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I N A S S E M B L Y

January 18, 2018

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the criminal procedure law, in relation to time limits for a speedy trial (Part A); intentionally omitted (Part B); to amend the criminal procedure law, in relation to the issuance of securing orders and in relation to making conforming changes (Part C); to amend the criminal procedure law and the penal law, in relation to establishing new criminal discovery rules; and to repeal article 240 of the criminal procedure law relating thereto (Part D); to amend the civil practice law and rules, the county law and the general municipal law, in relation to restricting forfeiture actions and creating greater accountability for seized assets; and to amend the criminal procedure law and the penal law, in relation to reporting certain demographic data (Part E); to amend part H of chapter 503 of the laws of 2009 relating to the disposition of monies recovered by county district attorneys before the filing of an accusatory instrument, in relation to the effectiveness thereof (Part F); to amend the correction law, in relation to eliminating reimbursements to counties for personal service expenses related to the transportation of state ready inmates (Part G); to amend the correction law, in relation to programmatic accomplishments for merit and limited credit time (Part H); to repeal subdivision 9 of section 201 of the correction law, in relation to supervision fees (Part I); to authorize two pilot temporary release programs for certain inmates whose offenses and disciplinary records would render them eligible to receive a limited credit time allowance (Part J); to amend the banking law, in relation to licensing considerations for check cashers (Subpart A); intentionally omitted (Subpart B); to amend the executive law, in relation to licensing considerations for bingo suppliers (Subpart C); to amend the executive law, in relation to licensing considerations for notary publics (Subpart D); to amend the general municipal law, in relation to licensing consider-

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

ations for suppliers of games of chance, for games of chance licensees, for bingo licensees, and for lessors of premises to bingo licensees (Subpart E); to amend the insurance law, in relation to licensing considerations for insurer adjusters and for employment with insurance adjusters; and to repeal certain provisions of such law relating thereto (Subpart F); to amend the real property law, in relation to licensing considerations for real estate brokers or real estate salesmen (Subpart G); to amend the social services law, in relation to participation as employer in subsidized employer programs (Subpart H); and to amend the vehicle and traffic law, in relation to eligibility for employment by a driver's school (Subpart I)(Part K); to amend the executive law, in relation to allowing for geriatric parole (Part L); to amend the tax law, in relation to suspending the transfer of monies into the emergency services revolving loan fund from the public safety communications account (Part M); intentionally omitted (Part N); intentionally omitted (Part O); to amend the criminal procedure law, in relation to the statute of limitations in criminal prosecution of a sexual offense committed against a child; to amend the civil practice law and rules, in relation to the statute of limitations for civil actions related to a sexual offense committed against a child, reviving such actions otherwise barred by the existing statute of limitations and granting trial preference to such actions; to amend the general municipal law, in relation to providing that the notice of claim provisions shall not apply to such actions; to amend the court of claims act, in relation to providing that the notice of intention to file provisions shall not apply to such actions; to amend the education law, in relation to providing that the notice of claim provisions shall not apply to such actions; and to amend the judiciary law, in relation to judicial training relating to sexual abuse of minors and rules reviving civil actions relating to sexual offenses committed against children (Part P); intentionally omitted (Part Q); intentionally omitted (Part R); intentionally omitted (Part S); to amend chapter 303 of the laws of 1988 relating to the extension of the state commission on the restoration of the capitol, in relation to extending such provisions for an additional five years (Part T); intentionally omitted (Part U); intentionally omitted (Part V); intentionally omitted (Part W); to amend the retirement and social security law and the state finance law, in relation to enacting the New York state secure choice savings program act (Part X); intentionally omitted (Part Y); intentionally omitted (Part Z); intentionally omitted (Part AA); intentionally omitted (Part BB); intentionally omitted (Part CC); to amend the uniform justice court act, in relation to the election of one or more town justices for two or more adjacent towns (Subpart A); intentionally omitted (Subpart B) (Part DD); to amend the general municipal law, in relation to county-wide shared services panels; and providing for the repeal of such provisions upon expiration thereof (Part EE); to amend the public authorities law, in relation to the town of Islip resource recovery agency (Part FF); to provide for the administration of certain funds and accounts related to the 2018-19 budget and authorizing certain payments and transfers; to amend the state finance law, in relation to the debt reduction reserve fund and to payments, transfers and deposits; to amend the New York state urban development corporation act, in relation to funding project costs undertaken by non-public schools; to amend the New York state urban development corporation act, in relation to funding project costs for certain capital projects; to amend chapter 389 of

the laws of 1997, relating to the financing of the correctional facilities improvement fund and the youth facility improvement fund, in relation to the issuance of bonds; to amend the private housing finance law, in relation to housing program bonds and notes; to amend chapter 329 of the laws of 1991, amending the state finance law and other laws relating to the establishment of the dedicated highway and bridge trust fund, in relation to the issuance of bonds; to amend the public authorities law, in relation to the issuance of bonds by the dormitory authority; to amend chapter 61 of the laws of 2005 relating to providing for the administration of certain funds and accounts related to the 2005-2006 budget, in relation to issuance of bonds by the urban development corporation; to amend the New York state urban development corporation act, in relation to the issuance of bonds; to amend the public authorities law, in relation to the state environmental infrastructure projects; to amend chapter 81 of the laws of 2002, relating to providing for the administration of certain funds and accounts related to the 2002-2003 budget, in relation to increasing the aggregate amount of bonds to be issued by the New York state urban development corporation; to amend the public authorities law, in relation to financing of peace bridge and transportation capital projects; to amend the public authorities law, in relation to dormitories at certain educational institutions other than state operated institutions and statutory or contract colleges under the jurisdiction of the state university of New York; to amend the New York state medical care facilities finance agency act, in relation to bonds and mental health facilities improvement notes; to amend chapter 61 of the laws of 2005, relating to providing for the administration of certain funds and accounts related to the 2005-2006 budget, in relation to increasing the bonding limit for certain public protection facilities; to amend chapter 59 of the laws of 2017 relating to providing for the administration of certain funds and accounts related to the 2017-18 budget and authorizing certain payments and transfers, in relation to the effectiveness thereof; to amend chapter 63 of the laws of 2005, relating to the composition and responsibilities of the New York state higher education capital matching grant board, in relation to increasing the amount of authorized matching capital grants; to amend the public authorities law, in relation to increasing the amount of bonds authorized to be issued; to amend the facilities development corporation act, in relation to authorizing the issuance of bonds in relation to grants made to voluntary agencies; and providing for the repeal of certain provisions upon expiration thereof (Part GG); intentionally omitted (Part HH); intentionally omitted (Part II); to amend the penal law, in relation to establishing incapacity to consent when a person is under arrest, in detention or otherwise in actual custody (Part JJ); intentionally omitted (Part KK); to amend the public authorities law, in relation to authorizing the dormitory authority to construct and finance certain juvenile detention facilities (Part LL); to amend the public service law, in relation to creating the state office of the utility consumer advocate (Part MM); to amend the public service law, in relation to utility intervenor reimbursement; and to amend the state finance law, in relation to establishing the utility intervenor account (Part NN); to amend the county law, in relation to plans for representation of persons accused of a crime or certain parties in family court or surrogate's court (Part OO); to amend the state finance law, in relation to the cost effectiveness of consultant contracts by state agencies (Part PP); to amend the criminal procedure

law and the judiciary law, in relation to functions of the chief administrator of the courts; and to amend the executive law, in relation to reporting requirements (Part QQ); to amend the criminal procedure law, in relation to allowing a court to waive certain surcharges and fees; and to repeal certain provisions of the penal law relating thereto (Part RR); to amend the executive law, in relation to requiring employers to make a conditional offer of employment before inquiring about any criminal convictions of a prospective employee (Part SS); to amend the correction law, in relation to restricting the use of segregated confinement and creating alternative therapeutic and rehabilitative confinement options (Part TT); to amend the penal law and the criminal procedure law, in relation to sealing records for certain proceedings (Part UU); to amend the criminal procedure law, in relation to a judicial diversion program for certain felony offenders (Part VV); to amend the executive law, in relation to ethnic or racial profiling (Part WW); to amend the criminal procedure law, in relation to grand jury proceedings (Part XX); to amend the executive law and the criminal procedure law, in relation to establishing the office of special investigation (Part YY); to amend the state finance law, in relation to amending the definition of prior year aid to include certain assistance received by a village (Part ZZ); to amend the legislative law, in relation to extending the expiration of payments to members of the assembly serving in a special capacity; and to amend chapter 141 of the laws of 1994, amending the legislative law and the state finance law relating to the operation and administration of the legislature, in relation to extending such provisions (Part AAA); to amend the civil practice law and rules and the state finance law, in relation to the disposal of property upon a judgment or order of forfeiture (Part BBB); to amend the insurance law, in relation to charitable bail organizations (Part CCC); to amend the correction law and the penal law, in relation to merit time allowance credits in local correctional facilities (Part DDD); to amend the mental hygiene law, the public health law and the executive law, in relation to establishing a training program for first responders for handling emergency situations involving individuals with autism spectrum disorder and other developmental disabilities (Part EEE); to amend the insurance law, the social services law, the education law and the public health law, in relation to requiring health insurance policies to include coverage of all FDA-approved contraceptive drugs, devices, and products, as well as voluntary sterilization procedures, contraceptive education and counseling, and related follow up services and prohibiting a health insurance policy from imposing any cost-sharing requirements or other restrictions or delays with respect to this coverage (Subpart A); to amend the public health law, in relation to enacting the reproductive health act and revising existing provisions of law regarding abortion; to amend the penal law, the criminal procedure law, the county law and the judiciary law, in relation to abortion; to repeal certain provisions of the public health law relating to abortion; to repeal certain provisions of the education law relating to the sale of contraceptives; and to repeal certain provisions of the penal law relating to abortion (Subpart B); to amend the public health law, in relation to establishing a maternal mortality review board (Subpart C); to amend the education law, in relation to appointees to the state board for medicine (Subpart D); to amend the penal law and the criminal procedure law, in relation to the possession of weapons by domestic violence offenders; and to repeal

section 530.14 of the criminal procedure law and section 842-a of the family court act relating thereto (Subpart E); to amend the penal law, the criminal procedure law and the family court act, in relation to the crime of coercion in the second and third degree (Subpart F); to amend the public health law, in relation to extending the time of storage of forensic rape kits by hospitals; to amend the public health law, the executive law and the insurance law, in relation to sexual assault forensic exams; and repealing certain provisions of such law relating thereto (Subpart G); to amend the executive law, in relation to expanding the scope of unlawful discriminatory practices to include public educational institutions (Subpart H); to amend the executive law, the tax law, and the state finance law, in relation to discrimination and sexual harassment; to amend the civil practice law and rules, in relation to arbitration agreements; to amend the executive law, in relation to prohibiting the state and local agencies from entering into contracts with companies requiring employees to stipulate to binding arbitration for all disputes; to amend the labor law, in relation to employment contract provisions waiving certain substantive and procedural rights; to amend the public officers law, in relation to requiring reimbursement of funds paid by state agencies and entities and public entities for the payment of awards adjudicated in discrimination claims; to amend the civil practice law and rules, in relation to confidentiality provisions in settlement of discrimination actions; and to amend the general obligations law, in relation to confidentiality provisions related to discrimination; to amend the executive law, in relation to creating a model policy prohibiting discrimination; to amend the state finance law, in relation to requiring a statement on discrimination, including sexual harassment, in bids to the state; to amend the tax law, in relation to requiring a statement on discrimination, including sexual harassment, in applications for state credits; to amend the executive law, in relation to requiring the division of human rights to promulgate an anti-discrimination pamphlet; to amend the executive law, in relation to creating training materials prohibiting discrimination in the workplace; to amend the executive law, in relation to unlawful discriminatory practices relating to persons who perform work for an employer as a contractor, independent contractor, subcontractor, volunteer, or any other type of employment opportunity; to amend the executive law, in relation to requiring the attorney-general to prosecute or defend upon request of the commissioner of labor or the state division of human rights discrimination by reason of sex, sexual orientation, military status, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status; and to amend the general municipal law, in relation to discrimination (Subpart I); relating to the creation of computer science education standards (Subpart J); intentionally omitted (Subpart K); to amend the public health law, in relation to providing feminine hygiene products in public and charter schools (Subpart L); to amend the executive law, in relation to standards requiring assembly group A occupancies and mercantile group M occupancies to have diaper changing stations available for use by both male and female occupants (Subpart M); and to amend the insurance law, in relation to insurance coverage of in vitro fertilization and other fertility preservation treatments (Subpart N) (Part FFF); to amend the election law, in relation to authorizing computer generated registration lists; in relation to the list of supplies to be delivered to poll sites (Part GGG); to amend the

election law, in relation to political contributions (Part HHH); and to amend the election law, in relation to early voting (Part III)

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 2018-2019
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through III. The effective date for each partic-
5 ular provision contained within such Part is set forth in the last
6 section of such Part. Any provision in any section contained within a
7 Part, including the effective date of the Part, which makes a reference
8 to a section "of this act", when used in connection with that particular
9 component, shall be deemed to mean and refer to the corresponding
10 section of the Part in which it is found. Section three of this act sets
11 forth the general effective date of this act.

12

PART A

13 Section 1. This act shall be known and may be cited as "Kalief's law".
14 S 2. Section 30.30 of the criminal procedure law, as added by chapter
15 184 of the laws of 1972, paragraph (a) of subdivision 3 as amended by
16 chapter 93 of the laws of 2006, paragraph (a) of subdivision 4 as
17 amended by chapter 558 of the laws of 1982, paragraph (c) of subdivision
18 4 as amended by chapter 631 of the laws of 1996, paragraph (h) of subdi-
19 vision 4 as added by chapter 837 of the laws of 1986, paragraph (i) of
20 subdivision 4 as added by chapter 446 of the laws of 1993, paragraph (j)
21 of subdivision 4 as added by chapter 222 of the laws of 1994, paragraph
22 (b) of subdivision 5 as amended by chapter 109 of the laws of 1982,
23 paragraphs (e) and (f) of subdivision 5 as added by chapter 209 of the
24 laws of 1990, is amended to read as follows:
25 S 30.30 Speedy trial; time limitations.

26 1. Except as otherwise provided in subdivision [three] FOUR, a motion
27 made pursuant to paragraph (e) of subdivision one of section 170.30 or
28 paragraph (g) of subdivision one of section 210.20 must be granted where
29 the people are not ready for trial within:

30 (a) six months of the commencement of a criminal action wherein a
31 defendant is accused of one or more offenses, at least one of which is a
32 felony;

33 (b) ninety days of the commencement of a criminal action wherein a
34 defendant is accused of one or more offenses, at least one of which is a
35 misdemeanor punishable by a sentence of imprisonment of more than three
36 months and none of which is a felony;

37 (c) sixty days of the commencement of a criminal action wherein the
38 defendant is accused of one or more offenses, at least one of which is a
39 misdemeanor punishable by a sentence of imprisonment of not more than
40 three months and none of which is a crime punishable by a sentence of
41 imprisonment of more than three months;

42 (d) thirty days of the commencement of a criminal action wherein the
43 defendant is accused of one or more offenses, at least one of which is a
44 violation and none of which is a crime.

45 2. Except as provided in subdivision [three] FOUR, where a defendant
46 has been committed to the custody of the sheriff in a criminal action he
47 must be released on bail or on his own recognizance, upon such condi-

1 tions as may be just and reasonable, if the people are not ready for
2 trial in that criminal action within:

3 (a) ninety days from the commencement of his commitment to the custody
4 of the sheriff in a criminal action wherein the defendant is accused of
5 one or more offenses, at least one of which is a felony;

6 (b) thirty days from the commencement of his commitment to the custody
7 of the sheriff in a criminal action wherein the defendant is accused of
8 one or more offenses, at least one of which is a misdemeanor punishable
9 by a sentence of imprisonment of more than three months and none of
10 which is a felony;

11 (c) fifteen days from the commencement of his commitment to the custo-
12 dy of the sheriff in a criminal action wherein the defendant is accused
13 of one or more offenses, at least one of which is a misdemeanor punisha-
14 ble by a sentence of imprisonment of not more than three months and none
15 of which is a crime punishable by a sentence of imprisonment of more
16 than three months;

17 (d) five days from the commencement of his commitment to the custody
18 of the sheriff in a criminal action wherein the defendant is accused of
19 one or more offenses, at least one of which is a violation and none of
20 which is a crime.

21 3. WHENEVER PURSUANT TO THIS SECTION A PROSECUTOR STATES OR OTHERWISE
22 PROVIDES NOTICE THAT THE PEOPLE ARE READY FOR TRIAL, THE COURT MAY MAKE
23 INQUIRY ON THE RECORD AS TO THEIR ACTUAL READINESS. IF, AFTER CONDUCTING
24 ITS INQUIRY, THE COURT DETERMINES THAT THE PEOPLE ARE NOT READY TO
25 PROCEED TO TRIAL, THE PROSECUTOR'S STATEMENT OR NOTICE OF READINESS
26 SHALL NOT BE VALID FOR PURPOSES OF THIS SECTION. FOLLOWING A DEMAND TO
27 PRODUCE BY A DEFENDANT PURSUANT TO SECTION 240.20, ANY STATEMENT OF
28 TRIAL READINESS MUST BE ACCOMPANIED OR PRECEDED BY A CERTIFICATION OF
29 GOOD FAITH COMPLIANCE WITH THE DISCLOSURE REQUIREMENTS OF SECTION
30 240.20. THIS SUBDIVISION SHALL NOT APPLY TO CASES WHERE THE DEFENSE HAS
31 WAIVED DISCLOSURE REQUIREMENTS. THE DEFENSE SHALL BE AFFORDED AN OPPOR-
32 TUNITY TO BE HEARD ON THE RECORD CONCERNING ANY SUCH INQUIRY BY THE
33 COURT, AND CONCERNING WHETHER SUCH DISCLOSURE REQUIREMENTS HAVE BEEN
34 MET.

35 3-A. UPON A MISDEMEANOR COMPLAINT, A STATEMENT OF READINESS SHALL NOT
36 BE VALID UNLESS THE PROSECUTING ATTORNEY CERTIFIES THAT ALL COUNTS
37 CHARGED IN THE ACCUSATORY INSTRUMENT MEET THE REQUIREMENTS OF SECTIONS
38 100.15 AND 100.40 AND THOSE COUNTS NOT MEETING THE REQUIREMENTS OF
39 SECTIONS 100.15 AND 100.40 HAVE BEEN DISMISSED.

40 4. (a) Subdivisions one and two do not apply to a criminal action
41 wherein the defendant is accused of an offense defined in sections
42 125.10, 125.15, 125.20, 125.25, 125.26 and 125.27 of the penal law.

43 (b) A motion made pursuant to subdivisions one or two upon expiration
44 of the specified period may be denied where the people are not ready for
45 trial if the people were ready for trial prior to the expiration of the
46 specified period and their present unreadiness is due to some excep-
47 tional fact or circumstance, including, but not limited to, the sudden
48 unavailability of evidence material to the people's case, when the
49 district attorney has exercised due diligence to obtain such evidence
50 and there are reasonable grounds to believe that such evidence will
51 become available in a reasonable period.

52 (c) A motion made pursuant to subdivision two shall not:

53 (i) apply to any defendant who is serving a term of imprisonment for
54 another offense;

1 (ii) require the release from custody of any defendant who is also
2 being held in custody pending trial of another criminal charge as to
3 which the applicable period has not yet elapsed;

4 (iii) prevent the redetention of or otherwise apply to any defendant
5 who, after being released from custody pursuant to this section or
6 otherwise, is charged with another crime or violates the conditions on
7 which he has been released, by failing to appear at a judicial proceed-
8 ing at which his presence is required or otherwise.

9 [4.] 5. In computing the time within which the people must be ready
10 for trial pursuant to subdivisions one and two, the following periods
11 must be excluded:

12 (a) a reasonable period of delay resulting from other proceedings
13 concerning the defendant, including but not limited to: proceedings for
14 the determination of competency and the period during which defendant is
15 incompetent to stand trial; demand to produce; request for a bill of
16 particulars; pre-trial motions; appeals; trial of other charges; and the
17 period during which such matters are under consideration by the court;
18 or

19 (b) the period of delay resulting from a continuance granted by the
20 court at the request of, or with the consent of, the defendant or his OR
21 HER counsel. The court [must] MAY grant such a continuance only if it is
22 satisfied that postponement is in the interest of justice, taking into
23 account the public interest in the prompt dispositions of criminal
24 charges. A defendant without counsel must not be deemed to have
25 consented to a continuance unless he has been advised by the court of
26 his OR HER rights under these rules and the effect of his consent, WHICH
27 MUST BE DONE ON THE RECORD IN OPEN COURT; or

28 (c) (i) the period of delay resulting from the absence or unavailabil-
29 ity of the defendant. A defendant must be considered absent whenever his
30 location is unknown and he is attempting to avoid apprehension or prose-
31 cution, or his location cannot be determined by due diligence. A defend-
32 ant must be considered unavailable whenever his location is known but
33 his presence for trial cannot be obtained by due diligence; or

34 (ii) where the defendant has either escaped from custody or has failed
35 to appear when required after having previously been released on bail or
36 on his own recognizance, and provided the defendant is not in custody on
37 another matter, the period extending from the day the court issues a
38 bench warrant pursuant to section 530.70 because of the defendant's
39 failure to appear in court when required, to the day the defendant
40 subsequently appears in the court pursuant to a bench warrant or volun-
41 tarily or otherwise; or

42 (d) a reasonable period of delay when the defendant is joined for
43 trial with a co-defendant as to whom the time for trial pursuant to this
44 section has not run and good cause is not shown for granting a sever-
45 ance; or

46 (e) the period of delay resulting from detention of the defendant in
47 another jurisdiction provided the district attorney is aware of such
48 detention and has been diligent and has made reasonable efforts to
49 obtain the presence of the defendant for trial; or

50 (f) the period during which the defendant is without counsel through
51 no fault of the court; except when the defendant is proceeding as his
52 own attorney with the permission of the court; or

53 (g) other periods of delay occasioned by exceptional circumstances,
54 including but not limited to, the period of delay resulting from a
55 continuance granted at the request of a district attorney if (i) the
56 continuance is granted because of the unavailability of evidence materi-

1 al to the people's case, when the district attorney has exercised due
2 diligence to obtain such evidence and there are reasonable grounds to
3 believe that such evidence will become available in a reasonable period;
4 or (ii) the continuance is granted to allow the district attorney addi-
5 tional time to prepare the people's case and additional time is justi-
6 fied by the exceptional circumstances of the case. ANY SUCH EXCLUSION
7 WHEN A STATEMENT OF UNREADINESS HAS FOLLOWED A STATEMENT OF READINESS
8 MADE BY THE PEOPLE MUST BE ACCOMPANIED BY SUPPORTING FACTS AND APPROVED
9 BY THE COURT. THE COURT SHALL INQUIRE ON THE RECORD AS TO THE REASONS
10 FOR THE PEOPLE'S UNREADINESS; OR

11 (h) the period during which an action has been adjourned in contem-
12 plation of dismissal pursuant to sections 170.55, 170.56 and 215.10 of
13 this chapter[.]; OR

14 (i) [The] THE period prior to the defendant's actual appearance for
15 arraignment in a situation in which the defendant has been directed to
16 appear by the district attorney pursuant to subdivision three of section
17 120.20 or subdivision three of section 210.10[.]; OR

18 (j) the period during which a family offense is before a family court
19 until such time as an accusatory instrument or indictment is filed
20 against the defendant alleging a crime constituting a family offense, as
21 such term is defined in section 530.11 of this chapter.

22 6. AT EACH COURT APPEARANCE DATE PRECEDING THE COMMENCEMENT OF TRIAL
23 IN A CRIMINAL ACTION, THE COURT, WHENEVER IT IS PRACTICABLE TO DO SO,
24 SHALL RULE PRELIMINARILY ON WHETHER THE ADJOURNMENT PERIOD IMMEDIATELY
25 FOLLOWING SUCH COURT APPEARANCE DATE IS TO BE INCLUDED OR EXCLUDED FOR
26 THE PURPOSES OF COMPUTING THE TIME WITHIN WHICH THE PEOPLE MUST BE READY
27 FOR TRIAL WITHIN THE MEANING OF THIS SECTION. THE COURT'S RULING SHALL
28 BE NOTED IN THE COURT FILE.

29 7. IN COMPUTING THE TIME WITHIN WHICH THE PEOPLE MUST BE READY FOR
30 TRIAL, PURSUANT TO SUBDIVISION TWO OR PARAGRAPHS (B), (C), OR (D) OF
31 SUBDIVISION ONE OF THIS SECTION, NO TIME ATTRIBUTABLE TO COURT
32 CONGESTION SHALL BE EXCLUDED.

33 [5.] 8. For purposes of this section, (a) where the defendant is to be
34 tried following the withdrawal of the plea of guilty or is to be retried
35 following a mistrial, an order for a new trial or an appeal or collat-
36 eral attack, the criminal action and the commitment to the custody of
37 the sheriff, if any, must be deemed to have commenced on the date the
38 withdrawal of the plea of guilty or the date the order occasioning a
39 retrial becomes final;

40 (b) where a defendant has been served with an appearance ticket, the
41 criminal action must be deemed to have commenced on the date the defend-
42 ant first appears in a local criminal court in response to the ticket;

43 (c) where a criminal action is commenced by the filing of a felony
44 complaint, and thereafter, in the course of the same criminal action
45 either the felony complaint is replaced with or converted to an informa-
46 tion, prosecutor's information or misdemeanor complaint pursuant to
47 article [180] ONE HUNDRED EIGHTY or a prosecutor's information is filed
48 pursuant to section 190.70, the period applicable for the purposes of
49 subdivision one must be the period applicable to the charges in the new
50 accusatory instrument, calculated from the date of the filing of such
51 new accusatory instrument; provided, however, that when the aggregate of
52 such period and the period of time, excluding the periods provided in
53 subdivision [four] FIVE, already elapsed from the date of the filing of
54 the felony complaint to the date of the filing of the new accusatory
55 instrument exceeds six months, the period applicable to the charges in

1 the felony complaint must remain applicable and continue as if the new
2 accusatory instrument had not been filed;

3 (d) where a criminal action is commenced by the filing of a felony
4 complaint, and thereafter, in the course of the same criminal action
5 either the felony complaint is replaced with or converted to an informa-
6 tion, prosecutor's information or misdemeanor complaint pursuant to
7 article [180] ONE HUNDRED EIGHTY or a prosecutor's information is filed
8 pursuant to section 190.70, the period applicable for the purposes of
9 subdivision two must be the period applicable to the charges in the new
10 accusatory instrument, calculated from the date of the filing of such
11 new accusatory instrument; provided, however, that when the aggregate of
12 such period and the period of time, excluding the periods provided in
13 subdivision [four] FIVE, already elapsed from the date of the filing of
14 the felony complaint to the date of the filing of the new accusatory
15 instrument exceeds ninety days, the period applicable to the charges in
16 the felony complaint must remain applicable and continue as if the new
17 accusatory instrument had not been filed.

18 (e) where a count of an indictment is reduced to charge only a misde-
19 meanor or petty offense and a reduced indictment or a prosecutor's
20 information is filed pursuant to subdivisions one-a and six of section
21 210.20, the period applicable for the purposes of subdivision one of
22 this section must be the period applicable to the charges in the new
23 accusatory instrument, calculated from the date of the filing of such
24 new accusatory instrument; provided, however, that when the aggregate of
25 such period and the period of time, excluding the periods provided in
26 subdivision [four] FIVE of this section, already elapsed from the date
27 of the filing of the indictment to the date of the filing of the new
28 accusatory instrument exceeds six months, the period applicable to the
29 charges in the indictment must remain applicable and continue as if the
30 new accusatory instrument had not been filed;

31 (f) where a count of an indictment is reduced to charge only a misde-
32 meanor or petty offense and a reduced indictment or a prosecutor's
33 information is filed pursuant to subdivisions one-a and six of section
34 210.20, the period applicable for the purposes of subdivision two of
35 this section must be the period applicable to the charges in the new
36 accusatory instrument, calculated from the date of the filing of such
37 new accusatory instrument; provided, however, that when the aggregate of
38 such period and the period of time, excluding the periods provided in
39 subdivision [four] FIVE of this section, already elapsed from the date
40 of the filing of the indictment to the date of the filing of the new
41 accusatory instrument exceeds ninety days, the period applicable to the
42 charges in the indictment must remain applicable and continue as if the
43 new accusatory instrument had not been filed.

44 [6.] 9. The procedural rules prescribed in subdivisions one through
45 seven of section 210.45 with respect to a motion to dismiss an indict-
46 ment are also applicable to a motion made pursuant to subdivision two.

47 S 3. Subdivision 6 of section 180.85 of the criminal procedure law, as
48 added by chapter 518 of the laws of 2004, is amended to read as follows:

49 6. The period from the filing of a motion pursuant to this section
50 until entry of an order disposing of such motion shall not, by reason of
51 such motion, be considered a period of delay for purposes of subdivision
52 [four] FIVE of section 30.30, nor shall such period, by reason of such
53 motion, be excluded in computing the time within which the people must
54 be ready for trial pursuant to such section 30.30.

55 S 4. This act shall take effect on the sixtieth day after it shall
56 have become a law.

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PART B

Intentionally Omitted

PART C

Section 1. Subdivisions 1, 2, 4, 5, 6, 7, 8 and 9 of section 500.10 of the criminal procedure law are amended and a new subdivision 3-a is added to read as follows:

1. "Principal" means a defendant in a criminal action or proceeding, or a person adjudged a material witness therein, or any other person so involved therein that [he] THE PRINCIPAL may by law be compelled to appear before a court for the purpose of having such court exercise control over [his] THE PRINCIPAL'S person to secure [his] THE PRINCIPAL'S future attendance at the action or proceeding when required, and who in fact either is before the court for such purpose or has been before it and been subjected to such control.

2. "Release on own recognizance." A court releases a principal on [his] THE PRINCIPAL'S own recognizance when, having acquired control over [his] THE PRINCIPAL'S person, it permits [him] THE PRINCIPAL to be at liberty during the pendency of the criminal action or proceeding involved upon condition that [he] THE PRINCIPAL will appear thereat whenever [his] THE PRINCIPAL'S attendance may be required and will at all times render [himself] THE PRINCIPAL amenable to the orders and processes of the court.

3-A. "RELEASE UNDER NON-MONETARY CONDITIONS." A COURT RELEASES A PRINCIPAL UNDER NON-MONETARY CONDITIONS WHEN, HAVING ACQUIRED CONTROL OVER A PERSON, IT AUTHORIZES THE PERSON TO BE AT LIBERTY DURING THE PENDENCY OF THE CRIMINAL ACTION OR PROCEEDING INVOLVED UNDER CONDITIONS ORDERED BY THE COURT, WHICH SHALL BE THE LEAST RESTRICTIVE CONDITIONS THAT WILL REASONABLY ASSURE THE PRINCIPAL'S RETURN TO COURT. SUCH CONDITIONS MAY INCLUDE, AMONG OTHER CONDITIONS REASONABLE UNDER THE CIRCUMSTANCES: THAT THE PRINCIPAL BE IN CONTACT WITH A PRETRIAL SERVICES AGENCY SERVING PRINCIPALS IN THAT COUNTY; THAT THE PRINCIPAL ABIDE BY REASONABLE, SPECIFIED RESTRICTIONS ON TRAVEL THAT ARE REASONABLY RELATED TO AN ACTUAL RISK OF INTENTIONAL FLIGHT FROM THE JURISDICTION; THAT THE PRINCIPAL REFRAIN FROM POSSESSING A FIREARM, DESTRUCTIVE DEVICE OR OTHER DANGEROUS WEAPON; THAT, WHEN IT IS SHOWN PURSUANT TO SUBDIVISION FOUR OF SECTION 510.45 OF THIS TITLE THAT NO OTHER REALISTIC MONETARY CONDITION OR SET OF NON-MONETARY CONDITIONS WILL SUFFICE TO REASONABLY ASSURE THE PERSON'S RETURN TO COURT, THE PERSON BE PLACED IN REASONABLE PRETRIAL SUPERVISION WITH A PRETRIAL SERVICES AGENCY SERVING PRINCIPALS IN THAT COUNTY; THAT, WHEN IT IS SHOWN PURSUANT TO PARAGRAPH (A) OF SUBDIVISION FOUR OF SECTION 510.40 OF THIS TITLE THAT NO OTHER REALISTIC NON-MONETARY CONDITION OR SET OF NON-MONETARY CONDITIONS WILL SUFFICE TO REASONABLY ASSURE THE PRINCIPAL'S RETURN TO COURT, THE PRINCIPAL'S LOCATION BE MONITORED WITH AN APPROVED ELECTRONIC MONITORING DEVICE, IN ACCORDANCE WITH SUCH SUBDIVISION FOUR OF SECTION 510.40 OF THIS TITLE. A PRINCIPAL SHALL NOT BE REQUIRED TO PAY FOR ANY PART OF THE COST OF RELEASE ON NON-MONETARY CONDITIONS.

4. "Commit to the custody of the sheriff." A court commits a principal to the custody of the sheriff when, having acquired control over [his] THE PRINCIPAL'S person, it orders that [he] THE PRINCIPAL be confined in the custody of the sheriff during the pendency of the criminal action or proceeding involved.

1 5. "Securing order" means an order of a court committing a principal
2 to the custody of the sheriff[,] or fixing bail, WHERE AUTHORIZED, or
3 releasing [him on his] THE PRINCIPAL ON THE PRINCIPAL'S own recognizance
4 OR RELEASING THE PRINCIPAL UNDER NON-MONETARY CONDITIONS.

5 6. "Order of recognizance or bail" means a securing order releasing a
6 principal on [his] THE PRINCIPAL'S own recognizance OR UNDER NON-MONE-
7 TARY CONDITIONS or, WHERE AUTHORIZED, fixing bail.

8 7. "Application for recognizance or bail" means an application by a
9 principal that the court, instead of committing [him] THE PRINCIPAL to
10 or retaining [him] THE PRINCIPAL in the custody of the sheriff, either
11 release [him on his own] THE PRINCIPAL ON THE PRINCIPAL'S OWN recogni-
12 zance [or], RELEASE UNDER NON-MONETARY CONDITIONS, OR, WHERE AUTHORIZED,
13 fix bail.

14 8. "Post bail" means to deposit bail in the amount and form fixed by
15 the court, with the court or with some other authorized public servant
16 or agency.

17 9. "Bail" means cash bail [or], a bail bond OR MONEY PAID WITH A CRED-
18 IT CARD.

19 S 1-a. Section 500.10 of the criminal procedure law is amended by
20 adding two new subdivisions 21 and 22 to read as follows:

21 21. "QUALIFIES FOR ELECTRONIC MONITORING," FOR PURPOSES OF SUBDIVISION
22 FOUR OF SECTION 510.40 OF THIS TITLE, MEANS A PERSON CHARGED WITH A
23 FELONY, A MISDEMEANOR CRIME OF DOMESTIC VIOLENCE, A MISDEMEANOR DEFINED
24 IN ARTICLE ONE HUNDRED THIRTY OF THE PENAL LAW, A CRIME AND THE CIRCUM-
25 STANCES OF PARAGRAPH (B) OF SUBDIVISION TWO OF SECTION 530.60 OF THIS
26 TITLE APPLY, OR ANY MISDEMEANOR WHERE THE DEFENDANT STANDS PREVIOUSLY
27 CONVICTED, WITHIN THE PAST FIVE YEARS, OF A VIOLENT FELONY OFFENSE AS
28 DEFINED IN SECTION 70.02 OF THE PENAL LAW. FOR THE PURPOSES OF THIS
29 SUBDIVISION, IN CALCULATING SUCH FIVE YEAR PERIOD, ANY PERIOD OF TIME
30 DURING WHICH THE DEFENDANT WAS INCARCERATED FOR ANY REASON BETWEEN THE
31 TIME OF THE COMMISSION OF ANY SUCH PREVIOUS CRIME AND THE TIME OF
32 COMMISSION OF THE PRESENT CRIME SHALL BE EXCLUDED AND SUCH FIVE YEAR
33 PERIOD SHALL BE EXTENDED BY A PERIOD OR PERIODS EQUAL TO THE TIME SERVED
34 UNDER SUCH INCARCERATION.

35 22. "MISDEMEANOR CRIME OF DOMESTIC VIOLENCE," FOR PURPOSES OF SUBDIVI-
36 SION TWENTY-ONE OF THIS SECTION, MEANS A MISDEMEANOR UNDER THE PENAL LAW
37 PROVISIONS AND CIRCUMSTANCES DESCRIBED IN SUBDIVISION ONE OF SECTION
38 530.11 OF THIS TITLE.

39 S 2. Section 510.10 of the criminal procedure law, as amended by chap-
40 ter 459 of the laws of 1984, is amended to read as follows:

41 S 510.10 Securing order; when required; ALTERNATIVES AVAILABLE; STANDARD
42 TO BE APPLIED.

43 1. When a principal, whose future court attendance at a criminal
44 action or proceeding is or may be required, [initially] comes under the
45 control of a court, such court [must] SHALL, IN ACCORDANCE WITH THIS
46 TITLE, by a securing order[, either] release [him] THE PRINCIPAL on
47 [his] THE PRINCIPAL'S own recognizance, RELEASE THE PRINCIPAL UNDER
48 NON-MONETARY CONDITIONS, OR, WHERE AUTHORIZED, fix bail or commit [him]
49 THE PRINCIPAL to the custody of the sheriff. IN ALL SUCH CASES, EXCEPT
50 WHERE ANOTHER TYPE OF SECURING ORDER IS SHOWN TO BE REQUIRED BY LAW, THE
51 COURT SHALL RELEASE THE PRINCIPAL PENDING TRIAL ON THE PRINCIPAL'S OWN
52 RECOGNIZANCE, UNLESS IT IS DEMONSTRATED AND THE COURT MAKES AN INDIVID-
53 UALIZED DETERMINATION THAT THE PRINCIPAL IS A SIGNIFICANT RISK OF INTEN-
54 TIONAL FLIGHT TO AVOID PROSECUTION. IF SUCH A FINDING IS MADE, THE COURT
55 MUST SELECT THE LEAST RESTRICTIVE ALTERNATIVE AND CONDITION OR CONDI-
56 TIONS THAT WILL REASONABLY ASSURE THE PRINCIPAL'S RETURN TO COURT.

1 2. A PRINCIPAL IS ENTITLED TO REPRESENTATION BY COUNSEL UNDER THIS
2 CHAPTER IN PREPARING AN APPLICATION FOR RELEASE, WHEN A SECURING ORDER
3 IS BEING CONSIDERED AND WHEN A SECURING ORDER IS BEING REVIEWED FOR
4 MODIFICATION, REVOCATION OR TERMINATION. IF THE PRINCIPAL IS FINANCIALLY
5 UNABLE TO OBTAIN COUNSEL, COUNSEL SHALL BE ASSIGNED TO THE PRINCIPAL.

6 3. IN CASES WHERE THE MOST SERIOUS OFFENSE WITH WHICH THE DEFENDANT
7 STANDS CHARGED IN THE CASE BEFORE THE COURT OR A PENDING CASE IS AN
8 OFFENSE THAT IS NOT A CLASS A FELONY DEFINED IN THE PENAL LAW OR A FELO-
9 NY ENUMERATED IN SECTION 70.02 OF THE PENAL LAW (OTHER THAN BURGLARY IN
10 THE SECOND DEGREE AS DEFINED IN SUBDIVISION TWO OF SECTION 140.25 OF THE
11 PENAL LAW OR ROBBERY IN THE SECOND DEGREE AS DEFINED IN SUBDIVISION ONE
12 OF SECTION 160.10 OF SUCH LAW OR REPORTING A FALSE INCIDENT IN THE
13 SECOND DEGREE AS DEFINED IN SECTION 240.55 OF SUCH LAW) OR A MISDEMEANOR
14 DEFINED IN ARTICLE ONE HUNDRED THIRTY OF THE PENAL LAW, THE COURT SHALL
15 RELEASE THE PRINCIPAL PENDING TRIAL ON THE PRINCIPAL'S OWN RECOGNIZANCE,
16 UNLESS THE COURT FINDS ON THE RECORD OR IN WRITING THAT RELEASE ON THE
17 PRINCIPAL'S OWN RECOGNIZANCE WILL NOT REASONABLY ASSURE THE PRINCIPAL'S
18 RETURN TO COURT. IN SUCH INSTANCES, THE COURT SHALL RELEASE THE PRINCI-
19 PAL UNDER NON-MONETARY CONDITIONS, SELECTING THE LEAST RESTRICTIVE
20 ALTERNATIVE AND CONDITIONS THAT WILL REASONABLY ASSURE THE PRINCIPAL'S
21 RETURN TO COURT. THE COURT SHALL EXPLAIN ITS CHOICE OF ALTERNATIVE AND
22 CONDITIONS ON THE RECORD OR IN WRITING.

23 4. EXCEPT AS PROVIDED IN SUBDIVISION FIVE OF THIS SECTION, IN CASES
24 WHERE AN OFFENSE WITH WHICH THE DEFENDANT STANDS CHARGED IN THE CASE
25 BEFORE THE COURT OR A PENDING CASE IS A FELONY ENUMERATED IN SECTION
26 70.02 OF THE PENAL LAW (EXCEPT BURGLARY IN THE SECOND DEGREE AS DEFINED
27 IN SUBDIVISION TWO OF SECTION 140.25 OF THE PENAL LAW OR ROBBERY IN THE
28 SECOND DEGREE AS DEFINED IN SUBDIVISION ONE OF SECTION 160.10 OF SUCH
29 LAW OR REPORTING A FALSE INCIDENT IN THE SECOND DEGREE AS DEFINED IN
30 SECTION 240.55 OF SUCH LAW) OR A MISDEMEANOR DEFINED IN ARTICLE ONE
31 HUNDRED THIRTY OF THE PENAL LAW, THE COURT, UNLESS OTHERWISE PROHIBITED
32 BY LAW, SHALL RELEASE THE PRINCIPAL PENDING TRIAL ON THE PRINCIPAL'S OWN
33 RECOGNIZANCE OR UNDER NON-MONETARY CONDITIONS, OR FIX BAIL. IN SUCH
34 INSTANCES, THE COURT SHALL SELECT THE LEAST RESTRICTIVE ALTERNATIVE AND
35 CONDITIONS THAT WILL REASONABLY ASSURE THE PRINCIPAL'S RETURN TO COURT.
36 THE COURT SHALL EXPLAIN ITS CHOICE OF ALTERNATIVE AND CONDITIONS ON THE
37 RECORD OR IN WRITING.

38 5. IN CASES WHERE AN OFFENSE WITH WHICH THE DEFENDANT STANDS CHARGED
39 IN THE CASE BEFORE THE COURT OR A PENDING CASE IS A FELONY SEX OFFENSE
40 AS DEFINED IN SECTION 70.80 OF THE PENAL LAW, A FELONY TERRORISM OFFENSE
41 UNDER SECTION 490.10, 490.15, 490.30, 490.35, 490.37, 490.40, 490.45,
42 490.47, 490.50 OR 490.55 OF THE PENAL LAW, A CLASS A FELONY OFFENSE
43 DEFINED IN THE PENAL LAW, A FELONY OFFENSE OF WITNESS INTIMIDATION UNDER
44 SECTION 215.15, 215.16, OR 215.17 OF THE PENAL LAW, A FELONY OFFENSE
45 WHERE A REQUIRED ELEMENT THEREOF IS AN INTENT TO CAUSE SERIOUS PHYSICAL
46 INJURY OR DEATH TO ANOTHER PERSON AND CAUSING SUCH INJURY OR DEATH TO
47 SUCH PERSON OR A THIRD PERSON, OR A FELONY FOR WHEN THE DEFENDANT WOULD
48 BE ELIGIBLE FOR SENTENCING UNDER SECTION 70.08 OF THE PENAL LAW, THE
49 COURT, UNLESS OTHERWISE PROHIBITED BY LAW, SHALL RELEASE THE PRINCIPAL
50 PENDING TRIAL UNDER NON-MONETARY CONDITIONS, OR FIX BAIL, OR COMMIT THE
51 PRINCIPAL TO THE CUSTODY OF THE SHERIFF. IN SUCH INSTANCES, THE COURT
52 SHALL SELECT THE LEAST RESTRICTIVE ALTERNATIVE AND CONDITIONS THAT WILL
53 REASONABLY ASSURE THE PRINCIPAL'S RETURN TO COURT. THE COURT SHALL
54 EXPLAIN ITS CHOICE OF ALTERNATIVE AND CONDITIONS ON THE RECORD OR IN
55 WRITING.

1 6. When a securing order is revoked or otherwise terminated in the
2 course of an uncompleted action or proceeding but the principal's future
3 court attendance still is or may be required and [he] THE PRINCIPAL is
4 still under the control of a court, a new securing order must be issued.
5 When the court revokes or otherwise terminates a securing order which
6 committed the principal to the custody of the sheriff, the court shall
7 give written notification to the sheriff of such revocation or termi-
8 nation of the securing order.

9 S 3. Section 510.20 of the criminal procedure law is amended to read
10 as follows:

11 S 510.20 Application for [recognizance or bail; making and determi-
12 nation thereof in general] A CHANGE IN SECURING ORDER.

13 1. Upon any occasion when a court [is required to issue] HAS ISSUED a
14 securing order with respect to a principal[, or at any time when a] AND
15 THE principal is confined in the custody of the sheriff as a result of
16 THE SECURING ORDER OR a previously issued securing order, [he] THE PRIN-
17 CIPAL may make an application for recognizance, RELEASE UNDER NON-MONE-
18 TARY CONDITIONS or bail.

19 2. (A) THE PRINCIPAL IS ENTITLED TO REPRESENTATION BY COUNSEL IN THE
20 MAKING AND PRESENTATION OF SUCH APPLICATION. IF THE PRINCIPAL IS FINAN-
21 CIALY UNABLE TO OBTAIN COUNSEL, COUNSEL SHALL BE ASSIGNED TO THE PRIN-
22 CIPAL.

23 (B) Upon such application, the principal must be accorded an opportu-
24 nity to be heard, PRESENT EVIDENCE and to contend that an order of
25 recognizance, RELEASE UNDER NON-MONETARY CONDITIONS or, WHERE AUTHOR-
26 IZED, bail must or should issue, that the court should release [him on
27 his] THE PRINCIPAL ON THE PRINCIPAL'S own recognizance OR UNDER NON-MON-
28 ETARY CONDITIONS rather than fix bail, and that if bail is AUTHORIZED
29 AND fixed it should be in a suggested amount and form.

30 S 4. The criminal procedure law is amended by adding a new section
31 510.25 to read as follows:

32 S 510.25 REHEARING AFTER FIVE DAYS IN CUSTODY.

33 IN ADDITION TO ANY OTHER AVAILABLE PRE-CONVICTION MOTION OR PROCEDURE,
34 A PRINCIPAL FOR WHOM BAIL IS AUTHORIZED AND WAS FIXED, OR WHO WAS
35 REMANDED TO THE CUSTODY OF THE SHERIFF BUT IS LEGALLY ELIGIBLE FOR
36 RELEASE, AND WHO IS IN CUSTODY FIVE DAYS THEREAFTER SHALL BE BROUGHT
37 BEFORE THE COURT THE NEXT BUSINESS DAY FOR A REHEARING ON THE SECURING
38 ORDER. THE COURT SHALL CONSIDER THE MATTER IN ACCORDANCE WITH SECTION
39 510.10 OF THIS ARTICLE, DE NOVO, INCLUDING THE PRINCIPAL'S INDIVIDUAL
40 FINANCIAL CIRCUMSTANCES, HEAR FROM THE DEFENSE AND, IF THEY SO DESIRE,
41 THE PEOPLE, CONSIDER RELEVANT TESTIMONY AND CROSS-EXAMINATION PRESENTED,
42 CONSIDER ANY RELEVANT, ADMISSIBLE EVIDENCE NOT LEGALLY PRIVILEGED, AND
43 ORDER A NEW SECURING ORDER IN ACCORDANCE WITH THE PRINCIPLES AND PROCE-
44 DURES IN THIS ARTICLE. THIS PROCESS SHALL CONTINUE WITH ADDITIONAL
45 REHEARINGS, HELD PROMPTLY ON REASONABLE WRITTEN REQUEST OF DEFENSE COUN-
46 SEL, MADE ON NOTICE TO THE PEOPLE.

47 S 5. Section 510.30 of the criminal procedure law, subparagraph (v) of
48 paragraph (a) of subdivision 2 as amended by chapter 920 of the laws of
49 1982, subparagraph (vi) of paragraph (a) of subdivision 2 as renumbered
50 by chapter 447 of the laws of 1977, subparagraph (vii) as added and
51 subparagraphs (viii) and (ix) of paragraph (a) of subdivision 2 as
52 renumbered by section 1 of part D of chapter 491 of the laws of 2012,
53 and subdivision 3 as added by chapter 788 of the laws of 1981, is
54 amended to read as follows:

55 S 510.30 Application for [recognizance or bail] SECURING ORDER; rules of
56 law and criteria controlling determination.

1 1. [Determinations of applications for recognizance or bail are not in
2 all cases discretionary but are subject to rules, prescribed in article
3 five hundred thirty and other provisions of law relating to specific
4 kinds of criminal actions and proceedings, providing (a) that in some
5 circumstances such an application must as a matter of law be granted,
6 (b) that in others it must as a matter of law be denied and the princi-
7 pal committed to or retained in the custody of the sheriff, and (c) that
8 in others the granting or denial thereof is a matter of judicial
9 discretion.

10 2. To the extent that the issuance of an order of recognizance or bail
11 and the terms thereof are matters of discretion rather than of law, an
12 application is determined on the basis of the following factors and
13 criteria:

14 (a) With respect to any principal, the court IN ALL CASES, UNLESS
15 OTHERWISE PROVIDED BY LAW, must [consider the] IMPOSE THE LEAST RESTRIC-
16 TIVE kind and degree of control or restriction that is necessary to
17 secure [his court attendance] THE PRINCIPAL'S RETURN TO COURT when
18 required. In determining that matter, the court must, on the basis of
19 available information, consider and take into account[:

20 (i) The principal's character, reputation, habits and mental condi-
21 tion;

22 (ii) His employment and financial resources; and

23 (iii) His family ties and the length of his residence if any in the
24 community; and

25 (iv) His] INFORMATION ABOUT THE PRINCIPAL THAT IS RELEVANT TO THE
26 PRINCIPAL'S RETURN TO COURT, INCLUDING:

27 (A) THE PRINCIPAL'S ACTIVITIES AND HISTORY;

28 (B) IF THE PRINCIPAL IS A DEFENDANT, THE CHARGES FACING THE PRINCIPAL;

29 (C) THE PRINCIPAL'S criminal CONVICTION record if any PROVIDED THAT
30 THE COURT MUST ALSO CONSIDER AND TAKE INTO ACCOUNT THE TIME THAT HAS
31 ELAPSED SINCE THE OCCURRENCE OF SUCH CRIME OR CRIMES AND THE AGE OF THE
32 PRINCIPAL AT THE TIME OF THE OCCURRENCE OF SUCH CRIME OR CRIMES; [and

33 (v) His] (D) THE PRINCIPAL'S record of previous adjudication as a
34 juvenile delinquent, as retained pursuant to section 354.2 of the family
35 court act, or, of pending cases where fingerprints are retained pursuant
36 to section 306.1 of such act, or a youthful offender, if any PROVIDED
37 THAT THE COURT MUST ALSO CONSIDER AND TAKE INTO ACCOUNT THE TIME THAT
38 HAS ELAPSED SINCE THE OCCURRENCE OF SUCH DELINQUENCY OR YOUTHFUL OFFEN-
39 DER CONDUCT AND THE AGE OF THE PRINCIPAL AT THE TIME OF SUCH DELINQUENCY
40 OR YOUTHFUL OFFENDER CONDUCT; [and

41 (vi) His] (e) THE PRINCIPAL'S previous record [if any in responding to
42 court appearances when required or] with respect to INTENTIONAL flight
43 to avoid criminal prosecution; [and

44 (vii)] (F) IF MONETARY BAIL IS AUTHORIZED, ACCORDING TO THE
45 RESTRICTIONS SET FORTH IN THIS TITLE, THE PRINCIPAL'S INDIVIDUAL FINAN-
46 CIAL CIRCUMSTANCES;

47 (G) Where the principal is charged with a crime or crimes against a
48 member or members of the same family or household as that term is
49 defined in subdivision one of section 530.11 of this title, the follow-
50 ing factors:

51 [(A)] (I) any violation by the principal of an order of protection
52 issued by any court for the protection of a member or members of the
53 same family or household as that term is defined in subdivision one of
54 section 530.11 of this title, whether or not such order of protection is
55 currently in effect; and

1 [(B)] (II) the principal's history of use or possession of a firearm;
2 and

3 [(viii)] (H) If [he] THE PRINCIPAL is a defendant, [the weight of the
4 evidence against him in the pending criminal action and any other factor
5 indicating probability or improbability of conviction; or,] in the case
6 of an application for [bail or recognizance] A SECURING ORDER pending
7 appeal, the merit or lack of merit of the appeal[; and

8 (ix) If he is a defendant, the sentence which may be or has been
9 imposed upon conviction].

10 [(b)] 2. Where the principal is a defendant-appellant in a pending
11 appeal from a judgment of conviction, the court must also consider the
12 likelihood of ultimate reversal of the judgment. A determination that
13 the appeal is palpably without merit alone justifies, but does not
14 require, a denial of the application, regardless of any determination
15 made with respect to the factors specified in [paragraph (a)] SUBDIVI-
16 SION ONE OF THIS SECTION.

17 3. When bail or recognizance is ordered, the court shall inform the
18 principal, if [he] THE PRINCIPAL is a defendant charged with the commis-
19 sion of a felony, that the release is conditional and that the court may
20 revoke the order of release and MAY BE AUTHORIZED TO commit the princi-
21 pal to the custody of the sheriff in accordance with the provisions of
22 subdivision two of section 530.60 of this chapter if [he] THE PRINCIPAL
23 commits a subsequent felony while at liberty upon such order.

24 S 6. Section 510.40 of the criminal procedure law is amended to read
25 as follows:

26 S 510.40 [Application for recognizance or bail; determination thereof,
27 form of securing order and execution thereof] COURT NOTIFI-
28 CATION TO PRINCIPAL OF CONDITIONS OF RELEASE AND OF ALLEGED
29 VIOLATIONS OF CONDITIONS OF RELEASE.

30 1. [An application for recognizance or bail must be determined by a
31 securing order which either:

32 (a) Grants the application and releases the principal on his own
33 recognizance; or

34 (b) Grants the application and fixes bail; or

35 (c) Denies the application and commits the principal to, or retains
36 him in, the custody of the sheriff.

37 2.] Upon ordering that a principal be released on [his] THE PRINCI-
38 PAL'S own recognizance, OR RELEASED UNDER NON-MONETARY CONDITIONS, OR,
39 IF BAIL HAS BEEN FIXED, UPON THE POSTING OF BAIL, the court must direct
40 [him] THE PRINCIPAL to appear in the criminal action or proceeding
41 involved whenever [his] THE PRINCIPAL'S attendance may be required and
42 to [render himself] BE at all times amenable to the orders and processes
43 of the court. If such principal is in the custody of the sheriff or at
44 liberty upon bail at the time of the order, the court must direct that
45 [he] THE PRINCIPAL be discharged from such custody or, as the case may
46 be, that [his] THE PRINCIPAL'S bail be exonerated.

47 [3.] 2. Upon the issuance of an order fixing bail, WHERE AUTHORIZED,
48 and upon the posting thereof, the court must examine the bail to deter-
49 mine whether it complies with the order. If it does, the court must, in
50 the absence of some factor or circumstance which in law requires or
51 authorizes disapproval thereof, approve the bail and must issue a
52 certificate of release, authorizing the principal to be at liberty, and,
53 if [he] THE PRINCIPAL is in the custody of the sheriff at the time,
54 directing the sheriff to discharge [him] THE PRINCIPAL therefrom. If
55 the bail fixed is not posted, or is not approved after being posted, the
56 court must order that the principal be committed to the custody of the

1 sheriff. IN THE EVENT OF ANY SUCH NON-APPROVAL, THE COURT SHALL EXPLAIN
2 PROMPTLY IN WRITING THE REASONS THEREFOR.

3 3. NON-MONETARY CONDITIONS OF RELEASE SHALL BE INDIVIDUALIZED AND
4 ESTABLISHED IN WRITING BY THE COURT. AT FUTURE COURT APPEARANCES, THE
5 COURT SHALL CONSIDER A LESSENING OF CONDITIONS OR MODIFICATION OF CONDI-
6 TIONS TO A LESS BURDENSOME FORM BASED ON THE PRINCIPAL'S COMPLIANCE WITH
7 SUCH CONDITIONS OF RELEASE. IN THE EVENT OF ALLEGED NON-COMPLIANCE WITH
8 THE CONDITIONS OF RELEASE IN AN IMPORTANT RESPECT, PURSUANT TO THIS
9 SUBDIVISION, ADDITIONAL CONDITIONS MAY BE IMPOSED BY THE COURT, ON THE
10 RECORD OR IN WRITING, ONLY AFTER NOTICE OF THE FACTS AND CIRCUMSTANCES
11 OF SUCH ALLEGED NON-COMPLIANCE, REASONABLE UNDER THE CIRCUMSTANCES,
12 AFFORDING THE PRINCIPAL AND THE PRINCIPAL'S ATTORNEY AND THE PEOPLE AN
13 OPPORTUNITY TO PRESENT RELEVANT, ADMISSIBLE EVIDENCE, RELEVANT WITNESSES
14 AND TO CROSS-EXAMINE WITNESSES, AND A FINDING BY CLEAR AND CONVINCING
15 EVIDENCE THAT THE PRINCIPAL VIOLATED A CONDITION OF RELEASE IN AN IMPOR-
16 TANT RESPECT. FOLLOWING SUCH A FINDING, IN DETERMINING WHETHER TO
17 IMPOSE ADDITIONAL CONDITIONS FOR NON-COMPLIANCE, THE COURT SHALL CONSID-
18 ER AND MAY SELECT CONDITIONS CONSISTENT WITH THE COURT'S OBLIGATION TO
19 IMPOSE THE LEAST RESTRICTIVE CONDITION OR CONDITIONS THAT WILL REASON-
20 ABLY ASSURE THE DEFENDANT'S RETURN TO COURT. THE COURT SHALL EXPLAIN ON
21 THE RECORD OR IN WRITING THE REASONS FOR ITS DETERMINATION AND FOR ANY
22 CHANGES TO THE CONDITIONS IMPOSED.

23 4. (A) ELECTRONIC MONITORING OF A PRINCIPAL'S LOCATION MAY BE ORDERED
24 ONLY IF THE COURT FINDS, AFTER NOTICE, AN OPPORTUNITY TO BE HEARD AND AN
25 INDIVIDUALIZED DETERMINATION EXPLAINED ON THE RECORD OR IN WRITING, THAT
26 THE DEFENDANT QUALIFIES FOR ELECTRONIC MONITORING IN ACCORDANCE WITH
27 SUBDIVISION TWENTY-ONE OF SECTION 500.10 OF THIS TITLE, AND NO OTHER
28 REALISTIC NON-MONETARY CONDITION OR SET OF NON-MONETARY CONDITIONS WILL
29 SUFFICE TO REASONABLY ASSURE A PRINCIPAL'S RETURN TO COURT.

30 (B) THE SPECIFIC METHOD OF ELECTRONIC MONITORING OF THE PRINCIPAL'S
31 LOCATION MUST BE APPROVED BY THE COURT. IT MUST BE THE LEAST RESTRICT-
32 TIVE PROCEDURE AND METHOD THAT WILL REASONABLY ASSURE THE PRINCIPAL'S
33 RETURN TO COURT, AND UNOBTRUSIVE TO THE GREATEST EXTENT PRACTICABLE.

34 (C) ELECTRONIC MONITORING OF THE LOCATION OF A PRINCIPAL MAY BE
35 CONDUCTED ONLY BY A PUBLIC ENTITY UNDER THE SUPERVISION AND CONTROL OF A
36 COUNTY OR MUNICIPALITY OR A NON-PROFIT ENTITY UNDER CONTRACT TO THE
37 COUNTY, MUNICIPALITY OR THE STATE. A COUNTY OR MUNICIPALITY SHALL BE
38 AUTHORIZED TO ENTER INTO A CONTRACT WITH ANOTHER COUNTY OR MUNICIPALITY
39 IN THE STATE TO MONITOR PRINCIPALS UNDER NON-MONETARY CONDITIONS OF
40 RELEASE IN ITS COUNTY, BUT COUNTIES, MUNICIPALITIES AND THE STATE SHALL
41 NOT CONTRACT WITH ANY PRIVATE FOR-PROFIT ENTITY FOR SUCH PURPOSES.

42 (D) ELECTRONIC MONITORING OF A PRINCIPAL'S LOCATION MAY BE FOR A MAXI-
43 MUM PERIOD OF SIXTY DAYS, AND MAY BE RENEWED FOR SUCH PERIOD, AFTER
44 NOTICE, AN OPPORTUNITY TO BE HEARD AND A DE NOVO, INDIVIDUALIZED DETER-
45 MINATION IN ACCORDANCE WITH THIS SUBDIVISION, WHICH SHALL BE EXPLAINED
46 ON THE RECORD OR IN WRITING.

47 5. IF A PRINCIPAL IS RELEASED UNDER NON-MONETARY CONDITIONS, THE COURT
48 SHALL, ON THE RECORD AND IN AN INDIVIDUALIZED WRITTEN DOCUMENT PROVIDED
49 TO THE PRINCIPAL, NOTIFY THE PRINCIPAL, IN PLAIN LANGUAGE AND A MANNER
50 SUFFICIENTLY CLEAR AND SPECIFIC:

51 (A) OF ANY CONDITIONS TO WHICH THE PRINCIPAL IS SUBJECT, TO SERVE AS A
52 GUIDE FOR THE PRINCIPAL'S CONDUCT; AND

53 (B) THAT THE POSSIBLE CONSEQUENCES FOR VIOLATION OF SUCH A CONDITION
54 MAY INCLUDE REVOCATION OF THE SECURING ORDER AND THE ORDERING OF A MORE
55 RESTRICTIVE SECURING ORDER.

1 S 7. The criminal procedure law is amended by adding a new section
2 510.43 to read as follows:

3 S 510.43 COURT APPEARANCES: ADDITIONAL NOTIFICATIONS.
4 THE COURT OR, UPON DIRECTION OF THE COURT, A CERTIFIED PRETRIAL
5 SERVICES AGENCY, SHALL NOTIFY ALL PRINCIPALS RELEASED UNDER NON-MONETARY
6 CONDITIONS AND ON RECOGNIZANCE OF ALL COURT APPEARANCES IN ADVANCE BY
7 TEXT MESSAGE, TELEPHONE CALL, ELECTRONIC MAIL OR FIRST CLASS MAIL. THE
8 CHIEF ADMINISTRATOR OF THE COURTS SHALL, PURSUANT TO SUBDIVISION ONE OF
9 SECTION 10.40 OF THIS CHAPTER, DEVELOP A FORM WHICH SHALL BE OFFERED TO
10 THE PRINCIPAL AT COURT APPEARANCES. ON SUCH FORM, WHICH UPON COMPLETION
11 SHALL BE RETAINED IN THE COURT FILE, THE PRINCIPAL MAY SELECT ONE SUCH
12 PREFERRED MANNER OF NOTICE.

13 S 8. The criminal procedure law is amended by adding a new section
14 510.45 to read as follows:

15 S 510.45 PRETRIAL SERVICES AGENCIES.

16 1. THE OFFICE OF COURT ADMINISTRATION SHALL CERTIFY AND REGULARLY
17 REVIEW FOR RECERTIFICATION ONE OR MORE PRETRIAL SERVICES AGENCIES IN
18 EACH COUNTY TO MONITOR PRINCIPALS RELEASED UNDER NON-MONETARY CONDI-
19 TIONS. SUCH OFFICE SHALL MAINTAIN A LISTING ON ITS PUBLIC WEBSITE IDEN-
20 TIFYING BY COUNTY EACH PRETRIAL SERVICES AGENCY SO CERTIFIED IN THE
21 STATE.

22 2. EVERY SUCH AGENCY SHALL BE A PUBLIC ENTITY UNDER THE SUPERVISION
23 AND CONTROL OF A COUNTY OR MUNICIPALITY OR A NON-PROFIT ENTITY UNDER
24 CONTRACT TO THE COUNTY, MUNICIPALITY OR THE STATE. A COUNTY OR MUNICI-
25 PALITY SHALL BE AUTHORIZED TO ENTER INTO A CONTRACT WITH ANOTHER COUNTY
26 OR MUNICIPALITY IN THE STATE TO MONITOR PRINCIPALS UNDER NON-MONETARY
27 CONDITIONS OF RELEASE IN ITS COUNTY, BUT COUNTIES, MUNICIPALITIES AND
28 THE STATE SHALL NOT CONTRACT WITH ANY PRIVATE FOR-PROFIT ENTITY FOR SUCH
29 PURPOSES.

30 3. (A) ANY QUESTIONNAIRE, INSTRUMENT OR TOOL USED WITH A PRINCIPAL IN
31 THE PROCESS OF CONSIDERING OR DETERMINING THE PRINCIPAL'S POSSIBLE
32 RELEASE ON RECOGNIZANCE, RELEASE UNDER NON-MONETARY CONDITIONS OR ON
33 BAIL, OR USED WITH A PRINCIPAL IN THE PROCESS OF CONSIDERING OR DETER-
34 MINING A CONDITION OR CONDITIONS OF RELEASE OR MONITORING BY A PRETRIAL
35 SERVICES AGENCY, SHALL BE PROMPTLY MADE AVAILABLE TO THE PRINCIPAL AND
36 THE PRINCIPAL'S COUNSEL UPON WRITTEN REQUEST. ANY SUCH BLANK FORM QUES-
37 TIONNAIRE, INSTRUMENT OR TOOL REGULARLY USED IN THE COUNTY FOR SUCH
38 PURPOSE OR A RELATED PURPOSE SHALL BE MADE AVAILABLE TO ANY PERSON
39 PROMPTLY UPON REQUEST.

40 (B) ANY SUCH QUESTIONNAIRE, INSTRUMENT OR TOOL SHALL BE:

41 (I) FREE FROM DISCRIMINATORY AND DISPARATE IMPACT ON DETENTION AND
42 OTHER OUTCOMES BASED ON AGE, RACE, CREED, COLOR, NATIONAL ORIGIN, SEXUAL
43 ORIENTATION, GENDER IDENTITY OR EXPRESSION, MILITARY STATUS, SEX, MARI-
44 TAL STATUS, DISABILITY, OR ANY OTHER CONSTITUTIONALLY PROTECTED CLASS,
45 REGARDING THE USE THEREOF; AND

46 (II) EMPIRICALLY VALIDATED AND REGULARLY REVALIDATED, WITH SUCH VALI-
47 DATION AND REVALIDATION STUDIES AND ALL UNDERLYING DATA, EXCEPT PERSONAL
48 IDENTIFYING INFORMATION FOR ANY DEFENDANT, PUBLICLY AVAILABLE UPON
49 REQUEST.

50 4. MONITORING BY A PRE-TRIAL SERVICES AGENCY MAY BE ORDERED AS A NON-
51 MONETARY CONDITION PURSUANT TO THIS TITLE ONLY IF THE COURT FINDS, AFTER
52 NOTICE, AN OPPORTUNITY TO BE HEARD AND AN INDIVIDUALIZED DETERMINATION
53 EXPLAINED ON THE RECORD OR IN WRITING, THAT NO OTHER REALISTIC NON-MONE-
54 TARY CONDITION OR SET OF NON-MONETARY CONDITIONS WILL SUFFICE TO REASON-
55 ABLY ASSURE THE PRINCIPAL'S RETURN TO COURT.

1 5. EACH PRETRIAL SERVICE AGENCY CERTIFIED BY THE OFFICE OF COURT
2 ADMINISTRATION PURSUANT TO THIS SECTION SHALL AT THE END OF EACH YEAR
3 PREPARE AND FILE WITH SUCH OFFICE AN ANNUAL REPORT, WHICH THE OFFICE
4 SHALL COMPILE, PUBLISH ON ITS WEBSITE AND MAKE AVAILABLE UPON REQUEST TO
5 MEMBERS OF THE PUBLIC. SUCH REPORTS SHALL NOT INCLUDE ANY PERSONAL IDEN-
6 TIFYING INFORMATION FOR ANY INDIVIDUAL DEFENDANTS. EACH SUCH REPORT, IN
7 ADDITION TO OTHER RELEVANT INFORMATION, SHALL SET FORTH, DISAGGREGATED
8 BY EACH COUNTY SERVED:

9 (A) THE NUMBER OF DEFENDANTS MONITORED BY THE AGENCY;

10 (B) THE LENGTH OF TIME (IN MONTHS) EACH SUCH PERSON WAS MONITORED BY
11 THE AGENCY PRIOR TO ACQUITTAL, DISMISSAL, RELEASE ON RECOGNIZANCE, REVO-
12 CATION OF RELEASE ON CONDITIONS, AND SENTENCING;

13 (C) THE RACE, ETHNICITY, AGE AND SEX OF EACH PERSON MONITORED;

14 (D) THE CRIMES WITH WHICH EACH PERSON MONITORED WAS CHARGED;

15 (E) THE NUMBER OF PERSONS MONITORED FOR WHOM RELEASE CONDITIONS WERE
16 MODIFIED BY THE COURT, DESCRIBING GENERALLY FOR EACH PERSON OR GROUP OF
17 PERSONS THE TYPE AND NATURE OF THE CONDITION OR CONDITIONS ADDED OR
18 REMOVED;

19 (F) THE NUMBER OF PERSONS MONITORED FOR WHOM RELEASE UNDER CONDITIONS
20 WAS REVOKED BY THE COURT, AND THE BASIS FOR SUCH REVOCATIONS; AND

21 (G) THE COURT DISPOSITION IN EACH MONITORING CASE, INCLUDING SENTENC-
22 ING INFORMATION.

23 S 9. Section 510.50 of the criminal procedure law is amended to read
24 as follows:

25 S 510.50 Enforcement of securing order.

26 1. When the attendance of a principal confined in the custody of the
27 sheriff is required at the criminal action or proceeding at a particular
28 time and place, the court may compel such attendance by directing the
29 sheriff to produce [him] THE PRINCIPAL at such time and place. If the
30 principal is at liberty on [his] THE PRINCIPAL'S own recognizance OR
31 NON-MONETARY CONDITIONS or on bail, [his] THE PRINCIPAL'S attendance
32 may be achieved or compelled by various methods, including notification
33 and the issuance of a bench warrant, prescribed by law in provisions
34 governing such matters with respect to the particular kind of action or
35 proceeding involved.

36 2. EXCEPT WHEN THE PRINCIPAL IS CHARGED WITH A NEW CRIME WHILE AT
37 LIBERTY, ABSENT RELEVANT, ADMISSIBLE EVIDENCE DEMONSTRATING THAT A PRIN-
38 CIPAL'S FAILURE TO APPEAR FOR A SCHEDULED COURT APPEARANCE WAS WILLFUL,
39 THE COURT, PRIOR TO ISSUING A BENCH WARRANT FOR A FAILURE TO APPEAR FOR
40 A SCHEDULED COURT APPEARANCE, SHALL PROVIDE AT LEAST FORTY-EIGHT HOURS
41 NOTICE TO THE PRINCIPAL OR THE PRINCIPAL'S COUNSEL THAT THE PRINCIPAL IS
42 REQUIRED TO APPEAR, IN ORDER TO GIVE THE PRINCIPAL AN OPPORTUNITY TO
43 APPEAR VOLUNTARILY.

44 S 10. Paragraph (b) of subdivision 2 of section 520.10 of the criminal
45 procedure law, as amended by chapter 784 of the laws of 1972, is amended
46 to read as follows:

47 (b) The court [may] SHALL direct that the bail be posted in any one of
48 [two] THREE or more of the forms specified in subdivision one OF THIS
49 SECTION, designated in the alternative, and may designate different
50 amounts varying with the forms[;], EXCEPT THAT ONE OF THE FORMS SHALL BE
51 EITHER AN UNSECURED OR PARTIALLY SECURED SURETY BOND, AS SELECTED BY THE
52 COURT.

53 S 11. Section 530.10 of the criminal procedure law is amended to read
54 as follows:

55 S 530.10 Order of recognizance RELEASE UNDER NON-MONETARY CONDITIONS or
56 bail; in general.

1 Under circumstances prescribed in this article, a court, upon applica-
2 tion of a defendant charged with or convicted of an offense, is required
3 [or authorized to order bail or recognizance] TO ISSUE A SECURING ORDER
4 for [the release or prospective release of] such defendant during the
5 pendency of either:

6 1. A criminal action based upon such charge; or

7 2. An appeal taken by the defendant from a judgment of conviction or
8 a sentence or from an order of an intermediate appellate court affirming
9 or modifying a judgment of conviction or a sentence.

10 S 12. Subdivision 4 of section 530.11 of the criminal procedure law,
11 as added by chapter 186 of the laws of 1997, is amended to read as
12 follows:

13 4. When a person is arrested for an alleged family offense or an
14 alleged violation of an order of protection or temporary order of
15 protection or arrested pursuant to a warrant issued by the supreme or
16 family court, and the supreme or family court, as applicable, is not in
17 session, such person shall be brought before a local criminal court in
18 the county of arrest or in the county in which such warrant is return-
19 able pursuant to article one hundred twenty of this chapter. Such local
20 criminal court may issue any order authorized under subdivision eleven
21 of section 530.12 of this article, section one hundred fifty-four-d or
22 one hundred fifty-five of the family court act or subdivision three-b of
23 section two hundred forty or subdivision two-a of section two hundred
24 fifty-two of the domestic relations law, in addition to discharging
25 other arraignment responsibilities as set forth in this chapter. In
26 making such order, the local criminal court shall consider DE NOVO the
27 [bail] recommendation AND SECURING ORDER, if any, made by the supreme or
28 family court as indicated on the warrant or certificate of warrant.
29 Unless the petitioner or complainant requests otherwise, the court, in
30 addition to scheduling further criminal proceedings, if any, regarding
31 such alleged family offense or violation allegation, shall make such
32 matter returnable in the supreme or family court, as applicable, on the
33 next day such court is in session.

34 S 13. Paragraph (a) of subdivision 8 of section 530.13 of the criminal
35 procedure law, as added by chapter 388 of the laws of 1984, is amended
36 to read as follows:

37 (a) revoke an order of recognizance, RELEASE UNDER NON-MONETARY CONDI-
38 TIONS or bail and commit the defendant to custody; or

39 S 14. The opening paragraph of subdivision 1 of section 530.13 of the
40 criminal procedure law, as amended by chapter 137 of the laws of 2007,
41 is amended to read as follows:

42 When any criminal action is pending, and the court has not issued a
43 temporary order of protection pursuant to section 530.12 of this arti-
44 cle, the court, in addition to the other powers conferred upon it by
45 this chapter, may for good cause shown issue a temporary order of
46 protection in conjunction with any securing order [committing the
47 defendant to the custody of the sheriff or as a condition of a pre-trial
48 release, or as a condition of release on bail] or an adjournment in
49 contemplation of dismissal. In addition to any other conditions, such an
50 order may require that the defendant:

51 S 15. Subdivision 11 of section 530.12 of the criminal procedure law,
52 as amended by chapter 498 of the laws of 1993, the opening paragraph as
53 amended by chapter 597 of the laws of 1998, paragraph (a) as amended by
54 chapter 222 of the laws of 1994, paragraph (d) as amended by chapter 644
55 of the laws of 1996, is amended to read as follows:

1 11. If a defendant is brought before the court for failure to obey any
2 lawful order issued under this section, or an order of protection issued
3 by a court of competent jurisdiction in another state, territorial or
4 tribal jurisdiction, and if, after hearing, the court is satisfied by
5 competent proof that the defendant has willfully failed to obey any such
6 order, the court may:

7 (a) revoke an order of recognizance OR RELEASE UNDER NON-MONETARY
8 CONDITIONS or revoke an order of bail or order forfeiture of such bail
9 and commit the defendant to custody; or

10 (b) restore the case to the calendar when there has been an adjourn-
11 ment in contemplation of dismissal and commit the defendant to custody;
12 or

13 (c) revoke a conditional discharge in accordance with section 410.70
14 of this chapter and impose probation supervision or impose a sentence of
15 imprisonment in accordance with the penal law based on the original
16 conviction; or

17 (d) revoke probation in accordance with section 410.70 of this chapter
18 and impose a sentence of imprisonment in accordance with the penal law
19 based on the original conviction. In addition, if the act which consti-
20 tutes the violation of the order of protection or temporary order of
21 protection is a crime or a violation the defendant may be charged with
22 and tried for that crime or violation.

23 S 16. Section 530.20 of the criminal procedure law, as amended by
24 chapter 531 of the laws of 1975, subparagraph (ii) of paragraph (b) of
25 subdivision 2 as amended by chapter 218 of the laws of 1979, is amended
26 to read as follows:

27 S 530.20 [Order of recognizance or bail;] SECURING ORDER by local crimi-
28 nal court when action is pending therein.

29 When a criminal action is pending in a local criminal court, such
30 court, upon application of a defendant, [must or may order recognizance
31 or bail] SHALL PROCEED as follows:

32 1. [When the defendant is charged, by information, simplified informa-
33 tion, prosecutor's information or misdemeanor complaint, with an offense
34 or offenses of less than felony grade only, the court must order recog-
35 nizance or bail.] (A) IN CASES WHERE THE MOST SERIOUS OFFENSE WITH WHICH
36 THE DEFENDANT STANDS CHARGED IN THE CASE BEFORE THE COURT OR A PENDING
37 CASE IS AN OFFENSE THAT IS NOT A CLASS A FELONY DEFINED IN THE PENAL LAW
38 OR A FELONY ENUMERATED IN SECTION 70.02 OF THE PENAL LAW (OTHER THAN
39 BURGLARY IN THE SECOND DEGREE AS DEFINED IN SUBDIVISION TWO OF SECTION
40 140.25 OF THE PENAL LAW OR ROBBERY IN THE SECOND DEGREE AS DEFINED IN
41 SUBDIVISION ONE OF SECTION 160.10 OF SUCH LAW OR REPORTING A FALSE INCI-
42 DENT IN THE SECOND DEGREE AS DEFINED IN SECTION 240.55 OF SUCH LAW) OR A
43 MISDEMEANOR DEFINED IN ARTICLE ONE HUNDRED THIRTY OF THE PENAL LAW, THE
44 COURT SHALL RELEASE THE PRINCIPAL PENDING TRIAL ON THE PRINCIPAL'S OWN
45 RECOGNIZANCE, UNLESS THE COURT FINDS ON THE RECORD OR IN WRITING THAT
46 RELEASE ON THE PRINCIPAL'S OWN RECOGNIZANCE WILL NOT REASONABLY ASSURE
47 THE PRINCIPAL'S RETURN TO COURT. IN SUCH INSTANCES, THE COURT SHALL
48 RELEASE THE PRINCIPAL UNDER NON-MONETARY CONDITIONS, SELECTING THE LEAST
49 RESTRICTIVE ALTERNATIVE AND CONDITIONS THAT WILL REASONABLY ASSURE THE
50 PRINCIPAL'S RETURN TO COURT. THE COURT SHALL EXPLAIN ITS CHOICE OF
51 ALTERNATIVE AND CONDITIONS ON THE RECORD OR IN WRITING.

52 (B) EXCEPT AS PROVIDED IN PARAGRAPH (C) OF THIS SUBDIVISION, IN CASES
53 WHERE AN OFFENSE WITH WHICH THE DEFENDANT STANDS CHARGED IN THE CASE
54 BEFORE THE COURT OR A PENDING CASE IS A FELONY ENUMERATED IN SECTION
55 70.02 OF THE PENAL LAW (EXCEPT BURGLARY IN THE SECOND DEGREE AS DEFINED
56 IN SUBDIVISION TWO OF SECTION 140.25 OF THE PENAL LAW OR ROBBERY IN THE

1 SECOND DEGREE AS DEFINED IN SUBDIVISION ONE OF SECTION 160.10 OF SUCH
2 LAW OR REPORTING A FALSE INCIDENT IN THE SECOND DEGREE AS DEFINED IN
3 SECTION 240.55 OF SUCH LAW) OR A MISDEMEANOR DEFINED IN ARTICLE ONE
4 HUNDRED THIRTY OF THE PENAL LAW, THE COURT, UNLESS OTHERWISE PROHIBITED
5 BY LAW, SHALL RELEASE THE PRINCIPAL PENDING TRIAL ON THE PRINCIPAL'S OWN
6 RECOGNIZANCE, OR RELEASE THE PRINCIPAL UNDER NON-MONETARY CONDITIONS, OR
7 FIX BAIL. IN SUCH INSTANCES, THE COURT SHALL SELECT THE LEAST RESTRIC-
8 TIVE ALTERNATIVE THAT WILL REASONABLY ASSURE THE PRINCIPAL'S RETURN TO
9 COURT. THE COURT SHALL EXPLAIN ITS CHOICE OF ALTERNATIVE AND CONDITIONS
10 ON THE RECORD OR IN WRITING.

11 (C) IN CASES WHERE AN OFFENSE WITH WHICH THE DEFENDANT STANDS CHARGED
12 IN THE CASE BEFORE THE COURT OR A PENDING CASE IS A FELONY SEX OFFENSE
13 AS DEFINED IN SECTION 70.80 OF THE PENAL LAW, A FELONY TERRORISM OFFENSE
14 UNDER SECTION 490.10, 490.15, 490.30, 490.35, 490.37, 490.40, 490.45,
15 490.47, 490.50 OR 490.55 OF THE PENAL LAW, A CLASS A FELONY OFFENSE
16 DEFINED IN THE PENAL LAW, A FELONY OFFENSE OF WITNESS INTIMIDATION UNDER
17 SECTION 215.15, 215.16, OR 215.17 OF THE PENAL LAW, A FELONY OFFENSE
18 WHERE A REQUIRED ELEMENT THEREOF IS AN INTENT TO CAUSE SERIOUS PHYSICAL
19 INJURY OR DEATH TO ANOTHER PERSON AND CAUSING SUCH INJURY OR DEATH TO
20 SUCH PERSON OR A THIRD PERSON, OR A FELONY FOR WHICH THE DEFENDANT WOULD
21 BE ELIGIBLE FOR SENTENCING UNDER SECTION 70.08 OF THE PENAL LAW, THE
22 COURT, UNLESS OTHERWISE PROHIBITED BY LAW, SHALL RELEASE THE PRINCIPAL
23 PENDING TRIAL UNDER NON-MONETARY CONDITIONS, OR FIX BAIL, OR COMMIT THE
24 PRINCIPAL TO THE CUSTODY OF THE SHERIFF. IN SUCH INSTANCES, THE COURT
25 SHALL SELECT THE LEAST RESTRICTIVE ALTERNATIVE AND CONDITIONS THAT WILL
26 REASONABLY ASSURE THE PRINCIPAL'S RETURN TO COURT. THE COURT SHALL
27 EXPLAIN ITS CHOICE OF ALTERNATIVE AND CONDITIONS ON THE RECORD OR IN
28 WRITING.

29 2. When the defendant is charged, by felony complaint, with a felony,
30 the court may, in its discretion, order recognizance, RELEASE UNDER
31 NON-MONETARY CONDITIONS, or, WHERE AUTHORIZED, bail OR COMMIT THE
32 DEFENDANT TO THE CUSTODY OF THE SHERIFF except as otherwise provided in
33 SUBDIVISION ONE OF THIS SECTION OR this subdivision:

34 (a) A city court, a town court or a village court may not order recog-
35 nizance or bail when (i) the defendant is charged with a class A felony,
36 or (ii) [it appears that] the defendant has two previous felony
37 convictions;

38 (b) No local criminal court may order recognizance, RELEASE UNDER
39 NON-MONETARY CONDITIONS or bail with respect to a defendant charged with
40 a felony unless and until:

41 (i) The district attorney has been heard in the matter or, after
42 knowledge or notice of the application and reasonable opportunity to be
43 heard, has failed to appear at the proceeding or has otherwise waived
44 his right to do so; and

45 (ii) The court [has] AND COUNSEL FOR THE DEFENDANT HAVE been furnished
46 with a report of the division of criminal justice services concerning
47 the defendant's criminal record, if any, or with a police department
48 report with respect to the defendant's prior arrest AND CONVICTION
49 record, IF ANY. If neither report is available, the court, with the
50 consent of the district attorney, may dispense with this requirement;
51 provided, however, that in an emergency, including but not limited to a
52 substantial impairment in the ability of such division or police depart-
53 ment to timely furnish such report, such consent shall not be required
54 if, for reasons stated on the record, the court deems it unnecessary.
55 When the court has been furnished with any such report or record, it

1 shall furnish a copy thereof to counsel for the defendant or, if the
2 defendant is not represented by counsel, to the defendant.

3 S 17. The section heading and subdivisions 1 and 2 of section 530.30
4 of the criminal procedure law, subdivision 2 as amended by chapter 762
5 of the laws of 1971, are amended to read as follows:

6 Order of recognizance, RELEASE UNDER NON-MONETARY CONDITIONS or bail; by
7 superior court judge when action is pending in local crimi-
8 nal court.

9 1. When a criminal action is pending in a local criminal court, other
10 than one consisting of a superior court judge sitting as such, a judge
11 of a superior court holding a term thereof in the county, upon applica-
12 tion of a defendant, may order recognizance, RELEASE UNDER NON-MONETARY
13 CONDITIONS or, WHERE AUTHORIZED, bail when such local criminal court:

14 (a) Lacks authority to issue such an order, pursuant to [paragraph (a)
15 of subdivision two] THE RELEVANT PROVISIONS of section 530.20 OF THIS
16 ARTICLE; or

17 (b) Has denied an application for recognizance, RELEASE UNDER NON-MON-
18 ETARY CONDITIONS or bail; or

19 (c) Has fixed bail, WHERE AUTHORIZED, which is excessive; OR

20 (D) HAS SET A SECURING ORDER OF RELEASE UNDER NON-MONETARY CONDITIONS
21 WHICH ARE MORE RESTRICTIVE THAN NECESSARY TO REASONABLY ASSURE THE
22 DEFENDANT'S RETURN TO COURT.

23 In such case, such superior court judge may vacate the order of such
24 local criminal court and release the defendant on [his own] recognizance
25 OR UNDER NON-MONETARY CONDITIONS, or WHERE AUTHORIZED, fix bail in a
26 lesser amount or in a less burdensome form, WHICHEVER ARE THE LEAST
27 RESTRICTIVE ALTERNATIVE AND CONDITIONS THAT WILL REASONABLY ASSURE THE
28 DEFENDANT'S RETURN TO COURT. THE COURT SHALL EXPLAIN ITS CHOICE OF
29 ALTERNATIVE AND CONDITIONS ON THE RECORD OR IN WRITING.

30 2. Notwithstanding the provisions of subdivision one OF THIS SECTION,
31 when the defendant is charged with a felony in a local criminal court, a
32 superior court judge may not order recognizance, RELEASE UNDER NON-MONE-
33 TARY CONDITIONS or, WHERE AUTHORIZED, bail unless and until the district
34 attorney has had an opportunity to be heard in the matter and such judge
35 [has] AND COUNSEL FOR THE DEFENDANT HAVE been furnished with a report as
36 described in subparagraph (ii) of paragraph (b) of subdivision two of
37 section 530.20 OF THIS ARTICLE.

38 S 18. Section 530.40 of the criminal procedure law, subdivision 3 as
39 amended by chapter 264 of the laws of 2003, and subdivision 4 as amended
40 by chapter 762 of the laws of 1971, is amended to read as follows:

41 S 530.40 Order of recognizance, RELEASE UNDER NON-MONETARY CONDITIONS or
42 bail; by superior court when action is pending therein.

43 When a criminal action is pending in a superior court, such court,
44 upon application of a defendant, must or may order recognizance or bail
45 as follows:

46 1. When the defendant is charged with an offense or offenses of less
47 than felony grade only, the court must, UNLESS OTHERWISE PROVIDED BY
48 LAW, order recognizance or [bail] RELEASE UNDER NON-MONETARY CONDITIONS
49 IN ACCORDANCE WITH THIS SECTION.

50 2. When the defendant is charged with a felony, the court may, in its
51 discretion, order recognizance [or], RELEASE UNDER NON-MONETARY CONDI-
52 TIONS OR, WHERE AUTHORIZED, bail. In any such case in which an indict-
53 ment (a) has resulted from an order of a local criminal court holding
54 the defendant for the action of the grand jury, or (b) was filed at a
55 time when a felony complaint charging the same conduct was pending in a
56 local criminal court, and in which such local criminal court or a supe-

1 rior court judge has issued an order of recognizance [or], RELEASE UNDER
2 NON-MONETARY CONDITIONS OR, WHERE AUTHORIZED, bail which is still effec-
3 tive, the superior court's order may be in the form of a direction
4 continuing the effectiveness of the previous order.

5 3. IN CASES WHERE THE MOST SERIOUS OFFENSE WITH WHICH THE DEFENDANT
6 STANDS CHARGED IN THE CASE BEFORE THE COURT OR A PENDING CASE IS AN
7 OFFENSE THAT IS NOT A CLASS A FELONY DEFINED IN THE PENAL LAW OR A FELO-
8 NY ENUMERATED IN SECTION 70.02 OF THE PENAL LAW (OTHER THAN BURGLARY IN
9 THE SECOND DEGREE AS DEFINED IN SUBDIVISION TWO OF SECTION 140.25 OF THE
10 PENAL LAW OR ROBBERY IN THE SECOND DEGREE AS DEFINED IN SUBDIVISION ONE
11 OF SECTION 160.10 OF SUCH LAW OR REPORTING A FALSE INCIDENT IN THE
12 SECOND DEGREE AS DEFINED IN SECTION 240.55 OF SUCH LAW) OR A MISDEMEANOR
13 DEFINED IN ARTICLE ONE HUNDRED THIRTY OF THE PENAL LAW, THE COURT SHALL
14 RELEASE THE PRINCIPAL PENDING TRIAL ON THE PRINCIPAL'S OWN RECOGNIZANCE,
15 UNLESS THE COURT FINDS ON THE RECORD OR IN WRITING THAT RELEASE ON THE
16 PRINCIPAL'S OWN RECOGNIZANCE WILL NOT REASONABLY ASSURE THE PRINCIPAL'S
17 RETURN TO COURT. IN SUCH INSTANCES, THE COURT SHALL RELEASE THE PRINCI-
18 PAL UNDER NON-MONETARY CONDITIONS, SELECTING THE LEAST RESTRICTIVE
19 ALTERNATIVE AND CONDITIONS THAT WILL REASONABLY ASSURE THE PRINCIPAL'S
20 RETURN TO COURT. THE COURT SHALL EXPLAIN ITS CHOICE OF ALTERNATIVE AND
21 CONDITIONS ON THE RECORD OR IN WRITING.

22 4. EXCEPT AS PROVIDED IN SUBDIVISION FIVE OF THIS SECTION, IN CASES
23 WHERE AN OFFENSE WITH WHICH THE DEFENDANT STANDS CHARGED IN THE CASE
24 BEFORE THE COURT OR A PENDING CASE IS A FELONY ENUMERATED IN SECTION
25 70.02 OF THE PENAL LAW (EXCEPT BURGLARY IN THE SECOND DEGREE AS DEFINED
26 IN SUBDIVISION TWO OF SECTION 140.25 OF THE PENAL LAW OR ROBBERY IN THE
27 SECOND DEGREE AS DEFINED IN SUBDIVISION ONE OF SECTION 160.10 OF SUCH
28 LAW OR REPORTING A FALSE INCIDENT IN THE SECOND DEGREE AS DEFINED IN
29 SECTION 240.55 OF SUCH LAW) OR A MISDEMEANOR DEFINED IN ARTICLE ONE
30 HUNDRED THIRTY OF THE PENAL LAW THE COURT, UNLESS OTHERWISE PROHIBITED
31 BY LAW, SHALL RELEASE THE PRINCIPAL PENDING TRIAL ON THE PRINCIPAL'S OWN
32 RECOGNIZANCE, OR RELEASE THE PRINCIPAL UNDER NON-MONETARY CONDITIONS, OR
33 FIX BAIL, SELECTING THE LEAST RESTRICTIVE ALTERNATIVE AND CONDITIONS
34 THAT WILL REASONABLY ASSURE THE PRINCIPAL'S RETURN TO COURT. THE COURT
35 SHALL EXPLAIN ITS CHOICE OF ALTERNATIVE AND CONDITIONS ON THE RECORD OR
36 IN WRITING.

37 5. IN CASES WHERE AN OFFENSE WITH WHICH THE DEFENDANT STANDS CHARGED
38 IN THE CASE BEFORE THE COURT OR A PENDING CASE IS A FELONY SEX OFFENSE
39 AS DEFINED IN SECTION 70.80 OF THE PENAL LAW, A FELONY TERRORISM OFFENSE
40 UNDER SECTION 490.10, 490.15, 490.30, 490.35, 490.37, 490.40, 490.45,
41 490.47, 490.50 OR 490.55 OF THE PENAL LAW, A CLASS A FELONY OFFENSE
42 DEFINED IN THE PENAL LAW, A FELONY OFFENSE OF WITNESS INTIMIDATION UNDER
43 SECTION 215.15, 215.16, OR 215.17 OF THE PENAL LAW, A FELONY OFFENSE
44 WHERE A REQUIRED ELEMENT THEREOF IS AN INTENT TO CAUSE SERIOUS PHYSICAL
45 INJURY OR DEATH TO ANOTHER PERSON AND CAUSING SUCH INJURY OR DEATH TO
46 SUCH PERSON OR A THIRD PERSON, OR A FELONY FOR WHICH THE DEFENDANT IS
47 ELIGIBLE FOR SENTENCING UNDER SECTION 70.08 OF THE PENAL LAW, THE COURT,
48 UNLESS OTHERWISE PROHIBITED BY LAW, SHALL RELEASE THE PRINCIPAL PENDING
49 TRIAL UNDER NON-MONETARY CONDITIONS, OR FIX BAIL, OR COMMIT THE PRINCI-
50 PAL TO THE CUSTODY OF THE SHERIFF, SELECTING THE LEAST RESTRICTIVE
51 ALTERNATIVE AND CONDITIONS THAT WILL REASONABLY ASSURE THE PRINCIPAL'S
52 RETURN TO COURT. THE COURT SHALL EXPLAIN ITS CHOICE OF ALTERNATIVE AND
53 CONDITIONS ON THE RECORD OR IN WRITING.

54 6. Notwithstanding the provisions of [subdivision two] SUBDIVISIONS
55 TWO, THREE, FOUR AND FIVE OF THIS SECTION, a superior court may not
56 order recognizance, RELEASE UNDER NON-MONETARY CONDITIONS or, WHERE

1 AUTHORIZED, bail, or permit a defendant to remain at liberty pursuant to
2 an existing order, after [he] THE DEFENDANT has been convicted of
3 either: (a) a class A felony or (b) any class B or class C felony AS
4 defined in article one hundred thirty of the penal law committed or
5 attempted to be committed by a person eighteen years of age or older
6 against a person less than eighteen years of age. In either case the
7 court must commit or remand the defendant to the custody of the sheriff.
8 [4.] 7. Notwithstanding the provisions of [subdivision two] SUBDIVI-
9 SIONS TWO, THREE, FOUR AND FIVE OF THIS SECTION, a superior court may
10 not order recognizance, RELEASE UNDER NON-MONETARY CONDITIONS or, WHERE
11 AUTHORIZED, bail when the defendant is charged with a felony unless and
12 until the district attorney has had an opportunity to be heard in the
13 matter and such court [has] AND COUNSEL FOR THE DEFENDANT HAVE been
14 furnished with a report as described in subparagraph (ii) of paragraph
15 (b) of subdivision two of section 530.20 OF THIS ARTICLE.

16 S 19. Subdivision 1 of section 530.45 of the criminal procedure law,
17 as amended by chapter 264 of the laws of 2003, is amended to read as
18 follows:

19 1. When the defendant is at liberty in the course of a criminal action
20 as a result of a prior order of recognizance, RELEASE UNDER NON-MONETARY
21 CONDITIONS or bail and the court revokes such order and then [either],
22 WHERE AUTHORIZED, fixes no bail or fixes bail in a greater amount or in
23 a more burdensome form than was previously fixed and remands or commits
24 defendant to the custody of the sheriff, OR ISSUES A MORE RESTRICTIVE
25 SECURING ORDER, a judge designated in subdivision two OF THIS SECTION,
26 upon application of the defendant following conviction of an offense
27 other than a class A felony or a class B or class C felony offense AS
28 defined in article one hundred thirty of the penal law committed or
29 attempted to be committed by a person eighteen years of age or older
30 against a person less than eighteen years of age, and before sentencing,
31 may issue a securing order and [either] release THE defendant on [his]
32 THE DEFENDANT'S own recognizance, RELEASE THE DEFENDANT UNDER NON-MONE-
33 TARY CONDITIONS, or, WHERE AUTHORIZED, fix bail[,] or fix bail in a
34 lesser amount or in a less burdensome form, OR ISSUE A LESS RESTRICTIVE
35 SECURING ORDER, than fixed by the court in which the conviction was
36 entered.

37 S 20. Section 530.60 of the criminal procedure law, subdivision 1 as
38 amended by chapter 565 of the laws of 2011, subdivision 2 as added by
39 chapter 788 of the laws of 1981 and paragraph (a) of subdivision 2 as
40 amended by chapter 794 of the laws of 1986, is amended to read as
41 follows:

42 S 530.60 [Order of recognizance or bail; revocation thereof] CERTAIN
43 MODIFICATIONS OF A SECURING ORDER.

44 1. Whenever in the course of a criminal action or proceeding a defend-
45 ant is at liberty as a result of an order of recognizance, RELEASE UNDER
46 NON-MONETARY CONDITIONS or bail issued pursuant to this chapter, and the
47 court considers it necessary to review such order, [it] WHETHER DUE TO A
48 MOTION BY THE PEOPLE OR OTHERWISE, THE COURT may, and EXCEPT AS PROVIDED
49 IN SUBDIVISION TWO OF SECTION 510.50 OF THIS TITLE CONCERNING A FAILURE
50 TO APPEAR IN COURT, by a bench warrant if necessary, require the defend-
51 ant to appear before the court. Upon such appearance, the court, for
52 good cause shown, may revoke the order of recognizance, RELEASE UNDER
53 NON-MONETARY CONDITIONS, or bail. If the defendant is entitled to recog-
54 nizance, RELEASE UNDER NON-MONETARY CONDITIONS, or bail as a matter of
55 right, the court must issue another such order. If [he or she] THE

1 DEFENDANT is not, the court may either issue such an order or commit the
2 defendant to the custody of the sheriff IN ACCORDANCE WITH THIS SECTION.

3 Where the defendant is committed to the custody of the sheriff and is
4 held on a felony complaint, a new period as provided in section 180.80
5 of this chapter shall commence to run from the time of the defendant's
6 commitment under this subdivision.

7 2. (a) Whenever in the course of a criminal action or proceeding a
8 defendant charged with the commission of a felony is at liberty as a
9 result of an order of recognizance, RELEASE UNDER NON-MONETARY CONDI-
10 TIONS or bail issued pursuant to this article it shall be grounds for
11 revoking such order that the court finds reasonable cause to believe the
12 defendant committed one or more specified class A or violent felony
13 offenses or intimidated a victim or witness in violation of [sections]
14 SECTION 215.15, 215.16 or 215.17 of the penal law while at liberty.

15 (B) EXCEPT AS PROVIDED IN PARAGRAPH (A) OF THIS SUBDIVISION OR ANY
16 OTHER LAW, WHENEVER IN THE COURSE OF A CRIMINAL ACTION OR PROCEEDING A
17 DEFENDANT CHARGED WITH THE COMMISSION OF AN OFFENSE IS AT LIBERTY AS A
18 RESULT OF AN ORDER OF RECOGNIZANCE, RELEASE UNDER NON-MONETARY CONDI-
19 TIONS OR BAIL ISSUED PURSUANT TO THIS ARTICLE IT SHALL BE GROUNDS FOR
20 REVOKING SUCH ORDER AND FIXING BAIL IN SUCH CRIMINAL ACTION OR PROCEED-
21 ING WHEN THE COURT HAS FOUND, BY CLEAR AND CONVINCING EVIDENCE, THAT THE
22 DEFENDANT:

23 (I) PERSISTENTLY WILLFULLY FAILED TO APPEAR AFTER NOTICE OF SCHEDULED
24 APPEARANCES IN THE CASE BEFORE THE COURT; OR

25 (II) VIOLATED AN ORDER OF PROTECTION IN THE MANNER PROHIBITED BY
26 SUBDIVISION (B), (C) OR (D) OF SECTION 215.51 OF THE PENAL LAW WHILE AT
27 LIBERTY; OR

28 (III) STANDS CHARGED IN SUCH CRIMINAL ACTION OR PROCEEDING WITH A
29 MISDEMEANOR OR VIOLATION AND, AFTER BEING SO CHARGED, INTIMIDATED A
30 VICTIM OR WITNESS IN VIOLATION OF SECTION 215.15, 215.16 OR 215.17 OF
31 THE PENAL LAW WHILE AT LIBERTY; OR

32 (IV) STANDS CHARGED IN SUCH ACTION OR PROCEEDING WITH A FELONY AND,
33 AFTER BEING SO CHARGED, COMMITTED A FELONY WHILE AT LIBERTY.

34 (C) Before revoking an order of recognizance, RELEASE UNDER NON-MONE-
35 TARY CONDITIONS, or bail pursuant to this subdivision, the court must
36 hold a hearing and shall receive any relevant, admissible evidence not
37 legally privileged. The defendant may cross-examine witnesses and may
38 present relevant, admissible evidence on his own behalf. Such hearing
39 may be consolidated with, and conducted at the same time as, a felony
40 hearing conducted pursuant to article one hundred eighty of this chap-
41 ter. A transcript of testimony taken before the grand jury upon presen-
42 tation of the subsequent offense shall be admissible as evidence during
43 the hearing. The district attorney may move to introduce grand jury
44 testimony of a witness in lieu of that witness' appearance at the hear-
45 ing.

46 [(b)] (D) Revocation of an order of recognizance, RELEASE UNDER
47 NON-MONETARY CONDITIONS or bail and A NEW SECURING ORDER FIXING BAIL OR
48 commitment, AS SPECIFIED IN THIS PARAGRAPH AND pursuant to this subdivi-
49 sion shall be for the following periods[, either]:

50 (I) UNDER PARAGRAPH (A) OF THIS SUBDIVISION, REVOCATION OF THE ORDER
51 OF RECOGNIZANCE, RELEASE UNDER NON-MONETARY CONDITIONS OR, AS THE CASE
52 MAY BE, BAIL, AND A NEW SECURING ORDER FIXING BAIL OR COMMITTING THE
53 DEFENDANT TO THE CUSTODY OF THE SHERIFF SHALL BE AS FOLLOWS:

54 [(i)] (A) For a period not to exceed ninety days exclusive of any
55 periods of adjournment requested by the defendant; or

1 [(ii)] (B) Until the charges contained within the accusatory instru-
2 ment have been reduced or dismissed such that no count remains which
3 charges the defendant with commission of a felony; or

4 [(iii)] (C) Until reduction or dismissal of the charges contained
5 within the accusatory instrument charging the subsequent offense such
6 that no count remains which charges the defendant with commission of a
7 class A or violent felony offense.

8 Upon expiration of any of the three periods specified within this
9 [paragraph] SUBPARAGRAPH, whichever is shortest, the court may grant or
10 deny release upon an order of bail or recognizance in accordance with
11 the provisions of this article. Upon conviction to an offense the
12 provisions of article five hundred thirty of this chapter shall
13 apply[.]; AND

14 [(c)] (II) UNDER PARAGRAPH (B) OF THIS SUBDIVISION, REVOCATION OF THE
15 ORDER OF RECOGNIZANCE, RELEASE UNDER NON-MONETARY CONDITIONS OR, AS THE
16 CASE MAY BE, BAIL SHALL RESULT IN THE ISSUANCE OF A NEW SECURING ORDER
17 WHICH MAY, IF OTHERWISE AUTHORIZED BY LAW, PERMIT THE PRINCIPAL'S
18 RELEASE ON RECOGNIZANCE OR RELEASE UNDER NON-MONETARY CONDITIONS, BUT
19 SHALL ALSO RENDER THE DEFENDANT ELIGIBLE FOR AN ORDER FIXING BAIL
20 PROVIDED, HOWEVER, THAT IN ACCORDANCE WITH THE PRINCIPLES IN THIS TITLE
21 THE COURT MUST SELECT THE LEAST RESTRICTIVE ALTERNATIVE AND CONDITION OR
22 CONDITIONS THAT WILL REASONABLY ASSURE THE PRINCIPAL'S RETURN TO COURT.
23 NOTHING IN THIS SUBPARAGRAPH SHALL BE INTERPRETED AS SHORTENING THE
24 PERIOD OF DETENTION, OR REQUIRING OR AUTHORIZING ANY LESS RESTRICTIVE
25 FORM OF A SECURING ORDER, WHICH MAY BE IMPOSED PURSUANT TO ANY OTHER
26 LAW.

27 (E) Notwithstanding the provisions of paragraph (a) OR (B) of this
28 subdivision a defendant, against whom a felony complaint has been filed
29 which charges the defendant with commission of a class A or violent
30 felony offense OR VIOLATION OF SECTION 215.15, 215.16 OR 215.17 OF THE
31 PENAL LAW committed while he was at liberty as specified therein, may be
32 committed to the custody of the sheriff pending a revocation hearing for
33 a period not to exceed seventy-two hours. An additional period not to
34 exceed seventy-two hours may be granted by the court upon application of
35 the district attorney upon a showing of good cause or where the failure
36 to commence the hearing was due to the defendant's request or occurred
37 with his consent. Such good cause must consist of some compelling fact
38 or circumstance which precluded conducting the hearing within the
39 initial prescribed period.

40 S 21. Paragraph (a) of subdivision 9 of section 216.05 of the criminal
41 procedure law, as amended by chapter 258 of the laws of 2015, is amended
42 to read as follows:

43 (a) If at any time during the defendant's participation in the judi-
44 cial diversion program, the court has reasonable grounds to believe that
45 the defendant has violated a release condition IN AN IMPORTANT RESPECT
46 or has WILLFULLY failed to appear before the court as requested, the
47 court EXCEPT AS PROVIDED IN SUBDIVISION TWO OF SECTION 510.50 OF THIS
48 CHAPTER REGARDING A FAILURE TO APPEAR, shall direct the defendant to
49 appear or issue a bench warrant to a police officer or an appropriate
50 peace officer directing him or her to take the defendant into custody
51 and bring the defendant before the court without unnecessary delay;
52 provided, however, that under no circumstances shall a defendant who
53 requires treatment for opioid abuse or dependence be deemed to have
54 violated a release condition on the basis of his or her participation in
55 medically prescribed drug treatments under the care of a health care
56 professional licensed or certified under title eight of the education

1 law, acting within his or her lawful scope of practice. The RELEVANT
 2 provisions of [subdivision one of] section 530.60 of this chapter relat-
 3 ing to [revocation of recognizance or bail] ISSUANCE OF SECURING ORDERS
 4 shall apply to such proceedings under this subdivision.

5 S 22. The opening paragraph of section 240.44 of the criminal proce-
 6 dure law, as added by chapter 558 of the laws of 1982, is amended to
 7 read as follows:

8 Subject to a protective order, at a pre-trial hearing held in a crim-
 9 inal court at which a witness is called to testify, each party, [at the
 10 conclusion] PRIOR TO THE COMMENCEMENT of the direct examination of each
 11 of its witnesses, shall, upon request of the other party, make available
 12 to that party to the extent not previously disclosed:

13 S 23. Section 410.60 of the criminal procedure law, as amended by
 14 chapter 652 of the laws of 2008, is amended to read as follows:
 15 S 410.60 Appearance before court.

16 A person who has been taken into custody pursuant to section 410.40 or
 17 section 410.50 of this article for violation of a condition of a
 18 sentence of probation or a sentence of conditional discharge must forth-
 19 with be brought before the court that imposed the sentence. Where a
 20 violation of probation petition and report has been filed and the person
 21 has not been taken into custody nor has a warrant been issued, an
 22 initial court appearance shall occur within ten business days of the
 23 court's issuance of a notice to appear. If the court has reasonable
 24 cause to believe that such person has violated a condition of the
 25 sentence, it may commit [him] SUCH PERSON to the custody of the sheriff
 26 [or], fix bail, RELEASE SUCH PERSON UNDER NON-MONETARY CONDITIONS or
 27 release such person on [his] SUCH PERSON'S own recognizance for future
 28 appearance at a hearing to be held in accordance with section 410.70 of
 29 this article. If the court does not have reasonable cause to believe
 30 that such person has violated a condition of the sentence, it must
 31 direct that [he] SUCH PERSON be released.

32 S 24. Subdivision 3 of section 620.50 of the criminal procedure law is
 33 amended to read as follows:

34 3. A material witness order must be executed as follows:

35 (a) If the bail is posted and approved by the court, the witness
 36 must, as provided in subdivision [three] TWO of section 510.40, be
 37 released and be permitted to remain at liberty; provided that, where the
 38 bail is posted by a person other than the witness himself, he may not be
 39 so released except upon his signed written consent thereto;

40 (b) If the bail is not posted, or if though posted it is not approved
 41 by the court, the witness must, as provided in subdivision [three] TWO
 42 of section 510.40, be committed to the custody of the sheriff.

43 S 25. This act shall take effect on the thirtieth day after it shall
 44 have become a law.

45

PART D

46 Section 1. Article 240 of the criminal procedure law is REPEALED.

47 S 2. The criminal procedure law is amended by adding a new article 245
 48 to read as follows:

49

ARTICLE 245

50

DISCOVERY

51 SECTION 245.10 TIMING OF DISCOVERY.

52 245.20 AUTOMATIC DISCOVERY.

53 245.25 DISCLOSURE PRIOR TO GUILTY PLEA DEADLINE.

54 245.30 COURT ORDERS FOR PRESERVATION, ACCESS OR DISCOVERY.

1 245.35 COURT ORDERED PROCEDURES TO FACILITATE COMPLIANCE.
2 245.40 NON-TESTIMONIAL EVIDENCE FROM THE DEFENDANT.
3 245.45 DNA COMPARISON ORDER.
4 245.50 CERTIFICATES OF COMPLIANCE.
5 245.55 FLOW OF INFORMATION.
6 245.60 CONTINUING DUTY TO DISCLOSE.
7 245.65 WORK PRODUCT.
8 245.70 PROTECTIVE ORDERS.
9 245.75 WAIVER OF DISCOVERY BY DEFENDANT.
10 245.80 REMEDIES OR SANCTIONS FOR NON-COMPLIANCE.
11 245.85 ADMISSIBILITY OF DISCOVERY.

12 S 245.10 TIMING OF DISCOVERY.

13 1. PROSECUTION'S PERFORMANCE OF OBLIGATIONS. (A) THE PROSECUTION SHALL
14 PERFORM ITS INITIAL DISCOVERY OBLIGATIONS UNDER SUBDIVISION ONE OF
15 SECTION 245.20 OF THIS ARTICLE AS SOON AS PRACTICABLE BUT NOT LATER
16 THAN FIFTEEN CALENDAR DAYS AFTER THE DEFENDANT'S ARRAIGNMENT ON AN
17 INDICTMENT, SUPERIOR COURT INFORMATION, PROSECUTOR'S INFORMATION, INFOR-
18 MATION, OR SIMPLIFIED INFORMATION. PORTIONS OF MATERIALS CLAIMED TO BE
19 NON-DISCOVERABLE MAY BE WITHHELD PENDING A DETERMINATION AND RULING OF
20 THE COURT UNDER SECTION 245.70 OF THIS ARTICLE; BUT THE DEFENDANT SHALL
21 BE NOTIFIED IN WRITING THAT INFORMATION HAS NOT BEEN DISCLOSED UNDER A
22 PARTICULAR SUBDIVISION OF SUCH SECTION, AND THE DISCOVERABLE PORTIONS OF
23 SUCH MATERIALS SHALL BE DISCLOSED IF PRACTICABLE. WHEN THE DISCOVERABLE
24 MATERIALS ARE EXCEPTIONALLY VOLUMINOUS, THE TIME PERIOD IN THIS PARA-
25 GRAPH MAY BE STAYED BY UP TO AN ADDITIONAL THIRTY CALENDAR DAYS WITHOUT
26 NEED FOR A MOTION PURSUANT TO SUBDIVISION TWO OF SECTION 245.70 OF THIS
27 ARTICLE.

28 (B) THE PROSECUTION SHALL PERFORM ITS SUPPLEMENTAL DISCOVERY OBLI-
29 GATIONS UNDER SUBDIVISION THREE OF SECTION 245.20 OF THIS ARTICLE AS
30 SOON AS PRACTICABLE BUT NOT LATER THAN FIFTEEN CALENDAR DAYS BEFORE
31 TRIAL.

32 (C) UPON TIMELY DEFENSE REQUEST, THE PROSECUTION SHALL DISCLOSE MATE-
33 RIALS UNDER PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION 245.20 OF THIS
34 ARTICLE TO ANY DEFENDANT WHO HAS BEEN ARRAIGNED IN A LOCAL CRIMINAL
35 COURT UPON A CURRENTLY UNDISPOSED OF FELONY COMPLAINT CHARGING AN
36 OFFENSE WHICH IS A SUBJECT OF A PROSPECTIVE OR PENDING GRAND JURY
37 PROCEEDING, NO LATER THAN FORTY-EIGHT HOURS BEFORE THE TIME SCHEDULED
38 FOR THE DEFENDANT TO TESTIFY AT A GRAND JURY PROCEEDING PURSUANT TO
39 SUBDIVISION FIVE OF SECTION 190.50 OF THIS PART.

40 2. DEFENDANT'S PERFORMANCE OF OBLIGATIONS. THE DEFENDANT SHALL PERFORM
41 HIS OR HER DISCOVERY OBLIGATIONS UNDER SUBDIVISION FOUR OF SECTION
42 245.20 OF THIS ARTICLE NOT LATER THAN THIRTY CALENDAR DAYS AFTER BEING
43 SERVED WITH THE PROSECUTION'S CERTIFICATE OF COMPLIANCE PURSUANT TO
44 SUBDIVISION ONE OF SECTION 245.50 OF THIS ARTICLE, EXCEPT THAT PORTIONS
45 OF MATERIALS CLAIMED TO BE NON-DISCOVERABLE MAY BE WITHHELD PENDING A
46 DETERMINATION AND RULING OF THE COURT UNDER SECTION 245.70 OF THIS ARTI-
47 CLE; BUT THE PROSECUTION MUST BE NOTIFIED IN WRITING THAT INFORMATION
48 HAS NOT BEEN DISCLOSED UNDER A PARTICULAR SECTION.

49 S 245.20 AUTOMATIC DISCOVERY.

50 1. INITIAL DISCOVERY FOR THE DEFENDANT. THE PROSECUTION SHALL DISCLOSE
51 TO THE DEFENDANT, AND PERMIT THE DEFENDANT TO DISCOVER, INSPECT, COPY OR
52 PHOTOGRAPH, EACH OF THE FOLLOWING ITEMS AND INFORMATION WHEN IT RELATES
53 TO THE SUBJECT MATTER OF THE CASE AND IS IN THE POSSESSION, CUSTODY OR
54 CONTROL OF THE PROSECUTION OR PERSONS UNDER THE PROSECUTION'S DIRECTION
55 OR CONTROL:

1 (A) ALL WRITTEN OR RECORDED STATEMENTS, AND THE SUBSTANCE OF ALL ORAL
2 STATEMENTS, MADE BY THE DEFENDANT OR A CO-DEFENDANT TO A PUBLIC SERVANT
3 ENGAGED IN LAW ENFORCEMENT ACTIVITY OR TO A PERSON THEN ACTING UNDER HIS
4 OR HER DIRECTION OR IN COOPERATION WITH HIM OR HER, OTHER THAN STATE-
5 MENTS MADE IN THE COURSE OF THE CRIMINAL TRANSACTION.

6 (B) ALL TRANSCRIPTS OF THE TESTIMONY OF A PERSON WHO HAS TESTIFIED
7 BEFORE A GRAND JURY, INCLUDING BUT NOT LIMITED TO THE DEFENDANT OR A
8 CO-DEFENDANT. IF IN THE EXERCISE OF REASONABLE DILIGENCE, AND DUE TO THE
9 LIMITED AVAILABILITY OF TRANSCRIPTION RESOURCES, A TRANSCRIPT IS
10 UNAVAILABLE FOR DISCLOSURE WITHIN THE TIME PERIOD SPECIFIED IN SUBDIVI-
11 SION ONE OF SECTION 245.10 OF THIS ARTICLE, SUCH TIME PERIOD MAY BE
12 STAYED BY UP TO AN ADDITIONAL THIRTY CALENDAR DAYS WITHOUT NEED FOR A
13 MOTION PURSUANT TO SUBDIVISION TWO OF SECTION 245.70 OF THIS ARTICLE;
14 EXCEPT THAT SUCH DISCLOSURE SHALL BE MADE AS SOON AS PRACTICABLE AND NOT
15 LATER THAN THIRTY CALENDAR DAYS BEFORE A SCHEDULED TRIAL DATE, UNLESS
16 AN ORDER IS OBTAINED PURSUANT TO SECTION 245.70 OF THIS ARTICLE. WHEN
17 THE COURT IS REQUIRED TO REVIEW GRAND JURY TRANSCRIPTS, THE PROSECUTION
18 SHALL DISCLOSE SUCH TRANSCRIPTS TO THE COURT EXPEDITIOUSLY UPON RECEIPT
19 BY THE PROSECUTOR, NOTWITHSTANDING THE OTHERWISE-APPLICABLE TIME PERIODS
20 FOR DISCLOSURE IN THIS ARTICLE.

21 (C) THE NAMES OF, AND ADDRESSES OR ADEQUATE ALTERNATIVE CONTACT INFOR-
22 MATION FOR, ALL PERSONS OTHER THAN LAW ENFORCEMENT PERSONNEL WHOM THE
23 PROSECUTOR KNOWS TO HAVE EVIDENCE OR INFORMATION RELEVANT TO ANY OFFENSE
24 CHARGED OR TO A POTENTIAL DEFENSE THERETO, INCLUDING A DESIGNATION BY
25 THE PROSECUTOR AS TO WHICH OF THOSE PERSONS MAY BE CALLED AS WITNESSES.
26 INFORMATION UNDER THIS SUBDIVISION RELATING TO A CONFIDENTIAL INFORMANT
27 MAY BE WITHHELD, AND REDACTED FROM DISCOVERY MATERIALS, WITHOUT NEED FOR
28 A MOTION PURSUANT TO SECTION 245.70 OF THIS ARTICLE; BUT THE DEFENDANT
29 SHALL BE NOTIFIED IN WRITING THAT SUCH INFORMATION HAS NOT BEEN
30 DISCLOSED, UNLESS THE COURT RULES OTHERWISE FOR GOOD CAUSE SHOWN.

31 (D) THE NAME AND WORK AFFILIATION OF ALL LAW ENFORCEMENT PERSONNEL
32 WHOM THE PROSECUTOR KNOWS TO HAVE EVIDENCE OR INFORMATION RELEVANT TO
33 ANY OFFENSE CHARGED OR TO A POTENTIAL DEFENSE THERETO, INCLUDING A
34 DESIGNATION BY THE PROSECUTOR AS TO WHICH OF THOSE PERSONS MAY BE CALLED
35 AS WITNESSES. INFORMATION UNDER THIS SUBDIVISION RELATING TO UNDERCOVER
36 PERSONNEL MAY BE WITHHELD, AND REDACTED FROM DISCOVERY MATERIALS, WITH-
37 OUT NEED FOR A MOTION PURSUANT TO SECTION 245.70 OF THIS ARTICLE; BUT
38 THE DEFENDANT SHALL BE NOTIFIED IN WRITING THAT SUCH INFORMATION HAS NOT
39 BEEN DISCLOSED, UNLESS THE COURT RULES OTHERWISE FOR GOOD CAUSE SHOWN.

40 (E) ALL STATEMENTS, WRITTEN OR RECORDED OR SUMMARIZED IN ANY WRITING
41 OR RECORDING, MADE BY PERSONS WHO HAVE EVIDENCE OR INFORMATION RELEVANT
42 TO ANY OFFENSE CHARGED OR TO A POTENTIAL DEFENSE THERETO, INCLUDING ALL
43 POLICE REPORTS AND LAW ENFORCEMENT AGENCY REPORTS. THIS PROVISION ALSO
44 INCLUDES STATEMENTS, WRITTEN OR RECORDED OR SUMMARIZED IN ANY WRITING OR
45 RECORDING, BY PERSONS TO BE CALLED AS WITNESSES AT PRE-TRIAL HEARINGS.

46 (F) EXPERT OPINION EVIDENCE, INCLUDING THE NAME, BUSINESS ADDRESS,
47 CURRENT CURRICULUM VITAE, AND A LIST OF PUBLICATIONS OF EACH EXPERT
48 WITNESS WHOM THE PROSECUTOR INTENDS TO CALL AS A WITNESS AT TRIAL OR A
49 PRE-TRIAL HEARING, AND ALL REPORTS PREPARED BY THE EXPERT THAT PERTAIN
50 TO THE CASE, OR IF NO REPORT IS PREPARED, A WRITTEN STATEMENT OF THE
51 FACTS AND OPINIONS TO WHICH THE EXPERT IS EXPECTED TO TESTIFY AND A
52 SUMMARY OF THE GROUNDS FOR EACH OPINION. THIS PARAGRAPH DOES NOT ALTER
53 OR IN ANY WAY AFFECT THE PROCEDURES, OBLIGATIONS OR RIGHTS SET FORTH IN
54 SECTION 250.10 OF THIS TITLE. IF IN THE EXERCISE OF REASONABLE DILI-
55 GENCE THIS INFORMATION IS UNAVAILABLE FOR DISCLOSURE WITHIN THE TIME
56 PERIOD SPECIFIED IN SUBDIVISION ONE OF SECTION 245.10 OF THIS ARTICLE,

1 THAT PERIOD SHALL BE STAYED WITHOUT NEED FOR A MOTION PURSUANT TO
2 SUBDIVISION TWO OF SECTION 245.70 OF THIS ARTICLE; EXCEPT THAT THE
3 DISCLOSURE SHALL BE MADE AS SOON AS PRACTICABLE AND NOT LATER THAN SIXTY
4 CALENDAR DAYS BEFORE A SCHEDULED TRIAL DATE, UNLESS AN ORDER IS OBTAINED
5 PURSUANT TO SECTION 245.70 OF THIS ARTICLE. WHEN THE PROSECUTION'S
6 EXPERT WITNESS IS BEING CALLED IN RESPONSE TO DISCLOSURE OF AN EXPERT
7 WITNESS BY THE DEFENDANT, THE COURT SHALL ALTER A SCHEDULED TRIAL DATE,
8 IF NECESSARY, TO ALLOW THE PROSECUTION THIRTY CALENDAR DAYS TO MAKE THE
9 DISCLOSURE AND THE DEFENDANT THIRTY CALENDAR DAYS TO PREPARE AND RESPOND
10 TO THE NEW MATERIALS.

