

8217

2009-2010 Regular Sessions

I N   A S S E M B L Y

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Introduced by M. of A. TOWNSEND, BALL, CORWIN, FITZPATRICK, JORDAN, MILLER -- Multi-Sponsored by -- M. of A. AMEDORE, BARCLAY, BURLING, CALHOUN, CROUCH, DUPREY, FINCH, McDONOUGH, QUINN, REILICH, SALADINO, THIELE, TOBACCO, WALKER -- read once and referred to the Committee on Health

AN ACT to amend the executive law, in relation to planning for and declaring a state of public health emergency; to amend the public health law, in relation to enacting the state emergency health powers act; to amend the penal law, the criminal procedure law, the civil practice law and rules, the tax law and the executive law, in relation to acts of terrorism; and providing for the repeal of certain provisions upon expiration thereof

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

1     Section 1. Legislative intent. In the wake of the tragic events of  
2     September 11, 2001, our nation realizes that the government's foremost  
3     responsibility is to protect the health, safety and well being of its  
4     citizens. New and emerging dangers, including emergent and resurgent  
5     infectious diseases and incidents of civilian mass casualties, pose  
6     serious and immediate threats to the population. A renewed focus on the  
7     prevention, detection, management and containment of public health emer-  
8     gencies is thus called for.  
9     Emergency health threats, including those caused by bioterrorism and  
10    epidemics, require the exercise of essential government functions.  
11    Because each state is responsible for safeguarding the health, security  
12    and well being of its people, the state and local governments must be  
13    able to respond, rapidly and effectively, to public health emergencies.  
14    The state emergency health powers act therefore grants specific emergen-  
15    cy powers to the governor and public health authorities.  
16    This act requires the development of a comprehensive plan to provide a  
17    coordinated, appropriate response in the event of a public health emer-

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

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1 gency. It facilitates the early detection of a health emergency by  
2 authorizing the reporting and collection of data and records, and allows  
3 for immediate investigation by granting access to individuals' health  
4 information under specified circumstances. During a public health emer-  
5 gency, state and local officials are authorized to use and appropriate  
6 property as necessary for the care, treatment and housing of patients,  
7 and to destroy contaminated facilities or materials. They are also  
8 empowered to provide care, testing and treatment, and vaccination to  
9 persons who are ill or who have been exposed to a contagious disease,  
10 and to separate affected individuals from the population at large to  
11 interrupt disease transmission.

12 At the same time, this act recognizes that the state's ability to  
13 respond to a public health emergency must respect the dignity and rights  
14 of persons. The exercise of emergency health powers is designed to  
15 promote the common good. Emergency powers must be grounded in a thorough  
16 scientific understanding of public health threats and disease trans-  
17 mission. Guided by principles of justice, state and local governments  
18 have a duty to act with fairness and tolerance towards individuals and  
19 groups. This act thus provides that, in the event of the exercise of  
20 emergency powers, the civil rights, liberties and needs of infected or  
21 exposed persons will be protected to the fullest extent possible  
22 consistent with the primary goal of controlling serious health threats.

23 Public health laws and our courts have traditionally balanced the  
24 common good with individual civil liberties. As Justice Harlan wrote in  
25 the seminal United States Supreme Court case of JACOBSON V. MASSACHU-  
26 SETTS, "the whole people covenants with each citizen, and each citizen  
27 with the whole people, that all shall be governed by certain laws for  
28 the 'common good'". The provisions of this act strike such a balance. It  
29 provides state and local officials with the ability to prevent, detect,  
30 manage and contain emergency health threats without unduly interfering  
31 with civil rights and liberties. This act ensures a strong, effective  
32 and timely response to public health emergencies, while fostering  
33 respect for individuals from all groups and backgrounds.

34 Although modernizing the public health law is an important part of  
35 protecting the population during public health emergencies, the public  
36 health system itself needs improvement. Preparing for a public health  
37 emergency requires a well trained public health workforce, efficient  
38 data systems, and sufficient laboratory capacity.

39 S 2. The executive law is amended by adding two new sections 29-h and  
40 29-i to read as follows:

41 S 29-H. PLANNING FOR A PUBLIC HEALTH EMERGENCY. 1. PUBLIC HEALTH EMER-  
42 GENCY PLANNING COMMISSION. THE GOVERNOR, WITHIN THIRTY DAYS OF THE  
43 EFFECTIVE DATE OF THIS SECTION, SHALL ESTABLISH THE PUBLIC HEALTH EMER-  
44 GENCY PLANNING COMMISSION. SUCH COMMISSION SHALL CONSIST OF ELEVEN  
45 MEMBERS AND BE COMPOSED OF: THE DIRECTOR OF THE STATE EMERGENCY MANAGE-  
46 MENT OFFICE; THE CHIEF ADMINISTRATIVE JUDGE OF THE COURTS, OR HIS OR HER  
47 DESIGNEE; THE COMMISSIONER OF MENTAL HEALTH; THE SUPERINTENDENT OF STATE  
48 POLICE, OR HIS OR HER DESIGNEE; THREE PHYSICIANS WITH EXTENSIVE KNOW-  
49 LEDGE OF THE TREATMENT, PATHOGENESIS, AND EPIDEMIOLOGY OF INFECTIOUS  
50 DISEASES; TWO INDIVIDUALS WHO ARE LICENSED TO PRACTICE LAW IN THE STATE  
51 OF NEW YORK; AND TWO EXPERTS IN THE STRUCTURE AND FUNCTION OF THE HEALTH  
52 CARE SYSTEM. IN ADDITION, THE CHAIR OF THE PUBLIC HEALTH EMERGENCY PLAN-  
53 NING COMMISSION SHALL BE THE COMMISSIONER OF HEALTH. THE MEMBERS OF THE  
54 PUBLIC HEALTH EMERGENCY PLANNING COMMISSION SHALL RECEIVE NO COMPEN-  
55 SATION FOR THEIR SERVICES, BUT SHALL BE ALLOWED THEIR ACTUAL AND NECES-  
56 SARY EXPENSES INCURRED IN THEIR DUTIES.

2. PUBLIC HEALTH EMERGENCY PLAN. (A) CONTENT. THE PUBLIC HEALTH EMERGENCY PLANNING COMMISSION SHALL WITHIN SIX MONTHS OF ITS APPOINTMENT DELIVER TO THE GOVERNOR, THE LEGISLATURE AND THE GENERAL PUBLIC A PLAN FOR RESPONDING TO A PUBLIC HEALTH EMERGENCY, WHICH SHALL INCLUDE GUIDELINES FOR:

(1) NOTIFYING AND COMMUNICATING WITH THE POPULATION DURING A STATE OF PUBLIC HEALTH EMERGENCY PURSUANT TO ARTICLE TEN OF THE PUBLIC HEALTH LAW;

(2) CENTRAL COORDINATION OF RESOURCES, MANPOWER AND SERVICES, INCLUDING THE COORDINATION OF RESPONSES OF FEDERAL, STATE, MUNICIPAL AND TRIBAL AGENCIES;

(3) THE LOCATION, PROCUREMENT, STORAGE, TRANSPORTATION, MAINTENANCE AND DISTRIBUTION OF ESSENTIAL MATERIALS INCLUDING, BUT NOT LIMITED TO, MEDICAL SUPPLIES, DRUGS, VACCINES, FOOD, SHELTER, CLOTHING AND BEDS;

(4) THE CONTINUED, EFFECTIVE OPERATION OF THE UNIFIED COURT SYSTEM INCLUDING, IF DEEMED NECESSARY, THE IDENTIFICATION AND TRAINING OF PERSONNEL TO SERVE AS EMERGENCY JUDGES REGARDING MATTERS OF ISOLATION AND QUARANTINE;

(5) THE METHODS OF EVACUATING POPULATIONS, AND HOUSING AND FEEDING SUCH EVACUATED POPULATIONS;

(6) THE IDENTIFICATION AND TRAINING OF HEALTH CARE PROVIDERS TO DIAGNOSE AND TREAT PERSONS WITH INFECTIOUS DISEASES;

(7) THE VACCINATION OF PERSONS;

(8) THE TREATMENT OF PERSONS WHO HAVE BEEN EXPOSED TO OR ARE INFECTED WITH DISEASES OR HEALTH CONDITIONS THAT MAY BE THE CAUSE OF A PUBLIC HEALTH EMERGENCY;

(9) THE SAFE DISPOSAL OF INFECTIOUS WASTES AND HUMAN REMAINS;

(10) THE SAFE AND EFFECTIVE CONTROL OF PERSONS ISOLATED, QUARANTINED, VACCINATED, TESTED OR TREATED DURING A STATE OF PUBLIC HEALTH EMERGENCY;

(11) TRACKING THE SOURCES AND OUTCOMES OF INFECTED PERSONS;

(12) ENSURING THAT EACH MUNICIPALITY IDENTIFIES:

(I) SITES WHERE PERSONS CAN BE ISOLATED OR QUARANTINED PURSUANT TO ARTICLE TEN OF THE PUBLIC HEALTH LAW,

(II) SITES WHERE MEDICAL SUPPLIES, FOOD AND OTHER ESSENTIAL MATERIALS CAN BE DISTRIBUTED TO THE POPULATION,

(III) SITES WHERE HEALTH AND EMERGENCY WORKERS CAN BE HOUSED AND FED, AND

(IV) ROUTES AND MEANS OF TRANSPORTATION OF PEOPLE AND MATERIALS;

(13) CULTURAL NORMS, VALUES, RELIGIOUS PRINCIPLES AND TRADITIONS THAT MAY BE RELEVANT; AND

(14) ANY OTHER MEASURES NECESSARY TO IMPLEMENT THE PROVISIONS OF ARTICLE TEN OF THE PUBLIC HEALTH LAW.

(B) DISTRIBUTION. THE PUBLIC HEALTH EMERGENCY PLANNING COMMISSION SHALL DISTRIBUTE THE PUBLIC HEALTH EMERGENCY PLAN TO THOSE WHO WILL BE RESPONSIBLE FOR ITS IMPLEMENTATION, OTHER INTERESTED PERSONS, AND THE PUBLIC, AND SEEK THEIR REVIEW AND COMMENTS.

(C) REVIEW. THE PUBLIC HEALTH EMERGENCY PLANNING COMMISSION SHALL ANNUALLY REVIEW THE PUBLIC HEALTH EMERGENCY PLAN.

(D) REPORT. EVERY TWO MONTHS THE PUBLIC HEALTH EMERGENCY PLANNING COMMISSION SHALL REPORT TO THE DISASTER PREPAREDNESS COMMISSION.

S 29-I. DECLARING A STATE OF PUBLIC HEALTH EMERGENCY. 1. DECLARATION. A STATE OF PUBLIC HEALTH EMERGENCY MAY BE DECLARED BY THE GOVERNOR UPON THE OCCURRENCE OF A "PUBLIC HEALTH EMERGENCY" AS DEFINED IN SUBDIVISION THIRTEEN OF SECTION ONE THOUSAND THREE OF THE PUBLIC HEALTH LAW. PRIOR TO SUCH A DECLARATION, THE GOVERNOR SHALL CONSULT WITH THE PUBLIC HEALTH AUTHORITY AND MAY CONSULT WITH ANY ADDITIONAL PUBLIC AND OTHER EXPERTS

1 AS NEEDED. THE GOVERNOR MAY ACT TO DECLARE A PUBLIC HEALTH EMERGENCY  
2 WITHOUT CONSULTING WITH THE PUBLIC HEALTH AUTHORITY OR OTHER EXPERTS  
3 WHEN THE SITUATION CALLS FOR PROMPT AND TIMELY ACTION.

4 2. CONTENT OF DECLARATION. A STATE OF PUBLIC HEALTH EMERGENCY SHALL BE  
5 DECLARED BY AN EXECUTIVE ORDER THAT SPECIFIES:

6 (A) THE NATURE OF THE PUBLIC HEALTH EMERGENCY;

7 (B) THE POLITICAL SUBDIVISIONS OR GEOGRAPHIC AREAS SUBJECT TO SUCH  
8 DECLARATION;

9 (C) THE CONDITIONS THAT HAVE BROUGHT ABOUT THE PUBLIC HEALTH EMERGEN-  
10 CY;

11 (D) THE DURATION OF THE STATE OF PUBLIC HEALTH EMERGENCY, IF LESS THAN  
12 THIRTY DAYS; AND

13 (E) THE PRIMARY PUBLIC HEALTH AUTHORITY RESPONDING TO THE EMERGENCY.

14 3. EFFECT OF DECLARATION. THE DECLARATION OF A STATE OF PUBLIC HEALTH  
15 EMERGENCY SHALL ACTIVATE THE DISASTER RESPONSE AND RECOVERY ASPECTS OF  
16 THE STATE, LOCAL AND INTER-JURISDICTIONAL DISASTER EMERGENCY PLANS IN  
17 THE AFFECTED POLITICAL SUBDIVISIONS OR GEOGRAPHIC AREAS. SUCH DECLARA-  
18 TION AUTHORIZES THE DEPLOYMENT AND USE OF ANY FORCES TO WHICH THE PLANS  
19 APPLY, AND THE USE OR DISTRIBUTION OF ANY SUPPLIES, EQUIPMENT, MATERIALS  
20 AND FACILITIES ASSEMBLED, STOCKPILED OR AVAILABLE PURSUANT TO ARTICLE  
21 TEN OF THE PUBLIC HEALTH LAW.

22 (A) EMERGENCY POWERS. DURING A STATE OF PUBLIC HEALTH EMERGENCY, THE  
23 GOVERNOR MAY:

24 (1) SUSPEND, BY EXECUTIVE ORDER, THE PROVISIONS OF ANY REGULATORY  
25 STATUTE PRESCRIBING PROCEDURES FOR CONDUCTING STATE BUSINESS, OR THE  
26 ORDERS, RULES AND REGULATIONS OF ANY STATE AGENCY, TO THE EXTENT THAT  
27 STRICT COMPLIANCE WITH THE SAME WOULD PREVENT, HINDER OR DELAY NECESSARY  
28 ACTION (INCLUDING EMERGENCY PURCHASES) BY THE PUBLIC HEALTH AUTHORITY TO  
29 RESPOND TO THE PUBLIC HEALTH EMERGENCY, OR INCREASE THE HEALTH THREAT TO  
30 THE POPULATION. THE LEGISLATURE MAY TERMINATE BY CONCURRENT RESOLUTION,  
31 EXECUTIVE ORDERS ISSUED UNDER THIS SUBPARAGRAPH. IN ADDITION, A SUSPEN-  
32 SION PURSUANT TO THIS SUBPARAGRAPH SHALL BE SUBJECT TO THE FOLLOWING  
33 STANDARDS AND LIMITATIONS:

34 (I) NO SUSPENSION MAY BE MADE FOR A PERIOD IN EXCESS OF THIRTY DAYS,  
35 PROVIDED, HOWEVER, THAT UPON RECONSIDERATION OF ALL OF THE RELEVANT  
36 FACTS AND CIRCUMSTANCES, THE GOVERNOR MAY EXTEND THE SUSPENSION FOR AN  
37 ADDITIONAL PERIOD NOT TO EXCEED THIRTY DAYS EACH;

38 (II) NO SUSPENSION SHALL BE MADE WHICH DOES NOT SAFEGUARD THE HEALTH  
39 AND WELFARE OF THE PUBLIC AND WHICH IS NOT REASONABLY NECESSARY TO THE  
40 RESPONSE TO THE PUBLIC HEALTH EMERGENCY;

41 (III) ANY SUCH SUSPENSION ORDER SHALL SPECIFY THE STATUTE, LOCAL LAW,  
42 ORDINANCE, ORDER, RULE OR REGULATION OR PART THEREOF TO BE SUSPENDED AND  
43 THE TERMS AND CONDITIONS OF THE SUSPENSION;

44 (IV) THE ORDER MAY PROVIDE FOR SUCH SUSPENSION ONLY UNDER PARTICULAR  
45 CIRCUMSTANCES, AND MAY PROVIDE FOR THE ALTERATION OR MODIFICATION OF THE  
46 REQUIREMENTS OF SUCH STATUTE, LOCAL LAW, ORDINANCE, ORDER, RULE OR REGU-  
47 LATION SUSPENDED, AND MAY INCLUDE OTHER TERMS AND CONDITIONS;

48 (V) ANY SUCH SUSPENSION ORDER SHALL PROVIDE FOR THE MINIMUM DEVIATION  
49 FROM THE REQUIREMENTS OF THE STATUTE, LOCAL LAW, ORDINANCE, ORDER, RULE  
50 OR REGULATION SUSPENDED CONSISTENT WITH THE DISASTER ACTION DEEMED  
51 NECESSARY;

52 (VI) WHEN PRACTICABLE, SPECIALISTS SHALL BE ASSIGNED TO ASSIST WITH  
53 THE RELATED EMERGENCY ACTIONS TO AVOID NEEDLESS ADVERSE EFFECTS RESULT-  
54 ING FROM SUCH SUSPENSION; AND

(VII) SUCH SUSPENSIONS SHALL BE EFFECTIVE FROM THE TIME AND IN THE MANNER PRESCRIBED IN SUCH ORDERS AND SHALL BE PUBLISHED AS SOON AS PRACTICABLE IN THE STATE BULLETIN;

(2) UTILIZE ALL AVAILABLE RESOURCES OF THE STATE AND ITS POLITICAL SUBDIVISIONS AS REASONABLY NECESSARY TO RESPOND TO THE PUBLIC HEALTH EMERGENCY;

(3) TRANSFER THE DIRECTION, PERSONNEL OR FUNCTIONS OF STATE DEPARTMENTS AND AGENCIES TO PERFORM OR FACILITATE RESPONSE AND RECOVERY PROGRAMS REGARDING THE PUBLIC HEALTH EMERGENCY;

(4) MOBILIZE ALL OR ANY PART OF THE ORGANIZED MILITIA INTO SERVICE OF THE STATE. AN ORDER DIRECTING THE ORGANIZED MILITIA TO REPORT FOR ACTIVE DUTY SHALL STATE THE PURPOSE FOR WHICH IT IS MOBILIZED AND THE OBJECTIVES TO BE ACCOMPLISHED;

(5) PROVIDE AID TO AND SEEK AID FROM OTHER STATES IN ACCORDANCE WITH ANY INTERSTATE EMERGENCY COMPACT MADE WITH THIS STATE; AND

(6) SEEK AID FROM THE FEDERAL GOVERNMENT IN ACCORDANCE WITH FEDERAL PROGRAMS OR REQUIREMENTS.

(B) COORDINATION. THE PUBLIC HEALTH AUTHORITY SHALL COORDINATE ALL MATTERS PERTAINING TO THE PUBLIC HEALTH EMERGENCY RESPONSE OF THE STATE. THE PUBLIC HEALTH AUTHORITY SHALL HAVE PRIMARY JURISDICTION, RESPONSIBILITY, AND AUTHORITY FOR:

(1) PLANNING AND EXECUTING PUBLIC HEALTH EMERGENCY ASSESSMENT, MITIGATION, PREPAREDNESS RESPONSE AND RECOVERY FOR THE STATE;

(2) COORDINATING PUBLIC HEALTH EMERGENCY RESPONSE BETWEEN STATE AND MUNICIPAL AUTHORITIES;

(3) COLLABORATING WITH RELEVANT FEDERAL GOVERNMENT AUTHORITIES, ELECTED OFFICIALS OF OTHER STATES, PRIVATE ORGANIZATIONS OR COMPANIES;

(4) COORDINATING RECOVERY OPERATIONS AND MITIGATION INITIATIVES SUBSEQUENT TO THE PUBLIC HEALTH EMERGENCY; AND

(5) ORGANIZING PUBLIC INFORMATION ACTIVITIES REGARDING STATE PUBLIC HEALTH EMERGENCY RESPONSE OPERATIONS.

(C) IDENTIFICATION. AFTER THE DECLARATION OF A STATE OF PUBLIC HEALTH EMERGENCY, SPECIAL IDENTIFICATION FOR ALL EMPLOYEES OF THE PUBLIC HEALTH AUTHORITIES WORKING DURING THE EMERGENCY SHALL BE ISSUED AS SOON AS POSSIBLE. THE IDENTIFICATION SHALL INDICATE THE AUTHORITY OF THE BEARER TO EXERCISE PUBLIC HEALTH FUNCTIONS AND EMERGENCY POWERS DURING THE STATE OF PUBLIC HEALTH EMERGENCY. SUCH IDENTIFICATION SHALL BE WORN IN PLAIN VIEW.

4. ENFORCEMENT. DURING A STATE OF PUBLIC HEALTH EMERGENCY, THE PUBLIC HEALTH AUTHORITY MAY REQUEST ASSISTANCE IN ENFORCING ORDERS PURSUANT TO ARTICLE TEN OF THE PUBLIC HEALTH LAW FROM THE PUBLIC SAFETY AUTHORITY. THE PUBLIC SAFETY AUTHORITY MAY REQUEST ASSISTANCE FROM THE ORGANIZED MILITIA IN ENFORCING THE ORDERS OF THE PUBLIC HEALTH AUTHORITY.

5. TERMINATION OF DECLARATION. (A) EXECUTIVE ORDER. THE GOVERNOR SHALL TERMINATE THE DECLARATION OF A STATE OF PUBLIC HEALTH EMERGENCY BY EXECUTIVE ORDER UPON FINDING THAT THE OCCURRENCE OF AN ILLNESS OR HEALTH CONDITION THAT CAUSED THE EMERGENCY NO LONGER POSES A HIGH PROBABILITY OF A LARGE NUMBER OF DEATHS IN THE AFFECTED POPULATION, A LARGE NUMBER OF INCIDENTS OF SERIOUS PERMANENT OR LONG TERM DISABILITY IN THE AFFECTED POPULATION OR A SIGNIFICANT RISK OF SUBSTANTIAL FUTURE HARM TO A LARGE NUMBER OF PEOPLE IN THE AFFECTED POPULATION.

(B) AUTOMATIC TERMINATION. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE DECLARATION OF A STATE OF PUBLIC HEALTH EMERGENCY SHALL BE TERMINATED AUTOMATICALLY AFTER THIRTY DAYS UNLESS RENEWED BY THE GOVERNOR UNDER THE SAME STANDARDS AND PROCEDURES SET FORTH IN THIS SECTION. ANY SUCH RENEWAL SHALL ALSO BE TERMINATED AUTOMATICALLY AFTER THIRTY DAYS

UNLESS RENEWED BY THE GOVERNOR UNDER THE SAME STANDARDS AND PROCEDURES SET FORTH IN THIS SECTION.

