteen] SEVENTEEN OR EIGHTEEN.

1. When a principal who is under the age of [sixteen] SEVENTEEN, OR COMMENCING JANUARY FIRST, TWO THOUSAND EIGHTEEN UNDER THE AGE OF EIGHTEEN, is committed to the custody of the sheriff the court must direct that the principal be taken to and lodged in a place certified by the state [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES as a juvenile detention facility for the reception of children. Where such a direction is made the sheriff shall deliver the principal in accordance therewith and such person shall although lodged and cared for in a juvenile detention facility continue to be deemed to be in the custody of the sheriff. No principal [under the age of sixteen] to whom the provisions of this section may apply shall be detained in any prison, jail, lockup, or other place used for adults convicted of a crime or under arrest and charged with the commission of a crime [without the approval of the state division for youth in the case of each principal and the statement of its reasons therefor]. The sheriff shall not be liable for any acts done to or by such principal resulting from negligence in the detention of and care for such principal, when the principal is not in the actual custody of the sheriff.

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

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

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

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

3. The provisions of subdivisions one and two of this section requiring or authorizing the accusatory instrument filed against a youth to be

1 sealed, and the arraignment and all proceedings in the action to be
2 conducted in private shall not apply in connection with a pending charge
3 of committing any [felony] SEX offense as defined in the penal law. [The
4 provisions of subdivision one requiring the accusatory instrument filed
5 against a youth to be sealed shall not apply where such youth has previ-
6 ously been adjudicated a youthful offender or convicted of a crime.]

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

10 1. Upon conviction of an eligible youth, the court must order a pre-
11 sentence investigation of the defendant. After receipt of a written
12 report of the investigation and at the time of pronouncing sentence the
13 court must determine whether or not the eligible youth is a youthful
14 offender. Such determination shall be in accordance with the following
15 criteria:

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

21 (b) Where the conviction is had in a local criminal court and the
22 eligible youth had not prior to commencement of trial or entry of a plea
23 of guilty been convicted of a crime or found a youthful offender, the
24 court must find he is a youthful offender[.]; AND

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

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

34 1. [A] EXCEPT AS PROVIDED IN SUBDIVISION THREE OF SECTION 60.10 OF THE
35 PENAL LAW, A youthful offender adjudication is not a judgment of
36 conviction for a crime or any other offense, and does not operate as a
37 disqualification of any person so adjudged to hold public office or
38 public employment or to receive any license granted by public authority
39 but shall be deemed a conviction only for the purposes of transfer of
40 supervision and custody pursuant to section two hundred fifty-nine-m of
41 the executive law. A defendant for whom a youthful offender adjudication
42 was substituted, who was originally charged with prostitution as defined
43 in section 230.00 of the penal law or loitering for the purposes of
44 prostitution as defined in subdivision two of section 240.37 of the
45 penal law provided that the person does not stand charged with loitering
46 for the purpose of patronizing a prostitute, for an offense allegedly
47 committed when he or she was sixteen or seventeen years of age, shall be
48 deemed a "sexually exploited child" as defined in subdivision one of
49 section four hundred forty-seven-a of the social services law and there-
50 fore shall not be considered an adult for purposes related to the charg-
51 es in the youthful offender proceeding or a proceeding under section
52 170.80 of this chapter.

53 S 80. The criminal procedure law is amended by adding a new article
54 722 to read as follows:

ARTICLE 722

PROCEEDINGS AGAINST JUVENILE OFFENDERS; ESTABLISHMENT OF YOUTH
PART AND RELATED PROCEDURES

SECTION 722.00 PROBATION CASE PLANNING AND SERVICES.

722.10 YOUTH PART OF THE SUPERIOR COURT ESTABLISHED.

722.20 PROCEEDINGS UPON A COMPLAINT.

S 722.00 PROBATION CASE PLANNING AND SERVICES.

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

2. ANY JUVENILE UNDERGOING SERVICES SHALL EXECUTE APPROPRIATE AND NECESSARY CONSENT FORMS, WHERE APPLICABLE, TO ENSURE THAT THE PROBATION DEPARTMENT MAY COMMUNICATE WITH ANY SERVICE PROVIDER AND RECEIVE PROGRESS REPORTS WITH RESPECT TO SERVICES OFFERED AND/OR DELIVERED INCLUDING, BUT NOT LIMITED TO, DIAGNOSIS, TREATMENT, PROGNOSIS, TEST RESULTS, JUVENILE ATTENDANCE AND INFORMATION REGARDING JUVENILE COMPLIANCE OR NONCOMPLIANCE WITH PROGRAM SERVICE REQUIREMENTS, IF ANY.

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

4. WHEN PREPARING A PRE-SENTENCE INVESTIGATION REPORT OF ANY SUCH 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.

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.

S 722.20 PROCEEDINGS UPON A COMPLAINT.

1. WHEN A JUVENILE OFFENDER IS ARRAIGNED BEFORE A YOUTH PART, THE PROVISIONS OF THIS SECTION SHALL APPLY IN LIEU OF THE PROVISIONS OF SECTIONS 180.30, 180.50 AND 180.70 OF THIS CHAPTER.

2. THE YOUTH PART SHALL HOLD A HEARING ON THE COMPLAINT. AT THE CONCLUSION OF THE HEARING, THE COURT MUST DISPOSE OF THE FELONY COMPLAINT AS FOLLOWS:

(A) IF THERE IS REASONABLE CAUSE TO BELIEVE THAT THE DEFENDANT COMMITTED A CRIME FOR WHICH A PERSON UNDER THE AGE OF EIGHTEEN IS CRIMINALLY RESPONSIBLE, THE COURT MUST ORDER THAT THE DEFENDANT BE HELD FOR THE ACTION OF A GRAND JURY; OR

(B) IF THERE IS NOT REASONABLE CAUSE TO BELIEVE THAT THE DEFENDANT COMMITTED A CRIME FOR WHICH A PERSON UNDER THE AGE OF 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 TITLE; 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 OR SHE IS IN CUSTODY, OR IF HE OR SHE IS AT LIBERTY ON BAIL, IT MUST EXONERATE THE BAIL.

3. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION TWO THIS SECTION, A YOUTH PART SHALL, (A) ORDER REMOVAL OF AN ACTION AGAINST A JUVENILE OFFENDER ACCUSED OF ROBBERY IN THE SECOND DEGREE AS DEFINED IN SUBDIVISION TWO OF SECTION 160.10; AND A JUVENILE OFFENDER ACCUSED OF COMMITTING A VIOLENT FELONY OFFENSE AS DEFINED IN SUBDIVISION ONE OF SECTION 70.02 OF THE PENAL LAW AT AGE SIXTEEN, OR AFTER JANUARY FIRST, TWO THOUSAND EIGHTEEN, AT AGE SIXTEEN OR SEVENTEEN, FOR WHICH A YOUTH AGE FIFTEEN OR YOUNGER IS NOT CRIMINALLY RESPONSIBLE, TO THE FAMILY COURT PURSUANT TO THE PROVISIONS OF ARTICLE SEVEN HUNDRED TWENTY-FIVE OF THIS CHAPTER IF, AFTER CONSIDERATION OF THE FACTORS SET FORTH IN PARAGRAPH (C) OF THIS SUBDIVISION, THE COURT DETERMINES THAT TO DO SO WOULD BE IN THE INTERESTS OF JUSTICE. PROVIDED, HOWEVER, THAT THE COURT SHALL FIND THAT SUCH REMOVAL IS NOT IN THE INTERESTS OF JUSTICE IF THE YOUTH PLAYED A PRIMARY ROLE IN COMMISSION OF THE CRIME OR AGGRAVATING CIRCUMSTANCES, INCLUDING BUT NOT LIMITED TO THE YOUTH'S USE OF A WEAPON, ARE PRESENT. (B) AT THE REQUEST OF THE DISTRICT ATTORNEY, ORDER REMOVAL OF AN ACTION AGAINST A JUVENILE OFFENDER, OTHER THAN AN ACTION SUBJECT TO PARAGRAPH (A) OF THIS SUBDIVISION, TO THE FAMILY COURT PURSUANT TO THE PROVISIONS OF ARTICLE SEVEN HUNDRED TWENTY-FIVE OF THIS CHAPTER IF, UPON CONSIDERATION OF THE CRITERIA SET FORTH IN PARAGRAPH (C) OF THIS SUBDIVISION, IT IS DETERMINED THAT TO DO SO WOULD BE IN THE INTERESTS OF JUSTICE. WHERE, HOWEVER, THE FELONY COMPLAINT CHARGES THE JUVENILE OFFENDER CHARGED 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; (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 THE PROOF OF THE CRIME.

(C) IN MAKING ITS DETERMINATION PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION THE COURT SHALL, TO THE EXTENT APPLICABLE, EXAMINE INDIVIDUALLY AND COLLECTIVELY, THE FOLLOWING:

(I) THE SERIOUSNESS AND CIRCUMSTANCES OF THE OFFENSE;

(II) THE EXTENT OF HARM CAUSED BY THE OFFENSE;

(III) THE EVIDENCE OF GUILT, WHETHER ADMISSIBLE OR INADMISSIBLE AT TRIAL;

(IV) THE HISTORY, CHARACTER AND CONDITION OF THE DEFENDANT;

1 (V) THE PURPOSE AND EFFECT OF IMPOSING UPON THE DEFENDANT A SENTENCE
2 AUTHORIZED FOR THE OFFENSE;

3 (VI) THE IMPACT OF A REMOVAL OF THE CASE TO THE FAMILY COURT ON THE
4 SAFETY OR WELFARE OF THE COMMUNITY;

5 (VII) THE IMPACT OF A REMOVAL OF THE CASE TO THE FAMILY COURT UPON THE
6 CONFIDENCE OF THE PUBLIC IN THE CRIMINAL JUSTICE SYSTEM;

7 (VIII) WHERE THE COURT DEEMS IT APPROPRIATE, THE ATTITUDE OF THE
8 COMPLAINANT OR VICTIM WITH RESPECT TO THE MOTION; AND

9 (IX) ANY OTHER RELEVANT FACT INDICATING THAT A JUDGMENT OF CONVICTION
10 IN THE CRIMINAL COURT WOULD SERVE NO USEFUL PURPOSE.

11 (D) FOR THE PURPOSE OF MAKING A DETERMINATION PURSUANT TO THIS
12 SECTION, ANY EVIDENCE WHICH IS NOT LEGALLY PRIVILEGED MAY BE INTRODUCED.
13 IF THE DEFENDANT TESTIFIES, HIS OR HER TESTIMONY MAY NOT BE INTRODUCED
14 AGAINST HIM OR HER IN ANY FUTURE PROCEEDING, EXCEPT TO IMPEACH HIS OR
15 HER TESTIMONY AT SUCH FUTURE PROCEEDING AS INCONSISTENT PRIOR TESTIMONY.

16 (E) THIS SECTION SHALL NOT BE CONSTRUED TO LIMIT THE POWERS OF THE
17 GRAND JURY.

18 4. IF AN ACTION INVOLVING A DEFENDANT WHO IS SIXTEEN OR, COMMENCING
19 JANUARY FIRST, TWO THOUSAND EIGHTEEN, SEVENTEEN YEARS OF AGE IS REMOVED
20 TO FAMILY COURT, THE YOUTH PART SHALL RETAIN CONCURRENT JURISDICTION
21 WITH THE FAMILY COURT. AT ANY TIME THAT IT IS DETERMINED BY THE FAMILY
22 COURT OR THE YOUTH PART THAT CONTINUING THE PROCEEDING IN FAMILY COURT
23 IS NOT APPROPRIATE, THE CASE MAY BE RETURNED TO THE YOUTH PART.

24 5. IF AN ACTION IS NOT REMOVED TO THE FAMILY COURT PURSUANT TO SUBDI-
25 VISION THREE OF THIS SECTION, THE YOUTH PART SHALL HEAR THE CASE SITTING
26 AS A CRIMINAL COURT OR, IN ITS DISCRETION, WHEN THE DEFENDANT IS SIXTEEN
27 OR COMMENCING JANUARY FIRST, TWO THOUSAND EIGHTEEN, SEVENTEEN YEARS OF
28 AGE THE YOUTH PART MAY RETAIN IT AS A JUVENILE DELINQUENCY PROCEEDING
29 FOR ALL PURPOSES, AND SHALL MAKE SUCH PROCEEDING FULLY SUBJECT TO THE
30 PROVISIONS AND GRANT ANY RELIEF AVAILABLE UNDER ARTICLE THREE OF THE
31 FAMILY COURT ACT.

32 S 81. The opening paragraph and subdivisions 2 and 3 of section 725.05
33 of the criminal procedure law, as added by chapter 481 of the laws of
34 1978, are amended to read as follows:

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

39 2. Where the direction is authorized pursuant to paragraph (b) of
40 subdivision [three] TWO of section [180.75] 722.20 of this [chapter]
41 TITLE, it must specify the act or acts it found reasonable cause to
42 believe the defendant did.

43 3. Where the direction is authorized pursuant to subdivision [four]
44 THREE of section [180.75] 722.20 of this [chapter] TITLE, it must speci-
45 fy the act or acts it found reasonable cause to allege.

46 S 82. Section 725.20 of the criminal procedure law, as added by chap-
47 ter 481 of the laws of 1978, subdivisions 1 and 2 as amended by chapter
48 411 of the laws of 1979, is amended to read as follows:
49 S 725.20 Record of certain actions removed.

50 1. The provisions of this section shall apply in any case where an
51 order of removal to the family court is entered pursuant to a direction
52 authorized by subdivision [four] THREE of section [180.75] 722.20 OF
53 THIS TITLE, [or section 210.43,] or subparagraph (iii) of paragraph
54 [(h)] (G) of subdivision five of section 220.10 of this chapter, or
55 section 330.25 of this chapter.

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

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

7 (b) [Where the direction is one authorized by subdivision four of
8 section 180.75 of this chapter, a copy of the statement of the district
9 attorney made pursuant to paragraph (b) of subdivision six of section
10 180.75 of this chapter;

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

14 (d)] Where the direction is one authorized by subparagraph (iii) of
15 paragraph [(h)] (G) of subdivision five of section 220.10 or section
16 330.25 of this chapter, a copy of the minutes of the plea of guilty,
17 including the minutes of the memorandum submitted by the district attor-
18 ney and the court;

19 [(e) Where the direction is one authorized by subdivision one of
20 section 210.43 of this chapter, a copy of that portion of the minutes
21 containing the statement by the court pursuant to paragraph (a) of
22 subdivision five of section 210.43;

23 (f) Where the direction is one authorized by paragraph (b) of subdi-
24 vision one of section 210.43 of this chapter, a copy of that portion of
25 the minutes containing the statement of the district attorney made
26 pursuant to paragraph (b) of subdivision five of section 210.43;] and

27 [(g)] (C) In addition to the records specified in this subdivision,
28 such further statement or submission of additional information pertain-
29 ing to the proceeding in criminal court in accordance with standards
30 established by the commissioner of the division of criminal justice
31 services, subject to the provisions of subdivision three of this
32 section.

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

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

48 (H) NOTWITHSTANDING ANY OTHER PROVISION OF LAW NO COUNTY JAIL SHALL BE
49 USED FOR THE CONFINEMENT OF ANY PERSON UNDER THE AGE OF EIGHTEEN. PLACE-
50 MENT OF ANY PERSON UNDER THE AGE OF EIGHTEEN SHALL BE DETERMINED BY THE
51 OFFICE OF CHILDREN AND FAMILY SERVICES.

52 S 84. Subdivision 4 of section 500-b of the correction law is
53 REPEALED.

54 S 85. Subparagraph 3 of paragraph (c) of subdivision 8 of section
55 500-b of the correction law is REPEALED.

1 S 86. Subdivision 13 of section 500-b of the correction law is
2 REPEALED.

3 S 87. Subparagraph 8 of paragraph h of subdivision 4 of section 1950
4 of the education law, as amended by section 1 of part G of chapter 58 of
5 the laws of 2014, is amended to read as follows:

6 (8) To enter into contracts with the commissioner of the office of
7 children and family services pursuant to subdivision six-a of section
8 thirty-two hundred two of this chapter to provide to such office, for
9 the benefit of youth in its custody, any special education programs,
10 related services [and], career and technical education services AND ANY
11 OTHER PROGRAMS provided by the board of cooperative educational services
12 to component school districts. Any such proposed contract shall be
13 subject to the review and approval of the commissioner to determine that
14 it is an approved cooperative educational service. Services provided
15 pursuant to such contracts shall be provided at cost, and the board of
16 cooperative educational services shall not be authorized to charge any
17 costs incurred in providing such services to its component school
18 districts.