11 (G) ALL TAPES OR OTHER ELECTRONIC RECORDINGS WHICH THE PROSECUTION
12 INTENDS TO INTRODUCE AT TRIAL OR A PRE-TRIAL HEARING.

13 (H) ALL PHOTOGRAPHS AND DRAWINGS MADE OR COMPLETED BY A PUBLIC SERVANT
14 ENGAGED IN LAW ENFORCEMENT ACTIVITY, OR WHICH WERE MADE BY A PERSON
15 WHOM THE PROSECUTOR INTENDS TO CALL AS A WITNESS AT TRIAL OR A PRE-TRIAL
16 HEARING, OR WHICH THE PROSECUTION INTENDS TO INTRODUCE AT TRIAL OR A
17 PRE-TRIAL HEARING.

18 (I) ALL PHOTOGRAPHS, PHOTOCOPIES AND REPRODUCTIONS MADE BY OR AT THE
19 DIRECTION OF LAW ENFORCEMENT PERSONNEL OF ANY PROPERTY PRIOR TO ITS
20 RELEASE PURSUANT TO SECTION 450.10 OF THE PENAL LAW.

21 (J) ALL REPORTS, DOCUMENTS, DATA, CALCULATIONS OR WRITINGS, INCLUDING
22 BUT NOT LIMITED TO PRELIMINARY TESTS OR SCREENING RESULTS AND BENCH
23 NOTES, CONCERNING PHYSICAL OR MENTAL EXAMINATIONS, OR SCIENTIFIC TESTS
24 OR EXPERIMENTS OR COMPARISONS, AND ANALYSES PERFORMED ELECTRONICALLY,
25 RELATING TO THE CRIMINAL ACTION OR PROCEEDING WHICH WERE MADE BY OR AT
26 THE REQUEST OR DIRECTION OF A PUBLIC SERVANT ENGAGED IN LAW ENFORCEMENT
27 ACTIVITY, OR WHICH WERE MADE BY A PERSON WHOM THE PROSECUTOR INTENDS TO
28 CALL AS A WITNESS AT TRIAL OR A PRE-TRIAL HEARING, OR WHICH THE PROSE-
29 CUTION INTENDS TO INTRODUCE AT TRIAL OR A PRE-TRIAL HEARING.

30 (K) ALL EVIDENCE AND INFORMATION, INCLUDING THAT WHICH IS KNOWN TO
31 POLICE OR OTHER LAW ENFORCEMENT AGENCIES ACTING ON THE GOVERNMENT'S
32 BEHALF IN THE CASE, THAT TENDS TO: (I) NEGATE THE DEFENDANT'S GUILT AS
33 TO A CHARGED OFFENSE; (II) REDUCE THE DEGREE OF OR MITIGATE THE DEFEND-
34 ANT'S CULPABILITY AS TO A CHARGED OFFENSE; (III) SUPPORT A POTENTIAL
35 DEFENSE TO A CHARGED OFFENSE; (IV) IMPEACH THE CREDIBILITY OF A TESTI-
36 FYING PROSECUTION WITNESS; (V) UNDERMINE EVIDENCE OF THE DEFENDANT'S
37 IDENTITY AS A PERPETRATOR OF A CHARGED OFFENSE; (VI) PROVIDE A BASIS FOR
38 A MOTION TO SUPPRESS EVIDENCE; OR (VII) MITIGATE PUNISHMENT. INFORMA-
39 TION UNDER THIS SUBDIVISION SHALL BE DISCLOSED WHETHER OR NOT SUCH
40 INFORMATION IS RECORDED IN TANGIBLE FORM AND IRRESPECTIVE OF WHETHER THE
41 PROSECUTOR CREDITS THE INFORMATION. THE PROSECUTOR SHALL DISCLOSE THE
42 INFORMATION EXPEDITIOUSLY UPON ITS RECEIPT AND SHALL NOT DELAY DISCLO-
43 SURE IF IT IS OBTAINED EARLIER THAN THE TIME PERIOD FOR DISCLOSURE IN
44 SUBDIVISION ONE OF SECTION 245.10 OF THIS ARTICLE.

45 (L) A SUMMARY OF ALL PROMISES, REWARDS AND INDUCEMENTS MADE TO, OR IN
46 FAVOR OF, PERSONS WHO MAY BE CALLED AS WITNESSES, AS WELL AS REQUESTS
47 FOR CONSIDERATION BY PERSONS WHO MAY BE CALLED AS WITNESSES AND COPIES
48 OF ALL DOCUMENTS RELEVANT TO A PROMISE, REWARD OR INDUCEMENT.

49 (M) A LIST OF ALL TANGIBLE OBJECTS OBTAINED FROM, OR ALLEGEDLY
50 POSSESSED BY, THE DEFENDANT OR A CO-DEFENDANT. THE LIST SHALL INCLUDE A
51 DESIGNATION BY THE PROSECUTOR AS TO WHICH OBJECTS WERE PHYSICALLY OR
52 CONSTRUCTIVELY POSSESSED BY THE DEFENDANT AND WERE RECOVERED DURING A
53 SEARCH OR SEIZURE BY A PUBLIC SERVANT OR AN AGENT THEREOF, AND WHICH
54 TANGIBLE OBJECTS WERE RECOVERED BY A PUBLIC SERVANT OR AN AGENT THEREOF
55 AFTER ALLEGEDLY BEING ABANDONED BY THE DEFENDANT. IF THE PROSECUTION
56 INTENDS TO PROVE THE DEFENDANT'S POSSESSION OF ANY TANGIBLE OBJECTS BY

1 MEANS OF A STATUTORY PRESUMPTION OF POSSESSION, IT SHALL DESIGNATE SUCH
2 INTENTION AS TO EACH SUCH OBJECT. IF REASONABLY PRACTICABLE, THE PROSE-
3 CUTION SHALL ALSO DESIGNATE THE LOCATION FROM WHICH EACH TANGIBLE OBJECT
4 WAS RECOVERED. THERE IS ALSO A RIGHT TO INSPECT OR COPY OR PHOTOGRAPH
5 THE LISTED TANGIBLE OBJECTS.

6 (N) WHETHER A SEARCH WARRANT HAS BEEN EXECUTED AND ALL DOCUMENTS
7 RELATING THERETO, INCLUDING BUT NOT LIMITED TO THE WARRANT, THE WARRANT
8 APPLICATION, SUPPORTING AFFIDAVITS, A POLICE INVENTORY OF ALL PROPERTY
9 SEIZED UNDER THE WARRANT, AND A TRANSCRIPT OF ALL TESTIMONY OR OTHER
10 ORAL COMMUNICATIONS OFFERED IN SUPPORT OF THE WARRANT APPLICATION.

11 (O) ALL TANGIBLE PROPERTY THAT THE PROSECUTION INTENDS TO INTRODUCE IN
12 ITS CASE-IN-CHIEF AT TRIAL OR A PRE-TRIAL HEARING. IF IN THE EXERCISE OF
13 REASONABLE DILIGENCE THE PROSECUTOR HAS NOT FORMED AN INTENTION WITHIN
14 THE TIME PERIOD SPECIFIED IN SUBDIVISION ONE OF SECTION 245.10 OF THIS
15 ARTICLE THAT AN ITEM UNDER THIS SUBDIVISION WILL BE INTRODUCED AT TRIAL
16 OR A PRE-TRIAL HEARING, SUCH TIME PERIOD SHALL BE STAYED WITHOUT NEED
17 FOR A MOTION PURSUANT TO SUBDIVISION TWO OF SECTION 245.70 OF THIS ARTI-
18 CLE; BUT THE DISCLOSURE SHALL BE MADE AS SOON AS PRACTICABLE AND SUBJECT
19 TO THE CONTINUING DUTY TO DISCLOSE IN SECTION 245.60 OF THIS ARTICLE.

20 (P) THE RESULTS OF COMPLETE CRIMINAL HISTORY RECORD CHECKS FOR ALL
21 DEFENDANTS AND ALL PERSONS DESIGNATED AS POTENTIAL PROSECUTION WITNESSES
22 PURSUANT TO PARAGRAPH (C) OF THIS SUBDIVISION, OTHER THAN THOSE
23 WITNESSES WHO ARE EXPERTS.

24 (Q) WHEN IT IS KNOWN TO THE PROSECUTION, THE EXISTENCE OF ANY PENDING
25 CRIMINAL ACTION AGAINST ALL PERSONS DESIGNATED AS POTENTIAL PROSECUTION
26 WITNESSES PURSUANT TO PARAGRAPH (C) OF THIS SUBDIVISION.

27 (R) THE APPROXIMATE DATE, TIME AND PLACE OF THE OFFENSE OR OFFENSES
28 CHARGED AND OF THE DEFENDANT'S SEIZURE AND ARREST.

29 (S) IN ANY PROSECUTION ALLEGING A VIOLATION OF THE VEHICLE AND TRAFFIC
30 LAW, WHERE THE DEFENDANT IS CHARGED BY INDICTMENT, SUPERIOR COURT INFOR-
31 MATION, PROSECUTOR'S INFORMATION, INFORMATION, OR SIMPLIFIED INFORMA-
32 TION, THE MOST RECENT RECORD OF INSPECTION, CALIBRATION AND REPAIR OF
33 MACHINES AND INSTRUMENTS UTILIZED TO PERFORM ANY SCIENTIFIC TESTS AND
34 EXPERIMENTS AND THE CERTIFICATION CERTIFICATE, IF ANY, HELD BY THE OPER-
35 ATOR OF THE MACHINE OR INSTRUMENT, AND ALL OTHER DISCLOSURES REQUIRED
36 UNDER THIS ARTICLE.

37 (T) IN ANY PROSECUTION ALLEGING A VIOLATION OF SECTION 156.05 OR
38 156.10 OF THE PENAL LAW, THE TIME, PLACE AND MANNER SUCH VIOLATION
39 OCCURRED.

40 2. DISCOVERY BY THE PROSECUTION. THE PROSECUTOR SHALL MAKE A DILI-
41 GENT, GOOD FAITH EFFORT TO ASCERTAIN THE EXISTENCE OF MATERIAL OR INFOR-
42 MATION DISCOVERABLE UNDER SUBDIVISION ONE OF THIS SECTION AND TO CAUSE
43 SUCH MATERIAL OR INFORMATION TO BE MADE AVAILABLE FOR DISCOVERY WHERE
44 IT EXISTS BUT IS NOT WITHIN THE PROSECUTOR'S POSSESSION, CUSTODY OR
45 CONTROL; PROVIDED THAT THE PROSECUTOR SHALL NOT BE REQUIRED TO OBTAIN BY
46 SUBPOENA DUCES TECUM MATERIAL OR INFORMATION WHICH THE DEFENDANT MAY
47 THEREBY OBTAIN. THIS PROVISION SHALL NOT REQUIRE THE PROSECUTOR TO
48 ASCERTAIN THE EXISTENCE OF WITNESSES NOT KNOWN TO POLICE OR ANOTHER LAW
49 ENFORCEMENT AGENCY, OR THE WRITTEN OR RECORDED STATEMENTS THEREOF, UNDER
50 PARAGRAPH (C) OR (E) OF SUBDIVISION ONE OF THIS SECTION.

51 3. SUPPLEMENTAL DISCOVERY FOR THE DEFENDANT. THE PROSECUTION SHALL
52 DISCLOSE TO THE DEFENDANT A LIST OF ALL MISCONDUCT AND CRIMINAL ACTS OF
53 THE DEFENDANT NOT CHARGED IN THE INDICTMENT, SUPERIOR COURT INFORMATION,
54 PROSECUTOR'S INFORMATION, INFORMATION, OR SIMPLIFIED INFORMATION, WHICH
55 THE PROSECUTION INTENDS TO USE AT TRIAL FOR PURPOSES OF (A) IMPEACHING
56 THE CREDIBILITY OF THE DEFENDANT, OR (B) AS SUBSTANTIVE PROOF OF ANY

1 MATERIAL ISSUE IN THE CASE. IN ADDITION THE PROSECUTION SHALL DESIGNATE
2 WHETHER IT INTENDS TO USE EACH LISTED ACT FOR IMPEACHMENT AND/OR AS
3 SUBSTANTIVE PROOF.

4 4. RECIPROCAL DISCOVERY FOR THE PROSECUTION. (A) THE DEFENDANT SHALL,
5 SUBJECT TO CONSTITUTIONAL LIMITATIONS, DISCLOSE TO THE PROSECUTION, AND
6 PERMIT THE PROSECUTION TO DISCOVER, INSPECT, COPY OR PHOTOGRAPH, ANY
7 MATERIAL AND RELEVANT EVIDENCE WITHIN THE DEFENDANT'S OR COUNSEL FOR THE
8 DEFENDANT'S POSSESSION OR CONTROL THAT IS DISCOVERABLE UNDER PARAGRAPHS
9 (F), (G), (H), (J), (L) AND (O) OF SUBDIVISION ONE OF THIS SECTION,
10 WHICH THE DEFENDANT INTENDS TO OFFER AT TRIAL OR A PRE-TRIAL HEARING,
11 AND THE NAMES, ADDRESSES, BIRTH DATES, AND ALL STATEMENTS, WRITTEN OR
12 RECORDED OR SUMMARIZED IN ANY WRITING OR RECORDING, OF THOSE PERSONS
13 OTHER THAN THE DEFENDANT WHOM THE DEFENDANT INTENDS TO CALL AS WITNESSES
14 AT TRIAL OR A PRE-TRIAL HEARING.

15 (B) DISCLOSURE OF THE NAME, ADDRESS, BIRTH DATE, AND ALL STATEMENTS,
16 WRITTEN OR RECORDED OR SUMMARIZED IN ANY WRITING OR RECORDING, OF A
17 PERSON WHOM THE DEFENDANT INTENDS TO CALL AS A WITNESS FOR THE SOLE
18 PURPOSE OF IMPEACHING A PROSECUTION WITNESS IS NOT REQUIRED UNTIL AFTER
19 THE PROSECUTION WITNESS HAS TESTIFIED AT TRIAL.

20 (C) IF IN THE EXERCISE OF REASONABLE DILIGENCE THE RECIPROCALLY
21 DISCOVERABLE INFORMATION UNDER PARAGRAPH (F) OR (O) OF SUBDIVISION ONE
22 OF THIS SECTION IS UNAVAILABLE FOR DISCLOSURE WITHIN THE TIME PERIOD
23 SPECIFIED IN SUBDIVISION TWO OF SECTION 245.10 OF THIS ARTICLE, SUCH
24 TIME PERIOD SHALL BE STAYED WITHOUT NEED FOR A MOTION PURSUANT TO SUBDI-
25 VISION TWO OF SECTION 245.70 OF THIS ARTICLE; BUT THE DISCLOSURE SHALL
26 BE MADE AS SOON AS PRACTICABLE AND SUBJECT TO THE CONTINUING DUTY TO
27 DISCLOSE IN SECTION 245.60 OF THIS ARTICLE.

28 5. STAY OF AUTOMATIC DISCOVERY; REMEDIES AND SANCTIONS. SECTION 245.10
29 AND SUBDIVISIONS ONE, TWO, THREE AND FOUR OF THIS SECTION SHALL HAVE
30 THE FORCE AND EFFECT OF A COURT ORDER, AND FAILURE TO PROVIDE DISCOVERY
31 PURSUANT TO SUCH SECTION OR SUBDIVISION MAY RESULT IN APPLICATION OF ANY
32 REMEDIES OR SANCTIONS PERMITTED FOR NON-COMPLIANCE WITH A COURT ORDER
33 UNDER SECTION 245.80 OF THIS ARTICLE. HOWEVER, IF IN THE JUDGMENT OF
34 EITHER PARTY GOOD CAUSE EXISTS FOR DECLINING TO MAKE ANY OF THE DISCLO-
35 SURES SET FORTH ABOVE, SUCH PARTY MAY MOVE FOR A PROTECTIVE ORDER PURSU-
36 ANT TO SECTION 245.70 OF THIS ARTICLE AND PRODUCTION OF THE ITEM SHALL
37 BE STAYED PENDING A RULING BY THE COURT. THE OPPOSING PARTY SHALL BE
38 NOTIFIED IN WRITING THAT INFORMATION HAS NOT BEEN DISCLOSED UNDER A
39 PARTICULAR SECTION. WHEN SOME PARTS OF MATERIAL OR INFORMATION ARE
40 DISCOVERABLE BUT IN THE JUDGMENT OF A PARTY GOOD CAUSE EXISTS FOR
41 DECLINING TO DISCLOSE OTHER PARTS, THE DISCOVERABLE PARTS SHALL BE
42 DISCLOSED AND THE DISCLOSING PARTY SHALL GIVE NOTICE IN WRITING THAT
43 NON-DISCOVERABLE PARTS HAVE BEEN WITHHELD.

44 6. REDACTIONS PERMITTED. EITHER PARTY MAY REDACT SOCIAL SECURITY
45 NUMBERS AND TAX NUMBERS FROM DISCLOSURES UNDER THIS ARTICLE.
46 S 245.25 DISCLOSURE PRIOR TO GUILTY PLEA DEADLINE.

47 1. PRE-INDICTMENT GUILTY PLEAS. UPON A FELONY COMPLAINT, WHERE THE
48 PROSECUTION HAS MADE A PRE-INDICTMENT GUILTY PLEA OFFER REQUIRING A PLEA
49 TO A CRIME, THE DEFENDANT SHALL HAVE THE RIGHT UPON TIMELY REQUEST AND
50 REASONABLE NOTICE TO THE PROSECUTION TO INSPECT ANY AVAILABLE POLICE OR
51 OTHER LAW ENFORCEMENT AGENCY REPORT OF A FACTUAL NATURE REGARDING THE
52 ARREST OR INVESTIGATION OF THE CHARGES, AND/OR ANY DESIGNATED AND AVAIL-
53 ABLE ITEMS OR INFORMATION THAT COULD BE OF MATERIAL IMPORTANCE TO THE
54 DECISION ON THE GUILTY PLEA OFFER AND WOULD BE DISCOVERABLE PRIOR TO
55 TRIAL UNDER SUBDIVISION ONE OF SECTION 245.20 OF THIS ARTICLE. THE PROS-
56 ECUTION SHALL DISCLOSE THE REQUESTED AND DESIGNATED ITEMS OR INFORMA-

1 TION, AS WELL AS ANY KNOWN INFORMATION THAT TENDS TO BE EXCULPATORY OR
2 TO SUPPORT A DEFENSE TO A CHARGED OFFENSE, NOT LESS THAN THREE CALENDAR
3 DAYS PRIOR TO THE EXPIRATION DATE OF ANY GUILTY PLEA OFFER BY THE PROSE-
4 CUTION OR ANY DEADLINE IMPOSED BY THE COURT FOR ACCEPTANCE OF A NEGOTI-
5 ATED GUILTY PLEA OFFER. IF THE PROSECUTION DOES NOT COMPLY WITH A PROP-
6 ER REQUEST MADE PURSUANT TO THIS SUBDIVISION, THE COURT MAY TAKE
7 APPROPRIATE ACTION AS NECESSARY TO ADDRESS THE NON-COMPLIANCE, INCLUDING
8 ALLOWING A GUILTY PLEA TO THE ORIGINAL GUILTY PLEA OFFER NOTWITHSTANDING
9 OTHER PROVISIONS OF THIS CHAPTER. THE INSPECTION RIGHTS UNDER THIS
10 SUBDIVISION DO NOT APPLY TO ITEMS OR INFORMATION THAT ARE THE SUBJECT OF
11 A PROTECTIVE ORDER UNDER SECTION 245.70 OF THIS ARTICLE; BUT IF SUCH
12 INFORMATION TENDS TO BE EXCULPATORY, THE COURT SHALL RECONSIDER THE
13 PROTECTIVE ORDER. THE COURT MAY DENY AN INSPECTION RIGHT UNDER THIS
14 SUBDIVISION WHEN A REASONABLE PERSON IN THE DEFENDANT'S POSITION WOULD
15 NOT CONSIDER THE REQUESTED AND DESIGNATED ITEM OR INFORMATION TO BE OF
16 MATERIAL IMPORTANCE TO THE DECISION ON THE GUILTY PLEA OFFER. A DEFEND-
17 ANT MAY WAIVE HIS OR HER RIGHTS UNDER THIS SUBDIVISION; BUT A GUILTY
18 PLEA OFFER MAY NOT BE CONDITIONED ON SUCH WAIVER.

19 2. OTHER GUILTY PLEAS. UPON AN INDICTMENT, SUPERIOR COURT INFORMATION,
20 PROSECUTOR'S INFORMATION, INFORMATION, SIMPLIFIED INFORMATION, OR
21 MISDEMEANOR COMPLAINT, WHERE THE PROSECUTION HAS MADE A GUILTY PLEA
22 OFFER REQUIRING A PLEA TO A CRIME, THE DEFENDANT SHALL HAVE THE RIGHT
23 UPON TIMELY REQUEST AND REASONABLE NOTICE TO THE PROSECUTION TO INSPECT
24 ANY AVAILABLE POLICE OR OTHER LAW ENFORCEMENT AGENCY REPORT OF A FACTUAL
25 NATURE REGARDING THE ARREST OR INVESTIGATION OF THE CHARGES, AND/OR ANY
26 DESIGNATED AND AVAILABLE ITEMS OR INFORMATION THAT COULD BE OF MATERIAL
27 IMPORTANCE TO THE DECISION ON THE GUILTY PLEA OFFER AND WOULD BE DISCOV-
28 ERABLE PRIOR TO TRIAL UNDER SUBDIVISION ONE OF SECTION 245.20 OF THIS
29 ARTICLE. THE PROSECUTION SHALL DISCLOSE THE REQUESTED AND DESIGNATED
30 ITEMS OR INFORMATION, AS WELL AS ANY KNOWN INFORMATION THAT TENDS TO BE
31 EXCULPATORY OR TO SUPPORT A DEFENSE TO A CHARGED OFFENSE, NOT LESS THAN
32 SEVEN CALENDAR DAYS PRIOR TO THE EXPIRATION DATE OF ANY GUILTY PLEA
33 OFFER BY THE PROSECUTION OR ANY DEADLINE IMPOSED BY THE COURT FOR A
34 GUILTY PLEA. IF THE PROSECUTION DOES NOT COMPLY WITH A PROPER REQUEST
35 MADE PURSUANT TO THIS SUBDIVISION, THE GUILTY PLEA OFFER MAY BE DEEMED
36 AVAILABLE TO THE DEFENDANT UNTIL SEVEN CALENDAR DAYS AFTER THE PROSE-
37 CUTION HAS MADE THE DISCLOSURE OR THE COURT MAY TAKE OTHER APPROPRIATE
38 ACTION AS NECESSARY TO ADDRESS THE NON-COMPLIANCE. THE INSPECTION RIGHTS
39 UNDER THIS SUBDIVISION DO NOT APPLY TO ITEMS OR INFORMATION THAT ARE THE
40 SUBJECT OF A PROTECTIVE ORDER UNDER SECTION 245.70 OF THIS ARTICLE; BUT
41 IF SUCH INFORMATION TENDS TO BE EXCULPATORY, THE COURT SHALL RECONSIDER
42 THE PROTECTIVE ORDER. THE COURT MAY DENY AN INSPECTION RIGHT UNDER THIS
43 SUBDIVISION WHEN A REASONABLE PERSON IN THE DEFENDANT'S POSITION WOULD
44 NOT CONSIDER THE REQUESTED AND DESIGNATED ITEM OR INFORMATION TO BE OF
45 MATERIAL IMPORTANCE TO THE DECISION ON THE GUILTY PLEA OFFER. A DEFEND-
46 ANT MAY WAIVE HIS OR HER RIGHTS UNDER THIS SUBDIVISION, BUT A GUILTY
47 PLEA OFFER MAY NOT BE CONDITIONED ON SUCH WAIVER.
48 S 245.30 COURT ORDERS FOR PRESERVATION, ACCESS OR DISCOVERY.

49 1. ORDER TO PRESERVE EVIDENCE. AT ANY TIME, A PARTY MAY MOVE FOR A
50 COURT ORDER TO ANY INDIVIDUAL, AGENCY OR OTHER ENTITY IN POSSESSION,
51 CUSTODY OR CONTROL OF ITEMS WHICH RELATE TO THE SUBJECT MATTER OF THE
52 CASE OR ARE OTHERWISE RELEVANT, REQUIRING THAT SUCH ITEMS BE PRESERVED
53 FOR A SPECIFIED PERIOD OF TIME. THE COURT SHALL HEAR AND RULE UPON SUCH
54 MOTIONS EXPEDITIOUSLY. THE COURT MAY MODIFY OR VACATE SUCH AN ORDER
55 UPON A SHOWING THAT PRESERVATION OF PARTICULAR EVIDENCE WILL CREATE

1 SIGNIFICANT HARDSHIP, ON CONDITION THAT THE PROBATIVE VALUE OF THAT
2 EVIDENCE IS PRESERVED BY A SPECIFIED ALTERNATIVE MEANS.

3 2. ORDER TO GRANT ACCESS TO PREMISES. AT ANY TIME, THE DEFENDANT MAY
4 MOVE FOR A COURT ORDER TO ANY INDIVIDUAL, AGENCY OR OTHER ENTITY IN
5 POSSESSION, CUSTODY OR CONTROL OF A CRIME SCENE OR OTHER PREMISES THAT
6 RELATES TO THE SUBJECT MATTER OF THE CASE OR IS OTHERWISE RELEVANT,
7 REQUIRING THAT COUNSEL FOR THE DEFENDANT BE GRANTED PROMPT AND REASON-
8 ABLE ACCESS TO INSPECT, PHOTOGRAPH OR MEASURE SUCH CRIME SCENE OR PREM-
9 ISES, AND THAT THE CONDITION OF THE CRIME SCENE OR PREMISES REMAIN
10 UNCHANGED IN THE INTERIM. THE COURT SHALL HEAR AND RULE UPON SUCH
11 MOTIONS EXPEDITIOUSLY. THE COURT MAY MODIFY OR VACATE SUCH AN ORDER
12 UPON A SHOWING THAT GRANTING ACCESS TO A PARTICULAR CRIME SCENE OR PREM-
13 ISES WILL CREATE SIGNIFICANT HARDSHIP, ON CONDITION THAT THE PROBATIVE
14 VALUE OF SUCH LOCATION IS PRESERVED BY A SPECIFIED ALTERNATIVE MEANS.

15 3. DISCRETIONARY DISCOVERY BY ORDER OF THE COURT. THE COURT IN ITS
16 DISCRETION MAY, UPON A SHOWING BY THE DEFENDANT THAT THE REQUEST IS
17 REASONABLE AND THAT THE DEFENDANT IS UNABLE WITHOUT UNDUE HARDSHIP TO
18 OBTAIN THE SUBSTANTIAL EQUIVALENT BY OTHER MEANS, ORDER THE PROSECUTION,
19 OR ANY INDIVIDUAL, AGENCY OR OTHER ENTITY SUBJECT TO THE JURISDICTION OF
20 THE COURT, TO MAKE AVAILABLE FOR DISCLOSURE TO THE DEFENDANT ANY MATERI-
21 AL OR INFORMATION WHICH POTENTIALLY RELATES TO THE SUBJECT MATTER OF THE
22 CASE AND IS REASONABLY LIKELY TO BE MATERIAL. A MOTION UNDER THIS SUBDI-
23 VISION MUST BE ON NOTICE TO ANY PERSON OR ENTITY AFFECTED BY THE ORDER.
24 THE COURT MAY, UPON REQUEST OF ANY PERSON OR ENTITY AFFECTED BY THE
25 ORDER, MODIFY OR VACATE THE ORDER IF COMPLIANCE WOULD BE UNREASONABLE OR
26 WILL CREATE SIGNIFICANT HARDSHIP. THE COURT MAY PERMIT A PARTY SEEKING
27 OR OPPOSING A DISCRETIONARY ORDER OF DISCOVERY UNDER THIS SUBDIVISION,
28 OR ANOTHER AFFECTED PERSON OR ENTITY, TO SUBMIT PAPERS OR TESTIFY ON THE
29 RECORD EX PARTE OR IN CAMERA. ANY SUCH PAPERS AND A TRANSCRIPT OF SUCH
30 TESTIMONY MAY BE SEALED AND SHALL CONSTITUTE A PART OF THE RECORD ON
31 APPEAL.

32 S 245.35 COURT ORDERED PROCEDURES TO FACILITATE COMPLIANCE.

33 TO FACILITATE COMPLIANCE WITH THIS ARTICLE, AND TO REDUCE OR STREAM-
34 LINE LITIGATION OF ANY DISPUTES ABOUT DISCOVERY, THE COURT IN ITS
35 DISCRETION MAY ISSUE AN ORDER:

36 1. REQUIRING THAT THE PROSECUTOR AND COUNSEL FOR THE DEFENDANT DILI-
37 GENTLY CONFER TO ATTEMPT TO REACH AN ACCOMMODATION AS TO ANY DISPUTE
38 CONCERNING DISCOVERY PRIOR TO SEEKING A RULING FROM THE COURT;

39 2. REQUIRING A DISCOVERY COMPLIANCE CONFERENCE AT A SPECIFIED TIME
40 PRIOR TO TRIAL BETWEEN THE PROSECUTOR, COUNSEL FOR ALL DEFENDANTS, AND
41 THE COURT OR ITS STAFF;

42 3. REQUIRING THE PROSECUTION TO FILE AN ADDITIONAL CERTIFICATE OF
43 COMPLIANCE THAT STATES THAT THE PROSECUTOR AND/OR AN APPROPRIATE NAMED
44 AGENT HAS MADE REASONABLE INQUIRIES OF ALL POLICE OFFICERS AND OTHER
45 PERSONS WHO HAVE PARTICIPATED IN INVESTIGATING OR EVALUATING THE CASE
46 ABOUT THE EXISTENCE OF ANY FAVORABLE EVIDENCE OR INFORMATION WITHIN
47 PARAGRAPH (K) OF SUBDIVISION ONE OF SECTION 245.20 OF THIS ARTICLE,
48 INCLUDING SUCH EVIDENCE OR INFORMATION THAT WAS NOT REDUCED TO WRITING
49 OR OTHERWISE MEMORIALIZED OR PRESERVED AS EVIDENCE, AND HAS DISCLOSED
50 ANY SUCH INFORMATION TO THE DEFENDANT; AND/OR

51 4. REQUIRING OTHER MEASURES OR PROCEEDINGS DESIGNED TO CARRY INTO
52 EFFECT THE GOALS OF THIS ARTICLE.

53 S 245.40 NON-TESTIMONIAL EVIDENCE FROM THE DEFENDANT.

54 1. AVAILABILITY. AFTER THE FILING OF AN ACCUSATORY INSTRUMENT, AND
55 SUBJECT TO CONSTITUTIONAL LIMITATIONS, THE COURT MAY, UPON MOTION OF
56 THE PROSECUTION SHOWING PROBABLE CAUSE TO BELIEVE THE DEFENDANT HAS

1 COMMITTED THE CRIME, A CLEAR INDICATION THAT RELEVANT MATERIAL EVIDENCE
2 WILL BE FOUND, AND THAT THE METHOD USED TO SECURE SUCH EVIDENCE IS SAFE
3 AND RELIABLE, REQUIRE A DEFENDANT TO PROVIDE NON-TESTIMONIAL EVIDENCE,
4 INCLUDING TO:

- 5 (A) APPEAR IN A LINEUP;
- 6 (B) SPEAK FOR IDENTIFICATION BY A WITNESS OR POTENTIAL WITNESS;
- 7 (C) BE FINGERPRINTED;
- 8 (D) POSE FOR PHOTOGRAPHS NOT INVOLVING REENACTMENT OF AN EVENT;
- 9 (E) PERMIT THE TAKING OF SAMPLES OF THE DEFENDANT'S BLOOD, HAIR, AND
10 OTHER MATERIALS OF THE DEFENDANT'S BODY THAT INVOLVES NO UNREASONABLE
11 INTRUSION THEREOF;
- 12 (F) PROVIDE SPECIMENS OF THE DEFENDANT'S HANDWRITING; AND
- 13 (G) SUBMIT TO A REASONABLE PHYSICAL OR MEDICAL INSPECTION OF THE
14 DEFENDANT'S BODY.

15 2. LIMITATIONS. THIS SECTION SHALL NOT BE CONSTRUED TO ALTER OR IN ANY
16 WAY AFFECT THE ISSUANCE OF A SIMILAR COURT ORDER, AS MAY BE AUTHORIZED
17 BY LAW, BEFORE THE FILING OF AN ACCUSATORY INSTRUMENT, CONSISTENT WITH
18 SUCH RIGHTS AS THE DEFENDANT MAY DERIVE FROM THE STATE CONSTITUTION OR
19 THE UNITED STATES CONSTITUTION. THIS SECTION SHALL NOT BE CONSTRUED TO
20 ALTER OR IN ANY WAY AFFECT THE ADMINISTRATION OF A CHEMICAL TEST WHERE
21 OTHERWISE AUTHORIZED. AN ORDER PURSUANT TO THIS SECTION MAY BE DENIED,
22 LIMITED OR CONDITIONED AS PROVIDED IN SECTION 245.70 OF THIS ARTICLE.
23 S 245.45 DNA COMPARISON ORDER.

24 WHERE PROPERTY IN THE PROSECUTION'S POSSESSION, CUSTODY, OR CONTROL
25 CONSISTS OF A DEOXYRIBONUCLEIC ACID ("DNA") PROFILE OBTAINED FROM
26 PROBATIVE BIOLOGICAL MATERIAL GATHERED IN CONNECTION WITH THE INVESTI-
27 GATION OF THE CRIME, OR THE DEFENDANT, OR THE PROSECUTION OF THE DEFEND-
28 ANT, AND THE DEFENDANT ESTABLISHES (A) THAT SUCH PROFILE COMPLIES WITH
29 FEDERAL BUREAU OF INVESTIGATION OR STATE REQUIREMENTS, WHICHEVER ARE
30 APPLICABLE AND AS SUCH REQUIREMENTS ARE APPLIED TO LAW ENFORCEMENT AGEN-
31 CIES SEEKING A KEYBOARD SEARCH OR SIMILAR COMPARISON, AND (B) THAT THE
32 DATA MEETS STATE DNA INDEX SYSTEM OR NATIONAL DNA INDEX SYSTEM CRITERIA
33 AS SUCH CRITERIA ARE APPLIED TO LAW ENFORCEMENT AGENCIES SEEKING SUCH A
34 KEYBOARD SEARCH OR SIMILAR COMPARISON, THE COURT MAY, UPON MOTION OF A
35 DEFENDANT AGAINST WHOM AN INDICTMENT, SUPERIOR COURT INFORMATION,
36 PROSECUTOR'S INFORMATION, INFORMATION, OR SIMPLIFIED INFORMATION IS
37 PENDING, ORDER AN ENTITY THAT HAS ACCESS TO THE COMBINED DNA INDEX
38 SYSTEM OR ITS SUCCESSOR SYSTEM TO COMPARE SUCH DNA PROFILE AGAINST DNA
39 DATABANKS BY KEYBOARD SEARCHES, OR A SIMILAR METHOD THAT DOES NOT
40 INVOLVE UPLOADING, UPON NOTICE TO BOTH PARTIES AND THE ENTITY REQUIRED
41 TO PERFORM THE SEARCH, UPON A SHOWING BY THE DEFENDANT THAT SUCH A
42 COMPARISON IS MATERIAL TO THE PRESENTATION OF HIS OR HER DEFENSE AND
43 THAT THE REQUEST IS REASONABLE. FOR PURPOSES OF THIS SECTION, A
44 "KEYBOARD SEARCH" SHALL MEAN A SEARCH OF A DNA PROFILE AGAINST THE
45 DATABANK IN WHICH THE PROFILE THAT IS SEARCHED IS NOT UPLOADED TO OR
46 MAINTAINED IN THE DATABANK.

47 S 245.50 CERTIFICATES OF COMPLIANCE.

48 1. BY THE PROSECUTION. WHEN THE PROSECUTION HAS PROVIDED THE DISCOVERY
49 REQUIRED BY SUBDIVISION ONE OF SECTION 245.20 OF THIS ARTICLE, EXCEPT
50 FOR ANY ITEMS OR INFORMATION THAT ARE THE SUBJECT OF AN ORDER PURSUANT
51 TO SECTION 245.70 OF THIS ARTICLE, IT SHALL SERVE UPON THE DEFENDANT AND
52 FILE WITH THE COURT A CERTIFICATE OF COMPLIANCE. THE CERTIFICATE OF
53 COMPLIANCE SHALL STATE THAT, AFTER EXERCISING DUE DILIGENCE AND MAKING
54 REASONABLE INQUIRIES TO ASCERTAIN THE EXISTENCE OF MATERIAL AND INFOR-
55 MATION SUBJECT TO DISCOVERY, THE PROSECUTOR HAS DISCLOSED AND MADE
56 AVAILABLE ALL KNOWN MATERIAL AND INFORMATION SUBJECT TO DISCOVERY. IT

1 SHALL ALSO IDENTIFY THE ITEMS PROVIDED. IF ADDITIONAL DISCOVERY IS
2 SUBSEQUENTLY PROVIDED PRIOR TO TRIAL PURSUANT TO SECTION 245.60 OF THIS
3 ARTICLE, A SUPPLEMENTAL CERTIFICATE SHALL BE SERVED UPON THE DEFENDANT
4 AND FILED WITH THE COURT IDENTIFYING THE ADDITIONAL MATERIAL AND INFOR-
5 MATION PROVIDED. NO ADVERSE CONSEQUENCE TO THE PROSECUTION OR THE PROSE-
6 CUTOR SHALL RESULT FROM THE FILING OF A CERTIFICATE OF COMPLIANCE IN
7 GOOD FAITH; BUT THE COURT MAY GRANT A REMEDY OR SANCTION FOR A DISCOV-
8 ERY VIOLATION AS PROVIDED IN SECTION 245.80 OF THIS ARTICLE.

9 2. BY THE DEFENDANT. WHEN THE DEFENDANT HAS PROVIDED ALL DISCOVERY
10 REQUIRED BY SUBDIVISION FOUR OF SECTION 245.20 OF THIS ARTICLE, EXCEPT
11 FOR ANY ITEMS OR INFORMATION THAT ARE THE SUBJECT OF AN ORDER PURSUANT
12 TO SECTION 245.70 OF THIS ARTICLE, COUNSEL FOR THE DEFENDANT SHALL SERVE
13 UPON THE PROSECUTION AND FILE WITH THE COURT A CERTIFICATE OF COMPLI-
14 ANCE. THE CERTIFICATE SHALL STATE THAT, AFTER EXERCISING DUE DILIGENCE
15 AND MAKING REASONABLE INQUIRIES TO ASCERTAIN THE EXISTENCE OF MATERIAL
16 AND INFORMATION SUBJECT TO DISCOVERY, COUNSEL FOR THE DEFENDANT HAS
17 DISCLOSED AND MADE AVAILABLE ALL KNOWN MATERIAL AND INFORMATION SUBJECT
18 TO DISCOVERY. IT SHALL ALSO IDENTIFY THE ITEMS PROVIDED. IF ADDITIONAL
19 DISCOVERY IS SUBSEQUENTLY PROVIDED PRIOR TO TRIAL PURSUANT TO SECTION
20 245.60 OF THIS ARTICLE, A SUPPLEMENTAL CERTIFICATE SHALL BE SERVED UPON
21 THE PROSECUTION AND FILED WITH THE COURT IDENTIFYING THE ADDITIONAL
22 MATERIAL AND INFORMATION PROVIDED. NO ADVERSE CONSEQUENCE TO THE
23 DEFENDANT OR COUNSEL FOR THE DEFENDANT SHALL RESULT FROM THE FILING OF A
24 CERTIFICATE OF COMPLIANCE IN GOOD FAITH; BUT THE COURT MAY GRANT A REME-
25 DY OR SANCTION FOR A DISCOVERY VIOLATION AS PROVIDED IN SECTION 245.80
26 OF THIS ARTICLE.

27 S 245.55 FLOW OF INFORMATION.

28 1. SUFFICIENT COMMUNICATION FOR COMPLIANCE. THE DISTRICT ATTORNEY AND
29 THE ASSISTANT RESPONSIBLE FOR THE CASE, OR, IF THE MATTER IS NOT BEING
30 PROSECUTED BY THE DISTRICT ATTORNEY, THE PROSECUTING AGENCY AND ITS
31 ASSIGNED REPRESENTATIVE, SHALL ENDEAVOR TO ENSURE THAT A FLOW OF INFOR-
32 MATION IS MAINTAINED BETWEEN THE POLICE AND OTHER INVESTIGATIVE PERSON-
33 NEL AND HIS OR HER OFFICE SUFFICIENT TO PLACE WITHIN HIS OR HER
34 POSSESSION OR CONTROL ALL MATERIAL AND INFORMATION PERTINENT TO THE
35 DEFENDANT AND THE OFFENSE OR OFFENSES CHARGED, INCLUDING, BUT NOT LIMIT-
36 ED TO, ANY EVIDENCE OR INFORMATION DISCOVERABLE UNDER PARAGRAPH (K) OF
37 SUBDIVISION ONE OF SECTION 245.20 OF THIS ARTICLE.

38 2. PROVISION OF LAW ENFORCEMENT AGENCY FILES. ABSENT A COURT ORDER OR
39 CLEAR SECURITY REQUIREMENT, UPON REQUEST BY THE PROSECUTION, A NEW YORK
40 STATE LAW ENFORCEMENT AGENCY SHALL MAKE AVAILABLE TO THE PROSECUTION A
41 COMPLETE COPY OF ITS COMPLETE FILES RELATED TO THE INVESTIGATION OF THE
42 CASE OR THE PROSECUTION OF THE DEFENDANT FOR COMPLIANCE WITH THIS ARTI-
43 CLE.

44 3. 911 TELEPHONE CALL AND POLICE RADIO TRANSMISSION ELECTRONIC
45 RECORDINGS, POLICE WORN BODY CAMERA RECORDINGS AND OTHER POLICE
46 RECORDINGS. (A) WHENEVER AN ELECTRONIC RECORDING OF A 911 TELEPHONE
47 CALL OR A POLICE RADIO TRANSMISSION OR VIDEO OR AUDIO FOOTAGE FROM A
48 POLICE BODY-WORN CAMERA OR OTHER POLICE RECORDING WAS MADE OR RECEIVED
49 IN CONNECTION WITH THE INVESTIGATION OF AN APPARENT CRIMINAL INCIDENT,
50 THE ARRESTING OFFICER OR LEAD DETECTIVE SHALL EXPEDITIOUSLY NOTIFY THE
51 PROSECUTION IN WRITING UPON THE FILING OF AN ACCUSATORY INSTRUMENT OF
52 THE EXISTENCE OF ALL SUCH KNOWN RECORDINGS. THE PROSECUTION SHALL EXPE-
53 DITIOUSLY TAKE WHATEVER REASONABLE STEPS ARE NECESSARY TO ENSURE THAT
54 ALL KNOWN ELECTRONIC RECORDINGS OF 911 TELEPHONE CALLS, POLICE RADIO
55 TRANSMISSIONS AND VIDEO AND AUDIO FOOTAGE AND OTHER POLICE RECORDINGS
56 MADE OR AVAILABLE IN CONNECTION WITH THE CASE ARE PRESERVED THROUGHOUT

1 THE PENDENCY OF THE CASE. UPON THE DEFENDANT'S TIMELY REQUEST AND DESIG-
2 NATION OF A SPECIFIC ELECTRONIC RECORDING OF A 911 TELEPHONE CALL, THE
3 PROSECUTION SHALL ALSO EXPEDITIOUSLY TAKE WHATEVER REASONABLE STEPS ARE
4 NECESSARY TO ENSURE THAT IT IS PRESERVED THROUGHOUT THE PENDENCY OF THE
5 CASE.

6 (B) IF THE PROSECUTION FAILS TO DISCLOSE SUCH AN ELECTRONIC RECORDING
7 TO THE DEFENDANT PURSUANT TO PARAGRAPH (E), (G) OR (K) OF SUBDIVISION
8 ONE OF SECTION 245.20 OF THIS ARTICLE DUE TO A FAILURE TO COMPLY WITH
9 THIS OBLIGATION BY POLICE OFFICERS OR OTHER LAW ENFORCEMENT OR PROSE-
10 CUTION PERSONNEL, THE COURT UPON MOTION OF THE DEFENDANT SHALL IMPOSE AN
11 APPROPRIATE REMEDY OR SANCTION PURSUANT TO SECTION 245.80 OF THIS ARTI-
12 CLE.

13 S 245.60 CONTINUING DUTY TO DISCLOSE.

14 IF EITHER THE PROSECUTION OR THE DEFENDANT SUBSEQUENTLY LEARNS OF
15 ADDITIONAL MATERIAL OR INFORMATION WHICH IT WOULD HAVE BEEN UNDER A DUTY
16 TO DISCLOSE PURSUANT TO ANY PROVISIONS OF THIS ARTICLE AT THE TIME OF A
17 PREVIOUS DISCOVERY OBLIGATION OR DISCOVERY ORDER, IT SHALL EXPEDITIOUSLY
18 NOTIFY THE OTHER PARTY AND DISCLOSE THE ADDITIONAL MATERIAL OR INFORMA-
19 TION AS REQUIRED FOR INITIAL DISCOVERY UNDER THIS ARTICLE. THIS
20 PROVISION ALSO REQUIRES EXPEDITIOUS DISCLOSURE BY THE PROSECUTION OF
21 MATERIAL OR INFORMATION THAT BECAME RELEVANT TO THE CASE OR DISCOVERABLE
22 BASED UPON RECIPROCAL DISCOVERY RECEIVED FROM THE DEFENDANT PURSUANT TO
23 SUBDIVISION FOUR OF SECTION 245.20 OF THIS ARTICLE.

24 S 245.65 WORK PRODUCT.

25 THIS ARTICLE DOES NOT AUTHORIZE DISCOVERY BY A PARTY OF THOSE PORTIONS
26 OF RECORDS, REPORTS, CORRESPONDENCE, MEMORANDA, OR INTERNAL DOCUMENTS OF
27 THE ADVERSE PARTY WHICH ARE ONLY THE LEGAL RESEARCH, OPINIONS, THEORIES
28 OR CONCLUSIONS OF THE ADVERSE PARTY OR ITS ATTORNEY OR THE ATTORNEY'S
29 AGENTS, OR OF STATEMENTS OF A DEFENDANT, WRITTEN OR RECORDED OR SUMMA-
30 RIZED IN ANY WRITING OR RECORDING, MADE TO THE ATTORNEY FOR THE DEFEND-
31 ANT OR THE ATTORNEY'S AGENTS.

32 S 245.70 PROTECTIVE ORDERS.

33 1. ANY DISCOVERY SUBJECT TO PROTECTIVE ORDER. UPON A SHOWING OF GOOD
34 CAUSE BY EITHER PARTY, THE COURT MAY AT ANY TIME ORDER THAT DISCOVERY OR
35 INSPECTION OF ANY KIND OF MATERIAL OR INFORMATION UNDER THIS ARTICLE BE
36 DENIED, RESTRICTED, CONDITIONED OR DEFERRED, OR MAKE SUCH OTHER ORDER AS
37 IS APPROPRIATE. THE COURT MAY IMPOSE AS A CONDITION ON DISCOVERY TO A
38 DEFENDANT THAT THE MATERIAL OR INFORMATION TO BE DISCOVERED BE AVAILABLE
39 ONLY TO COUNSEL FOR THE DEFENDANT; OR, ALTERNATIVELY, THAT COUNSEL FOR
40 THE DEFENDANT, AND PERSONS EMPLOYED BY THE ATTORNEY OR APPOINTED BY THE
41 COURT TO ASSIST IN THE PREPARATION OF A DEFENDANT'S CASE, MAY NOT
42 DISCLOSE PHYSICAL COPIES OF THE DISCOVERABLE DOCUMENTS TO A DEFENDANT OR
43 TO ANYONE ELSE, PROVIDED THAT THE PROSECUTION AFFORDS THE DEFENDANT
44 ACCESS TO INSPECT REDACTED COPIES OF THE DISCOVERABLE DOCUMENTS AT A
45 SUPERVISED LOCATION THAT PROVIDES REGULAR AND REASONABLE HOURS FOR SUCH
46 ACCESS, SUCH AS A PROSECUTOR'S OFFICE, POLICE STATION, FACILITY OF
47 DETENTION, OR COURT. THE COURT MAY PERMIT A PARTY SEEKING OR OPPOSING A
48 PROTECTIVE ORDER UNDER THIS SECTION, OR ANOTHER AFFECTED PERSON, TO
49 SUBMIT PAPERS OR TESTIFY ON THE RECORD EX PARTE OR IN CAMERA. ANY SUCH
50 PAPERS AND A TRANSCRIPT OF SUCH TESTIMONY MAY BE SEALED AND SHALL
51 CONSTITUTE A PART OF THE RECORD ON APPEAL. THIS SECTION DOES NOT ALTER
52 THE ALLOCATION OF THE BURDEN OF PROOF WITH REGARD TO MATTERS AT ISSUE,
53 INCLUDING PRIVILEGE.

54 2. MODIFICATION OF TIME PERIODS FOR DISCOVERY. UPON MOTION OF A PARTY
55 IN AN INDIVIDUAL CASE, THE COURT MAY ALTER THE TIME PERIODS FOR DISCOV-
56 ERY IMPOSED BY THIS ARTICLE UPON A SHOWING OF GOOD CAUSE.

1 3. PROMPT HEARING. UPON REQUEST FOR A PROTECTIVE ORDER, THE COURT
2 SHALL CONDUCT AN APPROPRIATE HEARING WITHIN THREE BUSINESS DAYS TO
3 DETERMINE WHETHER GOOD CAUSE HAS BEEN SHOWN AND WHEN PRACTICABLE SHALL
4 RENDER DECISION EXPEDITIOUSLY. ANY MATERIALS SUBMITTED AND A TRANSCRIPT
5 OF THE PROCEEDING MAY BE SEALED AND SHALL CONSTITUTE A PART OF THE
6 RECORD ON APPEAL.

7 4. SHOWING OF GOOD CAUSE. GOOD CAUSE UNDER THIS SECTION MAY INCLUDE:
8 CONSTITUTIONAL RIGHTS OR LIMITATIONS; DANGER TO THE INTEGRITY OF PHYS-
9 ICAL EVIDENCE; A SUBSTANTIAL RISK OF PHYSICAL HARM, INTIMIDATION,
10 ECONOMIC REPRISAL, BRIBERY OR UNJUSTIFIED ANNOYANCE OR EMBARRASSMENT TO
11 ANY PERSON; A SUBSTANTIAL RISK OF AN ADVERSE EFFECT UPON THE LEGITIMATE
12 NEEDS OF LAW ENFORCEMENT, INCLUDING THE PROTECTION OF THE CONFIDENTIAL-
13 ITY OF INFORMANTS; DANGER TO ANY PERSON STEMMING FROM FACTORS SUCH AS A
14 DEFENDANT'S GANG AFFILIATION, PRIOR HISTORY OF INTERFERING WITH
15 WITNESSES, OR THREATS OR INTIMIDATING ACTIONS DIRECTED AT POTENTIAL
16 WITNESSES; OR OTHER SIMILAR FACTORS THAT ALSO OUTWEIGH THE USEFULNESS
17 OF THE DISCOVERY.

18 5. SUCCESSOR COUNSEL OR PRO SE DEFENDANT. IN CASES IN WHICH THE ATTOR-
19 NEY-CLIENT RELATIONSHIP IS TERMINATED PRIOR TO TRIAL FOR ANY REASON,
20 ANY MATERIAL OR INFORMATION DISCLOSED SUBJECT TO A CONDITION THAT IT BE
21 AVAILABLE ONLY TO COUNSEL FOR THE DEFENDANT, OR LIMITED IN DISSEMINATION
22 BY PROTECTIVE ORDER OR OTHERWISE, SHALL BE PROVIDED ONLY TO SUCCESSOR
23 COUNSEL FOR THE DEFENDANT UNDER THE SAME CONDITION OR CONDITIONS OR BE
24 RETURNED TO THE PROSECUTION, UNLESS THE COURT RULES OTHERWISE FOR GOOD
25 CAUSE SHOWN OR THE PROSECUTOR GIVES WRITTEN CONSENT. ANY WORK PRODUCT
26 DERIVED FROM SUCH MATERIAL OR INFORMATION SHALL NOT BE PROVIDED TO THE
27 DEFENDANT, UNLESS THE COURT RULES OTHERWISE OR THE PROSECUTOR GIVES
28 WRITTEN CONSENT. IF THE DEFENDANT IS ACTING AS HIS OR HER OWN ATTORNEY,
29 THE COURT MAY REGULATE THE TIME, PLACE AND MANNER OF ACCESS TO ANY
30 DISCOVERABLE MATERIAL OR INFORMATION; AND IT MAY AS APPROPRIATE APPOINT
31 PERSONS TO ASSIST THE DEFENDANT IN THE INVESTIGATION OR PREPARATION OF
32 THE CASE. UPON MOTION OR APPLICATION OF A DEFENDANT ACTING AS HIS OR HER
33 OWN ATTORNEY, THE COURT MAY AT ANY TIME MODIFY OR VACATE ANY CONDITION
34 OR RESTRICTION RELATING TO ACCESS TO DISCOVERABLE MATERIAL OR INFORMA-
35 TION, FOR GOOD CAUSE SHOWN.

36 6. EXPEDITED REVIEW OF ADVERSE RULING. (A) A PARTY THAT HAS UNSUCCESS-
37 FULLY SOUGHT, OR UNSUCCESSFULLY OPPOSED THE GRANTING OF, A PROTECTIVE
38 ORDER UNDER THIS SECTION RELATING TO THE NAME, ADDRESS, CONTACT INFORMA-
39 TION OR STATEMENTS OF A PERSON MAY OBTAIN EXPEDITED REVIEW OF THAT
40 RULING BY AN INDIVIDUAL JUSTICE OF THE INTERMEDIATE APPELLATE COURT TO
41 WHICH AN APPEAL FROM A JUDGMENT OF CONVICTION IN THE CASE WOULD BE
42 TAKEN.

43 (B) SUCH REVIEW SHALL BE SOUGHT WITHIN TWO BUSINESS DAYS OF THE
44 ADVERSE OR PARTIALLY ADVERSE RULING, BY ORDER TO SHOW CAUSE FILED WITH
45 THE INTERMEDIATE APPELLATE COURT. THE ORDER TO SHOW CAUSE SHALL IN ADDI-
46 TION BE TIMELY SERVED ON THE LOWER COURT AND ON THE OPPOSING PARTY, AND
47 SHALL BE ACCOMPANIED BY A SWORN AFFIRMATION STATING IN GOOD FAITH (I)
48 THAT THE RULING AFFECTS SUBSTANTIAL INTERESTS, AND (II) THAT DILIGENT
49 EFFORTS TO REACH AN ACCOMMODATION OF THE UNDERLYING DISCOVERY DISPUTE
50 WITH OPPOSING COUNSEL FAILED OR THAT NO ACCOMMODATION WAS FEASIBLE;
51 EXCEPT THAT SERVICE ON THE OPPOSING PARTY, AND A STATEMENT REGARDING
52 EFFORTS TO REACH AN ACCOMMODATION, ARE UNNECESSARY WHERE THE OPPOSING
53 PARTY WAS NOT MADE AWARE OF THE APPLICATION FOR A PROTECTIVE ORDER AND
54 GOOD CAUSE EXISTS FOR OMITTING SERVICE OF THE ORDER TO SHOW CAUSE ON THE
55 OPPOSING PARTY. THE LOWER COURT'S ORDER SUBJECT TO REVIEW SHALL BE
56 STAYED UNTIL THE APPELLATE JUSTICE RENDERS DECISION.

1 (C) THE ASSIGNMENT OF THE INDIVIDUAL APPELLATE JUSTICE, AND THE MODE
2 OF AND PROCEDURE FOR THE REVIEW, ARE DETERMINED BY RULES OF THE INDIVID-
3 UAL APPELLATE COURTS. THE APPELLATE JUSTICE MAY CONSIDER ANY RELEVANT
4 AND RELIABLE INFORMATION BEARING ON THE ISSUE, AND MAY DISPENSE WITH
5 WRITTEN BRIEFS OTHER THAN SUPPORTING AND OPPOSING MATERIALS PREVIOUSLY
6 SUBMITTED TO THE LOWER COURT. THE APPELLATE JUSTICE MAY DISPENSE WITH
7 THE ISSUANCE OF A WRITTEN OPINION IN RENDERING HIS OR HER DECISION, AND
8 WHEN PRACTICABLE SHALL RENDER DECISION EXPEDITIOUSLY. SUCH REVIEW AND
9 DECISION SHALL NOT AFFECT THE RIGHT OF A DEFENDANT, IN A SUBSEQUENT
10 APPEAL FROM A JUDGMENT OF CONVICTION, TO CLAIM AS ERROR THE RULING
11 REVIEWED.

12 7. COMPLIANCE WITH PROTECTIVE ORDER. ANY PROTECTIVE ORDER ISSUED UNDER
13 THIS ARTICLE IS A MANDATE OF THE COURT FOR PURPOSES OF THE OFFENSE OF
14 CRIMINAL CONTEMPT IN SUBDIVISION THREE OF SECTION 215.50 OF THE PENAL
15 LAW.

16 S 245.75 WAIVER OF DISCOVERY BY DEFENDANT.

17 A DEFENDANT WHO DOES NOT SEEK DISCOVERY FROM THE PROSECUTION UNDER
18 THIS ARTICLE SHALL SO NOTIFY THE PROSECUTION AND THE COURT AT THE
19 DEFENDANT'S ARRAIGNMENT ON AN INDICTMENT, SUPERIOR COURT INFORMATION,
20 PROSECUTOR'S INFORMATION, INFORMATION, OR SIMPLIFIED INFORMATION, OR
21 EXPEDITIOUSLY THEREAFTER BUT BEFORE RECEIVING DISCOVERY FROM THE PROSE-
22 CUTION PURSUANT TO SUBDIVISION ONE OF SECTION 245.20 OF THIS ARTICLE,
23 AND THE DEFENDANT NEED NOT PROVIDE DISCOVERY TO THE PROSECUTION PURSUANT
24 TO SUBDIVISION FOUR OF SECTION 245.20 AND SECTION 245.60 OF THIS ARTI-
25 CLE. A WAIVER SHALL BE IN WRITING AND SIGNED BY THE DEFENDANT AND COUN-
26 SEL FOR THE DEFENDANT. SUCH A WAIVER DOES NOT ALTER OR IN ANY WAY
27 AFFECT THE PROCEDURES, OBLIGATIONS OR RIGHTS SET FORTH IN SECTIONS
28 250.10, 250.20 AND 250.30 OF THIS TITLE, OR OTHERWISE ESTABLISHED OR
29 REQUIRED BY LAW. THE PROSECUTION MAY NOT CONDITION A GUILTY PLEA OFFER
30 ON THE DEFENDANT'S EXECUTION OF A WAIVER UNDER THIS SECTION.

31 S 245.80 REMEDIES OR SANCTIONS FOR NON-COMPLIANCE.

32 1. NEED FOR REMEDY OR SANCTION. (A) WHEN MATERIAL OR INFORMATION IS
33 DISCOVERABLE UNDER THIS ARTICLE BUT IS DISCLOSED BELATEDLY, THE COURT
34 SHALL IMPOSE AN APPROPRIATE REMEDY OR SANCTION IF THE PARTY ENTITLED TO
35 DISCLOSURE SHOWS THAT IT WAS PREJUDICED. REGARDLESS OF A SHOWING OF
36 PREJUDICE THE PARTY ENTITLED TO DISCLOSURE SHALL BE GIVEN REASONABLE
37 TIME TO PREPARE AND RESPOND TO THE NEW MATERIAL.

38 (B) WHEN MATERIAL OR INFORMATION IS DISCOVERABLE UNDER THIS ARTICLE
39 BUT CANNOT BE DISCLOSED BECAUSE IT HAS BEEN LOST OR DESTROYED, THE COURT
40 SHALL IMPOSE AN APPROPRIATE REMEDY OR SANCTION IF THE PARTY ENTITLED TO
41 DISCLOSURE SHOWS THAT THE LOST OR DESTROYED MATERIAL MAY HAVE CONTAINED
42 SOME INFORMATION RELEVANT TO A CONTESTED ISSUE. THE APPROPRIATE REMEDY
43 OR SANCTION IS THAT WHICH IS PROPORTIONATE TO THE POTENTIAL WAYS IN
44 WHICH THE LOST OR DESTROYED MATERIAL REASONABLY COULD HAVE BEEN HELPFUL
45 TO THE PARTY ENTITLED TO DISCLOSURE.

46 2. AVAILABLE REMEDIES OR SANCTIONS. FOR FAILURE TO COMPLY WITH ANY
47 DISCOVERY ORDER IMPOSED OR ISSUED PURSUANT TO THIS ARTICLE, THE COURT
48 MAY MAKE A FURTHER ORDER FOR DISCOVERY, GRANT A CONTINUANCE, ORDER THAT
49 A HEARING BE REOPENED, ORDER THAT A WITNESS BE CALLED OR RECALLED,
50 INSTRUCT THE JURY THAT IT MAY DRAW AN ADVERSE INFERENCE REGARDING THE
51 NON-COMPLIANCE, PRECLUDE OR STRIKE A WITNESS'S TESTIMONY OR A PORTION OF
52 A WITNESS'S TESTIMONY, ADMIT OR EXCLUDE EVIDENCE, ORDER A MISTRIAL,
53 ORDER THE DISMISSAL OF ALL OR SOME OF THE CHARGES, OR MAKE SUCH OTHER
54 ORDER AS IT DEEMS JUST UNDER THE CIRCUMSTANCES; EXCEPT THAT ANY SANCTION
55 AGAINST THE DEFENDANT SHALL COMPORT WITH THE DEFENDANT'S CONSTITUTIONAL
56 RIGHT TO PRESENT A DEFENSE, AND PRECLUDING A DEFENSE WITNESS FROM

1 TESTIFYING SHALL BE PERMISSIBLE ONLY UPON A FINDING THAT THE DEFENDANT'S
2 FAILURE TO COMPLY WITH THE DISCOVERY OBLIGATION OR ORDER WAS WILLFUL
3 AND MOTIVATED BY A DESIRE TO OBTAIN A TACTICAL ADVANTAGE.

4 3. CONSEQUENCES OF NON-DISCLOSURE OF STATEMENT OF TESTIFYING PROSE-
5 CUTION WITNESS. THE FAILURE OF THE PROSECUTOR OR ANY AGENT OF THE PROSE-
6 CUTOR TO DISCLOSE ANY WRITTEN OR RECORDED STATEMENT MADE BY A PROSE-
7 CUTION WITNESS WHICH RELATES TO THE SUBJECT MATTER OF THE WITNESS'S
8 TESTIMONY SHALL NOT CONSTITUTE GROUNDS FOR ANY COURT TO ORDER A NEW
9 PRE-TRIAL HEARING OR SET ASIDE A CONVICTION, OR REVERSE, MODIFY OR
10 VACATE A JUDGMENT OF CONVICTION, IN THE ABSENCE OF A SHOWING BY THE
11 DEFENDANT THAT THERE IS A REASONABLE POSSIBILITY THAT THE NON-DISCLOSURE
12 MATERIALLY CONTRIBUTED TO THE RESULT OF THE TRIAL OR OTHER PROCEEDING;
13 PROVIDED, HOWEVER, THAT NOTHING IN THIS SECTION SHALL AFFECT OR LIMIT
14 ANY RIGHT THE DEFENDANT MAY HAVE TO A REOPENED PRE-TRIAL HEARING WHEN
15 SUCH STATEMENTS WERE DISCLOSED BEFORE THE CLOSE OF EVIDENCE AT TRIAL.
16 S 245.85 ADMISSIBILITY OF DISCOVERY.

17 THE FACT THAT A PARTY HAS INDICATED DURING THE DISCOVERY PROCESS AN
18 INTENTION TO OFFER SPECIFIED EVIDENCE OR TO CALL A SPECIFIED WITNESS IS
19 NOT ADMISSIBLE IN EVIDENCE OR GROUNDS FOR ADVERSE COMMENT AT A HEARING
20 OR A TRIAL.

21 S 3. Subdivision 3 of section 610.20 of the criminal procedure law is
22 amended and a new subdivision 4 is added to read as follows:

23 3. An attorney for a defendant in a criminal action or proceeding, as
24 an officer of a criminal court, may issue a subpoena of such court,
25 subscribed by himself, for the attendance in such court of any witness
26 whom the defendant is entitled to call in such action or proceeding. An
27 attorney for a defendant may not issue a subpoena duces tecum of the
28 court directed to any department, bureau or agency of the state or of a
29 political subdivision thereof, or to any officer or representative ther-
30 eof, UNLESS THE SUBPOENA IS ENDORSED BY THE COURT AND PROVIDES AT LEAST
31 THREE DAYS FOR THE PRODUCTION OF THE REQUESTED MATERIALS. IN THE CASE OF
32 AN EMERGENCY, THE COURT MAY BY ORDER DISPENSE WITH THE THREE-DAY
33 PRODUCTION PERIOD. Such a subpoena duces tecum may be issued in behalf
34 of a defendant upon order of a court pursuant to the rules applicable to
35 civil cases as provided in section twenty-three hundred seven of the
36 civil practice law and rules.

37 4. THE SHOWING REQUIRED TO SUSTAIN ANY SUBPOENA UNDER THIS SECTION IS
38 THAT THE TESTIMONY OR EVIDENCE SOUGHT IS REASONABLY LIKELY TO BE RELE-
39 VANT AND MATERIAL TO THE PROCEEDINGS, AND THE SUBPOENA IS NOT OVERBROAD
40 OR UNREASONABLY BURDENSOME.

41 S 4. Section 65.20 of the criminal procedure law, as added by chapter
42 505 of the laws of 1985, subdivision 2 as added, the opening paragraph
43 of subdivision 10 as amended and subdivisions 3, 4, 5, 6, 7, 8, 9, 10,
44 11, 12 and 13 as renumbered by chapter 548 of the laws of 2007, subdivi-
45 sion 7 and paragraph (k) of subdivision 10 as amended by chapter 320 of
46 the laws of 2006 and subdivisions 11 and 12 as amended by chapter 455 of
47 the laws of 1991, is amended to read as follows:

48 S 65.20 Closed-circuit television; procedure for application and grounds
49 for determination.

50 1. Prior to the commencement of a criminal proceeding; other than a
51 grand jury proceeding, either party may apply to the court for an order
52 declaring that a child witness is vulnerable.

53 2. A child witness should be declared vulnerable when the court, in
54 accordance with the provisions of this section, determines by clear and
55 convincing evidence that the child witness would suffer serious mental
56 or emotional harm that would substantially impair the child witness'

1 ability to communicate with the finder of fact without the use of live,
2 two-way closed-circuit television.

3 3. A motion pursuant to subdivision one of this section must be made
4 in writing at least eight days before the commencement of trial or other
5 criminal proceeding upon reasonable notice to the other party and with
6 an opportunity to be heard.

7 4. The motion papers must state the basis for the motion and must
8 contain sworn allegations of fact which, if true, would support a deter-
9 mination by the court that the child witness is vulnerable. Such allega-
10 tions may be based upon the personal knowledge of the deponent or upon
11 information and belief, provided that, in the latter event, the sources
12 of such information and the grounds for such belief are stated.

13 5. The answering papers may admit or deny any of the alleged facts and
14 may, in addition, contain sworn allegations of fact relevant to the
15 motion, including the rights of the defendant, the need to protect the
16 child witness and the integrity of the truth-finding function of the
17 trier of fact.

18 6. Unless all material facts alleged in support of the motion made
19 pursuant to subdivision one of this section are conceded, the court
20 shall, in addition to examining the papers and hearing oral argument,
21 conduct an appropriate hearing for the purpose of making findings of
22 fact essential to the determination of the motion. Except as provided in
23 subdivision [six] SEVEN of this section, it may subpoena or call and
24 examine witnesses, who must either testify under oath or be permitted to
25 give unsworn testimony pursuant to subdivision two of section 60.20 and
26 must authorize the attorneys for the parties to do the same.

27 7. Notwithstanding any other provision of law, the child witness who
28 is alleged to be vulnerable may not be compelled to testify at such
29 hearing or to submit to any psychological or psychiatric examination.
30 The failure of the child witness to testify at such hearing shall not be
31 a ground for denying a motion made pursuant to subdivision one of this
32 section. Prior statements made by the child witness relating to any
33 allegations of conduct constituting an offense defined in article one
34 hundred thirty of the penal law or incest as defined in section 255.25,
35 255.26 or 255.27 of such law or to any allegation of words or conduct
36 constituting an attempt to prevent, impede or deter the child witness
37 from cooperating in the investigation or prosecution of the offense
38 shall be admissible at such hearing, provided, however, that a declara-
39 tion that a child witness is vulnerable may not be based solely upon
40 such prior statements.

41 8. (a) Notwithstanding any of the provisions of article forty-five of
42 the civil practice law and rules, any physician, psychologist, nurse or
43 social worker who has treated a child witness may testify at a hearing
44 conducted pursuant to subdivision [five] SIX of this section concerning
45 the treatment of such child witness as such treatment relates to the
46 issue presented at the hearing, provided that any otherwise applicable
47 statutory privileges concerning communications between the child witness
48 and such physician, psychologist, nurse or social worker in connection
49 with such treatment shall not be deemed waived by such testimony alone,
50 except to the limited extent of permitting the court alone to examine in
51 camera reports, records or documents, if any, prepared by such physi-
52 cian, psychologist, nurse or social worker. If upon such examination the
53 court determines that such reports, records or documents, or any one or
54 portion thereof, contain information material and relevant to the issue
55 of whether the child witness is a vulnerable child witness, the court

1 shall disclose such information to both the attorney for the defendant
2 and the district attorney.

3 (b) At any time after a motion has been made pursuant to subdivision
4 one of this section, upon the demand of the other party the moving party
5 must furnish the demanding party with a copy of any and all of such
6 records, reports or other documents in the possession of such other
7 party and must, in addition, supply the court with a copy of all such
8 reports, records or other documents which are the subject of the demand.
9 At any time after a demand has been made pursuant to this paragraph, the
10 moving party may demand that property of the same kind or character in
11 possession of the party that originally made such demand be furnished to
12 the moving party and, if so furnished, be supplied, in addition, to the
13 court.

14 9. (a) Prior to the commencement of the hearing conducted pursuant to
15 subdivision [five] SIX of this section, the district attorney shall,
16 subject to a protective order, comply with the provisions of PARAGRAPH
17 (C) OF subdivision one of section [240.45] 245.20 of this chapter as
18 they concern any witness whom the district attorney intends to call at
19 the hearing and the child witness.

20 (b) Before a defendant calls a witness at such hearing, he or she
21 must, subject to a protective order, comply with the provisions of
22 subdivision [two] FOUR of section [240.45] 245.20 of this chapter as
23 they concern all the witnesses the defendant intends to call at such
24 hearing.

25 10. The court may consider, in determining whether there are factors
26 which would cause the child witness to suffer serious mental or
27 emotional harm, a finding that any one or more of the following circum-
28 stances have been established by clear and convincing evidence:

29 (a) The manner of the commission of the offense of which the defendant
30 is accused was particularly heinous or was characterized by aggravating
31 circumstances.

32 (b) The child witness is particularly young or otherwise particularly
33 subject to psychological harm on account of a physical or mental condi-
34 tion which existed before the alleged commission of the offense.

35 (c) At the time of the alleged offense, the defendant occupied a posi-
36 tion of authority with respect to the child witness.

37 (d) The offense or offenses charged were part of an ongoing course of
38 conduct committed by the defendant against the child witness over an
39 extended period of time.

40 (e) A deadly weapon or dangerous instrument was allegedly used during
41 the commission of the crime.

42 (f) The defendant has inflicted serious physical injury upon the child
43 witness.

44 (g) A threat, express or implied, of physical violence to the child
45 witness or a third person if the child witness were to report the inci-
46 dent to any person or communicate information to or cooperate with a
47 court, grand jury, prosecutor, police officer or peace officer concern-
48 ing the incident has been made by or on behalf of the defendant.

49 (h) A threat, express or implied, of the incarceration of a parent or
50 guardian of the child witness, the removal of the child witness from the
51 family or the dissolution of the family of the child witness if the
52 child witness were to report the incident to any person or communicate
53 information to or cooperate with a court, grand jury, prosecutor, police
54 officer or peace officer concerning the incident has been made by or on
55 behalf of the defendant.

1 (i) A witness other than the child witness has received a threat of
2 physical violence directed at such witness or to a third person by or on
3 behalf of the defendant.

4 (j) The defendant, at the time of the inquiry, (i) is living in the
5 same household with the child witness, (ii) has ready access to the
6 child witness or (iii) is providing substantial financial support for
7 the child witness.

8 (k) The child witness has previously been the victim of an offense
9 defined in article one hundred thirty of the penal law or incest as
10 defined in section 255.25, 255.26 or 255.27 of such law.

11 (l) According to expert testimony, the child witness would be partic-
12 ularly [suceptible] SUSCEPTIBLE to psychological harm if required to
13 testify in open court or in the physical presence of the defendant.

14 11. Irrespective of whether a motion was made pursuant to subdivision
15 one of this section, the court, at the request of either party or on its
16 own motion, may decide that a child witness may be vulnerable based on
17 its own observations that a child witness who has been called to testify
18 at a criminal proceeding is suffering severe mental or emotional harm
19 and therefore is physically or mentally unable to testify or to continue
20 to testify in open court or in the physical presence of the defendant
21 and that the use of live, two-way closed-circuit television is necessary
22 to enable the child witness to testify. If the court so decides, it must
23 conduct the same hearing that subdivision [five] SIX of this section
24 requires when a motion is made pursuant to subdivision one of this
25 section, and it must make findings of fact pursuant to subdivisions
26 [nine] TEN and [eleven] TWELVE of this section, before determining that
27 the child witness is vulnerable.

28 12. In deciding whether a child witness is vulnerable, the court shall
29 make findings of fact which reflect the causal relationship between the
30 existence of any one or more of the factors set forth in subdivision
31 [nine] TEN of this section or other relevant factors which the court
32 finds are established and the determination that the child witness is
33 vulnerable. If the court is satisfied that the child witness is vulner-
34 able and that, under the facts and circumstances of the particular case,
35 the defendant's constitutional rights to an impartial jury or of
36 confrontation will not be impaired, it may enter an order granting the
37 application for the use of live, two-way closed-circuit television.

38 13. When the court has determined that a child witness is a vulnerable
39 child witness, it shall make a specific finding as to whether placing
40 the defendant and the child witness in the same room during the testimo-
41 ny of the child witness will contribute to the likelihood that the child
42 witness will suffer severe mental or emotional harm. If the court finds
43 that placing the defendant and the child witness in the same room during
44 the testimony of the child witness will contribute to the likelihood
45 that the child witness will suffer severe mental or emotional harm, the
46 order entered pursuant to subdivision [eleven] TWELVE of this section
47 shall direct that the defendant remain in the courtroom during the
48 testimony of the vulnerable child witness.

49 S 5. Subdivision 5 of section 200.95 of the criminal procedure law, as
50 added by chapter 558 of the laws of 1982, is amended to read as follows:

51 5. Court ordered bill of particulars. Where a prosecutor has timely
52 served a written refusal pursuant to subdivision four of this section
53 and upon motion, made in writing, of a defendant, who has made a request
54 for a bill of particulars and whose request has not been complied with
55 in whole or in part, the court must, to the extent a protective order is
56 not warranted, order the prosecutor to comply with the request if it is

1 satisfied that the items of factual information requested are authorized
2 to be included in a bill of particulars, and that such information is
3 necessary to enable the defendant adequately to prepare or conduct his
4 defense and, if the request was untimely, a finding of good cause for
5 the delay. Where a prosecutor has not timely served a written refusal
6 pursuant to subdivision four of this section the court must, unless it
7 is satisfied that the people have shown good cause why such an order
8 should not be issued, issue an order requiring the prosecutor to comply
9 or providing for any other order authorized by [subdivision one of
10 section 240.70] SECTION 245.80 OF THIS PART.

11 S 6. Paragraph (c) of subdivision 1 of section 255.10 of the criminal
12 procedure law, as added by chapter 763 of the laws of 1974, is amended
13 to read as follows:

14 (c) granting discovery pursuant to article [240] 245; or

15 S 7. Subdivision 1 of section 255.20 of the Criminal procedure law, as
16 amended by chapter 369 of the laws of 1982, is amended to read as
17 follows:

18 1. Except as otherwise expressly provided by law, whether the defend-
19 ant is represented by counsel or elects to proceed pro se, all pre-trial
20 motions shall be served or filed within forty-five days after arraign-
21 ment and before commencement of trial, or within such additional time as
22 the court may fix upon application of the defendant made prior to entry
23 of judgment. In an action in which EITHER (A) MATERIAL OR INFORMATION
24 HAS BEEN DISCLOSED PURSUANT TO PARAGRAPH (M) OR (N) OF SUBDIVISION ONE
25 OF SECTION 245.20, (B) an eavesdropping warrant and application have
26 been furnished pursuant to section 700.70, or (C) a notice of intention
27 to introduce evidence has been served pursuant to section 710.30, such
28 period shall be extended until forty-five days after the last date of
29 such service. If the defendant is not represented by counsel and has
30 requested an adjournment to obtain counsel or to have counsel assigned,
31 such forty-five day period shall commence on the date counsel initially
32 appears on defendant's behalf.

33 S 8. Section 340.30 of the criminal procedure law is amended to read
34 as follows:

35 S 340.30 Pre-trial discovery and notices of defenses.

36 The provisions of article two hundred [forty] FORTY-FIVE, concerning
37 pre-trial discovery by a defendant under indictment in a superior court,
38 and article two hundred fifty, concerning pre-trial notice to the people
39 by a defendant under indictment in a superior court who intends to
40 advance a trial defense of mental disease or defect or of alibi, apply
41 to a prosecution of an information in a local criminal court.

42 S 9. Subdivision 14 of section 400.27 of the criminal procedure law,
43 as added by chapter 1 of the laws of 1995, is amended to read as
44 follows:

45 14. (a) At a reasonable time prior to the sentencing proceeding or a
46 mental retardation hearing:

47 [(i)] the prosecutor shall, unless previously disclosed and subject to
48 a protective order, make available to the defendant the statements and
49 information specified in subdivision one of section [240.45] 245.20 OF
50 THIS PART and make available for inspection, photographing, copying or
51 testing the property specified in subdivision one of section [240.20;
52 and

53 (ii) the defendant shall, unless previously disclosed and subject to a
54 protective order, make available to the prosecution the statements and
55 information specified in subdivision two of section 240.45 and make
56 available for inspection, photographing, copying or testing, subject to

1 constitutional limitations, the reports, documents and other property
2 specified in subdivision one of section 240.30] 245.20 OF THIS PART.

3 (b) Where a party refuses to make disclosure pursuant to this section,
4 the provisions of section [240.35, subdivision one of section 240.40 and
5 section 240.50] 245.70, 245.75 AND/OR 245.80 OF THIS PART shall apply.

6 (c) If, after complying with the provisions of this section or an
7 order pursuant thereto, a party finds either before or during a sentenc-
8 ing proceeding or mental retardation hearing, additional material
9 subject to discovery or covered by court order, the party shall promptly
10 make disclosure or apply for a protective order.

11 (d) If the court finds that a party has failed to comply with any of
12 the provisions of this section, the court may [enter] EMPLOY any of the
13 [orders] REMEDIES OR SANCTIONS specified in subdivision one of section
14 [240.70] 245.80 OF THIS PART.

15 S 10. The opening paragraph of paragraph (b) of subdivision 1 of
16 section 440.30 of the criminal procedure law, as added by chapter 19 of
17 the laws of 2012, is amended to read as follows:

18 In conjunction with the filing or consideration of a motion to vacate
19 a judgment pursuant to section 440.10 of this article by a defendant
20 convicted after a trial, in cases where the court has ordered an eviden-
21 tiary hearing upon such motion, the court may order that the people
22 produce or make available for inspection property[, as defined in subdi-
23 vision three of section 240.10 of this part,] in its possession, custo-
24 dy, or control that was secured in connection with the investigation or
25 prosecution of the defendant upon credible allegations by the defendant
26 and a finding by the court that such property, if obtained, would be
27 probative to the determination of defendant's actual innocence, and that
28 the request is reasonable. The court shall deny or limit such a request
29 upon a finding that such a request, if granted, would threaten the
30 integrity or chain of custody of property or the integrity of the proc-
31 esses or functions of a laboratory conducting DNA testing, pose a risk
32 of harm, intimidation, embarrassment, reprisal, or other substantially
33 negative consequences to any person, undermine the proper functions of
34 law enforcement including the confidentiality of informants, or on the
35 basis of any other factor identified by the court in the interests of
36 justice or public safety. The court shall further ensure that any prop-
37 erty produced pursuant to this paragraph is subject to a protective
38 order, where appropriate. The court shall deny any request made pursuant
39 to this paragraph where:

40 S 11. Subdivision 10 of section 450.10 of the penal law, as added by
41 chapter 795 of the laws of 1984, is amended to read as follows:

42 10. Where there has been a failure to comply with the provisions of
43 this section, and where the district attorney does not demonstrate to
44 the satisfaction of the court that such failure has not caused the
45 defendant prejudice, the court shall instruct the jury that it may
46 consider such failure in determining the weight to be given such
47 evidence and may also impose any other sanction set forth in subdivision
48 one of section [240.70] 245.80 of the criminal procedure law; provided,
49 however, that unless the defendant has convinced the court that such
50 failure has caused him undue prejudice, the court shall not preclude the
51 district attorney from introducing into evidence the property, photo-
52 graphs, photocopies, or other reproductions of the property or, where
53 appropriate, testimony concerning its value and condition, where such
54 evidence is otherwise properly authenticated and admissible under the
55 rules of evidence. Failure to comply with any one or more of the

1 provisions of this section shall not for that reason alone be grounds
2 for dismissal of the accusatory instrument.

3 S 12. Section 460.80 of the penal law, as added by chapter 516 of the
4 laws of 1986, is amended to read as follows:

5 S 460.80 Court ordered disclosure.

6 Notwithstanding the provisions of article two hundred [forty]
7 FORTY-FIVE of the criminal procedure law, when forfeiture is sought
8 pursuant to section 460.30 of this [chapter] ARTICLE, the court may
9 order discovery of any property not otherwise disclosed which is materi-
10 al and reasonably necessary for preparation by the defendant with
11 respect to the forfeiture proceeding pursuant to such section. The court
12 may issue a protective order denying, limiting, conditioning, delaying
13 or regulating such discovery where a danger to the integrity of physical
14 evidence or a substantial risk of physical harm, intimidation, economic
15 reprisal, bribery or unjustified annoyance or embarrassment to any
16 person or an adverse effect upon the legitimate needs of law enforce-
17 ment, including the protection of the confidentiality of informants, or
18 any other factor or set of factors outweighs the usefulness of the
19 discovery.

20 S 13. Subdivision 5 of section 480.10 of the penal law, as added by
21 chapter 655 of the laws of 1990, is amended to read as follows:

22 5. In addition to information required to be disclosed pursuant to
23 article two hundred [forty] FORTY-FIVE of the criminal procedure law,
24 when forfeiture is sought pursuant to this article, and following the
25 defendant's arraignment on the special forfeiture information, the court
26 shall order discovery of any information not otherwise disclosed which
27 is material and reasonably necessary for preparation by the defendant
28 with respect to a forfeiture proceeding brought pursuant to this arti-
29 cle. Such material shall include those portions of the grand jury
30 minutes and such other information which pertain solely to the special
31 forfeiture information and shall not include information which pertains
32 to the criminal charges. Upon application of the prosecutor, the court
33 may issue a protective order pursuant to section [240.40] 245.70 of the
34 criminal procedure law with respect to any information required to be
35 disclosed pursuant to this subdivision.

36 S 14. This act shall take effect on the ninetieth day after it shall
37 have become a law; provided, however, the amendments to section 65.20 of
38 the criminal procedure law made by section four of this act shall not
39 affect the repeal of such section and shall be deemed repealed there-
40 with.

41

PART E

42 Section 1. The opening paragraph and paragraph (a) of subdivision 1 of
43 section 1311 of the civil practice law and rules, the opening paragraph
44 as amended by chapter 655 of the laws of 1990 and paragraph (a) as added
45 by chapter 669 of the laws of 1984, are amended to read as follows:

46 A civil action may be commenced by the appropriate claiming authority
47 against a criminal defendant to recover the property which constitutes
48 the proceeds of a crime, the substituted proceeds of a crime, an instru-
49 mentality of a crime or the real property instrumentality of a crime [or
50 to recover a money judgment in an amount equivalent in value to the
51 property which constitutes the proceeds of a crime, the substituted
52 proceeds of a crime, an instrumentality of a crime, or the real property
53 instrumentality of a crime]. A civil action may be commenced against a
54 non-criminal defendant to recover the property which constitutes the

1 proceeds of a crime, the substituted proceeds of a crime, an instrumen-
2 tality of a crime, or the real property instrumentality of a crime
3 provided, however, that a judgment of forfeiture predicated upon clause
4 (A) of subparagraph (iv) of paragraph (b) of subdivision three [hereof]
5 OF THIS SECTION shall be limited to the amount of the proceeds of the
6 crime. Any action under this article must be commenced within five years
7 of the commission of the crime and shall be civil, remedial, and in
8 personam in nature and shall not be deemed to be a penalty or criminal
9 forfeiture for any purpose. Except as otherwise specially provided by
10 statute, the proceedings under this article shall be governed by this
11 chapter. An action under this article is not a criminal proceeding and
12 may not be deemed to be a previous prosecution under article forty of
13 the criminal procedure law.

14 (a) Actions relating to post-conviction forfeiture crimes. An action
15 relating to a post-conviction forfeiture crime must be grounded upon a
16 conviction of a felony defined in subdivision five of section one thou-
17 sand three hundred ten of this article[, or upon criminal activity aris-
18 ing from a common scheme or plan of which such a conviction is a part,]
19 or upon a count of an indictment or information alleging a felony which
20 was dismissed at the time of a plea of guilty to a felony in satisfac-
21 tion of such count. A court may not grant forfeiture until such
22 conviction has occurred. However, an action may be commenced, and a
23 court may grant a provisional remedy provided under this article, prior
24 to such conviction having occurred. An action under this paragraph must
25 be dismissed at any time after sixty days of the commencement of the
26 action unless the conviction upon which the action is grounded has
27 occurred, or an indictment or information upon which the asserted
28 conviction is to be based is pending in a superior court. An action
29 under this paragraph shall be stayed during the pendency of a criminal
30 action which is related to it; provided, however, that such stay shall
31 not prevent the granting or continuance of any provisional remedy
32 provided under this article or any other provisions of law.

33 S 2. The civil practice law and rules is amended by adding a new
34 section 1311-b to read as follows:

35 S 1311-B. MONEY JUDGMENT. IF A CLAIMING AUTHORITY OBTAINS A FORFEITURE
36 JUDGMENT AGAINST A DEFENDANT FOR THE PROCEEDS, SUBSTITUTED PROCEEDS,
37 INSTRUMENTALITY OF A CRIME OR REAL PROPERTY INSTRUMENTALITY OF A CRIME,
38 BUT IS UNABLE TO LOCATE ALL OR PART OF ANY SUCH PROPERTY, THE CLAIMING
39 AUTHORITY MAY APPLY TO THE COURT FOR A MONEY JUDGMENT AGAINST THE
40 DEFENDANT IN THE AMOUNT OF THE VALUE OF THE FORFEITED PROPERTY THAT
41 CANNOT BE LOCATED. THE DEFENDANT SHALL HAVE THE RIGHT TO CHALLENGE THE
42 VALUATION OF ANY PROPERTY THAT IS THE BASIS FOR SUCH AN APPLICATION. THE
43 CLAIMING AUTHORITY SHALL HAVE THE BURDEN OF ESTABLISHING THE VALUE OF
44 THE PROPERTY UNDER THIS SECTION BY A PREPONDERANCE OF THE EVIDENCE.

45 S 3. Subdivisions 1, 3 and 4 of section 1312 of the civil practice law
46 and rules, subdivision 1 as added by chapter 669 of the laws of 1984,
47 subdivision 3 as amended and subdivision 4 as added by chapter 655 of
48 the laws of 1990, are amended to read as follows:

49 1. The provisional remedies of attachment, injunction, receivership
50 and notice of pendency provided for herein, shall be available in all
51 actions to recover property [or for a money judgment] under this arti-
52 cle.

53 3. A court may grant an application for a provisional remedy when it
54 determines that: (a) there is a substantial probability that the claim-
55 ing authority will BE ABLE TO DEMONSTRATE AT TRIAL THAT THE PROPERTY IS
56 THE PROCEEDS, SUBSTITUTED PROCEEDS, INSTRUMENTALITY OF THE CRIME OR REAL

1 PROPERTY INSTRUMENTALITY OF THE CRIME, THAT THE CLAIMING AUTHORITY WILL
2 prevail on the issue of forfeiture, and that failure to enter the order
3 may result in the property being destroyed, removed from the jurisdic-
4 tion of the court, or otherwise be unavailable for forfeiture; (b) the
5 need to preserve the availability of the property through the entry of
6 the requested order outweighs the hardship on any party against whom the
7 order may operate; and (c) in an action relating to real property, that
8 entry of the requested order will not substantially diminish, impair, or
9 terminate the lawful property interest in such real property of any
10 person or persons other than the defendant or defendants.

11 4. Upon motion of any party against whom a provisional remedy granted
12 pursuant to this article is in effect, the court may issue an order
13 modifying or vacating such provisional remedy if necessary to permit the
14 moving party to obtain funds for the payment of reasonable living
15 expenses, other costs or expenses related to the maintenance, operation,
16 or preservation of property which is the subject of any such provisional
17 remedy or reasonable and bona fide attorneys' fees and expenses for the
18 representation of the defendant in the forfeiture proceeding or in a
19 related criminal matter relating thereto, payment for which is not
20 otherwise available from assets of the defendant which are not subject
21 to such provisional remedy. Any such motion shall be supported by an
22 affidavit establishing the unavailability of other assets of the moving
23 party which are not the subject of such provisional remedy for payment
24 of such expenses or fees. THAT FUNDS SOUGHT TO BE RELEASED UNDER THIS
25 SUBDIVISION ARE ALLEGED TO BE THE PROCEEDS, SUBSTITUTED PROCEEDS,
26 INSTRUMENTALITY OF A CRIME OR REAL PROPERTY INSTRUMENTALITY OF A CRIME
27 SHALL NOT BE A FACTOR FOR THE COURT IN CONSIDERING AND DETERMINING A
28 MOTION MADE PURSUANT TO THIS SUBDIVISION.

29 S 4. The opening paragraph of subdivision 2 of section 1349 of the
30 civil practice law and rules, as added by chapter 655 of the laws of
31 1990, is amended to read as follows:

32 If any other provision of law expressly governs the manner of disposi-
33 tion of property subject to the judgment or order of forfeiture, that
34 provision of law shall be controlling, WITH THE EXCEPTION THAT, NOTWITH-
35 STANDING THE PROVISIONS OF ANY OTHER LAW, ALL FORFEITED MONIES AND
36 PROCEEDS FROM FORFEITED PROPERTY SHALL BE DEPOSITED INTO AND DISBURSED
37 FROM AN ASSET FORFEITURE ESCROW FUND ESTABLISHED PURSUANT TO SECTION
38 SIX-T OF THE GENERAL MUNICIPAL LAW, WHICH SHALL GOVERN THE MAINTENANCE
39 OF SUCH MONIES AND PROCEEDS FROM FORFEITED PROPERTY. Upon application
40 by a claiming agent for reimbursement of moneys directly expended by a
41 claiming agent in the underlying criminal investigation for the purchase
42 of contraband which were converted into a non-monetary form or which
43 have not been otherwise recovered, the court shall direct such
44 reimbursement from money forfeited pursuant to this article. Upon appli-
45 cation of the claiming agent, the court may direct that any vehicles,
46 vessels or aircraft forfeited pursuant to this article be retained by
47 the claiming agent for law enforcement purposes, unless the court deter-
48 mines that such property is subject to a perfected lien, in which case
49 the court may not direct that the property be retained unless all such
50 liens on the property to be retained have been satisfied or pursuant to
51 the court's order will be satisfied. In the absence of an application by
52 the claiming agent, the claiming authority may apply to the court to
53 retain such property for law enforcement purposes. Upon such applica-
54 tion, the court may direct that such property be retained by the claim-
55 ing authority for law enforcement purposes, unless the court determines
56 that such property is subject to a perfected lien. If not so retained,

1 the judgment or order shall direct the claiming authority to sell the
2 property in accordance with article fifty-one of this chapter, and that
3 the proceeds of such sale and any other moneys realized as a consequence
4 of any forfeiture pursuant to this article SHALL BE DEPOSITED TO AN
5 ASSET FORFEITURE ESCROW FUND ESTABLISHED PURSUANT TO SECTION SIX-T OF
6 THE GENERAL MUNICIPAL LAW AND shall be apportioned and paid in the
7 following descending order of priority:

8 S 5. Section 1349 of the civil practice law and rules is amended by
9 adding a new subdivision 5 to read as follows:

10 5. MONIES AND PROCEEDS FROM THE SALE OF PROPERTY REALIZED AS A CONSE-
11 QUENCE OF ANY FORFEITURE DISTRIBUTED TO THE CLAIMING AGENT OR CLAIMING
12 AUTHORITY OF ANY COUNTY, TOWN, CITY, OR VILLAGE OF WHICH THE CLAIMING
13 AGENT OR CLAIMING AUTHORITY IS A PART, SHALL BE DEPOSITED TO AN ASSET
14 FORFEITURE ESCROW FUND ESTABLISHED PURSUANT TO SECTION SIX-T OF THE
15 GENERAL MUNICIPAL LAW.

16 S 6. Subdivision 2 of section 700 of the county law is amended to read
17 as follows:

18 2. Within thirty days after the receipt of any fine, penalty, recovery
19 upon any recognizance, MONIES AND PROCEEDS FROM THE SALE OF PROPERTY
20 REALIZED AS A CONSEQUENCE OF ANY FORFEITURE, or other money belonging to
21 the county, the district attorney OR THE CLAIMING AUTHORITY shall pay
22 the same to the county treasurer. Not later than the first day of Febru-
23 ary in each year, the district attorney shall make in duplicate a veri-
24 fied true statement of all such moneys received and paid to the county
25 treasurer during the preceding calendar year and at that time shall pay
26 to the county treasurer any balance due. One statement shall be
27 furnished to the county treasurer [and the other], ONE to the clerk of
28 the board of supervisors AND ONE TO THE STATE COMPTROLLER. A district
29 attorney who is not re-elected shall make and file the verified state-
30 ment and pay any balance of such moneys to the county treasurer within
31 thirty days after the expiration of his term.

32 S 7. The general municipal law is amended by adding a new section 6-t
33 to read as follows:

34 S 6-T. ASSET FORFEITURE ESCROW FUND. 1. AS USED IN THIS SECTION:

35 A. THE TERM "GOVERNING BOARD", INSOFAR AS IT IS USED IN REFERENCE TO A
36 VILLAGE, SHALL MEAN THE BOARD OF TRUSTEES THEREOF; INSOFAR AS IT IS USED
37 IN REFERENCE TO A TOWN, SHALL MEAN THE TOWN BOARD THEREOF; INSOFAR AS IT
38 IS USED IN REFERENCE TO A COUNTY, SHALL MEAN THE BOARD OF SUPERVISORS OR
39 THE COUNTY LEGISLATURE THEREOF, AS APPLICABLE; INSOFAR AS IT IS USED IN
40 REFERENCE TO A CITY, SHALL MEAN THE "LEGISLATIVE BODY" THEREOF, AS THAT
41 TERM IS DEFINED IN SUBDIVISION SEVEN OF SECTION TWO OF THE MUNICIPAL
42 HOME RULE LAW.

43 B. THE TERM "CHIEF FISCAL OFFICER" SHALL MEAN:

44 (1) IN THE CASE OF COUNTIES OPERATING UNDER (1) AN ALTERNATIVE FORM OF
45 COUNTY GOVERNMENT OR CHARTER ENACTED AS A STATE STATUTE OR ADOPTED UNDER
46 THE ALTERNATIVE COUNTY GOVERNMENT LAW OR BY LOCAL LAW, THE OFFICIAL
47 DESIGNATED IN SUCH STATUTE, CONSOLIDATED LAW OR LOCAL LAW AS THE CHIEF
48 FISCAL OFFICER, OR, IF NO SUCH DESIGNATION IS MADE THEREIN, THE OFFICIAL
49 POSSESSING POWERS AND DUTIES SIMILAR TO THOSE OF A COUNTY TREASURER
50 UNDER THE COUNTY LAW AS SHALL BE DESIGNATED BY LOCAL LAW.

51 (2) IN THE CASE OF COUNTIES NOT OPERATING UNDER AN ALTERNATIVE FORM OF
52 COUNTY GOVERNMENT OR CHARTER ENACTED AS A STATE STATUTE OR ADOPTED UNDER
53 THE ALTERNATIVE COUNTY GOVERNMENT LAW OR BY LOCAL LAW, THE TREASURER,
54 EXCEPT THAT, IN THE CASE OF COUNTIES HAVING A COMPTROLLER, IT SHALL MEAN
55 THE COMPTROLLER.

1 (II) IN THE CASE OF CITIES, THE COMPTROLLER; IF A CITY DOES NOT HAVE A
2 COMPTROLLER, THE TREASURER; IF A CITY HAS NEITHER A COMPTROLLER NOR A
3 TREASURER, SUCH OFFICIAL POSSESSING POWERS AND DUTIES SIMILAR TO THOSE
4 OF A CITY TREASURER AS THE FINANCE BOARD SHALL, BY RESOLUTION, DESIG-
5 NATE. A CERTIFIED COPY OF SUCH DESIGNATION SHALL BE FILED WITH THE STATE
6 COMPTROLLER AND SHALL BE A PUBLIC RECORD.

7 (III) IN THE CASE OF TOWNS, THE TOWN SUPERVISOR; IF A TOWN HAS MORE
8 THAN ONE SUPERVISOR, THE PRESIDING SUPERVISOR.

9 (IV) IN THE CASE OF VILLAGES, THE VILLAGE TREASURER.

10 C. THE TERM "CLAIMING AUTHORITY" SHALL MEAN THE DISTRICT ATTORNEY
11 HAVING JURISDICTION OVER THE OFFENSE OR THE ATTORNEY GENERAL FOR PURPOSE
12 OF THOSE CRIMES FOR WHICH THE ATTORNEY GENERAL HAS CRIMINAL JURISDICTION
13 IN A CASE WHERE THE UNDERLYING CRIMINAL CHARGE HAS BEEN, IS BEING OR
14 COULD HAVE BEEN BROUGHT BY THE ATTORNEY GENERAL, OR THE APPROPRIATE
15 CORPORATION COUNSEL OR COUNTY ATTORNEY, WHERE SUCH CORPORATION COUNSEL
16 OR COUNTY ATTORNEY MAY ACT AS A CLAIMING AUTHORITY ONLY WITH THE CONSENT
17 OF THE DISTRICT ATTORNEY OR THE ATTORNEY GENERAL, AS APPROPRIATE.

18 D. THE TERM "CLAIMING AGENT" SHALL MEAN AND SHALL INCLUDE ALL PERSONS
19 DESCRIBED IN SUBDIVISION THIRTY-FOUR OF SECTION 1.20 OF THE CRIMINAL
20 PROCEDURE LAW, AND SHERIFFS, UNDERSHERIFFS AND DEPUTY SHERIFFS OF COUN-
21 TIES WITHIN THE CITY OF NEW YORK.

22 2. THE GOVERNING BOARD SHALL AUTHORIZE THE ESTABLISHMENT OF AN ASSET
23 FORFEITURE ESCROW FUND FOR ANY CLAIMING AGENT OR CLAIMING AUTHORITY AS
24 IS DEEMED NECESSARY FOR THE MONIES AND PROCEEDS OF SALE OF PROPERTY
25 REALIZED AS A CONSEQUENCE OF ANY FORFEITURE. THE SEPARATE IDENTITY OF
26 SUCH FUND SHALL BE MAINTAINED.

27 3. THERE SHALL BE PAID INTO THE ASSET FORFEITURE ESCROW FUND ALL
28 PROCEEDS REALIZED AS A CONSEQUENCE OF ANY FORFEITURE ACTION. SUCH FUNDS
29 SHALL INCLUDE, BUT ARE NOT LIMITED TO, ALL FUNDS AND ANY PROPERTY (REAL,
30 PERSONAL, TANGIBLE AND/OR INTANGIBLE) THAT ARE FORFEITED PURSUANT TO
31 AGREEMENT OR OTHERWISE PRIOR TO, IN LIEU OF OR AFTER THE LODGING OF
32 CRIMINAL CHARGES, PRE-INDICTMENT, POST-INDICTMENT, OR AFTER CONVICTION
33 BY PLEA OR TRIAL. SUCH FUNDS SHALL ALSO INCLUDE FUNDS THAT ARE FORFEITED
34 IN COMPROMISE OF CHARGES THAT ARE NEVER BROUGHT.

35 4. THE MONIES AND PROCEEDS IN THE ASSET FORFEITURE ESCROW FUND SHALL
36 BE DEPOSITED AND SECURED IN THE MANNER PROVIDED BY SECTION TEN OF THIS
37 ARTICLE. ALL MONIES AND PROCEEDS SO DEPOSITED IN SUCH FUND SHALL BE
38 KEPT IN A SEPARATE BANK ACCOUNT. THE CHIEF FISCAL OFFICER MAY INVEST THE
39 MONEYS IN SUCH FUND IN THE MANNER PROVIDED IN SECTION ELEVEN OF THIS
40 ARTICLE. ANY INTEREST EARNED OR CAPITAL GAINS REALIZED ON THE MONEYS SO
41 DEPOSITED OR INVESTED SHALL ACCRUE TO AND BECOME PART OF SUCH FUND. THE
42 SEPARATE IDENTITY OF SUCH FUND SHALL BE MAINTAINED, WHETHER ITS ASSETS
43 CONSIST OF CASH, INVESTMENTS, OR BOTH.

44 5. EVERY CLAIM FOR THE PAYMENT OF MONEY FROM THE ASSET FORFEITURE
45 ESCROW FUND SHALL SPECIFY THE PURPOSE OF THE REQUESTED PAYMENT AND MUST
46 BE ACCOMPANIED BY A WRITTEN CERTIFICATION THAT THE EXPENDITURE IS IN
47 COMPLIANCE WITH ALL APPLICABLE LAWS. PAYMENTS FROM SUCH FUND SHALL BE
48 MADE BY THE CHIEF FISCAL OFFICER SUBJECT TO THE REQUIRED CERTIFICATION
49 AND THE DETERMINATION OF FUND SUFFICIENCY.

50 6. THE CHIEF FISCAL OFFICER, AT THE TERMINATION OF EACH FISCAL YEAR,
51 SHALL RENDER A DETAILED REPORT OF THE OPERATION AND CONDITION OF THE
52 ASSET FORFEITURE ESCROW FUND TO THE GOVERNING BOARD AND THE STATE COMP-
53 TROLLER. SUCH REPORT SHALL BE SUBJECT TO EXAMINATION AND AUDIT. THE
54 CHIEF FISCAL OFFICER MAY ACCOUNT FOR SUCH FUND SEPARATE AND APART FROM
55 ALL OTHER FUNDS OF THE VILLAGE, TOWN, COUNTY, AND CITY.

1 S 8. Section 1352 of the civil practice law and rules, as added by
2 chapter 669 of the laws of 1984, is amended to read as follows:

3 S 1352. Preservation of other rights and remedies. The remedies
4 provided for in this article are not intended to substitute for or limit
5 or [supercede] SUPERSEDE the lawful authority of any public officer or
6 agency or other person to enforce any other right or remedy provided for
7 by law. THE EXERCISE OF SUCH LAWFUL AUTHORITY IN THE FORFEITURE OF PROP-
8 ERTY ALLEGED TO BE THE PROCEEDS, SUBSTITUTE PROCEEDS, INSTRUMENTALITY OF
9 A CRIME OR REAL PROPERTY INSTRUMENTALITY OF CRIME MUST INCLUDE THE
10 PROVISION OF A PROMPT OPPORTUNITY TO BE HEARD FOR THE OWNER OF SEIZED
11 PROPERTY IN ORDER TO ENSURE THE LEGITIMACY AND THE NECESSITY OF ITS
12 CONTINUED RETENTION BY LAW ENFORCEMENT, AS WELL AS CLEAR NOTICE OF DEAD-
13 LINES FOR ACCOMPLISHING THE RETURN OF SUCH PROPERTY.

14 S 9. Subdivision 11 of section 1311 of the civil practice law and
15 rules is amended by adding a new paragraph (d) to read as follows:

16 (D) ANY STIPULATION, SETTLEMENT AGREEMENT, JUDGEMENT, ORDER OR AFFIDA-
17 VIT REQUIRED TO BE GIVEN TO THE STATE DIVISION OF CRIMINAL JUSTICE
18 SERVICES PURSUANT TO THIS SUBDIVISION SHALL INCLUDE THE DEFENDANT'S NAME
19 AND SUCH OTHER DEMOGRAPHIC DATA AS REQUIRED BY THE STATE DIVISION OF
20 CRIMINAL JUSTICE SERVICES.

21 S 10. Subdivision 6 of section 220.50 of the criminal procedure law,
22 as added by chapter 655 of the laws of 1990, is amended to read as
23 follows:

24 6. Where the defendant consents to a plea of guilty to the indictment,
25 or part of the indictment, or consents to be prosecuted by superior
26 court information as set forth in section 195.20 of this chapter, and if
27 the defendant and prosecutor agree that as a condition of the plea or
28 the superior court information certain property shall be forfeited by
29 the defendant, the description and present estimated monetary value of
30 the property shall be stated in court by the prosecutor at the time of
31 plea. Within thirty days of the acceptance of the plea or superior court
32 information by the court, the prosecutor shall send to the commissioner
33 of the division of criminal justice services a document containing the
34 name of the defendant, the description and present estimated monetary
35 value of the property, ANY OTHER DEMOGRAPHIC DATA AS REQUIRED BY THE
36 DIVISION OF CRIMINAL JUSTICE SERVICES and the date the plea or superior
37 court information was accepted. Any property forfeited by the defendant
38 as a condition to a plea of guilty to an indictment, or a part thereof,
39 or to a superior court information, shall be disposed of in accordance
40 with the provisions of section thirteen hundred forty-nine of the civil
41 practice law and rules.

42 S 11. Subdivision 4 of section 480.10 of the penal law, as added by
43 chapter 655 of the laws of 1990, is amended to read as follows:

44 4. The prosecutor shall promptly file a copy of the special forfeiture
45 information, including the terms thereof, with the state division of
46 criminal justice services and with the local agency responsible for
47 criminal justice planning. Failure to file such information shall not be
48 grounds for any relief under this chapter. THE PROSECUTOR SHALL ALSO
49 REPORT SUCH DEMOGRAPHIC DATA AS REQUIRED BY THE STATE DIVISION OF CRIMI-
50 NAL JUSTICE SERVICES WHEN FILING A COPY OF THE SPECIAL FORFEITURE INFOR-
51 MATION WITH THE STATE DIVISION OF CRIMINAL JUSTICE SERVICES.

52 S 12. This act shall take effect on the one hundred eightieth day
53 after it shall have become a law and shall apply to crimes which were
54 committed on or after such date.

1 Section 1. Section 2 of part H of chapter 503 of the laws of 2009
2 relating to the disposition of monies recovered by county district
3 attorneys before the filing of an accusatory instrument, as amended by
4 section 25 of part A of chapter 55 of the laws of 2017, is amended to
5 read as follows:

6 S 2. This act shall take effect immediately and shall remain in full
7 force and effect until March 31, [2018] 2019, when it shall expire and
8 be deemed repealed.

9 S 2. This act shall take effect immediately.

10 PART G

11 Section 1. Section 602 of the correction law, as amended by chapter
12 891 of the laws of 1962, is amended to read as follows:

13 S 602. Expenses of sheriff for transporting prisoners. For conveying
14 a prisoner or prisoners to a state prison from the county prison, the
15 sheriff or person having charge of the same shall be reimbursed for the
16 amount of expenses actually and necessarily incurred by him for railroad
17 fare or cost of other transportation and for cost of maintenance of
18 himself and each prisoner in going to the prison, and for his railroad
19 fare or other cost of transportation in returning home, and cost of his
20 maintenance while so returning. [The county shall be reimbursed for a
21 portion of the salary of such sheriff or person for the period, not to
22 exceed thirty-six hours, from the commencement of transportation from
23 the county prison to the return of such sheriff or person to the county
24 prison, the amount of such reimbursement to be computed by adding to the
25 amount of such salary the total amount of the aforesaid expenses
26 incurred for transportation and maintenance and reducing the resulting
27 aggregate amount, first, by fifty per centum of such aggregate amount
28 and, second, by the total amount of the aforesaid expenses incurred for
29 transportation and maintenance.]

30 S 2. This act shall take effect April 1, 2018.

31 PART H

32 Section 1. Subparagraph (iv) of paragraph (d) of subdivision 1 of
33 section 803 of the correction law, as added by section 7 of chapter 738
34 of the laws of 2004, is amended to read as follows:

35 (iv) Such merit time allowance may be granted when an inmate success-
36 fully participates in the work and treatment program assigned pursuant
37 to section eight hundred five of this article and when such inmate
38 obtains a general equivalency diploma, an alcohol and substance abuse
39 treatment certificate, a vocational trade certificate following at least
40 six months of vocational programming [or], performs at least four
41 hundred hours of service as part of a community work crew OR SUCCESSFUL-
42 LY COMPLETES AT LEAST TWO CONSECUTIVE SEMESTERS OF COLLEGE PROGRAMMING
43 WITH NO LESS THAN SIX COLLEGE CREDITS PER SEMESTER, THAT IS PROVIDED AT
44 THE CORRECTIONAL FACILITY BY A COLLEGE APPROVED BY THE NEW YORK STATE
45 BOARD OF REGENTS.

46 Such allowance shall be withheld for any serious disciplinary infrac-
47 tion or upon a judicial determination that the person, while an inmate,
48 commenced or continued a civil action, proceeding or claim that was
49 found to be frivolous as defined in subdivision (c) of section eight
50 thousand three hundred three-a of the civil practice law and rules, or
51 an order of a federal court pursuant to rule 11 of the federal rules of

1 civil procedure imposing sanctions in an action commenced by a person,
2 while an inmate, against a state agency, officer or employee.

3 S 2. Subparagraph (iv) of paragraph (d) of subdivision 1 of section
4 803 of the correction law, as added by section 10-a of chapter 738 of
5 the laws of 2004, is amended to read as follows:

6 (iv) Such merit time allowance may be granted when an inmate success-
7 fully participates in the work and treatment program assigned pursuant
8 to section eight hundred five of this article and when such inmate
9 obtains a general equivalency diploma, an alcohol and substance abuse
10 treatment certificate, a vocational trade certificate following at least
11 six months of vocational programming [or], performs at least four
12 hundred hours of service as part of a community work crew OR SUCCESSFUL-
13 LY COMPLETES AT LEAST TWO CONSECUTIVE SEMESTERS OF COLLEGE PROGRAMMING
14 WITH NO LESS THAN SIX COLLEGE CREDITS PER SEMESTER, THAT IS PROVIDED AT
15 THE CORRECTIONAL FACILITY BY A COLLEGE APPROVED BY THE NEW YORK STATE
16 BOARD OF REGENTS.

17 Such allowance shall be withheld for any serious disciplinary infrac-
18 tion or upon a judicial determination that the person, while an inmate,
19 commenced or continued a civil action, proceeding or claim that was
20 found to be frivolous as defined in subdivision (c) of section eight
21 thousand three hundred three-a of the civil practice law and rules, or
22 an order of a federal court pursuant to rule 11 of the federal rules of
23 civil procedure imposing sanctions in an action commenced by a person,
24 while an inmate, against a state agency, officer or employee.

25 S 3. Paragraph (c) of subdivision 1 of section 803-b of the correction
26 law, as amended by section 1 of part E of chapter 55 of the laws of
27 2017, is amended to read as follows:

28 (c) "significant programmatic accomplishment" means that the inmate:

- 29 (i) participates in no less than two years of college programming; or
30 (ii) obtains a masters of professional studies degree; or
31 (iii) successfully participates as an inmate program associate for no
32 less than two years; or
33 (iv) receives a certification from the state department of labor for
34 his or her successful participation in an apprenticeship program; or
35 (v) successfully works as an inmate hospice aid for a period of no
36 less than two years; or
37 (vi) successfully works in the division of correctional industries'
38 optical program for no less than two years and receives a certification
39 as an optician from the American board of opticianry; or
40 (vii) receives an asbestos handling certificate from the department of
41 labor upon successful completion of the training program and then works
42 in the division of correctional industries' asbestos abatement program
43 as a hazardous materials removal worker or group leader for no less than
44 eighteen months; or
45 (viii) successfully completes the course curriculum and passes the
46 minimum competency screening process performance examination for sign
47 language interpreter, and then works as a sign language interpreter for
48 deaf inmates for no less than one year; or
49 (ix) successfully works in the puppies behind bars program for a peri-
50 od of no less than two years; or
51 (x) successfully participates in a vocational culinary arts program
52 for a period of no less than two years and earns a servsafe certificate
53 that is recognized by the national restaurant association; or
54 (xi) successfully completes the four hundred ninety hour training
55 program while assigned to a department of motor vehicles call center,

1 and continues to work at such call center for an additional twenty-one
2 months; or

3 (xii) receives a certificate from the food production center in an
4 assigned position following the completion of no less than eight hundred
5 hours of work in such position, and continues to work for an additional
6 eighteen months at the food production center[.]; OR

7 (XIII) SUCCESSFULLY COMPLETES A COSMETOLOGY TRAINING PROGRAM AND
8 RECEIVES A LICENSE FROM THE NEW YORK STATE DEPARTMENT OF STATE, AND
9 THEREAFTER PARTICIPATES IN SUCH PROGRAM FOR A PERIOD OF NO LESS THAN
10 EIGHTEEN MONTHS; OR

11 (XIV) SUCCESSFULLY COMPLETES A BARBERING TRAINING PROGRAM AND RECEIVES
12 A LICENSE FROM THE NEW YORK STATE DEPARTMENT OF STATE, AND THEREAFTER
13 PARTICIPATES IN SUCH PROGRAM FOR A PERIOD OF NO LESS THAN EIGHTEEN
14 MONTHS; OR

15 (XV) SUCCESSFULLY PARTICIPATES IN A COMPUTER OPERATOR, GENERAL BUSI-
16 NESS OR COMPUTER INFORMATION TECHNOLOGY AND SUPPORT VOCATIONAL PROGRAM
17 FOR NO LESS THAN TWO YEARS, AND EARNS A MICROSOFT OFFICE SPECIALIST
18 CERTIFICATION FOR MICROSOFT WORD, MICROSOFT POWERPOINT OR MICROSOFT
19 EXCEL, FOLLOWING THE ADMINISTRATION OF AN EXAMINATION; OR

20 (XVI) SUCCESSFULLY COMPLETES THE THINKING FOR A CHANGE COGNITIVE
21 BEHAVIORAL TREATMENT PROGRAM WITHIN PHASE TWO OF TRANSITIONAL SERVICES,
22 AND THEREAFTER, IS EMPLOYED IN THE WORK RELEASE PROGRAM FOR A PERIOD OF
23 AT LEAST EIGHTEEN MONTHS.

24 S 4. This act shall take effect April 1, 2018; provided, however, that
25 the amendments to subparagraph (iv) of paragraph (d) of subdivision 1 of
26 section 803 of the correction law made by section one of this act shall
27 be subject to the expiration and reversion of such section pursuant to
28 subdivision d of section 74 of chapter 3 of the laws of 1995, as
29 amended, when upon such date the provisions of section two of this act
30 shall take effect.

31 PART I

32 Section 1. Subdivision 9 of section 201 of the correction law is
33 REPEALED.

34 S 2. This act shall take effect April 1, 2018.

35 PART J

36 Section 1. Notwithstanding any provision of law or governor's execu-
37 tive order to the contrary regarding inmate eligibility by crime of
38 commitment, the commissioner of corrections and community supervision is
39 hereby authorized to initiate two pilot temporary release programs.

40 S 2. The first pilot temporary release program shall be a college
41 educational leave program for no more than fifty inmates at any one
42 time, who otherwise would be ineligible due to their crime of commit-
43 ment, and whereby, to be eligible, an inmate shall not be serving a
44 sentence for one or more offenses that would render him or her ineligi-
45 ble for a limited credit time allowance as set forth in section 803-b of
46 the correction law. In addition, to be eligible, such inmate shall not
47 have committed a serious disciplinary infraction, maintained an overall
48 negative institutional record, or received a disqualifying judicial
49 determination that would render him or her ineligible for a limited
50 credit time allowance as set forth in section 803-b of the correction
51 law, and such inmate shall be eligible for release on parole or condi-
52 tional release within two years. An inmate who participates in this

1 pilot program may also be permitted to leave the premises of the insti-
2 tution for the purposes set forth in subdivision 4 of section 851 of the
3 correction law, if otherwise authorized by the department of corrections
4 and community supervision's rules and regulations governing permissible
5 furloughs.

6 S 3. The second pilot temporary release program shall be a pilot work
7 release program for no more than fifty inmates at any one time, who
8 otherwise would be ineligible due to their crime of commitment, and
9 whereby, to be eligible, an inmate shall not be serving a sentence for
10 one or more offenses that would render him or her ineligible for a
11 limited credit time allowance as set forth in section 803-b of the
12 correction law. In addition, such inmate shall not have committed a
13 serious disciplinary infraction, maintained an overall negative institu-
14 tional record, or received a disqualifying judicial determination that
15 would render him or her ineligible for a limited credit time allowance
16 as set forth in section 803-b of the correction law and, such inmate
17 shall be eligible for release on parole or conditional release within
18 two years. An inmate who participates in the pilot work release program
19 may also be permitted to leave the premises of the institution for the
20 purposes set forth in subdivision 4 of section 851 of the correction
21 law, when authorized by the department of corrections and community
22 supervision's rules and regulations governing permissible furloughs.

23 S 4. Prior to March first of each year thereafter, the commissioner of
24 corrections and community supervision shall issue a report to the gover-
25 nor, the president of the senate and the speaker of the assembly, on the
26 status of both pilot programs, which shall include, but not be limited
27 to, information on those correctional facilities where the pilot
28 programs are established, information about the total number of inmates
29 who were approved for each of the pilots, whether each inmate partic-
30 ipant has been successful or unsuccessful, and information on those
31 colleges which participate in the educational leave pilot.

32 S 5. This act shall take effect April 1, 2018.

33

PART K

34 Section 1. This Part enacts into law major components of legislation
35 that remove unnecessary mandatory bars on licensing and employment for
36 people with criminal convictions in the categories enumerated therein
37 and replace them with individualized review processes using the factors
38 set out in article 23-A of the correction law, which addresses the
39 licensing of such individuals. Each component is wholly contained with a
40 Subpart identified as Subparts A through I. Any provision in any section
41 contained within a Subpart, including the effective date of the Subpart,
42 which makes reference to a section "of this act", when used in
43 connection with that particular component, shall be deemed to mean and
44 refer to the corresponding section of the Subpart in which it is found.
45 Section three of this Part sets forth the general effective date of this
46 Part.

47

SUBPART A

48 Section 1. Subdivision 6 of section 369 of the banking law, as amended
49 by chapter 164 of the laws of 2003, paragraph (b) as amended by section
50 6 of part LL of chapter 56 of the laws of 2010, is amended to read as
51 follows:

1 6. The superintendent may, CONSISTENT WITH ARTICLE TWENTY-THREE-A OF
2 THE CORRECTION LAW, refuse to issue a license pursuant to this article
3 if he shall find that the applicant, or any person who is a director,
4 officer, partner, agent, employee or substantial stockholder of the
5 applicant, (a) has been convicted of a crime in any jurisdiction or (b)
6 is associating or consorting with any person who has, or persons who
7 have, been convicted of a crime or crimes in any jurisdiction or juris-
8 dictions[; provided, however, that the superintendent shall not issue
9 such a license if he shall find that the applicant, or any person who is
10 a director, officer, partner, agent, employee or substantial stockholder
11 of the applicant, has been convicted of a felony in any jurisdiction or
12 of a crime which, if committed within this state, would constitute a
13 felony under the laws thereof]. For the purposes of this article, a
14 person shall be deemed to have been convicted of a crime if such person
15 shall have pleaded guilty to a charge thereof before a court or magis-
16 trate, or shall have been found guilty thereof by the decision or judg-
17 ment of a court or magistrate or by the verdict of a jury, irrespective
18 of the pronouncement of sentence or the suspension thereof[, unless such
19 plea of guilty, or such decision, judgment or verdict, shall have been
20 set aside, reversed or otherwise abrogated by lawful judicial process or
21 unless the person convicted of the crime shall have received a pardon
22 therefor from the president of the United States or the governor or
23 other pardoning authority in the jurisdiction where the conviction was
24 had, or shall have received a certificate of relief from disabilities or
25 a certificate of good conduct pursuant to article twenty-three of the
26 correction law to remove the disability under this article because of
27 such conviction]. The term "substantial stockholder," as used in this
28 subdivision, shall be deemed to refer to a person owning or controlling
29 ten per centum or more of the total outstanding stock of the corporation
30 in which such person is a stockholder. In making a determination pursu-
31 ant to this subdivision, the superintendent shall require fingerprinting
32 of the applicant. Such fingerprints shall be submitted to the division
33 of criminal justice services for a state criminal history record check,
34 as defined in subdivision one of section three thousand thirty-five of
35 the education law, and may be submitted to the federal bureau of inves-
36 tigation for a national criminal history record check.
37 S 2. This act shall take effect immediately.