(C) STATE LEGISLATURE. THE STATE LEGISLATURE, BY MAJORITY VOTE OF THE SENATE AND THE ASSEMBLY, MAY TERMINATE THE DECLARATION OF A STATE OF PUBLIC HEALTH EMERGENCY AT ANY TIME FROM THE DATE OF ORIGINAL DECLARATION UPON FINDING THAT THE OCCURRENCE OF AN ILLNESS OR HEALTH CONDITION THAT CAUSED THE EMERGENCY DOES NOT OR NO LONGER POSES A HIGH PROBABILITY OF A LARGE NUMBER OF DEATHS IN THE AFFECTED POPULATION, A LARGE NUMBER OF INCIDENTS OF SERIOUS PERMANENT OR LONG TERM DISABILITY IN THE AFFECTED POPULATION OR A SIGNIFICANT RISK OF SUBSTANTIAL FUTURE HARM TO A LARGE NUMBER OF PEOPLE IN THE AFFECTED POPULATION. SUCH TERMINATION BY THE STATE LEGISLATURE SHALL OVERRIDE ANY RENEWAL BY THE GOVERNOR.

(D) CONTENT OF TERMINATION ORDER. ALL ORDERS OR LEGISLATIVE ACTIONS TERMINATING THE DECLARATION OF A STATE OF PUBLIC HEALTH EMERGENCY SHALL INDICATE THE NATURE OF THE EMERGENCY, THE AREA THAT WAS THREATENED, AND THE CONDITIONS THAT MAKE POSSIBLE THE TERMINATION OF THE DECLARATION.

S 3. The public health law is amended by adding a new article 10 to read as follows:

#### ARTICLE 10

##### STATE EMERGENCY HEALTH POWERS ACT

- TITLE I. FINDINGS, PURPOSES AND DEFINITIONS (SS 1000-1003).
- II. SPECIAL POWERS DURING STATE OF PUBLIC HEALTH EMERGENCY; MANAGEMENT OF PROPERTY (SS 1010-1016).
- III. SPECIAL POWERS DURING STATE OF PUBLIC HEALTH EMERGENCY; PROTECTION OF PERSONS (SS 1020-1027).
- IV. PUBLIC INFORMATION REGARDING PUBLIC HEALTH EMERGENCIES (SS 1030-1031).
- V. MISCELLANEOUS (SS 1040-1047).

##### TITLE I

##### FINDINGS, PURPOSES AND DEFINITIONS

SECTION 1000. SHORT TITLE.

1001. LEGISLATIVE FINDINGS.

1002. PURPOSES.

1003. DEFINITIONS.

S 1000. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "STATE EMERGENCY HEALTH POWERS ACT".

S 1001. LEGISLATIVE FINDINGS. THE LEGISLATURE FINDS THAT:

1. THE STATE MUST DO MORE TO PROTECT THE HEALTH, SAFETY AND GENERAL WELL BEING OF ITS CITIZENS.

2. NEW AND EMERGING DANGERS, INCLUDING EMERGENT AND RESURGENT INFECTIOUS DISEASES AND INCIDENTS OF CIVILIAN MASS CASUALTIES, POSE SERIOUS AND IMMEDIATE THREATS.

3. A RENEWED FOCUS ON THE PREVENTION, DETECTION, MANAGEMENT AND CONTAINMENT OF PUBLIC HEALTH EMERGENCIES IS NEEDED.

4. EMERGENCY HEALTH THREATS, INCLUDING THOSE CAUSED BY BIOTERRORISM MAY REQUIRE THE EXERCISE OF EXTRAORDINARY GOVERNMENT POWERS AND FUNCTIONS.

5. THE STATE MUST HAVE THE ABILITY TO RESPOND, RAPIDLY AND EFFECTIVELY, TO POTENTIAL OR ACTUAL PUBLIC HEALTH EMERGENCIES.

6. THE EXERCISE OF EMERGENCY HEALTH POWERS MUST PROMOTE THE COMMON GOOD.

7. EMERGENCY HEALTH POWERS MUST BE GROUNDED IN A THOROUGH SCIENTIFIC UNDERSTANDING OF PUBLIC HEALTH THREATS AND DISEASE TRANSMISSION.

8. GUIDED BY PRINCIPLES OF JUSTICE AND ANTIDISCRIMINATION, IT IS THE DUTY OF THE STATE TO ACT WITH FAIRNESS AND TOLERANCE TOWARDS INDIVIDUALS AND GROUPS.

1 9. THE RIGHTS OF PEOPLE TO LIBERTY, BODILY INTEGRITY AND PRIVACY MUST  
2 BE RESPECTED TO THE FULLEST EXTENT POSSIBLE CONSISTENT WITH MAINTAINING  
3 AND PRESERVING THE PUBLIC'S HEALTH AND SECURITY.

4 10. THIS ARTICLE IS NECESSARY TO PROTECT THE HEALTH AND SAFETY OF THE  
5 CITIZENS OF THE STATE.

6 S 1002. PURPOSES. THE PURPOSES OF THIS ARTICLE ARE:

7 1. TO REQUIRE THE DEVELOPMENT OF A COMPREHENSIVE PLAN TO PROVIDE FOR A  
8 COORDINATED, APPROPRIATE RESPONSE IN THE EVENT OF A PUBLIC HEALTH EMER-  
9 GENCY;

10 2. TO AUTHORIZE THE REPORTING AND COLLECTION OF DATA AND RECORDS, THE  
11 MANAGEMENT OF PROPERTY, THE PROTECTION OF PERSONS AND ACCESS TO COMMUNI-  
12 CATIONS;

13 3. TO FACILITATE THE EARLY DETECTION OF A HEALTH EMERGENCY, AND ALLOW  
14 FOR IMMEDIATE INVESTIGATION OF SUCH AN EMERGENCY BY GRANTING ACCESS TO  
15 INDIVIDUALS' HEALTH INFORMATION UNDER SPECIFIED CIRCUMSTANCES;

16 4. TO GRANT STATE AND LOCAL OFFICIALS THE AUTHORITY TO USE AND APPRO-  
17 PRIATE PROPERTY AS NECESSARY FOR THE CARE, TREATMENT, VACCINATION AND  
18 HOUSING OF PATIENTS, AND TO DESTROY CONTAMINATED FACILITIES OR MATERI-  
19 ALS;

20 5. TO GRANT STATE AND LOCAL OFFICIALS THE AUTHORITY TO PROVIDE CARE,  
21 TREATMENT AND VACCINATION TO PERSONS WHO ARE ILL OR WHO HAVE BEEN  
22 EXPOSED TO CONTAGIOUS DISEASES, AND TO SEPARATE AFFECTED INDIVIDUALS  
23 FROM THE POPULATION AT LARGE TO INTERRUPT DISEASE TRANSMISSION;

24 6. TO ENSURE THAT THE NEEDS OF INFECTED OR EXPOSED PERSONS ARE PROPER-  
25 LY ADDRESSED TO THE FULLEST EXTENT POSSIBLE, GIVEN THE PRIMARY GOAL OF  
26 CONTROLLING SERIOUS HEALTH THREATS; AND

27 7. TO PROVIDE STATE AND LOCAL OFFICIALS WITH THE ABILITY TO PREVENT,  
28 DETECT, MANAGE AND CONTAIN EMERGENCY HEALTH THREATS WITHOUT UNDULY  
29 INTERFERING WITH CIVIL RIGHTS AND LIBERTIES.

30 S 1003. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE:

31 1. "BIOTERRORISM" IS THE INTENTIONAL USE OF ANY MICROORGANISM, VIRUS,  
32 INFECTIOUS SUBSTANCE, OR BIOLOGICAL PRODUCT THAT MAY BE ENGINEERED AS A  
33 RESULT OF BIOTECHNOLOGY, OR ANY NATURALLY OCCURRING OR BIOENGINEERED  
34 COMPONENT OF ANY SUCH MICROORGANISM, VIRUS, INFECTIOUS SUBSTANCE OR  
35 BIOLOGICAL PRODUCT, TO CAUSE DEATH, DISEASE OR OTHER BIOLOGICAL MALFUNC-  
36 TION IN A HUMAN, AN ANIMAL, A PLANT OR ANOTHER LIVING ORGANISM IN ORDER  
37 TO INFLUENCE THE CONDUCT OF GOVERNMENT, OR TO INTIMIDATE OR COERCE A  
38 CIVILIAN POPULATION.

39 2. "CHAIN OF CUSTODY" IS THE METHODOLOGY OF TRACKING SPECIMENS FOR THE  
40 PURPOSE OF MAINTAINING CONTROL AND ACCOUNTABILITY FROM INITIAL  
41 COLLECTION TO FINAL DISPOSITION OF THE SPECIMENS, AND PROVIDING FOR  
42 ACCOUNTABILITY AT EACH STAGE OF COLLECTING, HANDLING, TESTING, STORING  
43 AND TRANSPORTING THE SPECIMENS AND REPORTING TEST RESULTS.

44 3. "CONTAGIOUS DISEASE" IS AN INFECTIOUS DISEASE THAT CAN BE TRANSMIT-  
45 TED FROM PERSON TO PERSON.

46 4. "HEALTH CARE FACILITY" MEANS ANY NON-FEDERAL INSTITUTION, BUILDING  
47 OR AGENCY, OR PORTION THEREOF, WHETHER PUBLIC OR PRIVATE (PROFIT OR  
48 NOT-FOR-PROFIT) THAT IS USED, OPERATED OR DESIGNED TO PROVIDE HEALTH  
49 SERVICES, MEDICAL TREATMENT, OR NURSING, REHABILITATIVE OR PREVENTIVE  
50 CARE TO ANY PERSON OR PERSONS. THIS INCLUDES, BUT IS NOT LIMITED TO:  
51 AMBULATORY SURGICAL FACILITIES, HEALTH MAINTENANCE ORGANIZATIONS, HOME  
52 HEALTH AGENCIES, HOSPICES, HOSPITALS, INFIRMARIES, INTERMEDIATE CARE  
53 FACILITIES, KIDNEY TREATMENT CENTERS, LONG TERM CARE FACILITIES, MEDICAL  
54 ASSISTANCE FACILITIES, MENTAL HEALTH CENTERS, OUTPATIENT FACILITIES,  
55 PUBLIC HEALTH CENTERS, REHABILITATION FACILITIES, RESIDENTIAL TREATMENT  
56 FACILITIES, SKILLED NURSING FACILITIES AND ADULT DAYCARE CENTERS. THIS

1 ALSO INCLUDES, BUT IS NOT LIMITED TO, THE FOLLOWING RELATED PROPERTY  
2 WHEN USED FOR OR IN CONNECTION WITH THE FOREGOING: LABORATORIES,  
3 RESEARCH FACILITIES, PHARMACIES, LAUNDRY FACILITIES, HEALTH PERSONNEL  
4 TRAINING AND LODGING FACILITIES, PATIENT, GUEST AND HEALTH PERSONNEL  
5 FOOD SERVICE FACILITIES, AND OFFICES AND OFFICE BUILDINGS FOR PERSONS  
6 ENGAGED IN HEALTH CARE PROFESSIONS OR SERVICES.

7 5. "HEALTH CARE PROVIDER" IS ANY PERSON OR ENTITY WHO PROVIDES HEALTH  
8 CARE SERVICES INCLUDING, BUT NOT LIMITED TO, HOSPITALS, MEDICAL CLINICS  
9 AND OFFICES, SPECIAL CARE FACILITIES, MEDICAL LABORATORIES, PHYSICIANS,  
10 PHARMACISTS, DENTISTS, PHYSICIAN ASSISTANTS, NURSE PRACTITIONERS, REGIS-  
11 TERED AND OTHER NURSES, PARAMEDICS, EMERGENCY MEDICAL OR LABORATORY  
12 TECHNICIANS, AND AMBULANCE AND EMERGENCY MEDICAL WORKERS.

13 6. "INFECTIOUS DISEASE" IS A DISEASE CAUSED BY A LIVING ORGANISM OR  
14 OTHER PATHOGEN, INCLUDING A FUNGUS, BACILLUS, PARASITE, PROTOZOAN OR  
15 VIRUS. AN INFECTIOUS DISEASE MAY OR MAY NOT BE TRANSMISSIBLE FROM PERSON  
16 TO PERSON, ANIMAL TO PERSON OR INSECT TO PERSON.

17 7. "INFECTIOUS WASTE" IS:

18 (A) "BIOLOGICAL WASTE," WHICH INCLUDES BLOOD AND BLOOD PRODUCTS,  
19 EXCRETIONS, EXUDATES, SECRETIONS, SUCTIONING AND OTHER BODY FLUIDS, AND  
20 WASTE MATERIALS SATURATED WITH BLOOD OR BODY FLUIDS;

21 (B) "CULTURES AND STOCKS," WHICH INCLUDES ETIOLOGIC AGENTS AND ASSOCI-  
22 ATED BIOLOGICALS, INCLUDING SPECIMEN CULTURES, AND DISHES AND DEVICES  
23 USED TO TRANSFER, INOCULATE AND MIX CULTURES, WASTES FROM PRODUCTION OF  
24 BIOLOGICALS AND SERUMS, AND DISCARDED LIVE AND ATTENUATED VACCINES;

25 (C) "PATHOLOGICAL WASTE," WHICH INCLUDES BIOPSY MATERIALS AND ALL  
26 HUMAN TISSUES, ANATOMICAL PARTS THAT EMANATE FROM SURGERY, OBSTETRICAL  
27 PROCEDURES, NECROPSY, AUTOPSY AND LABORATORY PROCEDURES, AND ANIMAL  
28 CARCASSES EXPOSED TO PATHOGENS IN RESEARCH AND THE BEDDING AND OTHER  
29 WASTE FROM SUCH ANIMALS, BUT DOES NOT INCLUDE TEETH OR FORMALDEHYDE OR  
30 OTHER PRESERVATIVE AGENTS; AND

31 (D) "SHARPS," WHICH INCLUDES NEEDLES, INTRAVENOUS TUBING WITH NEEDLES  
32 ATTACHED, SCALPEL BLADES, LANCETS, BREAKABLE GLASS TUBES AND SYRINGES  
33 THAT HAVE BEEN REMOVED FROM THEIR ORIGINAL STERILE CONTAINERS.

34 8. "ISOLATION" IS THE PHYSICAL SEPARATION AND CONFINEMENT OF AN INDIVIDUAL  
35 OR GROUPS OF INDIVIDUALS WHO ARE INFECTED OR REASONABLY BELIEVED  
36 TO BE INFECTED WITH A CONTAGIOUS DISEASE OR POSSIBLY CONTAGIOUS DISEASE  
37 FROM NON-ISOLATED INDIVIDUALS, TO PREVENT OR LIMIT THE TRANSMISSION OF  
38 THE DISEASE TO NON-ISOLATED INDIVIDUALS.

39 9. "MENTAL HEALTH SUPPORT PERSONNEL" INCLUDES, BUT IS NOT LIMITED TO,  
40 PSYCHIATRISTS, PSYCHOLOGISTS, SOCIAL WORKERS AND VOLUNTEER CRISIS COUN-  
41 SELING GROUPS.

42 10. "ORGANIZED MILITIA" IS THE ORGANIZED MILITIA AS CONSTITUTED IN  
43 SUBDIVISION ONE OF SECTION TWO OF THE MILITARY LAW.

44 11. "PROTECTED HEALTH INFORMATION" IS ANY INFORMATION, WHETHER ORAL,  
45 WRITTEN, ELECTRONIC, VISUAL OR IN ANY OTHER FORM, THAT RELATES TO AN  
46 INDIVIDUAL'S PAST, PRESENT OR FUTURE PHYSICAL OR MENTAL HEALTH STATUS,  
47 CONDITION, TREATMENT, SERVICE, PRODUCTS PURCHASE OR PROVISION OF CARE,  
48 AND THAT REVEALS THE IDENTITY OF THE INDIVIDUAL WHOSE HEALTH CARE IS THE  
49 SUBJECT OF THE INFORMATION, OR WHERE THERE IS A REASONABLE BASIS TO  
50 BELIEVE SUCH INFORMATION COULD BE UTILIZED (EITHER ALONE OR WITH OTHER  
51 INFORMATION THAT IS OR SHOULD REASONABLY BE KNOWN TO BE AVAILABLE TO  
52 PREDICTABLE RECIPIENTS OF SUCH INFORMATION) TO REVEAL THE IDENTITY OF  
53 THAT INDIVIDUAL.

54 12. "PUBLIC HEALTH AUTHORITY" IS THE DEPARTMENT OR ANY MUNICIPAL AGEN-  
55 CY THAT ACTS PRINCIPALLY TO PROTECT AND PRESERVE THE PUBLIC'S HEALTH, OR



1 ANY OFFICER OR EMPLOYEE OF THE DEPARTMENT OR SUCH AN AGENCY WHEN AUTHOR-  
2 IZED BY LAW, RULE OR REGULATION TO ACT.

3 13. "PUBLIC HEALTH EMERGENCY" IS AN OCCURRENCE OR IMMINENT THREAT OF  
4 AN ILLNESS OR HEALTH CONDITION THAT IS BELIEVED TO BE CAUSED BY BIOTER-  
5 RORISM, AND POSES A HIGH PROBABILITY OF ANY OF THE FOLLOWING HARMS:

6 (A) A LARGE NUMBER OF DEATHS IN THE AFFECTED POPULATION,

7 (B) A LARGE NUMBER OF SERIOUS OR LONG TERM DISABILITIES IN THE  
8 AFFECTED POPULATION, OR

9 (C) WIDESPREAD EXPOSURE TO AN INFECTIOUS OR TOXIC AGENT THAT POSES A  
10 SIGNIFICANT RISK OF SUBSTANTIAL FUTURE HARM TO A LARGE NUMBER OF PEOPLE  
11 IN THE AFFECTED POPULATION.

12 14. "PUBLIC SAFETY AUTHORITY" MEANS THE DIVISION OF STATE POLICE OR  
13 ANY MUNICIPAL POLICE OR SHERIFF'S DEPARTMENT, OR ANY POLICE OFFICER OF  
14 SUCH DIVISION OR DEPARTMENT WHEN AUTHORIZED BY LAW, RULE OR REGULATION  
15 TO ACT.

16 15. "QUARANTINE" IS THE PHYSICAL SEPARATION AND CONFINEMENT OF AN  
17 INDIVIDUAL, OR GROUP OR GROUPS OF INDIVIDUALS WHO ARE OR MAY HAVE BEEN  
18 EXPOSED TO A CONTAGIOUS OR POSSIBLY CONTAGIOUS DISEASE, AND WHO DO NOT  
19 SHOW SIGNS OR SYMPTOMS OF A CONTAGIOUS DISEASE, FROM NON-QUARANTINED  
20 INDIVIDUALS TO PREVENT OR LIMIT THE TRANSMISSION OF THE DISEASE TO NON-  
21 QUARANTINED INDIVIDUALS.

22 16. "SPECIMENS" INCLUDE, BUT ARE NOT LIMITED TO, BLOOD, SPUTUM, URINE,  
23 STOOL, OTHER BODILY FLUIDS, WASTES, TISSUES AND CULTURES NECESSARY TO  
24 PERFORM REQUIRED TESTS.

25 17. "TESTS" INCLUDE, BUT ARE NOT LIMITED TO, ANY DIAGNOSTIC OR INVES-  
26 TIGATIVE ANALYSES NECESSARY TO PREVENT THE SPREAD OF DISEASE OR PROTECT  
27 THE PUBLIC'S HEALTH, SAFETY AND WELFARE.

28 18. "TRIAL COURT" MEANS THE SUPREME COURT HAVING JURISDICTION IN THE  
29 COUNTY WHERE AN ACTION IS TO BE TAKEN.

#### 30 TITLE II

### 31 SPECIAL POWERS DURING STATE OF PUBLIC 32 HEALTH EMERGENCY; MANAGEMENT OF PROPERTY

33 SECTION 1010. EMERGENCY MEASURES CONCERNING FACILITIES AND MATERIALS.

34 1011. ACCESS TO AND CONTROL OF FACILITIES AND PROPERTY; GENERAL-  
35 LY.

36 1012. SAFE DISPOSAL OF INFECTIOUS WASTE.

37 1013. SAFE DISPOSAL OF HUMAN REMAINS.

38 1014. CONTROL OF HEALTH CARE SUPPLIES.

39 1015. COMPENSATION.

40 1016. DESTRUCTION OF PROPERTY.

41 S 1010. EMERGENCY MEASURES CONCERNING FACILITIES AND MATERIALS. THE  
42 PUBLIC HEALTH AUTHORITY MAY EXERCISE, FOR SUCH PERIOD AS A STATE OF  
43 PUBLIC HEALTH EMERGENCY EXISTS, THE FOLLOWING POWERS OVER DANGEROUS  
44 FACILITIES AND MATERIALS:

45 1. FACILITIES. TO CLOSE, DIRECT AND COMPEL THE EVACUATION OF, OR TO  
46 DECONTAMINATE OR CAUSE TO BE DECONTAMINATED ANY FACILITY FOR WHICH THERE  
47 IS REASONABLE CAUSE TO BELIEVE THAT SUCH FACILITY MAY ENDANGER THE  
48 PUBLIC HEALTH; AND

49 2. MATERIALS. TO DECONTAMINATE OR CAUSE TO BE DECONTAMINATED, OR  
50 DESTROY ANY MATERIAL FOR WHICH THERE IS REASONABLE CAUSE TO BELIEVE THAT  
51 SUCH MATERIAL MAY ENDANGER THE PUBLIC HEALTH.

