S T A T E O F N E W Y O R K

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I N A S S E M B L Y

April 21, 2010

Introduced by M. of A. WEINSTEIN, AUBRY, LENTOL, SCARBOROUGH -- (at request of the Office of Court Administration) -- read once and referred to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the judiciary law and the executive law, in relation to probation services in family court

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

Section 1. The judiciary law is amended by adding a new article 7-BB to read as follows:

ARTICLE 7-BB

THE JUDICIARY AND PROBATION SERVICES IN FAMILY COURT

SECTION 225. SUPERVISION OF PROBATION SERVICES IN FAMILY COURT BY THE JUDICIARY.
226. FAMILY COURT PROBATION ADVISORY BOARD.
227. STATE REIMBURSEMENT FOR LOCAL PROBATION SERVICES IN FAMILY COURT.
228. FAMILY COURT PROBATION SERVICES ASSISTANCE PROGRAM.
229. CONSULTATION WITH THE STATE DIRECTOR OF PROBATION AND CORRECTIONAL ALTERNATIVES.

S 225. SUPERVISION OF PROBATION SERVICES IN FAMILY COURT BY THE JUDICIARY. THE CHIEF ADMINISTRATOR OF THE COURTS SHALL EXERCISE GENERAL SUPERVISION OVER THE ADMINISTRATION OF PROBATION SERVICES IN FAMILY COURTS THROUGHOUT THE STATE. IN DISCHARGE OF THIS AUTHORITY, AND TO THE EXTENT APPROPRIATE TO THIS RESPONSIBILITY, HE OR SHE SHALL HAVE THE SAME POWERS AND DUTIES AS THE DIRECTOR OF THE DIVISION OF PROBATION AND CORRECTIONAL ALTERNATIVES HAS UNDER PROVISIONS OF THE EXECUTIVE LAW IN RELATION TO THOSE PROBATION SERVICES THAT ARE ADMINISTERED BY HIS OR HER OFFICE. THE CHIEF ADMINISTRATOR ALSO SHALL:

1. DEVELOP AND, AS NECESSARY, REVISE GENERAL RULES, WHICH SHALL BE EFFECTIVE FOLLOWING APPROVAL BY THE FAMILY COURT PROBATION ADVISORY BOARD AND WHICH, IN RELATION TO PROBATION SERVICES IN FAMILY COURT,

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

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SHALL: (A) REGULATE METHODS AND PROCEDURES IN THE ADMINISTRATION OF PROBATION SERVICES, INCLUDING INTAKE AND DIVERSION, INVESTIGATION OF CHILDREN PRIOR TO ADJUDICATION, SUPERVISION, CASE WORK, RECORD KEEPING, ACCOUNTING, PROGRAM PLANNING AND RESEARCH SO AS TO SECURE THE MOST EFFECTIVE APPLICATION OF THE PROBATION SYSTEM AND THE MOST EFFICIENT ENFORCEMENT OF THE PROBATION LAWS THROUGHOUT THE STATE; AND (B) BE BINDING UPON ALL PROBATION OFFICERS AND HAVE THE FORCE AND EFFECT OF LAW, BUT SHALL NOT SUPERSEDE RULES THAT MAY BE ADOPTED PURSUANT TO THE FAMILY COURT ACT; AND

2. DEVELOP AND, AS NECESSARY, REVISE WORKLOAD STANDARDS FOR PROBATION OFFICERS IN RELATION TO SERVICES IN FAMILY COURT, WHICH SHALL BE EFFECTIVE FOLLOWING APPROVAL BY THE FAMILY COURT PROBATION ADVISORY BOARD. THESE WORKLOAD STANDARDS SHALL INCLUDE, BUT NOT BE LIMITED TO, MAXIMUM NUMBERS OF PROBATIONERS WHO CAN BE SUPERVISED; AND

3. ADOPT ALL RULES AND PROCEDURES NECESSARY TO GIVE EFFECT TO THE PROVISIONS OF SECTIONS TWO HUNDRED TWENTY-SEVEN AND TWO HUNDRED TWENTY-EIGHT OF THIS ARTICLE.