38 SUBPART B
39 Intentionally Omitted

40 SUBPART C

41 Section 1. Clauses 1 and 5 of paragraph (c) of subdivision 2 of
42 section 435 of the executive law, clause 1 as amended by chapter 371 of
43 the laws of 1974 and clause 5 as amended by 437 of the laws of 1962, are
44 amended to read as follows:

45 (1) a person convicted of a crime [who has not received a pardon, a
46 certificate of good conduct or a certificate of relief from disabili-
47 ties] IF THERE IS A DIRECT RELATIONSHIP BETWEEN ONE OR MORE OF THE
48 PREVIOUS CRIMINAL OFFENSES AND THE INTEGRITY AND SAFETY OF BINGO,
49 CONSIDERING THE FACTORS SET FORTH IN ARTICLE TWENTY-THREE-A OF THE
50 CORRECTION LAW;

51 (5) a firm or corporation in which a person defined in [subdivision]
52 CLAUSE (1), (2), (3) or (4) [above] OF THIS PARAGRAPH, or a person

1 married or related in the first degree to such a person, has greater
2 than a ten [per centum] PERCENT proprietary, equitable or credit inter-
3 est or in which such a person is active or employed.
4 S 2. This act shall take effect immediately.

5

SUBPART D

6 Section 1. Subdivision 1 of section 130 of the executive law, as
7 amended by section 1 of part LL of chapter 56 of the laws of 2010, para-
8 graph (g) as separately amended by chapter 232 of the laws 2010, is
9 amended to read as follows:

10 1. The secretary of state may appoint and commission as many notaries
11 public for the state of New York as in his or her judgment may be deemed
12 best, whose jurisdiction shall be co-extensive with the boundaries of
13 the state. The appointment of a notary public shall be for a term of
14 four years. An application for an appointment as notary public shall be
15 in form and set forth such matters as the secretary of state shall
16 prescribe. Every person appointed as notary public must, at the time of
17 his or her appointment, be a citizen of the United States and either a
18 resident of the state of New York or have an office or place of business
19 in New York state. A notary public who is a resident of the state and
20 who moves out of the state but still maintains a place of business or an
21 office in New York state does not vacate his or her office as a notary
22 public. A notary public who is a nonresident and who ceases to have an
23 office or place of business in this state, vacates his or her office as
24 a notary public. A notary public who is a resident of New York state and
25 moves out of the state and who does not retain an office or place of
26 business in this state shall vacate his or her office as a notary
27 public. A non-resident who accepts the office of notary public in this
28 state thereby appoints the secretary of state as the person upon whom
29 process can be served on his or her behalf. Before issuing to any appli-
30 cant a commission as notary public, unless he or she be an attorney and
31 counsellor at law duly admitted to practice in this state or a court
32 clerk of the unified court system who has been appointed to such posi-
33 tion after taking a civil service promotional examination in the court
34 clerk series of titles, the secretary of state shall satisfy himself or
35 herself that the applicant is of good moral character, has the equiv-
36 alent of a common school education and is familiar with the duties and
37 responsibilities of a notary public; provided, however, that where a
38 notary public applies, before the expiration of his or her term, for
39 reappointment with the county clerk or where a person whose term as
40 notary public shall have expired applies within six months thereafter
41 for reappointment as a notary public with the county clerk, such quali-
42 fying requirements may be waived by the secretary of state, and further,
43 where an application for reappointment is filed with the county clerk
44 after the expiration of the aforementioned renewal period by a person
45 who failed or was unable to re-apply by reason of his or her induction
46 or enlistment in the armed forces of the United States, such qualifying
47 requirements may also be waived by the secretary of state, provided such
48 application for reappointment is made within a period of one year after
49 the military discharge of the applicant under conditions other than
50 dishonorable. In any case, the appointment or reappointment of any
51 applicant is in the discretion of the secretary of state. The secretary
52 of state may suspend or remove from office, for misconduct, any notary
53 public appointed by him or her but no such removal shall be made unless
54 the person who is sought to be removed shall have been served with a

1 copy of the charges against him or her and have an opportunity of being
2 heard. No person shall be appointed as a notary public under this arti-
3 cle who has been convicted, in this state or any other state or territo-
4 ry, of a [felony or any of the following offenses, to wit:

5 (a) Illegally using, carrying or possessing a pistol or other danger-
6 ous weapon; (b) making or possessing burglar's instruments; (c) buying
7 or receiving or criminally possessing stolen property; (d) unlawful
8 entry of a building; (e) aiding escape from prison; (f) unlawfully
9 possessing or distributing habit forming narcotic drugs; (g) violating
10 sections two hundred seventy, two hundred seventy-a, two hundred seven-
11 ty-b, two hundred seventy-c, two hundred seventy-one, two hundred seven-
12 ty-five, two hundred seventy-six, five hundred fifty, five hundred
13 fifty-one, five hundred fifty-one-a and subdivisions six, ten or eleven
14 of section seven hundred twenty-two of the former penal law as in force
15 and effect immediately prior to September first, nineteen hundred
16 sixty-seven, or violating sections 165.25, 165.30 or subdivision one of
17 section 240.30 of the penal law, or violating sections four hundred
18 seventy-eight, four hundred seventy-nine, four hundred eighty, four
19 hundred eighty-one, four hundred eighty-four, four hundred eighty-nine
20 and four hundred ninety-one of the judiciary law; or (h) vagrancy or
21 prostitution, and who has not subsequent to such conviction received an
22 executive pardon therefor or a certificate of relief from disabilities
23 or a certificate of good conduct pursuant to article twenty-three of the
24 correction law to remove the disability under this section because of
25 such conviction] CRIME, UNLESS THE SECRETARY MAKES A FINDING IN CONFORM-
26 ANCE WITH ALL APPLICABLE STATUTORY REQUIREMENTS, INCLUDING THOSE
27 CONTAINED IN ARTICLE TWENTY-THREE-A OF THE CORRECTION LAW, THAT SUCH
28 CONVICTIONS DO NOT CONSTITUTE A BAR TO EMPLOYMENT.

29 S 2. This act shall take effect immediately.

30

SUBPART E

31 Section 1. Paragraphs 1 and 5 of subdivision (a) of section 189-a of
32 the general municipal law, as added by chapter 574 of the laws of 1978,
33 are amended to read as follows:

34 (1) a person convicted of a crime [who has not received a pardon, a
35 certificate of good conduct or a certificate of relief from disabili-
36 ties] IF THERE IS A DIRECT RELATIONSHIP BETWEEN ONE OR MORE OF THE
37 PREVIOUS CRIMINAL OFFENSES AND THE INTEGRITY OR SAFETY OF CHARITABLE
38 GAMING, CONSIDERING THE FACTORS SET FORTH IN ARTICLE TWENTY-THREE-A OF
39 THE CORRECTION LAW;

40 (5) a firm or corporation in which a person defined in [subdivision]
41 PARAGRAPH (1), (2), (3) or (4) [above] OF THIS SUBDIVISION has greater
42 than a ten [per centum] PERCENT proprietary, equitable or credit inter-
43 est or in which such a person is active or employed.

44 S 2. Paragraph (a) of subdivision 1 of section 191 of the general
45 municipal law, as amended by section 15 of part LL of chapter 56 of the
46 laws of 2010, is amended to read as follows:

47 (a) Issuance of licenses to conduct games of chance. If such clerk or
48 department [shall determine] DETERMINES:

49 (I) that the applicant is duly qualified to be licensed to conduct
50 games of chance under this article;

51 (II) that the member or members of the applicant designated in the
52 application to manage games of chance are bona fide active members of
53 the applicant and are persons of good moral character and have never
54 been convicted of a crime[, or,] if [convicted, have received a pardon,

1 a certificate of good conduct or a certificate of relief from disabili-
2 ties pursuant to article twenty-three of the correction law] THERE IS A
3 DIRECT RELATIONSHIP BETWEEN ONE OR MORE OF THE PREVIOUS CRIMINAL
4 OFFENSES AND THE INTEGRITY OR SAFETY OF CHARITABLE GAMING, CONSIDERING
5 THE FACTORS SET FORTH IN ARTICLE TWENTY-THREE-A OF THE CORRECTION LAW;

6 (III) that such games are to be conducted in accordance with the
7 provisions of this article and in accordance with the rules and regu-
8 lations of the [board] GAMING COMMISSION and applicable local laws or
9 ordinances and that the proceeds thereof are to be disposed of as
10 provided by this article[,]; and

11 [if such clerk or department is satisfied] (IV) that no commission,
12 salary, compensation, reward or recompense whatever will be paid or
13 given to any person managing, operating or assisting therein except as
14 in this article otherwise provided; [it] THEN SUCH CLERK OR DEPARTMENT
15 shall issue a license to the applicant for the conduct of games of
16 chance upon payment of a license fee of twenty-five dollars for each
17 license period.

18 S 3. Subdivision 9 of section 476 of the general municipal law, as
19 amended by chapter 1057 of the laws of 1965, paragraph (a) as amended by
20 section 16 of part LL of chapter 56 of the laws of 2010, is amended to
21 read as follows:

22 9. "Authorized commercial lessor" shall mean a person, firm or corpo-
23 ration other than a licensee to conduct bingo under the provisions of
24 this article, who or which [shall own] OWNS or [be] IS a net lessee of
25 premises and offer the same for leasing by him, HER or it to an author-
26 ized organization for any consideration whatsoever, direct or indirect,
27 for the purpose of conducting bingo therein, provided that he, SHE or
28 it, as the case may be, shall not be

29 (a) a person convicted of a crime [who has not received a pardon or a
30 certificate of good conduct or a certificate of relief from disabilities
31 pursuant to] IF THERE IS A DIRECT RELATIONSHIP BETWEEN ONE OR MORE OF
32 THE PREVIOUS CRIMINAL OFFENSES AND THE INTEGRITY OR SAFETY OF BINGO,
33 CONSIDERING THE FACTORS SET FORTH IN article [twenty-three]
34 TWENTY-THREE-A of the correction law;

35 (b) a person who is or has been a professional gambler or gambling
36 promoter or who for other reasons is not of good moral character;

37 (c) a public officer who receives any consideration, direct or indi-
38 rect, as owner or lessor of premises offered for the purpose of conduct-
39 ing bingo therein;

40 (d) a firm or corporation in which a person defined in [subdivision]
41 PARAGRAPH (a), (b) or (c) [above] OF THIS SUBDIVISION or a person
42 married or related in the first degree to such a person has greater than
43 a ten [percentum (10%)] PERCENT proprietary, equitable or credit inter-
44 est or in which such a person is active or employed.

45 Nothing contained in this subdivision shall be construed to bar any
46 firm or corporation [which] THAT is not organized for pecuniary profit
47 and no part of the net earnings of which inure to the benefit of any
48 individual, member, or shareholder, from being an authorized commercial
49 lessor solely because a public officer, or a person married or related
50 in the first degree to a public officer, is a member of, active in or
51 employed by such firm or corporation.

52 S 4. Paragraph (a) of subdivision 1 of section 481 of the general
53 municipal law, as amended by section 5 of part MM of chapter 59 of the
54 laws of 2017, is amended to read as follows:

55 (a) Issuance of licenses to conduct bingo. If the governing body of
56 the municipality determines:

1 (I) that the applicant is duly qualified to be licensed to conduct
2 bingo under this article;

3 (II) that the member or members of the applicant designated in the
4 application to conduct bingo are bona fide active members OR AUXILIARY
5 MEMBERS of the applicant and are persons of good moral character and
6 have never been convicted of a crime [or, if convicted, have received a
7 pardon or a certificate of good conduct or a certificate of relief from
8 disabilities pursuant to article twenty-three] IF THERE IS A DIRECT
9 RELATIONSHIP BETWEEN ONE OR MORE OF THE PREVIOUS CRIMINAL OFFENSES AND
10 THE INTEGRITY OR SAFETY OF BINGO, CONSIDERING THE FACTORS SET FORTH IN
11 ARTICLE TWENTY-THREE-A of the correction law;

12 (III) that such games of bingo are to be conducted in accordance with
13 the provisions of this article and in accordance with the rules and
14 regulations of the commission[, and];

15 (IV) that the proceeds thereof are to be disposed of as provided by
16 this article[, and if the governing body is satisfied];

17 (V) that no commission, salary, compensation, reward or recompense
18 [what so ever] WHATSOEVER will be paid or given to any person holding,
19 operating or conducting or assisting in the holding, operation and
20 conduct of any such games of bingo except as in this article otherwise
21 provided; and

22 (VI) that no prize will be offered and given in excess of the sum or
23 value of five thousand dollars in any single game OF BINGO and that the
24 aggregate of all prizes offered and given in all of such games OF BINGO
25 conducted on a single occasion[,] under said license shall not exceed
26 the sum or value of fifteen thousand dollars, then the municipality
27 shall issue a license to the applicant for the conduct of bingo upon
28 payment of a license fee of eighteen dollars and seventy-five cents for
29 each bingo occasion[; provided, however, that].

30 NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS PARAGRAPH, the
31 governing body shall refuse to issue a license to an applicant seeking
32 to conduct bingo in premises of a licensed commercial lessor where such
33 governing body determines that the premises presently owned or occupied
34 by such applicant are in every respect adequate and suitable for
35 conducting bingo games.

36 S 5. This act shall take effect immediately.

37 SUBPART F

38 Section 1. Paragraphs 3 and 4 of subsection (d) of section 2108 of the
39 insurance law are REPEALED, and paragraph 5 is renumbered paragraph 3.

40 S 2. This act shall take effect immediately.

41 SUBPART G

42 Section 1. Section 440-a of the real property law, as amended by chap-
43 ter 81 of the laws of 1995, the first undesignated paragraph as amended
44 by section 23 of part LL of chapter 56 of the laws of 2010, is amended
45 to read as follows:

46 S 440-a. License required for real estate brokers and salesmen. No
47 person, co-partnership, limited liability company or corporation shall
48 engage in or follow the business or occupation of, or hold himself or
49 itself out or act temporarily or otherwise as a real estate broker or
50 real estate salesman in this state without first procuring a license
51 therefor as provided in this article. No person shall be entitled to a
52 license as a real estate broker under this article, either as an indi-

1 vidual or as a member of a co-partnership, or as a member or manager of
2 a limited liability company or as an officer of a corporation, unless he
3 or she is twenty years of age or over, a citizen of the United States or
4 an alien lawfully admitted for permanent residence in the United States.
5 No person shall be entitled to a license as a real estate salesman under
6 this article unless he or she is over the age of eighteen years. No
7 person shall be entitled to a license as a real estate broker or real
8 estate salesman under this article who has been convicted in this state
9 or elsewhere of a [felony, of a sex offense, as defined in subdivision
10 two of section one hundred sixty-eight-a of the correction law or any
11 offense committed outside of this state which would constitute a sex
12 offense, or a sexually violent offense, as defined in subdivision three
13 of section one hundred sixty-eight-a of the correction law or any
14 offense committed outside this state which would constitute a sexually
15 violent offense, and who has not subsequent to such conviction received
16 executive pardon therefor or a certificate of relief from disabilities
17 or a certificate of good conduct pursuant to article twenty-three of the
18 correction law, to remove the disability under this section because of
19 such conviction] CRIME, UNLESS THE SECRETARY MAKES A FINDING IN CONFORM-
20 ANCE WITH ALL APPLICABLE STATUTORY REQUIREMENTS, INCLUDING THOSE
21 CONTAINED IN ARTICLE TWENTY-THREE-A OF THE CORRECTION LAW, THAT SUCH
22 CONVICTIONS DO NOT CONSTITUTE A BAR TO LICENSURE. No person shall be
23 entitled to a license as a real estate broker or real estate salesman
24 under this article who does not meet the requirements of section 3-503
25 of the general obligations law.

26 Notwithstanding [the above] ANYTHING TO THE CONTRARY IN THIS SECTION,
27 tenant associations[,] and not-for-profit corporations authorized in
28 writing by the commissioner of the department of the city of New York
29 charged with enforcement of the housing maintenance code of such city to
30 manage residential property owned by such city or appointed by a court
31 of competent jurisdiction to manage residential property owned by such
32 city shall be exempt from the licensing provisions of this section with
33 respect to the properties so managed.

34 S 2. This act shall take effect immediately.

35

SUBPART H

36 Section 1. Subdivision 5 of section 336-f of the social services law,
37 as added by section 148 of part B of chapter 436 of the laws of 1997, is
38 amended to read as follows:

39 5. The social services district shall require every private or not-
40 for-profit employer that intends to hire one or more work activity
41 participants to certify to the district [that] WHETHER such employer has
42 [not], in the past five years, been convicted of a felony or a misdemea-
43 nor the underlying basis of which involved workplace safety and health
44 or labor standards. Such employer shall also certify as to all
45 violations issued by the department of labor within the past five years.
46 The social services official in the district in which the participant is
47 placed shall determine whether there is a pattern of CONVICTIONS OR
48 violations sufficient to render the potential employer ineligible.
49 Employers who submit false information under this section shall be
50 subject to criminal prosecution for filing a false instrument.

51 S 2. This act shall take effect immediately.

52

SUBPART I

1 Section 1. Subdivision 9 of section 394 of the vehicle and traffic
2 law, as separately renumbered by chapters 300 and 464 of the laws of
3 1960, is amended to read as follows:

4 9. Employees. [No licensee shall knowingly employ, in connection with
5 a driving school in any capacity whatsoever, any person who has been
6 convicted of a felony, or of any crime involving violence, dishonesty,
7 deceit, indecency, degeneracy or moral turpitude] A LICENSEE MAY NOT
8 EMPLOY, IN CONNECTION WITH A DRIVING SCHOOL IN ANY CAPACITY WHATSOEVER,
9 A PERSON WHO HAS BEEN CONVICTED OF A CRIME, IF, AFTER CONSIDERING THE
10 FACTORS SET FORTH IN ARTICLE TWENTY-THREE-A OF THE CORRECTION LAW, THE
11 LICENSEE DETERMINES THAT THERE IS A DIRECT RELATIONSHIP BETWEEN THE
12 CONVICTION AND EMPLOYMENT IN THE DRIVING SCHOOL, OR THAT EMPLOYMENT
13 WOULD CONSTITUTE AN UNREASONABLE RISK TO PROPERTY OR TO THE SAFETY OF
14 STUDENTS, CUSTOMERS, OR EMPLOYEES OF THE DRIVING SCHOOL, OR TO THE
15 GENERAL PUBLIC.

16 S 2. This act shall take effect immediately.

17 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
18 sion, section or part of this act shall be adjudged by any court of
19 competent jurisdiction to be invalid, such judgment shall not affect,
20 impair, or invalidate the remainder thereof, but shall be confined in
21 its operation to the clause, sentence, paragraph, subdivision, section
22 or part thereof directly involved in the controversy in which such judg-
23 ment shall have been rendered. It is hereby declared to be the intent of
24 the legislature that this act would have been enacted even if such
25 invalid provisions had not been included herein.

26 S 3. This act shall take effect immediately provided, however, that
27 the applicable effective date of Subparts A through I of this act shall
28 be as specifically set forth in the last section of such Parts.

29

PART L

30 Section 1. The executive law is amended by adding a new section 259-t
31 to read as follows:

32 S 259-T. RELEASE ON GERIATRIC PAROLE FOR INMATES WHO ARE AFFECTED BY
33 AN AGE-RELATED DEBILITY. 1. (A) THE BOARD SHALL HAVE THE POWER TO
34 RELEASE ON GERIATRIC PAROLE ANY INMATE WHO IS AT LEAST FIFTY-FIVE YEARS
35 OF AGE, SERVING AN INDETERMINATE OR DETERMINATE SENTENCE OF IMPRISONMENT
36 WHO, PURSUANT TO SUBDIVISION TWO OF THIS SECTION, HAS BEEN CERTIFIED TO
37 BE SUFFERING FROM A CHRONIC OR SERIOUS CONDITION, DISEASE, SYNDROME, OR
38 INFIRMITY, EXACERBATED BY AGE, THAT HAS RENDERED THE INMATE SO PHYS-
39 ICALLY OR COGNITIVELY DEBILITATED OR INCAPACITATED THAT THE ABILITY TO
40 PROVIDE SELF-CARE WITHIN THE ENVIRONMENT OF A CORRECTIONAL FACILITY IS
41 SUBSTANTIALLY DIMINISHED, PROVIDED, HOWEVER, THAT NO INMATE SERVING A
42 SENTENCE IMPOSED UPON A CONVICTION FOR MURDER IN THE FIRST DEGREE,
43 AGGRAVATED MURDER OR AN ATTEMPT OR CONSPIRACY TO COMMIT MURDER IN THE
44 FIRST DEGREE OR AGGRAVATED MURDER OR A SENTENCE OF LIFE WITHOUT PAROLE
45 SHALL BE ELIGIBLE FOR SUCH RELEASE, AND PROVIDED FURTHER THAT NO INMATE
46 SHALL BE ELIGIBLE FOR SUCH RELEASE UNLESS IN THE CASE OF AN INDETERMI-
47 NATE SENTENCE HE OR SHE HAS SERVED AT LEAST ONE-HALF OF THE MINIMUM
48 PERIOD OF THE SENTENCE AND IN THE CASE OF A DETERMINATE SENTENCE HE OR
49 SHE HAS SERVED AT LEAST ONE-HALF OF THE TERM OF HIS OR HER DETERMINATE
50 SENTENCE. SOLELY FOR THE PURPOSE OF DETERMINING GERIATRIC PAROLE ELIGI-
51 BILITY PURSUANT TO THIS SECTION, SUCH ONE-HALF OF THE MINIMUM PERIOD OF
52 THE INDETERMINATE SENTENCE AND ONE-HALF OF THE TERM OF THE DETERMINATE
53 SENTENCE SHALL NOT BE CREDITED WITH ANY TIME SERVED UNDER THE JURISDIC-
54 TION OF THE DEPARTMENT PRIOR TO THE COMMENCEMENT OF SUCH SENTENCE PURSU-

1 ANT TO THE OPENING PARAGRAPH OF SUBDIVISION ONE OF SECTION 70.30 OF THE
2 PENAL LAW OR SUBDIVISION TWO-A OF SECTION 70.30 OF THE PENAL LAW, EXCEPT
3 TO THE EXTENT AUTHORIZED BY SUBDIVISION THREE OF SECTION 70.30 OF THE
4 PENAL LAW.

5 (B) SUCH RELEASE SHALL BE GRANTED ONLY AFTER THE BOARD CONSIDERS
6 WHETHER, IN LIGHT OF THE INMATE'S CONDITION, THERE IS A REASONABLE PROB-
7 ABILITY THAT THE INMATE, IF RELEASED, WILL LIVE AND REMAIN AT LIBERTY
8 WITHOUT VIOLATING THE LAW, AND THAT SUCH RELEASE DOES NOT PRESENT AN
9 UNREASONABLE PUBLIC SAFETY RISK, AND SHALL BE SUBJECT TO THE LIMITS AND
10 CONDITIONS SPECIFIED IN SUBDIVISION FOUR OF THIS SECTION. IN MAKING THIS
11 DETERMINATION, THE BOARD SHALL CONSIDER: (I) THE FACTORS DESCRIBED IN
12 SUBDIVISION TWO OF SECTION TWO HUNDRED FIFTY-NINE-I OF THIS ARTICLE;
13 (II) THE NATURE OF THE INMATE'S CONDITIONS, DISEASES, SYNDROMES OR
14 INFIRMITIES AND THE LEVEL OF CARE; (III) THE AMOUNT OF TIME THE INMATE
15 MUST SERVE BEFORE BECOMING ELIGIBLE FOR RELEASE PURSUANT TO SECTION TWO
16 HUNDRED FIFTY-NINE-I OF THIS ARTICLE; (IV) THE CURRENT AGE OF THE INMATE
17 AND HIS OR HER AGE AT THE TIME OF THE CRIME; AND (V) ANY OTHER RELEVANT
18 FACTOR.

19 (C) THE BOARD SHALL AFFORD NOTICE TO THE SENTENCING COURT, THE
20 DISTRICT ATTORNEY, THE ATTORNEY FOR THE INMATE AND, WHERE NECESSARY
21 PURSUANT TO SUBDIVISION TWO OF SECTION TWO HUNDRED FIFTY-NINE-I OF THIS
22 ARTICLE, THE CRIME VICTIM, THAT THE INMATE IS BEING CONSIDERED FOR
23 RELEASE PURSUANT TO THIS SECTION AND THE PARTIES RECEIVING NOTICE SHALL
24 HAVE FIFTEEN DAYS TO COMMENT ON THE RELEASE OF THE INMATE. RELEASE ON
25 GERIATRIC PAROLE SHALL NOT BE GRANTED UNTIL THE EXPIRATION OF THE
26 COMMENT PERIOD PROVIDED FOR IN THIS PARAGRAPH.

27 2. (A) THE COMMISSIONER, ON THE COMMISSIONER'S OWN INITIATIVE OR AT
28 THE REQUEST OF AN INMATE, OR AN INMATE'S SPOUSE, RELATIVE OR ATTORNEY,
29 MAY, IN THE EXERCISE OF THE COMMISSIONER'S DISCRETION, DIRECT THAT AN
30 INVESTIGATION BE UNDERTAKEN TO DETERMINE WHETHER AN ASSESSMENT SHOULD BE
31 MADE OF AN INMATE WHO APPEARS TO BE SUFFERING FROM CHRONIC OR SERIOUS
32 CONDITIONS, DISEASES, SYNDROMES OR INFIRMITIES, EXACERBATED BY ADVANCED
33 AGE THAT HAS RENDERED THE INMATE SO PHYSICALLY OR COGNITIVELY DEBILI-
34 TATED OR INCAPACITATED THAT THE ABILITY TO PROVIDE SELF-CARE WITHIN THE
35 ENVIRONMENT OF A CORRECTIONAL FACILITY IS SUBSTANTIALLY DIMINISHED. THE
36 CHIEF MEDICAL OFFICER RESPONSIBLE FOR THE CARE AND TREATMENT OF INMATES
37 IN EACH CORRECTIONAL FACILITY SHALL CONDUCT A MONTHLY REVIEW TO DETER-
38 MINE IF ANY INMATE IN SUCH FACILITY WHO IS OVER THE AGE OF FIFTY-FIVE
39 AND WHO HAS NOT BEEN DENIED GERIATRIC PAROLE WITHIN THE LAST TWELVE
40 MONTHS IS POTENTIALLY ELIGIBLE FOR GERIATRIC PAROLE RELEASE PURSUANT TO
41 THIS SECTION. IF AN INMATE IS IDENTIFIED AS POTENTIALLY ELIGIBLE FOR
42 GERIATRIC PAROLE RELEASE, THE CHIEF MEDICAL OFFICER SHALL NOTIFY THE
43 COMMISSIONER AND REQUEST AN INVESTIGATION TO DETERMINE WHETHER SUCH AN
44 ASSESSMENT SHOULD BE MADE. ANY SUCH MEDICAL ASSESSMENT SHALL BE MADE BY
45 A PHYSICIAN LICENSED TO PRACTICE MEDICINE IN THIS STATE PURSUANT TO
46 SECTION SIXTY-FIVE HUNDRED TWENTY-FOUR OF THE EDUCATION LAW WITHIN FOUR-
47 TEEN DAYS OF THE REQUEST FOR SUCH ASSESSMENT. SUCH PHYSICIAN SHALL
48 EITHER BE EMPLOYED BY THE DEPARTMENT, SHALL RENDER PROFESSIONAL SERVICES
49 AT THE REQUEST OF THE DEPARTMENT, OR SHALL BE EMPLOYED BY A HOSPITAL OR
50 MEDICAL FACILITY USED BY THE DEPARTMENT FOR THE MEDICAL TREATMENT OF
51 INMATES. THE ASSESSMENT SHALL BE REPORTED TO THE COMMISSIONER BY WAY OF
52 THE DEPUTY COMMISSIONER FOR HEALTH SERVICES OR THE CHIEF MEDICAL OFFICER
53 OF THE FACILITY WITHIN THREE DAYS OF COMPLETION OF THE ASSESSMENT AND
54 SHALL INCLUDE BUT SHALL NOT BE LIMITED TO A DESCRIPTION OF THE CONDI-
55 TIONS, DISEASES OR SYNDROMES SUFFERED BY THE INMATE, A PROGNOSIS
56 CONCERNING THE LIKELIHOOD THAT THE INMATE WILL NOT RECOVER FROM SUCH

1 CONDITIONS, DISEASES OR SYNDROMES, A DESCRIPTION OF THE INMATE'S PHYS-
2 ICAL OR COGNITIVE INCAPACITY WHICH SHALL INCLUDE A PREDICTION RESPECTING
3 THE LIKELY DURATION OF THE INCAPACITY, AND A STATEMENT BY THE PHYSICIAN
4 OF WHETHER THE INMATE IS SO DEBILITATED OR INCAPACITATED THAT THE ABILI-
5 TY TO PROVIDE SELF-CARE WITHIN THE ENVIRONMENT OF A CORRECTIONAL FACILI-
6 TY IS SUBSTANTIALLY DIMINISHED. THIS ASSESSMENT ALSO SHALL INCLUDE A
7 RECOMMENDATION OF THE TYPE AND LEVEL OF SERVICES AND LEVEL OF CARE THE
8 INMATE WOULD REQUIRE IF GRANTED GERIATRIC PAROLE AND A RECOMMENDATION
9 FOR THE TYPES OF SETTINGS IN WHICH THE SERVICES AND TREATMENT SHOULD BE
10 GIVEN.

11 (B) THE COMMISSIONER, OR THE COMMISSIONER'S DESIGNEE, SHALL REVIEW THE
12 ASSESSMENT AND MAY CERTIFY THAT THE INMATE IS SUFFERING FROM A CHRONIC
13 OR SERIOUS CONDITION, DISEASE, SYNDROME OR INFIRMITY, EXACERBATED BY
14 AGE, THAT HAS RENDERED THE INMATE SO PHYSICALLY OR COGNITIVELY DEBILI-
15 TATED OR INCAPACITATED THAT THE ABILITY TO PROVIDE SELF-CARE WITHIN THE
16 ENVIRONMENT OF A CORRECTIONAL FACILITY IS SUBSTANTIALLY DIMINISHED. IF
17 THE COMMISSIONER DOES NOT SO CERTIFY THEN THE INMATE SHALL NOT BE
18 REFERRED TO THE BOARD FOR CONSIDERATION FOR RELEASE ON GERIATRIC PAROLE.
19 IF THE COMMISSIONER DOES SO CERTIFY, THEN THE COMMISSIONER SHALL, WITHIN
20 SEVEN WORKING DAYS OF RECEIPT OF SUCH ASSESSMENT, REFER THE INMATE TO
21 THE BOARD FOR CONSIDERATION FOR RELEASE ON GERIATRIC PAROLE. HOWEVER, AN
22 INMATE WILL NOT BE REFERRED TO THE BOARD OF PAROLE WITH DISEASES, CONDI-
23 TIONS, SYNDROMES OR INFIRMITIES THAT PRE-EXISTED INCARCERATION UNLESS
24 CERTIFIED BY A PHYSICIAN THAT SUCH DISEASES, CONDITIONS, SYNDROMES OR
25 INFIRMITIES, HAVE PROGRESSED TO RENDER THE INMATE SO PHYSICALLY OR
26 COGNITIVELY DEBILITATED OR INCAPACITATED THAT THE ABILITY TO PROVIDE
27 SELF-CARE WITHIN THE ENVIRONMENT OF A CORRECTIONAL FACILITY IS SUBSTAN-
28 Tially DIMINISHED.

29 3. ANY CERTIFICATION BY THE COMMISSIONER OR THE COMMISSIONER'S DESIG-
30 NEE PURSUANT TO THIS SECTION SHALL BE DEEMED A JUDICIAL FUNCTION AND
31 SHALL NOT BE REVIEWABLE IF DONE IN ACCORDANCE WITH LAW.

32 4. (A) THE BOARD SHALL ISSUE A DETERMINATION WITHIN TWENTY-ONE DAYS
33 AFTER THE RECEIPT OF A CERTIFICATION BY THE COMMISSIONER. ANY INMATE
34 APPROVED FOR GERIATRIC PAROLE SHALL BE RELEASED AS SOON AS POSSIBLE AND
35 THE DEPARTMENT SHALL MAKE EVERY EFFORT TO PROMPTLY IDENTIFY AND APPROVE
36 AN APPROPRIATE PLACEMENT FOR SUCH INMATE.

37 (B) ONCE AN INMATE IS RELEASED ON GERIATRIC PAROLE, THAT RELEASEE WILL
38 THEN BE SUPERVISED BY THE DEPARTMENT PURSUANT TO PARAGRAPH (B) OF SUBDI-
39 VISION TWO OF SECTION TWO HUNDRED FIFTY-NINE-I OF THIS ARTICLE.

40 (C) THE BOARD MAY REQUIRE AS A CONDITION OF RELEASE ON GERIATRIC
41 PAROLE THAT THE RELEASEE AGREE TO REMAIN UNDER THE CARE OF A PHYSICIAN
42 WHILE ON GERIATRIC PAROLE AND IN A HOSPITAL ESTABLISHED PURSUANT TO
43 ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW, NURSING HOME ESTABLISHED
44 PURSUANT TO ARTICLE TWENTY-EIGHT-A OF THE PUBLIC HEALTH LAW, A HOSPICE
45 ESTABLISHED PURSUANT TO ARTICLE FORTY OF THE PUBLIC HEALTH LAW OR ANY
46 OTHER PLACEMENT, INCLUDING A RESIDENCE WITH FAMILY OR OTHERS, THAT CAN
47 PROVIDE APPROPRIATE MEDICAL AND OTHER NECESSARY GERIATRIC CARE AS RECOM-
48 MENDED BY THE MEDICAL ASSESSMENT REQUIRED BY SUBDIVISION TWO OF THIS
49 SECTION. FOR THOSE WHO ARE RELEASED PURSUANT TO THIS SUBDIVISION, A
50 DISCHARGE PLAN SHALL BE COMPLETED AND STATE THAT THE AVAILABILITY OF THE
51 PLACEMENT HAS BEEN CONFIRMED, AND BY WHOM. NOTWITHSTANDING ANY OTHER
52 PROVISION OF LAW, WHEN AN INMATE WHO QUALIFIES FOR RELEASE UNDER THIS
53 SECTION IS COGNITIVELY INCAPABLE OF SIGNING THE REQUISITE DOCUMENTATION
54 TO EFFECTUATE THE DISCHARGE PLAN AND, AFTER A DILIGENT SEARCH NO PERSON
55 HAS BEEN IDENTIFIED WHO COULD OTHERWISE BE APPOINTED AS THE INMATE'S
56 GUARDIAN BY A COURT OF COMPETENT JURISDICTION, THEN, SOLELY FOR THE

1 PURPOSE OF IMPLEMENTING THE DISCHARGE PLAN, THE FACILITY HEALTH SERVICES
 2 DIRECTOR AT THE FACILITY WHERE THE INMATE IS CURRENTLY INCARCERATED
 3 SHALL BE LAWFULLY EMPOWERED TO ACT AS THE INMATE'S GUARDIAN FOR THE
 4 PURPOSE OF EFFECTUATING THE DISCHARGE.

5 (D) WHERE APPROPRIATE, THE BOARD SHALL REQUIRE AS A CONDITION OF
 6 RELEASE THAT GERIATRIC PAROLEES BE SUPERVISED ON INTENSIVE CASELOADS AT
 7 REDUCED SUPERVISION RATIOS.

8 5. A DENIAL OF RELEASE ON GERIATRIC PAROLE SHALL NOT PRECLUDE THE
 9 INMATE FROM REAPPLYING FOR GERIATRIC PAROLE OR OTHERWISE AFFECT AN
 10 INMATE'S ELIGIBILITY FOR ANY OTHER FORM OF RELEASE PROVIDED FOR BY LAW.

11 6. TO THE EXTENT THAT ANY PROVISION OF THIS SECTION REQUIRES DISCLO-
 12 SURE OF MEDICAL INFORMATION FOR THE PURPOSE OF PROCESSING AN APPLICATION
 13 OR MAKING A DECISION, REGARDING RELEASE ON GERIATRIC PAROLE OR FOR THE
 14 PURPOSE OF APPROPRIATELY SUPERVISING A PERSON RELEASED ON GERIATRIC
 15 PAROLE, AND THAT SUCH DISCLOSURE WOULD OTHERWISE BE PROHIBITED BY ARTI-
 16 CLE TWENTY-SEVEN-F OF THAT PUBLIC HEALTH LAW, THE PROVISIONS OF THIS
 17 SECTION SHALL BE CONTROLLING.

18 7. THE COMMISSIONER AND THE CHAIR OF THE BOARD SHALL BE AUTHORIZED TO
 19 PROMULGATE RULES AND REGULATIONS FOR THEIR RESPECTIVE AGENCIES TO IMPL-
 20 MENT THE PROVISIONS OF THIS SECTION.

21 8. ANY DECISION MADE BY THE BOARD PURSUANT TO THIS SECTION MAY BE
 22 APPEALED PURSUANT TO SUBDIVISION FOUR OF SECTION TWO HUNDRED
 23 FIFTY-NINE-I OF THIS ARTICLE.

24 9. THE CHAIR OF THE BOARD SHALL REPORT ANNUALLY TO THE GOVERNOR, THE
 25 TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY, THE
 26 CHAIRPERSONS OF THE ASSEMBLY AND SENATE CODES COMMITTEES, THE CHAIR-
 27 PERSON OF THE SENATE CRIME AND CORRECTIONS COMMITTEE, AND THE CHAIR-
 28 PERSON OF THE ASSEMBLY CORRECTIONS COMMITTEE THE NUMBER OF INMATES WHO
 29 HAVE APPLIED FOR GERIATRIC PAROLE UNDER THIS SECTION; THE NUMBER WHO
 30 HAVE BEEN GRANTED GERIATRIC PAROLE; THE NATURE OF THE ILLNESS OF THE
 31 APPLICANTS, THE COUNTIES TO WHICH THEY HAVE BEEN RELEASED AND THE NATURE
 32 OF THE PLACEMENT PURSUANT TO THE DISCHARGE PLAN; THE CATEGORIES OF
 33 REASONS FOR DENIAL FOR THOSE WHO HAVE BEEN DENIED; THE NUMBER OF RELEAS-
 34 EES ON GERIATRIC PAROLE WHO HAVE BEEN RETURNED TO IMPRISONMENT IN THE
 35 CUSTODY OF THE DEPARTMENT AND THE REASONS FOR RETURN. SUCH REPORT SHALL
 36 ALSO BE MADE PUBLICLY AVAILABLE ON THE DEPARTMENT'S WEBSITE.

37 S 2. This act shall take effect April 1, 2018.

38

PART M

39 Section 1. Paragraph (b) of subdivision 6 of section 186-f of the tax
 40 law, as amended by section 1 of part C of chapter 57 of the laws of
 41 2016, is amended to read as follows:

42 (b) The sum of one million five hundred thousand dollars must be
 43 deposited into the New York state emergency services revolving loan fund
 44 annually; provided, however, that such sums shall not be deposited for
 45 state fiscal years two thousand eleven--two thousand twelve, two thou-
 46 sand twelve--two thousand thirteen, two thousand fourteen--two thousand
 47 fifteen, two thousand fifteen--two thousand sixteen, two thousand
 48 sixteen--two thousand seventeen [and], two thousand seventeen--two thou-
 49 sand eighteen, TWO THOUSAND EIGHTEEN--TWO THOUSAND NINETEEN AND TWO
 50 THOUSAND NINETEEN--TWO THOUSAND TWENTY;

51 S 2. This act shall take effect April 1, 2018.

52

PART N

1 Intentionally Omitted

2 PART O

3 Intentionally Omitted

4 PART P

5 Section 1. Paragraph (f) of subdivision 3 of section 30.10 of the
6 criminal procedure law, as separately amended by chapters 3 and 320 of
7 the laws of 2006, is amended to read as follows:

8 (f) For purposes of a prosecution involving a sexual offense as
9 defined in article one hundred thirty of the penal law, other than a
10 sexual offense delineated in paragraph (a) of subdivision two of this
11 section, committed against a child less than eighteen years of age,
12 incest in the first, second or third degree as defined in sections
13 255.27, 255.26 and 255.25 of the penal law committed against a child
14 less than eighteen years of age, or use of a child in a sexual perform-
15 ance as defined in section 263.05 of the penal law, the period of limi-
16 tation shall not begin to run until the child has reached the age of
17 [eighteen] TWENTY-THREE or the offense is reported to a law enforcement
18 agency or statewide central register of child abuse and maltreatment,
19 whichever occurs earlier.

20 S 2. The opening paragraph of section 208 of the civil practice law
21 and rules is designated subdivision (a) and a new subdivision (b) is
22 added to read as follows:

23 (B) NOTWITHSTANDING ANY PROVISION OF LAW WHICH IMPOSES A PERIOD OF
24 LIMITATION TO THE CONTRARY, WITH RESPECT TO ALL CIVIL CLAIMS OR CAUSES
25 OF ACTION BROUGHT BY ANY PERSON FOR PHYSICAL, PSYCHOLOGICAL OR OTHER
26 INJURY OR CONDITION SUFFERED BY SUCH PERSON AS A RESULT OF CONDUCT WHICH
27 WOULD CONSTITUTE A SEXUAL OFFENSE AS DEFINED IN ARTICLE ONE HUNDRED
28 THIRTY OF THE PENAL LAW COMMITTED AGAINST SUCH PERSON WHO WAS LESS THAN
29 EIGHTEEN YEARS OF AGE, INCEST AS DEFINED IN SECTION 255.27, 255.26 OR
30 255.25 OF THE PENAL LAW COMMITTED AGAINST SUCH PERSON WHO WAS LESS THAN
31 EIGHTEEN YEARS OF AGE, OR THE USE OF SUCH PERSON IN A SEXUAL PERFORMANCE
32 AS DEFINED IN SECTION 263.05 OF THE PENAL LAW, OR A PREDECESSOR STATUTE
33 THAT PROHIBITED SUCH CONDUCT AT THE TIME OF THE ACT, WHICH CONDUCT WAS
34 COMMITTED AGAINST SUCH PERSON WHO WAS LESS THAN EIGHTEEN YEARS OF AGE,
35 SUCH ACTION MAY BE COMMENCED, AGAINST ANY PARTY WHOSE INTENTIONAL OR
36 NEGLIGENT ACTS OR OMISSIONS ARE ALLEGED TO HAVE RESULTED IN THE COMMIS-
37 SION OF SAID CONDUCT, ON OR BEFORE THE PLAINTIFF OR INFANT PLAINTIFF
38 REACHES THE AGE OF FIFTY YEARS. IN ANY SUCH CLAIM OR ACTION, IN ADDITION
39 TO ANY OTHER DEFENSE AND AFFIRMATIVE DEFENSE THAT MAY BE AVAILABLE IN
40 ACCORDANCE WITH LAW, RULE OR THE COMMON LAW, TO THE EXTENT THAT THE ACTS
41 ALLEGED IN SUCH ACTION ARE OF THE TYPE DESCRIBED IN SUBDIVISION ONE OF
42 SECTION 130.30 OF THE PENAL LAW OR SUBDIVISION ONE OF SECTION 130.45 OF
43 THE PENAL LAW, THE AFFIRMATIVE DEFENSES SET FORTH, RESPECTIVELY, IN THE
44 CLOSING PARAGRAPH OF SUCH SECTION OF THE PENAL LAW SHALL APPLY.

45 S 3. The civil practice law and rules is amended by adding a new
46 section 214-g to read as follows:

47 S 214-G. CERTAIN CHILD SEXUAL ABUSE CASES. NOTWITHSTANDING ANY
48 PROVISION OF LAW WHICH IMPOSES A PERIOD OF LIMITATION TO THE CONTRARY,
49 EVERY CIVIL CLAIM OR CAUSE OF ACTION BROUGHT AGAINST ANY PARTY ALLEGING
50 INTENTIONAL OR NEGLIGENT ACTS OR OMISSIONS BY A PERSON FOR PHYSICAL,
51 PSYCHOLOGICAL, OR OTHER INJURY OR CONDITION SUFFERED AS A RESULT OF
52 CONDUCT WHICH WOULD CONSTITUTE A SEXUAL OFFENSE AS DEFINED IN ARTICLE

1 ONE HUNDRED THIRTY OF THE PENAL LAW COMMITTED AGAINST A CHILD LESS THAN
2 EIGHTEEN YEARS OF AGE, INCEST AS DEFINED IN SECTION 255.27, 255.26 OR
3 255.25 OF THE PENAL LAW COMMITTED AGAINST A CHILD LESS THAN EIGHTEEN
4 YEARS OF AGE, OR THE USE OF A CHILD IN A SEXUAL PERFORMANCE AS DEFINED
5 IN SECTION 263.05 OF THE PENAL LAW, OR A PREDECESSOR STATUTE THAT
6 PROHIBITED SUCH CONDUCT AT THE TIME OF THE ACT, WHICH CONDUCT WAS
7 COMMITTED AGAINST A CHILD LESS THAN EIGHTEEN YEARS OF AGE, WHICH IS
8 BARRED AS OF THE EFFECTIVE DATE OF THIS SECTION BECAUSE THE APPLICABLE
9 PERIOD OF LIMITATION HAS EXPIRED IS HEREBY REVIVED, AND ACTION THEREON
10 MAY BE COMMENCED NOT EARLIER THAN SIX MONTHS AFTER, AND NOT LATER THAN
11 ONE YEAR AND SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS SECTION,
12 SUBJECT TO PARAGRAPH TWO OF SUBDIVISION (I) OF RULE THIRTY-TWO HUNDRED
13 ELEVEN OF THIS CHAPTER. IN ANY SUCH CLAIM OR ACTION, IN ADDITION TO ANY
14 OTHER DEFENSE AND AFFIRMATIVE DEFENSE THAT MAY BE AVAILABLE IN ACCORD-
15 ANCE WITH LAW, RULE OR THE COMMON LAW, TO THE EXTENT THAT THE ACTS
16 ALLEGED IN SUCH ACTION ARE OF THE TYPE DESCRIBED IN SUBDIVISION ONE OF
17 SECTION 130.30 OF THE PENAL LAW OR SUBDIVISION ONE OF SECTION 130.45 OF
18 THE PENAL LAW, THE AFFIRMATIVE DEFENSES SET FORTH, RESPECTIVELY, IN THE
19 CLOSING PARAGRAPH OF SUCH SECTION OF THE PENAL LAW SHALL APPLY.

20 S 4. Rule 3211 of the civil practice law and rules is amended by
21 adding a new subdivision (i) to read as follows:

22 (I) MOTIONS TO DISMISS AND MOTIONS TO DISMISS AFFIRMATIVE DEFENSES IN
23 CERTAIN ACTIONS IN WHICH CONDUCT CONSTITUTING THE COMMISSION OF CERTAIN
24 SEXUAL OFFENSES ARE ALLEGED. 1. IN ANY ACTION WHERE THE PLAINTIFF SEEKS
25 TO REVIVE AN ACTION PURSUANT TO SECTION TWO HUNDRED FOURTEEN-G OF THIS
26 CHAPTER AFTER THE EFFECTIVE DATE OF THIS SUBDIVISION WHICH HAD BEEN TIME
27 BARRED, ANY AFFIRMATIVE DEFENSE OF LACHES, DELAY, OR MATERIAL IMPAIRMENT
28 IN THE DEFENSE OR INVESTIGATION OF THE CLAIM MUST BE SUPPORTED BY A
29 CERTIFICATE OF MERIT SUBMITTED BY A PERSON WITH KNOWLEDGE OF THE FACTS
30 SETTING FORTH THE SPECIFIC MANNER IN WHICH THE DEFENSE OR INVESTIGATION
31 HAS BEEN AFFECTED. SAID CERTIFICATE MUST BE FILED AT OR BEFORE THE TIME
32 IN WHICH THE ANSWER IS SERVED, UNLESS OTHERWISE PROVIDED BY ORDER OF THE
33 COURT.

34 2. UPON MOTION BY ANY PARTY, THE COURT SHALL DETERMINE BY A PREPONDER-
35 ANCE OF THE EVIDENCE, WHETHER DEFENDANT HAS SUSTAINED HIS OR HER BURDEN
36 OF PROOF ON ANY MOTION TO DISMISS THE ACTION OR ON ANY AFFIRMATIVE
37 DEFENSE IN WHICH IT IS ALLEGED THAT PREJUDICE HAS BEEN CAUSED TO DEFEND-
38 ANT IN THE INVESTIGATION OR DEFENSE OF THE ACTION DIRECTLY RESULTING
39 FROM A DELAY IN COMMENCING THE ACTION. A DEFENDANT SHALL NOT BE DEEMED
40 PREJUDICED SOLELY ON ACCOUNT OF THE PASSAGE OF TIME.

41 3. FURTHERMORE, IN ANY SUCH ACTION, IN ADDITION TO ANY OTHER DEFENSE
42 AND AFFIRMATIVE DEFENSE THAT MAY BE AVAILABLE IN ACCORDANCE WITH LAW,
43 RULE OR THE COMMON LAW, TO THE EXTENT THAT THE ACTS ALLEGED IN SUCH
44 ACTION ARE OF THE TYPE DESCRIBED IN SUBDIVISION ONE OF SECTION 130.30 OF
45 THE PENAL LAW OR SUBDIVISION ONE OF SECTION 130.45 OF THE PENAL LAW, THE
46 AFFIRMATIVE DEFENSES SET FORTH, RESPECTIVELY, IN THE CLOSING PARAGRAPH
47 OF SUCH SECTION OF THE PENAL LAW SHALL APPLY.

48 S 5. Subdivision (a) of rule 3403 of the civil practice law and rules
49 is amended by adding a new paragraph 7 to read as follows:

50 7. ANY ACTION WHICH HAS BEEN REVIVED PURSUANT TO SECTION TWO HUNDRED
51 FOURTEEN-G OF THIS CHAPTER.

52 S 6. Subdivision 8 of section 50-e of the general municipal law, as
53 amended by chapter 24 of the laws of 1988, is amended to read as
54 follows:

55 8. Inapplicability of section. (A) This section shall not apply to
56 claims arising under the provisions of the workers' compensation law,

1 the volunteer firefighters' benefit law, or the volunteer ambulance
2 workers' benefit law or to claims against public corporations by their
3 own infant wards.

4 (B) THIS SECTION SHALL NOT APPLY TO ANY CLAIM MADE FOR PHYSICAL,
5 PSYCHOLOGICAL, OR OTHER INJURY OR CONDITION SUFFERED AS A RESULT OF
6 CONDUCT WHICH WOULD CONSTITUTE A SEXUAL OFFENSE AS DEFINED IN ARTICLE
7 ONE HUNDRED THIRTY OF THE PENAL LAW COMMITTED AGAINST A CHILD LESS THAN
8 EIGHTEEN YEARS OF AGE, INCEST AS DEFINED IN SECTION 255.27, 255.26 OR
9 255.25 OF THE PENAL LAW COMMITTED AGAINST A CHILD LESS THAN EIGHTEEN
10 YEARS OF AGE, OR THE USE OF A CHILD IN A SEXUAL PERFORMANCE AS DEFINED
11 IN SECTION 263.05 OF THE PENAL LAW COMMITTED AGAINST A CHILD LESS THAN
12 EIGHTEEN YEARS OF AGE.

13 S 7. Section 50-i of the general municipal law is amended by adding a
14 new subdivision 5 to read as follows:

15 5. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THIS SECTION
16 SHALL NOT APPLY TO ANY CLAIM MADE AGAINST A CITY, COUNTY, TOWN, VILLAGE,
17 FIRE DISTRICT OR SCHOOL DISTRICT FOR PHYSICAL, PSYCHOLOGICAL, OR OTHER
18 INJURY OR CONDITION SUFFERED AS A RESULT OF CONDUCT WHICH WOULD CONSTI-
19 TUTE A SEXUAL OFFENSE AS DEFINED IN ARTICLE ONE HUNDRED THIRTY OF THE
20 PENAL LAW COMMITTED AGAINST A CHILD LESS THAN EIGHTEEN YEARS OF AGE,
21 INCEST AS DEFINED IN SECTION 255.27, 255.26 OR 255.25 OF THE PENAL LAW
22 COMMITTED AGAINST A CHILD LESS THAN EIGHTEEN YEARS OF AGE, OR THE USE OF
23 A CHILD IN A SEXUAL PERFORMANCE AS DEFINED IN SECTION 263.05 OF THE
24 PENAL LAW COMMITTED AGAINST A CHILD LESS THAN EIGHTEEN YEARS OF AGE.

25 S 8. Section 10 of the court of claims act is amended by adding a new
26 subdivision 10 to read as follows:

27 10. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THIS SECTION
28 SHALL NOT APPLY TO ANY CLAIM TO RECOVER DAMAGES FOR PHYSICAL, PSYCHOLOG-
29 ICAL, OR OTHER INJURY OR CONDITION SUFFERED AS A RESULT OF CONDUCT WHICH
30 WOULD CONSTITUTE A SEXUAL OFFENSE AS DEFINED IN ARTICLE ONE HUNDRED
31 THIRTY OF THE PENAL LAW COMMITTED AGAINST A CHILD LESS THAN EIGHTEEN
32 YEARS OF AGE, INCEST AS DEFINED IN SECTION 255.27, 255.26 OR 255.25 OF
33 THE PENAL LAW COMMITTED AGAINST A CHILD LESS THAN EIGHTEEN YEARS OF AGE,
34 OR THE USE OF A CHILD IN A SEXUAL PERFORMANCE AS DEFINED IN SECTION
35 263.05 OF THE PENAL LAW COMMITTED AGAINST A CHILD LESS THAN EIGHTEEN
36 YEARS OF AGE.

37 S 9. Subdivision 2 of section 3813 of the education law, as amended by
38 chapter 346 of the laws of 1978, is amended to read as follows:

39 2. Notwithstanding anything to the contrary hereinbefore contained in
40 this section, no action or special proceeding founded upon tort shall be
41 prosecuted or maintained against any of the parties named in this
42 section or against any teacher or member of the supervisory or adminis-
43 trative staff or employee where the alleged tort was committed by such
44 teacher or member or employee acting in the discharge of his duties
45 within the scope of his employment and/or under the direction of the
46 board of education, trustee or trustees, or governing body of the school
47 unless a notice of claim shall have been made and served in compliance
48 with section fifty-e of the general municipal law. Every such action
49 shall be commenced pursuant to the provisions of section fifty-i of the
50 general municipal law; PROVIDED, HOWEVER, THAT THIS SECTION SHALL NOT
51 APPLY TO ANY CLAIM TO RECOVER DAMAGES FOR PHYSICAL, PSYCHOLOGICAL, OR
52 OTHER INJURY OR CONDITION SUFFERED AS A RESULT OF CONDUCT WHICH WOULD
53 CONSTITUTE A SEXUAL OFFENSE AS DEFINED IN ARTICLE ONE HUNDRED THIRTY OF
54 THE PENAL LAW COMMITTED AGAINST A CHILD LESS THAN EIGHTEEN YEARS OF AGE,
55 INCEST AS DEFINED IN SECTION 255.27, 255.26 OR 255.25 OF THE PENAL LAW
56 COMMITTED AGAINST A CHILD LESS THAN EIGHTEEN YEARS OF AGE, OR THE USE OF

1 A CHILD IN A SEXUAL PERFORMANCE AS DEFINED IN SECTION 263.05 OF THE
2 PENAL LAW COMMITTED AGAINST A CHILD LESS THAN EIGHTEEN YEARS OF AGE.

3 S 10. Section 219-c of the judiciary law, as added by chapter 506 of
4 the laws of 2011, is amended to read as follows:

5 S 219-c. Crimes involving sexual assault AND THE SEXUAL ABUSE OF
6 MINORS; judicial training. The office of court administration shall
7 provide training for judges and justices with respect to crimes involv-
8 ing sexual assault, AND THE SEXUAL ABUSE OF MINORS.

9 S 11. The judiciary law is amended by adding a new section 219-d to
10 read as follows:

11 S 219-D. RULES REVIVING CERTAIN ACTIONS; SEXUAL OFFENSES AGAINST CHIL-
12 DREN. THE CHIEF ADMINISTRATOR OF THE COURTS SHALL PROMULGATE RULES FOR
13 THE TIMELY ADJUDICATION OF REVIVED ACTIONS BROUGHT PURSUANT TO SECTION
14 TWO HUNDRED FOURTEEN-G OF THE CIVIL PRACTICE LAW AND RULES.

15 S 12. The provisions of this act shall be severable, and if any
16 clause, sentence, paragraph, subdivision or part of this act shall be
17 adjudged by any court of competent jurisdiction to be invalid, such
18 judgment shall not affect, impair, or invalidate the remainder thereof,
19 but shall be confined in its operation to the clause, sentence, para-
20 graph, subdivision or part thereof directly involved in the controversy
21 in which such judgment shall have been rendered.

22 S 13. This act shall take effect immediately; except that section ten
23 of this act shall take effect six months after this act shall have
24 become a law; provided, however, that training for cases brought pursu-
25 ant to section 214-g of the civil practice law and rules, as added by
26 section three of this act, shall commence three months after this act
27 shall have become a law; and section eleven of this act shall take
28 effect three months after this act shall have become a law.

29 PART Q

30 Intentionally Omitted

31 PART R

32 Intentionally Omitted

33 PART S

34 Intentionally Omitted

35 PART T

36 Section 1. Section 2 of chapter 303 of the laws of 1988, relating to
37 the extension of the state commission on the restoration of the capitol,
38 as amended by chapter 207 of the laws of 2013, is amended to read as
39 follows:

40 S 2. The temporary state commission on the restoration of the capitol
41 is hereby renamed as the state commission on the restoration of the
42 capitol (hereinafter to be referred to as the "commission") and is here-
43 by continued until April 1, [2018] 2023. The commission shall consist
44 of eleven members to be appointed as follows: five members shall be
45 appointed by the governor; two members shall be appointed by the tempo-
46 rary president of the senate; two members shall be appointed by the
47 speaker of the assembly; one member shall be appointed by the minority
48 leader of the senate; one member shall be appointed by the minority

1 leader of the assembly, together with the commissioner of general
 2 services and the commissioner of parks, recreation and historic preser-
 3 vation. The term for each elected member shall be for three years,
 4 except that of the first five members appointed by the governor, one
 5 shall be for a one year term, and two shall be for a two year term, and
 6 one of the first appointments by the president of the senate and by the
 7 speaker of the assembly shall be for a two year term. Any vacancy that
 8 occurs in the commission shall be filled in the same manner in which the
 9 original appointment was made. The commission shall elect a chairman and
 10 a vice-chairman from among its members. The members of the state
 11 commission on the restoration of the capitol shall be deemed to be
 12 members of the commission until their successors are appointed. The
 13 members of the commission shall receive no compensation for their
 14 services, but shall be reimbursed for their expenses actually and neces-
 15 sarily incurred by them in the performance of their duties hereunder.

16 S 2. Section 9 of chapter 303 of the laws of 1988, relating to the
 17 extension of the state commission on the restoration of the capitol, as
 18 amended by chapter 207 of the laws of 2013, is amended to read as
 19 follows:

20 S 9. This act shall take effect immediately, and shall remain in full
 21 force and effect until April 1, [2018] 2023.

22 S 3. This act shall take effect immediately and shall be deemed to
 23 have been in full force and effect on and after April 1, 2018; provided
 24 that the amendments to section 2 of chapter 303 of the laws of 1988 made
 25 by section one of this act shall not affect the expiration of such chap-
 26 ter, and shall be deemed to expire therewith.

27 PART U

28 Intentionally Omitted

29 PART V

30 Intentionally Omitted

31 PART W

32 Intentionally Omitted

33 PART X

34 Section 1. Short title. This act shall be known and may be cited as
 35 the "New York state secure choice savings program act".

36 S 2. The retirement and social security law is amended by adding a new
 37 article 14-C to read as follows:

38 ARTICLE 14-C

39 NEW YORK STATE SECURE CHOICE SAVINGS PROGRAM

40 SECTION 570. DEFINITIONS.

41 571. PROGRAM ESTABLISHED.

42 572. COMPOSITION OF THE BOARD.

43 573. FIDUCIARY DUTY.

44 574. DUTIES OF THE BOARD.

45 575. RISK MANAGEMENT.

46 576. INVESTMENT FIRMS.

47 577. INVESTMENT OPTIONS.

48 578. BENEFITS.

- 1 579. EMPLOYER AND EMPLOYEE INFORMATION PACKETS AND DISCLOSURE
2 FORMS.
3 580. PROGRAM IMPLEMENTATION AND ENROLLMENT.
4 581. PAYMENTS.
5 582. DUTY AND LIABILITY OF THE STATE.
6 583. DUTY AND LIABILITY OF PARTICIPATING EMPLOYERS.
7 584. AUDIT AND REPORTS.
8 585. DELAYED IMPLEMENTATION.

9 S 570. DEFINITIONS. ALL TERMS SHALL HAVE THE SAME MEANING AS WHEN USED
10 IN A COMPARABLE CONTEXT IN THE INTERNAL REVENUE CODE. AS USED IN THIS
11 ARTICLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

12 1. "BOARD" SHALL MEAN THE NEW YORK SECURE CHOICE SAVINGS PROGRAM BOARD
13 ESTABLISHED UNDER THIS ARTICLE.

14 2. "SUPERINTENDENT" SHALL MEAN THE SUPERINTENDENT OF THE DEPARTMENT OF
15 FINANCIAL SERVICES.

16 2-A. "COMMISSIONER" SHALL MEAN THE COMMISSIONER OF TAXATION AND
17 FINANCE.

18 2-B. "COMPTROLLER" SHALL MEAN THE COMPTROLLER OF THE STATE.

19 3. "EMPLOYEE" SHALL MEAN ANY INDIVIDUAL WHO IS EIGHTEEN YEARS OF AGE
20 OR OLDER, WHO IS EMPLOYED BY AN EMPLOYER, AND WHO EARNED WAGES WORKING
21 FOR AN EMPLOYER IN NEW YORK STATE DURING A CALENDAR YEAR.

22 4. "EMPLOYER" SHALL MEAN A PERSON OR ENTITY ENGAGED IN A BUSINESS,
23 INDUSTRY, PROFESSION, TRADE, OR OTHER ENTERPRISE IN NEW YORK STATE,
24 WHETHER FOR PROFIT OR NOT FOR PROFIT, THAT HAS NOT OFFERED A QUALIFIED
25 RETIREMENT PLAN, INCLUDING, BUT NOT LIMITED TO, A PLAN QUALIFIED UNDER
26 SECTIONS 401(A), 401(K), 403(A), 403(B), 408(K), 408(P) OR 457(B) OF THE
27 INTERNAL REVENUE CODE OF 1986 IN THE PRECEDING TWO YEARS.

28 5. "ENROLLEE" SHALL MEAN ANY EMPLOYEE WHO IS ENROLLED IN THE PROGRAM.

29 6. "FUND" SHALL MEAN THE NEW YORK STATE SECURE CHOICE SAVINGS PROGRAM
30 FUND ESTABLISHED PURSUANT TO SECTION NINETY-NINE-BB OF THE STATE FINANCE
31 LAW.

32 7. "INTERNAL REVENUE CODE" SHALL MEAN THE INTERNAL REVENUE CODE OF
33 1986, OR ANY SUCCESSOR LAW, IN EFFECT FOR THE CALENDAR YEAR.

34 8. "IRA" SHALL MEAN A ROTH IRA (INDIVIDUAL RETIREMENT ACCOUNT).

35 9. "PARTICIPATING EMPLOYER" SHALL MEAN AN EMPLOYER THAT ELECTS TO
36 PROVIDE A PAYROLL DEPOSIT RETIREMENT SAVINGS ARRANGEMENT AS PROVIDED FOR
37 BY THIS ARTICLE FOR ITS EMPLOYEES WHO ARE ENROLLEES IN THE PROGRAM.

38 10. "PAYROLL DEPOSIT RETIREMENT SAVINGS ARRANGEMENT" SHALL MEAN AN
39 ARRANGEMENT BY WHICH A PARTICIPATING EMPLOYER ALLOWS ENROLLEES TO REMIT
40 PAYROLL DEDUCTION CONTRIBUTIONS TO THE PROGRAM.

41 11. "PROGRAM" SHALL MEAN THE NEW YORK STATE SECURE CHOICE SAVINGS
42 PROGRAM.

43 12. "WAGES" MEANS ANY COMPENSATION WITHIN THE MEANING OF SECTION
44 219(F)(1) OF THE INTERNAL REVENUE CODE THAT IS RECEIVED BY AN ENROLLEE
45 FROM A PARTICIPATING EMPLOYER DURING THE CALENDAR YEAR.

46 S 571. PROGRAM ESTABLISHED. THERE IS HEREBY ESTABLISHED A RETIREMENT
47 SAVINGS PROGRAM IN THE FORM OF AN AUTOMATIC ENROLLMENT PAYROLL DEDUCTION
48 IRA, KNOWN AS THE NEW YORK STATE SECURE CHOICE SAVINGS PROGRAM. THE
49 GENERAL ADMINISTRATION AND RESPONSIBILITY FOR THE PROPER OPERATION OF
50 THE PROGRAM SHALL BE ADMINISTERED BY THE BOARD FOR THE PURPOSE OF
51 PROMOTING GREATER RETIREMENT SAVINGS FOR PRIVATE-SECTOR EMPLOYEES IN A
52 CONVENIENT, LOW-COST, AND PORTABLE MANNER.

53 S 572. COMPOSITION OF THE BOARD. THERE IS HEREBY CREATED THE NEW YORK
54 STATE SECURE CHOICE SAVINGS PROGRAM BOARD.

55 1. THE BOARD SHALL CONSIST OF THE FOLLOWING SEVEN MEMBERS:

1 (A) THE COMMISSIONER, OR HIS OR HER DESIGNEE, WHO SHALL SERVE AS
2 CHAIR;

3 (B) THE STATE COMPTROLLER, OR HIS OR HER DESIGNEE;

4 (C) THE SUPERINTENDENT, OR HIS OR HER DESIGNEE;

5 (D) TWO PUBLIC REPRESENTATIVES WITH EXPERTISE IN RETIREMENT SAVINGS
6 PLAN ADMINISTRATION OR INVESTMENT, OR BOTH, ONE OF WHOM SHALL BE
7 APPOINTED BY THE SPEAKER OF THE ASSEMBLY AND ONE OF WHOM SHALL BE
8 APPOINTED BY THE TEMPORARY PRESIDENT OF THE SENATE;

9 (E) A REPRESENTATIVE OF PARTICIPATING EMPLOYERS, APPOINTED BY THE
10 GOVERNOR; AND

11 (F) A REPRESENTATIVE OF ENROLLEES, APPOINTED BY THE GOVERNOR.

12 2. MEMBERS OF THE BOARD SHALL SERVE WITHOUT COMPENSATION BUT MAY BE
13 REIMBURSED FOR NECESSARY TRAVEL EXPENSES INCURRED IN CONNECTION WITH
14 THEIR BOARD DUTIES FROM FUNDS APPROPRIATED FOR THE PURPOSE.

15 3. THE INITIAL APPOINTMENTS SHALL BE AS FOLLOWS: ONE PUBLIC REPRESENTATIVE FOR FOUR YEARS; THE REPRESENTATIVE OF PARTICIPATING EMPLOYERS FOR THREE YEARS; AND THE REPRESENTATIVE OF ENROLLEES FOR THREE YEARS. THEREAFTER, ALL THE GOVERNOR'S APPOINTEES SHALL BE FOR TERMS OF FOUR YEARS.

16 4. A VACANCY IN THE TERM OF AN APPOINTED BOARD MEMBER SHALL BE FILLED
17 FOR THE BALANCE OF THE UNEXPIRED TERM IN THE SAME MANNER AS THE ORIGINAL
18 APPOINTMENT.

19 S 573. FIDUCIARY DUTY. THE BOARD, THE INDIVIDUAL MEMBERS OF THE BOARD,
20 THE TRUSTEES, ANY OTHER AGENTS APPOINTED OR ENGAGED BY THE BOARD, AND
21 ALL PERSONS SERVING AS PROGRAM STAFF SHALL DISCHARGE THEIR DUTIES WITH
22 RESPECT TO THE PROGRAM SOLELY IN THE INTEREST OF THE PROGRAM'S ENROLLEES
23 AND BENEFICIARIES AS FOLLOWS:

24 1. FOR THE EXCLUSIVE PURPOSES OF PROVIDING BENEFITS TO ENROLLEES AND
25 BENEFICIARIES AND DEFRAYING REASONABLE EXPENSES OF ADMINISTERING THE
26 PROGRAM;

27 2. BY INVESTING WITH THE CARE, SKILL, PRUDENCE, AND DILIGENCE UNDER
28 THE PREVAILING CIRCUMSTANCES THAT A PRUDENT PERSON ACTING IN A LIKE
29 CAPACITY AND FAMILIAR WITH THOSE MATTERS WOULD USE IN THE CONDUCT OF AN
30 ENTERPRISE OF A LIKE CHARACTER AND WITH LIKE AIMS; AND

31 3. BY USING ANY CONTRIBUTIONS PAID BY EMPLOYEES AND EMPLOYERS REMITTING
32 EMPLOYEES' OWN CONTRIBUTIONS INTO THE FUND EXCLUSIVELY FOR THE
33 PURPOSE OF PAYING BENEFITS TO THE ENROLLEES OF THE PROGRAM, FOR THE COST
34 OF ADMINISTRATION OF THE PROGRAM, AND FOR INVESTMENTS MADE FOR THE BENEFIT OF THE PROGRAM.

35 S 574. DUTIES OF THE BOARD. IN ADDITION TO THE OTHER DUTIES AND
36 RESPONSIBILITIES STATED IN THIS ARTICLE, THE BOARD SHALL:

37 1. CAUSE THE PROGRAM TO BE DESIGNED, ESTABLISHED AND OPERATED IN A
38 MANNER THAT:

39 (A) ACCORDS WITH BEST PRACTICES FOR RETIREMENT SAVINGS VEHICLES;

40 (B) MAXIMIZES PARTICIPATION, SAVINGS, AND SOUND INVESTMENT PRACTICES
41 INCLUDING CONSIDERING THE USE OF AUTOMATIC ENROLLMENT AS ALLOWED UNDER
42 FEDERAL LAW;

43 (C) MAXIMIZES SIMPLICITY, INCLUDING EASE OF ADMINISTRATION FOR PARTICIPATING EMPLOYERS AND ENROLLEES;

44 (D) PROVIDES AN EFFICIENT PRODUCT TO ENROLLEES BY POOLING INVESTMENT
45 FUNDS;

46 (E) ENSURES THE PORTABILITY OF BENEFITS; AND

47 (F) PROVIDES FOR THE DISTRIBUTION OF ENROLLEE ASSETS IN A MANNER THAT
48 MAXIMIZES FINANCIAL SECURITY IN RETIREMENT.

49 2. EXPLORE AND ESTABLISH INVESTMENT OPTIONS, SUBJECT TO THIS ARTICLE,
50 THAT OFFER ENROLLEES RETURNS ON CONTRIBUTIONS AND THE CONVERSION OF
51

1 INDIVIDUAL RETIREMENT SAVINGS ACCOUNT BALANCES TO SECURE RETIREMENT
2 INCOME WITHOUT INCURRING DEBT OR LIABILITIES TO THE STATE.

3 3. ESTABLISH THE PROCESS BY WHICH INTEREST, INVESTMENT EARNINGS, AND
4 INVESTMENT LOSSES ARE ALLOCATED TO INDIVIDUAL PROGRAM ACCOUNTS ON A PRO
5 RATA BASIS AND ARE COMPUTED AT THE INTEREST RATE ON THE BALANCE OF AN
6 INDIVIDUAL'S ACCOUNT.

7 4. MAKE AND ENTER INTO CONTRACTS NECESSARY FOR THE ADMINISTRATION OF
8 THE PROGRAM AND FUND, INCLUDING, BUT NOT LIMITED TO, RETAINING AND
9 CONTRACTING WITH INVESTMENT MANAGERS, PRIVATE FINANCIAL INSTITUTIONS,
10 OTHER FINANCIAL AND SERVICE PROVIDERS, CONSULTANTS, ACTUARIES, COUNSEL,
11 AUDITORS, THIRD-PARTY ADMINISTRATORS, AND OTHER PROFESSIONALS AS NECES-
12 SARY.

13 5. CONDUCT A REVIEW OF THE PERFORMANCE OF ANY INVESTMENT VENDORS EVERY
14 FOUR YEARS, INCLUDING, BUT NOT LIMITED TO, A REVIEW OF RETURNS, FEES,
15 AND CUSTOMER SERVICE. A COPY OF REVIEWS SHALL BE POSTED TO THE BOARD'S
16 INTERNET WEBSITE.

17 6. DETERMINE THE NUMBER AND DUTIES OF STAFF MEMBERS NEEDED TO ADMINIS-
18 TER THE PROGRAM AND ASSEMBLE SUCH A STAFF, INCLUDING, AS NEEDED, EMPLOY-
19 ING STAFF, AND APPOINTING A PROGRAM ADMINISTRATOR.

20 7. CAUSE MONEYS IN THE FUND TO BE HELD AND INVESTED AS POOLED INVEST-
21 MENTS DESCRIBED IN THIS ARTICLE, WITH A VIEW TO ACHIEVING COST SAVINGS
22 THROUGH EFFICIENCIES AND ECONOMIES OF SCALE.

23 8. EVALUATE AND ESTABLISH THE PROCESS FOR:

24 (A) AN ENROLLEE TO CONTRIBUTE A PORTION OF HIS OR HER WAGES TO THE
25 PROGRAM;

26 (B) PARTICIPATING EMPLOYERS TO FORWARD AN ENROLLEE'S CONTRIBUTIONS AND
27 RELATED INFORMATION TO THE PROGRAM; AND

28 (C) THE VOLUNTARY ENROLLMENT OF PARTICIPATING EMPLOYERS IN THE
29 PROGRAM.

30 9. THE BOARD MAY CONTRACT WITH FINANCIAL SERVICE COMPANIES AND THIRD-
31 PARTY ADMINISTRATORS WITH THE CAPABILITY TO RECEIVE AND PROCESS EMPLOYEE
32 INFORMATION AND CONTRIBUTIONS FOR PAYROLL DEPOSIT RETIREMENT SAVINGS
33 ARRANGEMENTS OR SIMILAR ARRANGEMENTS.

34 10. DESIGN AND ESTABLISH THE PROCESS FOR ENROLLMENT INCLUDING THE
35 PROCESS BY WHICH AN EMPLOYEE CAN OPT NOT TO PARTICIPATE IN THE PROGRAM,
36 SELECT A CONTRIBUTION LEVEL, SELECT AN INVESTMENT OPTION, AND TERMINATE
37 PARTICIPATION IN THE PROGRAM.

38 11. ACCEPT ANY GRANTS, APPROPRIATIONS, OR OTHER MONEYS FROM THE STATE,
39 ANY UNIT OF FEDERAL, STATE, OR LOCAL GOVERNMENT, OR ANY OTHER PERSON,
40 FIRM, PARTNERSHIP, OR CORPORATION SOLELY FOR DEPOSIT INTO THE FUND.

41 12. EVALUATE THE NEED FOR, AND PROCURE AS NEEDED, INSURANCE AGAINST
42 ANY AND ALL LOSS IN CONNECTION WITH THE PROPERTY, ASSETS, OR ACTIVITIES
43 OF THE PROGRAM, AND INDEMNIFY AS NEEDED EACH MEMBER OF THE BOARD FROM
44 PERSONAL LOSS OR LIABILITY RESULTING FROM A MEMBER'S ACTION OR INACTION
45 AS A MEMBER OF THE BOARD.

46 13. MAKE PROVISIONS FOR THE PAYMENT OF ADMINISTRATIVE COSTS AND
47 EXPENSES FOR THE CREATION, MANAGEMENT, AND OPERATION OF THE PROGRAM.
48 SUBJECT TO APPROPRIATION, THE STATE MAY PAY ADMINISTRATIVE COSTS ASSOCI-
49 ATED WITH THE CREATION AND MANAGEMENT OF THE PROGRAM UNTIL SUFFICIENT
50 ASSETS ARE AVAILABLE IN THE FUND FOR THAT PURPOSE. THEREAFTER, ALL
51 ADMINISTRATIVE COSTS OF THE FUND, INCLUDING REPAYMENT OF ANY START-UP
52 FUNDS PROVIDED BY THE STATE, SHALL BE PAID ONLY OUT OF MONEYS ON DEPOSIT
53 THEREIN. HOWEVER, PRIVATE FUNDS OR FEDERAL FUNDING RECEIVED IN ORDER TO
54 IMPLEMENT THE PROGRAM UNTIL THE FUND IS SELF-SUSTAINING SHALL NOT BE
55 REPAID UNLESS THOSE FUNDS WERE OFFERED CONTINGENT UPON THE PROMISE OF
56 SUCH REPAYMENT. THE BOARD SHALL KEEP ANNUAL ADMINISTRATIVE EXPENSES AS

1 LOW AS POSSIBLE, BUT IN NO EVENT SHALL THEY EXCEED 0.75% OF THE TOTAL
2 FUND BALANCE.

3 14. ALLOCATE ADMINISTRATIVE FEES TO INDIVIDUAL RETIREMENT ACCOUNTS IN
4 THE PROGRAM ON A PRO RATA BASIS.

5 15. SET MINIMUM AND MAXIMUM CONTRIBUTION LEVELS IN ACCORDANCE WITH
6 LIMITS ESTABLISHED FOR IRAS BY THE INTERNAL REVENUE CODE.

7 16. FACILITATE EDUCATION AND OUTREACH TO EMPLOYERS AND EMPLOYEES.

8 17. FACILITATE COMPLIANCE BY THE PROGRAM WITH ALL APPLICABLE REQUIRE-
9 MENTS FOR THE PROGRAM UNDER THE INTERNAL REVENUE CODE, INCLUDING TAX
10 QUALIFICATION REQUIREMENTS OR ANY OTHER APPLICABLE LAW AND ACCOUNTING
11 REQUIREMENTS.

12 18. CARRY OUT THE DUTIES AND OBLIGATIONS OF THE PROGRAM IN AN EFFEC-
13 TIVE, EFFICIENT, AND LOW-COST MANNER.

14 19. EXERCISE ANY AND ALL OTHER POWERS REASONABLY NECESSARY FOR THE
15 EFFECTUATION OF THE PURPOSES, OBJECTIVES, AND PROVISIONS OF THIS ARTICLE
16 PERTAINING TO THE PROGRAM.

17 20. DEPOSIT INTO THE NEW YORK STATE SECURE CHOICE ADMINISTRATIVE FUND
18 ALL GRANTS, GIFTS, DONATIONS, FEES, AND EARNINGS FROM INVESTMENTS FROM
19 THE NEW YORK STATE SECURE CHOICE SAVINGS PROGRAM FUND THAT ARE USED TO
20 RECOVER ADMINISTRATIVE COSTS. ALL EXPENSES OF THE BOARD SHALL BE PAID
21 FROM THE NEW YORK STATE SECURE CHOICE ADMINISTRATIVE FUND.

22 21. DETERMINE WITHDRAWAL PROVISIONS, SUCH AS ECONOMIC HARDSHIPS,
23 PORTABILITY AND LEAKAGE.

24 22. DETERMINE EMPLOYEE RIGHTS AND ENFORCEMENT OF PENALTIES.

25 S 575. RISK MANAGEMENT. THE BOARD SHALL ANNUALLY PREPARE AND ADOPT A
26 WRITTEN STATEMENT OF INVESTMENT POLICY THAT INCLUDES A RISK MANAGEMENT
27 AND OVERSIGHT PROGRAM. THIS INVESTMENT POLICY SHALL PROHIBIT THE BOARD,
28 PROGRAM, AND FUND FROM BORROWING FOR INVESTMENT PURPOSES. THE RISK
29 MANAGEMENT AND OVERSIGHT PROGRAM SHALL BE DESIGNED TO ENSURE THAT AN
30 EFFECTIVE RISK MANAGEMENT SYSTEM IS IN PLACE TO MONITOR THE RISK LEVELS
31 OF THE PROGRAM AND FUND PORTFOLIO, TO ENSURE THAT THE RISKS TAKEN ARE
32 PRUDENT AND PROPERLY MANAGED, TO PROVIDE AN INTEGRATED PROCESS FOR OVER-
33 ALL RISK MANAGEMENT, AND TO ASSESS INVESTMENT RETURNS AS WELL AS RISK TO
34 DETERMINE IF THE RISKS TAKEN ARE ADEQUATELY COMPENSATED COMPARED TO
35 APPLICABLE PERFORMANCE BENCHMARKS AND STANDARDS. THE BOARD SHALL CONSID-
36 ER THE STATEMENT OF INVESTMENT POLICY AND ANY CHANGES IN THE INVESTMENT
37 POLICY AT A PUBLIC HEARING.

38 S 576. INVESTMENT FIRMS. 1. THE BOARD SHALL ENGAGE, AFTER AN OPEN BID
39 PROCESS, AN INVESTMENT MANAGER OR MANAGERS TO INVEST THE FUND AND ANY
40 OTHER ASSETS OF THE PROGRAM. IN SELECTING THE INVESTMENT MANAGER OR
41 MANAGERS, THE BOARD SHALL TAKE INTO CONSIDERATION AND GIVE WEIGHT TO THE
42 INVESTMENT MANAGER'S FEES AND CHARGES IN ORDER TO REDUCE THE PROGRAM'S
43 ADMINISTRATIVE EXPENSES.

44 2. THE INVESTMENT MANAGER OR MANAGERS SHALL COMPLY WITH ANY AND ALL
45 APPLICABLE FEDERAL AND STATE LAWS, RULES, AND REGULATIONS, AS WELL AS
46 ANY AND ALL RULES, POLICIES, AND GUIDELINES PROMULGATED BY THE BOARD
47 WITH RESPECT TO THE PROGRAM AND THE INVESTMENT OF THE FUND, INCLUDING,
48 BUT NOT LIMITED TO, THE INVESTMENT POLICY.

49 3. THE INVESTMENT MANAGER OR MANAGERS SHALL PROVIDE SUCH REPORTS AS
50 THE BOARD DEEMS NECESSARY FOR THE BOARD TO OVERSEE EACH INVESTMENT
51 MANAGER'S PERFORMANCE AND THE PERFORMANCE OF THE FUND.

52 S 577. INVESTMENT OPTIONS. 1. THE BOARD SHALL ESTABLISH A DEFAULT
53 INVESTMENT OPTION FOR ENROLLEES WHO FAIL TO ELECT AN INVESTMENT OPTION.
54 IN MAKING SUCH DETERMINATION, THE BOARD SHALL CONSIDER THE COST, RISK
55 PROFILE, BENEFIT LEVEL AND EASE OF ENROLLMENT. THE BOARD MAY CHANGE THE

1 DEFAULT OPTION IF THE BOARD DETERMINES THAT SUCH CHANGE IS IN THE BEST
2 INTERESTS OF THE ENROLLEES.

3 2. THE BOARD MAY ESTABLISH THE FOLLOWING INVESTMENT OPTIONS INCLUDING
4 BUT NOT LIMITED TO:

5 (A) A CONSERVATIVE PRINCIPAL PROTECTION FUND;

6 (B) A GROWTH FUND;

7 (C) A SECURE RETURN FUND WHOSE PRIMARY OBJECTIVE IS THE PRESERVATION
8 OF THE SAFETY OF PRINCIPAL AND THE PROVISION OF A STABLE AND LOW-RISK
9 RATE OF RETURN; IF THE BOARD ELECTS TO ESTABLISH A SECURE RETURN FUND,
10 THE BOARD MAY PROCURE ANY INSURANCE, ANNUITY, OR OTHER PRODUCT TO INSURE
11 THE VALUE OF ENROLLEES' ACCOUNTS AND GUARANTEE A RATE OF RETURN; THE
12 COST OF SUCH FUNDING MECHANISM SHALL BE PAID OUT OF THE FUND; UNDER NO
13 CIRCUMSTANCES SHALL THE BOARD, PROGRAM, FUND, THE STATE, OR ANY PARTIC-
14 IPATING EMPLOYER ASSUME ANY LIABILITY FOR INVESTMENT OR ACTUARIAL RISK;
15 THE BOARD SHALL DETERMINE WHETHER TO ESTABLISH SUCH INVESTMENT OPTIONS
16 BASED UPON AN ANALYSIS OF THEIR COST, RISK PROFILE, BENEFIT LEVEL,
17 FEASIBILITY, AND EASE OF IMPLEMENTATION; OR

18 (D) AN ANNUITY FUND.

19 S 578. BENEFITS. INTEREST, INVESTMENT EARNINGS, AND INVESTMENT LOSSES
20 SHALL BE ALLOCATED TO INDIVIDUAL PROGRAM ACCOUNTS AS ESTABLISHED BY THE
21 BOARD PURSUANT TO THIS ARTICLE. AN INDIVIDUAL'S RETIREMENT SAVINGS BENE-
22 FIT UNDER THE PROGRAM SHALL BE AN AMOUNT EQUAL TO THE BALANCE IN THE
23 INDIVIDUAL'S PROGRAM ACCOUNT ON THE DATE THE RETIREMENT SAVINGS BENEFIT
24 BECOMES PAYABLE. THE STATE SHALL HAVE NO LIABILITY FOR THE PAYMENT OF
25 ANY BENEFIT TO ANY ENROLLEE IN THE PROGRAM.

26 S 579. EMPLOYER AND EMPLOYEE INFORMATION PACKETS AND DISCLOSURE FORMS.

27 1. PRIOR TO THE OPENING OF THE PROGRAM FOR ENROLLMENT, THE BOARD SHALL
28 DESIGN AND DISSEMINATE TO ALL EMPLOYERS AN EMPLOYER INFORMATION PACKET
29 AND AN EMPLOYEE INFORMATION PACKET, WHICH SHALL INCLUDE BACKGROUND
30 INFORMATION ON THE PROGRAM, AND NECESSARY DISCLOSURES AS REQUIRED BY LAW
31 FOR EMPLOYEES.

32 2. THE BOARD SHALL PROVIDE FOR THE CONTENTS OF BOTH THE EMPLOYEE
33 INFORMATION PACKET AND THE EMPLOYER INFORMATION PACKET. THE EMPLOYEE
34 INFORMATION PACKET SHALL BE MADE AVAILABLE IN ENGLISH, SPANISH, HAITIAN
35 CREOLE, CHINESE, KOREAN, RUSSIAN, ARABIC, AND ANY OTHER LANGUAGE THE
36 BOARD DEEMS NECESSARY.

37 3. THE EMPLOYEE INFORMATION PACKET SHALL INCLUDE A DISCLOSURE FORM.
38 THE DISCLOSURE FORM SHALL EXPLAIN, BUT NOT BE LIMITED TO, ALL OF THE
39 FOLLOWING:

40 (A) THE BENEFITS AND RISKS ASSOCIATED WITH MAKING CONTRIBUTIONS TO THE
41 PROGRAM;

42 (B) THE PROCESS FOR MAKING CONTRIBUTIONS TO THE PROGRAM;

43 (C) HOW TO OPT OUT OF THE PROGRAM;

44 (D) THE PROCESS BY WHICH AN EMPLOYEE CAN PARTICIPATE IN THE PROGRAM
45 WITH A LEVEL OF EMPLOYEE CONTRIBUTIONS OTHER THAN THREE PERCENT;

46 (E) THAT THEY ARE NOT REQUIRED TO PARTICIPATE OR CONTRIBUTE MORE THAN
47 THREE PERCENT;

48 (F) THE PROCESS BY WHICH AN EMPLOYEE CAN OPT OUT AFTER THEY HAVE
49 ENROLLED;

50 (G) THE PROCESS FOR WITHDRAWAL OF RETIREMENT SAVINGS;

51 (H) THE PROCESS FOR SELECTING BENEFICIARIES OF THEIR RETIREMENT
52 SAVINGS;

53 (I) HOW TO OBTAIN ADDITIONAL INFORMATION ABOUT THE PROGRAM;

54 (J) THAT EMPLOYEES SEEKING FINANCIAL ADVICE SHOULD CONTACT FINANCIAL
55 ADVISORS, THAT PARTICIPATING EMPLOYERS ARE NOT IN A POSITION TO PROVIDE

1 FINANCIAL ADVICE, AND THAT PARTICIPATING EMPLOYERS ARE NOT LIABLE FOR
2 DECISIONS EMPLOYEES MAKE PURSUANT TO THIS ARTICLE;

3 (K) INFORMATION ON HOW TO ACCESS ANY AVAILABLE FINANCIAL LITERACY
4 PROGRAMS;

5 (L) THAT THE PROGRAM IS NOT AN EMPLOYER-SPONSORED RETIREMENT PLAN; AND

6 (M) THAT THE PROGRAM FUND IS NOT GUARANTEED BY THE STATE.

7 4. THE EMPLOYEE INFORMATION PACKET SHALL ALSO INCLUDE A FORM FOR AN
8 EMPLOYEE TO NOTE HIS OR HER DECISION TO OPT OUT OF PARTICIPATION IN THE
9 PROGRAM OR ELECT TO PARTICIPATE WITH A LEVEL OF EMPLOYEE CONTRIBUTIONS
10 OTHER THAN THREE PERCENT.

11 5. PARTICIPATING EMPLOYERS SHALL SUPPLY THE EMPLOYEE INFORMATION PACK-
12 ET TO EXISTING EMPLOYEES AT LEAST ONE MONTH PRIOR TO THE PARTICIPATING
13 EMPLOYERS' LAUNCH OF THE PROGRAM. PARTICIPATING EMPLOYERS SHALL SUPPLY
14 THE EMPLOYEE INFORMATION PACKET TO NEW EMPLOYEES AT THE TIME OF HIRING,
15 AND NEW EMPLOYEES MAY OPT OUT OF PARTICIPATION IN THE PROGRAM OR ELECT
16 TO PARTICIPATE WITH A LEVEL OF EMPLOYEE CONTRIBUTIONS OTHER THAN THREE
17 PERCENT AT THAT TIME.

18 S 580. PROGRAM IMPLEMENTATION AND ENROLLMENT. EXCEPT AS OTHERWISE
19 PROVIDED IN THIS ARTICLE, THE PROGRAM SHALL BE IMPLEMENTED, AND ENROLL-
20 MENT OF EMPLOYEES SHALL BEGIN, WITHIN TWENTY-FOUR MONTHS AFTER THE
21 EFFECTIVE DATE OF THIS ARTICLE. THE PROVISIONS OF THIS SECTION SHALL BE
22 IN FORCE AFTER THE BOARD OPENS THE PROGRAM FOR ENROLLMENT.

23 1. EACH PARTICIPATING EMPLOYER MAY ELECT TO PROVIDE A PAYROLL DEPOSIT
24 RETIREMENT SAVINGS ARRANGEMENT TO ALLOW EACH EMPLOYEE TO PARTICIPATE IN
25 THE PROGRAM AND BEGIN EMPLOYEE ENROLLMENT NOT LATER THAN NINE MONTHS
26 AFTER THE BOARD OPENS THE PROGRAM FOR ENROLLMENT.

27 2. ENROLLEES SHALL HAVE THE ABILITY TO SELECT A CONTRIBUTION LEVEL
28 INTO THE FUND. THIS LEVEL MAY BE EXPRESSED AS A PERCENTAGE OF WAGES OR
29 AS A DOLLAR AMOUNT UP TO THE DEDUCTIBLE AMOUNT FOR THE ENROLLEE'S TAXA-
30 BLE YEAR UNDER SECTION 219(B)(1)(A) OF THE INTERNAL REVENUE CODE. ENROL-
31 LEES MAY CHANGE THEIR CONTRIBUTION LEVEL AT ANY TIME, SUBJECT TO RULES
32 PROMULGATED BY THE BOARD. IF AN ENROLLEE FAILS TO SELECT A CONTRIBUTION
33 LEVEL USING THE FORM DESCRIBED IN THIS ARTICLE, THEN HE OR SHE SHALL
34 CONTRIBUTE THREE PERCENT OF HIS OR HER WAGES TO THE PROGRAM, PROVIDED
35 THAT SUCH CONTRIBUTIONS SHALL NOT CAUSE THE ENROLLEE'S TOTAL CONTRIB-
36 UTIONS TO IRAS FOR THE YEAR TO EXCEED THE DEDUCTIBLE AMOUNT FOR THE
37 ENROLLEE'S TAXABLE YEAR UNDER SECTION 219(B)(1)(A) OF THE INTERNAL
38 REVENUE CODE. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY ENROLLEE,
39 WHOSE EMPLOYER FAILS TO MAKE EMPLOYEE DEDUCTIONS IN ACCORDANCE WITH THE
40 PROVISIONS IN SECTION ONE HUNDRED NINETY-THREE OF THE LABOR LAW, MAY
41 BRING AN ACTION, PURSUANT TO SECTION ONE HUNDRED NINETY-EIGHT OF THE
42 LABOR LAW, TO RECOVER SUCH MONIES. FURTHER, ANY PARTICIPATING EMPLOYER,
43 WHO FAILS TO MAKE EMPLOYEE DEDUCTIONS IN ACCORDANCE WITH THE PROVISIONS
44 IN SECTION ONE HUNDRED NINETY-THREE OF THE LABOR LAW, SHALL BE SUBJECT
45 TO THE PENALTIES AND FINES PROVIDED FOR IN SECTION ONE HUNDRED
46 NINETY-EIGHT-A OF THE LABOR LAW.

47 3. ENROLLEES MAY SELECT AN INVESTMENT OPTION OFFERED UNDER THE
48 PROGRAM. ENROLLEES MAY CHANGE THEIR INVESTMENT OPTION AT ANY TIME,
49 SUBJECT TO RULES PROMULGATED BY THE BOARD. IN THE EVENT THAT AN ENROLLEE
50 FAILS TO SELECT AN INVESTMENT OPTION, THAT ENROLLEE SHALL BE PLACED IN
51 THE INVESTMENT OPTION SELECTED BY THE BOARD AS THE DEFAULT UNDER THIS
52 ARTICLE.

53 4. FOLLOWING INITIAL IMPLEMENTATION OF THE PROGRAM PURSUANT TO THIS
54 SECTION, AT LEAST ONCE EVERY YEAR, PARTICIPATING EMPLOYERS SHALL DESIG-
55 NATE AN OPEN ENROLLMENT PERIOD DURING WHICH EMPLOYEES WHO PREVIOUSLY
56 OPTED OUT OF THE PROGRAM MAY ENROLL IN THE PROGRAM.

1 5. AN EMPLOYEE WHO OPTS OUT OF THE PROGRAM WHO SUBSEQUENTLY WANTS TO
2 PARTICIPATE THROUGH THE PARTICIPATING EMPLOYER'S PAYROLL DEPOSIT RETIRE-
3 MENT SAVINGS ARRANGEMENT MAY ONLY ENROLL DURING THE PARTICIPATING
4 EMPLOYER'S DESIGNATED OPEN ENROLLMENT PERIOD OR IF PERMITTED BY THE
5 PARTICIPATING EMPLOYER AT AN EARLIER TIME.

6 6. EMPLOYERS SHALL RETAIN THE OPTION AT ALL TIMES TO SET UP ANY TYPE
7 OF EMPLOYER-SPONSORED RETIREMENT PLAN INSTEAD OF HAVING A PAYROLL DEPOS-
8 IT RETIREMENT SAVINGS ARRANGEMENT TO ALLOW EMPLOYEE PARTICIPATION IN THE
9 PROGRAM.

10 7. AN ENROLLEE MAY TERMINATE HIS OR HER ENROLLMENT IN THE PROGRAM AT
11 ANY TIME IN A MANNER PRESCRIBED BY THE BOARD.

12 8. (A) THE COMMISSIONER SHALL ESTABLISH A WEBSITE REGARDING THE SECURE
13 CHOICE SAVINGS PROGRAM WHICH SHALL BE ACCESSIBLE THROUGH THE COMMISSION-
14 ER'S OWN WEBSITE.

15 (B) THE BOARD SHALL, IN CONJUNCTION WITH THE COMMISSIONER, ESTABLISH
16 AND MAINTAIN A SECURE WEBSITE WHEREIN ENROLLEES MAY LOG IN AND ACQUIRE
17 INFORMATION REGARDING CONTRIBUTIONS AND INVESTMENT INCOME ALLOCATED TO,
18 WITHDRAWALS FROM, AND BALANCES IN THEIR PROGRAM ACCOUNTS FOR THE REPORT-
19 ING PERIOD. SUCH WEBSITE MUST ALSO INCLUDE INFORMATION FOR THE ENROLLEES
20 REGARDING OTHER OPTIONS AVAILABLE TO THE EMPLOYEE AND HOW THEY CAN
21 TRANSFER THEIR ACCOUNTS TO OTHER PROGRAMS SHOULD THEY WISH TO DO SO.
22 SUCH WEBSITE MAY INCLUDE ANY OTHER INFORMATION REGARDING THE PROGRAM AS
23 THE BOARD MAY DETERMINE.

24 S 581. PAYMENTS. EMPLOYEE CONTRIBUTIONS DEDUCTED BY THE PARTICIPATING
25 EMPLOYER THROUGH PAYROLL DEDUCTION SHALL BE PAID BY THE PARTICIPATING
26 EMPLOYER TO THE FUND USING ONE OR MORE PAYROLL DEPOSIT RETIREMENT
27 SAVINGS ARRANGEMENTS ESTABLISHED BY THE BOARD UNDER THIS ARTICLE,
28 EITHER:

29 1. ON OR BEFORE THE LAST DAY OF THE MONTH FOLLOWING THE MONTH IN WHICH
30 THE COMPENSATION OTHERWISE WOULD HAVE BEEN PAYABLE TO THE EMPLOYEE IN
31 CASH; OR

32 2. BEFORE SUCH LATER DEADLINE PRESCRIBED BY THE BOARD FOR MAKING SUCH
33 PAYMENTS, BUT NOT LATER THAN THE DUE DATE FOR THE DEPOSIT OF TAX
34 REQUIRED TO BE DEDUCTED AND WITHHELD RELATING TO COLLECTION OF INCOME
35 TAX AT SOURCE ON WAGES OR FOR THE DEPOSIT OF TAX REQUIRED TO BE PAID
36 UNDER THE UNEMPLOYMENT INSURANCE SYSTEM FOR THE PAYROLL PERIOD TO WHICH
37 SUCH PAYMENTS RELATE.

38 S 582. DUTY AND LIABILITY OF THE STATE. 1. THE STATE SHALL HAVE NO
39 DUTY OR LIABILITY TO ANY PARTY FOR THE PAYMENT OF ANY RETIREMENT SAVINGS
40 BENEFITS ACCRUED BY ANY ENROLLEE UNDER THE PROGRAM. ANY FINANCIAL
41 LIABILITY FOR THE PAYMENT OF RETIREMENT SAVINGS BENEFITS IN EXCESS OF
42 FUNDS AVAILABLE UNDER THE PROGRAM SHALL BE BORNE SOLELY BY THE ENTITIES
43 WITH WHOM THE BOARD CONTRACTS TO PROVIDE INSURANCE TO PROTECT THE VALUE
44 OF THE PROGRAM.

45 2. NO STATE BOARD, COMMISSION, OR AGENCY, OR ANY OFFICER, EMPLOYEE, OR
46 MEMBER THEREOF IS LIABLE FOR ANY LOSS OR DEFICIENCY RESULTING FROM
47 PARTICULAR INVESTMENTS SELECTED UNDER THIS ARTICLE, EXCEPT FOR ANY
48 LIABILITY THAT ARISES OUT OF A BREACH OF FIDUCIARY DUTY.

49 S 583. DUTY AND LIABILITY OF PARTICIPATING EMPLOYERS. 1. PARTICIPAT-
50 ING EMPLOYERS SHALL NOT HAVE ANY LIABILITY FOR AN EMPLOYEE'S DECISION TO
51 PARTICIPATE IN, OR OPT OUT OF, THE PROGRAM OR FOR THE INVESTMENT DECI-
52 SIONS OF THE BOARD OR OF ANY ENROLLEE.

53 2. A PARTICIPATING EMPLOYER SHALL NOT BE A FIDUCIARY, OR CONSIDERED TO
54 BE A FIDUCIARY, OVER THE PROGRAM. A PARTICIPATING EMPLOYER SHALL NOT
55 BEAR RESPONSIBILITY FOR THE ADMINISTRATION, INVESTMENT, OR INVESTMENT
56 PERFORMANCE OF THE PROGRAM. A PARTICIPATING EMPLOYER SHALL NOT BE LIABLE

1 WITH REGARD TO INVESTMENT RETURNS, PROGRAM DESIGN, AND BENEFITS PAID TO
2 PROGRAM PARTICIPANTS.

3 S 584. AUDIT AND REPORTS. 1. THE BOARD SHALL ANNUALLY SUBMIT:

4 (A) AN AUDITED FINANCIAL REPORT, PREPARED IN ACCORDANCE WITH GENERALLY
5 ACCEPTED ACCOUNTING PRINCIPLES, ON THE OPERATIONS OF THE PROGRAM DURING
6 EACH CALENDAR YEAR BY JULY FIRST OF THE FOLLOWING YEAR TO THE GOVERNOR,
7 THE COMMISSIONER, THE SPEAKER OF THE ASSEMBLY, THE TEMPORARY PRESIDENT
8 OF THE SENATE, THE CHAIR OF THE ASSEMBLY WAYS AND MEANS COMMITTEE, THE
9 CHAIR OF THE SENATE FINANCE COMMITTEE, THE CHAIR OF THE ASSEMBLY LABOR
10 COMMITTEE, THE CHAIR OF THE SENATE LABOR COMMITTEE, THE CHAIR OF THE
11 ASSEMBLY GOVERNMENTAL EMPLOYEES COMMITTEE, AND THE CHAIR OF THE SENATE
12 CIVIL SERVICE AND PENSION COMMITTEE; AND

13 (B) A REPORT PREPARED BY THE BOARD, WHICH SHALL INCLUDE, BUT IS NOT
14 LIMITED TO, A SUMMARY OF THE BENEFITS PROVIDED BY THE PROGRAM, INCLUDING
15 THE NUMBER OF ENROLLEES IN THE PROGRAM, THE PERCENTAGE AND AMOUNTS OF
16 INVESTMENT OPTIONS AND RATES OF RETURN, AND SUCH OTHER INFORMATION THAT
17 IS RELEVANT TO MAKE A FULL, FAIR, AND EFFECTIVE DISCLOSURE OF THE OPER-
18 ATIONS OF THE PROGRAM AND THE FUND. THE ANNUAL AUDIT SHALL BE MADE BY AN
19 INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT AND SHALL INCLUDE, BUT IS NOT
20 LIMITED TO, DIRECT AND INDIRECT COSTS ATTRIBUTABLE TO THE USE OF OUTSIDE
21 CONSULTANTS, INDEPENDENT CONTRACTORS, AND ANY OTHER PERSONS WHO ARE NOT
22 STATE EMPLOYEES FOR THE ADMINISTRATION OF THE PROGRAM.

23 2. IN ADDITION TO ANY OTHER STATEMENTS OR REPORTS REQUIRED BY LAW, THE
24 BOARD SHALL PROVIDE PERIODIC REPORTS AT LEAST ANNUALLY TO ENROLLEES,
25 REPORTING CONTRIBUTIONS AND INVESTMENT INCOME ALLOCATED TO, WITHDRAWALS
26 FROM, AND BALANCES IN THEIR PROGRAM ACCOUNTS FOR THE REPORTING PERIOD.
27 SUCH REPORTS MAY INCLUDE ANY OTHER INFORMATION REGARDING THE PROGRAM AS
28 THE BOARD MAY DETERMINE.

29 S 585. DELAYED IMPLEMENTATION. IF THE BOARD DOES NOT OBTAIN ADEQUATE
30 FUNDS TO IMPLEMENT THE PROGRAM WITHIN THE TIME FRAME SET FORTH UNDER
31 THIS ARTICLE AND IS SUBJECT TO APPROPRIATION, THE BOARD MAY DELAY THE
32 IMPLEMENTATION OF THE PROGRAM.

33 S 3. The state finance law is amended by adding two new sections 99-bb
34 and 99-cc to read as follows:

35 S 99-BB. NEW YORK STATE SECURE CHOICE SAVINGS PROGRAM FUND. 1. THERE
36 IS HEREBY ESTABLISHED WITHIN THE SOLE CUSTODY OF THE COMMISSIONER OF
37 TAXATION AND FINANCE IN CONSULTATION WITH THE NEW YORK STATE SECURE
38 CHOICE SAVINGS PROGRAM BOARD, A NEW FUND TO BE KNOWN AS THE NEW YORK
39 STATE SECURE CHOICE SAVINGS PROGRAM FUND.

40 2. THE FUND SHALL INCLUDE THE INDIVIDUAL RETIREMENT ACCOUNTS OF ENROL-
41 LEES, WHICH SHALL BE ACCOUNTED FOR AS INDIVIDUAL ACCOUNTS.

42 3. MONEYS IN THE FUND SHALL CONSIST OF MONEYS RECEIVED FROM ENROLLEES
43 AND PARTICIPATING EMPLOYERS PURSUANT TO AUTOMATIC PAYROLL DEDUCTIONS AND
44 CONTRIBUTIONS TO SAVINGS MADE UNDER THE NEW YORK STATE SECURE CHOICE
45 SAVINGS PROGRAM PURSUANT TO ARTICLE FOURTEEN-C OF THE RETIREMENT AND
46 SOCIAL SECURITY LAW.

47 4. THE FUND SHALL BE OPERATED IN A MANNER DETERMINED BY THE NEW YORK
48 STATE SECURE CHOICE SAVINGS PROGRAM BOARD, PROVIDED THAT THE FUND IS
49 OPERATED SO THAT THE ACCOUNTS OF ENROLLEES ESTABLISHED UNDER THE PROGRAM
50 MEET THE REQUIREMENTS FOR IRAS UNDER THE INTERNAL REVENUE CODE.

51 5. THE AMOUNTS DEPOSITED IN THE FUND SHALL NOT CONSTITUTE PROPERTY OF
52 THE STATE AND THE FUND SHALL NOT BE CONSTRUED TO BE A DEPARTMENT, INSTI-
53 TUTION, OR AGENCY OF THE STATE. AMOUNTS ON DEPOSIT IN THE FUND SHALL NOT
54 BE COMMINGLED WITH STATE FUNDS AND THE STATE SHALL HAVE NO CLAIM TO OR
55 AGAINST, OR INTEREST IN, SUCH FUNDS.

1 S 99-CC. NEW YORK STATE SECURE CHOICE ADMINISTRATIVE FUND. 1. THERE
 2 IS HEREBY ESTABLISHED WITHIN THE SOLE CUSTODY OF THE COMMISSIONER OF
 3 TAXATION AND FINANCE IN CONSULTATION WITH THE NEW YORK STATE SECURE
 4 CHOICE SAVINGS PROGRAM BOARD, A NEW FUND TO BE KNOWN AS THE NEW YORK
 5 STATE SECURE CHOICE ADMINISTRATIVE FUND.
 6 2. THE NEW YORK STATE SECURE CHOICE SAVINGS PROGRAM BOARD SHALL USE
 7 MONEYS IN THE ADMINISTRATIVE FUND TO PAY FOR ADMINISTRATIVE EXPENSES IT
 8 INCURS IN THE PERFORMANCE OF ITS DUTIES UNDER THE NEW YORK STATE SECURE
 9 CHOICE SAVINGS PROGRAM PURSUANT TO ARTICLE FOURTEEN-C OF THE RETIREMENT
 10 AND SOCIAL SECURITY LAW.
 11 3. THE NEW YORK STATE SECURE CHOICE SAVINGS PROGRAM BOARD SHALL USE
 12 MONEYS IN THE ADMINISTRATIVE FUND TO COVER START-UP ADMINISTRATIVE
 13 EXPENSES IT INCURS IN THE PERFORMANCE OF ITS DUTIES UNDER ARTICLE FOUR-
 14 TEEN-C OF THE RETIREMENT AND SOCIAL SECURITY LAW.
 15 4. THE ADMINISTRATIVE FUND MAY RECEIVE ANY GRANTS OR OTHER MONEYS
 16 DESIGNATED FOR ADMINISTRATIVE PURPOSES FROM THE STATE, OR ANY UNIT OF
 17 FEDERAL OR LOCAL GOVERNMENT, OR ANY OTHER PERSON, FIRM, PARTNERSHIP, OR
 18 CORPORATION. ANY INTEREST EARNINGS THAT ARE ATTRIBUTABLE TO MONEYS IN
 19 THE ADMINISTRATIVE FUND MUST BE DEPOSITED INTO THE ADMINISTRATIVE FUND.
 20 S 4. This act shall take effect immediately.

21 PART Y
 22 Intentionally Omitted
 23 PART Z
 24 Intentionally Omitted
 25 PART AA
 26 Intentionally Omitted
 27 PART BB
 28 Intentionally Omitted
 29 PART CC
 30 Intentionally Omitted
 31 PART DD

32 Section 1. This part enacts into law components of legislation relat-
 33 ing to local government shared services. Each component is wholly
 34 contained within a Subpart identified as Subparts A through B. The
 35 effective date for each particular provision contained within such
 36 Subpart is set forth in the last section of such Subpart. Any provision
 37 in any section contained within a Subpart, including the effective date
 38 of the Subpart, which makes a reference to a section "of this act", when
 39 used in connection with that particular component, shall be deemed to
 40 mean and refer to the corresponding section of the Subpart in which it
 41 is found. Section three of this Part sets forth the general effective
 42 date of this Part.

43 SUBPART A

1 Section 1. Section 106-b of the uniform justice court act, as added by
2 chapter 87 of the laws of 2008, is amended to read as follows:

3 S 106-b. Election of [a single] ONE OR MORE town [justice] JUSTICES for
4 two or more adjacent towns.

5 1. Two or more adjacent towns within the same county, acting by and
6 through their town boards, are authorized to jointly undertake a study
7 relating to the election of [a single] ONE OR MORE town [justice]
8 JUSTICES who shall preside in the town courts of each such town. Such
9 study shall be commenced upon and conducted pursuant to a joint resolu-
10 tion adopted by the town board of each such adjacent town. Such joint
11 resolution or a certified copy thereof shall upon adoption be filed in
12 the office of the town clerk of each adjacent town which adopts the
13 resolution. No study authorized by this subdivision shall be commenced
14 until the joint resolution providing for the study shall have been filed
15 with the town clerks of at least two adjacent towns which adopted such
16 joint resolution.

17 2. Within thirty days after the conclusion of a study conducted pursu-
18 ant to subdivision one of this section, each town which shall have
19 adopted the joint resolution providing for the study shall publish, in
20 its official newspaper or, if there be no official newspaper, in a news-
21 paper published in the county and having a general circulation within
22 such town, notice that the study has been concluded and the time, date
23 and place of the town public hearing on such study. Each town shall
24 conduct a public hearing on the study, conducted pursuant to subdivision
25 one of this section, not less than twenty days nor more than thirty days
26 after publication of the notice of such public hearing.

27 3. The town board of each town party to the study shall conduct a
28 public hearing upon the findings of such study, and shall hear testimony
29 and receive evidence and information thereon with regard to the election
30 of one OR MORE town [justice] JUSTICES to preside over the town courts
31 of the adjacent towns which are parties to the joint resolution provid-
32 ing for the study.

33 4. Within sixty days of the last public hearing upon a study conducted
34 pursuant to subdivision one of this section, town boards of each town
35 which participated in such study shall determine whether the town will
36 participate in a joint plan providing for the election of [a single] ONE
37 OR MORE town [justice] JUSTICES to preside in the town courts of two or
38 more adjacent towns. Every such joint plan shall only be approved by a
39 town by the adoption of a resolution by the town board providing for the
40 adoption of such joint plan. In the event two or more adjacent towns
41 fail to adopt a joint plan, all proceedings authorized by this section
42 shall terminate and the town courts of such towns shall continue to
43 operate in accordance with the existing provisions of law.

44 5. Upon the adoption of a joint plan by two or more adjacent towns,
45 the town boards of the towns adopting such plan shall each adopt a joint
46 resolution providing for:

47 a. the election of [a single] ONE OR MORE town [justice] JUSTICES at
48 large to preside in the town courts of the participating towns;

49 b. the abolition of the existing office of town justice in the partic-
50 ipating towns; and

51 c. the election of [such single] ONE OR MORE town [justice] JUSTICES
52 shall occur at the next general election of town officers and every
53 fourth year thereafter.

54 6. Upon the adoption of a joint resolution, such resolution shall be
55 forwarded to the state legislature, and shall constitute a municipal
56 home rule message pursuant to article nine of the state constitution and

1 the municipal home rule law. No such joint resolution shall take effect
 2 until state legislation enacting the joint resolution shall have become
 3 a law.

4 7. Every town justice elected to preside in multiple towns pursuant to
 5 this section shall have jurisdiction in each of the participating adja-
 6 cent towns, shall preside in the town courts of such towns, shall main-
 7 tain separate records and dockets for each town court, and shall main-
 8 tain a separate bank account for each town court for the deposit of
 9 moneys received by each town court.

10 8. In the event any town court operated pursuant to a joint plan
 11 enacted into law pursuant to this section is without the services of the
 12 [single] ONE OR MORE town [justice] JUSTICES because of absence or disa-
 13 bility, the provisions of section one hundred six of this article and
 14 the town law shall apply.

15 S 2. This act shall take effect immediately.

16 SUBPART B

17 Intentionally Omitted.

18 S 2. Severability. If any clause, sentence, paragraph, subdivision,
 19 section or part of this act shall be adjudged by any court of competent
 20 jurisdiction to be invalid, such judgment shall not affect, impair, or
 21 invalidate the remainder thereof, but shall be confined in its operation
 22 to the clause, sentence, paragraph, subdivision, section or part thereof
 23 directly involved in the controversy in which such judgment shall have
 24 been rendered. It is hereby declared to be the intent of the legislature
 25 that this act would have been enacted even if such invalid provisions
 26 had not been included herein.

27 S 3. This act shall take effect immediately; provided, however, that
 28 the applicable effective date of Subparts A and B of this Part shall be
 29 as specifically set forth in the last section of such Subparts.

30 PART EE

31 Section 1. The general municipal law is amended by adding a new arti-
 32 cle 12-I to read as follows:

33 ARTICLE 12-I

34 COUNTY-WIDE SHARED SERVICES PANELS

35 SECTION 239-BB. COUNTY-WIDE SHARED SERVICES PANELS.

36 S 239-BB. COUNTY-WIDE SHARED SERVICES PANELS. 1. DEFINITIONS. THE
 37 FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS FOR THE PURPOSES OF
 38 THIS ARTICLE:

39 A. "COUNTY" SHALL MEAN ANY COUNTY NOT WHOLLY CONTAINED WITHIN A CITY.

40 B. "COUNTY CEO" SHALL MEAN THE COUNTY EXECUTIVE, COUNTY MANAGER OR
 41 OTHER CHIEF EXECUTIVE OF THE COUNTY, OR, WHERE NONE, THE CHAIR OF THE
 42 COUNTY LEGISLATIVE BODY.

43 C. "PANEL" SHALL MEAN A COUNTY-WIDE SHARED SERVICES PANEL ESTABLISHED
 44 PURSUANT TO SUBDIVISION TWO OF THIS SECTION.

45 D. "PLAN" SHALL MEAN A COUNTY-WIDE SHARED SERVICES PROPERTY TAX
 46 SAVINGS PLAN.

47 2. COUNTY-WIDE SHARED SERVICES PANELS. A. THERE SHALL BE A COUNTY-WIDE
 48 SHARED SERVICES PANEL IN EACH COUNTY CONSISTING OF THE COUNTY CEO, AND
 49 ONE REPRESENTATIVE FROM EACH CITY, TOWN AND VILLAGE IN THE COUNTY. THE
 50 CHIEF EXECUTIVE OFFICER OF EACH TOWN, CITY AND VILLAGE SHALL BE THE
 51 REPRESENTATIVE TO A PANEL AND SHALL BE THE MAYOR, IF A CITY OR A

1 VILLAGE, OR SHALL BE THE SUPERVISOR, IF A TOWN. THE COUNTY CEO SHALL
2 SERVE AS CHAIR. ALL PANELS ESTABLISHED IN EACH COUNTY PURSUANT TO PART
3 BBB OF CHAPTER FIFTY-NINE OF THE LAWS OF TWO THOUSAND SEVENTEEN, AND
4 PRIOR TO THE ENACTMENT OF THIS ARTICLE, SHALL CONTINUE IN SATISFACTION
5 OF THIS SECTION IN SUCH FORM AS THEY WERE ESTABLISHED, PROVIDED THAT THE
6 COUNTY CEO MAY ALTER THE MEMBERSHIP OF THE PANEL CONSISTENT WITH PARA-
7 GRAPH B OF THIS SUBDIVISION.

8 B. THE COUNTY CEO MAY INVITE ANY SCHOOL DISTRICT, BOARD OF COOPERATIVE
9 EDUCATIONAL SERVICES, FIRE DISTRICT, FIRE PROTECTION DISTRICT, OR
10 SPECIAL IMPROVEMENT DISTRICT IN THE COUNTY TO JOIN A PANEL. UPON SUCH
11 INVITATION, THE GOVERNING BODY OF SUCH SCHOOL DISTRICT, BOARD OF COOPER-
12 ATIVE EDUCATIONAL SERVICES, FIRE DISTRICT, FIRE PROTECTION DISTRICT, OR
13 OTHER SPECIAL DISTRICT MAY ACCEPT SUCH INVITATION BY SELECTING A REPRESENTATIVE
14 OF SUCH GOVERNING BODY, BY MAJORITY VOTE, TO SERVE AS A MEMBER
15 OF THE PANEL. SUCH SCHOOL DISTRICT, BOARD OF COOPERATIVE EDUCATIONAL
16 SERVICES, FIRE DISTRICT, FIRE PROTECTION DISTRICT OR OTHER SPECIAL
17 DISTRICT SHALL MAINTAIN SUCH REPRESENTATION UNTIL THE PANEL EITHER
18 APPROVES A PLAN OR TRANSMITS A STATEMENT TO THE SECRETARY OF STATE ON
19 THE REASON THE PANEL DID NOT APPROVE A PLAN, PURSUANT TO PARAGRAPH D OF
20 SUBDIVISION SEVEN OF THIS SECTION. UPON APPROVAL OF A PLAN OR A TRANS-
21 MISSION OF A STATEMENT TO THE SECRETARY OF STATE THAT A PANEL DID NOT
22 APPROVE A PLAN IN ANY CALENDAR YEAR, THE COUNTY CEO MAY, BUT NEED NOT,
23 INVITE ANY SCHOOL DISTRICT, BOARD OF COOPERATIVE EDUCATIONAL SERVICES,
24 FIRE DISTRICT, FIRE PROTECTION DISTRICT OR SPECIAL IMPROVEMENT DISTRICT
25 IN THE COUNTY TO JOIN A PANEL THEREAFTER CONVENED.

26 3. EACH COUNTY CEO SHALL, AFTER SATISFYING THE REQUIREMENTS OF PART
27 BBB OF CHAPTER FIFTY-NINE OF THE LAWS OF TWO THOUSAND SEVENTEEN, REVISE
28 AND UPDATE A PREVIOUSLY APPROVED PLAN OR DEVELOP A NEW PLAN. SUCH PLANS
29 SHALL CONTAIN NEW, RECURRING PROPERTY TAX SAVINGS RESULTING FROM ACTIONS
30 SUCH AS, BUT NOT LIMITED TO, THE ELIMINATION OF DUPLICATIVE SERVICES;
31 SHARED SERVICE ARRANGEMENTS INCLUDING, JOINT PURCHASING, SHARED HIGHWAY
32 EQUIPMENT, SHARED STORAGE FACILITIES, SHARED PLOWING SERVICES, AND ENERGY
33 AND INSURANCE PURCHASING COOPERATIVES; REDUCING BACK OFFICE ADMINISTRATIVE
34 OVERHEAD; AND BETTER-COORDINATING SERVICES. THE SECRETARY OF
35 STATE MAY PROVIDE GUIDANCE ON THE FORM AND STRUCTURE OF SUCH PLANS.

36 4. WHILE DEVELOPING A PLAN, THE COUNTY CEO SHALL REGULARLY CONSULT
37 WITH, AND TAKE RECOMMENDATIONS FROM, THE REPRESENTATIVES: ON THE PANEL;
38 OF EACH COLLECTIVE BARGAINING UNIT OF THE COUNTY AND THE CITIES, TOWNS,
39 AND VILLAGES; AND OF EACH COLLECTIVE BARGAINING UNIT OF ANY PARTICIPATING
40 SCHOOL DISTRICT, BOARD OF COOPERATIVE EDUCATIONAL SERVICES, FIRE
41 DISTRICT, FIRE PROTECTION DISTRICT, OR SPECIAL IMPROVEMENT DISTRICT.

42 5. THE COUNTY CEO, THE COUNTY LEGISLATIVE BODY AND A PANEL SHALL
43 ACCEPT INPUT FROM THE PUBLIC, CIVIC, BUSINESS, LABOR AND COMMUNITY LEADERS
44 ON ANY PROPOSED PLAN. THE COUNTY CEO SHALL CAUSE TO BE CONDUCTED A
45 MINIMUM OF THREE PUBLIC HEARINGS PRIOR TO SUBMISSION OF A PLAN TO A VOTE
46 OF A PANEL. ALL SUCH PUBLIC HEARINGS SHALL BE CONDUCTED WITHIN THE COUNTY,
47 AND PUBLIC NOTICE OF ALL SUCH HEARINGS SHALL BE PROVIDED AT LEAST
48 ONE WEEK PRIOR IN THE MANNER PRESCRIBED IN SUBDIVISION ONE OF SECTION
49 ONE HUNDRED FOUR OF THE PUBLIC OFFICERS LAW. CIVIC, BUSINESS, LABOR,
50 AND COMMUNITY LEADERS, AS WELL AS MEMBERS OF THE PUBLIC, SHALL BE
51 PERMITTED TO PROVIDE PUBLIC TESTIMONY AT ANY SUCH HEARINGS.