52 S 1011. ACCESS TO AND CONTROL OF FACILITIES AND PROPERTY; GENERALLY.  
53 THE PUBLIC HEALTH AUTHORITY MAY EXERCISE, FOR SUCH PERIOD AS THE STATE  
54 OF PUBLIC HEALTH EMERGENCY EXISTS, THE FOLLOWING POWERS CONCERNING  
55 FACILITIES, MATERIALS, ROADS, OR PUBLIC AREAS:

1 1. USE OF FACILITIES AND MATERIALS. TO PROCURE, BY CONDEMNATION OR  
2 OTHERWISE, CONSTRUCT, LEASE, TRANSPORT, STORE, MAINTAIN, RENOVATE OR  
3 DISTRIBUTE SUCH MATERIALS AND FACILITIES AS MAY BE REASONABLE AND NECES-  
4 SARY TO RESPOND TO THE PUBLIC HEALTH EMERGENCY, WITH THE RIGHT TO TAKE  
5 IMMEDIATE POSSESSION THEREOF. SUCH MATERIALS AND FACILITIES SHALL  
6 INCLUDE, BUT ARE NOT LIMITED TO, COMMUNICATION DEVICES, COMMON CARRIERS,  
7 REAL ESTATE, FUELS, FOOD AND CLOTHING;

8 2. USE OF HEALTH CARE FACILITIES. TO REQUIRE A HEALTH CARE FACILITY TO  
9 PROVIDE SERVICES OR THE USE OF ITS FACILITY IF SUCH SERVICES OR USE ARE  
10 REASONABLE AND NECESSARY TO RESPOND TO THE PUBLIC HEALTH EMERGENCY AS A  
11 CONDITION OF LICENSURE, AUTHORIZATION OR THE ABILITY TO CONTINUE DOING  
12 BUSINESS IN THE STATE AS A HEALTH CARE FACILITY. THE USE OF A HEALTH  
13 CARE FACILITY MAY INCLUDE TRANSFERRING THE MANAGEMENT AND SUPERVISION OF  
14 THE HEALTH CARE FACILITY TO THE PUBLIC HEALTH AUTHORITY FOR A LIMITED OR  
15 UNLIMITED PERIOD OF TIME, BUT SHALL NOT EXCEED THE DECLARATION OF A  
16 STATE OF PUBLIC HEALTH EMERGENCY;

17 3. CONTROL OF MATERIALS. TO INSPECT, CONTROL, RESTRICT AND REGULATE BY  
18 RATIONING AND USING QUOTAS, PROHIBITIONS ON SHIPMENTS, ALLOCATION OR  
19 OTHER MEANS THE USE, SALE, DISPENSING, DISTRIBUTION, OR TRANSPORTATION  
20 OF SUCH FOOD, FUEL, CLOTHING AND OTHER COMMODITIES, AS MAY BE REASONABLE  
21 AND NECESSARY TO RESPOND TO THE PUBLIC HEALTH EMERGENCY; AND

22 4. CONTROL OF ROADS AND PUBLIC AREAS. (A) TO PRESCRIBE ROUTES, MODES  
23 OF TRANSPORTATION AND DESTINATIONS IN CONNECTION WITH EVACUATION OF  
24 PERSONS OR THE PROVISION OF EMERGENCY SERVICES, AND

25 (B) TO CONTROL OR LIMIT INGRESS AND EGRESS TO AND FROM ANY STRICKEN OR  
26 THREATENED PUBLIC AREA, THE MOVEMENT OF PERSONS WITHIN SUCH AREA, AND  
27 THE OCCUPANCY OF PREMISES THEREIN, IF SUCH ACTION IS REASONABLE AND  
28 NECESSARY TO RESPOND TO THE PUBLIC HEALTH EMERGENCY.

29 S 1012. SAFE DISPOSAL OF INFECTIOUS WASTE. THE PUBLIC HEALTH AUTHORITY  
30 MAY EXERCISE, FOR SUCH PERIOD OF THE STATE OF PUBLIC HEALTH EMERGENCY,  
31 THE FOLLOWING POWERS REGARDING THE SAFE DISPOSAL OF INFECTIOUS WASTE:

32 1. ADOPT MEASURES. TO ADOPT AND ENFORCE SUCH MEASURES TO PROVIDE FOR  
33 THE SAFE DISPOSAL OF INFECTIOUS WASTE AS MAY BE REASONABLE AND NECESSARY  
34 TO RESPOND TO THE PUBLIC HEALTH EMERGENCY. SUCH MEASURES MAY INCLUDE,  
35 BUT ARE NOT LIMITED TO, THE COLLECTION, STORAGE, HANDLING, DESTRUCTION,  
36 TREATMENT, TRANSPORTATION AND DISPOSAL OF INFECTIOUS WASTE;

37 2. CONTROL OF FACILITIES. TO REQUIRE ANY BUSINESS OR FACILITY AUTHOR-  
38 IZED TO COLLECT, STORE, HANDLE, DESTROY, TREAT, TRANSPORT OR DISPOSE OF  
39 INFECTIOUS WASTE UNDER THE LAWS OF THIS STATE, AND ANY LANDFILL BUSINESS  
40 OR OTHER SUCH PROPERTY, TO ACCEPT INFECTIOUS WASTE, OR PROVIDE SERVICES  
41 OR THE USE OF THE BUSINESS, FACILITY OR PROPERTY IF SUCH ACTION IS  
42 REASONABLE AND NECESSARY TO RESPOND TO THE PUBLIC HEALTH EMERGENCY AS A  
43 CONDITION OF LICENSURE, AUTHORIZATION OR THE ABILITY TO CONTINUE DOING  
44 BUSINESS IN THE STATE AS SUCH BUSINESS OR FACILITY. THE USE OF THE  
45 BUSINESS, FACILITY OR PROPERTY MAY INCLUDE TRANSFERRING THE MANAGEMENT  
46 AND SUPERVISION OF SUCH BUSINESS, FACILITY OR PROPERTY TO THE PUBLIC  
47 HEALTH AUTHORITY FOR A LIMITED OR UNLIMITED PERIOD OF TIME, BUT SHALL  
48 NOT EXCEED THE TERMINATION OF THE DECLARATION OF A STATE OF PUBLIC  
49 HEALTH EMERGENCY;

50 3. USE OF FACILITIES. TO PROCURE, BY CONDEMNATION OR OTHERWISE, ANY  
51 BUSINESS OR FACILITY AUTHORIZED TO COLLECT, STORE, HANDLE, DESTROY,  
52 TREAT, TRANSPORT OR DISPOSE OF INFECTIOUS WASTE UNDER THE LAWS OF THIS  
53 STATE, AND ANY LANDFILL BUSINESS OR OTHER SUCH PROPERTY AS MAY BE  
54 REASONABLE AND NECESSARY TO RESPOND TO THE PUBLIC HEALTH EMERGENCY, WITH  
55 THE POWER TO TAKE IMMEDIATE POSSESSION THEREOF; AND

1 4. IDENTIFICATION. ALL BAGS, BOXES AND OTHER CONTAINERS FOR INFECTIOUS  
2 WASTE SHALL BE CLEARLY IDENTIFIED AS CONTAINING INFECTIOUS WASTE AND IF  
3 KNOWN, THE TYPE OF INFECTIOUS WASTE.

4 S 1013. SAFE DISPOSAL OF HUMAN REMAINS. THE PUBLIC HEALTH AUTHORITY  
5 MAY EXERCISE, FOR SUCH PERIOD AS THE STATE OF PUBLIC HEALTH EMERGENCY  
6 EXISTS, THE FOLLOWING POWERS REGARDING THE SAFE DISPOSAL OF HUMAN  
7 REMAINS:

8 1. ADOPT MEASURES. TO ADOPT AND ENFORCE SUCH MEASURES TO PROVIDE FOR  
9 THE SAFE DISPOSAL OF HUMAN REMAINS AS MAY BE REASONABLE AND NECESSARY TO  
10 RESPOND TO THE PUBLIC HEALTH EMERGENCY. SUCH MEASURES MAY INCLUDE, BUT  
11 ARE NOT LIMITED TO, THE EMBALMING, BURIAL, CREMATION, INTERMENT, DISIN-  
12 TERMENT, TRANSPORTATION AND DISPOSAL OF HUMAN REMAINS;

13 2. POSSESSION. TO TAKE POSSESSION OR CONTROL OF ANY HUMAN REMAINS;

14 3. DISPOSAL. TO ORDER THE DISPOSAL OF ANY HUMAN REMAINS OF A PERSON  
15 WHO HAS DIED OF A CONTAGIOUS DISEASE THROUGH BURIAL OR CREMATION WITHIN  
16 TWENTY-FOUR HOURS AFTER DEATH. TO THE EXTENT POSSIBLE, THE RELIGIOUS,  
17 CULTURAL, FAMILY AND INDIVIDUAL BELIEFS OF THE DECEASED OR HIS OR HER  
18 FAMILY SHALL BE CONSIDERED WHEN DISPOSING OF ANY HUMAN REMAINS;

19 4. CONTROL OF FACILITIES. TO REQUIRE ANY BUSINESS OR FACILITY AUTHOR-  
20 IZED TO EMBALM, BURY, CREMATE, INTER, DISINTER, TRANSPORT OR DISPOSE OF  
21 HUMAN REMAINS UNDER THE LAWS OF THIS STATE TO ACCEPT ANY HUMAN REMAINS  
22 OR PROVIDE THE USE OF ITS BUSINESS OR FACILITY IF SUCH ACTIONS ARE  
23 REASONABLE AND NECESSARY TO RESPOND TO THE PUBLIC HEALTH EMERGENCY AS A  
24 CONDITION OF LICENSURE, AUTHORIZATION OR THE ABILITY TO CONTINUE DOING  
25 BUSINESS IN THE STATE AS SUCH A BUSINESS OR FACILITY. THE USE OF THE  
26 BUSINESS OR FACILITY MAY INCLUDE TRANSFERRING THE MANAGEMENT AND SUPER-  
27 VISION OF SUCH BUSINESS OR FACILITY TO THE PUBLIC HEALTH AUTHORITY FOR A  
28 LIMITED OR UNLIMITED PERIOD OF TIME, BUT SHALL NOT EXCEED THE TERMI-  
29 NATION OF THE DECLARATION OF A STATE OF PUBLIC HEALTH EMERGENCY;

30 5. USE OF FACILITIES. TO PROCURE, BY CONDEMNATION OR OTHERWISE, ANY  
31 BUSINESS OR FACILITY AUTHORIZED TO EMBALM, BURY, CREMATE, INTER,  
32 DISINTER, TRANSPORT OR DISPOSE OF HUMAN REMAINS UNDER THE LAWS OF THIS  
33 STATE AS MAY BE REASONABLE AND NECESSARY TO RESPOND TO THE PUBLIC HEALTH  
34 EMERGENCY WITH THE POWER TO TAKE IMMEDIATE POSSESSION THEREOF;

35 6. LABELING. EVERY HUMAN REMAIN PRIOR TO DISPOSAL SHALL BE CLEARLY  
36 LABELED WITH ALL AVAILABLE INFORMATION TO IDENTIFY THE DECEDENT AND THE  
37 CIRCUMSTANCES OF DEATH. ANY REMAINS OF A DECEASED PERSON WITH A CONTA-  
38 GIOUS DISEASE SHALL HAVE AN EXTERNAL, CLEARLY VISIBLE TAG INDICATING  
39 THAT THE HUMAN REMAINS ARE INFECTED AND, IF KNOWN, THE CONTAGIOUS  
40 DISEASE;

41 7. IDENTIFICATION. EVERY PERSON IN CHARGE OF DISPOSING OF ANY HUMAN  
42 REMAINS SHALL MAINTAIN A WRITTEN OR ELECTRONIC RECORD OF EACH HUMAN  
43 REMAIN AND ALL AVAILABLE INFORMATION TO IDENTIFY THE DECEDENT, THE  
44 CIRCUMSTANCES OF DEATH AND THE DISPOSAL THEREOF. IF HUMAN REMAINS CANNOT  
45 BE IDENTIFIED, PRIOR TO DISPOSAL A QUALIFIED PERSON SHALL, TO THE EXTENT  
46 POSSIBLE, TAKE FINGERPRINTS AND ONE OR MORE PHOTOGRAPHS OF THE HUMAN  
47 REMAINS, OBTAIN IDENTIFYING DENTAL INFORMATION, AND COLLECT A DNA SPECI-  
48 MEN. ALL INFORMATION GATHERED PURSUANT TO THIS SUBDIVISION SHALL BE  
49 PROMPTLY FORWARDED TO THE PUBLIC HEALTH AUTHORITY.

50 S 1014. CONTROL OF HEALTH CARE SUPPLIES. 1. PROCUREMENT. THE PUBLIC  
51 HEALTH AUTHORITY MAY PURCHASE AND DISTRIBUTE ANTI-TOXINS, SERUMS,  
52 VACCINES, IMMUNIZING AGENTS, ANTIBIOTICS AND OTHER PHARMACEUTICAL AGENTS  
53 OR MEDICAL SUPPLIES THAT IT DEEMS ADVISABLE IN THE INTEREST OF PREPARING  
54 FOR OR CONTROLLING A PUBLIC HEALTH EMERGENCY, WITHOUT ANY ADDITIONAL  
55 LEGISLATIVE AUTHORIZATION.

2. RATIONING. IF A STATE OF PUBLIC HEALTH EMERGENCY RESULTS IN A STATEWIDE OR REGIONAL SHORTAGE OR THREATENED SHORTAGE OF ANY PRODUCT COVERED BY SUBDIVISION ONE OF THIS SECTION, WHETHER OR NOT SUCH PRODUCT HAS BEEN PURCHASED BY THE PUBLIC HEALTH AUTHORITY, THE PUBLIC HEALTH AUTHORITY MAY CONTROL, RESTRICT AND REGULATE BY RATIONING AND USING QUOTAS, PROHIBITIONS ON SHIPMENTS, ALLOCATION OR OTHER MEANS, THE USE, SALE, DISPENSING, DISTRIBUTION OR TRANSPORTATION OF THE RELEVANT PRODUCT NECESSARY TO PROTECT THE HEALTH, SAFETY AND WELFARE OF THE PEOPLE OF THE STATE.

3. PRIORITY. IN MAKING RATIONING OR OTHER SUPPLY AND DISTRIBUTION DECISIONS, THE PUBLIC HEALTH AUTHORITY MAY GIVE PREFERENCE TO HEALTH CARE PROVIDERS, DISASTER RESPONSE PERSONNEL AND MORTUARY STAFF.

4. DISTRIBUTION. DURING A STATE OF PUBLIC HEALTH EMERGENCY, THE PUBLIC HEALTH AUTHORITY MAY PROCURE, STORE AND DISTRIBUTE ANY ANTI-TOXINS, SERUMS, VACCINES, IMMUNIZING AGENTS, ANTIBIOTICS AND OTHER PHARMACEUTICAL AGENTS OR MEDICAL SUPPLIES LOCATED WITHIN THE STATE AS MAY BE REASONABLE AND NECESSARY TO RESPOND TO THE PUBLIC HEALTH EMERGENCY, WITH THE RIGHT TO TAKE IMMEDIATE POSSESSION THEREOF. IF A PUBLIC HEALTH EMERGENCY SIMULTANEOUSLY AFFECTS MORE THAN ONE STATE, NOTHING IN THIS SECTION SHALL BE CONSTRUED TO ALLOW THE PUBLIC HEALTH AUTHORITY TO OBTAIN ANTI-TOXINS, SERUMS, VACCINES, IMMUNIZING AGENTS, ANTIBIOTICS AND OTHER PHARMACEUTICAL AGENTS OR MEDICAL SUPPLIES FOR THE PRIMARY PURPOSE OF HOARDING SUCH PRODUCTS OR PREVENTING THEIR FAIR AND EQUITABLE DISTRIBUTION AMONG AFFECTED STATES.

S 1015. COMPENSATION. THE STATE SHALL PAY JUST COMPENSATION TO THE OWNER OF ANY FACILITY OR MATERIAL THAT IS LAWFULLY TAKEN OR APPROPRIATED BY THE PUBLIC HEALTH AUTHORITY FOR ITS TEMPORARY OR PERMANENT USE UNDER THIS TITLE ACCORDING TO THE PROCEDURES AND STANDARDS SET FORTH IN SECTION ONE THOUSAND FORTY-FOUR OF THIS ARTICLE. COMPENSATION SHALL NOT BE PROVIDED FOR FACILITIES OR MATERIALS THAT ARE CLOSED, EVACUATED, DECONTAMINATED OR DESTROYED WHEN THERE IS REASONABLE CAUSE TO BELIEVE THAT THEY MAY ENDANGER THE PUBLIC HEALTH PURSUANT TO SECTION ONE THOUSAND TWENTY OF THIS ARTICLE.

S 1016. DESTRUCTION OF PROPERTY. TO THE EXTENT PRACTICABLE, CONSISTENT WITH THE PROTECTION OF PUBLIC HEALTH, PRIOR TO THE DESTRUCTION OF ANY PROPERTY PURSUANT TO THIS TITLE, THE PUBLIC HEALTH AUTHORITY SHALL INSTITUTE APPROPRIATE CIVIL PROCEEDINGS AGAINST THE PROPERTY TO BE DESTROYED IN ACCORDANCE WITH THE EXISTING LAWS AND RULES OF THE COURTS OF THIS STATE, OR ANY SUCH RULES THAT MAY BE DEVELOPED BY THE COURTS FOR USE DURING A STATE OF PUBLIC HEALTH EMERGENCY. ANY PROPERTY ACQUIRED BY THE PUBLIC HEALTH AUTHORITY THROUGH SUCH PROCEEDINGS SHALL, AFTER ENTRY OF THE ORDER, BE DISPOSED OF BY DESTRUCTION PURSUANT TO THE TERMS OF SUCH ORDER.

### TITLE III

#### SPECIAL POWERS DURING STATE OF PUBLIC HEALTH EMERGENCY; PROTECTION OF PERSONS

##### SECTION 1020. PROTECTION OF PERSONS.

1021. MEDICAL EXAMINATIONS AND TESTING.

1022. VACCINATION AND TREATMENT.

1023. ISOLATION AND QUARANTINE.

1024. PROCEDURES FOR ISOLATION AND QUARANTINE.

1025. COLLECTION OF LABORATORY SPECIMENS; PERFORMANCE OF TESTS.

1026. ACCESS AND DISCLOSURE OF PROTECTED HEALTH INFORMATION.

1027. LICENSING AND APPOINTMENT OF HEALTH PERSONNEL.

S 1020. PROTECTION OF PERSONS. DURING A STATE OF PUBLIC HEALTH EMERGENCY, THE PUBLIC HEALTH AUTHORITY SHALL USE EVERY AVAILABLE MEANS TO

1 PREVENT THE TRANSMISSION OF INFECTIOUS DISEASE AND TO ENSURE THAT ALL  
2 CASES OF CONTAGIOUS DISEASE ARE SUBJECT TO PROPER CONTROL AND TREATMENT.

3 S 1021. MEDICAL EXAMINATIONS AND TESTING. DURING A STATE OF PUBLIC  
4 HEALTH EMERGENCY, THE PUBLIC HEALTH AUTHORITY MAY PERFORM PHYSICAL EXAM-  
5 INATIONS AND/OR TESTS AS NECESSARY FOR THE DIAGNOSIS AND TREATMENT OF  
6 INDIVIDUALS.

7 1. MEDICAL EXAMINATIONS AND TESTS MAY BE PERFORMED BY ANY QUALIFIED  
8 PERSON AUTHORIZED TO DO SO BY THE PUBLIC HEALTH AUTHORITY.

9 2. MEDICAL EXAMINATIONS AND TESTS SHALL NOT BE REASONABLY LIKELY TO  
10 RESULT IN SERIOUS HARM TO THE AFFECTED INDIVIDUAL.

11 3. THE PUBLIC HEALTH AUTHORITY MAY ISOLATE OR QUARANTINE, PURSUANT TO  
12 SECTION ONE THOUSAND TWENTY-THREE OF THIS TITLE, ANY PERSON WHOSE  
13 REFUSAL OF MEDICAL EXAMINATION OR TESTING RESULTS IN UNCERTAINTY REGARD-  
14 ING WHETHER SUCH PERSON HAS BEEN EXPOSED TO OR IS INFECTED WITH A CONTA-  
15 GIOUS OR POSSIBLY CONTAGIOUS DISEASE, OR OTHERWISE POSES A DANGER TO  
16 PUBLIC HEALTH.

17 S 1022. VACCINATION AND TREATMENT. DURING A STATE OF PUBLIC HEALTH  
18 EMERGENCY, THE PUBLIC HEALTH AUTHORITY MAY EXERCISE THE FOLLOWING EMER-  
19 GENCY POWERS OVER PERSONS AS NECESSARY TO ADDRESS THE PUBLIC HEALTH  
20 EMERGENCY:

21 1. VACCINATION. TO VACCINATE PEOPLE AS PROTECTION AGAINST INFECTIOUS  
22 DISEASE AND TO PREVENT THE SPREAD OF CONTAGIOUS OR POSSIBLY CONTAGIOUS  
23 DISEASE.

24 (A) VACCINATION MAY BE PERFORMED BY ANY QUALIFIED PERSON AUTHORIZED TO  
25 DO SO BY THE PUBLIC HEALTH AUTHORITY.

26 (B) TO PREVENT THE SPREAD OF CONTAGIOUS OR POSSIBLY CONTAGIOUS DISEASE  
27 THE PUBLIC HEALTH AUTHORITY MAY ISOLATE OR QUARANTINE, PURSUANT TO  
28 SECTION ONE THOUSAND TWENTY-THREE OF THIS TITLE, PERSONS WHO ARE UNABLE  
29 OR UNWILLING FOR REASONS OF HEALTH, RELIGION OR CONSCIENCE TO UNDERGO  
30 VACCINATION PURSUANT TO THIS SUBDIVISION.

31 2. TREATMENT. TO TREAT PEOPLE EXPOSED TO OR INFECTED WITH DISEASE.

32 (A) TREATMENT MAY BE ADMINISTERED BY ANY QUALIFIED PERSON AUTHORIZED  
33 TO DO SO BY THE PUBLIC HEALTH AUTHORITY.

34 (B) TREATMENT SHALL NOT BE SUCH THAT IT IS REASONABLY LIKELY TO LEAD  
35 TO SERIOUS HARM TO THE AFFECTED INDIVIDUAL.

36 (C) TO PREVENT THE SPREAD OF CONTAGIOUS OR POSSIBLY CONTAGIOUS DISEASE  
37 A PUBLIC HEALTH AUTHORITY MAY ISOLATE OR QUARANTINE PURSUANT TO SECTION  
38 ONE THOUSAND TWENTY-THREE OF THIS TITLE, PERSONS WHO ARE UNABLE OR  
39 UNWILLING FOR REASONS OF HEALTH, RELIGION OR CONSCIENCE TO UNDERGO  
40 TREATMENT PURSUANT TO THIS SUBDIVISION.

41 S 1023. ISOLATION AND QUARANTINE. 1. AUTHORIZATION. DURING THE PUBLIC  
42 HEALTH EMERGENCY, A PUBLIC HEALTH AUTHORITY MAY ISOLATE OR QUARANTINE AN  
43 INDIVIDUAL OR GROUPS OF INDIVIDUALS. THIS INCLUDES INDIVIDUALS OR GROUPS  
44 WHO HAVE NOT BEEN VACCINATED, TREATED, TESTED OR EXAMINED PURSUANT TO  
45 SECTIONS ONE THOUSAND TWENTY-ONE AND ONE THOUSAND TWENTY-TWO OF THIS  
46 TITLE. THE PUBLIC HEALTH AUTHORITY MAY ALSO ESTABLISH AND MAINTAIN PLAC-  
47 ES OF ISOLATION AND QUARANTINE, AND SET RULES AND MAKE ORDERS. FAILURE  
48 TO OBEY SUCH RULES, ORDERS OR PROVISIONS SHALL CONSTITUTE A MISDEMEANOR.

