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

5422

2009-2010 Regular Sessions

I N A S S E M B L Y

February 13, 2009

Introduced by M. of A. ERRIGO, FINCH, KOLB, McKEVITT, TOBACCO, WALKER -- Multi-Sponsored by -- M. of A. ALFANO, BARRA, BURLING, HAWLEY, THIELE -- read once and referred to the Committee on Children and Families

AN ACT to amend the criminal procedure law, the executive law, the family court act and the penal law, in relation to enacting the "Juvenile Justice Accountability and Procedural Reform Act" and to repeal certain provisions of the criminal procedure law, the family court act and the penal law, relating thereto

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

Section 1. This act shall be known and may be cited as the "Juvenile Justice Accountability and Procedural Reform Act."

S 2. Subdivision 42 of section 1.20 of the criminal procedure law, as amended by chapter 7 of the laws of 2007, is amended to read as follows:

42. "Juvenile offender" means (1) a person, TWELVE OR thirteen years old who is criminally responsible for acts constituting murder in the second degree as defined in subdivisions one and two of section 125.25 of the penal law, or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; and (2) a person fourteen or fifteen years old who is criminally responsible for acts constituting the crimes defined in subdivisions one and two of section 125.25 (murder in the second degree) and in subdivision three of such section provided that the underlying crime for the murder charge is one for which such person is criminally responsible; section 135.25 (kidnapping in the first degree); 150.20 (arson in the first degree); SUBDIVISION TEN OF SECTION 120.05 (ASSAULT IN THE SECOND DEGREE); 120.07 (GANG ASSAULT IN THE FIRST DEGREE); subdivisions one [and], two AND THREE of section 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); 120.11 (AGGRAVATED ASSAULT UPON A POLICE OFFICER OR A PEACE OFFICER); subdivisions one and two of section 130.35 (rape in the first degree); subdivisions one and two of section 130.50 (criminal

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

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sexual act in the first degree); 130.70 (aggravated sexual abuse in the first degree); 130.75 (COURSE OF SEXUAL CONDUCT AGAINST A CHILD IN THE FIRST DEGREE); 130.67 (AGGRAVATED SEXUAL ABUSE IN THE SECOND DEGREE); 140.30 (burglary in the first degree); subdivision one of section 140.25 (burglary in the second degree); 150.15 (arson in the second degree); 160.15 (robbery in the first degree); subdivision two of section 160.10 (robbery in the second degree); 215.17 (INTIMIDATING A VICTIM OR WITNESS IN THE FIRST DEGREE); 265.09 (CRIMINAL USE OF A FIREARM IN THE FIRST DEGREE); OR 265.08 (CRIMINAL USE OF A FIREARM IN THE SECOND DEGREE) of the penal law; or section 265.03 of the penal law, where such machine gun or such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 of the penal law; or defined in the penal law as an attempt to commit [murder in the second degree or kidnapping in the first degree, or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law] ANY OF THE FOREGOING CRIMES.

S 3. Subdivision 3 of section 10.10 of the criminal procedure law is amended to read as follows:

3. "Local criminal court" means:

(a) A district court; or

(b) The New York City criminal court; or

(c) A city court; or

(d) A town court; or

(e) A village court; or

(f) A supreme court justice sitting as a local criminal court; or

(g) A county judge sitting as a local criminal court; OR

(H) A FAMILY COURT, BUT ONLY FOR THE PURPOSE OF ARTICLE SIX HUNDRED NINETY OF THIS CHAPTER.

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

(a) Except as provided in subdivision six of section 200.20 of this chapter, a grand jury may not indict [(i)] a person [thirteen] LESS THAN SIXTEEN years of age [for any conduct or crime other than conduct constituting a crime defined in subdivisions one and two of section 125.25 (murder in the second degree) or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (ii) a person fourteen or fifteen years of age for any conduct or crime other than conduct constituting a crime defined in subdivisions one and two of section 125.25 (murder in the second degree) and in subdivision three of such section provided that the underlying crime for the murder charge is one for which such person is criminally responsible; 135.25 (kidnapping in the first degree); 150.20 (arson in the first degree); subdivisions one and two of section 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); subdivisions one and two of section 130.35 (rape in the first degree); subdivisions one and two of section 130.50 (criminal sexual act in the first degree); 130.70 (aggravated sexual abuse in the first degree); 140.30 (burglary in the first degree); subdivision one of section 140.25 (burglary in the second degree); 150.15 (arson in the second degree); 160.15 (robbery in the first degree); subdivision two of section 160.10 (robbery in the second degree) of the penal law; subdivision four of section 265.02 of the penal law, where such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 of the penal law; or section 265.03 of the penal law, where such machine gun or

such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 of the penal law; or defined in the penal law as an attempt to commit murder in the second degree or kidnapping in the first degree, or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law] AT THE TIME THE OFFENSE WAS COMMITTED OTHER THAN A JUVENILE OFFENDER AS DEFINED IN SUBDIVISION FORTY-TWO OF SECTION 1.20 OF THIS CHAPTER.

(b) A grand jury may vote to file a request to remove a charge to the family court if it finds that a person TWELVE, thirteen, fourteen or fifteen years of age did an act which, if done by a person over the age of sixteen, would constitute a crime provided (1) such act is one for which it may not indict; (2) it does not indict such person for a crime; and (3) the evidence before it is legally sufficient to establish that such person did such act and competent and admissible evidence before it provides reasonable cause to believe that such person did such act.

S 5. Subdivision 7 of section 210.30 of the criminal procedure law, as added by chapter 136 of the laws of 1980, is amended to read as follows:

7. Notwithstanding any other provision of law, where the indictment is filed against a juvenile offender, the court shall dismiss the indictment or count thereof where the evidence before the grand jury was not legally sufficient to establish the offense charged or any lesser included offense for which the defendant is criminally responsible. Upon such dismissal, unless the court shall authorize the people to resubmit the charge to a subsequent grand jury, and upon a finding that there was sufficient evidence to believe defendant is a juvenile delinquent as defined in subdivision [(a)] ONE of section [seven hundred twelve] 301.2 of the family court act and upon specifying the act or acts it found sufficient evidence to believe defendant committed, the court may direct that such matter be removed to family court in accordance with the provisions of article seven hundred twenty-five of this chapter.

S 6. Paragraph (b) of subdivision 1 of section 210.43 of the criminal procedure law, as amended by chapter 264 of the laws of 2003, is amended to read as follows:

(b) with the consent of the district attorney, order removal of an action involving an indictment charging a juvenile offender with [murder in the second degree as defined in section 125.25 of the penal law; rape in the first degree, as defined in subdivision one of section 130.35 of the penal law; criminal sexual act in the first degree, as defined in subdivision one of section 130.50 of the penal law;] A CLASS A OR B FELONY or an armed felony as defined in [paragraph (a) of] subdivision forty-one of section 1.20, to the family court pursuant to the provisions of article seven hundred twenty-five of this chapter if the court finds one or more of the following factors: (i) mitigating circumstances that bear directly upon the manner in which the crime was committed; (ii) where the defendant was not the sole participant in the crime, the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution; or (iii) possible deficiencies in the proof of the crime, and, after consideration of the factors set forth in subdivision two of this section, the court determined that removal of the action to the family court would be in the interests of justice.