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

22 (1) Consistent with the federal gun-free schools act, any public
23 school pupil who is determined under this subdivision to have brought a
24 firearm to or possessed a firearm at a public school shall be suspended
25 for a period of not less than one calendar year and any nonpublic school
26 pupil participating in a program operated by a public school district
27 using funds from the elementary and secondary education act of nineteen
28 hundred sixty-five who is determined under this subdivision to have
29 brought a firearm to or possessed a firearm at a public school or other
30 premises used by the school district to provide such programs shall be
31 suspended for a period of not less than one calendar year from partic-
32 ipation in such program. The procedures of this subdivision shall apply
33 to such a suspension of a nonpublic school pupil. A superintendent of
34 schools, district superintendent of schools or community superintendent
35 shall have the authority to modify this suspension requirement for each
36 student on a case-by-case basis. The determination of a superintendent
37 shall be subject to review by the board of education pursuant to para-
38 graph c of this subdivision and the commissioner pursuant to section
39 three hundred ten of this chapter. Nothing in this subdivision shall be
40 deemed to authorize the suspension of a student with a disability in
41 violation of the individuals with disabilities education act or article
42 eighty-nine of this chapter. A superintendent shall refer the pupil
43 under the age of sixteen who has been determined to have brought a weap-
44 on or firearm to school in violation of this subdivision to a present-
45 ment agency for a juvenile delinquency proceeding consistent with arti-
46 cle three of the family court act except a student fourteen or fifteen
47 years of age who qualifies for juvenile offender status under subdivi-
48 sion forty-two of section 1.20 of the criminal procedure law; PROVIDED
49 HOWEVER, THAT COMMENCING ON JANUARY FIRST, TWO THOUSAND SEVENTEEN, A
50 SUPERINTENDENT SHALL REFER THE PUPIL UNDER THE AGE OF SEVENTEEN WHO HAS
51 BEEN DETERMINED TO HAVE BROUGHT A WEAPON OR FIREARM TO SCHOOL IN
52 VIOLATION OF THIS SUBDIVISION TO A PRESENTMENT AGENCY FOR A JUVENILE
53 DELINQUENCY PROCEEDING CONSISTENT WITH ARTICLE THREE OF THE FAMILY COURT
54 ACT EXCEPT A STUDENT WHO QUALIFIES FOR JUVENILE OFFENDER STATUS UNDER
55 SUBDIVISION FORTY-TWO OF SECTION 1.20 OF THE CRIMINAL PROCEDURE LAW; AND
56 PROVIDED FURTHER THAT COMMENCING ON JANUARY FIRST, TWO THOUSAND EIGH-

1 TEEN, A SUPERINTENDENT SHALL REFER THE PUPIL UNDER THE AGE OF EIGHTEEN
2 WHO HAS BEEN DETERMINED TO HAVE BROUGHT A WEAPON OR FIREARM TO SCHOOL IN
3 VIOLATION OF THIS SUBDIVISION TO A PRESENTMENT AGENCY FOR A JUVENILE
4 DELINQUENCY PROCEEDING CONSISTENT WITH ARTICLE THREE OF THE FAMILY COURT
5 ACT EXCEPT A STUDENT WHO QUALIFIES FOR JUVENILE OFFENDER STATUS UNDER
6 SUBDIVISION FORTY-TWO OF SECTION 1.20 OF THE CRIMINAL PROCEDURE LAW. A
7 superintendent shall refer any pupil sixteen years of age or older or a
8 student fourteen or fifteen years of age who qualifies for juvenile
9 offender status under subdivision forty-two of section 1.20 of the crim-
10 inal procedure law, who has been determined to have brought a weapon or
11 firearm to school in violation of this subdivision to the appropriate
12 law enforcement officials.

13 S 89. Paragraph e of subdivision 3 of section 3214 of the education
14 law, as amended by chapter 170 of the laws of 2006, is amended to read
15 as follows:

16 e. Procedure after suspension. Where a pupil has been suspended pursu-
17 ant to this subdivision and said pupil is of compulsory attendance age,
18 immediate steps shall be taken for his or her attendance upon instruc-
19 tion elsewhere or for supervision [or detention] of said pupil pursuant
20 to the provisions of article seven of the family court act. Where a
21 pupil has been suspended for cause, the suspension may be revoked by the
22 board of education whenever it appears to be for the best interest of
23 the school and the pupil to do so. The board of education may also
24 condition a student's early return to school and suspension revocation
25 on the pupil's voluntary participation in counseling or specialized
26 classes, including anger management or dispute resolution, where appli-
27 cable.

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

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

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

41 3. Applications from counties or the city of New York for state aid
42 under this section shall be made by filing with the division of criminal
43 justice services, a detailed plan, including cost estimates covering
44 probation services for the fiscal year or portion thereof for which aid
45 is requested. Included in such estimates shall be clerical costs and
46 maintenance and operation costs as well as salaries of probation person-
47 nel, FAMILY ENGAGEMENT SPECIALISTS and such other pertinent information
48 as the commissioner of the division of criminal justice services may
49 require. Items for which state aid is requested under this section shall
50 be duly designated in the estimates submitted. The commissioner of the
51 division of criminal justice services, after consultation with the state
52 probation commission and the director of the office of probation and
53 correctional alternatives, shall approve such plan if it conforms to
54 standards relating to the administration of probation services as speci-
55 fied in the rules adopted by him or her.

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

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

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

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

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

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

40 3. "Detention" means the temporary care and maintenance of youth held
41 away from their homes pursuant to article three or seven of the family
42 court act, OR, COMMENCING JANUARY FIRST, TWO THOUSAND EIGHTEEN, PURSUANT
43 TO ARTICLE THREE OF THE FAMILY COURT ACT, or held pending a hearing for
44 alleged violation of the conditions of release from an office of chil-
45 dren and family services facility or authorized agency, or held pending
46 a hearing for alleged violation of the condition of parole OR POST-RE-
47 LEASE SUPERVISION as a juvenile offender, or held pending return to a
48 jurisdiction other than the one in which the youth is held, or held
49 pursuant to a securing order of a criminal court if the youth named
50 therein as principal is charged as a juvenile offender or held pending a
51 hearing on an extension of placement or held pending transfer to a
52 facility upon commitment or placement by a court. Only alleged or
53 convicted juvenile offenders who have not attained their eighteenth OR,
54 COMMENCING JANUARY FIRST, TWO THOUSAND SEVENTEEN, THEIR TWENTY-FIRST
55 birthday shall be subject to detention in a detention facility.

1 4. For purposes of this article, the term "youth" shall [be synonymous
2 with the term "child" and means] MEAN a person not less than [seven] TEN
3 years of age and not more than twenty OR COMMENCING JANUARY FIRST, TWO
4 THOUSAND SEVENTEEN, NOT MORE THAN TWENTY-THREE years of age.

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

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

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

12 8. "Discharge" means the termination of [division] OFFICE custody of a
13 youth.

14 9. "Aftercare" means supervision of a youth on conditional release OR
15 POST-RELEASE status under the continued custody of the division.

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

19 7. The person in charge of each detention facility shall keep a record
20 of all time spent in such facility for each youth in care. The detention
21 facility shall deliver a certified transcript of such record to the
22 office, social services district, or other agency taking custody of the
23 youth pursuant to article three [or seven] of the family court act,
24 before, or at the same time as the youth is delivered to the office,
25 district or other agency, as is appropriate.

26 S 94. Subdivision 1 of section 505 of the executive law, as amended by
27 chapter 465 of the laws of 1992, is amended to read as follows:

28 1. There shall be a facility director of each [division for youth]
29 OFFICE OF CHILDREN AND FAMILY SERVICES OPERATED facility. Such facility
30 director shall be appointed by the [director] COMMISSIONER of the [divi-
31 sion] OFFICE OF CHILDREN AND FAMILY SERVICES and THE POSITION shall be
32 in the noncompetitive class and designated as confidential as defined by
33 subdivision two-a of section forty-two of the civil service law. The
34 facility director shall have [two years] SUCH experience [in appropriate
35 titles in state government. Such facility director shall have such] AND
36 other qualifications as may be prescribed by the [director] COMMISSIONER
37 of the [division,] OFFICE OF CHILDREN AND FAMILY SERVICES based on
38 differences in duties, levels of responsibility, size and character of
39 the facility, knowledge, skills and abilities required, and other
40 factors affecting the position [and]. SUCH FACILITY DIRECTOR shall
41 serve at the pleasure of the [director] COMMISSIONER of the [division]
42 OFFICE OF CHILDREN AND FAMILY SERVICES.

43 S 95. Section 507-a of the executive law, as amended by chapter 465 of
44 the laws of 1992, paragraph (a) of subdivision 1 as amended by chapter
45 309 of the laws of 1996, is amended to read as follows:

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

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

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

52 2. (a) Consistent with other provisions of law, only those youth who
53 have reached the age of [seven] TEN, but who have not reached the age of
54 twenty-one may be placed in[, committed to or remain in] the [divi-
55 sion's] custody OF THE OFFICE OF CHILDREN AND FAMILY SERVICES. EXCEPT AS
56 PROVIDED FOR IN PARAGRAPH (A-1) OF THIS SUBDIVISION, NO YOUTH WHO HAS

1 REACHED THE AGE OF TWENTY-ONE MAY REMAIN IN CUSTODY OF THE OFFICE OF
2 CHILDREN AND FAMILY SERVICES.

3 (A-1) (I) A YOUTH WHO IS COMMITTED TO THE OFFICE OF CHILDREN AND FAMI-
4 LY SERVICES AS A JUVENILE OFFENDER OR YOUTHFUL OFFENDER MAY REMAIN IN
5 THE CUSTODY OF THE OFFICE DURING THE PERIOD OF HIS OR HER SENTENCE
6 BEYOND THE AGE OF TWENTY-ONE IN ACCORDANCE WITH THE PROVISIONS OF SUBDI-
7 VISION FIVE OF SECTION FIVE HUNDRED EIGHT OF THIS ARTICLE BUT IN NO
8 EVENT MAY SUCH A YOUTH REMAIN IN THE CUSTODY OF THE OFFICE BEYOND HIS OR
9 HER TWENTY-THIRD BIRTHDAY; AND (II) A YOUTH FOUND TO HAVE COMMITTED A
10 DESIGNATED CLASS A FELONY ACT WHO IS RESTRICTIVELY PLACED WITH THE
11 OFFICE UNDER SUBDIVISION FOUR OF SECTION 353.5 OF THE FAMILY COURT ACT
12 FOR COMMITTING AN ACT ON OR AFTER THE YOUTH'S SIXTEENTH BIRTHDAY MAY
13 REMAIN IN THE CUSTODY OF THE OFFICE OF CHILDREN AND FAMILY SERVICES UP
14 TO THE AGE OF TWENTY-THREE IN ACCORDANCE WITH HIS OR HER PLACEMENT
15 ORDER.

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

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

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

31 3. The [division] OFFICE may photograph any youth in its custody.
32 Such photograph may be used only for the purpose of assisting in the
33 return of conditionally released children and runaways pursuant to
34 section five hundred ten-b of this article. Such photograph shall be
35 destroyed immediately upon the discharge of the youth from [division]
36 OFFICE custody.

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

40 (b) The [division] OFFICE shall admit a [child] YOUTH placed [with the
41 division] UNDER ITS CARE to a facility of the [division] OFFICE within
42 fifteen days of the date of the order of placement with the [division]
43 OFFICE and shall admit a juvenile offender committed to the [division]
44 OFFICE to a facility of the [division] OFFICE within ten days of the
45 date of the order of commitment to the [division] OFFICE, except as
46 provided in section five hundred seven-b of this article.

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

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

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

17 1-A. ANY NEW FACILITIES DEVELOPED BY THE OFFICE OF CHILDREN AND FAMILY
18 SERVICES TO SERVE THE ADDITIONAL YOUTH PLACED WITH THE OFFICE AS A
19 RESULT OF RAISING THE AGE OF JUVENILE JURISDICTION SHALL, TO THE EXTENT
20 PRACTICABLE, CONSIST OF SMALLER, MORE HOME-LIKE FACILITIES LOCATED NEAR
21 THE YOUTHS' HOMES AND FAMILIES THAT PROVIDE GENDER-RESPONSIVE PROGRAM-
22 MING, SERVICES AND TREATMENT IN SMALL, CLOSELY SUPERVISED GROUPS THAT
23 OFFER EXTENSIVE AND ON-GOING INDIVIDUAL ATTENTION AND ENCOURAGE SUPPORT-
24 IVE PEER RELATIONSHIPS.

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

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

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

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

50 (d) For a period of six months after a juvenile offender has been
51 transferred pursuant to paragraph (a) or (b) herein, the juvenile offen-
52 der may have only accompanied home visits. After completing six months
53 of confinement following transfer from a secure facility, a juvenile
54 offender may not have an unaccompanied home visit unless two accompanied
55 home visits have already occurred. An "accompanied home visit" shall
56 mean a home visit during which the juvenile offender shall be accompa-

nied at all times while outside the facility by appropriate personnel of the division for youth designated pursuant to regulations of the director of the division.

(e) The director of the division for youth shall promulgate rules and regulations including uniform standards and procedures governing the transfer of juvenile offenders from secure facilities to other facilities and the return of such offenders to secure facilities. The rules and regulations shall provide a procedure for the referral of proposed transfer cases by the secure facility director, and shall require a determination by the facility director that transfer of a juvenile offender to another facility is in the best interests of the division for youth and the juvenile offender and that there is no danger to public safety.

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

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

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

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

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

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

1 [7.] (B) ALL JUVENILE OFFENDERS COMMITTED TO THE OFFICE FOR COMMITTING
2 A CRIME ON OR AFTER THEIR SIXTEENTH BIRTHDAY WHO STILL HAVE TIME LEFT ON
3 THEIR SENTENCES OF IMPRISONMENT SHALL BE TRANSFERRED TO THE CUSTODY OF
4 THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION FOR CONFINEMENT
5 PURSUANT TO THE CORRECTION LAW AFTER COMPLETING TWO YEARS OF CARE IN
6 OFFICE OF CHILDREN AND FAMILY SERVICES FACILITIES UNLESS THEY ARE WITHIN
7 FOUR MONTHS OF COMPLETING THE IMPRISONMENT PORTION OF THEIR SENTENCE AND
8 THE OFFICE DETERMINES, IN ITS DISCRETION, ON A CASE-BY-CASE BASIS THAT
9 THE YOUTH SHOULD BE PERMITTED TO REMAIN WITH THE OFFICE FOR THE ADDI-
10 TIONAL SHORT PERIOD OF TIME NECESSARY TO ENABLE THEM TO COMPLETE THEIR
11 SENTENCE. IN MAKING SUCH A DETERMINATION, THE FACTORS THE OFFICE MAY
12 CONSIDER INCLUDE, BUT ARE NOT LIMITED TO, THE AGE OF THE YOUTH, THE
13 AMOUNT OF TIME REMAINING ON THE YOUTH'S SENTENCE OF IMPRISONMENT, THE
14 LEVEL OF THE YOUTH'S PARTICIPATION IN THE PROGRAM, THE YOUTH'S EDUCA-
15 TIONAL AND VOCATIONAL PROGRESS, THE OPPORTUNITIES AVAILABLE TO THE YOUTH
16 THROUGH THE OFFICE AND THROUGH THE DEPARTMENT, AND THE LENGTH OF THE
17 YOUTH'S POST-RELEASE SUPERVISION SENTENCE. NOTHING IN THIS PARAGRAPH
18 SHALL AUTHORIZE A YOUTH TO REMAIN IN AN OFFICE FACILITY BEYOND HIS OR
19 HER TWENTY-THIRD BIRTHDAY.

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

27 (D) ALL JUVENILE OFFENDERS RELEASED FROM AN OFFICE OF CHILDREN AND
28 FAMILY SERVICES FACILITY BEFORE THEY ARE TRANSFERRED TO THE DEPARTMENT
29 OF CORRECTIONS AND COMMUNITY SUPERVISION WHO ARE UNABLE TO COMPLETE THE
30 FULL-TERM OF THEIR POST-RELEASE SUPERVISION SENTENCES BEFORE THEY TURN
31 TWENTY-THREE YEARS OF AGE SHALL BE UNDER THE SUPERVISION OF THE DEPART-
32 MENT OF CORRECTIONS AND COMMUNITY SUPERVISION UNTIL EXPIRATION OF THE
33 MAXIMUM TERM OR PERIOD OF SENTENCE, OR EXPIRATION OF SUPERVISION,
34 INCLUDING ANY POST-RELEASE SUPERVISION AS THE CASE MAY BE PROVIDED,
35 HOWEVER, THAT THE OFFICE SHALL ASSIST SUCH DEPARTMENT IN PLANNING FOR
36 THE YOUTH'S POST-RELEASE SUPERVISION.

