

STATE OF NEW YORK

4876

2017-2018 Regular Sessions

IN ASSEMBLY

February 3, 2017

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

AN ACT to amend the family court act, in relation to family court proceedings, jurisdiction of the court, the definition of juvenile delinquent, the definition of a designated felony act, the procedures regarding the adjustment of cases from criminal courts to family court, the age at which children may be tried as an adult for various felonies, and the manner in which courts handle juvenile delinquent cases; to amend the social services law, in relation to state reimbursement for expenditures made by social services districts for various services; to amend the social services law, in relation to the definitions of juvenile delinquent and persons in need of supervision; to amend the penal law, in relation to the definition of infancy and the authorized dispositions, sentences, and periods of post-release supervision for juvenile offenders; to amend chapter 3 of the laws of 1995, enacting the sentencing reform act of 1995, in relation to extending the expiration of certain provisions of such chapter; to amend the criminal procedure law, in relation to the definition of juvenile offender; to amend the criminal procedure law, in relation to the arrest of a juvenile offender without a warrant; in relation to conditional sealing of certain convictions; in relation to removal of certain proceedings to family court; in relation to joinder of offenses and consolidation of indictments; in relation to appearances and hearings for and placements of certain juvenile offenders; in relation to raising the age for juvenile offender status; in relation to creating a youth part for certain proceedings involving juvenile offenders; to amend the correction law, in relation to requiring that no county jail be used for the confinement of persons under the age of eighteen; to amend the education law, in relation to certain contracts

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

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with the office of children and family services; to amend the education law, in relation to the possession of a gun on school grounds by a student; to amend the executive law, in relation to persons in need of supervision or youthful offenders; and to amend the vehicle and traffic law, in relation to convictions; and in relation to suspension, revocation and reissuance of licenses and registrations; and to repeal certain provisions of the correction law relating to the housing of prisoners and other persons in custody

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

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

4 (vi) proceedings concerning juvenile delinquency as set forth in arti-
5 cle three of this act that are commenced in family court.

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

8 (e) The family court has concurrent jurisdiction with the criminal
9 court over all family offenses as defined in article eight of this act
10 and has concurrent jurisdiction with the youth part of a superior court
11 over any juvenile delinquency proceeding resulting from the removal of
12 the case to the family court pursuant to article seven hundred twenty-
13 five of the criminal procedure law.

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

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

~~a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law, (v) defined in section 120.05 (assault in the second degree) or 160.10 (robbery in the second degree) of the penal law committed by a person fourteen or fifteen years of age but only where there has been a prior finding by a court that such person has previously committed an act which, if committed by an adult, would be the crime of assault in the second degree, robbery in the second degree or any designated felony act specified in clause (i), (ii) or (iii) of this subdivision regardless of the age of such person at the time of the commission of the prior act, or (vi) other than a misdemeanor, committed by a person at least seven but less than sixteen years of age, but only where there has been two prior findings by the court that such person has committed a prior act which, if committed by an adult would be a felony]~~ constitute a designated felony act as defined in subdivision eight of section 301.2 of such article:

(i) There is hereby established in the family court in the city of New York at least one "designated felony act part." Such part or parts shall be held separate from all other proceedings of the court, and shall have jurisdiction over all proceedings involving such an allegation that are not referred to the youth part of a superior court. All such proceedings shall be originated in or be transferred to this part from other parts as they are made known to the court.

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

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

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

(a) who is:

(i) ten or eleven years of age who committed an act that would constitute a crime as defined in section 125.25 (murder in the second degree) of the penal law if committed by an adult; or

(ii) at least twelve years of age and less than eighteen years of age who committed an act that would constitute a crime if committed by an adult; or

(iii) sixteen or seventeen years of age who committed a violation of paragraph (a) of subdivision two of section sixty-five-b of the alcoholic beverage control law provided, however, that such person shall only be deemed to be a juvenile delinquent for the purposes of imposing license sanctions in accordance with subdivision four of section 352.2 of this article; and

(b) who is either:

(i) not criminally responsible for such conduct by reason of infancy; or

(ii) the defendant in an action based on such act that has been ordered removed to the family court pursuant to article seven hundred twenty-five of the criminal procedure law.

§ 5. Subdivisions 8 and 9 of section 301.2 of the family court act, subdivision 8 as amended by chapter 7 of the laws of 2007 and subdivision 9 as added by chapter 920 of the laws of 1982, are amended to read as follows:

8. "Designated felony act" means an act which, if done by an adult, would be a crime: (i) defined in sections [~~125.27 (murder in the first degree);~~] 125.25 (murder in the second degree); 135.25 (kidnapping in the first degree); or 150.20 (arson in the first degree) of the penal law committed by a person thirteen, fourteen [~~or~~], fifteen, sixteen, or seventeen years of age; or such conduct committed as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (ii) defined in sections 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); 130.35 (rape in the first degree); 130.50 (criminal sexual act in the first degree); 130.70 (aggravated sexual abuse in the first degree); 135.20 (kidnapping in the second degree) but only where the abduction involved the use or threat of use of deadly physical force; 150.15 (arson in the second degree) or 160.15 (robbery in the first degree) of the penal law committed by a person thirteen, fourteen [~~or~~], fifteen, sixteen, or seventeen years of age; or such conduct committed as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (iii) defined in the penal law as an attempt to commit murder in the first or second degree or kidnapping in the first degree committed by a person thirteen, fourteen [~~or~~], fifteen, sixteen, or seventeen years of age; or such conduct committed as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (iv) defined in section 140.30 (burglary in the first degree); subdivision one of section 140.25 (burglary in the second degree); subdivision two of section 160.10 (robbery in the second degree) of the penal law; or section 265.03 of the penal law, where such machine gun or such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 of the penal law committed by a person fourteen or fifteen years of age; or such conduct committed as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (v) defined in section 120.05 (assault in the second degree) or 160.10 (robbery in the second degree) of the penal law committed by a person fourteen [~~or~~], fifteen, sixteen or seventeen years of age but only where there has been a prior finding by a court that such person has previously committed an act which, if committed by an adult, would be the crime of assault in the second degree, robbery in the second degree or any designated felony act specified in paragraph (i), (ii), or (iii) of this subdivision regardless of the age of such person at the time of the commission of the prior act; [~~or~~] (vi) other than a misdemeanor committed by a person at least [~~seven~~] twelve but less than [~~sixteen~~] eighteen years of age, but only where there has been two prior findings by the court that such person has committed a prior felony; or (vii) defined in section 460.22 (aggravated enterprise corruption); 490.25 (crime of terrorism); 490.45 (criminal possession of a chemical weapon or biological weapon in the first degree); 490.50 (criminal use of a chemical weapon or biological weapon in the second degree); 490.55 (criminal use of a chemical weapon or biological weapon in the first degree); 120.11 (aggravated assault upon a police officer or a peace officer); 125.22 (aggravated manslaughter in the first degree); 215.17 (intimidating a victim or witness in the first degree); 265.04 (criminal possession of a weapon in the first degree); 265.09 (criminal use of a firearm in the first degree); 265.13 (criminal sale of a firearm in the first degree); 490.35 (hindering prosecution of terrorism in the first degree); 490.40 (criminal possession of a chemical weapon or biological weapon in the second degree); 490.47 (criminal use of a chemical weapon or biological weapon in the third degree); 121.13 (strangulation in the first degree);

490.37 (criminal possession of a chemical weapon or biological weapon in the third degree) of the penal law; or a felony sex offense as defined in paragraph (a) of subdivision one of section 70.80 of the penal law.

9. "Designated class A felony act" means a designated felony act ~~[defined in paragraph (i) of subdivision eight]~~ that would constitute a class A felony if committed by an adult.

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

1. The family court has exclusive original jurisdiction over any proceeding to determine whether a person is a juvenile delinquent commenced in family court and concurrent jurisdiction with the youth part of a superior court over any such proceeding removed to the family court pursuant to article seven hundred twenty-five of the criminal procedure law.

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

3. Whenever a crime and a traffic infraction arise out of the same transaction or occurrence, a charge alleging both offenses may be made returnable before the court having jurisdiction over the crime. Nothing herein provided shall be construed to prevent a court, having jurisdiction over a criminal charge relating to traffic or a traffic infraction, from lawfully entering a judgment of conviction, whether or not based on a plea of guilty, for an offense classified as a traffic infraction.

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

§ 304.1. Detention. 1. A facility certified by the state ~~[division for youth]~~ office of children and family services as a juvenile detention facility must be operated in conformity with the regulations of the state ~~[division for youth and shall be subject to the visitation and inspection of the state board of social welfare]~~ office of children and family services.

2. No child to whom the provisions of this article may apply shall be detained in any prison, jail, lockup, or other place used for adults convicted of crime or under arrest and charged with crime without the approval of the state ~~[division for youth]~~ office of children and family services in the case of each child and the statement of its reasons therefor. The state ~~[division for youth]~~ office of children and family services shall promulgate and publish the rules which it shall apply in determining whether approval should be granted pursuant to this subdivision.

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

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

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

(1) Upon application by the presentment agency, or upon application by the probation service as part of the adjustment of a case, the court may issue a temporary order of protection against a respondent for good cause shown, ex parte or upon notice, at any time after a juvenile is taken into custody, pursuant to section 305.1 or 305.2 or upon the issu-

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

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

5 1. A private person may take a child [~~under the age of sixteen~~] who
6 may be subject to the provisions of this article for committing an act
7 that would be a crime if committed by an adult into custody in cases in
8 which [~~he~~] such private person may arrest an adult for a crime under
9 section 140.30 of the criminal procedure law.

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

12 2. An officer may take a child [~~under the age of sixteen~~] who may be
13 subject to the provisions of this article for committing an act that
14 would be a crime if committed by an adult into custody without a warrant
15 in cases in which [~~he~~] the officer may arrest a person for a crime under
16 article one hundred forty of the criminal procedure law.

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

20 (b) forthwith and with all reasonable speed take the child directly,
21 and without his first being taken to the police station house, to the
22 family court located in the county in which the act occasioning the
23 taking into custody allegedly was committed, or, when the family court
24 is not in session, to the most accessible magistrate, if any, designated
25 by the appellate division of the supreme court in the applicable depart-
26 ment to conduct a hearing under section 307.4 of this part, unless the
27 officer determines that it is necessary to question the child, in which
28 case he or she may take the child to a facility designated by the chief
29 administrator of the courts as a suitable place for the questioning of
30 children or, upon the consent of a parent or other person legally
31 responsible for the care of the child, to the child's residence and
32 there question him or her for a reasonable period of time; or

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

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

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

44 (b) the child is twelve years of age or older and the crime which is
45 the subject of the arrest or which is charged in the petition consti-
46 tutes a class A or B felony; or

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

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

53 § 307.3. Rules of court authorizing release before filing of petition.

54 1. The agency responsible for operating a detention facility pursuant to
55 section two hundred eighteen-a of the county law, five hundred [~~ten-a~~]
56 three of the executive law or other applicable provisions of law, shall

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

7 2. When practicable such agency may release a child before the filing
8 of a petition to the custody of his or her parents or other person
9 legally responsible for his or her care, or if such legally responsible
10 person is unavailable, to a person with whom he or she resides, when the
11 events occasioning the taking into custody appear to involve allegations
12 that the child committed a delinquent act; provided, however, that such
13 agency must release the child if:

14 (a) such events appear to involve only allegations that the child
15 committed acts that would constitute more than a violation but no more
16 than a misdemeanor if committed by an adult if:

17 (i) the alleged acts did not result in any physical injury as defined
18 in subdivision nine of section 10.00 of the penal law to another person;
19 and

20 (ii) the child was assessed at a low risk on the applicable detention
21 risk assessment instrument approved by the office of children and family
22 services unless the agency determines that detention is necessary
23 because the respondent otherwise poses an imminent risk to public safety
24 and states the reasons for such determination in the child's record; or

25 (b) such events appear to involve allegations that the child committed
26 acts that would constitute a felony if committed by an adult if:

27 (i) the alleged acts did not result in any physical injury as defined
28 in subdivision nine of section 10.00 of the penal law to another person;

29 (ii) the child does not have any prior adjudications for an act that
30 would constitute a felony if committed by an adult;

31 (iii) the child has no more than one prior adjudication for an act
32 that would constitute a misdemeanor if committed by an adult and that
33 act also did not result in any physical injury to another person; and

34 (iv) the child was assessed at a low risk on the applicable detention
35 risk assessment instrument approved by the office of children and family
36 services unless the agency determines that detention is necessary
37 because the respondent otherwise poses an imminent risk to public safety
38 and states the reasons for such determination in the child's record.

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

42 4. If the agency for any reason does not release a child under this
43 section, such child shall be brought before the appropriate family
44 court, or when such family court is not in session, to the most accessi-
45 ble magistrate, if any, designated by the appellate division of the
46 supreme court in the applicable department; provided, however, that if
47 such family court is not in session and if a magistrate is not avail-
48 able, such youth shall be brought before such family court within seven-
49 ty-two hours or the next day the court is in session, whichever is soon-
50 er. Such agency shall thereupon file an application for an order
51 pursuant to section 307.4 and shall forthwith serve a copy of the appli-
52 cation upon the appropriate presentment agency. Nothing in this subdivi-
53 sion shall preclude the adjustment of suitable cases pursuant to section
54 308.1.

55 § 14. Section 308.1 of the family court act, as added by chapter 920
56 of the laws of 1982, subdivision 2 as amended by section 3 of part V of

chapter 55 of the laws of 2012, subdivision 4 as amended by chapter 264 of the laws of 2003, subdivisions 5 and 8 as amended by chapter 398 of the laws of 1983, and subdivision 6 as amended by chapter 663 of the laws of 1985, is amended to read as follows:

§ 308.1. ~~[Rules of court for preliminary]~~ Preliminary procedure; adjustment of cases. 1. ~~[Rules of court shall authorize and determine the circumstances under which the]~~ The probation service may confer with any person seeking to have a juvenile delinquency petition filed, the potential respondent and other interested persons concerning the advisability of requesting that a petition be filed in accordance with this section.

2. (a) Except as provided in subdivisions three ~~[and]~~, four, and ~~thirteen~~ of this section, the probation service ~~[may, in accordance with rules of court,]~~ shall attempt to adjust ~~[suitable cases]~~ a case before a petition is filed. Such attempts may include the use of a juvenile review board comprised of appropriate community members to work with the child and his or her family on developing recommended adjustment activities. The probation service may stop attempting to adjust such a case if it determines that there is no substantial likelihood that the child will benefit from attempts at adjustment in the time remaining for adjustment or the time for adjustment has expired.

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

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

3. The probation service shall not attempt to adjust a case that commenced in family court in which the child has allegedly committed a designated felony act that involves allegations that the child caused physical injury to a person unless ~~[it]~~ the probation service has received the written approval of the court.

4. The probation service shall not attempt to adjust a case in which the child has allegedly committed a delinquent act which would be a crime defined in section 120.25, (reckless endangerment in the first degree), subdivision one of section 125.15, (manslaughter in the second degree), subdivision one of section 130.25, (rape in the third degree), subdivision one of section 130.40, (criminal sexual act in the third degree), subdivision one or two of section 130.65, (sexual abuse in the first degree), section 135.65, (coercion in the first degree), section 140.20, (burglary in the third degree), section 150.10, (arson in the third degree), section 160.05, (robbery in the third degree), subdivision two~~[r]~~ or three ~~[or four]~~ of section 265.02, (criminal possession of a weapon in the third degree), section 265.03, (criminal possession of a weapon in the second degree), or section 265.04, (criminal possession of a ~~[dangerous]~~ weapon in the first degree) of the penal law where the child has previously had one or more adjustments of a case in which such child allegedly committed an act which would be a crime specified in this subdivision unless it has received written approval from the court and the appropriate presentment agency.

5. The fact that a child is detained prior to the filing of a petition shall not preclude the probation service from adjusting a case; upon

1 adjusting such a case the probation service shall notify the detention
2 facility to release the child.

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

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

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

16 9. Efforts at adjustment [~~pursuant to rules of court~~] under this
17 section may not extend for a period of more than two months [~~without~~],
18 or, for a period of more than four months if the probation service
19 determines that adjustment beyond the first two months is warranted
20 because documented barriers to adjustment exist or changes need to be
21 made to the child's services plan, except upon leave of the court, which
22 may extend the adjustment period for an additional two months.

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

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

29 12. The probation service shall certify to the division of criminal
30 justice services and to the appropriate police department or law
31 enforcement agency whenever it adjusts a case in which the potential
32 respondent's fingerprints were taken pursuant to section 306.1 in any
33 manner other than the filing of a petition for juvenile delinquency for
34 an act which, if committed by an adult, would constitute a felony,
35 provided, however, in the case of a child [~~eleven or~~] twelve years of
36 age, such certification shall be made only if the act would constitute a
37 class A or B felony, or, in the case of a child eleven years of age,
38 such certification shall be made only if the act would constitute a
39 class A-1 felony.

40 13. The [~~provisions of this section~~] probation service shall not
41 [~~apply~~] attempt to adjust a case where the petition is an order of
42 removal to the family court pursuant to article seven hundred twenty-
43 five of the criminal procedure law unless it has received the written
44 approval of the court.

45 14. Where written approval is required prior to adjustment attempts,
46 the probation department shall seek such approval.

47 § 15. Paragraph (c) of subdivision 3 of section 311.1 of the family
48 court act, as added by chapter 920 of the laws of 1982, is amended to
49 read as follows:

50 (c) the fact that the respondent is a person [~~under sixteen years of~~]
51 of the necessary age to be a juvenile delinquent at the time of the
52 alleged act or acts;

53 § 16. Subdivision 1 of section 320.5 of the family court act, as added
54 by chapter 920 of the laws of 1982, is amended to read as follows:

55 1. At the initial appearance, the court in its discretion may (a)
56 release the respondent or (b) direct his detention.

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

(a-1) Notwithstanding paragraph (a) of this subdivision, the court shall not direct detention if:

(i) such events appear to involve only allegations that the child committed acts that would constitute more than a violation but no more than a misdemeanor if committed by an adult if:

(1) the alleged acts did not result in any physical injury as defined in subdivision nine of section 10.00 of the penal law to another person; and

(2) the child was assessed at a low risk on the applicable detention risk assessment instrument approved by the office of children and family services unless the agency determines that detention is necessary because the respondent otherwise poses an imminent risk to public safety and states the reasons for such determination in the child's record; or

(ii) such events appear to involve allegations that the child committed acts that would constitute a felony if committed by an adult if:

(1) the alleged acts did not result in any physical injury as defined in subdivision nine of section 10.00 of the penal law to another person;

(2) the child does not have any prior adjudications for an act that would constitute a felony if committed by an adult;

(3) the child has no more than one prior adjudication for an act that would constitute a misdemeanor if committed by an adult and that act also did not result in any physical injury to another person; and

(4) the child was assessed at a low risk on the applicable detention risk assessment instrument approved by the office of children and family services unless the agency determines that detention is necessary because the respondent otherwise poses an imminent risk to public safety and states the reasons for such determination in the child's record.

§ 18. Subdivision 5 of section 322.2 of the family court act, as added by chapter 920 of the laws of 1982, paragraph (a) as amended by chapter 37 of the laws of 2016 and paragraph (d) as amended by chapter 41 of the laws of 2010, is amended to read as follows:

5. (a) If the court finds that there is probable cause to believe that the respondent committed a felony, it shall order the respondent committed to the custody of the commissioner of mental health or the commissioner of the office for people with developmental disabilities for an initial period not to exceed one year from the date of such order. Such period may be extended annually upon further application to the court by the commissioner having custody or his or her designee. Such application must be made not more than sixty days prior to the expiration of such period on forms that have been prescribed by the chief administrator of the courts. At that time, the commissioner must give written notice of the application to the respondent, the counsel representing the respondent and the mental hygiene legal service if the respondent is at a residential facility. Upon receipt of such application, the court must conduct a hearing to determine the issue of capacity. If, at the conclusion of a hearing conducted pursuant to this subdivision, the court finds that the respondent is no longer incapacitated, he or she shall be returned to the family court for further proceedings pursuant to this article. If the court is satisfied that the respondent continues to be incapacitated, the court shall authorize continued custody of the respondent by the commissioner for a period not to exceed one year. Such extensions shall not continue beyond a reasonable period of time necessary to determine whether the respondent will attain the capacity to proceed to a fact finding hearing in the foreseeable future

1 but in no event shall continue beyond the respondent's eighteenth birth-
2 day or, if the respondent was at least sixteen years of age when the act
3 was committed, beyond the respondent's twenty-first birthday.

4 (b) If a respondent is in the custody of the commissioner upon the
5 respondent's eighteenth birthday, or if the respondent was at least
6 sixteen years of age when the act resulting in the respondent's place-
7 ment was committed, beyond the respondent's twenty-first birthday, the
8 commissioner shall notify the clerk of the court that the respondent was
9 in his custody on such date and the court shall dismiss the petition.

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

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

35 § 19. Subdivisions 1 and 5 of section 325.1 of the family court act,
36 subdivision 1 as amended by chapter 398 of the laws of 1983, subdivision
37 5 as added by chapter 920 of the laws of 1982, are amended to read as
38 follows:

39 1. At the initial appearance, if the respondent denies a charge
40 contained in the petition and the court determines in accordance with
41 the requirements of section 320.5 of this part that ~~he~~ the respondent
42 shall be detained for more than three days pending a fact-finding hear-
43 ing, the court shall schedule a probable-cause hearing to determine the
44 issues specified in section 325.3 of this part.

45 5. Where the petition consists of an order of removal pursuant to
46 article seven hundred twenty-five of the criminal procedure law, unless
47 the removal was pursuant to subdivision three of section 725.05 of such
48 law and the respondent was not afforded a probable cause hearing [~~pursu-~~
49 ~~ant to subdivision three of section 180.75 of such law for a reason~~
50 ~~other than his waiver thereof pursuant to subdivision two of section~~
51 ~~180.75 of such law~~], the petition shall be deemed to be based upon a
52 determination that probable cause exists to believe the respondent is a
53 juvenile delinquent and the respondent shall not be entitled to any
54 further inquiry on the subject of whether probable cause exists. After
55 the filing of any such petition the court must, however, exercise inde-

pendent, de novo discretion with respect to release or detention as set forth in section 320.5.

§ 20. Subdivisions 1 and 2 of section 340.2 of the family court act, as added by chapter 920 of the laws of 1982, are amended to read as follows:

1. ~~[The]~~ Except when authorized in accordance with section 346.1 of this part involving a case removed to family court pursuant to article seven hundred twenty-five of the criminal procedure law, the judge who presides at the commencement of the fact-finding hearing shall continue to preside until such hearing is concluded and an order entered pursuant to section 345.1 of this part unless a mistrial is declared.