49 2. CONDITIONS AND PRINCIPLES. THE PUBLIC HEALTH AUTHORITY SHALL ADHERE  
50 TO THE FOLLOWING CONDITIONS AND PRINCIPLES WHEN ISOLATING OR QUARANTIN-  
51 ING INDIVIDUALS OR GROUPS OF INDIVIDUALS:

52 (A) ISOLATION AND QUARANTINE SHALL BE BY THE LEAST RESTRICTIVE MEANS  
53 NECESSARY TO PREVENT THE SPREAD OF A CONTAGIOUS OR POSSIBLY CONTAGIOUS  
54 DISEASE TO OTHERS AND MAY INCLUDE, BUT NOT BE LIMITED TO, CONFINEMENT TO  
55 PRIVATE HOMES, OR OTHER PRIVATE AND PUBLIC PREMISES;

(B) ISOLATED INDIVIDUALS SHALL BE CONFINED SEPARATELY FROM QUARANTINED INDIVIDUALS;

(C) THE HEALTH STATUS OF ISOLATED AND QUARANTINED INDIVIDUALS SHALL BE MONITORED REGULARLY TO DETERMINE IF THEY REQUIRE ISOLATION OR QUARANTINE;

(D) IF A QUARANTINED INDIVIDUAL SUBSEQUENTLY BECOMES INFECTED OR IS REASONABLY BELIEVED TO HAVE BECOME INFECTED WITH A CONTAGIOUS OR POSSIBLY CONTAGIOUS DISEASE HE OR SHE SHALL PROMPTLY BE REMOVED TO ISOLATION;

(E) ISOLATED AND QUARANTINED INDIVIDUALS MUST BE IMMEDIATELY RELEASED WHEN THEY POSE NO SUBSTANTIAL RISK OF TRANSMITTING A CONTAGIOUS OR POSSIBLY CONTAGIOUS DISEASE TO OTHERS;

(F) THE NEEDS OF PERSONS ISOLATED AND QUARANTINED SHALL BE ADDRESSED IN A SYSTEMATIC AND COMPETENT FASHION INCLUDING, BUT NOT LIMITED TO, PROVIDING ADEQUATE FOOD, CLOTHING, SHELTER, MEANS OF COMMUNICATION WITH THOSE IN ISOLATION OR QUARANTINE AND OUTSIDE SUCH SETTINGS, MEDICATION AND COMPETENT MEDICAL CARE;

(G) PREMISES USED FOR ISOLATION AND QUARANTINE SHALL BE MAINTAINED IN A SAFE AND HYGIENIC MANNER, AND BE DESIGNED TO MINIMIZE THE LIKELIHOOD OF FURTHER TRANSMISSION OF INFECTION OR OTHER HARMS TO PERSONS ISOLATED AND QUARANTINED; AND

(H) TO THE EXTENT POSSIBLE, CULTURAL AND RELIGIOUS BELIEFS SHOULD BE CONSIDERED IN ADDRESSING THE NEEDS OF INDIVIDUALS, AND ESTABLISHING AND MAINTAINING ISOLATION AND QUARANTINE PREMISES.

3. COOPERATION. PERSONS SUBJECT TO ISOLATION OR QUARANTINE SHALL OBEY THE PUBLIC HEALTH AUTHORITY'S RULES AND ORDERS; AND SHALL NOT GO BEYOND THE ISOLATION OR QUARANTINE PREMISES. FAILURE TO OBEY SUCH RULES, ORDERS AND PROVISIONS SHALL CONSTITUTE A MISDEMEANOR.

4. ENTRY INTO ISOLATION OR QUARANTINE PREMISES. (A) AUTHORIZED ENTRY. THE PUBLIC HEALTH AUTHORITY MAY AUTHORIZE PHYSICIANS, HEALTH CARE WORKERS AND OTHERS TO HAVE ACCESS TO INDIVIDUALS IN ISOLATION OR QUARANTINE AS NECESSARY TO MEET THE NEEDS OF ISOLATED OR QUARANTINED INDIVIDUALS.

(B) UNAUTHORIZED ENTRY. NO PERSON, OTHER THAN A PERSON AUTHORIZED BY THE PUBLIC HEALTH AUTHORITY, SHALL ENTER ISOLATION OR QUARANTINE PREMISES. FAILURE TO OBEY THIS PARAGRAPH SHALL CONSTITUTE A MISDEMEANOR.

(C) POTENTIAL ISOLATION OR QUARANTINE. ANY PERSON ENTERING AN ISOLATION OR QUARANTINE PREMISES WITH OR WITHOUT AUTHORIZATION OF THE PUBLIC HEALTH AUTHORITY MAY BE ISOLATED OR QUARANTINED PURSUANT TO THIS SECTION.

S 1024. PROCEDURES FOR ISOLATION AND QUARANTINE. DURING A PUBLIC HEALTH EMERGENCY, THE ISOLATION AND QUARANTINE OF AN INDIVIDUAL OR GROUPS OF INDIVIDUALS SHALL BE UNDERTAKEN IN ACCORDANCE WITH THE FOLLOWING PROCEDURES:

1. TEMPORARY ISOLATION AND QUARANTINE WITHOUT NOTICE. (A) AUTHORIZATION. THE PUBLIC HEALTH AUTHORITY MAY TEMPORARILY ISOLATE OR QUARANTINE AN INDIVIDUAL OR GROUPS OF INDIVIDUALS THROUGH A WRITTEN DIRECTIVE IF DELAY IN IMPOSING THE ISOLATION OR QUARANTINE WOULD SIGNIFICANTLY JEOPARDIZE THE PUBLIC HEALTH AUTHORITY'S ABILITY TO PREVENT OR LIMIT THE TRANSMISSION OF A CONTAGIOUS OR POSSIBLY CONTAGIOUS DISEASE TO OTHERS.

(B) CONTENT OF DIRECTIVE. THE WRITTEN DIRECTIVE SHALL SPECIFY THE FOLLOWING: (I) THE IDENTITY OF THE INDIVIDUAL OR GROUPS OF INDIVIDUALS SUBJECT TO ISOLATION OR QUARANTINE; (II) THE PREMISES SUBJECT TO ISOLATION OR QUARANTINE; (III) THE DATE AND TIME AT WHICH ISOLATION OR QUARANTINE COMMENCES; (IV) THE SUSPECTED CONTAGIOUS DISEASE, IF KNOWN; AND (V) A COPY OF THIS TITLE AND THE RELEVANT DEFINITIONS OF THIS ARTICLE.

1 (C) COPIES. A COPY OF THE WRITTEN DIRECTIVE SHALL BE GIVEN TO THE  
2 INDIVIDUAL TO BE ISOLATED OR QUARANTINED OR, IF THE ORDER APPLIES TO A  
3 GROUP OF INDIVIDUALS AND IT IS IMPRACTICAL TO PROVIDE INDIVIDUAL COPIES,  
4 IT MAY BE POSTED IN A CONSPICUOUS PLACE IN THE ISOLATION OR QUARANTINE  
5 PREMISES.

6 (D) PETITION FOR CONTINUED ISOLATION OR QUARANTINE. WITHIN TEN DAYS  
7 AFTER ISSUING THE WRITTEN DIRECTIVE, THE PUBLIC HEALTH AUTHORITY SHALL  
8 FILE A PETITION PURSUANT TO SUBDIVISION TWO OF THIS SECTION FOR A COURT  
9 ORDER AUTHORIZING THE CONTINUED ISOLATION OR QUARANTINE OF THE ISOLATED  
10 OR QUARANTINED INDIVIDUAL OR GROUPS OF INDIVIDUALS.

11 2. ISOLATION OR QUARANTINE WITH NOTICE. (A) AUTHORIZATION. THE PUBLIC  
12 HEALTH AUTHORITY MAY MAKE A WRITTEN PETITION TO A TRIAL COURT FOR AN  
13 ORDER AUTHORIZING THE ISOLATION OR QUARANTINE OF AN INDIVIDUAL OR GROUPS  
14 OF INDIVIDUALS.

15 (B) CONTENT OF PETITION. A PETITION PURSUANT TO THIS SUBDIVISION SHALL  
16 SPECIFY THE FOLLOWING: (I) THE IDENTITY OF THE INDIVIDUAL OR GROUPS OF  
17 INDIVIDUALS SUBJECT TO ISOLATION OR QUARANTINE; (II) THE PREMISES  
18 SUBJECT TO ISOLATION OR QUARANTINE; (III) THE DATE AND TIME AT WHICH  
19 ISOLATION OR QUARANTINE COMMENCES; (IV) THE SUSPECTED CONTAGIOUS  
20 DISEASE, IF KNOWN; (V) A STATEMENT OF COMPLIANCE WITH THE CONDITIONS AND  
21 PRINCIPLES FOR ISOLATION AND QUARANTINE AS STATED IN SUBDIVISION TWO OF  
22 SECTION ONE THOUSAND TWENTY-THREE OF THIS TITLE; AND (VI) A STATEMENT OF  
23 THE BASIS UPON WHICH ISOLATION OR QUARANTINE IS JUSTIFIED IN COMPLIANCE  
24 WITH THIS TITLE. THE PETITION SHALL BE ACCOMPANIED BY THE SWORN AFFIDA-  
25 VIT OF THE PUBLIC HEALTH AUTHORITY ATTESTING TO THE FACTS ASSERTED IN  
26 THE PETITION, TOGETHER WITH ANY FURTHER INFORMATION THAT MAY BE RELEVANT  
27 AND MATERIAL TO THE COURT'S CONSIDERATION.

28 (C) NOTICE. NOTICE TO THE INDIVIDUAL OR GROUPS OF INDIVIDUALS IDENTI-  
29 FIED IN THE PETITION SHALL BE ACCOMPLISHED WITHIN TWENTY-FOUR HOURS IN  
30 ACCORDANCE WITH THE CIVIL PRACTICE LAW AND RULES.

31 (D) HEARING. A HEARING MUST BE HELD ON ANY PETITION FILED PURSUANT TO  
32 THIS SUBDIVISION WITHIN FIVE DAYS OF FILING OF THE PETITION. IN  
33 EXTRAORDINARY CIRCUMSTANCES AND FOR GOOD CAUSE SHOWN THE PUBLIC HEALTH  
34 AUTHORITY MAY APPLY TO CONTINUE THE HEARING DATE ON A PETITION FILED  
35 PURSUANT TO THIS SECTION FOR UP TO TEN DAYS, WHICH CONTINUANCE THE COURT  
36 MAY GRANT IN ITS DISCRETION GIVING DUE REGARD TO THE RIGHTS OF THE  
37 AFFECTED INDIVIDUALS, THE PROTECTION OF THE PUBLIC'S HEALTH, THE SEVERI-  
38 TY OF THE EMERGENCY AND THE AVAILABILITY OF NECESSARY WITNESSES AND  
39 EVIDENCE.

40 (E) ORDER. THE COURT SHALL GRANT THE PETITION IF, BY A PREPONDERANCE  
41 OF THE EVIDENCE, ISOLATION OR QUARANTINE IS SHOWN TO BE REASONABLY  
42 NECESSARY TO PREVENT OR LIMIT THE TRANSMISSION OF A CONTAGIOUS OR POSSI-  
43 BLY CONTAGIOUS DISEASE TO OTHERS.

44 (I) AN ORDER AUTHORIZING ISOLATION OR QUARANTINE MAY DO SO FOR A PERI-  
45 OD NOT TO EXCEED THIRTY DAYS.

46 (II) SUCH ORDER SHALL (A) IDENTIFY THE ISOLATED OR QUARANTINED INDI-  
47 VIDUALS OR GROUPS OF INDIVIDUALS BY NAME OR SHARED OR SIMILAR CHARACTER-  
48 ISTICS OR CIRCUMSTANCES; (B) SPECIFY FACTUAL FINDINGS WARRANTING  
49 ISOLATION OR QUARANTINE PURSUANT TO THIS ARTICLE; (C) INCLUDE ANY CONDI-  
50 TIONS NECESSARY TO ENSURE THAT ISOLATION OR QUARANTINE IS CARRIED OUT  
51 WITHIN THE STATED PURPOSES AND RESTRICTIONS OF THIS ARTICLE; AND (D) BE  
52 SERVED ON AFFECTED INDIVIDUALS OR GROUPS OF INDIVIDUALS IN ACCORDANCE  
53 WITH THE CIVIL PRACTICE LAW AND RULES.

54 (F) CONTINUANCES. PRIOR TO THE EXPIRATION OF AN ORDER ISSUED PURSUANT  
55 TO PARAGRAPH (E) OF THIS SUBDIVISION, THE PUBLIC HEALTH AUTHORITY MAY  
56 MOVE TO CONTINUE ISOLATION OR QUARANTINE FOR ADDITIONAL PERIODS NOT TO

1 EXCEED THIRTY DAYS EACH. THE TRIAL COURT SHALL CONSIDER THE MOTION IN  
2 ACCORDANCE WITH STANDARDS SET FORTH IN SUCH PARAGRAPH.

3 3. RELIEF FROM ISOLATION AND QUARANTINE. (A) RELEASE. AN INDIVIDUAL  
4 OR GROUP OF INDIVIDUALS ISOLATED OR QUARANTINED PURSUANT TO THIS ARTICLE  
5 MAY APPLY TO THE TRIAL COURT FOR AN ORDER TO SHOW CAUSE WHY THE INDIVID-  
6 UAL OR GROUP OF INDIVIDUALS SHOULD NOT BE RELEASED. THE COURT SHALL  
7 RULE ON THE APPLICATION TO SHOW CAUSE WITHIN FORTY-EIGHT HOURS OF ITS  
8 FILING. IF THE COURT GRANTS THE APPLICATION, THE COURT SHALL SCHEDULE A  
9 HEARING ON THE ORDER TO SHOW CAUSE WITHIN TWENTY-FOUR HOURS FROM ISSU-  
10 ANCE OF THE ORDER TO SHOW CAUSE. THE ISSUANCE OF AN ORDER TO SHOW CAUSE  
11 SHALL NOT STAY OR ENJOIN AN ISOLATION OR QUARANTINE ORDER.

12 (B) REMEDIES FOR BREACH OF CONDITIONS. AN INDIVIDUAL OR GROUP OF INDI-  
13 VIDUALS ISOLATED OR QUARANTINED PURSUANT TO THIS ARTICLE MAY REQUEST A  
14 HEARING IN THE TRIAL COURT FOR REMEDIES REGARDING BREACHES TO THE CONDI-  
15 TIONS OF ISOLATION OR QUARANTINE. A REQUEST FOR A HEARING SHALL NOT STAY  
16 OR ENJOIN AN ISOLATION OR QUARANTINE ORDER.

17 (I) UPON RECEIPT OF A REQUEST PURSUANT TO THIS PARAGRAPH ALLEGING  
18 EXTRAORDINARY CIRCUMSTANCES JUSTIFYING THE IMMEDIATE GRANTING OF RELIEF,  
19 THE COURT SHALL FIX A DATE FOR HEARING ON THE MATTERS ALLEGED NOT MORE  
20 THAN TWENTY-FOUR HOURS FROM RECEIPT OF THE REQUEST.

21 (II) OTHERWISE, UPON RECEIPT OF A REQUEST PURSUANT TO THIS PARAGRAPH  
22 THE COURT SHALL FIX A DATE FOR A HEARING ON THE MATTERS ALLEGED WITHIN  
23 FIVE DAYS FROM RECEIPT OF THE REQUEST.

24 (C) EXTENSIONS. IN ANY PROCEEDINGS BROUGHT FOR RELIEF, IN EXTRAOR-  
25 DINARY CIRCUMSTANCES AND FOR GOOD CAUSE SHOWN, THE PUBLIC HEALTH AUTHOR-  
26 ITY MAY MOVE THE COURT TO EXTEND THE TIME FOR A HEARING, WHICH EXTENSION  
27 THE COURT IN ITS DISCRETION MAY GRANT GIVING DUE REGARD TO THE RIGHTS OF  
28 THE AFFECTED INDIVIDUALS, THE PROTECTION OF THE PUBLIC'S HEALTH, THE  
29 SEVERITY OF THE EMERGENCY AND THE AVAILABILITY OF NECESSARY WITNESSES  
30 AND EVIDENCE.

31 4. PROCEEDINGS. A RECORD OF THE PROCEEDINGS PURSUANT TO THIS SECTION  
32 SHALL BE MADE AND RETAINED. IN THE EVENT THAT, GIVEN A STATE OF PUBLIC  
33 HEALTH EMERGENCY, PARTIES CANNOT PERSONALLY APPEAR BEFORE THE COURT,  
34 PROCEEDINGS MAY BE CONDUCTED BY THEIR AUTHORIZED REPRESENTATIVES AND BE  
35 HELD VIA ANY MEANS THAT ALLOWS ALL PARTIES TO FULLY PARTICIPATE.

36 5. COURT TO APPOINT COUNSEL AND CONSOLIDATE CLAIMS. (A) APPOINTMENT.  
37 THE COURT SHALL APPOINT COUNSEL AT STATE EXPENSE TO REPRESENT INDIVID-  
38 UALS OR GROUPS OF INDIVIDUALS WHO ARE OR WHO ARE ABOUT TO BE ISOLATED OR  
39 QUARANTINED PURSUANT TO THE PROVISIONS OF THIS ARTICLE AND WHO ARE NOT  
40 OTHERWISE REPRESENTED BY COUNSEL. APPOINTMENTS SHALL BE MADE IN ACCORD-  
41 ANCE WITH THE PROCEDURES TO BE SPECIFIED IN THE PUBLIC HEALTH EMERGENCY  
42 PLAN AND SHALL LAST THROUGHOUT THE DURATION OF THE ISOLATION OR QUARAN-  
43 TINE OF THE INDIVIDUAL OR GROUP OF INDIVIDUALS. THE PUBLIC HEALTH  
44 AUTHORITY SHALL PROVIDE ADEQUATE MEANS OF COMMUNICATION BETWEEN SUCH  
45 INDIVIDUALS OR GROUPS AND THEIR COUNSEL.

46 (B) CONSOLIDATION. IN ANY PROCEEDINGS BROUGHT PURSUANT TO THIS  
47 SECTION, TO PROMOTE THE FAIR AND EFFICIENT OPERATION OF JUSTICE AND  
48 HAVING GIVEN DUE REGARD TO THE RIGHTS OF THE AFFECTED INDIVIDUALS, THE  
49 PROTECTION OF THE PUBLIC'S HEALTH, THE SEVERITY OF THE EMERGENCY AND THE  
50 AVAILABILITY OF NECESSARY WITNESSES AND EVIDENCE, THE COURT MAY ORDER  
51 THE CONSOLIDATION OF INDIVIDUAL CLAIMS INTO GROUP CLAIMS WHERE:

52 (I) THE NUMBER OF INDIVIDUALS INVOLVED OR TO BE AFFECTED IS SO LARGE  
53 AS TO RENDER INDIVIDUAL PARTICIPATION IMPRACTICAL;

54 (II) THERE ARE QUESTIONS OF LAW OR FACT COMMON TO THE INDIVIDUAL  
55 CLAIMS OR RIGHTS TO BE DETERMINED;



(III) THE GROUP CLAIMS OR RIGHTS TO BE DETERMINED ARE TYPICAL OF THE AFFECTED INDIVIDUALS' CLAIMS OR RIGHTS; AND

(IV) THE ENTIRE GROUP WILL BE ADEQUATELY REPRESENTED IN THE CONSOLIDATION.

S 1025. COLLECTION OF LABORATORY SPECIMENS; PERFORMANCE OF TESTS. THE PUBLIC HEALTH AUTHORITY MAY, FOR SUCH PERIOD AS THE STATE OF PUBLIC HEALTH EMERGENCY EXISTS, COLLECT SPECIMENS AND PERFORM TESTS ON LIVING PERSONS PURSUANT TO SECTION ONE THOUSAND TWENTY-ONE OF THIS TITLE AND ALSO UPON DECEASED PERSONS AND ANIMALS (LIVING OR DECEASED), AND ACQUIRE ANY PREVIOUSLY COLLECTED SPECIMENS OR TEST RESULTS THAT ARE REASONABLE AND NECESSARY TO RESPOND TO THE PUBLIC HEALTH EMERGENCY.

1. MARKING. ALL SPECIMENS SHALL BE CLEARLY MARKED.

2. CONTAMINATION. SPECIMEN COLLECTION, HANDLING, STORAGE AND TRANSPORT TO THE TESTING SITE SHALL BE PERFORMED IN A MANNER THAT WILL REASONABLY PRECLUDE SPECIMEN CONTAMINATION OR ADULTERATION, AND PROVIDE FOR THE SAFE COLLECTION, STORAGE, HANDLING AND TRANSPORT OF SUCH SPECIMEN.

3. CHAIN OF CUSTODY. ANY PERSON AUTHORIZED TO COLLECT SPECIMENS OR PERFORM TESTS SHALL USE CHAIN OF CUSTODY PROCEDURES TO ENSURE PROPER RECORD KEEPING, HANDLING, LABELING AND IDENTIFICATION OF SPECIMENS TO BE TESTED. THIS REQUIREMENT APPLIES TO ALL SPECIMENS, INCLUDING SPECIMENS COLLECTED USING ON-SITE TESTING KITS.

4. CRIMINAL INVESTIGATION. RECOGNIZING THAT, DURING A STATE OF PUBLIC HEALTH EMERGENCY, ANY SPECIMEN COLLECTED OR TEST PERFORMED MAY BE EVIDENCE IN A CRIMINAL INVESTIGATION, ANY BUSINESS, FACILITY OR AGENCY AUTHORIZED TO COLLECT SPECIMENS OR PERFORM TESTS SHALL PROVIDE SUCH SUPPORT AS IS REASONABLE AND NECESSARY TO AID IN A RELEVANT CRIMINAL INVESTIGATION.

S 1026. ACCESS AND DISCLOSURE OF PROTECTED HEALTH INFORMATION. 1. ACCESS. ACCESS TO PROTECTED HEALTH INFORMATION OF PERSONS WHO HAVE PARTICIPATED IN MEDICAL TESTING, TREATMENT, VACCINATION, ISOLATION OR QUARANTINE PROGRAMS, OR EFFORTS BY THE PUBLIC HEALTH AUTHORITY DURING A PUBLIC HEALTH EMERGENCY SHALL BE LIMITED TO THOSE PERSONS HAVING A LEGITIMATE NEED TO ACQUIRE OR USE SUCH INFORMATION TO:

(A) PROVIDE TREATMENT TO THE INDIVIDUAL WHO IS THE SUBJECT OF SUCH INFORMATION;

(B) CONDUCT EPIDEMIOLOGIC RESEARCH; OR

(C) INVESTIGATE THE CAUSES OF TRANSMISSION.

2. DISCLOSURE. PROTECTED HEALTH INFORMATION HELD BY THE PUBLIC HEALTH AUTHORITY SHALL NOT BE DISCLOSED TO ANOTHER PERSON WITHOUT INDIVIDUAL, WRITTEN, SPECIFIC, INFORMED CONSENT, EXCEPT FOR DISCLOSURES MADE:

(A) DIRECTLY TO THE INDIVIDUAL;

(B) TO THE INDIVIDUAL'S IMMEDIATE FAMILY MEMBERS OR PERSONAL REPRESENTATIVE;

(C) TO APPROPRIATE FEDERAL AGENCIES OR AUTHORITIES PURSUANT TO FEDERAL LAW;

(D) PURSUANT TO A COURT ORDER TO AVERT A CLEAR DANGER TO AN INDIVIDUAL OR THE PUBLIC HEALTH; OR

(E) TO IDENTIFY A DECEASED INDIVIDUAL OR DETERMINE THE MANNER OR CAUSE OF DEATH.