37 6. While in the custody of the office of children and family services,
38 an offender shall be subject to the rules and regulations of the office,
39 except that his OR HER parole, POST-RELEASE SUPERVISION, temporary
40 release and discharge shall be governed by the laws applicable to
41 inmates of state correctional facilities and his OR HER transfer to
42 state hospitals in the office of mental health shall be governed by
43 section five hundred nine of this chapter. The commissioner of the
44 office of children and family services shall, however, establish and
45 operate temporary release programs at office of children and family
46 services facilities AND PROVIDE POST-RELEASE SUPERVISION PROGRAMS for
47 eligible juvenile offenders and [contract with the department of
48 corrections and community supervision for the provision of parole]
49 PROVIDE supervision [services] for temporary releasees AND JUVENILES ON
50 POST-RELEASE SUPERVISION. The rules and regulations for these programs
51 shall not be inconsistent with the laws for temporary release AND POST-
52 RELEASE SUPERVISION applicable to inmates of state correctional facili-
53 ties. For the purposes of temporary release programs for juvenile offen-
54 ders only, when referred to or defined in article twenty-six of the
55 correction law, "institution" shall mean any facility designated by the
56 commissioner of the office of children and family services, "department"

1 shall mean the office of children and family services, "inmate" shall
2 mean a juvenile offender residing in an office of children and family
3 services facility, and "commissioner" shall mean the [director] COMMIS-
4 SIONER of the office of children and family services. FOR THE PURPOSES
5 OF SUCH POST-RELEASE SUPERVISION FOR JUVENILE OFFENDERS UNDER PARAGRAPH
6 (C) OF SUBDIVISION FIVE OF THIS SECTION ONLY, WHEN REFERRED TO IN
7 SECTION 70.45 OF THE PENAL LAW OR ARTICLE TWELVE-B OF THE EXECUTIVE LAW,
8 THE TERM "DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION", "DEPART-
9 MENT", "DIVISION OF PAROLE", "DIVISION", "BOARD OF PAROLE" AND "BOARD"
10 SHALL MEAN THE OFFICE OF CHILDREN AND FAMILY SERVICES, AND THE TERM
11 "COMMISSIONER" SHALL MEAN THE OFFICE OF CHILDREN AND FAMILY SERVICES.
12 Time spent in office of children and family services facilities and in
13 juvenile detention facilities shall be credited towards the sentence
14 imposed in the same manner and to the same extent applicable to inmates
15 of state correctional facilities.

16 [8] 7. Whenever a juvenile offender or a juvenile offender adjudi-
17 cated a youthful offender shall be delivered to the director of [a divi-
18 sion for youth] AN OFFICE OF CHILDREN AND FAMILY SERVICES facility
19 pursuant to a commitment to the [director of the division for youth]
20 OFFICE OF CHILDREN AND FAMILY SERVICES, the officer so delivering such
21 person shall deliver to such facility director a certified copy of the
22 sentence received by such officer from the clerk of the court by which
23 such person shall have been sentenced, a copy of the report of the
24 probation officer's investigation and report, any other pre-sentence
25 memoranda filed with the court, a copy of the person's fingerprint
26 records, a detailed summary of available medical records, psychiatric
27 records and reports relating to assaults, or other violent acts,
28 attempts at suicide or escape by the person while in the custody of a
29 local detention facility.

30 [9] 8. Notwithstanding any provision of law, including section five
31 hundred one-c of this article, the office of children and family
32 services shall make records pertaining to a person convicted of a sex
33 offense as defined in subdivision (p) of section 10.03 of the mental
34 hygiene law available upon request to the commissioner of mental health
35 or the commissioner of [mental retardation and] THE OFFICE FOR PERSONS
36 WITH developmental disabilities, as appropriate; a case review panel;
37 and the attorney general; in accordance with the provisions of article
38 ten of the mental hygiene law.

39 S 97. Subdivisions 1, 2, 4, 5 and 5-a of section 529 of the executive
40 law, subdivisions 1, 4 and 5 as added by chapter 906 of the laws of
41 1973, paragraph (c) of subdivision 1 as amended and paragraph (d) of
42 subdivision 1 as added by chapter 881 of the laws of 1976, subdivision 2
43 as amended by chapter 430 of the laws of 1991, paragraph (c) of subdivi-
44 sion 5 as amended by chapter 722 of the laws of 1979 and subdivision 5-a
45 as added by chapter 258 of the laws of 1974, are amended to read as
46 follows:

47 1. Definitions. As used in this section:

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

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

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

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

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

[4. Expenditures made by the division for youth] 3. THE COSTS for foster care PROVIDED BY VOLUNTARY AUTHORIZED AGENCIES TO JUVENILE DELINQUENTS PLACED IN THE CARE OF THE OFFICE OF CHILDREN AND FAMILY SERVICES shall be [subject to reimbursement to the state by] THE RESPONSIBILITY OF the social services district from which the youth was placed, AND SHALL BE SUBJECT TO REIMBURSEMENT FROM THE STATE in accordance with [the regulations of the division, as follows: fifty percent of the amount expended for care, maintenance and supervision of local charges] SECTION ONE HUNDRED FIFTY-THREE-K OF THE SOCIAL SERVICES LAW.

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

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

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

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

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

1 5. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, NO
2 REIMBURSEMENT SHALL BE REQUIRED FROM A SOCIAL SERVICES DISTRICT FOR
3 EXPENDITURES MADE BY THE OFFICE OF CHILDREN AND FAMILY SERVICES ON OR
4 AFTER DECEMBER FIRST, TWO THOUSAND FIFTEEN FOR THE CARE, MAINTENANCE,
5 SUPERVISION OR AFTERCARE SUPERVISION OF YOUTH AGE SIXTEEN YEARS OF AGE
6 OR OLDER THAT WOULD NOT OTHERWISE HAVE BEEN MADE ABSENT PURSUANT TO THE
7 PROVISIONS OF A CHAPTER OF THE LAWS OF TWO THOUSAND FIFTEEN THAT
8 INCREASED THE AGE OF JUVENILE JURISDICTION ABOVE FIFTEEN YEARS OF AGE OR
9 THAT AUTHORIZED THE PLACEMENT IN OFFICE OF CHILDREN AND FAMILY SERVICES
10 FACILITIES OF CERTAIN OTHER YOUTH WHO COMMITTED A CRIME ON OR AFTER
11 THEIR SIXTEENTH BIRTHDAYS.

12 5-a. The social services district responsible for reimbursement to the
13 state shall remain the same if during a period of placement or extension
14 thereof, a child commits a criminal act while in [a division] AN OFFICE
15 OF CHILDREN AND FAMILY SERVICES facility, during an authorized absence
16 therefrom or after absconding therefrom and is returned to the [divi-
17 sion] OFFICE following adjudication or conviction for the act by a court
18 with jurisdiction outside the boundaries of the social services district
19 which was responsible for reimbursement to the state prior to such adju-
20 dication or conviction.

21 S 98. Subdivision 1, the opening paragraph of subdivision 2 and
22 subparagraphs (i) and (iii) of paragraph (a) of subdivision 3 of section
23 529-b of the executive law, as added by section 3 of subpart B of part Q
24 of chapter 58 of the laws of 2011, are amended to read as follows:

25 1. (a) Notwithstanding any provision of law to the contrary, eligible
26 expenditures by an eligible municipality for services to divert youth at
27 risk of, alleged to be, or adjudicated as juvenile delinquents [or
28 persons alleged or adjudicated to be in need of supervision], or youth
29 alleged to be or convicted as juvenile offenders from placement in
30 detention or in residential care OR TO DIVERT PERSONS ALLEGED OR ADJUDI-
31 CATED TO BE IN NEED OF SUPERVISION FROM BEING PLACED AWAY FROM THEIR
32 HOMES, shall be subject to state reimbursement under the supervision and
33 treatment services for juveniles program for up to sixty-two percent of
34 the municipality's expenditures, subject to available appropriations and
35 exclusive of any federal funds made available for such purposes, not to
36 exceed the municipality's distribution under the supervision and treat-
37 ment services for juveniles program.

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

54 As used in this section, the term "municipality" shall mean a county,
55 or a city having a population of one million or more, and "supervision
56 and treatment services for juveniles" shall mean community-based

1 services or programs designed to safely maintain youth in the community
2 pending a family court disposition or conviction in criminal court and
3 services or programs provided to youth adjudicated as juvenile delin-
4 quents [or persons in need of supervision,] or youth alleged to be juve-
5 nile offenders to prevent residential placement of such youth or a
6 return to placement where such youth have been released to the community
7 from residential placement OR PROGRAMS PROVIDED TO YOUTH ADJUDICATED
8 PERSONS IN NEED OF SUPERVISION TO MAINTAIN SUCH YOUTH IN THEIR HOMES.
9 Supervision and treatment services for juveniles may include but are not
10 limited to services or programs that:

11 (i) an analysis that identifies the neighborhoods or communities from
12 which the greatest number of juvenile delinquents [and persons in need
13 of supervision] are remanded to detention or residentially placed AND
14 FROM WHICH THE GREATEST NUMBER OF ALLEGED PERSONS IN NEED OF SUPERVISION
15 ARE OFFERED DIVERSION SERVICES;

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

21 S 99. Subdivisions 2, 4, 5, 6 and 7 of section 530 of the executive
22 law, subdivisions 2 and 4 as amended by section 4 of subpart B of part Q
23 of chapter 58 of the laws of 2011, paragraphs (a) and (d) of subdivision
24 2 as amended by section 1 of part M of chapter 57 of the laws of 2012,
25 subdivision 5 as amended by chapter 920 of the laws of 1982, subpara-
26 graphs 1, 2 and 4 of paragraph (a) and paragraph (b) of subdivision 5 as
27 amended by section 5 of subpart B of part Q of chapter 58 of the laws of
28 2011, subdivision 6 as amended by chapter 880 of the laws of 1976, and
29 subdivision 7 as amended by section 6 of subpart B of part Q of chapter
30 58 of the laws of 2011, are amended and a new subdivision 8 is added to
31 read as follows:

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

38 (a) Notwithstanding any provision of law to the contrary, eligible
39 expenditures by a municipality during a particular program year for the
40 care, maintenance and supervision [in foster care programs certified by
41 the office of children and family services, certified or approved family
42 boarding homes, and non-secure detention facilities certified by the
43 office for those youth alleged to be persons in need of supervision or
44 adjudicated persons in need of supervision held pending transfer to a
45 facility upon placement; and] in secure and non-secure detention facili-
46 ties certified by the office in accordance with section five hundred
47 three of this article for those youth alleged to be juvenile delin-
48 quents; adjudicated juvenile delinquents held pending transfer to a
49 facility upon placement, and juvenile delinquents held at the request of
50 the office of children and family services pending extension of place-
51 ment hearings or release revocation hearings or while awaiting disposi-
52 tion of such hearings; and youth alleged to be or convicted as juvenile
53 offenders AND, PRIOR TO JANUARY FIRST, TWO THOUSAND EIGHTEEN, YOUTH
54 ALLEGED TO BE PERSONS IN NEED OF SUPERVISION OR ADJUDICATED PERSONS IN
55 NEED OF SUPERVISION HELD PENDING TRANSFER TO A FACILITY UPON PLACEMENT
56 IN FOSTER CARE PROGRAMS CERTIFIED BY THE OFFICE OF CHILDREN AND FAMILY

1 SERVICES, CERTIFIED OR APPROVED FAMILY BOARDING HOMES, AND NON-SECURE
2 DETENTION FACILITIES CERTIFIED BY THE OFFICE, shall be subject to state
3 reimbursement for up to fifty percent of the municipality's expendi-
4 tures, exclusive of any federal funds made available for such purposes,
5 not to exceed the municipality's distribution from funds that have been
6 appropriated specifically therefor for that program year. Municipalities
7 shall implement the use of detention risk assessment instruments in a
8 manner prescribed by the office so as to inform detention decisions.
9 Notwithstanding any other provision of state law to the contrary, data
10 necessary for completion of a detention risk assessment instrument may
11 be shared among law enforcement, probation, courts, detention adminis-
12 trators, detention providers, and the attorney for the child upon
13 retention or appointment; solely for the purpose of accurate completion
14 of such risk assessment instrument, and a copy of the completed
15 detention risk assessment instrument shall be made available to the
16 applicable detention provider, the attorney for the child and the court.

17 (b) The state funds appropriated for juvenile detention services shall
18 be distributed to eligible municipalities by the office of children and
19 family services based on a plan developed by the office which may
20 consider historical information regarding the number of youth remanded
21 to detention, the municipality's reduction in the use of detention, the
22 municipality's youth population, and other factors as determined by the
23 office. Such plan developed by the office shall be subject to the
24 approval of the director of the budget. The office is authorized, in its
25 discretion, to make advance distributions to a municipality in antic-
26 ipation of state reimbursement.

27 (c) A municipality may also use the funds distributed to it for juve-
28 nile detention services under this section for a particular program year
29 for sixty-two percent of a municipality's eligible expenditures for
30 supervision and treatment services for juveniles programs approved under
31 section five hundred twenty-nine-b of this title for services that were
32 not reimbursed from a municipality's distribution under such program
33 provided to at-risk, alleged or adjudicated juvenile delinquents or
34 persons alleged or adjudicated to be in need of supervision, or alleged
35 to be or convicted as juvenile offenders in community-based non-residen-
36 tial settings. Any claims submitted by a municipality for reimbursement
37 for detention services or supervision and treatment services for juve-
38 niles provided during a particular program year for which the munici-
39 pality does not receive state reimbursement from the municipality's
40 distribution of detention services funds for that program year may not
41 be claimed against the municipality's distribution of funds available
42 under this section for the next applicable program year. The office may
43 require that such claims be submitted to the office electronically at
44 such times and in the manner and format required by the office.

45 [(d)(i)] (2-A)(A) Notwithstanding any provision of law or regulation
46 to the contrary, any information or data necessary for the development,
47 validation or revalidation of the detention risk assessment instrument
48 shall be shared among local probation departments, the office of
49 probation and correctional alternatives and, where authorized by the
50 division of criminal justice services, the entity under contract with
51 the division to provide information technology services related to youth
52 assessment and screening, the office of children and family services,
53 and any entity under contract with the office of children and family
54 services to provide services relating to the development, validation or
55 revalidation of the detention risk assessment instrument. Any such
56 information and data shall not be commingled with any criminal history

1 database. Any information and data used and shared pursuant to this
2 section shall only be used and shared for the purposes of this section
3 and in accordance with this section. Such information shall be shared
4 and received in a manner that protects the confidentiality of such
5 information. The sharing, use, disclosure and redisclosure of such
6 information to any person, office, or other entity not specifically
7 authorized to receive it pursuant to this section or any other law is
8 prohibited.

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

26 [(iii)] (C) Data collected for the purposes of completing the
27 detention risk assessment instrument from any source other than an offi-
28 cially documented record shall be confirmed as soon as practicable.
29 Should any data originally utilized in completing the risk assessment
30 instrument be found to conflict with the officially documented record,
31 the risk assessment instrument shall be completed with the officially
32 documented data and any corresponding revision to the risk categori-
33 zation shall be made. The office shall periodically revalidate any
34 approved risk assessment instrument. The office shall conspicuously post
35 any approved detention risk assessment instrument on its website and
36 shall confer with appropriate stakeholders, including but not limited
37 to, attorneys for children, presentment agencies, probation, and the
38 family court, prior to revising any validated risk assessment instru-
39 ment. Any such revised risk assessment instrument shall be subject to
40 periodic empirical validation.

41 4. (a) The municipality must notify the office of children and family
42 services of state aid received under other state aid formulas by each
43 detention facility for which the municipality is seeking reimbursement
44 pursuant to this section, including but not limited to, aid for educa-
45 tion, probation and mental health services.

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

54 [(c)] (II) Reimbursement for administrative related expenditures as
55 defined by the office of children and family services, for secure and
56 nonsecure detention services shall not exceed seventeen percent of the

1 total approved expenditures for facilities of twenty-five beds or more
2 and shall not exceed twenty-one percent of the total approved expendi-
3 tures for facilities with less than twenty-five beds.