2. The judge who presides at the fact-finding hearing or accepts an admission pursuant to section 321.3 of this article shall preside at any other subsequent hearing in the proceeding, including but not limited to the dispositional hearing except where the case is removed to family court pursuant to article seven hundred twenty-five of the criminal procedure law after a fact-finding hearing has occurred.

§ 21. Subdivision 2 of section 351.1 of the family court act, as amended by chapter 880 of the laws of 1985, is amended to read as follows:

2. Following a determination that a respondent committed a crime and prior to the dispositional hearing, the court shall order a probation investigation, a risk and needs assessment, and may order a diagnostic assessment. Based upon the assessment findings, the probation department shall recommend to the court that the respondent participate in any services necessary to mitigate identified risks and address individual needs.

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

(a) In determining an appropriate order the court shall consider the needs and best interests of the respondent as well as the need for protection of the community. If the respondent has committed a designated felony act the court shall determine the appropriate disposition in accord with section 353.5. In all other cases the court shall order the least restrictive available alternative enumerated in subdivision one of this section which is consistent with the needs and best interests of the respondent and the need for protection of the community; provided, however, that the court shall not direct the placement of a respondent with a commissioner of social services or the office of children and family services if:

(i) such events appear to involve only allegations that the child committed acts that would constitute more than a violation but no more than a misdemeanor if committed by an adult if:

(1) the alleged acts did not result in any physical injury as defined in subdivision nine of section 10.00 of the penal law to another person; and

(2) the child was assessed at a low risk on the applicable detention risk assessment instrument approved by the office of children and family services unless the agency determines that detention is necessary because the respondent otherwise poses an imminent risk to public safety and states the reasons for such determination in the child's record; or

(ii) such events appear to involve allegations that the child committed acts that would constitute a felony if committed by an adult if:

(1) the alleged acts did not result in any physical injury as defined in subdivision nine of section 10.00 of the penal law to another person;

(2) the child does not have any prior adjudications for an act that would constitute a felony if committed by an adult;

(3) the child has no more than one prior adjudication for an act that would constitute a misdemeanor if committed by an adult and that act also did not result in any physical injury to another person; and

(4) the child was assessed at a low risk on the applicable detention risk assessment instrument approved by the office of children and family services unless the agency determines that detention is necessary because the respondent otherwise poses an imminent risk to public safety and states the reasons for such determination in the child's record.

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

4. Where a youth receives a juvenile delinquency adjudication for conduct committed when the youth was age sixteen or older that would constitute a crime under the vehicle and traffic law, or a violation of paragraph (a) of subdivision two of section sixty-five-b of the alcoholic beverage control law, the court shall notify the commissioner of motor vehicles of such adjudication. Where a youth receives a juvenile delinquency adjudication for conduct that would constitute a violation of any other provision of law which allows for the imposition of a license and registration sanction, the court shall notify the commissioner of motor vehicles of such adjudication. The court shall have the power to impose any suspension or revocation of driving privileges, ignition interlock devices, any drug or alcohol rehabilitation program, victim impact program, driver responsibility assessment, victim assistance fee, and surcharge as is otherwise required upon a conviction of a crime under the vehicle and traffic law, or an offense for which a license sanction is required, and, further, shall notify the commissioner of motor vehicles of said suspension or revocation.

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

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

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

(h) comply with such other reasonable conditions as the court shall determine to be necessary or appropriate to ameliorate the conduct which gave rise to the filing of the petition or to prevent placement with the commissioner of social services or the ~~[division for youth]~~ office of children and family services.

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

(e) co-operate with a mental health, social services or other appropriate community facility or agency to which the respondent is referred, including a family support center pursuant to title twelve of article six of the social services law;

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

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

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

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

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

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

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

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

§ 24. The opening paragraph of subparagraph (iii) of paragraph (a) and paragraph (d) of subdivision 4 of section 353.5 of the family court act, as amended by section 6 of subpart A of part G of chapter 57 of the laws of 2012, are amended to read as follows:

after the period set under subparagraph (ii) of this paragraph, the respondent shall be placed in a residential facility for a period of twelve months; provided, however, that if the respondent has been placed from a family court in a social services district operating an approved juvenile justice services close to home initiative pursuant to section four hundred four of the social services law for an act committed when the respondent was under sixteen years of age, once the time frames in subparagraph (ii) of this paragraph are met:

(d) Upon the expiration of the initial period of placement, or any extension thereof, the placement may be extended in accordance with section 355.3 on a petition of any party or the office of children and family services, or, if applicable, a social services district operating an approved juvenile justice services close to home initiative pursuant to section four hundred four of the social services law, after a dispositional hearing, for an additional period not to exceed twelve months, but no initial placement or extension of placement under this section may continue beyond the respondent's twenty-first birthday, or, for an act that was committed when the respondent was sixteen years of age or older, the respondent's twenty-third birthday.

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

(d) Upon the expiration of the initial period of placement, or any extension thereof, the placement may be extended in accordance with section 355.3 on a petition of any party or the ~~[division for youth]~~ office of children and family services after a dispositional hearing, for an additional period not to exceed twelve months, but no initial placement or extension of placement under this section may continue beyond the respondent's twenty-first birthday, or, for an act that was committed when the respondent was sixteen years of age or older, the respondent's twenty-third birthday.

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

At the conclusion of the dispositional hearing in cases involving respondents over ~~[ten]~~ twelve years of age the court may:

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

§ 354.1. Retention and destruction of fingerprints of persons alleged to be juvenile delinquents. 1. If a person whose fingerprints, palmprints or photographs were taken pursuant to section 306.1 or was initially fingerprinted as a juvenile offender and the action is subsequently removed to a family court pursuant to article seven hundred twenty-five of the criminal procedure law is adjudicated to be a juvenile delinquent for a felony, the family court shall forward or cause to be forwarded to the division of criminal justice services notification of such adjudication and such related information as may be required by such division, provided, however, in the case of a person eleven [~~or twelve~~] years of age such notification shall be provided only if the act upon which the adjudication is based would constitute a class [~~A or B~~] A-1 felony or, in the case of a person twelve years of age, such notification shall be provided only if the act upon which the adjudication is based would constitute a class A or B felony.

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

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

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

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

6. If a person fingerprinted pursuant to section 306.1 and subsequently adjudicated a juvenile delinquent for a felony, but in the case of acts committed when such a person was eleven ~~[or twelve]~~ years of age which would constitute a class ~~[A-or-B]~~ A-1 felony only, or, in the case of acts committed when such a person was twelve years of age which would constitute a class A or B felony only, is subsequently convicted of a crime, all fingerprints and related information obtained by the division of criminal justice services pursuant to such section and not destroyed pursuant to subdivisions two, five and seven or subdivision twelve of section 308.1 shall become part of such division's permanent adult criminal record for that person, notwithstanding section 381.2 or 381.3.

7. When a person fingerprinted pursuant to section 306.1 and subsequently adjudicated a juvenile delinquent for a felony, but in the case of acts committed when such person was eleven ~~[or twelve]~~ years of age which would constitute a class ~~[A-or-B]~~ A-1 felony only, or, in the case of acts committed when such a person was twelve years of age which would constitute a class A or B felony only, reaches the age of twenty-one, or has been discharged from placement under this act for at least three years, whichever occurs later, and has no criminal convictions or pending criminal actions which ultimately terminate in a criminal conviction, all fingerprints, palmprints, photographs, and related information and copies thereof obtained pursuant to section 306.1 in the possession of the division of criminal justice services, any police department, law enforcement agency or any other agency shall be destroyed forthwith. The division of criminal justice services shall notify the agency or agencies which forwarded fingerprints to such division pursuant to section 306.1 of their obligation to destroy those records in their possession. In the case of a pending criminal action which does not terminate in a criminal conviction, such records shall be destroyed forthwith upon such determination.

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

1. In any case in which the respondent has been placed pursuant to section 353.3 the respondent, the person with whom the respondent has been placed, the commissioner of social services, or the ~~[division for youth]~~ office of children and family services may petition the court to extend such placement. Such petition shall be filed at least sixty days prior to the expiration of the period of placement, except for good cause shown but in no event shall such petition be filed after the original expiration date.

6. Successive extensions of placement under this section may be granted, but no placement may be made or continued beyond the respondent's eighteenth birthday without the child's consent for acts committed before the respondent's sixteenth birthday and in no event past the child's twenty-first birthday except as provided for in subdivision four of section 353.5.

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

5. Nothing in this section shall: require that consent be obtained from the youth's parent or legal guardian to any medical, dental, or mental health service and treatment when no consent is necessary or the youth is authorized by law to consent on his or her own behalf; preclude a youth from consenting on his or her own behalf to any medical, dental or mental health service and treatment where otherwise authorized by law

1 to do so[~~, or the division for youth~~]; or preclude the officer of chil-
2 dren and family services or a social services district from petitioning
3 the court pursuant to section two hundred thirty-three of this act, as
4 appropriate.

5 § 30. Paragraph (b) of subdivision 3 of section 355.5 of the family
6 court act, as amended by chapter 145 of the laws of 2000, is amended to
7 read as follows:

8 (b) subsequent permanency hearings shall be held no later than every
9 twelve months following the respondent's initial twelve months in place-
10 ment but in no event past the respondent's twenty-first birthday;
11 provided, however, that they shall be held in conjunction with an exten-
12 sion of placement hearing held pursuant to section 355.3 of this [~~arti-~~
13 ~~cle~~] part.

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

17 2. At the time of his or her first appearance following the filing of
18 a petition of violation the court must: (a) advise the respondent of the
19 contents of the petition and furnish him or her with a copy thereof; (b)
20 determine whether the respondent should be released or detained pursuant
21 to section 320.5, provided, however, that nothing herein shall authorize
22 a respondent to be detained for a violation of a condition that would
23 not constitute a crime if committed by an adult unless the court deter-
24 mines (i) that the respondent poses a specific imminent threat to public
25 safety and states the reasons for the finding on the record or (ii) the
26 respondent is on probation for an act that would constitute a violent
27 felony as defined in section 70.02 of the penal law if committed by an
28 adult and the use of graduated sanctions have been exhausted without
29 success; and (c) ask the respondent whether he or she wishes to make any
30 statement with respect to the violation. If the respondent makes a
31 statement, the court may accept it and base its decision thereon; the
32 provisions of subdivision two of section 321.3 shall apply in determin-
33 ing whether a statement should be accepted. If the court does not accept
34 such statement or if the respondent does not make a statement, the court
35 shall proceed with the hearing. Upon request, the court shall grant a
36 reasonable adjournment to the respondent to enable him or her to prepare
37 for the hearing.

38 6. At the conclusion of the hearing the court may revoke, continue or
39 modify the order of probation or conditional discharge. If the court
40 revokes the order, it shall order a different disposition pursuant to
41 section 352.2, provided, however, that nothing herein shall authorize
42 the placement of a respondent for a violation of a condition that would
43 not constitute a crime if committed by an adult unless the court deter-
44 mines (i) that the respondent poses a specific imminent threat to public
45 safety and states the reasons for the finding on the record or (ii) the
46 respondent is on probation for an act that would constitute a violent
47 felony as defined in section 70.02 of the penal law if committed by an
48 adult and the use of graduated sanctions have been exhausted without
49 success. If the court continues the order of probation or conditional
50 discharge, it shall dismiss the petition of violation.

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

(d) "Non-secure detention facility". [~~A facility characterized by the absence of physically restricting construction, hardware and procedures.~~] A foster care program certified by the office of children and family services or a certified or approved family boarding home, or in a city having a population of five million or more, a foster care facility established and maintained pursuant to the social services law.

(d-1) "Detention facility". A foster care program certified by the office of children and family services or a certified or approved family boarding home, or in a city having a population of five million or more, a foster care facility established and maintained pursuant to the social services law.

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

(n) "Family support center". A program established pursuant to title twelve of article six of the social services law.

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

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

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

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

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

5. (a) The court shall not order or direct detention under this article, unless the court determines that there is no substantial likelihood that the youth and his or her family will continue to benefit from diversion services, and that continuation in the home would not be appropriate because such continuation would (A) continue or worsen the circumstances alleged in the underlying petition, or that created the need for a petition to be sought or (B) create a safety risk to the child or the child's family and that all other available alternatives to detention have been exhausted; and

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

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

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

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

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

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

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

(i) that there is no substantial likelihood that the youth and his or her family will continue to benefit from diversion services, that continuation in the home would not be appropriate because such continuation would (A) continue or worsen the circumstances alleged in the underlying petition, or that created the need for a petition to be sought or (B) create a safety risk to the child or the child's family and that all other available alternatives to detention have been exhausted; and

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

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

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

§ 35. Section 735 of the family court act, as added by section 7 of part E of chapter 57 of the laws of 2005, subdivision (b) as amended by chapter 38 of the laws of 2014, paragraph (i) of subdivision (d) as amended by chapter 535 of the laws of 2011, and subdivision (h) as amended by chapter 499 of the laws of 2015, is amended to read as follows:

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

(b) The designated lead agency shall:

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

(ii) diligently attempt to prevent the filing of a petition under this article or, after the petition is filed, to prevent the placement of the youth into foster care in accordance with section seven hundred fifty-six of this article; and

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

1 (iv) assess whether the youth is a sexually exploited child as defined
2 in section four hundred forty-seven-a of the social services law and, if
3 so, whether such youth should be referred to a safe house; and

4 (v) determine whether alternatives to detention are appropriate to
5 avoid remand of the youth to detention;

6 (vi) determine whether the youth and his or her family should be
7 referred to an available family support center; [and]

8 (vii) assess whether remaining in the home would cause the continua-
9 tion or worsening of the circumstances that created the need for a peti-
10 tion to be sought, or create a safety risk to the child or the child's
11 family; and

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

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

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

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

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

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

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

(f) Efforts to prevent the filing of a petition pursuant to this section may extend until the designated lead agency determines that there is no substantial likelihood that the youth and his or her family will benefit from further attempts. Efforts at diversion pursuant to this section may continue after the filing of a petition where the designated lead agency determines that the youth and his or her family will benefit from further attempts to prevent placement of the youth from entering foster care in accordance with section seven hundred fifty-six of this article.

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

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

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

(B) a notice from the designated lead agency stating that it has terminated diversion services because it has determined that there is no substantial likelihood that the youth and his or her family will benefit

1 from further attempts, and that the case has not been successfully
2 diverted.

3 (h) No statement made to the designated lead agency or to any agency
4 or organization to which the potential respondent has been referred,
5 prior to the filing of the petition, or if the petition has been filed,
6 prior to the time the respondent has been notified that attempts at
7 diversion will not be made or have been terminated, or prior to the
8 commencement of a fact-finding hearing if attempts at diversion have not
9 terminated previously, may be admitted into evidence at a fact-finding
10 hearing or, if the proceeding is transferred to a criminal court, at any
11 time prior to a conviction.

12 § 36. Subdivision (b) of section 742 of the family court act, as
13 amended by section 9 of part E of chapter 57 of the laws of 2005, is
14 amended to read as follows:

15 (b) At the initial appearance of the respondent, the court shall
16 review any termination of diversion services pursuant to such section,
17 and the documentation of diligent attempts to provide appropriate
18 services and determine whether such efforts or services provided are
19 sufficient ~~[and].~~ The court may, at any time, subject to the provisions
20 of section seven hundred forty-eight of this article, order that addi-
21 tional diversion attempts be undertaken by the designated lead agency.
22 The court may order the youth and the parent or other person legally
23 responsible for the youth to participate in diversion services. If the
24 designated lead agency thereafter determines that the case has been
25 successfully resolved, it shall so notify the court, and the court shall
26 dismiss the petition.

27 § 37. Subdivision (a) of section 749 of the family court act, as
28 amended by section 4 of part V of chapter 55 of the laws of 2012, is
29 amended to read as follows:

30 (a) (i) Upon or after a fact-finding hearing, the court may, upon its
31 own motion or upon a motion of a party to the proceeding, order that the
32 proceeding be "adjourned in contemplation of dismissal". An adjournment
33 in contemplation of dismissal is an adjournment of the proceeding, for a
34 period not to exceed six months with a view to ultimate dismissal of the
35 petition in furtherance of justice. Upon issuing such an order, upon
36 such permissible terms and conditions as the rules of court shall
37 define, the court must release the individual.

38 (ii) The court may, as a condition of an adjournment in contemplation
39 of dismissal order: (A) in cases where the record indicates that the
40 consumption of alcohol may have been a contributing factor, require the
41 respondent to attend and complete an alcohol awareness program estab-
42 lished pursuant to section 19.25 of the mental hygiene law; or (B) in
43 cases where the record indicates that cyberbullying or sexting was the
44 basis of the petition, require an eligible person to complete an educa-
45 tion reform program in accordance with section four hundred
46 fifty-eight-1 of the social services law; or (C) participate in services
47 including but not limited to those provided by family support centers.

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

53 § 38. Section 751 of the family court act, as amended by chapter 100
54 of the laws of 1993, is amended to read as follows:

55 § 751. Order dismissing petition. If the allegations of a petition
56 under this article are not established, the court shall dismiss the

petition. The court may in its discretion dismiss a petition under this article, in the interests of justice where attempts have been made to adjust the case as provided for in sections seven hundred thirty-five and seven hundred forty-two of this article and the probation service has exhausted its efforts to successfully adjust such case as a result of the petition's failure to provide reasonable assistance to the probation service. In dismissing a petition pursuant to this section, the court shall consider whether a referral of services would be appropriate to meet the needs of the respondent and his or her family.

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

§ 754. Disposition on adjudication of person in need of supervision.

1. Upon an adjudication of person in need of supervision, the court shall enter an order of disposition:

(a) Discharging the respondent with warning;

(b) Suspending judgment in accord with section seven hundred fifty-five of this part;

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

(d) Putting the respondent on probation in accord with section seven hundred fifty-seven of this part.

The court may order an eligible person to complete an education reform program in accordance with section four hundred fifty-eight-1 of the social services law, as part of a disposition pursuant to paragraph (a), (b) or (d) of this subdivision. The court may also order services, including those provided by a family support center, as part of a disposition pursuant to paragraph (a), (b) or (d) of this subdivision.

2. (a) Notwithstanding any other provision of law to the contrary, the court shall not order placement with the local commissioner of social services pursuant to section seven hundred fifty-six of this part unless the court finds and states in writing that:

(i) no appropriate suitable relative or suitable private person is available for placement pursuant to section seven hundred fifty-six of this part; and

(ii) placement in the child's home would not be appropriate because such placement would:

(A) continue or worsen the circumstances alleged in the underlying petition or,

(B) create a safety risk to the child or the child's family.

(b) The order shall state the court's reasons for the particular disposition. If the court places the child in accordance with section seven hundred fifty-six of this part, the court in its order shall determine: (i) whether continuation in the child's home would be contrary to the best interest of the child and where appropriate, that reasonable efforts were made prior to the date of the dispositional hearing

1 held pursuant to this article to prevent or eliminate the need for
2 removal of the child from his or her home and, if the child was removed
3 from his or her home prior to the date of such hearing, that such
4 removal was in the child's best interest and, where appropriate, reason-
5 able efforts were made to make it possible for the child to return safe-
6 ly home. If the court determines that reasonable efforts to prevent or
7 eliminate the need for removal of the child from the home were not made
8 but that the lack of such efforts was appropriate under the circum-
9 stances, the court order shall include such a finding; and (ii) in the
10 case of a child who has attained the age of fourteen, the services need-
11 ed, if any, to assist the child to make the transition from foster care
12 to independent living. Nothing in this subdivision shall be construed to
13 modify the standards for directing detention set forth in section seven
14 hundred thirty-nine of this article.

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

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

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

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

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

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

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

52 unless the court determines that providing reasonable efforts would be
53 in the best interests of the child, not contrary to the health and safe-
54 ty of the child, and would likely result in the reunification of the
55 parent and the child in the foreseeable future. The court shall state
56 such findings in its order.

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

24 ~~[(e)]~~ (d) For the purpose of this section, in determining reasonable
25 efforts to be made with respect to a child, and in making such reason-
26 able efforts, the child's health and safety shall be the paramount
27 concern.

28 ~~[(d)]~~ (e) For the purpose of this section, a sibling shall include a
29 half-sibling.

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

32 § 755. Suspended judgment. (a) Rules of court shall define permissible
33 terms and conditions of a suspended judgment. The court may order as a
34 condition of a suspended judgment restitution, services, including those
35 provided by a family support center pursuant to title twelve of article
36 six of the social services law or services for public good pursuant to
37 section seven hundred fifty-eight-a, and~~[, except when the respondent~~
38 ~~has been assigned to a facility in accordance with subdivision four of~~
39 ~~section five hundred four of the executive law,~~ in cases wherein the
40 record indicates that the consumption of alcohol by the respondent may
41 have been a contributing factor, the court may order attendance at and
42 completion of an alcohol awareness program established pursuant to
43 section 19.25 of the mental hygiene law.

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

48 § 41. Section 756 of the family court act, as amended by chapter 920
49 of the laws of 1982, paragraph (i) of subdivision (a) as amended by
50 chapter 309 of the laws of 1996, the opening paragraph of paragraph (ii)
51 of subdivision (a) as amended by section 11 of part G of chapter 58 of
52 the laws of 2010, subdivision (b) as amended by chapter 7 of the laws of
53 1999, and subdivision (c) as amended by section 10 of part E of chapter
54 57 of the laws of 2005, is amended to read as follows:

55 § 756. Placement. (a) (i) For purposes of section seven hundred
56 fifty-four, the court may place the child in its own home or in the

1 custody of a suitable relative or other suitable private person [~~or a~~
2 ~~commissioner of social services~~], subject to the orders of the court.

3 (ii) Where the child is placed with the commissioner of the local
4 social services district, the court may direct the commissioner to place
5 the child with an authorized agency or class of authorized agencies,
6 including, if the court finds that the respondent is a sexually
7 exploited child as defined in subdivision one of section four hundred
8 forty-seven-a of the social services law, an available long-term safe
9 house. Unless the dispositional order provides otherwise, the court so
10 directing shall include one of the following alternatives to apply in
11 the event that the commissioner is unable to so place the child:

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

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

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

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

42 § 42. Section 756-a of the family court act, as added by chapter 604
43 of the laws of 1986, subdivision (a) as amended by chapter 309 of the
44 laws of 1996, subdivisions (b) and (d) as amended by section 4 of part B
45 of chapter 327 of the laws of 2007, subdivisions (c) and (e) as amended
46 by chapter 7 of the laws of 1999, paragraph (ii) of subdivision (d) as
47 amended by section 3 of part M of chapter 54 of the laws of 2016, para-
48 graphs (iii), (iv) and (v) of subdivision (d) as amended by section 23
49 and subdivision (d-1) as amended by section 24 of part L of chapter 56
50 of the laws of 2015, is amended to read as follows:

51 § 756-a. Extension of placement. (a) In any case in which the child
52 has been placed pursuant to section seven hundred fifty-six, the child,
53 the person with whom the child has been placed or the commissioner of
54 social services may petition the court to extend such placement. Such
55 petition shall be filed at least [~~sixty~~] thirty days prior to the expi-
56 ration of the period of placement, except for good cause shown, but in

1 no event shall such petition be filed after the original expiration
2 date.