S 7. Subparagraph (iii) and the second undesignated paragraph of paragraph (g) of subdivision 5 of section 220.10 of the criminal procedure law, subparagraph (iii) as amended by chapter 264 of the laws of 2003

and the second undesignated paragraph as amended by chapter 920 of the laws of 1982, are amended to read as follows:

(iii) Where the indictment does not charge a crime specified in subparagraph (i) of this paragraph, the district attorney may recommend removal of the action to the family court. Upon making such recommendation the district attorney shall submit a subscribed memorandum setting forth: (1) a recommendation that the interests of justice would best be served by removal of the action to the family court; and (2) if the indictment charges a TWELVE OR thirteen year old with the crime of murder in the second degree, or a fourteen or fifteen year old with the crimes of rape in the first degree as defined in subdivision one of section 130.35 of the penal law, or criminal sexual act in the first degree as defined in subdivision one of section 130.50 of the penal law, or an armed felony as defined in paragraph (a) of subdivision forty-one of section 1.20 of this chapter specific factors, one or more of which reasonably supports the recommendation, showing, (i) mitigating circumstances that bear directly upon the manner in which the crime was committed, or (ii) where the defendant was not the sole participant in the crime, that the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution, or (iii) possible deficiencies in proof of the crime, or (iv) where the juvenile offender has no previous adjudications of having committed a designated felony act, as defined in subdivision eight of section 301.2 of the family court act, regardless of the age of the offender at the time of commission of the act, that the criminal act was not part of a pattern of criminal behavior and, in view of the history of the offender, is not likely to be repeated.

If the court is of the opinion based on specific factors set forth in the district attorney's memorandum that the interests of justice would best be served by removal of the action to the family court, a plea of guilty of a crime or act for which the defendant is not criminally responsible may be entered pursuant to subdivision three or four of this section, except that a TWELVE OR thirteen year old charged with the crime of murder in the second degree may only plead to a designated felony act, as defined in subdivision eight of section 301.2 of the family court act.

S 8. Subdivisions 4 and 5 of section 380.50 of the criminal procedure law, as added by chapter 7 of the laws of 2007, are amended to read as follows:

4. Regardless of whether the victim requests to make a statement with regard to the defendant's sentence, where the defendant is committed to the custody of the department of correctional services OR THE OFFICE OF CHILDREN AND FAMILY SERVICES upon a sentence of imprisonment for conviction of a violent felony offense as defined in section 70.02 of the penal law or a felony defined in article one hundred twenty-five of such law, or a sex offense as defined in subdivision (p) of section 10.03 of the mental hygiene law OR FOR CONVICTION AS A JUVENILE OFFENDER AS DEFINED IN SUBDIVISION EIGHTEEN OF SECTION 10.00 OF THE PENAL LAW, within sixty days of the imposition of sentence the prosecutor shall provide the victim with a form, prepared and distributed by the commissioner of the department of correctional services, on which the victim may indicate a demand to be informed of the escape, absconding, discharge, parole, conditional release, release to post-release supervision, transfer to the custody of the office of mental health pursuant to article ten of the mental hygiene law, or release from confinement under article ten of the mental hygiene law of the person so imprisoned.

If the victim submits a completed form to the prosecutor, it shall be the duty of the prosecutor to mail promptly such form to the department of correctional services. WHERE A DEFENDANT IS COMMITTED TO THE OFFICE OF CHILDREN AND FAMILY SERVICES, THE DEPARTMENT OF CORRECTIONAL SERVICES SHALL RETAIN A COPY OF THE FORM FOR ITS FILES AND PROMPTLY FORWARD A COPY TO THE OFFICE OF CHILDREN AND FAMILY SERVICES.

5. Following the receipt of such form from the prosecutor, it shall be the duty of the department of correctional services OR THE OFFICE OF CHILDREN AND FAMILY SERVICES or, where the person is committed to the custody of the office of mental health, at the time such person is discharged, paroled, conditionally released, released to post-release supervision, or released from confinement under article ten of the mental hygiene law, to notify the victim of such occurrence by certified mail directed to the address provided by the victim. In the event such person escapes or absconds from a facility under the jurisdiction of the department of correctional services OR THE OFFICE OF CHILDREN AND FAMILY SERVICES, it shall be the duty of such department OR OFFICE to notify immediately the victim of such occurrence at the most current address or telephone number provided by the victim in the most reasonable and expedient possible manner. In the event such escapee or absconder is subsequently taken into custody by the department of correctional services OR THE OFFICE OF CHILDREN AND FAMILY SERVICES, it shall be the duty of such department OR OFFICE to notify the victim of such occurrence by certified mail directed to the address provided by the victim within forty-eight hours of regaining such custody. In the case of a person who escapes or absconds from confinement under article ten of the mental hygiene law, the office of mental health shall notify the victim or victims in accordance with the procedures set forth in subdivision (g) of section 10.10 of the mental hygiene law. In no case shall the state be held liable for failure to provide any notice required by this subdivision.

S 9. Paragraph (a) of subdivision 2 of section 720.10 of the criminal procedure law, as amended by chapter 316 of the laws of 2006, is amended to read as follows:

(a) the conviction to be replaced by a youthful offender finding is for (i) a class A-I or class A-II felony, or (ii) A CLASS B VIOLENT FELONY AS DEFINED IN SUBDIVISION ONE OF SECTION 70.02 OF THE PENAL LAW, EXCEPT AS PROVIDED IN SUBDIVISION THREE OF THIS SECTION, OR (III) an armed felony as defined in subdivision forty-one of section 1.20, except as provided in subdivision three OF THIS SECTION, [or (iii) rape in the first degree, criminal sexual act in the first degree, or aggravated sexual abuse, except as provided in subdivision three,] or

S 10. Subdivision 3 of section 720.10 of the criminal procedure law, as amended by chapter 264 of the laws of 2003, is amended to read as follows:

3. Notwithstanding the provisions of subdivision two, a youth who has been convicted of A CLASS B VIOLENT FELONY AS DEFINED IN PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION 70.02 OF THE PENAL LAW OR an armed felony offense [or of rape in the first degree, criminal sexual act in the first degree, or aggravated sexual abuse] AS DEFINED IN SUBDIVISION FORTY-ONE OF SECTION 1.20 OF THIS CHAPTER is an eligible youth if the court determines that one or more of the following factors exist: (i) mitigating circumstances that bear directly upon the manner in which the crime was committed; or (ii) where the defendant was not the sole participant in the crime, the defendant's participation was relatively minor although not so minor as to constitute a defense to the prose-

cution. Where the court determines that the eligible youth is a youthful offender, the court shall make a statement on the record of the reasons for its determination, a transcript of which shall be forwarded to the state division of criminal justice services, to be kept in accordance with the provisions of subdivision three of section eight hundred thirty-seven-a of the executive law.