S 1027. LICENSING AND APPOINTMENT OF HEALTH PERSONNEL. THE PUBLIC HEALTH AUTHORITY MAY EXERCISE, FOR SUCH PERIOD AS THE STATE OF PUBLIC HEALTH EMERGENCY EXISTS, THE FOLLOWING EMERGENCY POWERS REGARDING THE LICENSING AND APPOINTMENT OF HEALTH PERSONNEL:

1. HEALTH CARE PROVIDERS. TO REQUIRE IN-STATE HEALTH CARE PROVIDERS TO ASSIST IN THE PERFORMANCE OF VACCINATION, EXAMINATION AND TREATMENT OF

1 ANY PERSON AS A CONDITION OF CONTINUED LICENSURE AUTHORIZATION, OR THE  
2 ABILITY TO CONTINUE TO FUNCTION AS A HEALTH CARE PROVIDER IN THIS STATE.  
3 2. HEALTH CARE PROVIDERS FROM OTHER JURISDICTIONS. TO APPOINT AND  
4 PRESCRIBE THE DUTIES OF SUCH OUT-OF-STATE EMERGENCY HEALTH CARE PROVID-  
5 ERS AS MAY BE REASONABLE AND NECESSARY TO RESPOND TO THE PUBLIC HEALTH  
6 EMERGENCY.

7 (A) THE APPOINTMENT OF OUT-OF-STATE EMERGENCY HEALTH CARE PROVIDERS  
8 PURSUANT TO THIS SUBDIVISION MAY BE FOR A LIMITED OR UNLIMITED TIME, BUT  
9 SHALL NOT EXCEED THE TERMINATION OF THE DECLARATION OF A STATE OF PUBLIC  
10 HEALTH EMERGENCY. THE PUBLIC HEALTH AUTHORITY MAY TERMINATE THE OUT-OF-  
11 STATE APPOINTMENTS AT ANY TIME OR FOR ANY REASON PROVIDED THAT ANY SUCH  
12 TERMINATION WILL NOT JEOPARDIZE THE HEALTH, SAFETY AND WELFARE OF THE  
13 PEOPLE OF THIS STATE.

14 (B) THE PUBLIC HEALTH AUTHORITY MAY WAIVE ANY OR ALL LICENSING  
15 REQUIREMENTS, PERMITS AND FEES REQUIRED BY STATE LAW AND APPLICABLE  
16 ORDERS, RULES OR REGULATIONS FOR HEALTH CARE PROVIDERS FROM OTHER JURIS-  
17 DICTIONS TO PRACTICE IN THIS STATE.

18 (C) ANY OUT-OF-STATE EMERGENCY HEALTH CARE PROVIDER APPOINTED PURSUANT  
19 TO THIS SUBDIVISION SHALL NOT BE HELD LIABLE FOR ANY CIVIL DAMAGES AS A  
20 RESULT OF MEDICAL CARE OR TREATMENT RELATED TO THE RESPONSE TO THE  
21 PUBLIC HEALTH EMERGENCY UNLESS SUCH DAMAGES RESULT FROM PROVIDING OR  
22 FAILING TO PROVIDE MEDICAL CARE OR TREATMENT UNDER CIRCUMSTANCES DEMON-  
23 STRATING A RECKLESS DISREGARD FOR THE CONSEQUENCES SO AS TO AFFECT THE  
24 LIFE OR HEALTH OF THE PATIENT.

25 3. PERSONNEL TO PERFORM DUTIES OF MEDICAL EXAMINER OR CORONER. TO  
26 AUTHORIZE A MEDICAL EXAMINER OR CORONER TO APPOINT AND PRESCRIBE THE  
27 DUTIES OF SUCH EMERGENCY ASSISTANT MEDICAL EXAMINERS OR CORONERS AS MAY  
28 BE REQUIRED FOR THE PROPER PERFORMANCE OF THE DUTIES OF THE OFFICE.

29 (A) THE APPOINTMENT OF EMERGENCY ASSISTANT MEDICAL EXAMINERS OR CORON-  
30 ERS PURSUANT TO THIS SUBDIVISION MAY BE FOR A LIMITED OR UNLIMITED TIME,  
31 BUT SHALL NOT EXCEED THE TERMINATION OF THE DECLARATION OF A STATE OF  
32 PUBLIC HEALTH EMERGENCY. THE MEDICAL EXAMINER OR CORONER MAY TERMINATE  
33 SUCH EMERGENCY APPOINTMENTS AT ANY TIME OR FOR ANY REASON, PROVIDED THAT  
34 ANY SUCH TERMINATION WILL NOT IMPEDE THE PERFORMANCE OF DUTIES OF THE  
35 OFFICE.

36 (B) THE MEDICAL EXAMINER OR CORONER MAY WAIVE ANY OR ALL LICENSING  
37 REQUIREMENTS, PERMITS AND FEES REQUIRED BY STATE LAW AND APPLICABLE  
38 ORDERS, RULES AND REGULATIONS FOR THE PERFORMANCE OF SUCH DUTIES.

39 (C) ANY EMERGENCY ASSISTANT MEDICAL EXAMINER OR CORONER APPOINTED  
40 PURSUANT TO THIS SUBDIVISION, AND ACTING WITHOUT MALICE AND WITHIN THE  
41 SCOPE OF HIS OR HER PRESCRIBED DUTIES SHALL BE IMMUNE FROM CIVIL LIABIL-  
42 ITY IN THE PERFORMANCE OF SUCH DUTIES.

#### 43 TITLE IV

44 PUBLIC INFORMATION REGARDING PUBLIC HEALTH EMERGENCIES  
45 SECTION 1030. DISSEMINATION OF INFORMATION.

46 1031. ACCESS TO MENTAL HEALTH SUPPORT PERSONNEL.

47 S 1030. DISSEMINATION OF INFORMATION. THE PUBLIC HEALTH AUTHORITY  
48 SHALL INFORM THE PEOPLE OF THE STATE WHEN A STATE OF PUBLIC HEALTH EMER-  
49 GENCY HAS BEEN DECLARED OR TERMINATED, HOW TO PROTECT THEMSELVES AND  
50 WHAT ACTIONS ARE BEING TAKEN TO CONTROL THE EMERGENCY.

51 1. MEANS OF DISSEMINATION. THE PUBLIC HEALTH AUTHORITY SHALL PROVIDE  
52 INFORMATION BY ALL AVAILABLE AND REASONABLE MEANS CALCULATED TO BRING  
53 THE INFORMATION PROMPTLY TO THE ATTENTION OF THE GENERAL PUBLIC.

54 2. LANGUAGES. IF THE PUBLIC HEALTH AUTHORITY HAS REASON TO BELIEVE  
55 THERE ARE LARGE NUMBERS OF PEOPLE OF THE STATE WHO LACK SUFFICIENT  
56 SKILLS IN ENGLISH TO UNDERSTAND THE INFORMATION, THE PUBLIC HEALTH

1 AUTHORITY SHALL MAKE REASONABLE EFFORTS TO PROVIDE THE INFORMATION IN  
2 THE PRIMARY LANGUAGES OF THOSE PEOPLE AS WELL AS IN ENGLISH.

3 3. ACCESSIBILITY. THE PROVISION OF INFORMATION SHALL BE MADE IN A  
4 MANNER ACCESSIBLE TO INDIVIDUALS WITH DISABILITIES.

5 S 1031. ACCESS TO MENTAL HEALTH SUPPORT PERSONNEL. DURING AND AFTER  
6 THE DECLARATION OF A STATE OF PUBLIC HEALTH EMERGENCY, THE PUBLIC HEALTH  
7 AUTHORITY SHALL PROVIDE INFORMATION ABOUT AND REFERRALS TO MENTAL HEALTH  
8 SUPPORT PERSONNEL TO ADDRESS PSYCHOLOGICAL RESPONSES TO THE PUBLIC  
9 HEALTH EMERGENCY.

10 TITLE V  
11 MISCELLANEOUS

12 SECTION 1040. TITLES.

13 1041. RULES AND REGULATIONS.

14 1042. FINANCING AND EXPENSES.

15 1043. LIABILITY.

16 1044. COMPENSATION.

17 1045. SEVERABILITY.

18 1046. SAVING CLAUSE.

19 1047. CONFLICTING LAWS.

20 S 1040. TITLES. FOR THE PURPOSES OF THIS ARTICLE, THE TITLES OF THE  
21 TITLES, SECTIONS, SUBDIVISIONS AND PARAGRAPHS ARE INSTRUCTIVE, BUT NOT  
22 BINDING.

23 S 1041. RULES AND REGULATIONS. THE PUBLIC HEALTH AUTHORITY AND OTHER  
24 AFFECTED AGENCIES ARE AUTHORIZED TO PROMULGATE AND IMPLEMENT SUCH RULES  
25 AND REGULATIONS AS ARE REASONABLE AND NECESSARY TO IMPLEMENT AND EFFEC-  
26 TUATE THE PROVISIONS OF THIS ARTICLE. THE PUBLIC HEALTH AUTHORITY AND  
27 OTHER AFFECTED AGENCIES SHALL HAVE THE POWER TO ENFORCE THE PROVISIONS  
28 OF THIS ARTICLE THROUGH THE IMPOSITION OF FINES AND PENALTIES, THE ISSU-  
29 ANCE OF ORDERS AND SUCH OTHER REMEDIES AS ARE PROVIDED BY LAW, BUT NOTH-  
30 ING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT THE SPECIFIC ENFORCEMENT  
31 POWERS ENUMERATED IN THIS ARTICLE.

32 S 1042. FINANCING AND EXPENSES. 1. TRANSFER OF FUNDS. THE GOVERNOR MAY  
33 TRANSFER FROM ANY FUND AVAILABLE TO THE GOVERNOR IN THE STATE TREASURY  
34 SUCH SUMS AS MAY BE NECESSARY DURING A STATE OF PUBLIC HEALTH EMERGENCY.

35 2. REPAYMENT. MONIES SO TRANSFERRED SHALL BE REPAID TO THE FUND FROM  
36 WHICH THEY WERE TRANSFERRED WHEN MONIES BECOME AVAILABLE FOR THAT  
37 PURPOSE, BY LEGISLATIVE APPROPRIATION OR OTHERWISE.

38 3. CONDITIONS. A TRANSFER OF FUNDS BY THE GOVERNOR UNDER THE  
39 PROVISIONS OF THIS SECTION MAY BE MADE ONLY WHEN ONE OR MORE OF THE  
40 FOLLOWING CONDITIONS EXIST:

41 (A) NO APPROPRIATION OR OTHER AUTHORIZATION IS AVAILABLE TO MEET THE  
42 PUBLIC HEALTH EMERGENCY.

43 (B) AN APPROPRIATION IS INSUFFICIENT TO MEET THE PUBLIC HEALTH EMER-  
44 GENCY.

45 (C) FEDERAL MONIES AVAILABLE FOR SUCH A PUBLIC HEALTH EMERGENCY  
46 REQUIRE THE USE OF STATE OR OTHER PUBLIC MONIES.

47 4. EXPENSES. ALL EXPENSES INCURRED BY THE STATE DURING A STATE OF  
48 PUBLIC HEALTH EMERGENCY SHALL BE SUBJECT TO THE FOLLOWING LIMITATIONS:

49 (A) NO EXPENSE SHALL BE INCURRED AGAINST THE MONIES AUTHORIZED UNDER  
50 THIS SECTION, WITHOUT THE GENERAL APPROVAL OF THE GOVERNOR.

51 (B) MONIES AUTHORIZED FOR A STATE OF PUBLIC HEALTH EMERGENCY IN PRIOR  
52 FISCAL YEARS MAY BE USED IN SUBSEQUENT FISCAL YEARS ONLY FOR THE PUBLIC  
53 HEALTH EMERGENCY FOR WHICH THEY WERE AUTHORIZED.

54 S 1043. LIABILITY. 1. STATE IMMUNITY. NEITHER THE STATE, ITS POLITICAL  
55 SUBDIVISIONS, NOR, EXCEPT IN CASES OF GROSS NEGLIGENCE OR WILLFUL  
56 MISCONDUCT, THE GOVERNOR, THE PUBLIC HEALTH AUTHORITY AND ANY OTHER

1 STATE OR LOCAL OFFICIAL REFERENCED IN THIS ARTICLE, IS LIABLE FOR THE  
2 DEATH OF OR ANY INJURY TO PERSONS, OR DAMAGE TO PROPERTY, AS A RESULT OF  
3 COMPLYING WITH OR ATTEMPTING TO COMPLY WITH THIS ARTICLE OR ANY RULE OR  
4 REGULATION PROMULGATED PURSUANT TO THIS ARTICLE DURING A STATE OF PUBLIC  
5 HEALTH EMERGENCY.

6 2. PRIVATE LIABILITY. (A) DURING A STATE OF PUBLIC HEALTH EMERGENCY,  
7 ANY PERSON OWNING OR CONTROLLING REAL PROPERTY OR OTHER PREMISES WHO  
8 VOLUNTARILY AND WITHOUT COMPENSATION GRANTS A LICENSE OR PRIVILEGE, OR  
9 OTHERWISE PERMITS THE DESIGNATION OR USE OF THE WHOLE OR ANY PART OR  
10 PARTS OF SUCH REAL PROPERTY OR PREMISES FOR THE PURPOSE OF SHELTERING  
11 PERSONS, TOGETHER WITH SUCH PERSON'S SUCCESSORS IN INTEREST, IF ANY,  
12 SHALL NOT BE CIVILLY LIABLE FOR NEGLIGENTLY CAUSING THE DEATH OF OR  
13 INJURY TO ANY PERSON ON OR ABOUT SUCH REAL PROPERTY OR PREMISES UNDER  
14 SUCH LICENSE, PRIVILEGE OR OTHER PERMISSION, OR FOR NEGLIGENTLY CAUSING  
15 LOSS OF OR DAMAGE TO THE PROPERTY OF SUCH PERSON.

16 (B) DURING A STATE OF PUBLIC HEALTH EMERGENCY, ANY PRIVATE PERSON,  
17 FIRM OR CORPORATION, AND THE EMPLOYEES AND AGENTS OF SUCH PERSON, FIRM  
18 OR CORPORATION IN THE PERFORMANCE OF A CONTRACT WITH AND UNDER THE  
19 DIRECTION OF THE STATE OR ITS POLITICAL SUBDIVISION UNDER THE PROVISIONS  
20 OF THIS ARTICLE SHALL NOT BE CIVILLY LIABLE FOR CAUSING THE DEATH OF OR  
21 INJURY TO ANY PERSON, OR DAMAGE TO ANY PROPERTY, EXCEPT IN THE EVENT OF  
22 GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

23 (C) DURING A STATE OF PUBLIC HEALTH EMERGENCY, ANY PRIVATE PERSON,  
24 FIRM OR CORPORATION, AND THE EMPLOYEES AND AGENTS OF SUCH PERSON, FIRM  
25 OR CORPORATION, WHO RENDERS ASSISTANCE OR ADVICE AT THE REQUEST OF THE  
26 STATE OR ITS POLITICAL SUBDIVISIONS UNDER THE PROVISIONS OF THIS ARTICLE  
27 SHALL NOT BE CIVILLY LIABLE FOR CAUSING THE DEATH OF OR INJURY TO ANY  
28 PERSON, OR DAMAGE TO ANY PROPERTY, EXCEPT IN THE EVENT OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

29 (D) THE IMMUNITIES PROVIDED IN THIS SECTION SHALL NOT APPLY TO ANY  
30 PRIVATE PERSON, FIRM, OR CORPORATION, OR THE EMPLOYEES AND AGENTS OF  
31 SUCH PERSON, FIRM OR CORPORATION WHOSE ACT OR OMISSION CAUSED IN WHOLE  
32 OR IN PART THE PUBLIC HEALTH EMERGENCY, AND WHO WOULD OTHERWISE BE  
33 LIABLE THEREFOR.

34 S 1044. COMPENSATION. 1. TAKING. COMPENSATION FOR PROPERTY SHALL BE  
35 MADE ONLY IF PRIVATE PROPERTY IS LAWFULLY TAKEN OR APPROPRIATED BY A  
36 PUBLIC HEALTH AUTHORITY FOR ITS TEMPORARY OR PERMANENT USE DURING A  
37 STATE OF PUBLIC HEALTH EMERGENCY DECLARED BY THE GOVERNOR PURSUANT TO  
38 THIS ARTICLE.

39 2. ACTIONS. ANY ACTION AGAINST THE STATE WITH REGARD TO THE PAYMENT OF  
40 COMPENSATION SHALL BE BROUGHT IN THE COURT OF CLAIMS IN ACCORDANCE WITH  
41 THE STATE CONSTITUTION, EXISTING STATE LAW, COURT RULES, OR ANY SUCH  
42 RULES THAT MAY BE DEVELOPED BY THE COURTS FOR USE DURING A STATE OF  
43 PUBLIC HEALTH EMERGENCY.

44 3. AMOUNT. THE AMOUNT OF COMPENSATION SHALL BE CALCULATED IN THE SAME  
45 MANNER AS COMPENSATION DUE FOR TAKING OF PROPERTY PURSUANT TO THE  
46 PROVISIONS OF THE EMINENT DOMAIN PROCEDURE LAW, EXCEPT THAT THE AMOUNT  
47 OF COMPENSATION CALCULATED FOR ITEMS OBTAINED UNDER SECTION ONE THOUSAND  
48 FOURTEEN OF THIS ARTICLE SHALL BE LIMITED TO THE COSTS INCURRED TO  
49 PRODUCE THE ITEM.

50 S 1045. SEVERABILITY. THE PROVISIONS OF THIS ARTICLE ARE SEVERABLE. IF  
51 ANY PROVISION OF THIS ARTICLE OR ITS APPLICATION TO ANY PERSON OR  
52 CIRCUMSTANCES IS HELD INVALID IN A FEDERAL OR STATE COURT HAVING JURIS-  
53 DICTION, THE INVALIDITY WILL NOT AFFECT OTHER PROVISIONS OR APPLICATIONS  
54 OF THIS ARTICLE THAT CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION  
55 OR APPLICATION.

S 1046. SAVING CLAUSE. THIS ARTICLE DOES NOT EXPLICITLY PREEMPT OTHER LAWS OR REGULATIONS THAT PRESERVE TO A GREATER DEGREE THE POWERS OF THE GOVERNOR OR PUBLIC HEALTH AUTHORITY, PROVIDED SUCH LAWS OR REGULATIONS ARE CONSISTENT, AND DO NOT OTHERWISE RESTRICT OR INTERFERE, WITH THE OPERATION OR ENFORCEMENT OF THE PROVISIONS OF THIS ARTICLE.

S 1047. CONFLICTING LAWS. 1. FEDERAL SUPREMACY. THIS ARTICLE DOES NOT RESTRICT ANY PERSON FROM COMPLYING WITH FEDERAL LAWS OR REGULATIONS.

2. PRIOR CONFLICTING ACTS. IN THE EVENT OF A CONFLICT BETWEEN THIS ARTICLE AND ANY OTHER PROVISION OF LAW, RULE OR REGULATION CONCERNING PUBLIC HEALTH POWERS, THE PROVISIONS OF THIS ARTICLE APPLY.

S 4. The penal law is amended by adding a new article 280 to read as follows:

#### ARTICLE 280

##### OFFENSES RELATED TO AGRICULTURE

##### SECTION 280.00 DEFINITIONS.

280.05 AGRICULTURAL ADULTERATION IN THE SECOND DEGREE.

280.10 AGRICULTURAL ADULTERATION IN THE FIRST DEGREE.

280.15 LIMITATIONS OF APPLICATION.

##### S 280.00 DEFINITIONS.

THE FOLLOWING DEFINITIONS ARE APPLICABLE TO THIS ARTICLE:

1. "CROPS" MEANS CORN, WHEAT, OATS, RYE, BARLEY, HAY, POTATOES AND DRY BEANS.

2. "FARM PRODUCT" MEANS ANY AGRICULTURAL, HORTICULTURAL, FLORICULTURAL, OR VEGETABLE OR FRUIT PRODUCTS OF THE SOIL, AQUACULTURE PRODUCTS, LIVESTOCK OR MEAT, DAIRY PRODUCTS, POULTRY, EGGS, MILK, HONEY, MAPLE TREE SAP AND MAPLE PRODUCTS PRODUCED THEREFROM, WOOL, HIDES, HAY, STRAW AND GRAINS.

3. "FOOD" AND "FOOD PRODUCTS" MEANS ALL ARTICLES OF FOOD, DRINK, CONFECTIONERY OR CONDIMENT, WHETHER SIMPLE, MIXED OR COMPOUND, USED OR INTENDED FOR USE BY MAN OR ANIMALS, AND SHALL ALSO INCLUDE ALL SUBSTANCES OR INGREDIENTS TO BE ADDED TO FOOD FOR ANY PURPOSE.

4. "LIVESTOCK" MEANS CATTLE, SHEEP, HOGS, GOATS, HORSES, POULTRY, RATITES (SUCH AS OSTRICHES, EMUS, RHEAS AND KIWIS), FARMED DEER, FARMED BUFFALO, AND FUR BEARING ANIMALS.

5. "PLANTS" MEANS TREES, SHRUBS, VINES, ANNUALS, BIENNIALS, PERENNIALS, VEGETABLES, FORAGE AND CEREAL PLANTS AND ALL OTHER PLANT CUTTINGS, GRAFTS, SCIONS, BUDS, AND OTHER PARTS OF PLANTS AND FRUIT, VEGETABLES, ROOTS, BULBS, SEEDS, WOOD AND LUMBER.

##### S 280.05 AGRICULTURAL ADULTERATION IN THE SECOND DEGREE.

A PERSON IS GUILTY OF AGRICULTURAL ADULTERATION IN THE SECOND DEGREE WHEN HE OR SHE:

1. INTENTIONALLY DESIGNS, MANUFACTURES OR ALTERS GENETIC MATERIAL TO CREATE A BIOLOGICAL AGENT OR TOXIN WITH THE INTENT TO DESTROY A FOOD OR FARM PRODUCT OR TO RENDER A FOOD OR FARM PRODUCT OTHERWISE UNDESIRABLE FOR ITS CUSTOMARY USE; OR

2. INTENTIONALLY DESIGNS, DEVELOPS OR UTILIZES A PROCESS OR PROCESSES TO GENETICALLY ALTER ANY PLANT USED FOR HUMAN OR LIVESTOCK CONSUMPTION WITH THE INTENT TO RENDER SUCH PLANT TOXIC OR UNFIT FOR HUMAN OR LIVESTOCK CONSUMPTION.