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

7 (c) The provisions of section seven hundred forty-five shall apply at
8 such permanency hearing. If the petition is filed within [~~sixty~~] thirty
9 days prior to the expiration of the period of placement, the court shall
10 first determine at such permanency hearing whether good cause has been
11 shown. If good cause is not shown, the court shall dismiss the petition.

12 (d) At the conclusion of the permanency hearing the court may, in its
13 discretion, order an extension of the placement for not more than [~~one~~
14 year] ninety days. The court must consider and determine in its order:

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

22 (ii) in the case of a child who has attained the age of fourteen, (A)
23 the services needed, if any, to assist the child to make the transition
24 from foster care to successful adulthood; and (B)(1) that the permanency
25 plan developed for the child, and any revision or addition to the plan
26 shall be developed in consultation with the child and, at the option of
27 the child, with up to two additional members of the child's permanency
28 planning team who are selected by the child and who are not a foster
29 parent of, or case worker, case planner or case manager for, the child,
30 except that the local commissioner of social services with custody of
31 the child may reject an individual so selected by the child if such
32 commissioner has good cause to believe that the individual would not act
33 in the best interests of the child, and (2) that one individual so
34 selected by the child may be designated to be the child's advisor and,
35 as necessary, advocate with respect to the application of the reasonable
36 and prudent parent standard;

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

40 (iv) whether and when the child: (A) will be returned to the parent;
41 (B) should be placed for adoption with the social services official
42 filing a petition for termination of parental rights; (C) should be
43 referred for legal guardianship; (D) should be placed permanently with a
44 fit and willing relative; or (E) should be placed in another planned
45 permanent living arrangement with a significant connection to an adult
46 willing to be a permanency resource for the child if the child is age
47 sixteen or older and (1) the social services official has documented to
48 the court: (I) intensive, ongoing, and, as of the date of the hearing,
49 unsuccessful efforts made by the social services district to return the
50 child home or secure a placement for the child with a fit and willing
51 relative including adult siblings, a legal guardian, or an adoptive
52 parent, including through efforts that utilize search technology includ-
53 ing social media to find biological family members for children, (II)
54 the steps the social services district is taking to ensure that (A) the
55 child's foster family home or child care facility is following the
56 reasonable and prudent parent standard in accordance with guidance

1 provided by the United States department of health and human services,
2 and (B) the child has regular, ongoing opportunities to engage in age or
3 developmentally appropriate activities including by consulting with the
4 child in an age-appropriate manner about the opportunities of the child
5 to participate in activities; and (2) the social services district has
6 documented to the court and the court has determined that there are
7 compelling reasons for determining that it continues to not be in the
8 best interest of the child to return home, be referred for termination
9 of parental rights and placed for adoption, placed with a fit and will-
10 ing relative, or placed with a legal guardian; and (3) the court has
11 made a determination explaining why, as of the date of the hearing,
12 another planned living arrangement with a significant connection to an
13 adult willing to be a permanency resource for the child is the best
14 permanency plan for the child; and

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

17 (d-1) At the permanency hearing, the court shall consult with the
18 respondent in an age-appropriate manner regarding the permanency plan;
19 provided, however, that if the respondent is age sixteen or older and
20 the requested permanency plan for the respondent is placement in another
21 planned permanent living arrangement with a significant connection to an
22 adult willing to be a permanency resource for the respondent, the court
23 must ask the respondent about the desired permanency outcome for the
24 respondent.

25 (e) Pending final determination of a petition to extend such placement
26 filed in accordance with the provisions of this section, the court may,
27 on its own motion or at the request of the petitioner or respondent,
28 enter one or more temporary orders extending a period of placement not
29 to exceed thirty days upon satisfactory proof showing probable cause for
30 continuing such placement and that each temporary order is necessary.
31 The court may order additional temporary extensions, not to exceed a
32 total of fifteen days, if the court is unable to conclude the hearing
33 within the thirty day temporary extension period. In no event shall the
34 aggregate number of days in extensions granted or ordered under this
35 subdivision total more than forty-five days. The petition shall be
36 dismissed if a decision is not rendered within the period of placement
37 or any temporary extension thereof. Notwithstanding any provision of law
38 to the contrary, the initial permanency hearing shall be held within
39 ~~[twelve months of the date the child was placed into care]~~ a reasonable
40 period of time prior to the expiration of the initial period of place-
41 ment pursuant to section seven hundred fifty-six ~~[of this article]~~ and
42 no later than every twelve months thereafter. ~~[For the purposes of this~~
43 ~~section, the date the child was placed into care shall be sixty days~~
44 ~~after the child was removed from his or her home in accordance with the~~
45 ~~provisions of this section.]~~

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

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

52 (e) The court may order services deemed appropriate to address the
53 circumstances alleged in the underlying petition including services
54 provided by family support centers.

55 § 44. Section 758-a of the family court act, as amended by chapter 73
56 of the laws of 1979, subdivision 1 as amended by chapter 4 of the laws

of 1987, paragraph (b) of subdivision 1 as amended by chapter 575 of the laws of 2007, subdivision 2 as amended by chapter 309 of the laws of 1996, and subdivision 3 as separately amended by chapter 568 of the laws of 1979, is amended to read as follows:

§ 758-a. Restitution. 1. In cases involving acts of ~~[infants]~~ children over ~~[ten]~~ twelve and less than ~~[sixteen]~~ eighteen years of age, the court may

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

(b) order as a condition of placement, probation, or suspended judgment, services for the public good including in the case of a crime involving willful, malicious, or unlawful damage or destruction to real or personal property maintained as a cemetery plot, grave, burial place, or other place of interment of human remains, services for the maintenance and repair thereof, taking into consideration the age and physical condition of the ~~[infant]~~ child.

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

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

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

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

(f) to participate in family counseling or other professional counseling activities, or other services, including services provided by family support centers, alternative dispute resolution services conducted by an authorized person or an authorized agency to which the youth has been referred or placed, deemed necessary for the rehabilitation of the youth, provided that such family counseling, other counseling activity or other necessary services are not contrary to such person's religious beliefs;

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

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

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

2-a. Notwithstanding any other provision of law to the contrary, state reimbursement shall be made available for one hundred percent of expenditures made by social services districts, exclusive of any federal funds made available for such purposes, for preventive services, aftercare services, independent living services and foster care services provided to youth age sixteen years of age or older when such services would not otherwise have been provided to such youth absent the provisions in a chapter of the laws of two thousand seventeen that increased the age of juvenile jurisdiction above fifteen years of age.

2-b. Notwithstanding any other provision of law to the contrary, state reimbursement shall be made available for one hundred percent of expenditures made by social services districts, exclusive of any federal funds made available for such purpose, for family support centers established pursuant to title twelve of this article.

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

5. "Juvenile delinquent" means a person [~~over seven and less than sixteen years of age who does any act which, if done by an adult, would constitute a crime~~] as defined in section 301.2 of the family court act.

6. "Person in need of supervision" means a person [~~less than eighteen years of age who is habitually truant or who is incorrigible, ungovernable or habitually disobedient and beyond the lawful control of a parent or other person legally responsible for such child's care, or other lawful authority~~] as defined in section seven hundred twelve of the family court act.

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

TITLE 12

FAMILY SUPPORT CENTERS

Section 458-m. Family support centers.

458-n. Funding for family support centers.

§ 458-m. Family support centers. 1. As used in this title, the term "family support center" shall mean a program established pursuant to this title to provide community-based supportive services to youth at risk of being, or alleged or adjudicated to be persons in need of supervision pursuant to article seven of the family court act, and their families. Family support centers may also provide community-based

1 supportive services to youth who are alleged or adjudicated to be juvenile delinquents pursuant to article three of the family court act.

2 2. Family support centers shall provide comprehensive services to such children and their families, either directly or through referrals with partner agencies, including, but not limited to:

3 (a) rapid family assessments and screenings;

4 (b) crisis intervention;

5 (c) family mediation and skills building;

6 (d) mental and behavioral health services, as defined in subdivision fifty-eight of section 1.03 of the mental hygiene law, including cognitive interventions;

7 (e) case management;

8 (f) respite services; and

9 (g) other family support services.

10 3. To the extent practicable, the services that are provided shall be trauma sensitive, family focused, gender-responsive, where appropriate, and evidence and/or strength based and shall be tailored to the individualized needs of the child and family based on the assessments and screenings conducted by such family support center.

11 4. Family support centers shall have the capacity to serve families outside of regular business hours including evenings or weekends.

12 § 458-n. Funding for family support centers. 1. Notwithstanding any other provision of law to the contrary, state reimbursement shall be made available for one hundred percent of expenditures made by social services districts, exclusive of any federal funds made available for such purpose, for family support centers statewide.

13 2. Notwithstanding any other provision of law to the contrary, family support centers shall be established in each social services district throughout the state with the approval of the office of children and family services, provided however that two or more social services districts may join together to establish, operate and maintain a family support center and may make and perform agreements in connection therewith.

14 3. Social services districts may contract with not-for-profit corporations or utilize existing programs to operate family support centers in accordance with the provisions of this title and the specific program requirements issued by the office. Family support centers shall have sufficient capacity to provide services to youth within the social services district or districts who are at risk of becoming, alleged or adjudicated to be persons in need of supervision pursuant to article seven of the family court act, and their families. In addition, to the extent practicable, family support centers may provide services to youth who are alleged or adjudicated under article three of the family court act.

15 4. Social services districts receiving funding under this title shall report to the office of children and family services, in the form and manner and at such times as determined by the office, on the performance outcomes of any family support center located within such district that receives funding under this title.

16 § 50. Subdivisions 3 and 11 of section 398 of the social services law, subdivision 3 as amended by chapter 419 of the laws of 1987, paragraph (c) of subdivision 3 as amended by section 19 of part E of chapter 57 of the laws of 2005, subdivision 11 as added by chapter 514 of the laws of 1976, are amended to read as follows:

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

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

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

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

14 11. In the case of a child who is adjudicated a person in need of
15 supervision or a juvenile delinquent and is placed by the family court
16 with the [~~division for youth~~] office of children and family services and
17 who is placed by [~~the division for youth~~] such office with an authorized
18 agency pursuant to court order, the social services official shall make
19 expenditures in accordance with the regulations of the department for
20 the care and maintenance of such child during the term of such placement
21 subject to state reimbursement pursuant to section one hundred fifty-
22 three-k of this title[~~, or article nineteen C of the executive law in~~
23 ~~applicable cases~~].

24 § 51. Subdivision 8 of section 404 of the social services law, as
25 added by section 1 of subpart A of part G of chapter 57 of the laws of
26 2012, is amended to read as follows:

27 8. (a) Notwithstanding any other provision of law to the contrary[~~7~~]
28 except as provided for in paragraph (a-1) of this subdivision, eligible
29 expenditures during the applicable time periods made by a social
30 services district for an approved juvenile justice services close to
31 home initiative shall, if approved by the department of family assist-
32 ance, be subject to reimbursement with state funds only up to the extent
33 of an annual appropriation made specifically therefor, after first
34 deducting therefrom any federal funds properly received or to be
35 received on account thereof; provided, however, that when such funds
36 have been exhausted, a social services district may receive state
37 reimbursement from other available state appropriations for that state
38 fiscal year for eligible expenditures for services that otherwise would
39 be reimbursable under such funding streams. Any claims submitted by a
40 social services district for reimbursement for a particular state fiscal
41 year for which the social services district does not receive state
42 reimbursement from the annual appropriation for the approved close to
43 home initiative may not be claimed against that district's appropriation
44 for the initiative for the next or any subsequent state fiscal year.

45 (i) State funding for reimbursement shall be, subject to appropri-
46 ation, in the following amounts: for state fiscal year 2013-14,
47 \$35,200,000 adjusted by any changes in such amount required by subpara-
48 graphs (ii) and (iii) of this paragraph; for state fiscal year 2014-15,
49 \$41,400,000 adjusted to include the amount of any changes made to the
50 state fiscal year 2013-14 appropriation under subparagraphs (ii) and
51 (iii) of this paragraph plus any additional changes required by such
52 subparagraphs; and, such reimbursement shall be, subject to appropri-
53 ation, for all subsequent state fiscal years in the amount of the prior
54 year's actual appropriation adjusted by any changes required by subpara-
55 graphs (ii) and (iii) of this paragraph.

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

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

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

(a-1) State reimbursement shall be made available for one hundred percent of eligible expenditures made by a social services district, exclusive of any federal funds made available for such purposes, for approved juvenile justice services under an approved close to home initiative provided to youth age sixteen years of age or older when such services would not otherwise have been provided to such youth absent the provisions in a chapter of the laws of two thousand seventeen that increased the age of juvenile jurisdiction above fifteen years of age.

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

(c) A social services district shall conduct eligibility determinations for federal and state funding and submit claims for reimbursement in such form and manner and at such times and for such periods as the department of family assistance shall determine.

(d) Notwithstanding any inconsistent provision of law or regulation of the department of family assistance, state reimbursement shall not be made for any expenditure made for the duplication of any grant or allowance for any period.

(e) Claims submitted by a social services district for reimbursement shall be paid after deducting any expenditures defrayed by fees, third

1 party reimbursement, and any non-tax levy funds including any donated
2 funds.

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

7 (g) Notwithstanding any other provision of law, the state shall not be
8 responsible for reimbursing a social services district and a district
9 shall not seek state reimbursement for any portion of any state disal-
10 lowance or sanction taken against the social services district, or any
11 federal disallowance attributable to final federal agency decisions or
12 to settlements made, when such disallowance or sanction results from the
13 failure of the social services district to comply with federal or state
14 requirements, including, but not limited to, failure to document eligi-
15 bility for the federal or state funds in the case record. To the extent
16 that the social services district has sufficient claims other than those
17 that are subject to disallowance or sanction to draw down the full annu-
18 al appropriation, such disallowance or sanction shall not result in a
19 reduction in payment of state funds to the district unless the district
20 requests that the department use a portion of the appropriation toward
21 meeting the district's responsibility to repay the federal government
22 for the disallowance or sanction and any related interest payments.

23 (h) Rates for residential services. (i) The office shall establish the
24 rates, in accordance with section three hundred ninety-eight-a of this
25 chapter, for any non-secure facilities established under an approved
26 juvenile justice services close to home initiative. For any such non-se-
27 cure facility that will be used primarily by the social services
28 district with an approved close to home initiative, final authority for
29 establishment of such rates and any adjustments thereto shall reside
30 with the office, but such rates and any adjustments thereto shall be
31 established only upon the request of, and in consultation with, such
32 social services district.

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

41 § 52. Paragraph (a) of subdivision 1 of section 409-a of the social
42 services law, as amended by chapter 87 of the laws of 1993, subparagraph
43 (i) as amended by chapter 342 of the laws of 2010, and subparagraph (ii)
44 as amended by section 22 of part C of chapter 83 of the laws of 2002, is
45 amended to read as follows:

46 (a) A social services official shall provide preventive services to a
47 child and his or her family, in accordance with the family's service
48 plan as required by section four hundred nine-e of this chapter and the
49 social services district's child welfare services plan submitted and
50 approved pursuant to section four hundred nine-d of this chapter, upon a
51 finding by such official that (i) the child will be placed, returned to
52 or continued in foster care unless such services are provided and that
53 it is reasonable to believe that by providing such services the child
54 will be able to remain with or be returned to his or her family, and for
55 a former foster care youth under the age of twenty-one who was previous-
56 ly placed in the care and custody or custody and guardianship of the

1 local commissioner of social services or other officer, board or depart-
2 ment authorized to receive children as public charges where it is
3 reasonable to believe that by providing such services the former foster
4 care youth will avoid a return to foster care or (ii) the child is the
5 subject of a petition under article seven of the family court act, or
6 has been determined by the assessment service established pursuant to
7 section two hundred forty-three-a of the executive law, or by the
8 probation service where no such assessment service has been designated,
9 to be at risk of being the subject of such a petition, and the social
10 services official determines that the child is at risk of placement into
11 foster care. Such finding shall be entered in the child's uniform case
12 record established and maintained pursuant to section four hundred
13 nine-f of this chapter. The commissioner shall promulgate regulations to
14 assist social services officials in making determinations of eligibility
15 for mandated preventive services pursuant to this ~~subparagraph~~ para-
16 graph.

17 § 53. Section 30.00 of the penal law, as amended by chapter 481 of the
18 laws of 1978, subdivision 2 as amended by chapter 7 of the laws of 2007,
19 is amended to read as follows:

20 § 30.00 Infancy.

21 1. Except as provided in ~~subdivision~~ subdivisions two and three of
22 this section, a person less than ~~sixteen~~ eighteen years old is not
23 criminally responsible for conduct.

24 2. A person thirteen, fourteen ~~or~~, fifteen, sixteen, or seventeen
25 years of age is criminally responsible for acts constituting murder in
26 the second degree as defined in subdivisions one and two of section
27 125.25 and in subdivision three of such section provided that the under-
28 lying crime for the murder charge is one for which such person is crimi-
29 nally responsible or for such conduct as a sexually motivated felony,
30 where authorized pursuant to section 130.91 of ~~the penal law~~ this
31 chapter; and a person fourteen ~~or~~, fifteen, sixteen or seventeen years
32 of age is criminally responsible for acts constituting the crimes
33 defined in section 135.25 (kidnapping in the first degree); 150.20
34 (arson in the first degree); subdivisions one and two of section 120.10
35 (assault in the first degree); 125.20 (manslaughter in the first
36 degree); subdivisions one and two of section 130.35 (rape in the first
37 degree); subdivisions one and two of section 130.50 (criminal sexual act
38 in the first degree); 130.70 (aggravated sexual abuse in the first
39 degree); 140.30 (burglary in the first degree); subdivision one of
40 section 140.25 (burglary in the second degree); 150.15 (arson in the
41 second degree); 160.15 (robbery in the first degree); subdivision two of
42 section 160.10 (robbery in the second degree) of this chapter; or
43 section 265.03 of this chapter, where such machine gun or such firearm
44 is possessed on school grounds, as that phrase is defined in subdivision
45 fourteen of section 220.00 of this chapter; or defined in this chapter
46 as an attempt to commit murder in the second degree or kidnapping in the
47 first degree, or for such conduct as a sexually motivated felony, where
48 authorized pursuant to section 130.91 of ~~the penal law~~ this chapter.

49 3. A person sixteen or seventeen years of age is criminally responsi-
50 ble for acts constituting the crimes defined in section 460.22 (aggra-
51 vated enterprise corruption); 490.25 (crime of terrorism); 490.45 (crim-
52 inal possession of a chemical or biological weapon in the first degree);
53 490.50 (criminal use of a chemical weapon or biological weapon in the
54 second degree); 490.55 (criminal use of a chemical weapon or biological
55 weapon in the first degree); 120.11 (aggravated assault upon a police
56 officer or a peace officer); 125.22 (aggravated manslaughter in the

1 first degree); 215.17 (intimidating a victim or witness in the first
2 degree); 265.04 (criminal possession of a weapon in the first degree);
3 265.09 (criminal use of a firearm in the first degree); 265.13 (criminal
4 sale of a firearm in the first degree); 490.35 (hindering prosecution of
5 terrorism in the first degree); 490.40 (criminal possession of a chemi-
6 cal weapon or biological weapon in the second degree); 490.47 (criminal
7 use of a chemical weapon or biological weapon in the third degree);
8 121.13 (strangulation in the first degree); 490.37 (criminal possession
9 of a chemical weapon or biological weapon in the third degree) of this
10 chapter; or a felony sex offense as defined in paragraph (a) of subdivi-
11 sion one of section 70.80 of this chapter.

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

14 § 54. Subdivision 2 of section 60.02 of the penal law, as amended by
15 chapter 471 of the laws of 1980, is amended to read as follows:

16 (2) If the sentence is to be imposed upon a youthful offender finding
17 which has been substituted for a conviction for any felony, the court
18 must impose a sentence authorized to be imposed upon a person convicted
19 of a class E felony provided, however, that (a) the court must not
20 impose a sentence of [~~conditional discharge or~~] unconditional discharge
21 if the youthful offender finding was substituted for a conviction of a
22 felony defined in article two hundred twenty of this chapter.

23 § 55. Section 60.10 of the penal law, as amended by chapter 411 of the
24 laws of 1979, is amended to read as follows:

25 § 60.10 Authorized disposition; juvenile offender.

26 1. When a juvenile offender is convicted of a crime, the court shall
27 sentence the defendant to imprisonment in accordance with section 70.05
28 or sentence [~~him~~] the defendant upon a youthful offender finding in
29 accordance with section 60.02 of this chapter.

30 2. Subdivision one of this section shall apply when sentencing a juve-
31 nile offender notwithstanding the provisions of any other law that deals
32 with the authorized sentence for persons who are not juvenile offenders.
33 Provided, however, that the limitation prescribed by this section shall
34 not be deemed or construed to bar use of a conviction of a juvenile
35 offender, other than a juvenile offender who has been adjudicated a
36 youthful offender pursuant to section 720.20 of the criminal procedure
37 law, as a previous or predicate felony offender under section 70.04,
38 70.06, 70.07, 70.08[~~, or 70.10,~~] or 70.80 when sentencing a person who
39 commits a felony after [~~he~~] such person has reached the age of [~~sixteen~~]
40 eighteen.

41 § 56. Paragraph (b) of subdivision 2 of section 70.05 of the penal
42 law, as added by chapter 481 of the laws of 1978, is amended and a new
43 paragraph (b-1) is added to read as follows:

44 (b) For [~~the~~] a class [~~A~~] A-I felony [~~of arson in the first degree, or~~
45 ~~for the class A felony of kidnapping in the first degree~~] other than
46 murder in the second degree, the term shall be fixed by the court, and
47 shall be at least twelve years but shall not exceed fifteen years;

48 (b-1) For a class A-II felony the term shall be fixed by the court and
49 shall be at least ten years but shall not exceed fourteen years;

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

53 (b) For [~~the~~] a class [~~A~~] A-I felony [~~of arson in the first degree, or~~
54 ~~for the class A felony of kidnapping in the first degree~~] other than
55 murder in the second degree, the minimum period of imprisonment shall be

1 fixed by the court and shall be not less than four years but shall not
2 exceed six years; and

3 (b-1) For a class A-II felony, the minimum period of imprisonment
4 shall be fixed by the court and shall be not less than three years but
5 shall not exceed five years; and

6 § 58. Subdivision 1 of section 70.20 of the penal law, as amended by
7 section 124 of subpart B of part C of chapter 62 of the laws of 2011, is
8 amended to read as follows:

9 1. ~~[(a)]~~ Indeterminate or determinate sentence. Except as provided in
10 subdivision four of this section, when an indeterminate or determinate
11 sentence of imprisonment is imposed, the court shall commit the defend-
12 ant to the custody of the state department of corrections and community
13 supervision for the term of his or her sentence and until released in
14 accordance with the law; provided, however, that a defendant sentenced
15 pursuant to subdivision seven of section 70.06 shall be committed to the
16 custody of the state department of corrections and community supervision
17 for immediate delivery to a reception center operated by the department.