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

7 (1) temporary care, maintenance and supervision provided TO alleged
8 juvenile delinquents and persons in need of supervision in detention
9 facilities certified pursuant to sections seven hundred twenty and 305.2
10 of the family court act by the office of children and family services,
11 pending adjudication of alleged delinquency or alleged need of super-
12 vision by the family court, or pending transfer to institutions to which
13 committed or placed by such court or while awaiting disposition by such
14 court after adjudication or held pursuant to a securing order of a crim-
15 inal court if the person named therein as principal is under sixteen
16 YEARS OF AGE; or[,]

17 (1-A) COMMENCING ON JANUARY FIRST, TWO THOUSAND EIGHTEEN, TEMPORARY
18 CARE, MAINTENANCE, AND SUPERVISION PROVIDED TO ALLEGED JUVENILE DELIN-
19 QUENTS IN DETENTION FACILITIES CERTIFIED BY THE OFFICE OF CHILDREN AND
20 FAMILY SERVICES, PENDING ADJUDICATION OF ALLEGED DELINQUENCY BY THE
21 FAMILY COURT, OR PENDING TRANSFER TO INSTITUTIONS TO WHICH COMMITTED OR
22 PLACED BY SUCH COURT OR WHILE AWAITING DISPOSITION BY SUCH COURT AFTER
23 ADJUDICATION OR HELD PURSUANT TO A SECURING ORDER OF A CRIMINAL COURT IF
24 THE PERSON NAMED THEREIN AS PRINCIPAL IS UNDER TWENTY-ONE; OR

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

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

33 (4) PRIOR TO JANUARY FIRST, TWO THOUSAND EIGHTEEN, temporary care,
34 maintenance and supervision provided youth detained in foster care
35 facilities or certified or approved family boarding homes pursuant to
36 article seven of the family court act.

37 (b) Payments made for reserved accommodations, whether or not in full
38 time use, approved AND CERTIFIED by the office of children and family
39 services [and certified pursuant to sections seven hundred twenty and
40 305.2 of the family court act], in order to assure that adequate accom-
41 modations will be available for the immediate reception and proper care
42 therein of youth for which detention costs are reimbursable pursuant to
43 paragraph (a) of this subdivision, shall be reimbursed as expenditures
44 for care, maintenance and supervision under the provisions of this
45 section, provided the office shall have given its prior approval for
46 reserving such accommodations.

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

52 7. The agency administering detention for each county and the city of
53 New York shall submit to the office of children and family services, at
54 such times and in such form and manner and containing such information
55 as required by the office of children and family services, an annual
56 report on youth remanded pursuant to article three or seven of the fami-

ly court act who are detained during each calendar year including, commencing January first, two thousand twelve, the risk level of each detained youth as assessed by a detention risk assessment instrument approved by the office of children and family services PROVIDED, HOWEVER, THAT THE REPORT DUE JANUARY FIRST, TWO THOUSAND NINETEEN AND THEREAFTER SHALL NOT BE REQUIRED TO CONTAIN ANY INFORMATION ON YOUTH WHO ARE SUBJECT TO ARTICLE SEVEN OF THE FAMILY COURT ACT. The office may require that such data on detention use be submitted to the office electronically. Such report shall include, but not be limited to, the reason for the court's determination in accordance with section 320.5 or seven hundred thirty-nine of the family court act, IF APPLICABLE, to detain the youth; the offense or offenses with which the youth is charged; and all other reasons why the youth remains detained. The office shall submit a compilation of all the separate reports to the governor and the legislature.

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

S 100. Section 4 of part K of chapter 57 of the laws of 2012, amending the education law, relating to authorizing the board of cooperative educational services to enter into contracts with the commissioner of children and family services to provide certain services, is amended to read as follows:

S 4. This act shall take effect July 1, 2012 [and shall expire June 30, 2015 when upon such date the provisions of this act shall be deemed repealed].

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

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

2. the amendments to section 153-k of the social services law made by section forty-eight of this act shall not affect the expiration of such section and shall expire and be deemed repealed therewith;

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

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

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

6. the amendments to subparagraph 8 of paragraph h of subdivision 4 of section 1950 of the education law made by section eighty-seven of this act shall not affect the repeal of such subparagraph and shall be deemed repealed therewith;

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

5 8. the amendments to the second undesignated paragraph of subdivision
6 4 of section 246 of the executive law made by section ninety-one of this
7 act shall not affect the expiration of such paragraph and shall expire
8 and be deemed repealed therewith.

9 PART K

10 Section 1. The section heading of section 456 of the social services
11 law, as added by chapter 865 of the laws of 1977, is amended to read as
12 follows:

13 State reimbursement AND PAYMENTS.

14 S 2. Paragraphs (c) and (d) of subdivision 1 of section 456 of the
15 social services law, as amended by chapter 601 of the laws of 1994, are
16 amended to read as follows:

17 [(c) one hundred per centum of such payments after first deducting
18 therefrom any federal funds properly to be received on account of such
19 payments, for children placed out for adoption by a voluntary authorized
20 agency or for children being adopted after being placed out for adoption
21 by a voluntary authorized agency in accordance with the provisions of
22 this title,] or [(d)] (C) one hundred per centum of such payments after
23 first deducting therefrom any federal funds properly to be received on
24 account of such payments, for children placed out for adoption or being
25 adopted after being placed out for adoption by an Indian tribe as refer-
26 enced in subdivision seven of section four hundred fifty-one of this
27 title.

28 S 3. Section 456 of the social services law is amended by adding a new
29 subdivision 3 to read as follows:

30 3. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, FOR A
31 CHILD WHO HAS BEEN PLACED FOR ADOPTION BY A VOLUNTARY AUTHORIZED AGENCY
32 WITH GUARDIANSHIP AND CUSTODY OR CARE AND CUSTODY OF SUCH CHILD, AS
33 REFERENCED IN SUBDIVISION ONE OF SECTION FOUR HUNDRED FIFTY-ONE OF THIS
34 TITLE, PAYMENTS AVAILABLE UNDER SECTION FOUR HUNDRED FIFTY-THREE, FOUR
35 HUNDRED FIFTY-THREE-A OR FOUR HUNDRED FIFTY-FOUR OF THIS TITLE SHALL BE
36 MADE BY THE STATE PURSUANT TO A WRITTEN AGREEMENT BETWEEN AN OFFICIAL OF
37 THE OFFICE OF CHILDREN AND FAMILY SERVICES AND THE PERSONS WHO APPLIED
38 FOR SUCH PAYMENTS PRIOR TO ADOPTION. NOTWITHSTANDING ANY OTHER PROVISION
39 OF LAW TO THE CONTRARY, THE OFFICE OF CHILDREN AND FAMILY SERVICES SHALL
40 NOT ENTER INTO WRITTEN AGREEMENTS FOR, OR ISSUE, ANY SUCH PAYMENTS IN
41 INSTANCES WHERE THE PERSON OR PERSONS APPLYING FOR SUCH PAYMENTS RESIDE
42 OUTSIDE OF THE STATE OF NEW YORK AT THE TIME THE APPLICATION FOR SUCH
43 PAYMENTS IS MADE.

44 S 4. This act shall take effect July 1, 2015 and shall only apply to
45 applications for payments under sections 453, 453-a or 454 of the social
46 services law that are made on or after such effective date; provided,
47 however, that effective immediately the commissioner of the office of
48 children and family services is authorized and directed to promulgate
49 such rules and regulations as he or she deems necessary to implement the
50 provisions of this act on or before its effective date.

51 PART L

1 Section 1. Section 458-a of the social services law is amended by
2 adding three new subdivisions 6, 7 and 8 to read as follows:

3 6. "SUCCESSOR GUARDIAN" SHALL MEAN A PERSON OR PERSONS NAMED IN THE
4 AGREEMENT IN EFFECT BETWEEN THE RELATIVE GUARDIAN AND SOCIAL SERVICES
5 OFFICIAL FOR KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS PURSUANT TO THIS
6 TITLE TO PROVIDE CARE AND GUARDIANSHIP FOR A CHILD IN THE EVENT OF DEATH
7 OR INCAPACITY OF THE RELATIVE GUARDIAN, AS SET FORTH IN SECTION FOUR
8 HUNDRED FIFTY-EIGHT-B OF THIS TITLE, WHO HAS ASSUMED CARE FOR AND IS THE
9 GUARDIAN OR PERMANENT GUARDIAN OF SUCH CHILD, PROVIDED THAT SUCH PERSON
10 WAS APPOINTED GUARDIAN OR PERMANENT GUARDIAN OF SUCH CHILD FOLLOWING, OR
11 DUE TO, THE DEATH OR INCAPACITY OF THE RELATIVE GUARDIAN.

12 7. "PROSPECTIVE SUCCESSOR GUARDIAN" SHALL MEAN A PERSON OR PERSONS
13 WHOM A PROSPECTIVE RELATIVE GUARDIAN OR A RELATIVE GUARDIAN SEEKS TO
14 NAME IN THE ORIGINAL KINSHIP GUARDIANSHIP ASSISTANCE AGREEMENT, OR ANY
15 AMENDMENT THERETO, AS SET FORTH IN SECTION FOUR HUNDRED FIFTY-EIGHT-B OF
16 THIS TITLE, AS THE PERSON OR PERSONS TO PROVIDE CARE AND GUARDIANSHIP
17 FOR A CHILD IN THE EVENT OF THE DEATH OR INCAPACITY OF A RELATIVE GUARD-
18 IAN.

19 8. "INCAPACITY" SHALL MEAN A SUBSTANTIAL INABILITY TO CARE FOR A CHILD
20 AS A RESULT OF: (A) A PHYSICALLY DEBILITATING ILLNESS, DISEASE OR INJU-
21 RY; OR (B) A MENTAL IMPAIRMENT THAT RESULTS IN A SUBSTANTIAL INABILITY
22 TO UNDERSTAND THE NATURE AND CONSEQUENCES OF DECISIONS CONCERNING THE
23 CARE OF A CHILD.

24 S 2. Subdivision 4 of section 458-b of the social services law is
25 amended by adding two new paragraphs (e) and (f) to read as follows:

26 (E) THE ORIGINAL KINSHIP GUARDIANSHIP ASSISTANCE AGREEMENT EXECUTED IN
27 ACCORDANCE WITH THIS SECTION AND ANY AMENDMENTS THERETO MAY NAME AN
28 APPROPRIATE PERSON TO ACT AS A SUCCESSOR GUARDIAN FOR THE PURPOSE OF
29 PROVIDING CARE AND GUARDIANSHIP FOR A CHILD IN THE EVENT OF DEATH OR
30 INCAPACITY OF THE RELATIVE GUARDIAN.

31 (F) A FULLY EXECUTED AGREEMENT BETWEEN A RELATIVE GUARDIAN AND A
32 SOCIAL SERVICES OFFICIAL MAY BE AMENDED TO ADD OR MODIFY TERMS AND
33 CONDITIONS MUTUALLY AGREEABLE TO THE RELATIVE GUARDIAN AND THE SOCIAL
34 SERVICES OFFICIAL, INCLUDING THE NAMING OF AN APPROPRIATE PERSON TO
35 PROVIDE CARE AND GUARDIANSHIP FOR A CHILD IN THE EVENT OF DEATH OR INCA-
36 PACITY OF THE RELATIVE GUARDIAN.

37 S 3. Subdivision 5 of section 458-b of the social services law, as
38 added by section 4 of part F of chapter 58 of the laws of 2010, is
39 amended to read as follows:

40 5. (A) Once the prospective relative guardian with whom a social
41 services official has entered into an agreement under subdivision four
42 of this section has been issued letters of guardianship for the child
43 and the child has been finally discharged from foster care to such rela-
44 tive, a social services official shall make monthly kinship guardianship
45 assistance payments for the care and maintenance of the child.

46 (B) A SOCIAL SERVICES DISTRICT SHALL MAKE MONTHLY KINSHIP GUARDIANSHIP
47 ASSISTANCE PAYMENTS FOR THE CARE AND MAINTENANCE OF A CHILD TO A SUCCE-
48 SSOR GUARDIAN IN THE EVENT OF DEATH OR INCAPACITY OF A RELATIVE GUARDIAN,
49 PROVIDED HOWEVER THAT SUCH PAYMENTS SHALL NOT BE AUTHORIZED UNTIL THE
50 SUCCESSOR GUARDIAN IS GRANTED GUARDIANSHIP OR PERMANENT GUARDIANSHIP OF
51 A CHILD AND ASSUMES CARE OF SUCH CHILD; PROVIDED, FURTHER, HOWEVER, THAT
52 IF THE SUCCESSOR GUARDIAN ASSUMES CARE OF THE CHILD PRIOR TO BEING
53 GRANTED GUARDIANSHIP OR PERMANENT GUARDIANSHIP OF THE CHILD, PAYMENTS
54 UNDER THIS TITLE SHALL BE MADE RETROACTIVELY FROM: (I) IN THE EVENT OF
55 DEATH OF THE RELATIVE GUARDIAN, THE DATE THE SUCCESSOR GUARDIAN ASSUMED
56 CARE OF THE CHILD OR THE DATE OF DEATH OF THE RELATIVE GUARDIAN, WHICH-

1 EVER IS LATER; OR (II) IN THE EVENT OF INCAPACITY OF THE RELATIVE GUARD-
2 IAN, THE DATE THE SUCCESSOR GUARDIAN ASSUMED CARE OF THE CHILD OR THE
3 DATE OF INCAPACITY OF THE RELATIVE GUARDIAN, WHICHEVER IS LATER.

4 (C) IN THE EVENT THAT A SUCCESSOR GUARDIAN ASSUMED CARE AND WAS
5 AWARDED GUARDIANSHIP OR PERMANENT GUARDIANSHIP OF A CHILD DUE TO THE
6 INCAPACITY OF A RELATIVE GUARDIAN AND THE RELATIVE GUARDIAN IS SUBSE-
7 QUENTLY AWARDED OR RESUMES GUARDIANSHIP OR PERMANENT GUARDIANSHIP OF
8 SUCH CHILD AND ASSUMES CARE OF SUCH CHILD AFTER THE INCAPACITY ENDS, A
9 SOCIAL SERVICES OFFICIAL SHALL MAKE MONTHLY KINSHIP GUARDIANSHIP ASSIST-
10 ANCE PAYMENTS FOR THE CARE AND MAINTENANCE OF THE CHILD TO THE RELATIVE
11 GUARDIAN, IN ACCORDANCE WITH THE TERMS OF THE FULLY EXECUTED WRITTEN
12 AGREEMENT.

13 S 4. Paragraph (b) of subdivision 7 of section 458-b of the social
14 services law, as added by section 4 of part F of chapter 58 of the laws
15 of 2010, is amended to read as follows:

16 (b) (I) Notwithstanding paragraph (a) of this subdivision, AND EXCEPT
17 AS PROVIDED FOR IN PARAGRAPH (B) OF SUBDIVISION FIVE OF THIS SECTION, no
18 kinship guardianship assistance payments may be made pursuant to this
19 title if the social services official determines that the relative guar-
20 dian is no longer legally responsible for the support of the child,
21 including if the status of the legal guardian is terminated or the child
22 is no longer receiving any support from such guardian. In accordance
23 with the regulations of the office, a relative guardian who has been
24 receiving kinship guardianship assistance payments on behalf of a child
25 under this title must keep the social services official informed, on an
26 annual basis, of any circumstances that would make the relative guardian
27 ineligible for such payments or eligible for payments in a different
28 amount.

29 (II) NOTWITHSTANDING PARAGRAPH (A) OF THIS SUBDIVISION, AND EXCEPT AS
30 PROVIDED FOR IN PARAGRAPH (C) OF SUBDIVISION FIVE OF THIS SECTION, NO
31 KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS MAY BE MADE PURSUANT TO THIS
32 TITLE TO A SUCCESSOR GUARDIAN IF THE SOCIAL SERVICES OFFICIAL DETERMINES
33 THAT THE SUCCESSOR GUARDIAN IS NO LONGER LEGALLY RESPONSIBLE FOR THE
34 SUPPORT OF THE CHILD, INCLUDING IF THE STATUS OF THE SUCCESSOR GUARDIAN
35 IS TERMINATED OR THE CHILD IS NO LONGER RECEIVING ANY SUPPORT FROM SUCH
36 GUARDIAN. A SUCCESSOR GUARDIAN WHO HAS BEEN RECEIVING KINSHIP GUARDIAN-
37 SHIP ASSISTANCE PAYMENTS ON BEHALF OF A CHILD UNDER THIS TITLE MUST KEEP
38 THE SOCIAL SERVICES OFFICIAL INFORMED, ON AN ANNUAL BASIS, OF ANY
39 CIRCUMSTANCES THAT WOULD MAKE THE SUCCESSOR GUARDIAN INELIGIBLE FOR SUCH
40 PAYMENTS OR ELIGIBLE FOR PAYMENTS IN A DIFFERENT AMOUNT.

41 S 5. Subdivision 8 of section 458-b of the social services law, as
42 added by section 4 of part F of chapter 58 of the laws of 2010, is
43 amended to read as follows:

44 8. The placement of the child with the relative guardian OR SUCCESSOR
45 GUARDIAN and any kinship guardianship assistance payments made on behalf
46 of the child under this section shall be considered never to have been
47 made when determining the eligibility for adoption subsidy payments
48 under title nine of this article of a child in such legal guardianship
49 arrangement.