AGRICULTURAL ADULTERATION IN THE SECOND DEGREE IS A CLASS D FELONY.

##### S 280.10 AGRICULTURAL ADULTERATION IN THE FIRST DEGREE.

A PERSON IS GUILTY OF AGRICULTURAL ADULTERATION IN THE FIRST DEGREE WHEN HE OR SHE:

1. INTENTIONALLY INTRODUCES A BIOLOGICAL ORGANISM, TOXIN OR TOXIC CHEMICAL WITH THE INTENTION OF CAUSING HARM TO OR DISEASE OR DEATH OF

LIVESTOCK, OR RENDERING THE PRODUCTS OF SUCH LIVESTOCK UNFIT FOR HUMAN CONSUMPTION;

2. INTENTIONALLY CONTAMINATES, ADULTERATES, DEFILES, CORRUPTS OR ALTERS A FOOD OR FARM PRODUCT WITH THE INTENT TO INJURE, SICKEN OR KILL PERSONS OR LIVESTOCK; OR

3. INTENTIONALLY INTRODUCES ANY BIOLOGICAL ORGANISM TO PLANTS OR CROPS WITH THE INTENT TO RENDER SUCH PLANTS OR CROPS TOXIC OR OTHERWISE UNFIT FOR HUMAN OR LIVESTOCK CONSUMPTION, OR UNDESIRABLE FOR THEIR CUSTOMARY USE, OR TO CAUSE THE LAND UPON WHICH SUCH PLANTS OR CROPS ARE PRODUCED TO BE UNSUITABLE FOR FURTHER AGRICULTURAL USE OR PRODUCTION.

AGRICULTURAL ADULTERATION IN THE FIRST DEGREE IS A CLASS C FELONY.

S 280.15 LIMITATIONS OF APPLICATION.

THIS ARTICLE DOES NOT APPLY TO ANY PROPERLY CONDUCTED SCIENTIFIC TESTS, EXPERIMENTS, INVESTIGATIONS OR OTHER LAWFUL ACTIVITY INVOLVING THE USE OF CROPS, FARM PRODUCTS, FOOD, FOOD PRODUCTS, LIVESTOCK OR PLANTS, AS DEFINED IN THIS ARTICLE, PERFORMED FOR ONE OR MORE OF THE FOLLOWING PURPOSES:

1. ANY PURPOSE SPECIFICALLY PERMITTED BY LAW;

2. ANY PEACEFUL PURPOSE RELATED TO AN INDUSTRIAL, AGRICULTURAL, RESEARCH, MEDICAL, OR PHARMACEUTICAL ACTIVITY OR OTHER PEACEFUL ACTIVITY;

3. ANY PURPOSE DIRECTLY RELATED TO PROTECTION AGAINST TOXIC CHEMICALS AND TO PROTECTION AGAINST CHEMICAL WEAPONS;

4. ANY MILITARY PURPOSE OF THE UNITED STATES THAT IS NOT CONNECTED WITH THE USE OF A CHEMICAL WEAPON OR THAT IS NOT DEPENDENT ON THE USE OF THE TOXIC OR POISONOUS PROPERTIES OF THE CHEMICAL WEAPON TO CAUSE DEATH OR OTHER HARM; AND

5. ANY LAW ENFORCEMENT PURPOSE, INCLUDING ANY DOMESTIC RIOT CONTROL PURPOSE AND INCLUDING IMPOSITION OF CAPITAL PUNISHMENT.

S 5. The penal law is amended by adding a new section 490.27 to read as follows:

S 490.27 CRIME OF CYBER-TERRORISM.

1. A PERSON IS GUILTY OF THE CRIME OF CYBER-TERRORISM WHEN, WITH THE INTENT TO INTIMIDATE OR COERCE A CIVILIAN POPULATION OR INFLUENCE THE POLICY OF A UNIT OF GOVERNMENT BY INTIMIDATION OR COERCION, HE OR SHE COMMITS A DENIAL OF SERVICE ATTACK AGAINST ANY COMPUTER NETWORK ADMINISTERED OR OPERATED BY A LOCAL, STATE OR FEDERAL GOVERNMENT ENTITY, A UTILITY, INCLUDING ELECTRICITY OR WATER, OR A FINANCIAL INSTITUTION.

2. FOR THE PURPOSE OF THIS SECTION "DENIAL OF SERVICE ATTACK" MEANS PREVENTING AUTHORIZED ACCESS TO COMPUTER RESOURCES OR DELAYING TIME CRITICAL COMPUTER OPERATIONS BY INUNDATING OR OTHERWISE OVERLOADING A COMPUTER NETWORK, OR ATTEMPTING TO INUNDATE OR OTHERWISE OVERLOAD A COMPUTER SERVICE.

CRIME OF CYBER-TERRORISM IS A CLASS D FELONY.

S 6. Subdivision 4 of section 156.25 of the penal law, as amended by chapter 89 of the laws of 1993, is amended to read as follows:

4. he OR SHE intentionally alters in any manner or destroys computer data or a computer program so as to cause damages, INCLUDING DAMAGE TO ANY COMPUTER OR COMPUTERS AFFECTED BY THE ALTERATION OR DESTRUCTION, in an aggregate amount exceeding one thousand dollars.

S 7. Section 156.26 of the penal law, as amended by chapter 590 of the laws of 2008, is amended to read as follows:

S 156.26 Computer tampering in the second degree.

A person is guilty of computer tampering in the second degree when he or she commits the crime of computer tampering in the fourth degree and he or she intentionally alters in any manner or destroys:

1 1. computer data or a computer program so as to cause damages, INCLUD-  
2 ING DAMAGE TO ANY COMPUTER OR COMPUTERS AFFECTED BY THE ALTERATION OR  
3 DESTRUCTION, in an aggregate amount exceeding three thousand dollars; or  
4 2. computer material that contains records of the medical history or  
5 medical treatment of an identified or readily identifiable individual or  
6 individuals and as a result of such alteration or destruction, such  
7 individual or individuals suffer serious physical injury, and he or she  
8 is aware of and consciously disregards a substantial and unjustifiable  
9 risk that such serious physical injury may occur.

10 Computer tampering in the second degree is a class D felony.

11 S 8. Section 156.27 of the penal law, as added by chapter 89 of the  
12 laws of 1993, is amended to read as follows:

13 S 156.27 Computer tampering in the first degree.

14 A person is guilty of computer tampering in the first degree when he  
15 OR SHE commits the crime of computer tampering in the fourth degree and  
16 he OR SHE intentionally alters in any manner or destroys computer data  
17 or a computer program so as to cause damages, INCLUDING DAMAGE TO ANY  
18 COMPUTER OR COMPUTERS AFFECTED BY THE ALTERATION OR DESTRUCTION, in an  
19 aggregate amount exceeding fifty thousand dollars.

20 Computer tampering in the first degree is a class C felony.

21 S 9. Section 190.26 of the penal law is amended by adding a new subdi-  
22 vision 4 to read as follows:

23 4. WHEN UPON AN AIRCRAFT OR IN AN AIRPORT, PRETENDS TO BE A PILOT OR A  
24 MEMBER OF AN AVIATION FLIGHT OR GROUND CREW, OR WEARS, DISPLAYS OR  
25 POSSESSES WITHOUT AUTHORITY, ANY UNIFORM, BADGE, INSIGNIA, IDENTIFICA-  
26 TION OR FACSIMILE THEREOF BY WHICH SUCH PILOT, FLIGHT OR GROUND CREW  
27 MEMBER IS DISTINGUISHED, OR FALSELY EXPRESSES BY HIS OR HER WORDS OR  
28 ACTIONS THAT HE OR SHE IS A PILOT OR FLIGHT OR GROUND CREW MEMBER OR IS  
29 ACTING WITH THE APPROVAL OR AUTHORITY OF ANY AIRLINE, AIRPORT, TRANSPOR-  
30 TATION AUTHORITY OR AVIATION REGULATORY AGENCY.

31 S 10. Paragraph (a) of subdivision 1 of section 460.10 of the penal  
32 law, as separately amended by chapters 312 and 472 of the laws of 2008,  
33 is amended to read as follows:

34 (a) Any of the felonies set forth in this chapter: sections 120.05,  
35 120.10 and 120.11 relating to assault; sections 125.10 to 125.27 relat-  
36 ing to homicide; sections 130.25, 130.30 and 130.35 relating to rape;  
37 sections 135.20 and 135.25 relating to kidnapping; section 135.35 relat-  
38 ing to labor trafficking; section 135.65 relating to coercion; sections  
39 140.20, 140.25 and 140.30 relating to burglary; sections 145.05, 145.10  
40 and 145.12 relating to criminal mischief; article one hundred fifty  
41 relating to arson; sections 155.30, 155.35, 155.40 and 155.42 relating  
42 to grand larceny; sections 177.10, 177.15, 177.20 and 177.25 relating to  
43 health care fraud; article one hundred sixty relating to robbery;  
44 sections 165.45, 165.50, 165.52 and 165.54 relating to criminal  
45 possession of stolen property; sections 165.72 and 165.73 relating to  
46 trademark counterfeiting; sections 170.10, 170.15, 170.25, 170.30,  
47 170.40, 170.65 and 170.70 relating to forgery; sections 175.10, 175.25,  
48 175.35, 175.40 and 210.40 relating to false statements; sections 176.15,  
49 176.20, 176.25 and 176.30 relating to insurance fraud; sections 178.20  
50 and 178.25 relating to criminal diversion of prescription medications  
51 and prescriptions; sections 180.03, 180.08, 180.15, 180.25, 180.40,  
52 180.45, 200.00, 200.03, 200.04, 200.10, 200.11, 200.12, 200.20, 200.22,  
53 200.25, 200.27, 215.00, 215.05 and 215.19 relating to bribery; sections  
54 187.10, 187.15, 187.20 and 187.25 relating to residential mortgage  
55 fraud, sections 190.40 and 190.42 relating to criminal usury; section  
56 190.65 relating to schemes to defraud; sections 205.60 and 205.65 relat-

1 ing to hindering prosecution; sections 210.10, 210.15, and 215.51 relat-  
2 ing to perjury and contempt; section 215.40 relating to tampering with  
3 physical evidence; sections 220.06, 220.09, 220.16, 220.18, 220.21,  
4 220.31, 220.34, 220.39, 220.41, 220.43, 220.46, 220.55 and 220.60 relat-  
5 ing to controlled substances; sections 225.10 and 225.20 relating to  
6 gambling; sections 230.25, 230.30, and 230.32 relating to promoting  
7 prostitution; section 230.34 relating to sex trafficking; sections  
8 235.06, 235.07, 235.21 and 235.22 relating to obscenity; sections 263.10  
9 and 263.15 relating to promoting a sexual performance by a child;  
10 sections 265.02, 265.03, 265.04, 265.11, 265.12, 265.13 and the  
11 provisions of section 265.10 which constitute a felony relating to  
12 firearms and other dangerous weapons; and sections 265.14 and 265.16  
13 relating to criminal sale of a firearm; and section 275.10, 275.20,  
14 275.30, or 275.40 relating to unauthorized recordings; and sections  
15 470.05, 470.10, 470.15 and 470.20 relating to money laundering; SECTIONS  
16 470.21, 470.22, 470.23 AND 470.24 RELATING TO MONEY LAUNDERING IN  
17 SUPPORT OF TERRORISM; SECTIONS 470.30 AND 470.35 RELATING TO STRUCTUR-  
18 ING; AND ARTICLE FOUR HUNDRED NINETY RELATING TO TERRORISM; or

19 S 11. Subdivision 1 of section 470.25 of the penal law, as amended by  
20 chapter 489 of the laws of 2000, is amended to read as follows:

21 1. Any person convicted of a violation of section 470.05, 470.10,  
22 470.15, [or] 470.20, 470.21, 470.22, 470.23 OR 470.24 of this article  
23 may be sentenced to pay a fine not in excess of two times the value of  
24 the monetary instruments which are the proceeds of specified criminal  
25 activity. When a fine is imposed pursuant to this subdivision, the court  
26 shall make a finding as to the value of such monetary instrument or  
27 instruments. If the record does not contain sufficient evidence to  
28 support such a finding the court may conduct a hearing upon the issue.  
29 In imposing a fine, the court shall consider the seriousness of the  
30 conduct, whether the amount of the fine is disproportionate to the  
31 conduct in which he engaged, its impact on victims, as well as the  
32 economic circumstances of the convicted person, including the effect of  
33 the imposition of such a fine upon his immediate family.

34 S 12. Section 470.00 of the penal law is amended by adding a new  
35 subdivision 11 to read as follows:

36 11. "STRUCTURING" MEANS, FOR PURPOSES OF SECTIONS 470.30 AND 470.35 OF  
37 THIS ARTICLE, A PERSON STRUCTURES A TRANSACTION IF THAT PERSON, ACTING  
38 ALONE, OR IN CONJUNCTION WITH, OR ON BEHALF OF, OTHER PERSONS, CONDUCTS  
39 OR ATTEMPTS TO CONDUCT ONE OR MORE TRANSACTIONS IN CURRENCY, IN ANY  
40 AMOUNT, WITH ONE OR MORE FINANCIAL INSTITUTIONS, OR WITH ONE OR MORE  
41 TRADES OR BUSINESSES, ON ONE OR MORE DAYS, IN ANY MANNER, IN SUCH A WAY  
42 AS TO EVADE THE REPORTING REQUIREMENTS UNDER TITLE 31 OF THE UNITED  
43 STATES CODE. "IN ANY MANNER" INCLUDES, BUT IS NOT LIMITED TO, THE BREAK-  
44 ING DOWN OF A SINGLE SUM OF CURRENCY EXCEEDING TEN THOUSAND DOLLARS INTO  
45 SMALLER SUMS, INCLUDING SUMS AT OR BELOW TEN THOUSAND DOLLARS, OR THE  
46 CONDUCT OF A TRANSACTION, OR SERIES OF CURRENCY TRANSACTIONS, INCLUDING  
47 TRANSACTIONS AT OR BELOW TEN THOUSAND DOLLARS. THE TRANSACTION OR TRAN-  
48 SACTIONS NEED NOT EXCEED THE TEN THOUSAND DOLLAR REPORTING THRESHOLD AT  
49 ANY SINGLE FINANCIAL INSTITUTION OR AT ANY SINGLE TRADE OR BUSINESS, ON  
50 ANY SINGLE DAY IN ORDER TO CONSTITUTE STRUCTURING WITHIN THE MEANING OF  
51 THIS DEFINITION.

52 S 13. The penal law is amended by adding two new sections 470.30 and  
53 470.35 to read as follows:

54 S 470.30 STRUCTURING IN THE SECOND DEGREE.

55 A PERSON IS GUILTY OF STRUCTURING IN THE SECOND DEGREE WHEN HE OR SHE:



1 1. CAUSES OR ATTEMPTS TO CAUSE A FINANCIAL INSTITUTION NOT TO FILE A  
2 WRITTEN REPORT PURSUANT TO SUBCHAPTER II OF TITLE 31 OF THE UNITED  
3 STATES CODE OR ANY REGULATION PRESCRIBED THEREUNDER; OR

4 2. CAUSES OR ATTEMPTS TO CAUSE A FINANCIAL INSTITUTION TO FILE A WRIT-  
5 TEN REPORT REQUIRED BY SUBCHAPTER II OF TITLE 31 OF THE UNITED STATES  
6 CODE OR ANY REGULATION PRESCRIBED THEREUNDER THAT CONTAINS A MATERIAL  
7 OMISSION OR MISSTATEMENT OF FACT; OR

8 3. STRUCTURES OR ASSISTS IN STRUCTURING, OR ATTEMPTS TO STRUCTURE OR  
9 ASSIST IN STRUCTURING, ANY TRANSACTION FOR THE PURPOSE OF EVADING A  
10 REPORTING REQUIREMENT OF SUBCHAPTER II OF TITLE 31 OF THE UNITED STATES  
11 CODE OR ANY REGULATION PRESCRIBED THEREUNDER.

12 STRUCTURING IN THE SECOND DEGREE IS A CLASS E FELONY.

13 S 470.35 STRUCTURING IN THE FIRST DEGREE.

14 A PERSON IS GUILTY OF STRUCTURING IN THE FIRST DEGREE WHEN HE OR SHE  
15 COMMITS THE CRIME OF STRUCTURING IN THE SECOND DEGREE:

16 1. WITH INTENT TO PROMOTE THE CARRYING ON OF CRIMINAL CONDUCT; OR

17 2. AS PART OF A PATTERN OF ANY ILLEGAL ACTIVITY INVOLVING MORE THAN  
18 ONE HUNDRED THOUSAND DOLLARS IN ANY TWELVE MONTH PERIOD.

19 STRUCTURING IN THE FIRST DEGREE IS A CLASS D FELONY.

20 S 14. The first undesignated paragraph of section 490.10 of the penal  
21 law, as added by chapter 300 of the laws of 2001, is amended to read as  
22 follows:

23 A person commits soliciting or providing support for an act of terror-  
24 ism in the second degree when, with intent that material support or  
25 resources will be used, in whole or in part, to plan, prepare, carry out  
26 or aid in either an act of terrorism or the concealment of, or an escape  
27 from, an act of terrorism, he or she (A) raises, solicits, collects or  
28 provides material support or resources, OR (B) CONCEALS OR DISGUISES THE  
29 NATURE OR OWNERSHIP OF MATERIAL SUPPORT OR RESOURCES.

30 S 15. The penal law is amended by adding two new sections 490.60 and  
31 490.65 to read as follows:

32 S 490.60 CRIMINAL FACILITATION OF TERRORISM.

33 1. A PERSON IS GUILTY OF CRIMINAL FACILITATION OF TERRORISM WHEN,  
34 BELIEVING IT PROBABLE THAT HE OR SHE IS RENDERING AID TO A PERSON WHO  
35 INTENDS TO COMMIT AN OFFENSE DEFINED IN THIS ARTICLE, HE OR SHE ENGAGES  
36 IN CONDUCT WHICH PROVIDES SUCH PERSON WITH MEANS OR OPPORTUNITY FOR THE  
37 COMMISSION THEREOF AND WHICH IN FACT AIDS SUCH PERSON TO COMMIT SUCH  
38 OFFENSE.

39 2. (A) WHEN A PERSON IS CONVICTED OF CRIMINAL FACILITATION OF TERROR-  
40 ISM PURSUANT TO THIS SECTION, AND THE OFFENSE HE OR SHE FACILITATED IS A  
41 VIOLENT FELONY OFFENSE, THE CRIME OF CRIMINAL FACILITATION OF TERRORISM  
42 SHALL BE DEEMED A VIOLENT FELONY OFFENSE.

43 (B) WHEN A PERSON IS CONVICTED OF CRIMINAL FACILITATION OF TERRORISM  
44 PURSUANT TO THIS SECTION, AND THE OFFENSE HE OR SHE FACILITATED IS AN  
45 OFFENSE DEFINED IN THIS ARTICLE OR AN ATTEMPT OR CONSPIRACY TO COMMIT  
46 SUCH OFFENSE, OTHER THAN THE CRIME OF TERRORISM AS DEFINED IN SECTION  
47 490.25 OF THIS ARTICLE, THE CRIME OF CRIMINAL FACILITATION OF TERRORISM  
48 SHALL BE DEEMED TO BE ONE CATEGORY LOWER THAN THE OFFENSE THE DEFENDANT  
49 FACILITATED; PROVIDED, FURTHER, THAT WHEN A PERSON IS CONVICTED OF CRIM-  
50 INAL FACILITATION OF TERRORISM PURSUANT TO THIS SECTION, AND THE OFFENSE  
51 HE OR SHE FACILITATED IS A CLASS A-I FELONY OFFENSE, THE CRIME OF CRIMI-  
52 NAL FACILITATION OF TERRORISM SHALL BE PUNISHED AS A CLASS B VIOLENT  
53 FELONY OFFENSE.

54 (C) WHEN A PERSON IS CONVICTED OF CRIMINAL FACILITATION OF TERRORISM  
55 PURSUANT TO THIS SECTION, AND THE OFFENSE HE OR SHE FACILITATED IS THE  
56 CRIME OF TERRORISM AS DEFINED IN SECTION 490.25 OF THIS ARTICLE, THE

CRIME OF CRIMINAL FACILITATION OF TERRORISM SHALL BE DEEMED TO BE THE SAME CATEGORY AS THE OFFENSE LEVEL APPLICABLE TO THE SPECIFIED OFFENSE UNDERLYING THE CRIME OF TERRORISM AS DEFINED IN SECTION 490.25 OF THIS ARTICLE.

(D) WHEN A PERSON IS CONVICTED OF CRIMINAL FACILITATION OF TERRORISM PURSUANT TO THIS SECTION, AND THE OFFENSE HE OR SHE FACILITATED IS AN ATTEMPT OR CONSPIRACY TO COMMIT THE CRIME OF TERRORISM AS DEFINED IN SECTION 490.25 OF THIS ARTICLE, THE CRIME OF CRIMINAL FACILITATION OF TERRORISM SHALL BE DEEMED TO BE ONE CATEGORY LOWER THAN THE OFFENSE THE DEFENDANT FACILITATED.

S 490.65 CONSPIRACY TO COMMIT TERRORISM.

1. A PERSON IS GUILTY OF CONSPIRACY TO COMMIT TERRORISM WHEN, WITH INTENT THAT CONDUCT BE PERFORMED CONSTITUTING A FELONY OFFENSE DEFINED IN THIS ARTICLE, HE OR SHE AGREES WITH ONE OR MORE PERSONS TO ENGAGE IN OR CAUSE THE PERFORMANCE OF SUCH CONDUCT.

2. (A) WHEN A PERSON IS CONVICTED OF THE CRIME OF CONSPIRACY TO COMMIT TERRORISM PURSUANT TO THIS SECTION, AND THE OFFENSE HE OR SHE CONSPIRED TO COMMIT IS A VIOLENT FELONY OFFENSE, THE CRIME OF CONSPIRACY TO COMMIT TERRORISM SHALL BE DEEMED A VIOLENT FELONY OFFENSE.

(B) WHEN A PERSON IS CONVICTED OF THE CRIME OF CONSPIRACY TO COMMIT TERRORISM PURSUANT TO THIS SECTION, OTHER THAN THE CRIME OF TERRORISM AS DEFINED IN SECTION 490.25 OF THIS ARTICLE, THE CRIME OF CONSPIRACY TO COMMIT TERRORISM SHALL BE DEEMED TO BE THE SAME CATEGORY AS THE OFFENSE LEVEL APPLICABLE TO THE UNDERLYING ARTICLE FOUR HUNDRED NINETY OFFENSE.