NOTWITHSTANDING ANY OTHER PROVISION OF LAW, PROBATION DEPARTMENTS CONDUCTING INVESTIGATIONS ORDERED BY A COURT, FOR PURPOSES OF DETERMINING CUSTODY, ADOPTION, VISITATION, OR GUARDIANSHIP SHALL HAVE ACCESS TO CRIMINAL HISTORY RECORDS MAINTAINED BY STATE LAW ENFORCEMENT AGENCIES FOR CRIMINAL JUSTICE PURPOSES.

S 226. FAMILY COURT PROBATION ADVISORY BOARD. 1. THERE SHALL BE A FAMILY COURT PROBATION ADVISORY BOARD TO ASSIST THE CHIEF ADMINISTRATOR OF THE COURTS IN DISCHARGE OF HIS OR HER DUTIES UNDER THIS ARTICLE. THE BOARD SHALL CONSIST OF EIGHT MEMBERS TO BE SELECTED BY THE CHIEF JUDGE OF THE STATE AS FOLLOWS:

(A) TWO MEMBERS EACH OF WHOM SHALL EITHER BE A FAMILY COURT JUDGE OR A LAWYER WITH LONG EXPERIENCE IN FAMILY COURT, ESPECIALLY IN THE REPRESENTATION OF JUVENILES, ONE OF WHOM SHALL RESIDE IN THE FIRST OR SECOND JUDICIAL DEPARTMENT AND ONE OF WHOM SHALL RESIDE IN THE THIRD OR FOURTH JUDICIAL DEPARTMENT;

(B) ONE MEMBER EACH SHALL BE SELECTED UPON NOMINATION OF THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY, RESPECTIVELY;

(C) ONE MEMBER TO BE SELECTED UPON NOMINATION OF THE NEW YORK STATE ASSOCIATION OF COUNTIES;

(D) ONE MEMBER TO BE SELECTED UPON NOMINATION OF THE MAYOR OF THE CITY OF NEW YORK; AND

(E) TWO MEMBERS TO BE SELECTED UPON NOMINATION OF THE GOVERNOR EACH OF WHOM SHALL EITHER BE A PRESENT OR FORMER PROBATION OFFICER OR PROBATION ADMINISTRATOR, ONE OF WHOM SHALL RESIDE IN THE FIRST OR SECOND JUDICIAL DEPARTMENT AND ONE OF WHOM SHALL RESIDE IN THE THIRD OR FOURTH JUDICIAL DEPARTMENT.

2. EACH MEMBER OF THE FAMILY COURT PROBATION ADVISORY BOARD SHALL SERVE AT THE PLEASURE OF THE CHIEF JUDGE OR, WHERE SUCH MEMBER WAS SELECTED UPON NOMINATION OF A PERSON OR OFFICE, AT THE PLEASURE OF SUCH PERSON OR OFFICE.

3. THE MEMBERS OF THE FAMILY COURT PROBATION ADVISORY BOARD SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICES BUT SHALL BE ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES PURSUANT TO THIS SECTION.

4. NO MEMBER OF THE FAMILY COURT PROBATION ADVISORY BOARD SHALL BE DISQUALIFIED FROM HOLDING ANY OTHER PUBLIC OFFICE OR EMPLOYMENT, NOR SHALL HE OR SHE FORFEIT ANY SUCH OFFICE OR EMPLOYMENT BY REASON OF HIS OR HER APPOINTMENT PURSUANT TO THIS SECTION, NOTWITHSTANDING THE PROVISIONS OF ANY GENERAL, SPECIAL OR LOCAL LAW, REGULATION, ORDINANCE

OR CITY CHARTER. SERVICE AS A MEMBER OF THE FAMILY COURT PROBATION ADVISORY BOARD BY A SITTING JUDGE SHALL BE SERVICE IN RELATION TO THE ADMINISTRATION OF THE COURTS AS PROVIDED IN PARAGRAPH ONE OF SUBDIVISION B OF SECTION TWENTY OF ARTICLE SIX OF THE CONSTITUTION.