50 S 6. Subdivision 2 of section 458-d of the social services law, as
51 added by section 4 of part F of chapter 58 of the laws of 2010, is
52 amended to read as follows:

53 2. In addition, a social services official shall make payments for the
54 cost of care, services and supplies payable under the state's program of
55 medical assistance for needy persons provided to any child for whom
56 kinship guardianship assistance payments are being made under this title

1 who is not eligible for medical assistance under subdivision one of this
2 section and for whom the relative OR SUCCESSOR guardian is unable to
3 obtain appropriate and affordable medical coverage through any other
4 available means, regardless of whether the child otherwise qualifies for
5 medical assistance for needy persons. Payments pursuant to this subdivi-
6 sion shall be made only with respect to the cost of care, services, and
7 supplies which are not otherwise covered or subject to payment or
8 reimbursement by insurance, medical assistance or other sources.
9 Payments made pursuant to this subdivision shall only be made if the
10 relative OR SUCCESSOR guardian applies to obtain such medical coverage
11 for the child from all available sources, unless the social services
12 official determines that the relative guardian has good cause for not
13 applying for such coverage; which shall include that appropriate cover-
14 age is not available or affordable.

15 S 7. Subdivisions 1 and 2 of section 458-f of the social services law,
16 as added by section 4 of part F of chapter 58 of the laws of 2010, are
17 amended to read as follows:

18 1. Any person aggrieved by the decision of a social services official
19 not to make a payment or payments pursuant to this title or to make such
20 payment or payments in an inadequate or inappropriate amount or the
21 failure of a social services official to determine an application under
22 this title within thirty days after filing, OR THE FAILURE OF A SOCIAL
23 SERVICES DISTRICT TO APPROVE A PROSPECTIVE SUCCESSOR GUARDIAN, may
24 appeal to the office of children and family services, which shall review
25 the case and give such person an opportunity for a fair hearing thereon
26 and render its decision within thirty days. All decisions of the office
27 of children and family services shall be binding upon the social
28 services district involved and shall be complied with by the social
29 services official thereof.

30 2. The only issues which may be raised in a fair hearing under this
31 section are: (a) whether the social services official has improperly
32 denied an application for payments under this title; (b) whether the
33 social services official has improperly discontinued payments under this
34 title; (c) whether the social services official has determined the
35 amount of the payments made or to be made in violation of the provisions
36 of this title or the regulations of the office of children and family
37 services promulgated hereunder; [or] (d) whether the social services
38 official has failed to determine an application under this title within
39 thirty days; OR (E) WHETHER THE SOCIAL SERVICES OFFICIAL HAS IMPROPERLY
40 DENIED AN APPLICATION TO NAME A PROSPECTIVE SUCCESSOR GUARDIAN IN THE
41 ORIGINAL KINSHIP GUARDIANSHIP ASSISTANCE AGREEMENT FOR PAYMENTS PURSUANT
42 TO THIS TITLE OR ANY AMENDMENTS THERETO.

43 S 8. Paragraph (c) of subdivision 7 of section 353.3 of the family
44 court act, as amended by section 6 of part G of chapter 58 of the laws
45 of 2010, is amended to read as follows:

46 (c) Where the respondent is placed pursuant to subdivision two or
47 three of this section, such report shall contain a plan for the release,
48 or conditional release (pursuant to section five hundred ten-a of the
49 executive law), of the respondent to the custody of his or her parent or
50 other person legally responsible, [to independent living] or to another
51 permanency alternative as provided in paragraph (d) of subdivision seven
52 of section 355.5 of this part. If the respondent is subject to article
53 sixty-five of the education law or elects to participate in an educa-
54 tional program leading to a high school diploma, such plan shall
55 include, but not be limited to, the steps that the agency with which the
56 respondent is placed has taken and will be taking to facilitate the

1 enrollment of the respondent in a school or educational program leading
2 to a high school diploma following release, or, if such release occurs
3 during the summer recess, upon the commencement of the next school term.
4 If the respondent is not subject to article sixty-five of the education
5 law and does not elect to participate in an educational program leading
6 to a high school diploma, such plan shall include, but not be limited
7 to, the steps that the agency with which the respondent is placed has
8 taken and will be taking to assist the respondent to become gainfully
9 employed or enrolled in a vocational program following release.

10 S 9. Paragraph (b) of subdivision 7 of section 355.5 of the family
11 court act, as added by chapter 7 of the laws of 1999, is amended to read
12 as follows:

13 (b) in the case of a respondent who has attained the age of [sixteen]
14 FOURTEEN, the services needed, if any, to assist the respondent to make
15 the transition from foster care to independent living;

16 S 10. Paragraph (d) of subdivision 7 of section 355.5 of the family
17 court act, as amended by chapter 181 of the laws of 2000, is amended to
18 read as follows:

19 (d) with regard to the completion of placement ordered by the court
20 pursuant to section 353.3 or 355.3 of this [article] PART: whether and
21 when the respondent: (i) will be returned to the parent; (ii) should be
22 placed for adoption with the local commissioner of social services
23 filing a petition for termination of parental rights; (iii) should be
24 referred for legal guardianship; (iv) should be placed permanently with
25 a fit and willing relative; or (v) should be placed in another planned
26 permanent living arrangement WITH A SIGNIFICANT CONNECTION TO AN ADULT
27 WILLING TO BE A PERMANENCY RESOURCE FOR THE RESPONDENT if THE RESPONDENT
28 IS AGE SIXTEEN OR OLDER AND (A) the office of children and family
29 services or the local commissioner of social services has documented to
30 the court [a]: (1) THE INTENSIVE, ONGOING, AND, AS OF THE DATE OF THE
31 HEARING, UNSUCCESSFUL EFFORTS MADE TO RETURN THE RESPONDENT HOME OR
32 SECURE A PLACEMENT FOR THE RESPONDENT WITH A FIT AND WILLING RELATIVE
33 INCLUDING ADULT SIBLINGS, A LEGAL GUARDIAN, OR AN ADOPTIVE PARENT,
34 INCLUDING THROUGH EFFORTS THAT UTILIZE SEARCH TECHNOLOGY INCLUDING
35 SOCIAL MEDIA TO FIND BIOLOGICAL FAMILY MEMBERS FOR CHILDREN, (2) THE
36 STEPS BEING TAKEN TO ENSURE THAT (I) THE RESPONDENT'S FOSTER FAMILY HOME
37 OR CHILD CARE FACILITY IS FOLLOWING THE REASONABLE AND PRUDENT PARENT
38 STANDARD IN ACCORDANCE WITH GUIDANCE PROVIDED BY THE UNITED STATES
39 DEPARTMENT OF HEALTH AND HUMAN SERVICES, AND (II) THE RESPONDENT HAS
40 REGULAR, ONGOING OPPORTUNITIES TO ENGAGE IN AGE OR DEVELOPMENTALLY
41 APPROPRIATE ACTIVITIES INCLUDING BY CONSULTING WITH THE RESPONDENT IN AN
42 AGE-APPROPRIATE MANNER ABOUT THE OPPORTUNITIES OF THE RESPONDENT TO
43 PARTICIPATE IN ACTIVITIES; AND (B) THE OFFICE OF CHILDREN AND FAMILY
44 SERVICES OR THE LOCAL COMMISSIONER OF SOCIAL SERVICES HAS DOCUMENTED TO
45 THE COURT AND THE COURT HAS DETERMINED THAT THERE ARE compelling
46 [reason] REASONS for determining that it [would] CONTINUES TO not be in
47 the best interest of the respondent to return home, be referred for
48 termination of parental rights and placed for adoption, placed with a
49 fit and willing relative, or placed with a legal guardian; and (C) THE
50 COURT HAS MADE A DETERMINATION EXPLAINING WHY, AS OF THE DATE OF THIS
51 HEARING, ANOTHER PLANNED LIVING ARRANGEMENT WITH A SIGNIFICANT
52 CONNECTION TO AN ADULT WILLING TO BE A PERMANENCY RESOURCE FOR THE
53 RESPONDENT IS THE BEST PERMANENCY PLAN FOR THE RESPONDENT; AND

54 S 11. Subdivision 8 of section 355.5 of the family court act, as added
55 by section 2 of part B of chapter 327 of the laws of 2007, is amended to
56 read as follows:

1 8. At the permanency hearing, the court shall consult with the
2 respondent in an age-appropriate manner regarding the permanency plan
3 for the respondent; PROVIDED, HOWEVER, THAT IF THE RESPONDENT IS AGE
4 SIXTEEN OR OLDER AND THE REQUESTED PERMANENCY PLAN FOR THE RESPONDENT IS
5 PLACEMENT IN ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT WITH A SIGNIF-
6 ICANT CONNECTION TO AN ADULT WILLING TO BE A PERMANENCY RESOURCE FOR THE
7 RESPONDENT, THE COURT MUST ASK THE RESPONDENT ABOUT THE DESIRED PERMAN-
8 ENCY OUTCOME FOR THE RESPONDENT.

9 S 12. Subparagraph (ii) of paragraph (a) of subdivision 2 of section
10 754 of the family court act, as amended by chapter 7 of the laws of
11 1999, is amended to read as follows:

12 (ii) in the case of a child who has attained the age of [sixteen]
13 FOURTEEN, the services needed, if any, to assist the child to make the
14 transition from foster care to independent living. Nothing in this
15 subdivision shall be construed to modify the standards for directing
16 detention set forth in section seven hundred thirty-nine of this arti-
17 cle.

18 S 13. The closing paragraph of paragraph (b) of subdivision 2 of
19 section 754 of the family court act, as added by chapter 7 of the laws
20 of 1999, is amended to read as follows:

21 If the court determines that reasonable efforts are not required
22 because of one of the grounds set forth above, a permanency hearing
23 shall be held within thirty days of the finding of the court that such
24 efforts are not required. At the permanency hearing, the court shall
25 determine the appropriateness of the permanency plan prepared by the
26 social services official which shall include whether and when the child:
27 (A) will be returned to the parent; (B) should be placed for adoption
28 with the social services official filing a petition for termination of
29 parental rights; (C) should be referred for legal guardianship; (D)
30 should be placed permanently with a fit and willing relative; or (E)
31 should be placed in another planned permanent living arrangement WITH A
32 SIGNIFICANT CONNECTION TO AN ADULT WILLING TO BE A PERMANENCY RESOURCE
33 FOR THE CHILD IF THE CHILD IS AGE SIXTEEN OR OLDER AND if the [social
34 services official has documented to the court a compelling reason for
35 determining that it would not be in the best interest of the child to
36 return home, be referred for termination of parental rights and placed
37 for adoption, placed with a fit and willing relative, or placed with a
38 legal guardian] REQUIREMENTS OF SUBPARAGRAPH (E) OF PARAGRAPH (IV) OF
39 SUBDIVISION (D) OF SECTION SEVEN HUNDRED FIFTY-SIX-A OF THIS PART HAVE
40 BEEN MET. The social services official shall thereafter make reasonable
41 efforts to place the child in a timely manner and to complete whatever
42 steps are necessary to finalize the permanent placement of the child as
43 set forth in the permanency plan approved by the court. If reasonable
44 efforts are determined by the court not to be required because of one of
45 the grounds set forth in this paragraph, the social services official
46 may file a petition for termination of parental rights in accordance
47 with section three hundred eighty-four-b of the social services law.

48 S 14. Paragraph (ii) of subdivision (d) of section 756-a of the family
49 court act, as amended by section 4 of part B of chapter 327 of the laws
50 of 2007, is amended to read as follows:

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

54 S 15. Paragraphs (iii) and (iv) of subdivision (d) of section 756-a of
55 the family court act, as amended by section 4 of part B of chapter 327
56 of the laws of 2007, are amended to read as follows:

1 (iii) in the case of a child placed outside New York state, whether
2 the out-of-state placement continues to be appropriate and in the best
3 interests of the child; [and]

4 (iv) whether and when the child: (A) will be returned to the parent;
5 (B) should be placed for adoption with the social services official
6 filing a petition for termination of parental rights; (C) should be
7 referred for legal guardianship; (D) should be placed permanently with a
8 fit and willing relative; or (E) should be placed in another planned
9 permanent living arrangement WITH A SIGNIFICANT CONNECTION TO AN ADULT
10 WILLING TO BE A PERMANENCY RESOURCE FOR THE CHILD if THE CHILD IS AGE
11 SIXTEEN OR OLDER AND (1) the social services official has documented to
12 the court [a]: (I) INTENSIVE, ONGOING, AND, AS OF THE DATE OF THE HEAR-
13 ING, UNSUCCESSFUL EFFORTS MADE BY THE SOCIAL SERVICES DISTRICT TO RETURN
14 THE CHILD HOME OR SECURE A PLACEMENT FOR THE CHILD WITH A FIT AND WILL-
15 ING RELATIVE INCLUDING ADULT SIBLINGS, A LEGAL GUARDIAN, OR AN ADOPTIVE
16 PARENT, INCLUDING THROUGH EFFORTS THAT UTILIZE SEARCH TECHNOLOGY INCLUD-
17 ING SOCIAL MEDIA TO FIND BIOLOGICAL FAMILY MEMBERS FOR CHILDREN, (II)
18 THE STEPS THE SOCIAL SERVICES DISTRICT IS TAKING TO ENSURE THAT (A) THE
19 CHILD'S FOSTER FAMILY HOME OR CHILD CARE FACILITY IS FOLLOWING THE
20 REASONABLE AND PRUDENT PARENT STANDARD IN ACCORDANCE WITH GUIDANCE
21 PROVIDED BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES,
22 AND (B) THE CHILD HAS REGULAR, ONGOING OPPORTUNITIES TO ENGAGE IN AGE OR
23 DEVELOPMENTALLY APPROPRIATE ACTIVITIES INCLUDING BY CONSULTING WITH THE
24 CHILD IN AN AGE-APPROPRIATE MANNER ABOUT THE OPPORTUNITIES OF THE CHILD
25 TO PARTICIPATE IN ACTIVITIES; AND (2) THE SOCIAL SERVICES DISTRICT HAS
26 DOCUMENTED TO THE COURT AND THE COURT HAS DETERMINED THAT THERE ARE
27 compelling [reason] REASONS for determining that it [would] CONTINUES TO
28 not be in the best interest of the child to return home, be referred for
29 termination of parental rights and placed for adoption, placed with a
30 fit and willing relative, or placed with a legal guardian; and (3) THE
31 COURT HAS MADE A DETERMINATION EXPLAINING WHY, AS OF THE DATE OF THE
32 HEARING, ANOTHER PLANNED LIVING ARRANGEMENT WITH A SIGNIFICANT
33 CONNECTION TO AN ADULT WILLING TO BE A PERMANENCY RESOURCE FOR THE CHILD
34 IS THE BEST PERMANENCY PLAN FOR THE CHILD; AND

35 (V) where the child will not be returned home, consideration of appro-
36 priate in-state and out-of-state placements.

37 S 16. Subdivision (d-1) of section 756-a of the family court act, as
38 added by section 4 of part B of chapter 327 of the laws of 2007, is
39 amended to read as follows:

40 (d-1) At the permanency hearing, the court shall consult with the
41 respondent in an age-appropriate manner regarding the permanency plan;
42 PROVIDED, HOWEVER, THAT IF THE RESPONDENT IS AGE SIXTEEN OR OLDER AND
43 THE REQUESTED PERMANENCY PLAN FOR THE RESPONDENT IS PLACEMENT IN ANOTHER
44 PLANNED PERMANENT LIVING ARRANGEMENT WITH A SIGNIFICANT CONNECTION TO AN
45 ADULT WILLING TO BE A PERMANENCY RESOURCE FOR THE RESPONDENT, THE COURT
46 MUST ASK THE RESPONDENT ABOUT THE DESIRED PERMANENCY OUTCOME FOR THE
47 RESPONDENT.

48 S 17. Paragraph (v) of subdivision (c) of section 1039-b of the family
49 court act, as amended by section 5 of part B of chapter 327 of the laws
50 of 2007, is amended to read as follows:

51 (v) should be placed in another planned permanent living arrangement
52 WITH A SIGNIFICANT CONNECTION TO AN ADULT WILLING TO BE A PERMANENCY
53 RESOURCE FOR THE CHILD IF THE CHILD IS AGE SIXTEEN OR OLDER AND if the
54 [social services official has documented to the court a compelling
55 reason for determining that it would not be in the best interests of the
56 child to return home, be referred for termination of parental rights and

1 placed for adoption, placed with a fit and willing relative, or placed
2 with a legal guardian] REQUIREMENTS OF CLAUSE (E) OF SUBPARAGRAPH (I) OF
3 PARAGRAPH TWO OF SUBDIVISION (D) OF SECTION ONE THOUSAND EIGHTY-NINE OF
4 THIS CHAPTER HAVE BEEN MET. The social services official shall there-
5 after make reasonable efforts to place the child in a timely manner,
6 including consideration of appropriate in-state and out-of-state place-
7 ments, and to complete whatever steps are necessary to finalize the
8 permanent placement of the child as set forth in the permanency plan
9 approved by the court. If reasonable efforts are determined by the court
10 not to be required because of one of the grounds set forth in this para-
11 graph, the social services official may file a petition for termination
12 of parental rights in accordance with section three hundred
13 eighty-four-b of the social services law.