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

23 ~~[(c) Notwithstanding paragraph (b) of this subdivision, where the court~~
24 ~~commits a defendant who is not yet eighteen years of age to the custody~~
25 ~~of the department of corrections and community supervision in accordance~~
26 ~~with this section and no medical consent has been obtained prior to said~~
27 ~~commitment, the commitment order shall be deemed to grant the capacity~~
28 ~~to consent to routine medical, dental and mental health services and~~
29 ~~treatment to the person so committed.~~

30 ~~[(d) Nothing in this subdivision shall preclude a parent or legal guar-~~
31 ~~dian of an inmate who is not yet eighteen years of age from making a~~
32 ~~motion on notice to the department of corrections and community super-~~
33 ~~vision pursuant to article twenty-two of the civil practice law and~~
34 ~~rules and section one hundred forty of the correction law, objecting to~~
35 ~~routine medical, dental or mental health services and treatment being~~
36 ~~provided to such inmate under the provisions of paragraph (b) of this~~
37 ~~subdivision.~~

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

42 § 58-a. Subdivision d of section 74 of chapter 3 of the laws of 1995,
43 enacting the sentencing reform act of 1995, as amended by section 19 of
44 part B of chapter 55 of the laws of 2015, is amended and a new subdivi-
45 sion d-1 is added to read as follows:

46 d. Sections one-a through eight, ten through twenty, twenty-four
47 through twenty-eight, thirty through thirty-nine, forty-two and forty-
48 four of this act shall be deemed repealed on September 1, 2017;

49 d-1. Section nine of this act shall be deemed repealed on September 1,
50 2019;

51 § 59. Subdivision 2 of section 70.20 of the penal law, as amended by
52 chapter 437 of the laws of 2013, is amended to read as follows:

53 2. ~~[(a)]~~ Definite sentence. Except as provided in subdivision four of
54 this section, when a definite sentence of imprisonment is imposed, the
55 court shall commit the defendant to the county or regional correctional

1 institution for the term of his sentence and until released in accord-
2 ance with the law.

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

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

15 § 60. Subdivision 4 of section 70.20 of the penal law, as amended by
16 section 124 of subpart B of part C of chapter 62 of the laws of 2011, is
17 amended to read as follows:

18 4. (a) Notwithstanding any other provision of law to the contrary, a
19 juvenile offender[~~r~~] or a juvenile offender who is adjudicated a youth-
20 ful offender and given an indeterminate or a definite sentence, and who
21 is under the age of twenty-one at the time of sentencing, shall be
22 committed to the custody of the commissioner of the office of children
23 and family services who shall arrange for the confinement of such offen-
24 der in [~~secure~~] facilities of the office. The release or transfer of
25 such offenders from the office of children and family services shall be
26 governed by section five hundred eight of the executive law. If the
27 juvenile offender is convicted or adjudicated a youthful offender and is
28 twenty-one years of age or older at the time of sentencing, he or she
29 shall be delivered to the department of corrections and community super-
30 vision.

31 (a-1) Notwithstanding any other provision of law to the contrary, a
32 person who is sentenced to an indeterminate sentence as an adult for
33 committing a crime when he or she was sixteen or seventeen years of age
34 who is sentenced on or after December first, two thousand seventeen to a
35 term of at least one year of imprisonment and who is under the age of
36 eighteen at the time he or she is sentenced shall be committed to the
37 custody of the commissioner of the office of children and family
38 services who shall arrange for the confinement of such offender in
39 facilities of the office. The release or transfer of such offenders from
40 the office of children and family services shall be governed by section
41 five hundred eight of the executive law.

42 (b) The court in committing [~~a juvenile offender and youthful offen-~~
43 ~~der~~] an offender under eighteen years of age to the custody of the
44 office of children and family services shall inquire as to whether the
45 parents or legal guardian of the youth, if present, will consent for the
46 office of children and family services to provide routine medical,
47 dental and mental health services and treatment.

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

55 (d) Nothing in this subdivision shall preclude a parent or legal guar-
56 dian of an offender who is not yet eighteen years of age from making a

1 motion on notice to the office of children and family services pursuant
2 to article twenty-two of the civil practice law and rules objecting to
3 routine medical, dental or mental health services and treatment being
4 provided to such offender under the provisions of paragraph (b) of this
5 subdivision.

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

10 § 60-a. Paragraph (f) of subdivision 1 of section 70.30 of the penal
11 law, as added by chapter 481 of the laws of 1978 and relettered by chap-
12 ter 3 of the laws of 1995, is amended to read as follows:

13 (f) The aggregate maximum term of consecutive sentences imposed upon a
14 juvenile offender for two or more crimes, not including a class A felo-
15 ny, committed before he has reached the age of sixteen, shall, if it
16 exceeds ten years, be deemed to be ten years. If consecutive indetermi-
17 nate sentences imposed upon a juvenile offender include a sentence for
18 ~~[the] a class A felony [of arson in the first degree or for the class A~~
19 ~~felony of kidnapping in the first degree]~~ other than murder in the
20 second degree, then the aggregate maximum term of such sentences shall,
21 if it exceeds fifteen years, be deemed to be fifteen years. Where the
22 aggregate maximum term of two or more consecutive sentences is reduced
23 by a calculation made pursuant to this paragraph, the aggregate minimum
24 period of imprisonment, if it exceeds one-half of the aggregate maximum
25 term as so reduced, shall be deemed to be one-half of the aggregate
26 maximum term as so reduced.

27 § 61. Subdivision 18 of section 10.00 of the penal law, as amended by
28 chapter 7 of the laws of 2007, is amended to read as follows:

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

34 (2) a person fourteen ~~[or]~~, fifteen, sixteen or seventeen years old
35 who is criminally responsible for acts constituting the crimes defined
36 in subdivisions one and two of section 125.25 (murder in the second
37 degree) and in subdivision three of such section provided that the
38 underlying crime for the murder charge is one for which such person is
39 criminally responsible; section 135.25 (kidnapping in the first degree);
40 150.20 (arson in the first degree); subdivisions one and two of section
41 120.10 (assault in the first degree); 125.20 (manslaughter in the first
42 degree); subdivisions one and two of section 130.35 (rape in the first
43 degree); subdivisions one and two of section 130.50 (criminal sexual act
44 in the first degree); 130.70 (aggravated sexual abuse in the first
45 degree); 140.30 (burglary in the first degree); subdivision one of
46 section 140.25 (burglary in the second degree); 150.15 (arson in the
47 second degree); 160.15 (robbery in the first degree); subdivision two of
48 section 160.10 (robbery in the second degree) of this chapter; or
49 section 265.03 of this chapter, where such machine gun or such firearm
50 is possessed on school grounds, as that phrase is defined in subdivision
51 fourteen of section 220.00 of this chapter; or defined in this chapter
52 as an attempt to commit murder in the second degree or kidnapping in the
53 first degree, or such conduct as a sexually motivated felony, where
54 authorized pursuant to section 130.91 of ~~[the penal law]~~ this chapter;
55 and

(3) a person sixteen or seventeen years of age is criminally responsible for acts constituting the crimes defined in section 460.22 (aggravated enterprise corruption); 490.25 (crime of terrorism); 490.45 (criminal possession of a chemical weapon or biological weapon in the first degree); 490.50 (criminal use of a chemical weapon or biological weapon in the second degree); 490.55 (criminal use of a chemical weapon or biological weapon in the first degree); 120.11 (aggravated assault upon a police officer or a peace officer); 125.22 (aggravated manslaughter in the first degree); 215.17 (intimidating a victim or witness in the first degree); 265.04 (criminal possession of a weapon in the first degree); 265.09 (criminal use of a firearm in the first degree); 265.13 (criminal sale of a firearm in the first degree); 490.35 (hindering prosecution of terrorism in the first degree); 490.40 (criminal possession of a chemical weapon or biological weapon in the second degree); 490.47 (criminal use of a chemical weapon or biological weapon in the third degree); 121.13 (strangulation in the first degree); 490.37 (criminal possession of a chemical weapon or biological weapon in the third degree) of this chapter; or a felony sex offense as defined in paragraph (a) of subdivision one of section 70.80 of this chapter.

§ 62. Subdivision 42 of section 1.20 of the criminal procedure law, as amended by chapter 7 of the laws of 2007, is amended to read as follows:

42. "Juvenile offender" means (1) a person, thirteen years old who is criminally responsible for acts constituting murder in the second degree as defined in subdivisions one and two of section 125.25 of the penal law, or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; ~~and~~ (2) a person fourteen ~~or~~ fifteen, sixteen or seventeen years old who is criminally responsible for acts constituting the crimes defined in subdivisions one and two of section 125.25 (murder in the second degree) and in subdivision three of such section provided that the underlying crime for the murder charge is one for which such person is criminally responsible; section 135.25 (kidnapping in the first degree); 150.20 (arson in the first degree); subdivisions one and two of section 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); subdivisions one and two of section 130.35 (rape in the first degree); subdivisions one and two of section 130.50 (criminal sexual act in the first degree); 130.70 (aggravated sexual abuse in the first degree); 140.30 (burglary in the first degree); subdivision one of section 140.25 (burglary in the second degree); 150.15 (arson in the second degree); 160.15 (robbery in the first degree); subdivision two of section 160.10 (robbery in the second degree) of the penal law; or section 265.03 of the penal law, where such machine gun or such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 of the penal law; or defined in the penal law as an attempt to commit murder in the second degree or kidnapping in the first degree, or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; and (3) a person sixteen or seventeen years of age is criminally responsible for acts constituting the crimes defined in section 460.22 (aggravated enterprise corruption); 490.25 (crime of terrorism); 490.45 (criminal possession of a chemical weapon or biological weapon in the first degree); 490.50 (criminal use of a chemical weapon or biological weapon in the second degree); 490.55 (criminal use of a chemical weapon or biological weapon in the first degree); 120.11 (aggravated assault upon a police officer or a peace officer); 125.22 (aggravated manslaughter in the first degree); 215.17 (intimidating a victim or witness in the first degree); 265.04 (criminal

possession of a weapon in the first degree); 265.09 (criminal use of a firearm in the first degree); 265.13 (criminal sale of a firearm in the first degree); 490.35 (hindering prosecution of terrorism in the first degree); 490.40 (criminal possession of a chemical weapon or biological weapon in the second degree); 490.47 (criminal use of a chemical weapon or biological weapon in the third degree); 121.13 (strangulation in the first degree); 490.37 (criminal possession of a chemical weapon or biological weapon in the third degree) of this chapter; or a felony sex offense as defined in paragraph (a) of subdivision one of section 70.80 of this chapter.

§ 63. The article heading of article 100 of the criminal procedure law is amended to read as follows:

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

§ 63-a. The opening paragraph of section 100.05 of the criminal procedure law is amended to read as follows:

A criminal action is commenced by the filing of an accusatory instrument with a criminal court, or, in the case of a juvenile offender, the youth part of the superior court, and if more than one such instrument is filed in the course of the same criminal action, such action commences when the first of such instruments is filed. The only way in which a criminal action can be commenced in a superior court is by the filing therewith by a grand jury of an indictment against a defendant who has never been held by a local criminal court for the action of such grand jury with respect to any charge contained in such indictment; provided, however, that when the criminal action is commenced against a juvenile offender, such criminal action, whatever the form of commencement, shall be filed in the youth part of the superior court or, if the youth part is not in session, filed with the most accessible magistrate designated by the appellate division of the supreme court in the applicable department to act as a youth part. Otherwise, a criminal action can be commenced only in a local criminal court, by the filing therewith of a local criminal court accusatory instrument, namely:

§ 63-b. The section heading and subdivision 5 of section 100.10 of the criminal procedure law are amended to read as follows:

Local criminal court and youth part of the superior court accusatory instruments; definitions thereof.

5. A "felony complaint" is a verified written accusation by a person, filed with a local criminal court, or youth part of the superior court, charging one or more other persons with the commission of one or more felonies. It serves as a basis for the commencement of a criminal action, but not as a basis for prosecution thereof.

§ 63-c. The section heading of section 100.40 of the criminal procedure law is amended to read as follows:

Local criminal court and youth part of the superior court accusatory instruments; sufficiency on face.

§ 63-d. The criminal procedure law is amended by adding a new section 100.60 to read as follows:

§ 100.60 Youth part of the superior court accusatory instruments; in what courts filed.

Any youth part of the superior court accusatory instrument may be filed with the youth part of the superior court of a particular county when an offense charged therein was allegedly committed in such county or that part thereof over which such court has jurisdiction.

1 § 63-e. The article heading of article 110 of the criminal procedure
2 law is amended to read as follows:

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

6 § 63-f. The section heading and subdivisions 1 and 2 of section 110.10
7 of the criminal procedure law are amended to read as follows:

8 Methods of requiring defendant's appearance in local criminal court or
9 youth part of the superior court for arraignment; in general.

10 1. After a criminal action has been commenced in a local criminal
11 court or youth part of the superior court by the filing of an accusatory
12 instrument therewith, a defendant who has not been arraigned in the
13 action and has not come under the control of the court may under certain
14 circumstances be compelled or required to appear for arraignment upon
15 such accusatory instrument by:

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

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

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

24 2. Although no criminal action against a person has been commenced in
25 any court, he may under certain circumstances be compelled or required
26 to appear in a local criminal court or youth part of a superior court
27 for arraignment upon an accusatory instrument to be filed therewith at
28 or before the time of his appearance by:

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

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

33 § 63-g. Section 110.20 of the criminal procedure law, as amended by
34 chapter 843 of the laws of 1980, is amended to read as follows:

35 § 110.20 Local criminal court or youth part of the superior court accu-
36 satory instruments; notice thereof to district attorney.

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

50 § 63-h. The opening paragraph of subdivision 1 of section 120.20 of
51 the criminal procedure law, as amended by chapter 506 of the laws of
52 2000, is amended to read as follows:

53 When a criminal action has been commenced in a local criminal court or
54 youth part of the superior court by the filing therewith of an accusato-
55 ry instrument, other than a simplified traffic information, against a

1 defendant who has not been arraigned upon such accusatory instrument and
2 has not come under the control of the court with respect thereto:

3 § 63-i. Section 120.30 of the criminal procedure law is amended to
4 read as follows:

5 § 120.30 Warrant of arrest; by what courts issuable and in what courts
6 returnable.

7 1. A warrant of arrest may be issued only by the local criminal court
8 or youth part of the superior court with which the underlying accusatory
9 instrument has been filed, and it may be made returnable in such issuing
10 court only.

11 2. The particular local criminal court or courts or youth part of
12 superior court with which any particular local criminal court or youth
13 part of the superior court accusatory instrument may be filed for the
14 purpose of obtaining a warrant of arrest are determined, generally, by
15 the provisions of section 100.55 or 100.60, as applicable. If, however,
16 a particular accusatory instrument may pursuant to said section 100.55
17 be filed with a particular town court and such town court is not avail-
18 able at the time such instrument is sought to be filed and a warrant
19 obtained, such accusatory instrument may be filed with the town court of
20 any adjoining town of the same county. If such instrument may be filed
21 pursuant to said section 100.55 with a particular village court and such
22 village court is not available at the time, it may be filed with the
23 town court of the town embracing such village, or if such town court is
24 not available either, with the town court of any adjoining town of the
25 same county.

26 § 63-j. Section 120.55 of the criminal procedure law, as amended by
27 section 71 of subpart B of part C of chapter 62 of the laws of 2011, is
28 amended to read as follows:

29 § 120.55 Warrant of arrest; defendant under parole or probation super-
30 vision.

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

43 § 63-k. Subdivision 1 of section 120.70 of the criminal procedure law
44 is amended to read as follows:

45 1. A warrant of arrest issued by a district court, by the New York
46 City criminal court, the youth part of a superior court or by a superior
47 court judge sitting as a local criminal court may be executed anywhere
48 in the state.

49 § 63-l. Section 120.90 of the criminal procedure law, as amended by
50 chapter 424 of the laws of 1998, subdivision 8 as amended by chapter 96
51 of the laws of 2010, is amended to read as follows:

52 § 120.90 Warrant of arrest; procedure after arrest.

53 1. Upon arresting a defendant for any offense pursuant to a warrant
54 of arrest in the county in which the warrant is returnable or in any
55 adjoining county, or upon so arresting him for a felony in any other
56 county, a police officer, if he be one to whom the warrant is addressed,

1 must without unnecessary delay bring the defendant before the local
2 criminal court or youth part of the superior court in which such warrant
3 is returnable.

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

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

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

1 but must without unnecessary delay deliver him or cause him to be deliv-
2 ered to the custody of the delegating officer. Upon receiving such
3 custody, the latter must without unnecessary delay bring the defendant
4 before the court in which the warrant is returnable.

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

26 5-a. Whenever a police officer is required, pursuant to this section,
27 to bring an arrested defendant before a youth part of a superior court
28 in which a warrant of arrest is returnable, and if such court is not
29 available at the time, such officer must bring such defendant before the
30 most accessible magistrate designated by the appellate division of the
31 supreme court in the applicable department to act as a youth part.

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

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

51 8. Upon arresting a defendant, other than a juvenile offender, for
52 any offense pursuant to a warrant of arrest, a police officer shall,
53 upon the defendant's request, permit the defendant to communicate by
54 telephone provided by the law enforcement facility where the defendant
55 is held to a phone number located anywhere in the United States or Puer-
56 to Rico, for the purposes of obtaining counsel and informing a relative

1 or friend that he or she has been arrested, unless granting the call
2 will compromise an ongoing investigation or the prosecution of the
3 defendant.

4 § 63-l-1. Subdivision 1 of section 120.90 of the criminal procedure
5 law, as amended by chapter 492 of the laws of 2016, is amended to read
6 as follows:

7 1. Upon arresting a defendant for any offense pursuant to a warrant of
8 arrest in the county in which the warrant is returnable or in any
9 adjoining county, or upon so arresting him or her for a felony in any
10 other county, a police officer, if he or she be one to whom the warrant
11 is addressed, must without unnecessary delay bring the defendant before
12 the local criminal court or youth part of the superior court in which
13 such warrant is returnable, provided that, where a local criminal court
14 in the county in which the warrant is returnable hereunder is operating
15 an off-hours arraignment part designated in accordance with paragraph
16 (w) of subdivision one of section two hundred twelve of the judiciary
17 law at the time of defendant's return, such police officer may bring the
18 defendant before such local criminal court.

19 § 63-m. Subdivision 1 of section 130.10 of the criminal procedure law,
20 as amended by chapter 446 of the laws of 1993, is amended to read as
21 follows:

22 1. A summons is a process issued by a local criminal court directing a
23 defendant designated in an information, a prosecutor's information, a
24 felony complaint or a misdemeanor complaint filed with such court, or a
25 youth part of a superior court directing a defendant designated in a
26 felony complaint, or by a superior court directing a defendant desig-
27 nated in an indictment filed with such court, to appear before it at a
28 designated future time in connection with such accusatory instrument.
29 The sole function of a summons is to achieve a defendant's court appear-
30 ance in a criminal action for the purpose of arraignment upon the accu-
31 satory instrument by which such action was commenced.

32 § 63-n. Section 130.30 of the criminal procedure law, as amended by
33 chapter 506 of the laws of 2000, is amended to read as follows:
34 § 130.30 Summons; when issuable.

35 A local criminal court or youth part of the superior court may issue a
36 summons in any case in which, pursuant to section 120.20, it is author-
37 ized to issue a warrant of arrest based upon an information, a
38 prosecutor's information, a felony complaint or a misdemeanor complaint.
39 If such information, prosecutor's information, felony complaint or
40 misdemeanor complaint is not sufficient on its face as prescribed in
41 section 100.40, and if the court is satisfied that on the basis of the
42 available facts or evidence it would be impossible to draw and file an
43 authorized accusatory instrument that is sufficient on its face, the
44 court must dismiss the accusatory instrument. A superior court may issue
45 a summons in any case in which, pursuant to section 210.10, it is
46 authorized to issue a warrant of arrest based upon an indictment.

47 § 63-o. Subdivision 1 of section 140.20 of the criminal procedure law
48 is amended by adding a new paragraph (f) to read as follows:

49 (f) If the arrest is for a person under the age of eighteen, such
50 person shall be brought before the youth part of the superior court. If
51 the youth part is not in session, such person shall be brought before
52 the most accessible magistrate designated by the appellate division of
53 the supreme court in the applicable department to act as a youth part.

54 § 64. Subdivision 6 of section 140.20 of the criminal procedure law,
55 as added by chapter 411 of the laws of 1979, is amended to read as
56 follows:

6. Upon arresting a juvenile offender without a warrant, the police officer shall immediately notify the parent or other person legally responsible for his or her care or the person with whom he or she is domiciled, that the juvenile offender has been arrested, and the location of the facility where he or she is being detained. If the officer determines that it is necessary to question a juvenile offender or a child under eighteen years of age who fits within the definition of a juvenile offender as defined in section 30.00 of the penal law, the officer must take the juvenile to a facility designated by the chief administrator of the courts as a suitable place for the questioning of children or, upon the consent of a parent or other person legally responsible for the care of the juvenile, to the juvenile's residence and there question him or her for a reasonable period of time. A juvenile shall not be questioned pursuant to this section unless the juvenile and a person required to be notified pursuant to this subdivision, if present, have been advised:

(a) of the juvenile's right to remain silent;

(b) that the statements made by the juvenile may be used in a court of law;

(c) of the juvenile's right to have an attorney present at such questioning; and

(d) of the juvenile's right to have an attorney provided for him or her without charge if he or she is indigent.

In determining the suitability of questioning and determining the reasonable period of time for questioning such a juvenile offender, the juvenile's age, the presence or absence of his or her parents or other persons legally responsible for his or her care and notification pursuant to this subdivision shall be included among relevant considerations.

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

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

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

3-a. If the arrest is for a person under the age of eighteen, such person shall be brought before the youth part of the superior court. If the youth part is not in session, such person shall be brought before the most accessible magistrate designated by the appellate division of the supreme court in the applicable department to act as a youth part.