52 6. A. THE COUNTY CEO SHALL SUBMIT EACH PLAN, ACCOMPANIED BY A CERTIFICATION
53 AS TO THE ACCURACY OF THE SAVINGS CONTAINED THEREIN, TO THE
54 COUNTY LEGISLATIVE BODY AT LEAST FORTY-FIVE DAYS PRIOR TO A VOTE BY THE
55 PANEL.

1 B. THE COUNTY LEGISLATIVE BODY SHALL REVIEW AND CONSIDER EACH PLAN
2 SUBMITTED IN ACCORDANCE WITH PARAGRAPH A OF THIS SUBDIVISION. A MAJORITY
3 OF THE MEMBERS OF SUCH BODY MAY ISSUE AN ADVISORY REPORT ON EACH PLAN,
4 MAKING RECOMMENDATIONS AS DEEMED NECESSARY. THE COUNTY CEO MAY MODIFY A
5 PLAN BASED ON SUCH RECOMMENDATIONS, WHICH SHALL INCLUDE AN UPDATED
6 CERTIFICATION AS TO THE ACCURACY OF THE SAVINGS CONTAINED THEREIN.

7 7. A. A PANEL SHALL DULY CONSIDER ANY PLAN PROPERLY SUBMITTED TO THE
8 PANEL BY THE COUNTY CEO AND MAY APPROVE SUCH PLAN BY A MAJORITY VOTE OF
9 THE PANEL. EACH MEMBER OF A PANEL MAY, PRIOR TO THE PANEL-WIDE VOTE,
10 CAUSE TO BE REMOVED FROM A PLAN ANY PROPOSED ACTION AFFECTING THE UNIT
11 OF GOVERNMENT REPRESENTED BY THE RESPECTIVE MEMBER. WRITTEN NOTICE OF
12 SUCH REMOVAL SHALL BE PROVIDED TO THE COUNTY CEO PRIOR TO A PANEL-WIDE
13 VOTE ON A PLAN.

14 B. PLANS APPROVED BY A PANEL SHALL BE TRANSMITTED TO THE SECRETARY OF
15 STATE NO LATER THAN THIRTY DAYS FROM THE DATE OF APPROVAL BY A PANEL
16 ACCOMPANIED BY A CERTIFICATION AS TO THE ACCURACY OF THE SAVINGS ACCOM-
17 PANIED THEREIN, AND SHALL BE PUBLICLY DISSEMINATED TO RESIDENTS OF THE
18 COUNTY IN A CONCISE, CLEAR, AND COHERENT MANNER USING WORDS WITH COMMON
19 AND EVERYDAY MEANING.

20 C. THE COUNTY CEO SHALL CONDUCT A PUBLIC PRESENTATION OF ANY APPROVED
21 PLAN NO LATER THAN THIRTY DAYS FROM THE DATE OF APPROVAL BY A PANEL.
22 PUBLIC NOTICE OF SUCH PRESENTATION SHALL BE PROVIDED AT LEAST ONE WEEK
23 PRIOR IN THE MANNER PRESCRIBED IN SUBDIVISION ONE OF SECTION ONE HUNDRED
24 FOUR OF THE PUBLIC OFFICERS LAW.

25 D. BEGINNING IN TWO THOUSAND TWENTY, BY JANUARY FIFTEENTH FOLLOWING
26 ANY CALENDAR YEAR DURING WHICH A PANEL DID NOT APPROVE A PLAN AND TRANS-
27 MIT SUCH PLAN TO THE SECRETARY OF STATE PURSUANT TO PARAGRAPH B OF THIS
28 SUBDIVISION, SUCH PANEL SHALL RELEASE TO THE PUBLIC AND TRANSMIT TO THE
29 SECRETARY OF STATE A STATEMENT EXPLAINING WHY THE PANEL DID NOT APPROVE
30 A PLAN THAT YEAR, INCLUDING, FOR EACH VOTE ON A PLAN, THE VOTE TAKEN BY
31 EACH PANEL MEMBER AND AN EXPLANATION BY EACH PANEL MEMBER OF THEIR VOTE.

32 8. THE SECRETARY OF STATE MAY SOLICIT, AND THE PANELS SHALL PROVIDE AT
33 HER OR HIS REQUEST, ADVICE, GUIDANCE AND RECOMMENDATIONS CONCERNING
34 MATTERS RELATED TO THE OPERATIONS OF LOCAL GOVERNMENTS AND SHARED
35 SERVICES INITIATIVES, INCLUDING, BUT NOT LIMITED TO, MAKING RECOMMENDA-
36 TIONS REGARDING GRANT PROPOSALS INCORPORATING ELEMENTS OF SHARED
37 SERVICES, GOVERNMENT DISSOLUTIONS, GOVERNMENT AND SERVICE CONSOL-
38 IDATIONS, OR PROPERTY TAXES AND SUCH OTHER GRANTS WHERE THE SECRETARY
39 DEEMS THE INPUT OF THE PANELS TO BE IN THE BEST INTEREST OF THE PUBLIC.
40 THE PANEL SHALL ADVANCE SUCH ADVICE, GUIDANCE OR RECOMMENDATIONS BY A
41 VOTE OF THE MAJORITY OF THE MEMBERS PRESENT AT SUCH MEETING.

42 9. THE DEPARTMENT OF STATE SHALL PREPARE A REPORT TO THE GOVERNOR, THE
43 MAJORITY LEADER OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY ON THE
44 COUNTY-WIDE SHARED SERVICES PANELS CREATED PURSUANT TO PART BBB OF CHAP-
45 TER FIFTY-NINE OF THE LAWS OF TWO THOUSAND SEVENTEEN AND THIS ARTICLE
46 AND SHALL POST THE REPORT ON THE DEPARTMENT'S WEBSITE. SUCH REPORT SHALL
47 BE PROVIDED ON OR BEFORE JANUARY THIRTY-FIRST, TWO THOUSAND TWENTY-ONE
48 AND SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING:

49 A. A SUMMARY OF PLANS BY PROJECT CATEGORY, INCLUDING, BUT NOT LIMITED
50 TO, THE FOLLOWING:

- 51 (1) PUBLIC HEALTH AND INSURANCE;
- 52 (2) EMERGENCY SERVICES;
- 53 (3) SEWER, WATER, AND WASTE MANAGEMENT SYSTEMS;
- 54 (4) ENERGY PROCUREMENT AND EFFICIENCY;
- 55 (5) PARKS AND RECREATION;
- 56 (6) EDUCATION AND WORKFORCE TRAINING;

- 1 (7) LAW AND COURTS;
- 2 (8) SHARED EQUIPMENT, PERSONNEL, AND SERVICES;
- 3 (9) JOINT PURCHASING;
- 4 (10) GOVERNMENTAL REORGANIZATION;
- 5 (11) TRANSPORTATION AND HIGHWAY DEPARTMENTS; AND
- 6 (12) RECORDS MANAGEMENT AND ADMINISTRATIVE FUNCTIONS.
- 7 B. FOR EACH OF THE COUNTIES THE FOLLOWING INFORMATION:
- 8 (1) A DETAILED SUMMARY OF EACH OF THE SAVINGS PLANS, INCLUDING
- 9 REVISIONS AND UPDATES SUBMITTED EACH YEAR OR THE STATEMENT EXPLAINING
- 10 WHY THE COUNTY DID NOT APPROVE A PLAN IN ANY YEAR;
- 11 (2) THE ANTICIPATED SAVINGS FOR EACH PLAN;
- 12 (3) SAVINGS THAT ARE ACTUALLY AND DEMONSTRABLY REALIZED BY EACH PLAN
- 13 FROM IMPLEMENTATION THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND TWENTY;
- 14 (4) ANY COSTS INCURRED BY THE COUNTY FOR THE ADMINISTRATION OF THE
- 15 PANELS;
- 16 (5) THE NUMBER OF CITIES, TOWNS AND VILLAGES IN THE COUNTY;
- 17 (6) THE NUMBER OF CITIES, TOWNS AND VILLAGES THAT PARTICIPATED IN A
- 18 PANEL;
- 19 (7) THE NUMBER OF SCHOOL DISTRICTS, BOARDS OF COOPERATIVE EDUCATIONAL
- 20 SERVICES, FIRE DISTRICTS, FIRE PROTECTION DISTRICTS, OR OTHER SPECIAL
- 21 DISTRICTS IN THE COUNTY;
- 22 (8) THE NUMBER OF SCHOOL DISTRICTS, BOARDS OF COOPERATIVE EDUCATIONAL
- 23 SERVICES, FIRE DISTRICTS, FIRE PROTECTION DISTRICTS, OR OTHER SPECIAL
- 24 DISTRICTS INVITED TO PARTICIPATE IN A PANEL;
- 25 (9) THE NUMBER OF SCHOOL DISTRICTS, BOARDS OF COOPERATIVE EDUCATIONAL
- 26 SERVICES, FIRE DISTRICTS, FIRE PROTECTION DISTRICTS, OR OTHER SPECIAL
- 27 DISTRICTS THAT PARTICIPATED IN A PANEL;
- 28 (10) THE AMOUNT OF SAVINGS ACHIEVED BY EACH PARTICIPATING SCHOOL
- 29 DISTRICT, BOARD OF COOPERATIVE EDUCATIONAL SERVICES, FIRE DISTRICT, FIRE
- 30 PROTECTION DISTRICT OR OTHER SPECIAL DISTRICT;
- 31 (11) THE NUMBER OF RECOMMENDATIONS RECEIVED FROM UNITS OF GOVERNMENT
- 32 WITHIN THE COUNTY;
- 33 (12) THE NUMBER OF RECOMMENDATIONS RECEIVED FROM COLLECTIVE BARGAINING
- 34 UNITS;
- 35 (13) THE NUMBER OF PUBLIC HEARINGS HELD EACH YEAR AND THE AMOUNT OF
- 36 PUBLIC PARTICIPATION AT SUCH HEARINGS;
- 37 (14) ANY ADVISORY REPORTS APPROVED BY THE COUNTY LEGISLATURE AND ANY
- 38 MODIFICATIONS MADE AS A RESULT OF AN ADVISORY REPORT;
- 39 (15) ANY PROPOSED ACTIONS REMOVED AT THE REQUEST OF AN AFFECTED LOCAL
- 40 GOVERNMENT;
- 41 (16) THE NUMBER OF PROPOSED ACTIONS THAT ACTUALLY ELIMINATED DUPLICA-
- 42 TIVE SERVICES OR WERE NEW SHARED SERVICE AGREEMENTS;
- 43 (17) ANY REDUCTIONS TO THE TAX CAP OF A PARTICIPATING UNIT OF GOVERN-
- 44 MENT DUE TO THE TRANSFER OF A SERVICE; AND
- 45 (18) ANY REAL PROPERTY TAX SAVINGS LISTED BY UNIT OF GOVERNMENT.
- 46 S 2. If any clause, sentence, paragraph, subdivision, section or part
- 47 of this act shall be adjudged by any court of competent jurisdiction to
- 48 be invalid, such judgment shall not affect, impair, or invalidate the
- 49 remainder thereof, but shall be confined in its operation to the clause,
- 50 sentence, paragraph, subdivision, section or part thereof directly
- 51 involved in the controversy in which such judgment shall have been
- 52 rendered. It is hereby declared to be the intent of the legislature that
- 53 this act would have been enacted even if such invalid provisions had not
- 54 been included herein.
- 55 S 3. This act shall take effect immediately and shall expire and be
- 56 deemed repealed April 1, 2021.

1

PART FF

2 Section 1. Subdivision 7 of section 2046-c of the public authorities
3 law, as added by chapter 632 of the laws of the 1982, is amended to read
4 as follows:

5 7. There shall be an annual independent audit of the accounts and
6 business practices of the agency performed by independent outside audi-
7 tors [nominated by the director of the division of the budget]. Any such
8 auditor shall serve no more than three consecutive years.

9 S 2. This act shall take effect immediately.

10

PART GG

11 Section 1. The state comptroller is hereby authorized and directed to
12 loan money in accordance with the provisions set forth in subdivision 5
13 of section 4 of the state finance law to the following funds and/or
14 accounts:

- 15 1. Proprietary vocational school supervision account (20452).
- 16 2. Local government records management account (20501).
- 17 3. Child health plus program account (20810).
- 18 4. EPIC premium account (20818).
- 19 5. Education - New (20901).
- 20 6. VLT - Sound basic education fund (20904).
- 21 7. Sewage treatment program management and administration fund
22 (21000).
- 23 8. Hazardous bulk storage account (21061).
- 24 9. Federal grants indirect cost recovery account (21065).
- 25 10. Low level radioactive waste account (21066).
- 26 11. Recreation account (21067).
- 27 12. Public safety recovery account (21077).
- 28 13. Environmental regulatory account (21081).
- 29 14. Natural resource account (21082).
- 30 15. Mined land reclamation program account (21084).
- 31 16. Great lakes restoration initiative account (21087).
- 32 17. Environmental protection and oil spill compensation fund (21200).
- 33 18. Public transportation systems account (21401).
- 34 19. Metropolitan mass transportation (21402).
- 35 20. Operating permit program account (21451).
- 36 21. Mobile source account (21452).
- 37 22. Statewide planning and research cooperative system account
38 (21902).
- 39 23. New York state thruway authority account (21905).
- 40 24. Mental hygiene program fund account (21907).
- 41 25. Mental hygiene patient income account (21909).
- 42 26. Financial control board account (21911).
- 43 27. Regulation of racing account (21912).
- 44 28. New York Metropolitan Transportation Council account (21913).
- 45 29. State university dormitory income reimbursable account (21937).
- 46 30. Criminal justice improvement account (21945).
- 47 31. Environmental laboratory reference fee account (21959).
- 48 32. Clinical laboratory reference system assessment account (21962).
- 49 33. Indirect cost recovery account (21978).
- 50 34. High school equivalency program account (21979).
- 51 35. Multi-agency training account (21989).
- 52 36. Interstate reciprocity for post-secondary distance education
53 account (23800).

- 1 37. Bell jar collection account (22003).
- 2 38. Industry and utility service account (22004).
- 3 39. Real property disposition account (22006).
- 4 40. Parking account (22007).
- 5 41. Courts special grants (22008).
- 6 42. Asbestos safety training program account (22009).
- 7 43. Batavia school for the blind account (22032).
- 8 44. Investment services account (22034).
- 9 45. Surplus property account (22036).
- 10 46. Financial oversight account (22039).
- 11 47. Regulation of Indian gaming account (22046).
- 12 48. Rome school for the deaf account (22053).
- 13 49. Seized assets account (22054).
- 14 50. Administrative adjudication account (22055).
- 15 51. Federal salary sharing account (22056).
- 16 52. New York City assessment account (22062).
- 17 53. Cultural education account (22063).
- 18 54. Local services account (22078).
- 19 55. DHCR mortgage servicing account (22085).
- 20 56. Housing indirect cost recovery account (22090).
- 21 57. DHCR-HCA application fee account (22100).
- 22 58. Low income housing monitoring account (22130).
- 23 59. Corporation administration account (22135).
- 24 60. Montrose veteran's home account (22144).
- 25 61. Deferred compensation administration account (22151).
- 26 62. Rent revenue other New York City account (22156).
- 27 63. Rent revenue account (22158).
- 28 64. Tax revenue arrearage account (22168).
- 29 65. Intentionally omitted.
- 30 66. State university general income offset account (22654).
- 31 67. Lake George park trust fund account (22751).
- 32 68. State police motor vehicle law enforcement account (22802).
- 33 69. Highway safety program account (23001).
- 34 70. DOH drinking water program account (23102).
- 35 71. NYCCC operating offset account (23151).
- 36 72. Commercial gaming revenue account (23701).
- 37 73. Commercial gaming regulation account (23702).
- 38 74. Highway use tax administration account (23801).
- 39 75. Fantasy sports administration account (24951).
- 40 76. Highway and bridge capital account (30051).
- 41 77. Aviation purpose account (30053).
- 42 78. State university residence hall rehabilitation fund (30100).
- 43 79. State parks infrastructure account (30351).
- 44 80. Clean water/clean air implementation fund (30500).
- 45 81. Hazardous waste remedial cleanup account (31506).
- 46 82. Youth facilities improvement account (31701).
- 47 83. Housing assistance fund (31800).
- 48 84. Housing program fund (31850).
- 49 85. Highway facility purpose account (31951).
- 50 86. Information technology capital financing account (32215).
- 51 87. New York racing account (32213).
- 52 88. Capital miscellaneous gifts account (32214).
- 53 89. New York environmental protection and spill remediation account
54 (32219).
- 55 90. Mental hygiene facilities capital improvement fund (32300).
- 56 91. Correctional facilities capital improvement fund (32350).

- 1 92. New York State Storm Recovery Capital Fund (33000).
- 2 93. OGS convention center account (50318).
- 3 94. Empire Plaza Gift Shop (50327).
- 4 95. Centralized services fund (55000).
- 5 96. Archives records management account (55052).
- 6 97. Federal single audit account (55053).
- 7 98. Civil service EHS occupational health program account (55056).
- 8 99. Banking services account (55057).
- 9 100. Cultural resources survey account (55058).
- 10 101. Neighborhood work project account (55059).
- 11 102. Automation & printing chargeback account (55060).
- 12 103. OFT NYT account (55061).
- 13 104. Data center account (55062).
- 14 105. Intrusion detection account (55066).
- 15 106. Domestic violence grant account (55067).
- 16 107. Centralized technology services account (55069).
- 17 108. Labor contact center account (55071).
- 18 109. Human services contact center account (55072).
- 19 110. Tax contact center account (55073).
- 20 111. Executive direction internal audit account (55251).
- 21 112. CIO Information technology centralized services account (55252).
- 22 113. Health insurance internal service account (55300).
- 23 114. Civil service employee benefits division administrative account
- 24 (55301).
- 25 115. Correctional industries revolving fund (55350).
- 26 116. Employees health insurance account (60201).
- 27 117. Medicaid management information system escrow fund (60900).
- 28 118. Department of law civil recoveries account.

29 S 1-a. The state comptroller is hereby authorized and directed to loan
30 money in accordance with the provisions set forth in subdivision 5 of
31 section 4 of the state finance law to any account within the following
32 federal funds, provided the comptroller has made a determination that
33 sufficient federal grant award authority is available to reimburse such
34 loans:

- 35 1. Federal USDA-food and nutrition services fund (25000).
- 36 2. Federal health and human services fund (25100).
- 37 3. Federal education fund (25200).
- 38 4. Federal block grant fund (25250).
- 39 5. Federal miscellaneous operating grants fund (25300).
- 40 6. Federal unemployment insurance administration fund (25900).
- 41 7. Federal unemployment insurance occupational training fund (25950).
- 42 8. Federal emergency employment act fund (26000).
- 43 9. Federal capital projects fund (31350).

44 S 1-b. The state comptroller is hereby authorized and directed to loan
45 money in accordance with the provisions set forth in subdivision 5 of
46 section 4 of the state finance law to any fund within the special reven-
47 ue, capital projects, proprietary or fiduciary funds for the purpose of
48 payment of any fringe benefit or indirect cost liabilities or obli-
49 gations incurred.

50 S 2. Notwithstanding any law to the contrary, and in accordance with
51 section 4 of the state finance law, the comptroller is hereby authorized
52 and directed to transfer, upon request of the director of the budget, on
53 or before March 31, 2019, up to the unencumbered balance or the follow-
54 ing amounts:

55 Economic Development and Public Authorities:

- 1 1. \$175,000 from the miscellaneous special revenue fund, underground
2 facilities safety training account (22172), to the general fund.
- 3 2. \$2,500,000 from the miscellaneous special revenue fund, cable tele-
4 vision account (21971), to the general fund.
- 5 3. An amount up to the unencumbered balance from the miscellaneous
6 special revenue fund, business and licensing services account (21977),
7 to the general fund.
- 8 4. \$14,810,000 from the miscellaneous special revenue fund, code
9 enforcement account (21904), to the general fund.
- 10 5. \$3,000,000 from the general fund to the miscellaneous special
11 revenue fund, tax revenue arrearage account (22168).
- 12 Education:
- 13 1. \$2,294,000,000 from the general fund to the state lottery fund,
14 education account (20901), as reimbursement for disbursements made from
15 such fund for supplemental aid to education pursuant to section 92-c of
16 the state finance law that are in excess of the amounts deposited in
17 such fund for such purposes pursuant to section 1612 of the tax law.
- 18 2. \$906,800,000 from the general fund to the state lottery fund, VLT
19 education account (20904), as reimbursement for disbursements made from
20 such fund for supplemental aid to education pursuant to section 92-c of
21 the state finance law that are in excess of the amounts deposited in
22 such fund for such purposes pursuant to section 1612 of the tax law.
- 23 3. \$140,040,000 from the general fund to the New York state commercial
24 gaming fund, commercial gaming revenue account (23701), as reimbursement
25 for disbursements made from such fund for supplemental aid to education
26 pursuant to section 97-nnnn of the state finance law that are in excess
27 of the amounts deposited in such fund for purposes pursuant to section
28 1352 of the racing, pari-mutuel wagering and breeding law.
- 29 4. Moneys from the state lottery fund (20900) up to an amount deposit-
30 ed in such fund pursuant to section 1612 of the tax law in excess of the
31 current year appropriation for supplemental aid to education pursuant to
32 section 92-c of the state finance law.
- 33 5. \$300,000 from the New York state local government records manage-
34 ment improvement fund, local government records management account
35 (20501), to the New York state archives partnership trust fund, archives
36 partnership trust maintenance account (20351).
- 37 6. \$900,000 from the general fund to the miscellaneous special revenue
38 fund, Batavia school for the blind account (22032).
- 39 7. \$900,000 from the general fund to the miscellaneous special revenue
40 fund, Rome school for the deaf account (22053).
- 41 8. \$343,400,000 from the state university dormitory income fund
42 (40350) to the miscellaneous special revenue fund, state university
43 dormitory income reimbursable account (21937).
- 44 9. \$20,000,000 from any of the state education department special
45 revenue and internal service funds to the miscellaneous special revenue
46 fund, indirect cost recovery account (21978).
- 47 10. \$8,318,000 from the general fund to the state university income
48 fund, state university income offset account (22654), for the state's
49 share of repayment of the STIP loan.
- 50 11. \$44,000,000 from the state university income fund, state universi-
51 ty hospitals income reimbursable account (22656) to the general fund for
52 hospital debt service for the period April 1, 2018 through March 31,
53 2019.
- 54 12. \$4,300,000 from the miscellaneous special revenue fund, office of
55 the professions account (22051), to the miscellaneous capital projects
56 fund, office of the professions electronic licensing account (32200).

1 Environmental Affairs:

- 2 1. \$16,000,000 from any of the department of environmental conserva-
3 tion's special revenue federal funds to the environmental conservation
4 special revenue fund, federal indirect recovery account (21065).
5 2. \$5,000,000 from any of the department of environmental conserva-
6 tion's special revenue federal funds to the conservation fund (21150) as
7 necessary to avoid diversion of conservation funds.
8 3. \$3,000,000 from any of the office of parks, recreation and historic
9 preservation capital projects federal funds and special revenue federal
10 funds to the miscellaneous special revenue fund, federal grant indirect
11 cost recovery account (22188).
12 4. \$1,000,000 from any of the office of parks, recreation and historic
13 preservation special revenue federal funds to the miscellaneous capital
14 projects fund, I love NY water account (32212).
15 5. \$28,000,000 from the general fund to the environmental protection
16 fund, environmental protection fund transfer account (30451).
17 6. \$6,500,000 from the general fund to the hazardous waste remedial
18 fund, hazardous waste oversight and assistance account (31505).
19 7. An amount up to or equal to the cash balance within the special
20 revenue-other waste management & cleanup account (21053) to the capital
21 projects fund (30000) for services and capital expenses related to the
22 management and cleanup program as put forth in section 27-1915 of the
23 environmental conservation law.

24 Family Assistance:

- 25 1. \$7,000,000 from any of the office of children and family services,
26 office of temporary and disability assistance, or department of health
27 special revenue federal funds and the general fund, in accordance with
28 agreements with social services districts, to the miscellaneous special
29 revenue fund, office of human resources development state match account
30 (21967).
31 2. \$4,000,000 from any of the office of children and family services
32 or office of temporary and disability assistance special revenue federal
33 funds to the miscellaneous special revenue fund, family preservation and
34 support services and family violence services account (22082).
35 3. \$18,670,000 from any of the office of children and family services,
36 office of temporary and disability assistance, or department of health
37 special revenue federal funds and any other miscellaneous revenues
38 generated from the operation of office of children and family services
39 programs to the general fund.
40 4. \$140,000,000 from any of the office of temporary and disability
41 assistance or department of health special revenue funds to the general
42 fund.
43 5. \$2,500,000 from any of the office of temporary and disability
44 assistance special revenue funds to the miscellaneous special revenue
45 fund, office of temporary and disability assistance program account
46 (21980).
47 6. \$7,400,000 from any of the office of children and family services,
48 office of temporary and disability assistance, department of labor, and
49 department of health special revenue federal funds to the office of
50 children and family services miscellaneous special revenue fund, multi-
51 agency training contract account (21989).
52 7. \$205,000,000 from the miscellaneous special revenue fund, youth
53 facility per diem account (22186), to the general fund.
54 8. \$621,850 from the general fund to the combined gifts, grants, and
55 bequests fund, WB Hoyt Memorial account (20128).

- 1 9. \$5,000,000 from the miscellaneous special revenue fund, state
2 central registry (22028), to the general fund.
- 3 General Government:
- 4 1. \$1,566,000 from the miscellaneous special revenue fund, examination
5 and miscellaneous revenue account (22065) to the general fund.
- 6 2. \$8,083,000 from the general fund to the health insurance revolving
7 fund (55300).
- 8 3. \$192,400,000 from the health insurance reserve receipts fund
9 (60550) to the general fund.
- 10 4. \$150,000 from the general fund to the not-for-profit revolving loan
11 fund (20650).
- 12 5. \$150,000 from the not-for-profit revolving loan fund (20650) to the
13 general fund.
- 14 6. \$3,000,000 from the miscellaneous special revenue fund, surplus
15 property account (22036), to the general fund.
- 16 7. \$19,000,000 from the miscellaneous special revenue fund, revenue
17 arrearage account (22024), to the general fund.
- 18 8. \$1,826,000 from the miscellaneous special revenue fund, revenue
19 arrearage account (22024), to the miscellaneous special revenue fund,
20 authority budget office account (22138).
- 21 9. \$1,000,000 from the miscellaneous special revenue fund, parking
22 services account (22007), to the general fund, for the purpose of reim-
23 bursing the costs of debt service related to state parking facilities.
- 24 10. \$21,778,000 from the general fund to the centralized services
25 fund, COPS account (55013).
- 26 11. \$13,960,000 from the general fund to the agencies internal service
27 fund, central technology services account (55069), for the purpose of
28 enterprise technology projects.
- 29 12. \$5,500,000 from the miscellaneous special revenue fund, technology
30 financing account (22207) to the internal service fund, data center
31 account (55062).
- 32 13. \$12,500,000 from the internal service fund, human services telecom
33 account (55063) to the internal service fund, data center account
34 (55062).
- 35 14. \$300,000 from the internal service fund, learning management
36 systems account (55070) to the internal service fund, data center
37 account (55062).
- 38 15. \$15,000,000 from the miscellaneous special revenue fund, workers'
39 compensation account (21995), to the miscellaneous capital projects
40 fund, workers' compensation board IT business process design fund,
41 (32218).
- 42 16. \$12,000,000 from the miscellaneous special revenue fund, parking
43 services account (22007), to the centralized services, building support
44 services account (55018).
- 45 17. \$6,000,000 from the general fund to the internal service fund,
46 business services center account (55022).
- 47 Health:
- 48 1. A transfer from the general fund to the combined gifts, grants and
49 bequests fund, breast cancer research and education account (20155), up
50 to an amount equal to the monies collected and deposited into that
51 account in the previous fiscal year.
- 52 2. A transfer from the general fund to the combined gifts, grants and
53 bequests fund, prostate cancer research, detection, and education
54 account (20183), up to an amount equal to the moneys collected and
55 deposited into that account in the previous fiscal year.

- 1 3. A transfer from the general fund to the combined gifts, grants and
2 bequests fund, Alzheimer's disease research and assistance account
3 (20143), up to an amount equal to the moneys collected and deposited
4 into that account in the previous fiscal year.
- 5 4. \$33,134,000 from the HCRA resources fund (20800) to the miscella-
6 neous special revenue fund, empire state stem cell trust fund account
7 (22161).
- 8 5. \$6,000,000 from the miscellaneous special revenue fund, certificate
9 of need account (21920), to the miscellaneous capital projects fund,
10 healthcare IT capital subfund (32216).
- 11 6. \$2,000,000 from the miscellaneous special revenue fund, vital
12 health records account (22103), to the miscellaneous capital projects
13 fund, healthcare IT capital subfund (32216).
- 14 7. \$2,000,000 from the miscellaneous special revenue fund, profes-
15 sional medical conduct account (22088), to the miscellaneous capital
16 projects fund, healthcare IT capital subfund (32216).
- 17 8. \$91,304,000 from the HCRA resources fund (20800) to the capital
18 projects fund (30000).
- 19 9. \$6,550,000 from the general fund to the medical marihuana trust
20 fund, health operation and oversight account (23755).
- 21 10. \$1,086,000 from the miscellaneous special revenue fund, certifi-
22 cate of need account (21920), to the general fund.
- 23 11. A transfer of up to \$500 million from the miscellaneous special
24 revenue fund, health care stabilization account to the HCRA resources
25 fund (20800).
- 26 Labor:
- 27 1. \$400,000 from the miscellaneous special revenue fund, DOL fee and
28 penalty account (21923), to the child performer's protection fund, child
29 performer protection account (20401).
- 30 2. \$11,700,000 from the unemployment insurance interest and penalty
31 fund, unemployment insurance special interest and penalty account
32 (23601), to the general fund.
- 33 3. \$5,000,000 from the miscellaneous special revenue fund, workers'
34 compensation account (21995), to the training and education program
35 occupation safety and health fund, OSHA-training and education account
36 (21251) and occupational health inspection account (21252).
- 37 Mental Hygiene:
- 38 1. \$10,000,000 from the general fund, to the miscellaneous special
39 revenue fund, federal salary sharing account (22056).
- 40 2. \$1,800,000,000 from the general fund to the miscellaneous special
41 revenue fund, mental hygiene patient income account (21909).
- 42 3. \$2,200,000,000 from the general fund to the miscellaneous special
43 revenue fund, mental hygiene program fund account (21907).
- 44 4. \$100,000,000 from the miscellaneous special revenue fund, mental
45 hygiene program fund account (21907), to the general fund.
- 46 5. \$100,000,000 from the miscellaneous special revenue fund, mental
47 hygiene patient income account (21909), to the general fund.
- 48 6. \$3,800,000 from the general fund, to the agencies internal service
49 fund, civil service EHS occupational health program account (55056).
- 50 7. \$15,000,000 from the chemical dependence service fund, substance
51 abuse services fund account (22700), to the capital projects fund
52 (30000).
- 53 8. \$3,000,000 from the chemical dependence service fund, substance
54 abuse services fund account (22700), to the mental hygiene capital
55 improvement fund (32305).

1 9. \$3,000,000 from the chemical dependence service fund, substance
2 abuse services fund account (22700), to the general fund.
3 Public Protection:
4 1. \$1,350,000 from the miscellaneous special revenue fund, emergency
5 management account (21944), to the general fund.
6 2. \$2,087,000 from the general fund to the miscellaneous special
7 revenue fund, recruitment incentive account (22171).
8 3. \$20,773,000 from the general fund to the correctional industries
9 revolving fund, correctional industries internal service account
10 (55350).
11 4. \$60,000,000 from any of the division of homeland security and emer-
12 gency services special revenue federal funds to the general fund.
13 5. \$8,600,000 from the miscellaneous special revenue fund, criminal
14 justice improvement account (21945), to the general fund.
15 6. \$115,420,000 from the state police motor vehicle law enforcement
16 and motor vehicle theft and insurance fraud prevention fund, state
17 police motor vehicle enforcement account (22802), to the general fund
18 for state operation expenses of the division of state police.
19 7. \$118,500,000 from the general fund to the correctional facilities
20 capital improvement fund (32350).
21 8. \$5,000,000 from the general fund to the dedicated highway and
22 bridge trust fund (30050) for the purpose of work zone safety activities
23 provided by the division of state police for the department of transpor-
24 tation.
25 9. \$10,000,000 from the miscellaneous special revenue fund, statewide
26 public safety communications account (22123), to the capital projects
27 fund (30000).
28 10. \$9,830,000 from the miscellaneous special revenue fund, criminal
29 justice improvement account (21945), to the general fund.
30 11. \$1,000,000 from the general fund to the agencies internal service
31 fund, neighborhood work project account (55059).
32 12. \$7,980,000 from the miscellaneous special revenue fund, finger-
33 print identification & technology account (21950), to the general fund.
34 13. \$1,100,000 from the state police motor vehicle law enforcement and
35 motor vehicle theft and insurance fraud prevention fund, motor vehicle
36 theft and insurance fraud account (22801), to the general fund.
37 14. \$50,000,000 from the miscellaneous special revenue fund, statewide
38 public safety communications account (22123), to the general fund.
39 Transportation:
40 1. \$17,672,000 from the federal miscellaneous operating grants fund to
41 the miscellaneous special revenue fund, New York Metropolitan Transpor-
42 tation Council account (21913).
43 2. \$20,147,000 from the federal capital projects fund to the miscella-
44 neous special revenue fund, New York Metropolitan Transportation Council
45 account (21913).
46 3. \$15,058,017 from the general fund to the mass transportation oper-
47 ating assistance fund, public transportation systems operating assist-
48 ance account (21401), of which \$12,000,000 constitutes the base need for
49 operations.
50 4. \$720,000,000 from the general fund to the dedicated highway and
51 bridge trust fund (30050).
52 5. \$244,250,000 from the general fund to the MTA financial assistance
53 fund, mobility tax trust account (23651).
54 6. \$5,000,000 from the miscellaneous special revenue fund, transporta-
55 tion regulation account (22067) to the dedicated highway and bridge
56 trust fund (30050), for disbursements made from such fund for motor

1 carrier safety that are in excess of the amounts deposited in the dedi-
2 cated highway and bridge trust fund (30050) for such purpose pursuant to
3 section 94 of the transportation law.

4 7. \$3,000,000 from the miscellaneous special revenue fund, traffic
5 adjudication account (22055), to the general fund.

6 8. \$17,421,000 from the mass transportation operating assistance fund,
7 metropolitan mass transportation operating assistance account (21402),
8 to the capital projects fund (30000).

9 9. Intentionally omitted.

10 10. \$3,662,000 from the miscellaneous special revenue fund, accident
11 prevention course program account (22094), to the dedicated highway and
12 bridge trust fund (30050).

13 11. \$3,065,000 from the miscellaneous special revenue fund, motorcycle
14 safety account (21976), to the dedicated highway and bridge trust fund
15 (30050).

16 12. \$114,000 from the miscellaneous special revenue fund, seized
17 assets account (21906), to the dedicated highway and bridge trust fund
18 (30050).

19 Miscellaneous:

20 1. \$250,000,000 from the general fund to any funds or accounts for the
21 purpose of reimbursing certain outstanding accounts receivable balances.

22 2. \$500,000,000 from the general fund to the debt reduction reserve
23 fund (40000).

24 3. \$450,000,000 from the New York state storm recovery capital fund
25 (33000) to the revenue bond tax fund (40152).

26 4. \$18,550,000 from the general fund, community projects account GG
27 (10256), to the general fund, state purposes account (10050).

28 5. \$100,000,000 from any special revenue federal fund to the general
29 fund, state purposes account (10050).

30 S 3. Notwithstanding any law to the contrary, and in accordance with
31 section 4 of the state finance law, the comptroller is hereby authorized
32 and directed to transfer, on or before March 31, 2019:

33 1. Upon request of the commissioner of environmental conservation, up
34 to \$12,531,400 from revenues credited to any of the department of envi-
35 ronmental conservation special revenue funds, including \$4,000,000 from
36 the environmental protection and oil spill compensation fund (21200),
37 and \$1,819,600 from the conservation fund (21150), to the environmental
38 conservation special revenue fund, indirect charges account (21060).

39 2. Upon request of the commissioner of agriculture and markets, up to
40 \$3,000,000 from any special revenue fund or enterprise fund within the
41 department of agriculture and markets to the general fund, to pay appro-
42 priate administrative expenses.

43 3. Upon request of the commissioner of agriculture and markets, up to
44 \$2,000,000 from the state exposition special fund, state fair receipts
45 account (50051) to the miscellaneous capital projects fund, state fair
46 capital improvement account (32208).

47 4. Upon request of the commissioner of the division of housing and
48 community renewal, up to \$6,221,000 from revenues credited to any divi-
49 sion of housing and community renewal federal or miscellaneous special
50 revenue fund to the miscellaneous special revenue fund, housing indirect
51 cost recovery account (22090).

52 5. Upon request of the commissioner of the division of housing and
53 community renewal, up to \$5,500,000 may be transferred from any miscel-
54 laneous special revenue fund account, to any miscellaneous special
55 revenue fund.

1 6. Upon request of the commissioner of health up to \$8,500,000 from
2 revenues credited to any of the department of health's special revenue
3 funds, to the miscellaneous special revenue fund, administration account
4 (21982).

5 S 4. On or before March 31, 2019, the comptroller is hereby authorized
6 and directed to deposit earnings that would otherwise accrue to the
7 general fund that are attributable to the operation of section 98-a of
8 the state finance law, to the agencies internal service fund, banking
9 services account (55057), for the purpose of meeting direct payments
10 from such account.

11 S 5. Notwithstanding any law to the contrary, upon the direction of
12 the director of the budget and upon requisition by the state university
13 of New York, the dormitory authority of the state of New York is
14 directed to transfer, up to \$22,000,000 in revenues generated from the
15 sale of notes or bonds, the state university income fund general revenue
16 account (22653) for reimbursement of bondable equipment for further
17 transfer to the state's general fund.

18 S 6. Notwithstanding any law to the contrary, and in accordance with
19 section 4 of the state finance law, the comptroller is hereby authorized
20 and directed to transfer, upon request of the director of the budget and
21 upon consultation with the state university chancellor or his or her
22 designee, on or before March 31, 2019, up to \$16,000,000 from the state
23 university income fund general revenue account (22653) to the state
24 general fund for debt service costs related to campus supported capital
25 project costs for the NY-SUNY 2020 challenge grant program at the
26 University at Buffalo.

27 S 7. Notwithstanding any law to the contrary, and in accordance with
28 section 4 of the state finance law, the comptroller is hereby authorized
29 and directed to transfer, upon request of the director of the budget and
30 upon consultation with the state university chancellor or his or her
31 designee, on or before March 31, 2019, up to \$6,500,000 from the state
32 university income fund general revenue account (22653) to the state
33 general fund for debt service costs related to campus supported capital
34 project costs for the NY-SUNY 2020 challenge grant program at the
35 University at Albany.

36 S 8. Notwithstanding any law to the contrary, the state university
37 chancellor or his or her designee is authorized and directed to transfer
38 estimated tuition revenue balances from the state university collection
39 fund (61000) to the state university income fund, state university
40 general revenue offset account (22655) on or before March 31, 2019.

41 S 9. Notwithstanding any law to the contrary, and in accordance with
42 section 4 of the state finance law, the comptroller is hereby authorized
43 and directed to transfer, upon request of the director of the budget, up
44 to \$1,019,348,300 from the general fund to the state university income
45 fund, state university general revenue offset account (22655) during the
46 period of July 1, 2018 through June 30, 2019 to support operations at
47 the state university.

48 S 9-a. Notwithstanding any law to the contrary, and in accordance with
49 section 4 of the state finance law, the comptroller is hereby authorized
50 and directed to transfer, upon request of the director of the budget, up
51 to \$78,564,000 from the general fund to the state university income
52 fund, state university hospitals income reimbursable account (22656)
53 during the period July 1, 2018 through June 30, 2019 to reflect ongoing
54 state subsidy of SUNY hospitals and to pay costs attributable to the
55 SUNY hospitals' state agency status.

1 S 10. Notwithstanding any law to the contrary, and in accordance with
2 section 4 of the state financial law, the comptroller is hereby author-
3 ized and directed to transfer, upon request of the director of the budg-
4 et, up to \$20,000,000 from the general fund to the state university
5 income fund, state university general revenue offset account (22655)
6 during the period of July 1, 2018 to June 30, 2019 to support operations
7 at the state university in accordance with the maintenance of effort
8 pursuant to clause (v) of subparagraph (4) of paragraph h of subdivision
9 2 of section 355 of the education law.

10 S 11. Notwithstanding any law to the contrary, and in accordance with
11 section 4 of the state finance law, the comptroller is hereby authorized
12 and directed to transfer, upon request of the state university chancel-
13 lor or his or her designee, up to \$47,436,000 from the state university
14 income fund, state university hospitals income reimbursable account
15 (22656), for services and expenses of hospital operations and capital
16 expenditures at the state university hospitals; and the state university
17 income fund, Long Island veterans' home account (22652) to the state
18 university capital projects fund (32400) on or before June 30, 2019.

19 S 12. Notwithstanding any law to the contrary, and in accordance with
20 section 4 of the state finance law, the comptroller, after consultation
21 with the state university chancellor or his or her designee, is hereby
22 authorized and directed to transfer moneys, in the first instance, from
23 the state university collection fund, Stony Brook hospital collection
24 account (61006), Brooklyn hospital collection account (61007), and Syra-
25 cuse hospital collection account (61008) to the state university income
26 fund, state university hospitals income reimbursable account (22656) in
27 the event insufficient funds are available in the state university
28 income fund, state university hospitals income reimbursable account
29 (22656) to permit the full transfer of moneys authorized for transfer,
30 to the general fund for payment of debt service related to the SUNY
31 hospitals. Notwithstanding any law to the contrary, the comptroller is
32 also hereby authorized and directed, after consultation with the state
33 university chancellor or his or her designee, to transfer moneys from
34 the state university income fund to the state university income fund,
35 state university hospitals income reimbursable account (22656) in the
36 event insufficient funds are available in the state university income
37 fund, state university hospitals income reimbursable account (22656) to
38 pay hospital operating costs or to permit the full transfer of moneys
39 authorized for transfer, to the general fund for payment of debt service
40 related to the SUNY hospitals on or before March 31, 2019.

41 S 13. Notwithstanding any law to the contrary, upon the direction of
42 the director of the budget and the chancellor of the state university of
43 New York or his or her designee, and in accordance with section 4 of the
44 state finance law, the comptroller is hereby authorized and directed to
45 transfer monies from the state university dormitory income fund (40350)
46 to the state university residence hall rehabilitation fund (30100), and
47 from the state university residence hall rehabilitation fund (30100) to
48 the state university dormitory income fund (40350), in an amount not to
49 exceed \$80 million from each fund.

50 S 14. Notwithstanding any law to the contrary, and in accordance with
51 section 4 of the state finance law, the comptroller is hereby authorized
52 and directed to transfer monies, upon request of the director of the
53 budget, on or before March 31, 2019, from and to any of the following
54 accounts: the miscellaneous special revenue fund, patient income account
55 (21909), the miscellaneous special revenue fund, mental hygiene program
56 fund account (21907), the miscellaneous special revenue fund, federal

1 salary sharing account (22056), or the general fund in any combination,
2 the aggregate of which shall not exceed \$350 million.

3 S 15. Subdivision 5 of section 97-f of the state finance law, as
4 amended by chapter 18 of the laws of 2003, is amended to read as
5 follows:

6 5. The comptroller shall from time to time, but in no event later than
7 the fifteenth day of each month, pay over for deposit in the mental
8 hygiene [patient income] GENERAL FUND STATE OPERATIONS account all
9 moneys in the mental health services fund in excess of the amount of
10 money required to be maintained on deposit in the mental health services
11 fund. The amount required to be maintained in such fund shall be (i)
12 twenty percent of the amount of the next payment coming due relating to
13 the mental health services facilities improvement program under any
14 agreement between the facilities development corporation and the New
15 York state medical care facilities finance agency multiplied by the
16 number of months from the date of the last such payment with respect to
17 payments under any such agreement required to be made semi-annually,
18 plus (ii) those amounts specified in any such agreement with respect to
19 payments required to be made other than semi-annually, including for
20 variable rate bonds, interest rate exchange or similar agreements or
21 other financing arrangements permitted by law. Prior to making any such
22 payment, the comptroller shall make and deliver to the director of the
23 budget and the chairmen of the facilities development corporation and
24 the New York state medical care facilities finance agency, a certificate
25 stating the aggregate amount to be maintained on deposit in the mental
26 health services fund to comply in full with the provisions of this
27 subdivision.

28 S 16. Notwithstanding any law to the contrary, and in accordance with
29 section 4 of the state finance law, the comptroller is hereby authorized
30 and directed to transfer, at the request of the director of the budget,
31 up to \$250 million from the unencumbered balance of any special revenue
32 fund or account, agency fund or account, internal service fund or
33 account, enterprise fund or account, or any combination of such funds
34 and accounts, to the general fund. The amounts transferred pursuant to
35 this authorization shall be in addition to any other transfers expressly
36 authorized in the 2018-19 budget. Transfers from federal funds, debt
37 service funds, capital projects funds, the community projects fund, or
38 funds that would result in the loss of eligibility for federal benefits
39 or federal funds pursuant to federal law, rule, or regulation as assent-
40 ed to in chapter 683 of the laws of 1938 and chapter 700 of the laws of
41 1951 are not permitted pursuant to this authorization.

42 S 17. Notwithstanding any law to the contrary, and in accordance with
43 section 4 of the state finance law, the comptroller is hereby authorized
44 and directed to transfer, at the request of the director of the budget,
45 up to \$100 million from any non-general fund or account, or combination
46 of funds and accounts, to the miscellaneous special revenue fund, tech-
47 nology financing account (22207), the miscellaneous capital projects
48 fund, information technology capital financing account (32215), or the
49 centralized technology services account (55069), for the purpose of
50 consolidating technology procurement and services. The amounts trans-
51 ferred to the miscellaneous special revenue fund, technology financing
52 account (22207) pursuant to this authorization shall be equal to or less
53 than the amount of such monies intended to support information technolo-
54 gy costs which are attributable, according to a plan, to such account
55 made in pursuance to an appropriation by law. Transfers to the technolo-
56 gy financing account shall be completed from amounts collected by non-

1 general funds or accounts pursuant to a fund deposit schedule or perma-
2 nent statute, and shall be transferred to the technology financing
3 account pursuant to a schedule agreed upon by the affected agency
4 commissioner. Transfers from funds that would result in the loss of
5 eligibility for federal benefits or federal funds pursuant to federal
6 law, rule, or regulation as assented to in chapter 683 of the laws of
7 1938 and chapter 700 of the laws of 1951 are not permitted pursuant to
8 this authorization.

9 S 18. Notwithstanding any other law to the contrary, up to \$145
10 million of the assessment reserves remitted to the chair of the workers'
11 compensation board pursuant to subdivision 6 of section 151 of the work-
12 ers' compensation law shall, at the request of the director of the budg-
13 et, be transferred to the state insurance fund, for partial payment and
14 partial satisfaction of the state's obligations to the state insurance
15 fund under section 88-c of the workers' compensation law.

16 S 19. Notwithstanding any law to the contrary, and in accordance with
17 section 4 of the state finance law, the comptroller is hereby authorized
18 and directed to transfer, at the request of the director of the budget,
19 up to \$400 million from any non-general fund or account, or combination
20 of funds and accounts, to the general fund for the purpose of consol-
21 idating technology procurement and services. The amounts transferred
22 pursuant to this authorization shall be equal to or less than the amount
23 of such monies intended to support information technology costs which
24 are attributable, according to a plan, to such account made in pursuance
25 to an appropriation by law. Transfers to the general fund shall be
26 completed from amounts collected by non-general funds or accounts pursu-
27 ant to a fund deposit schedule. Transfers from funds that would result
28 in the loss of eligibility for federal benefits or federal funds pursu-
29 ant to federal law, rule, or regulation as assented to in chapter 683 of
30 the laws of 1938 and chapter 700 of the laws of 1951 are not permitted
31 pursuant to this authorization.

32 S 20. Notwithstanding any provision of law to the contrary, as deemed
33 feasible and advisable by its trustees, the power authority of the state
34 of New York is authorized and directed to transfer to the state treasury
35 to the credit of the general fund \$20,000,000 for the state fiscal year
36 commencing April 1, 2018, the proceeds of which will be utilized to
37 support energy-related state activities.

38 S 21. Notwithstanding any provision of law, rule or regulation to the
39 contrary, the New York state energy research and development authority
40 is authorized and directed to make a contribution of \$913,000 to the
41 state treasury to the credit of the general fund on or before March 31,
42 2019.

43 S 21-a. Notwithstanding any provision of law to the contrary, as
44 deemed feasible and advisable by its trustees, the power authority of
45 the state of New York is authorized and directed to transfer up to
46 \$50,000,000 to the New York city housing authority pursuant to a plan
47 approved by the director of the budget, in consultation with the New
48 York city housing authority chair and the dormitory authority of the
49 state of New York, for the purpose of replacing and improving heating
50 systems in housing developments owned or operated by the New York city
51 housing authority.

52 S 21-b. Notwithstanding any provision of law, rule or regulation to
53 the contrary, the New York state energy research and development author-
54 ity is authorized and directed to transfer to the public utilities law
55 project up to \$750,000 for the services and expenses thereof for the
56 purpose of delivering civil legal services to the poor.

1 S 21-c. Notwithstanding any provision of law, rule or regulation to
2 the contrary, the New York state energy research and development author-
3 ity is authorized and directed to transfer to the energy research and
4 development operating fund established pursuant to section 1859 of the
5 public authorities law in the amount of \$23,000,000 from proceeds
6 collected by the authority from the auction or sale of carbon dioxide
7 emission allowances allocated by the department of environmental conser-
8 vation on or before March 31, 2018, which amount shall be utilized for
9 energy efficiency and weatherization in environmental justice and low
10 income communities through the New York state energy research and devel-
11 opment authority Empower NY program and residential solar projects in
12 environmental justice and low income communities through the New York
13 state energy research and development authority Affordable Solar
14 program.

15 S 22. Subdivision 5 of section 97-rrr of the state finance law, as
16 amended by section 21 of part XXX of chapter 59 of the laws of 2017, is
17 amended to read as follows:

18 5. Notwithstanding the provisions of section one hundred seventy-one-a
19 of the tax law, as separately amended by chapters four hundred eighty-
20 one and four hundred eighty-four of the laws of nineteen hundred eight-
21 y-one, and notwithstanding the provisions of chapter ninety-four of the
22 laws of two thousand eleven, or any other provisions of law to the
23 contrary, during the fiscal year beginning April first, two thousand
24 [seventeen] EIGHTEEN, the state comptroller is hereby authorized and
25 directed to deposit to the fund created pursuant to this section from
26 amounts collected pursuant to article twenty-two of the tax law and
27 pursuant to a schedule submitted by the director of the budget, up to
28 [\$2,679,997,000] \$2,458,909,000, as may be certified in such schedule as
29 necessary to meet the purposes of such fund for the fiscal year begin-
30 ning April first, two thousand [seventeen] EIGHTEEN.

31 S 23. Notwithstanding any law to the contrary, the comptroller is
32 hereby authorized and directed to transfer, upon request of the director
33 of the budget, on or before March 31, 2019, the following amounts from
34 the following special revenue accounts to the capital projects fund
35 (30000), for the purposes of reimbursement to such fund for expenses
36 related to the maintenance and preservation of state assets:

37 1. \$43,000 from the miscellaneous special revenue fund, administrative
38 program account (21982).

39 2. \$1,478,000 from the miscellaneous special revenue fund, helen hayes
40 hospital account (22140).

41 3. \$366,000 from the miscellaneous special revenue fund, New York city
42 veterans' home account (22141).

43 4. \$513,000 from the miscellaneous special revenue fund, New York
44 state home for veterans' and their dependents at oxford account (22142).

45 5. \$159,000 from the miscellaneous special revenue fund, western New
46 York veterans' home account (22143).

47 6. \$323,000 from the miscellaneous special revenue fund, New York
48 state for veterans in the lower-hudson valley account (22144).

49 7. \$2,550,000 from the miscellaneous special revenue fund, patron
50 services account (22163).

51 8. \$830,000 from the miscellaneous special revenue fund, long island
52 veterans' home account (22652).

53 9. \$5,379,000 from the miscellaneous special revenue fund, state
54 university general income reimbursable account (22653).

55 10. \$112,556,000 from the miscellaneous special revenue fund, state
56 university revenue offset account (22655).

1 11. \$557,000 from the miscellaneous special revenue fund, state
2 university of New York tuition reimbursement account (22659).

3 12. \$41,930,000 from the state university dormitory income fund, state
4 university dormitory income fund (40350).

5 13. \$1,000,000 from the miscellaneous special revenue fund, litigation
6 settlement and civil recovery account (22117).

7 S 24. Intentionally omitted.

8 S 25. Subdivision 6 of section 4 of the state finance law, as amended
9 by section 24 of part UU of chapter 54 of the laws of 2016, is amended
10 to read as follows:

11 6. Notwithstanding any law to the contrary, at the beginning of the
12 state fiscal year, the state comptroller is hereby authorized and
13 directed to receive for deposit to the credit of a fund and/or an
14 account such monies as are identified by the director of the budget as
15 having been intended for such deposit to support disbursements from such
16 fund and/or account made in pursuance of an appropriation by law. As
17 soon as practicable upon enactment of the budget, the director of the
18 budget shall, but not less than three days following preliminary
19 submission to the chairs of the senate finance committee and the assem-
20 bly ways and means committee, file with the state comptroller an iden-
21 tification of specific monies to be so deposited. Any subsequent change
22 regarding the monies to be so deposited shall be filed by the director
23 of the budget, as soon as practicable, but not less than three days
24 following preliminary submission to the chairs of the senate finance
25 committee and the assembly ways and means committee.

26 All monies identified by the director of the budget to be deposited to
27 the credit of a fund and/or account shall be consistent with the intent
28 of the budget for the then current state fiscal year as enacted by the
29 legislature.

30 The provisions of this subdivision shall expire on March thirty-first,
31 two thousand [eighteen] TWENTY.

32 S 26. Subdivision 4 of section 40 of the state finance law, as amended
33 by section 25 of part UU of chapter 54 of the laws of 2016, is amended
34 to read as follows:

35 4. Every appropriation made from a fund or account to a department or
36 agency shall be available for the payment of prior years' liabilities in
37 such fund or account for fringe benefits, indirect costs, and telecommu-
38 nications expenses and expenses for other centralized services fund
39 programs without limit. Every appropriation shall also be available for
40 the payment of prior years' liabilities other than those indicated
41 above, but only to the extent of one-half of one percent of the total
42 amount appropriated to a department or agency in such fund or account.

43 The provisions of this subdivision shall expire March thirty-first,
44 two thousand [eighteen] TWENTY.

45 S 27. Intentionally omitted.

46 S 28. Intentionally omitted.

47 S 28-a. Intentionally omitted.

48 S 29. Subdivision 1 of section 8-b of the state finance law, as added
49 by chapter 169 of the laws of 1994, is amended to read as follows:

50 1. The comptroller is hereby authorized and directed to assess fringe
51 benefit and central service agency indirect costs on all [non-general]
52 funds, and to [bill] CHARGE such assessments [on] TO such funds. Such
53 fringe benefit and indirect costs [billings] ASSESSMENTS shall be based
54 on rates provided to the comptroller by the director of the budget.
55 Copies of such rates shall be provided to the legislative fiscal commit-
56 tees.

1 S 30. Notwithstanding any other law, rule, or regulation to the
2 contrary, the state comptroller is hereby authorized and directed to use
3 any balance remaining in the mental health services fund debt service
4 appropriation, after payment by the state comptroller of all obligations
5 required pursuant to any lease, sublease, or other financing arrangement
6 between the dormitory authority of the state of New York as successor to
7 the New York state medical care facilities finance agency, and the
8 facilities development corporation pursuant to chapter 83 of the laws of
9 1995 and the department of mental hygiene for the purpose of making
10 payments to the dormitory authority of the state of New York for the
11 amount of the earnings for the investment of monies deposited in the
12 mental health services fund that such agency determines will or may have
13 to be rebated to the federal government pursuant to the provisions of
14 the internal revenue code of 1986, as amended, in order to enable such
15 agency to maintain the exemption from federal income taxation on the
16 interest paid to the holders of such agency's mental services facilities
17 improvement revenue bonds. Annually on or before each June 30th, such
18 agency shall certify to the state comptroller its determination of the
19 amounts received in the mental health services fund as a result of the
20 investment of monies deposited therein that will or may have to be
21 rebated to the federal government pursuant to the provisions of the
22 internal revenue code of 1986, as amended.

23 S 31. Subdivision 1 of section 47 of section 1 of chapter 174 of the
24 laws of 1968, constituting the New York state urban development corpo-
25 ration act, as amended by section 24 of part XXX of chapter 59 of the
26 laws of 2017, is amended to read as follows:

27 1. Notwithstanding the provisions of any other law to the contrary,
28 the dormitory authority and the corporation are hereby authorized to
29 issue bonds or notes in one or more series for the purpose of funding
30 project costs for the office of information technology services, depart-
31 ment of law, and other state costs associated with such capital
32 projects. The aggregate principal amount of bonds authorized to be
33 issued pursuant to this section shall not exceed [four hundred fifty
34 million five hundred forty thousand dollars] FIVE HUNDRED FORTY MILLION
35 NINE HUNDRED FIFTY-FOUR THOUSAND DOLLARS, excluding bonds issued to fund
36 one or more debt service reserve funds, to pay costs of issuance of such
37 bonds, and bonds or notes issued to refund or otherwise repay such bonds
38 or notes previously issued. Such bonds and notes of the dormitory
39 authority and the corporation shall not be a debt of the state, and the
40 state shall not be liable thereon, nor shall they be payable out of any
41 funds other than those appropriated by the state to the dormitory
42 authority and the corporation for principal, interest, and related
43 expenses pursuant to a service contract and such bonds and notes shall
44 contain on the face thereof a statement to such effect. Except for
45 purposes of complying with the internal revenue code, any interest
46 income earned on bond proceeds shall only be used to pay debt service on
47 such bonds.

48 S 32. Subdivision 1 of section 16 of part D of chapter 389 of the laws
49 of 1997, relating to the financing of the correctional facilities
50 improvement fund and the youth facility improvement fund, as amended by
51 section 25 of part XXX of chapter 59 of the laws of 2017, is amended to
52 read as follows:

53 1. Subject to the provisions of chapter 59 of the laws of 2000, but
54 notwithstanding the provisions of section 18 of section 1 of chapter 174
55 of the laws of 1968, the New York state urban development corporation is
56 hereby authorized to issue bonds, notes and other obligations in an

1 aggregate principal amount not to exceed [seven] EIGHT billion [seven
2 hundred forty-one] EIGHTY-TWO million [one] EIGHT hundred ninety-nine
3 thousand dollars [\$7,741,199,000] \$8,082,899,000, and shall include all
4 bonds, notes and other obligations issued pursuant to chapter 56 of the
5 laws of 1983, as amended or supplemented. The proceeds of such bonds,
6 notes or other obligations shall be paid to the state, for deposit in
7 the correctional facilities capital improvement fund to pay for all or
8 any portion of the amount or amounts paid by the state from appropri-
9 ations or reappropriations made to the department of corrections and
10 community supervision from the correctional facilities capital improve-
11 ment fund for capital projects. The aggregate amount of bonds, notes or
12 other obligations authorized to be issued pursuant to this section shall
13 exclude bonds, notes or other obligations issued to refund or otherwise
14 repay bonds, notes or other obligations theretofore issued, the proceeds
15 of which were paid to the state for all or a portion of the amounts
16 expended by the state from appropriations or reappropriations made to
17 the department of corrections and community supervision; provided,
18 however, that upon any such refunding or repayment the total aggregate
19 principal amount of outstanding bonds, notes or other obligations may be
20 greater than [seven] EIGHT billion [seven hundred forty-one] EIGHTY-TWO
21 million [one] EIGHT hundred ninety-nine thousand dollars
22 [\$7,741,199,000] \$8,082,899,000, only if the present value of the aggre-
23 gate debt service of the refunding or repayment bonds, notes or other
24 obligations to be issued shall not exceed the present value of the
25 aggregate debt service of the bonds, notes or other obligations so to be
26 refunded or repaid. For the purposes hereof, the present value of the
27 aggregate debt service of the refunding or repayment bonds, notes or
28 other obligations and of the aggregate debt service of the bonds, notes
29 or other obligations so refunded or repaid, shall be calculated by
30 utilizing the effective interest rate of the refunding or repayment
31 bonds, notes or other obligations, which shall be that rate arrived at
32 by doubling the semi-annual interest rate (compounded semi-annually)
33 necessary to discount the debt service payments on the refunding or
34 repayment bonds, notes or other obligations from the payment dates ther-
35 eof to the date of issue of the refunding or repayment bonds, notes or
36 other obligations and to the price bid including estimated accrued
37 interest or proceeds received by the corporation including estimated
38 accrued interest from the sale thereof.

39 S 33. Paragraph (a) of subdivision 2 of section 47-e of the private
40 housing finance law, as amended by section 26 of part XXX of chapter 59
41 of the laws of 2017, is amended to read as follows:

42 (a) Subject to the provisions of chapter fifty-nine of the laws of two
43 thousand, in order to enhance and encourage the promotion of housing
44 programs and thereby achieve the stated purposes and objectives of such
45 housing programs, the agency shall have the power and is hereby author-
46 ized from time to time to issue negotiable housing program bonds and
47 notes in such principal amount as shall be necessary to provide suffi-
48 cient funds for the repayment of amounts disbursed (and not previously
49 reimbursed) pursuant to law or any prior year making capital appropri-
50 ations or reappropriations for the purposes of the housing program;
51 provided, however, that the agency may issue such bonds and notes in an
52 aggregate principal amount not exceeding \$5,841,399,000 five billion
53 [three] EIGHT hundred [eighty-four] FORTY-ONE million [one] THREE
54 hundred ninety-nine thousand dollars, plus a principal amount of bonds
55 issued to fund the debt service reserve fund in accordance with the debt
56 service reserve fund requirement established by the agency and to fund

1 any other reserves that the agency reasonably deems necessary for the
2 security or marketability of such bonds and to provide for the payment
3 of fees and other charges and expenses, including underwriters'
4 discount, trustee and rating agency fees, bond insurance, credit
5 enhancement and liquidity enhancement related to the issuance of such
6 bonds and notes. No reserve fund securing the housing program bonds
7 shall be entitled or eligible to receive state funds apportioned or
8 appropriated to maintain or restore such reserve fund at or to a partic-
9 ular level, except to the extent of any deficiency resulting directly or
10 indirectly from a failure of the state to appropriate or pay the agreed
11 amount under any of the contracts provided for in subdivision four of
12 this section.

13 S 34. Subdivision (b) of section 11 of chapter 329 of the laws of
14 1991, amending the state finance law and other laws relating to the
15 establishment of the dedicated highway and bridge trust fund, as amended
16 by section 27 of part XXX of chapter 59 of the laws of 2017, is amended
17 to read as follows:

18 (b) Any service contract or contracts for projects authorized pursuant
19 to sections 10-c, 10-f, 10-g and 80-b of the highway law and section
20 14-k of the transportation law, and entered into pursuant to subdivision
21 (a) of this section, shall provide for state commitments to provide
22 annually to the thruway authority a sum or sums, upon such terms and
23 conditions as shall be deemed appropriate by the director of the budget,
24 to fund, or fund the debt service requirements of any bonds or any obli-
25 gations of the thruway authority issued to fund or to reimburse the
26 state for funding such projects having a cost not in excess of
27 [\$9,699,586,000] \$10,251,939,000 cumulatively by the end of fiscal year
28 [2017-18] 2018-19.

29 S 35. Subdivision 1 of section 1689-i of the public authorities law,
30 as amended by section 28 of part XXX of chapter 59 of the laws of 2017,
31 is amended to read as follows:

32 1. The dormitory authority is authorized to issue bonds, at the
33 request of the commissioner of education, to finance eligible library
34 construction projects pursuant to section two hundred seventy-three-a of
35 the education law, in amounts certified by such commissioner not to
36 exceed a total principal amount of [one] TWO hundred [eighty-three]
37 FORTY-SEVEN million dollars.

38 S 36. Subdivision (a) of section 27 of part Y of chapter 61 of the
39 laws of 2005, relating to providing for the administration of certain
40 funds and accounts related to the 2005-2006 budget, as amended by
41 section 29 of part XXX of chapter 59 of the laws of 2017, is amended to
42 read as follows:

43 (a) Subject to the provisions of chapter 59 of the laws of 2000, but
44 notwithstanding any provisions of law to the contrary, the urban devel-
45 opment corporation is hereby authorized to issue bonds or notes in one
46 or more series in an aggregate principal amount not to exceed
47 [\$173,600,000] \$220,100,000 TWO HUNDRED TWENTY MILLION ONE HUNDRED THOU-
48 SAND DOLLARS, excluding bonds issued to finance one or more debt service
49 reserve funds, to pay costs of issuance of such bonds, and bonds or
50 notes issued to refund or otherwise repay such bonds or notes previously
51 issued, for the purpose of financing capital projects including IT
52 initiatives for the division of state police, debt service and leases;
53 and to reimburse the state general fund for disbursements made therefor.
54 Such bonds and notes of such authorized issuer shall not be a debt of
55 the state, and the state shall not be liable thereon, nor shall they be
56 payable out of any funds other than those appropriated by the state to

1 such authorized issuer for debt service and related expenses pursuant to
2 any service contract executed pursuant to subdivision (b) of this
3 section and such bonds and notes shall contain on the face thereof a
4 statement to such effect. Except for purposes of complying with the
5 internal revenue code, any interest income earned on bond proceeds shall
6 only be used to pay debt service on such bonds.

7 S 37. Section 44 of section 1 of chapter 174 of the laws of 1968,
8 constituting the New York state urban development corporation act, as
9 amended by section 30 of part XXX of chapter 59 of the laws of 2017, is
10 amended to read as follows:

11 S 44. Issuance of certain bonds or notes. 1. Notwithstanding the
12 provisions of any other law to the contrary, the dormitory authority and
13 the corporation are hereby authorized to issue bonds or notes in one or
14 more series for the purpose of funding project costs for the regional
15 economic development council initiative, the economic transformation
16 program, state university of New York college for nanoscale and science
17 engineering, projects within the city of Buffalo or surrounding envi-
18 rons, the New York works economic development fund, projects for the
19 retention of professional football in western New York, the empire state
20 economic development fund, the clarkson-trudeau partnership, the New
21 York genome center, the cornell university college of veterinary medi-
22 cine, the olympic regional development authority, projects at nano
23 Utica, onondaga county revitalization projects, Binghamton university
24 school of pharmacy, New York power electronics manufacturing consortium,
25 regional infrastructure projects, HIGH TECH INNOVATION AND ECONOMIC
26 DEVELOPMENT INFRASTRUCTURE PROGRAM, high technology manufacturing
27 projects in Chautauqua and Erie county, an industrial scale research and
28 development facility in Clinton county, upstate revitalization initi-
29 ative projects, DOWNSTATE REVITALIZATION INITIATIVE market New York
30 projects, fairground buildings, equipment or facilities used to house
31 and promote agriculture, the state fair, the empire state trail, the
32 moynihan station development project, the Kingsbridge armory project,
33 strategic economic development projects, the cultural, arts and public
34 spaces fund, water infrastructure in the city of Auburn and town of
35 Owasco, a life sciences laboratory public health initiative, not-for-
36 profit pounds, shelters and humane societies, arts and cultural facili-
37 ties improvement program, restore New York's communities initiative,
38 heavy equipment, economic development and infrastructure projects, [and]
39 other state costs associated with such projects AND ROOSEVELT ISLAND
40 OPERATING CORPORATION CAPITAL PROJECTS. The aggregate principal amount
41 of bonds authorized to be issued pursuant to this section shall not
42 exceed [six] SEVEN billion [seven] SIX hundred [eight] TWENTY-THREE
43 million [two] FIVE hundred [fifty-seven] NINETY thousand dollars,
44 excluding bonds issued to fund one or more debt service reserve funds,
45 to pay costs of issuance of such bonds, and bonds or notes issued to
46 refund or otherwise repay such bonds or notes previously issued. Such
47 bonds and notes of the dormitory authority and the corporation shall not
48 be a debt of the state, and the state shall not be liable thereon, nor
49 shall they be payable out of any funds other than those appropriated by
50 the state to the dormitory authority and the corporation for principal,
51 interest, and related expenses pursuant to a service contract and such
52 bonds and notes shall contain on the face thereof a statement to such
53 effect. Except for purposes of complying with the internal revenue code,
54 any interest income earned on bond proceeds shall only be used to pay
55 debt service on such bonds.

1 2. Notwithstanding any other provision of law to the contrary, in
2 order to assist the dormitory authority and the corporation in undertak-
3 ing the financing for project costs for the regional economic develop-
4 ment council initiative, the economic transformation program, state
5 university of New York college for nanoscale and science engineering,
6 projects within the city of Buffalo or surrounding environs, the New
7 York works economic development fund, projects for the retention of
8 professional football in western New York, the empire state economic
9 development fund, the clarkson-trudeau partnership, the New York genome
10 center, the cornell university college of veterinary medicine, the olym-
11 pic regional development authority, projects at nano Utica, onondaga
12 county revitalization projects, Binghamton university school of pharma-
13 cy, New York power electronics manufacturing consortium, regional
14 infrastructure projects, high technology manufacturing projects in Chau-
15 tauqua and Erie county, an industrial scale research and development
16 facility in Clinton county, upstate revitalization initiative projects,
17 market New York projects, fairground buildings, equipment or facilities
18 used to house and promote agriculture, the state fair, the empire state
19 trail, the moynihan station development project, the Kingsbridge armory
20 project, strategic economic development projects, the cultural, arts and
21 public spaces fund, water infrastructure in the city of Auburn and town
22 of Owasco, a life sciences laboratory public health initiative, not-for-
23 profit pounds, shelters and humane societies, arts and cultural facili-
24 ties improvement program, restore New York's communities initiative,
25 heavy equipment, economic development and infrastructure projects, and
26 other state costs associated with such projects, the director of the
27 budget is hereby authorized to enter into one or more service contracts
28 with the dormitory authority and the corporation, none of which shall
29 exceed thirty years in duration, upon such terms and conditions as the
30 director of the budget and the dormitory authority and the corporation
31 agree, so as to annually provide to the dormitory authority and the
32 corporation, in the aggregate, a sum not to exceed the principal, inter-
33 est, and related expenses required for such bonds and notes. Any service
34 contract entered into pursuant to this section shall provide that the
35 obligation of the state to pay the amount therein provided shall not
36 constitute a debt of the state within the meaning of any constitutional
37 or statutory provision and shall be deemed executory only to the extent
38 of monies available and that no liability shall be incurred by the state
39 beyond the monies available for such purpose, subject to annual appro-
40 priation by the legislature. Any such contract or any payments made or
41 to be made thereunder may be assigned and pledged by the dormitory
42 authority and the corporation as security for its bonds and notes, as
43 authorized by this section.

44 S 38. Subdivision 3 of section 1285-p of the public authorities law,
45 as amended by section 31 of part XXX of chapter 59 of the laws of 2017,
46 is amended to read as follows:

47 3. The maximum amount of bonds that may be issued for the purpose of
48 financing environmental infrastructure projects authorized by this
49 section shall be [four] FIVE billion [nine] TWO hundred [fifty-one]
50 NINETY-SIX million [seven] ONE hundred sixty thousand dollars, exclusive
51 of bonds issued to fund any debt service reserve funds, pay costs of
52 issuance of such bonds, and bonds or notes issued to refund or otherwise
53 repay bonds or notes previously issued. Such bonds and notes of the
54 corporation shall not be a debt of the state, and the state shall not be
55 liable thereon, nor shall they be payable out of any funds other than
56 those appropriated by the state to the corporation for debt service and

1 related expenses pursuant to any service contracts executed pursuant to
2 subdivision one of this section, and such bonds and notes shall contain
3 on the face thereof a statement to such effect.

4 S 39. Intentionally omitted.

5 S 40. Subdivision (a) of section 48 of part K of chapter 81 of the
6 laws of 2002, relating to providing for the administration of certain
7 funds and accounts related to the 2002-2003 budget, as amended by
8 section 33 of part XXX of chapter 59 of the laws of 2017, is amended to
9 read as follows:

10 (a) Subject to the provisions of chapter 59 of the laws of 2000 but
11 notwithstanding the provisions of section 18 of the urban development
12 corporation act, the corporation is hereby authorized to issue bonds or
13 notes in one or more series in an aggregate principal amount not to
14 exceed [\$250,000,000] \$253,000,000 TWO-HUNDRED FIFTY-THREE MILLION
15 DOLLARS excluding bonds issued to fund one or more debt service reserve
16 funds, to pay costs of issuance of such bonds, and bonds or notes issued
17 to refund or otherwise repay such bonds or notes previously issued, for
18 the purpose of financing capital costs related to homeland security and
19 training facilities for the division of state police, the division of
20 military and naval affairs, and any other state agency, including the
21 reimbursement of any disbursements made from the state capital projects
22 fund, and is hereby authorized to issue bonds or notes in one or more
23 series in an aggregate principal amount not to exceed [\$654,800,000]
24 \$744,800,000, SEVEN HUNDRED FORTY-FOUR MILLION EIGHT HUNDRED THOUSAND
25 DOLLARS, excluding bonds issued to fund one or more debt service reserve
26 funds, to pay costs of issuance of such bonds, and bonds or notes issued
27 to refund or otherwise repay such bonds or notes previously issued, for
28 the purpose of financing improvements to State office buildings and
29 other facilities located statewide, including the reimbursement of any
30 disbursements made from the state capital projects fund. Such bonds and
31 notes of the corporation shall not be a debt of the state, and the state
32 shall not be liable thereon, nor shall they be payable out of any funds
33 other than those appropriated by the state to the corporation for debt
34 service and related expenses pursuant to any service contracts executed
35 pursuant to subdivision (b) of this section, and such bonds and notes
36 shall contain on the face thereof a statement to such effect.

37 S 41. Subdivision 1 of section 386-b of the public authorities law, as
38 amended by section 34 of part XXX of chapter 59 of the laws of 2017, is
39 amended to read as follows:

40 1. Notwithstanding any other provision of law to the contrary, the
41 authority, the dormitory authority and the urban development corporation
42 are hereby authorized to issue bonds or notes in one or more series for
43 the purpose of financing peace bridge projects and capital costs of
44 state and local highways, parkways, bridges, the New York state thruway,
45 Indian reservation roads, and facilities, and transportation infrastruc-
46 ture projects including aviation projects, non-MTA mass transit
47 projects, and rail service preservation projects, including work appur-
48 tenant and ancillary thereto. The aggregate principal amount of bonds
49 authorized to be issued pursuant to this section shall not exceed four
50 billion [three] FIVE hundred [sixty-four] million dollars
51 [\$4,364,000,000] \$4,500,000,000, excluding bonds issued to fund one or
52 more debt service reserve funds, to pay costs of issuance of such bonds,
53 and to refund or otherwise repay such bonds or notes previously issued.
54 Such bonds and notes of the authority, the dormitory authority and the
55 urban development corporation shall not be a debt of the state, and the
56 state shall not be liable thereon, nor shall they be payable out of any

1 funds other than those appropriated by the state to the authority, the
2 dormitory authority and the urban development corporation for principal,
3 interest, and related expenses pursuant to a service contract and such
4 bonds and notes shall contain on the face thereof a statement to such
5 effect. Except for purposes of complying with the internal revenue code,
6 any interest income earned on bond proceeds shall only be used to pay
7 debt service on such bonds.

8 S 42. Paragraph (c) of subdivision 19 of section 1680 of the public
9 authorities law, as amended by section 35 of part XXX of chapter 59 of
10 the laws of 2017, is amended to read as follows:

11 (c) Subject to the provisions of chapter fifty-nine of the laws of two
12 thousand, the dormitory authority shall not issue any bonds for state
13 university educational facilities purposes if the principal amount of
14 bonds to be issued when added to the aggregate principal amount of bonds
15 issued by the dormitory authority on and after July first, nineteen
16 hundred eighty-eight for state university educational facilities will
17 exceed [twelve] THIRTEEN billion [three] TWO hundred [forty-three]
18 SEVENTY-EIGHT million EIGHT HUNDRED SIXTY-FOUR THOUSAND dollars
19 \$13,278,864,000; provided, however, that bonds issued or to be issued
20 shall be excluded from such limitation if: (1) such bonds are issued to
21 refund state university construction bonds and state university
22 construction notes previously issued by the housing finance agency; or
23 (2) such bonds are issued to refund bonds of the authority or other
24 obligations issued for state university educational facilities purposes
25 and the present value of the aggregate debt service on the refunding
26 bonds does not exceed the present value of the aggregate debt service on
27 the bonds refunded thereby; provided, further that upon certification by
28 the director of the budget that the issuance of refunding bonds or other
29 obligations issued between April first, nineteen hundred ninety-two and
30 March thirty-first, nineteen hundred ninety-three will generate long
31 term economic benefits to the state, as assessed on a present value
32 basis, such issuance will be deemed to have met the present value test
33 noted above. For purposes of this subdivision, the present value of the
34 aggregate debt service of the refunding bonds and the aggregate debt
35 service of the bonds refunded, shall be calculated by utilizing the true
36 interest cost of the refunding bonds, which shall be that rate arrived
37 at by doubling the semi-annual interest rate (compounded semi-annually)
38 necessary to discount the debt service payments on the refunding bonds
39 from the payment dates thereof to the date of issue of the refunding
40 bonds to the purchase price of the refunding bonds, including interest
41 accrued thereon prior to the issuance thereof. The maturity of such
42 bonds, other than bonds issued to refund outstanding bonds, shall not
43 exceed the weighted average economic life, as certified by the state
44 university construction fund, of the facilities in connection with which
45 the bonds are issued, and in any case not later than the earlier of
46 thirty years or the expiration of the term of any lease, sublease or
47 other agreement relating thereto; provided that no note, including
48 renewals thereof, shall mature later than five years after the date of
49 issuance of such note. The legislature reserves the right to amend or
50 repeal such limit, and the state of New York, the dormitory authority,
51 the state university of New York, and the state university construction
52 fund are prohibited from covenanting or making any other agreements with
53 or for the benefit of bondholders which might in any way affect such
54 right.

1 S 43. Paragraph (c) of subdivision 14 of section 1680 of the public
2 authorities law, as amended by section 36 of part XXX of chapter 59 of
3 the laws of 2017, is amended to read as follows:

4 (c) Subject to the provisions of chapter fifty-nine of the laws of two
5 thousand, (i) the dormitory authority shall not deliver a series of
6 bonds for city university community college facilities, except to refund
7 or to be substituted for or in lieu of other bonds in relation to city
8 university community college facilities pursuant to a resolution of the
9 dormitory authority adopted before July first, nineteen hundred eighty-
10 five or any resolution supplemental thereto, if the principal amount of
11 bonds so to be issued when added to all principal amounts of bonds
12 previously issued by the dormitory authority for city university commu-
13 nity college facilities, except to refund or to be substituted in lieu
14 of other bonds in relation to city university community college facili-
15 ties will exceed the sum of four hundred twenty-five million dollars and
16 (ii) the dormitory authority shall not deliver a series of bonds issued
17 for city university facilities, including community college facilities,
18 pursuant to a resolution of the dormitory authority adopted on or after
19 July first, nineteen hundred eighty-five, except to refund or to be
20 substituted for or in lieu of other bonds in relation to city university
21 facilities and except for bonds issued pursuant to a resolution supple-
22 mental to a resolution of the dormitory authority adopted prior to July
23 first, nineteen hundred eighty-five, if the principal amount of bonds so
24 to be issued when added to the principal amount of bonds previously
25 issued pursuant to any such resolution, except bonds issued to refund or
26 to be substituted for or in lieu of other bonds in relation to city
27 university facilities, will exceed [seven] EIGHT billion [nine] FOUR
28 hundred [eighty-one] FOURTEEN million [nine] SIX hundred [sixty-eight]
29 NINETY-ONE thousand dollars \$8,414,691,000. The legislature reserves
30 the right to amend or repeal such limit, and the state of New York, the
31 dormitory authority, the city university, and the fund are prohibited
32 from covenanting or making any other agreements with or for the benefit
33 of bondholders which might in any way affect such right.

34 S 44. Subdivision 10-a of section 1680 of the public authorities law,
35 as amended by section 37 of part XXX of chapter 59 of the laws of 2017,
36 is amended to read as follows:

37 10-a. Subject to the provisions of chapter fifty-nine of the laws of
38 two thousand, but notwithstanding any other provision of the law to the
39 contrary, the maximum amount of bonds and notes to be issued after March
40 thirty-first, two thousand two, on behalf of the state, in relation to
41 any locally sponsored community college, shall be nine hundred [four-
42 teen] FIFTY-THREE million [five] TWO hundred [ninety] TWENTY-FIVE thou-
43 sand dollars \$953,265,000. Such amount shall be exclusive of bonds and
44 notes issued to fund any reserve fund or funds, costs of issuance and to
45 refund any outstanding bonds and notes, issued on behalf of the state,
46 relating to a locally sponsored community college.

47 S 45. Subdivision 1 of section 17 of part D of chapter 389 of the laws
48 of 1997, relating to the financing of the correctional facilities
49 improvement fund and the youth facility improvement fund, as amended by
50 section 38 of part XXX of chapter 59 of the laws of 2017, is amended to
51 read as follows:

52 1. Subject to the provisions of chapter 59 of the laws of 2000, but
53 notwithstanding the provisions of section 18 of section 1 of chapter 174
54 of the laws of 1968, the New York state urban development corporation is
55 hereby authorized to issue bonds, notes and other obligations in an
56 aggregate principal amount not to exceed [six] SEVEN hundred [eighty-

1 two] SIXTY-NINE million [nine] SIX hundred fifteen thousand dollars
2 [(\$682,915,000)] (\$769,615,000), which authorization increases the
3 aggregate principal amount of bonds, notes and other obligations author-
4 ized by section 40 of chapter 309 of the laws of 1996, and shall include
5 all bonds, notes and other obligations issued pursuant to chapter 211 of
6 the laws of 1990, as amended or supplemented. The proceeds of such
7 bonds, notes or other obligations shall be paid to the state, for depos-
8 it in the youth facilities improvement fund, to pay for all or any
9 portion of the amount or amounts paid by the state from appropriations
10 or reappropriations made to the office of children and family services
11 from the youth facilities improvement fund for capital projects. The
12 aggregate amount of bonds, notes and other obligations authorized to be
13 issued pursuant to this section shall exclude bonds, notes or other
14 obligations issued to refund or otherwise repay bonds, notes or other
15 obligations theretofore issued, the proceeds of which were paid to the
16 state for all or a portion of the amounts expended by the state from
17 appropriations or reappropriations made to the office of children and
18 family services; provided, however, that upon any such refunding or
19 repayment the total aggregate principal amount of outstanding bonds,
20 notes or other obligations may be greater than [six] SEVEN hundred
21 [eighty-two] SIXTY-NINE million [nine] SIX hundred fifteen thousand
22 dollars [(\$682,915,000)] (\$769,615,000), only if the present value of
23 the aggregate debt service of the refunding or repayment bonds, notes or
24 other obligations to be issued shall not exceed the present value of the
25 aggregate debt service of the bonds, notes or other obligations so to be
26 refunded or repaid. For the purposes hereof, the present value of the
27 aggregate debt service of the refunding or repayment bonds, notes or
28 other obligations and of the aggregate debt service of the bonds, notes
29 or other obligations so refunded or repaid, shall be calculated by
30 utilizing the effective interest rate of the refunding or repayment
31 bonds, notes or other obligations, which shall be that rate arrived at
32 by doubling the semi-annual interest rate (compounded semi-annually)
33 necessary to discount the debt service payments on the refunding or
34 repayment bonds, notes or other obligations from the payment dates ther-
35 eof to the date of issue of the refunding or repayment bonds, notes or
36 other obligations and to the price bid including estimated accrued
37 interest or proceeds received by the corporation including estimated
38 accrued interest from the sale thereof.

39 S 45-a. Subdivision 1 of section 51 of section 1 of chapter 174 of the
40 laws of 1968, constituting the New York state urban development corpo-
41 ration act, as amended by section 42-c of part XXX of chapter 59 of the
42 laws of 2017, is amended to read as follows:

43 1. Notwithstanding the provisions of any other law to the contrary,
44 the dormitory authority and the urban development corporation are hereby
45 authorized to issue bonds or notes in one or more series for the purpose
46 of funding project costs for the nonprofit infrastructure capital
47 investment program and other state costs associated with such capital
48 projects. The aggregate principal amount of bonds authorized to be
49 issued pursuant to this section shall not exceed one hundred [twenty]
50 FORTY million dollars, excluding bonds issued to fund one or more debt
51 service reserve funds, to pay costs of issuance of such bonds, and bonds
52 or notes issued to refund or otherwise repay such bonds or notes previ-
53 ously issued. Such bonds and notes of the dormitory authority and the
54 urban development corporation shall not be a debt of the state, and the
55 state shall not be liable thereon, nor shall they be payable out of any
56 funds other than those appropriated by the state to the dormitory

1 authority and the urban development corporation for principal, interest,
2 and related expenses pursuant to a service contract and such bonds and
3 notes shall contain on the face thereof a statement to such effect.
4 Except for purposes of complying with the internal revenue code, any
5 interest income earned on bond proceeds shall only be used to pay debt
6 service on such bonds.

7 S 46. Paragraph b of subdivision 2 of section 9-a of section 1 of
8 chapter 392 of the laws of 1973, constituting the New York state medical
9 care facilities finance agency act, as amended by section 39 of part XXX
10 of chapter 59 of the laws of 2017, is amended to read as follows:

11 b. The agency shall have power and is hereby authorized from time to
12 time to issue negotiable bonds and notes in conformity with applicable
13 provisions of the uniform commercial code in such principal amount as,
14 in the opinion of the agency, shall be necessary, after taking into
15 account other moneys which may be available for the purpose, to provide
16 sufficient funds to the facilities development corporation, or any
17 successor agency, for the financing or refinancing of or for the design,
18 construction, acquisition, reconstruction, rehabilitation or improvement
19 of mental health services facilities pursuant to paragraph a of this
20 subdivision, the payment of interest on mental health services improve-
21 ment bonds and mental health services improvement notes issued for such
22 purposes, the establishment of reserves to secure such bonds and notes,
23 the cost or premium of bond insurance or the costs of any financial
24 mechanisms which may be used to reduce the debt service that would be
25 payable by the agency on its mental health services facilities improve-
26 ment bonds and notes and all other expenditures of the agency incident
27 to and necessary or convenient to providing the facilities development
28 corporation, or any successor agency, with funds for the financing or
29 refinancing of or for any such design, construction, acquisition, recon-
30 struction, rehabilitation or improvement and for the refunding of mental
31 hygiene improvement bonds issued pursuant to section 47-b of the private
32 housing finance law; provided, however, that the agency shall not issue
33 mental health services facilities improvement bonds and mental health
34 services facilities improvement notes in an aggregate principal amount
35 exceeding eight billion [three] SEVEN hundred [ninety-two] FIFTY-EIGHT
36 MILLION [eight] SEVEN hundred [fifteen] ELEVEN thousand dollars, exclud-
37 ing mental health services facilities improvement bonds and mental
38 health services facilities improvement notes issued to refund outstand-
39 ing mental health services facilities improvement bonds and mental
40 health services facilities improvement notes; provided, however, that
41 upon any such refunding or repayment of mental health services facili-
42 ties improvement bonds and/or mental health services facilities improve-
43 ment notes the total aggregate principal amount of outstanding mental
44 health services facilities improvement bonds and mental health facili-
45 ties improvement notes may be greater than eight billion [three] SEVEN
46 hundred [ninety-two] SIXTY-EIGHT MILLION [eight] SEVEN hundred [fifteen]
47 ELEVEN thousand dollars \$8,768,711,000 only if, except as hereinafter
48 provided with respect to mental health services facilities bonds and
49 mental health services facilities notes issued to refund mental hygiene
50 improvement bonds authorized to be issued pursuant to the provisions of
51 section 47-b of the private housing finance law, the present value of
52 the aggregate debt service of the refunding or repayment bonds to be
53 issued shall not exceed the present value of the aggregate debt service
54 of the bonds to be refunded or repaid. For purposes hereof, the present
55 values of the aggregate debt service of the refunding or repayment
56 bonds, notes or other obligations and of the aggregate debt service of

1 the bonds, notes or other obligations so refunded or repaid, shall be
2 calculated by utilizing the effective interest rate of the refunding or
3 repayment bonds, notes or other obligations, which shall be that rate
4 arrived at by doubling the semi-annual interest rate (compounded semi-
5 annually) necessary to discount the debt service payments on the refund-
6 ing or repayment bonds, notes or other obligations from the payment
7 dates thereof to the date of issue of the refunding or repayment bonds,
8 notes or other obligations and to the price bid including estimated
9 accrued interest or proceeds received by the authority including esti-
10 mated accrued interest from the sale thereof. Such bonds, other than
11 bonds issued to refund outstanding bonds, shall be scheduled to mature
12 over a term not to exceed the average useful life, as certified by the
13 facilities development corporation, of the projects for which the bonds
14 are issued, and in any case shall not exceed thirty years and the maxi-
15 mum maturity of notes or any renewals thereof shall not exceed five
16 years from the date of the original issue of such notes. Notwithstanding
17 the provisions of this section, the agency shall have the power and is
18 hereby authorized to issue mental health services facilities improvement
19 bonds and/or mental health services facilities improvement notes to
20 refund outstanding mental hygiene improvement bonds authorized to be
21 issued pursuant to the provisions of section 47-b of the private housing
22 finance law and the amount of bonds issued or outstanding for such
23 purposes shall not be included for purposes of determining the amount of
24 bonds issued pursuant to this section. The director of the budget shall
25 allocate the aggregate principal authorized to be issued by the agency
26 among the office of mental health, office for people with developmental
27 disabilities, and the office of alcoholism and substance abuse services,
28 in consultation with their respective commissioners to finance bondable
29 appropriations previously approved by the legislature.

30 S 47. Subdivision 1 of section 1680-r of the public authorities law,
31 as amended by section 41 of part XXX of chapter 59 of the laws of 2017,
32 is amended to read as follows:

33 1. Notwithstanding the provisions of any other law to the contrary,
34 the dormitory authority and the urban development corporation are hereby
35 authorized to issue bonds or notes in one or more series for the purpose
36 of funding project costs for the capital restructuring financing program
37 for health care and related facilities licensed pursuant to the public
38 health law or the mental hygiene law and other state costs associated
39 with such capital projects, the health care facility transformation
40 programs, and the essential health care provider program. The aggregate
41 principal amount of bonds authorized to be issued pursuant to this
42 section shall not exceed [two] THREE billion [seven] ONE hundred million
43 dollars, excluding bonds issued to fund one or more debt service reserve
44 funds, to pay costs of issuance of such bonds, and bonds or notes issued
45 to refund or otherwise repay such bonds or notes previously issued. Such
46 bonds and notes of the dormitory authority and the urban development
47 corporation shall not be a debt of the state, and the state shall not be
48 liable thereon, nor shall they be payable out of any funds other than
49 those appropriated by the state to the dormitory authority and the urban
50 development corporation for principal, interest, and related expenses
51 pursuant to a service contract and such bonds and notes shall contain on
52 the face thereof a statement to such effect. Except for purposes of
53 complying with the internal revenue code, any interest income earned on
54 bond proceeds shall only be used to pay debt service on such bonds.

55 S 48. Intentionally omitted.

1 S 49. Subdivision (a) of section 28 of part Y of chapter 61 of the
2 laws of 2005, relating to providing for the administration of certain
3 funds and accounts related to the 2005-2006 budget, as amended by
4 section 42-a of part XXX of chapter 59 of the laws of 2017, is amended
5 to read as follows:

6 (a) Subject to the provisions of chapter 59 of the laws of 2000, but
7 notwithstanding any provisions of law to the contrary, one or more
8 authorized issuers as defined by section 68-a of the state finance law
9 are hereby authorized to issue bonds or notes in one or more series in
10 an aggregate principal amount not to exceed [\$47,000,000] \$67,000,000,
11 SIXTY-SEVEN MILLION DOLLARS excluding bonds issued to finance one or
12 more debt service reserve funds, to pay costs of issuance of such bonds,
13 and bonds or notes issued to refund or otherwise repay such bonds or
14 notes previously issued, for the purpose of financing capital projects
15 for public protection facilities in the Division of Military and Naval
16 Affairs, debt service and leases; and to reimburse the state general
17 fund for disbursements made therefor. Such bonds and notes of such
18 authorized issuer shall not be a debt of the state, and the state shall
19 not be liable thereon, nor shall they be payable out of any funds other
20 than those appropriated by the state to such authorized issuer for debt
21 service and related expenses pursuant to any service contract executed
22 pursuant to subdivision (b) of this section and such bonds and notes
23 shall contain on the face thereof a statement to such effect. Except for
24 purposes of complying with the internal revenue code, any interest
25 income earned on bond proceeds shall only be used to pay debt service on
26 such bonds.

27 S 50. Subdivision 1 of section 49 of section 1 of chapter 174 of the
28 laws of 1968, constituting the New York state urban development corpo-
29 ration act, as amended by section 42-b of part XXX of chapter 59 of the
30 laws of 2017, is amended to read as follows:

31 1. Notwithstanding the provisions of any other law to the contrary,
32 the dormitory authority and the corporation are hereby authorized to
33 issue bonds or notes in one or more series for the purpose of funding
34 project costs for the state and municipal facilities program and other
35 state costs associated with such capital projects. The aggregate princi-
36 pal amount of bonds authorized to be issued pursuant to this section
37 shall not exceed one billion nine hundred [twenty-five] THIRTY-EIGHT
38 million FIVE HUNDRED THOUSAND dollars, excluding bonds issued to fund
39 one or more debt service reserve funds, to pay costs of issuance of such
40 bonds, and bonds or notes issued to refund or otherwise repay such bonds
41 or notes previously issued. Such bonds and notes of the dormitory
42 authority and the corporation shall not be a debt of the state, and the
43 state shall not be liable thereon, nor shall they be payable out of any
44 funds other than those appropriated by the state to the dormitory
45 authority and the corporation for principal, interest, and related
46 expenses pursuant to a service contract and such bonds and notes shall
47 contain on the face thereof a statement to such effect. Except for
48 purposes of complying with the internal revenue code, any interest
49 income earned on bond proceeds shall only be used to pay debt service on
50 such bonds.

51 S 51. Intentionally omitted.

52 S 52. Intentionally omitted.

53 S 53. Intentionally omitted.

54 S 54. Intentionally omitted.

55 S 55. Intentionally omitted.

56 S 56. Intentionally omitted.

1 S 57. Intentionally omitted.

2 S 58. Section 55 of part XXX of chapter 59 of the laws of 2017, relat-
3 ing to providing for the administration of certain funds and accounts
4 related to the 2017-18 budget and authorizing certain payments and
5 transfers, is amended to read as follows:

6 S 55. This act shall take effect immediately and shall be deemed to
7 have been in full force and effect on and after April 1, 2017; provided,
8 however, that the provisions of sections one, two, three, four, five,
9 six, seven, eight, thirteen, fourteen, fifteen, sixteen, seventeen,
10 eighteen, nineteen, twenty, [twenty-one,] twenty-two, twenty-two-e and
11 twenty-two-f of this act shall expire March 31, 2018 when upon such date
12 the provisions of such sections shall be deemed repealed; and provided,
13 further, that section twenty-two-c of this act shall expire March 31,
14 2021.

15 S 59. Paragraph (b) of subdivision 3 and clause (B) of subparagraph
16 (iii) of paragraph (j) of subdivision 4 of section 1 of part D of chap-
17 ter 63 of the laws of 2005, relating to the composition and responsibil-
18 ities of the New York state higher education capital matching grant
19 board, as amended by section 45 of part UU of chapter 54 of the laws of
20 2016, are amended to read as follows:

21 (b) Within amounts appropriated therefor, the board is hereby author-
22 ized and directed to award matching capital grants totaling [240] TWO
23 HUNDRED SEVENTY million dollars. Each college shall be eligible for a
24 grant award amount as determined by the calculations pursuant to subdi-
25 vision five of this section. In addition, such colleges shall be eligi-
26 ble to compete for additional funds pursuant to paragraph (h) of subdi-
27 vision four of this section.

28 (B) The dormitory authority shall not issue any bonds or notes in an
29 amount in excess of [240] TWO HUNDRED SEVENTY million dollars for the
30 purposes of this section; excluding bonds or notes issued to fund one or
31 more debt service reserve funds, to pay costs of issuance of such bonds,
32 and bonds or notes issued to refund or otherwise repay such bonds or
33 notes previously issued. Except for purposes of complying with the
34 internal revenue code, any interest on bond proceeds shall only be used
35 to pay debt service on such bonds.

36 S 60. Subdivision 1 of section 1680-n of the public authorities law,
37 as added by section 46 of part T of chapter 57 of the laws of 2007, is
38 amended to read as follows:

39 1. Notwithstanding the provisions of any other law to the contrary,
40 the authority and the urban development corporation are hereby author-
41 ized to issue bonds or notes in one or more series for the purpose of
42 funding project costs for the acquisition of state buildings and other
43 facilities. The aggregate principal amount of bonds authorized to be
44 issued pursuant to this section shall not exceed one hundred [forty]
45 SIXTY-FIVE million dollars, excluding bonds issued to fund one or more
46 debt service reserve funds, to pay costs of issuance of such bonds, and
47 bonds or notes issued to refund or otherwise repay such bonds or notes
48 previously issued. Such bonds and notes of the authority and the urban
49 development corporation shall not be a debt of the state, and the state
50 shall not be liable thereon, nor shall they be payable out of any funds
51 other than those appropriated by the state to the authority and the
52 urban development corporation for principal, interest, and related
53 expenses pursuant to a service contract and such bonds and notes shall
54 contain on the face thereof a statement to such effect. Except for
55 purposes of complying with the internal revenue code, any interest

1 income earned on bond proceeds shall only be used to pay debt service on
2 such bonds.

3 S 61. Subdivision 1 of section 386-a of the public authorities law, as
4 amended by section 46 of part I of chapter 60 of the laws of 2015, is
5 amended to read as follows:

6 1. Notwithstanding any other provision of law to the contrary, the
7 authority, the dormitory authority and the urban development corporation
8 are hereby authorized to issue bonds or notes in one or more series for
9 the purpose of assisting the metropolitan transportation authority in
10 the financing of transportation facilities as defined in subdivision
11 seventeen of section twelve hundred sixty-one of this chapter. The
12 aggregate principal amount of bonds authorized to be issued pursuant to
13 this section shall not exceed one billion [five] SIX hundred [twenty]
14 NINETY-FOUR million dollars [(\$1,520,000,000)] \$1,694,000,000, excluding
15 bonds issued to fund one or more debt service reserve funds, to pay
16 costs of issuance of such bonds, and to refund or otherwise repay such
17 bonds or notes previously issued. Such bonds and notes of the authority,
18 the dormitory authority and the urban development corporation shall not
19 be a debt of the state, and the state shall not be liable thereon, nor
20 shall they be payable out of any funds other than those appropriated by
21 the state to the authority, the dormitory authority and the urban devel-
22 opment corporation for principal, interest, and related expenses pursu-
23 ant to a service contract and such bonds and notes shall contain on the
24 face thereof a statement to such effect. Except for purposes of comply-
25 ing with the internal revenue code, any interest income earned on bond
26 proceeds shall only be used to pay debt service on such bonds.

27 S 62. Subdivision 1 of section 1680-k of the public authorities law,
28 as added by section 5 of part J-1 of chapter 109 of the laws of 2006, is
29 amended to read as follows:

30 1. Subject to the provisions of chapter fifty-nine of the laws of two
31 thousand, but notwithstanding any provisions of law to the contrary, the
32 dormitory authority is hereby authorized to issue bonds or notes in one
33 or more series in an aggregate principal amount not to exceed forty
34 million SEVEN HUNDRED FIFTEEN THOUSAND dollars excluding bonds issued to
35 finance one or more debt service reserve funds, to pay costs of issuance
36 of such bonds, and bonds or notes issued to refund or otherwise repay
37 such bonds or notes previously issued, for the purpose of financing the
38 construction of the New York state agriculture and markets food labora-
39 tory. Eligible project costs may include, but not be limited to the cost
40 of design, financing, site investigations, site acquisition and prepara-
41 tion, demolition, construction, rehabilitation, acquisition of machinery
42 and equipment, and infrastructure improvements. Such bonds and notes of
43 such authorized issuers shall not be a debt of the state, and the state
44 shall not be liable thereon, nor shall they be payable out of any funds
45 other than those appropriated by the state to such authorized issuers
46 for debt service and related expenses pursuant to any service contract
47 executed pursuant to subdivision two of this section and such bonds and
48 notes shall contain on the face thereof a statement to such effect.
49 Except for purposes of complying with the internal revenue code, any
50 interest income earned on bond proceeds shall only be used to pay debt
51 service on such bonds.

52 S 63. Subdivision 13-d of section 5 of section 1 of chapter 359 of the
53 laws of 1968, constituting the facilities development corporation act,
54 as amended by chapter 166 of the laws of 1991, is amended to read as
55 follows:

1 13-d. 1. Subject to the terms and conditions of any lease, sublease,
2 loan or other financing agreement with the medical care facilities
3 finance agency in accordance with subdivision 13-c of this section, to
4 make loans to voluntary agencies for the purpose of financing or refi-
5 nancing the design, construction, acquisition, reconstruction, rehabili-
6 tation and improvement of mental hygiene facilities owned or leased by
7 such voluntary agencies provided, however, that with respect to such
8 facilities which are leased by a voluntary agency, the term of repayment
9 of such loan shall not exceed the term of such lease including any
10 option to renew such lease. Notwithstanding any other provisions of law,
11 such loans may be made jointly to one or more voluntary agencies which
12 own and one or more voluntary agencies which will operate any such
13 mental hygiene facility.

14 2. SUBJECT TO THE TERMS AND CONDITIONS OF ANY LEASE, SUBLEASE, LOAN OR
15 OTHER FINANCING AGREEMENT WITH THE MEDICAL CARE FACILITIES FINANCE AGEN-
16 CY, TO MAKE GRANTS TO VOLUNTARY AGENCIES OR PROVIDE PROCEEDS OF MENTAL
17 HEALTH SERVICES FACILITIES BONDS OR NOTES TO THE DEPARTMENT TO MAKE
18 GRANTS TO VOLUNTARY AGENCIES OR TO REIMBURSE DISBURSEMENTS MADE THERE-
19 FOR, IN EACH CASE, FOR THE PURPOSE OF FINANCING OR REFINANCING THE
20 DESIGN, CONSTRUCTION, ACQUISITION, RECONSTRUCTION, REHABILITATION AND
21 IMPROVEMENT OF MENTAL HYGIENE FACILITIES OWNED OR LEASED BY SUCH VOLUN-
22 TARY AGENCIES.

23 S 64. Paragraph a of subdivision 4 of section 9 of section 1 of chap-
24 ter 359 of the laws of 1968, constituting the facilities development
25 corporation act, as amended by chapter 90 of the laws of 1989, is
26 amended to read as follows:

27 4. Agreements. a. Upon certification by the director of the budget of
28 the availability of required appropriation authority, the corporation,
29 or any successor agency, is hereby authorized and empowered to enter
30 into leases, subleases, loans and other financing agreements with the
31 state housing finance agency and/or the state medical care facilities
32 finance agency, and to enter into such amendments thereof as the direc-
33 tors of the corporation, or any successor agency, may deem necessary or
34 desirable, which shall provide for (i) the financing or refinancing of
35 or the design, construction, acquisition, reconstruction, rehabilitation
36 or improvement of one or more mental hygiene facilities or for the refi-
37 nancing of any such facilities for which bonds have previously been
38 issued and are outstanding, and the purchase or acquisition of the
39 original furnishings, equipment, machinery and apparatus to be used in
40 such facilities upon the completion of work, (ii) the leasing to the
41 state housing finance agency or the state medical care facilities
42 finance agency of all or any portion of one or more existing mental
43 hygiene facilities and one or more mental hygiene facilities to be
44 designed, constructed, acquired, reconstructed, rehabilitated or
45 improved, or of real property related to the work to be done, including
46 real property originally acquired by the appropriate commissioner or
47 director of the department in the name of the state pursuant to article
48 seventy-one of the mental hygiene law, (iii) the subleasing of such
49 facilities and property by the corporation upon completion of design,
50 construction, acquisition, reconstruction, rehabilitation or improve-
51 ment, such leases, subleases, loans or other financing agreements to be
52 upon such other terms and conditions as may be agreed upon, including
53 terms and conditions relating to length of term, maintenance and repair
54 of mental hygiene facilities during any such term, and the annual
55 rentals to be paid for the use of such facilities, property,
56 furnishings, equipment, machinery and apparatus, and (iv) the receipt

1 and disposition, including loans OR GRANTS to voluntary agencies, of
2 proceeds of mental health service facilities bonds or notes issued
3 pursuant to section nine-a of the New York state medical care facilities
4 finance agency act. For purposes of the design, construction, acquisi-
5 tion, reconstruction, rehabilitation or improvement work required by the
6 terms of any such lease, sublease or agreement, the corporation shall
7 act as agent for the state housing finance agency or the state medical
8 care facilities finance agency. In the event that the corporation enters
9 into an agreement for the financing of any of the aforementioned facili-
10 ties with the state housing finance agency or the state medical care
11 facilities finance agency, or in the event that the corporation enters
12 into an agreement for the financing or refinancing of any of the afore-
13 mentioned facilities with one or more voluntary agencies, it shall act
14 on its own behalf and not as agent. The appropriate commissioner or
15 director of the department on behalf of the department shall approve any
16 such lease, sublease, loan or other financing agreement and shall be a
17 party thereto. All such leases, subleases, loans or other financing
18 agreements shall be approved prior to execution by no less than three
19 directors of the corporation.

20 S 65. This act shall take effect immediately and shall be deemed to
21 have been in full force and effect on and after April 1, 2018; provided,
22 however, that the provisions of sections one, two, three, four, five,
23 six, seven, eight, twelve, thirteen, fourteen, sixteen, seventeen, eigh-
24 teen, nineteen, twenty, twenty-one, twenty-two, and twenty-three of this
25 act shall expire March 31, 2019 when upon such date the provisions of
26 such sections shall be deemed repealed.

27 PART HH

28 Intentionally Omitted

29 PART II

30 Intentionally Omitted

31 PART JJ

32 Section 1. Subdivision 3 of section 130.05 of the penal law is amended
33 by adding a new paragraph (j) to read as follows:

34 (J) UNDER ARREST, IN DETENTION OR OTHERWISE IN THE ACTUAL CUSTODY OF A
35 POLICE OFFICER, PEACE OFFICER OR OTHER LAW ENFORCEMENT OFFICIAL AND THE
36 ACTOR IS A POLICE OFFICER, PEACE OFFICER OR OTHER LAW ENFORCEMENT OFFI-
37 CIAL WHO EITHER: (I) IS RESPONSIBLE FOR EFFECTING THE ARREST OF SUCH
38 PERSON OR MAINTAINING SUCH PERSON IN DETENTION OR ACTUAL CUSTODY; OR
39 (II) KNOWS, OR REASONABLY SHOULD KNOW, THAT SUCH PERSON IS UNDER SUCH
40 ARREST, DETENTION OR ACTUAL CUSTODY.

41 S 2. Subdivision 4 of section 130.10 of the penal law, as amended by
42 chapter 205 of the laws of 2011, is amended to read as follows:

43 4. In any prosecution under this article in which the victim's lack of
44 consent is based solely on his or her incapacity to consent because he
45 or she was less than seventeen years old, mentally disabled, a client or
46 patient and the actor is a health care provider, UNDER ARREST, IN
47 DETENTION OR OTHERWISE IN ACTUAL CUSTODY OF LAW ENFORCEMENT UNDER THE
48 CIRCUMSTANCES DESCRIBED IN PARAGRAPH (J) OF SUBDIVISION THREE OF SECTION
49 130.05 OF THIS ARTICLE, or committed to the care and custody or super-
50 vision of the state department of corrections and community supervision

1 or a hospital and the actor is an employee, it shall be a defense that
2 the defendant was married to the victim as defined in subdivision four
3 of section 130.00 of this article.

4 S 3. This act shall take effect on the thirtieth day after it shall
5 have become a law.

6 PART KK

7 Intentionally Omitted

8 PART LL

9 Section 1. Paragraph (b) of subdivision 2 of section 1676 of the
10 public authorities law is amended by adding a new undesignated paragraph
11 to read as follows:

12 AN AUTHORIZED AGENCY AS DEFINED BY SUBDIVISION TEN OF SECTION THREE
13 HUNDRED SEVENTY-ONE OF THE SOCIAL SERVICES LAW, OR A LOCAL PROBATION
14 DEPARTMENT AS DEFINED BY SECTIONS TWO HUNDRED FIFTY-FIVE AND TWO HUNDRED
15 FIFTY-SIX OF THE EXECUTIVE LAW FOR THE PROVISION OF DETENTION FACILITIES
16 CERTIFIED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES OR BY SUCH
17 OFFICE IN CONJUNCTION WITH THE STATE COMMISSION OF CORRECTION OR FOR THE
18 PROVISION OF RESIDENTIAL FACILITIES LICENSED BY THE OFFICE OF CHILDREN
19 AND FAMILY SERVICES INCLUDING ALL NECESSARY AND USUAL ATTENDANT AND
20 RELATED FACILITIES AND EQUIPMENT.

21 S 2. Subdivision 1 of section 1680 of the public authorities law is
22 amended by adding a new undesignated paragraph to read as follows:

23 AN AUTHORIZED AGENCY AS DEFINED BY SUBDIVISION TEN OF SECTION THREE
24 HUNDRED SEVENTY-ONE OF THE SOCIAL SERVICES LAW, OR A LOCAL PROBATION
25 DEPARTMENT AS DEFINED BY SECTIONS TWO HUNDRED FIFTY-FIVE AND TWO HUNDRED
26 FIFTY-SIX OF THE EXECUTIVE LAW FOR THE PROVISION OF DETENTION FACILITIES
27 CERTIFIED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES OR BY SUCH
28 OFFICE IN CONJUNCTION WITH THE STATE COMMISSION OF CORRECTION OR FOR THE
29 PROVISION OF RESIDENTIAL FACILITIES LICENSED BY THE OFFICE OF CHILDREN
30 AND FAMILY SERVICES INCLUDING ALL NECESSARY AND USUAL ATTENDANT AND
31 RELATED FACILITIES AND EQUIPMENT.

32 S 3. Subdivision 2 of section 1680 of the public authorities law is
33 amended by adding a new paragraph k to read as follows:

34 K. (1) FOR PURPOSES OF THIS SECTION, THE FOLLOWING PROVISIONS SHALL
35 APPLY TO THE POWERS IN CONNECTION WITH THE PROVISION OF DETENTION FACIL-
36 ITIES CERTIFIED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES OR BY SUCH
37 OFFICE IN CONJUNCTION WITH THE STATE COMMISSION OF CORRECTION OR FOR THE
38 PROVISION OF RESIDENTIAL FACILITIES LICENSED BY THE OFFICE OF CHILDREN
39 AND FAMILY SERVICES INCLUDING ALL NECESSARY AND USUAL ATTENDANT AND
40 RELATED FACILITIES AND EQUIPMENT.

41 (2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY ENTITY AS LISTED
42 ABOVE SHALL HAVE FULL POWER AND AUTHORITY TO ENTER INTO SUCH AGREEMENTS
43 WITH THE DORMITORY AUTHORITY AS ARE NECESSARY TO FINANCE AND/OR
44 CONSTRUCT DETENTION OR RESIDENTIAL FACILITIES DESCRIBED ABOVE, INCLUDING
45 WITHOUT LIMITATION, THE PROVISION OF FEES AND AMOUNTS NECESSARY TO PAY
46 DEBT SERVICE ON ANY OBLIGATIONS ISSUED BY THE DORMITORY AUTHORITY FOR
47 SAME, AND TO ASSIGN AND PLEDGE TO THE DORMITORY AUTHORITY, ANY AND ALL
48 PUBLIC FUNDS TO BE APPORTIONED OR OTHERWISE MADE PAYABLE BY THE UNITED
49 STATES, ANY AGENCY THEREOF, THE STATE, ANY AGENCY THEREOF, A POLITICAL
50 SUBDIVISION, AS DEFINED IN SECTION ONE HUNDRED OF THE GENERAL MUNICIPAL
51 LAW, ANY SOCIAL SERVICES DISTRICT IN THE STATE OR ANY OTHER GOVERNMENTAL
52 ENTITY IN AN AMOUNT SUFFICIENT TO MAKE ALL PAYMENTS REQUIRED TO BE MADE

1 BY ANY SUCH ENTITY AS LISTED ABOVE PURSUANT TO ANY LEASE, SUBLEASE OR
 2 OTHER AGREEMENT ENTERED INTO BETWEEN ANY SUCH ENTITY AS LISTED ABOVE AND
 3 THE DORMITORY AUTHORITY. ALL STATE AND LOCAL OFFICERS ARE HEREBY AUTHOR-
 4 IZED AND REQUIRED TO PAY ALL SUCH FUNDS SO ASSIGNED AND PLEDGED TO THE
 5 DORMITORY AUTHORITY OR, UPON THE DIRECTION OF THE DORMITORY AUTHORITY,
 6 TO ANY TRUSTEE OF ANY DORMITORY AUTHORITY BOND OR NOTE ISSUED, PURSUANT
 7 TO A CERTIFICATE FILED WITH ANY SUCH STATE OR LOCAL OFFICER BY THE
 8 DORMITORY AUTHORITY PURSUANT TO THE PROVISIONS OF THIS SECTION.
 9 S 4. This act shall take effect immediately.

PART MM

11 Section 1. The public service law is amended by adding a new article
12 1-A to read as follows:

ARTICLE 1-A

THE STATE OFFICE OF THE UTILITY CONSUMER ADVOCATE

15 SECTION 28-A. DEFINITIONS.

16 28-B. ESTABLISHMENT OF THE STATE OFFICE OF THE UTILITY CONSUMER
17 ADVOCATE.

18 28-C. POWERS OF THE STATE OFFICE OF THE UTILITY CONSUMER ADVO-
19 CATE.

20 28-D. REPORTS.

21 S 28-A. DEFINITIONS. WHEN USED IN THIS ARTICLE: (A) "DEPARTMENT"
22 MEANS THE DEPARTMENT OF PUBLIC SERVICE.

23 (B) "COMMISSION" MEANS THE PUBLIC SERVICE COMMISSION.

24 (C) "RESIDENTIAL UTILITY CUSTOMER" MEANS ANY PERSON WHO IS SOLD OR
25 OFFERED FOR SALE RESIDENTIAL UTILITY SERVICE BY A UTILITY COMPANY.

26 (D) "UTILITY COMPANY" MEANS ANY PERSON OR ENTITY OPERATING AN AGENCY
27 FOR PUBLIC SERVICE, INCLUDING, BUT NOT LIMITED TO, THOSE PERSONS OR
28 ENTITIES SUBJECT TO THE JURISDICTION, SUPERVISION AND REGULATIONS
29 PRESCRIBED BY OR PURSUANT TO THE PROVISIONS OF THIS CHAPTER.

30 S 28-B. ESTABLISHMENT OF THE STATE OFFICE OF THE UTILITY CONSUMER
31 ADVOCATE. THERE IS ESTABLISHED THE STATE OFFICE OF THE UTILITY CONSUMER
32 ADVOCATE TO REPRESENT THE INTERESTS OF RESIDENTIAL UTILITY CUSTOMERS.
33 THE UTILITY CONSUMER ADVOCATE SHALL BE APPOINTED BY THE GOVERNOR TO A
34 TERM OF SIX YEARS, UPON THE ADVICE AND CONSENT OF THE SENATE. THE UTILI-
35 TY CONSUMER ADVOCATE SHALL POSSESS KNOWLEDGE AND EXPERIENCE IN MATTERS
36 AFFECTING RESIDENTIAL UTILITY CUSTOMERS AND SHALL BE RESPONSIBLE FOR THE
37 DIRECTION, CONTROL, AND OPERATION OF THE STATE OFFICE OF THE UTILITY
38 CONSUMER ADVOCATE, INCLUDING ITS HIRING OF STAFF AND RETENTION OF
39 EXPERTS FOR ANALYSIS AND TESTIMONY IN PROCEEDINGS. THE UTILITY CONSUMER
40 ADVOCATE SHALL NOT BE REMOVED FOR CAUSE, BUT MAY BE REMOVED ONLY AFTER
41 NOTICE AND OPPORTUNITY TO BE HEARD, AND ONLY FOR PERMANENT DISABILITY,
42 MALFEASANCE, A FELONY, OR CONDUCT INVOLVING MORAL TURPITUDE. EXERCISE OF
43 INDEPENDENT JUDGMENT IN ADVOCATING POSITIONS ON BEHALF OF RESIDENTIAL
44 UTILITY CUSTOMERS SHALL NOT CONSTITUTE CAUSE FOR REMOVAL OF THE UTILITY
45 CONSUMER ADVOCATE.

46 S 28-C. POWERS OF THE STATE OFFICE OF THE UTILITY CONSUMER ADVOCATE.
47 THE STATE OFFICE OF THE UTILITY CONSUMER ADVOCATE SHALL HAVE THE POWER
48 AND DUTY TO: (A) INITIATE, INTERVENE IN, OR PARTICIPATE ON BEHALF OF
49 RESIDENTIAL UTILITY CUSTOMERS IN ANY PROCEEDINGS BEFORE THE COMMISSION,
50 THE FEDERAL ENERGY REGULATORY COMMISSION, THE FEDERAL COMMUNICATIONS
51 COMMISSION, FEDERAL, STATE AND LOCAL ADMINISTRATIVE AND REGULATORY AGEN-
52 CIES, AND STATE AND FEDERAL COURTS IN ANY MATTER OR PROCEEDING THAT MAY
53 SUBSTANTIALLY AFFECT THE INTERESTS OF RESIDENTIAL UTILITY CUSTOMERS,
54 INCLUDING, BUT NOT LIMITED TO, A PROPOSED CHANGE OF RATES, CHARGES,

1 TERMS AND CONDITIONS OF SERVICE, THE ADOPTION OF RULES, REGULATIONS,
2 GUIDELINES, ORDERS, STANDARDS OR FINAL POLICY DECISIONS WHERE THE UTILI-
3 TY CONSUMER ADVOCATE DEEMS SUCH INITIATION, INTERVENTION OR PARTIC-
4 IPATION TO BE NECESSARY OR APPROPRIATE;

5 (B) REPRESENT THE INTERESTS OF RESIDENTIAL UTILITY CUSTOMERS OF THE
6 STATE BEFORE FEDERAL, STATE AND LOCAL ADMINISTRATIVE AND REGULATORY
7 AGENCIES ENGAGED IN THE REGULATION OF ENERGY, TELECOMMUNICATIONS, WATER,
8 AND OTHER UTILITY SERVICES, AND BEFORE STATE AND FEDERAL COURTS IN
9 ACTIONS AND PROCEEDINGS TO REVIEW THE ACTIONS OF UTILITIES OR ORDERS OF
10 UTILITY REGULATORY AGENCIES. ANY ACTION OR PROCEEDING BROUGHT BY THE
11 UTILITY CONSUMER ADVOCATE BEFORE A COURT OR AN AGENCY SHALL BE BROUGHT
12 IN THE NAME OF THE STATE OFFICE OF THE UTILITY CONSUMER ADVOCATE. THE
13 UTILITY CONSUMER ADVOCATE MAY JOIN WITH A RESIDENTIAL UTILITY CUSTOMER
14 OR GROUP OF RESIDENTIAL UTILITY CUSTOMERS IN BRINGING AN ACTION;

15 (C) (I) IN ADDITION TO ANY OTHER AUTHORITY CONFERRED UPON THE UTILITY
16 CONSUMER ADVOCATE, HE OR SHE IS AUTHORIZED, AND IT SHALL BE HIS OR HER
17 DUTY TO REPRESENT THE INTERESTS OF RESIDENTIAL UTILITY CUSTOMERS AS A
18 PARTY, OR OTHERWISE PARTICIPATE FOR THE PURPOSE OF REPRESENTING THE
19 INTERESTS OF SUCH CUSTOMERS BEFORE ANY AGENCIES OR COURTS. HE OR SHE MAY
20 INITIATE PROCEEDINGS IF IN HIS OR HER JUDGMENT DOING SO MAY BE NECESSARY
21 IN CONNECTION WITH ANY MATTER INVOLVING THE ACTIONS OR REGULATION OF
22 PUBLIC UTILITY COMPANIES WHETHER ON APPEAL OR OTHERWISE INITIATED. THE
23 UTILITY CONSUMER ADVOCATE MAY MONITOR ALL CASES BEFORE REGULATORY AGEN-
24 CIES IN THE UNITED STATES, INCLUDING THE FEDERAL COMMUNICATIONS COMMIS-
25 SION AND THE FEDERAL ENERGY REGULATORY COMMISSION THAT AFFECT THE INTER-
26 ESTS OF RESIDENTIAL UTILITY CUSTOMERS OF THE STATE AND MAY FORMALLY
27 PARTICIPATE IN THOSE PROCEEDINGS WHICH IN HIS OR HER JUDGMENT WARRANTS
28 SUCH PARTICIPATION.