5. THE FAMILY COURT PROBATION ADVISORY BOARD SHALL MEET AT THE DIRECTION OF THE CHIEF ADMINISTRATOR AND, AS HE OR SHE SHALL REQUIRE, SHALL CONSIDER MATTERS RELATING TO THE ADMINISTRATION OF PROBATION SERVICES IN FAMILY COURTS THROUGHOUT THE STATE. THE MEMBERS OF THE BOARD SHALL SELECT A CHAIR. THE PRESENCE OF SIX MEMBERS SHALL CONSTITUTE A QUORUM OF THE BOARD AND ANY DETERMINATION MADE BY THE BOARD SHALL REQUIRE THE APPROVAL OF ALL MEMBERS VOTING THEREON LESS ONE.

S 227. STATE REIMBURSEMENT FOR LOCAL PROBATION SERVICES IN FAMILY COURT. 1. EFFECTIVE APRIL FIRST, TWO THOUSAND ELEVEN, RESPONSIBILITY FOR ADMINISTERING SO MUCH OF THE PROGRAM OF STATE AID FOR PROBATION SERVICES UNDER SECTION TWO HUNDRED FORTY-SIX OF THE EXECUTIVE LAW AS IS INTENDED TO REIMBURSE COUNTIES AND THE CITY OF NEW YORK FOR PROBATION SERVICES IN FAMILY COURT SHALL BE TRANSFERRED FROM THE DIVISION OF PROBATION AND CORRECTIONAL ALTERNATIVES TO THE JUDICIARY. FUNDS SHALL BE APPROPRIATED TO THE OFFICE OF COURT ADMINISTRATION FOR SUCH REIMBURSEMENT IN ACCORDANCE WITH THIS SECTION AND RULES ADOPTED BY THE CHIEF ADMINISTRATOR OF THE COURTS AFTER CONSULTATION WITH THE FAMILY COURT PROBATION ADVISORY BOARD.

2. (A) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, DURING EACH STATE FISCAL YEAR, THE CITY OF NEW YORK AND EACH COUNTY OUTSIDE SUCH CITY SHALL BE GRANTED STATE AID IN SUCH AMOUNT AS IS NECESSARY TO REIMBURSE IT TO THE EXTENT OF FIFTY PER CENTUM OF ITS APPROVED EXPENDITURES IN MAINTAINING AND IMPROVING LOCAL PROBATION SERVICES IN FAMILY COURT DURING THE LOCAL FISCAL YEAR THAT ENDED DURING THE TWELVE MONTHS IMMEDIATELY PRECEDING SUCH STATE FISCAL YEAR.

(B) STATE AID GRANTED UNDER THIS SUBDIVISION SHALL NOT INCLUDE REIMBURSEMENT FOR EXPENDITURES FOR CAPITAL ADDITIONS OR IMPROVEMENTS, OR FOR DEBT SERVICE COSTS FOR CAPITAL IMPROVEMENTS.

(C) STATE AID SHALL BE GRANTED BY THE CHIEF ADMINISTRATOR PROVIDED THE RESPECTIVE COUNTIES OR THE CITY OF NEW YORK CONFORM TO ALL APPLICABLE RULES AND STANDARDS PROMULGATED PURSUANT TO SECTION TWO HUNDRED TWENTY-SIX OF THIS ARTICLE.