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

5. Upon arresting a juvenile offender without a warrant, the peace officer shall immediately notify the parent or other person legally

1 responsible for his care or the person with whom he or she is domiciled,
2 that the juvenile offender has been arrested, and the location of the
3 facility where he or she is being detained. If the officer determines
4 that it is necessary to question a juvenile offender or a child under
5 eighteen years of age who fits within the definition of a juvenile
6 offender as defined in section 30.00 of the penal law the officer must
7 take the juvenile to a facility designated by the chief administrator of
8 the courts as a suitable place for the questioning of children or, upon
9 the consent of a parent or other person legally responsible for the care
10 of the juvenile, to the juvenile's residence and there question him or
11 her for a reasonable period of time. A juvenile shall not be questioned
12 pursuant to this section unless the juvenile and a person required to be
13 notified pursuant to this subdivision, if present, have been advised:

14 (a) of the juvenile's right to remain silent;

15 (b) that the statements made by the juvenile may be used in a court of
16 law;

17 (c) of the juvenile's right to have an attorney present at such ques-
18 tioning; and

19 (d) of the juvenile's right to have an attorney provided for him or
20 her without charge if he or she is indigent.

21 In determining the suitability of questioning and determining the
22 reasonable period of time for questioning such a juvenile offender, the
23 juvenile's age, the presence or absence of his or her parents or other
24 persons legally responsible for his or her care and notification pursu-
25 ant to this subdivision shall be included among relevant considerations.

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

29 5. If a police officer takes an arrested juvenile offender into
30 custody, the police officer shall immediately notify the parent or other
31 person legally responsible for his or her care or the person with whom
32 he or she is domiciled, that the juvenile offender has been arrested,
33 and the location of the facility where he or she is being detained. If
34 the officer determines that it is necessary to question a juvenile
35 offender or a child under eighteen years of age who fits within the
36 definition of a juvenile offender as defined in section 30.00 of the
37 penal law the officer must take the juvenile to a facility designated by
38 the chief administrator of the courts as a suitable place for the ques-
39 tioning of children or, upon the consent of a parent or other person
40 legally responsible for the care of the juvenile, to the juvenile's
41 residence and there question him or her for a reasonable period of time.
42 A juvenile shall not be questioned pursuant to this section unless the
43 juvenile and a person required to be notified pursuant to this subdivi-
44 sion, if present, have been advised:

45 (a) of the juvenile's right to remain silent;

46 (b) that the statements made by the juvenile may be used in a court of
47 law;

48 (c) of the juvenile's right to have an attorney present at such ques-
49 tioning; and

50 (d) of the juvenile's right to have an attorney provided for him or
51 her without charge if he or she is indigent.

52 In determining the suitability of questioning and determining the
53 reasonable period of time for questioning such a juvenile offender, the
54 juvenile's age, the presence or absence of his or her parents or other
55 persons legally responsible for his or her care and notification pursu-
56 ant to this subdivision shall be included among relevant considerations.

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

5. Notwithstanding any other provision of this chapter, any uniform traffic ticket issued to a person sixteen or seventeen years of age pursuant to a violation of any provision of the vehicle and traffic law, or any local law, constituting a traffic infraction shall be returnable to the local city, town, or village court, or traffic violations bureau having jurisdiction.

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

§ 160.56 Sealing of certain convictions.

1. Definitions: As used in this section, the following terms shall have the following meanings:

(a) "Eligible offense" shall mean any offense defined in the laws of this state other than a sex offense defined in article one hundred thirty of the penal law, an offense defined in article two hundred sixty-three of the penal law, a felony offense defined in article one hundred twenty-five of the penal law, a violent felony offense defined in section 70.02 of the penal law, a class A felony offense defined in the penal law other than a class A felony offense defined in article two hundred twenty of the penal law, or an offense for which registration as a sex offender is required pursuant to article six-C of the correction law. For the purposes of this section, where the defendant is convicted of more than one eligible offense, committed as part of the same criminal transaction as defined in subdivision two of section 40.10 of this chapter, those offenses shall be considered one eligible offense.

2. A defendant who has been convicted of up to two eligible offenses but not more than one felony offense may petition the court in which he or she was convicted of the most serious offense to have such conviction or convictions sealed. If all offenses are offenses with the same classification, the petition shall be filed in the court in which the defendant was last convicted. On the defendant's motion, the court may order that all official records and papers relating to the arrest, prosecution and conviction for the defendant's prior eligible offenses be conditionally sealed when:

(a) the defendant has not been convicted of any other crime, including crimes sealed under section 160.58 of this chapter, other than the eligible offenses;

(b) for a misdemeanor, at least one year has passed since: the entry of the judgment or, if the defendant was sentenced to a conditional discharge or a period of probation, including a period of incarceration imposed in conjunction with a sentence of probation or conditional discharge, the completion of the defendant's term of probation or conditional discharge, or if the defendant was sentenced to incarceration, the defendant's release from incarceration, whichever is the longest; or

(c) for an eligible felony, at least three years have passed since: the entry of the judgment or, if the defendant was sentenced to a conditional discharge or a period of probation, including a period of incarceration imposed in conjunction with a sentence of probation or conditional discharge, the completion of the defendant's term of probation or conditional discharge, or if the defendant was sentenced to incarceration, the defendant's release from incarceration, whichever is the longest; and

(d) the sentencing court has requested and received from the division of criminal justice services or the federal bureau of investigation a fingerprint based criminal history record of the defendant, including

1 any sealed or suppressed information. The division of criminal justice
2 services shall also include a criminal history report, if any, from the
3 federal bureau of investigation regarding any criminal history informa-
4 tion that occurred in other jurisdictions. The division is hereby
5 authorized to receive such information from the federal bureau of inves-
6 tigation for this purpose. The parties shall be permitted to examine
7 these records;

8 (e) the defendant or court has identified the misdemeanor conviction
9 or convictions or felony conviction for which relief may be granted;

10 (f) the court has received documentation that the sentences imposed on
11 the eligible convictions have been completed, or if no such documenta-
12 tion is reasonably available, a sworn affidavit that the sentences
13 imposed on the prior eligible convictions have been completed;

14 (g) the court has notified the district attorney of each jurisdiction
15 in which the defendant has been convicted of an offense with respect to
16 which sealing is sought, and the court or courts of conviction for such
17 offenses, that the court is considering sealing the records of the
18 defendant's eligible convictions. Both the district attorney and the
19 court shall be given a reasonable opportunity, which shall be up to
20 thirty days, in which to comment and submit materials to aid the court
21 in making such a determination. When the court notifies a district
22 attorney of a sealing application, the district attorney shall provide
23 notice to the victim, if any, of the sealing application by mailing
24 written notice to the victim's last-known address. For purposes of this
25 section "victim" means any person who has sustained physical or finan-
26 cial injury to person or to property as a direct result of the crime or
27 crimes for which sealing is applied. The court shall provide the defend-
28 ant with any materials submitted to the court in response to the defend-
29 ant's petition; and

30 (h) no charges for any offense are pending against the defendant.

31 3. At the request of the defendant or the district attorney of a coun-
32 ty in which the defendant committed a crime that is the subject of the
33 sealing application, the court may conduct a hearing to consider and
34 review any relevant evidence offered by either party that would aid the
35 court in its decision whether to seal the records of the defendant's
36 arrests, prosecutions and convictions. In making such a determination,
37 the court shall consider any relevant factors, including but not limited
38 to:

39 (a) the circumstances and seriousness of the offense or offenses that
40 resulted in the conviction or convictions;

41 (b) the character of the defendant, including what steps the petition-
42 er has taken since the time of the offense toward personal rehabili-
43 tation, including treatment, work, school, or other personal history
44 that demonstrates rehabilitation;

45 (c) the defendant's criminal history;

46 (d) the impact of sealing the defendant's records upon his or her
47 rehabilitation and his or her successful and productive reentry and
48 reintegration into society, and on public safety; and

49 (e) any statements made by the victim of the offense where there is in
50 fact a victim of the crime.

51 4. When a court orders sealing pursuant to this section, all official
52 records and papers relating to the arrests, prosecutions, and
53 convictions, including all duplicates and copies thereof, on file with
54 the division of criminal justice services or any court shall be sealed
55 and not made available to any person or public or private agency;

1 provided, however, the division shall retain any fingerprints, palm-
2 prints, photographs, or digital images of the same.

3 5. When the court orders sealing pursuant to this section, the clerk
4 of such court shall immediately notify the commissioner of the division
5 of criminal justice services, and any court that sentenced the defendant
6 for an offense which has been conditionally sealed, regarding the
7 records that shall be sealed pursuant to this section.

8 6. Records sealed pursuant to this section shall be made available to:

9 (a) the defendant or the defendant's designated agent;

10 (b) qualified agencies, as defined in subdivision nine of section
11 eight hundred thirty-five of the executive law, and federal and state
12 law enforcement agencies, when acting within the scope of their law
13 enforcement duties;

14 (c) any state or local officer or agency with responsibility for the
15 issuance of licenses to possess guns, when the person has made applica-
16 tion for such a license;

17 (d) any prospective employer of a police officer or peace officer as
18 those terms are defined in subdivisions thirty-three and thirty-four of
19 section 1.20 of this chapter, in relation to an application for employ-
20 ment as a police officer or peace officer; provided, however, that every
21 person who is an applicant for the position of police officer or peace
22 officer shall be furnished with a copy of all records obtained under
23 this paragraph and afforded an opportunity to make an explanation there-
24 to; or

25 (e) the criminal justice information services division of the federal
26 bureau of investigation, for the purposes of responding to queries to
27 the national instant criminal background check system regarding attempts
28 to purchase or otherwise take possession of firearms, as defined in 18
29 USC 921 (a) (3).

30 10. If, within ten years following the entry of the judgment or, if
31 the defendant was sentenced to a conditional discharge or a period of
32 probation, including a period of incarceration imposed in conjunction
33 with a sentence of probation or conditional discharge, the completion of
34 the defendant's term of probation or conditional discharge, or if the
35 defendant was sentenced to incarceration, the defendant's release from
36 incarceration, the person who is the subject of such records sealed
37 pursuant to this section is arrested for or formally charged with any
38 misdemeanor or felony offense, such records shall be unsealed immedi-
39 ately and remain unsealed; provided, however, that if such new misdemeanor
40 or felony arrest results in a termination in favor of the accused as
41 defined in subdivision three of section 160.50 of this article or by
42 conviction for a non-criminal offense as described in section 160.55 of
43 this article, such unsealed records shall be conditionally sealed pursu-
44 ant to this section.

45 11. No defendant shall be required or permitted to waive eligibility
46 for conditional sealing pursuant to this section as part of a plea of
47 guilty, sentence or any agreement related to a conviction for an eligi-
48 ble offense and any such waiver shall be deemed void and wholly unen-
49 forceable.

50 § 68. Section 180.75 of the criminal procedure law, as added by chap-
51 ter 481 of the laws of 1978, paragraph (b) of subdivision 3 as amended
52 by chapter 920 of the laws of 1982, subdivision 4 as amended by chapter
53 264 of the laws of 2003, and subdivisions 5 and 6 as added by chapter
54 411 of the laws of 1979, is amended to read as follows:

55 § 180.75 Proceedings upon felony complaint; juvenile offender.

1 1. When the youth part of a superior court is not in session and a
2 juvenile offender is arraigned before [~~a local criminal court~~] the most
3 accessible magistrate designated by the appellate division of the
4 supreme court in the applicable department to act as a youth part, the
5 provisions of this section shall apply in lieu of the provisions of
6 sections 180.30, 180.50 and 180.70 of this article.

7 2. [~~if~~] Whether or not the defendant waives a hearing upon the felony
8 complaint, the court must [~~order that the defendant be held for the~~
9 ~~action of the grand jury of the appropriate superior court with respect~~
10 ~~to the charge or charges contained in the felony complaint~~] transfer the
11 action to the youth part of the superior court. In such case the court
12 must promptly transmit to such youth part of the superior court the
13 order, the felony complaint, the supporting depositions and all other
14 pertinent documents. Until such papers are received by the youth part
15 of the superior court, the action is deemed to be still pending in the
16 [~~local criminal court~~] court designated by the appellate division of the
17 supreme court in the applicable department to act as a youth part.

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

20 (a) If there is reasonable cause to believe that the defendant commit-
21 ted a crime for which a person under the age of [~~sixteen~~] eighteen is
22 criminally responsible, the court must order that the defendant be held
23 for the action of a grand jury of the appropriate superior court; or

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

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

36 4. Notwithstanding the provisions of subdivisions two and three of
37 this section, [~~a local criminal~~] the court shall, at the request of the
38 district attorney, order removal of an action against a juvenile offen-
39 der to the family court pursuant to the provisions of article seven
40 hundred twenty-five of this chapter if, upon consideration of the crite-
41 ria specified in subdivision two of section 210.43 of this chapter, it
42 is determined that to do so would be in the interests of justice.
43 Where, however, the felony complaint charges the juvenile offender with
44 murder in the second degree as defined in section 125.25 of the penal
45 law, rape in the first degree as defined in subdivision one of section
46 130.35 of the penal law, criminal sexual act in the first degree as
47 defined in subdivision one of section 130.50 of the penal law, or an
48 armed felony as defined in paragraph (a) of subdivision forty-one of
49 section 1.20 of this chapter, a determination that such action be
50 removed to the family court shall, in addition, be based upon a finding
51 of one or more of the following factors: (i) mitigating circumstances
52 that bear directly upon the manner in which the crime was committed; or
53 (ii) where the defendant was not the sole participant in the crime, the
54 defendant's participation was relatively minor although not so minor as
55 to constitute a defense to the prosecution; or (iii) possible deficien-
56 cies in proof of the crime.

1 5. Notwithstanding the provisions of subdivision two, three, or four,
2 if a currently undetermined felony complaint against a juvenile offender
3 is pending [~~in a local criminal court~~], and the defendant has not waived
4 a hearing pursuant to subdivision two and a hearing pursuant to subdivi-
5 sion three has not commenced, the defendant may move in the youth part
6 of the superior court which would exercise the trial jurisdiction of the
7 offense or offenses charged were an indictment therefor to result, to
8 remove the action to family court. The procedural rules of subdivisions
9 one and two of section 210.45 of this chapter are applicable to a motion
10 pursuant to this subdivision. Upon such motion, the [~~superior~~] court
11 [~~shall be authorized to sit as a local criminal court to exercise the~~
12 ~~preliminary jurisdiction specified in subdivisions two and three of this~~
13 ~~section, and~~] shall proceed and determine the motion as provided in
14 section 210.43 of this chapter; provided, however, that the exception
15 provisions of paragraph (b) of subdivision one of such section 210.43
16 shall not apply when there is not reasonable cause to believe that the
17 juvenile offender committed one or more of the crimes enumerated there-
18 in, and in such event the provisions of paragraph (a) thereof shall
19 apply.

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

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

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

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

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

40 (f) Where a motion by the defendant pursuant to subdivision five has
41 been granted, there shall be no further proceedings against the juvenile
42 offender in any local or superior criminal court including the youth
43 part of the superior court for the offense or offenses which were the
44 subject of the removal order.

45 § 68-a. The opening paragraph of section 180.80 of the criminal proce-
46 dure law, as amended by chapter 556 of the laws of 1982, is amended to
47 read as follows:

48 Upon application of a defendant against whom a felony complaint has
49 been filed with a local criminal court or the youth part of a superior
50 court, and who, since the time of his arrest or subsequent thereto, has
51 been held in custody pending disposition of such felony complaint, and
52 who has been confined in such custody for a period of more than one
53 hundred twenty hours or, in the event that a Saturday, Sunday or legal
54 holiday occurs during such custody, one hundred forty-four hours, with-
55 out either a disposition of the felony complaint or commencement of a

1 hearing thereon, the [~~local criminal~~] court must release him on his own
2 recognizance unless:

3 § 69. Subdivisions (a) and (b) of section 190.71 of the criminal
4 procedure law, subdivision (a) as amended by chapter 7 of the laws of
5 2007, subdivision (b) as added by chapter 481 of the laws of 1978, are
6 amended to read as follows:

7 (a) Except as provided in subdivision six of section 200.20 of this
8 chapter, a grand jury may not indict (i) a person thirteen years of age
9 for any conduct or crime other than conduct constituting a crime defined
10 in subdivisions one and two of section 125.25 (murder in the second
11 degree) or such conduct as a sexually motivated felony, where authorized
12 pursuant to section 130.91 of the penal law; (ii) a person fourteen
13 [~~or~~], fifteen, sixteen or seventeen years of age for any conduct or
14 crime other than conduct constituting a crime defined in subdivisions
15 one and two of section 125.25 (murder in the second degree) and in
16 subdivision three of such section provided that the underlying crime for
17 the murder charge is one for which such person is criminally responsi-
18 ble; 135.25 (kidnapping in the first degree); 150.20 (arson in the first
19 degree); subdivisions one and two of section 120.10 (assault in the
20 first degree); 125.20 (manslaughter in the first degree); subdivisions
21 one and two of section 130.35 (rape in the first degree); subdivisions
22 one and two of section 130.50 (criminal sexual act in the first degree);
23 130.70 (aggravated sexual abuse in the first degree); 140.30 (burglary
24 in the first degree); subdivision one of section 140.25 (burglary in the
25 second degree); 150.15 (arson in the second degree); 160.15 (robbery in
26 the first degree); subdivision two of section 160.10 (robbery in the
27 second degree) of the penal law; subdivision four of section 265.02 of
28 the penal law, where such firearm is possessed on school grounds, as
29 that phrase is defined in subdivision fourteen of section 220.00 of the
30 penal law; or section 265.03 of the penal law, where such machine gun or
31 such firearm is possessed on school grounds, as that phrase is defined
32 in subdivision fourteen of section 220.00 of the penal law; or defined
33 in the penal law as an attempt to commit murder in the second degree or
34 kidnapping in the first degree, or such conduct as a sexually motivated
35 felony, where authorized pursuant to section 130.91 of the penal law;
36 and (iii) a person sixteen or seventeen years of age is criminally
37 responsible for acts constituting the crimes defined in section 460.22
38 (aggravated enterprise corruption); 490.25 (crime of terrorism); 490.45
39 (criminal possession of a chemical weapon or biological weapon in the
40 first degree); 490.50 (criminal use of a chemical weapon or biological
41 weapon in the second degree); 490.55 (criminal use of a chemical weapon
42 or biological weapon in the first degree); 120.11 (aggravated assault
43 upon a police officer or a peace officer); 125.22 (aggravated
44 manslaughter in the first degree); 215.17 (intimidating a victim or
45 witness); 265.04 (criminal possession of a weapon in the first degree);
46 265.09 (criminal use of a firearm in the first degree); 265.13 (criminal
47 sale of a firearm in the first degree); 490.35 (hindering prosecution of
48 terrorism in the first degree); 490.40 (criminal possession of a chemi-
49 cal weapon or biological weapon in the second degree); 490.47 (criminal
50 use of a chemical weapon or biological weapon in the third degree);
51 121.13 (strangulation in the first degree); 490.37 (criminal possession
52 of a chemical weapon or biological weapon in the third degree) of this
53 chapter; or a felony sex offense as defined in paragraph (a) of subdivi-
54 sion one of section 70.80 of this chapter.

55 (b) A grand jury may vote to file a request to remove a charge to the
56 family court if it finds that a person [~~thirteen, fourteen or fifteen~~]

1 seventeen years of age or younger did an act which, if done by a person
2 over the age of [~~sixteen~~] eighteen, would constitute a crime provided
3 (1) such act is one for which it may not indict; (2) it does not indict
4 such person for a crime; and (3) the evidence before it is legally
5 sufficient to establish that such person did such act and competent and
6 admissible evidence before it provides reasonable cause to believe that
7 such person did such act.

8 § 70. Subdivision 6 of section 200.20 of the criminal procedure law,
9 as added by chapter 136 of the laws of 1980, is amended to read as
10 follows:

11 6. Where an indictment charges at least one offense against a defend-
12 ant who was under the age of [~~sixteen~~] eighteen at the time of the
13 commission of the crime and who did not lack criminal responsibility for
14 such crime by reason of infancy, the indictment may, in addition, charge
15 in separate counts one or more other offenses for which such person
16 would not have been criminally responsible by reason of infancy, if:

17 (a) the offense for which the defendant is criminally responsible and
18 the one or more other offenses for which he or she would not have been
19 criminally responsible by reason of infancy are based upon the same act
20 or upon the same criminal transaction, as that term is defined in subdi-
21 vision two of section 40.10 of this chapter; or

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

26 § 71. Subdivision 1 of section 210.43 of the criminal procedure law,
27 as added by chapter 411 of the laws of 1979, paragraph (b) as amended by
28 chapter 264 of the laws of 2003, is amended to read as follows:

29 1. After a motion by a juvenile offender, pursuant to subdivision five
30 of section 180.75 of this chapter, or after arraignment of a juvenile
31 offender upon an indictment, the youth part of a superior court may, on
32 motion of any party or on its own motion:

33 (a) except as otherwise provided by paragraph (b) of this section,
34 order removal of the action to the family court pursuant to the
35 provisions of article seven hundred twenty-five of this chapter, if,
36 after consideration of the factors set forth in subdivision two of this
37 section, the court determines that to do so would be in the interests of
38 justice. Provided, however, that a youth part shall be required to order
39 removal of an action against a juvenile offender accused of robbery in
40 the second degree as defined in subdivision two of section 160.10 of
41 this part, unless the district attorney proves by a preponderance of the
42 evidence that the youth played a primary role in commission of the crime
43 or that aggravating circumstances set forth in the memorandum in oppo-
44 sition submitted by the district attorney that bear directly on the
45 manner in which the crime was committed are present; or

46 (b) [~~with the consent~~] after consideration of the recommendation of
47 the district attorney, order removal of an action involving an indict-
48 ment charging a juvenile offender with murder in the second degree as
49 defined in section 125.25 of the penal law; rape in the first degree, as
50 defined in subdivision one of section 130.35 of the penal law; criminal
51 sexual act in the first degree, as defined in subdivision one of section
52 130.50 of the penal law; or an armed felony as defined in paragraph (a)
53 of subdivision forty-one of section 1.20, to the family court pursuant
54 to the provisions of article seven hundred twenty-five of this chapter
55 if the court finds one or more of the following factors: (i) mitigating
56 circumstances that bear directly upon the manner in which the crime was

1 committed; (ii) where the defendant was not the sole participant in the
2 crime, the defendant's participation was relatively minor although not
3 so minor as to constitute a defense to the prosecution; or (iii) possi-
4 ble deficiencies in the proof of the crime, and, after consideration of
5 the factors set forth in subdivision two of this section, the court
6 determined that removal of the action to the family court would be in
7 the interests of justice.