(C) WHEN A PERSON IS CONVICTED OF THE CRIME OF CONSPIRACY TO COMMIT TERRORISM PURSUANT TO THIS SECTION FOR THE CRIME OF TERRORISM AS DEFINED IN SECTION 490.25 OF THIS ARTICLE, THE CRIME OF CONSPIRACY TO COMMIT TERRORISM SHALL BE DEEMED TO BE THE SAME CATEGORY AS THE OFFENSE LEVEL APPLICABLE TO A CONVICTION FOR THE CRIME OF TERRORISM AS DEFINED IN SECTION 490.25 OF THIS ARTICLE THAT THE DEFENDANT CONSPIRED TO COMMIT.

S 16. Section 490.70 of the penal law is amended by adding two new subdivisions 3 and 4 to read as follows:

3. WITH RESPECT TO SECTION 490.60 OF THIS ARTICLE, THE PROVISIONS OF SECTION 115.10 OF THIS CHAPTER SHALL APPLY.

4. WITH RESPECT TO SECTION 490.65 OF THIS ARTICLE, THE PROVISIONS OF SECTIONS 105.20, 105.25 AND 105.30 OF THIS CHAPTER SHALL APPLY.

S 17. Paragraph (b) of subdivision 2 of section 490.25 of the penal law, as added by chapter 300 of the laws of 2001, is amended to read as follows:

(b) When a person is convicted of a crime of terrorism pursuant to this section, and the specified offense is a class C, D or E felony offense, the crime of terrorism shall be deemed to be one category higher than the specified offense the defendant committed, or one category higher than the offense level applicable to the defendant's conviction for an attempt [or conspiracy] to commit the offense, whichever is applicable.

S 18. Paragraph (a) of subdivision 3 of section 490.05 of the penal law, as amended by section 7 of part A of chapter 1 of the laws of 2004, is amended to read as follows:

(a) "Specified offense" for purposes of this article means a class A felony offense other than an offense as defined in article two hundred twenty, a violent felony offense as defined in section 70.02, manslaughter in the second degree as defined in section 125.15, criminal tampering in the first degree as defined in section 145.20, COMPUTER TAMPERING IN THE THIRD DEGREE AS DEFINED IN SECTION 156.25, COMPUTER TAMPERING IN THE SECOND DEGREE AS DEFINED IN SECTION 156.26, COMPUTER

1 TAMPERING IN THE FIRST DEGREE AS DEFINED IN SECTION 156.27, identity  
2 theft in the second degree as defined in section 190.79, identity theft  
3 in the first degree as defined in section 190.80, unlawful possession of  
4 personal identification information in the second degree as defined in  
5 section 190.82, unlawful possession of personal identification informa-  
6 tion in the first degree as defined in section 190.83, AGRICULTURAL  
7 ADULTERATION IN THE SECOND DEGREE AS DEFINED IN SECTION 280.05, AGRICUL-  
8 TURAL ADULTERATION IN THE FIRST DEGREE AS DEFINED IN SECTION 280.10,  
9 money laundering in support of terrorism in the fourth degree as defined  
10 in section 470.21, money laundering in support of terrorism in the third  
11 degree as defined in section 470.22, money laundering in support of  
12 terrorism in the second degree as defined in section 470.23, money laun-  
13 dering in support of terrorism in the first degree as defined in section  
14 470.24 of this chapter, and includes an attempt [or conspiracy] to  
15 commit any such offense.

16 S 19. Section 20.20 of the criminal procedure law is amended by adding  
17 a new subdivision 4 to read as follows:

18 4. THE OFFENSE WAS COMMITTED WITHIN THE SPECIAL AIRCRAFT JURISDICTION  
19 OF THE STATE PURSUANT TO SECTION 20.25.

20 S 20. The criminal procedure law is amended by adding a new section  
21 20.25 to read as follows:

22 S 20.25 GEOGRAPHICAL JURISDICTION OF OFFENSES; SPECIAL AIRCRAFT JURIS-  
23 DICTION OF THE STATE.

24 1. AS USED IN THIS SECTION:

25 (A) "AIRCRAFT" MEANS AN AIRCRAFT OPERATING AS A COMMON CARRIER.

26 (B) "IN FLIGHT" MEANS FROM THE MOMENT ALL EXTERNAL DOORS OF AN  
27 AIRCRAFT ARE CLOSED FOLLOWING BOARDING,

28 (I) THROUGH THE MOMENT WHEN ONE EXTERNAL DOOR IS OPENED TO ALLOW  
29 PASSENGERS TO LEAVE THE AIRCRAFT, OR

30 (II) UNTIL, IF A FORCED LANDING, COMPETENT AUTHORITIES TAKE OVER  
31 RESPONSIBILITY FOR THE AIRCRAFT AND ANY INDIVIDUALS AND PROPERTY ON THE  
32 AIRCRAFT.

33 2. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION ONE OF SECTION 20.30,  
34 A PERSON MAY BE CONVICTED IN THE CRIMINAL COURTS OF THIS STATE OF AN  
35 OFFENSE COMMITTED EITHER BY HIS OWN CONDUCT, OR BY THE CONDUCT OF ANOTH-  
36 ER FOR WHICH HE IS LEGALLY ACCOUNTABLE PURSUANT TO SECTION 20.00 OF THE  
37 PENAL LAW, WHEN:

38 (A) THE OFFENSE IS COMMITTED ON BOARD AN AIRCRAFT WHILE IN FLIGHT  
39 OUTSIDE THIS STATE; AND

40 (B) THE AIRCRAFT HAS ITS NEXT SCHEDULED DESTINATION WITHIN THIS STATE  
41 AND IN FACT NEXT LANDS IN THIS STATE; AND

42 (C) THE PERSON WHO COMMITTED THE OFFENSE IS STILL ON BOARD THE  
43 AIRCRAFT WHEN IT LANDS IN THIS STATE.

44 3. EXCEPT AS LIMITED BY SUBDIVISION TWO OF THIS SECTION, THE SPECIAL  
45 AIRCRAFT JURISDICTION OF THIS STATE SHALL EXTEND TO AIRCRAFT IN FLIGHT  
46 TO THE SAME EXTENT SUCH JURISDICTION MAY BE CLAIMED BY THE UNITED STATES  
47 OF AMERICA, OR TO WHATEVER EXTENT MAY BE RECOGNIZED BY THE USAGES AND  
48 CUSTOMS OF INTERNATIONAL LAW OR BY ANY AGREEMENT, INTERNATIONAL OR  
49 OTHERWISE, TO WHICH THE UNITED STATES OF AMERICA OR THIS STATE MAY BE  
50 PARTY.

51 4. NOTHING CONTAINED HEREIN SHALL BE CONSTRUED TO LIMIT OR RESTRICT IN  
52 ANY WAY (A) THE JURISDICTION OF THIS STATE OVER ANY PERSON OR WITH  
53 RESPECT TO ANY SUBJECT WITHIN OR WITHOUT THE STATE WHICH JURISDICTION IS  
54 EXERCISABLE BY REASON OF CITIZENSHIP, RESIDENCE OR FOR ANY OTHER REASON  
55 RECOGNIZED BY LAW; (B) JURISDICTION OR OWNERSHIP OF OR OVER THE AIRSPACE  
56 OR LANDS THEREUNDER, WITHIN OR FORMING A PART OF THE BOUNDARIES OF THIS

STATE; OR (C) THE CONCURRENT JURISDICTION OF THE UNITED STATES OF AMERICA OVER ANY OFFENSE COMMITTED WITHIN THE SPECIAL AIRCRAFT JURISDICTION OF THE UNITED STATES AS DEFINED IN TITLE 49 OF THE UNITED STATES CODE.

S 21. Subdivision 1 of section 60.22 of the criminal procedure law is amended to read as follows:

1. A defendant may not be convicted of any offense, OTHER THAN AN OFFENSE DEFINED IN ARTICLE FOUR HUNDRED NINETY OF THE PENAL LAW EXCEPT WHEN PROSECUTED PURSUANT TO SUBPARAGRAPH (XIII) OF PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION 125.27 OF THE PENAL LAW, upon the testimony of an accomplice unsupported by corroborative evidence tending to connect the defendant with the commission of such offense.

S 22. Section 690.05 of the criminal procedure law, subdivision 2 as amended by chapter 504 of the laws of 1991 and the opening paragraph of subdivision 2 as amended by chapter 424 of the laws of 1998, is amended to read as follows:

S 690.05 Search warrants; in general; definition.

1. Under circumstances prescribed in this article, a local criminal court may, upon application of a police officer, a district attorney or other public servant acting in the course of his official duties, issue a search warrant.

2. [A] EXCEPT AS SPECIFIED IN SUBDIVISION THREE OF THIS SECTION, A search warrant is a court order and process directing a police officer to conduct:

(a) a search of designated premises, or of a designated vehicle, or of a designated person, for the purpose of seizing designated property or kinds of property, and to deliver any property so obtained to the court which issued the warrant; or

(b) a search of a designated premises for the purpose of searching for and arresting a person who is the subject of: (i) a warrant of arrest issued pursuant to this chapter, a superior court warrant of arrest issued pursuant to this chapter, or a bench warrant for a felony issued pursuant to this chapter, where the designated premises is the dwelling of a third party who is not the subject of the arrest warrant; or

(ii) a warrant of arrest issued by any other state or federal court for an offense which would constitute a felony under the laws of this state, where the designated premises is the dwelling of a third party who is not the subject of the arrest warrant.

3. WHERE A SEARCH IS TO BE CONDUCTED OF AN ELECTRONIC COMMUNICATION SERVICE OR REMOTE COMPUTING SERVICE, A SEARCH WARRANT IS A COURT ORDER DIRECTING AN EMPLOYEE OF THE ELECTRONIC COMMUNICATION SERVICE OR REMOTE COMPUTING SERVICE TO SEARCH THEIR RECORDS FOR THE DESIGNATED PROPERTY. A SEARCH WARRANT IS PROPERLY SERVED ON AN ELECTRONIC COMMUNICATION SERVICE OR REMOTE COMPUTING SERVICE WHEN IT HAS BEEN DELIVERED BY HAND, OR IN A MANNER REASONABLY ALLOWING FOR PROOF OF DELIVERY IF DELIVERED BY UNITED STATES MAIL, OVERNIGHT DELIVERY SERVICE, OR FACSIMILE TO THE ELECTRONIC COMMUNICATION SERVICE OR REMOTE COMPUTING SERVICE THAT IS THE SUBJECT OF THE WARRANT.

4. "ELECTRONIC COMMUNICATION SERVICE", "REMOTE COMPUTING SERVICE" AND "ELECTRONIC STORAGE" SHALL BE CONSTRUED IN ACCORDANCE WITH SECTIONS 2510 AND 2701 TO 2711 OF TITLE 18 OF THE UNITED STATES CODE, AS AMENDED THROUGH MARCH 1, 2001. THIS SECTION DOES NOT APPLY TO BUSINESSES THAT DO NOT PROVIDE THOSE SERVICES TO THE GENERAL PUBLIC.

S 23. The criminal procedure law is amended by adding a new section 690.16 to read as follows:

S 690.16 SEARCH WARRANT OF A FOREIGN ELECTRONIC COMMUNICATION SERVICE OR A FOREIGN REMOTE COMPUTING SERVICE.

1 UPON A SHOWING OF REASONABLE CAUSE, A COURT SHALL ISSUE A SEARCH  
2 WARRANT DIRECTING THAT A FOREIGN ELECTRONIC COMMUNICATION SERVICE  
3 PROVIDING SERVICES TO THE GENERAL PUBLIC OR REMOTE COMPUTING SERVICE  
4 PROVIDING SERVICES TO THE GENERAL PUBLIC PRODUCE CERTAIN RECORDS,  
5 INCLUDING THOSE THAT WOULD REVEAL THE RECIPIENT OR DESTINATION OF COMMU-  
6 NICATIONS SENT TO OR FROM CUSTOMERS OF THOSE SERVICES AND THE CONTENT OF  
7 THOSE COMMUNICATIONS HELD IN ELECTRONIC STORAGE SO LONG AS:

8 1. THE RECORDS CONSTITUTE EVIDENCE OR TEND TO DEMONSTRATE THAT AN  
9 OFFENSE WAS COMMITTED AGAINST THE LAWS OF THE STATE; AND

10 2. THE LAWS OF THE FOREIGN STATE RECOGNIZE THE ISSUANCE OF SUCH  
11 WARRANT AND AUTHORIZE THE FOREIGN ELECTRONIC COMMUNICATION SERVICE OR  
12 FOREIGN REMOTE COMPUTING SERVICE TO COMPLY WITH IT.

13 S 24. The criminal procedure law is amended by adding a new section  
14 690.17 to read as follows:

15 S 690.17 WARRANT OF ANOTHER STATE.

16 A NEW YORK BUSINESS THAT PROVIDES ELECTRONIC COMMUNICATION SERVICES OR  
17 REMOTE COMPUTING SERVICES TO THE GENERAL PUBLIC, WHEN SERVED WITH A  
18 WARRANT ISSUED BY ANOTHER STATE TO PRODUCE RECORDS THAT WOULD REVEAL THE  
19 IDENTITY OF THE CUSTOMERS USING THOSE SERVICES; DATA STORED BY, OR ON  
20 BEHALF OF, THE CUSTOMER; THE CUSTOMER'S USAGE OF THOSE SERVICES; THE  
21 RECIPIENT OR DESTINATION OF COMMUNICATIONS SENT TO OR FROM THOSE CUSTOM-  
22 ERS; OR THE CONTENT OF THOSE COMMUNICATIONS, SHALL PRODUCE THOSE RECORDS  
23 AS IF THAT WARRANT HAD BEEN ISSUED BY A NEW YORK COURT.

24 S 25. The criminal procedure law is amended by adding a new section  
25 690.18 to read as follows:

26 S 690.18 LIABILITY OF PROVIDERS.

27 NO CAUSE OF ACTION SHALL LIE AGAINST ANY FOREIGN OR NEW YORK ELECTRON-  
28 IC COMMUNICATION SERVICE OR REMOTE COMPUTING SERVICE SUBJECT TO THIS  
29 SECTION, ITS OFFICERS, EMPLOYEES, AGENTS, OR OTHER SPECIFIED PERSONS FOR  
30 PROVIDING RECORDS, INFORMATION, FACILITIES OR ASSISTANCE IN ACCORDANCE  
31 WITH THE TERMS OF A WARRANT ISSUED PURSUANT TO THIS CHAPTER.

32 S 26. Subdivision 4 of section 700.05 of the criminal procedure law,  
33 as amended by chapter 744 of the laws of 1988, is amended to read as  
34 follows:

35 4. "Justice," except as otherwise provided herein, means any justice  
36 of an appellate division of the judicial department in which the eaves-  
37 dropping warrant is to be executed, or any justice of the supreme court  
38 of the judicial district in which the eavesdropping warrant is to be  
39 executed, or any county court judge of the county in which the eaves-  
40 dropping warrant is to be executed. When the eavesdropping warrant is to  
41 authorize the interception of oral communications occurring in a vehicle  
42 or wire communications occurring over a WIRELESS telephone [located in a  
43 vehicle], "justice" means any justice of the supreme court of the judi-  
44 cial department or any county court judge of the county in which the  
45 eavesdropping device is to be installed or connected or of any judicial  
46 department or county in which communications are expected to be inter-  
47 cepted. When such a justice issues such an eavesdropping warrant, such  
48 warrant may be executed and such oral or wire communications may be  
49 intercepted anywhere in the state.

50 S 27. Paragraph (b) of subdivision 8 of section 700.05 of the criminal  
51 procedure law, as amended by chapter 472 of the laws of 2008, is amended  
52 to read as follows:

53 (b) Any of the following felonies: assault in the second degree as  
54 defined in section 120.05 of the penal law, assault in the first degree  
55 as defined in section 120.10 of the penal law, reckless endangerment in  
56 the first degree as defined in section 120.25 of the penal law, promot-

1 ing a suicide attempt as defined in section 120.30 of the penal law,  
2 criminally negligent homicide as defined in section 125.10 of the penal  
3 law, manslaughter in the second degree as defined in section 125.15 of  
4 the penal law, manslaughter in the first degree as defined in section  
5 125.20 of the penal law, murder in the second degree as defined in  
6 section 125.25 of the penal law, murder in the first degree as defined  
7 in section 125.27 of the penal law, abortion in the second degree as  
8 defined in section 125.40 of the penal law, abortion in the first degree  
9 as defined in section 125.45 of the penal law, rape in the third degree  
10 as defined in section 130.25 of the penal law, rape in the second degree  
11 as defined in section 130.30 of the penal law, rape in the first degree  
12 as defined in section 130.35 of the penal law, criminal sexual act in  
13 the third degree as defined in section 130.40 of the penal law, criminal  
14 sexual act in the second degree as defined in section 130.45 of the  
15 penal law, criminal sexual act in the first degree as defined in section  
16 130.50 of the penal law, sexual abuse in the first degree as defined in  
17 section 130.65 of the penal law, unlawful imprisonment in the first  
18 degree as defined in section 135.10 of the penal law, kidnapping in the  
19 second degree as defined in section 135.20 of the penal law, kidnapping  
20 in the first degree as defined in section 135.25 of the penal law, labor  
21 trafficking as defined in section 135.35 of the penal law, custodial  
22 interference in the first degree as defined in section 135.50 of the  
23 penal law, coercion in the first degree as defined in section 135.65 of  
24 the penal law, criminal trespass in the first degree as defined in  
25 section 140.17 of the penal law, burglary in the third degree as defined  
26 in section 140.20 of the penal law, burglary in the second degree as  
27 defined in section 140.25 of the penal law, burglary in the first degree  
28 as defined in section 140.30 of the penal law, criminal mischief in the  
29 third degree as defined in section 145.05 of the penal law, criminal  
30 mischief in the second degree as defined in section 145.10 of the penal  
31 law, criminal mischief in the first degree as defined in section 145.12  
32 of the penal law, criminal tampering in the first degree as defined in  
33 section 145.20 of the penal law, arson in the fourth degree as defined  
34 in section 150.05 of the penal law, arson in the third degree as defined  
35 in section 150.10 of the penal law, arson in the second degree as  
36 defined in section 150.15 of the penal law, arson in the first degree as  
37 defined in section 150.20 of the penal law, grand larceny in the fourth  
38 degree as defined in section 155.30 of the penal law, grand larceny in  
39 the third degree as defined in section 155.35 of the penal law, grand  
40 larceny in the second degree as defined in section 155.40 of the penal  
41 law, grand larceny in the first degree as defined in section 155.42 of  
42 the penal law, COMPUTER TAMPERING IN THE THIRD DEGREE AS DEFINED IN  
43 SECTION 156.25 OF THE PENAL LAW, COMPUTER TAMPERING IN THE SECOND DEGREE  
44 AS DEFINED IN SECTION 156.26 OF THE PENAL LAW, COMPUTER TAMPERING IN THE  
45 FIRST DEGREE AS DEFINED IN SECTION 156.27 OF THE PENAL LAW, health care  
46 fraud in the fourth degree as defined in section 177.10 of the penal  
47 law, health care fraud in the third degree as defined in section 177.15  
48 of the penal law, health care fraud in the second degree as defined in  
49 section 177.20 of the penal law, health care fraud in the first degree  
50 as defined in section 177.25 of the penal law, robbery in the third  
51 degree as defined in section 160.05 of the penal law, robbery in the  
52 second degree as defined in section 160.10 of the penal law, robbery in  
53 the first degree as defined in section 160.15 of the penal law, unlawful  
54 use of secret scientific material as defined in section 165.07 of the  
55 penal law, criminal possession of stolen property in the fourth degree  
56 as defined in section 165.45 of the penal law, criminal possession of

1 stolen property in the third degree as defined in section 165.50 of the  
2 penal law, criminal possession of stolen property in the second degree  
3 as defined by section 165.52 of the penal law, criminal possession of  
4 stolen property in the first degree as defined by section 165.54 of the  
5 penal law, trademark counterfeiting in the second degree as defined in  
6 section 165.72 of the penal law, trademark counterfeiting in the first  
7 degree as defined in section 165.73 of the penal law, forgery in the  
8 second degree as defined in section 170.10 of the penal law, forgery in  
9 the first degree as defined in section 170.15 of the penal law, criminal  
10 possession of a forged instrument in the second degree as defined in  
11 section 170.25 of the penal law, criminal possession of a forged instru-  
12 ment in the first degree as defined in section 170.30 of the penal law,  
13 criminal possession of forgery devices as defined in section 170.40 of  
14 the penal law, falsifying business records in the first degree as  
15 defined in section 175.10 of the penal law, tampering with public  
16 records in the first degree as defined in section 175.25 of the penal  
17 law, offering a false instrument for filing in the first degree as  
18 defined in section 175.35 of the penal law, issuing a false certificate  
19 as defined in section 175.40 of the penal law, criminal diversion of  
20 prescription medications and prescriptions in the second degree as  
21 defined in section 178.20 of the penal law, criminal diversion of  
22 prescription medications and prescriptions in the first degree as  
23 defined in section 178.25 of the penal law, residential mortgage fraud  
24 in the fourth degree as defined in section 187.10 of the penal law,  
25 residential mortgage fraud in the third degree as defined in section  
26 187.15 of the penal law, residential mortgage fraud in the second degree  
27 as defined in section 187.20 of the penal law, residential mortgage  
28 fraud in the first degree as defined in section 187.25 of the penal law,  
29 escape in the second degree as defined in section 205.10 of the penal  
30 law, escape in the first degree as defined in section 205.15 of the  
31 penal law, absconding from temporary release in the first degree as  
32 defined in section 205.17 of the penal law, promoting prison contraband  
33 in the first degree as defined in section 205.25 of the penal law,  
34 hindering prosecution in the second degree as defined in section 205.60  
35 of the penal law, hindering prosecution in the first degree as defined  
36 in section 205.65 of the penal law, sex trafficking as defined in  
37 section 230.34 of the penal law, criminal possession of a weapon in the  
38 third degree as defined in subdivisions two, three and five of section  
39 265.02 of the penal law, criminal possession of a weapon in the second  
40 degree as defined in section 265.03 of the penal law, criminal  
41 possession of a weapon in the first degree as defined in section 265.04  
42 of the penal law, manufacture, transport, disposition and defacement of  
43 weapons and dangerous instruments and appliances defined as felonies in  
44 subdivisions one, two, and three of section 265.10 of the penal law,  
45 sections 265.11, 265.12 and 265.13 of the penal law, or prohibited use  
46 of weapons as defined in subdivision two of section 265.35 of the penal  
47 law, relating to firearms and other dangerous weapons, [or] failure to  
48 disclose the origin of a recording in the first degree as defined in  
49 section 275.40 of the penal law, AGRICULTURAL ADULTERATION IN THE SECOND  
50 DEGREE AS DEFINED IN SECTION 280.05 OF THE PENAL LAW, OR AGRICULTURAL  
51 ADULTERATION IN THE FIRST DEGREE AS DEFINED IN SECTION 280.10 OF THE  
52 PENAL LAW;

53 S 28. Paragraph (o) of subdivision 8 of section 700.05 of the criminal  
54 procedure law, as amended by chapter 489 of the laws of 2000, is amended  
55 to read as follows:

1 (o) Money laundering in the first degree, as defined in section 470.20  
2 of the penal law, money laundering in the second degree as defined in  
3 section 470.15 of the penal law, money laundering in the third degree as  
4 defined in section 470.10 of such law, [and] money laundering in the  
5 fourth degree as defined in section 470.05 of such law, MONEY LAUNDERING  
6 IN SUPPORT OF TERRORISM IN THE FOURTH DEGREE AS DEFINED IN SECTION  
7 470.21 OF SUCH LAW, MONEY LAUNDERING IN SUPPORT OF TERRORISM IN THE  
8 THIRD DEGREE AS DEFINED IN SECTION 470.22 OF SUCH LAW, MONEY LAUNDERING  
9 IN SUPPORT OF TERRORISM IN THE SECOND DEGREE AS DEFINED IN SECTION  
10 470.23 OF SUCH LAW, AND MONEY LAUNDERING IN SUPPORT OF TERRORISM IN THE  
11 FIRST DEGREE AS DEFINED IN SECTION 470.24 OF SUCH LAW, where the proper-  
12 ty involved represents or is represented to be the proceeds of specified  
13 criminal conduct which itself constitutes a designated offense within  
14 the meaning of this subdivision, OR THE PROCEEDS OF AN ACT OF TERRORISM  
15 AS DEFINED IN SUBDIVISION ONE OF SECTION 490.05 OF SUCH LAW, OR A MONE-  
16 TARY INSTRUMENT GIVEN, RECEIVED OR INTENDED TO BE USED TO SUPPORT A  
17 VIOLATION OF ARTICLE FOUR HUNDRED NINETY OF SUCH LAW.