3. APPLICATIONS FROM COUNTIES OR THE CITY OF NEW YORK FOR STATE AID UNDER THIS SECTION SHALL BE MADE BY FILING WITH THE CHIEF ADMINISTRATOR A DETAILED PLAN, INCLUDING COST ESTIMATES COVERING PROBATION SERVICES IN FAMILY COURT FOR THE LOCAL FISCAL YEAR FOR WHICH AID IS REQUESTED AND THE IMMEDIATELY PRECEDING LOCAL FISCAL YEAR. INCLUDED IN SUCH ESTIMATES SHALL BE CLERICAL COSTS AND MAINTENANCE AND OPERATION COSTS AS WELL AS SALARIES OF PROBATION PERSONNEL AND SUCH OTHER PERTINENT INFORMATION AS THE CHIEF ADMINISTRATOR MAY REQUIRE. ITEMS FOR WHICH REIMBURSEMENT IS REQUESTED UNDER THIS SECTION SHALL BE DULY DESIGNATED IN THE ESTIMATES SUBMITTED. THE CHIEF ADMINISTRATOR, AFTER CONSULTATION WITH THE FAMILY COURT PROBATION ADVISORY BOARD, SHALL APPROVE SUCH PLAN IF IT CONFORMS TO STANDARDS RELATING TO THE ADMINISTRATION OF PROBATION SERVICES AS SPECIFIED IN HIS OR HER RULES.

4. AN APPROVED PLAN AND COMPLIANCE WITH STANDARDS RELATING TO THE ADMINISTRATION OF PROBATION SERVICES IN FAMILY COURT PROMULGATED BY THE CHIEF ADMINISTRATOR SHALL BE A PREREQUISITE TO ELIGIBILITY FOR REIMBURSEMENT. AT THE END OF EACH QUARTER, EACH COUNTY OUTSIDE THE CITY OF NEW YORK APPROVED AS ELIGIBLE FOR REIMBURSEMENT UNDER THIS SECTION, AND THE CITY OF NEW YORK IF APPROVED AS ELIGIBLE FOR REIMBURSEMENT UNDER THIS SECTION, SHALL SUBMIT TO THE OFFICE OF COURT ADMINISTRATION, IN

SUCH FORM AS THE CHIEF ADMINISTRATOR REQUIRES, A VERIFIED ACCOUNTING OF ALL EXPENDITURES MADE BY THE COUNTY, OR THE CITY OF NEW YORK, IN PROVIDING PROBATION SERVICES IN FAMILY COURT. SUCH ACCOUNTING SHALL DESIGNATE THOSE ITEMS FOR WHICH REIMBURSEMENT IS CLAIMED, AND SHALL BE PRESENTED TOGETHER WITH A CLAIM FOR REIMBURSEMENT. THE CHIEF ADMINISTRATOR 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 CITY OF NEW YORK SHALL BE ENTITLED UNDER THIS SECTION.

5. THE CHIEF ADMINISTRATOR, AFTER CONSULTATION WITH THE FAMILY COURT PROBATION ADVISORY BOARD, MAY AUTHORIZE OR REQUIRE THE COMPTROLLER TO WITHHOLD THE PAYMENT OF STATE AID UNDER THIS SECTION TO ANY COUNTY, OR THE CITY OF NEW YORK, IN THE EVENT THAT SUCH COUNTY, OR THE CITY OF NEW YORK: (A) FAILS TO CONFORM TO ALL APPLICABLE RULES AND STANDARDS PROMULGATED PURSUANT TO SECTION TWO HUNDRED TWENTY-SIX OF THIS ARTICLE, (B) DISCONTINUES OR FAILS TO FOLLOW AN APPROVED PLAN, OR (C) FAILS TO ENFORCE IN A SATISFACTORY MANNER RULES PROMULGATED BY THE CHIEF ADMINISTRATOR PURSUANT TO THIS SECTION, OR LAWS NOW IN EFFECT OR HEREAFTER ADOPTED WHICH RELATE IN ANY MANNER TO THE ADMINISTRATION OF PROBATION SERVICES IN FAMILY COURT.