S 11. Section 720.15 of the criminal procedure law is REPEALED.

S 12. Paragraph (a) of subdivision 1 of section 720.20 of the criminal procedure law, as amended by chapter 652 of the laws of 1974, is amended to read as follows:

(a) If in the opinion of the court the interest of justice would be served by relieving the eligible youth from the onus of a criminal record and by not imposing an indeterminate term of imprisonment [of] more than [four years] THAT AUTHORIZED PURSUANT TO SUBDIVISIONS TWO AND TWO-A OF SECTION 60.02 OF THE PENAL LAW, the court may, in its discretion, find the eligible youth is a youthful offender; and

S 13. Subdivision 4 of section 720.20 of the criminal procedure law is REPEALED.

S 14. Subdivision 1 of section 720.35 of the criminal procedure law, as amended by chapter 452 of the laws of 1992, is amended to read as follows:

1. A youthful offender adjudication is not a judgment of conviction for a crime or any other offense, and does not operate as a disqualification of any person so adjudged to hold public office or public employment or to receive any license granted by public authority but shall be deemed a conviction [only] (I) for the purposes of transfer of supervision and custody pursuant to section two hundred fifty-nine-m of the executive law OR (II) FOR THE PURPOSE OF DETERMINING WHETHER THE PERSON IS SUBJECT TO SENTENCE PURSUANT TO SECTION 70.04, 70.06, 70.08 OR 70.10 OF THE PENAL LAW, WHENEVER THE PERSON HAS COMMITTED A VIOLENT FELONY OFFENSE, AS DEFINED IN SUBDIVISION ONE OF SECTION 70.02 OF THE PENAL LAW, WITHIN FIVE YEARS OF THE DATE ON WHICH HE OR SHE WAS ADJUDICATED A YOUTHFUL OFFENDER FOR A FELONY OFFENSE, AND HAS BEEN CONVICTED OF SUCH VIOLENT FELONY OFFENSE.

S 15. Subdivision 2 of section 720.35 of the criminal procedure law, as amended by chapter 412 of the laws of 2001, is amended to read as follows:

2. Except where specifically required or permitted by statute or upon specific authorization of the court, all official records and papers, whether on file with the court, a police agency or the division of criminal justice services, relating to a case involving a youth who has been adjudicated a youthful offender, are confidential and may not be made available to any person or public or private agency, other than (A) ANY STATE OR LOCAL OFFICER OR AGENCY WITH RESPONSIBILITY FOR THE ISSUANCE OF LICENSES TO POSSESS GUNS, WHEN THE PERSON HAS MADE APPLICATION FOR SUCH LICENSE; OR (B) ANY PROSPECTIVE EMPLOYER OF A POLICE OFFICER OR PEACE OFFICER AS THOSE TERMS ARE DEFINED IN SUBDIVISIONS THIRTY-THREE AND THIRTY-FOUR OF SECTION 1.20 OF THIS CHAPTER, IN RELATION TO AN APPLICATION FOR EMPLOYMENT AS A POLICE OFFICER OR PEACE OFFICER; PROVIDED, HOWEVER, THAT EVERY PERSON WHO IS AN APPLICANT FOR THE POSITION OF POLICE OFFICER OR PEACE OFFICER SHALL BE FURNISHED WITH A COPY OF ALL RECORDS OBTAINED UNDER THIS PARAGRAPH AND AFFORDED AN OPPORTUNITY TO MAKE AN EXPLANATION THEREOF; OR (C) the designated educational official of the public or private elementary or secondary school in which the youth is enrolled as a student provided that such local educational official shall only have made available a notice of such adjudication

and shall not have access to any other official records and papers, such youth or such youth's designated agent (but only where the official records and papers sought are on file with a court and request therefor is made to that court or to a clerk thereof), an institution to which such youth has been committed, the division of parole and a probation department of this state that requires such official records and papers for the purpose of carrying out duties specifically authorized by law; provided, however, that information regarding an order of protection or temporary order of protection issued pursuant to section 530.12 of this chapter or a warrant issued in connection therewith may be maintained on the statewide automated order of protection and warrant registry established pursuant to section two hundred twenty-one-a of the executive law during the period that such order of protection or temporary order of protection is in full force and effect or during which such warrant may be executed. Such confidential information may be made available pursuant to law only for purposes of adjudicating or enforcing such order of protection or temporary order of protection and, where provided to a designated educational official, as defined in section 380.90 of this chapter, for purposes related to the execution of the student's educational plan, where applicable, successful school adjustment and reentry into the community. Such notification shall be kept separate and apart from such student's school records and shall be accessible only by the designated educational official. Such notification shall not be part of such student's permanent school record and shall not be appended to or included in any documentation regarding such student and shall be destroyed at such time as such student is no longer enrolled in the school district. At no time shall such notification be used for any purpose other than those specified in this subdivision.

S 16. Section 720.35 of the criminal procedure law is amended by adding a new subdivision 5 to read as follows:

5. NOTWITHSTANDING SUBDIVISION TWO OF THIS SECTION, WHENEVER A PERSON STANDS CONVICTED OF A FELONY OFFENSE COMMITTED WITHIN FIVE YEARS OF THE DATE ON WHICH HE OR SHE WAS ADJUDICATED A YOUTHFUL OFFENDER FOR A FELONY OFFENSE, ALL RECORDS PERTAINING TO THE YOUTHFUL OFFENDER ADJUDICATION SHALL NO LONGER BE CONFIDENTIAL.

S 17. Section 725.00 of the criminal procedure law, as amended by chapter 411 of the laws of 1979, is amended to read as follows:

S 725.00 Applicability.

The provisions of this article apply in any case where a court directs that an action or charge is to be removed to the family court under section 180.75, 190.71, 210.30, 210.43, 220.10, 310.85 or 330.25 of this chapter.

S 18. Subdivision 2 of section 259-a of the executive law, as amended by chapter 7 of the laws of 2007, is amended to read as follows:

2. The division shall cause complete records to be kept of every person on presumptive release, parole, conditional release or post-release supervision. Such records shall contain the aliases and photograph of each such person, and the other information referred to in subdivision one of this section, as well as all reports of parole officers in relation to such persons. Such records shall be maintained by the division and may be made available as deemed appropriate by the chairman for use by the department of correctional services, THE OFFICE OF CHILDREN AND FAMILY SERVICES, the commissioner of mental health, the commissioner of mental retardation and developmental disabilities, the case review panel, and the attorney general pursuant to section 10.05 of the mental hygiene law, the division, and the board of parole. Such records shall

be organized in accordance with methods of filing and indexing designed to insure the immediate availability of complete information about such persons.