8 § 72. Paragraph (g) of subdivision 5 of section 220.10 of the criminal
9 procedure law, as amended by chapter 410 of the laws of 1979, subpara-
10 graph (iii) as amended by chapter 264 of the laws of 2003, the second
11 undesignated paragraph as amended by chapter 920 of the laws of 1982 and
12 the closing paragraph as amended by chapter 411 of the laws of 1979, is
13 amended to read as follows:

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

18 (i) If the indictment charges a person fourteen ~~[ex]~~, fifteen,
19 sixteen, or seventeen years old with the crime of murder in the second
20 degree any plea of guilty entered pursuant to subdivision three or four
21 must be a plea of guilty of a crime for which the defendant is criminal-
22 ly responsible;

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

28 (iii) Where the indictment does not charge a crime specified in
29 subparagraph (i) of this paragraph, the district attorney may recommend
30 removal of the action to the family court. Upon making such recommenda-
31 tion the district attorney ~~[shall]~~ may submit a subscribed memorandum
32 setting forth: (1) a recommendation that the interests of justice would
33 best be served by removal of the action to the family court; and (2) if
34 the indictment charges a thirteen year old with the crime of murder in
35 the second degree, or a fourteen ~~[ex]~~, fifteen, sixteen or seventeen
36 year old with the crimes of rape in the first degree as defined in
37 subdivision one of section 130.35 of the penal law, or criminal sexual
38 act in the first degree as defined in subdivision one of section 130.50
39 of the penal law, or an armed felony as defined in paragraph (a) of
40 subdivision forty-one of section 1.20 of this chapter specific factors,
41 one or more of which reasonably supports the recommendation, showing,
42 (i) mitigating circumstances that bear directly upon the manner in which
43 the crime was committed, or (ii) where the defendant was not the sole
44 participant in the crime, that the defendant's participation was rela-
45 tively minor although not so minor as to constitute a defense to the
46 prosecution, or (iii) possible deficiencies in proof of the crime, or
47 (iv) where the juvenile offender has no previous adjudications of having
48 committed a designated felony act, as defined in subdivision eight of
49 section 301.2 of the family court act, regardless of the age of the
50 offender at the time of commission of the act, that the criminal act was
51 not part of a pattern of criminal behavior and, in view of the history
52 of the offender, is not likely to be repeated.

53 If the court is of the opinion based on specific factors set forth in
54 ~~[the district attorney's memorandum]~~ this subparagraph that the inter-
55 ests of justice would best be served by removal of the action to the
56 family court, a plea of guilty of a crime or act for which the defendant

1 is not criminally responsible may be entered pursuant to subdivision
2 three or four of this section, except that a thirteen year old charged
3 with the crime of murder in the second degree may only plead to a desig-
4 nated felony act, as defined in subdivision eight of section 301.2 of
5 the family court act.

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

14 § 72-a. Section 330.25 of the criminal procedure law, as added by
15 chapter 481 of the laws of 1978, and subdivision 2 as amended by chapter
16 920 of the laws of 1982, is amended to read as follows:

17 § 330.25 Removal after verdict.

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

23 2. If the district attorney consents to the motion for removal pursu-
24 ant to this section, ~~[he shall file a subscribed memorandum with the~~
25 ~~court setting forth (1) a recommendation that]~~ the court, in determining
26 the motion, shall consider: (1) whether the interests of justice would
27 best be served by removal of the action to the family court; and (2) if
28 the conviction is of an offense set forth in paragraph (b) of subdivi-
29 sion one of section 210.43 of this chapter, whether specific factors
30 exist, one or more of which reasonably ~~[support]~~ supports the ~~[recommen-~~
31 ~~dation]~~ motion, showing, (i) mitigating circumstances that bear directly
32 upon the manner in which the crime was committed, or (ii) where the
33 defendant was not the sole participant in the crime, that the defend-
34 ant's participation was relatively minor although not so minor as to
35 constitute a defense to prosecution, or (iii) where the juvenile offen-
36 der has no previous adjudications of having committed a designated felo-
37 ny act, as defined in subdivision eight of section 301.2 of the family
38 court act, regardless of the age of the offender at the time of commis-
39 sion of the act, that the criminal act was not part of a pattern of
40 criminal behavior and, in view of the history of the offender, is not
41 likely to be repeated.

42 3. If the court is of the opinion, based upon the specific factors
43 ~~[set forth in the district attorney's memorandum]~~ shown to the court,
44 that the interests of justice would best be served by removal of the
45 action to the family court, the verdict shall be set aside and a plea of
46 guilty of a crime or act for which the defendant is not criminally
47 responsible may be entered pursuant to subdivision three or four of
48 section 220.10 of this chapter. Upon accepting any such plea, the court
49 must specify upon the record the ~~[portion or portions of the district~~
50 ~~attorney's statement]~~ factors the court is relying upon as the basis of
51 its opinion and that it believes the interests of justice would best be
52 served by removal of the proceeding to the family court. Such plea
53 shall then be deemed to be a juvenile delinquency fact determination and
54 the court upon entry thereof must direct that the action be removed to
55 the family court in accordance with the provisions of article seven
56 hundred twenty-five of this chapter.

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

2. Warrant. (a) Where the probation officer has requested that a probation warrant be issued, the court shall, within seventy-two hours of its receipt of the request, issue or deny the warrant or take any other lawful action including issuance of a notice to appear pursuant to subdivision one of this section. If at any time during the period of a sentence of probation or of conditional discharge the court has reasonable grounds to believe that the defendant has violated a condition of the sentence, the court may issue a warrant to a police officer or to an appropriate peace officer directing him or her to take the defendant into custody and bring the defendant before the court without unnecessary delay; provided, however, if the court in which the warrant is returnable is a superior court, and such court is not available, and the warrant is addressed to a police officer or appropriate probation officer certified as a peace officer, such executing officer may unless otherwise specified under paragraph (b) of this section, bring the defendant to the local correctional facility of the county in which such court sits, to be detained there until not later than the commencement of the next session of such court occurring on the next business day; or if the court in which the warrant is returnable is a local criminal court, and such court is not available, and the warrant is addressed to a police officer or appropriate probation officer certified as a peace officer, such executing officer must without unnecessary delay bring the defendant before an alternate local criminal court, as provided in subdivision five of section 120.90 of this chapter. A court which issues such a warrant may attach thereto a summary of the basis for the warrant. In any case where a defendant arrested upon the warrant is brought before a local criminal court other than the court in which the warrant is returnable, such local criminal court shall consider such summary before issuing a securing order with respect to the defendant.

(b) If the court in which the warrant is returnable is a superior court, and such court and its youth part is not available, and the warrant is addressed to a police officer or appropriate probation officer certified as a peace officer, such executing officer shall, where a defendant is seventeen years of age or younger who allegedly commits an offense or a violation of his or her probation or conditional discharge imposed for an offense, bring the defendant to a juvenile detention facility, to be detained there until brought without unnecessary delay before the most accessible magistrate designated by the appellate division of the supreme court in the applicable department to act as a youth part.

§ 73. Section 410.60 of the criminal procedure law, as amended by chapter 652 of the laws of 2008, is amended to read as follows:

§ 410.60 Appearance before court.

(a) A person who has been taken into custody pursuant to section 410.40 or section 410.50 of this article for violation of a condition of a sentence of probation or a sentence of conditional discharge must forthwith be brought before the court that imposed the sentence. Where a violation of probation petition and report has been filed and the person has not been taken into custody nor has a warrant been issued, an initial court appearance shall occur within ten business days of the court's issuance of a notice to appear. If the court has reasonable cause to believe that such person has violated a condition of the sentence, it may commit him or her to the custody of the sheriff or fix

1 bail or release such person on his or her own recognizance for future
2 appearance at a hearing to be held in accordance with section 410.70 of
3 this article. If the court does not have reasonable cause to believe
4 that such person has violated a condition of the sentence, it must
5 direct that he or she be released.

6 (b) A juvenile offender who has been taken into custody pursuant to
7 section 410.40 or section 410.50 of this article for violation of a
8 condition of a sentence of probation or a sentence of conditional
9 discharge must forthwith be brought before the court that imposed the
10 sentence. Where a violation of probation petition and report has been
11 filed and the person has not been taken into custody nor has a warrant
12 been issued, an initial court appearance shall occur within ten business
13 days of the court's issuance of a notice to appear. If the court has
14 reasonable cause to believe that such person has violated a condition of
15 the sentence, it may commit him or her to the custody of the sheriff or
16 in the case of a juvenile offender less than eighteen years of age to
17 the custody of the office of children and family services, or fix bail
18 or release such person on his or her own recognizance for future appear-
19 ance at a hearing to be held in accordance with section 410.70 of this
20 article. Provided, however, nothing herein shall authorize a juvenile to
21 be detained for a violation of a condition that would not constitute a
22 crime if committed by an adult unless the court determines (i) that the
23 juvenile poses a specific imminent threat to public safety and states
24 the reasons for the finding on the record or (ii) the use of graduated
25 sanctions has been exhausted without success. If the court does not have
26 reasonable cause to believe that such person has violated a condition of
27 the sentence, it must direct that the juvenile be released.

28 § 74. Subdivision 5 of section 410.70 of the criminal procedure law,
29 as amended by chapter 17 of the laws of 2014, is amended to read as
30 follows:

31 5. Revocation; modification; continuation. (a) At the conclusion of
32 the hearing the court may revoke, continue or modify the sentence of
33 probation or conditional discharge. Where the court revokes the
34 sentence, it must impose sentence as specified in subdivisions three and
35 four of section 60.01 of the penal law. Where the court continues or
36 modifies the sentence, it must vacate the declaration of delinquency and
37 direct that the defendant be released. If the alleged violation is
38 sustained and the court continues or modifies the sentence, it may
39 extend the sentence up to the period of interruption specified in subdi-
40 vision two of section 65.15 of the penal law, but any time spent in
41 custody in any correctional institution or juvenile detention facility
42 pursuant to section 410.40 or 410.60 of this article shall be credited
43 against the term of the sentence. Provided further, where the alleged
44 violation is sustained and the court continues or modifies the sentence,
45 the court may also extend the remaining period of probation up to the
46 maximum term authorized by section 65.00 of the penal law. Provided,
47 however, a defendant shall receive credit for the time during which he
48 or she was supervised under the original probation sentence prior to any
49 declaration of delinquency and for any time spent in custody pursuant to
50 this article for an alleged violation of probation.

51 (b) Notwithstanding paragraph (a) of this subdivision, nothing herein
52 shall authorize the placement of a juvenile for a violation of a condi-
53 tion that would not constitute a crime if committed by an adult unless
54 the court determines (i) that the juvenile poses a specific imminent
55 threat to public safety and states the reasons for the finding on the

1 record or (ii) the use of graduated sanctions has been exhausted without
2 success.

3 § 75. The criminal procedure law is amended by adding a new section
4 410.90-a to read as follows:

5 § 410.90-a Superior court; youth part.

6 Notwithstanding any other provisions of this article, all proceedings
7 relating to a juvenile offender shall be heard in the youth part of the
8 superior court having jurisdiction and any intrastate transfers under
9 this article shall be between courts designated as a youth part pursuant
10 to article seven hundred twenty-two of this chapter.

11 § 76. Section 510.15 of the criminal procedure law, as amended by
12 chapter 411 of the laws of 1979, subdivision 1 as designated and subdi-
13 vision 2 as added by chapter 359 of the laws of 1980, is amended to read
14 as follows:

15 § 510.15 Commitment of principal under [~~sixteen~~] eighteen.

16 1. When a principal who is under the age of [~~sixteen~~] eighteen, is
17 committed to the custody of the sheriff the court must direct that the
18 principal be taken to and lodged in a place certified by the state
19 [~~division for youth~~] office of children and family services as a juve-
20 nile detention facility for the reception of children. Where such a
21 direction is made the sheriff shall deliver the principal in accordance
22 therewith and such person shall although lodged and cared for in a juve-
23 nile detention facility continue to be deemed to be in the custody of
24 the sheriff. No principal under the age [~~of sixteen~~] specified to whom
25 the provisions of this section may apply shall be detained in any pris-
26 on, jail, lockup, or other place used for adults convicted of a crime or
27 under arrest and charged with the commission of a crime without the
28 approval of the [~~state division for youth~~] office of children and family
29 services in the case of each principal and the statement of its reasons
30 therefor. The sheriff shall not be liable for any acts done to or by
31 such principal resulting from negligence in the detention of and care
32 for such principal, when the principal is not in the actual custody of
33 the sheriff.

34 2. Except upon consent of the defendant or for good cause shown, in
35 any case in which a new securing order is issued for a principal previ-
36 ously committed to the custody of the sheriff pursuant to this section,
37 such order shall further direct the sheriff to deliver the principal
38 from a juvenile detention facility to the person or place specified in
39 the order.

40 § 77. Subdivision 1 of section 720.10 of the criminal procedure law,
41 as amended by chapter 411 of the laws of 1979, is amended to read as
42 follows:

43 1. "Youth" means a person charged with a crime alleged to have been
44 committed when he was at least sixteen years old and less than [~~nine-~~
45 ~~teen~~] twenty-one years old or a person charged with being a juvenile
46 offender as defined in subdivision forty-two of section 1.20 of this
47 chapter.

48 § 78. Subdivision 3 of section 720.15 of the criminal procedure law,
49 as amended by chapter 774 of the laws of 1985, is amended to read as
50 follows:

51 3. The provisions of subdivisions one and two of this section requir-
52 ing or authorizing the accusatory instrument filed against a youth to be
53 sealed, and the arraignment and all proceedings in the action to be
54 conducted in private shall not apply in connection with a pending charge
55 of committing any [~~felony~~] sex offense as defined in the penal law. [~~The~~
56 ~~provisions of subdivision one requiring the accusatory instrument filed~~

~~against a youth to be sealed shall not apply where such youth has previously been adjudicated a youthful offender or convicted of a crime.]~~

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

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

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

(b) Where the conviction is had in a local criminal court and the eligible youth had not prior to commencement of trial or entry of a plea of guilty been convicted of a crime or found a youthful offender, the court must find he is a youthful offender~~[-]; and~~

(c) There shall be a presumption to grant youthful offender status to an eligible youth, unless the district attorney upon motion with not less than seven days notice to such person or his or her attorney demonstrates to the satisfaction of the court that the interests of justice require otherwise.

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

1. ~~[A-youthful]~~ Youthful offender adjudication is not a judgment of conviction for a crime or any other offense, and does not operate as a disqualification of any person so adjudged to hold public office or public employment or to receive any license granted by public authority but shall be deemed a conviction only for the purposes of transfer of supervision and custody pursuant to section ~~[two hundred fifty-nine-m]~~ two hundred fifty-nine-mm of the executive law. A defendant for whom a youthful offender adjudication was substituted, who was originally charged with prostitution as defined in section 230.00 of the penal law or loitering for the purposes of prostitution as defined in subdivision two of section 240.37 of the penal law provided that the person does not stand charged with loitering for the purpose of patronizing a prostitute, for an offense allegedly committed when he or she was sixteen or seventeen years of age, shall be deemed a "sexually exploited child" as defined in subdivision one of section four hundred forty-seven-a of the social services law and therefore shall not be considered an adult for purposes related to the charges in the youthful offender proceeding or a proceeding under section 170.80 of this chapter.

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

ARTICLE 722

PROCEEDINGS AGAINST JUVENILE OFFENDERS; ESTABLISHMENT OF YOUTH

PART AND RELATED PROCEDURES

Section 722.00 Probation case planning and services.

722.10 Youth part of the superior court established.

722.20 Proceedings in a youth part of superior court.

§ 722.00 Probation case planning and services.

1 1. Every probation department shall conduct a risk and needs assess-
2 ment of any juvenile following arraignment by a youth part within its
3 jurisdiction. The court shall order any such juvenile to report within
4 seven calendar days to the probation department for purposes of assess-
5 ment. Such juvenile shall have the right to have an attorney present
6 throughout the assessment process. Based upon the assessment findings,
7 the probation department shall refer the juvenile to available special-
8 ized and evidence-based services to mitigate any risks identified and to
9 address individual needs.

10 2. Any juvenile agreeing to undergo services shall execute appropriate
11 and necessary consent forms, where applicable, to ensure that the
12 probation department may communicate with any service provider and
13 receive progress reports with respect to services offered and/or deliv-
14 ered including, but not limited to, diagnosis, treatment, prognosis,
15 test results, juvenile attendance and information regarding juvenile
16 compliance or noncompliance with program service requirements, if any.

17 3. Nothing shall preclude the probation department and juvenile from
18 entering into a voluntary written/formal case plan as to terms and
19 conditions to be met, including, but not limited to, reporting to the
20 probation department and other probation department contacts, undergoing
21 alcohol, substance abuse, or mental health testing, participating in
22 specific services, adhering to service program requirements, and school
23 attendance, where applicable. Such juvenile shall have the right to
24 confer with counsel prior to entering into any such case plan. Following
25 the juvenile's successful completion of the conditions of his or her
26 case plan, the court, with the consent of the district attorney may
27 dismiss the indictment or any count thereof in accordance with section
28 210.40 of this chapter.

29 4. When preparing a pre-sentence investigation report of any such
30 youth, the probation department shall incorporate a summary of the
31 assessment findings, any referrals and progress with respect to mitigat-
32 ing risk and addressing any identified juvenile needs.

33 5. The probation department shall not transmit or otherwise communi-
34 cate to the district attorney or the youth part any statement made by
35 the juvenile offender to a probation officer. The probation department
36 may make a recommendation regarding the completion of his or her case
37 plan to the youth part and provide relevant information.

38 6. No statement made to an employee or representative of the probation
39 department may be admitted in evidence prior to conviction on any charge
40 or charges related thereto or, in the case of a matter proceeding before
41 the court under the family court act, prior to an adjudication.
42 § 722.10 Youth part of the superior court established.

43 1. The chief administrator of the courts is hereby directed to estab-
44 lish, in a superior court in each county of the state that exercises
45 criminal jurisdiction, a part of court to be known as the youth part of
46 the superior court for the county in which such court presides. Judges
47 presiding in the youth part shall receive training in specialized areas,
48 including, but not limited to, juvenile justice, adolescent development
49 and effective treatment methods for reducing crime commission by adoles-
50 cents. The youth part shall have exclusive jurisdiction of all
51 proceedings in relation to juvenile offenders, except as provided in
52 section 180.75 of this chapter.

53 2. The chief administrator of the courts shall also direct the presid-
54 ing justice of the appellate division, in each judicial department of
55 the state, to designate magistrates to serve as accessible magistrates,
56 for the purpose of acting as a youth part for certain initial

proceedings involving youths, as provided by law. Magistrates so designated shall be superior court judges and judges of other courts, in each county of the state, that exercise criminal jurisdiction. A judge presiding as such a magistrate shall receive training in specialized areas, including, but not limited to, juvenile justice, adolescent development and effective treatment methods for reducing crime commission by adolescents.

§ 722.20 Proceedings in a youth part of superior court.

1. When a juvenile offender is arraigned before a youth part or transferred to a youth part pursuant to section 180.75 of this chapter, the provisions of this article shall apply.

2. If an action is not removed to the family court pursuant to the applicable provisions of this chapter, the youth part shall hear the case sitting as a criminal court or, in its discretion, when the defendant is sixteen or seventeen years of age the youth part may retain it as a juvenile delinquency proceeding for all purposes, and shall make such proceeding fully subject to the provisions and grant any relief available under article three of the family court act. Provided, however, that the provisions of paragraph (b) of subdivision one of section 210.43 of this chapter shall apply to any action involving an indictment charging a juvenile offender with any of the crimes enumerated in such paragraph.

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

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

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

§ 725.20 Record of certain actions removed.

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

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

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

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

(c) Where the direction is authorized by section 180.75, a copy of the portion of the minutes containing the statement by the court pursuant to paragraph (a) of subdivision six of such section 180.75;

(d) Where the direction is one authorized by subparagraph (iii) of paragraph [~~(h)~~] (g) of subdivision five of section 220.10 or section 330.25 of this chapter, a copy of the minutes of the plea of guilty, including the minutes of the memorandum submitted by the district attorney and the court;

(e) Where the direction is one authorized by subdivision one of section 210.43 of this chapter, a copy of that portion of the minutes containing [~~the~~] any statement by the court pursuant to paragraph (a) of subdivision five of section 210.43 of this chapter;

(f) Where the direction is one authorized by paragraph (b) of subdivision one of section 210.43 of this chapter, a copy of that portion of the minutes containing [~~the~~] any statement of the district attorney made pursuant to paragraph (b) of subdivision five of section 210.43 of this chapter; and

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

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

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

(h) Notwithstanding any other provision of law, no county jail shall be used for the confinement of any person under the age of eighteen. Placement of any person who may not be confined to a county jail pursuant to this subdivision shall be determined by the office of children and family services.

§ 84. Subdivision 4 of section 500-b of the correction law is REPEALED.

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

§ 86. Subdivision 13 of section 500-b of the correction law is REPEALED.

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

(1) Consistent with the federal gun-free schools act, any public school pupil who is determined under this subdivision to have brought a firearm to or possessed a firearm at a public school shall be suspended for a period of not less than one calendar year and any nonpublic school pupil participating in a program operated by a public school district using funds from the elementary and secondary education act of nineteen hundred sixty-five who is determined under this subdivision to have brought a firearm to or possessed a firearm at a public school or other premises used by the school district to provide such programs shall be suspended for a period of not less than one calendar year from participation in such program. The procedures of this subdivision shall apply to such a suspension of a nonpublic school pupil. A superintendent of schools, district superintendent of schools or community superintendent

1 shall have the authority to modify this suspension requirement for each
2 student on a case-by-case basis. The determination of a superintendent
3 shall be subject to review by the board of education pursuant to para-
4 graph c of this subdivision and the commissioner pursuant to section
5 three hundred ten of this chapter. Nothing in this subdivision shall be
6 deemed to authorize the suspension of a student with a disability in
7 violation of the individuals with disabilities education act or article
8 eighty-nine of this chapter. A superintendent shall refer the pupil
9 under the age of [~~sixteen~~] eighteen who has been determined to have
10 brought a weapon or firearm to school in violation of this subdivision
11 to a presentment agency for a juvenile delinquency proceeding consistent
12 with article three of the family court act except a student [~~fourteen or~~
13 ~~fifteen years of age~~] who qualifies for juvenile offender status under
14 subdivision forty-two of section 1.20 of the criminal procedure law. A
15 superintendent shall refer any pupil [~~sixteen~~] eighteen years of age or
16 older or a student [~~fourteen or fifteen years of age~~] who qualifies for
17 juvenile offender status under subdivision forty-two of section 1.20 of
18 the criminal procedure law, who has been determined to have brought a
19 weapon or firearm to school in violation of this subdivision to the
20 appropriate law enforcement officials.