14 S 18. Item (v) of clause 7 of subparagraph (A) of paragraph (i) of
15 subdivision (b) of section 1052 of the family court act, as amended by
16 section 7 of part B of chapter 327 of the laws of 2007, is amended to
17 read as follows:

18 (v) should be placed in another planned permanent living arrangement
19 that includes a significant connection to an adult [who is] willing to
20 be a permanency resource for the child, IF THE CHILD IS AGE SIXTEEN OR
21 OLDER AND if the [social services official has documented to the court a
22 compelling reason for determining that it would not be in the best
23 interest of the child to return home, be referred for termination of
24 parental rights and placed for adoption, placed with a fit and willing
25 relative, or placed with a legal guardian] REQUIREMENTS OF CLAUSE (E) OF
26 SUBPARAGRAPH (I) OF PARAGRAPH TWO OF SUBDIVISION (D) OF SECTION ONE
27 THOUSAND EIGHTY-NINE OF THE CHAPTER HAVE BEEN MET. The social services
28 official shall thereafter make reasonable efforts to place the child in
29 a timely manner, including consideration of appropriate in-state and
30 out-of-state placements, and to complete whatever steps are necessary to
31 finalize the permanent placement of the child as set forth in the
32 permanency plan approved by the court. If reasonable efforts are deter-
33 mined by the court not to be required because of one of the grounds set
34 forth in this paragraph, the social services official may file a peti-
35 tion for termination of parental rights in accordance with section three
36 hundred eighty-four-b of the social services law.

37 S 19. Subparagraph (v) of paragraph 1 of subdivision (c) of section
38 1089 of the family court act, as added by section 27 of part A of chap-
39 ter 3 of the laws of 2005, is amended to read as follows:

40 (v) placement in another planned permanent living arrangement that
41 includes a significant connection to an adult who is willing to be a
42 permanency resource for the child IF THE CHILD IS AGE SIXTEEN OR OLDER,
43 including documentation of: (A) INTENSIVE, ONGOING, AND, AS OF THE DATE
44 OF THE HEARING, UNSUCCESSFUL EFFORTS TO RETURN THE CHILD HOME OR SECURE
45 A PLACEMENT FOR THE CHILD WITH A FIT AND WILLING RELATIVE INCLUDING
46 ADULT SIBLINGS, A LEGAL GUARDIAN, OR AN ADOPTIVE PARENT, INCLUDING
47 THROUGH EFFORTS THAT UTILIZE SEARCH TECHNOLOGY INCLUDING SOCIAL MEDIA TO
48 FIND BIOLOGICAL FAMILY MEMBERS FOR CHILDREN, (B) THE STEPS BEING TAKEN
49 TO ENSURE THAT (I) THE CHILD'S FOSTER FAMILY HOME OR CHILD CARE FACILITY
50 IS FOLLOWING THE REASONABLE AND PRUDENT PARENT STANDARD IN ACCORDANCE
51 WITH THE GUIDANCE PROVIDED BY THE UNITED STATES DEPARTMENT OF HEALTH AND
52 HUMAN SERVICES, AND (II) THE CHILD HAS REGULAR, ONGOING OPPORTUNITIES TO
53 ENGAGE IN AGE OR DEVELOPMENTALLY APPROPRIATE ACTIVITIES INCLUDING BY
54 CONSULTING WITH THE CHILD IN AN AGE-APPROPRIATE MANNER ABOUT THE OPPOR-
55 TUNITIES OF THE CHILD TO PARTICIPATE IN ACTIVITIES, AND (C) the compel-
56 ling [reason] REASONS for determining that it [would] CONTINUES TO not

1 be in the best interests of the child to be returned home, placed for
2 adoption, placed with a legal guardian, or placed with a fit and willing
3 relative;

4 S 20. The opening paragraph of subdivision (d) of section 1089 of the
5 family court act, as amended by chapter 334 of the laws of 2009, is
6 amended to read as follows:

7 Evidence, court findings and order. The provisions of subdivisions (a)
8 and (c) of section one thousand forty-six of this act shall apply to all
9 proceedings under this article. THE PERMANENCY HEARING SHALL INCLUDE AN
10 AGE APPROPRIATE CONSULTATION WITH THE CHILD; PROVIDED, HOWEVER THAT IF
11 THE CHILD IS AGE SIXTEEN OR OLDER AND THE REQUESTED PERMANENCY PLAN FOR
12 THE CHILD IS PLACEMENT IN ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT
13 WITH A SIGNIFICANT CONNECTION TO AN ADULT WILLING TO BE A PERMANENCY
14 RESOURCE FOR THE CHILD, THE COURT MUST ASK THE CHILD ABOUT THE DESIRED
15 PERMANENCY OUTCOME FOR THE CHILD. At the conclusion of each permanency
16 hearing, the court shall, upon the proof adduced, [which shall include
17 age-appropriate consultation with the child who is the subject of the
18 permanency hearing,] and in accordance with the best interests and safe-
19 ty of the child, including whether the child would be at risk of abuse
20 or neglect if returned to the parent or other person legally responsi-
21 ble, determine and issue its findings, and enter an order of disposition
22 in writing:

23 S 21. Clause (E) of subparagraph (i) of paragraph 2 of subdivision (d)
24 of section 1089 of the family court act, as added by section 27 of part
25 A of chapter 3 of the laws of 2005, is amended to read as follows:

26 (E) placement in another planned permanent living arrangement that
27 includes a significant connection to an adult willing to be a permanency
28 resource for the child if the [local social services official has docu-
29 mented to] CHILD IS AGE SIXTEEN OR OLDER AND the court [a] HAS DETER-
30 MINED THAT AS OF THE DATE OF THE PERMANENCY HEARING, ANOTHER PLANNED
31 PERMANENCY LIVING ARRANGEMENT WITH A SIGNIFICANT CONNECTION TO AN ADULT
32 WILLING TO BE A PERMANENCY RESOURCE FOR THE CHILD IS THE BEST PERMANENCY
33 PLAN FOR THE CHILD AND THERE ARE compelling [reason] REASONS for deter-
34 mining that it [would] CONTINUES TO not be in the best interests of the
35 child to return home, be referred for termination of parental rights and
36 placed for adoption, placed with a fit and willing relative, or placed
37 with a legal guardian;

38 S 22. Subdivision 2 of section 4173 of the public health law, as
39 amended by chapter 644 of the laws of 1988, is amended to read as
40 follows:

41 2. A certified copy or certified transcript of a birth record shall be
42 issued only upon order of a court of competent jurisdiction or upon a
43 specific request therefor by the person, if eighteen years of age or
44 more, or by a parent or other lawful representative of the person to
45 whom the record of birth relates INCLUDING AN AUTHORIZED REPRESENTATIVE
46 OF THE OFFICE OF CHILDREN AND FAMILY SERVICES OR A LOCAL SOCIAL SERVICES
47 DISTRICT IF THE PERSON IS IN THE CARE AND CUSTODY OR CUSTODY AND GUARDI-
48 ANSHIP OF SUCH ENTITY.

49 S 23. Paragraph (b) of subdivision 1 of section 4174 of the public
50 health law, as amended by chapter 396 of the laws of 1989, is amended to
51 read as follows:

52 (b) issue certified copies or certified transcripts of birth certifi-
53 cates only (1) upon order of a court of competent jurisdiction, or (2)
54 upon specific request therefor by the person, if eighteen years of age
55 or more, or by a parent or other lawful representative of the person, to
56 whom the record of birth relates INCLUDING AUTHORIZED REPRESENTATIVES OF

1 A LOCAL SOCIAL SERVICES DISTRICT IF THE PERSON IS IN THE CARE AND CUSTO-
2 DY OR CUSTODY AND GUARDIANSHIP OF SUCH DISTRICT, or (3) upon specific
3 request therefor by a department of a state or the federal government of
4 the United States;

5 S 24. Subdivision 4 of section 4174 of the public health law, as
6 amended by section 132 of subpart B of part C of chapter 62 of the laws
7 of 2011, is amended to read as follows:

8 4. No fee shall be charged for a search, certification, certificate,
9 certified copy or certified transcript of a record to be used for school
10 entrance, employment certificate or for purposes of public relief or
11 when required by the veterans administration to be used in determining
12 the eligibility of any person to participate in the benefits made avail-
13 able by the veterans administration or when required by a board of
14 elections for the purposes of determining voter eligibility or when
15 requested by the department of corrections and community supervision or
16 a local correctional facility as defined in subdivision sixteen of
17 section two of the correction law for the purpose of providing a certi-
18 fied copy or certified transcript of birth to an inmate in anticipation
19 of such inmate's release from custody or when requested by the office of
20 children and family services or an authorized agency for the purpose of
21 providing a certified copy or certified transcript of birth to a youth
22 placed in the CARE AND custody OR CUSTODY AND GUARDIANSHIP of the local
23 commissioner of social services or the CARE AND custody OR CUSTODY AND
24 GUARDIANSHIP of the office of children and family services [pursuant to
25 article three of the family court act] in anticipation of such youth's
26 discharge from placement OR FOSTER CARE.

27 S 25. Subdivision 1 of section 837-e of the executive law, as amended
28 by chapter 690 of the laws of 1994, is amended to read as follows:

29 1. There is hereby established through electronic data processing and
30 related procedures, a statewide central register for missing children
31 which shall be compatible with the national crime information center
32 register maintained pursuant to the federal missing children act of
33 nineteen hundred eighty-two[, such missing]. AS USED IN THIS ARTICLE,
34 THE TERM MISSING child [hereinafter defined as] SHALL MEAN any person
35 under the age of eighteen years, OR ANY YOUTH, UNDER THE AGE OF TWENTY-
36 ONE YEARS, THAT THE OFFICE OF CHILDREN AND FAMILY SERVICES OR A LOCAL
37 DEPARTMENT OF SOCIAL SERVICES HAS RESPONSIBILITY FOR PLACEMENT, CARE, OR
38 SUPERVISION, OR WHO IS THE SUBJECT CHILD OF A CHILD PROTECTIVE INVESTI-
39 GATION, IS RECEIVING SERVICES UNDER SECTION 477 OF THE SOCIAL SECURITY
40 ACT, OR HAS RUN AWAY FROM FOSTER CARE, WHERE SUCH OFFICE OR DEPARTMENT
41 HAS REASONABLE CAUSE TO BELIEVE THAT SUCH YOUTH IS, OR IS AT RISK OF
42 BEING, A SEX TRAFFICKING VICTIM, WHO IS missing from his or her normal
43 and ordinary place of residence and whose whereabouts cannot be deter-
44 mined by a person responsible for the child's care and any child known
45 to have been taken, enticed or concealed from the custody of his or her
46 lawful guardian by a person who has no legal right to do so.

47 S 26. Severability. If any clause, sentence, paragraph, subdivision,
48 section or part contained in any part of this act shall be adjudged by
49 any court of competent jurisdiction to be invalid, such judgment shall
50 not affect, impair, or invalidate the remainder thereof, but shall be
51 confined in its operation to the clause, sentence, paragraph, subdivi-
52 sion, section or part contained in any part thereof directly involved in
53 the controversy in which such judgment shall have been rendered. It is
54 hereby declared to be the intent of the legislature that this act would
55 have been enacted even if such invalid provisions had not been included
56 herein.

1 S 27. This act shall take effect immediately, provided however that
2 sections eight through twenty-four of this act shall take effect Septem-
3 ber 1, 2015 and section twenty-five of this act shall take effect Janu-
4 ary 1, 2016.

5 PART M

6 Section 1. Notwithstanding any other provision of law, the housing
7 trust fund corporation may provide, for purposes of the rural rental
8 assistance program, a sum not to exceed twenty-one million six hundred
9 forty-two thousand dollars for the fiscal year ending March 31, 2016.
10 Notwithstanding any other provision of law, and subject to the approval
11 of the New York state director of the budget, the board of directors of
12 the state of New York mortgage agency shall authorize the transfer to
13 the housing trust fund corporation, for the purposes of reimbursing any
14 costs associated with rural rental assistance program contracts author-
15 ized by this section, a total sum not to exceed twenty-one million six
16 hundred forty-two thousand dollars, such transfer to be made from (i)
17 the special account of the mortgage insurance fund created pursuant to
18 section 2429-b of the public authorities law, in an amount not to exceed
19 the actual excess balance in the special account of the mortgage insur-
20 ance fund, as determined and certified by the state of New York mortgage
21 agency for the fiscal year 2014-2015 in accordance with section 2429-b
22 of the public authorities law, if any, and/or (ii) provided that the
23 reserves in the project pool insurance account of the mortgage insurance
24 fund created pursuant to section 2429-b of the public authorities law
25 are sufficient to attain and maintain the credit rating (as determined
26 by the state of New York mortgage agency) required to accomplish the
27 purposes of such account, the project pool insurance account of the
28 mortgage insurance fund, such transfer to be made as soon as practicable
29 but no later than June 30, 2015. Notwithstanding any other provision of
30 law, such funds may be used by the corporation in support of contracts
31 scheduled to expire in the fiscal year ending March 31, 2016 for as many
32 as 10 additional years; in support of contracts for new eligible
33 projects for a period not to exceed 5 years; and in support of contracts
34 which reach their 25 year maximum in and/or prior to the fiscal year
35 ending March 31, 2016 for an additional one year period.

36 S 2. Notwithstanding any other provision of law, the housing finance
37 agency may provide, for costs associated with the rehabilitation of
38 Mitchell Lama housing projects, a sum not to exceed forty-two million
39 dollars for the fiscal year ending March 31, 2016. Notwithstanding any
40 other provision of law, and provided that the reserves in the project
41 pool insurance account of the mortgage insurance fund created pursuant
42 to section 2429-b of the public authorities law are sufficient to attain
43 and maintain the credit rating (as determined by the state of New York
44 mortgage agency) required to accomplish the purposes of such account,
45 the board of directors of the state of New York mortgage agency shall
46 authorize the transfer from the project pool insurance account of the
47 mortgage insurance fund to the housing finance agency, for the purposes
48 of reimbursing any costs associated with Mitchell Lama housing projects
49 authorized by this section, a total sum not to exceed forty-two million
50 dollars as soon as practicable but no later than March 31, 2016.

51 S 3. Notwithstanding any other provision of law, the housing trust
52 fund corporation may provide, for purposes of the neighborhood preserva-
53 tion program, a sum not to exceed eight million four hundred seventy-
54 nine thousand dollars for the fiscal year ending March 31, 2016.

1 Notwithstanding any other provision of law, and subject to the approval
2 of the New York state director of the budget, the board of directors of
3 the state of New York mortgage agency shall authorize the transfer to
4 the housing trust fund corporation, for the purposes of reimbursing any
5 costs associated with neighborhood preservation program contracts
6 authorized by this section, a total sum not to exceed eight million four
7 hundred seventy-nine thousand dollars, such transfer to be made from (i)
8 the special account of the mortgage insurance fund created pursuant to
9 section 2429-b of the public authorities law, in an amount not to exceed
10 the actual excess balance in the special account of the mortgage insur-
11 ance fund, as determined and certified by the state of New York mortgage
12 agency for the fiscal year 2014-2015 in accordance with section 2429-b
13 of the public authorities law, if any, and/or (ii) provided that the
14 reserves in the project pool insurance account of the mortgage insurance
15 fund created pursuant to section 2429-b of the public authorities law
16 are sufficient to attain and maintain the credit rating (as determined
17 by the state of New York mortgage agency) required to accomplish the
18 purposes of such account, the project pool insurance account of the
19 mortgage insurance fund, such transfer to be made as soon as practicable
20 but no later than June 30, 2015.

21 S 4. Notwithstanding any other provision of law, the housing trust
22 fund corporation may provide, for purposes of the rural preservation
23 program, a sum not to exceed three million five hundred thirty-nine
24 thousand dollars for the fiscal year ending March 31, 2016. Notwith-
25 standing any other provision of law, and subject to the approval of the
26 New York state director of the budget, the board of directors of the
27 state of New York mortgage agency shall authorize the transfer to the
28 housing trust fund corporation, for the purposes of reimbursing any
29 costs associated with rural preservation program contracts authorized by
30 this section, a total sum not to exceed three million five hundred thir-
31 ty-nine thousand dollars, such transfer to be made from (i) the special
32 account of the mortgage insurance fund created pursuant to section
33 2429-b of the public authorities law, in an amount not to exceed the
34 actual excess balance in the special account of the mortgage insurance
35 fund, as determined and certified by the state of New York mortgage
36 agency for the fiscal year 2014-2015 in accordance with section 2429-b
37 of the public authorities law, if any, and/or (ii) provided that the
38 reserves in the project pool insurance account of the mortgage insurance
39 fund created pursuant to section 2429-b of the public authorities law
40 are sufficient to attain and maintain the credit rating (as determined
41 by the state of New York mortgage agency) required to accomplish the
42 purposes of such account, the project pool insurance account of the
43 mortgage insurance fund, such transfer to be made as soon as practicable
44 but no later than June 30, 2015.