S 19. Subdivision 1 of section 501-c of the executive law is amended by adding a new paragraph (e) to read as follows:

(E) NOTHING IN THIS SUBDIVISION SHALL BE DEEMED TO PREVENT ACCESS TO PHOTOGRAPHS TAKEN OF A YOUTH AS AUTHORIZED BY SUBDIVISION THREE OF SECTION FIVE HUNDRED SEVEN-A OF THIS ARTICLE.

S 20. Subdivision 1 of section 504-a of the executive law, as amended by chapter 283 of the laws of 1977 and such section as renumbered by chapter 465 of the laws of 1992, is amended to read as follows:

1. As used in this article, "secure facility" means a residential facility in which a juvenile delinquent may be placed OR TO WHICH A JUVENILE OFFENDER MAY BE SENTENCED under this article, which is characterized by physically restricting construction, hardware and procedures, and is designated as a secure facility by the [division] OFFICE OF CHILDREN AND FAMILY SERVICES under this section. AS USED IN THIS SECTION "MAXIMUM SECURE FACILITY" MEANS A SECURE FACILITY DESIGNATED BY THE COMMISSIONER FOR THE PURPOSE OF HOUSING YOUTHS PLACED UNDER THIS ARTICLE WHO BY REASON OF THEIR CONDUCT DURING PLACEMENT OR BY REASON OF THE ACT OR ACTS WHICH THEY COMMITTED REQUIRE MORE INTENSIVE STRUCTURE, SECURITY AND SUPERVISION THAN MAY BE PROVIDED IN A STANDARD SECURE FACILITY. IN PLACING SUCH YOUTHS IN A MAXIMUM SECURE FACILITY, THE COMMISSIONER SHALL CONSIDER THE NEED FOR SEGREGATING THEM FROM OTHER YOUTHS PLACED IN SECURE FACILITIES.

S 21. Subdivision 3 of section 504-a of the executive law, as amended by chapter 204 of the laws of 1977, paragraph (a) as amended by chapter 920 of the laws of 1982 and such section as renumbered by chapter 465 of the laws of 1992, is amended to read as follows:

3. A youth shall be placed in, COMMITTED TO, or transferred to a secure facility only:

(a) by order of the family court pursuant to PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION 353.3 OR section 353.5 of the family court act; or

(b) after a hearing pursuant to regulations of the [division] OFFICE OF CHILDREN AND FAMILY SERVICES, with the written approval of the [director] COMMISSIONER of [the division] SUCH OFFICE or his or her designee[.]; OR

(C) UPON BEING SENTENCED AS A JUVENILE OFFENDER TO IMPRISONMENT PURSUANT TO THE PENAL LAW.

S 22. The opening paragraph of subdivision 4 and subdivision 5 of section 504-a of the executive law, the opening paragraph of subdivision 4 as amended by chapter 555 of the laws of 1978 and subdivision 5 as added by chapter 478 of the laws of 1978 and such section as renumbered by chapter 465 of the laws of 1992, are amended to read as follows:

The [division] OFFICE OF CHILDREN AND FAMILY SERVICES, shall promulgate regulations governing secure facilities, INCLUDING MAXIMUM SECURE FACILITIES, of [the division] SUCH OFFICE, including but not limited to:

5. A juvenile delinquent OR A JUVENILE OFFENDER residing in a facility operated pursuant to this title may be maintained in group confinement if he OR SHE constitutes a serious and evident danger to himself OR HERSELF or other persons, if such confinement is clearly necessary to prevent escape, if the child demonstrates by his OR HER behavior that he OR SHE is in need of special care and attention in a living unit separate from his OR HER normal surroundings, or if such confinement is necessary for purposes of the child's own protection. A JUVENILE DELINQUENT OR JUVENILE OFFENDER RESIDING IN A FACILITY OPERATED PURSUANT TO

THIS TITLE MAY BE CONFINED IN A MAXIMUM SECURE FACILITY IF THE COMMISSIONER DETERMINES IN ACCORDANCE WITH SUBDIVISION ONE OF THIS SECTION THAT SUCH CONFINEMENT IS REQUIRED. The [division] OFFICE OF CHILDREN AND FAMILY SERVICES shall promulgate regulations providing for a procedure governing transfers to group confinement AND CONFINEMENT IN MAXIMUM SECURE FACILITIES and periodic review of such confinement.

S 23. Subdivision 3 of section 507-a of the executive law, as amended by chapter 465 of the laws of 1992, is amended to read as follows:

3. The [division] OFFICE OF CHILDREN AND FAMILY SERVICES may photograph any youth in its custody. Such photograph may be used [only] for the purpose of assisting in the return of conditionally released children and runaways pursuant to section five hundred ten-b of this article. Such photograph shall be destroyed immediately upon the discharge of the youth from [division] OFFICE OF CHILDREN AND FAMILY SERVICES custody. UPON A WRITTEN REQUEST, A COPY OF THE PHOTOGRAPH MAY BE PROVIDED TO ANY POLICE DEPARTMENT OR LAW ENFORCEMENT AGENCY, DISTRICT ATTORNEY, PRESENTMENT AGENCY OR COURT FOR THE PURPOSE OF ASSISTING IN AN ONGOING INVESTIGATION.

S 24. The section heading and subdivision 7 of section 508 of the executive law, the section heading as added by chapter 481 of the laws of 1978 and subdivision 7 as separately amended by chapters 308 and 316 of the laws of 1983 and such section as renumbered by chapter 465 of the laws of 1992, are amended to read as follows:

Juvenile offender [facilities] COMMITMENTS.

7. While in the custody of the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES, an offender shall be subject to the rules and regulations of [the division] SUCH OFFICE except that his OR HER RELEASE TO THE SUPERVISION OF THE DIVISION OF parole, temporary release and discharge shall be governed by the laws applicable to inmates of state correctional facilities and his OR HER transfer to state hospitals in the office of mental health shall be governed by section five hundred seventeen of this [chapter] ARTICLE. The [director] COMMISSIONER of the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES shall, however, establish and operate temporary release programs at [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES facilities for eligible juvenile offenders and contract with the division of parole for the provision of parole supervision services for temporary releasees. The rules and regulations for these programs shall not be inconsistent with the laws for temporary release applicable to inmates of state correctional facilities. For the purposes of temporary release programs for juvenile offenders only, when referred to or defined in article twenty-six of the correction law, "institution" shall mean any facility designated by the [director] COMMISSIONER of the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES, "department" shall mean the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES, "inmate" shall mean a juvenile offender residing in [a division for youth] AN OFFICE OF CHILDREN AND FAMILY SERVICES facility, and "commissioner" shall mean the [director] COMMISSIONER of the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES. Time spent in [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES facilities and in juvenile detention facilities shall be credited towards the sentence imposed in the same manner and to the same extent applicable to inmates of state correctional facilities.