29 (II) THE UTILITY CONSUMER ADVOCATE SHALL EXERCISE HIS OR HER INDEPEND-
30 ENT DISCRETION IN DETERMINING THE INTERESTS OF RESIDENTIAL UTILITY
31 CUSTOMERS THAT WILL BE ADVOCATED IN ANY PROCEEDING, AND DETERMINING
32 WHETHER TO PARTICIPATE IN OR INITIATE ANY PROCEEDING AND, IN SO DETER-
33 MINING, SHALL CONSIDER THE PUBLIC INTEREST, THE RESOURCES AVAILABLE, AND
34 THE SUBSTANTIALITY OF THE EFFECT OF THE PROCEEDING ON THE INTEREST OF
35 RESIDENTIAL UTILITY CUSTOMERS;

36 (D) REQUEST AND RECEIVE FROM ANY STATE OR LOCAL AUTHORITY, AGENCY,
37 DEPARTMENT OR DIVISION OF THE STATE OR POLITICAL SUBDIVISION SUCH
38 ASSISTANCE, PERSONNEL, INFORMATION, BOOKS, RECORDS, OTHER DOCUMENTATION
39 AND COOPERATION NECESSARY TO PERFORM ITS DUTIES; AND

40 (E) ENTER INTO COOPERATIVE AGREEMENTS WITH OTHER GOVERNMENT OFFICES TO
41 EFFICIENTLY CARRY OUT ITS WORK.

42 S 28-D. REPORTS. ON JULY FIRST, TWO THOUSAND NINETEEN AND ANNUALLY
43 THEREAFTER, THE STATE OFFICE OF THE UTILITY CONSUMER ADVOCATE SHALL
44 ISSUE A REPORT TO THE GOVERNOR AND THE LEGISLATURE, AND MAKE SUCH REPORT
45 AVAILABLE TO THE PUBLIC FREE OF CHARGE ON A PUBLICLY AVAILABLE WEBSITE,
46 CONTAINING, BUT NOT LIMITED TO, THE FOLLOWING INFORMATION:

47 (A) ALL PROCEEDINGS THAT THE STATE OFFICE OF THE UTILITY CONSUMER
48 ADVOCATE PARTICIPATED IN AND THE OUTCOME OF SUCH PROCEEDINGS, TO THE
49 EXTENT OF SUCH OUTCOME AND IF NOT CONFIDENTIAL;

50 (B) ESTIMATED SAVINGS TO RESIDENTIAL UTILITY CONSUMERS THAT RESULTED
51 FROM INTERVENTION BY THE STATE OFFICE OF THE UTILITY CONSUMER ADVOCATE;
52 AND

53 (C) POLICY RECOMMENDATIONS AND SUGGESTED STATUTORY AMENDMENTS THAT THE
54 STATE OFFICE OF THE UTILITY CONSUMER ADVOCATE DEEMS NECESSARY.

55 S 2. This act shall take effect on the first of April next succeeding
56 the date on which it shall have become a law.

1

PART NN

2 Section 1. The public service law is amended by adding a new section
3 24-c to read as follows:

4 S 24-C. UTILITY INTERVENOR REIMBURSEMENT. 1. AS USED IN THIS
5 SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

6 (A) "COMPENSATION" MEANS PAYMENT FROM THE UTILITY INTERVENOR ACCOUNT
7 FUND ESTABLISHED BY SECTION NINETY-SEVEN-RRRR OF THE STATE FINANCE LAW,
8 FOR ALL OR PART, AS DETERMINED BY THE DEPARTMENT, OF REASONABLE ADVOCATE'S FEES, REASONABLE EXPERT WITNESS FEES, AND OTHER REASONABLE COSTS
9 FOR PREPARATION AND PARTICIPATION IN A PROCEEDING.

10 (B) "PARTICIPANT" MEANS A GROUP OF PERSONS THAT APPLY JOINTLY FOR AN
11 AWARD OF COMPENSATION UNDER THIS SECTION AND WHO REPRESENT THE INTERESTS
12 OF A SIGNIFICANT NUMBER OF RESIDENTIAL OR SMALL BUSINESS CUSTOMERS, OR A
13 NOT-FOR-PROFIT ORGANIZATION IN THIS STATE AUTHORIZED PURSUANT TO ITS
14 ARTICLES OF INCORPORATION OR BYLAWS TO REPRESENT THE INTERESTS OF RESIDENTIAL OR SMALL BUSINESS UTILITY CUSTOMERS. FOR PURPOSES OF THIS
15 SECTION, A PARTICIPANT DOES NOT INCLUDE A NON-PROFIT ORGANIZATION OR
16 OTHER ORGANIZATION WHOSE PRINCIPAL INTERESTS ARE THE WELFARE OF A PUBLIC
17 UTILITY OR ITS INVESTORS OR EMPLOYEES, OR THE WELFARE OF ONE OR MORE
18 BUSINESSES OR INDUSTRIES WHICH RECEIVE UTILITY SERVICE ORDINARILY AND
19 PRIMARILY FOR USE IN CONNECTION WITH THE PROFIT-SEEKING MANUFACTURE,
20 SALE, OR DISTRIBUTION OF GOODS OR SERVICES.

21 (C) "OTHER REASONABLE COSTS" MEANS REASONABLE OUT-OF-POCKET EXPENSES
22 DIRECTLY INCURRED BY A PARTICIPANT THAT ARE DIRECTLY RELATED TO THE
23 CONTENTIONS OR RECOMMENDATIONS MADE BY THE PARTICIPANT THAT RESULTED IN
24 A SUBSTANTIAL CONTRIBUTION.

25 (D) "PARTY" MEANS ANY INTERESTED PARTY, RESPONDENT PUBLIC UTILITY, OR
26 COMMISSION STAFF IN A HEARING OR PROCEEDING.

27 (E) "PROCEEDING" MEANS A COMPLAINT, OR INVESTIGATION, RULEMAKING, OR
28 OTHER FORMAL PROCEEDING BEFORE THE COMMISSION, OR ALTERNATIVE DISPUTE
29 RESOLUTION PROCEDURES IN LIEU OF FORMAL PROCEEDINGS AS MAY BE SPONSORED
30 OR ENDORSED BY THE COMMISSION, PROVIDED HOWEVER SUCH PROCEEDINGS SHALL
31 BE LIMITED TO THOSE RELATING TO PUBLIC UTILITIES THAT DISTRIBUTE AND
32 DELIVER GAS, ELECTRICITY, OR STEAM WITHIN THIS STATE AND HAVING ANNUAL
33 REVENUES IN EXCESS OF TWO HUNDRED MILLION DOLLARS ARISING UNDER AND
34 PROCEEDING PURSUANT TO THE FOLLOWING ARTICLES OF THIS CHAPTER: (1) THE
35 REGULATION OF THE PRICE OF GAS AND ELECTRICITY, PURSUANT TO ARTICLE FOUR
36 OF THIS CHAPTER; (2) THE REGULATION OF THE PRICE OF STEAM, PURSUANT TO
37 ARTICLE FOUR-A OF THIS CHAPTER; (3) THE SUBMETERING, REMETERING OR
38 RESALE OF ELECTRICITY TO RESIDENTIAL PREMISES, PURSUANT TO SECTION
39 SIXTY-FIVE AND SIXTY-SIX OF THIS CHAPTER, AND PURSUANT TO REGULATIONS
40 REGARDING THE SUBMETERING, REMETERING, OR RESALE OF ELECTRICITY ADOPTED
41 BY THE COMMISSION; AND (4) SUCH SECTIONS OF THIS CHAPTER AS ARE APPLICABLE TO A PROCEEDING IN WHICH THE COMMISSION MAKES A FINDING ON THE
42 RECORD THAT THE PUBLIC INTEREST REQUIRES THE REIMBURSEMENT OF UTILITY
43 INTERVENOR FEES PURSUANT TO THIS SECTION.

44 (F) "SIGNIFICANT FINANCIAL HARDSHIP" MEANS THAT THE PARTICIPANT WILL
45 BE UNABLE TO AFFORD, WITHOUT UNDUE HARDSHIP, TO PAY THE COSTS OF EFFECTIVE PARTICIPATION, INCLUDING ADVOCATE'S FEES, EXPERT WITNESS FEES, AND
46 OTHER REASONABLE COSTS OF PARTICIPATION.

47 (G) "SMALL BUSINESS" MEANS A BUSINESS WITH A GROSS ANNUAL REVENUE OF
48 TWO HUNDRED FIFTY THOUSAND DOLLARS OR LESS.

49 (H) "SUBSTANTIAL CONTRIBUTION" MEANS THAT, IN THE JUDGMENT OF THE
50 DEPARTMENT, THE PARTICIPANT'S APPLICATION MAY SUBSTANTIALLY ASSIST THE
51 COMMISSION IN MAKING ITS DECISION BECAUSE THE DECISION MAY ADOPT IN
52

1 WHOLE OR IN PART ONE OR MORE FACTUAL CONTENTIONS, LEGAL CONTENTIONS, OR
2 SPECIFIC POLICY OR PROCEDURAL RECOMMENDATIONS THAT WILL BE PRESENTED BY
3 THE PARTICIPANT.

4 2. A PARTICIPANT MAY APPLY FOR AN AWARD OF COMPENSATION UNDER THIS
5 SECTION IN A PROCEEDING IN WHICH SUCH PARTICIPANT HAS SOUGHT ACTIVE
6 PARTY STATUS AS DEFINED BY THE DEPARTMENT. THE DEPARTMENT SHALL DETER-
7 MINE APPROPRIATE PROCEDURES FOR ACCEPTING AND RESPONDING TO SUCH APPLI-
8 CATIONS. AT THE TIME OF APPLICATION, SUCH PARTICIPANT SHALL SERVE ON
9 EVERY PARTY TO THE PROCEEDING NOTICE OF INTENT TO APPLY FOR AN AWARD OF
10 COMPENSATION.

11 AN APPLICATION SHALL INCLUDE:

12 (A) A STATEMENT OF THE NATURE AND EXTENT AND THE FACTUAL AND LEGAL
13 BASIS OF THE PARTICIPANT'S PLANNED PARTICIPATION IN THE PROCEEDING AS
14 FAR AS IT IS POSSIBLE TO DESCRIBE SUCH PARTICIPATION WITH REASONABLE
15 SPECIFICITY AT THE TIME THE APPLICATION IS FILED.

16 (B) AT MINIMUM, A REASONABLY DETAILED DESCRIPTION OF ANTICIPATED ADVO-
17 CATES AND EXPERT WITNESS FEES AND OTHER COSTS OF PREPARATION AND PARTIC-
18 IPATION THAT THE PARTICIPANT EXPECTS TO REQUEST AS COMPENSATION.

19 (C) IF PARTICIPATION OR INTERVENTION WILL IMPOSE A SIGNIFICANT FINAN-
20 CIAL HARDSHIP AND THE PARTICIPANT SEEKS PAYMENT IN ADVANCE TO AN AWARD
21 OF COMPENSATION IN ORDER TO INITIATE, CONTINUE OR COMPLETE PARTICIPATION
22 IN THE HEARING OR PROCEEDING, SUCH PARTICIPANT MUST INCLUDE EVIDENCE OF
23 SUCH SIGNIFICANT FINANCIAL HARDSHIP IN ITS APPLICATION.

24 (D) ANY OTHER REQUIREMENTS AS REQUIRED BY THE DEPARTMENT.

25 3. (A) WITHIN THIRTY DAYS AFTER THE FILING OF AN APPLICATION THE
26 DEPARTMENT SHALL ISSUE A DECISION THAT DETERMINES WHETHER OR NOT THE
27 PARTICIPANT MAY MAKE A SUBSTANTIAL CONTRIBUTION TO THE FINAL DECISION IN
28 THE HEARING OR PROCEEDING. IF THE DEPARTMENT FINDS THAT THE PARTICIPANT
29 REQUESTING COMPENSATION MAY MAKE A SUBSTANTIAL CONTRIBUTION, THE DEPART-
30 MENT SHALL DESCRIBE THIS SUBSTANTIAL CONTRIBUTION AND DETERMINE THE
31 AMOUNT OF COMPENSATION TO BE PAID PURSUANT TO SUBDIVISION FOUR OF THIS
32 SECTION.

33 (B) NOTWITHSTANDING SUBDIVISION FOUR OF THIS SECTION, IF THE DEPART-
34 MENT FINDS THAT THE PARTICIPANT HAS A SIGNIFICANT FINANCIAL HARDSHIP,
35 THE DEPARTMENT MAY DIRECT THE PUBLIC UTILITY OR UTILITIES SUBJECT TO THE
36 PROCEEDING TO PAY ALL OR PART OF THE COMPENSATION TO THE DEPARTMENT TO
37 BE PROVIDED TO THE PARTICIPANT PRIOR TO THE END OF THE PROCEEDING. IN
38 THE EVENT THAT THE PARTICIPANT DISCONTINUES ITS PARTICIPATION IN THE
39 PROCEEDING WITHOUT THE CONSENT OF THE DEPARTMENT, THE DEPARTMENT SHALL
40 BE ENTITLED TO, IN WHOLE OR IN PART, RECOVER ANY PAYMENTS MADE TO SUCH
41 PARTICIPANT TO BE REFUNDED TO THE PUBLIC UTILITY OR UTILITIES THAT
42 PROVIDED SUCH PAYMENT.

43 (C) THE COMPUTATION OF COMPENSATION PURSUANT TO PARAGRAPH (A) OF THIS
44 SUBDIVISION SHALL TAKE INTO CONSIDERATION THE MARKET RATES PAID TO
45 PERSONS OF COMPARABLE TRAINING AND EXPERIENCE WHO OFFER SIMILAR
46 SERVICES. THE COMPENSATION AWARDED MAY NOT, IN ANY CASE, EXCEED THE
47 COMPARABLE MARKET RATE FOR SERVICES PAID BY THE DEPARTMENT OR THE PUBLIC
48 UTILITY, WHICHEVER IS GREATER, TO PERSONS OF COMPARABLE TRAINING AND
49 EXPERIENCE WHO ARE OFFERING SIMILAR SERVICES.

50 (D) ANY COMPENSATION AWARDED TO A PARTICIPANT AND NOT USED BY SUCH
51 PARTICIPANT SHALL BE RETURNED TO THE DEPARTMENT FOR REFUND TO THE PUBLIC
52 UTILITY OR UTILITIES THAT PROVIDED SUCH PAYMENT.

53 (E) THE DEPARTMENT SHALL REQUIRE THAT PARTICIPANTS SEEKING PAYMENT
54 MAINTAIN AN ITEMIZED RECORD OF ALL EXPENDITURES INCURRED AS A RESULT OF
55 SUCH PROCEEDING.

1 (I) THE DEPARTMENT MAY USE THE ITEMIZED RECORD OF EXPENSES TO VERIFY
2 THE CLAIM OF FINANCIAL HARDSHIP BY A PARTICIPANT SEEKING PAYMENT PURSU-
3 ANT TO PARAGRAPH (C) OF SUBDIVISION TWO OF THIS SECTION.

4 (II) THE DEPARTMENT MAY USE THE RECORD OF EXPENDITURES IN DETERMINING,
5 AFTER THE COMPLETION OF A PROCEEDING, IF ANY UNUSED FUNDS REMAIN.

6 (III) THE DEPARTMENT SHALL PRESERVE THE CONFIDENTIALITY OF THE PARTIC-
7 IPANT'S RECORDS IN MAKING ANY AUDIT OR DETERMINING THE AVAILABILITY OF
8 FUNDS AFTER THE COMPLETION OF A PROCEEDING.

9 (F) IN THE EVENT THAT THE DEPARTMENT FINDS THAT TWO OR MORE PARTIC-
10 IPANTS' APPLICATIONS HAVE SUBSTANTIALLY SIMILAR INTERESTS, THE DEPART-
11 MENT MAY REQUIRE SUCH PARTICIPANTS TO APPLY JOINTLY IN ORDER TO RECEIVE
12 COMPENSATION.

13 4. ANY COMPENSATION PURSUANT TO THIS SECTION SHALL BE PAID AT THE
14 CONCLUSION OF THE PROCEEDING BY THE PUBLIC UTILITY OR UTILITIES SUBJECT
15 TO THE PROCEEDING WITHIN THIRTY DAYS. SUCH COMPENSATION SHALL BE REMIT-
16 TED TO THE DEPARTMENT WHICH SHALL THEN REMIT SUCH COMPENSATION TO THE
17 PARTICIPANT.

18 5. THE DEPARTMENT SHALL DENY ANY AWARD TO ANY PARTICIPANT WHO ATTEMPTS
19 TO DELAY OR OBSTRUCT THE ORDERLY AND TIMELY FULFILLMENT OF THE DEPART-
20 MENT'S RESPONSIBILITIES.

21 S 2. The state finance law is amended by adding a new section 97-rrrr
22 to read as follows:

23 S 97-RRRR. UTILITY INTERVENOR ACCOUNT. 1. THERE IS HEREBY ESTABLISHED
24 IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF
25 TAXATION AND FINANCE A FUND TO BE KNOWN AS THE UTILITY INTERVENOR
26 ACCOUNT.

27 2. SUCH ACCOUNT SHALL CONSIST OF ALL UTILITY INTERVENOR REIMBURSEMENT
28 MONIES RECEIVED FROM UTILITIES PURSUANT TO SECTION TWENTY-FOUR-C OF THE
29 PUBLIC SERVICE LAW.

30 S 3. This act shall take effect on the thirtieth day after it shall
31 have become a law.

32 PART 00

33 Section 1. Paragraphs (b) and (c) of subdivision 3 of section 722 of
34 the county law, as amended by section 3 of part E of chapter 56 of the
35 laws of 2010, are amended to read as follows:

36 (b) Any plan of a bar association must receive the approval of the
37 [state administrator] OFFICE OF INDIGENT LEGAL SERVICES before the plan
38 is placed in operation. In the county of Hamilton, representation pursu-
39 ant to a plan of a bar association in accordance with subparagraph (i)
40 of paragraph (a) of this subdivision may be by counsel furnished by the
41 Fulton county bar association pursuant to a plan of the Fulton county
42 bar association, following approval of the [state administrator] OFFICE
43 OF INDIGENT LEGAL SERVICES. When considering approval of an office of
44 conflict defender pursuant to this section, the [state administrator]
45 OFFICE OF INDIGENT LEGAL SERVICES shall employ the guidelines IT HAS
46 HERETOFORE established [by the office of indigent legal services] pursu-
47 ant to paragraph (d) of subdivision three of section eight hundred thir-
48 ty-two of the executive law.

49 (c) Any county operating an office of conflict defender, as described
50 in subparagraph (ii) of paragraph (a) of this subdivision, as of March
51 thirty-first, two thousand ten may continue to utilize the services
52 provided by such office provided that the county submits a plan to the
53 state administrator within one hundred eighty days after the promulga-
54 tion of criteria for the provision of conflict defender services by the

1 office of indigent legal services. The authority to operate such an
2 office pursuant to this paragraph shall expire when the state adminis-
3 trator (OR, ON OR AFTER APRIL FIRST, TWO THOUSAND NINETEEN, THE OFFICE
4 OF INDIGENT LEGAL SERVICES) approves or disapproves such plan. Upon
5 approval, the county is authorized to operate such office in accordance
6 with paragraphs (a) and (b) of this subdivision.

7 S 2. Subdivision 3 of section 722 of the county law is amended by
8 adding a new paragraph (d) to read as follows:

9 (D) FOR PURPOSES OF THIS SUBDIVISION, ANY PLAN OF A BAR ASSOCIATION
10 APPROVED HEREUNDER PURSUANT TO THIS SUBDIVISION, AS PROVIDED PRIOR TO
11 APRIL FIRST, TWO THOUSAND NINETEEN, SHALL REMAIN IN EFFECT UNTIL IT IS
12 SUPERSEDED BY A PLAN APPROVED BY THE OFFICE OF INDIGENT LEGAL SERVICES
13 OR DISAPPROVED BY SUCH OFFICE.

14 S 3. Subdivision 1 of section 722-f of the county law, as added by
15 chapter 761 of the laws of 1966 and as designated by section 4 of part J
16 of chapter 62 of the laws of 2003, is amended to read as follows:

17 1. A public defender appointed pursuant to article eighteen-A of this
18 chapter, a private legal aid bureau or society designated by a county or
19 city pursuant to subdivision two of section seven hundred twenty-two of
20 this [chapter] ARTICLE, [and] an administrator of a plan of a bar asso-
21 ciation appointed pursuant to subdivision three of section seven hundred
22 twenty-two of this [chapter] ARTICLE AND AN OFFICE OF CONFLICT DEFENDER
23 ESTABLISHED PURSUANT TO SUCH SUBDIVISION shall file an annual report
24 with the [judicial conference] CHIEF ADMINISTRATOR OF THE COURTS AND THE
25 OFFICE OF INDIGENT LEGAL SERVICES. SUCH REPORT SHALL BE FILED at such
26 times and in such detail and form as the [judicial conference] OFFICE OF
27 INDIGENT LEGAL SERVICES may direct.

28 S 4. This act shall take effect on April 1, 2019.

29

PART PP

30 Section 1. Legislative intent. The legislature hereby finds and
31 declares that it is in the public interest to enact a cost benefit
32 review process when a state agency enters into contracts for personal
33 services. New York State spends over \$3.5 billion annually on personal
34 service contracts, over \$840 million more than the State spent on these
35 contracts in SFY 2003-04, a 32% increase. Despite an Executive Order
36 that has implemented a post contract review process for some personal
37 service contracts the cost of those contracts continues to escalate
38 every year well above the inflation rate. In addition the State Finance
39 Law does not require state agencies to compare the cost or quality of
40 personal services to be provided by consultants with the cost or quality
41 of providing the same services by the state employees. Numerous audits
42 by the Office of State Comptroller as well as a KPMG study commissioned
43 by the department of transportation have found that consultants hired
44 under personal service contracts can cost between fifty percent and
45 seventy-five percent more than state employees that do the exact same
46 work including the cost of state employee benefits. The Contract Disclo-
47 sure Law (Chapter 10 of the laws of 2006) required consultants who
48 provide personal services to file forms for each contract that outline
49 how many consultants they hired, what titles they employed them in and
50 how much they paid them. A review of these forms show that the average
51 consultant makes about fifty percent more than state employees doing
52 comparable work. It is in the public interest for state agencies to
53 compare the cost of doing work by consultants with the cost of doing the
54 same work with state employees as well as document whether or not that

1 such work can be done by state employees. If state government is to be
2 smarter, more efficient, and transparent then a cost benefit analysis
3 process that makes its findings public should be required by law.

4 S 2. Section 163 of the state finance law is amended by adding a new
5 subdivision 16 to read as follows:

6 16. CONSULTANT SERVICES. A. BEFORE A STATE AGENCY ENTERS INTO A
7 CONTRACT FOR CONSULTANT SERVICES WHICH IS ANTICIPATED TO COST MORE THAN
8 SEVEN HUNDRED FIFTY THOUSAND DOLLARS IN A TWELVE MONTH PERIOD THE STATE
9 AGENCY SHALL CONDUCT A COST COMPARISON REVIEW TO DETERMINE WHETHER THE
10 SERVICES TO BE PROVIDED BY THE CONSULTANT CAN BE PERFORMED AT EQUAL OR
11 LOWER COST BY UTILIZING STATE EMPLOYEES, UNLESS THE CONTRACT MEETS ONE
12 OF THE EXCEPTIONS SET FORTH IN PARAGRAPH G OF THIS SUBDIVISION. AS USED
13 IN THIS SECTION, THE TERM "CONSULTANT SERVICES" SHALL MEAN ANY CONTRACT
14 ENTERED INTO BY A STATE AGENCY FOR ANALYSIS, EVALUATION, RESEARCH,
15 TRAINING, DATA PROCESSING, COMPUTER PROGRAMMING, THE DESIGN, DEVELOPMENT
16 AND IMPLEMENTATION OF TECHNOLOGY, COMMUNICATIONS OR TELECOMMUNICATIONS
17 SYSTEMS OR THE INFRASTRUCTURE PERTAINING THERETO, INCLUDING HARDWARE AND
18 SOFTWARE, ENGINEERING INCLUDING INSPECTION AND PROFESSIONAL DESIGN
19 SERVICES, HEALTH SERVICES, MENTAL HEALTH SERVICES, ACCOUNTING, AUDITING,
20 OR SIMILAR SERVICES AND SUCH SERVICES THAT ARE SUBSTANTIALLY SIMILAR TO
21 AND IN LIEU OF SERVICES PROVIDED, IN WHOLE OR IN PART, BY STATE EMPLOY-
22 EES, BUT SHALL NOT INCLUDE LEGAL SERVICES OR SERVICES IN CONNECTION WITH
23 LITIGATION INCLUDING EXPERT WITNESSES AND SHALL NOT INCLUDE CONTRACTS
24 FOR CONSTRUCTION OF PUBLIC WORKS. FOR PURPOSES OF THIS SUBDIVISION, THE
25 COSTS OF PERFORMING THE SERVICES BY STATE EMPLOYEES SHALL INCLUDE ANY
26 SALARY, PENSION COSTS, ALL OTHER BENEFIT COSTS, COSTS THAT ARE REQUIRED
27 FOR EQUIPMENT, FACILITIES AND ALL OTHER OVERHEAD. THE COSTS OF CONSULT-
28 ANT SERVICES SHALL INCLUDE THE TOTAL COST OF THE CONTRACT INCLUDING
29 COSTS THAT ARE REQUIRED FOR EQUIPMENT, FACILITIES AND ALL OTHER OVERHEAD
30 AND ANY CONTINUING STATE COSTS DIRECTLY ASSOCIATED WITH A CONTRACTOR
31 PROVIDING A CONTRACTED FUNCTION INCLUDING, BUT NOT LIMITED TO, THOSE
32 COSTS FOR INSPECTION, SUPERVISION, MONITORING OF THE CONTRACTOR'S WORK
33 AND ANY PRO RATA SHARE OF EXISTING COSTS OR EXPENSES, INCLUDING ADMINIS-
34 TRATIVE SALARIES AND BENEFITS, RENT, EQUIPMENT COSTS, UTILITIES AND
35 MATERIALS. THE COST COMPARISON SHALL BE EXPRESSED WHERE FEASIBLE AS AN
36 HOURLY RATE, OR WHERE SUCH A CALCULATION IS NOT FEASIBLE, AS A TOTAL
37 ESTIMATED COST FOR THE ANTICIPATED TERM OF THE CONTRACT.

38 B. PRIOR TO ENTERING ANY CONSULTATION SERVICES CONTRACT FOR THE PRIVA-
39 TIZATION OF A STATE SERVICE THAT IS NOT CURRENTLY PRIVATIZED, THE STATE
40 AGENCY SHALL DEVELOP A COST COMPARISON REVIEW IN ACCORDANCE WITH THE
41 PROVISIONS OF PARAGRAPH A OF THIS SUBDIVISION.

42 C. (I) IF SUCH COST COMPARISON REVIEW IDENTIFIES A COST SAVINGS TO THE
43 STATE OF TEN PERCENT OR MORE, AND SUCH CONSULTANT SERVICES CONTRACT WILL
44 NOT DIMINISH THE QUALITY OF SUCH SERVICE, THE STATE AGENCY SHALL DEVELOP
45 A BUSINESS PLAN, IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH D OF
46 THIS SUBDIVISION, IN ORDER TO EVALUATE THE FEASIBILITY OF ENTERING ANY
47 SUCH CONTRACT AND TO IDENTIFY THE POTENTIAL RESULTS, EFFECTIVENESS AND
48 EFFICIENCY OF SUCH CONTRACT.

49 (II) IF SUCH COST COMPARISON REVIEW IDENTIFIES A COST SAVINGS OF LESS
50 THAN TEN PERCENT TO THE STATE AND SUCH CONSULTANT SERVICES CONTRACT WILL
51 NOT DIMINISH THE QUALITY OF SUCH SERVICE, THE STATE AGENCY MAY DEVELOP A
52 BUSINESS PLAN, IN ORDER TO EVALUATE THE FEASIBILITY OF ENTERING ANY SUCH
53 CONTRACT AND TO IDENTIFY THE POTENTIAL RESULTS, EFFECTIVENESS AND EFFI-
54 CIENCY OF SUCH CONTRACT, PROVIDED THERE IS A SIGNIFICANT PUBLIC POLICY
55 REASON TO ENTER INTO SUCH CONSULTANT SERVICES CONTRACT.

1 (III) IF ANY SUCH PROPOSED CONSULTANT SERVICES CONTRACT WOULD RESULT
2 IN THE LAYOFF, TRANSFER OR REASSIGNMENT OF FIFTY OR MORE STATE AGENCY
3 EMPLOYEES, AFTER CONSULTING WITH THE POTENTIALLY AFFECTED BARGAINING
4 UNITS, IF ANY, THE STATE AGENCY SHALL NOTIFY THE STATE EMPLOYEES OF SUCH
5 BARGAINING UNIT, AFTER SUCH COST COMPARISON REVIEW IS COMPLETED. SUCH
6 STATE AGENCY SHALL PROVIDE AN OPPORTUNITY FOR SAID EMPLOYEES TO REDUCE
7 THE COSTS OF CONDUCTING THE OPERATIONS TO BE PRIVATIZED AND PROVIDE
8 REASONABLE RESOURCES FOR THE PURPOSE OF ENCOURAGING AND ASSISTING SUCH
9 STATE EMPLOYEES TO ORGANIZE AND SUBMIT A BID TO PROVIDE THE SERVICES
10 THAT ARE THE SUBJECT OF THE POTENTIAL CONSULTANT SERVICES CONTACT.

11 D. ANY BUSINESS PLAN DEVELOPED BY A STATE AGENCY FOR THE PURPOSE OF
12 COMPLYING WITH PARAGRAPH C OF THIS SUBDIVISION SHALL INCLUDE: (I) THE
13 COST COMPARISON REVIEW AS DESCRIBED IN PARAGRAPH B OF THIS SUBDIVISION,
14 (II) A DETAILED DESCRIPTION OF THE SERVICE OR ACTIVITY THAT IS THE
15 SUBJECT OF SUCH BUSINESS PLAN, (III) A DESCRIPTION AND ANALYSIS OF THE
16 STATE AGENCY'S CURRENT PERFORMANCE OF SUCH SERVICE OR ACTIVITY, (IV) THE
17 GOALS TO BE ACHIEVED THROUGH THE PROPOSED CONSULTANT SERVICES CONTRACT
18 AND THE RATIONALE FOR SUCH GOALS, (V) A DESCRIPTION OF AVAILABLE OPTIONS
19 FOR ACHIEVING SUCH GOALS, (VI) AN ANALYSIS OF THE ADVANTAGES AND DISAD-
20 VANTAGES OF EACH OPTION, INCLUDING, AT A MINIMUM, POTENTIAL PERFORMANCE
21 IMPROVEMENTS AND RISKS ATTENDANT TO TERMINATION OF THE CONTRACT OR
22 RESCISSION OF SUCH CONTRACT, (VII) A DESCRIPTION OF THE CURRENT MARKET
23 FOR THE SERVICES OR ACTIVITIES THAT ARE THE SUBJECT OF SUCH BUSINESS
24 PLAN, (VIII) AN ANALYSIS OF THE QUALITY OF SERVICES AS GAUGED BY STAND-
25 ARDIZED MEASURES AND KEY PERFORMANCE REQUIREMENTS INCLUDING COMPEN-
26 SATION, TURNOVER, AND STAFFING RATIOS, (IX) A DESCRIPTION OF THE SPECIF-
27 IC RESULTS BASED PERFORMANCE STANDARDS THAT SHALL, AT A MINIMUM BE MET,
28 TO ENSURE ADEQUATE PERFORMANCE BY ANY PARTY PERFORMING SUCH SERVICE OR
29 ACTIVITY, (X) THE PROJECTED TIME FRAME FOR KEY EVENTS FROM THE BEGINNING
30 OF THE PROCUREMENT PROCESS THROUGH THE EXPIRATION OF A CONTRACT, IF
31 APPLICABLE, (XI) A SPECIFIC AND FEASIBLE CONTINGENCY PLAN THAT ADDRESSES
32 CONTRACTOR NONPERFORMANCE AND A DESCRIPTION OF THE TASKS INVOLVED IN AND
33 COSTS REQUIRED FOR IMPLEMENTATION OF SUCH PLAN, AND (XII) A TRANSITION
34 PLAN, IF APPROPRIATE, FOR ADDRESSING CHANGES IN THE NUMBER OF AGENCY
35 PERSONNEL, AFFECTED BUSINESS PROCESSES, EMPLOYEE TRANSITION ISSUES, AND
36 COMMUNICATIONS WITH AFFECTED STAKEHOLDERS, SUCH AS AGENCY CLIENTS AND
37 MEMBERS OF THE PUBLIC, IF APPLICABLE. SUCH TRANSITION PLAN SHALL CONTAIN
38 A REEMPLOYMENT AND RETRAINING ASSISTANCE PLAN FOR EMPLOYEES WHO ARE NOT
39 RETAINED BY THE STATE OR EMPLOYED BY THE CONTRACTOR. IF ANY PART OF SUCH
40 BUSINESS PLAN IS BASED UPON EVIDENCE THAT THE STATE AGENCY IS NOT SUFFI-
41 CIENTLY STAFFED TO PROVIDE THE SERVICES REQUIRED BY THE CONSULTANT
42 SERVICES CONTRACT, THE STATE AGENCY SHALL ALSO INCLUDE WITHIN SUCH BUSI-
43 NESS PLAN A RECOMMENDATION FOR REMEDIATION OF THE UNDERSTAFFING TO ALLOW
44 SUCH SERVICES TO BE PROVIDED DIRECTLY BY THE STATE AGENCY IN THE FUTURE.

45 E. UPON THE COMPLETION OF SUCH BUSINESS PLAN, THE STATE AGENCY SHALL
46 SUBMIT THE BUSINESS PLAN TO THE STATE COMPTROLLER.

47 F. (I) NOT LATER THAN SIXTY DAYS AFTER RECEIPT OF ANY BUSINESS PLAN,
48 THE STATE COMPTROLLER SHALL TRANSMIT A REPORT DETAILING ITS REVIEW,
49 EVALUATION AND DISPOSITION REGARDING SUCH BUSINESS PLAN TO THE STATE
50 AGENCY THAT SUBMITTED SUCH COST COMPARISON REVIEW. SUCH SIXTY-DAY PERIOD
51 MAY BE EXTENDED FOR AN ADDITIONAL THIRTY DAYS UPON A SHOWING OF GOOD
52 CAUSE.

53 (II) THE STATE COMPTROLLER'S REPORT SHALL INCLUDE THE BUSINESS PLAN
54 PREPARED BY THE STATE AGENCY, THE REASONS FOR APPROVAL OR DISAPPROVAL,
55 ANY RECOMMENDATIONS OR OTHER INFORMATION TO ASSIST THE STATE AGENCY IN

1 DETERMINING IF ADDITIONAL STEPS ARE NECESSARY TO MOVE FORWARD WITH A
2 CONSULTANT SERVICES CONTRACT.

3 (III) IF THE STATE COMPTROLLER DOES NOT ACT ON A BUSINESS PLAN SUBMIT-
4 TED BY A STATE AGENCY WITHIN NINETY DAYS OF RECEIPT OF SUCH BUSINESS
5 PLAN, SUCH BUSINESS PLAN SHALL BE DEEMED APPROVED.

6 G. A COST COMPARISON SHALL NOT BE REQUIRED IF THE CONTRACTING AGENCY
7 DEMONSTRATES:

8 (I) THE SERVICES ARE INCIDENTAL TO THE PURCHASE OF REAL OR PERSONAL
9 PROPERTY; OR

10 (II) THE CONTRACT IS NECESSARY IN ORDER TO AVOID A CONFLICT OF INTER-
11 EST ON THE PART OF THE AGENCY OR ITS EMPLOYEES; OR

12 (III) THE SERVICES ARE OF SUCH A HIGHLY SPECIALIZED NATURE THAT IT IS
13 NOT FEASIBLE TO UTILIZE STATE EMPLOYEES TO PERFORM THEM OR REQUIRE
14 SPECIAL EQUIPMENT THAT IS NOT FEASIBLE FOR THE STATE TO PURCHASE OR
15 LEASE; OR

16 (IV) THE SERVICES ARE OF SUCH AN URGENT NATURE THAT IT IS NOT FEASIBLE
17 TO UTILIZE STATE EMPLOYEES; OR

18 (V) THE SERVICES ARE ANTICIPATED TO BE SHORT TERM AND ARE NOT LIKELY
19 TO BE EXTENDED OR REPEATED AFTER THE CONTRACT IS COMPLETED; OR

20 (VI) A QUANTIFIABLE IMPROVEMENT IN SERVICES THAT CANNOT BE REASONABLY
21 DUPLICATED.

22 H. NOTHING IN THIS SECTION SHALL BE DEEMED TO AUTHORIZE A STATE AGENCY
23 TO ENTER INTO A CONTRACT WHICH IS OTHERWISE PROHIBITED BY LAW.

24 I. ALL DOCUMENTS RELATED TO THE COST COMPARISON AND BUSINESS PLAN
25 REQUIRED BY THIS SUBDIVISION AND THE DETERMINATIONS MADE PURSUANT TO
26 PARAGRAPH G OF THIS SUBDIVISION SHALL BE PUBLIC RECORDS SUBJECT TO
27 DISCLOSURE PURSUANT TO ARTICLE SIX OF THE PUBLIC OFFICERS LAW.

28 S 3. On or before December 31, 2020 the state comptroller shall
29 prepare a report, to be delivered to the governor, the temporary presi-
30 dent of the senate and the speaker of the assembly. Such report shall
31 include, but need not be limited to, an analysis of the effectiveness of
32 the cost comparison review program and an analysis of the cost savings
33 associated with performing such cost comparison.

34 S 4. This act shall take effect on the ninetieth day after it shall
35 have become a law and shall apply to all contracts solicited or entered
36 into by state agencies after the effective date of this act; provided,
37 however, the amendments to section 163 of the state finance law made by
38 section two of this act shall not affect the repeal of such section and
39 shall be deemed repealed therewith.

40

PART QQ

41 Section 1. Subdivision 1 of section 10.40 of the criminal procedure
42 law, as amended by chapter 237 of the laws of 2015, is amended to read
43 as follows:

44 1. The chief administrator of the courts shall have the power to
45 adopt, amend and rescind forms for the efficient and just administration
46 of this chapter. SUCH FORMS SHALL INCLUDE, WITHOUT LIMITATION, THE
47 FORMS DESCRIBED IN PARAGRAPH (Z) OF SUBDIVISION TWO OF SECTION TWO
48 HUNDRED TWELVE OF THE JUDICIARY LAW. A failure by any party to submit
49 papers in compliance with forms authorized by this section shall not be
50 grounds for that reason alone for denial or granting of any motion.

51 S 1-a. Section 10.40 of the criminal procedure law, as added by chap-
52 ter 47 of the laws of 1984, is amended to read as follows:

53 S 10.40 Chief administrator to prescribe forms.

1 The chief administrator of the courts shall have the power to adopt,
2 amend and rescind forms for the efficient and just administration of
3 this chapter. SUCH FORMS SHALL INCLUDE, WITHOUT LIMITATION, THE FORMS
4 DESCRIBED IN PARAGRAPH (Z) OF SUBDIVISION TWO OF SECTION TWO HUNDRED
5 TWELVE OF THE JUDICIARY LAW. A failure by any party to submit papers in
6 compliance with forms authorized by this section shall not be grounds
7 for that reason alone for denial or granting of any motion.

8 S 2. Subdivision 2 of section 212 of the judiciary law is amended by
9 adding six new paragraphs (u-1), (v-1), (w), (x), (y) and (z) to read as
10 follows:

11 (U-1) COMPILER AND PUBLISH DATA ON MISDEMEANOR OFFENSES IN ALL COURTS,
12 DISAGGREGATED BY COUNTY, INCLUDING THE FOLLOWING INFORMATION:

13 (I) THE AGGREGATE NUMBER OF MISDEMEANORS CHARGED, BY INDICTMENT OR THE
14 FILING OF A MISDEMEANOR COMPLAINT OR INFORMATION;

15 (II) THE OFFENSE CHARGED;

16 (III) THE RACE, ETHNICITY, AGE, AND SEX OF THE INDIVIDUAL CHARGED;

17 (IV) WHETHER THE INDIVIDUAL WAS ISSUED A SUMMONS OR APPEARANCE TICKET,
18 WAS SUBJECT TO CUSTODIAL ARREST, AND/OR WAS HELD TO ARRAIGNMENT AS A
19 RESULT OF THE ALLEGED MISDEMEANOR;

20 (V) THE ZIP CODE OR LOCATION WHERE THE ALLEGED MISDEMEANOR OCCURRED;

21 (VI) THE DISPOSITION, INCLUDING, AS THE CASE MAY BE, DISMISSAL,
22 ACQUITTAL, ADJOURNMENT IN CONTEMPLATION OF DISMISSAL, PLEA, CONVICTION,
23 OR OTHER DISPOSITION;

24 (VII) IN THE CASE OF DISMISSAL, THE REASONS THEREFOR; AND

25 (VIII) THE SENTENCE IMPOSED, IF ANY, INCLUDING FINES, FEES, AND
26 SURCHARGES.

27 (V-1) COMPILER AND PUBLISH DATA ON VIOLATIONS IN ALL COURTS, DISAGGRE-
28 GATED BY COUNTY, INCLUDING THE FOLLOWING INFORMATION:

29 (I) THE AGGREGATE NUMBER OF VIOLATIONS CHARGED BY THE FILING OF AN
30 INFORMATION;

31 (II) THE VIOLATION CHARGED;

32 (III) THE RACE, ETHNICITY, AGE, AND SEX OF THE INDIVIDUAL CHARGED;

33 (IV) WHETHER THE INDIVIDUAL WAS ISSUED A SUMMONS OR APPEARANCE TICKET,
34 WAS SUBJECT TO CUSTODIAL ARREST, AND/OR WAS HELD TO ARRAIGNMENT AS A
35 RESULT OF THE ALLEGED VIOLATION;

36 (V) THE ZIP CODE OR LOCATION WHERE THE ALLEGED VIOLATION OCCURRED;

37 (VI) THE DISPOSITION, INCLUDING, AS THE CASE MAY BE, DISMISSAL,
38 ACQUITTAL, CONVICTION, OR OTHER DISPOSITION;

39 (VII) IN THE CASE OF DISMISSAL, THE REASONS THEREFOR; AND

40 (VIII) THE SENTENCE IMPOSED, IF ANY, INCLUDING FINES, FEES, AND
41 SURCHARGES.

42 (W) THE CHIEF ADMINISTRATOR SHALL INCLUDE THE INFORMATION REQUIRED BY
43 PARAGRAPHS (U-1) AND (V-1) OF THIS SUBDIVISION IN THE ANNUAL REPORT
44 SUBMITTED TO THE LEGISLATURE AND THE GOVERNOR PURSUANT TO PARAGRAPH (J)
45 OF SUBDIVISION ONE OF THIS SECTION. THE CHIEF ADMINISTRATOR SHALL ALSO
46 MAKE THE INFORMATION REQUIRED BY PARAGRAPHS (U-1) AND (V-1) OF THIS
47 SUBDIVISION AVAILABLE TO THE PUBLIC BY POSTING IT ON THE WEBSITE OF THE
48 OFFICE OF COURT ADMINISTRATION AND SHALL UPDATE SUCH INFORMATION ON A
49 MONTHLY BASIS. THE INFORMATION SHALL BE POSTED IN ALPHANUMERIC FORM THAT
50 CAN BE DIGITALLY TRANSMITTED OR PROCESSED AND NOT IN PORTABLE DOCUMENT
51 FORMAT OR SCANNED COPIES OF ORIGINAL DOCUMENTS.

52 (X) NOTHING IN PARAGRAPHS (U-1) AND (V-1) OF THIS SUBDIVISION SHALL BE
53 CONSTRUED AS GRANTING AUTHORITY TO THE CHIEF ADMINISTRATOR, A CRIMINAL
54 JUSTICE OR LAW ENFORCEMENT AGENCY, A GOVERNMENTAL ENTITY, OR ANY AGENT
55 OR REPRESENTATIVE OF THE FOREGOING, TO USE, DISSEMINATE, OR PUBLISH ANY
56 INDIVIDUAL'S NAME, DATE OF BIRTH, NYSID, SOCIAL SECURITY NUMBER, DOCKET

1 NUMBER, OR OTHER UNIQUE IDENTIFIER IN VIOLATION OF THE CRIMINAL PROCE-
2 DURE LAW, THE GENERAL BUSINESS LAW, OR ANY OTHER LAW.

3 (Y) NOTHING IN PARAGRAPHS (U-1) AND (V-1) OF THIS SUBDIVISION SHALL BE
4 CONSTRUED AS GRANTING AUTHORITY TO THE CHIEF ADMINISTRATOR, A CRIMINAL
5 JUSTICE OR LAW ENFORCEMENT AGENCY, A GOVERNMENTAL ENTITY, A PARTY, A
6 JUDGE, A PROSECUTOR, OR ANY AGENT OR REPRESENTATIVE OF THE FOREGOING TO
7 INTRODUCE, USE, DISSEMINATE, PUBLISH OR CONSIDER ANY RECORDS IN ANY
8 JUDICIAL OR ADMINISTRATIVE PROCEEDING EXPUNGED OR SEALED UNDER APPLICA-
9 BLE PROVISIONS OF THE CRIMINAL PROCEDURE LAW, THE FAMILY COURT ACT, OR
10 ANY OTHER LAW.

11 (Z) IN EXECUTING THE REQUIREMENTS OF PARAGRAPHS (U-1) AND (V-1) OF
12 THIS SECTION, THE CHIEF ADMINISTRATOR MAY ADOPT RULES CONSISTENT WITH
13 THE REQUIREMENTS OF PARAGRAPHS (X) AND (Y) OF THIS SUBDIVISION REQUIRING
14 APPROPRIATE LAW ENFORCEMENT OR CRIMINAL JUSTICE AGENCIES TO IDENTIFY
15 ACTIONS AND PROCEEDINGS INVOLVING THESE OFFENSES, AND WITH RESPECT TO
16 SUCH ACTIONS AND PROCEEDINGS, TO REPORT, IN SUCH FORM AND MANNER AS THE
17 CHIEF ADMINISTRATOR SHALL PRESCRIBE, THE INFORMATION SPECIFIED HEREIN.
18 FURTHER, TO FACILITATE THIS PROVISION, THE CHIEF ADMINISTRATOR SHALL
19 ADOPT RULES TO FACILITATE RECORD SHARING, RETENTION AND OTHER NECESSARY
20 COMMUNICATION AMONG THE CRIMINAL COURTS AND LAW ENFORCEMENT AGENCIES,
21 SUBJECT TO APPLICABLE PROVISIONS OF THE CRIMINAL PROCEDURE LAW, THE
22 FAMILY COURT ACT, AND ANY OTHER LAW PERTAINING TO THE CONFIDENTIALITY,
23 EXPUNGEMENT AND SEALING OF RECORDS.

24 S 3. The executive law is amended by adding a new section 837-t to
25 read as follows:

26 S 837-T. REPORTING DUTIES OF LAW ENFORCEMENT DEPARTMENTS WITH RESPECT
27 TO ARREST-RELATED DEATHS. 1. THE CHIEF OF EVERY POLICE DEPARTMENT, EACH
28 COUNTY SHERIFF, AND THE SUPERINTENDENT OF STATE POLICE SHALL PROMPTLY
29 REPORT TO THE DIVISION ANY ARREST-RELATED DEATH, DISAGGREGATED BY COUN-
30 TY. AN ARREST-RELATED DEATH IS A DEATH THAT OCCURS DURING LAW ENFORCE-
31 MENT CUSTODY OR AN ATTEMPT TO ESTABLISH CUSTODY INCLUDING, BUT NOT
32 LIMITED TO, DEATHS CAUSED BY ANY USE OF FORCE. THE DATA SHALL INCLUDE
33 THE FOLLOWING INFORMATION:

34 (A) THE NUMBER OF ARREST-RELATED DEATHS;
35 (B) THE RACE, ETHNICITY, AGE, AND SEX OF THE INDIVIDUAL;
36 (C) THE ZIP CODE OR LOCATION WHERE THE DEATH OCCURRED; AND
37 (D) A BRIEF DESCRIPTION OF THE CIRCUMSTANCES SURROUNDING THE
38 ARREST-RELATED DEATH.

39 2. THE DIVISION SHALL PRESENT TO THE GOVERNOR AND THE LEGISLATURE AN
40 ANNUAL REPORT CONTAINING THE INFORMATION REQUIRED BY SUBDIVISION ONE OF
41 THIS SECTION. THE INITIAL REPORT REQUIRED BY THIS SUBDIVISION SHALL BE
42 FOR THE PERIOD BEGINNING JULY FIRST, TWO THOUSAND EIGHTEEN AND ENDING
43 DECEMBER THIRTY-FIRST, TWO THOUSAND EIGHTEEN AND SHALL BE PRESENTED NO
44 LATER THAN FEBRUARY FIRST, TWO THOUSAND NINETEEN. THEREAFTER, EACH
45 ANNUAL REPORT SHALL BE PRESENTED NO LATER THAN FEBRUARY FIRST.

46 3. THE DIVISION SHALL MAKE THE INFORMATION REQUIRED BY SUBDIVISION ONE
47 OF THIS SECTION AVAILABLE TO THE PUBLIC BY POSTING IT ON THE WEBSITE OF
48 THE DIVISION AND SHALL UPDATE SUCH INFORMATION ON A MONTHLY BASIS. THE
49 INFORMATION SHALL BE POSTED IN ALPHANUMERIC FORM THAT CAN BE DIGITALLY
50 TRANSMITTED OR PROCESSED AND NOT IN PORTABLE DOCUMENT FORMAT OR SCANNED
51 COPIES OF ORIGINAL DOCUMENTS.

52 S 4. This act shall take effect immediately; provided that the amend-
53 ment to subdivision 1 of section 10.40 of the criminal procedure law,
54 made by section one of this act, shall be subject to the expiration and
55 reversion of such section as provided in section 11 of chapter 237 of

1 the laws of 2015, as amended, when upon such date the provisions of
2 section one-a of this act shall take effect.

3 PART RR

4 Section 1. Subdivision 2 of section 420.35 of the criminal procedure
5 law, as amended by chapter 426 of the laws of 2015, is amended and a new
6 subdivision 2-a is added to read as follows:

7 2. [Under] EXCEPT AS PROVIDED IN THIS SUBDIVISION OR SUBDIVISION TWO-A
8 OF THIS SECTION, UNDER no circumstances shall the mandatory surcharge,
9 sex offender registration fee, DNA databank fee or the crime victim
10 assistance fee be waived [provided, however, that a court may waive the
11 crime victim assistance fee if such defendant is an eligible youth as
12 defined in subdivision two of section 720.10 of this chapter, and the
13 imposition of such fee would work an unreasonable hardship on the
14 defendant, his or her immediate family, or any other person who is
15 dependent on such defendant for financial support]. A court shall waive
16 any mandatory surcharge, DNA databank fee and crime victim assistance
17 fee when: (i) the defendant is convicted of loitering for the purpose of
18 engaging in prostitution under section 240.37 of the penal law (provided
19 that the defendant was not convicted of loitering for the purpose of
20 patronizing a person for prostitution); (ii) the defendant is convicted
21 of prostitution under section 230.00 of the penal law; (iii) the defend-
22 ant is convicted of a violation in the event such conviction is in lieu
23 of a plea to or conviction for loitering for the purpose of engaging in
24 prostitution under section 240.37 of the penal law (provided that the
25 defendant was not alleged to be loitering for the purpose of patronizing
26 a person for prostitution) or prostitution under section 230.00 of the
27 penal law; or (iv) the court finds that a defendant is a victim of sex
28 trafficking under section 230.34 of the penal law or a victim of traf-
29 ficking in persons under the trafficking victims protection act (United
30 States Code, Title 22, Chapter 78).

31 2-A. A COURT MAY WAIVE ANY MANDATORY SURCHARGE, ADDITIONAL SURCHARGE,
32 TOWN OR VILLAGE SURCHARGE, THE CRIME VICTIM ASSISTANCE FEE, DNA DATABANK
33 FEE, SEX OFFENDER REGISTRATION FEE AND/OR SUPPLEMENTAL SEX OFFENDER
34 VICTIM FEE WHEN THE COURT FINDS THAT THE DEFENDANT WAS UNDER THE AGE OF
35 TWENTY-ONE AT THE TIME THE OFFENSE WAS COMMITTED AND:

36 (A) THE IMPOSITION OF SUCH SURCHARGE OR FEE WOULD WORK AN UNREASONABLE
37 HARDSHIP ON THE DEFENDANT, HIS OR HER IMMEDIATE FAMILY, OR ANY OTHER
38 PERSON WHO IS DEPENDENT ON SUCH DEFENDANT FOR FINANCIAL SUPPORT; OR

39 (B) AFTER CONSIDERING THE GOAL OF PROMOTING SUCCESSFUL AND PRODUCTIVE
40 REENTRY AND REINTEGRATION AS SET FORTH IN SUBDIVISION SIX OF SECTION
41 1.05 OF THE PENAL LAW, THE IMPOSITION OF SUCH SURCHARGE OR FEE WOULD
42 ADVERSELY IMPACT THE DEFENDANT'S REINTEGRATION INTO SOCIETY; OR

43 (C) THE INTERESTS OF JUSTICE.

44 S 2. Subdivision 3 of section 420.30 of the criminal procedure law, as
45 amended by section 5 of part F of chapter 56 of the laws of 2004, is
46 amended to read as follows:

47 3. Restrictions. [In] EXCEPT AS PROVIDED FOR IN SUBDIVISION TWO-A OF
48 SECTION 420.35 OF THIS ARTICLE, IN no event shall a mandatory surcharge,
49 sex offender registration fee, DNA databank fee or crime victim assist-
50 ance fee be remitted [provided, however, that a court may waive the
51 crime victim assistance fee if such defendant is an eligible youth as
52 defined in subdivision two of section 720.10 of this chapter, and the
53 imposition of such fee would work an unreasonable hardship on the

1 defendant, his or her immediate family, or any other person who is
2 dependent on such defendant for financial support].

3 S 3. Subdivision 10 of section 60.35 of the penal law is REPEALED.

4 S 4. Subdivision 3 of section 60.02 of the penal law is REPEALED.

5 S 5. This act shall take effect immediately.

6 PART SS

7 Section 1. Section 296 of the executive law is amended by adding a new
8 subdivision 15-a to read as follows:

9 15-A. IT SHALL BE AN UNLAWFUL DISCRIMINATORY PRACTICE, UNLESS SPECIF-
10 ICALLY REQUIRED OR PERMITTED BY STATUTE, FOR ANY PROSPECTIVE EMPLOYER,
11 INCLUDING ANY PERSON, AGENCY, BUREAU, CORPORATION OR ASSOCIATION,
12 INCLUDING THE STATE AND ANY POLITICAL SUBDIVISION THEREOF, TO MAKE AN
13 INQUIRY ABOUT, WHETHER IN ANY FORM OF APPLICATION OR OTHERWISE, OR TO
14 ACT UPON ADVERSELY TO THE INDIVIDUAL INVOLVED BASED UPON, ANY CRIMINAL
15 CONVICTION OF SUCH INDIVIDUAL UNLESS SUCH EMPLOYER FIRST MAKES A CONDI-
16 TIONAL OFFER OF EMPLOYMENT TO SUCH INDIVIDUAL. SUCH CONDITIONAL OFFER OF
17 EMPLOYMENT MAY ONLY SUBSEQUENTLY BE WITHDRAWN ON THE BASIS OF A CRIMINAL
18 CONVICTION IN ACCORDANCE WITH ARTICLE TWENTY-THREE-A OF THE CORRECTION
19 LAW WHERE SUCH CONVICTION BEARS A DIRECT RELATIONSHIP, AS SUCH TERM IS
20 DEFINED IN SUBDIVISION THREE OF SECTION SEVEN HUNDRED FIFTY OF THE
21 CORRECTION LAW, TO THE SPECIFIC POSITION BEING OFFERED, OR THE GRANTING
22 OF SUCH EMPLOYMENT WOULD INVOLVE AN UNREASONABLE RISK TO PROPERTY OR TO
23 THE SAFETY OR WELFARE OF SPECIFIC INDIVIDUALS OR THE GENERAL PUBLIC.

24 S 2. This act shall take effect on the ninetieth day after it shall
25 have become a law.

26 PART TT

27 Section 1. Subdivision 23 of section 2 of the correction law, as added
28 by chapter 1 of the laws of 2008, is amended to read as follows:

29 23. "Segregated confinement" means the [disciplinary] confinement of
30 an inmate in [a special housing unit or in a separate keeplock housing
31 unit. Special housing units and separate keeplock units are housing
32 units that consist of cells grouped so as to provide separation from the
33 general population, and may be used to house inmates confined pursuant
34 to the disciplinary procedures described in regulations] ANY FORM OF
35 CELL CONFINEMENT FOR MORE THAN SEVENTEEN HOURS A DAY OTHER THAN IN A
36 FACILITY-WIDE EMERGENCY OR FOR THE PURPOSE OF PROVIDING MEDICAL OR
37 MENTAL HEALTH TREATMENT. CELL CONFINEMENT THAT IS IMPLEMENTED DUE TO
38 MEDICAL OR MENTAL HEALTH TREATMENT SHALL BE WITHIN A CLINICAL AREA IN
39 THE CORRECTIONAL FACILITY OR IN AS CLOSE PROXIMITY TO A MEDICAL OR
40 MENTAL HEALTH UNIT AS POSSIBLE.

41 S 2. Section 2 of the correction law is amended by adding two new
42 subdivisions 32 and 33 to read as follows:

43 32. "SPECIAL POPULATIONS" MEANS ANY PERSON: (A) TWENTY-ONE YEARS OF
44 AGE OR YOUNGER; (B) FIFTY-FIVE YEARS OF AGE OR OLDER; (C) WITH A DISA-
45 BILITY AS DEFINED IN PARAGRAPH (A) OF SUBDIVISION TWENTY-ONE OF SECTION
46 TWO HUNDRED NINETY-TWO OF THE EXECUTIVE LAW; OR (D) WHO IS PREGNANT, IN
47 THE FIRST EIGHT WEEKS OF THE POST-PARTUM RECOVERY PERIOD AFTER GIVING
48 BIRTH, OR CARING FOR A CHILD IN A CORRECTIONAL INSTITUTION PURSUANT TO
49 SUBDIVISIONS TWO OR THREE OF SECTION SIX HUNDRED ELEVEN OF THIS CHAPTER.

50 33. "RESIDENTIAL REHABILITATION UNIT" MEANS A SEPARATE HOUSING UNIT
51 USED FOR THERAPY, TREATMENT, AND REHABILITATIVE PROGRAMMING OF INCARCER-
52 ATED PEOPLE WHO HAVE BEEN DETERMINED TO REQUIRE MORE THAN FIFTEEN DAYS

1 OF SEGREGATED CONFINEMENT PURSUANT TO DEPARTMENT PROCEEDINGS. SUCH UNITS
2 SHALL BE THERAPEUTIC AND TRAUMA-INFORMED, AND AIM TO ADDRESS INDIVIDUAL
3 TREATMENT AND REHABILITATION NEEDS AND UNDERLYING CAUSES OF PROBLEMATIC
4 BEHAVIORS.

5 S 3. Paragraph (a) of subdivision 6 of section 137 of the correction
6 law, as amended by chapter 490 of the laws of 1974, is amended to read
7 as follows:

8 (a) The inmate shall be supplied with a sufficient quantity of whole-
9 some and nutritious food[, provided, however, that such food need not be
10 the same as the food supplied to inmates who are participating in
11 programs of the facility];

12 S 4. Paragraph (d) of subdivision 6 of section 137 of the correction
13 law, as added by chapter 1 of the laws of 2008, is amended to read as
14 follows:

15 (d) (i) Except as set forth in clause (E) of subparagraph (ii) of this
16 paragraph, the department, in consultation with mental health clini-
17 cians, shall divert or remove inmates with serious mental illness, as
18 defined in paragraph (e) of this subdivision, from segregated confine-
19 ment OR CONFINEMENT IN A RESIDENTIAL REHABILITATION UNIT, where such
20 confinement could potentially be for a period in excess of thirty days,
21 to a residential mental health treatment unit. Nothing in this para-
22 graph shall be deemed to prevent the disciplinary process from proceed-
23 ing in accordance with department rules and regulations for disciplinary
24 hearings.

25 (ii) (A) Upon placement of an inmate into segregated confinement OR A
26 RESIDENTIAL REHABILITATION UNIT at a level one or level two facility, a
27 suicide prevention screening instrument shall be administered by staff
28 from the department or the office of mental health who has been trained
29 for that purpose. If such a screening instrument reveals that the inmate
30 is at risk of suicide, a mental health clinician shall be consulted and
31 appropriate safety precautions shall be taken. Additionally, within one
32 business day of the placement of such an inmate into segregated confine-
33 ment at a level one or level two facility, the inmate shall be assessed
34 by a mental health clinician.

35 (B) Upon placement of an inmate into segregated confinement OR A RESI-
36 DENTIAL REHABILITATION UNIT at a level three or level four facility, a
37 suicide prevention screening instrument shall be administered by staff
38 from the department or the office of mental health who has been trained
39 for that purpose. If such a screening instrument reveals that the inmate
40 is at risk of suicide, a mental health clinician shall be consulted and
41 appropriate safety precautions shall be taken. All inmates placed in
42 segregated confinement OR A RESIDENTIAL REHABILITATION UNIT at a level
43 three or level four facility shall be assessed by a mental health clini-
44 cian, within [fourteen] SEVEN days of such placement into segregated
45 confinement.

46 (C) At the initial assessment, if the mental health clinician finds
47 that an inmate suffers from a serious mental illness, THAT PERSON SHALL
48 BE DIVERTED OR REMOVED FROM SEGREGATED CONFINEMENT OR A RESIDENTIAL
49 REHABILITATION UNIT AND a recommendation shall be made whether excep-
50 tional circumstances, as described in clause (E) of this subparagraph,
51 exist. In a facility with a joint case management committee, such recom-
52 mendation shall be made by such committee. In a facility without a joint
53 case management committee, the recommendation shall be made jointly by a
54 committee consisting of the facility's highest ranking mental health
55 clinician, the deputy superintendent for security, and the deputy super-
56 intendent for program services, or their equivalents. Any such recommen-

1 dation shall be reviewed by the joint central office review committee.
2 The administrative process described in this clause shall be completed
3 within [fourteen] SEVEN days of the initial assessment, and if the
4 result of such process is that the inmate should be removed from segre-
5 gated confinement OR A RESIDENTIAL REHABILITATION UNIT, such removal
6 shall occur as soon as practicable, but in no event more than seventy-
7 two hours from the completion of the administrative process. PURSUANT TO
8 PARAGRAPH (G) OF THIS SUBDIVISION, NOTHING IN THIS SECTION SHALL PERMIT
9 THE PLACEMENT OF AN INCARCERATED PERSON WITH SERIOUS MENTAL ILLNESS INTO
10 SEGREGATED CONFINEMENT AT ANY TIME, EVEN FOR THE PURPOSES OF ASSESSMENT.

11 (D) If an inmate with a serious mental illness is not diverted or
12 removed to a residential mental health treatment unit, such inmate shall
13 be DIVERTED TO A RESIDENTIAL REHABILITATION UNIT AND reassessed by a
14 mental health clinician within fourteen days of the initial assessment
15 and at least once every fourteen days thereafter. After each such addi-
16 tional assessment, a recommendation as to whether such inmate should be
17 removed from [segregated confinement] A RESIDENTIAL REHABILITATION UNIT
18 shall be made and reviewed according to the process set forth in clause
19 (C) of this subparagraph.

20 (E) A recommendation or determination whether to remove an inmate from
21 segregated confinement OR A RESIDENTIAL REHABILITATION UNIT shall take
22 into account the assessing mental health clinicians' opinions as to the
23 inmate's mental condition and treatment needs, and shall also take into
24 account any safety and security concerns that would be posed by the
25 inmate's removal, even if additional restrictions were placed on the
26 inmate's access to treatment, property, services or privileges in a
27 residential mental health treatment unit. A recommendation or determi-
28 nation shall direct the inmate's removal from segregated confinement OR
29 A RESIDENTIAL REHABILITATION UNIT except in the following exceptional
30 circumstances: (1) when the reviewer finds that removal would pose a
31 substantial risk to the safety of the inmate or other persons, or a
32 substantial threat to the security of the facility, even if additional
33 restrictions were placed on the inmate's access to treatment, property,
34 services or privileges in a residential mental health treatment unit; or
35 (2) when the assessing mental health clinician determines that such
36 placement is in the inmate's best interests based on his or her mental
37 condition and that removing such inmate to a residential mental health
38 treatment unit would be detrimental to his or her mental condition. Any
39 determination not to remove an inmate with serious mental illness from
40 segregated confinement OR A RESIDENTIAL REHABILITATION UNIT shall be
41 documented in writing and include the reasons for the determination.

42 (iii) Inmates with serious mental illness who are not diverted or
43 removed from [segregated confinement] A RESIDENTIAL REHABILITATION UNIT
44 shall be offered a heightened level of MENTAL HEALTH care, involving a
45 minimum of [two] THREE hours [each day, five days a week,] DAILY of
46 out-of-cell therapeutic treatment and programming. This heightened level
47 of care shall not be offered only in the following circumstances:

48 (A) The heightened level of care shall not apply when an inmate with
49 serious mental illness does not, in the reasonable judgment of a mental
50 health clinician, require the heightened level of care. Such determi-
51 nation shall be documented with a written statement of the basis of such
52 determination and shall be reviewed by the Central New York Psychiatric
53 Center clinical director or his or her designee. Such a determination is
54 subject to change should the inmate's clinical status change. Such
55 determination shall be reviewed and documented by a mental health clini-
56 cian every thirty days, and in consultation with the Central New York

1 Psychiatric Center clinical director or his or her designee not less
2 than every ninety days.

3 (B) The heightened level of care shall not apply in exceptional
4 circumstances when providing such care would create an unacceptable risk
5 to the safety and security of inmates or staff. Such determination shall
6 be documented by security personnel together with the basis of such
7 determination and shall be reviewed by the facility superintendent, in
8 consultation with a mental health clinician, not less than every seven
9 days for as long as the inmate remains in [segregated confinement] A
10 RESIDENTIAL REHABILITATION UNIT. The facility shall attempt to resolve
11 such exceptional circumstances so that the heightened level of care may
12 be provided. If such exceptional circumstances remain unresolved for
13 thirty days, the matter shall be referred to the joint central office
14 review committee for review.

15 (iv) [Inmates with serious mental illness who are not diverted or
16 removed from segregated confinement shall not be placed on a restricted
17 diet, unless there has been a written determination that the restricted
18 diet is necessary for reasons of safety and security. If a restricted
19 diet is imposed, it shall be limited to seven days, except in the excep-
20 tional circumstances where the joint case management committee deter-
21 mines that limiting the restricted diet to seven days would pose an
22 unacceptable risk to the safety and security of inmates or staff. In
23 such case, the need for a restricted diet shall be reassessed by the
24 joint case management committee every seven days.

25 (v) All inmates in segregated confinement in a level one or level two
26 facility who are not assessed with a serious mental illness at the
27 initial assessment shall be offered at least one interview with a mental
28 health clinician within [fourteen] SEVEN days of their initial mental
29 health assessment, [and additional interviews at least every thirty days
30 thereafter,] unless the mental health clinician at the most recent
31 interview recommends an earlier interview or assessment. All inmates in
32 [segregated confinement] A RESIDENTIAL REHABILITATION UNIT in a level
33 three or level four facility who are not assessed with a serious mental
34 illness at the initial assessment shall be offered at least one inter-
35 view with a mental health clinician within thirty days of their initial
36 mental health assessment, and additional interviews at least every nine-
37 ty days thereafter, unless the mental health clinician at the most
38 recent interview recommends an earlier interview or assessment.

39 S 5. Subdivision 6 of section 137 of the correction law is amended by
40 adding eight new paragraphs (g), (h), (i), (j), (k), (l), (m) and (n) to
41 read as follows:

42 (G) PERSONS IN A SPECIAL POPULATION AS DEFINED IN SUBDIVISION THIRTY-
43 TWO OF SECTION TWO OF THIS CHAPTER SHALL NOT BE PLACED IN SEGREGATED
44 CONFINEMENT FOR ANY LENGTH OF TIME, EXCEPT IN KEEPLOCK FOR A PERIOD
45 PRIOR TO A DISCIPLINARY HEARING PURSUANT TO PARAGRAPH (K) OF THIS SUBDI-
46 VISION. INDIVIDUALS IN A SPECIAL POPULATION WHO ARE IN KEEPLOCK PRIOR
47 TO A DISCIPLINARY HEARING SHALL BE GIVEN SEVEN HOURS A DAY OUT-OF-CELL
48 TIME OR SHALL BE TRANSFERRED TO A RESIDENTIAL REHABILITATION UNIT OR
49 RESIDENTIAL MENTAL HEALTH TREATMENT UNIT AS EXPEDITIOUSLY AS POSSIBLE,
50 BUT IN NO CASE LONGER THAN FORTY-EIGHT HOURS FROM THE TIME AN INDIVIDUAL
51 IS ADMITTED TO KEEPLOCK.

52 (H) NO PERSON MAY BE PLACED IN SEGREGATED CONFINEMENT FOR LONGER THAN
53 NECESSARY AND NO MORE THAN FIFTEEN CONSECUTIVE DAYS OR TWENTY TOTAL DAYS
54 WITHIN ANY SIXTY DAY PERIOD. AT THESE LIMITS, HE OR SHE MUST BE
55 RELEASED FROM SEGREGATED CONFINEMENT OR DIVERTED TO A SEPARATE RESIDEN-
56 TIAL REHABILITATION UNIT. IF PLACEMENT OF SUCH PERSON IN SEGREGATED

1 CONFINEMENT WOULD EXCEED THE TWENTY-DAY LIMIT AND THE DEPARTMENT ESTAB-
2 LISHES THAT THE PERSON COMMITTED AN ACT DEFINED IN SUBPARAGRAPH (II) OF
3 PARAGRAPH (J) OF THIS SUBDIVISION, THE DEPARTMENT MAY PLACE THE PERSON
4 IN SEGREGATED CONFINEMENT UNTIL ADMISSION TO A RESIDENTIAL REHABILITATION
5 UNIT CAN BE EFFECTUATED. SUCH ADMISSION TO A RESIDENTIAL REHABILITATION
6 UNIT SHALL OCCUR AS EXPEDITIOUSLY AS POSSIBLE AND IN NO CASE
7 TAKE LONGER THAN FORTY-EIGHT HOURS FROM THE TIME SUCH PERSON IS PLACED
8 IN SEGREGATED CONFINEMENT.

9 (I) (I) ALL SEGREGATED CONFINEMENT AND RESIDENTIAL REHABILITATION
10 UNITS SHALL CREATE THE LEAST RESTRICTIVE ENVIRONMENT NECESSARY FOR THE
11 SAFETY OF INCARCERATED PERSONS, STAFF, AND THE SECURITY OF THE FACILITY.

12 (II) PERSONS IN SEGREGATED CONFINEMENT SHALL BE OFFERED OUT-OF-CELL
13 PROGRAMMING AT LEAST FOUR HOURS PER DAY, INCLUDING AT LEAST ONE HOUR FOR
14 RECREATION. PERSONS ADMITTED TO RESIDENTIAL REHABILITATION UNITS SHALL
15 BE OFFERED AT LEAST SIX HOURS OF DAILY OUT-OF-CELL CONGREGATE PROGRAM-
16 MING, SERVICES, TREATMENT, AND/OR MEALS, WITH AN ADDITIONAL MINIMUM OF
17 ONE HOUR FOR RECREATION. RECREATION IN ALL RESIDENTIAL REHABILITATION
18 UNITS SHALL TAKE PLACE IN A CONGREGATE SETTING, UNLESS EXCEPTIONAL
19 CIRCUMSTANCES MEAN DOING SO WOULD CREATE A SIGNIFICANT AND UNREASONABLE
20 RISK TO THE SAFETY AND SECURITY OF OTHER INCARCERATED PERSONS, STAFF, OR
21 THE FACILITY.

22 (III) NO LIMITATION ON SERVICES, TREATMENT, OR BASIC NEEDS SUCH AS
23 CLOTHING, FOOD AND BEDDING SHALL BE IMPOSED AS A FORM OF PUNISHMENT. IF
24 PROVISION OF ANY SUCH SERVICES, TREATMENT OR BASIC NEEDS TO AN INDIVID-
25 UAL WOULD CREATE A SIGNIFICANT AND UNREASONABLE RISK TO THE SAFETY AND
26 SECURITY OF INCARCERATED PERSONS, STAFF, OR THE FACILITY, SUCH SERVICES,
27 TREATMENT OR BASIC NEEDS MAY BE WITHHELD UNTIL IT REASONABLY APPEARS
28 THAT THE RISK HAS ENDED. THE DEPARTMENT SHALL NOT IMPOSE RESTRICTED
29 DIETS OR ANY OTHER CHANGE IN DIET AS A FORM OF PUNISHMENT. PERSONS IN A
30 RESIDENTIAL REHABILITATION UNIT SHALL HAVE ACCESS TO ALL OF THEIR
31 PERSONAL PROPERTY UNLESS AN INDIVIDUAL DETERMINATION IS MADE THAT HAVING
32 A SPECIFIC ITEM WOULD POSE A SIGNIFICANT AND UNREASONABLE RISK TO THE
33 SAFETY OF INCARCERATED PERSONS OR STAFF OR THE SECURITY OF THE UNIT.

34 (IV) UPON ADMISSION TO A RESIDENTIAL REHABILITATION UNIT, PROGRAM AND
35 MENTAL HEALTH STAFF SHALL ADMINISTER ASSESSMENTS AND DEVELOP AN INDIVID-
36 UAL REHABILITATION PLAN IN CONSULTATION WITH THE RESIDENT, BASED UPON
37 HIS OR HER MEDICAL, MENTAL HEALTH, AND PROGRAMMING NEEDS. SUCH PLAN
38 SHALL IDENTIFY SPECIFIC GOALS AND PROGRAMS, TREATMENT, AND SERVICES TO
39 BE OFFERED, WITH PROJECTED TIME FRAMES FOR COMPLETION AND DISCHARGE FROM
40 THE RESIDENTIAL REHABILITATION UNIT.

41 (V) AN INCARCERATED PERSON IN A RESIDENTIAL REHABILITATION UNIT SHALL
42 HAVE ACCESS TO PROGRAMS AND WORK ASSIGNMENTS COMPARABLE TO CORE PROGRAMS
43 AND WORK ASSIGNMENTS IN GENERAL POPULATION. SUCH INCARCERATED PERSONS
44 SHALL ALSO HAVE ACCESS TO ADDITIONAL OUT-OF-CELL, TRAUMA-INFORMED THERA-
45 PEUTIC PROGRAMMING AIMED AT PROMOTING PERSONAL DEVELOPMENT, ADDRESSING
46 UNDERLYING CAUSES OF PROBLEMATIC BEHAVIOR RESULTING IN PLACEMENT IN A
47 RESIDENTIAL REHABILITATION UNIT, AND HELPING PREPARE FOR DISCHARGE FROM
48 THE UNIT AND TO THE COMMUNITY.

49 (VI) IF THE DEPARTMENT ESTABLISHES THAT A PERSON COMMITTED AN ACT
50 DEFINED IN SUBPARAGRAPH (II) OF PARAGRAPH (J) OF THIS SUBDIVISION WHILE
51 IN SEGREGATED CONFINEMENT OR A RESIDENTIAL REHABILITATION UNIT AND POSES
52 A SIGNIFICANT AND UNREASONABLE RISK TO THE SAFETY AND SECURITY OF OTHER
53 INCARCERATED PERSONS OR STAFF, THE DEPARTMENT MAY RESTRICT SUCH PERSON'S
54 PARTICIPATION IN PROGRAMMING AND OUT-OF-CELL ACTIVITIES AS NECESSARY FOR
55 THE SAFETY OF OTHER INCARCERATED PERSONS AND STAFF. IF SUCH RESTRICTIONS
56 ARE IMPOSED, THE DEPARTMENT MUST PROVIDE AT LEAST FOUR HOURS OUT-OF-CELL

1 TIME DAILY, INCLUDING AT LEAST TWO HOURS OF THERAPEUTIC PROGRAMMING AND
2 TWO HOURS OF RECREATION, AND MUST MAKE REASONABLE EFFORTS TO REINSTATE
3 ACCESS TO PROGRAMMING AS SOON AS POSSIBLE. IN NO CASE MAY SUCH
4 RESTRICTIONS EXTEND BEYOND FIFTEEN DAYS UNLESS THE PERSON COMMITS A NEW
5 ACT DEFINED HEREIN JUSTIFYING RESTRICTIONS ON PROGRAM ACCESS, OR IF THE
6 COMMISSIONER AND, WHEN APPROPRIATE, THE COMMISSIONER OF MENTAL HEALTH
7 PERSONALLY REASONABLY DETERMINE THAT THE PERSON POSES AN EXTRAORDINARY
8 AND UNACCEPTABLE RISK OF IMMINENT HARM TO THE SAFETY OR SECURITY OF
9 INCARCERATED PERSONS OR STAFF. ANY EXTENSION OF PROGRAM RESTRICTIONS
10 BEYOND FIFTEEN DAYS MUST BE MEANINGFULLY REVIEWED AND APPROVED AT LEAST
11 EVERY FIFTEEN DAYS BY THE COMMISSIONER AND, WHEN APPROPRIATE, BY THE
12 COMMISSIONER OF MENTAL HEALTH. EACH REVIEW MUST CONSIDER THE IMPACT OF
13 THERAPEUTIC PROGRAMMING PROVIDED DURING THE FIFTEEN-DAY PERIOD ON THE
14 PERSON'S RISK OF IMMINENT HARM AND THE COMMISSIONER MUST ARTICULATE IN
15 WRITING, WITH A COPY PROVIDED TO THE INCARCERATED PERSON, THE SPECIFIC
16 REASON WHY THE PERSON CURRENTLY POSES AN EXTRAORDINARY AND UNACCEPTABLE
17 RISK OF IMMINENT HARM TO THE SAFETY OR SECURITY OF INCARCERATED PERSONS
18 OR STAFF. IN NO CASE MAY RESTRICTIONS IMPOSED BY THE COMMISSIONER EXTEND
19 BEYOND NINETY DAYS UNLESS THE PERSON COMMITS A NEW ACT DEFINED HEREIN
20 JUSTIFYING RESTRICTIONS ON PROGRAM ACCESS.

21 (VII) RESTRAINTS SHALL NOT BE USED WHEN INCARCERATED PERSONS ARE
22 PARTICIPATING IN OUT-OF-CELL ACTIVITIES WITHIN A RESIDENTIAL REHABILI-
23 TATION UNIT UNLESS AN INDIVIDUAL ASSESSMENT IS MADE THAT RESTRAINTS ARE
24 REQUIRED BECAUSE OF A SIGNIFICANT AND UNREASONABLE RISK TO THE SAFETY
25 AND SECURITY OF OTHER INCARCERATED PERSONS OR STAFF.

26 (J) (I) THE DEPARTMENT MAY PLACE A PERSON IN SEGREGATED CONFINEMENT
27 FOR UP TO THREE CONSECUTIVE DAYS AND NO LONGER THAN SIX DAYS IN ANY
28 THIRTY DAY PERIOD IF, PURSUANT TO AN EVIDENTIARY HEARING, IT DETERMINES
29 THAT THE PERSON VIOLATED DEPARTMENT RULES WHICH PERMIT A PENALTY OF
30 SEGREGATED CONFINEMENT. THE DEPARTMENT MAY NOT PLACE A PERSON IN SEGRE-
31 GATED CONFINEMENT FOR LONGER THAN THREE CONSECUTIVE DAYS OR SIX DAYS
32 TOTAL IN A THIRTY DAY PERIOD UNLESS THE PROVISIONS OF SUBPARAGRAPH (II)
33 OF THIS PARAGRAPH ARE MET.

34 (II) THE DEPARTMENT MAY PLACE A PERSON IN SEGREGATED CONFINEMENT
35 BEYOND THE LIMITS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH OR IN A RESIDEN-
36 TIAL REHABILITATION UNIT ONLY IF, PURSUANT TO AN EVIDENTIARY HEARING, IT
37 DETERMINES BY WRITTEN DECISION THAT THE PERSON COMMITTED ONE OF THE
38 FOLLOWING ACTS AND IF THE COMMISSIONER OR HIS OR HER DESIGNEE DETERMINES
39 IN WRITING BASED ON SPECIFIC OBJECTIVE CRITERIA THE ACTS WERE SO HEINOUS
40 OR DESTRUCTIVE THAT PLACEMENT OF THE INDIVIDUAL IN GENERAL POPULATION
41 HOUSING CREATES A SIGNIFICANT RISK OF IMMINENT SERIOUS PHYSICAL INJURY
42 TO STAFF OR OTHER INCARCERATED PERSONS, AND CREATES AN UNREASONABLE RISK
43 TO THE SECURITY OF THE FACILITY:

44 (A) CAUSING OR ATTEMPTING TO CAUSE SERIOUS PHYSICAL INJURY OR DEATH TO
45 ANOTHER PERSON OR MAKING AN IMMINENT THREAT OF SUCH SERIOUS PHYSICAL
46 INJURY OR DEATH IF THE PERSON HAS A HISTORY OF CAUSING SUCH PHYSICAL
47 INJURY OR DEATH AND THE COMMISSIONER AND, WHEN APPROPRIATE, THE COMMIS-
48 SIONER OF MENTAL HEALTH OR THEIR DESIGNEES REASONABLY DETERMINE THAT
49 THERE IS A STRONG LIKELIHOOD THAT THE PERSON WILL CARRY OUT SUCH THREAT.
50 THE COMMISSIONER OF MENTAL HEALTH OR HIS OR HER DESIGNEE SHALL BE
51 INVOLVED IN SUCH DETERMINATION IF THE PERSON IS OR HAS BEEN ON THE
52 MENTAL HEALTH CASELOAD OR APPEARS TO REQUIRE PSYCHIATRIC ATTENTION. THE
53 DEPARTMENT AND THE OFFICE OF MENTAL HEALTH SHALL PROMULGATE RULES AND
54 REGULATIONS PERTAINING TO THIS CLAUSE;

55 (B) COMPELLING OR ATTEMPTING TO COMPEL ANOTHER PERSON, BY FORCE OR
56 THREAT OF FORCE, TO ENGAGE IN A SEXUAL ACT;

1 (C) EXTORTING ANOTHER, BY FORCE OR THREAT OF FORCE, FOR PROPERTY OR
2 MONEY;

3 (D) COERCING ANOTHER, BY FORCE OR THREAT OF FORCE, TO VIOLATE ANY
4 RULE;

5 (E) LEADING, ORGANIZING, INCITING, OR ATTEMPTING TO CAUSE A RIOT,
6 INSURRECTION, OR OTHER SIMILARLY SERIOUS DISTURBANCE THAT RESULTS IN THE
7 TAKING OF A HOSTAGE, MAJOR PROPERTY DAMAGE, OR PHYSICAL HARM TO ANOTHER
8 PERSON;

9 (F) PROCURING DEADLY WEAPONS OR OTHER DANGEROUS CONTRABAND THAT POSES
10 A SERIOUS THREAT TO THE SECURITY OF THE INSTITUTION; OR

11 (G) ESCAPING, ATTEMPTING TO ESCAPE OR FACILITATING AN ESCAPE FROM A
12 FACILITY OR ESCAPING OR ATTEMPTING TO ESCAPE WHILE UNDER SUPERVISION
13 OUTSIDE SUCH FACILITY.

14 FOR PURPOSES OF THIS SECTION, ATTEMPTING TO CAUSE A SERIOUS DISTURB-
15 ANCE OR TO ESCAPE SHALL ONLY BE DETERMINED TO HAVE OCCURRED IF THERE IS
16 A CLEAR FINDING THAT THE INMATE HAD THE INTENT TO CAUSE A SERIOUS
17 DISTURBANCE OR THE INTENT TO ESCAPE AND HAD COMPLETED SIGNIFICANT ACTS
18 IN THE ADVANCEMENT OF THE ATTEMPT TO CREATE A SERIOUS DISTURBANCE OR
19 ESCAPE. EVIDENCE OF WITHDRAWAL OR ABANDONMENT OF A PLAN TO CAUSE A SERI-
20 OUS DISTURBANCE OR TO ESCAPE SHALL NEGATE A FINDING OF INTENT.

21 (III) NO PERSON MAY BE PLACED IN SEGREGATED CONFINEMENT OR A RESIDEN-
22 TIAL REHABILITATION UNIT BASED ON THE SAME ACT OR INCIDENT THAT WAS
23 PREVIOUSLY USED AS THE BASIS FOR SUCH PLACEMENT.

24 (IV) NO PERSON MAY BE HELD IN SEGREGATED CONFINEMENT FOR PROTECTIVE
25 CUSTODY. ANY UNIT USED FOR PROTECTIVE CUSTODY MUST, AT A MINIMUM,
26 CONFORM TO REQUIREMENTS GOVERNING RESIDENTIAL REHABILITATION UNITS.

27 (K) ALL HEARINGS TO DETERMINE IF A PERSON MAY BE PLACED IN SEGREGATED
28 CONFINEMENT SHALL OCCUR PRIOR TO PLACEMENT IN SEGREGATED CONFINEMENT
29 UNLESS A SECURITY SUPERVISOR, WITH WRITTEN APPROVAL OF A FACILITY SUPER-
30 INTENDENT OR DESIGNEE, REASONABLY BELIEVES THE PERSON FITS THE SPECIFIED
31 CRITERIA FOR SEGREGATED CONFINEMENT IN SUBPARAGRAPH (II) OF PARAGRAPH
32 (J) OF THIS SUBDIVISION. IF A HEARING DOES NOT TAKE PLACE PRIOR TO
33 PLACEMENT, IT SHALL OCCUR AS SOON AS REASONABLY PRACTICABLE AND AT MOST
34 WITHIN FIVE DAYS OF SUCH PLACEMENT UNLESS THE CHARGED PERSON SEEKS A
35 POSTPONEMENT OF THE HEARING. PERSONS AT SUCH HEARINGS SHALL BE PERMITTED
36 TO BE REPRESENTED BY ANY ATTORNEY OR LAW STUDENT, OR BY ANY PARALEGAL OR
37 INCARCERATED PERSON UNLESS THE DEPARTMENT REASONABLY DISAPPROVES OF SUCH
38 PARALEGAL OR INCARCERATED PERSON BASED UPON OBJECTIVE WRITTEN CRITERIA
39 DEVELOPED BY THE DEPARTMENT.

40 (L) (I) ANY SANCTION IMPOSED ON AN INCARCERATED PERSON REQUIRING
41 SEGREGATED CONFINEMENT SHALL RUN WHILE THE PERSON IS IN A RESIDENTIAL
42 REHABILITATION UNIT AND THE PERSON SHALL BE DISCHARGED FROM THE UNIT
43 BEFORE OR AT THE TIME SUCH SANCTION EXPIRES. IF A PERSON SUCCESSFULLY
44 COMPLETES HIS OR HER REHABILITATION PLAN BEFORE THE SANCTION EXPIRES,
45 THE PERSON SHALL HAVE A RIGHT TO BE DISCHARGED FROM THE UNIT UPON SUCH
46 COMPLETION.

47 (II) IF AN INCARCERATED PERSON HAS NOT BEEN DISCHARGED FROM A RESIDEN-
48 TIAL REHABILITATION UNIT WITHIN ONE YEAR OF INITIAL ADMISSION TO SUCH A
49 UNIT OR IS WITHIN SIXTY DAYS OF A FIXED OR TENTATIVELY APPROVED DATE FOR
50 RELEASE FROM A CORRECTIONAL FACILITY, HE OR SHE SHALL HAVE A RIGHT TO BE
51 DISCHARGED FROM THE UNIT UNLESS HE OR SHE COMMITTED AN ACT LISTED IN
52 SUBPARAGRAPH (II) OF PARAGRAPH (J) OF THIS SUBDIVISION WITHIN THE PRIOR
53 ONE HUNDRED EIGHTY DAYS AND HE OR SHE POSES A SIGNIFICANT AND UNREASON-
54 ABLE RISK TO THE SAFETY OR SECURITY OF INCARCERATED PERSONS OR STAFF. IN
55 ANY SUCH CASE THE DECISION NOT TO DISCHARGE SUCH PERSON SHALL BE IMME-
56 DIATELY AND AUTOMATICALLY SUBJECTED TO AN INDEPENDENT REVIEW BY THE

1 COMMISSIONER AND THE COMMISSIONER OF MENTAL HEALTH OR THEIR DESIGNEES. A
2 PERSON MAY REMAIN IN A RESIDENTIAL REHABILITATION UNIT BEYOND THE TIME
3 LIMITS PROVIDED IN THIS SECTION IF BOTH COMMISSIONERS OR BOTH OF THEIR
4 DESIGNEES APPROVE THIS DECISION. IN EXTRAORDINARY CIRCUMSTANCES, A
5 PERSON WHO HAS NOT COMMITTED AN ACT LISTED IN SUBPARAGRAPH (II) OF PARA-
6 GRAPH (J) OF THIS SUBDIVISION WITHIN THE PRIOR ONE HUNDRED EIGHTY DAYS,
7 MAY REMAIN IN A RESIDENTIAL REHABILITATION UNIT BEYOND THE TIME LIMITS
8 PROVIDED IN THIS SECTION IF BOTH THE COMMISSIONER AND THE COMMISSIONER
9 OF MENTAL HEALTH PERSONALLY DETERMINE THAT SUCH INDIVIDUAL POSES AN
10 EXTRAORDINARY AND UNACCEPTABLE RISK OF IMMINENT HARM TO THE SAFETY OR
11 SECURITY OF INCARCERATED PERSONS OR STAFF.

12 (III) THERE SHALL BE A MEANINGFUL PERIODIC REVIEW OF THE STATUS OF
13 EACH INCARCERATED PERSON IN A RESIDENTIAL REHABILITATION UNIT AT LEAST
14 EVERY SIXTY DAYS TO ASSESS THE PERSON'S PROGRESS AND DETERMINE IF THE
15 PERSON SHOULD BE DISCHARGED FROM THE UNIT. FOLLOWING SUCH PERIODIC
16 REVIEW, IF THE PERSON IS NOT DISCHARGED FROM THE UNIT, PROGRAM AND
17 MENTAL HEALTH STAFF SHALL SPECIFY IN WRITING THE REASONS FOR THE DETER-
18 MINATION AND THE PROGRAM, TREATMENT, SERVICE, AND/OR CORRECTIVE ACTION
19 REQUIRED BEFORE DISCHARGE. THE INCARCERATED PERSON SHALL BE GIVEN ACCESS
20 TO THE PROGRAMS, TREATMENT AND SERVICES SPECIFIED, AND SHALL HAVE A
21 RIGHT TO BE DISCHARGED FROM THE RESIDENTIAL REHABILITATION UNIT UPON THE
22 SUCCESSFUL FULFILLMENT OF SUCH REQUIREMENTS.

23 (IV) WHEN AN INCARCERATED PERSON IS DISCHARGED FROM A RESIDENTIAL
24 REHABILITATION UNIT, ANY REMAINING TIME TO SERVE ON ANY UNDERLYING
25 DISCIPLINARY SANCTION SHALL BE DISMISSED. IF AN INCARCERATED PERSON
26 SUBSTANTIALLY COMPLETES HIS OR HER REHABILITATION PLAN, HE OR SHE SHALL
27 HAVE ANY ASSOCIATED LOSS OF GOOD TIME RESTORED UPON DISCHARGE FROM THE
28 UNIT.

29 (M) ALL SPECIAL HOUSING UNIT, KEEPLOCK UNIT AND RESIDENTIAL REHABILI-
30 TATION UNIT STAFF AND THEIR SUPERVISORS SHALL UNDERGO A MINIMUM OF THIR-
31 TY-SEVEN HOURS AND THIRTY MINUTES OF TRAINING PRIOR TO ASSIGNMENT TO
32 SUCH UNIT, AND TWENTY-ONE HOURS OF ADDITIONAL TRAINING ANNUALLY THERE-
33 AFTER, ON SUBSTANTIVE CONTENT DEVELOPED IN CONSULTATION WITH RELEVANT
34 EXPERTS, ON TOPICS INCLUDING, BUT NOT LIMITED TO, THE PURPOSE AND GOALS
35 OF THE NON-PUNITIVE THERAPEUTIC ENVIRONMENT, TRAUMA-INFORMED CARE,
36 RESTORATIVE JUSTICE, AND DISPUTE RESOLUTION METHODS. PRIOR TO PRESIDING
37 OVER ANY HEARINGS, ALL HEARING OFFICERS SHALL UNDERGO A MINIMUM OF THIR-
38 TY-SEVEN HOURS AND THIRTY MINUTES OF TRAINING, WITH ONE ADDITIONAL DAY
39 OF TRAINING ANNUALLY THEREAFTER, ON RELEVANT TOPICS, INCLUDING BUT NOT
40 LIMITED TO, THE PHYSICAL AND PSYCHOLOGICAL EFFECTS OF SEGREGATED
41 CONFINEMENT, PROCEDURAL AND DUE PROCESS RIGHTS OF THE ACCUSED, AND
42 RESTORATIVE JUSTICE REMEDIES.

43 (N) THE DEPARTMENT SHALL PUBLISH MONTHLY REPORTS ON ITS WEBSITE, WITH
44 SEMI-ANNUAL AND ANNUAL CUMULATIVE REPORTS, OF THE TOTAL NUMBER OF PEOPLE
45 WHO ARE IN SEGREGATED CONFINEMENT AND THE TOTAL NUMBER OF PEOPLE WHO ARE
46 IN RESIDENTIAL REHABILITATION UNITS ON THE FIRST DAY OF EACH MONTH. THE
47 REPORTS SHALL PROVIDE A BREAKDOWN OF THE NUMBER OF PEOPLE IN SEGREGATED
48 CONFINEMENT AND IN RESIDENTIAL REHABILITATION UNITS BY: (I) AGE; (II)
49 RACE; (III) GENDER; (IV) MENTAL HEALTH TREATMENT LEVEL; (V) SPECIAL
50 HEALTH ACCOMMODATIONS OR NEEDS; (VI) NEED FOR AND PARTICIPATION IN
51 SUBSTANCE ABUSE PROGRAMS; (VII) PREGNANCY STATUS; (VIII) CONTINUOUS
52 LENGTH OF STAY IN RESIDENTIAL TREATMENT UNITS AS WELL AS LENGTH OF STAY
53 IN THE PAST SIXTY DAYS; (IX) NUMBER OF DAYS IN SEGREGATED CONFINEMENT;
54 (X) A LIST OF ALL INCIDENTS RESULTING IN SANCTIONS OF SEGREGATED
55 CONFINEMENT BY FACILITY AND DATE OF OCCURRENCE; (XI) THE NUMBER OF
56 INCARCERATED PERSONS IN SEGREGATED CONFINEMENT BY FACILITY; AND (XII)

1 THE NUMBER OF INCARCERATED PERSONS IN RESIDENTIAL REHABILITATION UNITS
2 BY FACILITY.

3 S 6. Section 138 of the correction law is amended by adding a new
4 subdivision 7 to read as follows:

5 7. DE-ESCALATION, INTERVENTION, INFORMATIONAL REPORTS, AND THE WITH-
6 DRAWAL OF INCENTIVES SHALL BE THE PREFERRED METHODS OF RESPONDING TO
7 MISBEHAVIOR UNLESS THE DEPARTMENT DETERMINES THAT NON-DISCIPLINARY
8 INTERVENTIONS HAVE FAILED, OR THAT NON-DISCIPLINARY INTERVENTIONS WOULD
9 NOT SUCCEED AND THE MISBEHAVIOR INVOLVED AN ACT LISTED IN SUBPARAGRAPH
10 (II) OF PARAGRAPH (J) OF SUBDIVISION SIX OF SECTION ONE HUNDRED THIRTY-
11 SEVEN OF THIS ARTICLE, IN WHICH CASE, AS A LAST RESORT, THE DEPARTMENT
12 SHALL HAVE THE AUTHORITY TO ISSUE MISBEHAVIOR REPORTS, PURSUE DISCIPLI-
13 NARY CHARGES, OR IMPOSE NEW OR ADDITIONAL SEGREGATED CONFINEMENT SANC-
14 TIONS.

15 S 7. Subdivision 1 of section 401 of the correction law, as amended by
16 chapter 1 of the laws of 2008, is amended to read as follows:

17 1. The commissioner, in cooperation with the commissioner of mental
18 health, shall establish programs, including but not limited to residen-
19 tial mental health treatment units, in such correctional facilities as
20 he or she may deem appropriate for the treatment of mentally ill inmates
21 confined in state correctional facilities who are in need of psychiatric
22 services but who do not require hospitalization for the treatment of
23 mental illness. Inmates with serious mental illness shall receive thera-
24 py and programming in settings that are appropriate to their clinical
25 needs while maintaining the safety and security of the facility.

26 THE CONDITIONS AND SERVICES PROVIDED IN THE RESIDENTIAL MENTAL HEALTH
27 TREATMENT UNITS SHALL BE AT LEAST COMPARABLE TO THOSE IN ALL RESIDENTIAL
28 REHABILITATION UNITS, AND ALL RESIDENTIAL MENTAL HEALTH TREATMENT UNITS
29 SHALL BE IN COMPLIANCE WITH ALL PROVISIONS OF PARAGRAPHS (H), (I), (J),
30 AND (K) OF SUBDIVISION SIX OF SECTION ONE HUNDRED THIRTY-SEVEN OF THIS
31 CHAPTER. RESIDENTIAL MENTAL HEALTH TREATMENT UNITS THAT ARE EITHER RESI-
32 DENTIAL MENTAL HEALTH UNIT MODELS OR BEHAVIORAL HEALTH UNIT MODELS SHALL
33 ALSO BE IN COMPLIANCE WITH ALL PROVISIONS OF PARAGRAPH (L) OF SUBDIVI-
34 SION SIX OF SECTION ONE HUNDRED THIRTY-SEVEN OF THIS CHAPTER.

35 THE RESIDENTIAL MENTAL HEALTH TREATMENT UNITS SHALL ALSO PROVIDE THE
36 ADDITIONAL MENTAL HEALTH TREATMENT, SERVICES, AND PROGRAMMING DELINEATED
37 IN THIS SECTION. The administration and operation of programs estab-
38 lished pursuant to this section shall be the joint responsibility of the
39 commissioner of mental health and the commissioner. The professional
40 mental health care personnel, and their administrative and support
41 staff, for such programs shall be employees of the office of mental
42 health. All other personnel shall be employees of the department.

43 S 8. Subparagraph (i) of paragraph (a) of subdivision 2 of section 401
44 of the correction law, as added by chapter 1 of the laws of 2008, is
45 amended to read as follows:

46 (i) In exceptional circumstances, a mental health clinician, or the
47 highest ranking facility security supervisor in consultation with a
48 mental health clinician who has interviewed the inmate, may determine
49 that an inmate's access to out-of-cell therapeutic programming and/or
50 mental health treatment in a residential mental health treatment unit
51 presents an unacceptable risk to the safety of inmates or staff. Such
52 determination shall be documented in writing and SUCH INMATE SHALL BE
53 REMOVED TO A RESIDENTIAL REHABILITATION UNIT THAT IS NOT A RESIDENTIAL
54 MENTAL HEALTH TREATMENT UNIT WHERE alternative mental health treatment
55 and/or other therapeutic programming, as determined by a mental health
56 clinician, shall be provided.

1 S 9. Subdivision 5 of section 401 of the correction law, as added by
2 chapter 1 of the laws of 2008, is amended to read as follows:

3 5. (a) An inmate in a residential mental health treatment unit shall
4 not be sanctioned with segregated confinement for misconduct on the
5 unit, or removed from the unit and placed in segregated confinement OR A
6 RESIDENTIAL REHABILITATION UNIT, except in exceptional circumstances
7 where such inmate's conduct poses a significant and unreasonable risk to
8 the safety of inmates or staff, or to the security of the facility AND
9 HE OR SHE HAS BEEN FOUND TO HAVE COMMITTED AN ACT OR ACTS DEFINED IN
10 SUBPARAGRAPH (II) OF PARAGRAPH (J) OF SUBDIVISION SIX OF SECTION ONE
11 HUNDRED THIRTY-SEVEN OF THIS CHAPTER. Further, in the event that such a
12 sanction is imposed, an inmate shall not be required to begin serving
13 such sanction until the reviews required by paragraph (b) of this subdi-
14 vision have been completed; provided, however that in extraordinary
15 circumstances where an inmate's conduct poses an immediate unacceptable
16 threat to the safety of inmates or staff, or to the security of the
17 facility an inmate may be immediately moved to [segregated confinement]
18 A RESIDENTIAL REHABILITATION UNIT. The determination that an immediate
19 transfer to [segregated confinement] A RESIDENTIAL REHABILITATION UNIT
20 is necessary shall be made by the highest ranking facility security
21 supervisor in consultation with a mental health clinician.

22 (b) The joint case management committee shall review any disciplinary
23 disposition imposing a sanction of segregated confinement at its next
24 scheduled meeting. Such review shall take into account the inmate's
25 mental condition and safety and security concerns. The joint case
26 management committee may only thereafter recommend the removal of the
27 inmate in exceptional circumstances where the inmate COMMITS AN ACT OR
28 ACTS DEFINED IN SUBPARAGRAPH (II) OF PARAGRAPH (J) OF SUBDIVISION SIX OF
29 SECTION ONE HUNDRED THIRTY-SEVEN OF THIS CHAPTER AND poses a significant
30 and unreasonable risk to the safety of inmates or staff or to the secu-
31 rity of the facility. In the event that the inmate was immediately moved
32 to segregated confinement, the joint case management committee may
33 recommend that the inmate continue to serve such sanction only in excep-
34 tional circumstances where the inmate COMMITS AN ACT OR ACTS DEFINED IN
35 SUBPARAGRAPH (II) OF PARAGRAPH (J) OF SUBDIVISION SIX OF SECTION ONE
36 HUNDRED THIRTY-SEVEN OF THIS CHAPTER AND poses a significant and unrea-
37 sonable risk to the safety of inmates or staff or to the security of the
38 facility. If a determination is made that the inmate shall not be
39 required to serve all or any part of the segregated confinement sanc-
40 tion, the joint case management committee may instead recommend that a
41 less restrictive sanction should be imposed. The recommendations made by
42 the joint case management committee under this paragraph shall be docu-
43 mented in writing and referred to the superintendent for review and if
44 the superintendent disagrees, the matter shall be referred to the joint
45 central office review committee for a final determination. The adminis-
46 trative process described in this paragraph shall be completed within
47 fourteen days. If the result of such process is that an inmate who was
48 immediately transferred to [segregated confinement] A RESIDENTIAL REHA-
49 BILITATION UNIT should be removed from [segregated confinement] SUCH
50 UNIT, such removal shall occur as soon as practicable, and in no event
51 longer than seventy-two hours from the completion of the administrative
52 process.

53 S 10. Subdivision 6 of section 401 of the correction law, as amended
54 by chapter 20 of the laws of 2016, is amended to read as follows:

55 6. The department shall ensure that the curriculum for new correction
56 officers, and other new department staff who will regularly work in

1 programs providing mental health treatment for inmates, shall include at
2 least eight hours of training about the types and symptoms of mental
3 illnesses, the goals of mental health treatment, the prevention of
4 suicide and training in how to effectively and safely manage inmates
5 with mental illness. Such training may be provided by the office of
6 mental health or the justice center for the protection of people with
7 special needs. All department staff who are transferring into a residen-
8 tial mental health treatment unit shall receive a minimum of eight addi-
9 tional hours of such training, and eight hours of annual training as
10 long as they work in such a unit. All security, program services, mental
11 health and medical staff with direct inmate contact shall receive train-
12 ing each year regarding identification of, and care for, inmates with
13 mental illnesses. The department shall provide additional training on
14 these topics on an ongoing basis as it deems appropriate. ALL STAFF
15 WORKING IN A RESIDENTIAL MENTAL HEALTH TREATMENT UNIT SHALL ALSO RECEIVE
16 ALL TRAINING MANDATED IN PARAGRAPH (M) OF SUBDIVISION SIX OF SECTION ONE
17 HUNDRED THIRTY-SEVEN OF THIS CHAPTER.

18 S 11. Section 401-a of the correction law is amended by adding a new
19 subdivision 4 to read as follows:

20 4. THE JUSTICE CENTER SHALL ASSESS THE DEPARTMENT'S COMPLIANCE WITH
21 THE PROVISIONS OF SECTIONS TWO, ONE HUNDRED THIRTY-SEVEN, AND ONE
22 HUNDRED THIRTY-EIGHT OF THIS CHAPTER RELATING TO SEGREGATED CONFINEMENT
23 AND RESIDENTIAL REHABILITATION UNITS AND SHALL ISSUE A PUBLIC REPORT, NO
24 LESS THAN ANNUALLY, WITH RECOMMENDATIONS TO THE DEPARTMENT AND LEGISLA-
25 TURE, REGARDING ALL ASPECTS OF SEGREGATED CONFINEMENT AND RESIDENTIAL
26 REHABILITATION UNITS IN STATE CORRECTIONAL FACILITIES INCLUDING BUT NOT
27 LIMITED TO POLICIES AND PRACTICES CONCERNING: (A) PLACEMENT OF PERSONS
28 IN SEGREGATED CONFINEMENT AND RESIDENTIAL REHABILITATION UNITS; (B)
29 SPECIAL POPULATIONS; (C) LENGTH OF TIME SPENT IN SUCH UNITS; (D) HEAR-
30 INGS AND PROCEDURES; (E) PROGRAMS, TREATMENT AND CONDITIONS OF CONFINEMENT
31 IN SUCH UNITS; AND (F) ASSESSMENTS AND REHABILITATION PLANS, PROCE-
32 DURES AND DISCHARGE DETERMINATIONS.

33 S 12. Section 45 of the correction law is amended by adding a new
34 subdivision 18 to read as follows:

35 18. ASSESS COMPLIANCE OF LOCAL CORRECTIONAL FACILITIES WITH THE TERMS
36 OF PARAGRAPHS (G), (H), (I), (J), (K), (L), (M) AND (N) OF SUBDIVISION
37 SIX OF SECTION ONE HUNDRED THIRTY-SEVEN OF THIS CHAPTER. THE COMMISSION
38 SHALL ISSUE A PUBLIC REPORT REGARDING ALL ASPECTS OF SEGREGATED CONFINEMENT
39 AND RESIDENTIAL REHABILITATION UNITS AT LEAST ANNUALLY WITH RECOM-
40 MENDATIONS TO LOCAL CORRECTIONAL FACILITIES, THE GOVERNOR, THE LEGISLA-
41 TURE, INCLUDING BUT NOT LIMITED TO POLICIES AND PRACTICES REGARDING: (A)
42 PLACEMENT OF PERSONS; (B) SPECIAL POPULATIONS; (C) LENGTH OF TIME SPENT
43 IN SEGREGATED CONFINEMENT AND RESIDENTIAL TREATMENT UNITS; (D) HEARINGS
44 AND PROCEDURES; (E) CONDITIONS, PROGRAMS, SERVICES, CARE, AND TREATMENT;
45 AND (F) ASSESSMENTS, REHABILITATION PLANS, AND DISCHARGE PROCEDURES.

46 S 13. Section 500-k of the correction law, as amended by chapter 2 of
47 the laws of 2008, is amended to read as follows:

48 S 500-k. Treatment of inmates. 1. Subdivisions five and six of section
49 one hundred thirty-seven of this chapter, except paragraphs (d) and (e)
50 of subdivision six of such section, relating to the treatment of inmates
51 in state correctional facilities are applicable to inmates confined in
52 county jails; except that the report required by paragraph (f) of subdivi-
53 sion six of such section shall be made to a person designated to
54 receive such report in the rules and regulations of the state commission
55 of correction, or in any county or city where there is a department of
56 correction, to the head of such department.

1 2. NOTWITHSTANDING ANY OTHER SECTION OF LAW TO THE CONTRARY, SUBDIVI-
2 SION THIRTY-THREE OF SECTION TWO OF THIS CHAPTER, AND SUBPARAGRAPHS (I),
3 (IV) AND (V) OF PARAGRAPH (I) AND SUBPARAGRAPH (II) OF PARAGRAPH (L) OF
4 SUBDIVISION SIX OF SECTION ONE HUNDRED THIRTY-SEVEN OF THIS CHAPTER
5 SHALL NOT APPLY TO LOCAL CORRECTIONAL FACILITIES WITH A TOTAL COMBINED
6 CAPACITY OF FIVE HUNDRED INMATES OR FEWER.

7 S 14. This act shall take effect one year after it shall have become a
8 law.

9 PART UU

10 Section 1. Section 221.05 of the penal law, as added by chapter 360 of
11 the laws of 1977, is amended to read as follows:

12 S 221.05 Unlawful possession of marihuana.

13 A person is guilty of unlawful possession of marihuana when he know-
14 ingly and unlawfully possesses marihuana.

15 Unlawful possession of marihuana is a violation punishable only by a
16 fine of not more than one hundred dollars. However, where the defendant
17 has previously been convicted of [an offense] A CRIME defined in this
18 article, EXCEPT A CRIME DEFINED IN SECTION 221.10 OF THIS ARTICLE
19 PROVIDED, HOWEVER, THAT THE RECORD OF SUCH CONVICTION DOES NOT DEMON-
20 STRATE A CONVICTION UNDER SUBDIVISION TWO OF SUCH SECTION 221.10, or
21 article 220 of this chapter, committed within the three years immediate-
22 ly preceding such violation, it shall be punishable (a) only by a fine
23 of not more than two hundred dollars, if the defendant was previously
24 convicted of one such offense committed during such period, and (b) by a
25 fine of not more than two hundred fifty dollars or a term of imprison-
26 ment not in excess of fifteen days or both, if the defendant was previ-
27 ously convicted of two such offenses committed during such period.

28 S 2. Paragraph (k) of subdivision 3 of section 160.50 of the criminal
29 procedure law, as added by chapter 835 of the laws of 1977 and as relet-
30 tered by chapter 192 of the laws of 1980, is amended to read as follows:

31 (k) (i) The accusatory instrument alleged a violation of article two
32 hundred twenty or section 240.36 of the penal law, prior to the taking
33 effect of article two hundred twenty-one of the penal law, or a
34 violation of article two hundred twenty-one of the penal law; (ii) the
35 sole controlled substance involved is marijuana; AND (iii) the
36 conviction was only for a violation or violations[; and (iv) at least
37 three years have passed since the offense occurred] OF SECTION 221.10 OF
38 THE PENAL LAW PROVIDED, HOWEVER, THAT THE RECORD OF SUCH CONVICTION DOES
39 NOT DEMONSTRATE A CONVICTION UNDER SUBDIVISION TWO OF SUCH SECTION
40 221.10, OR FOR A PETTY OFFENSE OR OFFENSES. NO DEFENDANT SHALL BE
41 REQUIRED OR PERMITTED TO WAIVE ELIGIBILITY FOR SEALING PURSUANT TO THIS
42 PARAGRAPH AS PART OF A PLEA OF GUILTY, SENTENCE OR ANY AGREEMENT RELATED
43 TO A CONVICTION FOR A VIOLATION OF SECTION 221.05 OR SECTION 221.10 OF
44 THE PENAL LAW AND ANY SUCH WAIVER SHALL BE DEEMED VOID AND WHOLLY UNEN-
45 FORCEABLE.

46 S 3. Section 160.50 of the criminal procedure law is amended by adding
47 three new subdivisions 5, 6 and 7 to read as follows:

48 5. A PERSON CONVICTED OF A VIOLATION OF SECTION 221.10 OF THE PENAL
49 LAW, OTHER THAN A CONVICTION AFTER TRIAL OF, OR PLEA OF GUILTY TO,
50 SUBDIVISION TWO OF SUCH SECTION 221.10, PRIOR TO THE EFFECTIVE DATE OF
51 THIS SUBDIVISION MAY UPON MOTION APPLY TO THE COURT IN WHICH SUCH TERMI-
52 NATION OCCURRED, UPON NOT LESS THAN TWENTY DAYS NOTICE TO THE DISTRICT
53 ATTORNEY, FOR AN ORDER GRANTING TO SUCH PERSON THE RELIEF SET FORTH IN
54 SUBDIVISION ONE OF THIS SECTION, AND SUCH ORDER SHALL BE GRANTED UNLESS

1 THE DISTRICT ATTORNEY DEMONSTRATES THAT THE INTERESTS OF JUSTICE REQUIRE
2 OTHERWISE.

3 6. (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW EXCEPT AS PROVIDED
4 IN PARAGRAPH (D) OF SUBDIVISION ONE OF THIS SECTION AND PARAGRAPH (E) OF
5 SUBDIVISION FOUR OF SECTION EIGHT HUNDRED THIRTY-SEVEN OF THE EXECUTIVE
6 LAW: (I) WHEN THE DIVISION OF CRIMINAL JUSTICE SERVICES CONDUCTS A
7 SEARCH OF ITS CRIMINAL HISTORY RECORDS, MAINTAINED PURSUANT TO SUBDIVI-
8 SION SIX OF SECTION EIGHT HUNDRED THIRTY-SEVEN OF THE EXECUTIVE LAW, AND
9 RETURNS A REPORT THEREON, ALL REFERENCES TO A CONVICTION FOR A VIOLATION
10 OF SECTION 221.10 OF THE PENAL LAW, OTHER THAN A CONVICTION AFTER TRIAL
11 OF, OR PLEA OF GUILTY TO, SUBDIVISION TWO OF SUCH SECTION 221.10, SHALL
12 BE EXCLUDED FROM SUCH REPORT; AND (II) THE CHIEF ADMINISTRATOR OF THE
13 COURTS SHALL DEVELOP AND PROMULGATE RULES AS MAY BE NECESSARY TO ENSURE
14 THAT NO WRITTEN OR ELECTRONIC REPORT OF A CRIMINAL HISTORY RECORD SEARCH
15 CONDUCTED BY THE OFFICE OF COURT ADMINISTRATION CONTAINS INFORMATION
16 RELATING TO A CONVICTION FOR A VIOLATION OF SECTION 221.10 OF THE PENAL
17 LAW, OTHER THAN A CONVICTION AFTER TRIAL OF, OR PLEA OF GUILTY TO,
18 SUBDIVISION TWO OF SUCH SECTION 221.10, UNLESS SUCH SEARCH IS CONDUCTED
19 SOLELY FOR A BONA FIDE RESEARCH PURPOSE, PROVIDED THAT SUCH INFORMATION,
20 IF SO DISSEMINATED, SHALL BE DISSEMINATED IN ACCORDANCE WITH PROCEDURES
21 ESTABLISHED BY THE CHIEF ADMINISTRATOR OF THE COURTS TO ASSURE THE SECU-
22 RITY AND PRIVACY OF IDENTIFICATION AND INFORMATION DATA, WHICH SHALL
23 INCLUDE THE EXECUTION OF AN AGREEMENT WHICH PROTECTS THE CONFIDENTIALITY
24 OF THE INFORMATION AND REASONABLY PROTECTS AGAINST DATA LINKAGE TO INDI-
25 VIDUALS.

26 (B) NOTHING CONTAINED IN THIS SUBDIVISION SHALL BE DEEMED TO PERMIT OR
27 REQUIRE THE RELEASE, DISCLOSURE OR OTHER DISSEMINATION BY THE DIVISION
28 OF CRIMINAL JUSTICE SERVICES OR THE OFFICE OF COURT ADMINISTRATION OF
29 CRIMINAL HISTORY RECORD INFORMATION THAT HAS BEEN SEALED IN ACCORDANCE
30 WITH LAW.

31 7. A PERSON CONVICTED OF A VIOLATION OF SECTION 221.05 OF THE PENAL
32 LAW SHALL, ON THE EFFECTIVE DATE OF THIS SUBDIVISION, HAVE SUCH
33 CONVICTION IMMEDIATELY SEALED PURSUANT TO SUBDIVISION ONE OF THIS
34 SECTION IF SUCH CONVICTION OCCURRED LESS THAN THREE YEARS PRIOR TO SUCH
35 EFFECTIVE DATE.

36 S 4. This act shall take effect on the sixtieth day after it shall
37 have become a law.

38

PART VV

39 Section 1. The opening paragraph of subdivision 1 and subdivision 2 of
40 section 216.00 of the criminal procedure law, the opening paragraph of
41 subdivision 1 as amended by chapter 90 of the laws of 2014 and subdivi-
42 sion 2 as added by section 4 of part AAA of chapter 56 of the laws of
43 2009, are amended to read as follows:

44 "Eligible defendant" means any person who stands charged in an indict-
45 ment or a superior court information with a class B, C, D or E felony
46 offense defined in article one hundred seventy-nine, two hundred twenty
47 or two hundred twenty-one of the penal law, AN OFFENSE DEFINED IN
48 SECTIONS 105.10 AND 105.13 OF THE PENAL LAW PROVIDED THAT THE UNDERLYING
49 CRIME FOR THE CONSPIRACY CHARGE IS A CLASS B, C, D OR E FELONY OFFENSE
50 DEFINED IN ARTICLE ONE HUNDRED SEVENTY-NINE, TWO HUNDRED TWENTY OR TWO
51 HUNDRED TWENTY-ONE OF THE PENAL LAW, AUTO STRIPPING IN THE SECOND DEGREE
52 AS DEFINED IN SECTION 165.10 OF THE PENAL LAW, AUTO STRIPPING IN THE
53 FIRST DEGREE AS DEFINED IN SECTION 165.11 OF THE PENAL LAW, IDENTITY
54 THEFT IN THE SECOND DEGREE AS DEFINED IN SECTION 190.79 OF THE PENAL

1 LAW, IDENTITY THEFT IN THE FIRST DEGREE AS DEFINED IN SECTION 190.80 OF
2 THE PENAL LAW, or any other specified offense as defined in subdivision
3 [four] FIVE of section 410.91 of this chapter, provided, however, a
4 defendant is not an "eligible defendant" if he or she:

5 2. "Alcohol and substance [abuse] USE evaluation" means a written
6 assessment and report by a court-approved entity or licensed health care
7 professional experienced in the treatment of alcohol and substance
8 [abuse] USE DISORDER, or by an addiction and substance abuse counselor
9 credentialed by the office of alcoholism and substance abuse services
10 pursuant to section 19.07 of the mental hygiene law, which shall
11 include:

12 (a) an evaluation as to whether the defendant has a history of alcohol
13 or substance [abuse or alcohol or substance dependence] USE DISORDER, as
14 such terms are defined in the diagnostic and statistical manual of
15 mental disorders, [fourth] FIFTH edition, and a co-occurring mental
16 disorder or mental illness and the relationship between such [abuse or
17 dependence] USE and mental disorder or mental illness, if any;

18 (b) a recommendation as to whether the defendant's alcohol or
19 substance [abuse or dependence] USE, if any, could be effectively
20 addressed by judicial diversion in accordance with this article;

21 (c) a recommendation as to the treatment modality, level of care and
22 length of any proposed treatment to effectively address the defendant's
23 alcohol or substance [abuse or dependence] USE and any co-occurring
24 mental disorder or illness; and

25 (d) any other information, factor, circumstance, or recommendation
26 deemed relevant by the assessing entity or specifically requested by the
27 court.

28 S 2. The opening paragraph of subdivision 1 of section 216.00 of the
29 criminal procedure law, as added by section 4 of part AAA of chapter 56
30 of the laws of 2009, is amended to read as follows:

31 "Eligible defendant" means any person who stands charged in an indict-
32 ment or a superior court information with a class B, C, D or E felony
33 offense defined in article two hundred twenty or two hundred twenty-one
34 of the penal law, AN OFFENSE DEFINED IN SECTIONS 105.10 AND 105.13 OF
35 THE PENAL LAW PROVIDED THAT THE UNDERLYING CRIME FOR THE CONSPIRACY
36 CHARGE IS A CLASS B, C, D OR E FELONY OFFENSE DEFINED IN ARTICLE TWO
37 HUNDRED TWENTY OR TWO HUNDRED TWENTY-ONE OF THE PENAL LAW, AUTO STRIP-
38 PING IN THE SECOND DEGREE AS DEFINED IN SECTION 165.10 OF THE PENAL LAW,
39 AUTO STRIPPING IN THE FIRST DEGREE AS DEFINED IN SECTION 165.11 OF THE
40 PENAL LAW, IDENTITY THEFT IN THE SECOND DEGREE AS DEFINED IN SECTION
41 190.79 OF THE PENAL LAW, IDENTITY THEFT IN THE FIRST DEGREE AS DEFINED
42 IN SECTION 190.80 OF THE PENAL LAW, or any other specified offense as
43 defined in subdivision [four] FIVE of section 410.91 of this chapter,
44 provided, however, a defendant is not an "eligible defendant" if he or
45 she:

46 S 3. Section 216.05 of the criminal procedure law, as added by section
47 4 of part AAA of chapter 56 of the laws of 2009, subdivision 5 as
48 amended by chapter 67 of the laws of 2016, subdivision 8 as amended by
49 chapter 315 of the laws of 2016, and paragraph (a) of subdivision 9 as
50 amended by chapter 258 of the laws of 2015, is amended to read as
51 follows:

52 S 216.05 Judicial diversion program; court procedures.

53 1. At any time after the arraignment of an eligible defendant, but
54 prior to the entry of a plea of guilty or the commencement of trial, the
55 court at the request of the eligible defendant, may order an alcohol and
56 substance [abuse] USE evaluation. An eligible defendant may decline to

1 participate in such an evaluation at any time. The defendant shall
2 provide a written authorization, in compliance with the requirements of
3 any applicable state or federal laws, rules or regulations authorizing
4 disclosure of the results of the assessment to the defendant's attorney,
5 the prosecutor, the local probation department, the court, authorized
6 court personnel and other individuals specified in such authorization
7 for the sole purpose of determining whether the defendant should be
8 offered judicial diversion for treatment for substance [abuse or depend-
9 ence] USE, alcohol [abuse or dependence] USE and any co-occurring mental
10 disorder or mental illness.

11 2. Upon receipt of the completed alcohol and substance [abuse] USE
12 evaluation report, the court shall provide a copy of the report to the
13 eligible defendant and the prosecutor.