45 S 5. Notwithstanding any other provision of law, the housing trust
46 fund corporation may provide, for purposes of the rural and urban commu-
47 nity investment fund program created pursuant to article XXVII of the
48 private housing finance law, a sum not to exceed seventeen million
49 dollars for the fiscal year ending March 31, 2016. Notwithstanding any
50 other provision of law, and provided that the reserves in the project
51 pool insurance account of the mortgage insurance fund created pursuant
52 to section 2429-b of the public authorities law are sufficient to attain
53 and maintain the credit rating (as determined by the state of New York
54 mortgage agency) required to accomplish the purposes of such account,
55 the board of directors of the state of New York mortgage agency shall
56 authorize the transfer from the project pool insurance account of the

1 mortgage insurance fund to the housing trust fund corporation, for the
2 purposes of reimbursing any costs associated with rural and urban commu-
3 nity investment fund program contracts authorized by this section, a
4 total sum not to exceed seventeen million dollars as soon as practicable
5 but not later than March 31, 2016.

6 S 6. Notwithstanding any other provision of law, the housing trust
7 fund corporation may provide, for the purposes of carrying out the
8 provisions of the low income housing trust fund program created pursuant
9 to article XVIII of the private housing finance law, a sum not to exceed
10 seven million five hundred thousand dollars for the fiscal year ending
11 March 31, 2016. Notwithstanding any other provision of law, and provided
12 that reserves in the project pool insurance account of the mortgage
13 insurance fund created pursuant to section 2429-b of the public authori-
14 ties law are sufficient to attain and maintain the credit rating (as
15 determined by the state of New York mortgage agency) required to accom-
16 plish the purposes of such account, the board of directors of the state
17 of New York mortgage agency shall authorize the transfer from the
18 project pool insurance account of the mortgage insurance fund to the
19 housing trust fund corporation, for the purposes of carrying out the
20 provisions of the low income housing trust fund program created pursuant
21 to article XVIII of the private housing finance law authorized by this
22 section, a total sum not to exceed seven million five hundred thousand
23 dollars as soon as practicable but no later than March 31, 2016.

24 S 7. Notwithstanding any other provision of law, the housing trust
25 fund corporation may provide, for purposes of the homes for working
26 families program for deposit in the housing trust fund created pursuant
27 to section 59-a of the private housing finance law and subject to the
28 provisions of article XVIII of the private housing finance law, a sum
29 not to exceed eight million five hundred thousand dollars for the fiscal
30 year ending March 31, 2016. Notwithstanding any other provision of law,
31 and provided that the reserves in the project pool insurance account of
32 the mortgage insurance fund created pursuant to section 2429-b of the
33 public authorities law are sufficient to attain and maintain the credit
34 rating (as determined by the state of New York mortgage agency) required
35 to accomplish the purposes of such account, the board of directors of
36 the state of New York mortgage agency shall authorize the transfer from
37 the project pool insurance account of the mortgage insurance fund to the
38 housing trust fund corporation, for the purposes of reimbursing any
39 costs associated with homes for working families program contracts
40 authorized by this section, a total sum not to exceed eight million five
41 hundred thousand dollars as soon as practicable but no later than March
42 31, 2016.

43 S 8. Notwithstanding any other provision of law, the homeless housing
44 and assistance corporation may provide, for purposes of the New York
45 state supportive housing program, the solutions to end homelessness
46 program or the operational support for AIDS housing program, or to qual-
47 ified grantees under those programs, in accordance with the requirements
48 of those programs, a sum not to exceed sixteen million three hundred
49 forty thousand dollars for the fiscal year ending March 31, 2016. The
50 homeless housing and assistance corporation may enter into an agreement
51 with the office of temporary and disability assistance to administer
52 such sum in accordance with the requirements of the programs. Notwith-
53 standing any other provision of law, and subject to the approval of the
54 director of the budget, the board of directors of the state of New York
55 mortgage agency shall authorize the transfer to the homeless housing and
56 assistance corporation, a total sum not to exceed sixteen million three

1 hundred forty thousand dollars, such transfer to be made from (i) the
2 special account of the mortgage insurance fund created pursuant to
3 section 2429-b of the public authorities law, in an amount not to exceed
4 the actual excess balance in the special account of the mortgage insur-
5 ance fund, as determined and certified by the state of New York mortgage
6 agency for the fiscal year 2014-2015 in accordance with section 2429-b
7 of the public authorities law, if any, and/or (ii) provided that the
8 reserves in the project pool insurance account of the mortgage insurance
9 fund created pursuant to section 2429-b of the public authorities law
10 are sufficient to attain and maintain the credit rating (as determined
11 by the state of New York mortgage agency) required to accomplish the
12 purposes of such account, the project pool insurance account of the
13 mortgage insurance fund, such transfer to be made as soon as practicable
14 but no later than March 31, 2016.

15 S 9. This act shall take effect immediately.

16 PART N

17 Section 1. Subdivision 1 of section 652 of the labor law, as amended
18 by section 1 of part P of chapter 57 of the laws of 2013, is amended to
19 read as follows:

20 1. Statutory. Every employer shall pay to each of its employees for
21 each hour worked a wage of not less than:

22 \$4.25 on and after April 1, 1991,

23 \$5.15 on and after March 31, 2000,

24 \$6.00 on and after January 1, 2005,

25 \$6.75 on and after January 1, 2006,

26 \$7.15 on and after January 1, 2007,

27 \$8.00 on and after December 31, 2013,

28 \$8.75 on and after December 31, 2014,

29 \$9.00 on and after December 31, 2015,

30 \$11.50 IN A CITY WITH A POPULATION IN EXCESS OF ONE MILLION AND \$10.50
31 IN THE REMAINDER OF THE STATE ON AND AFTER DECEMBER 31, 2016 or, if
32 greater, such other wage as may be established by federal law pursuant
33 to 29 U.S.C. section 206 or its successors
34 or such other wage as may be established in accordance with the
35 provisions of this article.

36 S 2. This act shall take effect immediately.

37 PART O

38 Section 1. The labor law is amended by adding a new section 202-m to
39 read as follows:

40 S 202-M. HEALTHCARE PROFESSIONALS WHO VOLUNTEER TO FIGHT THE EBOLA
41 VIRUS DISEASE OVERSEAS. 1. FINDINGS AND POLICY OF THE STATE. IT IS HERE-
42 BY FOUND AND DECLARED THAT THE EBOLA VIRUS DISEASE IS A RARE AND POTEN-
43 Tially DEADLY DISEASE CAUSED BY INFECTION WITH ONE OF FOUR EBOLA VIRUS
44 STRAINS KNOWN TO CAUSE DISEASE IN HUMANS, THAT THE WORLD HEALTH ORGAN-
45 IZATION HAS DECLARED THAT THE CURRENT EBOLA VIRUS DISEASE OUTBREAK IN
46 WEST AFRICA CONSTITUTES A PUBLIC HEALTH EMERGENCY OF INTERNATIONAL
47 CONCERN, AND THAT THE CENTERS FOR DISEASE CONTROL AND PREVENTION OF THE
48 UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES HAS REPORTED THAT
49 THE NUMBER OF FUTURE EBOLA VIRUS DISEASE CASES WILL REACH EXTRAORDINARY
50 LEVELS WITHOUT A SCALE-UP OF INTERVENTIONS. IT IS HEREBY DECLARED TO BE
51 THE POLICY OF THE STATE TO WORK WITH ITS INTERNATIONAL PARTNERS TO HELP
52 ERADICATE THE EBOLA VIRUS DISEASE BY SUPPORTING THE DEDICATED NEW YORK

1 STATE HEALTHCARE PROFESSIONALS WHO SEEK TO PROVIDE INVALUABLE HELP TO
2 THIS EFFORT.

3 2. BILL OF RIGHTS. A HEALTHCARE PROFESSIONAL WHO VOLUNTEERS TO FIGHT
4 EBOLA IS PROTECTED BY EXISTING STATE LAWS THAT PROHIBIT DISCRIMINATION
5 ON THE BASIS OF AN ACTUAL OR PERCEIVED DISABILITY. UPON RETURN FROM
6 FIGHTING EBOLA OVERSEAS, A HEALTHCARE PROFESSIONAL WILL BE PROVIDED WITH
7 A BILL OF RIGHTS OUTLINING THESE EXISTING ANTI-DISCRIMINATION LAWS. IN
8 ADDITION TO THESE EXISTING ANTI-DISCRIMINATION LAWS, AND IN ACCORDANCE
9 WITH THE PROVISIONS OF THIS SECTION, HEALTHCARE PROFESSIONALS SHALL HAVE
10 THE RIGHT TO SEEK A LEAVE OF ABSENCE TO VOLUNTEER TO FIGHT EBOLA OVER-
11 SEAS WITHOUT ADVERSE EMPLOYMENT CONSEQUENCES.

12 3. DEFINITIONS. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING TERMS
13 SHALL HAVE THE FOLLOWING MEANINGS:

14 (A) "EMPLOYEE" MEANS ANY INDIVIDUAL HEALTHCARE PROFESSIONAL WHO
15 PERFORMS SERVICES FOR HIRE FOR AN EMPLOYER BUT SHALL NOT INCLUDE AN
16 INDEPENDENT CONTRACTOR.

17 (B) "EMPLOYER" MEANS A PERSON OR ENTITY THAT EMPLOYS A HEALTHCARE
18 PROFESSIONAL AND INCLUDES AN INDIVIDUAL, CORPORATION, LIMITED LIABILITY
19 COMPANY, PARTNERSHIP, ASSOCIATION, NONPROFIT ORGANIZATION, GROUP OF
20 PERSONS, COUNTY, TOWN, CITY, SCHOOL DISTRICT, PUBLIC AUTHORITY, STATE
21 AGENCY, OR OTHER GOVERNMENTAL SUBDIVISION OF ANY KIND.

22 (C) "FIGHT EBOLA" MEANS TO SERVE AS A HEALTHCARE PROFESSIONAL IN A
23 COUNTRY THAT HAS BEEN CLASSIFIED AS HAVING WIDESPREAD TRANSMISSION OF
24 THE EBOLA VIRUS DISEASE BY THE CENTERS FOR DISEASE CONTROL AND
25 PREVENTION OF THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES.

26 (D) "HEALTHCARE PROFESSIONAL" MEANS:

27 (I) A PHYSICIAN LICENSED PURSUANT TO ARTICLE ONE HUNDRED THIRTY-ONE OF
28 THE EDUCATION LAW;

29 (II) A PHYSICIAN ASSISTANT LICENSED PURSUANT TO ARTICLE ONE HUNDRED
30 THIRTY-ONE-B OF THE EDUCATION LAW;

31 (III) A NURSE PRACTITIONER LICENSED PURSUANT TO ARTICLE ONE HUNDRED
32 THIRTY-NINE OF THE EDUCATION LAW;

33 (IV) A REGISTERED PROFESSIONAL NURSE LICENSED PURSUANT TO ARTICLE ONE
34 HUNDRED THIRTY-NINE OF THE EDUCATION LAW; AND

35 (V) OTHER HEALTHCARE PROFESSIONS AS ADDED BY THE COMMISSIONER.

36 (E) "LEAVE OF ABSENCE" MEANS TIME AWAY FROM WORK THAT IS EXCUSED. SUCH
37 TIME SHALL BE UNPAID, UNLESS THE EMPLOYEE REQUESTS THAT SUCH TIME, OR A
38 PORTION THEREOF, BE PAID PURSUANT TO A CHARGE AGAINST PAID LEAVE THAT
39 HAS ACCRUED TO SUCH EMPLOYEE.

40 (F) "UNDUE HARDSHIP" MEANS AN ABSENCE REQUIRING SIGNIFICANT EXPENSE OR
41 DIFFICULTY, INCLUDING A SIGNIFICANT INTERFERENCE WITH THE SAFE OR EFFI-
42 CIENT OPERATION OF THE WORKPLACE OR A VIOLATION OF A BONA FIDE SENIORITY
43 SYSTEM. FACTORS TO BE CONSIDERED IN DETERMINING WHETHER AN ABSENCE
44 CONSTITUTES AN UNDUE ECONOMIC HARDSHIP SHALL INCLUDE, BUT NOT BE LIMITED
45 TO THE IDENTIFIABLE COST OF THE ABSENCE, INCLUDING THE COSTS OF LOSS OF
46 PRODUCTIVITY AND OF RETRAINING, HIRING OR TRANSFER OF EMPLOYEES, IN
47 RELATION TO THE SIZE AND OPERATING COSTS OF THE EMPLOYER AND OTHER KNOWN
48 OR REASONABLY FORESEEABLE ABSENCES, THE OVERALL FINANCIAL RESOURCES OF
49 THE EMPLOYER, THE NUMBER OF EMPLOYEES AT THE EMPLOYEE'S FACILITY, THE
50 EMPLOYEE'S ROLE WITHIN THE FACILITY, THE TYPE OF OPERATION OF THE
51 EMPLOYER, INCLUDING THE STRUCTURE AND FUNCTIONS OF THE EMPLOYEE WITHIN
52 IT, THE IMPACT ON THE OPERATION OF THE EMPLOYER, AND THE EMPLOYER'S
53 ABILITY TO HIRE TEMPORARY OR NEW EMPLOYEES WITH THE REQUISITE SKILLS TO
54 ENSURE THE EMPLOYER'S CONTINUED OPERATIONS.

55 (G) "VOLUNTEER" MEANS TO FREELY OFFER SERVICES TO FIGHT EBOLA AND
56 INCLUDES SUCH SERVICES WITHOUT REGARD TO WHETHER THEY ARE COMPENSATED.

1 4. LEAVE OF ABSENCE BY HEALTHCARE PROFESSIONALS WHO VOLUNTEER TO FIGHT
2 EBOLA. AN EMPLOYEE COVERED BY THIS SECTION HAS THE RIGHT TO REQUEST A
3 LEAVE OF ABSENCE TO VOLUNTEER TO FIGHT EBOLA FROM HIS OR HER EMPLOYER AS
4 HEREIN PROVIDED. AN EMPLOYER SHALL GRANT SUCH REQUEST FOR A LEAVE OF
5 ABSENCE TO VOLUNTEER TO FIGHT EBOLA, UNLESS THE EMPLOYEE'S ABSENCE
6 IMPOSES AN UNDUE HARDSHIP ON THE EMPLOYER'S BUSINESS OR OPERATIONS.

7 5. DURATION OF THE LEAVE OF ABSENCE. (A) THE DURATION OF THE LEAVE OF
8 ABSENCE SHALL BE THE FULL TIME PERIOD REQUESTED BY THE EMPLOYEE, WHICH
9 SHALL INCLUDE TRAVEL TIME, SERVICE VOLUNTEERING TO FIGHT EBOLA, AND A
10 REASONABLE PERIOD OF REST AND RECOVERY. IF THE EMPLOYER DETERMINES THAT
11 AN ABSENCE FOR THAT FULL PERIOD OF TIME WOULD CONSTITUTE AN UNDUE HARD-
12 SHIP, THE EMPLOYER AND EMPLOYEE SHALL WORK TOGETHER TO DETERMINE WHETHER
13 THERE IS A SHORTER PERIOD OF TIME THAT WOULD NOT CONSTITUTE AN UNDUE
14 HARDSHIP THAT WOULD STILL ALLOW THE EMPLOYEE TO VOLUNTEER TO FIGHT
15 EBOLA. IF THE EMPLOYER AND EMPLOYEE AGREE ON A SHORTER PERIOD, THAT
16 SHALL BE THE DURATION OF THE LEAVE OF ABSENCE UNDER THIS PARAGRAPH.
17 OTHERWISE, IF THEY ARE UNABLE TO AGREE ON A SHORTER PERIOD, THE LEAVE OF
18 ABSENCE SHALL BE DEEMED DENIED.

19 (B) THE DURATION OF LEAVE OF ABSENCE, AS DETERMINED PURSUANT TO PARA-
20 GRAPH (A) OF THIS SUBDIVISION SHALL BE EXTENDED TO INCLUDE ANY ADDI-
21 TIONAL PERIOD OF TIME THAT THE EMPLOYEE BECOMES SUBJECT TO A MANDATORY
22 QUARANTINE PERIOD IMPOSED AT THE END OF THE EMPLOYEE'S VOLUNTARY SERVICE
23 TO FIGHT EBOLA.