S 25. Subdivision 1 of section 510-a of the executive law, as amended by chapter 465 of the laws of 1992, is amended to read as follows:

1. The [division] OFFICE OF CHILDREN AND FAMILY SERVICES may conditionally release any youth placed with the [division] OFFICE OF CHILDREN

AND FAMILY SERVICES to aftercare whenever it deems such conditional release to be in the best interest of the youth, that suitable care and supervision can be provided and that there is a reasonable probability that the youth can be conditionally released without endangering the public safety; provided, however, that no youth while absent from a facility or program without the consent of the director of such facility or program shall be conditionally released by the [division] OFFICE OF CHILDREN AND FAMILY SERVICES solely by reason of the absence. ANY YOUTH RELEASED FROM A RESIDENTIAL FACILITY PURSUANT TO THIS SECTION SHALL BE SUBJECT TO CONDITIONS OF RELEASE, WHICH MAY INCLUDE THAT THE YOUTH COMPLY WITH A CURFEW, ATTEND SCHOOL REGULARLY OR OBTAIN REGULAR EMPLOYMENT, AVOID INJURIOUS, DELINQUENT OR CRIMINAL CONDUCT, COOPERATE WITH ANY MENTAL HEALTH, SOCIAL SERVICES OR OTHER APPROPRIATE COMMUNITY FACILITY OR AGENCY TO WHICH THE YOUTH MAY BE REFERRED, OBEY ALL REASONABLE COMMANDS OF THE PARENT OR OTHER PERSON OR AGENCY LEGALLY RESPONSIBLE FOR THE YOUTH'S CARE AND COMPLY WITH ANY OTHER REASONABLE CONDITIONS IMPOSED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES. THE YOUTH'S PARENT OR OTHER LEGALLY RESPONSIBLE PERSON MAY BE REQUESTED TO PARTICIPATE IN THE AFTERCARE PROGRAM PROVIDED TO SUCH YOUTH AND TO ASSIST IN THE YOUTH'S COMPLIANCE WITH THE CONDITIONS OF RELEASE. THE OFFICE OF CHILDREN AND FAMILY SERVICES MAY CONSIDER THE WILLINGNESS OF SUCH LEGALLY RESPONSIBLE PERSON TO COMPLY WITH SUCH REQUESTS IN DETERMINING WHETHER TO CONDITIONALLY RELEASE THE YOUTH TO THE HOME OR TO RETURN A CONDITIONALLY RELEASED YOUTH TO A RESIDENTIAL PROGRAM; PROVIDED HOWEVER, THE UNWILLINGNESS OF SUCH PERSON TO PARTICIPATE SHALL NOT BE THE SOLE REASON TO RETURN A CONDITIONALLY RELEASED YOUTH TO A RESIDENTIAL PROGRAM. The [division] OFFICE OF CHILDREN AND FAMILY SERVICES may establish regulations in connection with such conditional release.

S 26. Subdivision 2 of section 510-c of the executive law, as amended by chapter 465 of the laws of 1992, is amended to read as follows:

2. Except as provided in subdivision three of this section, any child who has been placed with the [division] OFFICE OF CHILDREN AND FAMILY SERVICES shall be deemed to have been discharged therefrom if, during the period provided in the order of placement or extension thereof, the child is TRANSFERRED TO THE DEPARTMENT OF CORRECTIONAL SERVICES OR IS convicted of a crime or adjudicated a youthful offender, and is committed to an institution in the department of correctional services or department of mental hygiene, or receives a one year sentence in a local correctional facility.

S 27. Subdivision 4 of section 510-c of the executive law, as amended by chapter 465 of the laws of 1992, is amended to read as follows:

4. [Upon the placement of any child eighteen years of age or over, or upon the eighteenth birthday of any child placed in the custody of the division for an adjudication of juvenile delinquency for having committed an act which if committed by an adult would constitute a felony, and still in the custody of the division, the division shall notify the division of criminal justice services of such placement or birthday provided, however, in the case of a child eleven or twelve years of age, at the time the act or acts were committed, the division of criminal justice services shall not be provided with the child's name, unless the acts committed by such child would constitute a class A or B felony.] Upon the [subsequent] discharge of [said child it shall be the duty of] ANY YOUTH (A) PLACED IN THE CUSTODY OF THE OFFICE OF CHILDREN AND FAMILY SERVICES FOR AN ADJUDICATION OF JUVENILE DELINQUENCY AFTER HAVING BEEN ARRESTED FOR AN ACT WHICH WAS FINGERPRINTABLE PURSUANT TO SUBDIVISION ONE OF SECTION 306.1 OF THE FAMILY COURT ACT; OR (B) COMMITTED TO THE

CUSTODY OF THE OFFICE OF CHILDREN AND FAMILY SERVICES PURSUANT TO THE PENAL LAW, the [division to] OFFICE OF CHILDREN AND FAMILY SERVICES SHALL notify the division of criminal justice services WITHIN A REASONABLE TIME PERIOD of [that fact] SUCH DISCHARGE and the date [of discharge. For the purposes of this subdivision, a child's age shall be determined to be the age stated in the placement order] THEREOF.

S 28. The opening paragraph of subdivision (b) of section 117 of the family court act, as amended by chapter 7 of the laws of 2007, is amended to read as follows:

For every juvenile delinquency proceeding under article three involving [an allegation of an act committed by a person which, if done by an adult, would be a crime (i) defined in sections 125.27 (murder in the first degree); 125.25 (murder in the second degree); 135.25 (kidnapping in the first degree); or 150.20 (arson in the first degree) of the penal law committed by a person thirteen, fourteen or fifteen years of age; or such conduct committed as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (ii) defined in sections 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); 130.35 (rape in the first degree); 130.50 (criminal sexual act in the first degree); 135.20 (kidnapping in the second degree), but only where the abduction involved the use or threat of use of deadly physical force; 150.15 (arson in the second degree); or 160.15 (robbery in the first degree) of the penal law committed by a person thirteen, fourteen or fifteen years of age; or such conduct committed as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (iii) defined in the penal law as an attempt to commit murder in the first or second degree or kidnapping in the first degree committed by a person thirteen, fourteen or fifteen years of age; or such conduct committed as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (iv) defined in section 140.30 (burglary in the first degree); subdivision one of section 140.25 (burglary in the second degree); subdivision two of section 160.10 (robbery in the second degree) of the penal law; or section 265.03 of the penal law, where such machine gun or such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 of the penal law committed by a person fourteen or fifteen years of age; or such conduct committed as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (v) defined in section 120.05 (assault in the second degree) or 160.10 (robbery in the second degree) of the penal law committed by a person fourteen or fifteen years of age but only where there has been a prior finding by a court that such person has previously committed an act which, if committed by an adult, would be the crime of assault in the second degree, robbery in the second degree or any designated felony act specified in clause (i), (ii) or (iii) of this subdivision regardless of the age of such person at the time of the commission of the prior act; or (vi) other than a misdemeanor, committed by a person at least seven but less than sixteen years of age, but only where there has been two prior findings by the court that such person has committed a prior act which, if committed by an adult would be a felony] A DESIGNATED FELONY ACT AS DEFINED IN SUBDIVISION EIGHT OF SECTION 301.2 OF THIS ACT:

S 29. Section 301.1 of the family court act, as added by chapter 920 of the laws of 1982, is amended to read as follows:

S 301.1. Purpose. The purpose of this article is to establish procedures in accordance with due process of law (a) to determine whether a person is a juvenile delinquent and (b) to issue an appropriate order of

disposition for any person who is adjudged a juvenile delinquent. In any proceeding under this article, the court shall consider the needs and best interests of the respondent [as well as], the need for protection of the community, AND THE NEED FOR JUVENILE ACCOUNTABILITY AND PARENTAL SUPPORT THEREFOR.

S 30. Subdivision 7 of section 301.2 of the family court act, as amended by chapter 398 of the laws of 1983, is amended to read as follows:

7. "Dispositional hearing" means a hearing to determine [whether the respondent requires supervision, treatment or confinement] THE APPROPRIATE DISPOSITION TO BE ORDERED BY THE COURT.

S 31. Subdivision 8 of section 301.2 of the family court act is REPEALED and a new subdivision 8 is added to read as follows:

8. "DESIGNATED FELONY ACT" MEANS

(A) AN ACT COMMITTED BY A PERSON TWELVE YEARS OF AGE WHICH, IF DONE BY AN ADULT, WOULD BE A CRIME DEFINED AS A CLASS A FELONY IN SECTION 125.27 (MURDER IN THE FIRST DEGREE); 125.25 (MURDER IN THE SECOND DEGREE); 135.25 (KIDNAPPING IN THE FIRST DEGREE); OR 150.20 (ARSON IN THE FIRST DEGREE) OF THE PENAL LAW; OR

(B) AN ACT COMMITTED BY A PERSON THIRTEEN, FOURTEEN OR FIFTEEN YEARS OF AGE WHICH, IF DONE BY AN ADULT, WOULD BE A CRIME DEFINED AS A:

(I) CLASS A FELONY IN SECTION 125.27 (MURDER IN THE FIRST DEGREE); 125.25 (MURDER IN THE SECOND DEGREE); 135.25 (KIDNAPPING IN THE FIRST DEGREE); OR 150.20 (ARSON IN THE FIRST DEGREE) OF THE PENAL LAW;

(II) CLASS B FELONY IN SECTION 120.07 (GANG ASSAULT IN THE FIRST DEGREE); 120.10 (ASSAULT IN THE FIRST DEGREE); 120.11 (AGGRAVATED ASSAULT UPON A POLICE OFFICER OR A PEACE OFFICER); 125.20 (MANSLAUGHTER IN THE FIRST DEGREE); 130.35 (RAPE IN THE FIRST DEGREE); 130.50 (CRIMINAL SEXUAL ACT IN THE FIRST DEGREE); 130.70 (AGGRAVATED SEXUAL ABUSE IN THE FIRST DEGREE); 130.75 (COURSE OF SEXUAL CONDUCT AGAINST A CHILD IN THE FIRST DEGREE); 135.20 (KIDNAPPING IN THE SECOND DEGREE); 140.30 (BURGLARY IN THE FIRST DEGREE); 150.15 (ARSON IN THE SECOND DEGREE); 160.15 (ROBBERY IN THE FIRST DEGREE); 215.17 (INTIMIDATING A VICTIM OR WITNESS IN THE FIRST DEGREE); 265.04 (CRIMINAL POSSESSION OF A WEAPON IN THE FIRST DEGREE); OR 265.09 (CRIMINAL USE OF A FIREARM IN THE FIRST DEGREE) OF THE PENAL LAW; OR AN ATTEMPT TO COMMIT ANY OF THE CLASS A FELONIES SET FORTH IN SUBPARAGRAPH (I) OF THIS PARAGRAPH;

(III) CLASS C FELONY IN SECTION 120.08 (ASSAULT ON A PEACE OFFICER, POLICE OFFICER, FIREMAN OR EMERGENCY MEDICAL SERVICES PROFESSIONAL); 130.67 (AGGRAVATED SEXUAL ABUSE IN THE SECOND DEGREE); 140.25 (BURGLARY IN THE SECOND DEGREE); 160.10 (ROBBERY IN THE SECOND DEGREE); 265.03 (CRIMINAL POSSESSION OF A WEAPON IN THE SECOND DEGREE); 265.08 (CRIMINAL USE OF A FIREARM IN THE SECOND DEGREE); OR 265.13 (CRIMINAL SALE OF A FIREARM IN THE FIRST DEGREE) OF THE PENAL LAW; OR AN ATTEMPT TO COMMIT ANY OF THE CLASS B FELONIES SET FORTH IN SUBPARAGRAPH (II) OF THIS PARAGRAPH;

(IV) CLASS D FELONY IN SECTION 120.05 (ASSAULT IN THE SECOND DEGREE); 130.65 (SEXUAL ABUSE IN THE FIRST DEGREE); 130.66 (AGGRAVATED SEXUAL ABUSE IN THE THIRD DEGREE); 130.80 (COURSE OF SEXUAL CONDUCT AGAINST A CHILD IN THE SECOND DEGREE); 215.16 (INTIMIDATING A VICTIM OR WITNESS IN THE SECOND DEGREE); SUBDIVISION FIVE OF SECTION 265.02 (CRIMINAL POSSESSION OF A WEAPON IN THE THIRD DEGREE); OR SECTION 265.03 (CRIMINAL POSSESSION OF A WEAPON IN THE SECOND DEGREE) OF THE PENAL LAW, WHERE SUCH MACHINE GUN OR SUCH FIREARM IS POSSESSED ON SCHOOL GROUNDS, AS THAT PHRASE IS DEFINED IN SUBDIVISION FOURTEEN OF SECTION 220.00 OF THE PENAL LAW; 265.12 (CRIMINAL SALE OF A FIREARM IN THE SECOND DEGREE); OR AN

ATTEMPT TO COMMIT ANY OF THE CLASS C FELONIES SET FORTH ABOVE IN SUBPARAGRAPH (III) OF THIS PARAGRAPH; OR

(V) CLASS E FELONY WHERE SUCH ACT IS AN ATTEMPT TO COMMIT ANY CLASS D FELONY ACT SPECIFIED IN SUBDIVISION FIVE OF SECTION 265.02 (CRIMINAL POSSESSION OF A WEAPON IN THE THIRD DEGREE) OF THE PENAL LAW AS A LESSER INCLUDED OFFENSE OF THAT SECTION AS DEFINED IN SECTION 220.20 OF THE CRIMINAL PROCEDURE LAW;

(C) A CRIMINAL ACT OTHER THAN A MISDEMEANOR COMMITTED BY A PERSON AT LEAST SEVEN BUT LESS THAN SIXTEEN YEARS OF AGE, BUT ONLY WHERE THERE HAS BEEN A PRIOR FINDING BY THE COURT THAT SUCH PERSON HAS COMMITTED A FELONY.