14 3. (a) Upon receipt of the evaluation report either party may request
15 a hearing on the issue of whether the eligible defendant should be
16 offered alcohol or substance [abuse] USE treatment pursuant to this
17 article. At such a proceeding, which shall be held as soon as practica-
18 ble so as to facilitate early intervention in the event that the defend-
19 ant is found to need alcohol or substance [abuse] USE treatment, the
20 court may consider oral and written arguments, may take testimony from
21 witnesses offered by either party, and may consider any relevant
22 evidence including, but not limited to, evidence that:

23 (i) the defendant had within the preceding ten years (excluding any
24 time during which the offender was incarcerated for any reason between
25 the time of the acts that led to the youthful offender adjudication and
26 the time of commission of the present offense) been adjudicated a youth-
27 ful offender for: (A) a violent felony offense as defined in section
28 70.02 of the penal law; or (B) any offense for which a merit time allow-
29 ance is not available pursuant to subparagraph (ii) of paragraph (d) of
30 subdivision one of section eight hundred three of the correction law;
31 and

32 (ii) in the case of a felony offense defined in subdivision [four]
33 FIVE of section 410.91 of this chapter, OR SECTION 165.09, 165.10,
34 190.79 OR 190.80 OF THE PENAL LAW, any statement of or submitted by the
35 victim, as defined in paragraph (a) of subdivision two of section 380.50
36 of this chapter.

37 (b) Upon completion of such a proceeding, the court shall consider and
38 make findings of fact with respect to whether:

39 (i) the defendant is an eligible defendant as defined in subdivision
40 one of section 216.00 of this article;

41 (ii) the defendant has a history of alcohol or substance [abuse or
42 dependence] USE;

43 (iii) such alcohol or substance [abuse or dependence] USE is a
44 contributing factor to the defendant's criminal behavior;

45 (iv) the defendant's participation in judicial diversion could effec-
46 tively address such [abuse or dependence] USE; and

47 (v) institutional confinement of the defendant is or may not be neces-
48 sary for the protection of the public.

49 4. When an authorized court determines, pursuant to paragraph (b) of
50 subdivision three of this section, that an eligible defendant should be
51 offered alcohol or substance [abuse] USE treatment, or when the parties
52 and the court agree to an eligible defendant's participation in alcohol
53 or substance [abuse] USE treatment, an eligible defendant may be allowed
54 to participate in the judicial diversion program offered by this arti-
55 cle. Prior to the court's issuing an order granting judicial diversion,
56 the eligible defendant shall be required to enter a plea of guilty to

1 the charge or charges; provided, however, that no such guilty plea shall
2 be required when:

3 (a) the people and the court consent to the entry of such an order
4 without a plea of guilty; or

5 (b) based on a finding of exceptional circumstances, the court deter-
6 mines that a plea of guilty shall not be required. For purposes of this
7 subdivision, exceptional circumstances exist when, regardless of the
8 ultimate disposition of the case, the entry of a plea of guilty is like-
9 ly to result in severe collateral consequences.

10 5. The defendant shall agree on the record or in writing to abide by
11 the release conditions set by the court, which, shall include: partic-
12 ipation in a specified period of alcohol or substance [abuse] USE treat-
13 ment at a specified program or programs identified by the court, which
14 may include periods of detoxification, residential or outpatient treat-
15 ment, or both, as determined after taking into account the views of the
16 health care professional who conducted the alcohol and substance [abuse]
17 USE evaluation and any health care professionals responsible for provid-
18 ing such treatment or monitoring the defendant's progress in such treat-
19 ment; and may include: (i) periodic court appearances, which may include
20 periodic urinalysis; (ii) a requirement that the defendant refrain from
21 engaging in criminal behaviors; (iii) if the defendant needs treatment
22 for opioid [abuse or dependence] USE, that he or she may participate in
23 and receive medically prescribed drug treatments under the care of a
24 health care professional licensed or certified under title eight of the
25 education law, acting within his or her lawful scope of practice,
26 provided that no court shall require the use of any specified type or
27 brand of drug during the course of medically prescribed drug treatments.

28 6. Upon an eligible defendant's agreement to abide by the conditions
29 set by the court, the court shall issue a securing order providing for
30 bail or release on the defendant's own recognizance and conditioning any
31 release upon the agreed upon conditions. The period of alcohol or
32 substance [abuse] USE treatment shall begin as specified by the court
33 and as soon as practicable after the defendant's release, taking into
34 account the availability of treatment, so as to facilitate early inter-
35 vention with respect to the defendant's [abuse] USE or condition and the
36 effectiveness of the treatment program. In the event that a treatment
37 program is not immediately available or becomes unavailable during the
38 course of the defendant's participation in the judicial diversion
39 program, the court may release the defendant pursuant to the securing
40 order.

41 7. When participating in judicial diversion treatment pursuant to this
42 article, any resident of this state who is covered under a private
43 health insurance policy or contract issued for delivery in this state
44 pursuant to article thirty-two, forty-three or forty-seven of the insur-
45 ance law or article forty-four of the public health law, or who is
46 covered by a self-funded plan which provides coverage for the diagnosis
47 and treatment of chemical abuse and chemical dependence however defined
48 in such policy; shall first seek reimbursement for such treatment in
49 accordance with the provisions of such policy or contract.

50 8. During the period of a defendant's participation in the judicial
51 diversion program, the court shall retain jurisdiction of the defendant,
52 provided, however, that the court may allow such defendant to (i) reside
53 in another jurisdiction, or (ii) participate in alcohol and substance
54 [abuse] USE treatment and other programs in the jurisdiction where the
55 defendant resides or in any other jurisdiction, while participating in a
56 judicial diversion program under conditions set by the court and agreed

1 to by the defendant pursuant to subdivisions five and six of this
2 section. The court may require the defendant to appear in court at any
3 time to enable the court to monitor the defendant's progress in alcohol
4 or substance [abuse] USE treatment. The court shall provide notice,
5 reasonable under the circumstances, to the people, the treatment provid-
6 er, the defendant and the defendant's counsel whenever it orders or
7 otherwise requires the appearance of the defendant in court. Failure to
8 appear as required without reasonable cause therefor shall constitute a
9 violation of the conditions of the court's agreement with the defendant.

10 9. (a) If at any time during the defendant's participation in the
11 judicial diversion program, the court has reasonable grounds to believe
12 that the defendant has violated a release condition or has failed to
13 appear before the court as requested, the court shall direct the defend-
14 ant to appear or issue a bench warrant to a police officer or an appro-
15 priate peace officer directing him or her to take the defendant into
16 custody and bring the defendant before the court without unnecessary
17 delay; provided, however, that under no circumstances shall a defendant
18 who requires treatment for opioid [abuse or dependence] USE be deemed to
19 have violated a release condition on the basis of his or her partic-
20 ipation in medically prescribed drug treatments under the care of a
21 health care professional licensed or certified under title eight of the
22 education law, acting within his or her lawful scope of practice. The
23 provisions of subdivision one of section 530.60 of this chapter relating
24 to revocation of recognizance or bail shall apply to such proceedings
25 under this subdivision.

26 (b) In determining whether a defendant violated a condition of his or
27 her release under the judicial diversion program, the court may conduct
28 a summary hearing consistent with due process and sufficient to satisfy
29 the court that the defendant has, in fact, violated the condition.

30 (c) If the court determines that the defendant has violated a condi-
31 tion of his or her release under the judicial diversion program, the
32 court may modify the conditions thereof, reconsider the order of recog-
33 nizance or bail pursuant to subdivision two of section 510.30 of this
34 chapter, or terminate the defendant's participation in the judicial
35 diversion program; and when applicable proceed with the defendant's
36 sentencing in accordance with the agreement. Notwithstanding any
37 provision of law to the contrary, the court may impose any sentence
38 authorized for the crime of conviction in accordance with the plea
39 agreement, or any lesser sentence authorized to be imposed on a felony
40 drug offender pursuant to paragraph (b) or (c) of subdivision two of
41 section 70.70 of the penal law taking into account the length of time
42 the defendant spent in residential treatment and how best to continue
43 treatment while the defendant is serving that sentence. In determining
44 what action to take for a violation of a release condition, the court
45 shall consider all relevant circumstances, including the views of the
46 prosecutor, the defense and the alcohol or substance [abuse] USE treat-
47 ment provider, and the extent to which persons who ultimately success-
48 fully complete a drug treatment regimen sometimes relapse by not
49 abstaining from alcohol or substance [abuse] USE or by failing to comply
50 fully with all requirements imposed by a treatment program. The court
51 shall also consider using a system of graduated and appropriate
52 responses or sanctions designed to address such inappropriate behaviors,
53 protect public safety and facilitate, where possible, successful
54 completion of the alcohol or substance [abuse] USE treatment program.

55 (d) Nothing in this subdivision shall be construed as preventing a
56 court from terminating a defendant's participation in the judicial

1 diversion program for violating a release condition when such a termi-
2 nation is necessary to preserve public safety. Nor shall anything in
3 this subdivision be construed as precluding the prosecution of a defend-
4 ant for the commission of a different offense while participating in the
5 judicial diversion program.

6 (e) A defendant may at any time advise the court that he or she wishes
7 to terminate participation in the judicial diversion program, at which
8 time the court shall proceed with the case and, where applicable, shall
9 impose sentence in accordance with the plea agreement. Notwithstanding
10 any provision of law to the contrary, the court may impose any sentence
11 authorized for the crime of conviction in accordance with the plea
12 agreement, or any lesser sentence authorized to be imposed on a felony
13 drug offender pursuant to paragraph (b) or (c) of subdivision two of
14 section 70.70 of the penal law taking into account the length of time
15 the defendant spent in residential treatment and how best to continue
16 treatment while the defendant is serving that sentence.

17 10. Upon the court's determination that the defendant has successfully
18 completed the required period of alcohol or substance [abuse] USE treat-
19 ment and has otherwise satisfied the conditions required for successful
20 completion of the judicial diversion program, the court shall comply
21 with the terms and conditions it set for final disposition when it
22 accepted the defendant's agreement to participate in the judicial diver-
23 sion program. Such disposition may include, but is not limited to: (a)
24 requiring the defendant to undergo a period of interim probation super-
25 vision and, upon the defendant's successful completion of the interim
26 probation supervision term, notwithstanding the provision of any other
27 law, permitting the defendant to withdraw his or her guilty plea and
28 dismissing the indictment; or (b) requiring the defendant to undergo a
29 period of interim probation supervision and, upon successful completion
30 of the interim probation supervision term, notwithstanding the provision
31 of any other law, permitting the defendant to withdraw his or her guilty
32 plea, enter a guilty plea to a misdemeanor offense and sentencing the
33 defendant as promised in the plea agreement, which may include a period
34 of probation supervision pursuant to section 65.00 of the penal law; or
35 (c) allowing the defendant to withdraw his or her guilty plea and
36 dismissing the indictment.

37 11. Nothing in this article shall be construed as restricting or
38 prohibiting courts or district attorneys from using other lawful proce-
39 dures or models for placing appropriate persons into alcohol or
40 substance [abuse] USE treatment.

41 S 4. This act shall take effect immediately; provided, that the amend-
42 ments to the opening paragraph of subdivision 1 of section 216.00 of the
43 criminal procedure law made by section one of this act shall be subject
44 to the expiration and reversion of such paragraph pursuant to section 12
45 of chapter 90 of the laws of 2014, as amended, when upon such date the
46 provisions of section two of this act shall take effect.

47

PART WW

48 Section 1. The executive law is amended by adding a new section 837-t
49 to read as follows:

50 S 837-T. ETHNIC AND RACIAL PROFILING. 1. FOR THE PURPOSES OF THIS
51 SECTION:

52 (A) "LAW ENFORCEMENT AGENCY" MEANS AN AGENCY ESTABLISHED BY THE STATE
53 OR A UNIT OF LOCAL GOVERNMENT ENGAGED IN THE PREVENTION, DETECTION, OR
54 INVESTIGATION OF VIOLATIONS OF CRIMINAL LAW.

1 (B) "LAW ENFORCEMENT OFFICER" MEANS A POLICE OFFICER OR PEACE OFFICER,
2 AS DEFINED IN SUBDIVISIONS THIRTY-THREE AND THIRTY-FOUR OF SECTION 1.20
3 OF THE CRIMINAL PROCEDURE LAW, EMPLOYED BY A LAW ENFORCEMENT AGENCY.

4 (C) "RACIAL OR ETHNIC PROFILING" MEANS THE PRACTICE OF A LAW ENFORCE-
5 MENT AGENT OR AGENCY, RELYING, TO ANY DEGREE, ON ACTUAL OR PERCEIVED
6 RACE, COLOR, ETHNICITY, NATIONAL ORIGIN OR RELIGION IN SELECTING WHICH
7 INDIVIDUAL OR LOCATION TO SUBJECT TO ROUTINE OR SPONTANEOUS INVESTIGATO-
8 RY ACTIVITIES OR IN DECIDING UPON THE SCOPE AND SUBSTANCE OF LAW
9 ENFORCEMENT ACTIVITY FOLLOWING THE INITIAL INVESTIGATORY PROCEDURE,
10 EXCEPT WHEN THERE IS TRUSTWORTHY INFORMATION, RELEVANT TO THE LOCALITY
11 AND TIMEFRAME, THAT LINKS A SPECIFIC PERSON OR LOCATION WITH A PARTIC-
12 ULAR CHARACTERISTIC DESCRIBED IN THIS PARAGRAPH TO AN IDENTIFIED CRIMI-
13 NAL INCIDENT OR SCHEME.

14 (D) "ROUTINE OR SPONTANEOUS INVESTIGATORY ACTIVITIES" MEANS THE
15 FOLLOWING ACTIVITIES BY A LAW ENFORCEMENT AGENT:

- 16 (I) INTERVIEWS;
- 17 (II) TRAFFIC STOPS;
- 18 (III) PEDESTRIAN STOPS;
- 19 (IV) FRISKS AND OTHER TYPES OF BODY SEARCHES;
- 20 (V) CONSENSUAL OR NONCONSENSUAL SEARCHES OF PERSONS, PROPERTY OR
21 POSSESSIONS (INCLUDING VEHICLES) OF INDIVIDUALS;
- 22 (VI) DATA COLLECTION AND ANALYSIS, ASSESSMENTS AND INVESTIGATIONS; AND
- 23 (VII) INSPECTIONS AND INTERVIEWS.

24 2. EVERY LAW ENFORCEMENT AGENCY AND EVERY LAW ENFORCEMENT OFFICER
25 SHALL BE PROHIBITED FROM ENGAGING IN RACIAL OR ETHNIC PROFILING.

26 3. EVERY LAW ENFORCEMENT AGENCY SHALL PROMULGATE AND ADOPT A WRITTEN
27 POLICY WHICH PROHIBITS RACIAL OR ETHNIC PROFILING. IN ADDITION, EACH
28 SUCH AGENCY SHALL PROMULGATE AND ADOPT PROCEDURES FOR THE REVIEW AND THE
29 TAKING OF CORRECTIVE ACTION WITH RESPECT TO COMPLAINTS BY INDIVIDUALS
30 WHO ALLEGE THAT THEY HAVE BEEN THE SUBJECT OF RACIAL OR ETHNIC PROFIL-
31 ING. A COPY OF EACH SUCH COMPLAINT RECEIVED PURSUANT TO THIS SECTION AND
32 WRITTEN NOTIFICATION OF THE REVIEW AND DISPOSITION OF SUCH COMPLAINT
33 SHALL BE PROMPTLY PROVIDED BY SUCH AGENCY TO THE DIVISION.

34 4. EACH LAW ENFORCEMENT AGENCY SHALL, USING A FORM TO BE DETERMINED
35 BY THE DIVISION, RECORD AND RETAIN THE FOLLOWING INFORMATION WITH
36 RESPECT TO LAW ENFORCEMENT OFFICERS EMPLOYED BY SUCH AGENCY:

37 (A) THE NUMBER OF PERSONS STOPPED AS A RESULT OF A MOTOR VEHICLE STOP
38 FOR TRAFFIC VIOLATIONS AND THE NUMBER OF PERSONS STOPPED AS A RESULT OF
39 A ROUTINE OR SPONTANEOUS LAW ENFORCEMENT ACTIVITY AS DEFINED IN THIS
40 SECTION;

41 (B) THE CHARACTERISTICS OF RACE, COLOR, ETHNICITY, NATIONAL ORIGIN OR
42 RELIGION OF EACH SUCH PERSON, PROVIDED THE IDENTIFICATION OF SUCH CHAR-
43 ACTERISTICS SHALL BE BASED ON THE OBSERVATION AND PERCEPTION OF THE
44 OFFICER RESPONSIBLE FOR REPORTING THE STOP AND THE INFORMATION SHALL NOT
45 BE REQUIRED TO BE PROVIDED BY THE PERSON STOPPED;

46 (C) IF A VEHICLE WAS STOPPED, THE NUMBER OF INDIVIDUALS IN THE STOPPED
47 MOTOR VEHICLE;

48 (D) THE NATURE OF THE ALLEGED VIOLATION THAT RESULTED IN THE STOP OR
49 THE BASIS FOR THE CONDUCT THAT RESULTED IN THE INDIVIDUAL BEING STOPPED;

50 (E) WHETHER A PAT DOWN OR FRISK WAS CONDUCTED AND, IF SO, THE RESULT
51 OF THE PAT DOWN OR FRISK;

52 (F) WHETHER A SEARCH WAS CONDUCTED AND, IF SO, THE RESULT OF THE
53 SEARCH;

54 (G) IF A SEARCH WAS CONDUCTED, WHETHER THE SEARCH WAS OF A PERSON, A
55 PERSON'S PROPERTY, AND/OR A PERSON'S VEHICLE, AND WHETHER THE SEARCH WAS
56 CONDUCTED PURSUANT TO CONSENT AND IF NOT, THE BASIS FOR CONDUCTING THE

1 SEARCH INCLUDING ANY ALLEGED CRIMINAL BEHAVIOR THAT JUSTIFIED THE
2 SEARCH;

3 (H) WHETHER AN INVENTORY SEARCH OF SUCH PERSON'S IMPOUNDED VEHICLE WAS
4 CONDUCTED;

5 (I) WHETHER A WARNING OR CITATION WAS ISSUED;

6 (J) WHETHER AN ARREST WAS MADE AND FOR WHAT CHARGE OR CHARGES;

7 (K) THE APPROXIMATE DURATION OF THE STOP; AND

8 (L) THE TIME AND LOCATION OF THE STOP.

9 5. EVERY LAW ENFORCEMENT AGENCY SHALL COMPILE THE INFORMATION SET
10 FORTH IN SUBDIVISION FOUR OF THIS SECTION FOR THE CALENDAR YEAR INTO A
11 REPORT TO THE DIVISION. THE FORMAT OF SUCH REPORT SHALL BE DETERMINED BY
12 THE DIVISION. THE REPORT SHALL BE SUBMITTED TO THE DIVISION NO LATER
13 THAN MARCH FIRST OF THE FOLLOWING CALENDAR YEAR.

14 6. THE DIVISION, IN CONSULTATION WITH THE ATTORNEY GENERAL, SHALL
15 DEVELOP AND PROMULGATE:

16 (A) A FORM IN BOTH PRINTED AND ELECTRONIC FORMAT, TO BE USED BY LAW
17 ENFORCEMENT OFFICERS TO RECORD THE INFORMATION LISTED IN SUBDIVISION
18 FOUR OF THIS SECTION; AND

19 (B) A FORM TO BE USED TO REPORT COMPLAINTS PURSUANT TO SUBDIVISION
20 THREE OF THIS SECTION BY INDIVIDUALS WHO BELIEVE THEY HAVE BEEN
21 SUBJECTED TO RACIAL OR ETHNIC PROFILING.

22 7. EVERY LAW ENFORCEMENT AGENCY SHALL PROMPTLY MAKE AVAILABLE TO THE
23 ATTORNEY GENERAL, UPON DEMAND AND NOTICE, THE DOCUMENTS REQUIRED TO BE
24 PRODUCED AND PROMULGATED PURSUANT TO SUBDIVISIONS THREE, FOUR AND FIVE
25 OF THIS SECTION.

26 8. EVERY LAW ENFORCEMENT AGENCY SHALL FURNISH ALL DATA/INFORMATION
27 COLLECTED PURSUANT TO SUBDIVISION FOUR OF THIS SECTION TO THE DIVISION.
28 THE DIVISION SHALL DEVELOP AND IMPLEMENT A PLAN FOR A COMPUTERIZED DATA
29 SYSTEM FOR PUBLIC VIEWING OF SUCH DATA AND SHALL PUBLISH AN ANNUAL
30 REPORT ON DATA COLLECTED FOR THE GOVERNOR, THE LEGISLATURE, AND THE
31 PUBLIC ON LAW ENFORCEMENT STOPS. INFORMATION RELEASED SHALL NOT REVEAL
32 THE IDENTITY OF ANY INDIVIDUAL.

33 9. THE ATTORNEY GENERAL MAY BRING AN ACTION ON BEHALF OF THE PEOPLE
34 FOR INJUNCTIVE RELIEF AND/OR DAMAGES AGAINST A LAW ENFORCEMENT AGENCY
35 THAT IS ENGAGING IN OR HAS ENGAGED IN AN ACT OR ACTS OF RACIAL PROFILING
36 IN A COURT HAVING JURISDICTION TO ISSUE SUCH RELIEF. THE COURT MAY AWARD
37 COSTS AND REASONABLE ATTORNEY FEES TO THE ATTORNEY GENERAL WHO PREVAILS
38 IN SUCH AN ACTION.

39 10. IN ADDITION TO A CAUSE OF ACTION BROUGHT PURSUANT TO SUBDIVISION
40 NINE OF THIS SECTION, AN INDIVIDUAL WHO HAS BEEN THE SUBJECT OF AN ACT
41 OR ACTS OF RACIAL PROFILING MAY BRING AN ACTION FOR INJUNCTIVE RELIEF
42 AND/OR DAMAGES AGAINST A LAW ENFORCEMENT AGENCY THAT IS ENGAGED IN OR
43 HAS ENGAGED IN AN ACT OR ACTS OF RACIAL PROFILING. THE COURT MAY AWARD
44 COSTS AND REASONABLE ATTORNEY FEES TO A PLAINTIFF WHO PREVAILS IN SUCH
45 AN ACTION.

46 11. NOTHING IN THIS SECTION SHALL BE CONSTRUED AS DIMINISHING OR ABRO-
47 GATING ANY RIGHT, REMEDY OR CAUSE OF ACTION WHICH AN INDIVIDUAL WHO HAS
48 BEEN SUBJECT TO RACIAL OR ETHNIC PROFILING MAY HAVE PURSUANT TO ANY
49 OTHER PROVISION OF LAW.

50 S 2. This act shall take effect immediately; provided that:

51 1. the provisions of subdivision 4 of section 837-t of the executive
52 law as added by section one of this act shall take effect on the nineti-
53 eth day after it shall have become a law; and

54 2. the provisions of subdivision 6 of section 837-t of the executive
55 law as added by section one of this act shall take effect on the sixti-
56 eth day after it shall have become a law.

1

PART XX

2 Section 1. Paragraph (d) of subdivision 3 of section 190.25 of the
3 criminal procedure law is amended and a new paragraph (a-1) is added to
4 read as follows:

5 (A-1) A JUDGE OR JUSTICE OF THE SUPERIOR COURT;

6 (d) An interpreter. Upon request of the grand jury OR THE COURT, the
7 prosecutor must provide an interpreter to interpret the testimony of any
8 witness who does not speak the English language well enough to be readi-
9 ly understood. Such interpreter must, if he OR SHE has not previously
10 taken the constitutional oath of office, first take an oath before the
11 grand jury that he OR SHE will faithfully interpret the testimony of the
12 witness and that he OR SHE will keep secret all matters before such
13 grand jury within his OR HER knowledge;

14 S 2. Subdivision 4 of section 190.25 of the criminal procedure law is
15 amended by adding six new paragraphs (c), (d), (e), (f), (g) and (h) to
16 read as follows:

17 (C) IN ADDITION TO PARAGRAPHS (A) AND (B) OF THIS SUBDIVISION, WHEN,
18 FOLLOWING SUBMISSION TO A GRAND JURY OF A CRIMINAL CHARGE OR CHARGES,
19 THE GRAND JURY DISMISSES ALL CHARGES PRESENTED OR DIRECTS THE DISTRICT
20 ATTORNEY TO FILE IN A LOCAL CRIMINAL COURT A PROSECUTOR'S INFORMATION
21 CHARGING AN OFFENSE OTHER THAN A FELONY, AS PROVIDED IN SUBDIVISION ONE
22 OF SECTION 190.70 OF THIS ARTICLE, AN APPLICATION MAY BE MADE TO THE
23 SUPERIOR COURT FOR DISCLOSURE OF THE FOLLOWING MATERIAL RELATING TO THE
24 PROCEEDINGS BEFORE SUCH GRAND JURY:

25 (I) THE CRIMINAL CHARGE OR CHARGES SUBMITTED;

26 (II) THE LEGAL INSTRUCTIONS PROVIDED TO THE GRAND JURY;

27 (III) THE TESTIMONY OF ALL PUBLIC SERVANTS WHO TESTIFIED IN AN OFFI-
28 CIAL CAPACITY BEFORE THE GRAND JURY AND OF ALL PERSONS WHO PROVIDED
29 EXPERT TESTIMONY; AND

30 (IV) THE TESTIMONY OF ALL OTHER PERSONS WHO TESTIFIED BEFORE THE GRAND
31 JURY, REDACTED AS NECESSARY TO PREVENT DISCOVERY OF THEIR NAMES AND SUCH
32 OTHER PERSONAL DATA OR INFORMATION THAT MAY REVEAL OR HELP TO REVEAL
33 THEIR IDENTITIES.

34 (D) THE APPLICATION SPECIFIED IN PARAGRAPH (C) OF THIS SUBDIVISION MAY
35 BE MADE BY ANY PERSON, MUST BE IN WRITING AND, EXCEPT WHERE MADE BY THE
36 PEOPLE, MUST BE UPON NOTICE TO THE PEOPLE. THE COURT SHALL DIRECT OR
37 PROVIDE NOTICE TO ANY OTHER APPROPRIATE PERSON OR AGENCY. WHERE MORE
38 THAN ONE APPLICATION IS MADE HEREUNDER IN RELATION TO SUCH A DISMISSAL
39 OR DIRECTION, THE COURT MAY CONSOLIDATE SUCH APPLICATIONS AND DETERMINE
40 THEM TOGETHER. WHEN NO APPLICATION HEREUNDER IS MADE, THE SUPERIOR COURT
41 MAY ORDER DISCLOSURE ON ITS OWN MOTION AS PROVIDED IN PARAGRAPH (E) OF
42 THIS SUBDIVISION AT ANY TIME FOLLOWING NOTICE TO THE PEOPLE AND AN
43 OPPORTUNITY TO BE HEARD AND REASONABLE EFFORTS TO NOTIFY AND PROVIDE AN
44 OPPORTUNITY TO BE HEARD TO ANY OTHER APPROPRIATE PERSON OR AGENCY.

45 (E) UPON AN APPLICATION AS PROVIDED IN PARAGRAPH (C) OF THIS SUBDIVI-
46 SION OR ON THE COURT'S OWN MOTION, THE COURT, AFTER PROVIDING PERSONS
47 GIVEN NOTICE AN OPPORTUNITY TO BE HEARD, SHALL DETERMINE WHETHER:

48 (I) A SIGNIFICANT NUMBER OF MEMBERS OF THE GENERAL PUBLIC IN THE COUN-
49 TY IN WHICH THE GRAND JURY WAS DRAWN AND IMPANELED ARE LIKELY AWARE THAT
50 A CRIMINAL INVESTIGATION HAD BEEN CONDUCTED IN CONNECTION WITH THE
51 SUBJECT MATTER OF THE GRAND JURY PROCEEDING; AND

52 (II) A SIGNIFICANT NUMBER OF MEMBERS OF THE GENERAL PUBLIC IN SUCH
53 COUNTY ARE LIKELY AWARE OF THE IDENTITY OF THE SUBJECT AGAINST WHOM THE
54 CRIMINAL CHARGE SPECIFIED IN PARAGRAPH (C) OF THIS SUBDIVISION WAS

1 SUBMITTED TO A GRAND JURY, OR SUCH SUBJECT HAS CONSENTED TO SUCH DISCLO-
2 SURE; AND

3 (III) THERE IS SIGNIFICANT PUBLIC INTEREST IN DISCLOSURE.

4 WHERE THE COURT IS SATISFIED THAT ALL THREE OF THESE FACTORS ARE PRES-
5 ENT, AND EXCEPT AS PROVIDED IN PARAGRAPH (F) OF THIS SUBDIVISION, THE
6 COURT SHALL DIRECT THE DISTRICT ATTORNEY TO PROMPTLY DISCLOSE THE ITEMS
7 SPECIFIED IN PARAGRAPH (C) OF THIS SUBDIVISION.

8 (F) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS SUBDIVISION, ON
9 APPLICATION OF THE DISTRICT ATTORNEY OR ANY INTERESTED PERSON, OR ON ITS
10 OWN MOTION, THE COURT SHALL LIMIT DISCLOSURE OF THE ITEMS SPECIFIED IN
11 PARAGRAPH (C) OF THIS SUBDIVISION, IN WHOLE OR PART, WHERE THE COURT
12 DETERMINES THERE IS A REASONABLE LIKELIHOOD THAT SUCH DISCLOSURE MAY
13 LEAD TO DISCOVERY OF THE IDENTITY OF A WITNESS WHO IS NOT A PUBLIC SERV-
14 ANT OR EXPERT WITNESS, IMPERIL THE HEALTH OR SAFETY OF A GRAND JUROR WHO
15 PARTICIPATED IN THE PROCEEDING OR A WITNESS WHO APPEARED BEFORE THE
16 GRAND JURY, JEOPARDIZE AN IDENTIFIED CURRENT OR FUTURE CRIMINAL INVESTI-
17 GATION, CREATE A SPECIFIC THREAT TO PUBLIC SAFETY, OR DESPITE THE INTER-
18 ESTS REFLECTED BY THIS SUBDIVISION IS CONTRARY TO THE INTERESTS OF
19 JUSTICE.

20 (G) WHERE A COURT DETERMINES NOT TO DIRECT DISCLOSURE, IN WHOLE OR IN
21 PART, PURSUANT TO THIS SUBDIVISION, IT SHALL DO SO PROMPTLY IN A WRITTEN
22 ORDER THAT SHALL EXPLAIN WITH SPECIFICITY, TO THE EXTENT PRACTICABLE,
23 THE BASIS FOR ITS DETERMINATION.

24 (H) NOTHING IN THIS PARAGRAPH OR PARAGRAPHS (C), (D), (E), (F) OR (G)
25 OF THIS SUBDIVISION SHALL BE INTERPRETED AS LIMITING OR RESTRICTING ANY
26 BROADER RIGHT OF ACCESS TO GRAND JURY MATERIALS UNDER ANY OTHER LAW,
27 COMMON LAW OR COURT PRECEDENT.

28 S 3. This act shall take effect on the thirtieth day after it shall
29 have become a law.

30

PART YY

31 Section 1. The executive law is amended by adding a new section 70-b
32 to read as follows:

33 S 70-B. OFFICE OF SPECIAL INVESTIGATION. 1. THERE SHALL BE ESTAB-
34 LISHED WITHIN THE DEPARTMENT OF LAW AN OFFICE OF SPECIAL INVESTIGATION
35 WHICH SHALL INVESTIGATE AND, IF WARRANTED, PROSECUTE ANY ALLEGED CRIMI-
36 NAL OFFENSE OR OFFENSES COMMITTED BY A PERSON WHO IS A POLICE OFFICER AS
37 DEFINED IN SUBDIVISION THIRTY-FOUR OF SECTION 1.20 OF THE CRIMINAL
38 PROCEDURE LAW, OR A PEACE OFFICER AS DEFINED IN SUBDIVISION THIRTY-THREE
39 OF SECTION 1.20 OF THE CRIMINAL PROCEDURE LAW, CONCERNING THE DEATH, OR
40 THE INVESTIGATION OF THE DEATH, OF ANY PERSON WHERE SUCH DEATH RESULTED
41 FROM OR POTENTIALLY RESULTED FROM ANY ENCOUNTER WITH SUCH POLICE OFFICER
42 OR PEACE OFFICER, WHETHER OR NOT SUCH PERSON WAS IN CUSTODY. THE OFFICE
43 SHALL HAVE THE POWERS AND DUTIES SPECIFIED IN SUBDIVISIONS TWO AND EIGHT
44 OF SECTION SIXTY-THREE OF THIS ARTICLE FOR PURPOSES OF THIS SECTION, AND
45 SHALL POSSESS AND EXERCISE ALL THE PROSECUTORIAL POWERS NECESSARY TO
46 INVESTIGATE AND, IF WARRANTED, PROSECUTE SUCH OFFENSES, PROVIDED, HOWEV-
47 ER, THAT APPROVAL, DIRECTION OR REQUIREMENT OF THE GOVERNOR AS MAY
48 OTHERWISE BE REQUIRED BY SUCH SUBDIVISIONS SHALL NOT BE REQUIRED. THE
49 JURISDICTION OF THE OFFICE OF SPECIAL INVESTIGATION SHALL DISPLACE AND
50 SUPERSEDE IN ALL WAYS THE AUTHORITY AND JURISDICTION OF THE COUNTY
51 DISTRICT ATTORNEY FOR THE INVESTIGATION AND PROSECUTION OF SUCH
52 OFFENSES. IN ANY INVESTIGATION AND PROSECUTION CONDUCTED PURSUANT TO
53 THIS SECTION, THE DISTRICT ATTORNEY SHALL ONLY EXERCISE SUCH POWERS AND
54 PERFORM SUCH DUTIES AS DESIGNATED TO HIM OR HER BY THE OFFICE OF SPECIAL

1 INVESTIGATION. THE OFFICE OF SPECIAL INVESTIGATION WITHIN THE DEPARTMENT
2 OF LAW SHALL BE HEADED BY THE DEPUTY ATTORNEY GENERAL APPOINTED BY THE
3 ATTORNEY GENERAL PURSUANT TO SUBDIVISION THREE OF THIS SECTION.

4 2. (A) IN ANY INVESTIGATION AND PROSECUTION UNDERTAKEN PURSUANT TO
5 THIS SECTION, THE OFFICE OF SPECIAL INVESTIGATION SHALL CONDUCT A FULL,
6 REASONED, AND INDEPENDENT INVESTIGATION INCLUDING, BUT NOT LIMITED TO:
7 (I) GATHERING AND ANALYZING EVIDENCE; (II) CONDUCTING WITNESS INTER-
8 VIEWS; AND (III) REVIEWING AND COMMISSIONING ANY NECESSARY INVESTIGATIVE
9 AND SCIENTIFIC REPORTS, AND REVIEWING AUDIO AND VIDEO RECORDINGS.

10 (B) IN ALL MATTERS PURSUANT TO SUBDIVISION ONE OF THIS SECTION, THE
11 DEPUTY ATTORNEY GENERAL, APPOINTED PURSUANT TO SUBDIVISION THREE OF THIS
12 SECTION, MAY APPEAR IN PERSON OR BY ANY ASSISTANT ATTORNEY GENERAL HE OR
13 SHE MAY DESIGNATE BEFORE ANY COURT OR GRAND JURY IN THE STATE AND EXER-
14 CISE ALL OF THE POWERS AND PERFORM ALL OF THE DUTIES WITH RESPECT TO
15 SUCH ACTIONS OR PROCEEDINGS WHICH THE DISTRICT ATTORNEY WOULD OTHERWISE
16 BE AUTHORIZED OR REQUIRED TO EXERCISE OR PERFORM.

17 3. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE ATTORNEY GENERAL
18 SHALL, WITHOUT CIVIL SERVICE EXAMINATION, APPOINT AND EMPLOY, FIX HIS OR
19 HER COMPENSATION, AND AT HIS OR HER PLEASURE REMOVE, A DEPUTY ATTORNEY
20 GENERAL IN CHARGE OF THE OFFICE OF SPECIAL INVESTIGATION. THE ATTORNEY
21 GENERAL MAY, AND WITHOUT CIVIL SERVICE EXAMINATION, APPOINT AND EMPLOY,
22 AND AT PLEASURE REMOVE, SUCH ASSISTANT DEPUTIES, INVESTIGATORS AND OTHER
23 PERSONS AS HE OR SHE DEEMS NECESSARY, DETERMINE THEIR DUTIES AND FIX
24 THEIR COMPENSATION.

25 4. (A) WHERE AN INVESTIGATION OR PROSECUTION OF THE TYPE DESCRIBED IN
26 SUBDIVISION ONE OF THIS SECTION INVOLVES ACTS THAT APPEAR TO HAVE BEEN
27 ENGAGED IN BY A POLICE OFFICER OR PEACE OFFICER EMPLOYED BY THE STATE OF
28 NEW YORK, THE ATTORNEY GENERAL SHALL PROMPTLY APPLY TO A SUPERIOR COURT
29 IN THE COUNTY IN WHICH SUCH ACTS ALLEGEDLY OCCURRED FOR THE APPOINTMENT
30 OF AN INDEPENDENT COUNSEL TO INVESTIGATE AND POTENTIALLY PROSECUTE SUCH
31 MATTER. NOTWITHSTANDING THE PROVISIONS OF ANY OTHER LAW, SUCH COURT
32 SHALL THEREUPON APPOINT A QUALIFIED AND EXPERIENCED ATTORNEY AT LAW,
33 CAPABLE OF INVESTIGATING AND PROSECUTING SUCH MATTER, NOT EMPLOYED AS A
34 DISTRICT ATTORNEY, ASSISTANT DISTRICT ATTORNEY OR ASSISTANT ATTORNEY
35 GENERAL, AND HAVING NO PERSONAL OR PROFESSIONAL CONFLICTS OF INTEREST,
36 TO ACT AS AN INDEPENDENT COUNSEL WITH RESPECT TO SUCH MATTER, AT A
37 REASONABLE AND APPROPRIATE HOURLY RATE TO BE SET BY SUCH COURT.

38 (B) THE ATTORNEY GENERAL SHALL PROMPTLY NOTIFY THE STATE COMPTROLLER,
39 THE COURT AND THE PUBLIC WHEN SUCH APPOINTMENT HAS BEEN MADE AND
40 ACCEPTED BY SUCH ATTORNEY. REASONABLE FEES FOR ATTORNEYS AND INVESTI-
41 GATION AND LITIGATION EXPENSES SHALL BE PAID BY THE STATE TO SUCH
42 PRIVATE COUNSEL FROM TIME TO TIME DURING THE PENDENCY OF THE INVESTI-
43 GATION AND ANY PROSECUTION AND APPEAL, UPON THE AUDIT AND WARRANT OF THE
44 COMPTROLLER. ANY DISPUTE WITH RESPECT TO THE PAYMENT OF SUCH FEES AND
45 EXPENSES SHALL BE RESOLVED BY THE COURT UPON MOTION OR BY WAY OF A
46 SPECIAL PROCEEDING.

47 (C) IN ALL MATTERS PURSUANT TO SUBDIVISION ONE OF THIS SECTION, THE
48 INDEPENDENT COUNSEL APPOINTED PURSUANT TO THIS SUBDIVISION SHALL POSSESS
49 AND EXERCISE THE POWERS AND DUTIES OF THE OFFICE OF SPECIAL INVESTI-
50 GATION PURSUANT TO SUBDIVISIONS ONE AND TWO OF THIS SECTION, AND MAY
51 APPEAR IN PERSON OR BY ANY ASSISTANT INDEPENDENT COUNSEL HE OR SHE MAY
52 DESIGNATE BEFORE ANY COURT OR GRAND JURY IN THE STATE AND EXERCISE ALL
53 OF THE POWERS AND PERFORM ALL OF THE DUTIES WITH RESPECT TO SUCH ACTIONS
54 OR PROCEEDINGS WHICH THE DISTRICT ATTORNEY WOULD OTHERWISE BE AUTHORIZED
55 OR REQUIRED TO EXERCISE OR PERFORM.

1 5. (A) WITH RESPECT TO ANY INVESTIGATION PURSUANT TO THIS SECTION, THE
2 OFFICE OF SPECIAL INVESTIGATION OR THE INDEPENDENT COUNSEL, AS THE CASE
3 MAY BE, SHALL, AS A PART OF THE DUTIES UNDER THIS SECTION, PREPARE AND
4 PUBLICLY RELEASE A REPORT ON ALL CASES WHERE: (I) THE OFFICE OR INDE-
5 PENDENT COUNSEL, AS THE CASE MAY BE, DECLINES TO PRESENT EVIDENCE TO A
6 GRAND JURY REGARDING THE DEATH OF A PERSON AS DESCRIBED IN SUBDIVISION
7 ONE OF THIS SECTION; OR (II) THE GRAND JURY DECLINES TO RETURN AN
8 INDICTMENT ON ANY FELONY CHARGES.

9 (B) THE REPORT SHALL INCLUDE: (I) WITH RESPECT TO SUBPARAGRAPH (I) OF
10 PARAGRAPH (A) OF THIS SUBDIVISION, AN EXPLANATION AS TO WHY SUCH OFFICE
11 OR INDEPENDENT COUNSEL DECLINED TO PRESENT EVIDENCE TO A GRAND JURY;
12 (II) WITH RESPECT TO SUBPARAGRAPH (II) OF PARAGRAPH (A) OF THIS SUBDIVI-
13 SION, A REPORT OF THE OUTCOME OF THE GRAND JURY PROCEEDINGS AND, TO THE
14 GREATEST EXTENT POSSIBLE, AN EXPLANATION OF THAT OUTCOME; AND (III) ANY
15 RECOMMENDATIONS FOR SYSTEMIC OR OTHER REFORMS ARISING FROM THE INVESTI-
16 GATION.

17 6. SIX MONTHS AFTER THIS SUBDIVISION TAKES EFFECT, AND ANNUALLY ON
18 SUCH DATE THEREAFTER, THE OFFICE OF SPECIAL INVESTIGATION SHALL ISSUE A
19 REPORT, WHICH SHALL BE MADE AVAILABLE TO THE PUBLIC AND POSTED ON THE
20 WEBSITE OF THE DEPARTMENT OF LAW, WHICH SHALL PROVIDE INFORMATION ON THE
21 MATTERS INVESTIGATED BY SUCH OFFICE, AND BY INDEPENDENT COUNSEL
22 APPOINTED PURSUANT TO SUBDIVISION FOUR OF THIS SECTION, DURING SUCH
23 REPORTING PERIOD. THE INFORMATION PRESENTED SHALL INCLUDE, BUT NOT BE
24 LIMITED TO: THE COUNTY AND GEOGRAPHIC LOCATION OF EACH MATTER INVESTI-
25 GATED; A DESCRIPTION OF THE CIRCUMSTANCES OF EACH CASE; RACIAL, ETHNIC,
26 AGE, GENDER AND OTHER DEMOGRAPHIC INFORMATION CONCERNING THE PERSONS
27 INVOLVED OR ALLEGED TO BE INVOLVED; INFORMATION CONCERNING WHETHER A
28 CRIMINAL CHARGE OR CHARGES WERE FILED AGAINST ANY PERSON INVOLVED OR
29 ALLEGED TO BE INVOLVED IN SUCH MATTER; THE NATURE OF SUCH CHARGES; AND
30 THE STATUS OR, WHERE APPLICABLE, OUTCOME WITH RESPECT TO ALL SUCH CRIMI-
31 NAL CHARGES. SUCH REPORT SHALL ALSO INCLUDE RECOMMENDATIONS FOR ANY
32 SYSTEMIC OR OTHER REFORMS RECOMMENDED AS A RESULT OF SUCH INVESTI-
33 GATIONS.

34 S 2. Subdivision 6 of section 190.25 of the criminal procedure law is
35 amended to read as follows:

36 6. (A) The legal advisors of the grand jury are the court and the
37 district attorney, and the grand jury may not seek or receive legal
38 advice from any other source. Where necessary or appropriate, the court
39 or the district attorney, or both, must instruct the grand jury concern-
40 ing the law with respect to its duties or any matter before it, and such
41 instructions must be recorded in the minutes.

42 (B) NOTWITHSTANDING PARAGRAPH (A) OF THIS SUBDIVISION, OR ANY OTHER
43 LAW TO THE CONTRARY, IN ANY PROCEEDING BEFORE A GRAND JURY THAT INVOLVES
44 THE SUBMISSION OF A CRIMINAL CHARGE OR CHARGES AGAINST A PERSON OR
45 PERSONS FOR AN ACT OR ACTS THAT OCCURRED AT A TIME WHEN SUCH PERSON WAS
46 A POLICE OFFICER OR PEACE OFFICER, AND THAT CONCERN THE DEATH OF ANY
47 PERSON THAT RESULTED FROM OR POTENTIALLY RESULTED FROM ANY ENCOUNTER
48 WITH SUCH POLICE OFFICER OR PEACE OFFICER, THE COURT, AFTER CONSULTATION
49 ON THE RECORD WITH THE PROSECUTOR, SHALL INSTRUCT THE GRAND JURY AS TO
50 THE CRIMINAL CHARGE OR CHARGES TO BE SUBMITTED AND THE LAW APPLICABLE TO
51 SUCH CHARGES AND TO THE MATTERS BEFORE SUCH GRAND JURY. THEREAFTER, ANY
52 QUESTIONS, REQUESTS FOR EXHIBITS, REQUESTS FOR READBACK OF TESTIMONY OR
53 OTHER REQUESTS FROM THE GRAND JURY OR A MEMBER THEREOF SHALL BE PROVIDED
54 TO THE COURT, AND ADDRESSED BY THE COURT AFTER CONSULTATION ON THE
55 RECORD WITH THE PROSECUTOR.

1 (C) NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION FOUR OF THIS
2 SECTION, OR ANY OTHER LAW TO THE CONTRARY, FOLLOWING FINAL ACTION BY THE
3 GRAND JURY ON THE CHARGE OR CHARGES SUBMITTED PURSUANT TO PARAGRAPH (B)
4 OF THIS SUBDIVISION, THE COURT SHALL MAKE SUCH LEGAL INSTRUCTIONS AND
5 CHARGES SUBMITTED TO SUCH GRAND JURY AVAILABLE TO THE PUBLIC ON REQUEST,
6 PROVIDED THAT THE NAMES OF WITNESSES AND ANY INFORMATION THAT WOULD
7 IDENTIFY SUCH WITNESSES INCLUDED IN SUCH LEGAL INSTRUCTIONS OR CHARGES
8 SHALL BE REDACTED WHEN THE COURT DETERMINES, IN A WRITTEN ORDER RELEASED
9 TO THE PUBLIC, AND ISSUED AFTER NOTICE TO THE PEOPLE AND THE REQUESTER
10 AND AN OPPORTUNITY TO BE HEARD AND REASONABLE EFFORTS TO NOTIFY AND
11 PROVIDE AN OPPORTUNITY TO BE HEARD TO ANY OTHER APPROPRIATE PERSON OR
12 AGENCY, THAT THERE IS A REASONABLE LIKELIHOOD THAT PUBLIC RELEASE OF
13 SUCH INFORMATION WOULD ENDANGER ANY INDIVIDUAL.

14 (D) NOTHING IN THIS PARAGRAPH OR PARAGRAPH (B) OR (C) OF THIS SUBDIVI-
15 SION SHALL BE INTERPRETED AS LIMITING OR RESTRICTING ANY BROADER RIGHT
16 OF ACCESS TO GRAND JURY MATERIALS UNDER ANY OTHER LAW, COMMON LAW OR
17 COURT PRECEDENT.

18 S 3. This act shall take effect on the thirtieth day after it shall
19 have become a law.

20 PART ZZ

21 Section 1. Subparagraph (viii) of paragraph a of subdivision 10 of
22 section 54 of the state finance law is amended by adding a new clause 3
23 to read as follows:

24 (3) FOR THE STATE FISCAL YEAR COMMENCING APRIL FIRST, TWO THOUSAND
25 EIGHTEEN AND IN EACH STATE FISCAL YEAR THEREAFTER, THE AMOUNT OF MISCEL-
26 LANEOUS FINANCIAL ASSISTANCE FROM THE LOCAL ASSISTANCE ACCOUNT RECEIVED
27 BY A VILLAGE IN THE FISCAL YEAR BEGINNING APRIL FIRST, TWO THOUSAND
28 SEVENTEEN.

29 S 2. This act shall take effect immediately.

30 PART AAA

31 Section 1. The opening paragraph of subdivision 3 of section 5-a of
32 the legislative law, as amended by section 1 of part S of chapter 57 of
33 the laws of 2016, is amended to read as follows:

34 Any member of the assembly serving in a special capacity in a position
35 set forth in the following schedule shall be paid the allowance set
36 forth in such schedule only for the legislative term commencing January
37 first, two thousand [seventeen] NINETEEN and terminating December thir-
38 ty-first, two thousand [eighteen] TWENTY:

39 S 2. Section 13 of chapter 141 of the laws of 1994, amending the
40 legislative law and the state finance law relating to the operation and
41 administration of the legislature, as amended by section 1 of part CC of
42 chapter 55 of the laws of 2017, is amended to read as follows:

43 S 13. This act shall take effect immediately and shall be deemed to
44 have been in full force and effect as of April 1, 1994, provided that,
45 the provisions of section 5-a of the legislative law as amended by
46 sections two and two-a of this act shall take effect on January 1, 1995,
47 and provided further that, the provisions of article 5-A of the legisla-
48 tive law as added by section eight of this act shall expire June 30,
49 [2018] 2019 when upon such date the provisions of such article shall be
50 deemed repealed; and provided further that section twelve of this act
51 shall be deemed to have been in full force and effect on and after April
52 10, 1994.

1 S 3. This act shall take effect immediately, provided, however, if
2 section two of this act shall take effect on or after June 30, 2018
3 section two of this act shall be deemed to have been in full force and
4 effect on and after June 30, 2018.

5

PART BBB

6 Section 1. Paragraph (h) of subdivision 2 of section 1349 of the civil
7 practice law and rules, as added by chapter 655 of the laws of 1990, is
8 amended to read as follows:

9 (h) All moneys remaining after distributions pursuant to paragraphs
10 (a) through (g) of this subdivision shall be distributed as follows:

11 (i) [seventy-five] SEVENTY percent of such moneys shall be deposited
12 to a law enforcement purposes subaccount of the general fund of the
13 state where the claiming agent is an agency of the state or the poli-
14 tical subdivision or public authority of which the claiming agent is a
15 part, to be used for law enforcement use in the investigation of penal
16 law offenses;

17 (ii) [the remaining twenty-five] TWENTY percent of such moneys shall
18 be deposited to a prosecution services subaccount of the general fund of
19 the state where the claiming authority is the attorney general or the
20 political subdivision of which the claiming authority is a part, to be
21 used for the prosecution of penal law offenses;

22 (III) THE REMAINING TEN PERCENT OF SUCH MONEYS SHALL BE DEPOSITED TO A
23 LAW ENFORCEMENT PURPOSES SUBACCOUNT OF THE GENERAL FUND OF THE STATE
24 WHERE THE CLAIMING AGENT IS AN AGENCY OF THE STATE OR THE POLITICAL
25 SUBDIVISION OR PUBLIC AUTHORITY OF WHICH THE CLAIMING AGENT IS A PART,
26 TO BE USED FOR LAW ENFORCEMENT ASSISTED DIVERSION PURPOSES.

27 Where multiple claiming agents participated in the forfeiture action,
28 funds available pursuant to subparagraph (i) of this paragraph shall be
29 disbursed to the appropriate law enforcement purposes subaccounts in
30 accordance with the terms of a written agreement reflecting the partic-
31 ipation of each claiming agent entered into by the participating claim-
32 ing agents.

33 S 2. Subdivision 3 of section 97-w of the state finance law, as
34 amended by chapter 398 of the laws of 2004, is amended to read as
35 follows:

36 3. Moneys of the fund, when allocated, shall be available to the
37 commissioner of the office of alcoholism and substance abuse services
38 and shall be used to provide support for (A) funded agencies approved by
39 the New York state office of alcoholism and substance abuse services,
40 [and] (B) local school-based and community programs which provide chemi-
41 cal dependence prevention and education services, AND (C) LAW ENFORCE-
42 MENT ASSISTED DIVERSION OF INDIVIDUALS WITH SUBSTANCE USE DISORDERS.
43 Consideration shall be given to innovative approaches to providing chemi-
44 cal dependence services.

45 S 3. This act shall take effect immediately.

46

PART CCC

47 Section 1. Paragraph 4 of subsection (a) and subsection (b) of section
48 6805 of the insurance law, as added by chapter 181 of the laws of 2012,
49 are amended to read as follows:

50 (4) A charitable bail organization certificate shall be valid for a
51 term of five years from issuance. At the time of application for every
52 such certificate, [and for every renewal thereof,] an applicant shall

1 pay to the superintendent a sum of [one thousand] FIVE HUNDRED dollars
 2 payable each term or fraction of a term, provided, however, that in his
 3 or her discretion, the superintendent may waive such fee.

4 (b) A charitable bail organization shall:

5 (1) only deposit money as bail in the amount of [two] TEN thousand
 6 dollars or less for a defendant charged with one or more [misdemeanors]
 7 OFFENSES, AS DEFINED IN SUBDIVISION ONE OF SECTION 10.00 OF THE PENAL
 8 LAW, provided, however, that such organization shall not execute as
 9 surety any bond for any defendant;

10 (2) only deposit money as bail on behalf of a person who is financial-
 11 ly unable to post bail, which may constitute a portion or the whole
 12 amount of such bail; AND

13 (3) [only deposit money as bail in one county in this state. Provided,
 14 however, that a charitable bail organization whose principal place of
 15 business is located within a city of a million or more may deposit money
 16 as bail in the five counties comprising such city; and

17 (4)] not charge a premium or receive compensation for acting as a
 18 charitable bail organization.

19 S 2. This act shall take effect immediately; provided that the amend-
 20 ments to subsection (b) of section 6805 of the insurance law made by
 21 section one of this act shall take effect on the ninetieth day after it
 22 shall have become a law.

23

PART DDD

24 Section 1. The correction law is amended by adding a new article 24-A
 25 to read as follows:

ARTICLE 24-A

27 MERIT TIME ALLOWANCE CREDITS AND CERTAIN ADMINISTRATIVE
 28 PRIVILEGES CREDITS FOR LOCAL CORRECTIONAL FACILITIES

29 SECTION 810. DEFINITIONS.

30 811. MERIT TIME ALLOWANCE CREDIT ACCRUAL AND APPLICATION.

31 812. FORFEITURE OF MERIT TIME ALLOWANCE CREDIT.

32 813. CERTAIN ADMINISTRATIVE PRIVILEGES CREDITS FOR INELIGIBLE
 33 INMATES.

34 814. RECORD KEEPING.

35 S 810. DEFINITIONS. WHEN USED IN THIS ARTICLE, THE FOLLOWING TERMS
 36 SHALL HAVE THE FOLLOWING MEANINGS:

37 1. "CREDIT" MEANS A REDUCTION OF TWENTY-FOUR HOURS IN THE AMOUNT OF
 38 TIME AN INMATE MUST SERVE IN A CORRECTIONAL FACILITY ON THE INMATE'S
 39 SENTENCE UPON CONVICTION; AND

40 2. "ELIGIBLE INMATE" MEANS AN INMATE IN THE CUSTODY OF THE SHERIFF OF
 41 A LOCAL CORRECTIONAL FACILITY WHO IS SERVING ONE OR MORE DEFINITE
 42 SENTENCES OF ONE YEAR OR LESS OR WHO IS DETAINED PENDING TRIAL, SENTENCE
 43 OR OTHER DISPOSITION AND WHO PARTICIPATES IN THE MERIT TIME ALLOWANCE
 44 CREDIT PROGRAM ESTABLISHED UNDER THIS ARTICLE, PROVIDED THAT SUCH INMATE
 45 IS NOT CONVICTED ON THE INSTANT CHARGES OF AN A-1 FELONY OFFENSE, OTHER
 46 THAN AN A-1 FELONY OFFENSE DEFINED WITHIN ARTICLE TWO HUNDRED TWENTY OF
 47 THE PENAL LAW, A VIOLENT FELONY OFFENSE AS DEFINED IN SECTION 70.02 OF
 48 THE PENAL LAW, MANSLAUGHTER IN THE SECOND DEGREE, VEHICULAR MANSLAUGHTER
 49 IN THE SECOND DEGREE, VEHICULAR MANSLAUGHTER IN THE FIRST DEGREE, CRIMI-
 50 NALLY NEGLIGENT HOMICIDE, ANY OFFENSE DEFINED IN ARTICLE ONE HUNDRED
 51 THIRTY OF THE PENAL LAW, INCEST, ANY OFFENSE DEFINED IN ARTICLE TWO
 52 HUNDRED SIXTY-THREE OF THE PENAL LAW, OR AGGRAVATED HARASSMENT OF AN
 53 EMPLOYEE BY AN INMATE.

1 S 811. MERIT TIME ALLOWANCE CREDIT ACCRUAL AND APPLICATION. 1. UPON
2 SUCCESSFUL PARTICIPATION, INCLUDING ACTIVE INVOLVEMENT, SATISFACTORY
3 ATTENDANCE AND COMPLIANCE WITH PROGRAM REQUIREMENTS, AS REASONABLY
4 DETERMINED BY THE SHERIFF, IN AN EDUCATIONAL, VOCATIONAL, WORK, OR REHA-
5 BILITATIVE PROGRAM APPROVED FOR CREDIT BY THE SHERIFF, AN ELIGIBLE
6 INMATE SHALL ACCRUE CREDITS APPLIED TO HIS OR HER SENTENCE IN THE SAME
7 MANNER AS JAIL TIME CREDIT PURSUANT TO SUBDIVISION THREE OF SECTION
8 70.30 OF THE PENAL LAW IN ACCORDANCE WITH THE FOLLOWING SCHEDULE:

9 (I) ONE CREDIT SHALL ACCRUE FOR EVERY FOUR DAYS IN WHICH THE INMATE
10 SUCCESSFULLY PARTICIPATES IN THE PROGRAM IF THE INMATE'S HIGHEST CRIME
11 OF CONVICTION FOR THE SENTENCE TO WHICH THE CREDIT WILL APPLY IS A
12 VIOLATION OFFENSE;

13 (II) ONE CREDIT SHALL ACCRUE FOR EVERY NINE DAYS IN WHICH THE INMATE
14 SUCCESSFULLY PARTICIPATES IN THE PROGRAM IF THE HIGHEST CRIME OF
15 CONVICTION FOR THE SENTENCE TO WHICH THE CREDIT WILL APPLY IS A MISDE-
16 MEANOR OFFENSE; AND

17 (III) ONE CREDIT SHALL ACCRUE FOR EVERY FIFTEEN DAYS IN WHICH THE
18 INMATE SUCCESSFULLY PARTICIPATES IN THE PROGRAM IF THE HIGHEST CRIME OF
19 CONVICTION FOR THE SENTENCE TO WHICH THE CREDIT WILL APPLY IS A FELONY
20 OFFENSE.

21 2. ACCRUED CREDITS SHALL, IN ACCORDANCE WITH THIS SECTION, BE APPLIED
22 AGAINST AN ELIGIBLE INMATE'S SENTENCE OR, IF PRE-TRIAL, AGAINST THE
23 SENTENCE ULTIMATELY IMPOSED, AND SHALL DIMINISH THE INMATE'S PERIOD OF
24 IMPRISONMENT ACCORDING TO THE SCHEDULE SET FORTH IN SUBDIVISION ONE OF
25 THIS SECTION, PROVIDED, HOWEVER, THAT IF THE INMATE IS CONVICTED OF A
26 CRIME THAT RENDERS HIM OR HER INELIGIBLE TO RECEIVE MERIT TIME ALLOWANCE
27 CREDIT UNDER THIS ARTICLE, ANY SUCH CREDITS ACCRUED SHALL BE CONSIDERED
28 ADMINISTRATIVE PRIVILEGES CREDITS PURSUANT TO SECTION EIGHT HUNDRED
29 THIRTEEN OF THIS ARTICLE.

30 3. IF AN ELIGIBLE INMATE ACCRUES CREDITS PURSUANT TO PARAGRAPH (III)
31 OF SUBDIVISION ONE OF THIS SECTION DURING A PERIOD OF PRE-TRIAL OR PRE-
32 SENTENCE DETENTION FOR A FELONY OFFENSE, AND IS LATER CONVICTED OF AND
33 SENTENCED TO A PERIOD OF IMPRISONMENT IN A STATE CORRECTIONAL FACILITY
34 FOR SUCH A FELONY OFFENSE, THE CREDITS ACCRUED BY THE INMATE SHALL BE
35 APPLIED BY THE DEPARTMENT AS ADDITIONAL JAIL TIME CREDIT PURSUANT TO
36 SUBDIVISION THREE OF SECTION 70.30 OF THE PENAL LAW TO THE SENTENCE
37 SERVED BY THE INMATE FOR SUCH FELONY OFFENSE.

38 4. AN INMATE WHO IS NOT ELIGIBLE TO PARTICIPATE IN THE MERIT TIME
39 ALLOWANCE CREDIT PROGRAM ESTABLISHED BY THIS ARTICLE MAY, IN THE
40 DISCRETION OF THE SHERIFF, NONETHELESS BE PERMITTED TO PARTICIPATE IN AN
41 ADMINISTRATIVE PRIVILEGES CREDIT PROGRAM PURSUANT TO SECTION EIGHT
42 HUNDRED THIRTEEN OF THIS ARTICLE.

43 5. ALL PARTICIPATION BY AN INMATE IN THE MERIT TIME ALLOWANCE CREDIT
44 PROGRAM AND ADMINISTRATIVE PRIVILEGES CREDIT PROGRAM IS VOLUNTARY.
45 EXCEPT IN ADMINISTRATIVE PROCEEDINGS CONCERNING THE INMATE'S OPPORTUNITY
46 TO PARTICIPATE IN, OR CONTINUE TO PARTICIPATE IN, SUCH A VOLUNTARY
47 PROGRAM ADMINISTERED BY A CORRECTIONAL FACILITY, EVIDENCE OF AN INMATE'S
48 FAILURE TO SUCCESSFULLY PARTICIPATE IN OR COMPLETE A MERIT TIME ALLOW-
49 ANCE CREDIT PROGRAM OR ADMINISTRATIVE PRIVILEGES CREDIT PROGRAM, PURSU-
50 ANT TO THIS ARTICLE, SHALL NOT BE ADMISSIBLE AGAINST THE INMATE,
51 PROVIDED, HOWEVER, THAT THE INMATE MAY PRESENT INFORMATION CONCERNING
52 SUCCESSFUL PARTICIPATION FOR THE PURPOSES OF MITIGATION, WHERE RELEVANT,
53 IN ANY COURT OR PROCEEDING. UPON ADMISSION TO A LOCAL CORRECTIONAL
54 FACILITY, EACH INMATE SHALL BE NOTIFIED BY THE SHERIFF, IN WRITING, OF
55 THE EXISTENCE, CRITERIA AND RULES GOVERNING PARTICIPATION IN THE MERIT
56 TIME ALLOWANCE CREDIT PROGRAM.

1 S 812. FORFEITURE OF MERIT TIME ALLOWANCE CREDIT. 1. ANY MERIT TIME
2 ALLOWANCE CREDIT ACCRUED PURSUANT TO THE PROGRAM ESTABLISHED UNDER THIS
3 ARTICLE MAY, AFTER NOTICE AND AN OPPORTUNITY TO BE HEARD, BE WITHHELD,
4 FORFEITED OR CANCELLED IN WHOLE OR IN PART FOR BAD BEHAVIOR, VIOLATION
5 OF INSTITUTIONAL RULES OR FAILURE TO PARTICIPATE SUCCESSFULLY IN THE
6 PROGRAM. THE SHERIFF SHALL NOTIFY THE INMATE PROMPTLY IN WRITING OF THE
7 REASONS FOR ANY SUCH DETERMINATION.

8 2. AN INMATE WHO LOSES A MERIT TIME ALLOWANCE CREDIT PURSUANT TO
9 SUBDIVISION ONE OF THIS SECTION IS ELIGIBLE FOR SUBSEQUENT PARTICIPATION
10 IN A MERIT TIME ALLOWANCE CREDIT PROGRAM AT THE DISCRETION OF THE SHER-
11 IFF.

12 S 813. CERTAIN ADMINISTRATIVE PRIVILEGES CREDITS FOR INELIGIBLE
13 INMATES. 1. ANY INMATE NOT ELIGIBLE TO RECEIVE A MERIT TIME ALLOWANCE
14 CREDIT PURSUANT TO THIS ARTICLE MAY NONETHELESS ACCRUE ADMINISTRATIVE
15 PRIVILEGES CREDITS, IN A MANNER CONSISTENT WITH THE ACCRUAL SCHEDULE SET
16 FORTH IN SUBDIVISION ONE OF SECTION EIGHT HUNDRED ELEVEN OF THIS ARTI-
17 CLE, PROVIDED THAT SUCH PRIVILEGES CREDITS SHALL ONLY APPLY TOWARD
18 OBTAINING CERTAIN ADMINISTRATIVE PRIVILEGES, PURSUANT TO A LAWFUL
19 PROGRAM ESTABLISHED AND ADMINISTERED BY THE SHERIFF, AT THE SHERIFF'S
20 DISCRETION. UPON ADMISSION TO A LOCAL CORRECTIONAL FACILITY, EACH
21 INMATE SHALL BE NOTIFIED BY THE SHERIFF, IN WRITING, OF THE EXISTENCE,
22 CRITERIA AND RULES GOVERNING PARTICIPATION IN THE ADMINISTRATIVE PRIVI-
23 LEGES CREDIT PROGRAM. ELIGIBLE INMATES MAY ALSO RECEIVE SUCH ADMINIS-
24 TRATIVE PRIVILEGES CREDITS.

25 2. ADMINISTRATIVE PRIVILEGES CREDITS ACCRUED PURSUANT TO THIS SECTION
26 SHALL BE APPLIED, AT THE REQUEST OF THE INMATE AND WITH CONSENT OF THE
27 SHERIFF, TOWARD PRIVILEGES NOT GENERALLY ACCORDED TO THE GENERAL POPU-
28 LATION OF INMATES AT THE LOCAL CORRECTIONAL FACILITY. THE RULES GOVERN-
29 ING PARTICIPATION IN THE PROGRAM SHALL DESCRIBE IN DETAIL THE TYPES OF
30 PRIVILEGES TO WHICH SUCH CREDITS MAY BE APPLIED AND THE NUMBER OF CRED-
31 ITS REQUIRED FOR EACH TYPE.

32 S 814. RECORD KEEPING. A CONTEMPORANEOUS RECORD SHALL BE KEPT BY THE
33 SHERIFF OF ALL MERIT TIME ALLOWANCE CREDITS AND ADMINISTRATIVE PRIVI-
34 LEGES CREDITS AN INMATE ACCRUES UNDER THIS ARTICLE. IN ANY CASE WHERE
35 THE SHERIFF HAS THE DUTY TO DELIVER AN INMATE TO THE CUSTODY OF THE
36 DEPARTMENT, OR A SHERIFF OR SIMILAR DEPARTMENT IN ANOTHER JURISDICTION,
37 WHETHER UNDER AN ORDER OF SENTENCE AND COMMITMENT OR OTHERWISE, THE
38 SHERIFF SHALL ALSO DELIVER TO THE STATE CORRECTIONAL FACILITY, SHERIFF
39 OR SIMILAR DEPARTMENT TO WHICH THE INMATE IS DELIVERED, AND TO THE
40 INMATE, A CERTIFIED RECORD OF MERIT TIME ALLOWANCE CREDITS ACCRUED BY
41 THE INMATE.

42 S 2. Subdivision 3 of section 70.30 of the penal law, as amended by
43 chapter 3 of the laws of 1995, the opening paragraph as amended by chap-
44 ter 1 of the laws of 1998, is amended to read as follows:

45 3. Jail time. The term of a definite sentence, a determinate sentence,
46 or the maximum term of an indeterminate sentence imposed on a person
47 shall be credited with and diminished by the amount of time the person
48 spent in custody prior to the commencement of such sentence as a result
49 of the charge that culminated in the sentence. In the case of an inde-
50 terminate sentence, if the minimum period of imprisonment has been fixed
51 by the court or by the board of parole, the credit shall also be applied
52 against the minimum period. The credit herein provided shall be calcu-
53 lated from the date custody under the charge commenced to the date the
54 sentence commences and shall not include any time that is credited
55 against the term or maximum term of any previously imposed sentence or
56 period of post-release supervision to which the person is subject. THE

1 CREDIT HEREIN PROVIDED SHALL ALSO INCLUDE ANY ADDITIONAL MERIT TIME
2 ALLOWANCE CREDIT ACCRUED IN A LOCAL CORRECTIONAL FACILITY PURSUANT TO
3 ARTICLE TWENTY-FOUR-A OF THE CORRECTION LAW. Where the charge or charges
4 culminate in more than one sentence, the credit shall be applied as
5 follows:

6 (a) If the sentences run concurrently, the credit shall be applied
7 against each such sentence;

8 (b) If the sentences run consecutively, the credit shall be applied
9 against the aggregate term or aggregate maximum term of the sentences
10 and against the aggregate minimum period of imprisonment.

11 In any case where a person has been in custody due to a charge that
12 culminated in a dismissal or an acquittal, the amount of time that would
13 have been credited against a sentence for such charge, had one been
14 imposed, shall be credited against any sentence that is based on a
15 charge for which a warrant or commitment was lodged during the pendency
16 of such custody.

17 S 3. Subdivision 3 of section 70.30 of the penal law, as amended by
18 chapter 648 of the laws of 1979, the opening paragraph as separately
19 amended by chapter 1 of the laws of 1998, is amended to read as follows:

20 3. Jail time. The term of a definite sentence or the maximum term of
21 an indeterminate sentence imposed on a person shall be credited with and
22 diminished by the amount of time the person spent in custody prior to
23 the commencement of such sentence as a result of the charge that culmi-
24 nated in the sentence. In the case of an indeterminate sentence, if the
25 minimum period of imprisonment has been fixed by the court or by the
26 board of parole, the credit shall also be applied against the minimum
27 period. The credit herein provided shall be calculated from the date
28 custody under the charge commenced to the date the sentence commences
29 and shall not include any time that is credited against the term or
30 maximum term of any previously imposed sentence or period of post-re-
31 lease supervision to which the person is subject. THE CREDIT HEREIN
32 PROVIDED SHALL ALSO INCLUDE ANY ADDITIONAL MERIT TIME ALLOWANCE CREDIT
33 ACCRUED IN A LOCAL CORRECTIONAL FACILITY PURSUANT TO ARTICLE
34 TWENTY-FOUR-A OF THE CORRECTION LAW. Where the charge or charges culmi-
35 nate in more than one sentence, the credit shall be applied as follows:

36 (a) If the sentences run concurrently, the credit shall be applied
37 against each such sentence;

38 (b) If the sentences run consecutively, the credit shall be applied
39 against the aggregate term or aggregate maximum term of the sentences
40 and against the aggregate minimum period of imprisonment.

41 In any case where a person has been in custody due to a charge that
42 culminated in a dismissal or an acquittal, the amount of time that would
43 have been credited against a sentence for such charge, had one been
44 imposed, shall be credited against any sentence that is based on a
45 charge for which a warrant or commitment was lodged during the pendency
46 of such custody.

47 S 4. This act shall take effect on the first of November next succeed-
48 ing the date on which it shall have become a law; provided that the
49 amendments to subdivision 3 of section 70.30 of the penal law made by
50 section two of this act shall be subject to the expiration and reversion
51 of such subdivision pursuant to subdivision d of section 74 of chapter 3
52 of the laws of 1995, as amended, when upon such date the provisions of
53 section three of this act shall take effect.

1 Section 1. The mental hygiene law is amended by adding a new section
2 13.43 to read as follows:

3 S 13.43 FIRST RESPONDER TRAINING.

4 (A) THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF HEALTH,
5 THE OFFICE OF FIRE PREVENTION AND CONTROL, THE MUNICIPAL POLICE TRAINING
6 COUNCIL, AND THE SUPERINTENDENT OF STATE POLICE, SHALL DEVELOP A TRAIN-
7 ING PROGRAM AND ASSOCIATED TRAINING MATERIALS, TO PROVIDE INSTRUCTION
8 AND INFORMATION TO FIREFIGHTERS, POLICE OFFICERS AND EMERGENCY MEDICAL
9 SERVICES PERSONNEL ON APPROPRIATE RECOGNITION AND RESPONSE TECHNIQUES
10 FOR HANDLING EMERGENCY SITUATIONS INVOLVING INDIVIDUALS WITH AUTISM
11 SPECTRUM DISORDER AND OTHER DEVELOPMENTAL DISABILITIES. THE TRAINING
12 PROGRAM AND ASSOCIATED TRAINING MATERIALS SHALL INCLUDE ANY OTHER INFOR-
13 MATION DEEMED NECESSARY AND APPROPRIATE BY THE COMMISSIONER.

14 (B) SUCH TRAINING SHALL ADDRESS APPROPRIATE RESPONSE TECHNIQUES FOR
15 DEALING WITH BOTH ADULTS AND MINORS WITH AUTISM SPECTRUM DISORDER AND
16 OTHER DEVELOPMENTAL DISABILITIES.

17 (C) SUCH TRAINING PROGRAM MAY BE DEVELOPED AS AN ONLINE PROGRAM.

18 S 2. The public health law is amended by adding a new section 3054 to
19 read as follows:

20 S 3054. EMERGENCY SITUATIONS INVOLVING INDIVIDUALS WITH AUTISM SPEC-
21 TRUM DISORDER AND OTHER DEVELOPMENTAL DISABILITIES. IN COORDINATION WITH
22 THE COMMISSIONER OF THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILI-
23 TIES, THE COMMISSIONER SHALL PROVIDE THE TRAINING PROGRAM RELATING TO
24 HANDLING EMERGENCY SITUATIONS INVOLVING INDIVIDUALS WITH AUTISM SPECTRUM
25 DISORDER AND OTHER DEVELOPMENTAL DISABILITIES AND ASSOCIATED TRAINING
26 MATERIALS PURSUANT TO SECTION 13.43 OF THE MENTAL HYGIENE LAW TO ALL
27 EMERGENCY MEDICAL SERVICES PERSONNEL INCLUDING, BUT NOT LIMITED TO,
28 FIRST RESPONDERS, EMERGENCY MEDICAL TECHNICIANS, ADVANCED EMERGENCY
29 MEDICAL TECHNICIANS AND EMERGENCY VEHICLE OPERATORS.

30 S 3. Section 156 of the executive law is amended by adding a new
31 subdivision 22 to read as follows:

32 22. IN COORDINATION WITH THE COMMISSIONER OF THE OFFICE FOR PEOPLE
33 WITH DEVELOPMENTAL DISABILITIES, PROVIDE THE TRAINING PROGRAM RELATING
34 TO HANDLING EMERGENCY SITUATIONS INVOLVING INDIVIDUALS WITH AUTISM SPEC-
35 TRUM DISORDER AND OTHER DEVELOPMENTAL DISABILITIES AND ASSOCIATED TRAIN-
36 ING MATERIALS PURSUANT TO SECTION 13.43 OF THE MENTAL HYGIENE LAW TO ALL
37 FIREFIGHTERS, BOTH PAID AND VOLUNTEER. THE OFFICE SHALL ADOPT ALL
38 NECESSARY RULES AND REGULATIONS RELATING TO SUCH TRAINING, INCLUDING THE
39 PROCESS BY WHICH TRAINING HOURS ARE ALLOCATED TO COUNTIES AS WELL AS A
40 UNIFORM PROCEDURE FOR REQUESTING AND PROVIDING ADDITIONAL TRAINING
41 HOURS.

42 S 4. Section 840 of the executive law is amended by adding a new
43 subdivision 5 to read as follows:

44 5. THE COUNCIL SHALL, IN ADDITION:

45 (A) DEVELOP, MAINTAIN AND DISSEMINATE, IN CONSULTATION WITH THE
46 COMMISSIONER OF THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES,
47 WRITTEN POLICIES AND PROCEDURES CONSISTENT WITH SECTION 13.43 OF THE
48 MENTAL HYGIENE LAW, REGARDING THE HANDLING OF EMERGENCY SITUATIONS
49 INVOLVING INDIVIDUALS WITH AUTISM SPECTRUM DISORDER AND OTHER DEVELOP-
50 MENTAL DISABILITIES. SUCH POLICIES AND PROCEDURES SHALL MAKE PROVISIONS
51 FOR THE EDUCATION AND TRAINING OF NEW AND VETERAN POLICE OFFICERS ON THE
52 HANDLING OF EMERGENCY SITUATIONS INVOLVING INDIVIDUALS WITH AUTISM SPEC-
53 TRUM DISORDER AND OTHER DEVELOPMENTAL DISABILITIES; AND

54 (B) RECOMMEND TO THE GOVERNOR, RULES AND REGULATIONS WITH RESPECT TO
55 THE ESTABLISHMENT AND IMPLEMENTATION ON AN ONGOING BASIS OF A TRAINING
56 PROGRAM FOR ALL CURRENT AND NEW POLICE OFFICERS REGARDING THE POLICIES

1 AND PROCEDURES ESTABLISHED PURSUANT TO THIS SUBDIVISION, ALONG WITH
2 RECOMMENDATIONS FOR PERIODIC RETRAINING OF POLICE OFFICERS.

3 S 5. The executive law is amended by adding a new section 214-f to
4 read as follows:

5 S 214-F. EMERGENCY SITUATIONS INVOLVING PEOPLE WITH AUTISM SPECTRUM
6 DISORDER AND OTHER DEVELOPMENTAL DISABILITIES. THE SUPERINTENDENT SHALL,
7 FOR ALL MEMBERS OF THE STATE POLICE:

8 1. DEVELOP, MAINTAIN AND DISSEMINATE, IN CONSULTATION WITH THE COMMIS-
9 SIONER OF THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES, WRITTEN
10 POLICIES AND PROCEDURES CONSISTENT WITH SECTION 13.43 OF THE MENTAL
11 HYGIENE LAW, REGARDING THE HANDLING OF EMERGENCY SITUATIONS INVOLVING
12 INDIVIDUALS WITH AUTISM SPECTRUM DISORDER AND OTHER DEVELOPMENTAL DISA-
13 BILITIES. SUCH POLICIES AND PROCEDURES SHALL MAKE PROVISIONS FOR THE
14 EDUCATION AND TRAINING OF NEW AND VETERAN POLICE OFFICERS ON THE HANDL-
15 ING OF EMERGENCY SITUATIONS INVOLVING INDIVIDUALS WITH DEVELOPMENTAL
16 DISABILITIES; AND

17 2. RECOMMEND TO THE GOVERNOR, RULES AND REGULATIONS WITH RESPECT TO
18 ESTABLISHMENT AND IMPLEMENTATION ON AN ONGOING BASIS OF A TRAINING
19 PROGRAM FOR ALL CURRENT AND NEW POLICE OFFICERS REGARDING THE POLICIES
20 AND PROCEDURES ESTABLISHED PURSUANT TO THIS SUBDIVISION, ALONG WITH
21 RECOMMENDATIONS FOR PERIODIC RETRAINING OF POLICE OFFICERS.

22 S 6. This act shall take effect on the one hundred eightieth day after
23 it shall have become a law; provided, however, that the commissioner of
24 the office for people with developmental disabilities may promulgate any
25 rules and regulations necessary for the implementation of this act on or
26 before such effective date.

27 PART FFF

28 Section 1. This part enacts into law major components of legislation
29 relating to the Women's Agenda. Each component is wholly contained with-
30 in a Subpart identified as subparts A through N. The effective date for
31 each particular provision contained within such Subpart is set forth in
32 the last section of such Subpart. Any provision in any section contained
33 within a Subpart, including the effective date of the Subpart, which
34 makes a reference to a section "of this act", when used in connection
35 with that particular component, shall be deemed to mean and refer to the
36 corresponding section of the Subpart in which it is found. Section three
37 of this part sets forth the general effective date of this part.

38 SUBPART A

39 Section 1. This act shall be known and may be cited as the "comprehen-
40 sive contraception coverage act".

41 S 2. Paragraph 16 of subsection (1) of section 3221 of the insurance
42 law, as added by chapter 554 of the laws of 2002, is amended to read as
43 follows:

44 (16) (A) Every group or blanket policy [which provides coverage for
45 prescription drugs shall include coverage for the cost of contraceptive
46 drugs or devices approved by the federal food and drug administration or
47 generic equivalents approved as substitutes by such food and drug admin-
48 istration under the prescription of a health care provider legally
49 authorized to prescribe under title eight of the education law. The
50 coverage required by this section shall be included in policies and
51 certificates only through the addition of a rider.

1 (A)] THAT IS ISSUED, AMENDED, RENEWED, EFFECTIVE OR DELIVERED ON OR
2 AFTER JANUARY FIRST, TWO THOUSAND NINETEEN, SHALL PROVIDE COVERAGE FOR
3 ALL OF THE FOLLOWING SERVICES AND CONTRACEPTIVE METHODS:

4 (1) ALL FDA-APPROVED CONTRACEPTIVE DRUGS, DEVICES, AND OTHER PRODUCTS.
5 THIS INCLUDES ALL FDA-APPROVED OVER-THE-COUNTER CONTRACEPTIVE DRUGS,
6 DEVICES, AND PRODUCTS AS PRESCRIBED OR AS OTHERWISE AUTHORIZED UNDER
7 STATE OR FEDERAL LAW. THE FOLLOWING APPLIES TO THIS COVERAGE:

8 (A) WHERE THE FDA HAS APPROVED ONE OR MORE THERAPEUTIC AND PHARMACEU-
9 TICAL EQUIVALENT, AS DEFINED BY THE FDA, VERSIONS OF A CONTRACEPTIVE
10 DRUG, DEVICE, OR PRODUCT, A GROUP OR BLANKET POLICY IS NOT REQUIRED TO
11 INCLUDE ALL SUCH THERAPEUTIC AND PHARMACEUTICAL EQUIVALENT VERSIONS IN
12 ITS FORMULARY, SO LONG AS AT LEAST ONE IS INCLUDED AND COVERED WITHOUT
13 COST-SHARING AND IN ACCORDANCE WITH THIS PARAGRAPH;

14 (B) IF THE COVERED THERAPEUTIC AND PHARMACEUTICAL EQUIVALENT VERSIONS
15 OF A DRUG, DEVICE, OR PRODUCT ARE NOT AVAILABLE OR ARE DEEMED MEDICALLY
16 INADVISABLE A GROUP OR BLANKET POLICY SHALL PROVIDE COVERAGE FOR AN
17 ALTERNATE THERAPEUTIC AND PHARMACEUTICAL EQUIVALENT VERSION OF THE
18 CONTRACEPTIVE DRUG, DEVICE, OR PRODUCT WITHOUT COST-SHARING;

19 (C) THIS COVERAGE SHALL INCLUDE EMERGENCY CONTRACEPTION WITHOUT COST-
20 SHARING WHEN PROVIDED PURSUANT TO AN ORDINARY PRESCRIPTION, NON-PATIENT
21 SPECIFIC REGIMEN ORDER, OR ORDER UNDER SECTION SIXTY-EIGHT HUNDRED THIR-
22 TY-ONE OF THE EDUCATION LAW AND WHEN LAWFULLY PROVIDED OTHER THAN
23 THROUGH A PRESCRIPTION OR ORDER; AND

24 (D) THIS COVERAGE MUST ALLOW FOR THE DISPENSING OF TWELVE MONTHS WORTH
25 OF A CONTRACEPTIVE AT ONE TIME;

26 (2) VOLUNTARY STERILIZATION PROCEDURES;

27 (3) PATIENT EDUCATION AND COUNSELING ON CONTRACEPTION; AND

28 (4) FOLLOW-UP SERVICES RELATED TO THE DRUGS, DEVICES, PRODUCTS, AND
29 PROCEDURES COVERED UNDER THIS PARAGRAPH, INCLUDING, BUT NOT LIMITED TO,
30 MANAGEMENT OF SIDE EFFECTS, COUNSELING FOR CONTINUED ADHERENCE, AND
31 DEVICE INSERTION AND REMOVAL.

32 (B) A GROUP OR BLANKET POLICY SUBJECT TO THIS PARAGRAPH SHALL NOT
33 IMPOSE A DEDUCTIBLE, COINSURANCE, COPAYMENT, OR ANY OTHER COST-SHARING
34 REQUIREMENT ON THE COVERAGE PROVIDED PURSUANT TO THIS PARAGRAPH.

35 (C) EXCEPT AS OTHERWISE AUTHORIZED UNDER THIS PARAGRAPH, A GROUP OR
36 BLANKET POLICY SHALL NOT IMPOSE ANY RESTRICTIONS OR DELAYS ON THE COVER-
37 AGE REQUIRED UNDER THIS PARAGRAPH.

38 (D) BENEFITS FOR AN ENROLLEE UNDER THIS PARAGRAPH SHALL BE THE SAME
39 FOR AN ENROLLEE'S COVERED SPOUSE OR DOMESTIC PARTNER AND COVERED
40 NONSPOUSE DEPENDENTS.

41 (E) Notwithstanding any other provision of this subsection, a reli-
42 gious employer may request a contract without coverage for federal food
43 and drug administration approved contraceptive methods that are contrary
44 to the religious employer's religious tenets. If so requested, such
45 contract shall be provided without coverage for contraceptive methods.
46 This paragraph shall not be construed to deny an enrollee coverage of,
47 and timely access to, contraceptive methods.

48 (1) For purposes of this subsection, a "religious employer" is an
49 entity for which each of the following is true:

50 (a) The inculcation of religious values is the purpose of the entity.

51 (b) The entity primarily employs persons who share the religious
52 tenets of the entity.

53 (c) The entity serves primarily persons who share the religious tenets
54 of the entity.

55 (d) The entity is a nonprofit organization as described in Section
56 6033(a)(2)(A)i or iii, of the Internal Revenue Code of 1986, as amended.

1 (2) Every religious employer that invokes the exemption provided under
2 this paragraph shall provide written notice to prospective enrollees
3 prior to enrollment with the plan, listing the contraceptive health care
4 services the employer refuses to cover for religious reasons.

5 [(B) (i)] (F) (1) Where a group policyholder makes an election not to
6 purchase coverage for contraceptive drugs or devices in accordance with
7 subparagraph [(A)] (E) of this paragraph each certificateholder covered
8 under the policy issued to that group policyholder shall have the right
9 to directly purchase the rider required by this paragraph from the
10 insurer which issued the group policy at the prevailing small group
11 community rate for such rider whether or not the employee is part of a
12 small group.

13 [(ii)] (2) Where a group policyholder makes an election not to
14 purchase coverage for contraceptive drugs or devices in accordance with
15 subparagraph [(A)] (E) of this paragraph, the insurer that provides such
16 coverage shall provide written notice to certificateholders upon enroll-
17 ment with the insurer of their right to directly purchase a rider for
18 coverage for the cost of contraceptive drugs or devices. The notice
19 shall also advise the certificateholders of the additional premium for
20 such coverage.

21 [(C)] (G) Nothing in this paragraph shall be construed as authorizing
22 a group or blanket policy which provides coverage for prescription drugs
23 to exclude coverage for prescription drugs prescribed for reasons other
24 than contraceptive purposes.

25 [(D) Such coverage may be subject to reasonable annual deductibles and
26 coinsurance as may be deemed appropriate by the superintendent and as
27 are consistent with those established for other drugs or devices covered
28 under the policy.]

29 S 3. Subsection (cc) of section 4303 of the insurance law, as added by
30 chapter 554 of the laws of 2002, is amended to read as follows:

31 (cc) (1) Every contract [which provides coverage for prescription
32 drugs shall include coverage for the cost of contraceptive drugs or
33 devices approved by the federal food and drug administration or generic
34 equivalents approved as substitutes by such food and drug administration
35 under the prescription of a health care provider legally authorized to
36 prescribe under title eight of the education law. The coverage required
37 by this section shall be included in contracts and certificates only
38 through the addition of a rider.

39 (1)] THAT IS ISSUED, AMENDED, RENEWED, EFFECTIVE OR DELIVERED ON OR
40 AFTER JANUARY FIRST, TWO THOUSAND NINETEEN, SHALL PROVIDE COVERAGE FOR
41 ALL OF THE FOLLOWING SERVICES AND CONTRACEPTIVE METHODS:

42 (A) ALL FDA-APPROVED CONTRACEPTIVE DRUGS, DEVICES, AND OTHER PRODUCTS.
43 THIS INCLUDES ALL FDA-APPROVED OVER-THE-COUNTER CONTRACEPTIVE DRUGS,
44 DEVICES, AND PRODUCTS AS PRESCRIBED OR AS OTHERWISE AUTHORIZED UNDER
45 STATE OR FEDERAL LAW. THE FOLLOWING APPLIES TO THIS COVERAGE:

46 (I) WHERE THE FDA HAS APPROVED ONE OR MORE THERAPEUTIC AND PHARMACEU-
47 TICAL EQUIVALENT, AS DEFINED BY THE FDA, VERSIONS OF A CONTRACEPTIVE
48 DRUG, DEVICE, OR PRODUCT, A CONTRACT IS NOT REQUIRED TO INCLUDE ALL SUCH
49 THERAPEUTIC AND PHARMACEUTICAL EQUIVALENT VERSIONS IN ITS FORMULARY, SO
50 LONG AS AT LEAST ONE IS INCLUDED AND COVERED WITHOUT COST-SHARING AND IN
51 ACCORDANCE WITH THIS SUBSECTION;

52 (II) IF THE COVERED THERAPEUTIC AND PHARMACEUTICAL EQUIVALENT VERSIONS
53 OF A DRUG, DEVICE, OR PRODUCT ARE NOT AVAILABLE OR ARE DEEMED MEDICALLY
54 INADVISABLE A CONTRACT SHALL PROVIDE COVERAGE FOR AN ALTERNATE THERAPEU-
55 TIC AND PHARMACEUTICAL EQUIVALENT VERSION OF THE CONTRACEPTIVE DRUG,
56 DEVICE, OR PRODUCT WITHOUT COST-SHARING;

1 (III) THIS COVERAGE SHALL INCLUDE EMERGENCY CONTRACEPTION WITHOUT
2 COST-SHARING WHEN PROVIDED PURSUANT TO AN ORDINARY PRESCRIPTION, NON-PA-
3 TIENT SPECIFIC REGIMEN ORDER, OR ORDER UNDER SECTION SIXTY-EIGHT HUNDRED
4 THIRTY-ONE OF THE EDUCATION LAW AND WHEN LAWFULLY PROVIDED OTHER THAN
5 THROUGH A PRESCRIPTION OR ORDER; AND

6 (IV) THIS COVERAGE MUST ALLOW FOR THE DISPENSING OF TWELVE MONTHS
7 WORTH OF A CONTRACEPTIVE AT ONE TIME;

8 (B) VOLUNTARY STERILIZATION PROCEDURES;

9 (C) PATIENT EDUCATION AND COUNSELING ON CONTRACEPTION; AND

10 (D) FOLLOW-UP SERVICES RELATED TO THE DRUGS, DEVICES, PRODUCTS, AND
11 PROCEDURES COVERED UNDER THIS SUBSECTION, INCLUDING, BUT NOT LIMITED TO,
12 MANAGEMENT OF SIDE EFFECTS, COUNSELING FOR CONTINUED ADHERENCE, AND
13 DEVICE INSERTION AND REMOVAL.

14 (2) A CONTRACT SUBJECT TO THIS SUBSECTION SHALL NOT IMPOSE A DEDUCT-
15 IBLE, COINSURANCE, COPAYMENT, OR ANY OTHER COST-SHARING REQUIREMENT ON
16 THE COVERAGE PROVIDED PURSUANT TO THIS SUBSECTION.

17 (3) EXCEPT AS OTHERWISE AUTHORIZED UNDER THIS SUBSECTION, A CONTRACT
18 SHALL NOT IMPOSE ANY RESTRICTIONS OR DELAYS ON THE COVERAGE REQUIRED
19 UNDER THIS SUBSECTION.

20 (4) BENEFITS FOR AN ENROLLEE UNDER THIS SUBSECTION SHALL BE THE SAME
21 FOR AN ENROLLEE'S COVERED SPOUSE OR DOMESTIC PARTNER AND COVERED
22 NONSPOUSE DEPENDENTS.

23 (5) Notwithstanding any other provision of this subsection, a reli-
24 gious employer may request a contract without coverage for federal food
25 and drug administration approved contraceptive methods that are contrary
26 to the religious employer's religious tenets. If so requested, such
27 contract shall be provided without coverage for contraceptive methods.
28 This paragraph shall not be construed to deny an enrollee coverage of,
29 and timely access to, contraceptive methods.

30 (A) For purposes of this subsection, a "religious employer" is an
31 entity for which each of the following is true:

32 (i) The inculcation of religious values is the purpose of the entity.

33 (ii) The entity primarily employs persons who share the religious
34 tenets of the entity.

35 (iii) The entity serves primarily persons who share the religious
36 tenets of the entity.

37 (iv) The entity is a nonprofit organization as described in Section
38 6033(a)(2)(A)i or iii, of the Internal Revenue Code of 1986, as amended.

39 (B) Every religious employer that invokes the exemption provided under
40 this paragraph shall provide written notice to prospective enrollees
41 prior to enrollment with the plan, listing the contraceptive health care
42 services the employer refuses to cover for religious reasons.

43 [(2)](6) (A) Where a group contractholder makes an election not to
44 purchase coverage for contraceptive drugs or devices in accordance with
45 paragraph [one] FIVE of this subsection, each enrollee covered under the
46 contract issued to that group contractholder shall have the right to
47 directly purchase the rider required by this subsection from the insurer
48 or health maintenance organization which issued the group contract at
49 the prevailing small group community rate for such rider whether or not
50 the employee is part of a small group.

51 (B) Where a group contractholder makes an election not to purchase
52 coverage for contraceptive drugs or devices in accordance with paragraph
53 [one] FIVE of this subsection, the insurer or health maintenance organ-
54 ization that provides such coverage shall provide written notice to
55 enrollees upon enrollment with the insurer or health maintenance organ-
56 ization of their right to directly purchase a rider for coverage for the

1 cost of contraceptive drugs or devices. The notice shall also advise the
2 enrollees of the additional premium for such coverage.

3 [(3)](7) Nothing in this subsection shall be construed as authorizing
4 a contract which provides coverage for prescription drugs to exclude
5 coverage for prescription drugs prescribed for reasons other than
6 contraceptive purposes.

7 [(4) Such coverage may be subject to reasonable annual deductibles and
8 coinsurance as may be deemed appropriate by the superintendent and as
9 are consistent with those established for other drugs or devices covered
10 under the policy.]

11 S 4. Subparagraph (E) of paragraph 17 of subsection (i) of section
12 3216 of the insurance law is amended by adding a new clause (v) to read
13 as follows:

14 (V) ALL FDA-APPROVED CONTRACEPTIVE DRUGS, DEVICES, AND OTHER PRODUCTS,
15 INCLUDING ALL OVER-THE-COUNTER CONTRACEPTIVE DRUGS, DEVICES, AND
16 PRODUCTS AS PRESCRIBED OR AS OTHERWISE AUTHORIZED UNDER STATE OR FEDERAL
17 LAW; VOLUNTARY STERILIZATION PROCEDURES; PATIENT EDUCATION AND COUN-
18 SELING ON CONTRACEPTION; AND FOLLOW-UP SERVICES RELATED TO THE DRUGS,
19 DEVICES, PRODUCTS, AND PROCEDURES COVERED UNDER THIS CLAUSE, INCLUDING,
20 BUT NOT LIMITED TO, MANAGEMENT OF SIDE EFFECTS, COUNSELING FOR CONTINUED
21 ADHERENCE, AND DEVICE INSERTION AND REMOVAL. EXCEPT AS OTHERWISE AUTHOR-
22 IZED UNDER THIS CLAUSE, A CONTRACT SHALL NOT IMPOSE ANY RESTRICTIONS OR
23 DELAYS ON THE COVERAGE REQUIRED UNDER THIS CLAUSE. HOWEVER, WHERE THE
24 FDA HAS APPROVED ONE OR MORE THERAPEUTIC AND PHARMACEUTICAL EQUIVALENT,
25 AS DEFINED BY THE FDA, VERSIONS OF A CONTRACEPTIVE DRUG, DEVICE, OR
26 PRODUCT, A CONTRACT IS NOT REQUIRED TO INCLUDE ALL SUCH THERAPEUTIC AND
27 PHARMACEUTICAL EQUIVALENT VERSIONS IN ITS FORMULARY, SO LONG AS AT LEAST
28 ONE IS INCLUDED AND COVERED WITHOUT COST-SHARING AND IN ACCORDANCE WITH
29 THIS CLAUSE. IF THE COVERED THERAPEUTIC AND PHARMACEUTICAL EQUIVALENT
30 VERSIONS OF A DRUG, DEVICE, OR PRODUCT ARE NOT AVAILABLE OR ARE DEEMED
31 MEDICALLY INADVISABLE A CONTRACT SHALL PROVIDE COVERAGE FOR AN ALTERNATE
32 THERAPEUTIC AND PHARMACEUTICAL EQUIVALENT VERSION OF THE CONTRACEPTIVE
33 DRUG, DEVICE, OR PRODUCT WITHOUT COST-SHARING. THIS COVERAGE SHALL
34 INCLUDE EMERGENCY CONTRACEPTION WITHOUT COST-SHARING WHEN PROVIDED
35 PURSUANT TO AN ORDINARY PRESCRIPTION, NON-PATIENT SPECIFIC REGIMEN
36 ORDER, OR ORDER UNDER SECTION SIXTY-EIGHT HUNDRED THIRTY-ONE OF THE
37 EDUCATION LAW AND WHEN LAWFULLY PROVIDED OTHER THAN THROUGH A
38 PRESCRIPTION OR ORDER; AND THIS COVERAGE MUST ALLOW FOR THE DISPENSING
39 OF TWELVE MONTHS WORTH OF A CONTRACEPTIVE AT ONE TIME.

40 S 5. Paragraph (d) of subdivision 3 of section 365-a of the social
41 services law, as amended by chapter 909 of the laws of 1974 and as
42 relettered by chapter 82 of the laws of 1995, is amended to read as
43 follows:

44 (d) family planning services and TWELVE MONTHS OF supplies for eligi-
45 ble persons of childbearing age, including children under twenty-one
46 years of age who can be considered sexually active, who desire such
47 services and supplies, in accordance with the requirements of federal
48 law and regulations and the regulations of the department. No person
49 shall be compelled or coerced to accept such services or supplies.

50 S 6. Subdivision 6 of section 6527 of the education law, as added by
51 chapter 573 of the laws of 1999, paragraph (c) as amended by chapter 464
52 of the laws of 2015, paragraph (d) as added by chapter 429 of the laws
53 of 2005, paragraph (e) as added by chapter 352 of the laws of 2014,
54 paragraph (f) as added by section 6 of part V of chapter 57 of the laws
55 of 2015 and paragraph (g) as added by chapter 502 of the laws of 2016,
56 is amended to read as follows:

1 6. A licensed physician may prescribe and order a non-patient specific
2 regimen [to a registered professional nurse], pursuant to regulations
3 promulgated by the commissioner, and consistent with the public health
4 law, [for] TO:

5 (a) A REGISTERED PROFESSIONAL NURSE FOR:

6 [(I)] administering immunizations[.];

7 [(b)] [(II)] the emergency treatment of anaphylaxis[.];

8 [(c)] [(III)] administering purified protein derivative (PPD) tests or
9 other tests to detect or screen for tuberculosis infections[.];

10 [(d)] [(IV)] administering tests to determine the presence of the human
11 immunodeficiency virus[.];

12 [(e)] [(V)] administering tests to determine the presence of the hepatis
13 tis C virus[.];

14 [(f)] [(VI)] EMERGENCY CONTRACEPTION, TO BE ADMINISTERED TO OR DISPENSED
15 TO BE SELF-ADMINISTERED BY THE PATIENT, UNDER SECTION SIXTY-EIGHT
16 HUNDRED THIRTY-TWO OF THIS TITLE;

17 [(VII)] the urgent or emergency treatment of opioid related overdose or
18 suspected opioid related overdose[.]; OR

19 [(g)] [(VIII)] screening of persons at increased risk of syphilis,
20 gonorrhea and chlamydia.

21 (B) A LICENSED PHARMACIST, FOR DISPENSING EMERGENCY CONTRACEPTION, TO
22 BE SELF-ADMINISTERED BY THE PATIENT, UNDER SECTION SIXTY-EIGHT HUNDRED
23 THIRTY-TWO OF THIS TITLE.

24 S 7. Subdivision 3 of section 6807 of the education law, as added by
25 chapter 573 of the laws of 1999, is amended and a new subdivision 4 is
26 added to read as follows:

27 3. A pharmacist may dispense drugs and devices to a registered profes-
28 sional nurse, and a registered professional nurse may possess and admin-
29 ister, drugs and devices, pursuant to a non-patient specific regimen
30 prescribed or ordered by a licensed physician, LICENSED MIDWIFE or
31 certified nurse practitioner, pursuant to regulations promulgated by the
32 commissioner and the public health law.

33 4. A PHARMACIST MAY DISPENSE A NON-PATIENT SPECIFIC REGIMEN OF EMER-
34 GENCY CONTRACEPTION, TO BE SELF-ADMINISTERED BY THE PATIENT, PRESCRIBED
35 OR ORDERED BY A LICENSED PHYSICIAN, CERTIFIED NURSE PRACTITIONER, OR
36 LICENSED MIDWIFE, UNDER SECTION SIXTY-EIGHT HUNDRED THIRTY-TWO OF THIS
37 ARTICLE.

38 S 8. The education law is amended by adding a new section 6832 to read
39 as follows:

40 S 6832. EMERGENCY CONTRACEPTION; NON-PATIENT SPECIFIC PRESCRIPTION OR
41 ORDER. 1. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE
42 FOLLOWING MEANINGS, UNLESS THE CONTEXT REQUIRES OTHERWISE:

43 (A) "EMERGENCY CONTRACEPTION" MEANS ONE OR MORE PRESCRIPTION OR
44 NONPRESCRIPTION DRUGS, USED SEPARATELY OR IN COMBINATION, IN A DOSAGE
45 AND MANNER FOR PREVENTING PREGNANCY WHEN USED AFTER INTERCOURSE, FOUND
46 SAFE AND EFFECTIVE FOR THAT USE BY THE UNITED STATES FOOD AND DRUG
47 ADMINISTRATION, AND DISPENSED OR ADMINISTERED FOR THAT PURPOSE.

48 (B) "PRESCRIBER" MEANS A LICENSED PHYSICIAN, CERTIFIED NURSE PRACTI-
49 TIONER OR LICENSED MIDWIFE.

50 2. THIS SECTION APPLIES TO THE ADMINISTERING OR DISPENSING OF EMERGEN-
51 CY CONTRACEPTION BY A REGISTERED PROFESSIONAL NURSE OR THE DISPENSING OF
52 EMERGENCY CONTRACEPTION BY A LICENSED PHARMACIST PURSUANT TO A
53 PRESCRIPTION OR ORDER FOR A NON-PATIENT SPECIFIC REGIMEN MADE BY A PRES-
54 CRIBER UNDER SECTION SIXTY-FIVE HUNDRED TWENTY-SEVEN, SIXTY-NINE HUNDRED
55 NINE OR SIXTY-NINE HUNDRED FIFTY-ONE OF THIS TITLE. THIS SECTION DOES

1 NOT APPLY TO ADMINISTERING OR DISPENSING EMERGENCY CONTRACEPTION WHEN
2 LAWFULLY DONE WITHOUT SUCH A PRESCRIPTION OR ORDER.

3 3. THE ADMINISTERING OR DISPENSING OF EMERGENCY CONTRACEPTION BY A
4 REGISTERED PROFESSIONAL NURSE OR THE DISPENSING OF EMERGENCY CONTRACEP-
5 TION BY A LICENSED PHARMACIST SHALL BE DONE IN ACCORDANCE WITH PROFES-
6 SIONAL STANDARDS OF PRACTICE AND IN ACCORDANCE WITH WRITTEN PROCEDURES
7 AND PROTOCOLS AGREED TO BY THE REGISTERED PROFESSIONAL NURSE OR LICENSED
8 PHARMACIST AND THE PRESCRIBER OR A HOSPITAL (LICENSED UNDER ARTICLE
9 TWENTY-EIGHT OF THE PUBLIC HEALTH LAW) THAT PROVIDES GYNECOLOGICAL OR
10 FAMILY PLANNING SERVICES.

11 4. (A) WHEN EMERGENCY CONTRACEPTION IS ADMINISTERED OR DISPENSED, THE
12 REGISTERED PROFESSIONAL NURSE OR LICENSED PHARMACIST SHALL PROVIDE TO
13 THE PATIENT WRITTEN MATERIAL THAT INCLUDES: (I) THE CLINICAL CONSIDER-
14 ATIONS AND RECOMMENDATIONS FOR USE OF THE DRUG; (II) THE APPROPRIATE
15 METHOD FOR USING THE DRUG; (III) INFORMATION ON THE IMPORTANCE OF
16 FOLLOW-UP HEALTH CARE; (IV) INFORMATION ON THE HEALTH RISKS AND OTHER
17 DANGERS OF UNPROTECTED INTERCOURSE; AND (V) REFERRAL INFORMATION RELAT-
18 ING TO HEALTH CARE AND SERVICES RELATING TO SEXUAL ABUSE AND DOMESTIC
19 VIOLENCE.

20 (B) SUCH WRITTEN MATERIAL SHALL BE DEVELOPED OR APPROVED BY THE
21 COMMISSIONER IN CONSULTATION WITH THE DEPARTMENT OF HEALTH AND THE AMER-
22 ICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS.

23 S 9. Subdivision 4 of section 6909 of the education law, as added by
24 chapter 573 of the laws of 1999, paragraph (a) as amended by chapter 221
25 of the laws of 2002, paragraph (c) as amended by chapter 464 of the laws
26 of 2015, paragraph (d) as added by chapter 429 of the laws of 2005,
27 paragraph (e) as added by chapter 352 of the laws of 2014, paragraph (f)
28 as added by section 5 of part V of chapter 57 of the laws of 2015 and
29 paragraph (g) as added by chapter 502 of the laws of 2016, is amended to
30 read as follows:

31 4. A certified nurse practitioner may prescribe and order a non-pa-
32 tient specific regimen [to a registered professional nurse], pursuant to
33 regulations promulgated by the commissioner, consistent with subdivision
34 three of section [six thousand nine] SIXTY-NINE hundred two of this
35 article, and consistent with the public health law, for:

36 (a) A REGISTERED PROFESSIONAL NURSE FOR:

37 [(I)] administering immunizations[.];

38 [(b)] (II) the emergency treatment of anaphylaxis[.];

39 [(c)] (III) administering purified protein derivative (PPD) tests or
40 other tests to detect or screen for tuberculosis infections[.];

41 [(d)] (IV) administering tests to determine the presence of the human
42 immunodeficiency virus[.];

43 [(e)] (V) administering tests to determine the presence of the hepati-
44 tis C virus[.];

45 [(f)] (VI) EMERGENCY CONTRACEPTION, TO BE ADMINISTERED TO OR DISPENSED
46 TO BE SELF-ADMINISTERED BY THE PATIENT, UNDER SECTION SIXTY-EIGHT
47 HUNDRED THIRTY-TWO OF THIS TITLE;

48 (VII) the urgent or emergency treatment of opioid related overdose or
49 suspected opioid related overdose[.]; OR

50 [(g)] (VIII) screening of persons at increased risk for syphilis,
51 gonorrhea and chlamydia.

52 (B) A LICENSED PHARMACIST, FOR DISPENSING EMERGENCY CONTRACEPTION, TO
53 BE SELF-ADMINISTERED BY THE PATIENT, UNDER SECTION SIXTY-EIGHT HUNDRED
54 THIRTY-TWO OF THIS TITLE.

55 S 10. Subdivision 5 of section 6909 of the education law, as added by
56 chapter 573 of the laws of 1999, is amended to read as follows:

1 5. A registered professional nurse may execute a non-patient specific
2 regimen prescribed or ordered by a licensed physician, LICENSED MIDWIFE
3 or certified nurse practitioner, pursuant to regulations promulgated by
4 the commissioner.

5 S 11. Section 6951 of the education law is amended by adding a new
6 subdivision 4 to read as follows:

7 4. A LICENSED MIDWIFE MAY PRESCRIBE AND ORDER A NON-PATIENT SPECIFIC
8 REGIMEN PURSUANT TO REGULATIONS PROMULGATED BY THE COMMISSIONER,
9 CONSISTENT WITH THIS SECTION AND THE PUBLIC HEALTH LAW, TO:

10 (A) A REGISTERED PROFESSIONAL NURSE FOR EMERGENCY CONTRACEPTION, TO BE
11 ADMINISTERED TO OR DISPENSED TO BE SELF-ADMINISTERED BY THE PATIENT,
12 UNDER SECTION SIXTY-EIGHT HUNDRED THIRTY-TWO OF THIS TITLE; OR

13 (B) A LICENSED PHARMACIST, FOR DISPENSING EMERGENCY CONTRACEPTION, TO
14 BE SELF-ADMINISTERED BY THE PATIENT, UNDER SECTION SIXTY-EIGHT HUNDRED
15 THIRTY-TWO OF THIS TITLE.

16 S 12. Subdivision 1 of section 207 of the public health law is amended
17 by adding a new paragraph (o) to read as follows:

18 (O) EMERGENCY CONTRACEPTION, INCLUDING INFORMATION ABOUT ITS SAFETY,
19 EFFICACY, APPROPRIATE USE AND AVAILABILITY.

20 S 13. This act shall take effect January 1, 2019; provided that
21 section six of this act shall take effect January 1, 2020; provided,
22 however, that effective immediately, the addition, amendment and/or
23 repeal of any rule or regulation necessary for the implementation of
24 this act on its effective date are authorized and directed to be made
25 and completed by the commissioner of education and the board of regents
26 on or before such effective date.

27 SUBPART B

28 Section 1. The public health law is amended by adding a new article
29 25-A to read as follows:

30 ARTICLE 25-A
31 REPRODUCTIVE HEALTH ACT

32 SECTION 2599-AA. ABORTION.

33 S 2599-AA. ABORTION. 1. A HEALTH CARE PRACTITIONER LICENSED, CERTI-
34 FIED, OR AUTHORIZED UNDER TITLE EIGHT OF THE EDUCATION LAW, ACTING WITH-
35 IN HIS OR HER LAWFUL SCOPE OF PRACTICE, MAY PERFORM AN ABORTION WHEN,
36 ACCORDING TO THE PRACTITIONER'S REASONABLE AND GOOD FAITH PROFESSIONAL
37 JUDGMENT BASED ON THE FACTS OF THE PATIENT'S CASE: THE PATIENT IS WITHIN
38 TWENTY-FOUR WEEKS FROM THE COMMENCEMENT OF PREGNANCY, OR THERE IS AN
39 ABSENCE OF FETAL VIABILITY, OR THE ABORTION IS NECESSARY TO PROTECT THE
40 PATIENT'S LIFE OR HEALTH.

41 2. THIS ARTICLE SHALL BE CONSTRUED AND APPLIED CONSISTENT WITH AND
42 SUBJECT TO APPLICABLE LAWS AND APPLICABLE AND AUTHORIZED REGULATIONS
43 GOVERNING HEALTH CARE PROCEDURES.

44 S 2. Section 4164 of the public health law is REPEALED.

45 S 3. Subdivision 8 of section 6811 of the education law is REPEALED.

46 S 4. Sections 125.40, 125.45, 125.50, 125.55 and 125.60 of the penal
47 law are REPEALED, and the article heading of article 125 of the penal
48 law is amended to read as follows:

49 HOMICIDE[, ABORTION] AND RELATED OFFENSES

50 S 5. Section 125.00 of the penal law is amended to read as follows:

51 S 125.00 Homicide defined.

52 Homicide means conduct which causes the death of a person [or an
53 unborn child with which a female has been pregnant for more than twen-
54 ty-four weeks] under circumstances constituting murder, manslaughter in

1 the first degree, manslaughter in the second degree, OR criminally
2 negligent homicide[, abortion in the first degree or self-abortion in
3 the first degree].

4 S 6. The section heading, opening paragraph and subdivision 1 of
5 section 125.05 of the penal law are amended to read as follows:

6 Homicide[, abortion] and related offenses; [definitions of terms]
7 DEFINITION.

8 The following [definitions are] DEFINITION IS applicable to this arti-
9 cle:

10 [1.] "Person," when referring to the victim of a homicide, means a
11 human being who has been born and is alive.

12 S 7. Subdivisions 2 and 3 of section 125.05 of the penal law are
13 REPEALED.

14 S 8. Subdivision 2 of section 125.15 of the penal law is REPEALED.

15 S 9. Subdivision 3 of section 125.20 of the penal law is REPEALED.

16 S 10. Paragraph (b) of subdivision 8 of section 700.05 of the criminal
17 procedure law, as amended by chapter 368 of the laws of 2015, is amended
18 to read as follows:

19 (b) Any of the following felonies: assault in the second degree as
20 defined in section 120.05 of the penal law, assault in the first degree
21 as defined in section 120.10 of the penal law, reckless endangerment in
22 the first degree as defined in section 120.25 of the penal law, promot-
23 ing a suicide attempt as defined in section 120.30 of the penal law,
24 strangulation in the second degree as defined in section 121.12 of the
25 penal law, strangulation in the first degree as defined in section
26 121.13 of the penal law, criminally negligent homicide as defined in
27 section 125.10 of the penal law, manslaughter in the second degree as
28 defined in section 125.15 of the penal law, manslaughter in the first
29 degree as defined in section 125.20 of the penal law, murder in the
30 second degree as defined in section 125.25 of the penal law, murder in
31 the first degree as defined in section 125.27 of the penal law,
32 [abortion in the second degree as defined in section 125.40 of the penal
33 law, abortion in the first degree as defined in section 125.45 of the
34 penal law,] rape in the third degree as defined in section 130.25 of the
35 penal law, rape in the second degree as defined in section 130.30 of the
36 penal law, rape in the first degree as defined in section 130.35 of the
37 penal law, criminal sexual act in the third degree as defined in section
38 130.40 of the penal law, criminal sexual act in the second degree as
39 defined in section 130.45 of the penal law, criminal sexual act in the
40 first degree as defined in section 130.50 of the penal law, sexual abuse
41 in the first degree as defined in section 130.65 of the penal law,
42 unlawful imprisonment in the first degree as defined in section 135.10
43 of the penal law, kidnapping in the second degree as defined in section
44 135.20 of the penal law, kidnapping in the first degree as defined in
45 section 135.25 of the penal law, labor trafficking as defined in section
46 135.35 of the penal law, aggravated labor trafficking as defined in
47 section 135.37 of the penal law, custodial interference in the first
48 degree as defined in section 135.50 of the penal law, coercion in the
49 first degree as defined in section 135.65 of the penal law, criminal
50 trespass in the first degree as defined in section 140.17 of the penal
51 law, burglary in the third degree as defined in section 140.20 of the
52 penal law, burglary in the second degree as defined in section 140.25 of
53 the penal law, burglary in the first degree as defined in section 140.30
54 of the penal law, criminal mischief in the third degree as defined in
55 section 145.05 of the penal law, criminal mischief in the second degree
56 as defined in section 145.10 of the penal law, criminal mischief in the

1 first degree as defined in section 145.12 of the penal law, criminal
2 tampering in the first degree as defined in section 145.20 of the penal
3 law, arson in the fourth degree as defined in section 150.05 of the
4 penal law, arson in the third degree as defined in section 150.10 of the
5 penal law, arson in the second degree as defined in section 150.15 of
6 the penal law, arson in the first degree as defined in section 150.20 of
7 the penal law, grand larceny in the fourth degree as defined in section
8 155.30 of the penal law, grand larceny in the third degree as defined in
9 section 155.35 of the penal law, grand larceny in the second degree as
10 defined in section 155.40 of the penal law, grand larceny in the first
11 degree as defined in section 155.42 of the penal law, health care fraud
12 in the fourth degree as defined in section 177.10 of the penal law,
13 health care fraud in the third degree as defined in section 177.15 of
14 the penal law, health care fraud in the second degree as defined in
15 section 177.20 of the penal law, health care fraud in the first degree
16 as defined in section 177.25 of the penal law, robbery in the third
17 degree as defined in section 160.05 of the penal law, robbery in the
18 second degree as defined in section 160.10 of the penal law, robbery in
19 the first degree as defined in section 160.15 of the penal law, unlawful
20 use of secret scientific material as defined in section 165.07 of the
21 penal law, criminal possession of stolen property in the fourth degree
22 as defined in section 165.45 of the penal law, criminal possession of
23 stolen property in the third degree as defined in section 165.50 of the
24 penal law, criminal possession of stolen property in the second degree
25 as defined by section 165.52 of the penal law, criminal possession of
26 stolen property in the first degree as defined by section 165.54 of the
27 penal law, trademark counterfeiting in the second degree as defined in
28 section 165.72 of the penal law, trademark counterfeiting in the first
29 degree as defined in section 165.73 of the penal law, forgery in the
30 second degree as defined in section 170.10 of the penal law, forgery in
31 the first degree as defined in section 170.15 of the penal law, criminal
32 possession of a forged instrument in the second degree as defined in
33 section 170.25 of the penal law, criminal possession of a forged instru-
34 ment in the first degree as defined in section 170.30 of the penal law,
35 criminal possession of forgery devices as defined in section 170.40 of
36 the penal law, falsifying business records in the first degree as
37 defined in section 175.10 of the penal law, tampering with public
38 records in the first degree as defined in section 175.25 of the penal
39 law, offering a false instrument for filing in the first degree as
40 defined in section 175.35 of the penal law, issuing a false certificate
41 as defined in section 175.40 of the penal law, criminal diversion of
42 prescription medications and prescriptions in the second degree as
43 defined in section 178.20 of the penal law, criminal diversion of
44 prescription medications and prescriptions in the first degree as
45 defined in section 178.25 of the penal law, residential mortgage fraud
46 in the fourth degree as defined in section 187.10 of the penal law,
47 residential mortgage fraud in the third degree as defined in section
48 187.15 of the penal law, residential mortgage fraud in the second degree
49 as defined in section 187.20 of the penal law, residential mortgage
50 fraud in the first degree as defined in section 187.25 of the penal law,
51 escape in the second degree as defined in section 205.10 of the penal
52 law, escape in the first degree as defined in section 205.15 of the
53 penal law, absconding from temporary release in the first degree as
54 defined in section 205.17 of the penal law, promoting prison contraband
55 in the first degree as defined in section 205.25 of the penal law,
56 hindering prosecution in the second degree as defined in section 205.60

1 of the penal law, hindering prosecution in the first degree as defined
2 in section 205.65 of the penal law, sex trafficking as defined in
3 section 230.34 of the penal law, criminal possession of a weapon in the
4 third degree as defined in subdivisions two, three and five of section
5 265.02 of the penal law, criminal possession of a weapon in the second
6 degree as defined in section 265.03 of the penal law, criminal
7 possession of a weapon in the first degree as defined in section 265.04
8 of the penal law, manufacture, transport, disposition and defacement of
9 weapons and dangerous instruments and appliances defined as felonies in
10 subdivisions one, two, and three of section 265.10 of the penal law,
11 sections 265.11, 265.12 and 265.13 of the penal law, or prohibited use
12 of weapons as defined in subdivision two of section 265.35 of the penal
13 law, relating to firearms and other dangerous weapons, or failure to
14 disclose the origin of a recording in the first degree as defined in
15 section 275.40 of the penal law;

16 S 11. Subdivision 1 of section 673 of the county law, as added by
17 chapter 545 of the laws of 1965, is amended to read as follows:

18 1. A coroner or medical examiner has jurisdiction and authority to
19 investigate the death of every person dying within his county, or whose
20 body is found within the county, which is or appears to be:

21 (a) A violent death, whether by criminal violence, suicide or casual-
22 ty;

23 (b) A death caused by unlawful act or criminal neglect;

24 (c) A death occurring in a suspicious, unusual or unexplained manner;

25 (d) [A death caused by suspected criminal abortion;

26 (e)] A death while unattended by a physician, so far as can be discov-
27 ered, or where no physician able to certify the cause of death as
28 provided in the public health law and in form as prescribed by the
29 commissioner of health can be found;

30 [(f)] (E) A death of a person confined in a public institution other
31 than a hospital, infirmary or nursing home.

32 S 12. Section 4 of the judiciary law, as amended by chapter 264 of the
33 laws of 2003, is amended to read as follows:

34 S 4. Sittings of courts to be public. The sittings of every court
35 within this state shall be public, and every citizen may freely attend
36 the same, except that in all proceedings and trials in cases for
37 divorce, seduction, [abortion,] rape, assault with intent to commit
38 rape, criminal sexual act, bastardy or filiation, the court may, in its
39 discretion, exclude therefrom all persons who are not directly inter-
40 ested therein, excepting jurors, witnesses, and officers of the court.

41 S 13. This act shall take effect immediately.

42

SUBPART C

43 Section 1. The public health law is amended by adding a new section
44 2509 to read as follows:

45 S 2509. MATERNAL MORTALITY REVIEW BOARD. 1. (A) THERE IS HEREBY ESTAB-
46 LISHED IN THE DEPARTMENT THE MATERNAL MORTALITY REVIEW BOARD FOR THE
47 PURPOSE OF REVIEWING MATERNAL DEATHS AND MATERNAL MORBIDITY. THE BOARD
48 SHALL ASSESS THE CAUSE OF DEATH AND FACTORS LEADING TO DEATH AND
49 PREVENTABILITY FOR EACH MATERNAL DEATH REVIEWED AND, IN THE DISCRETION
50 OF THE BOARD, CASES OF SEVERE MATERNAL MORBIDITY, AND TO DEVELOP STRATE-
51 GIES FOR REDUCING THE RISK OF MATERNAL MORTALITY, AND TO ASSESS AND
52 REVIEW MATERNAL MORBIDITY. EACH BOARD SHALL CONSULT WITH EXPERTS AS
53 NEEDED TO EVALUATE THE INFORMATION AS TO MATERNAL DEATH AND SEVERE

1 MATERNAL MORBIDITY. THE COMMISSIONER MAY DELEGATE THE AUTHORITY OF THE
2 STATE BOARD TO CONDUCT MATERNAL MORTALITY REVIEWS.