S 228. FAMILY COURT PROBATION SERVICES ASSISTANCE PROGRAM. 1. (A) THERE IS HEREBY ESTABLISHED A FAMILY COURT PROBATION SERVICES ASSISTANCE PROGRAM (HEREINAFTER REFERRED TO IN THIS SECTION AS THE "PROGRAM"), TO BE ADMINISTERED AND SUPERVISED UNDER THE DIRECTION OF THE CHIEF ADMINISTRATOR, TO PROVIDE FUNDS PURSUANT TO THIS SECTION TO ENABLE POLITICAL SUBDIVISIONS TO ENHANCE LOCAL VOCATIONAL, EDUCATIONAL AND THERAPEUTIC SERVICES IN AID OF THE PROBATION FUNCTION IN FAMILY COURT. THE CHIEF ADMINISTRATOR SHALL PROMULGATE RULES AND REGULATIONS TO EFFECTUATE THE PURPOSES OF THIS SECTION, INCLUDING PROVISIONS FOR PERIODIC MONITORING AND EVALUATION OF THE PROGRAM. EACH POLITICAL SUBDIVISION RECEIVING FUNDS PURSUANT TO THIS SECTION SHALL COMPLY WITH ALL SUCH RULES AND REGULATIONS AND WITH ALL PROVISIONS OF THIS SECTION.

(B) FUNDS TO BE PROVIDED PURSUANT TO THIS SECTION MAY BE USED FOR ANY PURPOSE HAVING AS ITS END THE GREATER AVAILABILITY AND ENHANCEMENT OF THOSE SUPPORTIVE AND THERAPEUTIC RESOURCES NECESSARY FOR A COMMUNITY TO ENSURE THAT PROBATION SERVICES IN FAMILY COURT IN SUCH COMMUNITY MAY BE USED TO MAXIMUM EFFECT. FUNDS MAY NOT BE USED AS A MEANS OF REDUCING FUNDING ALREADY PROVIDED BY A POLITICAL SUBDIVISION FOR SUCH SUPPORTIVE AND THERAPEUTIC SERVICES.

2. (A) EACH COUNTY OUTSIDE THE CITY OF NEW YORK AND THE CITY OF NEW YORK MAY MAKE AN INDIVIDUAL APPLICATION FOR FUNDS AVAILABLE PURSUANT TO THIS SECTION, OR TWO OR MORE SUCH POLITICAL SUBDIVISIONS MAY MAKE A JOINT APPLICATION FOR SUCH FUNDS. ALL APPLICATIONS SHALL BE SUBMITTED TO THE CHIEF ADMINISTRATOR FOR HIS OR HER APPROVAL FOLLOWING CONSULTATION WITH THE FAMILY COURT PROBATION ADVISORY BOARD.

(B) THE CHIEF ADMINISTRATOR SHALL REQUIRE THAT APPLICATIONS SUBMITTED FOR FUNDING PROVIDE SUCH INFORMATION AS HE OR SHE DEEMS NECESSARY, INCLUDING AT LEAST THE AMOUNT OF FUNDING SOUGHT AND A DETAILED DESCRIPTION OF THE PURPOSE OR PURPOSES TO WHICH THE FUNDING WILL BE APPLIED.

(C) IN DETERMINING WHETHER TO APPROVE AN APPLICATION, THE CHIEF ADMINISTRATOR SHALL CONSIDER:

(I) WHETHER THE APPLICANT HAS COMPLIED WITH ALL RULES AND REGULATIONS GOVERNING THE PROGRAM AND ALL PERTINENT PROVISIONS OF THIS SECTION;

(II) THE LIKELY IMPACT OF APPROVING SUCH APPLICATION UPON THE DELIVERY OF PROBATION SERVICES IN FAMILY COURT, UPON THE COMMUNITIES SERVED, AND UPON THE JUDICIARY GENERALLY;

(III) THE AVAILABILITY OF OTHER SOURCES OF FUNDING TO PAY SOME OR ALL OF THE COSTS FOR WHICH THE APPLICATION SEEKS FUNDING UNDER THE PROGRAM;

(IV) THE NUMBER AND CONTENT OF ALL OTHER APPLICATIONS FOR FUNDING THEN AVAILABLE UNDER THE PROGRAM;

(V) THE EXTENT OF FUNDING ALREADY RECEIVED UNDER THE PROGRAM BY THE APPLICANT (OR JOINT APPLICANTS) PURSUANT TO PAST APPLICATIONS; AND

(VI) THE MAGNITUDE OF THE FUNDING APPROPRIATED FOR THE PURPOSES OF THIS SECTION.