24 6. LEAVE OF ABSENCE REQUEST. AN EMPLOYEE'S REQUEST FOR A LEAVE OF
25 ABSENCE PURSUANT TO THIS SECTION SHALL BE MADE, IN WRITING, TO HIS OR
26 HER EMPLOYER AT LEAST TWENTY-ONE DAYS PRIOR TO THE EMPLOYEE'S PROPOSED
27 START DATE OF SUCH LEAVE OF ABSENCE. THE EMPLOYEE'S REQUEST SHALL, AT A
28 MINIMUM:

29 (A) IDENTIFY THE DURATION OF LEAVE SOUGHT, INCLUDING THE ANTICIPATED
30 START AND END DATES OF THE VOLUNTEER SERVICE, TOGETHER WITH ANY ADDI-
31 TIONAL TIME SOUGHT FOR TRANSPORTATION AND FOR REST PRIOR TO RETURNING TO
32 WORK;

33 (B) IDENTIFY THE SERVICE TO BE VOLUNTEERED, INCLUDING THE COUNTRY AND
34 THE ORGANIZATION WITH WHOM THE EMPLOYEE WILL BE VOLUNTEERING; AND

35 (C) CERTIFY THAT SUCH SERVICE CONSTITUTES VOLUNTEERING TO FIGHT EBOLA,
36 WITHIN THE MEANING OF THIS SECTION.

37 7. NOTARIZATION. UPON THE EMPLOYER'S REQUEST, AN EMPLOYEE WHO HAS BEEN
38 GRANTED A LEAVE OF ABSENCE IN ACCORDANCE WITH THIS SECTION SHALL PROVIDE
39 HIS OR HER EMPLOYER WITH A NOTARIZED STATEMENT FROM THE ORGANIZATION OR
40 ENTITY WITH WHOM THE EMPLOYEE WILL BE VOLUNTEERING. THE STATEMENT SHALL:

41 (A) IDENTIFY THE ANTICIPATED START AND END DATES OF THE VOLUNTEER
42 SERVICE AND THE TERMS OF SERVICE, INCLUDING ANY COMPENSATION AND BENE-
43 FITS TO BE PROVIDED;

44 (B) IDENTIFY THE SERVICE TO BE VOLUNTEERED, INCLUDING THE COUNTRY AND
45 THE ORGANIZATION WITH WHOM THE EMPLOYEE WILL BE VOLUNTEERING; AND

46 (C) CERTIFY THAT SUCH SERVICE CONSTITUTES VOLUNTEERING TO FIGHT EBOLA,
47 WITHIN THE MEANING OF THIS SECTION.

48 8. BENEFITS DURING LEAVE. EMPLOYEES WHO TAKE LEAVE UNDER THIS SECTION
49 SHALL BE RESTORED AT THE COMPLETION OF SUCH LEAVE TO THE SAME OR COMPA-
50 RABLE POSITION WITHOUT LOSS OF SENIORITY, SHALL BE ENTITLED TO PARTIC-
51 IPATE IN INSURANCE OR OTHER BENEFITS OFFERED BY THE EMPLOYER PURSUANT TO
52 ESTABLISHED RULES AND PRACTICES RELATING TO EMPLOYEES ON FURLOUGH OR
53 LEAVE OF ABSENCE IN EFFECT WITH THE EMPLOYER AT THE TIME SUCH EMPLOYEE
54 MADE REQUEST TO TAKE LEAVE OF ABSENCE AS PROVIDED IN THIS SECTION.

1 9. RETALIATION PROHIBITED. AN EMPLOYER SHALL NOT RETALIATE AGAINST AN
2 EMPLOYEE FOR REQUESTING OR OBTAINING A LEAVE OF ABSENCE AS PROVIDED BY
3 THIS SECTION.

4 10. RETENTION OF BENEFITS. THE PROVISIONS OF THIS SECTION SHALL NOT
5 AFFECT OR PREVENT AN EMPLOYER FROM PROVIDING LEAVE IN ADDITION TO LEAVE
6 ALLOWED UNDER ANY OTHER PROVISION OF LAW. THE PROVISIONS OF THIS SECTION
7 SHALL NOT AFFECT AN EMPLOYEE'S RIGHTS WITH RESPECT TO ANY OTHER EMPLOYEE
8 BENEFIT PROVIDED BY LAW, RULE OR REGULATION.

9 11. COLLECTIVE BARGAINING. NOTHING SET FORTH IN THIS SECTION SHALL BE
10 CONSTRUED TO IMPEDE, INFRINGE, OR DIMINISH THE RIGHTS AND BENEFITS THAT
11 ACCRUE TO EMPLOYEES THROUGH BONA FIDE COLLECTIVE BARGAINING AGREEMENTS,
12 OR OTHERWISE DIMINISH THE INTEGRITY OF AN EXISTING COLLECTIVE BARGAINING
13 AGREEMENT.

14 12. REVIEW OF DENIAL OF LEAVE. AN EMPLOYEE WHOSE REQUEST FOR LEAVE
15 UNDER THIS SECTION HAS BEEN DENIED MAY PETITION THE COMMISSIONER FOR
16 REVIEW OF SUCH DENIAL, WHICH REVIEW SHALL BE EXPEDITIOUSLY CONDUCTED.

17 13. RULES AND REGULATIONS. THE COMMISSIONER MAY PROMULGATE SUCH RULES
18 AND REGULATIONS AS MAY BE NECESSARY FOR THE PURPOSES OF CARRYING OUT THE
19 PROVISIONS OF THIS SECTION.

20 S 2. This act shall take effect on the thirtieth day after it shall
21 have become a law; provided, however, that subdivision four of section
22 202-m of the labor law, as added by section one of this act, shall
23 expire and be deemed repealed December 1, 2016, and provided, further
24 that this act shall expire and be deemed repealed December 1, 2017.

25 PART P

26 Section 1. Subdivision 3 of section 204 of the labor law, as amended
27 by section 2 of part A of chapter 57 of the laws of 2004, is amended to
28 read as follows:

29 3. Fees. A fee of two hundred dollars shall be charged the owner or
30 lessee of each boiler internally inspected and seventy-five dollars for
31 each boiler externally inspected by the commissioner, provided however,
32 that the external inspection of multiple boilers connected to a common
33 header or of separate systems owned or leased by the same party and
34 located in the same building, with a combined input which is 300,000
35 BTU/hour or less, shall be charged a single inspection fee, and further
36 provided that, not more than two hundred seventy-five dollars shall be
37 charged for the inspection of any one boiler for any year; except that
38 [in the case] NO FEE SHALL BE CHARGED FOR INTERNAL OR EXTERNAL
39 INSPECTIONS BY THE COMMISSIONER of an antique steam engine maintained as
40 a hobby and displayed at agricultural fairs and other gatherings[, a fee
41 of twenty-five dollars only shall be charged the owner or lessee thereof
42 for each boiler internally inspected by the commissioner and a fee of
43 twenty-five dollars only shall be charged for each boiler externally
44 inspected by the commissioner, but not more than fifty dollars shall be
45 charged for the inspection of any one such boiler for any year, and
46 except that in the case] OR of a miniature boiler [a fee of fifty
47 dollars only shall be charged for the inspection of any one such boiler
48 for any year. Such fee shall be payable within thirty days after
49 inspection].

50 S 2. Subdivision 1 of section 212-b of the labor law, as amended by
51 section 6 of part A of chapter 57 of the laws of 2004, is amended to
52 read as follows:

53 1. No person shall operate a farm labor camp commissary, or cause or
54 allow the operation of a farm labor camp commissary, without a permit

1 from the commissioner to do so, and unless such permit is in full force
2 and effect. Application for such permit shall be made on a form
3 prescribed by the commissioner [and shall be accompanied by a non-re-
4 fundable fee of forty dollars].

5 S 3. Subdivision 1 of section 74 of chapter 784 of the laws of 1951,
6 constituting the New York state defense emergency act, as amended by
7 section 12 of part A of chapter 57 of the laws of 2004, is amended to
8 read as follows:

9 1. Employers in defense work may make applications for dispensation
10 pursuant to this article in such manner and upon such forms as the
11 commissioner of labor shall prescribe. [Each application shall be
12 accompanied by a non-refundable fee of forty dollars payable to the
13 commissioner.] The commissioner of labor may, after hearing upon due
14 notice, revoke dispensations not necessary to maintain maximum possible
15 production in defense work.

16 S 4. Subdivision 5 of section 161 of the labor law, as amended by
17 section 1 of part A of chapter 57 of the laws of 2004, is amended to
18 read as follows:

19 5. If there shall be practical difficulties or unnecessary hardship in
20 carrying out the provisions of this section or the rules promulgated
21 hereunder, the commissioner may make a variation therefrom if the spirit
22 of the act be observed and substantial justice done. Such variation
23 shall describe the conditions under which it shall be permitted and
24 shall apply to substantially similar conditions. A properly indexed
25 record of variations shall be kept by the department. [Each application
26 for a variation shall be accompanied by a non-refundable fee of forty
27 dollars.]

28 S 5. Paragraph b of subdivision 4 of section 212-a of the labor law,
29 as amended by section 5 of part A of chapter 57 of the laws of 2004, is
30 amended to read as follows:

31 b. The application for such registration shall be made on a form
32 prescribed by the commissioner, shall contain information on wages,
33 working conditions, housing, and on such other matters as the commis-
34 sioner may prescribe [and shall be accompanied by a non-refundable fee
35 of forty dollars]. Copies of the application, or summaries thereof
36 containing the above information, shall be made available by the commis-
37 sioner to the registrant, and the registrant shall give a copy to each
38 worker, preferably at the time of recruitment, but in no event later
39 than the time of arrival in this state. A copy shall also be kept posted
40 at all times in a conspicuous place in any camp in which such workers
41 are housed.

42 S 6. Paragraph b of subdivision 2 of section 212-a of the labor law,
43 as amended by section 4 of part A of chapter 57 of the laws of 2004, is
44 amended to read as follows:

45 b. The application for such certificate of registration shall be made
46 on a form prescribed by the commissioner, shall contain information on
47 wages, working conditions, housing and on such other matters as the
48 commissioner may prescribe [and shall be accompanied by a non-refundable
49 fee of two hundred dollars]. It shall be countersigned by each grower or
50 processor who utilizes the services of such farm labor contractor, as
51 provided in subdivision three of this section. Copies of the applica-
52 tion, or summaries thereof containing the above information, shall be
53 made available by the commissioner to the registrant, and the registrant
54 shall give a copy to each worker, preferably at the time of recruitment,
55 but in no event later than the time of arrival in this state if the
56 worker comes from outside of the state, or the time of commencement of

work if the worker does not come from outside of the state. A copy shall also be kept posted at all times in a conspicuous place in any camp in which such workers are housed. Each applicant shall submit his OR HER fingerprints with his OR HER application for a certificate of registration. Such fingerprints shall be submitted to the division of criminal justice services for a state criminal history record check, as defined in subdivision one of section three thousand thirty-five of the education law, and may be submitted to the federal bureau of investigation for a national criminal history record check.

S 7. Subdivision 2 of section 352 of the labor law is REPEALED.

S 8. Subdivisions 5 and 6 of section 919 of the labor law, as added by chapter 565 of the laws of 2002, are amended to read as follows:

5. A professional employer organization shall be exempt from the registration requirements specified in this section [and from the fees specified in section nine hundred twenty of this article] if such professional employer organization:

(a) submits a properly executed request for registration and exemption on a form provided by the department;

(b) is domiciled outside this state and is licensed or registered as a professional employer organization in another state that has the same or greater requirements as this article;

(c) does not maintain an office in this state or solicit in any manner clients located or domiciled within this state; and

(d) does not have more than twenty-five worksite employees in this state.

6. The registration and exemption of a professional employer organization under subdivision five of this section shall be valid for one year. [Each de minimis registrant shall pay to the department upon initial registration, and upon each annual renewal thereafter, a registration fee in the amount of two hundred fifty dollars.]

S 9. Section 920 of the labor law is REPEALED.

S 10. Subdivision 4 of section 134 of the workers' compensation law, as amended by chapter 6 of the laws of 2007, is amended to read as follows:

4. Employers required to participate in the workplace safety and loss prevention program established by this section shall be permitted to utilize the services of either the department of labor, or a private safety and loss consultant which has been certified by the department of labor [and has paid the appropriate certification fee prescribed by rules and regulations promulgated under this section]. Private safety and loss consultants may charge employers a fee for their services[, and where employers elect to have the services provided by the department of labor, they shall pay for such services in accordance with fee schedules established by the department of labor's rules and regulations].

S 11. Subdivision 5 of section 134 of the workers' compensation law is REPEALED.

S 12. Subdivision 10 of section 134 of the workers' compensation law, as amended by chapter 6 of the laws of 2007 and as further amended by section 104 of part A of chapter 62 of the laws of 2011, is amended to read as follows:

10. The commissioner of labor, in consultation with the superintendent of financial services, shall promulgate rules and regulations for the certification of safety and loss management specialists. Such rules and regulations shall include provisions that outline the minimum qualifications for safety and loss management specialists, procedures for certification, causes for revocation or suspension of certification and appro-

private administrative and judicial review procedures, AND violations and penalties for misuse of certification by certified safety and loss management specialists[, and fees for certificate and certificate renewal].

S 13. Subdivision 2 of section 345-a of the labor law, as added by chapter 503 of the laws of 1998, is amended to read as follows:

2. For the purposes of this section, the exercise of reasonable care or diligence by a manufacturer or contractor shall be presumed if, prior to the execution of such contract or subcontract, and annually thereafter, such manufacturer or contractor receives from the department written assurance of compliance with section three hundred forty-one of this article. [The department may charge a reasonable fee for providing such assurance to a manufacturer or contractor.]

S 14. Subdivisions 6 and 7 of section 819 of the labor law are REPEALED and subdivision 5, as amended by chapter 319 of the laws of 2004, is amended to read as follows:

5. The entity possesses a tag issued by the department with an identification number affixed and identifying each machine[;].

S 15. Section 204-a of the labor law is REPEALED.

S 16. This act shall take effect immediately.

PART Q

Section 1. Subdivision 2 of section 355 of the education law is amended by adding a new paragraph f-1 to read as follows:

F-1. NOTWITHSTANDING ANY LAW, RULE OR REGULATION TO THE CONTRARY, THE STATE UNIVERSITY OF NEW YORK BOARD OF TRUSTEES SHALL PASS A RESOLUTION BY DECEMBER THIRTY-FIRST, TWO THOUSAND FIFTEEN, PROVIDING THAT STUDENTS ENROLLED IN AN ACADEMIC PROGRAM OF THE STATE UNIVERSITY OF NEW YORK SHALL BE REQUIRED TO PARTICIPATE IN AN APPROVED EXPERIENTIAL OR APPLIED LEARNING ACTIVITY AS A DEGREE REQUIREMENT. SUCH RESOLUTION SHALL DEFINE APPROVED EXPERIENTIAL OR APPLIED LEARNING ACTIVITIES, METHODS OF FACULTY OVERSIGHT AND ASSESSMENT, RESPONSIBILITIES OF BUSINESS, CORPORATE, NON-PROFIT OR OTHER ENTITIES HOSTING STUDENTS, AND A PLAN FOR FULL IMPLEMENTATION OF THIS REQUIREMENT.

S 2. Section 6206 of the education law is amended by adding a new subdivision 18 to read as follows:

18. NOTWITHSTANDING ANY LAW, RULE OR REGULATION TO THE CONTRARY, THE CITY UNIVERSITY OF NEW YORK BOARD OF TRUSTEES SHALL PASS A RESOLUTION BY DECEMBER THIRTY-FIRST, TWO THOUSAND FIFTEEN, PROVIDING THAT STUDENTS ENROLLED IN AN ACADEMIC PROGRAM OF THE CITY UNIVERSITY OF NEW YORK SHALL BE REQUIRED TO PARTICIPATE IN AN APPROVED EXPERIENTIAL OR APPLIED LEARNING ACTIVITY AS A DEGREE REQUIREMENT. SUCH RESOLUTION SHALL DEFINE APPROVED EXPERIENTIAL OR APPLIED LEARNING ACTIVITIES, METHODS OF FACULTY OVERSIGHT AND ASSESSMENT, RESPONSIBILITIES OF BUSINESS, CORPORATE, NON-PROFIT OR OTHER ENTITIES HOSTING STUDENTS, AND A PLAN FOR FULL IMPLEMENTATION OF THIS REQUIREMENT.

S 3. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2015.

S 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of

1 the legislature that this act would have been enacted even if such
2 invalid provisions had not been included herein.
3 S 3. This act shall take effect immediately provided, however, that
4 the applicable effective date of Parts A through Q of this act shall be
5 as specifically set forth in the last section of such Parts.