21 § 87-a. Paragraph d of subdivision 3 of section 3214 of the education
22 law, as amended by chapter 181 of the laws of 2000, is amended to read
23 as follows:

24 d. Consistent with the federal gun-free schools act of nineteen
25 hundred ninety-four, any public school pupil who is determined under
26 this subdivision to have brought a weapon to school shall be suspended
27 for a period of not less than one calendar year and any nonpublic school
28 pupil participating in a program operated by a public school district
29 using funds from the elementary and secondary education act of nineteen
30 hundred sixty-five who is determined under this subdivision to have
31 brought a weapon to a public school or other premises used by the school
32 district to provide such programs shall be suspended for a period of not
33 less than one calendar year from participation in such program. The
34 procedures of this subdivision shall apply to such a suspension of a
35 nonpublic school pupil. A superintendent of schools, district super-
36 intendent of schools or community superintendent shall have the authori-
37 ty to modify this suspension requirement for each student on a case-by-
38 case basis. The determination of a superintendent shall be subject to
39 review by the board of education pursuant to paragraph c of this subdivi-
40 sion and the commissioner pursuant to section three hundred ten of
41 this chapter. Nothing in this subdivision shall be deemed to authorize
42 the suspension of a student with a disability in violation of the indi-
43 viduals with disabilities education act or article eighty-nine of this
44 chapter. A superintendent shall refer the pupil under the age of
45 [~~sixteen~~] eighteen who has been determined to have brought a weapon to
46 school in violation of this subdivision to a presentment agency for a
47 juvenile delinquency proceeding consistent with article three of the
48 family court act except a student [~~fourteen or fifteen years of age~~] who
49 qualifies for juvenile offender status under subdivision forty-two of
50 section 1.20 of the criminal procedure law. A superintendent shall refer
51 any pupil [~~sixteen~~] eighteen years of age or older or a student [~~four-~~
52 ~~teen or fifteen years of age who~~] qualifies for juvenile offender status
53 under subdivision forty-two of section 1.20 of the criminal procedure
54 law, who has been determined to have brought a weapon to school in
55 violation of this subdivision to the appropriate law enforcement offi-
56 cials.

§ 88. Paragraph b of subdivision 4 of section 3214 of the education law, as amended by chapter 181 of the laws of 2000, is amended to read as follows:

b. The school authorities may institute proceedings before a court having jurisdiction to determine the liability of a person in parental relation to contribute towards the maintenance of a school delinquent under ~~[sixteen]~~ seventeen years of age ordered to attend upon instruction under confinement. If the court shall find the person in parental relation able to contribute towards the maintenance of such a minor, it may issue an order fixing the amount to be paid weekly.

§ 89. Subdivisions 3 and 4 of section 246 of the executive law, as amended by section 10 of part D of chapter 56 of the laws of 2010, are amended to read as follows:

3. Applications from counties or the city of New York for state aid under this section shall be made by filing with the division of criminal justice services, a detailed plan, including cost estimates covering probation services for the fiscal year or portion thereof for which aid is requested. Included in such estimates shall be clerical costs and maintenance and operation costs as well as salaries of probation personnel, family engagement specialists and such other pertinent information as the commissioner of the division of criminal justice services may require. Items for which state aid is requested under this section shall be duly designated in the estimates submitted. The commissioner of the division of criminal justice services, after consultation with the state probation commission and the director of the office of probation and correctional alternatives, shall approve such plan if it conforms to standards relating to the administration of probation services as specified in the rules adopted by him or her.

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

The commissioner of the division of criminal justice services may take into consideration granting additional state aid from an appropriation made for state aid for county probation services for counties or the city of New York when a county or the city of New York demonstrates that additional probation services were dedicated to intensive supervision programs~~[r]~~ and intensive programs for sex offenders ~~[or programs defined as juvenile risk intervention services]~~. The commissioner shall grant additional state aid from an appropriation dedicated to juvenile risk intervention services coordination by probation departments which shall include, but not be limited to, probation services performed under article three of the family court act or article seven hundred twenty-two of the criminal procedure law. The administration of such additional grants shall be made according to rules and regulations promulgated by the commissioner of the division of criminal justice services. Each county and the city of New York shall certify the total amount collected pursuant to section two hundred fifty-seven-c of this chapter. The commissioner of the division of criminal justice services shall thereupon certify to the comptroller for payment by the state out of funds appropriated for that purpose, the amount to which the county or the city of New York shall be entitled under this section. The commissioner shall, subject to an appropriation made available for such purpose, establish and provide funding to probation departments for a continuum of evidence-based intervention services for youth alleged or adjudicated juvenile delinquents pursuant to article three of the family court act

1 or for eligible youth before or sentenced under the youth part in
2 accordance with article seven hundred twenty-two of the criminal proce-
3 cedure law.

4 b. Additional state aid shall be made in an amount necessary to pay
5 one hundred percent of the expenditures for evidence-based practices and
6 juvenile risk and evidence-based intervention services provided to youth
7 aged sixteen years of age or older when such services would not other-
8 wise have been provided absent the provisions of a chapter of the laws
9 of two thousand seventeen that increased the age of juvenile jurisdic-
10 tion.

11 § 89-a. The second undesignated paragraph of subdivision 4 of section
12 246 of the executive law, as added by chapter 479 of the laws of 1970,
13 is amended to read as follows:

14 The [~~director~~] commissioner of the division of criminal justice
15 services shall thereupon certify to the comptroller for payment by the
16 state out of funds appropriated for that purpose, the amount to which
17 the county or the city of New York shall be entitled under this section.
18 The commissioner shall grant additional state aid from an appropriation
19 dedicated to juvenile risk intervention services coordination by
20 probation departments which shall include, but not be limited to,
21 probation services performed under article three of the family court act
22 or article seven hundred twenty-two of the criminal procedure law. The
23 commissioner shall, subject to an appropriation made available for such
24 purpose, establish and provide funding to probation departments for a
25 continuum of evidence-based intervention services for youth alleged or
26 adjudicated juvenile delinquents pursuant to article three of the family
27 court act or for eligible youth before or sentenced under the youth part
28 in accordance with article seven hundred twenty-two of the criminal
29 procedure law.

30 § 90. The executive law is amended by adding a new section 259-p to
31 read as follows:

32 § 259-p. Interstate detention. 1. Notwithstanding any other provision
33 of law, a defendant subject to section two hundred fifty-nine-mm of this
34 article, may be detained as authorized by the interstate compact for
35 adult offender supervision.

36 2. A defendant shall be detained at a local correctional facility,
37 except as otherwise provided in subdivision three of this section.

38 3. A defendant seventeen years of age or younger who allegedly commits
39 a criminal act or violation of his or her supervision shall be detained
40 in a juvenile detention facility.

41 § 91. Subdivision 16 of section 296 of the executive law, as separate-
42 ly amended by section 3 of part N and section 14 of part AAA of chapter
43 56 of the laws of 2009, is amended to read as follows:

44 16. It shall be an unlawful discriminatory practice, unless specif-
45 ically required or permitted by statute, for any person, agency, bureau,
46 corporation or association, including the state and any political subdivi-
47 sion thereof, to make any inquiry about, whether in any form of appli-
48 cation or otherwise, or to act upon adversely to the individual
49 involved, any arrest or criminal accusation of such individual not then
50 pending against that individual which was followed by a termination of
51 that criminal action or proceeding in favor of such individual, as
52 defined in subdivision two of section 160.50 of the criminal procedure
53 law, or by a youthful offender adjudication, as defined in subdivision
54 one of section 720.35 of the criminal procedure law, or by a conviction
55 for a violation sealed pursuant to section 160.55 of the criminal proce-
56 dure law or by a conviction which is sealed pursuant to section 160.56

1 ~~or~~ 160.58 of the criminal procedure law, in connection with the licens-
2 ing, employment or providing of credit or insurance to such individual;
3 provided, further, that no person shall be required to divulge informa-
4 tion pertaining to any arrest or criminal accusation of such individual
5 not then pending against that individual which was followed by a termi-
6 nation of that criminal action or proceeding in favor of such individ-
7 ual, as defined in subdivision two of section 160.50 of the criminal
8 procedure law, or by a youthful offender adjudication, as defined in
9 subdivision one of section 720.35 of the criminal procedure law, or by a
10 conviction for a violation sealed pursuant to section 160.55 of the
11 criminal procedure law, or by a conviction which is sealed pursuant to
12 section 160.56 or 160.58 of the criminal procedure law. The provisions
13 of this subdivision shall not apply to the licensing activities of
14 governmental bodies in relation to the regulation of guns, firearms and
15 other deadly weapons or in relation to an application for employment as
16 a police officer or peace officer as those terms are defined in subdivi-
17 sions thirty-three and thirty-four of section 1.20 of the criminal
18 procedure law; provided further that the provisions of this subdivision
19 shall not apply to an application for employment or membership in any
20 law enforcement agency with respect to any arrest or criminal accusation
21 which was followed by a youthful offender adjudication, as defined in
22 subdivision one of section 720.35 of the criminal procedure law, or by a
23 conviction for a violation sealed pursuant to section 160.55 of the
24 criminal procedure law, or by a conviction which is sealed pursuant to
25 section 160.56 or 160.58 of the criminal procedure law.

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

29 § 502. Definitions. Unless otherwise specified in this article:

30 1. "Director" means the [~~director of the division for youth~~] commis-
31 sioner of the office of children and family services.

32 2. [~~"Division"~~] "Division", "Office" or "division for youth" means the
33 [~~division for youth~~] office of children and family services.

34 3. "Detention" means the temporary care and maintenance of youth held
35 away from their homes pursuant to article three or seven of the family
36 court act, or held pending a hearing for alleged violation of the condi-
37 tions of release from an office of children and family services facility
38 or authorized agency, or held pending a hearing for alleged violation of
39 the condition of parole as a juvenile offender, or held pending return
40 to a jurisdiction other than the one in which the youth is held, or held
41 pursuant to a securing order of a criminal court if the youth named
42 therein as principal is charged as a juvenile offender or held pending a
43 hearing on an extension of placement or held pending transfer to a
44 facility upon commitment or placement by a court. Only alleged or
45 convicted juvenile offenders who have not attained their [~~eighteenth~~]
46 twenty-first birthday shall be subject to detention in a detention
47 facility.

48 4. For purposes of this article, the term "youth" shall [~~be synonymous~~
49 ~~with the term "child" and means~~] mean a person not less than [~~seven~~] ten
50 years of age and not more than [~~twenty~~] twenty-three years of age.

51 5. "Placement" means the transfer of a youth to the custody of the
52 [~~division~~] office pursuant to the family court act.

53 6. "Commitment" means the transfer of a youth to the custody of the
54 [~~division~~] office pursuant to the penal law.

1 7. "Conditional release" means the transfer of a youth from facility
2 status to aftercare supervision under the continued custody of the
3 ~~[division]~~ office.

4 8. "Discharge" means the termination of ~~[division]~~ office custody of a
5 youth.

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

8 § 93. Subdivision 7 of section 503 of the executive law, as amended by
9 section 2 of subpart B of part Q of chapter 58 of the laws of 2011, is
10 amended to read as follows:

11 7. The person in charge of each detention facility shall keep a record
12 of all time spent in such facility for each youth in care. The detention
13 facility shall deliver a certified transcript of such record to the
14 office, social services district, or other agency taking custody of the
15 youth pursuant to article three ~~[or seven]~~ of the family court act,
16 before, or at the same time as the youth is delivered to the office,
17 district or other agency, as is appropriate.

18 § 94. Section 507-a of the executive law, as amended by chapter 465
19 of the laws of 1992, paragraph (a) of subdivision 1 as amended by chap-
20 ter 309 of the laws of 1996, is amended to read as follows:

21 § 507-a. Placement and commitment; procedures. 1. Youth may be placed
22 in or committed to the custody of the ~~[division]~~ office of children and
23 family services:

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

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

27 2. (a) Consistent with other provisions of law, only those youth who
28 have reached the age of ~~[seven]~~ ten, but who have not reached the age of
29 twenty-one may be placed in ~~[, committed to or remain in]~~ the ~~[divi-~~
30 ~~sion's]~~ custody of the office of children and family services. Except as
31 provided for in paragraph (a-1) of this subdivision, no youth who has
32 reached the age of twenty-one may remain in custody of the office of
33 children and family services.

34 (a-1) (i) A youth who is committed to the office of children and fami-
35 ly services as a juvenile offender or youthful offender may remain in
36 the custody of the office during the period of his or her sentence
37 beyond the age of twenty-one in accordance with the provisions of subdi-
38 vision five of section five hundred eight of this article but in no
39 event may such a youth remain in the custody of the office beyond his or
40 her twenty-third birthday; and (ii) a youth found to have committed a
41 designated class A felony act who is restrictively placed with the
42 office under subdivision four of section 353.5 of the family court act
43 for committing an act on or after the youth's sixteenth birthday may
44 remain in the custody of the office of children and family services up
45 to the age of twenty-three in accordance with his or her placement
46 order.

47 (a-2) Whenever it shall appear to the satisfaction of the ~~[division]~~
48 office of children and family services that any youth placed therewith
49 is not of proper age to be so placed or is not properly placed, or is
50 mentally or physically incapable of being materially benefited by the
51 program of the ~~[division]~~ office, the ~~[division]~~ office shall cause the
52 return of such youth to the county from which placement was made.

53 (b) The ~~[division]~~ office shall deliver such youth to the custody of
54 the placing court, along with the records provided to the ~~[division]~~
55 office pursuant to section five hundred seven-b of this article, there

1 to be dealt with by the court in all respects as though no placement had
2 been made.

3 (c) The cost and expense of the care and return of such youth incurred
4 by the ~~[division]~~ office shall be reimbursed to the state by the social
5 services district from which such youth was placed in the manner
6 provided by section five hundred twenty-nine of this article.

7 3. The ~~[division]~~ office may photograph any youth in its custody.
8 Such photograph may be used only for the purpose of assisting in the
9 return of conditionally released children and runaways pursuant to
10 section five hundred ten-b of this article. Such photograph shall be
11 destroyed immediately upon the discharge of the youth from ~~[division]~~
12 office custody.

13 4. (a) A youth placed with or committed to the ~~[division]~~ office may,
14 immediately following placement or commitment, be remanded to an appro-
15 priate detention facility.

16 (b) The ~~[division]~~ office shall admit a ~~[child]~~ youth placed ~~[with the~~
17 ~~division]~~ under its care to a facility of the ~~[division]~~ office within
18 fifteen days of the date of the order of placement with the ~~[division]~~
19 office and shall admit a juvenile offender committed to the ~~[division]~~
20 office to a facility of the ~~[division]~~ office within ten days of the
21 date of the order of commitment to the ~~[division]~~ office, except as
22 provided in section five hundred seven-b of this article.

23 5. Consistent with other provisions of law, in the discretion of the
24 ~~[director, youth]~~ commissioner of the office of children and family
25 services, youth placed within the office under the family court act who
26 attain the age of eighteen while in ~~[division]~~ custody of the office and
27 who are not required to remain in the placement with the office as a
28 result of a dispositional order of the family court may reside in a
29 non-secure facility until the age of twenty-one, provided that such
30 youth attend a full-time vocational or educational program and are like-
31 ly to benefit from such program.

32 § 95. Section 508 of the executive law, as added by chapter 481 of the
33 laws of 1978 and as renumbered by chapter 465 of the laws of 1992,
34 subdivision 1 as amended by chapter 738 of the laws of 2004, subdivision
35 2 as amended by chapter 572 of the laws of 1985, subdivisions 4, 5, 6
36 and 7 as amended by section 97 of subpart B of part C of chapter 62 of
37 the laws of 2011, subdivision 8 as added by chapter 560 of the laws of
38 1984 and subdivision 9 as amended by chapter 37 of the laws of 2016, is
39 amended to read as follows:

40 § 508. Juvenile offender facilities. 1. The office of children and
41 family services shall maintain ~~[secure]~~ facilities for the care and
42 confinement of juvenile offenders committed ~~[for an indeterminate,~~
43 ~~determinate or definite sentence]~~ to the office pursuant to the sentenc-
44 ing provisions of the penal law. Such facilities shall provide appropri-
45 ate services to juvenile offenders including but not limited to residen-
46 tial care, educational and vocational training, physical and mental
47 health services, and employment counseling.

48 1-a. Any new facilities developed by the office of children and family
49 services to serve the additional youth placed with the office as a
50 result of raising the age of juvenile jurisdiction shall, to the extent
51 practicable, consist of smaller, more home-like facilities located near
52 the youths' homes and families that provide gender-responsive program-
53 ming, services and treatment in small, closely supervised groups that
54 offer extensive and on-going individual attention and encourage support-
55 ive peer relationships.

2. Juvenile offenders committed to the office for committing crimes prior to the age of sixteen shall be confined in such facilities [~~until the age of twenty-one~~] in accordance with their sentences, and shall not be released, discharged or permitted home visits except pursuant to the provisions of this section.

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

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

~~[(c) A juvenile offender may be transferred as provided in paragraphs (a) and (b) herein, only after the director determines that there is no danger to public safety and that the offender shall substantially benefit from the programs and services of another division facility. In determining whether there is a danger to public safety the director shall consider: (i) the nature and circumstances of the offense including whether any physical injury involved was inflicted by the offender or another participant; (ii) the record and background of the offender; and (iii) the adjustment of the offender at division facilities.~~

~~[(d) For a period of six months after a juvenile offender has been transferred pursuant to paragraph (a) or (b) herein, the juvenile offender may have only accompanied home visits. After completing six months of confinement following transfer from a secure facility, a juvenile offender may not have an unaccompanied home visit unless two accompanied home visits have already occurred. An "accompanied home visit" shall mean a home visit during which the juvenile offender shall be accompanied at all times while outside the facility by appropriate personnel of the division for youth designated pursuant to regulations of the director of the division.~~

~~[(e) The director of the division for youth shall promulgate rules and regulations including uniform standards and procedures governing the transfer of juvenile offenders from secure facilities to other facilities and the return of such offenders to secure facilities. The rules and regulations shall provide a procedure for the referral of proposed transfer cases by the secure facility director, and shall require a determination by the facility director that transfer of a juvenile offender to another facility is in the best interests of the division for youth and the juvenile offender and that there is no danger to public safety.~~

~~The rules and regulations shall further provide for the establishment of a division central office transfer committee to review transfer cases referred by the secure facility directors. The committee shall recommend approval of a transfer request to the director of the division only upon a clear showing by the secure facility director that the transfer is in the best interests of the division for youth and the juvenile offender and that there is no danger to public safety. In the case of the denial of the transfer request by the transfer committee, the juvenile offender shall remain at a secure facility. Notwithstanding the recommendation for approval of transfer by the transfer committee, the director of the division may deny the request for transfer if there is a danger to~~

~~public safety or if the transfer is not in the best interests of the division for youth or the juvenile offender.~~

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

3. The [~~division~~] office of children and family services shall report in writing to the sentencing court and district attorney, not less than once every six months during the period of confinement, on the status, adjustment, programs and progress of the offender.

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

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

~~[6. At age twenty-one, all]~~ 5. (a) All juvenile offenders committed to the office for committing a crime prior to the youth's sixteenth birthday who still have time left on their sentences of imprisonment shall be transferred at age twenty-three to the custody of the department of corrections and community supervision for confinement pursuant to the correction law.

~~[7.]~~ (b) All offenders committed to the office for committing a crime on or after their sixteenth birthday who still have time left on their sentences of imprisonment shall be transferred to the custody of the department of corrections and community supervision for confinement pursuant to the correction law after completing two years of care in office of children and family services facilities unless they are within four months of completing the imprisonment portion of their sentence and the office determines, in its discretion, on a case-by-case basis that the youth should be permitted to remain with the office for the additional short period of time necessary to enable them to complete their sentence. In making such a determination, the factors the office may consider include, but are not limited to, the age of the youth, the amount of time remaining on the youth's sentence of imprisonment, the level of the youth's participation in the program, the youth's educational and vocational progress, the opportunities available to the youth through the office and through the department. Nothing in this paragraph shall authorize a youth to remain in an office facility beyond his or her twenty-third birthday.

(c) All juvenile offenders who are eligible to be released from an office of children and family services facility before they are required to be transferred to the department of corrections and community supervision and who are able to complete the full-term of their community supervision sentences before they turn twenty-three years of age shall remain with the office of children and family services for community supervision.

1 (d) All juvenile offenders released from an office of children and
2 family services facility before they are transferred to the department
3 of corrections and community supervision who are unable to complete the
4 full-term of their community supervision before they turn twenty-three
5 years of age shall be under the supervision of the department of
6 corrections and community supervision until expiration of the maximum
7 term.

8 6. While in the custody of the office of children and family services,
9 an offender shall be subject to the rules and regulations of the office,
10 except that his or her parole, temporary release and discharge shall be
11 governed by the laws applicable to inmates of state correctional facili-
12 ties and his or her transfer to state hospitals in the office of mental
13 health shall be governed by section five hundred nine of this chapter.
14 The commissioner of the office of children and family services shall,
15 however, establish and operate temporary release programs at office of
16 children and family services facilities for eligible juvenile offenders
17 and [~~contract with the department of corrections and community super-~~
18 ~~vision for the provision of parole~~] provide supervision [~~services~~] for
19 temporary releasees. The rules and regulations for these programs shall
20 not be inconsistent with the laws for temporary release applicable to
21 inmates of state correctional facilities. For the purposes of temporary
22 release programs for juvenile offenders only, when referred to or
23 defined in article twenty-six of the correction law, "institution" shall
24 mean any facility designated by the commissioner of the office of chil-
25 dren and family services, "department" shall mean the office of children
26 and family services, "inmate" shall mean a juvenile offender residing in
27 an office of children and family services facility, and "commissioner"
28 shall mean the [~~director~~] commissioner of the office of children and
29 family services. Time spent in office of children and family services
30 facilities and in juvenile detention facilities shall be credited
31 towards the sentence imposed in the same manner and to the same extent
32 applicable to inmates of state correctional facilities.

33 [~~8~~] 7. Whenever a juvenile offender or a juvenile offender adjudi-
34 cated a youthful offender shall be delivered to the director of [~~a divi-~~
35 ~~sion for youth~~] an office of children and family services facility
36 pursuant to a commitment to the [~~director of the division for youth~~]
37 office of children and family services, the officer so delivering such
38 person shall deliver to such facility director a certified copy of the
39 sentence received by such officer from the clerk of the court by which
40 such person shall have been sentenced, a copy of the report of the
41 probation officer's investigation and report, any other pre-sentence
42 memoranda filed with the court, a copy of the person's fingerprint
43 records, a detailed summary of available medical records, psychiatric
44 records and reports relating to assaults, or other violent acts,
45 attempts at suicide or escape by the person while in the custody of a
46 local detention facility.