3 (B) THE COMMISSIONER MAY ENTER INTO AN AGREEMENT WITH THE LOCAL
4 GOVERNMENT BY OR UNDER WHICH A LOCAL BOARD IS ESTABLISHED PROVIDING:

5 (I) THAT THE FUNCTIONS OF THE STATE BOARD RELATING TO MATERNAL DEATHS
6 AND SEVERE MATERNAL MORBIDITY OCCURRING WITHIN THE TERRITORY OF THE
7 LOCAL GOVERNMENT SHALL BE CONDUCTED BY THE LOCAL BOARD;

8 (II) THE LOCAL BOARD SHALL PROVIDE TO THE STATE BOARD THE RESULTS OF
9 ITS REVIEWS, RELEVANT INFORMATION IN THE POSSESSION OF THE LOCAL BOARD,
10 AND THE RECOMMENDATIONS OF THE LOCAL BOARD; AND

11 (III) THE DEPARTMENT AND THE STATE BOARD SHALL PROVIDE INFORMATION AND
12 ASSISTANCE TO THE LOCAL BOARD FOR THE PERFORMANCE OF ITS FUNCTIONS.

13 (C) AS USED IN THIS SECTION, UNLESS THE CONTEXT REQUIRES OTHERWISE:

14 (I) "BOARD" SHALL MEAN THE MATERNAL MORTALITY REVIEW BOARD ESTABLISHED
15 BY THIS SECTION AND A MATERNAL MORTALITY REVIEW BOARD ESTABLISHED BY OR
16 UNDER A COUNTY DEPARTMENT OF HEALTH OR THE CITY OF NEW YORK. "STATE
17 BOARD" SHALL MEAN THE BOARD ESTABLISHED WITHIN THE DEPARTMENT AND "LOCAL
18 BOARD" SHALL MEAN A BOARD ESTABLISHED BY OR UNDER A COUNTY DEPARTMENT OF
19 HEALTH OR THE CITY OF NEW YORK;

20 (II) "MATERNAL DEATH" MEANS THE DEATH OF A WOMAN DURING PREGNANCY OR
21 WITHIN A YEAR FROM THE END OF THE PREGNANCY; AND

22 (III) "SEVERE MATERNAL MORBIDITY" MEANS UNEXPECTED OUTCOMES OF PREG-
23 NANCY, LABOR, OR DELIVERY THAT RESULT IN SIGNIFICANT SHORT- OR LONG-TERM
24 CONSEQUENCES TO A WOMAN'S HEALTH.

25 2. EACH BOARD:

26 (A) SHALL MAKE RECOMMENDATIONS TO THE COMMISSIONER, OR IN THE CASE OF
27 A LOCAL BOARD, TO THE APPROPRIATE LOCAL HEALTH OFFICER, REGARDING THE
28 PREVENTABILITY OF EACH MATERNAL DEATH CASE BY REVIEWING RELEVANT INFOR-
29 MATION FOR EACH CASE IN THE STATE OR THE TERRITORY OF THE LOCAL BOARD,
30 AS THE CASE MAY BE, AND REGARDING THE IMPROVEMENT OF WOMEN'S HEALTH AND
31 THE QUALITY OF HEALTH CARE OF WOMEN AND THE PREVENTION OF MATERNAL
32 MORTALITY AND SEVERE MATERNAL MORBIDITY.

33 (B) SHALL KEEP CONFIDENTIAL ANY INDIVIDUAL IDENTIFYING INFORMATION AS
34 TO A PATIENT OR HEALTH CARE PROVIDER COLLECTED UNDER THIS SECTION THAT
35 IS OTHERWISE CONFIDENTIAL OR PRIVILEGED, AS PROVIDED BY LAW. ALL RECORDS
36 RECEIVED, MEETINGS CONDUCTED, REPORTS AND RECORDS MADE AND MAINTAINED
37 AND ALL BOOKS AND PAPERS OBTAINED BY THE BOARD SHALL BE CONFIDENTIAL AND
38 SHALL NOT BE OPEN OR MADE AVAILABLE, EXCEPT BY COURT ORDER, AND SHALL BE
39 LIMITED TO BOARD MEMBERS AS WELL AS THOSE AUTHORIZED BY THE COMMISSIONER
40 OR, IN THE CASE OF A LOCAL BOARD, THE LOCAL HEALTH OFFICER, PROVIDED,
41 HOWEVER THAT WHERE THE COMMISSIONER OR LOCAL HEALTH OFFICER, AS THE CASE
42 MAY BE, BELIEVES THAT ANY SUCH INFORMATION INCLUDES EVIDENCE THAT THE
43 DEATH OR SEVERE MATERNAL MORBIDITY WAS THE RESULT OF A CRIME COMMITTED
44 AGAINST SUCH WOMAN, SUCH COMMISSIONER OR LOCAL HEALTH OFFICER MAY
45 PROVIDE INFORMATION TO AN APPROPRIATE LAW ENFORCEMENT AGENCY. EXCEPT AS
46 PROVIDED IN THIS SECTION, THE INFORMATION COLLECTED UNDER THIS SECTION
47 SHALL BE USED SOLELY FOR THE PURPOSES OF IMPROVEMENT OF WOMEN'S HEALTH
48 AND THE QUALITY OF HEALTH CARE OF WOMEN, AND TO PREVENT MATERNAL MORTAL-
49 ITY AND MORBIDITY. ACCESS TO SUCH INFORMATION SHALL BE LIMITED TO BOARD
50 MEMBERS AS WELL AS THOSE AUTHORIZED BY THE COMMISSIONER OR, IN THE CASE
51 OF A LOCAL BOARD, THE LOCAL HEALTH OFFICER.

52 (C) SHALL DEVELOP RECOMMENDATIONS TO THE COMMISSIONER AND LOCAL HEALTH
53 OFFICER, AS THE CASE MAY BE, FOR AREAS OF FOCUS, INCLUDING ISSUES OF
54 SEVERE MATERNAL MORBIDITY AND RACIAL DISPARITIES IN MATERNAL OUTCOMES.

55 (D) MAY, IN ADDITION TO THE RECOMMENDATIONS DEVELOPED UNDER PARAGRAPH
56 (C) OF THIS SUBDIVISION, AND CONSISTENT WITH ALL FEDERAL AND STATE

1 CONFIDENTIALITY PROTECTIONS, PROVIDE RECOMMENDATIONS TO ANY INDIVIDUAL
2 OR ENTITY FOR APPROPRIATE ACTIONS TO REDUCE THE INSTANCES OF MATERNAL
3 MORTALITY AND MORBIDITY.

4 (E) SHALL ISSUE AN ANNUAL REPORT (EXCLUDING ANY INDIVIDUAL IDENTIFYING
5 INFORMATION AS TO A PATIENT OR HEALTH CARE PROVIDER) ON ITS FINDINGS AND
6 RECOMMENDATIONS, WHICH SHALL BE A PUBLIC DOCUMENT.

7 3. (A) THE MEMBERS OF THE STATE BOARD SHALL BE COMPOSED OF MULTIDISCI-
8 PLINARY EXPERTS IN THE FIELD OF MATERNAL MORTALITY. THE STATE BOARD
9 SHALL BE COMPOSED OF AT LEAST FIFTEEN MEMBERS, ALL OF WHOM SHALL BE
10 APPOINTED BY THE COMMISSIONER. THE TERMS OF THE STATE BOARD MEMBERS
11 SHALL BE THREE YEARS FROM THE START OF THEIR APPOINTMENT. THE COMMIS-
12 SIONER MAY CHOOSE TO REAPPOINT BOARD MEMBERS TO ADDITIONAL THREE YEAR
13 TERMS.

14 (B) A MAJORITY OF THE APPOINTED MEMBERSHIP OF THE STATE BOARD, NO LESS
15 THAN THREE, SHALL CONSTITUTE A QUORUM.

16 (C) WHEN ANY MEMBER OF STATE THE BOARD FAILS TO ATTEND THREE CONSEC-
17 UTIVE REGULAR MEETINGS, UNLESS SUCH ABSENCE IS FOR GOOD CAUSE, THAT
18 MEMBERSHIP MAY BE DEEMED VACANT FOR PURPOSES OF THE APPOINTMENT OF A
19 SUCCESSOR.

20 (D) MEETINGS OF THE STATE BOARD SHALL BE HELD AT LEAST TWICE A YEAR
21 BUT MAY BE HELD MORE FREQUENTLY AS DEEMED NECESSARY, SUBJECT TO REQUEST
22 OF THE DEPARTMENT.

23 4. MEMBERS OF EACH BOARD SHALL BE INDEMNIFIED PURSUANT TO SECTION
24 SEVENTEEN OF THE PUBLIC OFFICERS LAW OR SECTION FIFTY-K OF THE GENERAL
25 MUNICIPAL LAW, AS THE CASE MAY BE.

26 5. THE COMMISSIONER, AND IN THE CASE OF A LOCAL BOARD, THE LOCAL
27 HEALTH OFFICER, MAY REQUEST AND SHALL RECEIVE UPON REQUEST FROM ANY
28 DEPARTMENT, DIVISION, BOARD, BUREAU, COMMISSION, LOCAL HEALTH DEPART-
29 MENTS OR OTHER AGENCY OF THE STATE OR POLITICAL SUBDIVISION THEREOF OR
30 ANY PUBLIC AUTHORITY, AS WELL AS HOSPITALS ESTABLISHED PURSUANT TO ARTI-
31 CLE TWENTY-EIGHT OF THIS CHAPTER, BIRTHING FACILITIES, MEDICAL EXAMIN-
32 ERS, CORONERS, AND ANY CORONER PHYSICIANS AND ANY OTHER FACILITY PROVID-
33 ING SERVICES ASSOCIATED WITH MATERNAL MORTALITY, SUCH INFORMATION,
34 INCLUDING, BUT NOT LIMITED TO, DEATH RECORDS, MEDICAL RECORDS, AUTOPSY
35 REPORTS, TOXICOLOGY REPORTS, HOSPITAL DISCHARGE RECORDS, BIRTH RECORDS
36 AND ANY OTHER INFORMATION THAT WILL HELP THE DEPARTMENT UNDER THIS
37 SECTION TO PROPERLY CARRY OUT ITS FUNCTIONS, POWERS AND DUTIES.

38 S 2. The legislature finds and determines that this act relates to a
39 matter of state concern.

40 S 3. This act shall take effect immediately.

41 SUBPART D

42 Section 1. Section 6523 of the education law, as amended by chapter
43 364 of the laws of 1991, is amended to read as follows:

44 S 6523. State board for medicine. A state board for medicine shall be
45 appointed by the board of regents on recommendation of the commissioner
46 for the purpose of assisting the board of regents and the department on
47 matters of professional licensing in accordance with section sixty-five
48 hundred eight of this title. The board shall be composed of not less
49 than twenty physicians licensed in this state for at least five years,
50 two of whom shall be doctors of osteopathy. AT LEAST ONE OF THE PHYSI-
51 CIAN APPOINTEES TO THE STATE BOARD FOR MEDICINE SHALL BE AN EXPERT ON
52 REDUCING HEALTH DISPARITIES AMONG DEMOGRAPHIC SUBGROUPS, AND ONE SHALL
53 BE AN EXPERT ON WOMEN'S HEALTH. The board shall also consist of not less
54 than two physician's assistants licensed to practice in this state. The

1 participation of physician's assistant members shall be limited to
2 matters relating to article one hundred thirty-one-B of this chapter. An
3 executive secretary to the board shall be appointed by the board of
4 regents on recommendation of the commissioner and shall be either a
5 physician licensed in this state or a non-physician, deemed qualified by
6 the commissioner and board of regents.

7 S 2. This act shall take effect immediately.

8

SUBPART E

9 Section 1. Subdivision 17 of section 265.00 of the penal law is
10 amended by adding a new paragraph (c) to read as follows:

11 (C) ANY OF THE FOLLOWING OFFENSES, WHERE THE DEFENDANT AND THE PERSON
12 AGAINST WHOM THE OFFENSE WAS COMMITTED WERE MEMBERS OF THE SAME FAMILY
13 OR HOUSEHOLD AS DEFINED IN SUBDIVISION ONE OF SECTION 530.11 OF THE
14 CRIMINAL PROCEDURE LAW: ASSAULT IN THE THIRD DEGREE; MENACING IN THE
15 THIRD DEGREE; MENACING IN THE SECOND DEGREE; CRIMINAL OBSTRUCTION OF
16 BREATHING OR BLOOD CIRCULATION; UNLAWFUL IMPRISONMENT IN THE SECOND
17 DEGREE; COERCION IN THE SECOND DEGREE; CRIMINAL MISCHIEF IN THE FOURTH
18 DEGREE; CRIMINAL TAMPERING IN THE THIRD DEGREE; CRIMINAL CONTEMPT IN THE
19 SECOND DEGREE; HARASSMENT IN THE FIRST DEGREE; AGGRAVATED HARASSMENT IN
20 THE SECOND DEGREE; CRIMINAL TRESPASS IN THE THIRD DEGREE; CRIMINAL TRES-
21 PASS IN THE SECOND DEGREE; ARSON IN THE FIFTH DEGREE; STALKING IN THE
22 FOURTH DEGREE; STALKING IN THE THIRD DEGREE; SEXUAL MISCONDUCT; FORCIBLE
23 TOUCHING; SEXUAL ABUSE IN THE THIRD DEGREE; SEXUAL ABUSE IN THE SECOND
24 DEGREE; ATTEMPT TO COMMIT ANY OF THE ABOVE-LISTED OFFENSES.

25 S 2. The criminal procedure law is amended by adding a new section
26 370.20 to read as follows:

27 S 370.20 PROCEDURE FOR DETERMINING WHETHER CERTAIN MISDEMEANOR CRIMES
28 ARE SERIOUS OFFENSES UNDER THE PENAL LAW.

29 1. WHEN A DEFENDANT HAS BEEN CHARGED WITH ASSAULT IN THE THIRD DEGREE,
30 MENACING IN THE THIRD DEGREE, MENACING IN THE SECOND DEGREE, CRIMINAL
31 OBSTRUCTION OF BREATHING OR BLOOD CIRCULATION, UNLAWFUL IMPRISONMENT IN
32 THE SECOND DEGREE, COERCION IN THE SECOND DEGREE, CRIMINAL MISCHIEF IN
33 THE FOURTH DEGREE, CRIMINAL TAMPERING IN THE THIRD DEGREE, CRIMINAL
34 CONTEMPT IN THE SECOND DEGREE, HARASSMENT IN THE FIRST DEGREE, AGGRA-
35 VATED HARASSMENT IN THE SECOND DEGREE, CRIMINAL TRESPASS IN THE THIRD
36 DEGREE, CRIMINAL TRESPASS IN THE SECOND DEGREE, ARSON IN THE FIFTH
37 DEGREE, STALKING IN THE FOURTH DEGREE, STALKING IN THE THIRD DEGREE,
38 SEXUAL MISCONDUCT, FORCIBLE TOUCHING, SEXUAL ABUSE IN THE THIRD DEGREE,
39 SEXUAL ABUSE IN THE SECOND DEGREE, OR ATTEMPT TO COMMIT ANY OF THE
40 ABOVE-LISTED OFFENSES, THE PEOPLE MAY, AT ARRAIGNMENT OR NO LATER THAN
41 FORTY-FIVE DAYS AFTER ARRAIGNMENT, FOR THE PURPOSE OF NOTIFICATION TO
42 THE DIVISION OF CRIMINAL JUSTICE SERVICES PURSUANT TO SECTION 380.98 OF
43 THIS PART, SERVE ON THE DEFENDANT AND FILE WITH THE COURT A NOTICE
44 ALLEGING THAT THE DEFENDANT AND THE PERSON ALLEGED TO BE THE VICTIM OF
45 SUCH CRIME WERE MEMBERS OF THE SAME FAMILY OR HOUSEHOLD AS DEFINED IN
46 SUBDIVISION ONE OF SECTION 530.11 OF THIS CHAPTER.

47 2. SUCH NOTICE SHALL INCLUDE THE NAME OF THE PERSON ALLEGED TO BE THE
48 VICTIM OF SUCH CRIME AND SHALL SPECIFY THE NATURE OF THE ALLEGED
49 RELATIONSHIP AS SET FORTH IN SUBDIVISION ONE OF SECTION 530.11 OF THIS
50 CHAPTER. UPON CONVICTION OF SUCH OFFENSE, THE COURT SHALL ADVISE THE
51 DEFENDANT THAT HE OR SHE IS ENTITLED TO A HEARING SOLELY ON THE ALLEGA-
52 TION CONTAINED IN THE NOTICE AND, IF NECESSARY, AN ADJOURNMENT OF THE
53 SENTENCING PROCEEDING IN ORDER TO PREPARE FOR SUCH HEARING, AND THAT IF

1 SUCH ALLEGATION IS SUSTAINED, THAT DETERMINATION AND CONVICTION WILL BE
2 REPORTED TO THE DIVISION OF CRIMINAL JUSTICE SERVICES.

3 3. AFTER HAVING BEEN ADVISED BY THE COURT AS PROVIDED IN SUBDIVISION
4 TWO OF THIS SECTION, THE DEFENDANT MAY STIPULATE OR ADMIT, ORALLY ON THE
5 RECORD OR IN WRITING, THAT HE OR SHE IS RELATED OR SITUATED TO THE
6 VICTIM OF SUCH CRIME IN THE MANNER DESCRIBED IN SUBDIVISION ONE OF THIS
7 SECTION. IN SUCH CASE, SUCH RELATIONSHIP SHALL BE DEEMED ESTABLISHED FOR
8 PURPOSES OF SECTION 380.98 OF THIS PART. IF THE DEFENDANT DENIES THAT HE
9 OR SHE IS RELATED OR SITUATED TO THE VICTIM OF THE CRIME AS ALLEGED IN
10 THE NOTICE SERVED BY THE PEOPLE, OR STANDS MUTE WITH RESPECT TO SUCH
11 ALLEGATION, THEN THE PEOPLE SHALL BEAR THE BURDEN TO PROVE BEYOND A
12 REASONABLE DOUBT THAT THE DEFENDANT IS RELATED OR SITUATED TO THE VICTIM
13 IN THE MANNER ALLEGED IN THE NOTICE. THE COURT MAY CONSIDER RELIABLE
14 HEARSAY EVIDENCE SUBMITTED BY EITHER PARTY PROVIDED THAT IT IS RELEVANT
15 TO THE DETERMINATION OF THE ALLEGATION. FACTS PREVIOUSLY PROVEN AT TRIAL
16 OR ELICITED AT THE TIME OF ENTRY OF A PLEA OF GUILTY SHALL BE DEEMED
17 ESTABLISHED BEYOND A REASONABLE DOUBT AND SHALL NOT BE RELITIGATED. AT
18 THE CONCLUSION OF THE HEARING, OR UPON SUCH A STIPULATION OR ADMISSION,
19 AS APPLICABLE, THE COURT SHALL MAKE A SPECIFIC WRITTEN DETERMINATION
20 WITH RESPECT TO SUCH ALLEGATION.

21 S 3. The criminal procedure law is amended by adding a new section
22 380.98 to read as follows:

23 S 380.98 NOTIFICATION TO DIVISION OF CRIMINAL JUSTICE SERVICES OF
24 CERTAIN MISDEMEANOR CONVICTIONS.

25 UPON JUDGMENT OF CONVICTION OF ASSAULT IN THE THIRD DEGREE, MENACING
26 IN THE THIRD DEGREE, MENACING IN THE SECOND DEGREE, CRIMINAL OBSTRUCTION
27 OF BREATHING OR BLOOD CIRCULATION, UNLAWFUL IMPRISONMENT IN THE SECOND
28 DEGREE, COERCION IN THE SECOND DEGREE, CRIMINAL MISCHIEF IN THE FOURTH
29 DEGREE, CRIMINAL TAMPERING IN THE THIRD DEGREE, CRIMINAL CONTEMPT IN THE
30 SECOND DEGREE, HARASSMENT IN THE FIRST DEGREE, OR AGGRAVATED HARASSMENT
31 IN THE SECOND DEGREE, CRIMINAL TRESPASS IN THE THIRD DEGREE, CRIMINAL
32 TRESPASS IN THE SECOND DEGREE, ARSON IN THE FIFTH DEGREE, STALKING IN
33 THE FOURTH DEGREE, STALKING IN THE THIRD DEGREE, SEXUAL MISCONDUCT,
34 FORCIBLE TOUCHING, SEXUAL ABUSE IN THE THIRD DEGREE, SEXUAL ABUSE IN THE
35 SECOND DEGREE, OR ATTEMPT TO COMMIT ANY OF THE ABOVE-LISTED OFFENSES,
36 WHEN THE DEFENDANT AND VICTIM HAVE BEEN DETERMINED, PURSUANT TO SECTION
37 370.20 OF THIS PART, TO BE MEMBERS OF THE SAME FAMILY OR HOUSEHOLD AS
38 DEFINED IN SUBDIVISION ONE OF SECTION 530.11 OF THIS CHAPTER, THE CLERK
39 OF THE COURT SHALL INCLUDE NOTIFICATION AND A COPY OF THE WRITTEN DETER-
40 MINATION IN A REPORT OF SUCH CONVICTION TO THE DIVISION OF CRIMINAL
41 JUSTICE SERVICES TO ENABLE THE DIVISION TO REPORT SUCH DETERMINATION TO
42 THE FEDERAL BUREAU OF INVESTIGATION AND ASSIST THE BUREAU IN IDENTIFYING
43 PERSONS PROHIBITED FROM PURCHASING AND POSSESSING A FIREARM OR OTHER
44 WEAPON DUE TO CONVICTION OF AN OFFENSE SPECIFIED IN PARAGRAPH (C) OF
45 SUBDIVISION SEVENTEEN OF SECTION 265.00 OF THE PENAL LAW.

46 S 4. Section 530.14 of the criminal procedure law is REPEALED and a
47 new section 530.14 is added to read as follows:

48 S 530.14 SUSPENSION AND REVOCATION OF A LICENSE TO CARRY, POSSESS,
49 REPAIR OR DISPOSE OF A FIREARM OR FIREARMS PURSUANT TO
50 SECTION 400.00 OF THE PENAL LAW AND INELIGIBILITY FOR SUCH A
51 LICENSE; ORDER TO SURRENDER WEAPONS.

52 1. WHENEVER A TEMPORARY ORDER OF PROTECTION IS ISSUED PURSUANT TO
53 SUBDIVISION ONE OF SECTION 530.12 OR SUBDIVISION ONE OF SECTION 530.13
54 OF THIS ARTICLE THE COURT SHALL SUSPEND ANY FIREARMS LICENSE POSSESSED
55 BY THE DEFENDANT, ORDER THE DEFENDANT INELIGIBLE FOR SUCH A LICENSE AND
56 ORDER THE IMMEDIATE SURRENDER PURSUANT TO SUBPARAGRAPH (F) OF PARAGRAPH

1 ONE OF SUBDIVISION A OF SECTION 265.20 AND SUBDIVISION SIX OF SECTION
2 400.05 OF THE PENAL LAW, OF ALL PISTOLS, REVOLVERS, RIFLES, SHOTGUNS AND
3 ANY OTHER FIREARMS OWNED OR POSSESSED BY THE DEFENDANT.

4 2. WHENEVER AN ORDER OF PROTECTION IS ISSUED PURSUANT TO SUBDIVISION
5 FIVE OF SECTION 530.12 OR SUBDIVISION FOUR OF SECTION 530.13 OF THIS
6 ARTICLE THE COURT SHALL REVOKE, SUSPEND OR CONTINUE TO SUSPEND ANY
7 FIREARMS LICENSE POSSESSED BY THE DEFENDANT, ORDER THE DEFENDANT INELI-
8 GIBLE FOR SUCH A LICENSE AND ORDER THE IMMEDIATE SURRENDER PURSUANT TO
9 SUBPARAGRAPH (F) OF PARAGRAPH ONE OF SUBDIVISION A OF SECTION 265.20 AND
10 SUBDIVISION SIX OF SECTION 400.05 OF THE PENAL LAW, OF ALL PISTOLS,
11 REVOLVERS, RIFLES, SHOTGUNS AND ANY OTHER FIREARMS OWNED OR POSSESSED BY
12 THE DEFENDANT.

13 3. WHENEVER A DEFENDANT HAS BEEN FOUND PURSUANT TO SUBDIVISION ELEVEN
14 OF SECTION 530.12 OR SUBDIVISION EIGHT OF SECTION 530.13 OF THIS ARTICLE
15 TO HAVE WILLFULLY FAILED TO OBEY AN ORDER OF PROTECTION ISSUED BY A
16 COURT OF COMPETENT JURISDICTION IN THIS STATE OR ANOTHER STATE, TERRITO-
17 RIAL OR TRIBAL JURISDICTION, IN ADDITION TO ANY OTHER REMEDIES AVAILABLE
18 PURSUANT TO SUBDIVISION ELEVEN OF SECTION 530.12 OR SUBDIVISION EIGHT OF
19 SECTION 530.13 OF THIS ARTICLE, THE COURT SHALL REVOKE, SUSPEND OR
20 CONTINUE TO SUSPEND ANY FIREARMS LICENSE POSSESSED BY THE DEFENDANT,
21 ORDER THE DEFENDANT INELIGIBLE FOR SUCH A LICENSE AND ORDER THE IMMEDI-
22 ATE SURRENDER PURSUANT TO SUBPARAGRAPH (F) OF PARAGRAPH ONE OF SUBDIVI-
23 SION A OF SECTION 265.20 AND SUBDIVISION SIX OF SECTION 400.05 OF THE
24 PENAL LAW, OF ALL PISTOLS, REVOLVERS, RIFLES, SHOTGUNS AND ANY OTHER
25 FIREARMS OWNED OR POSSESSED BY THE DEFENDANT.

26 4. SUSPENSION. ANY SUSPENSION ORDER ISSUED PURSUANT TO THIS SECTION
27 SHALL REMAIN IN EFFECT FOR THE DURATION OF THE TEMPORARY ORDER OF
28 PROTECTION OR ORDER OF PROTECTION, UNLESS MODIFIED OR VACATED BY THE
29 COURT.

30 5. SURRENDER. (A) WHERE AN ORDER TO SURRENDER ONE OR MORE PISTOLS,
31 REVOLVERS, RIFLES, SHOTGUNS OR OTHER FIREARMS HAS BEEN ISSUED, THE
32 TEMPORARY ORDER OF PROTECTION OR ORDER OF PROTECTION SHALL SPECIFY THE
33 PLACE WHERE SUCH WEAPONS SHALL BE SURRENDERED, SHALL SPECIFY A DATE AND
34 TIME BY WHICH THE SURRENDER SHALL BE COMPLETED AND, TO THE EXTENT POSSI-
35 BLE, SHALL DESCRIBE SUCH WEAPONS TO BE SURRENDERED, AND SHALL DIRECT THE
36 AUTHORITY RECEIVING SUCH SURRENDERED WEAPONS TO IMMEDIATELY NOTIFY THE
37 COURT OF SUCH SURRENDER.

38 (B) THE PROMPT SURRENDER OF ONE OR MORE PISTOLS, REVOLVERS, RIFLES,
39 SHOTGUNS OR OTHER FIREARMS PURSUANT TO A COURT ORDER ISSUED PURSUANT TO
40 THIS SECTION SHALL BE CONSIDERED A VOLUNTARY SURRENDER FOR PURPOSES OF
41 SUBPARAGRAPH (F) OF PARAGRAPH ONE OF SUBDIVISION A OF SECTION 265.20 OF
42 THE PENAL LAW. THE DISPOSITION OF ANY SUCH WEAPONS SHALL BE IN ACCORD-
43 ANCE WITH THE PROVISIONS OF SUBDIVISION SIX OF SECTION 400.05 OF THE
44 PENAL LAW.

45 (C) THE PROVISIONS OF THIS SECTION SHALL NOT BE DEEMED TO LIMIT,
46 RESTRICT OR OTHERWISE IMPAIR THE AUTHORITY OF THE COURT TO ORDER AND
47 DIRECT THE SURRENDER OF ANY OR ALL PISTOLS, REVOLVERS, RIFLES, SHOTGUNS
48 OR OTHER FIREARMS OWNED OR POSSESSED BY A DEFENDANT PURSUANT TO SECTION
49 530.12 OR 530.13 OF THIS ARTICLE.

50 6. NOTICE. (A) WHERE AN ORDER REQUIRING SURRENDER, REVOCATION,
51 SUSPENSION OR INELIGIBILITY HAS BEEN ISSUED PURSUANT TO THIS SECTION,
52 ANY TEMPORARY ORDER OF PROTECTION OR ORDER OF PROTECTION ISSUED SHALL
53 STATE THAT SUCH FIREARM LICENSE HAS BEEN SUSPENDED OR REVOKED OR THAT
54 THE DEFENDANT IS INELIGIBLE FOR SUCH LICENSE, AS THE CASE MAY BE, AND
55 THAT THE DEFENDANT IS PROHIBITED FROM POSSESSING ANY PISTOL, REVOLVER,
56 RIFLE, SHOTGUN OR OTHER FIREARM.

1 (B) THE COURT REVOKING OR SUSPENDING THE LICENSE, ORDERING THE DEFEND-
2 ANT INELIGIBLE FOR SUCH A LICENSE, OR ORDERING THE SURRENDER OF ANY
3 PISTOL, REVOLVER, RIFLE, SHOTGUN OR OTHER FIREARM SHALL IMMEDIATELY
4 NOTIFY THE DULY CONSTITUTED POLICE AUTHORITIES OF THE LOCALITY CONCERN-
5 ING SUCH ACTION AND, IN THE CASE OF ORDERS OF PROTECTION AND TEMPORARY
6 ORDERS OF PROTECTION ISSUED PURSUANT TO SECTION 530.12 OF THIS ARTICLE,
7 SHALL IMMEDIATELY NOTIFY THE STATEWIDE REGISTRY OF ORDERS OF PROTECTION.

8 (C) THE COURT REVOKING OR SUSPENDING THE LICENSE OR ORDERING THE
9 DEFENDANT INELIGIBLE FOR SUCH A LICENSE SHALL GIVE WRITTEN NOTICE THERE-
10 OF WITHOUT UNNECESSARY DELAY TO THE DIVISION OF STATE POLICE AT ITS
11 OFFICE IN THE CITY OF ALBANY.

12 (D) WHERE AN ORDER OF REVOCATION, SUSPENSION, INELIGIBILITY OR SURREN-
13 DER IS MODIFIED OR VACATED, THE COURT SHALL IMMEDIATELY NOTIFY THE
14 STATEWIDE REGISTRY OF ORDERS OF PROTECTION AND THE DULY CONSTITUTED
15 POLICE AUTHORITIES OF THE LOCALITY CONCERNING SUCH ACTION AND SHALL GIVE
16 WRITTEN NOTICE THEREOF WITHOUT UNNECESSARY DELAY TO THE DIVISION OF
17 STATE POLICE AT ITS OFFICE IN THE CITY OF ALBANY.

18 7. HEARING. THE DEFENDANT SHALL HAVE THE RIGHT TO A HEARING BEFORE
19 THE COURT REGARDING ANY REVOCATION, SUSPENSION, INELIGIBILITY OR SURREN-
20 DER ORDER ISSUED PURSUANT TO THIS SECTION, PROVIDED THAT NOTHING IN THIS
21 SUBDIVISION SHALL PRECLUDE THE COURT FROM ISSUING ANY SUCH ORDER PRIOR
22 TO A HEARING. WHERE THE COURT HAS ISSUED SUCH AN ORDER PRIOR TO A HEAR-
23 ING, IT SHALL COMMENCE SUCH HEARING WITHIN FOURTEEN DAYS OF THE DATE
24 SUCH ORDER WAS ISSUED.

25 8. NOTHING IN THIS SECTION SHALL DELAY OR OTHERWISE INTERFERE WITH THE
26 ISSUANCE OF A TEMPORARY ORDER OF PROTECTION OR THE TIMELY ARRAIGNMENT OF
27 A DEFENDANT IN CUSTODY.

28 S 5. Section 842-a of the family court act is REPEALED and a new
29 section 842-a is added to read as follows:

30 S 842-A. SUSPENSION AND REVOCATION OF A LICENSE TO CARRY, POSSESS,
31 REPAIR OR DISPOSE OF A FIREARM OR FIREARMS PURSUANT TO SECTION 400.00 OF
32 THE PENAL LAW AND INELIGIBILITY FOR SUCH A LICENSE; ORDER TO SURRENDER
33 WEAPONS. 1. WHENEVER A TEMPORARY ORDER OF PROTECTION IS ISSUED PURSUANT
34 TO SECTION EIGHT HUNDRED TWENTY-EIGHT OF THIS ARTICLE, OR PURSUANT TO
35 ARTICLE FOUR, FIVE, SIX, SEVEN OR TEN OF THIS ACT THE COURT SHALL
36 SUSPEND ANY FIREARMS LICENSE POSSESSED BY THE RESPONDENT, ORDER THE
37 RESPONDENT INELIGIBLE FOR SUCH A LICENSE AND ORDER THE IMMEDIATE SURREN-
38 DER PURSUANT TO SUBPARAGRAPH (F) OF PARAGRAPH ONE OF SUBDIVISION A OF
39 SECTION 265.20 AND SUBDIVISION SIX OF SECTION 400.05 OF THE PENAL LAW,
40 OF ALL PISTOLS, REVOLVERS, RIFLES, SHOTGUNS AND ANY OTHER FIREARMS
41 OWNED OR POSSESSED BY THE RESPONDENT.

42 2. WHENEVER AN ORDER OF PROTECTION IS ISSUED PURSUANT TO SECTION EIGHT
43 HUNDRED FORTY-ONE OF THIS PART, OR PURSUANT TO ARTICLE FOUR, FIVE, SIX,
44 SEVEN OR TEN OF THIS ACT THE COURT SHALL REVOKE, SUSPEND OR CONTINUE TO
45 SUSPEND ANY FIREARMS LICENSE POSSESSED BY THE RESPONDENT, ORDER THE
46 RESPONDENT INELIGIBLE FOR SUCH A LICENSE AND ORDER THE IMMEDIATE SURREN-
47 DER PURSUANT TO SUBPARAGRAPH (F) OF PARAGRAPH ONE OF SUBDIVISION A OF
48 SECTION 265.20 AND SUBDIVISION SIX OF SECTION 400.05 OF THE PENAL LAW,
49 OF ALL PISTOLS, REVOLVERS, RIFLES, SHOTGUNS AND ANY OTHER FIREARMS OWNED
50 OR POSSESSED BY THE RESPONDENT.

51 3. WHENEVER A RESPONDENT HAS BEEN FOUND PURSUANT TO SECTION EIGHT
52 HUNDRED FORTY-SIX-A OF THIS PART TO HAVE WILLFULLY FAILED TO OBEY AN
53 ORDER OF PROTECTION OR TEMPORARY ORDER OF PROTECTION ISSUED PURSUANT TO
54 THIS ACT OR THE DOMESTIC RELATIONS LAW, OR BY THIS COURT OR BY A COURT
55 OF COMPETENT JURISDICTION IN THIS STATE OR ANOTHER STATE, TERRITORIAL
56 OR TRIBAL JURISDICTION, IN ADDITION TO ANY OTHER REMEDIES AVAILABLE

1 PURSUANT TO SECTION EIGHT HUNDRED FORTY-SIX-A OF THIS PART, THE COURT
2 SHALL REVOKE, SUSPEND OR CONTINUE TO SUSPEND ANY FIREARMS LICENSE
3 POSSESSED BY THE RESPONDENT, ORDER THE RESPONDENT INELIGIBLE FOR SUCH A
4 LICENSE AND ORDER THE IMMEDIATE SURRENDER PURSUANT TO SUBPARAGRAPH (F)
5 OF PARAGRAPH ONE OF SUBDIVISION A OF SECTION 265.20 AND SUBDIVISION SIX
6 OF SECTION 400.05 OF THE PENAL LAW, OF ALL PISTOLS, REVOLVERS, RIFLES,
7 SHOTGUNS AND ANY OTHER FIREARMS OWNED OR POSSESSED BY THE RESPONDENT.

8 4. SUSPENSION. ANY SUSPENSION ORDER ISSUED PURSUANT TO THIS SECTION
9 SHALL REMAIN IN EFFECT FOR THE DURATION OF THE TEMPORARY ORDER OF
10 PROTECTION OR ORDER OF PROTECTION, UNLESS MODIFIED OR VACATED BY THE
11 COURT.

12 5. SURRENDER. (A) WHERE AN ORDER TO SURRENDER ONE OR MORE PISTOLS,
13 REVOLVERS, RIFLES, SHOTGUNS OR OTHER FIREARMS HAS BEEN ISSUED, THE
14 TEMPORARY ORDER OF PROTECTION OR ORDER OF PROTECTION SHALL SPECIFY THE
15 PLACE WHERE SUCH WEAPONS SHALL BE SURRENDERED, SHALL SPECIFY A DATE AND
16 TIME BY WHICH THE SURRENDER SHALL BE COMPLETED AND, TO THE EXTENT
17 POSSIBLE, SHALL DESCRIBE SUCH WEAPONS TO BE SURRENDERED, AND SHALL
18 DIRECT THE AUTHORITY RECEIVING SUCH SURRENDERED WEAPONS TO IMMEDIATELY
19 NOTIFY THE COURT OF SUCH SURRENDER.

20 (B) THE PROMPT SURRENDER OF ONE OR MORE PISTOLS, REVOLVERS, RIFLES,
21 SHOTGUNS OR OTHER FIREARMS PURSUANT TO A COURT ORDER ISSUED PURSUANT TO
22 THIS SECTION SHALL BE CONSIDERED A VOLUNTARY SURRENDER FOR PURPOSES OF
23 SUBPARAGRAPH (F) OF PARAGRAPH ONE OF SUBDIVISION A OF SECTION 265.20 OF
24 THE PENAL LAW. THE DISPOSITION OF ANY SUCH WEAPONS SHALL BE IN ACCORD-
25 ANCE WITH THE PROVISIONS OF SUBDIVISION SIX OF SECTION 400.05 OF THE
26 PENAL LAW.

27 (C) THE PROVISIONS OF THIS SECTION SHALL NOT BE DEEMED TO LIMIT,
28 RESTRICT OR OTHERWISE IMPAIR THE AUTHORITY OF THE COURT TO ORDER AND
29 DIRECT THE SURRENDER OF ANY OR ALL PISTOLS, REVOLVERS, RIFLES, SHOTGUNS
30 OR OTHER FIREARMS OWNED OR POSSESSED BY A RESPONDENT PURSUANT TO THIS
31 ACT.

32 6. NOTICE. (A) WHERE AN ORDER REQUIRING SURRENDER, REVOCATION, SUSPEN-
33 SION OR INELIGIBILITY HAS BEEN ISSUED PURSUANT TO THIS SECTION, ANY
34 TEMPORARY ORDER OF PROTECTION OR ORDER OF PROTECTION ISSUED SHALL STATE
35 THAT SUCH FIREARM LICENSE HAS BEEN SUSPENDED OR REVOKED OR THAT THE
36 RESPONDENT IS INELIGIBLE FOR SUCH LICENSE, AS THE CASE MAY BE, AND THAT
37 THE RESPONDENT IS PROHIBITED FROM POSSESSING ANY PISTOL, REVOLVER,
38 RIFLE, SHOTGUN OR OTHER FIREARM.

39 (B) THE COURT REVOKING OR SUSPENDING THE LICENSE, ORDERING THE
40 RESPONDENT INELIGIBLE FOR SUCH A LICENSE, OR ORDERING THE SURRENDER OF
41 ANY PISTOL, REVOLVER, RIFLE, SHOTGUN OR OTHER FIREARM SHALL IMMEDIATELY
42 NOTIFY THE STATEWIDE REGISTRY OF ORDERS OF PROTECTION AND THE DULY
43 CONSTITUTED POLICE AUTHORITIES OF THE LOCALITY OF SUCH ACTION.

44 (C) THE COURT REVOKING OR SUSPENDING THE LICENSE OR ORDERING THE
45 RESPONDENT INELIGIBLE FOR SUCH A LICENSE SHALL GIVE WRITTEN NOTICE THERE-
46 OF WITHOUT UNNECESSARY DELAY TO THE DIVISION OF STATE POLICE AT ITS
47 OFFICE IN THE CITY OF ALBANY.

48 (D) WHERE AN ORDER OF REVOCATION, SUSPENSION, INELIGIBILITY OR SURREN-
49 DER IS MODIFIED OR VACATED, THE COURT SHALL IMMEDIATELY NOTIFY THE
50 STATEWIDE REGISTRY OF ORDERS OF PROTECTION AND THE DULY CONSTITUTED
51 POLICE AUTHORITIES OF THE LOCALITY CONCERNING SUCH ACTION AND SHALL GIVE
52 WRITTEN NOTICE THEREOF WITHOUT UNNECESSARY DELAY TO THE DIVISION OF
53 STATE POLICE AT ITS OFFICE IN THE CITY OF ALBANY.

54 7. HEARING. THE RESPONDENT SHALL HAVE THE RIGHT TO A HEARING BEFORE
55 THE COURT REGARDING ANY REVOCATION, SUSPENSION, INELIGIBILITY OR SURREN-
56 DER ORDER ISSUED PURSUANT TO THIS SECTION, PROVIDED THAT NOTHING IN

1 THIS SUBDIVISION SHALL PRECLUDE THE COURT FROM ISSUING ANY SUCH ORDER
2 PRIOR TO A HEARING. WHERE THE COURT HAS ISSUED SUCH AN ORDER PRIOR TO A
3 HEARING, IT SHALL COMMENCE SUCH HEARING WITHIN FOURTEEN DAYS OF THE
4 DATE SUCH ORDER WAS ISSUED.

5 8. NOTHING IN THIS SECTION SHALL DELAY OR OTHERWISE INTERFERE WITH THE
6 ISSUANCE OF A TEMPORARY ORDER OF PROTECTION.

7 S 6. Intentionally omitted.

8 S 7. Paragraph (c) of subdivision 1 of section 400.00 of the penal
9 law, as amended by chapter 1 of the laws of 2013, is amended to read as
10 follows:

11 (c) who has not been convicted anywhere of a felony or a serious
12 offense OR WHO IS NOT THE SUBJECT OF AN OUTSTANDING WARRANT OF ARREST
13 ISSUED UPON THE ALLEGED COMMISSION OF A FELONY OR SERIOUS OFFENSE;

14 S 8. This act shall take effect on the thirtieth day after it shall
15 have become a law.

16 SUBPART F

17 Section 1. Section 135.60 of the penal law, as amended by chapter 426
18 of the laws of 2008, is amended to read as follows:

19 S 135.60 Coercion in the [second] THIRD degree.

20 A person is guilty of coercion in the [second] THIRD degree when he or
21 she compels or induces a person to engage in conduct which the latter
22 has a legal right to abstain from engaging in, or to abstain from engag-
23 ing in conduct in which he or she has a legal right to engage, or
24 compels or induces a person to join a group, organization or criminal
25 enterprise which such latter person has a right to abstain from joining,
26 by means of instilling in him or her a fear that, if the demand is not
27 complied with, the actor or another will:

28 1. Cause physical injury to a person; or

29 2. Cause damage to property; or

30 3. Engage in other conduct constituting a crime; or

31 4. Accuse some person of a crime or cause criminal charges to be
32 instituted against him or her; or

33 5. Expose a secret or publicize an asserted fact, whether true or
34 false, tending to subject some person to hatred, contempt or ridicule;
35 or

36 6. Cause a strike, boycott or other collective labor group action
37 injurious to some person's business; except that such a threat shall not
38 be deemed coercive when the act or omission compelled is for the benefit
39 of the group in whose interest the actor purports to act; or

40 7. Testify or provide information or withhold testimony or information
41 with respect to another's legal claim or defense; or

42 8. Use or abuse his or her position as a public servant by performing
43 some act within or related to his or her official duties, or by failing
44 or refusing to perform an official duty, in such manner as to affect
45 some person adversely; or

46 9. Perform any other act which would not in itself materially benefit
47 the actor but which is calculated to harm another person materially with
48 respect to his or her health, safety, business, calling, career, finan-
49 cial condition, reputation or personal relationships.

50 Coercion in the [second] THIRD degree is a class A misdemeanor.

51 S 2. The penal law is amended by adding a new section 135.61 to read
52 as follows:

53 S 135.61 COERCION IN THE SECOND DEGREE.

1 A PERSON IS GUILTY OF COERCION IN THE SECOND DEGREE WHEN HE OR SHE
2 COMMITS THE CRIME OF COERCION IN THE THIRD DEGREE AS DEFINED IN SECTION
3 135.60 OF THIS ARTICLE AND THEREBY COMPELS OR INDUCES A PERSON TO ENGAGE
4 IN SEXUAL INTERCOURSE, ORAL SEXUAL CONDUCT OR ANAL SEXUAL CONDUCT AS
5 SUCH TERMS ARE DEFINED IN SECTION 130 OF THE PENAL LAW.

6 COERCION IN THE SECOND DEGREE IS A CLASS E FELONY.

7 S 3. Section 135.65 of the penal law, as amended by chapter 426 of the
8 laws of 2008, is amended to read as follows:

9 S 135.65 Coercion in the first degree.

10 A person is guilty of coercion in the first degree when he or she
11 commits the crime of coercion in the [second] THIRD degree, and when:

12 1. He or she commits such crime by instilling in the victim a fear
13 that he or she will cause physical injury to a person or cause damage to
14 property; or

15 2. He or she thereby compels or induces the victim to:

16 (a) Commit or attempt to commit a felony; or

17 (b) Cause or attempt to cause physical injury to a person; or

18 (c) Violate his or her duty as a public servant.

19 Coercion in the first degree is a class D felony.

20 S 4. The opening paragraph of subdivision 1 of section 530.11 of the
21 criminal procedure law, as amended by chapter 526 of the laws of 2013,
22 is amended to read as follows:

23 The family court and the criminal courts shall have concurrent juris-
24 diction over any proceeding concerning acts which would constitute
25 disorderly conduct, harassment in the first degree, harassment in the
26 second degree, aggravated harassment in the second degree, sexual
27 misconduct, forcible touching, sexual abuse in the third degree, sexual
28 abuse in the second degree as set forth in subdivision one of section
29 130.60 of the penal law, stalking in the first degree, stalking in the
30 second degree, stalking in the third degree, stalking in the fourth
31 degree, criminal mischief, menacing in the second degree, menacing in
32 the third degree, reckless endangerment, strangulation in the first
33 degree, strangulation in the second degree, criminal obstruction of
34 breathing or blood circulation, assault in the second degree, assault in
35 the third degree, an attempted assault, identity theft in the first
36 degree, identity theft in the second degree, identity theft in the third
37 degree, grand larceny in the fourth degree, grand larceny in the third
38 degree [or], coercion in the second degree OR COERCION IN THE THIRD
39 DEGREE as set forth in subdivisions one, two and three of section 135.60
40 of the penal law between spouses or former spouses, or between parent
41 and child or between members of the same family or household except that
42 if the respondent would not be criminally responsible by reason of age
43 pursuant to section 30.00 of the penal law, then the family court shall
44 have exclusive jurisdiction over such proceeding. Notwithstanding a
45 complainant's election to proceed in family court, the criminal court
46 shall not be divested of jurisdiction to hear a family offense proceed-
47 ing pursuant to this section. For purposes of this section, "disorderly
48 conduct" includes disorderly conduct not in a public place. For purposes
49 of this section, "members of the same family or household" with respect
50 to a proceeding in the criminal courts shall mean the following:

51 S 5. The opening paragraph of subdivision 1 of section 812 of the
52 family court act, as amended by chapter 526 of the laws of 2013, is
53 amended to read as follows:

54 The family court and the criminal courts shall have concurrent juris-
55 diction over any proceeding concerning acts which would constitute
56 disorderly conduct, harassment in the first degree, harassment in the

1 second degree, aggravated harassment in the second degree, sexual
2 misconduct, forcible touching, sexual abuse in the third degree, sexual
3 abuse in the second degree as set forth in subdivision one of section
4 130.60 of the penal law, stalking in the first degree, stalking in the
5 second degree, stalking in the third degree, stalking in the fourth
6 degree, criminal mischief, menacing in the second degree, menacing in
7 the third degree, reckless endangerment, criminal obstruction of breath-
8 ing or blood circulation, strangulation in the second degree, strangula-
9 tion in the first degree, assault in the second degree, assault in the
10 third degree, an attempted assault, identity theft in the first degree,
11 identity theft in the second degree, identity theft in the third degree,
12 grand larceny in the fourth degree, grand larceny in the third degree
13 [or], coercion in the second degree OR COERCION IN THE THIRD DEGREE as
14 set forth in subdivisions one, two and three of section 135.60 of the
15 penal law between spouses or former spouses, or between parent and child
16 or between members of the same family or household except that if the
17 respondent would not be criminally responsible by reason of age pursuant
18 to section 30.00 of the penal law, then the family court shall have
19 exclusive jurisdiction over such proceeding. Notwithstanding a
20 complainant's election to proceed in family court, the criminal court
21 shall not be divested of jurisdiction to hear a family offense proceed-
22 ing pursuant to this section. In any proceeding pursuant to this arti-
23 cle, a court shall not deny an order of protection, or dismiss a peti-
24 tion, solely on the basis that the acts or events alleged are not
25 relatively contemporaneous with the date of the petition, the conclusion
26 of the fact-finding or the conclusion of the dispositional hearing. For
27 purposes of this article, "disorderly conduct" includes disorderly
28 conduct not in a public place. For purposes of this article, "members of
29 the same family or household" shall mean the following:

30 S 6. Paragraph (a) of subdivision 1 of section 821 of the family court
31 act, as amended by chapter 526 of the laws of 2013, is amended to read
32 as follows:

33 (a) An allegation that the respondent assaulted or attempted to
34 assault his or her spouse, or former spouse, parent, child or other
35 member of the same family or household or engaged in disorderly conduct,
36 harassment, sexual misconduct, forcible touching, sexual abuse in the
37 third degree, sexual abuse in the second degree as set forth in subdivi-
38 sion one of section 130.60 of the penal law, stalking, criminal
39 mischief, menacing, reckless endangerment, criminal obstruction of
40 breathing or blood circulation, strangulation, identity theft in the
41 first degree, identity theft in the second degree, identity theft in the
42 third degree, grand larceny in the fourth degree, grand larceny in the
43 third degree [or], coercion in the second degree OR COERCION IN THE
44 THIRD DEGREE as set forth in subdivisions one, two and three of section
45 135.60 of the penal law, toward any such person;

46 S 7. Paragraph c of subdivision 5 of section 120.40 of the penal law,
47 as added by chapter 635 of the laws of 1999, is amended to read as
48 follows:

49 c. assault in the third degree, as defined in section 120.00; menacing
50 in the first degree, as defined in section 120.13; menacing in the
51 second degree, as defined in section 120.14; coercion in the first
52 degree, as defined in section 135.65; coercion in the second degree, as
53 defined in section 135.61; COERCION IN THE THIRD DEGREE, AS DEFINED IN
54 SECTION 135.60; aggravated harassment in the second degree, as defined
55 in section 240.30; harassment in the first degree, as defined in section
56 240.25; menacing in the third degree, as defined in section 120.15;

1 criminal mischief in the third degree, as defined in section 145.05;
2 criminal mischief in the second degree, as defined in section 145.10,
3 criminal mischief in the first degree, as defined in section 145.12;
4 criminal tampering in the first degree, as defined in section 145.20;
5 arson in the fourth degree, as defined in section 150.05; arson in the
6 third degree, as defined in section 150.10; criminal contempt in the
7 first degree, as defined in section 215.51; endangering the welfare of a
8 child, as defined in section 260.10; or

9 S 8. Subdivision 2 of section 240.75 of the penal law, as added by
10 section 2 of part D of chapter 491 of the laws of 2012, is amended to
11 read as follows:

12 2. A "specified offense" is an offense defined in section 120.00
13 (assault in the third degree); section 120.05 (assault in the second
14 degree); section 120.10 (assault in the first degree); section 120.13
15 (menacing in the first degree); section 120.14 (menacing in the second
16 degree); section 120.15 (menacing in the third degree); section 120.20
17 (reckless endangerment in the second degree); section 120.25 (reckless
18 endangerment in the first degree); section 120.45 (stalking in the
19 fourth degree); section 120.50 (stalking in the third degree); section
20 120.55 (stalking in the second degree); section 120.60 (stalking in the
21 first degree); section 121.11 (criminal obstruction of breathing or
22 blood circulation); section 121.12 (strangulation in the second degree);
23 section 121.13 (strangulation in the first degree); subdivision one of
24 section 125.15 (manslaughter in the second degree); subdivision one, two
25 or four of section 125.20 (manslaughter in the first degree); section
26 125.25 (murder in the second degree); section 130.20 (sexual miscon-
27 duct); section 130.30 (rape in the second degree); section 130.35 (rape
28 in the first degree); section 130.40 (criminal sexual act in the third
29 degree); section 130.45 (criminal sexual act in the second degree);
30 section 130.50 (criminal sexual act in the first degree); section 130.52
31 (forcible touching); section 130.53 (persistent sexual abuse); section
32 130.55 (sexual abuse in the third degree); section 130.60 (sexual abuse
33 in the second degree); section 130.65 (sexual abuse in the first
34 degree); section 130.66 (aggravated sexual abuse in the third degree);
35 section 130.67 (aggravated sexual abuse in the second degree); section
36 130.70 (aggravated sexual abuse in the first degree); section 130.91
37 (sexually motivated felony); section 130.95 (predatory sexual assault);
38 section 130.96 (predatory sexual assault against a child); section
39 135.05 (unlawful imprisonment in the second degree); section 135.10
40 (unlawful imprisonment in the first degree); section 135.60 (coercion in
41 the [second] THIRD degree); SECTION 135.61 (COERCION IN THE SECOND
42 DEGREE); section 135.65 (coercion in the first degree); section 140.20
43 (burglary in the third degree); section 140.25 (burglary in the second
44 degree); section 140.30 (burglary in the first degree); section 145.00
45 (criminal mischief in the fourth degree); section 145.05 (criminal
46 mischief in the third degree); section 145.10 (criminal mischief in the
47 second degree); section 145.12 (criminal mischief in the first degree);
48 section 145.14 (criminal tampering in the third degree); section 215.50
49 (criminal contempt in the second degree); section 215.51 (criminal
50 contempt in the first degree); section 215.52 (aggravated criminal
51 contempt); section 240.25 (harassment in the first degree); subdivision
52 one, two or four of section 240.30 (aggravated harassment in the second
53 degree); aggravated family offense as defined in this section or any
54 attempt or conspiracy to commit any of the foregoing offenses where the
55 defendant and the person against whom the offense was committed were

1 members of the same family or household as defined in subdivision one of
2 section 530.11 of the criminal procedure law.

3 S 9. Subdivision 3 of section 485.05 of the penal law, as amended by
4 chapter 405 of the laws of 2010, is amended to read as follows:

5 3. A "specified offense" is an offense defined by any of the following
6 provisions of this chapter: section 120.00 (assault in the third
7 degree); section 120.05 (assault in the second degree); section 120.10
8 (assault in the first degree); section 120.12 (aggravated assault upon a
9 person less than eleven years old); section 120.13 (menacing in the
10 first degree); section 120.14 (menacing in the second degree); section
11 120.15 (menacing in the third degree); section 120.20 (reckless endan-
12 germent in the second degree); section 120.25 (reckless endangerment in
13 the first degree); section 121.12 (strangulation in the second degree);
14 section 121.13 (strangulation in the first degree); subdivision one of
15 section 125.15 (manslaughter in the second degree); subdivision one, two
16 or four of section 125.20 (manslaughter in the first degree); section
17 125.25 (murder in the second degree); section 120.45 (stalking in the
18 fourth degree); section 120.50 (stalking in the third degree); section
19 120.55 (stalking in the second degree); section 120.60 (stalking in the
20 first degree); subdivision one of section 130.35 (rape in the first
21 degree); subdivision one of section 130.50 (criminal sexual act in the
22 first degree); subdivision one of section 130.65 (sexual abuse in the
23 first degree); paragraph (a) of subdivision one of section 130.67
24 (aggravated sexual abuse in the second degree); paragraph (a) of subdi-
25 vision one of section 130.70 (aggravated sexual abuse in the first
26 degree); section 135.05 (unlawful imprisonment in the second degree);
27 section 135.10 (unlawful imprisonment in the first degree); section
28 135.20 (kidnapping in the second degree); section 135.25 (kidnapping in
29 the first degree); section 135.60 (coercion in the [second] THIRD
30 degree); SECTION 135.61 (COERCION IN THE SECOND DEGREE); section 135.65
31 (coercion in the first degree); section 140.10 (criminal trespass in the
32 third degree); section 140.15 (criminal trespass in the second degree);
33 section 140.17 (criminal trespass in the first degree); section 140.20
34 (burglary in the third degree); section 140.25 (burglary in the second
35 degree); section 140.30 (burglary in the first degree); section 145.00
36 (criminal mischief in the fourth degree); section 145.05 (criminal
37 mischief in the third degree); section 145.10 (criminal mischief in the
38 second degree); section 145.12 (criminal mischief in the first degree);
39 section 150.05 (arson in the fourth degree); section 150.10 (arson in
40 the third degree); section 150.15 (arson in the second degree); section
41 150.20 (arson in the first degree); section 155.25 (petit larceny);
42 section 155.30 (grand larceny in the fourth degree); section 155.35
43 (grand larceny in the third degree); section 155.40 (grand larceny in
44 the second degree); section 155.42 (grand larceny in the first degree);
45 section 160.05 (robbery in the third degree); section 160.10 (robbery in
46 the second degree); section 160.15 (robbery in the first degree);
47 section 240.25 (harassment in the first degree); subdivision one, two or
48 four of section 240.30 (aggravated harassment in the second degree); or
49 any attempt or conspiracy to commit any of the foregoing offenses.

50 S 10. This act shall take effect on the first of November next
51 succeeding the date on which it shall have become a law.

52

SUBPART G

53 Section 1. Subdivision 4 of section 2805-i of the public health law is
54 REPEALED.

1 S 2. Subdivision 2 of section 2805-i of the public health law, as
2 amended by chapter 504 of the laws of 1994, is amended to read as
3 follows:

4 2. The sexual offense evidence shall be collected and kept in a locked
5 separate and secure area for not less than [thirty days] THE LONGER OF
6 FIVE YEARS OR THE DATE THE ALLEGED SEXUAL OFFENSE VICTIM REACHES THE AGE
7 OF NINETEEN, unless: (a) such evidence is not privileged and the police
8 request its surrender before that time, which request shall be complied
9 with; or (b) such evidence is privileged and (i) the alleged sexual
10 offense victim nevertheless gives permission to turn such privileged
11 evidence over to the police before that time, or (ii) the alleged sexual
12 offense victim signs a statement directing the hospital to not collect
13 and keep such privileged evidence, which direction shall be complied
14 with. The sexual offense evidence shall include, but not be limited to,
15 slides, cotton swabs, clothing and other items. Where appropriate such
16 items must be refrigerated and the clothes and swabs must be dried,
17 stored in paper bags and labeled. Each item of evidence shall be marked
18 and logged with a code number corresponding to the patient's medical
19 record. [The] WITHIN THIRTY DAYS OF COLLECTION OF EVIDENCE, THE alleged
20 sexual offense victim shall be notified that after [thirty days] THE
21 LONGER OF FIVE YEARS OR THE DATE THE ALLEGED SEXUAL OFFENSE VICTIM
22 REACHES THE AGE OF NINETEEN, the refrigerated evidence will be discarded
23 in compliance with state and local health codes and the alleged sexual
24 offense victim's clothes will be returned to the alleged sexual offense
25 victim upon request. THE HOSPITAL SHALL ENSURE THAT DILIGENT EFFORTS ARE
26 MADE TO CONTACT THE ALLEGED SEXUAL OFFENSE VICTIM AND REPEAT SUCH
27 NOTIFICATION MORE THAN THIRTY DAYS PRIOR TO THE EVIDENCE BEING DISCARDED
28 IN ACCORDANCE WITH THIS SECTION. HOSPITALS MAY ENTER INTO CONTRACTS WITH
29 OTHER ENTITIES THAT WILL ENSURE APPROPRIATE STORAGE OF SEXUAL OFFENSE
30 EVIDENCE PURSUANT TO THIS SUBDIVISION.

31 S 2-a. Subdivision 1 of section 2805-i of the public health law, as
32 amended by chapter 504 of the laws of 1994 and paragraph (c) as amended
33 by chapter 39 of the laws of 2012, is amended to read as follows:

34 1. Every hospital providing treatment to alleged victims of a sexual
35 offense shall be responsible for:

36 (a) maintaining sexual offense evidence and the chain of custody as
37 provided in subdivision two of this section[.];

38 (b) contacting a rape crisis or victim assistance organization, if
39 any, providing victim assistance to the geographic area served by that
40 hospital to establish the coordination of non-medical services to sexual
41 offense victims who request such coordination and services[.];

42 (c) offering and making available appropriate HIV post-exposure treat-
43 ment therapies; including a seven day starter pack of HIV post-exposure
44 prophylaxis, in cases where it has been determined, in accordance with
45 guidelines issued by the commissioner, that a significant exposure to
46 HIV has occurred, and informing the victim that payment assistance for
47 such therapies may be available from the office of victim services
48 pursuant to the provisions of article twenty-two of the executive law.
49 With the consent of the victim of a sexual assault, the hospital emer-
50 gency room department shall provide or arrange for an appointment for
51 medical follow-up related to HIV post-exposure prophylaxis and other
52 care as appropriate; AND

53 (D) ENSURING SEXUAL ASSAULT SURVIVORS ARE NOT BILLED FOR SEXUAL
54 ASSAULT FORENSIC EXAMS AND ARE NOTIFIED ORALLY AND IN WRITING OF THE
55 OPTION TO DECLINE TO PROVIDE PRIVATE HEALTH INSURANCE INFORMATION AND
56 HAVE THE OFFICE OF VICTIM SERVICES REIMBURSE THE HOSPITAL FOR THE EXAM

1 PURSUANT TO SUBDIVISION THIRTEEN OF SECTION SIX HUNDRED THIRTY-ONE OF
2 THE EXECUTIVE LAW.

3 S 2-b. Subdivision 13 of section 631 of the executive law, as amended
4 by chapter 39 of the laws of 2012, is amended to read as follows:

5 13. Notwithstanding any other provision of law, rule, or regulation to
6 the contrary, when any New York state accredited hospital, accredited
7 sexual assault examiner program, or licensed health care provider
8 furnishes services to any sexual assault survivor, including but not
9 limited to a health care forensic examination in accordance with the sex
10 offense evidence collection protocol and standards established by the
11 department of health, such hospital, sexual assault examiner program, or
12 licensed healthcare provider shall provide such services to the person
13 without charge and shall bill the office directly. The office, in
14 consultation with the department of health, shall define the specific
15 services to be covered by the sexual assault forensic exam reimbursement
16 fee, which must include at a minimum forensic examiner services, hospi-
17 tal or healthcare facility services related to the exam, and related
18 laboratory tests and necessary pharmaceuticals; including but not limit-
19 ed to HIV post-exposure prophylaxis provided by a hospital emergency
20 room at the time of the forensic rape examination pursuant to paragraph
21 (c) of subdivision one of section twenty-eight hundred five-i of the
22 public health law. Follow-up HIV post-exposure prophylaxis costs shall
23 continue to be reimbursed according to established office procedure. The
24 office, in consultation with the department of health, shall also gener-
25 ate the necessary regulations and forms for the direct reimbursement
26 procedure. The rate for reimbursement shall be the amount of itemized
27 charges not exceeding eight hundred dollars, to be reviewed and adjusted
28 annually by the office in consultation with the department of health.
29 The hospital, sexual assault examiner program, or licensed health care
30 provider must accept this fee as payment in full for these specified
31 services. No additional billing of the survivor for said services is
32 permissible. A sexual assault survivor may voluntarily assign any
33 private insurance benefits to which she or he is entitled for the
34 healthcare forensic examination, in which case the hospital or health-
35 care provider may not charge the office; PROVIDED, HOWEVER, IN THE EVENT
36 THE SEXUAL ASSAULT SURVIVOR ASSIGNS ANY PRIVATE HEALTH INSURANCE BENE-
37 FIT, SUCH COVERAGE SHALL NOT BE SUBJECT TO ANNUAL DEDUCTIBLES OR COINSU-
38 RANCE OR BALANCE BILLING BY THE HOSPITAL, SEXUAL ASSAULT EXAMINER
39 PROGRAM OR LICENSED HEALTH CARE PROVIDER. A hospital, sexual assault
40 examiner program or licensed health care provider shall, at the time of
41 the initial visit, request assignment of any private health insurance
42 benefits to which the sexual assault survivor is entitled on a form
43 prescribed by the office; provided, however, such sexual assault survi-
44 vor shall be advised orally and in writing that he or she may decline to
45 provide such information regarding private health insurance benefits if
46 he or she believes that the provision of such information would substan-
47 tially interfere with his or her personal privacy or safety and in such
48 event, the sexual assault forensic exam fee shall be paid by the office.
49 Such sexual assault survivor shall also be advised that providing such
50 information may provide additional resources to pay for services to
51 other sexual assault victims. If he or she declines to provide such
52 health insurance information, he or she shall indicate such decision on
53 the form provided by the hospital, sexual assault examiner program or
54 licensed health care provider, which form shall be prescribed by the
55 office.

1 S 2-c. Subsection (i) of section 3216 of the insurance law is amended
2 by adding a new paragraph 34 to read as follows:

3 (34) HEALTH CARE FORENSIC EXAMINATIONS PERFORMED PURSUANT TO SECTION
4 TWENTY-EIGHT HUNDRED FIVE-I OF THE PUBLIC HEALTH LAW COVERED UNDER THE
5 POLICY SHALL NOT BE SUBJECT TO ANNUAL DEDUCTIBLES OR COINSURANCE.

6 S 2-d. Subsection (l) of section 3221 of the insurance law is amended
7 by adding a new paragraph 20 to read as follows:

8 (20) HEALTH CARE FORENSIC EXAMINATIONS PERFORMED PURSUANT TO SECTION
9 TWENTY-EIGHT HUNDRED FIVE-I OF THE PUBLIC HEALTH LAW COVERED UNDER THE
10 POLICY SHALL NOT BE SUBJECT TO ANNUAL DEDUCTIBLES OR COINSURANCE.

11 S 2-e. Section 4303 of the insurance law is amended by adding a new
12 subsection (rr) to read as follows:

13 (RR) HEALTH CARE FORENSIC EXAMINATIONS PERFORMED PURSUANT TO SECTION
14 TWENTY-EIGHT HUNDRED FIVE-I OF THE PUBLIC HEALTH LAW COVERED UNDER THE
15 CONTRACT SHALL NOT BE SUBJECT TO ANNUAL DEDUCTIBLES OR COINSURANCE.

16 S 3. This act shall take effect immediately and shall apply to all
17 policies and contracts issued, renewed, modified, altered or amended on
18 or after the first of January next succeeding such effective date.

19 SUBPART H

20 Section 1. Section 292 of the executive law is amended by adding a new
21 subdivision 35 to read as follows:

22 35. THE TERM "EDUCATIONAL INSTITUTION" SHALL MEAN:

23 (A) ANY EDUCATION CORPORATION OR ASSOCIATION WHICH HOLDS ITSELF OUT TO
24 THE PUBLIC TO BE NON-SECRETARIAN AND EXEMPT FROM TAXATION PURSUANT TO
25 THE PROVISIONS OF ARTICLE FOUR OF THE REAL PROPERTY TAX LAW; OR

26 (B) ANY PUBLIC SCHOOL, INCLUDING ANY SCHOOL DISTRICT, BOARD OF COOPER-
27 ATIVE EDUCATION SERVICES, PUBLIC COLLEGE OR PUBLIC UNIVERSITY.

28 S 2. Subdivision 4 of section 296 of the executive law, as amended by
29 chapter 106 of the laws of 2003, is amended to read as follows:

30 4. It shall be an unlawful discriminatory practice for an [education
31 corporation or association which holds itself out to the public to be
32 non-sectarian and exempt from taxation pursuant to the provisions of
33 article four of the real property tax law] EDUCATIONAL INSTITUTION to
34 deny the use of its facilities to any person otherwise qualified, or to
35 permit the harassment of any student or applicant, by reason of his
36 race, color, religion, disability, national origin, sexual orientation,
37 military status, sex, age or marital status, except that any such insti-
38 tution which establishes or maintains a policy of educating persons of
39 one sex exclusively may admit students of only one sex.

40 S 3. This act shall take effect immediately.

41 SUBPART I

42 SUBPART I

43 Section 1. The executive law is amended by adding a new section 294-d
44 to read as follows:

45 S 294-D. DISCRIMINATION AND SEXUAL HARASSMENT FORM. THE DIVISION SHALL
46 PROMULGATE A FORM WHICH SHALL RECORD THE FOLLOWING: (A) THE NUMBER OF
47 UNLAWFUL DISCRIMINATORY PRACTICES, DISCRIMINATION AND SEXUAL HARASSMENT
48 ALLEGATIONS BY CATEGORY, THE NUMBER OF INVESTIGATIONS CONDUCTED, AND THE
49 OUTCOMES OF SUCH INVESTIGATIONS IN THE PREVIOUS CALENDAR YEAR; (B) THE
50 NUMBER OF SETTLEMENT AGREEMENTS, AND THE NUMBER OF SUCH AGREEMENTS

1 CONTAINING NONDISCLOSURE PROVISIONS THAT HAVE BEEN EXECUTED BY THE AGEN-
2 CY OR ITS REPRESENTATIVES IN THE PREVIOUS CALENDAR YEAR WHERE SUCH
3 SETTLEMENT AGREEMENT RESOLVES ANY UNLAWFUL DISCRIMINATORY PRACTICES,
4 DISCRIMINATION OR SEXUAL HARASSMENT CLAIM ASSERTED AGAINST OR COMMITTED
5 BY ANY EMPLOYEE; AND (C) A DESCRIPTION OF ALL TRAINING PROVIDED TO
6 EMPLOYEES RELATING TO DISCRIMINATION, INCLUDING SEXUAL HARASSMENT
7 PREVENTION IN THE WORKPLACE IN THE PREVIOUS CALENDAR YEAR. SUCH FORM
8 SHALL BE POSTED ON THE DIVISION'S WEBSITE.

9 S 2. The executive law is amended by adding a new section 170-c to
10 read as follows:

11 S 170-C. REPORTING OF DISCRIMINATION AND SEXUAL HARASSMENT VIOLATIONS
12 BY AGENCIES. 1. AS USED IN THIS SECTION, THE FOLLOWING TERM SHALL HAVE
13 THE FOLLOWING MEANING UNLESS OTHERWISE SPECIFIED:

14 "AGENCY" SHALL MEAN ANY STATE OR MUNICIPAL DEPARTMENT, BOARD, BUREAU,
15 DIVISION, COMMISSION, COMMITTEE, PUBLIC AUTHORITY, PUBLIC CORPORATION,
16 COUNCIL, OFFICE OR OTHER GOVERNMENTAL ENTITY PERFORMING A GOVERNMENTAL
17 OR PROPRIETARY FUNCTION FOR THE STATE OR ANY ONE OR MORE MUNICIPALITIES
18 THEREOF.

19 2. ALL AGENCIES SHALL SUBMIT A REPORT TO THE DIVISION OF HUMAN RIGHTS
20 NO LATER THAN JUNE THIRTIETH OF EACH YEAR CONTAINING INFORMATION RELATED
21 TO THE ISSUE OF UNLAWFUL DISCRIMINATORY PRACTICES AS SUCH TERM IS
22 DEFINED IN SECTION TWO HUNDRED NINETY-TWO OF THIS CHAPTER, DISCRIMI-
23 NATION, AND SEXUAL HARASSMENT IN THE WORKPLACE, WHICH SHALL INCLUDE THE
24 FOLLOWING: (A) THE NUMBER OF UNLAWFUL DISCRIMINATORY PRACTICES, DISCRIM-
25 INATION OR SEXUAL HARASSMENT ALLEGATIONS BY CATEGORY, THE NUMBER OF
26 INVESTIGATIONS CONDUCTED, AND THE OUTCOMES OF SUCH INVESTIGATIONS IN THE
27 PREVIOUS CALENDAR YEAR; (B) THE NUMBER OF SETTLEMENT AGREEMENTS, AND THE
28 NUMBER OF SUCH AGREEMENTS CONTAINING NONDISCLOSURE PROVISIONS THAT HAVE
29 BEEN EXECUTED BY THE AGENCY OR ITS REPRESENTATIVES IN THE PREVIOUS
30 CALENDAR YEAR WHERE SUCH SETTLEMENT AGREEMENT RESOLVES ANY UNLAWFUL
31 DISCRIMINATORY PRACTICES, AS SUCH TERM IS DEFINED IN SECTION TWO HUNDRED
32 NINETY-TWO OF THIS CHAPTER, DISCRIMINATION OR SEXUAL HARASSMENT CLAIM
33 ASSERTED AGAINST OR COMMITTED BY ANY EMPLOYEE; AND (C) A DESCRIPTION OF
34 ALL TRAINING PROVIDED TO EMPLOYEES RELATING TO DISCRIMINATION, INCLUDING
35 SEXUAL HARASSMENT PREVENTION IN THE WORKPLACE IN THE PREVIOUS CALENDAR
36 YEAR. SUCH REPORT SHALL NOT CONTAIN ANY INDIVIDUALLY IDENTIFYING INFOR-
37 MATION OF ANY VICTIM OF UNLAWFUL DISCRIMINATORY PRACTICES, AS SUCH TERM
38 IS DEFINED IN SECTION TWO HUNDRED NINETY-TWO OF THIS CHAPTER, DISCRIMI-
39 NATION OR SEXUAL HARASSMENT. SUCH REPORT SHALL BE SUBMITTED USING THE
40 FORM PROMULGATED BY THE DIVISION OF HUMAN RIGHTS PURSUANT TO SECTION TWO
41 HUNDRED NINETY-FOUR-D OF THIS CHAPTER.

42 S 3. The tax law is amended by adding a new section 210-E to read as
43 follows:

44 S 210-E. REPORTING OF DISCRIMINATION AND SEXUAL HARASSMENT VIOLATIONS.
45 1. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING
46 MEANINGS UNLESS OTHERWISE SPECIFIED:

47 (A) "AGENCY" SHALL MEAN ANY STATE OR LOCAL GOVERNMENT, INCLUDING BUT
48 NOT LIMITED TO, A COUNTY, CITY, TOWN, VILLAGE, FIRE DISTRICT OR SPECIAL
49 DISTRICT OR ANY OTHER GOVERNMENTAL ENTITY PERFORMING A GOVERNMENTAL OR
50 PROPRIETARY FUNCTION FOR THE STATE OR ANY ONE OR MORE MUNICIPALITIES
51 THEREOF AND IS AUTHORIZED TO IMPOSE TAX UNDER THIS CHAPTER.

52 (B) "OWNER" SHALL MEAN AN OWNER OF A BUSINESS ENTITY, WHICH INCLUDES,
53 BUT IS NOT LIMITED TO, A SHAREHOLDER OF A CORPORATION THAT IS NOT
54 PUBLICLY TRADED, A PARTNER IN A PARTNERSHIP OR LIMITED LIABILITY PART-
55 NERSHIP, A MEMBER OF A LIMITED LIABILITY COMPANY, A GENERAL PARTNER OR
56 LIMITED PARTNER OF A LIMITED PARTNERSHIP.

1 (C) "MANAGER" SHALL MEAN A DIRECTOR OR EXECUTIVE OFFICER OF A BUSINESS
2 ENTITY, WHICH INCLUDES, BUT IS NOT LIMITED TO, A DIRECTOR OF A CORPO-
3 RATION OR A MANAGER OF A LIMITED LIABILITY COMPANY.

4 (D) "TAX CREDIT" SHALL MEAN THE AMOUNT REQUESTED BY THE TAXPAYER FOR
5 REFUND OR OTHERWISE DETERMINED TO BE IN EXCESS OF THAT OWED WITH RESPECT
6 TO ANY TAX IMPOSED UNDER THIS CHAPTER.

7 2. A TAXPAYER WHO IS ENTITLED TO ANY CREDIT FROM ANY AGENCY SHALL
8 SUBMIT A REPORT TO SUCH AGENCY NO LATER THAN JUNE THIRTIETH OF EACH
9 YEAR, AND THE AGENCY SHALL TRANSMIT SUCH REPORT TO THE DIVISION OF HUMAN
10 RIGHTS, CONTAINING INFORMATION RELATED TO THE ISSUE OF UNLAWFUL DISCRI-
11 MINATORY PRACTICES AS SUCH TERM IS DEFINED IN SECTION TWO HUNDRED NINE-
12 TY-TWO OF THE EXECUTIVE LAW, DISCRIMINATION, AND SEXUAL HARASSMENT IN
13 THE WORKPLACE, WHICH SHALL INCLUDE THE FOLLOWING: (A) THE NUMBER OF
14 UNLAWFUL DISCRIMINATORY PRACTICES, AS SUCH TERM IS DEFINED IN SECTION
15 TWO HUNDRED NINETY-TWO OF THE EXECUTIVE LAW, DISCRIMINATION, AND SEXUAL
16 HARASSMENT ALLEGATIONS BY CATEGORY, THE NUMBER OF INVESTIGATIONS
17 CONDUCTED, AND THE OUTCOMES OF SUCH INVESTIGATIONS IN THE PREVIOUS
18 CALENDAR YEAR; (B) THE NUMBER OF SETTLEMENT AGREEMENTS, AND THE NUMBER
19 OF SUCH AGREEMENTS CONTAINING NONDISCLOSURE PROVISIONS, THAT HAVE BEEN
20 EXECUTED BY THE ENTITY OR ITS REPRESENTATIVES IN THE PREVIOUS CALENDAR
21 YEAR WHERE SUCH SETTLEMENT AGREEMENT RESOLVES ANY UNLAWFUL DISCRIMINATO-
22 RY PRACTICE, AS SUCH TERM IS DEFINED IN SECTION TWO HUNDRED NINETY-TWO
23 OF THE EXECUTIVE LAW, DISCRIMINATION, OR SEXUAL HARASSMENT CLAIM
24 ASSERTED AGAINST OR COMMITTED BY ANY OWNER, MANAGER, OR EMPLOYEE; AND
25 (C) A DESCRIPTION OF ALL TRAINING PROVIDED TO AN OWNER, MANAGER, OR
26 EMPLOYEES RELATING TO DISCRIMINATION, INCLUDING SEXUAL HARASSMENT
27 PREVENTION IN THE WORKPLACE. SUCH REPORT SHALL NOT CONTAIN ANY INDIVID-
28 UALLY IDENTIFYING INFORMATION OF ANY VICTIM OF UNLAWFUL DISCRIMINATORY
29 PRACTICE AS SUCH TERM IS DEFINED IN SECTION TWO HUNDRED NINETY-TWO OF
30 THE EXECUTIVE LAW, DISCRIMINATION, OR SEXUAL HARASSMENT. SUCH REPORT
31 SHALL BE SUBMITTED USING THE FORM PROMULGATED BY THE DIVISION OF HUMAN
32 RIGHTS PURSUANT TO SECTION TWO HUNDRED NINETY-FOUR-D OF THE EXECUTIVE
33 LAW.

34 3. IF SUCH ENTITY DOES NOT SUBMIT THE REPORT REQUIRED BY SUBDIVISION
35 TWO OF THIS SECTION, SUCH CREDIT SHALL NOT BE AWARDED TO SUCH ENTITY.

36 S 4. The state finance law is amended by adding a new section 148 to
37 read as follows:

38 S 148. REPORTING OF DISCRIMINATION AND SEXUAL HARASSMENT VIOLATIONS.
39 1. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING
40 MEANINGS UNLESS OTHERWISE SPECIFIED:

41 (A) "AGENCY" SHALL MEAN ANY STATE OR MUNICIPAL DEPARTMENT, BOARD,
42 BUREAU, DIVISION, COMMISSION, COMMITTEE, PUBLIC AUTHORITY, PUBLIC CORPO-
43 RATION, COUNCIL, OFFICE OR OTHER GOVERNMENTAL ENTITY PERFORMING A
44 GOVERNMENTAL OR PROPRIETARY FUNCTION FOR THE STATE OR ANY ONE OR MORE
45 MUNICIPALITIES THEREOF.

46 (B) "OWNER" SHALL MEAN AN OWNER OF A BUSINESS ENTITY, WHICH INCLUDES,
47 BUT IS NOT LIMITED TO, A SHAREHOLDER OF A CORPORATION THAT IS NOT
48 PUBLICLY TRADED, A PARTNER IN A PARTNERSHIP OR LIMITED LIABILITY PART-
49 NERSHIP, A MEMBER OF A LIMITED LIABILITY COMPANY, OR A GENERAL PARTNER
50 OR LIMITED PARTNER OF A LIMITED PARTNERSHIP.

51 (C) "MANAGER" SHALL MEAN A DIRECTOR OR EXECUTIVE OFFICER OF A BUSINESS
52 ENTITY, WHICH INCLUDES, BUT IS NOT LIMITED TO, A DIRECTOR OF A CORPO-
53 RATION OR A MANAGER OF A LIMITED LIABILITY COMPANY.

54 2. ANY CONTRACTOR TO WHOM ANY CONTRACT SHALL BE LET, GRANTED OR
55 AWARDED BY ANY AGENCY, AS REQUIRED BY LAW, SHALL SUBMIT A REPORT TO THE
56 AGENCY AND SUCH AGENCY SHALL TRANSMIT SUCH REPORT TO THE DIVISION OF

1 HUMAN RIGHTS NO LATER THAN JUNE THIRTIETH OF EACH YEAR CONTAINING INFOR-
2 MATION RELATED TO THE ISSUE OF UNLAWFUL DISCRIMINATORY PRACTICES, AS
3 SUCH TERM IS DEFINED IN SECTION TWO HUNDRED NINETY-TWO OF THE EXECUTIVE
4 LAW, DISCRIMINATION AND SEXUAL HARASSMENT IN THE WORKPLACE, WHICH SHALL
5 INCLUDE THE FOLLOWING: (A) THE NUMBER OF UNLAWFUL DISCRIMINATORY PRAC-
6 TICES, AS SUCH TERM IS DEFINED IN SECTION TWO HUNDRED NINETY-TWO OF THE
7 EXECUTIVE LAW, DISCRIMINATION AND SEXUAL HARASSMENT ALLEGATIONS BY CATE-
8 GORY, THE NUMBER OF INVESTIGATIONS CONDUCTED, AND THE OUTCOMES OF SUCH
9 INVESTIGATIONS IN THE PREVIOUS CALENDAR YEAR; (B) THE NUMBER OF SETTLE-
10 MENT AGREEMENTS, AND THE NUMBER OF SUCH AGREEMENTS CONTAINING NONDISCLO-
11 SURE PROVISIONS, THAT HAVE BEEN EXECUTED BY THE CONTRACTOR OR ITS REPRE-
12 SENTATIVES IN THE PREVIOUS CALENDAR YEAR WHERE SUCH SETTLEMENT AGREEMENT
13 RESOLVES ANY UNLAWFUL DISCRIMINATORY PRACTICES, AS SUCH TERM IS DEFINED
14 IN SECTION TWO HUNDRED NINETY-TWO OF THE EXECUTIVE LAW, DISCRIMINATION,
15 OR SEXUAL HARASSMENT CLAIM ASSERTED AGAINST OR COMMITTED BY ANY OWNER,
16 MANAGER, OR EMPLOYEE; AND (C) A DESCRIPTION OF ALL TRAINING PROVIDED TO
17 AN OWNER, MANAGER, OR EMPLOYEE RELATING TO UNLAWFUL DISCRIMINATORY PRAC-
18 TICES, AS SUCH TERM IS DEFINED IN SECTION TWO HUNDRED NINETY-TWO OF THE
19 EXECUTIVE LAW, OR DISCRIMINATION, INCLUDING SEXUAL HARASSMENT PREVENTION
20 IN THE WORKPLACE IN THE CALENDAR YEAR. SUCH REPORT SHALL NOT CONTAIN
21 ANY INDIVIDUALLY IDENTIFYING INFORMATION OF ANY VICTIM OF UNLAWFUL
22 DISCRIMINATORY PRACTICES, AS SUCH TERM IS DEFINED IN SECTION TWO HUNDRED
23 NINETY-TWO OF THE EXECUTIVE LAW, DISCRIMINATION, OR SEXUAL HARASSMENT.
24 SUCH REPORT SHALL BE SUBMITTED USING THE FORM PROMULGATED BY THE DIVI-
25 SION OF HUMAN RIGHTS PURSUANT TO SECTION TWO HUNDRED NINETY-FOUR-D OF
26 THE EXECUTIVE LAW.

27 3. IF SUCH CONTRACTOR DOES NOT SUBMIT THE REPORT REQUIRED BY SUBDIVI-
28 SION TWO OF THIS SECTION, SUCH CONTRACT SHALL NOT BE LET, GRANTED, OR
29 AWARDED TO SUCH CONTRACTOR.

30 S 5. The executive law is amended by adding a new section 295-a to
31 read as follows:

32 S 295-A. REPORTING OF DISCRIMINATION AND SEXUAL HARASSMENT VIOLATIONS.

33 1. THE DIVISION SHALL RECEIVE AND ANALYZE ALL REPORTS SUBMITTED PURSUANT
34 TO SECTION ONE HUNDRED SEVENTY-D OF THIS CHAPTER, SECTION TWO HUNDRED
35 TEN-E OF THE TAX LAW, AND SECTION ONE HUNDRED FORTY-EIGHT OF THE STATE
36 FINANCE LAW.

37 2. THE DIVISION SHALL PREPARE AN ANNUAL REPORT FROM THE INFORMATION
38 SUBMITTED PURSUANT TO SECTION ONE HUNDRED SEVENTY-D OF THIS CHAPTER,
39 SECTION TWO HUNDRED TEN-E OF THE TAX LAW, AND SECTION ONE HUNDRED
40 FORTY-EIGHT OF THE STATE FINANCE LAW, WHICH IDENTIFIES THE AGGREGATE
41 NUMBER OF UNLAWFUL DISCRIMINATORY PRACTICES, DISCRIMINATION AND SEXUAL
42 HARASSMENT ALLEGATIONS, BY CATEGORY, THE AGGREGATE NUMBER OF INVESTI-
43 GATIONS CONDUCTED, THE AGGREGATE NUMBER OF SETTLEMENT AGREEMENTS, AND
44 THE AGGREGATE NUMBER OF SUCH AGREEMENTS CONTAINING NONDISCLOSURE
45 PROVISIONS, AND THE AGGREGATE NUMBER OF AGENCIES PROVIDING TRAINING ON
46 UNLAWFUL DISCRIMINATORY PRACTICES, AND DISCRIMINATION INCLUDING SEXUAL
47 HARASSMENT PREVENTION IN THE WORKPLACE AS REPORTED DURING THE PRECEDING
48 CALENDAR YEAR. SUCH REPORT SHALL BE PROVIDED TO THE GOVERNOR, THE SPEAK-
49 ER OF THE ASSEMBLY, AND THE TEMPORARY PRESIDENT OF THE SENATE ON OR
50 BEFORE NOVEMBER FIRST OF EACH YEAR COMMENCING WITH THE NOVEMBER FIRST IN
51 THE YEAR IMMEDIATELY FOLLOWING THE EFFECTIVE DATE OF THIS SECTION. SUCH
52 REPORT SHALL ALSO BE POSTED ON THE WEBSITE OF THE DIVISION OF HUMAN
53 RIGHTS.

54 S 6. Section 7504 of the civil practice law and rules is amended to
55 read as follows:

1 S 7504. [Court appointment] APPOINTMENT of arbitrator. 1. IF AN ARBI-
2 TRATION AGREEMENT PROVIDES FOR THE METHOD OF APPOINTMENT OF AN ARBITRA-
3 TOR, SUCH ARBITRATOR MUST BE A NEUTRAL THIRD-PARTY ARBITRATOR; PROVIDED,
4 HOWEVER, THAT ANY PORTION OF AN AGREEMENT OR CONTRACT REQUIRING THE
5 CONTROVERSY CONCERNING EMPLOYMENT BE SUBMITTED TO AN ARBITRATOR OR ARBI-
6 TRATION ORGANIZATION THAT IS NOT A NEUTRAL THIRD-PARTY ARBITRATOR, SHALL
7 BE DEEMED VOID. THE REQUIREMENT THAT THE CONTROVERSY BE HEARD BY A
8 NEUTRAL THIRD-PARTY ARBITRATOR MAY NOT BE WAIVED BY A PARTY PRIOR TO THE
9 SERVICE ON SUCH PARTY OF A DEMAND FOR ARBITRATION.

10 2. If the arbitration agreement does not provide for a method of
11 appointment of an arbitrator, or if the agreed method fails or for any
12 reason is not followed, or if an arbitrator fails to act and his OR HER
13 successor has not been appointed, the court, on application of a party,
14 shall appoint [an] A NEUTRAL THIRD-PARTY arbitrator. APPOINTMENT OF ANY
15 ARBITRATOR SHALL REASONABLY ENSURE THE PERSONAL OBJECTIVITY OF THE ARBI-
16 TRATOR.

17 3. (A) BEFORE THE APPOINTMENT OF AN INDIVIDUAL WHO IS REQUESTED TO
18 SERVE AS AN ARBITRATOR, AND AFTER MAKING A REASONABLE INQUIRY, SUCH
19 INDIVIDUAL SHALL DISCLOSE TO ALL PARTIES TO THE AGREEMENT TO ARBITRATE
20 AND THE ARBITRATION PROCEEDING, AND TO ANY OTHER ARBITRATORS, ANY KNOWN
21 FACTS THAT A REASONABLE PERSON WOULD CONSIDER LIKELY TO AFFECT THE
22 IMPARTIALITY OF THE ARBITRATOR IN THE ARBITRATION PROCEEDING, INCLUDING:

23 (I) A FINANCIAL OR PERSONAL INTEREST IN THE OUTCOME OF THE ARBITRATION
24 PROCEEDING; OR

25 (II) AN EXISTING OR PAST RELATIONSHIP WITH ANY OF THE PARTIES TO THE
26 AGREEMENT TO ARBITRATE OR THE ARBITRATION PROCEEDING, HIS OR HER COUNSEL
27 OR REPRESENTATIVES, A WITNESS, OR ANOTHER ARBITRATOR.

28 (B) AN ARBITRATOR HAS A CONTINUING OBLIGATION TO DISCLOSE TO ALL
29 PARTIES TO THE AGREEMENT TO ARBITRATE AND THE ARBITRATION PROCEEDING,
30 AND TO ANY OTHER ARBITRATORS ANY FACTS THAT THE ARBITRATOR LEARNS AFTER
31 ACCEPTING APPOINTMENT WHICH A REASONABLE PERSON WOULD CONSIDER LIKELY TO
32 AFFECT THE IMPARTIALITY OF THE ARBITRATOR.

33 (C) IF AN ARBITRATOR DISCLOSES A FACT REQUIRED BY PARAGRAPHS (A) OR
34 (B) OF THIS SUBDIVISION AND A PARTY TIMELY OBJECTS TO THE APPOINTMENT OR
35 CONTINUED SERVICE OF THE ARBITRATOR BASED UPON THE FACT DISCLOSED, THE
36 OBJECTION MAY BE A GROUND FOR VACATING AN AWARD MADE BY THE ARBITRATOR.

37 (D) IF THE ARBITRATOR DID NOT DISCLOSE A FACT AS REQUIRED BY PARA-
38 GRAPHS (A) OR (B) OF THIS SUBDIVISION, UPON TIMELY OBJECTION BY A PARTY,
39 THE COURT MAY VACATE AN AWARD BASED ON SUCH NON-DISCLOSURE.

40 (E) AN ARBITRATOR APPOINTED AS A NEUTRAL ARBITRATOR WHO DOES NOT
41 DISCLOSE A KNOWN, DIRECT AND MATERIAL INTEREST IN THE OUTCOME OF THE
42 ARBITRATION PROCEEDING OR A KNOWN, EXISTING AND SUBSTANTIAL RELATIONSHIP
43 WITH A PARTY IS PRESUMED TO ACT WITH EVIDENT PARTIALITY IN RENDERING AN
44 AWARD.

45 4. UPON DISCLOSURE PURSUANT TO SUBDIVISION THREE OF THIS SECTION, A
46 PARTY SHALL BE DEEMED TO HAVE WAIVED ANY OBJECTION TO THE ARBITRATOR OR
47 COMPOSITION OF ANY ARBITRATION PANEL, BY FAILING TO RAISE SAME PRIOR TO
48 THE COMMENCEMENT OF THE ARBITRATION HEARING.

49 S 7. Section 7506 of the civil practice law and rules is amended to
50 read as follows:

51 S 7506. Hearing. (a) Oath of arbitrator. Before hearing any testimony,
52 an arbitrator shall be sworn to hear and decide the controversy faith-
53 fully and fairly by an officer authorized to administer an oath.

54 (b) Time and place. The arbitrator shall appoint a time and place for
55 the hearing and notify the parties in writing personally or by regis-
56 tered or certified mail not less than eight days before the hearing. The

1 arbitrator may adjourn or postpone the hearing. The court, upon applica-
2 tion of any party, may direct the arbitrator to proceed promptly with
3 the hearing and determination of the controversy.

4 (c) Evidence. The parties are entitled to be heard, to present
5 evidence and to cross-examine witnesses.

6 (D) POSTPONEMENTS AND ADJOURNMENTS. THE ARBITRATOR MAY FOR GOOD CAUSE
7 POSTPONE OR ADJOURN THE HEARING UPON REQUEST OF A PARTY OR UPON THE
8 ARBITRATOR'S OWN INITIATIVE. Notwithstanding the failure of a party duly
9 notified to appear, the arbitrator may hear and determine the controver-
10 sy upon the evidence produced. IF A PARTY TO AN ARBITRATION INTENDS TO
11 PRESENT TESTIMONY FROM A WITNESS AT THE HEARING, ABSENT GOOD CAUSE
12 SHOWN, THE IDENTITY OF SUCH WITNESS MUST BE GIVEN TO ALL PARTIES AT
13 LEAST SEVEN CALENDAR DAYS PRIOR TO THE HEARING.

14 [(d)] (E) Representation by attorney. A party has the right to be
15 represented by an attorney and may claim such right at any time as to
16 any part of the arbitration or hearings which have not taken place. This
17 right may not be waived. If a party is represented by an attorney,
18 papers to be served on the party shall be served upon his OR HER attor-
19 ney. IT SHALL BE DISCRETIONARY WITH THE ARBITRATOR TO PERMIT THE ATTEND-
20 ANCE OF ANY OTHER PERSONS.

21 [(e)] (F) Determination by majority. The hearing shall be conducted by
22 all the arbitrators, but a majority may determine any question and
23 render an award.

24 [(f)] (G) Waiver. Except as provided in subdivision [(d)](E), a
25 requirement of this section may be waived by written consent of the
26 parties and it is waived if the parties continue with the arbitration
27 without objection.

28 S 8. Section 7507 of the civil practice law and rules, as amended by
29 chapter 952 of the laws of 1981, is amended to read as follows:

30 S 7507. Award; form; time; delivery. (A) Except as provided in section
31 7508, the award shall be in writing, AND SHALL STATE THE ISSUES IN
32 DISPUTE AND CONTAIN THE ARBITRATOR'S FINDINGS OF FACT AND CONCLUSIONS OF
33 LAW. SUCH AWARD SHALL CONTAIN A DECISION ON ALL ISSUES SUBMITTED TO THE
34 ARBITRATOR, AND SHALL BE signed and affirmed by the arbitrator making it
35 within the time fixed by the agreement, or, if the time is not fixed,
36 within such time as the court orders.

37 (B) The parties may in writing extend the time either before or after
38 its expiration. A party waives the objection that an award was not made
39 within the time required unless he OR SHE notifies the arbitrator in
40 writing of his OR HER objection prior to the delivery of the award to
41 him OR HER.

42 (C) The arbitrator shall deliver a copy of the award to each party in
43 the manner provided in the agreement, or, if no provision is so made,
44 personally or by registered or certified mail, return receipt requested.

45 S 9. Subparagraph (iv) of paragraph 1 of subdivision (b) of section
46 7511 of the civil practice law and rules is amended and a new subpara-
47 graph (v) is added to read as follows:

48 (iv) failure to follow the procedure of this article, unless the party
49 applying to vacate the award continued with the arbitration with notice
50 of the defect and without objection[.]; OR

51 (V) THE ARBITRATOR EVIDENCED A MANIFEST DISREGARD OF THE LAW IN
52 RENDERING THE AWARD.

53 S 10. The civil practice law and rules is amended by adding a new
54 section 7515 to read as follows:

55 S 7515. PROHIBITED PROVISIONS. PROHIBITION OF EFFECT OF CERTAIN ARBI-
56 TRATION CLAUSES OR AGREEMENTS. MANDATORY ARBITRATION CLAUSES OR AGREE-

1 MENTS COVERING EMPLOYEE OR INDEPENDENT CONTRACTOR DISPUTES INVOLVING A
2 CLAIM OF DISCRIMINATION, INCLUDING ONE BASED ON SEXUAL HARASSMENT, ARE
3 CONTRARY TO THE ESTABLISHED PUBLIC POLICY OF THIS STATE. EXCEPT WHEN
4 INCONSISTENT WITH FEDERAL LAW, THE STATE PROHIBITS THE FORMATION AND
5 ENFORCEMENT OF MANDATORY ARBITRATION AGREEMENTS INVOLVING A CLAIM OF
6 DISCRIMINATION, INCLUDING ONE BASED ON SEXUAL HARASSMENT.

7 S 11. Enforcement. Any private person and any enforcement agency or
8 official responsible for enforcing the provisions of sections six,
9 seven, eight, nine, or ten of this act may bring suit for injunctive
10 relief against an entity that violates such provisions, and may recover
11 reasonable attorney fees and other costs if an injunction or equivalent
12 relief is awarded. Injunctive relief shall be the only relief available
13 in a suit arising from failure to comply with this act.

14 S 12. The executive law is amended by adding a new section 170-d to
15 read as follows:

16 S 170-D. PROHIBITING STATE AND LOCAL AGENCIES FROM ENTERING INTO
17 CONTRACTS WITH CONTRACTORS THAT REQUIRE CERTAIN MANDATORY ARBITRATION
18 AGREEMENTS. 1. NOTWITHSTANDING ANY INCONSISTENT PROVISIONS OF ANY GENER-
19 AL OR SPECIAL LAW OR RESOLUTION, NO AGENCY SHALL CONTRACT OR RENEW A
20 CONTRACT FOR THE SUPPLY OF GOODS, SERVICES, OR CONSTRUCTION WITH ANY
21 CONTRACTOR THAT UTILIZES AN EMPLOYMENT OR INDEPENDENT CONTRACTOR
22 CONTRACT WHICH REQUIRES EMPLOYEES OR INDEPENDENT CONTRACTORS TO AGREE TO
23 MANDATORY ARBITRATION FOR ANY DISPUTES INVOLVING A CLAIM OF UNLAWFUL
24 DISCRIMINATORY PRACTICES, AS SUCH TERM IS DEFINED IN SECTION TWO HUNDRED
25 NINETY-TWO OF THE EXECUTIVE LAW, OR DISCRIMINATION, INCLUDING SEXUAL
26 HARASSMENT.

27 2. ANY CONTRACTOR SUPPLYING GOODS, SERVICES, OR CONSTRUCTION SHALL
28 CERTIFY THAT IT IS IN COMPLIANCE WITH THE REQUIREMENTS OF SUBDIVISION
29 ONE OF THIS SECTION. SUCH CERTIFICATION SHALL BE FILED WITH THE AGENCY.

30 3. UPON RECEIVING INFORMATION THAT A CONTRACTOR WHO HAS MADE THE
31 CERTIFICATION REQUIRED BY THIS SECTION IS IN VIOLATION THEREOF, THE
32 AGENCY SHALL REVIEW SUCH INFORMATION, NOTIFY SUCH CONTRACTOR, AND OFFER
33 SUCH CONTRACTOR AN OPPORTUNITY TO BE HEARD. IF SUCH AGENCY FINDS THAT A
34 VIOLATION HAS OCCURRED, IT SHALL TAKE SUCH ACTION AS MAY BE APPROPRIATE
35 AND PROVIDED FOR BY LAW, RULE OR REGULATION, OR CONTRACT, INCLUDING, BUT
36 NOT LIMITED TO, IMPOSING SANCTIONS, SEEKING COMPLIANCE, RECOVERING
37 DAMAGES, DECLARING THE CONTRACTOR IN DEFAULT, AND SEEKING DEBARMENT OR
38 SUSPENSION OF THE CONTRACTOR.

39 4. FOR THE PURPOSES OF THIS SECTION, "AGENCY" SHALL MEAN ANY STATE OR
40 MUNICIPAL DEPARTMENT, BOARD, BUREAU, DIVISION, COMMISSION, COMMITTEE,
41 PUBLIC AUTHORITY, PUBLIC CORPORATION, COUNCIL, OFFICE OR OTHER GOVERN-
42 MENTAL ENTITY PERFORMING A GOVERNMENTAL OR PROPRIETARY FUNCTION FOR THE
43 STATE OR ANY ONE OR MORE MUNICIPALITIES THEREOF.

44 S 13. The labor law is amended by adding a new section 211-b to read
45 as follows:

46 S 211-B. CONTRACTS; CERTAIN PROVISIONS PROHIBITED. A PROVISION IN ANY
47 EMPLOYMENT CONTRACT BOTH PUBLIC AND PRIVATE, OR CONTRACT WITH ANY INDE-
48 PENDENT CONTRACTOR, WAIVING ANY SUBSTANTIVE OR PROCEDURAL RIGHT OR REME-
49 DY RELATING TO A CLAIM OF DISCRIMINATION, RETALIATION, OR HARASSMENT IN
50 EMPLOYMENT SHALL BE DEEMED UNCONSCIONABLE, VOID AND UNENFORCEABLE, WITH
51 RESPECT TO ANY SUCH CLAIM ARISING AFTER THE WAIVER IS MADE. NO RIGHT OR
52 REMEDY ARISING UNDER THIS SECTION, THIS CHAPTER, COMMON LAW, ANY OTHER
53 PROVISION OF LAW OR RULE OF PROCEDURE OR THE CONSTITUTION SHALL BE PROS-
54 PECTIVELY WAIVED. THIS SECTION SHALL NOT RENDER VOID OR UNENFORCEABLE
55 THE REMAINDER OF SUCH CONTRACT OR AGREEMENT.

1 S 14. The public officers law is amended by adding a new section 17-a
2 to read as follows:

3 S 17-A. REIMBURSEMENT OF FUNDS PAID BY STATE AGENCIES AND STATE ENTI-
4 TIES FOR THE PAYMENT OF AWARDS ADJUDICATED IN DISCRIMINATION CLAIMS. 1.
5 NOTWITHSTANDING ANY LAW TO THE CONTRARY, ANY OFFICER OR EMPLOYEE ENTI-
6 TLED TO DEFENSE AND INDEMNIFICATION PURSUANT TO SECTION SEVENTEEN OF
7 THIS ARTICLE, WHO IS ADJUDICATED TO HAVE PERSONALLY COMMITTED AN UNLAW-
8 FUL DISCRIMINATORY PRACTICE AS SUCH TERM IS DEFINED IN SECTION TWO
9 HUNDRED NINETY-TWO OF THE EXECUTIVE LAW, INCLUDING SEXUAL HARASSMENT,
10 SHALL REIMBURSE ANY STATE AGENCY OR ENTITY THAT MAKES A PAYMENT TO A
11 PLAINTIFF FOR AN ADJUDICATED AWARD IN A DISCRIMINATION CLAIM RESULTING
12 IN A JUDGMENT, FOR HIS OR HER PROPORTIONATE SHARE OF SUCH JUDGEMENT.
13 SUCH OFFICER OR EMPLOYEE SHALL PERSONALLY REIMBURSE SUCH STATE AGENCY OR
14 ENTITY WITHIN NINETY DAYS OF THE STATE AGENCY OR ENTITY'S PAYMENT OF
15 SUCH AWARD.

16 2. IF SUCH OFFICER OR EMPLOYEE HAS FAILED TO REIMBURSE SUCH STATE
17 AGENCY OR ENTITY PURSUANT TO SUBDIVISION ONE OF THIS SECTION WITHIN
18 NINETY DAYS FROM THE DATE SUCH STATE AGENCY OR ENTITY MAKES A PAYMENT
19 FOR THE FINANCIAL AWARD, THE COMPTROLLER SHALL WITHHOLD FROM SUCH OFFI-
20 CER OR EMPLOYEE'S COMPENSATION THE AMOUNTS ALLOWABLE PURSUANT TO SECTION
21 FIFTY-TWO HUNDRED THIRTY-ONE OF THE CIVIL PRACTICE LAW AND RULES.

22 3. IF SUCH OFFICER OR EMPLOYEE IS NO LONGER EMPLOYED BY SUCH STATE
23 AGENCY OR ENTITY, SUCH STATE AGENCY OR ENTITY SHALL HAVE THE RIGHT TO
24 RECEIVE REIMBURSEMENT THROUGH THE ENFORCEMENT OF A MONEY JUDGEMENT
25 PURSUANT TO ARTICLE FIFTY-TWO OF THE CIVIL PRACTICE LAW AND RULES.

26 S 14-a. The public officers law is amended by adding a new section
27 18-a to read as follows:

28 S 18-A. REIMBURSEMENT OF FUNDS PAID BY A PUBLIC ENTITY FOR THE PAYMENT
29 OF AWARDS ADJUDICATED IN DISCRIMINATION CLAIMS. 1. AS USED IN THIS
30 SECTION:

31 A. THE TERM "PUBLIC ENTITY" SHALL MEAN (I) A COUNTY, CITY, TOWN,
32 VILLAGE OR ANY OTHER POLITICAL SUBDIVISION OR CIVIL DIVISION OF THE
33 STATE, (II) A SCHOOL DISTRICT, BOARD OF COOPERATIVE EDUCATIONAL
34 SERVICES, OR ANY OTHER GOVERNMENTAL ENTITY OR COMBINATION OR ASSOCIATION
35 OF GOVERNMENTAL ENTITIES OPERATING A PUBLIC SCHOOL, COLLEGE, COMMUNITY
36 COLLEGE OR UNIVERSITY, (III) A PUBLIC IMPROVEMENT OR SPECIAL DISTRICT,
37 (IV) A PUBLIC AUTHORITY, COMMISSION, AGENCY OR PUBLIC BENEFIT CORPO-
38 RATION, OR (V) ANY OTHER SEPARATE CORPORATE INSTRUMENTALITY OR UNIT OF
39 GOVERNMENT; BUT SHALL NOT INCLUDE THE STATE OF NEW YORK.

40 B. THE TERM "EMPLOYEE" SHALL MEAN ANY COMMISSIONER, MEMBER OF A PUBLIC
41 BOARD OR COMMISSION, TRUSTEE, DIRECTOR, OFFICER, EMPLOYEE, VOLUNTEER
42 EXPRESSLY AUTHORIZED TO PARTICIPATE IN A PUBLICLY SPONSORED VOLUNTEER
43 PROGRAM, OR ANY OTHER PERSON HOLDING A POSITION BY ELECTION, APPOINTMENT
44 OR EMPLOYMENT IN THE SERVICE OF A PUBLIC ENTITY, WHETHER OR NOT COMPEN-
45 SATED. THE TERM "EMPLOYEE" SHALL INCLUDE A FORMER EMPLOYEE, HIS OR HER
46 ESTATE OR JUDICIALLY APPOINTED PERSONAL REPRESENTATIVE.

47 2. NOTWITHSTANDING ANY LAW TO THE CONTRARY, ANY EMPLOYEE ENTITLED TO
48 DEFENSE AND INDEMNIFICATION PURSUANT TO SECTION EIGHTEEN OF THIS ARTICLE
49 OR ANY OTHER STATE STATUTE, INCLUDING BUT NOT LIMITED TO, SECTIONS
50 FIFTY-K, FIFTY-L, FIFTY-M, AND FIFTY-N OF THE GENERAL MUNICIPAL LAW, WHO
51 IS ADJUDICATED TO HAVE PERSONALLY COMMITTED AN UNLAWFUL DISCRIMINATORY
52 PRACTICE, AS SUCH TERM IS DEFINED IN SECTION TWO HUNDRED NINETY-TWO OF
53 THE EXECUTIVE LAW, INCLUDING SEXUAL HARASSMENT, SHALL REIMBURSE ANY
54 PUBLIC ENTITY, THAT MAKES A PAYMENT TO A PLAINTIFF FOR AN ADJUDICATED
55 AWARD IN A DISCRIMINATION CLAIM RESULTING IN A JUDGMENT, FOR HIS OR HER
56 PROPORTIONATE SHARE OF SUCH JUDGEMENT. SUCH EMPLOYEE SHALL PERSONALLY

1 REIMBURSE SUCH PUBLIC ENTITY WITHIN NINETY DAYS OF THE PUBLIC ENTITY'S
2 PAYMENT OF SUCH AWARD.

3 3. IF SUCH EMPLOYEE FAILS TO REIMBURSE SUCH PUBLIC ENTITY PURSUANT TO
4 SUBDIVISION TWO OF THIS SECTION WITHIN NINETY DAYS FROM THE DATE SUCH
5 PUBLIC ENTITY MAKES A PAYMENT FOR THE FINANCIAL AWARD, THE CHIEF FISCAL
6 OFFICER OF SUCH PUBLIC ENTITY SHALL WITHHOLD FROM SUCH EMPLOYEE'S
7 COMPENSATION THE AMOUNTS ALLOWABLE PURSUANT TO SECTION FIFTY-TWO HUNDRED
8 THIRTY-ONE OF THE CIVIL PRACTICE LAW AND RULES.

9 4. IF SUCH EMPLOYEE IS NO LONGER EMPLOYED BY SUCH PUBLIC ENTITY, SUCH
10 PUBLIC ENTITY SHALL HAVE THE RIGHT TO RECEIVE REIMBURSEMENT THROUGH THE
11 ENFORCEMENT OF A MONEY JUDGEMENT PURSUANT TO ARTICLE FIFTY-TWO OF THE
12 CIVIL PRACTICE LAW AND RULES.

13 S 15. The civil practice law and rules is amended by adding a new
14 section 5003-b to read as follows:

15 S 5003-B. CONFIDENTIALITY PROVISIONS IN SETTLEMENT OF DISCRIMINATION
16 ACTIONS. (A) WHEN AN ACTION TO RECOVER DAMAGES BASED ON ALLEGATIONS OF
17 DISCRIMINATION IN VIOLATION OF LAWS PROHIBITING DISCRIMINATION, INCLUD-
18 ING BUT NOT LIMITED TO ARTICLE FIFTEEN OF THE EXECUTIVE LAW, HAS BEEN
19 SETTLED, ANY SETTLING PLAINTIFF MAY ELECT TO INCLUDE IN ANY SETTLEMENT
20 AGREEMENT PROVISIONS THAT REQUIRE ALL PARTIES TO KEEP THE DETAILS AND
21 PROVISIONS OF THE ACTION AND SETTLEMENT CONFIDENTIAL, AND SUCH
22 PROVISIONS SHALL BE ENFORCEABLE AGAINST ALL PARTIES.

23 (B) IF A SETTLING PLAINTIFF DOES NOT CHOOSE TO INCLUDE CONFIDENTIALITY
24 PROVISIONS IN THE SETTLEMENT AGREEMENT, NO DEFENDANT MAY REQUIRE SUCH
25 PROVISIONS BE INCLUDED.

26 S 16. The general obligations law is amended by adding a new section
27 5-336 to read as follows:

28 S 5-336. CONFIDENTIALITY PROVISIONS RELATED TO DISCRIMINATION. EVERY
29 CONTRACT, COVENANT, AGREEMENT OR UNDERSTANDING IN CONNECTION WITH
30 EMPLOYMENT THAT PROHIBITS AN EMPLOYEE, INTERN AS DEFINED IN SECTION TWO
31 HUNDRED NINETY-SIX-C OF THE EXECUTIVE LAW, OR COVERED INDIVIDUAL AS
32 DEFINED IN SECTION TWO HUNDRED NINETY-SIX-D OF THE EXECUTIVE LAW, (HERE-
33 INAFTER A "COMPLAINANT") FROM CONVEYING TO A GOVERNMENT ENTITY OR
34 DISCLOSING TO OR DISCUSSING WITH ANY THIRD-PARTY ALLEGATIONS THAT THE
35 COMPLAINANT WAS SUBJECTED TO UNLAWFUL DISCRIMINATION, UNLAWFUL DISCRIMI-
36 NATORY PRACTICES, OR RETALIATION RELATED TO SUCH UNLAWFUL DISCRIMINATION
37 SHALL BE VOID AND UNENFORCEABLE, PROVIDED THAT IF A COMPLAINANT CHOOSES
38 TO INCLUDE A CONFIDENTIALITY PROVISION IN AN AGREEMENT OR SETTLEMENT
39 RESOLVING A COMPLAINT REGARDING UNLAWFUL DISCRIMINATION, UNLAWFUL
40 DISCRIMINATORY PRACTICES, OR RETALIATION IN RELATION THERETO, AND THE
41 COMPLAINANT ASSERTS THAT THE AGREEMENT IS A MATTER OF PERSONAL PRIVACY
42 OR THAT THE DISCLOSURE OF THE AGREEMENT OR ITS TERMS OR THE DETAILS OF
43 THE UNDERLYING COMPLAINT WOULD CAUSE THE COMPLAINANT PERSONAL HARM, THEN
44 SUCH PROVISION IS ENFORCEABLE AGAINST ALL PARTIES AND AGAINST ANY
45 GOVERNMENT ENTITY TO WHICH THE AGREEMENT IS DISCLOSED.

46 S 17. The executive law is amended by adding a new section 294-b to
47 read as follows:

48 S 294-B. MODEL POLICY ON DISCRIMINATION, HARASSMENT, INCLUDING SEXUAL
49 HARASSMENT, AND RETALIATION. 1. THE DIVISION SHALL CREATE A MODEL POLI-
50 CY PROHIBITING DISCRIMINATION, UNLAWFUL DISCRIMINATORY PRACTICES,
51 INCLUDING SEXUAL HARASSMENT, AND RETALIATION. SUCH POLICY SHALL BE
52 AVAILABLE TO THE PUBLIC AND SHALL BE POSTED ON THE DIVISION'S WEBSITE.
53 SUCH POLICY SHALL:

54 A. PROHIBIT DISCRIMINATION, UNLAWFUL DISCRIMINATORY PRACTICES, AND
55 HARASSMENT BASED ON AN EMPLOYEE'S, INTERN'S OR COVERED INDIVIDUAL'S
56 CLASS, RACE, COLOR, SEX, NATIONAL ORIGIN, CREED, SEXUAL ORIENTATION,

1 AGE, DISABILITY, MILITARY STATUS, MARITAL STATUS, PREDISPOSING GENETIC
2 CHARACTERISTICS, OR DOMESTIC VIOLENCE VICTIM STATUS;

3 B. PROHIBIT RETALIATION AGAINST A PERSON WHO FILES A COMPLAINT, ACTS
4 AS A WITNESS, OR REPORTS DISCRIMINATION, UNLAWFUL DISCRIMINATORY PRAC-
5 TICES, OR HARASSMENT ON BEHALF OF ANOTHER EMPLOYEE, INTERN OR COVERED
6 INDIVIDUAL;

7 C. MANDATE THAT SUPERVISORS AND MANAGEMENT PERSONNEL WHO LEARN OF
8 PROHIBITED DISCRIMINATION, UNLAWFUL DISCRIMINATORY PRACTICES, OR HARASS-
9 MENT REPORT SUCH CLAIMS PURSUANT TO THE POLICY OF THE EMPLOYER, EMPLOY-
10 MENT AGENCY, OR LICENSING AGENCY;

11 D. MANDATE THAT TRAINING ON SUCH POLICY BE CONDUCTED AT LEAST EVERY
12 TWO YEARS FOR EACH EMPLOYEE OR INTERN;

13 (I) SUCH TRAINING SHALL INCLUDE, BUT NOT BE LIMITED TO, INFORMATION
14 ABOUT HOW TO FILE A COMPLAINT AND HOW TO ACCESS OTHER AVAILABLE RIGHTS
15 AND REMEDIES UNDER STATE AND FEDERAL LAWS;

16 (II) SEPARATE TRAINING SHALL BE PROVIDED TO SUPERVISORY STAFF THAT
17 SHALL INCLUDE A REVIEW OF THE INCREASED RESPONSIBILITIES OF SUCH STAFF
18 WHO ARE IN A POSITION OF AUTHORITY;

19 E. ESTABLISH A COMPLAINT PROCESS FOR ACCUSATIONS AGAINST EMPLOYEES,
20 INTERNS OR COVERED INDIVIDUALS THAT ALLOW ANY EMPLOYEE, INTERN OR
21 COVERED INDIVIDUAL WHO FEELS THAT HE OR SHE WAS DISCRIMINATED AGAINST OR
22 HARASSED TO ENGAGE IN SELF-HELP IF SO DESIRED, OR TO FILE A FORMAL
23 INTERNAL OR EXTERNAL COMPLAINT, WHEREBY EACH COMPLAINANT IS HEARD AND
24 TREATED WITH RESPECT, PROVIDED HOWEVER, THAT IT IS NOT NECESSARY FOR AN
25 EMPLOYEE TO ENGAGE IN SELF-HELP BEFORE FILING A COMPLAINT;

26 F. PROVIDE THAT ALL CLAIMS OF HARASSMENT AND DISCRIMINATION SHALL BE
27 INVESTIGATED AND SUCH INVESTIGATION SHALL REMAIN CONFIDENTIAL TO THE
28 FULLEST EXTENT POSSIBLE;

29 G. ESTABLISH A TIME FRAME FOR THE COMPLETION OF THE INVESTIGATION,
30 WHICH SHALL BE NO LATER THAN NINETY DAYS, UPON WHICH TIME A CONFIDENTIAL
31 REPORT SHALL BE WRITTEN WITH FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS;

32 H. PROVIDE THAT A FINAL DETERMINATION MUST BE MADE AS TO WHETHER THERE
33 WAS A VIOLATION OF THE EMPLOYER'S POLICIES AND IF DISCIPLINE IS
34 WARRANTED WITHIN A TIME FRAME ESTABLISHED IN THE POLICY, BUT NO LATER
35 THAN THIRTY DAYS. SUCH POLICY SHALL AFFORD THE ACCUSED THE RIGHT TO BE
36 PROVIDED A GENERAL SUMMARY OF THE INITIAL INVESTIGATION REPORT AND THE
37 RIGHT TO RESPOND, EITHER ORALLY OR IN WRITING;

38 I. ESTABLISH AN APPEALS PROCESS IN THE EVENT THAT EITHER PARTY CHOOSES
39 TO APPEAL THE FINDINGS OF THE FINAL DETERMINATION; AND

40 J. PROVIDE THAT ALL WRITTEN RECORDS AND REPORTS OF COMPLAINTS OR
41 INVESTIGATIONS OF DISCRIMINATION, UNLAWFUL DISCRIMINATORY PRACTICES, OR
42 HARASSMENT SHALL BE KEPT BY THE EMPLOYER FOR SEVEN YEARS.

43 2. EVERY EMPLOYER, EMPLOYMENT AGENCY, OR LICENSING AGENCY SHALL ADOPT
44 THE MODEL POLICY PROMULGATED PURSUANT TO SUBDIVISION ONE OF THIS SECTION
45 OR ESTABLISH A POLICY TO PREVENT DISCRIMINATION THAT EQUALS OR EXCEEDS
46 THE MINIMUM STANDARDS PROVIDED BY SUCH MODEL POLICY PROMULGATED PURSUANT
47 TO SUBDIVISION ONE OF THIS SECTION, PROVIDED, HOWEVER, THAT IF SUCH
48 EMPLOYER IS A STATE AGENCY WHERE THE HEAD OF SUCH AGENCY IS NOT
49 APPOINTED BY THE GOVERNOR, INCLUDING BUT NOT LIMITED TO, THE STATE
50 EDUCATION DEPARTMENT, THE DEPARTMENT OF LAW, AND THE DEPARTMENT OF AUDIT
51 AND CONTROL, THEN THE HEAD OF SUCH AGENCY WHO IS NOT APPOINTED BY THE
52 GOVERNOR SHALL ADOPT OR ESTABLISH SUCH POLICY.

53 3. EVERY EMPLOYER AUTHORIZED TO ENTER INTO AGREEMENTS PURSUANT TO
54 ARTICLE FIVE-G OF THE GENERAL MUNICIPAL LAW MAY UTILIZE SUCH AUTHORI-
55 ZATION TO EFFECTUATE THE PROVISIONS OF THIS SECTION.

1 4. FOR THE PURPOSES OF THIS SECTION, THE TERM "INTERN" SHALL HAVE THE
2 SAME MEANING AS SET FORTH IN SECTION TWO HUNDRED NINETY-SIX-C OF THIS
3 ARTICLE.

4 5. FOR THE PURPOSES OF THIS SECTION, "COVERED INDIVIDUAL" SHALL HAVE
5 THE SAME MEANING AS SET FORTH IN SECTION TWO HUNDRED NINETY-SIX-D OF
6 THIS ARTICLE.

7 S 18. The state finance law is amended by adding a new section 139-d-1
8 to read as follows:

9 S 139-D-1. STATEMENT ON DISCRIMINATION, INCLUDING SEXUAL HARASSMENT,
10 IN BIDS. 1. FOR THE PURPOSES OF THIS SECTION, "AGENCY" SHALL MEAN ANY
11 STATE DEPARTMENT, BOARD, BUREAU, DIVISION, COMMISSION, COMMITTEE, PUBLIC
12 AUTHORITY, PUBLIC CORPORATION, COUNCIL, OFFICE OR OTHER GOVERNMENTAL
13 ENTITY PERFORMING A GOVERNMENTAL OR PROPRIETARY FUNCTION FOR THE STATE.