S 32. Subdivision 9 of section 301.2 of the family court act, as added by chapter 920 of the laws of 1982, is amended to read as follows:

9. "Designated class A felony act" means a designated felony act defined in paragraph (A) AND SUBPARAGRAPH (i) OF PARAGRAPH (B) of subdivision eight.

S 33. Subdivision 4 of section 304.1 of the family court act, as added by chapter 920 of the laws of 1982, is amended to read as follows:

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

S 34. Subdivision 1 of section 304.2 of the family court act, as added by chapter 683 of the laws of 1984, is amended to read as follows:

(1) Upon application by the presentment agency, the court may issue a temporary order of protection against a respondent for good cause shown, ex parte or upon notice, at any time after a juvenile is taken into custody, pursuant to section 305.1 [or 305.2], 305.1-A OR 305.1-B or upon the issuance of an appearance ticket pursuant to section 307.1 or upon the filing of a petition pursuant to section 310.1.

S 35. The family court act is amended by adding a new section 304.3 to read as follows:

S 304.3. SEARCH WARRANTS. UNDER CIRCUMSTANCES PRESCRIBED IN ARTICLE SIX HUNDRED NINETY OF THE CRIMINAL PROCEDURE LAW, A FAMILY COURT JUDGE MAY ISSUE A SEARCH WARRANT UPON APPLICATION OF A POLICE OFFICER, AN APPROPRIATE PRESENTMENT AGENCY OR OTHER PUBLIC SERVANT ACTING IN THE COURSE OF HIS OR HER OFFICIAL DUTIES.

S 36. The family court act is amended by adding a new section 305.1-a to read as follows:

S 305.1-A. CUSTODY BY A PEACE OFFICER OR A POLICE OFFICER WITHOUT A WARRANT. 1. FOR PURPOSES OF THIS SECTION AND SECTION 305.2 THE WORD "OFFICER" MEANS A PEACE OFFICER OR A POLICE OFFICER.

2. AN OFFICER MAY TAKE A CHILD UNDER THE AGE OF SIXTEEN INTO CUSTODY WITHOUT A WARRANT IN CASES IN WHICH HE OR SHE MAY ARREST A PERSON FOR A CRIME UNDER ARTICLE ONE HUNDRED FORTY OF THE CRIMINAL PROCEDURE LAW.

S 37. The family court act is amended by adding a new section 305.1-b to read as follows:

S 305.1-B. CUSTODY BY A POLICE OFFICER WITH A WARRANT. 1. BEFORE A PETITION HAS BEEN FILED, THE COURT MAY, IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION, ISSUE A WARRANT OF ARREST DIRECTING A POLICE OFFICER TO TAKE A CHILD INTO CUSTODY.

2. WHEN THE PRESENTMENT AGENCY HAS FILED A SWORN AFFIDAVIT PROVIDING REASONABLE CAUSE TO BELIEVE THAT A CHILD HAS COMMITTED AN ACT THAT WOULD CONSTITUTE A FELONY OFFENSE IF COMMITTED BY AN ADULT, THE COURT IN THE COUNTY IN WHICH THE OFFENSE ALLEGEDLY OCCURRED MAY ISSUE A WARRANT OF

ARREST FOR SUCH CHILD. WHERE NO FAMILY COURT JUDGE IS AVAILABLE, THE APPLICATION MAY BE MADE TO THE LOCAL CRIMINAL COURT; THEREAFTER THE MATTER SHALL BE RETURNABLE TO THE FAMILY COURT. EVEN THOUGH SUCH AFFIDAVIT IS SUFFICIENT ON ITS FACE, THE COURT MAY REFUSE TO ISSUE A WARRANT OF ARREST BASED THEREON UNTIL IT HAS FURTHER SATISFIED ITSELF, BY INQUIRY OR EXAMINATION OF WITNESSES, THAT THERE IS REASONABLE CAUSE TO BELIEVE THAT THE CHILD HAS COMMITTED A FELONY OFFENSE. UPON SUCH INQUIRY OR EXAMINATION, THE COURT MAY EXAMINE, UNDER OATH OR OTHERWISE, ANY AVAILABLE PERSON WHO IT BELIEVES MAY POSSESS KNOWLEDGE CONCERNING THE SUBJECT MATTER OF THE CHARGE. MOREOVER, IF A SUMMONS MAY BE ISSUED IN LIEU OF A WARRANT OF ARREST PURSUANT TO SECTION 312.1, AND IF THE COURT IS SATISFIED THE CHILD WILL RESPOND THERETO, IT MAY NOT ISSUE A WARRANT OF ARREST.

3. "REASONABLE CAUSE TO BELIEVE THAT A CHILD HAS COMMITTED AN ACT THAT WOULD CONSTITUTE A FELONY OFFENSE IF COMMITTED BY AN ADULT" EXISTS WHEN EVIDENCE OR INFORMATION WHICH APPEARS RELIABLE DISCLOSES FACTS OR CIRCUMSTANCES WHICH ARE COLLECTIVELY OF SUCH WEIGHT AND PERSUASIVENESS AS TO CONVINCE A PERSON OF ORDINARY INTELLIGENCE, JUDGMENT AND EXPERIENCE THAT IT IS REASONABLY LIKELY THAT SUCH FELONY OFFENSE WAS COMMITTED AND THAT SUCH PERSON COMMITTED IT. SUCH APPARENTLY RELIABLE EVIDENCE MAY INCLUDE OR CONSIST OF HEARSAY.

4. A WARRANT OF ARREST MUST BE SUBSCRIBED BY THE ISSUING JUDGE AND MUST STATE OR CONTAIN (A) THE NAME OF THE ISSUING COURT, (B) THE DATE OF ISSUANCE OF THE WARRANT, (C) THE NAME OF THE FELONY OFFENSE CHARGED IN THE UNDERLYING AFFIDAVIT, (D) THE NAME OF THE CHILD TO BE TAKEN INTO CUSTODY, OR IF SUCH BE UNKNOWN, ANY NAME OR DESCRIPTION BY WHICH HE OR SHE CAN BE IDENTIFIED WITH REASONABLE CERTAINTY, AND (E) THE POLICE OFFICER OR OFFICERS TO WHOM THE WARRANT IS ADDRESSED. A WARRANT OF ARREST MAY BE ADDRESSED TO A CLASSIFICATION OF POLICE OFFICERS, OR TO TWO OR MORE CLASSIFICATIONS, AS WELL AS TO A DESIGNATED INDIVIDUAL POLICE OFFICER OR OFFICERS.