47 [~~9~~] 8. Notwithstanding any provision of law, including section five
48 hundred one-c of this article, the office of children and family
49 services shall make records pertaining to a person convicted of a sex
50 offense as defined in subdivision (p) of section 10.03 of the mental
51 hygiene law available upon request to the commissioner of mental health
52 or the commissioner of the office for persons with developmental disa-
53 bilities, as appropriate; a case review panel; and the attorney general;
54 in accordance with the provisions of article ten of the mental hygiene
55 law.

§ 96. Subdivisions 1, 2, 4, 5 and 5-a of section 529 of the executive law, subdivisions 1, 4 and 5 as added by chapter 906 of the laws of 1973, paragraph (c) of subdivision 1 as amended and paragraph (d) of subdivision 1 as added by chapter 881 of the laws of 1976, subdivision 2 as amended by chapter 430 of the laws of 1991, paragraph (c) of subdivision 5 as amended by chapter 722 of the laws of 1979 and subdivision 5-a as added by chapter 258 of the laws of 1974, are amended to read as follows:

1. Definitions. As used in this section:

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

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

(c) "foster care" shall mean residential care, maintenance and supervision provided to released or discharged youth, or youth otherwise in the custody of the ~~[division for youth, in a division foster family home certified by the division]~~

~~(d) "division foster family home" means a service program provided in a home setting available to youth under the jurisdiction of the division for youth]~~ office of children and family services.

2. ~~[Expenditures]~~ Except as provided in subdivision five of this section, expenditures made by the ~~[division for youth]~~ office of children and family services for care, maintenance and supervision furnished youth, including alleged and adjudicated juvenile delinquents and persons in need of supervision, placed or referred, pursuant to titles two or three of this article, and juvenile offenders committed pursuant to section 70.05 of the penal law, in the ~~[division's]~~ office's programs and facilities, shall be subject to reimbursement to the state by the social services district from which the youth was placed or by the social services district in which the juvenile offender resided at the time of commitment, in accordance with this section and the regulations of the ~~[division]~~ office as follows: fifty percent of the amount expended for care, maintenance and supervision of local charges including juvenile offenders.

~~[4. Expenditures made by the division for youth]~~ 3. The costs for foster care provided by voluntary authorized agencies to juvenile delinquents placed in the care of the office of children and family services shall be ~~[subject to reimbursement to the state by]~~ the responsibility of the social services district from which the youth was placed, and shall be subject to reimbursement from the state in accordance with ~~[the regulations of the division, as follows: fifty percent of the amount expended for care, maintenance and supervision of local charges]~~ section one hundred fifty-three-k of the social services law.

~~[5]~~ 4. (a) ~~[Expenditures]~~ Except as provided in subdivision five of this section, expenditures made by the ~~[division for youth]~~ office of children and family services for aftercare supervision shall be subject to reimbursement to the state by the social services district from which the youth was placed, in accordance with regulations of the ~~[division]~~ office, as follows: fifty percent of the amount expended for aftercare supervision of local charges.

(b) Expenditures made by social services districts for aftercare supervision of adjudicated juvenile delinquents and persons in need of supervision ~~[provided (prior to the expiration of the initial or extended period of placement or commitment) by the aftercare staff of the facility from which the youth has been released or discharged, other~~

1 ~~than those under the jurisdiction of the division for youth, in which~~
2 ~~said youth was placed or committed, pursuant to directions of the family~~
3 ~~court,]~~ shall be subject to reimbursement by the state~~[, upon approval~~
4 ~~by the division and in accordance with its regulations, as follows:~~

5 ~~(1) the full amount expended by the district for aftercare supervision~~
6 ~~of state charges;~~

7 ~~(2) fifty percent of the amount expended by the district for aftercare~~
8 ~~supervision of local charges]~~ in accordance with section one hundred
9 fifty-three-k of the social services law.

10 (c) Expenditures made by the [~~division for youth~~] office of children
11 and family services for contracted programs and contracted services
12 pursuant to subdivision seven of section five hundred one of this arti-
13 cle, except with respect to urban homes and group homes, shall be
14 subject to reimbursement to the state by the social services district
15 from which the youth was placed, in accordance with this section and the
16 regulations of the [~~division~~] office as follows: fifty percent of the
17 amount expended for the operation and maintenance of such programs and
18 services.

19 5. Notwithstanding any other provision of law to the contrary, no
20 reimbursement shall be required from a social services district for
21 expenditures made by the office of children and family services on or
22 after December first, two thousand seventeen for the care, maintenance,
23 supervision or aftercare supervision of youth age sixteen years of age
24 or older that would not otherwise have been made absent the provisions
25 of a chapter of the laws of two thousand seventeen that increased the
26 age of juvenile jurisdiction above fifteen years of age or that author-
27 ized the placement in office of children and family services facilities
28 of certain other youth who committed a crime on or after their sixteenth
29 birthdays.

30 5-a. The social services district responsible for reimbursement to the
31 state shall remain the same if during a period of placement or extension
32 thereof, a child commits a criminal act while in [~~a division~~] an office
33 of children and family services facility, during an authorized absence
34 therefrom or after absconding therefrom and is returned to the [~~divi-~~
35 ~~sion~~] office following adjudication or conviction for the act by a court
36 with jurisdiction outside the boundaries of the social services district
37 which was responsible for reimbursement to the state prior to such adju-
38 dication or conviction.

39 § 97. Subdivision 1 and subparagraph (iii) of paragraph (a) of subdi-
40 vision 3 of section 529-b of the executive law, as added by section 3 of
41 subpart B of part Q of chapter 58 of the laws of 2011, are amended to
42 read as follows:

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

54 (b) The state funds appropriated for the supervision and treatment
55 services for juveniles program shall be distributed to eligible munici-
56 palities by the office of children and family services based on a plan

developed by the office which may consider historical information regarding the number of youth seen at probation intake for an alleged act of delinquency, the number of alleged persons in need of supervision receiving diversion services under section seven hundred thirty-five of the family court act, the number of youth remanded to detention, the number of juvenile delinquents placed with the office, the number of juvenile delinquents and persons in need of supervision placed in residential care with the municipality, the municipality's reduction in the use of detention and residential placements, and other factors as determined by the office. Such plan developed by the office shall be subject to the approval of the director of the budget. The office is authorized, in its discretion, to make advance distributions to a municipality in anticipation of state reimbursement.

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

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

2. [~~Expenditures~~] Except as provided for in subdivision eight of this section, expenditures made by municipalities in providing care, maintenance and supervision to youth in detention facilities designated pursuant to sections seven hundred twenty and 305.2 of the family court act and certified by [~~the division for youth~~] office of children and family services, shall be subject to reimbursement by the state, as follows:

(a) Notwithstanding any provision of law to the contrary, eligible expenditures by a municipality during a particular program year for the care, maintenance and supervision in foster care programs certified by the office of children and family services, certified or approved family boarding homes, and non-secure detention facilities certified by the office for those youth alleged to be persons in need of supervision or adjudicated persons in need of supervision held pending transfer to a facility upon placement; and in secure and non-secure detention facilities certified by the office in accordance with section five hundred three of this article for those youth alleged to be juvenile delinquents; adjudicated juvenile delinquents held pending transfer to a facility upon placement, and juvenile delinquents held at the request of the office of children and family services pending extension of placement hearings or release revocation hearings or while awaiting disposition of such hearings; and youth alleged to be or convicted as juvenile offenders and, youth alleged to be persons in need of supervision or adjudicated persons in need of supervision held pending transfer to a facility upon placement in foster care programs certified by the office of children and family services, certified or approved family boarding homes, shall be subject to state reimbursement for up to fifty percent of the municipality's expenditures, exclusive of any federal funds made

1 available for such purposes, not to exceed the municipality's distrib-
2 ution from funds that have been appropriated specifically therefor for
3 that program year. Municipalities shall implement the use of detention
4 risk assessment instruments in a manner prescribed by the office so as
5 to inform detention decisions. Notwithstanding any other provision of
6 state law to the contrary, data necessary for completion of a detention
7 risk assessment instrument may be shared among law enforcement,
8 probation, courts, detention administrators, detention providers, and
9 the attorney for the child upon retention or appointment; solely for the
10 purpose of accurate completion of such risk assessment instrument, and a
11 copy of the completed detention risk assessment instrument shall be made
12 available to the applicable detention provider, the attorney for the
13 child and the court.

14 (b) The state funds appropriated for juvenile detention services shall
15 be distributed to eligible municipalities by the office of children and
16 family services based on a plan developed by the office which may
17 consider historical information regarding the number of youth remanded
18 to detention, the municipality's reduction in the use of detention, the
19 municipality's youth population, and other factors as determined by the
20 office. Such plan developed by the office shall be subject to the
21 approval of the director of the budget. The office is authorized, in its
22 discretion, to make advance distributions to a municipality in antic-
23 ipation of state reimbursement.

24 (c) A municipality may also use the funds distributed to it for juve-
25 nile detention services under this section for a particular program year
26 for sixty-two percent of a municipality's eligible expenditures for
27 supervision and treatment services for juveniles programs approved under
28 section five hundred twenty-nine-b of this title for services that were
29 not reimbursed from a municipality's distribution under such program
30 provided to at-risk, alleged or adjudicated juvenile delinquents or
31 persons alleged or adjudicated to be in need of supervision, or alleged
32 to be or convicted as juvenile offenders in community-based non-residen-
33 tial settings. Any claims submitted by a municipality for reimbursement
34 for detention services or supervision and treatment services for juve-
35 niles provided during a particular program year for which the munici-
36 pality does not receive state reimbursement from the municipality's
37 distribution of detention services funds for that program year may not
38 be claimed against the municipality's distribution of funds available
39 under this section for the next applicable program year. The office may
40 require that such claims be submitted to the office electronically at
41 such times and in the manner and format required by the office.

42 [~~(d)(i)~~] 2-a. (a) Notwithstanding any provision of law or regulation
43 to the contrary, any information or data necessary for the development,
44 validation or revalidation of the detention risk assessment instrument
45 shall be shared among local probation departments, the office of
46 probation and correctional alternatives and, where authorized by the
47 division of criminal justice services, the entity under contract with
48 the division to provide information technology services related to youth
49 assessment and screening, the office of children and family services,
50 and any entity under contract with the office of children and family
51 services to provide services relating to the development, validation or
52 revalidation of the detention risk assessment instrument. Any such
53 information and data shall not be commingled with any criminal history
54 database. Any information and data used and shared pursuant to this
55 section shall only be used and shared for the purposes of this section
56 and in accordance with this section. Such information shall be shared

1 and received in a manner that protects the confidentiality of such
2 information. The sharing, use, disclosure and redisclosure of such
3 information to any person, office, or other entity not specifically
4 authorized to receive it pursuant to this section or any other law is
5 prohibited.

6 ~~[(i)]~~ (b) The office of children and family services shall consult
7 with individuals with professional research experience and expertise in
8 criminal justice; social work; juvenile justice; and applied mathemat-
9 ics, psychometrics and/or statistics to assist the office in determining
10 the method it will use to: develop, validate and revalidate such
11 detention risk assessment instrument; and analyze the effectiveness of
12 the use of such detention risk assessment instrument in accomplishing
13 its intended goals; and analyze, to the greatest extent possible any
14 disparate impact on detention outcomes for juveniles based on race, sex,
15 national origin, economic status and any other constitutionally
16 protected class, regarding the use of such instrument. The office shall
17 consult with such individuals regarding whether it is appropriate to
18 attempt to analyze whether there is any such disparate impact based on
19 sexual orientation and, if so, the best methods to conduct such analy-
20 sis. The office shall take into consideration any recommendations given
21 by such individuals involving improvements that could be made to such
22 instrument and process.

23 ~~[(i)]~~ (c) Data collected for the purposes of completing the
24 detention risk assessment instrument from any source other than an offi-
25 cially documented record shall be confirmed as soon as practicable.
26 Should any data originally utilized in completing the risk assessment
27 instrument be found to conflict with the officially documented record,
28 the risk assessment instrument shall be completed with the officially
29 documented data and any corresponding revision to the risk categori-
30 zation shall be made. The office shall periodically revalidate any
31 approved risk assessment instrument. The office shall conspicuously post
32 any approved detention risk assessment instrument on its website and
33 shall confer with appropriate stakeholders, including but not limited
34 to, attorneys for children, presentment agencies, probation, and the
35 family court, prior to revising any validated risk assessment instru-
36 ment. Any such revised risk assessment instrument shall be subject to
37 periodic empirical validation.

38 4. (a) The municipality must notify the office of children and family
39 services of state aid received under other state aid formulas by each
40 detention facility for which the municipality is seeking reimbursement
41 pursuant to this section, including but not limited to, aid for educa-
42 tion, probation and mental health services.

43 (b) Except as provided in subdivision eight of this section: (i) In
44 computing reimbursement to the municipality pursuant to this section,
45 the office shall insure that the aggregate of state aid under all state
46 aid formulas shall not exceed fifty percent of the cost of care, mainte-
47 nance and supervision provided to detainees eligible for state
48 reimbursement under subdivision two of this section, exclusive of feder-
49 al aid for such purposes not to exceed the amount of the municipality's
50 distribution under the juvenile detention services program.

51 ~~[(e)]~~ (ii) Reimbursement for administrative related expenditures as
52 defined by the office of children and family services, for secure and
53 nonsecure detention services shall not exceed seventeen percent of the
54 total approved expenditures for facilities of twenty-five beds or more
55 and shall not exceed twenty-one percent of the total approved expendi-
56 tures for facilities with less than twenty-five beds.

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

4 (1) temporary care, maintenance and supervision provided to alleged
5 juvenile delinquents and persons in need of supervision in detention
6 facilities certified pursuant to sections seven hundred twenty and 305.2
7 of the family court act by the office of children and family services,
8 pending adjudication of alleged delinquency or alleged need of super-
9 vision by the family court, or pending transfer to institutions to which
10 committed or placed by such court or while awaiting disposition by such
11 court after adjudication or held pursuant to a securing order of a crim-
12 inal court if the person named therein as principal is under [~~sixteen~~]
13 eighteen years of age; or[~~7~~]

14 (1-a) temporary care, maintenance, and supervision provided to alleged
15 juvenile delinquents in detention facilities certified by the office of
16 children and family services, pending adjudication of alleged delinquen-
17 cy by the family court, or pending transfer to institutions to which
18 committed or placed by such court or while awaiting disposition by such
19 court after adjudication or held pursuant to a securing order of a crim-
20 inal court if the person named therein as principal is under twenty-one;
21 or

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

26 (3) temporary care, maintenance and supervision in approved detention
27 facilities for youth held pursuant to the family court act or the inter-
28 state compact on juveniles, pending return to their place of residence
29 or domicile[~~7~~]; or

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

33 (b) Payments made for reserved accommodations, whether or not in full
34 time use, approved and certified by the office of children and family
35 services [~~and certified pursuant to sections seven hundred twenty and~~
36 ~~305.2 of the family court act~~], in order to assure that adequate accom-
37 modations will be available for the immediate reception and proper care
38 therein of youth for which detention costs are reimbursable pursuant to
39 paragraph (a) of this subdivision, shall be reimbursed as expenditures
40 for care, maintenance and supervision under the provisions of this
41 section, provided the office shall have given its prior approval for
42 reserving such accommodations.

43 6. The [~~director of the division for youth~~] office of children and
44 family services may adopt, amend, or rescind all rules and regulations,
45 subject to the approval of the director of the budget and certification
46 to the chairmen of the senate finance and assembly ways and means
47 committees, necessary to carry out the provisions of this section.

48 7. The agency administering detention for each county and the city of
49 New York shall submit to the office of children and family services, at
50 such times and in such form and manner and containing such information
51 as required by the office of children and family services, an annual
52 report on youth remanded pursuant to article three or seven of the fami-
53 ly court act who are detained during each calendar year including,
54 commencing January first, two thousand twelve, the risk level of each
55 detained youth as assessed by a detention risk assessment instrument
56 approved by the office of children and family services. The office may

1 require that such data on detention use be submitted to the office elec-
2 tronically. Such report shall include, but not be limited to, the reason
3 for the court's determination in accordance with section 320.5 or seven
4 hundred thirty-nine of the family court act, if applicable, to detain
5 the youth; the offense or offenses with which the youth is charged; and
6 all other reasons why the youth remains detained. The office shall
7 submit a compilation of all the separate reports to the governor and the
8 legislature.

9 8. Notwithstanding any other provisions of law to the contrary, state
10 reimbursement shall be made available for one hundred percent of a
11 municipality's eligible expenditures for the care, maintenance and
12 supervision of youth sixteen years of age or older in non-secure and
13 secure detention facilities when such detention would not otherwise have
14 occurred absent the provisions of a chapter of the laws of two thousand
15 seventeen that increased the age of juvenile jurisdiction above fifteen
16 years of age.

17 § 99. Section 109-c of the vehicle and traffic law, as added by
18 section 1 of part E of chapter 60 of the laws of 2005, is amended to
19 read as follows:

20 § 109-c. Conviction. 1. Any conviction as defined in subdivision
21 thirteen of section 1.20 of the criminal procedure law; provided, howev-
22 er, where a conviction or administrative finding in this state or anoth-
23 er state results in a mandatory sanction against a commercial driver's
24 license, as set forth in sections five hundred ten, five hundred ten-a,
25 eleven hundred ninety-two and eleven hundred ninety-four of this chap-
26 ter, conviction shall also mean an unvacated adjudication of guilt, or a
27 determination that a person has violated or failed to comply with the
28 law in a court of original jurisdiction or by an authorized administra-
29 tive tribunal, an unvacated forfeiture of bail or collateral deposited
30 to secure the person's appearance in court, a plea of guilty or nolo
31 contendere accepted by the court, the payment of a fine or court cost,
32 or violation of a condition of release without bail, regardless of
33 whether or not the penalty is rebated, suspended, or probated.

34 2. A conviction shall include a juvenile delinquency adjudication for
35 the purposes of sections five hundred ten; subdivision five of section
36 five hundred eleven; five hundred fourteen; five hundred twenty-three-a;
37 subparagraph (ii) of paragraph (b) of subdivision one of section eleven
38 hundred ninety-three; subdivision two of section eleven hundred ninety-
39 three; eleven hundred ninety-six; eleven hundred ninety-eight; eleven
40 hundred ninety-eight-a; eleven hundred ninety-nine; eighteen hundred
41 eight; eighteen hundred nine; eighteen hundred nine-c; and eighteen
42 hundred nine-e of this chapter and paragraph (a) of subdivision six of
43 section sixty-five-b of the alcoholic beverage control law only and
44 solely for the purposes of allowing the family court to impose license
45 and registration sanctions, ignition interlock devices, any drug or
46 alcohol rehabilitation program, victim impact program, driver responsi-
47 bility assessment, victim assistance fee, surcharge, and issuing a stay
48 order on appeal. Nothing in this subdivision shall be construed as
49 limiting or precluding the enforcement of section eleven hundred nine-
50 ty-two-a of this chapter against a person under the age of twenty-one.

51 § 100. Subdivision 1 of section 510 of the vehicle and traffic law, as
52 amended by chapter 132 of the laws of 1986, is amended to read as
53 follows:

54 1. Who may suspend or revoke. Any magistrate, justice or judge, in a
55 city, in a town, or in a village, any supreme court justice, any county
56 judge, any judge of a district court, any family court judge, the super-

1 intendent of state police and the commissioner of motor vehicles or any
2 person deputized by him, shall have power to revoke or suspend the
3 license to drive a motor vehicle or motorcycle of any person, or in the
4 case of an owner, the registration, as provided herein.

5 § 100-a. Severability. If any clause, sentence, paragraph, subdivi-
6 sion, section or part contained in any part of this act shall be
7 adjudged by any court of competent jurisdiction to be invalid, such
8 judgment shall not affect, impair, or invalidate the remainder thereof,
9 but shall be confined in its operation to the clause, sentence, para-
10 graph, subdivision, section or part contained in any part thereof
11 directly involved in the controversy in which such judgment shall have
12 been rendered. It is hereby declared to be the intent of the legislature
13 that this act would have been enacted even if such invalid provisions
14 had not been included herein.

15 § 101. This act shall take effect immediately; provided, however,
16 that:

17 1. sections one through twenty-four, twenty-six through fifty-eight,
18 fifty-nine, sixty-one through sixty-three-l, sixty-three-m, sixty-six,
19 sixty-eight through seventy-six, eighty through eighty-seven, eighty-
20 eight, eighty-nine and ninety through one hundred-a of this act shall
21 take effect on January 1, 2019;

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

25 3. the amendments to subparagraph (ii) of paragraph (a) of subdivision
26 1 of section 409-a of the social services law, made by section fifty-two
27 of this act shall survive the expiration of such subparagraph pursuant
28 to section 28 of part C of chapter 83 of the laws of 2002, as amended;

29 4. the amendments to subdivision 4 of section 353.5 of the family
30 court act made by section twenty-four of this act shall not affect the
31 expiration and reversion of such subdivision pursuant to section 11 of
32 subpart A of part G of chapter 57 of the laws of 2012, as amended, and
33 shall expire and be deemed repealed therewith, when upon such date the
34 provisions of section twenty-five of this act shall take effect;

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

38 6. the amendments to section 404 of the social services law made by
39 section fifty-one of this act shall not affect the repeal of such
40 section and shall expire and be deemed repealed therewith;

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

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

48 8-a. if chapter 492 of the laws of 2016 shall not have taken effect on
49 or before such date then section sixty-three-l-one of this act shall
50 take effect on the same date and in the same manner as such chapter of
51 the laws of 2016, takes effect;

52 9. the amendments to subparagraph 1 of paragraph d of subdivision 3 of
53 section 3214 of the education law made by section eighty-seven of this
54 act shall not affect the expiration and reversion of such paragraph
55 pursuant to section 4 of chapter 425 of the laws of 2002, as amended,
56 when upon such date the provisions of section eighty-seven-a of this act

1 shall take effect; provided, however if such date of reversion is prior
2 to January 1, 2019, section eighty-seven-a of this act shall take effect
3 on January 1, 2019; and
4 10. the amendments to the second undesignated paragraph of subdivision
5 4 of section 246 of the executive law made by section eighty-nine of
6 this act shall not affect the expiration and reversion of such paragraph
7 pursuant to subdivision aa of section 427 of chapter 55 of the laws of
8 1992, as amended, when upon such date the provisions of section eighty-
9 nine-a of this act shall take effect; provided, however if such date of
10 reversion is prior to January 1, 2019, section eighty-nine-a of this act
11 shall take effect on January 1, 2019.