14 2. (A) EVERY BID HEREAFTER MADE TO AN AGENCY, WHERE COMPETITIVE
15 BIDDING IS REQUIRED BY STATUTE, RULE OR REGULATION, FOR WORK OR SERVICES
16 PERFORMED OR TO BE PERFORMED OR GOODS SOLD OR TO BE SOLD, SHALL CONTAIN
17 THE FOLLOWING STATEMENT SUBSCRIBED BY THE BIDDER AND AFFIRMED BY SUCH
18 BIDDER AS TRUE UNDER THE PENALTIES OF PERJURY:

19 "BY SUBMISSION OF THIS BID, EACH BIDDER AND EACH PERSON SIGNING ON
20 BEHALF OF ANY BIDDER CERTIFIES, AND IN THE CASE OF A JOINT BID EACH
21 PARTY THERETO CERTIFIES AS TO ITS OWN ORGANIZATION, UNDER PENALTY OF
22 PERJURY, THAT THE BIDDER HAS A POLICY RELATING TO THE PROHIBITION OF
23 DISCRIMINATION, INCLUDING SEXUAL HARASSMENT, AND SUCH BIDDER PROVIDES
24 SUCH POLICY, IN WRITING, TO ALL OF ITS EMPLOYEES."

25 (B) IN ADDITION TO THE STATEMENT REQUIRED BY PARAGRAPH (A) OF THIS
26 SUBDIVISION, ANY BIDDER THAT MAINTAINS A WRITTEN POLICY FOR PROHIBITING
27 DISCRIMINATION, INCLUDING SEXUAL HARASSMENT, SHALL SUBMIT TO THE AGENCY
28 SOLICITING SUCH BID SUCH CURRENT WRITTEN POLICY WHEN SUBMITTING SUCH
29 STATEMENT.

30 (C) EVERY BID HEREAFTER MADE TO AN AGENCY, WHERE COMPETITIVE BIDDING
31 IS NOT REQUIRED BY STATUTE, RULE OR REGULATION, FOR WORK OR SERVICES
32 PERFORMED OR TO BE PERFORMED OR GOODS SOLD OR TO BE SOLD, MAY CONTAIN,
33 AT THE DISCRETION OF THE AGENCY, THE CERTIFICATION REQUIRED PURSUANT TO
34 PARAGRAPHS (A) AND (B) OF THIS SUBDIVISION.

35 3. NOTWITHSTANDING THE FOREGOING, THE STATEMENT REQUIRED BY PARAGRAPH
36 (A) OF SUBDIVISION TWO OF THIS SECTION OR THE WRITTEN POLICY FOR PROHIB-
37 ITING DISCRIMINATION, INCLUDING SEXUAL HARASSMENT, REQUIRED PURSUANT TO
38 PARAGRAPH (B) OF SUBDIVISION TWO OF THIS SECTION, MAY BE SUBMITTED ELEC-
39 TRONICALLY IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION SEVEN OF
40 SECTION ONE HUNDRED SIXTY-THREE OF THIS CHAPTER.

41 4. A BID SHALL NOT BE CONSIDERED FOR AWARD NOR SHALL ANY AWARD BE MADE
42 WHEN THE BIDDER HAS NOT COMPLIED WITH SUBDIVISION TWO OF THIS SECTION;
43 PROVIDED, HOWEVER, THAT IF THE BIDDER CANNOT MAKE THE FOREGOING CERTIF-
44 ICATION, SUCH BIDDER SHALL SO STATE AND SHALL FURNISH WITH THE BID A
45 SIGNED STATEMENT WHICH SETS FORTH IN DETAIL THE REASONS THEREFOR.

46 5. ANY BID HEREAFTER MADE TO AN AGENCY BY A CORPORATE BIDDER FOR WORK
47 OR SERVICES PERFORMED OR TO BE PERFORMED OR GOODS SOLD OR TO BE SOLD,
48 WHERE SUCH BID CONTAINS THE STATEMENT OR WRITTEN POLICY REQUIRED BY
49 SUBDIVISION TWO OF THIS SECTION, SHALL BE DEEMED TO HAVE BEEN AUTHORIZED
50 BY THE BOARD OF DIRECTORS OF SUCH BIDDER, AND SUCH AUTHORIZATION SHALL
51 BE DEEMED TO INCLUDE THE SIGNING AND SUBMISSION OF SUCH BID AND THE
52 INCLUSION THEREIN OF THE STATEMENT AND WRITTEN POLICY FOR PROHIBITING
53 DISCRIMINATION, INCLUDING SEXUAL HARASSMENT, AS THE ACT AND DEED OF THE
54 CORPORATION.

1 S 19. Subdivision 7 of section 163 of the state finance law, as
2 amended by section 10 of part L of chapter 55 of the laws of 2012, is
3 amended to read as follows:

4 7. Method of procurement. Consistent with the requirements of subdivi-
5 sions three and four of this section, state agencies shall select among
6 permissible methods of procurement including, but not limited to, an
7 invitation for bid, request for proposals or other means of solicitation
8 pursuant to guidelines issued by the state procurement council. State
9 agencies may accept bids electronically including submission of the
10 statement of non-collusion required by section one hundred thirty-nine-d
11 of this chapter, AND THE STATEMENT AND WRITTEN POLICY FOR PROHIBITING
12 DISCRIMINATION, INCLUDING SEXUAL HARASSMENT, REQUIRED BY SECTION ONE
13 HUNDRED THIRTY-NINE-D-ONE OF THIS CHAPTER, and, starting April first,
14 two thousand twelve, and ending March thirty-first, two thousand
15 fifteen, may, for commodity, service and technology contracts require
16 electronic submission as the sole method for the submission of bids for
17 the solicitation. State agencies shall undertake no more than eighty-
18 five such electronic bid solicitations, none of which shall be reverse
19 auctions, prior to April first, two thousand fifteen. In addition, state
20 agencies may conduct up to twenty reverse auctions through electronic
21 means, prior to April first, two thousand fifteen. Prior to requiring
22 the electronic submission of bids, the agency shall make a determi-
23 nation, which shall be documented in the procurement record, that elec-
24 tronic submission affords a fair and equal opportunity for offerers to
25 submit responsive offers. Within thirty days of the completion of the
26 eighty-fifth electronic bid solicitation, or by April first, two thou-
27 sand fifteen, whichever is earlier, the commissioner shall prepare a
28 report assessing the use of electronic submissions and make recommenda-
29 tions regarding future use of this procurement method. In addition,
30 within thirty days of the completion of the twentieth reverse auction
31 through electronic means, or by April first, two thousand fifteen,
32 whichever is earlier, the commissioner shall prepare a report assessing
33 the use of reverse auctions through electronic means and make recommen-
34 dations regarding future use of this procurement method. Such reports
35 shall be published on the website of the office of general services.
36 Except where otherwise provided by law, procurements shall be compet-
37 itive, and state agencies shall conduct formal competitive procurements
38 to the maximum extent practicable. State agencies shall document the
39 determination of the method of procurement and the basis of award in the
40 procurement record. Where the basis for award is the best value offer,
41 the state agency shall document, in the procurement record and in
42 advance of the initial receipt of offers, the determination of the eval-
43 uation criteria, which whenever possible, shall be quantifiable, and the
44 process to be used in the determination of best value and the manner in
45 which the evaluation process and selection shall be conducted.

46 S 20. The tax law is amended by adding a new section 210-D to read as
47 follows:

48 S 210-D. STATEMENT ON DISCRIMINATION, INCLUDING SEXUAL HARASSMENT, IN
49 APPLICATIONS FOR STATE CREDITS. 1. FOR THE PURPOSES OF THIS SECTION:

50 (A) "AGENCY" SHALL MEAN ANY STATE OR LOCAL GOVERNMENT, INCLUDING BUT
51 NOT LIMITED TO A COUNTY, CITY, TOWN, VILLAGE, FIRE DISTRICT OR SPECIAL
52 DISTRICT OR ANY OTHER GOVERNMENTAL ENTITY PERFORMING A GOVERNMENTAL OR
53 PROPRIETARY FUNCTION FOR THE STATE OR ANY ONE OR MORE MUNICIPALITIES
54 THEREOF, AND IS AUTHORIZED TO IMPOSE TAX UNDER THIS CHAPTER;

55 (B) "APPLICANT" SHALL MEAN A TAXPAYER THAT IS SUBJECT TO TAX UNDER
56 THIS CHAPTER AND IS SUBJECT TO THE REQUIREMENTS OF THIS SECTION;

1 (C) "TAXPAYER" SHALL MEAN ANY INDIVIDUAL, CORPORATION, PARTNERSHIP,
2 LIMITED LIABILITY PARTNERSHIP, OR COMPANY, PARTNER, MEMBER, MANAGER,
3 ESTATE, TRUST, FIDUCIARY OR ENTITY, WHO OR WHICH IS CONDUCTING BUSINESS
4 IN THIS STATE; AND

5 (D) "TAX CREDIT" SHALL MEAN THE AMOUNT REQUESTED BY THE TAXPAYER FOR
6 REFUND OR OTHERWISE DETERMINED TO BE IN EXCESS OF THAT OWED WITH RESPECT
7 TO ANY TAX IMPOSED UNDER THIS CHAPTER.

8 2. (A) EVERY APPLICATION HEREAFTER MADE TO AN AGENCY SHALL CONTAIN THE
9 FOLLOWING STATEMENT SUBSCRIBED BY THE APPLICANT AND AFFIRMED BY SUCH
10 APPLICANT AS TRUE UNDER THE PENALTIES OF PERJURY:

11 "BY SUBMISSION OF THIS APPLICATION, EACH APPLICANT AND EACH PERSON
12 SIGNING ON BEHALF OF ANY BUSINESS CERTIFIES AS TO ITS OWN ORGANIZATION,
13 UNDER PENALTY OF PERJURY THAT THE BUSINESS HAS A POLICY RELATING TO THE
14 PROHIBITION OF DISCRIMINATION, INCLUDING SEXUAL HARASSMENT, AND SUCH
15 BUSINESS PROVIDES SUCH POLICY, IN WRITING, TO ALL OF ITS EMPLOYEES."

16 (B) IN ADDITION TO THE STATEMENT REQUIRED BY PARAGRAPH (A) OF THIS
17 SUBDIVISION, ANY BUSINESS THAT MAINTAINS A WRITTEN POLICY FOR PROHIBIT-
18 ING DISCRIMINATION, INCLUDING SEXUAL HARASSMENT, SHALL SUBMIT TO THE
19 AGENCY TO WHICH THEY ARE APPLYING FOR SUCH TAX CREDIT A COPY OF THE
20 CURRENT WRITTEN POLICY WHEN SUBMITTING SUCH STATEMENT.

21 3. THE STATEMENT REQUIRED BY PARAGRAPH (A) OF SUBDIVISION TWO OF THIS
22 SECTION OR THE WRITTEN POLICY FOR PROHIBITING DISCRIMINATION, INCLUDING
23 SEXUAL HARASSMENT REQUIRED PURSUANT TO PARAGRAPH (B) OF SUBDIVISION TWO
24 OF THIS SECTION, MAY BE SUBMITTED ELECTRONICALLY.

25 4. AN APPLICATION SHALL NOT BE CONSIDERED FOR A TAX CREDIT NOR SHALL
26 ANY CREDIT BE ALLOWED WHEN THE APPLICANT HAS NOT COMPLIED WITH THE
27 PROVISIONS OF SUBDIVISION TWO OF THIS SECTION; PROVIDED, HOWEVER, THAT
28 IF THE APPLICANT CANNOT MAKE THE FOREGOING CERTIFICATION, THE APPLICANT
29 SHALL FURNISH WITH THE APPLICATION A SIGNED STATEMENT WHICH SETS FORTH
30 IN DETAIL THE REASONS THEREFOR.

31 5. ANY APPLICATION HEREAFTER MADE TO AN AGENCY BY AN APPLICANT FOR A
32 TAX CREDIT, SHALL BE DEEMED TO HAVE BEEN AUTHORIZED BY THE BOARD OF
33 DIRECTORS OF THE APPLICANT, AND SUCH AUTHORIZATION SHALL BE DEEMED TO
34 INCLUDE THE SIGNING AND SUBMISSION OF THE APPLICATION AND THE INCLUSION
35 THEREIN OF THE STATEMENT OR WRITTEN POLICY FOR PROHIBITING DISCRIMI-
36 NATION, INCLUDING SEXUAL HARASSMENT AS THE ACT AND DEED OF THE CORPO-
37 RATION.

38 S 21. The executive law is amended by adding a new section 294-a to
39 read as follows:

40 S 294-A. ANTI-DISCRIMINATION PAMPHLET. 1. THE DIVISION SHALL PROMUL-
41 GATE AN ANTI-DISCRIMINATION PAMPHLET RELATED TO RIGHTS AND REMEDIES OF
42 EMPLOYEES, INTERNS, AND COVERED INDIVIDUALS REGARDING UNLAWFUL DISCRIMI-
43 NATORY PRACTICES OR DISCRIMINATION, INCLUDING SEXUAL HARASSMENT, IN THE
44 WORKPLACE. SUCH PAMPHLET SHALL INCLUDE, BUT NOT BE LIMITED TO:

45 A. INFORMATION REGARDING HOW TO FILE A COMPLAINT PURSUANT TO STATE AND
46 FEDERAL ANTI-DISCRIMINATION LAWS;

47 B. A DESCRIPTION OF AN EMPLOYEE'S, INTERN'S, OR COVERED INDIVIDUAL'S
48 RIGHTS UNDER STATE AND FEDERAL ANTI-DISCRIMINATION LAWS;

49 C. A DESCRIPTION OF THE REMEDIES THAT AN EMPLOYEE, INTERN, OR COVERED
50 INDIVIDUAL MAY BE ENTITLED TO UNDER STATE AND FEDERAL ANTI-DISCRIMINA-
51 TION LAWS;

52 D. CONTACT INFORMATION FOR THE DIVISION, THE OFFICE OF THE ATTORNEY
53 GENERAL, THE DEPARTMENT OF LABOR AND THE EQUAL EMPLOYMENT OPPORTUNITY
54 COMMISSION; AND

55 E. A STATEMENT EXPLAINING THAT THE EMPLOYEE, INTERN, OR COVERED INDI-
56 VIDUAL MAY BE ENTITLED TO CERTAIN RIGHTS AND REMEDIES UNDER LOCAL LAWS.

1 2. THE ANTI-DISCRIMINATION PAMPHLET SHALL BE MADE AVAILABLE TO THE
2 PUBLIC AND SHALL BE POSTED:

3 A. ON THE WEBSITE OF EVERY AGENCY, IF SUCH A WEBSITE EXISTS, PROVIDED
4 THAT FOR THE PURPOSES OF THIS PARAGRAPH, "AGENCY" SHALL MEAN ANY STATE
5 OR MUNICIPAL DEPARTMENT, BOARD, BUREAU, DIVISION, COMMISSION, COMMITTEE,
6 PUBLIC AUTHORITY, PUBLIC CORPORATION, COUNCIL, OFFICE OR OTHER GOVERN-
7 MENTAL ENTITY PERFORMING A GOVERNMENTAL OR PROPRIETARY FUNCTION FOR THE
8 STATE OR ANY ONE OR MORE MUNICIPALITIES THEREOF;

9 B. ON THE WEBSITE OF EVERY EMPLOYER, EMPLOYMENT AGENCY, OR LICENSING
10 AGENCY, IF SUCH A WEBSITE EXISTS; AND

11 C. IN A CONSPICUOUS LOCATION IN ALL DESIGNATED EMPLOYEE COMMON SPACES
12 AND BREAKROOMS.

13 3. AN EMPLOYER, EMPLOYMENT AGENCY, LABOR ORGANIZATION, OR LICENSING
14 AGENCY SHALL PROVIDE A COPY OF SUCH ANTI-DISCRIMINATION PAMPHLET UNDER
15 THE FOLLOWING CIRCUMSTANCES:

16 A. TO AN EMPLOYEE, INTERN, OR COVERED INDIVIDUAL WHENEVER SUCH EMPLOY-
17 EE, INTERN, OR COVERED INDIVIDUAL COMMENCES EMPLOYMENT, VOLUNTEERING, OR
18 CONTRACTING WITH SUCH EMPLOYER;

19 B. TO AN EMPLOYEE OR INTERN UPON COMPLETION OF ANY DISCRIMINATION
20 AND/OR SEXUAL HARASSMENT PREVENTION TRAINING;

21 C. TO AN EMPLOYEE, INTERN, OR COVERED INDIVIDUAL WHENEVER SUCH EMPLOY-
22 EE, INTERN, OR COVERED INDIVIDUAL FILES A DISCRIMINATION COMPLAINT
23 PURSUANT TO SUCH EMPLOYER'S POLICY;

24 D. TO AN EMPLOYEE OR INTERN WHENEVER SUCH EMPLOYEE OR INTERN CONCLUDES
25 EMPLOYMENT WITH SUCH EMPLOYER; AND

26 E. TO AN EMPLOYEE, INTERN, OR COVERED INDIVIDUAL UPON SUCH EMPLOYEE'S,
27 INTERN'S, OR COVERED INDIVIDUAL'S REQUEST.

28 4. FOR THE PURPOSES OF THIS SECTION, THE TERM "INTERN" SHALL HAVE THE
29 SAME MEANING AS SET FORTH IN SECTION TWO HUNDRED NINETY-SIX-C OF THIS
30 ARTICLE.

31 5. FOR THE PURPOSES OF THIS SECTION, "COVERED INDIVIDUAL" SHALL HAVE
32 THE SAME MEANING AS SET FORTH IN SECTION TWO HUNDRED NINETY-SIX-D OF
33 THIS ARTICLE.

34 6. THE COMMISSIONER MAY PROMULGATE RULES AND REGULATIONS TO EFFECTUATE
35 THE PROVISIONS OF THIS SECTION.

36 S 22. The executive law is amended by adding a new section 294-c to
37 read as follows:

38 S 294-C. TRAINING MATERIALS AND PUBLIC ACCESSIBILITY. 1. THE DIVISION
39 SHALL CREATE A TRAINING VIDEO TO ASSIST IN TRAINING EMPLOYERS, EMPLOYEES
40 AND INTERNS ON ISSUES RELATING TO PROHIBITING DISCRIMINATION AND UNLAW-
41 FUL DISCRIMINATORY PRACTICES INCLUDING SEXUAL HARASSMENT IN THE WORK-
42 PLACE. SUCH TRAINING VIDEO SHALL INCLUDE, BUT NOT BE LIMITED TO, THE
43 INFORMATION PROVIDED IN THE ANTI-DISCRIMINATION PAMPHLET PROMULGATED
44 PURSUANT TO SECTION TWO HUNDRED NINETY-FOUR-A OF THIS ARTICLE AND THE
45 MODEL POLICY ON DISCRIMINATION, HARASSMENT, SEXUAL HARASSMENT, AND
46 RETALIATION PROMULGATED PURSUANT TO SECTION TWO HUNDRED NINETY-FOUR-B OF
47 THIS CHAPTER.

48 2. SUCH TRAINING VIDEO SHALL BE MADE AVAILABLE TO THE PUBLIC AND SHALL
49 BE POSTED IN AN ELECTRONIC, EASILY VIEWABLE FORMAT ON THE DIVISION'S
50 WEBSITE. SUCH TRAINING VIDEO SHALL BE UPDATED AS NECESSARY BUT NO LESS
51 THAN EVERY TWO YEARS.

52 3. THE DIVISION SHALL ESTABLISH A TOLL FREE NUMBER TO RECEIVE
53 COMPLAINTS THAT WILL BE STAFFED TWENTY-FOUR HOURS A DAY.

54 4. THE COMMISSIONER MAY PROMULGATE RULES AND REGULATIONS TO EFFECTUATE
55 THE PROVISIONS OF THIS SECTION.

1 5. FOR THE PURPOSE OF THIS SECTION, THE TERM "INTERN" SHALL HAVE THE
2 SAME MEANING AS SET FORTH IN SECTION TWO HUNDRED NINETY-SIX-C OF THIS
3 ARTICLE.

4 S 23. The executive law is amended by adding a new section 296-d to
5 read as follows:

6 S 296-D. UNLAWFUL DISCRIMINATORY PRACTICES RELATING TO COVERED INDI-
7 VIDUALS. 1. AS USED IN THIS SECTION, "COVERED INDIVIDUAL" MEANS A PERSON
8 WHO PERFORMS WORK FOR AN EMPLOYER AS A CONTRACTOR, INDEPENDENT CONTRAC-
9 TOR, SUBCONTRACTOR, OR VOLUNTEER WITHIN THE CONTEXT OF A FORMAL VOLUN-
10 TEER PROGRAM.

11 2. IT SHALL BE AN UNLAWFUL DISCRIMINATORY PRACTICE FOR AN EMPLOYER,
12 LICENSING AGENCY, OR EMPLOYMENT AGENCY TO:

13 (A) REFUSE TO HIRE, CONTRACT WITH, OR EMPLOY OR TO BAR OR TO DISCHARGE
14 FROM WORK OR VOLUNTEER PROGRAM A COVERED INDIVIDUAL OR TO DISCRIMINATE
15 AGAINST SUCH COVERED INDIVIDUAL IN TERMS, CONDITIONS, OR PRIVILEGES OF
16 EMPLOYMENT BECAUSE OF THE COVERED INDIVIDUAL'S AGE, RACE, CREED, COLOR,
17 NATIONAL ORIGIN, SEXUAL ORIENTATION, MILITARY STATUS, SEX, DISABILITY,
18 PREDISPOSING GENETIC CHARACTERISTICS, MARITAL STATUS, OR DOMESTIC
19 VIOLENCE VICTIM STATUS;

20 (B) DISCRIMINATE AGAINST A COVERED INDIVIDUAL IN RECEIVING, CLASSIFY-
21 ING, DISPOSING OR OTHERWISE ACTING UPON APPLICATIONS FOR ANY CONTRACT,
22 EMPLOYMENT OR VOLUNTEER PROGRAM, AS DEFINED IN THIS ARTICLE, BECAUSE OF
23 THE COVERED INDIVIDUAL'S AGE, RACE, CREED, COLOR, NATIONAL ORIGIN, SEXU-
24 AL ORIENTATION, MILITARY STATUS, SEX, DISABILITY, PREDISPOSING GENETIC
25 CHARACTERISTICS, MARITAL STATUS, OR DOMESTIC VIOLENCE VICTIM STATUS;

26 (C) PRINT OR CIRCULATE OR CAUSE TO BE PRINTED OR CIRCULATED ANY STATE-
27 MENT, ADVERTISEMENT OR PUBLICATION, OR TO USE ANY FORM OF APPLICATION
28 FOR CONTRACT, EMPLOYMENT OR VOLUNTEER PROGRAM, OR TO MAKE ANY INQUIRY IN
29 CONNECTION WITH PROSPECTIVE CONTRACTS, EMPLOYMENT OR FORMAL VOLUNTEERING
30 WHICH EXPRESSES DIRECTLY OR INDIRECTLY, ANY LIMITATION, SPECIFICATION OR
31 DISCRIMINATION AS TO AGE, RACE, CREED, COLOR, NATIONAL ORIGIN, SEXUAL
32 ORIENTATION, MILITARY STATUS, SEX, DISABILITY, PREDISPOSING GENETIC
33 CHARACTERISTICS, MARITAL STATUS OR DOMESTIC VIOLENCE VICTIM STATUS, OR
34 ANY INTENT TO MAKE ANY SUCH LIMITATION, SPECIFICATION OR DISCRIMINATION,
35 UNLESS BASED UPON A BONA FIDE OCCUPATIONAL QUALIFICATION;

36 (D) DISCHARGE, EXPEL OR OTHERWISE DISCRIMINATE AGAINST ANY COVERED
37 INDIVIDUAL BECAUSE HE OR SHE HAS OPPOSED ANY PRACTICES FORBIDDEN UNDER
38 THIS ARTICLE OR BECAUSE HE OR SHE HAS FILED A COMPLAINT, TESTIFIED OR
39 ASSISTED IN ANY PROCEEDING UNDER THIS ARTICLE; OR

40 (E) COMPEL A COVERED INDIVIDUAL WHO IS PREGNANT TO TAKE A LEAVE OF
41 ABSENCE, UNLESS THEY ARE PREVENTED BY SUCH PREGNANCY FROM PERFORMING THE
42 ACTIVITIES INVOLVED IN THE JOB, CONTRACT, OCCUPATION OR VOLUNTEER
43 PROGRAM IN A REASONABLE MANNER.

44 3. IT SHALL BE AN UNLAWFUL DISCRIMINATORY PRACTICE FOR AN EMPLOYER TO:

45 (A) ENGAGE IN UNWELCOME SEXUAL ADVANCES, REQUESTS FOR SEXUAL FAVORS,
46 OR OTHER VERBAL OR PHYSICAL CONDUCT OF A SEXUAL NATURE TO A COVERED
47 INDIVIDUAL WHEN:

48 (1) SUBMISSION TO SUCH CONDUCT IS MADE EITHER EXPLICITLY OR IMPLICITLY
49 A TERM OR CONDITION OF THEIR CONTRACT, EMPLOYMENT OR FORMAL VOLUNTEER-
50 ING;

51 (2) SUBMISSION TO OR REJECTION OF SUCH CONDUCT BY THE COVERED INDIVID-
52 UAL IS USED AS THE BASIS FOR CONTRACT, EMPLOYMENT OR VOLUNTEER DECISIONS
53 AFFECTING SUCH COVERED INDIVIDUAL; OR

54 (3) SUCH CONDUCT HAS THE PURPOSE OR EFFECT OF UNREASONABLY INTERFERING
55 WITH THE COVERED INDIVIDUAL'S WORK PERFORMANCE BY CREATING AN INTIMIDAT-
56 ING, HOSTILE, OR OFFENSIVE WORKING ENVIRONMENT; OR

1 (B) SUBJECT A COVERED INDIVIDUAL TO UNWELCOME HARASSMENT BASED ON AGE,
2 SEX, RACE, CREED, COLOR, SEXUAL ORIENTATION, MILITARY STATUS, DISABILI-
3 TY, PREDISPOSING GENETIC CHARACTERISTICS, MARITAL STATUS, DOMESTIC
4 VIOLENCE VICTIM STATUS, OR NATIONAL ORIGIN, WHERE SUCH HARASSMENT HAS
5 THE PURPOSE OR EFFECT OF UNREASONABLY INTERFERING WITH THE COVERED INDI-
6 VIDUAL'S WORK PERFORMANCE BY CREATING AN INTIMIDATING, HOSTILE, OR
7 OFFENSIVE WORKING ENVIRONMENT.

8 4. THE COMMISSIONER MAY PROMULGATE RULES AND REGULATIONS TO EFFECTUATE
9 THE PROVISIONS OF THIS SECTION.

10 S 24. Subdivision 4 of section 292 of the executive law, as amended by
11 chapter 97 of the laws of 2014, is amended to read as follows:

12 4. The term "unlawful discriminatory practice" includes only those
13 practices specified in sections two hundred ninety-six, two hundred
14 ninety-six-a [and], two hundred ninety-six-c AND TWO HUNDRED
15 NINETY-SIX-D of this article.

16 S 25. Subdivision 5 of section 292 of the executive law, as amended by
17 chapter 363 of the laws of 2015, is amended to read as follows:

18 5. The term "employer" [does not include any employer with fewer than
19 four persons in his or her employ except as set forth in section two
20 hundred ninety-six-b of this article, provided, however, that in the
21 case of an action for discrimination based on sex pursuant to subdivi-
22 sion one of section two hundred ninety-six of this article, with respect
23 to sexual harassment only, the term "employer"] shall include all
24 employers within the state.

25 S 26. Subdivisions 9 and 10 of section 63 of the executive law, subdi-
26 vision 9 as amended by chapter 359 of the laws of 1969, are amended to
27 read as follows:

28 9. Bring and prosecute or defend upon request of the [industrial]
29 commissioner OF LABOR or the state division of human rights, any civil
30 action or proceeding, the institution or defense of which in his judg-
31 ment is necessary for effective enforcement of the laws of this state
32 against discrimination by reason of age, race, SEX, creed, color [or],
33 national origin, SEXUAL ORIENTATION, MILITARY STATUS, DISABILITY,
34 PREDISPOSING GENETIC CHARACTERISTICS, FAMILIAL STATUS, MARITAL STATUS,
35 OR DOMESTIC VIOLENCE VICTIM STATUS, or for enforcement of any order or
36 determination of such commissioner or division made pursuant to such
37 laws.

38 10. Prosecute every person charged with the commission of a criminal
39 offense in violation of any of the laws of this state against discrimi-
40 nation because of AGE, race, SEX, creed, color, [or] national origin,
41 SEXUAL ORIENTATION, MILITARY STATUS, DISABILITY, PREDISPOSING GENETIC
42 CHARACTERISTICS, FAMILIAL STATUS, MARITAL STATUS, OR DOMESTIC VIOLENCE
43 VICTIM STATUS, in any case where in his judgment, because of the extent
44 of the offense, such prosecution cannot be effectively carried on by the
45 district attorney of the county wherein the offense or a portion thereof
46 is alleged to have been committed, or where in his judgment the district
47 attorney has erroneously failed or refused to prosecute. In all such
48 proceedings, the attorney-general may appear in person or by his deputy
49 or assistant before any court or any grand jury and exercise all the
50 powers and perform all the duties in respect of such actions or
51 proceedings which the district attorney would otherwise be authorized or
52 required to exercise or perform.

53 S 27. The general municipal law is amended by adding a new section
54 103-d-1 to read as follows:

55 S 103-D-1. STATEMENT ON DISCRIMINATION, INCLUDING SEXUAL HARASSMENT,
56 IN BIDS. 1. (A) EVERY BID OR PROPOSAL HEREAFTER MADE TO A POLITICAL

1 SUBDIVISION OF THE STATE OR ANY PUBLIC DEPARTMENT, AGENCY OR OFFICIAL
2 THEREOF WHERE COMPETITIVE BIDDING IS REQUIRED BY STATUTE, RULE, REGU-
3 LATION OR LOCAL LAW, FOR WORK OR SERVICES PERFORMED OR TO BE PERFORMED
4 OR GOODS SOLD OR TO BE SOLD, SHALL CONTAIN THE FOLLOWING STATEMENT
5 SUBSCRIBED BY THE BIDDER AND AFFIRMED BY SUCH BIDDER AS TRUE UNDER THE
6 PENALTIES OF PERJURY:

7 "BY SUBMISSION OF THIS BID, EACH BIDDER AND EACH PERSON SIGNING ON
8 BEHALF OF ANY BIDDER CERTIFIES, AND IN THE CASE OF A JOINT BID EACH
9 PARTY THERETO CERTIFIES AS TO ITS OWN ORGANIZATION, UNDER PENALTY OF
10 PERJURY THAT THE BIDDER HAS A POLICY RELATING TO THE PROHIBITION OF
11 DISCRIMINATION, INCLUDING SEXUAL HARASSMENT, AND SUCH BIDDER PROVIDES
12 SUCH POLICY, IN WRITING, TO ALL OF ITS EMPLOYEES."

13 (B) IN ADDITION TO THE STATEMENT REQUIRED BY PARAGRAPH (A) OF THIS
14 SUBDIVISION, ANY BIDDER THAT MAINTAINS A WRITTEN POLICY FOR PROHIBITING
15 DISCRIMINATION, INCLUDING SEXUAL HARASSMENT, SHALL SUBMIT TO THE POLI-
16 TICAL SUBDIVISION SOLICITING SUCH BID SUCH CURRENT WRITTEN POLICY WHEN
17 SUBMITTING SUCH STATEMENT.

18 (C) EVERY BID HEREAFTER MADE TO A POLITICAL SUBDIVISION, WHERE COMPET-
19 ITIVE BIDDING IS NOT REQUIRED BY STATUTE, RULE OR REGULATION, FOR WORK
20 OR SERVICES PERFORMED OR TO BE PERFORMED OR GOODS SOLD OR TO BE SOLD,
21 MAY CONTAIN, AT THE DISCRETION OF THE POLITICAL SUBDIVISION, THE CERTIF-
22 ICATION REQUIRED PURSUANT TO PARAGRAPHS (A) AND (B) OF THIS SUBDIVISION.

23 2. NOTWITHSTANDING THE FOREGOING, THE STATEMENT REQUIRED BY PARAGRAPH
24 (A) OF SUBDIVISION ONE OF THIS SECTION OR THE WRITTEN POLICY FOR PROHIB-
25 ITING DISCRIMINATION, INCLUDING SEXUAL HARASSMENT, REQUIRED PURSUANT TO
26 PARAGRAPH (B) OF SUBDIVISION ONE OF THIS SECTION, MAY BE SUBMITTED ELEC-
27 TRONICALLY IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION ONE OF
28 SECTION ONE HUNDRED THREE OF THIS CHAPTER.

29 3. A BID SHALL NOT BE CONSIDERED FOR AWARD NOR SHALL ANY AWARD BE MADE
30 WHEN THE BIDDER HAS NOT COMPLIED WITH SUBDIVISION ONE OF THIS SECTION;
31 PROVIDED, HOWEVER, THAT IF IN ANY CASE THE BIDDER CANNOT MAKE THE FORE-
32 GOING CERTIFICATION, SUCH BIDDER SHALL SO STATE AND SHALL FURNISH WITH
33 THE BID A SIGNED STATEMENT WHICH SETS FORTH IN DETAIL THE REASONS THERE-
34 FOR.

35 4. ANY BID HEREAFTER MADE TO A POLITICAL SUBDIVISION BY A CORPORATE
36 BIDDER FOR WORK OR SERVICES PERFORMED OR TO BE PERFORMED OR GOODS SOLD
37 OR TO BE SOLD, WHERE SUCH BID CONTAINS THE STATEMENT OR WRITTEN POLICY
38 REQUIRED BY SUBDIVISION ONE OF THIS SECTION, SHALL BE DEEMED TO HAVE
39 BEEN AUTHORIZED BY THE BOARD OF DIRECTORS OF SUCH BIDDER, AND SUCH
40 AUTHORIZATION SHALL BE DEEMED TO INCLUDE THE SIGNING AND SUBMISSION OF
41 SUCH BID AND THE INCLUSION THEREIN OF THE STATEMENT AND WRITTEN POLICY
42 FOR PROHIBITING DISCRIMINATION, INCLUDING SEXUAL HARASSMENT, AS THE ACT
43 AND DEED OF THE CORPORATION.

44 S 28. Subdivision 1 of section 103 of the general municipal law, as
45 amended by section 1 of chapter 2 of the laws of 2012, is amended to
46 read as follows:

47 1. Except as otherwise expressly provided by an act of the legislature
48 or by a local law adopted prior to September first, nineteen hundred
49 fifty-three, all contracts for public work involving an expenditure of
50 more than thirty-five thousand dollars and all purchase contracts
51 involving an expenditure of more than twenty thousand dollars, shall be
52 awarded by the appropriate officer, board or agency of a political
53 subdivision or of any district therein including but not limited to a
54 soil conservation district to the lowest responsible bidder furnishing
55 the required security after advertisement for sealed bids in the manner
56 provided by this section, provided, however, that purchase contracts

1 (including contracts for service work, but excluding any purchase
2 contracts necessary for the completion of a public works contract pursu-
3 ant to article eight of the labor law) may be awarded on the basis of
4 best value, as defined in section one hundred sixty-three of the state
5 finance law, to a responsive and responsible bidder or offerer in the
6 manner provided by this section except that in a political subdivision
7 other than a city with a population of one million inhabitants or more
8 or any district, board or agency with jurisdiction exclusively therein
9 the use of best value for awarding a purchase contract or purchase
10 contracts must be authorized by local law or, in the case of a district
11 corporation, school district or board of cooperative educational
12 services, by rule, regulation or resolution adopted at a public meeting.
13 In any case where a responsible bidder's or responsible offerer's gross
14 price is reducible by an allowance for the value of used machinery,
15 equipment, apparatus or tools to be traded in by a political subdivi-
16 sion, the gross price shall be reduced by the amount of such allowance,
17 for the purpose of determining the best value. In cases where two or
18 more responsible bidders furnishing the required security submit identi-
19 cal bids as to price, such officer, board or agency may award the
20 contract to any of such bidders. Such officer, board or agency may, in
21 his or her or its discretion, reject all bids or offers and readvertise
22 for new bids or offers in the manner provided by this section. In deter-
23 mining whether a purchase is an expenditure within the discretionary
24 threshold amounts established by this subdivision, the officer, board or
25 agency of a political subdivision or of any district therein shall
26 consider the reasonably expected aggregate amount of all purchases of
27 the same commodities, services or technology to be made within the
28 twelve-month period commencing on the date of purchase. Purchases of
29 commodities, services or technology shall not be artificially divided
30 for the purpose of satisfying the discretionary buying thresholds estab-
31 lished by this subdivision. A change to or a renewal of a discretionary
32 purchase shall not be permitted if the change or renewal would bring the
33 reasonably expected aggregate amount of all purchases of the same
34 commodities, services or technology from the same provider within the
35 twelve-month period commencing on the date of the first purchase to an
36 amount greater than the discretionary buying threshold amount. For
37 purposes of this section, "sealed bids" and "sealed offers", as that
38 term applies to purchase contracts, (including contracts for service
39 work, but excluding any purchase contracts necessary for the completion
40 of a public works contract pursuant to article eight of the labor law)
41 shall include bids and offers submitted in an electronic format includ-
42 ing submission of the statement of non-collusion required by section one
43 hundred three-d of this article, AND THE STATEMENT AND WRITTEN POLICY
44 FOR PROHIBITING DISCRIMINATION, INCLUDING SEXUAL HARASSMENT, REQUIRED BY
45 SECTION ONE HUNDRED THREE-D-1 OF THIS ARTICLE, provided that the govern-
46 ing board of the political subdivision or district, by resolution, has
47 authorized the receipt of bids and offers in such format. Submission in
48 electronic format may, for technology contracts only, be required as the
49 sole method for the submission of bids and offers. Bids and offers
50 submitted in an electronic format shall be transmitted by bidders and
51 offerers to the receiving device designated by the political subdivision
52 or district. Any method used to receive electronic bids and offers shall
53 comply with article three of the state technology law, and any rules and
54 regulations promulgated and guidelines developed thereunder and, at a
55 minimum, must (a) document the time and date of receipt of each bid and
56 offer received electronically; (b) authenticate the identity of the

1 sender; (c) ensure the security of the information transmitted; and (d)
2 ensure the confidentiality of the bid or offer until the time and date
3 established for the opening of bids or offers. The timely submission of
4 an electronic bid or offer in compliance with instructions provided for
5 such submission in the advertisement for bids or offers and/or the spec-
6 ifications shall be the responsibility solely of each bidder or offerer
7 or prospective bidder or offerer. No political subdivision or district
8 therein shall incur any liability from delays of or interruptions in the
9 receiving device designated for the submission and receipt of electronic
10 bids and offers.

11 S 29. If any provision of this act or the application thereof is held
12 invalid, the remainder of this act and the application thereof to other
13 persons or circumstances shall not be affected by such holding and shall
14 remain in full force and effect.

15 S 30. This act shall take effect immediately; provided, however that:

16 (a) sections one, two, three, four, five, fourteen, fourteen-a,
17 fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one,
18 twenty-two, twenty-three, twenty-four, twenty-five, twenty-seven, and
19 twenty-eight of this act shall take effect on the ninetieth day after it
20 shall have become a law;

21 (b) sections six, seven, eight, nine, ten, and eleven shall take
22 effect on the first of January next succeeding the date on which it
23 shall have become a law;

24 (c) the amendments to subdivision 7 of section 163 of the state
25 finance law made by section nineteen of this act shall not affect the
26 repeal of such section and shall be deemed repealed therewith;

27 (d) section thirteen of this act shall apply to all employment
28 contracts entered into, renewed, modified or amended on or after such
29 date;

30 (e) section twenty of this act shall apply to tax credits applied for
31 on or after the ninetieth day after this act shall have become a law;

32 (f) the amendments to subdivision 1 of section 103 of the general
33 municipal law made by section twenty-eight of this act shall not affect
34 the expiration and reversion of such subdivision pursuant to subdivision
35 (a) of section 41 of part X of chapter 62 of the laws of 2003, as
36 amended, and shall expire therewith; and

37 (g) effective immediately, the addition, amendment and/or repeal of
38 any rule or regulation necessary for the implementation of this act on
39 its effective date are authorized to be made and completed on or before
40 such effective date.

41

SUBPART J

42 Section 1. Computer science education standards. 1. The commissioner
43 of education shall convene a working group of educators including teach-
44 ers and school administrators, industry experts, institutions of higher
45 education and employers to review existing nationally recognized comput-
46 er science frameworks and develop draft model New York state computer
47 science standards for kindergarten through grade 12. The workgroup
48 shall use their educational or technological expertise to ensure that
49 the model standards they recommend to the commissioner of education and
50 Board of Regents prepare students for postsecondary education or employ-
51 ment in the computer science field.

52 2. On or before December 1, 2020, the working group shall deliver a
53 report to the commissioner of education and the Board of Regents detail-

1 ing the findings of the working group and recommend draft model kinder-
2 garten through grade 12 computer science standards for their approval.

3 S 2. This act shall take effect immediately.

4 SUBPART K

5 Intentionally Omitted

6 SUBPART L

7 Section 1. Title 6 of article 2 of the public health law, as added by
8 chapter 342 of the laws of 2014, is amended by adding a new section 267
9 to read as follows:

10 S 267. FEMININE HYGIENE PRODUCTS IN SCHOOLS. ALL ELEMENTARY AND
11 SECONDARY PUBLIC SCHOOLS AND CHARTER SCHOOLS IN THE STATE SERVING
12 STUDENTS IN ANY GRADE FROM GRADE SIX THROUGH GRADE TWELVE SHALL PROVIDE
13 FEMININE HYGIENE PRODUCTS IN THE RESTROOMS OF SUCH SCHOOL BUILDING OR
14 BUILDINGS. SUCH PRODUCTS SHALL BE PROVIDED AT NO CHARGE TO STUDENTS.

15 S 2. This act shall take effect July 1, 2018.

16 SUBPART M

17 Section 1. Subdivision 15 of section 378 of the executive law is
18 renumbered as subdivision 18.

19 S 2. Subdivision 16 of section 378 of the executive law is renumbered
20 subdivision 15 and two new subdivisions 16 and 17 are added to read as
21 follows:

22 16. STANDARDS REQUIRING THE INSTALLATION AND MAINTENANCE OF AT LEAST
23 ONE SAFE, SANITARY, AND CONVENIENT DIAPER CHANGING STATION, DECK, TABLE,
24 OR SIMILAR AMENITY WHICH SHALL BE AVAILABLE FOR USE BY BOTH MALE AND
25 FEMALE OCCUPANTS AND WHICH SHALL COMPLY WITH SECTION 603.5 (DIAPER
26 CHANGING TABLES) OF THE TWO THOUSAND NINE EDITION OF THE PUBLICATION
27 ENTITLED ICC A117.1, ACCESSIBLE AND USABLE BUILDINGS AND FACILITIES,
28 PUBLISHED BY THE INTERNATIONAL CODE COUNCIL, INC., ON EACH FLOOR LEVEL
29 CONTAINING A PUBLIC TOILET ROOM IN ALL NEWLY CONSTRUCTED BUILDINGS IN
30 THE STATE THAT HAVE ONE OR MORE AREAS CLASSIFIED AS ASSEMBLY GROUP A
31 OCCUPANCIES OR MERCANTILE GROUP M OCCUPANCIES AND IN ALL EXISTING BUILD-
32 INGS IN THE STATE THAT HAVE ONE OR MORE AREAS CLASSIFIED AS ASSEMBLY
33 GROUP A OCCUPANCIES OR MERCANTILE GROUP M OCCUPANCIES AND UNDERGO A
34 SUBSTANTIAL RENOVATION. THE COUNCIL SHALL PRESCRIBE THE TYPE OF RENO-
35 VATION TO BE DEEMED TO BE A SUBSTANTIAL RENOVATION FOR THE PURPOSES OF
36 THIS SUBDIVISION. THE COUNCIL MAY EXEMPT HISTORIC BUILDINGS FROM THE
37 REQUIREMENTS OF THIS SUBDIVISION.

38 17. STANDARDS REQUIRING THAT, IN EACH BUILDING THAT HAS ONE OR MORE
39 AREAS CLASSIFIED AS ASSEMBLY GROUP A OCCUPANCIES OR MERCANTILE GROUP M
40 OCCUPANCIES AND IN WHICH AT LEAST ONE DIAPER CHANGING STATION, DECK,
41 TABLE, OR SIMILAR AMENITY IS INSTALLED, A SIGN SHALL BE POSTED IN A
42 CONSPICUOUS PLACE IN EACH PUBLIC TOILET ROOM INDICATING THE LOCATION OF
43 THE NEAREST DIAPER CHANGING STATION, DECK, TABLE, OR SIMILAR AMENITY
44 THAT IS AVAILABLE FOR USE BY THE GENDER USING SUCH PUBLIC TOILET ROOM.
45 THE REQUIREMENTS OF THIS SUBDIVISION SHALL APPLY WITHOUT REGARD TO
46 WHETHER THE DIAPER CHANGING STATION, DECK, TABLE, OR SIMILAR AMENITY WAS
47 INSTALLED VOLUNTARILY OR PURSUANT TO SUBDIVISION SIXTEEN OF THIS SECTION
48 OR ANY OTHER APPLICABLE LAW, STATUTE, RULE, OR REGULATION. NO SUCH SIGN
49 SHALL BE REQUIRED IN A PUBLIC TOILET ROOM IN WHICH ANY DIAPER CHANGING
50 STATION, DECK, TABLE, OR SIMILAR AMENITY IS LOCATED.

1 S 3. This act shall take effect January 1, 2019; provided, however,
2 that effective immediately, the addition, amendment and/or repeal of any
3 rules or regulations by the secretary of state and/or by the state fire
4 prevention and building code council necessary for the implementation of
5 section two of this act on its effective date are authorized and
6 directed to be made and completed on or before such effective date.

7

SUBPART N

8 Section 1. Paragraph 13 of subsection (i) of section 3216 of the
9 insurance law is amended by adding three new subparagraphs (C), (D) and
10 (E) to read as follows:

11 (C) EVERY POLICY DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE THAT
12 PROVIDES COVERAGE FOR HOSPITAL, SURGICAL OR MEDICAL CARE SHALL PROVIDE
13 COVERAGE FOR:

14 (I) IN VITRO FERTILIZATION USED IN THE TREATMENT OF INFERTILITY; AND

15 (II) STANDARD FERTILITY PRESERVATION SERVICES WHEN A NECESSARY MEDICAL
16 TREATMENT MAY DIRECTLY OR INDIRECTLY CAUSE IATROGENIC INFERTILITY TO A
17 COVERED PERSON.

18 (D) (I) FOR THE PURPOSES OF SUBPARAGRAPH (C) OF THIS PARAGRAPH,
19 "INFERTILITY" MEANS A DISEASE OR CONDITION CHARACTERIZED BY THE INCAPAC-
20 ITY TO IMPREGNATE ANOTHER PERSON OR TO CONCEIVE, AS DIAGNOSED OR DETER-
21 MINED (I) BY A PHYSICIAN LICENSED TO PRACTICE MEDICINE IN THIS STATE, OR
22 (II) BY THE FAILURE TO ESTABLISH A CLINICAL PREGNANCY AFTER TWELVE
23 MONTHS OF REGULAR, UNPROTECTED SEXUAL INTERCOURSE, OR AFTER SIX MONTHS
24 OF REGULAR, UNPROTECTED SEXUAL INTERCOURSE IN THE CASE OF A FEMALE THIR-
25 TY-FIVE YEARS OF AGE OR OLDER.

26 (II) FOR THE PURPOSES OF SUBPARAGRAPH (C) OF THIS PARAGRAPH, "IATRO-
27 GENIC INFERTILITY" MEANS AN IMPAIRMENT OF FERTILITY BY SURGERY, RADI-
28 ATION, CHEMOTHERAPY OR OTHER MEDICAL TREATMENT AFFECTING REPRODUCTIVE
29 ORGANS OR PROCESSES.

30 (E) NO INSURER PROVIDING COVERAGE UNDER THIS PARAGRAPH SHALL DISCRIMI-
31 NATE BASED ON A COVERED INDIVIDUAL'S EXPECTED LENGTH OF LIFE, PRESENT OR
32 PREDICTED DISABILITY, DEGREE OF MEDICAL DEPENDENCY, PERCEIVED QUALITY OF
33 LIFE, OR OTHER HEALTH CONDITIONS, NOR BASED ON PERSONAL CHARACTERISTICS,
34 INCLUDING AGE, SEX, SEXUAL ORIENTATION, MARITAL STATUS OR GENDER IDENTI-
35 TY.

36 S 2. Paragraph 6 of subsection (k) of section 3221 of the insurance
37 law is amended by adding three new subparagraphs (E), (F) and (G) to
38 read as follows:

39 (E) EVERY GROUP POLICY DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE
40 THAT PROVIDES HOSPITAL, SURGICAL OR MEDICAL COVERAGE SHALL PROVIDE
41 COVERAGE FOR:

42 (I) IN VITRO FERTILIZATION USED IN THE TREATMENT OF INFERTILITY; AND

43 (II) STANDARD FERTILITY PRESERVATION SERVICES WHEN A NECESSARY MEDICAL
44 TREATMENT MAY DIRECTLY OR INDIRECTLY CAUSE IATROGENIC INFERTILITY TO A
45 COVERED PERSON.

46 (F) (I) FOR THE PURPOSES OF SUBPARAGRAPH (E) OF THIS PARAGRAPH,
47 "INFERTILITY" MEANS A DISEASE OR CONDITION CHARACTERIZED BY THE INCAPAC-
48 ITY TO IMPREGNATE ANOTHER PERSON OR TO CONCEIVE, AS DIAGNOSED OR DETER-
49 MINED (I) BY A PHYSICIAN LICENSED TO PRACTICE MEDICINE IN THIS STATE, OR
50 (II) BY THE FAILURE TO ESTABLISH A CLINICAL PREGNANCY AFTER TWELVE
51 MONTHS OF REGULAR, UNPROTECTED SEXUAL INTERCOURSE, OR AFTER SIX MONTHS
52 OF REGULAR, UNPROTECTED SEXUAL INTERCOURSE IN THE CASE OF A FEMALE THIR-
53 TY-FIVE YEARS OF AGE OR OLDER.

1 (II) FOR THE PURPOSES OF SUBPARAGRAPH (E) OF THIS PARAGRAPH, "IATRO-
2 GENIC INFERTILITY" MEANS AN IMPAIRMENT OF FERTILITY BY SURGERY, RADI-
3 ATION, CHEMOTHERAPY OR OTHER MEDICAL TREATMENT AFFECTING REPRODUCTIVE
4 ORGANS OR PROCESSES.

5 (G) NO INSURER PROVIDING COVERAGE UNDER THIS PARAGRAPH SHALL DISCRIMI-
6 NATE BASED ON A COVERED INDIVIDUAL'S EXPECTED LENGTH OF LIFE, PRESENT OR
7 PREDICTED DISABILITY, DEGREE OF MEDICAL DEPENDENCY, PERCEIVED QUALITY OF
8 LIFE, OR OTHER HEALTH CONDITIONS, NOR BASED ON PERSONAL CHARACTERISTICS,
9 INCLUDING AGE, SEX, SEXUAL ORIENTATION, MARITAL STATUS OR GENDER IDENTI-
10 TY.

11 S 3. Subsection (s) of section 4303 of the insurance law, as amended
12 by section 2 of part F of chapter 82 of the laws of 2002, is amended by
13 adding three new paragraphs 5, 6 and 7 to read as follows:

14 (5) EVERY CONTRACT ISSUED BY A MEDICAL EXPENSE INDEMNITY CORPORATION,
15 HOSPITAL SERVICE CORPORATION OR HEALTH SERVICE CORPORATION FOR DELIVERY
16 IN THIS STATE THAT PROVIDES HOSPITAL, SURGICAL OR MEDICAL COVERAGE SHALL
17 PROVIDE COVERAGE FOR:

18 (A) IN VITRO FERTILIZATION USED IN THE TREATMENT OF INFERTILITY; AND

19 (B) STANDARD FERTILITY PRESERVATION SERVICES WHEN A NECESSARY MEDICAL
20 TREATMENT MAY DIRECTLY OR INDIRECTLY CAUSE IATROGENIC INFERTILITY TO A
21 COVERED PERSON.

22 (6) (A) FOR THE PURPOSES OF PARAGRAPH FIVE OF THIS SUBSECTION, "INFER-
23 TILITY" MEANS A DISEASE OR CONDITION CHARACTERIZED BY THE INCAPACITY TO
24 IMPREGNATE ANOTHER PERSON OR TO CONCEIVE, AS DIAGNOSED OR DETERMINED (I)
25 BY A PHYSICIAN LICENSED TO PRACTICE MEDICINE IN THIS STATE, OR (II) BY
26 THE FAILURE TO ESTABLISH A CLINICAL PREGNANCY AFTER TWELVE MONTHS OF
27 REGULAR, UNPROTECTED SEXUAL INTERCOURSE, OR AFTER SIX MONTHS OF REGULAR,
28 UNPROTECTED SEXUAL INTERCOURSE IN THE CASE OF A FEMALE THIRTY-FIVE YEARS
29 OF AGE OR OLDER.

30 (B) FOR THE PURPOSES OF PARAGRAPH FIVE OF THIS SUBSECTION, "IATROGENIC
31 INFERTILITY" MEANS AN IMPAIRMENT OF FERTILITY BY SURGERY, RADIATION,
32 CHEMOTHERAPY OR OTHER MEDICAL TREATMENT AFFECTING REPRODUCTIVE ORGANS OR
33 PROCESSES.

34 (7) NO MEDICAL EXPENSE INDEMNITY CORPORATION, HOSPITAL SERVICE CORPO-
35 RATION OR HEALTH SERVICE CORPORATION PROVIDING COVERAGE UNDER THIS
36 SUBSECTION SHALL DISCRIMINATE BASED ON A COVERED INDIVIDUAL'S EXPECTED
37 LENGTH OF LIFE, PRESENT OR PREDICTED DISABILITY, DEGREE OF MEDICAL
38 DEPENDENCY, PERCEIVED QUALITY OF LIFE, OR OTHER HEALTH CONDITIONS, NOR
39 BASED ON PERSONAL CHARACTERISTICS, INCLUDING AGE, SEX, SEXUAL ORIEN-
40 TATION, MARITAL STATUS OR GENDER IDENTITY.

41 S 4. Subparagraph (C) of paragraph 6 of subsection (k) of section 3221
42 of the insurance law, as amended by section 1 of part K of chapter 82 of
43 the laws of 2002, is amended to read as follows:

44 (C) Coverage of diagnostic and treatment procedures, including
45 prescription drugs, used in the diagnosis and treatment of infertility
46 as required by subparagraphs (A) and (B) of this paragraph shall be
47 provided in accordance with the provisions of this subparagraph.

48 (i) [Coverage shall be provided for persons whose ages range from
49 twenty-one through forty-four years, provided that nothing herein shall
50 preclude the provision of coverage to persons whose age is below or
51 above such range.

52 (ii)] Diagnosis and treatment of infertility shall be prescribed as
53 part of a physician's overall plan of care and consistent with the
54 guidelines for coverage as referenced in this subparagraph.

55 [(iii)] (II) Coverage may be subject to co-payments, coinsurance and
56 deductibles as may be deemed appropriate by the superintendent and as

1 are consistent with those established for other benefits within a given
2 policy.

3 [(iv) Coverage shall be limited to those individuals who have been
4 previously covered under the policy for a period of not less than twelve
5 months, provided that for the purposes of this subparagraph "period of
6 not less than twelve months" shall be determined by calculating such
7 time from either the date the insured was first covered under the exist-
8 ing policy or from the date the insured was first covered by a previous-
9 ly in-force converted policy, whichever is earlier.

10 (v)] (III) Coverage shall not be required to include the diagnosis and
11 treatment of infertility in connection with: (I) [in vitro fertiliza-
12 tion, gamete intrafallopian tube transfers or zygote intrafallopian tube
13 transfers; (II)] the reversal of elective sterilizations; [(III)] (II)
14 sex change procedures; [(IV)] (III) cloning; or [(V)] (IV) medical or
15 surgical services or procedures that are deemed to be experimental in
16 accordance with clinical guidelines referenced in clause [(vi)] (IV) of
17 this subparagraph.

18 [(vi)] (IV) The superintendent, in consultation with the commissioner
19 of health, shall promulgate regulations which shall stipulate the guide-
20 lines and standards which shall be used in carrying out the provisions
21 of this subparagraph, which shall include:

22 (I) [The determination of "infertility" in accordance with the stand-
23 ards and guidelines established and adopted by the American College of
24 Obstetricians and Gynecologists and the American Society for Reproduc-
25 tive Medicine;

26 (II)] The identification of experimental procedures and treatments not
27 covered for the diagnosis and treatment of infertility determined in
28 accordance with the standards and guidelines established and adopted by
29 the American College of Obstetricians and Gynecologists and the American
30 Society for Reproductive Medicine;

31 [(III)] (II) The identification of the required training, experience
32 and other standards for health care providers for the provision of
33 procedures and treatments for the diagnosis and treatment of infertility
34 determined in accordance with the standards and guidelines established
35 and adopted by the American College of Obstetricians and Gynecologists
36 and the American Society for Reproductive Medicine; and

37 [(IV)] (III) The determination of appropriate medical candidates by
38 the treating physician in accordance with the standards and guidelines
39 established and adopted by the American College of Obstetricians and
40 Gynecologists and/or the American Society for Reproductive Medicine.

41 S 5. Paragraph 3 of subsection (s) of section 4303 of the insurance
42 law, as amended by section 2 of part K of chapter 82 of the laws of
43 2002, is amended to read as follows:

44 (3) Coverage of diagnostic and treatment procedures, including
45 prescription drugs used in the diagnosis and treatment of infertility as
46 required by paragraphs one and two of this subsection shall be provided
47 in accordance with this paragraph.

48 (A) [Coverage shall be provided for persons whose ages range from
49 twenty-one through forty-four years, provided that nothing herein shall
50 preclude the provision of coverage to persons whose age is below or
51 above such range.

52 (B)] Diagnosis and treatment of infertility shall be prescribed as
53 part of a physician's overall plan of care and consistent with the
54 guidelines for coverage as referenced in this paragraph.

55 [(C)] (B) Coverage may be subject to co-payments, coinsurance and
56 deductibles as may be deemed appropriate by the superintendent and as

1 are consistent with those established for other benefits within a given
2 policy.

3 [(D) Coverage shall be limited to those individuals who have been
4 previously covered under the policy for a period of not less than twelve
5 months, provided that for the purposes of this paragraph "period of not
6 less than twelve months" shall be determined by calculating such time
7 from either the date the insured was first covered under the existing
8 policy or from the date the insured was first covered by a previously
9 in-force converted policy, whichever is earlier.

10 (E)] (C) Coverage shall not be required to include the diagnosis and
11 treatment of infertility in connection with: (i) [in vitro fertiliza-
12 tion, gamete intrafallopian tube transfers or zygote intrafallopian tube
13 transfers; (ii)] the reversal of elective sterilizations; [(iii)] (II)
14 sex change procedures; [(iv)] (III) cloning; or [(v)] (IV) medical or
15 surgical services or procedures that are deemed to be experimental in
16 accordance with clinical guidelines referenced in subparagraph [(F)] (D)
17 of this paragraph.

18 [(F)] (D) The superintendent, in consultation with the commissioner of
19 health, shall promulgate regulations which shall stipulate the guide-
20 lines and standards which shall be used in carrying out the provisions
21 of this paragraph, which shall include:

22 (i) [The determination of "infertility" in accordance with the stand-
23 ards and guidelines established and adopted by the American College of
24 Obstetricians and Gynecologists and the American Society for Reproduc-
25 tive Medicine;

26 (ii)] The identification of experimental procedures and treatments not
27 covered for the diagnosis and treatment of infertility determined in
28 accordance with the standards and guidelines established and adopted by
29 the American College of Obstetricians and Gynecologists and the American
30 Society for Reproductive Medicine;

31 [(iii)] (II) The identification of the required training, experience
32 and other standards for health care providers for the provision of
33 procedures and treatments for the diagnosis and treatment of infertility
34 determined in accordance with the standards and guidelines established
35 and adopted by the American College of Obstetricians and Gynecologists
36 and the American Society for Reproductive Medicine; and

37 [(iv)] (III) The determination of appropriate medical candidates by
38 the treating physician in accordance with the standards and guidelines
39 established and adopted by the American College of Obstetricians and
40 Gynecologists and/or the American Society for Reproductive Medicine.

41 S 6. This act shall take effect on the first of January next succeed-
42 ing the date on which it shall have become a law and shall apply to all
43 policies issued, renewed, altered or modified on or after such date.

44 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
45 sion, section or part of this act shall be adjudged by any court of
46 competent jurisdiction to be invalid, such judgment shall not affect,
47 impair, or invalidate the remainder thereof, but shall be confined in
48 its operation to the clause, sentence, paragraph, subdivision, section
49 or part thereof directly involved in the controversy in which such judg-
50 ment shall have been rendered. It is hereby declared to be the intent of
51 the legislature that this act would have been enacted even if such
52 invalid provisions had not been included herein.

53 S 3. This act shall take effect immediately provided, however, that
54 the applicable effective date of Subparts A through N of this act shall
55 be as specifically set forth in the last section of such subparts.

1

PART GGG

2 Section 1. Section 1-104 of the election law is amended by adding a
3 new subdivision 38 to read as follows:

4 38. "COMPUTER GENERATED REGISTRATION LIST" MEANS A PRINTED OR ELEC-
5 TRONIC LIST OF VOTERS IN ALPHABETICAL ORDER FOR A SINGLE ELECTION
6 DISTRICT OR POLL SITE, GENERATED FROM A COMPUTER REGISTRATION FILE FOR
7 EACH ELECTION AND CONTAINING FOR EACH VOTER LISTED, A FACSIMILE OF THE
8 SIGNATURE OF THE VOTER. SUCH A LIST MAY BE IN A SINGLE VOLUME OR IN MORE
9 THAN ONE VOLUME. THE LIST MAY BE UTILIZED IN PLACE OF REGISTRATION POLL
10 RECORDS, TO ESTABLISH A PERSON'S ELIGIBILITY TO VOTE IN THE POLLING
11 PLACE ON ELECTION DAY.

12 S 2. Subdivision 1 of section 4-128 of the election law, as amended by
13 chapter 125 of the laws of 2011, is amended to read as follows:

14 1. The board of elections of each county shall provide the requisite
15 number of official and facsimile ballots, two cards of instruction to
16 voters in the form prescribed by the state board of elections, at least
17 one copy of the instruction booklet for inspectors, a sufficient number
18 of maps, street finders or other descriptions of all of the polling
19 places and election districts within the political subdivision in which
20 the polling place is located to enable the election inspectors and poll
21 clerks to determine the correct election district and polling place for
22 each street address within the political subdivision in which the poll-
23 ing place is located, distance markers, tally sheets and return blanks,
24 pens, [black ink, or ball point pens with black ink,] pencils [having
25 black lead], OR OTHER APPROPRIATE MARKING DEVICES, envelopes for the
26 ballots of voters whose registration poll records are not in the ledger
27 or whose names are not [on] IN the computer generated registration list,
28 envelopes for returns, identification buttons, badges or emblems for the
29 inspectors and clerks in the form prescribed by the state board of
30 elections and such other articles of stationery as may be necessary for
31 the proper conduct of elections, except that when a town, city or
32 village holds an election not conducted by the board of elections, the
33 clerk of such town, city or village, shall provide such official and
34 facsimile ballots and the necessary blanks, supplies and stationery for
35 such election.

36 S 3. Subdivision c of section 4-132 of the election law, as amended by
37 chapter 164 of the laws of 1985, is amended to read as follows:

38 c. A booth or device in each election district for the use of voters
39 marking ballots. Such booth or device shall be so constructed as to
40 permit the voter to mark his OR HER ballot in secrecy and shall be
41 furnished at all times with [a pencil having black lead only] AN APPRO-
42 PRIATE MARKING DEVICE.

43 S 4. Section 4-134 of the election law, the section heading as amended
44 by chapter 373 of the laws of 1978, subdivisions 1 and 3 as amended by
45 chapter 163 of the laws of 2010, subdivision 2 as amended by chapter 425
46 of the laws of 1986, and subdivisions 5 and 6 as amended by chapter 635
47 of the laws of 1990, is amended to read as follows:

48 S 4-134. Preparation and delivery of ballots, supplies and equipment
49 for use at elections. 1. The board of elections shall deliver, at its
50 office, to the clerk of each town or city in the county, except the
51 cities of New York, Buffalo and Rochester and to the clerk of each
52 village in the county in which elections are conducted by the board of
53 elections, by the Saturday before the primary, general, village or other
54 election for which they are required: the official and sample ballots;
55 ledgers prepared for delivery in the manner provided in subdivision two

1 of this section and containing the registration poll records of all
2 persons entitled to vote at such election in such town, city or village,
3 or computer generated registration lists containing the names of all
4 persons entitled to vote at such election in such town, city or village;
5 challenge reports prepared as directed by this chapter; sufficient
6 applications for registration by mail; sufficient ledger seals and other
7 supplies and equipment required by this article to be provided by the
8 board of elections for each polling place in such town, city or village.
9 The town, city or village clerk shall call at the office of such board
10 of elections at such time and receive such ballots, supplies and equip-
11 ment. In the cities of New York, Buffalo and Rochester the board of
12 elections shall cause such ballots, supplies and equipment to be deliv-
13 ered to the board of inspectors of each election district approximately
14 one-half hour before the opening of the polls for voting, and shall take
15 receipts therefor.

16 2. The board of elections shall provide for each election district a
17 ledger or ledgers containing the registration poll records or [printed]
18 lists with computer generated facsimile signatures, of all persons enti-
19 tled to vote in such election district at such election. Such ledgers
20 shall be labelled, sealed, locked and transported in locked carrying
21 cases. After leaving the board of elections no such carrying case shall
22 be unlocked except at the time and in the manner provided in this chap-
23 ter.

24 3. [Any envelope containing absentee voters' ballots on which the
25 blanks have not been properly filled in shall be stamped to indicate the
26 defect and shall be preserved by the board for at least one year after
27 the receipt thereof.

28 4.] Each kind of official ballot shall be arranged in a package in the
29 consecutive order of the numbers printed on the stubs thereof beginning
30 with number one. All official and sample ballots for each election
31 district shall be in separate sealed packages, clearly marked on the
32 outside thereof, with the number and kind of ballots contained therein
33 and indorsed with the designation of the election district for which
34 they were prepared. The other supplies provided for each election
35 district also shall be [inclosed] ENCLOSED in a sealed package, or pack-
36 ages, with a label on the outside thereof showing the contents of each
37 package.

38 [5. Each town, city and village clerk receiving such packages shall
39 cause all] 4. ALL such packages so received and marked for any election
40 district [to] SHALL be delivered unopened and with the seals thereof
41 unbroken to the inspectors of election of such election districts at
42 least [one-half] ONE hour before the opening of the polls of such
43 election therein, [and] WHO shall [take] GIVE a receipt therefor speci-
44 fying the number and kind of packages delivered. [At the same time each
45 such clerk shall cause to be delivered to such inspectors the equipment
46 described in subdivision two of this section and shall cause a receipt
47 to be taken therefor.

48 6.] 5. Town, city and village clerks required to provide official and
49 sample ballots, registration records, seals, supplies and equipment, as
50 described in this section, for town, city and village elections not
51 conducted by the board of elections, shall in like manner, deliver them
52 to the inspectors or presiding officers of the election at each polling
53 place at which such meetings and elections are held, respectively, in
54 like sealed packages marked on the outside in like manner, and shall
55 take receipts therefor in like manner.

1 S 5. Subdivision 1 of section 5-302 of the election law, as separately
2 amended by chapter 164 and chapter 558 of the laws of 1985, is amended
3 to read as follows:

4 1. Before placing the registration poll record in the poll ledger OR
5 IN THE COMPUTER GENERATED REGISTRATION LIST, the board shall enter in
6 the space provided therefor [on the back of such registration poll
7 record] the name of the party designated by the voter on his application
8 form, provided such party continues to be a party as defined in this
9 law. If such party ceases to be a party at any time, either before or
10 after such enrollment is so entered, the enrollment of such voter shall
11 be deemed to be blank and shall be entered as such until such voter
12 files an application for change of enrollment pursuant to the provisions
13 of this chapter. [In the city of New York the board shall also affix a
14 gummed sticker of a different color for each party in a place on such
15 registration poll record immediately adjacent to such entry.] The board
16 shall enter the date of such entry and affix initials thereto in the
17 space provided.

18 S 6. Paragraph c of subdivision 3 of section 5-506 of the election
19 law, as amended by chapter 659 of the laws of 1994, is amended to read
20 as follows:

21 c. The computer generated registration list prepared for each election
22 in each election district shall be [printed by a printer] PREPARED IN A
23 MANNER which meets or exceeds standards for clarity and speed of
24 [reproduction] PRODUCTION established by the state board of elections,
25 shall be in a form approved by such board, shall include the names of
26 all voters eligible to vote in such election and shall be in alphabet-
27 ical order, except that, at a primary election, the names of the voters
28 enrolled in each political party may be placed in a separate part of the
29 list or in a separate list, as the board of elections in its discretion,
30 may determine. Such list shall contain, adjacent to each voter's name,
31 OR IN A SPACE SO DESIGNATED, at least the following: street address,
32 date of birth, party enrollment, year of registration, a computer
33 reproduced facsimile of the voter's signature or an indication that the
34 voter is unable to sign his name, a place for the voter to sign his name
35 at such election and a place for the inspectors to mark the voting
36 machine number, the public counter number [and] IF ANY, OR the number of
37 any paper ballots given the voter.

38 S 7. Subdivision 2 of section 8-202 of the election law, as amended by
39 chapter 164 of the laws of 2010, is amended to read as follows:

40 2. The exterior of any ballot scanner, ballot marking device and
41 privacy booth and every part of the polling place shall be in plain view
42 of the election inspectors and watchers. The ballot scanners, ballot
43 marking devices, and privacy booths shall be placed at least four feet
44 from the table used by the inspectors in charge of the poll [books]
45 LEDGER OR COMPUTER GENERATED REGISTRATION LIST. The guard-rail shall be
46 at least three feet from the machine and the table used by the inspec-
47 tors. The election inspectors shall not themselves be, or allow any
48 other person to be, in any position or near any position, that will
49 permit one to see or ascertain how a voter votes, or how he or she has
50 voted nor shall they permit any other person to be less than three feet
51 from the ballot scanner, ballot marking device, or privacy booth while
52 occupied. The election inspectors or clerks attending the ballot scan-
53 ner, ballot marking device, or privacy booth shall regularly inspect the
54 face of the ballot scanner, ballot marking device, or the interior of
55 the privacy booth to see that the ballot scanner, ballot marking device,
56 or privacy booth has not been damaged or tampered with. During elections

1 the door or other covering of the counter compartment of the machine
2 shall not be unlocked or opened except by a member of the board of
3 elections, a voting machine custodian or any other person upon the
4 specific instructions of the board of elections.

5 S 8. Subdivisions 2, 2-a, 3, 4 and 5 of section 8-302 of the election
6 law, subdivision 2-a as added by chapter 179 of the laws of 2005, subdivi-
7 sions 3 and 4 as amended by chapter 200 of the laws of 1996, the open-
8 ing paragraph of paragraph (e) of subdivision 3 as amended by chapter
9 125 of the laws of 2011 and subparagraph (ii) of paragraph (e) of subdivi-
10 sion 3 as amended by chapter 164 of the laws of 2010, are amended to
11 read as follows:

12 2. The voter shall give [his] THE VOTER'S name and [his] THE VOTER'S
13 residence address to the inspectors. An inspector shall then loudly and
14 distinctly announce the name and residence of the voter.

15 2-a. (a) If a voter's name appears in the LEDGER OR computer generated
16 registration list with a notation indicating that the voter's identity
17 was not yet verified as required by the federal Help America Vote Act,
18 the inspector shall require that the voter produce one of the following
19 types of identification before permitting the voter to cast his or her
20 vote on the voting machine:

21 (i) a driver's license or department of motor vehicles non-driver
22 photo ID card or other current and valid photo identification;

23 (ii) a copy of a current utility bill, bank statement, government
24 check, paycheck or other government document that shows the name and
25 address of the voter.

26 (b) If the voter produces an identification document listed in para-
27 graph (a) of this subdivision, the inspector shall indicate so in the
28 LEDGER OR computer generated registration list, the voter will be deemed
29 verified as required by the federal Help America Vote Act and the voter
30 shall be permitted to cast his or her vote on the voting machine.

31 (c) If the voter does not produce an identification document listed in
32 paragraph (a) of this subdivision, the voter shall only be entitled to
33 vote by affidavit ballot unless a court order provides otherwise.

34 3. (a) If an applicant is challenged, the board, without delay, shall
35 either enter his name in the second section of the challenge report
36 together with the other entries required to be made in such section
37 opposite the applicant's name or make an entry next to [his] THE VOTER'S
38 name [on] IN the computer generated registration list or in the place
39 provided [at the end of] IN the computer generated registration list.

40 (b) A person who claims to have moved to a new address within the
41 election district in which he OR SHE is registered to vote shall be
42 permitted to vote in the same manner as other voters unless challenged
43 on other grounds. The inspectors shall enter the names and new addresses
44 of all such persons in either the first section of the challenge report
45 or in the place provided [at the end of] IN the computer generated
46 registration list and shall also enter the new address next to such
47 person's address on such computer generated registration list. When the
48 registration poll records of persons who have voted from new addresses
49 within the same election district are returned to the board of
50 elections, such board shall change the addresses on the face of such
51 registration poll records without completely obliterating the old
52 addresses and shall enter such new addresses and the new addresses for
53 any such persons whose names were [on] IN computer generated registra-
54 tion lists into its computer records for such persons.

55 (c) A person who claims a changed name shall be permitted to vote in
56 the same manner as other voters unless challenged on other grounds. The

1 inspectors shall either enter the names of all such persons in the first
2 section of the challenge report or in the place provided [at the end of]
3 IN the computer generated registration list, in the form in which they
4 are registered, followed in parentheses by the name as changed or enter
5 the name as changed next to such voter's name on the computer generated
6 registration list. The voter shall sign first on the registration poll
7 record or [on] IN the computer generated registration list, the name
8 under which the voter is registered and, immediately above it, the new
9 name, provided that [on] IN such [a computer generated] registration
10 list, the new name may be signed in the place provided [at the end of
11 such list]. When the registration poll record of a person who has voted
12 under a new name is returned to the board of elections, such board shall
13 change [his] THE VOTER'S name on the face of each [of his] registration
14 [records] RECORD without completely obliterating the old one, and there-
15 after such person shall vote only under his OR HER new name. If a voter
16 has signed a new name [on] IN a computer generated registration list,
17 such board shall enter such voter's new name and new signature in such
18 voter's computer record.

19 (d) If an applicant requests assistance in voting and qualifies there-
20 for, the board shall provide assistance as directed by this chapter, and
21 shall without delay either enter such applicant's name and the other
22 entries required in the third section of the challenge report or make an
23 entry next to such applicant's name [on] IN the computer generated
24 registration list or in the place provided [at the end of the computer
25 generated] IN SUCH registration list.

26 (e) Whenever a voter presents himself or herself and offers to cast a
27 ballot, and he or she claims to live in the election district in which
28 he or she seeks to vote but no registration poll record can be found for
29 him or her in the poll ledger or his or her name does not appear [on] IN
30 the computer generated registration list or his or her signature does
31 not appear next to his or her name [on] IN such [computer generated]
32 registration list or his or her registration poll record or the computer
33 generated registration list does not show him or her to be enrolled in
34 the party in which he or she claims to be enrolled, a poll clerk or
35 election inspector shall consult a map, street finder or other
36 description of all of the polling places and election districts within
37 the political subdivision in which said election district is located and
38 if necessary, contact the board of elections to obtain the relevant
39 information and advise the voter of the correct polling place and
40 election district for the residence address provided by the voter to
41 such poll clerk or election inspector. Thereafter, such voter shall be
42 permitted to vote in said election district only as hereinafter
43 provided:

44 (i) He OR SHE may present a court order requiring that he OR SHE be
45 permitted to vote. At a primary election, such a court order must speci-
46 fy the party in which the voter is permitted to vote. [He] THE VOTER
47 shall be required to sign [his] THEIR full name on top of the first page
48 of such order, together with [his] THE VOTER'S registration serial
49 number, if any, and [his] THE VOTER'S name and the other entries
50 required shall then be entered without delay in the fourth section of
51 the challenge report or in the place provided [at the end of] IN the
52 computer generated registration list, or, if such person's name appears
53 on [the computer generated] SUCH registration list, the board of
54 elections may provide a place to make such entry next to his OR HER name
55 on such list. The voter shall then be permitted to vote in the manner
56 otherwise prescribed for voters whose registration poll records are

1 found in the ledger or whose names are found on the computer generated
2 registration list; or

3 (ii) He or she may swear to and subscribe an affidavit stating that he
4 or she has duly registered to vote, the address in such election
5 district from which he or she registered, that he or she remains a duly
6 qualified voter in such election district, that his or her registration
7 poll record appears to be lost or misplaced or that his or her name
8 and/or his or her signature was omitted from the computer generated
9 registration list or that he or she has moved within the county or city
10 since he or she last registered, the address from which he or she was
11 previously registered and the address at which he or she currently
12 resides, and at a primary election, the party in which he or she is
13 enrolled. The inspectors of election shall offer such an affidavit to
14 each such voter whose residence address is in such election district.
15 Each such affidavit shall be in a form prescribed by the state board of
16 elections, shall be printed on an envelope of the size and quality used
17 for an absentee ballot envelope, and shall contain an acknowledgment
18 that the affiant understands that any false statement made therein is
19 perjury punishable according to law. Such form prescribed by the state
20 board of elections shall request information required to register such
21 voter should the county board determine that such voter is not regis-
22 tered and shall constitute an application to register to vote. The
23 voter's name and the entries required shall then be entered without
24 delay and without further inquiry in the fourth section of the challenge
25 report or in the place provided [at the end of] IN the computer gener-
26 ated registration list, with the notation that the voter has executed
27 the affidavit hereinabove prescribed, or, if such person's name appears
28 [on the computer generated] IN SUCH registration list, the board of
29 elections may provide a place to make such entry next to his or her name
30 [on] IN such list. The voter shall then, without further inquiry, be
31 permitted to vote an affidavit ballot provided for by this chapter. Such
32 ballot shall thereupon be placed in the envelope containing his or her
33 affidavit, and the envelope sealed and returned to the board of
34 elections in the manner provided by this chapter for protested official
35 ballots, including a statement of the number of such ballots.

36 4. At a primary election, a voter whose registration poll record is in
37 the ledger OR COMPUTER GENERATED REGISTRATION LIST shall be permitted to
38 vote only in the primary of the party in which such record shows [him]
39 THE VOTER to be enrolled unless [he] THE VOTER shall present a court
40 order pursuant to the provisions of subparagraph (i) of paragraph (e) of
41 subdivision three of this section requiring that [he] THE VOTER be
42 permitted to vote in the primary of another party, or unless [he] THE
43 VOTER shall present a certificate of enrollment issued by the board of
44 elections, not earlier than one month before such primary election,
45 pursuant to the provisions of this chapter which certifies that [he] THE
46 VOTER is enrolled in a party other than the one in which such record
47 shows [him] THE VOTER to be enrolled, or unless he OR SHE shall
48 subscribe an affidavit pursuant to the provisions of subparagraph (ii)
49 of paragraph (e) of subdivision three of this section.

50 5. Except for voters unable to sign their names, no person shall be
51 permitted to vote without first identifying himself OR HERSELF as
52 required by this chapter.

53 S 9. Subdivisions 1, 2 and 3 of section 8-304 of the election law,
54 subdivisions 1 and 2 as amended by chapter 425 of the laws of 1986, are
55 amended to read as follows:

1 1. A person before being allowed to vote shall be required, except as
2 provided in this chapter, to sign his OR HER name on the back of his OR
3 HER registration poll record on the first line reserved for his OR HER
4 signature at the time of election which is not filled with a previous
5 signature, or [on the line of] IN THE SPACE PROVIDED IN the computer
6 generated registration list reserved for [his] THE VOTER'S signature.
7 The two inspectors in charge shall satisfy themselves by a comparison of
8 this signature with [his] THE VOTER'S registration signature and by
9 comparison of [his] THE VOTER'S appearance with the descriptive material
10 on the face of the registration poll record that [he] THE VOTER is the
11 person registered. If they are so satisfied they shall enter the other
12 information required for the election on the same line with the voter's
13 latest signature, shall sign their names or initials in the spaces
14 provided therefor, and shall permit the applicant to vote. Any inspector
15 or inspectors not satisfied shall challenge the applicant forthwith.

16 2. If a person who alleges [his] AN inability to sign his OR HER name
17 presents himself OR HERSELF to vote, the board of inspectors shall
18 permit [him] SUCH PERSON to vote, unless challenged on other grounds,
19 provided [he] THE VOTER had been permitted to register without signing
20 [his] THE VOTER'S name. The board shall enter the words "Unable to Sign"
21 in the space on [his] THE VOTER'S registration poll record reserved for
22 [his] THE VOTER'S signature or on the line [of] OR SPACE the computer
23 generated registration list reserved for [his] THE VOTER'S signature at
24 such election. If [his] THE VOTER'S signature appears upon [his] THE
25 VOTER'S registration record or [upon] IN the computer generated regis-
26 tration list the board shall challenge [him] THE VOTER forthwith, except
27 that if such a person claims that he OR SHE is unable to sign his OR HER
28 name by reason of a physical disability incurred since [his] THE VOTER'S
29 registration, the board, if convinced of the existence of such disabili-
30 ty, shall permit him OR HER to vote, shall enter the words "Unable to
31 Sign" and a brief description of such disability in the space reserved
32 for [his] THE VOTER'S signature at such election. At each subsequent
33 election, if such disability still exists, [he] THE VOTER shall be enti-
34 tled to vote without signing [his] THEIR name and the board of inspec-
35 tors, without further notation, shall enter the words "Unable to Sign"
36 in the space reserved for [his] THE VOTER'S signature at such election.

37 3. The voter's FACSIMILE signature [made by him upon registration and
38 his signature made at subsequent elections] shall be effectively
39 concealed from the voter by a blotter or [piece of opaque paper] OTHER
40 MEANS until after the voter shall have completed [his] THE signature.

41 S 10. Subdivision 3 of section 8-306 of the election law, as amended
42 by chapter 154 of the laws of 1991, is amended to read as follows:

43 3. Any voter who requires assistance to vote by reason of blindness,
44 disability or inability to read or write may be given assistance by a
45 person of the voter's choice, other than the voter's employer or agent
46 of the employer or officer or agent of the voter's union. A voter enti-
47 tled to assistance in voting who does not select a particular person may
48 be assisted by two election inspectors not of the same political faith.
49 The inspectors or person assisting a voter shall enter the voting
50 machine or booth with [him] THE VOTER, help [him] THE VOTER in the prep-
51 aration of [his] THE VOTER'S ballot and, if necessary, in the return of
52 the voted ballot to the inspectors for deposit in the ballot box. The
53 inspectors shall enter in the [remarks space on the registration poll
54 card of an assisted voter, or next to the name of] SPACE PROVIDED FOR
55 such voter [on] IN the computer generated registration list, the name of
56 each officer or person rendering such assistance.

1 S 11. Subdivision 2 of section 8-508 of the election law, as amended
2 by chapter 200 of the laws of 1996, is amended to read as follows:

3 2. (a) The first section of such report shall be reserved for the
4 inspectors of election to enter the name, address and registration seri-
5 al number of each person who claims a change in name, or a change of
6 address within the election district, together with the new name or
7 address of each such person. In lieu of preparing section one of the
8 challenge list, the board of elections may provide, next to the name of
9 each voter [on] IN the computer generated registration list, a place for
10 the inspectors of election to record the information required to be
11 entered in such section one, or provide [at the end of such computer
12 generated] ELSEWHERE IN SUCH registration list, a place for the inspec-
13 tors of election to enter such information.

14 (b) The second section of such report shall be reserved for the board
15 of inspectors to enter the name, address and registration serial number
16 of each person who is challenged on the day of election, together with
17 the reason for the challenge. If no voters are challenged, the board of
18 inspectors shall enter the words "No Challenges" across the space
19 reserved for such names. In lieu of preparing section two of the chal-
20 lenge report, the board of elections may provide, next to the name of
21 each voter [on] IN the computer generated registration list, a place for
22 the inspectors of election to record the information required to be
23 entered in such section two, or provide [at the end of such computer
24 generated] ELSEWHERE IN SUCH registration list, a place for the inspec-
25 tors of election to enter such information.

26 (c) The third section of such report shall be reserved for the board
27 of inspectors to enter the name, address and registration serial number
28 of each voter given assistance, together with the reason the voter was
29 allowed assistance, the name of the person giving such assistance and
30 his address if not an inspector. If no voters are given assistance, the
31 board of inspectors shall enter the words "No Assistance" across the
32 space reserved for such names. In lieu of providing section three of the
33 challenge report, the board of elections may provide, next to the name
34 of each voter [on] IN the computer generated registration list, a place
35 for the inspectors of election to record the information required to be
36 entered in such section three, or provide [at the end of such computer
37 generated] ELSEWHERE IN SUCH registration list, a place for the inspec-
38 tors of election to enter such information.

39 (d) The fourth section of such report shall be reserved for the board
40 of inspectors to enter the name, address and registration serial number
41 of each person who was permitted to vote pursuant to a court order, or
42 to vote on a paper ballot which was inserted in an affidavit envelope.
43 If there are no such names, such board shall enter the word "None"
44 across the space provided for such names. In lieu of providing section
45 four of such report, the board of elections may provide, next to the
46 name of each voter [on] IN the computer generated registration list, a
47 place for the inspectors of election to record the information required
48 to be entered in such section four, or provide [at the end of the
49 computer generated] ELSEWHERE IN SUCH registration list, a place for the
50 inspectors of election to enter such information.

51 (e) At the foot of such report [and] OR at the end of any such comput-
52 er generated registration list, IF APPLICABLE, shall be [printed] a
53 certificate that such report OR LIST contains the names of all persons
54 who were challenged on the day of election, and that each voter so
55 reported as having been challenged took the oaths as required, that such
56 report OR LIST contains the names of all voters to whom such board gave

1 or allowed assistance and lists the nature of the disability which
2 required such assistance to be given and the names and family relation-
3 ship, if any, to the voter of the persons by whom such assistance was
4 rendered; that each such assisted voter informed such board under oath
5 that he required such assistance and that each person rendering such
6 assistance took the required oath; that such report OR LIST contains the
7 names of all voters who were permitted to vote although their registra-
8 tion poll records were missing; that the entries made by such board are
9 a true and accurate record of its proceedings with respect to the
10 persons named in such report OR LIST.

11 (f) Upon the return of such report [and] OR lists to the board of
12 elections, it shall complete the investigation of voting qualifications
13 of all persons named in the second section thereof or for whom entries
14 were placed [on] IN such computer generated registration lists in lieu
15 of the preparation of the second section of the challenge report, and
16 shall forthwith proceed to cancel the registration of any person who, as
17 noted upon such report, OR IN SUCH LIST, was challenged at such election
18 and refused either to take a challenge oath or to answer any challenge
19 question.

20 (g) The state board of elections shall prescribe a form of challenge
21 report for use pursuant to the provisions of this section. Such form may
22 require the insertion of such other information as the state board shall
23 deem appropriate.

24 S 12. Section 8-510 of the election law, the section heading as
25 amended by chapter 373 of the laws of 1978, subdivision 1 as amended by
26 chapter 200 of the laws of 1996, and subdivision 3 as amended by chapter
27 43 of the laws of 1988, is amended to read as follows:

28 S 8-510. Challenge report; completion of and [closing of registration
29 poll ledgers] PROCEDURE AFTER. 1. Immediately after the close of the
30 polls the board of inspectors of election shall verify the entries which
31 it has made on the challenge report or [at the end of the] IN THE SPACES
32 PROVIDED IN THE computer generated registration list by comparing such
33 entries with the information appearing on the registration poll records
34 of the affected voters or the information appearing [next to the names
35 of such voters on] IN THE SPACES PROVIDED IN the computer generated
36 registration list. If it has made no entries in section two, three or
37 four of such report it shall write across OR NOTE IN such section the
38 words "No challenges", "No assistance" or "None", as the case may be, as
39 directed in this chapter.

40 2. After completing such report the inspectors shall sign [the] A
41 certificate [at the end of] IN THE SPACES PROVIDED BY THE COUNTY BOARD
42 OF ELECTIONS FOR such report.

43 3. The inspectors shall place such completed report, and each court
44 order, if any, directing that a person be permitted to vote, [inside a]
45 IN THE SECURE CONTAINER PROVIDED BY THE COUNTY BOARD OF ELECTIONS FOR
46 SUCH ledger of registration records or computer generated registration
47 lists [between the front cover, and the first registration record] and
48 then shall close and seal each ledger of registration records or comput-
49 er generated registration lists, [affix their signature to the seal,]
50 lock such ledger in the carrying case furnished for that purpose and
51 enclose the keys in a sealed package or seal such list in the envelope
52 provided for that purpose.

53 S 13. Clauses (C) and (D) of subparagraph (i) of paragraph (a) of
54 subdivision 2 of section 9-209 of the election law, as amended by chap-
55 ter 308 of the laws of 2011, are amended to read as follows:

1 (C) If such person is found to be registered and has not voted in
2 person, an inspector shall compare the signature, if any, on each envel-
3 ope with the signature, if any, on the registration poll record, the
4 computer generated list of registered voters or the list of special
5 presidential voters, of the person of the same name who registered from
6 the same address. If the signatures are found to correspond, such
7 inspector shall certify thereto by [signing] PLACING his or her initials
8 in the ["Inspector's Initials" line on the] SPACE PROVIDED IN THE
9 computer generated list of registered voters [or in the "remarks" column
10 as appropriate].

11 (D) If such person is found to be registered and has not voted in
12 person, and if no challenge is made, or if a challenge made is not
13 sustained, the envelope shall be opened, the ballot or ballots withdrawn
14 without unfolding, and the ballot or ballots deposited in the proper
15 ballot box or boxes, or envelopes, provided however that, in the case of
16 a primary election, the ballot shall be deposited in the box only if the
17 ballot is of the party with which the voter is enrolled according to the
18 entry on the back of his or her registration poll record or [next to his
19 or her name on] IN the computer generated registration list; if not, the
20 ballot shall be rejected without inspection or unfolding and shall be
21 returned to the envelope which shall be endorsed "not enrolled." At the
22 time of the deposit of such ballot or ballots in the box or envelopes,
23 the inspectors shall enter the words "absentee vote" or "military vote"
24 in the space reserved for the voter's signature on the aforesaid list or
25 in the "remarks" [column] SPACE as appropriate, and shall enter the year
26 and month of the election on the same line in the spaces provided there-
27 for.

28 S 14. Subdivision 4 of section 11-206 of the election law, as amended
29 by chapter 91 of the laws of 1992, is amended to read as follows:

30 4. The registration poll records of special federal voters shall be
31 filed, in alphabetical order, by election district. At each election at
32 which [the ballots of] special federal voters are [delivered to the
33 inspectors of election in each election district] ELIGIBLE TO VOTE, the
34 registration poll records of all special federal voters [eligible to
35 vote at such election] shall be delivered to such inspectors of election
36 together with the other registration poll records or the names of such
37 voters shall be included [on] IN the computer generated registration
38 list. Such records shall be delivered either in a separate poll ledger
39 or a separate, clearly marked section, of the main poll ledger or [in a
40 separate,] BE clearly marked[, section of] IN the computer generated
41 registration list as the board of elections shall determine.

42 S 15. This act shall take effect on the first of January next succeed-
43 ing the date on which it shall have become a law.

44

PART HHH

45 Section 1. Section 14-116 of the election law, subdivision 1 as redes-
46 igned by chapter 9 of the laws of 1978 and subdivision 2 as amended by
47 chapter 260 of the laws of 1981, is amended to read as follows:

48 S 14-116. Political contributions by certain organizations. 1. No
49 corporation [or], LIMITED LIABILITY COMPANY, joint-stock association OR
50 OTHER CORPORATE ENTITY doing business in this state, except a corpo-
51 ration or association organized or maintained for political purposes
52 only, shall directly or indirectly pay or use or offer, consent or agree
53 to pay or use any money or property for or in aid of any political
54 party, committee or organization, or for, or in aid of, any corporation,

1 LIMITED LIABILITY COMPANY, joint-stock [or], other association, OR OTHER
2 CORPORATE ENTITY organized or maintained for political purposes, or for,
3 or in aid of, any candidate for political office or for nomination for
4 such office, or for any political purpose whatever, or for the
5 reimbursement or indemnification of any person for moneys or property so
6 used. Any officer, director, stock-holder, MEMBER, OWNER, attorney or
7 agent of any corporation [or], LIMITED LIABILITY COMPANY, joint-stock
8 association OR OTHER CORPORATE ENTITY which violates any of the
9 provisions of this section, who participates in, aids, abets or advises
10 or consents to any such violations, and any person who solicits or know-
11 ingly receives any money or property in violation of this section, shall
12 be guilty of a misdemeanor.

13 2. Notwithstanding the provisions of subdivision one of this section,
14 any corporation or an organization financially supported in whole or in
15 part, by such corporation, ANY LIMITED LIABILITY COMPANY OR OTHER CORPO-
16 RATE ENTITY may make expenditures, including contributions, not other-
17 wise prohibited by law, for political purposes, in an amount not to
18 exceed five thousand dollars in the aggregate in any calendar year;
19 provided that no public utility shall use revenues received from the
20 rendition of public service within the state for contributions for poli-
21 tical purposes unless such cost is charged to the shareholders of such a
22 public service corporation.

23 3. EACH LIMITED LIABILITY COMPANY THAT MAKES AN EXPENDITURE FOR POLI-
24 TICAL PURPOSES SHALL FILE WITH THE STATE BOARD OF ELECTIONS, BY DECEMBER
25 THIRTY-FIRST OF THE YEAR IN WHICH THE EXPENDITURE IS MADE, ON THE FORM
26 PRESCRIBED BY THE STATE BOARD OF ELECTIONS, THE IDENTITY OF ALL DIRECT
27 AND INDIRECT OWNERS OF THE MEMBERSHIP INTERESTS IN THE LIMITED LIABILITY
28 COMPANY AND THE PROPORTION OF EACH DIRECT OR INDIRECT MEMBER'S OWNERSHIP
29 INTEREST IN THE LIMITED LIABILITY COMPANY.

30 S 2. Section 14-120 of the election law is amended by adding a new
31 subdivision 3 to read as follows:

32 3. (A) NOTWITHSTANDING ANY LAW TO THE CONTRARY, ALL CONTRIBUTIONS MADE
33 TO A CAMPAIGN OR POLITICAL COMMITTEE BY A LIMITED LIABILITY COMPANY
34 SHALL BE ATTRIBUTED TO EACH MEMBER OF THE LIMITED LIABILITY COMPANY IN
35 PROPORTION TO THE MEMBER'S OWNERSHIP INTEREST IN THE LIMITED LIABILITY
36 COMPANY.

37 (B) IF, BY APPLICATION OF PARAGRAPH (A) OF THIS SUBDIVISION, A
38 CAMPAIGN CONTRIBUTION IS ATTRIBUTED TO A LIMITED LIABILITY COMPANY, THE
39 CONTRIBUTIONS SHALL BE FURTHER ATTRIBUTED TO EACH MEMBER OF THE LIMITED
40 LIABILITY COMPANY IN PROPORTION TO THE MEMBER'S OWNERSHIP INTEREST IN
41 THE LIMITED LIABILITY COMPANY.

42 (C) THE STATE BOARD OF ELECTIONS SHALL ENACT REGULATIONS THAT PREVENT
43 THE AVOIDANCE OF THE RULES SET FORTH IN PARAGRAPHS (A) AND (B) OF THIS
44 SUBDIVISION.

45 S 3. This act shall take effect on the seventh day after it shall have
46 become a law.

47 PART III

48 Section 1. Section 3-400 of the election law is amended by adding a
49 new subdivision 9 to read as follows:

50 9. NOTWITHSTANDING ANY INCONSISTENT PROVISIONS OF THIS ARTICLE,
51 ELECTION INSPECTORS OR POLL CLERKS, IF ANY, AT POLLING PLACES FOR EARLY
52 VOTING, SHALL CONSIST OF EITHER BOARD OF ELECTIONS EMPLOYEES WHO SHALL
53 BE APPOINTED BY THE COMMISSIONERS OF SUCH BOARD OR DULY QUALIFIED INDI-
54 VIDUALS, APPOINTED IN THE MANNER SET FORTH IN THIS SECTION. APPOINTMENTS

1 TO THE OFFICES OF ELECTION INSPECTOR OR POLL CLERK IN EACH POLLING PLACE
2 FOR EARLY VOTING SHALL BE EQUALLY DIVIDED BETWEEN THE MAJOR POLITICAL
3 PARTIES. THE BOARD OF ELECTIONS SHALL ASSIGN STAFF AND PROVIDE THE
4 RESOURCES THEY REQUIRE TO ENSURE WAIT TIMES AT EARLY VOTING SITES DO NOT
5 EXCEED THIRTY MINUTES.

6 S 2. Section 4-117 of the election law is amended by adding a new
7 subdivision 1-a to read as follows:

8 1-A. THE NOTICE REQUIRED BY SUBDIVISION ONE OF THIS SECTION SHALL
9 INCLUDE THE DATES, HOURS AND LOCATIONS OF EARLY VOTING FOR THE GENERAL
10 AND PRIMARY ELECTION. THE BOARD OF ELECTIONS MAY SATISFY THE NOTICE
11 REQUIREMENT OF THIS SUBDIVISION BY PROVIDING IN THE NOTICE INSTRUCTIONS
12 TO OBTAIN THE REQUIRED EARLY VOTING INFORMATION FROM A WEBSITE OF THE
13 BOARD OF ELECTIONS AND PROVIDING A PHONE NUMBER TO CALL FOR SUCH INFOR-
14 MATION.

15 S 3. Subdivision 2 of section 8-100 of the election law, as amended by
16 chapter 367 of the laws of 2017, is amended to read as follows:

17 2. Polls shall be open for voting during the following hours: a prima-
18 ry election from twelve o'clock noon until nine o'clock in the evening,
19 except in the city of New York and the counties of Nassau, Suffolk,
20 Westchester, Rockland, Orange, Putnam, Dutchess and Erie, and in such
21 city or county from six o'clock in the morning until nine o'clock in the
22 evening; the general election from six o'clock in the morning until nine
23 o'clock in the evening; a special election called by the governor pursu-
24 ant to the public officers law, and, except as otherwise provided by
25 law, every other election, from six o'clock in the morning until nine
26 o'clock in the evening; EARLY VOTING HOURS SHALL BE AS PROVIDED IN
27 SECTION 8-600 OF THIS ARTICLE.

28 S 4. Subdivision 1 of section 8-102 of the election law is amended by
29 adding a new paragraph (k) to read as follows:

30 (K) VOTING AT EACH POLLING PLACE FOR EARLY VOTING SHALL BE CONDUCTED
31 IN A MANNER CONSISTENT WITH THE PROVISIONS OF THIS ARTICLE, WITH THE
32 EXCEPTION OF THE TABULATION AND PROCLAMATION OF ELECTION RESULTS WHICH
33 SHALL BE COMPLETED ACCORDING TO SUBDIVISIONS EIGHT AND NINE OF SECTION
34 8-600 OF THIS ARTICLE.

35 S 5. Section 8-104 of the election law is amended by adding a new
36 subdivision 7 to read as follows:

37 7. THIS SECTION SHALL APPLY ON ALL EARLY VOTING DAYS AS PROVIDED FOR
38 IN SECTION 8-600 OF THIS ARTICLE.

39 S 6. Subparagraph (ii) of paragraph (e) of subdivision 3 and subdivi-
40 sion 3-a of section 8-302 of the election law, subparagraph (ii) of
41 paragraph (e) of subdivision 3 as amended by chapter 164 of the laws of
42 2010 and subdivision 3-a as amended by chapter 511 of the laws of 1985,
43 are amended to read as follows:

44 (ii) He or she may swear to and subscribe an affidavit stating that he
45 or she has duly registered to vote, the address in such election
46 district from which he or she registered, that he or she remains a duly
47 qualified voter in such election district, that his or her registration
48 poll record appears to be lost or misplaced or that his or her name
49 and/or his or her signature was omitted from the computer generated
50 registration list OR SUCH RECORD INDICATES THE VOTER ALREADY VOTED WHEN
51 HE OR SHE DID NOT DO SO or that he or she has moved within the county or
52 city since he or she last registered, the address from which he or she
53 was previously registered and the address at which he or she currently
54 resides, and at a primary election, the party in which he or she is
55 enrolled. The inspectors of election shall offer such an affidavit to
56 each such voter whose residence address is in such election district.

1 Each such affidavit shall be in a form prescribed by the state board of
 2 elections, shall be printed on an envelope of the size and quality used
 3 for an absentee ballot envelope, and shall contain an acknowledgment
 4 that the affiant understands that any false statement made therein is
 5 perjury punishable according to law. Such form prescribed by the state
 6 board of elections shall request information required to register such
 7 voter should the county board determine that such voter is not regis-
 8 tered and shall constitute an application to register to vote. The
 9 voter's name and the entries required shall then be entered without
 10 delay and without further inquiry in the fourth section of the challenge
 11 report or in the place provided at the end of the computer generated
 12 registration list, with the notation that the voter has executed the
 13 affidavit hereinabove prescribed, or, if such person's name appears on
 14 the computer generated registration list, the board of elections may
 15 provide a place to make such entry next to his or her name on such list.
 16 The voter shall then, without further inquiry, be permitted to vote an
 17 affidavit ballot provided for by this chapter. Such ballot shall there-
 18 upon be placed in the envelope containing his or her affidavit, and the
 19 envelope sealed and returned to the board of elections in the manner
 20 provided by this chapter for protested official ballots, including a
 21 statement of the number of such ballots.

22 3-a. The inspectors shall also give to every person whose address is
 23 in such election district for whom no registration poll record can be
 24 found and, in a primary election, to every voter whose registration poll
 25 record does not show him to be enrolled in the party in which he wishes
 26 to be enrolled OR WHO CLAIMS TO BE INCORRECTLY IDENTIFIED AS HAVING
 27 ALREADY VOTED, a copy of a notice, in a form prescribed by the state
 28 board of elections, advising such person of his right to, and of the
 29 procedures by which he may, cast an affidavit ballot or seek a court
 30 order permitting him to vote, and shall also give every such person who
 31 does not cast an affidavit ballot, an application for registration by
 32 mail.

33 S 7. Paragraph (b) of subdivision 2 of section 8-508 of the election
 34 law, as amended by chapter 200 of the laws of 1996, is amended to read
 35 as follows:

36 (b) The second section of such report shall be reserved for the board
 37 of inspectors to enter the name, address and registration serial number
 38 of each person who is challenged on the day of election OR ON ANY DAY IN
 39 WHICH THERE IS EARLY VOTING PURSUANT TO SECTION 8-600 OF THIS ARTICLE,
 40 together with the reason for the challenge. If no voters are chal-
 41 lenged, the board of inspectors shall enter the words "No Challenges"
 42 across the space reserved for such names. In lieu of preparing section
 43 two of the challenge report, the board of elections may provide, next to
 44 the name of each voter on the computer generated registration list, a
 45 place for the inspectors of election to record the information required
 46 to be entered in such section two, or provide at the end of such comput-
 47 er generated registration list, a place for the inspectors of election
 48 to enter such information.

49 S 8. Article 8 of the election law is amended by adding a new title 6
 50 to read as follows:

51 TITLE VI
 52 EARLY VOTING

53 SECTION 8-600. EARLY VOTING.

54 8-602. STATE BOARD OF ELECTIONS; POWERS AND DUTIES FOR EARLY
 55 VOTING.

1 S 8-600. EARLY VOTING. 1. BEGINNING THE EIGHTH DAY PRIOR TO ANY GENER-
2 AL, PRIMARY OR SPECIAL ELECTION FOR ANY PUBLIC OR PARTY OFFICE, AND
3 ENDING ON AND INCLUDING THE SECOND DAY PRIOR TO SUCH GENERAL, PRIMARY OR
4 SPECIAL ELECTION FOR SUCH PUBLIC OR PARTY OFFICE, PERSONS DULY REGIS-
5 TERED AND ELIGIBLE TO VOTE AT SUCH ELECTION SHALL BE PERMITTED TO VOTE
6 AS PROVIDED IN THIS TITLE. THE BOARD OF ELECTIONS OF EACH COUNTY AND
7 THE CITY OF NEW YORK SHALL ESTABLISH PROCEDURES, SUBJECT TO APPROVAL OF
8 THE STATE BOARD OF ELECTIONS, TO ENSURE THAT PERSONS WHO VOTE DURING THE
9 EARLY VOTING PERIOD SHALL NOT BE PERMITTED TO VOTE SUBSEQUENTLY IN THE
10 SAME ELECTION.

11 2. (A) THE BOARD OF ELECTIONS OF EACH COUNTY OR THE CITY OF NEW YORK
12 SHALL DESIGNATE POLLING PLACES FOR EARLY VOTING IN EACH COUNTY, WHICH
13 MAY INCLUDE THE OFFICES OF THE BOARD OF ELECTIONS, FOR PERSONS TO VOTE
14 EARLY PURSUANT TO THIS SECTION. THERE SHALL BE SO DESIGNATED AT LEAST
15 ONE EARLY VOTING POLLING PLACE FOR EVERY FULL INCREMENT OF FIFTY THOU-
16 SAND REGISTERED VOTERS IN EACH COUNTY; PROVIDED, HOWEVER, THE NUMBER OF
17 EARLY VOTING POLLING PLACES IN A COUNTY SHALL NOT BE REQUIRED TO BE
18 GREATER THAN SEVEN, AND A COUNTY WITH FEWER THAN FIFTY THOUSAND VOTERS
19 SHALL HAVE AT LEAST ONE EARLY VOTING POLLING PLACE.

20 (B) THE BOARD OF ELECTIONS OF EACH COUNTY OR THE CITY OF NEW YORK MAY
21 ESTABLISH ADDITIONAL POLLING PLACES FOR EARLY VOTING IN EXCESS OF THE
22 MINIMUM NUMBER REQUIRED BY THIS SUBDIVISION FOR THE CONVENIENCE OF
23 ELIGIBLE VOTERS WISHING TO VOTE DURING THE EARLY VOTING PERIOD.

24 (C) NOTWITHSTANDING THE MINIMUM NUMBER OF EARLY VOTING POLL SITES
25 OTHERWISE REQUIRED BY THIS SUBDIVISION, FOR ANY PRIMARY OR SPECIAL
26 ELECTION, UPON MAJORITY VOTE OF THE BOARD OF ELECTIONS, THE NUMBER OF
27 EARLY VOTING SITES MAY BE REDUCED IF THE BOARD OF ELECTIONS REASONABLY
28 DETERMINES A LESSER NUMBER OF SITES IS SUFFICIENT TO MEET THE NEEDS OF
29 EARLY VOTERS.

30 (D) POLLING PLACES FOR EARLY VOTING SHALL BE LOCATED TO ENSURE, TO THE
31 EXTENT PRACTICABLE, THAT ELIGIBLE VOTERS HAVE ADEQUATE EQUITABLE ACCESS,
32 TAKING INTO CONSIDERATION POPULATION DENSITY, TRAVEL TIME TO THE POLLING
33 PLACE, PROXIMITY TO OTHER LOCATIONS OR COMMONLY USED TRANSPORTATION
34 ROUTES AND SUCH OTHER FACTORS THE BOARD OF ELECTIONS OF THE COUNTY OR
35 THE CITY OF NEW YORK DEEMS APPROPRIATE. THE PROVISIONS OF SECTION 4-104
36 OF THIS CHAPTER, EXCEPT SUBDIVISIONS FOUR AND FIVE OF SUCH SECTION,
37 SHALL APPLY TO THE DESIGNATION OF POLLING PLACES FOR EARLY VOTING EXCEPT
38 TO THE EXTENT SUCH PROVISIONS ARE INCONSISTENT WITH THIS SECTION.

39 3. ANY PERSON PERMITTED TO VOTE EARLY MAY DO SO AT ANY POLLING PLACE
40 FOR EARLY VOTING ESTABLISHED PURSUANT TO SUBDIVISION TWO OF THIS SECTION
41 IN THE COUNTY WHERE SUCH VOTER IS REGISTERED TO VOTE. PROVIDED, HOWEVER,
42 (A) IF IT IS IMPRACTICAL TO PROVIDE EACH POLLING PLACE FOR EARLY VOTING
43 ALL APPROPRIATE BALLOTS FOR EACH ELECTION TO BE VOTED ON IN THE COUNTY,
44 OR (B) IF PERMITTING SUCH PERSONS TO VOTE EARLY AT ANY POLLING PLACE
45 ESTABLISHED FOR EARLY VOTING WOULD MAKE IT IMPRACTICAL TO ENSURE THAT
46 SUCH VOTER HAS NOT PREVIOUSLY VOTED EARLY DURING SUCH ELECTION, THE
47 BOARD OF ELECTIONS MAY DESIGNATE EACH POLLING PLACE FOR EARLY VOTING
48 ONLY FOR THOSE VOTERS REGISTERED TO VOTE IN A PORTION OF THE COUNTY TO
49 BE SERVED BY SUCH POLLING PLACE FOR EARLY VOTING, PROVIDED THAT ALL
50 VOTERS IN EACH COUNTY SHALL HAVE ONE OR MORE POLLING PLACES AT WHICH
51 THEY ARE ELIGIBLE TO VOTE THROUGHOUT THE EARLY VOTING PERIOD ON A
52 SUBSTANTIALLY EQUAL BASIS.

53 4. (A) POLLS SHALL BE OPEN FOR EARLY VOTING FOR AT LEAST EIGHT HOURS
54 BETWEEN SEVEN O'CLOCK IN THE MORNING AND EIGHT O'CLOCK IN THE EVENING
55 EACH WEEK DAY DURING THE EARLY VOTING PERIOD.

1 (B) AT LEAST ONE POLLING PLACE FOR EARLY VOTING SHALL REMAIN OPEN
2 UNTIL EIGHT O'CLOCK IN THE EVENING ON AT LEAST TWO WEEK DAYS IN EACH
3 CALENDAR WEEK DURING THE EARLY VOTING PERIOD. IF POLLING PLACES FOR
4 EARLY VOTING ARE LIMITED TO VOTERS FROM CERTAIN AREAS PURSUANT TO SUBDI-
5 VISION THREE OF THIS SECTION, POLLING PLACES THAT REMAIN OPEN UNTIL
6 EIGHT O'CLOCK SHALL BE DESIGNATED SUCH THAT ANY PERSON ENTITLED TO VOTE
7 EARLY MAY VOTE UNTIL EIGHT O'CLOCK IN THE EVENING ON AT LEAST TWO WEEK
8 DAYS DURING THE EARLY VOTING PERIOD.

9 (C) POLLS SHALL BE OPEN FOR EARLY VOTING FOR AT LEAST FIVE HOURS
10 BETWEEN NINE O'CLOCK IN THE MORNING AND SIX O'CLOCK IN THE EVENING ON
11 EACH SATURDAY, SUNDAY AND LEGAL HOLIDAY DURING THE EARLY VOTING PERIOD.

12 (D) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT ANY BOARD
13 OF ELECTIONS FROM ESTABLISHING A GREATER NUMBER OF HOURS FOR VOTING
14 DURING THE EARLY VOTING PERIOD BEYOND THE NUMBER OF HOURS REQUIRED IN
15 THIS SUBDIVISION.

16 (E) EARLY VOTING POLLING PLACES AND THEIR HOURS OF OPERATION FOR EARLY
17 VOTING AT A GENERAL ELECTION SHALL BE DESIGNATED BY MAY FIRST OF EACH
18 YEAR PURSUANT TO SUBDIVISION ONE OF SECTION 4-104 OF THIS CHAPTER.
19 NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION ONE OF SECTION 4-104 OF
20 THIS CHAPTER REQUIRING POLL SITE DESIGNATION BY MAY FIRST, EARLY VOTING
21 POLLING PLACES AND THEIR HOURS OF OPERATION FOR EARLY VOTING FOR A
22 PRIMARY OR SPECIAL ELECTION SHALL BE MADE NOT LATER THAN FORTY-FIVE DAYS
23 BEFORE SUCH PRIMARY OR SPECIAL ELECTION.

24 5. EACH BOARD OF ELECTIONS SHALL CREATE A COMMUNICATION PLAN TO INFORM
25 ELIGIBLE VOTERS OF THE OPPORTUNITY TO VOTE EARLY. SUCH PLAN MAY UTILIZE
26 ANY AND ALL MEDIA OUTLETS, INCLUDING SOCIAL MEDIA, AND SHALL PUBLICIZE:
27 THE LOCATION AND DATES AND HOURS OF OPERATION OF ALL POLLING PLACES FOR
28 EARLY VOTING; AN INDICATION OF WHETHER EACH POLLING PLACE IS ACCESSIBLE
29 TO VOTERS WITH PHYSICAL DISABILITIES; A CLEAR AND UNAMBIGUOUS NOTICE TO
30 VOTERS THAT IF THEY CAST A BALLOT DURING THE EARLY VOTING PERIOD THEY
31 WILL NOT BE ALLOWED TO VOTE ELECTION DAY; AND IF POLLING PLACES FOR
32 EARLY VOTING ARE LIMITED TO VOTERS FROM CERTAIN AREAS PURSUANT TO SUBDI-
33 VISION THREE OF THIS SECTION, THE LOCATION OF THE POLLING PLACES FOR
34 EARLY VOTING SERVING THE VOTERS OF EACH PARTICULAR CITY, TOWN OR OTHER
35 POLITICAL SUBDIVISION.

36 6. THE FORM OF PAPER BALLOTS USED IN EARLY VOTING SHALL COMPLY WITH
37 THE PROVISIONS OF ARTICLE SEVEN OF THIS CHAPTER THAT ARE APPLICABLE TO
38 VOTING BY PAPER BALLOT ON ELECTION DAY AND SUCH BALLOT SHALL BE CAST IN
39 THE SAME MANNER AS PROVIDED FOR IN SECTION 8-312 OF THIS ARTICLE,
40 PROVIDED, HOWEVER, THAT BALLOTS CAST DURING THE EARLY VOTING PERIOD
41 SHALL BE SECURED IN THE MANNER OF VOTED BALLOTS CAST ON ELECTION DAY AND
42 SUCH BALLOTS SHALL NOT BE CANVASSED OR EXAMINED UNTIL AFTER THE CLOSE OF
43 THE POLLS ON ELECTION DAY, AND NO UNOFFICIAL TABULATIONS OF ELECTION
44 RESULTS SHALL BE PRINTED OR VIEWED IN ANY MANNER UNTIL AFTER THE CLOSE
45 OF POLLS ON ELECTION DAY.

46 7. VOTERS CASTING BALLOTS PURSUANT TO THIS TITLE SHALL BE SUBJECT TO
47 CHALLENGE AS PROVIDED IN SECTIONS 8-500, 8-502 AND 8-504 OF THIS ARTI-
48 CLE.

49 8. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS CHAPTER, AT THE END OF
50 EACH DAY OF EARLY VOTING, ANY EARLY VOTING BALLOTS THAT HAVE NOT BEEN
51 SCANNED BECAUSE A BALLOT SCANNER WAS NOT AVAILABLE OR BECAUSE THE BALLOT
52 HAS BEEN ABANDONED BY THE VOTER AT THE BALLOT SCANNER SHALL BE CAST IN A
53 MANNER CONSISTENT WITH SECTION 9-110 OF THIS CHAPTER, EXCEPT THAT SUCH
54 BALLOTS WHICH CANNOT THEN BE CAST ON A BALLOT SCANNER SHALL BE HELD
55 INVIOLE AND UNEXAMINED AND SHALL BE DULY SECURED UNTIL AFTER THE CLOSE
56 OF POLLS ON ELECTION DAY WHEN SUCH BALLOTS SHALL BE EXAMINED AND

1 CANVASSED IN A MANNER CONSISTENT WITH SUBDIVISION TWO OF SECTION 9-110
2 OF THIS CHAPTER.

3 9. THE BOARD OF ELECTIONS SHALL SECURE ALL BALLOTS AND SCANNERS USED
4 FOR EARLY VOTING FROM THE BEGINNING OF THE EARLY VOTING PERIOD THROUGH
5 THE CLOSE OF THE POLLS ON ELECTION DAY; PROVIDED, HOWEVER, THE STATE
6 BOARD OF ELECTIONS MAY BY REGULATION DULY ADOPTED BY A MAJORITY OF SUCH
7 BOARD ESTABLISH A PROCEDURE WHEREBY BALLOT SCANNERS USED FOR EARLY
8 VOTING MAY ALSO BE USED ON ELECTION DAY IF THE PORTABLE MEMORY DEVICES
9 USED DURING EARLY VOTING CONTAINING THE EARLY VOTING ELECTION INFORMA-
10 TION AND VOTE TABULATIONS ARE PROPERLY SECURED APART FROM THE SCANNERS,
11 AND THE RESULTS THEREFROM SHALL BE DULY CANVASSED AFTER THE CLOSE OF
12 POLLS ON ELECTION DAY.

13 10. AFTER THE CLOSE OF POLLS ON ELECTION DAY, INSPECTORS OR BOARD OF
14 ELECTIONS EMPLOYEES APPOINTED TO CANVASS BALLOTS CAST DURING EARLY
15 VOTING SHALL FOLLOW ALL RELEVANT PROVISIONS OF ARTICLE NINE OF THIS
16 CHAPTER THAT ARE NOT INCONSISTENT WITH THIS SECTION, FOR CANVASSING,
17 PROCESSING, RECORDING, AND ANNOUNCING RESULTS OF VOTING AT POLLING PLAC-
18 ES FOR EARLY VOTING, AND SECURING BALLOTS, SCANNERS, AND OTHER ELECTION
19 MATERIALS. SUCH CANVASS MAY OCCUR AT THE OFFICES OF THE BOARD OF
20 ELECTIONS, AT THE EARLY VOTING POLLING PLACE OR SUCH OTHER LOCATION
21 DESIGNATED BY THE BOARD OF ELECTIONS.

22 11. NOTWITHSTANDING THE REQUIREMENTS OF THIS TITLE REQUIRING THE
23 CANVASS OF BALLOTS CAST DURING EARLY VOTING AFTER THE CLOSE OF POLLS ON
24 ELECTION DAY, SUCH CANVASS MAY BEGIN ONE HOUR BEFORE THE SCHEDULED CLOSE
25 OF POLLS ON ELECTION DAY PROVIDED THE BOARD OF ELECTIONS ADOPTS PROCE-
26 DURES TO PREVENT THE PUBLIC RELEASE OF ELECTION RESULTS PRIOR TO THE
27 CLOSE OF POLLS ON ELECTION DAY AND SUCH PROCEDURES SHALL BE CONSISTENT
28 WITH THE REGULATIONS OF THE STATE BOARD OF ELECTIONS AND SHALL BE FILED
29 WITH THE STATE BOARD OF ELECTIONS AT LEAST THIRTY DAYS BEFORE THEY SHALL
30 BE EFFECTIVE.

31 S 8-602. STATE BOARD OF ELECTIONS; POWERS AND DUTIES FOR EARLY VOTING.
32 ANY RULE OR REGULATION NECESSARY FOR THE IMPLEMENTATION OF THE
33 PROVISIONS OF THIS TITLE SHALL BE PROMULGATED BY THE STATE BOARD OF
34 ELECTIONS PROVIDED THAT SUCH RULES AND REGULATIONS SHALL INCLUDE
35 PROVISIONS TO ENSURE THAT BALLOTS CAST EARLY, BY ANY METHOD ALLOWED
36 UNDER LAW, ARE COUNTED AND CANVASSED AS IF CAST ON ELECTION DAY. THE
37 STATE BOARD OF ELECTIONS SHALL PROMULGATE ANY OTHER RULES AND REGU-
38 LATIONS NECESSARY TO ENSURE AN EFFICIENT AND FAIR EARLY VOTING PROCESS
39 THAT RESPECTS THE PRIVACY OF THE VOTER. PROVIDED, FURTHER, THAT SUCH
40 RULES AND REGULATIONS SHALL REQUIRE THAT THE VOTING HISTORY RECORD FOR
41 EACH VOTER BE CONTINUALLY UPDATED TO REFLECT EACH INSTANCE OF EARLY
42 VOTING BY SUCH VOTER.

43 S 9. The opening paragraph of section 9-209 of the election law, as
44 amended by chapter 163 of the laws of 2010, is amended to read as
45 follows:

46 Before completing the canvass of votes cast in any primary, general,
47 special, or other election at which voters are required to sign their
48 registration poll records before voting, the board of elections shall
49 proceed in the manner hereinafter prescribed to cast and canvass any
50 absentee, military, special presidential, special federal or other
51 special ballots and any ballots voted by voters who moved within the
52 county or city after registering, voters who are in inactive status,
53 voters whose registration was incorrectly transferred to another address
54 even though they did not move, voters whose registration poll records
55 were missing on the day of such election, voters who have not had their
56 identity previously verified and voters whose registration poll records

1 did not show them to be enrolled in the party in which they claimed to
2 be enrolled AND VOTERS INCORRECTLY IDENTIFIED AS HAVING ALREADY VOTED.
3 Each such ballot shall be retained in the original envelope containing
4 the voter's affidavit and signature, in which it is delivered to the
5 board of elections until such time as it is to be cast and canvassed.

6 S 10. This act shall take effect on the first of January next succeed-
7 ing the date on which it shall have become a law and shall apply to any
8 election held 120 days or more after it shall have taken effect.

9 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
10 sion, section or part of this act shall be adjudged by any court of
11 competent jurisdiction to be invalid, such judgment shall not affect,
12 impair, or invalidate the remainder thereof, but shall be confined in
13 its operation to the clause, sentence, paragraph, subdivision, section
14 or part thereof directly involved in the controversy in which such judg-
15 ment shall have been rendered. It is hereby declared to be the intent of
16 the legislature that this act would have been enacted even if such
17 invalid provisions had not been included herein.

18 S 3. This act shall take effect immediately provided, however, that
19 the applicable effective date of Parts A through III of this act shall
20 be as specifically set forth in the last section of such Parts.