3. (A) UPON APPROVAL OF AN APPLICATION, THE CHIEF ADMINISTRATOR, WITHIN AVAILABLE APPROPRIATIONS, MAY AUTHORIZE DISBURSEMENT OF FUNDS IN ANY AMOUNT UP TO THE AMOUNT SOUGHT BY THE APPLICATION. SUCH DISBURSEMENT MAY BE BY ADVANCE PAYMENT TO THE APPLICANT (OR APPLICANTS, AS APPROPRIATE) BEFORE IT INCURS THE COST FOR WHICH ITS APPLICATION SOUGHT FUNDING, BY REIMBURSEMENT TO THE APPLICANT AFTER IT INCURS AND PAYS SUCH COSTS IN THE FIRST INSTANCE, OR BY SOME COMBINATION THEREOF, AS THE CHIEF ADMINISTRATOR DETERMINES IS APPROPRIATE UNDER THE CIRCUMSTANCES.

(B) THE STATE COMPTROLLER, THE CHIEF ADMINISTRATOR AND THEIR AUTHORIZED REPRESENTATIVES SHALL HAVE THE POWER TO INSPECT, EXAMINE AND AUDIT THE FISCAL AFFAIRS OF THE APPLICANT (OR APPLICANTS) TO AN APPROVED APPLICATION GRANTED PURSUANT TO THIS SECTION TO THE EXTENT NECESSARY TO DETERMINE WHETHER FUNDING RECEIVED UNDER THE PROGRAM HAS BEEN USED IN ACCORDANCE WITH THE PURPOSE OR PURPOSES FOR WHICH IT WAS SOUGHT IN THE APPLICATION, AND WHETHER THERE HAS BEEN COMPLIANCE WITH ALL RULES AND REGULATIONS GOVERNING THE PROGRAM AND THE PROVISIONS OF THIS SECTION.

4. IN DISCHARGE OF HIS OR HER DUTIES UNDER THIS SECTION, THE CHIEF ADMINISTRATOR SHALL CONSULT, AS APPROPRIATE AND NECESSARY, WITH ANY AGENCY OF THE STATE, INCLUDING BUT NOT LIMITED TO THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, THE OFFICE OF CHILDREN AND FAMILY SERVICES, THE OFFICE OF MENTAL HEALTH AND THE EDUCATION DEPARTMENT.

5. THE CHIEF ADMINISTRATOR SHALL REPORT ANNUALLY TO THE GOVERNOR AND THE LEGISLATURE REGARDING THE OPERATION AND SUCCESS OF THE PROGRAM ESTABLISHED BY THIS SECTION.

S 229. CONSULTATION WITH THE STATE DIRECTOR OF PROBATION AND CORRECTIONAL ALTERNATIVES. WHEREVER NECESSARY TO ENSURE THE FAIR AND EFFECTIVE IMPLEMENTATION OF THIS ARTICLE, THE CHIEF ADMINISTRATOR OF THE COURTS SHALL CONSULT WITH THE STATE DIRECTOR OF PROBATION AND CORRECTIONAL ALTERNATIVES.