18 S 29. Paragraph (q) of subdivision 8 of section 700.05 of the criminal  
19 procedure law, as amended by section 3 of part A of chapter 1 of the  
20 laws of 2004, is amended to read as follows:

21 (q) Soliciting or providing support for an act of terrorism in the  
22 second degree as defined in section 490.10 of the penal law, soliciting  
23 or providing support for an act of terrorism in the first degree as  
24 defined in section 490.15 of the penal law, making a terroristic threat  
25 as defined in section 490.20 of the penal law, crime of terrorism as  
26 defined in section 490.25 of the penal law, CRIME OF CYBER-TERRORISM AS  
27 DEFINED IN SECTION 490.27 OF THE PENAL LAW, hindering prosecution of  
28 terrorism in the second degree as defined in section 490.30 of the penal  
29 law, hindering prosecution of terrorism in the first degree as defined  
30 in section 490.35 of the penal law, criminal possession of a chemical  
31 weapon or biological weapon in the third degree as defined in section  
32 490.37 of the penal law, criminal possession of a chemical weapon or  
33 biological weapon in the second degree as defined in section 490.40 of  
34 the penal law, criminal possession of a chemical weapon or biological  
35 weapon in the first degree as defined in section 490.45 of the penal  
36 law, criminal use of a chemical weapon or biological weapon in the third  
37 degree as defined in section 490.47 of the penal law, criminal use of a  
38 chemical weapon or biological weapon in the second degree as defined in  
39 section 490.50 of the penal law, and criminal use of a chemical weapon  
40 or biological weapon in the first degree as defined in section 490.55 of  
41 the penal law.

42 S 30. Subdivision 2 of section 40.30 of the criminal procedure law is  
43 amended by adding a new paragraph (c) to read as follows:

44 (C) SUCH PROSECUTION OCCURRED IN A COURT OF ANY JURISDICTION WITHIN  
45 THE UNITED STATES OTHER THAN A COURT OF THIS STATE, AND THE PRESENT  
46 PROSECUTION IS FOR AN OFFENSE DEFINED IN ARTICLE FOUR HUNDRED NINETY OF  
47 THE PENAL LAW.

48 S 31. Subdivision 9 of section 40.50 of the criminal procedure law, as  
49 added by chapter 516 of the laws of 1986, is amended to read as follows:

50 9. A person who has been previously prosecuted for racketeering pursu-  
51 ant to federal law, or any comparable offense pursuant to the law of  
52 another state may not be subsequently prosecuted for enterprise  
53 corruption based upon a pattern of criminal activity that specifically  
54 includes a criminal act that was also specifically included in the  
55 pattern of racketeering activity upon which the prior charge of racke-  
56 teering was based; provided, however, that this section shall not be



1 construed to prohibit the subsequent prosecution of any other offense  
2 specifically included in or otherwise a part of a pattern of racketeer-  
3 ing activity alleged in any such prior prosecution for racketeering or  
4 other comparable offense, AND SHALL NOT PROHIBIT THE SUBSEQUENT PROSE-  
5 CUTION OF ANY OFFENSE UNDER ARTICLE FOUR HUNDRED NINETY OF THE PENAL  
6 LAW.

7 S 32. Section 210.40 of the criminal procedure law is amended by  
8 adding a new subdivision 2-a to read as follows:

9 2-A. IN ADDITION TO THE GROUNDS SPECIFIED IN SUBDIVISION ONE OF THIS  
10 SECTION, UPON ANY MOTION TO DISMISS AN INDICTMENT OR ANY COUNT THEREOF  
11 ALLEGING A VIOLATION OF ARTICLE FOUR HUNDRED NINETY OF THE PENAL LAW,  
12 THE COURT MUST ALSO CONSIDER WHETHER THE DEFENDANT PREVIOUSLY HAS BEEN  
13 PROSECUTED IN A COURT OF ANY OTHER JURISDICTION WITHIN THE UNITED STATES  
14 BASED UPON THE SAME ACT OR CRIMINAL TRANSACTION.

15 S 33. Section 710.70 of the criminal procedure law is amended by  
16 adding a new subdivision 4 to read as follows:

17 4. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IN A CRIMINAL ACTION IN  
18 WHICH THE DEFENDANT IS ACCUSED OF AN OFFENSE DEFINED IN ARTICLE FOUR  
19 HUNDRED NINETY OF THE PENAL LAW, THE COURT MAY NOT SUPPRESS EVIDENCE OR  
20 ORDER THAT EVIDENCE BE EXCLUDED ON ACCOUNT OF A VIOLATION OF ANY RIGHT  
21 ACCORDED BY THE FOURTH AMENDMENT TO THE CONSTITUTION OF THE UNITED  
22 STATES OR SECTION TWELVE OF ARTICLE ONE OF THE CONSTITUTION OF THIS  
23 STATE, IF THE COURT FINDS AFTER A HEARING THAT THE LAW ENFORCEMENT OFFI-  
24 CER OR OFFICERS ACTED IN GOOD FAITH.

25 S 34. The criminal procedure law is amended by adding a new section  
26 700.75 to read as follows:

27 S 700.75 ROVING INTERCEPTIONS.

28 IN ANY CASE IN WHICH THE DESIGNATED OFFENSE IS DEFINED IN PARAGRAPH  
29 (Q) OF SUBDIVISION EIGHT OF SECTION 700.05 OF THIS ARTICLE, THE REQUIRE-  
30 MENTS OF THIS ARTICLE RELATING TO THE SPECIFICATION OF THE FACILITIES  
31 FROM WHICH, OR THE PLACE WHERE, THE COMMUNICATION IS TO BE INTERCEPTED  
32 DO NOT APPLY IF:

33 1. IN THE CASE OF AN APPLICATION FOR THE INTERCEPTION OF AN ORAL  
34 COMMUNICATION:

35 (A) THE APPLICATION CONTAINS A FULL AND COMPLETE STATEMENT AS TO WHY  
36 SUCH SPECIFICATION IS NOT PRACTICAL AND IDENTIFIES THE PERSON COMMITTING  
37 THE OFFENSE WHOSE COMMUNICATIONS ARE TO BE INTERCEPTED; AND (B) THE  
38 COURT FINDS THAT SUCH SPECIFICATION IS NOT PRACTICAL; OR

39 2. IN THE CASE OF AN APPLICATION WITH RESPECT TO INTERCEPTION OF A  
40 WIRE OR ELECTRONIC COMMUNICATION:

41 (A) THE APPLICATION IDENTIFIES THE PERSON BELIEVED TO BE COMMITTING  
42 THE OFFENSE AND WHOSE COMMUNICATIONS ARE TO BE INTERCEPTED AND THE  
43 APPLICANT MAKES A SHOWING OF A PURPOSE, ON THE PART OF THAT PERSON, TO  
44 THWART INTERCEPTION BY CHANGING FACILITIES; AND (B) THE COURT FINDS THAT  
45 SUCH PURPOSE HAS BEEN ADEQUATELY SHOWN.

46 3. INTERCEPTION OF COMMUNICATIONS UNDER AN ORDER ISSUED PURSUANT TO  
47 THIS SECTION SHALL NOT BEGIN UNTIL THE FACILITIES FROM WHICH, OR THE  
48 PLACE WHERE, THE COMMUNICATION IS TO BE INTERCEPTED IS ASCERTAINED BY  
49 THE PERSON IMPLEMENTING THE INTERCEPTION ORDER. A PROVIDER OF WIRE OR  
50 ELECTRONIC COMMUNICATIONS SERVICE THAT HAS RECEIVED AN ORDER AS PROVIDED  
51 FOR IN SUBDIVISION TWO OF THIS SECTION MAY MOVE THE COURT TO MODIFY OR  
52 QUASH THE ORDER ON THE GROUNDS THAT ITS ASSISTANCE WITH RESPECT TO THE  
53 INTERCEPTION CANNOT BE PERFORMED IN A TIMELY OR REASONABLE FASHION. THE  
54 COURT, UPON NOTICE TO THE APPLICANT, SHALL DECIDE SUCH MOTION EXPE-  
55 DITIOUSLY.

1 S 35. Subdivision 6 of section 1310 of the civil practice law and  
2 rules, as added by chapter 669 of the laws of 1984, is amended to read  
3 as follows:

4 6. "Pre-conviction forfeiture crime" means only a felony defined in  
5 article two hundred twenty or section 221.30 [or], 221.55, 470.21,  
6 470.22, 470.23, OR 470.24 of the penal law.

7 S 36. Section 1311-a of the civil practice law and rules is amended by  
8 adding a new subdivision 7 to read as follows:

9 7. A SUBPOENA DUCES TECUM ISSUED UNDER THIS SECTION OR ANY OTHER  
10 PROVISION OF LAW IN AID OF A CIVIL FORFEITURE ACTION MAY REQUIRE THE  
11 PRODUCTION OF RECORDS BY ANY PERSON OR ENTITY PRESENT IN THE STATE OR  
12 DOING BUSINESS IN THE STATE PERTAINING TO PROPERTY LOCATED WITHIN OR  
13 WITHOUT THE STATE.

14 S 37. The opening paragraph of section 1313 of the civil practice law  
15 and rules is designated subdivision 1 and a new subdivision 2 is added  
16 to read as follows:

17 2. ANY PERSON OR ENTITY PRESENT IN THE STATE OR DOING BUSINESS IN THE  
18 STATE AND IN POSSESSION OR CONTROL OF PROPERTY AGAINST WHICH A FORFEI-  
19 TURE JUDGMENT MAY BE ENFORCED MUST COMPLY WITH A TEMPORARY RESTRAINING  
20 ORDER OR PRELIMINARY INJUNCTION ISSUED UNDER THIS ARTICLE WITH RESPECT  
21 TO PROPERTY LOCATED WITHIN OR WITHOUT THE STATE. A CLAIMING AUTHORITY  
22 MAY SEEK AN ORDER DIRECTING THAT SUCH PERSON OR ENTITY TRANSFER THE  
23 PROPERTY TO THE CLAIMING AGENT TO BE HELD DURING THE PENDENCY OF THE  
24 ACTION.

25 S 38. The tax law is amended by adding a new section 30 to read as  
26 follows:

27 S 30. DISCLOSURE OF TAX RETURNS OR REPORTS OF PARTICULARS THEREIN IN  
28 INVESTIGATION OR PROSECUTION OF STATE OR FEDERAL TERRORISM OFFENSES;  
29 SECRECY REQUIREMENT AND PENALTY FOR VIOLATION. (A) DISCLOSURE OF TAX  
30 RETURNS OR REPORTS OR PARTICULARS THEREIN IN CASES INVOLVING STATE OR  
31 FEDERAL TERRORISM OFFENSES. (1) NOTWITHSTANDING ANY PROVISION OF LAW TO  
32 THE CONTRARY, THE COMMISSIONER MAY DIVULGE, MAKE KNOWN OR DISCLOSE  
33 RETURNS OR REPORTS OR PARTICULARS SET FORTH OR DISCLOSED IN ANY RETURN  
34 OR REPORT REQUIRED UNDER ANY TAX OR OTHER IMPOSITION ADMINISTERED BY THE  
35 COMMISSIONER UPON THE GRANT OF AN EX PARTE ORDER ISSUED BY A SUPERIOR  
36 COURT UNDER PARAGRAPH TWO OF THIS SUBDIVISION, OR IN RESPONSE TO A GRAND  
37 JURY SUBPOENA OR UPON A PARTICULARIZED WRITTEN REQUEST OF THE ATTORNEY  
38 GENERAL, A STATE DISTRICT ATTORNEY, A FEDERAL PROSECUTOR, AN INDIVIDUAL  
39 SPECIFIED IN 26 U.S.C. 6103(I)(1)(B) OR ANY OTHER ATTORNEY REPRESENTING  
40 THE STATE OR THE UNITED STATES, WHICH STATES THAT SUCH INFORMATION IS  
41 SOUGHT IN CONNECTION WITH AN INVESTIGATION OR PROSECUTION OF AN ACT OR  
42 ACTS IN VIOLATION OF SECTION 470.21, 470.22, 470.23 OR 470.24 OR ARTICLE  
43 FOUR HUNDRED NINETY OF THE PENAL LAW OR A FEDERAL TERRORISM OFFENSE AND  
44 THE INFORMATION IS OR MAY BE RELEVANT TO THE COMMISSION OF SUCH ACT OR  
45 ACTS. ANY SUCH RETURN OR REPORT OR PARTICULARS MAY BE REDISCLOSED TO  
46 FEDERAL, STATE OR LOCAL LAW ENFORCEMENT OFFICIALS PARTICIPATING IN THE  
47 INVESTIGATION OF TERRORIST ACTS OR THREATS.

48 (2) SUCH ATTORNEY GENERAL, DISTRICT ATTORNEY, FEDERAL PROSECUTOR,  
49 INDIVIDUAL SPECIFIED IN 26 U.S.C. 6103(I)(1)(B) OR OTHER ATTORNEY  
50 REPRESENTING THE STATE OR THE UNITED STATES MAY MAKE AN APPLICATION TO A  
51 SUPERIOR COURT FOR THE ORDER REFERRED TO IN PARAGRAPH ONE OF THIS SUBDI-  
52 VISION. UPON SUCH APPLICATION, SUCH COURT MAY GRANT SUCH ORDER IF IT  
53 DETERMINES ON THE BASIS OF THE FACTS SUBMITTED BY THE APPLICANT THAT:

54 (A) THERE IS REASONABLE CAUSE TO BELIEVE THAT A CRIME IN VIOLATION OF  
55 SECTION 470.21, 470.22, 470.23 OR 470.24 OR ARTICLE FOUR HUNDRED NINETY  
56 OF THE PENAL LAW OR A FEDERAL TERRORISM OFFENSE HAS BEEN COMMITTED;

(B) THERE IS REASONABLE CAUSE TO BELIEVE THAT SUCH RETURN OR REPORT OR PARTICULARS ARE OR MAY BE RELEVANT TO A MATTER RELATING TO THE COMMISSION OF SUCH CRIME IN VIOLATION OF SECTION 470.21, 470.22, 470.23 OR 470.24 OR ARTICLE FOUR HUNDRED NINETY OF THE PENAL LAW OR A FEDERAL TERRORISM OFFENSE; AND

(C) SUCH RETURN OR REPORT OR PARTICULARS ARE SOUGHT EXCLUSIVELY FOR USE IN THE STATE OR A FEDERAL CRIMINAL INVESTIGATION OR PROCEEDING CONCERNING SUCH CRIME IN VIOLATION OF SECTION 470.21, 470.22, 470.23 OR 470.24 OR ARTICLE FOUR HUNDRED NINETY OF THE PENAL LAW OR A FEDERAL TERRORISM OFFENSE, AND THE INFORMATION SOUGHT TO BE DISCLOSED CANNOT REASONABLY BE OBTAINED, UNDER THE CIRCUMSTANCES, FROM ANOTHER SOURCE.

(3) IF ANY PERSON SPECIFIED IN PARAGRAPH ONE OF THIS SUBDIVISION HAS RECEIVED ANY SUCH RETURN OR REPORT OR PARTICULARS PURSUANT TO THE PROVISIONS OF THIS SUBDIVISION, THEN SUCH PERSON MAY DISCLOSE TO THE COMMISSIONER ANY INFORMATION DISCOVERED DURING THE COURSE OF ANY INVESTIGATION OR JUDICIAL PROCEEDING REFERRED TO IN THIS SUBDIVISION, WHICH MAY RELATE TO A VIOLATION OR VIOLATIONS OF THE PROVISIONS OF ANY TAX OR OTHER IMPOSITION ADMINISTERED BY THE COMMISSIONER.

(4) IF SUCH ATTORNEY GENERAL, DISTRICT ATTORNEY, FEDERAL PROSECUTOR, INDIVIDUAL SPECIFIED IN 26 U.S.C. 6103(I)(1)(B) OR OTHER ATTORNEY REPRESENTING THE STATE OR THE UNITED STATES HAS OBTAINED ANY SUCH RETURNS OR REPORTS OR PARTICULARS PURSUANT TO THE PROVISIONS OF THIS SUBDIVISION, THEN SUCH RETURNS OR REPORTS OR PARTICULARS MAY BE ADMITTED INTO EVIDENCE AND DISCLOSED IN ANY JUDICIAL PROCEEDING PERTAINING TO ENFORCEMENT OF A CRIME IN VIOLATION OF SECTION 470.21, 470.22, 470.23 OR 470.24 OR ARTICLE FOUR HUNDRED NINETY OF THE PENAL LAW OR A FEDERAL TERRORISM OFFENSE OR RELATED CIVIL FORFEITURE (NOT INVOLVING TAX ADMINISTRATION) TO WHICH THE STATE OR THE UNITED STATES IS A PARTY.

(B) THIS SECTION SHALL NOT APPLY TO ANY DISCLOSURE OF THE RETURNS OR REPORTS OR PARTICULARS DESCRIBED IN SUBDIVISION (A) OF THIS SECTION TO THE EXTENT THAT SUCH DISCLOSURE IS PERMITTED OR AUTHORIZED BY ANY OTHER PROVISION OF THIS CHAPTER OR ANY PROVISION OF ANY TAX OR OTHER IMPOSITION ADMINISTERED BY THE COMMISSIONER.

(C) SECRECY REQUIREMENT AND PENALTY FOR VIOLATION. (1) EXCEPT IN ACCORDANCE WITH PROPER JUDICIAL ORDER OR AS OTHERWISE PROVIDED BY LAW, IT SHALL BE UNLAWFUL FOR ANY PERSON TO WHOM THE RETURNS OR REPORTS OR PARTICULARS DESCRIBED IN SUBDIVISION (A) OF THIS SECTION ARE DISCLOSED IN ACCORDANCE WITH THIS SECTION TO DIVULGE OR MAKE KNOWN IN ANY MANNER SUCH INCOME OR PARTICULARS FOR USES NOT AUTHORIZED UNDER THIS SECTION.

(2) CROSS-REFERENCE. FOR CRIMINAL PENALTIES, SEE ARTICLE 37 OF THIS CHAPTER.

S 39. Section 1825 of the tax law, as amended by section 2 of part N of chapter 686 of the laws of 2003, is amended to read as follows:

S 1825. Violation of secrecy provisions of the tax law.--Any person who violates the provisions of subdivision (b) of section twenty-one AS ADDED BY CHAPTER 686 OF THE LAWS OF 2003, SECTION TWENTY-EIGHT, subdivision one of section two hundred two, subdivision eight of section two hundred eleven, subdivision (a) of section three hundred fourteen, subdivision one or two of section four hundred thirty-seven, section four hundred eighty-seven, subdivision one or two of section five hundred fourteen, subsection (e) of section six hundred ninety-seven, subsection (a) of section nine hundred ninety-four, subdivision (a) of section eleven hundred forty-six, subdivision (a) of section fourteen hundred eighteen, subsection (a) of section fourteen hundred sixty-seven, subdivision (a) of section fifteen hundred eighteen, subdivision (a) of section fifteen hundred fifty-five of this chapter, and subdivision

1 (e) of section 11-1797 of the administrative code of the city of New  
2 York shall be guilty of a misdemeanor.

3 S 40. Subdivision 1 of section 21 of the executive law, as amended by  
4 chapter 346 of the laws of 2002, is amended to read as follows:

5 1. There is hereby created in the executive department a disaster  
6 preparedness commission consisting of the commissioners of transporta-  
7 tion, health, division of criminal justice services, education, social  
8 services, economic development, agriculture and markets, housing and  
9 community renewal, general services, labor, environmental conservation,  
10 mental health, the president of the New York state energy research and  
11 development authority, the superintendents of state police, insurance,  
12 banking, the secretary of state, the state fire administrator, the chair  
13 of the public service commission, the adjutant general, the director of  
14 the state office for technology, the chairman of the thruway authority,  
15 THE DIRECTOR OF THE OFFICE OF HOMELAND SECURITY, the chief professional  
16 officer of the state coordinating chapter of the American Red Cross and  
17 three additional members, to be appointed by the governor, two of whom  
18 shall be chief executives. The governor shall designate the chair of the  
19 commission. The members of the commission, except those who serve ex  
20 officio, shall be allowed their actual and necessary expenses incurred  
21 in the performance of their duties under this article but shall receive  
22 no additional compensation for services rendered pursuant to this arti-  
23 cle.

24 S 41. If any item, clause, sentence, subparagraph, subdivision,  
25 section or other part of this act, or the application thereof to any  
26 person or circumstances shall be held to be invalid, such holding shall  
27 not affect, impair or invalidate the remainder of this act, or the  
28 application of such section or part of a section held invalid, to any  
29 other person or circumstances, but shall be confined in its operation to  
30 the item, clause, sentence, subparagraph, subdivision, section or other  
31 part of this act directly involved in such holding, or to the person and  
32 circumstances therein involved.

33 S 42. This act shall take effect immediately, provided, however, that  
34 the provisions of section 700.75 of the criminal procedure law, as added  
35 by section thirty-four of this act, and the provisions of section 30 of  
36 the tax law, as added by section thirty-eight of this act, shall expire  
37 and be deemed repealed two years after such date.