S 2. Subdivisions 1 and 3 of section 243 of the executive law, subdivision 1 as amended by chapter 134 of the laws of 1985 and subdivision 3 as added by chapter 609 of the laws of 1997, are amended to read as follows:

1. [The] EXCEPT AS OTHERWISE PROVIDED IN ARTICLE SEVEN-BB OF THE JUDICIARY LAW, THE director shall exercise general supervision over the administration of probation services throughout the state[, including probation in family courts] and shall collect statistical and other information and make recommendations regarding the administration of probation services in the courts. He OR SHE shall endeavor to secure the effective application of the probation system and the enforcement of the probation laws [and the laws relating to family courts] throughout the state. After consultation with the state probation commission, he OR SHE shall adopt general rules which shall regulate methods and procedure in the administration of probation services, including investigation of defendants prior to sentence[, and children prior to adjudication], supervision, case work, record keeping, and accounting, program planning and research so as to secure the most effective application of the probation system and the most efficient enforcement of the probation

laws throughout the state. [Such rules shall provide that the probation investigations ordered by the court in designated felony act cases under subdivision one of section 351.1 of the family court act shall have priority over other cases arising under articles three and seven of such act.] Such rules shall be binding upon all probation officers and when duly adopted shall have the force and effect of law[, but shall not supersede rules that may be adopted pursuant to the family court act]. He OR SHE shall keep [himself] informed as to the work of all probation officers and shall from time to time inquire into and report upon their conduct and efficiency. He OR SHE may investigate the work of any probation bureau or probation officer and shall have access to all records and probation offices. He OR SHE may issue subpoenas to compel the attendance of witnesses or the production of books and papers. He OR SHE may administer oaths and examine persons under oath. He OR SHE may recommend to the appropriate authorities the removal of any probation officer. He OR SHE shall transmit to the governor not later than February first of each year an annual report of the work of the division of probation and correctional alternatives for the preceding calendar year, which shall include such information relative to the administration of probation and correctional alternatives throughout the state as may be appropriate. He OR SHE may from time to time publish reports regarding probation [including probation in family courts], and the operation of the probation system [including probation in family courts] and any other information regarding probation as he OR SHE may determine provided expenditures for such purpose are within amounts appropriated therefor.

3. [(a)] The director shall have the authority to certify to the commissioner of the division of criminal justice services those correctional alternative programs subject to supervision of the division and determined to perform a criminal justice function, as defined in subdivision ten of section eight hundred thirty-five of this chapter, for the purpose of permitting access to criminal history records for criminal justice purposes, subject to the approval of the commissioner of the division of criminal justice services. Any such correctional alternative program may apply for certification to the division in writing, on forms prescribed by the division. Such application shall specify, at a minimum, the following: the nature and scope of the program; the necessity for access to such records related to their criminal justice function; the names of employees, and their job titles or positions, for whom access is being sought; and any other information the division deems necessary. Certification shall include the designation of those employees of such programs for whom access to such records is authorized. No designated employee shall have access to such records until such person has satisfactorily completed appropriate training, required by the division of criminal justice services.

[(b) Notwithstanding any other provision of law, probation departments conducting investigations ordered by a court, for purposes of determining custody, adoption, visitation, or guardianship shall have access to criminal history records maintained by state law enforcement agencies for criminal justice purposes.]

S 3. Subdivision 1 of section 246 of the executive law, as amended by chapter 134 of the laws of 1985, is amended to read as follows:

1. [The] EXCEPT AS OTHERWISE PROVIDED IN SECTION TWO HUNDRED TWENTY-SEVEN OF THE JUDICIARY LAW, THE program of state aid to county probation services shall be continued. It shall be administered by the division of probation and correctional alternatives with the advice of

the state probation commission. Funds appropriated to the division for distribution as state aid to county probation services and to the probation services of New York city shall be distributed by the division in accordance with the provisions of this section, and rules adopted by the director after consultation with the state probation commission.

S 4. Section 247 of the executive law is amended by adding a new subdivision 4 to read as follows:

4. NOTWITHSTANDING ANY PROVISION HEREIN, THIS SECTION SHALL NOT APPLY IN RELATION TO PROBATION SERVICES IN FAMILY COURT.

S 5. Transition. All rules, regulations, directives and orders of the division of probation and correctional alternatives and the state probation commission in relation to probation services in family court shall continue in effect until amended or rescinded by the chief administrator of the courts in accordance with this act.

S 6. This act shall take effect September 1, 2010.