5. A POLICE OFFICER TO WHOM A WARRANT IS ADDRESSED MAY DELEGATE ANOTHER POLICE OFFICER TO WHOM IT IS NOT ADDRESSED TO EXECUTE SUCH WARRANT AS HIS OR HER AGENT WHEN HE OR SHE HAS REASONABLE CAUSE TO BELIEVE THAT THE CHILD IS IN A PARTICULAR COUNTY OTHER THAN THE ONE IN WHICH THE WARRANT WAS ISSUED. THE POLICE OFFICER TO WHOM THE WARRANT IS ADDRESSED MAY INFORM THE DELEGATED POLICE OFFICER OF THE ISSUANCE OF THE WARRANT, OF THE FELONY OFFENSE CHARGED IN THE UNDERLYING AFFIDAVIT AND OF ALL OTHER PERTINENT DETAILS, AND MAY REQUEST THE DELEGATED OFFICER TO ACT AS HIS OR HER AGENT IN ARRESTING THE CHILD PURSUANT TO SUCH WARRANT. UPON SUCH REQUEST, THE DELEGATED POLICE OFFICER IS TO THE SAME EXTENT AS THE DELEGATING OFFICER AUTHORIZED TO TAKE THE CHILD INTO CUSTODY PURSUANT TO THE ARREST WARRANT WITHIN THE GEOGRAPHICAL AREA OF SUCH DELEGATED OFFICER'S EMPLOYMENT.

6. A WARRANT OF ARREST ISSUED PURSUANT TO THIS SECTION SHALL BE EXECUTED IN ACCORDANCE WITH SECTION ONE HUNDRED FIFTY-THREE-A OF THIS ACT AND MAY BE EXECUTED ANYWHERE IN THE STATE; PROVIDED, HOWEVER, (A) THAT WHERE THE PREMISES IN WHICH AN OFFICER REASONABLY BELIEVES THE CHILD TO BE PRESENT IS THE DWELLING OF A THIRD PARTY WHO IS NOT THE SUBJECT OF THE ARREST WARRANT, THE OFFICER SHALL PROCEED IN THE MANNER SPECIFIED IN ARTICLE SIX HUNDRED NINETY OF THE CRIMINAL PROCEDURE LAW AND (B) THAT THE OFFICER MAY ENTER PREMISES, BY BREAKING IF NECESSARY, WITHOUT MAKING REASONABLE EFFORT TO GIVE NOTICE OF HIS OR HER AUTHORITY AND PURPOSE IF THERE IS REASONABLE CAUSE TO BELIEVE THAT GIVING SUCH NOTICE WILL RESULT IN THE CHILD ESCAPING OR ATTEMPTING TO ESCAPE, OR WILL ENDANGER THE LIFE OR SAFETY OF THE OFFICER OR ANOTHER PERSON, OR

WILL RESULT IN THE DESTRUCTION, DAMAGING OR SECRETION OF MATERIAL EVIDENCE.

7. IF A CHILD IS TAKEN INTO CUSTODY PURSUANT TO A WARRANT OF ARREST, THE OFFICER SHALL PROCEED IN ACCORDANCE WITH SECTION 305.2.

S 38. Section 305.2 of the family court act, as added by chapter 920 of the laws of 1982, the opening paragraph of subdivision 4, subdivisions 5, 7 and 8 as amended by chapter 398 of the laws of 1983 and paragraph (b) of subdivision 4 as amended by chapter 492 of the laws of 1987, is amended to read as follows:

S 305.2. [Custody by a peace officer or a police officer without a warrant] PROCEDURES UPON TAKING A CHILD INTO CUSTODY. 1. [For purposes of this section, the word "officer" means a peace officer or a police officer.

2. An officer may take a child under the age of sixteen into custody without a warrant in cases in which he may arrest a person for a crime under article one hundred forty of the criminal procedure law.

3.] If an officer takes such child into custody or if a child is delivered to him OR HER under section 305.1, he OR SHE shall immediately notify the parent or other person legally responsible for the child's care, or if such legally responsible person is unavailable the person with whom the child resides, that the child has been taken into custody.

[4.] 2. After making every reasonable effort to give notice under subdivision [three] ONE, the officer shall:

(a) release the child to the custody of his OR HER parents or other person legally responsible for his OR HER care upon the issuance in accordance with section 307.1 of a family court appearance ticket to the child and the person to whose custody the child is released; or

(b) forthwith and with all reasonable speed take the child directly, and without his OR HER first being taken to the police station house, to the family court located in the county in which the act occasioning the taking into custody allegedly was committed, unless the officer determines that it is necessary to question the child, in which case he OR SHE may take the child to a facility designated by the chief administrator of the courts as a suitable place for the questioning of children or, upon the consent of a parent or other person legally responsible for the care of the child, to the child's residence and there question him OR HER for a reasonable period of time; or

(c) take the child to a place certified by the [state division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES as a juvenile detention facility for the reception of children.

[5.] 3. If such child has allegedly committed a designated felony act as defined in subdivision eight of section 301.2, and the family court in the county is in session, the officer shall forthwith take the child directly to such family court, unless the officer takes the child to a facility for questioning in accordance with paragraph (b) of subdivision [four] TWO. If such child has not allegedly committed a designated felony act and such family court is in session, the officer shall either forthwith take the child directly to such family court, unless the officer takes the child to a facility for questioning in accordance with paragraph (b) of subdivision [four] TWO or release the child in accordance with paragraph (a) of subdivision [four] TWO.

[6.] 4. In all other cases, and in the absence of special circumstances, the officer shall release the child in accordance with paragraph (a) of subdivision [four] TWO.

[7.] 5. A child shall not be questioned pursuant to this section unless he OR SHE and a person required to be notified pursuant to subdivision [three] ONE if present, have been advised:

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

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

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

(d) of the child's right to have an attorney provided for him OR HER without charge if he OR SHE is indigent.

[8.] 6. In determining the suitability of questioning and determining the reasonable period of time for questioning such a child, the child's age, the presence or absence of his OR HER parents or other persons legally responsible for his OR HER care and notification pursuant to subdivision [three] ONE shall be included among relevant considerations.

S 39. Subdivision 3 of section 306.2 of the family court act, as added by chapter 920 of the laws of 1982, is amended to read as follows:

3. Upon receipt of a report of the division of criminal justice services pursuant to this section, the recipient office or agency must promptly transmit ONE COPY OF SUCH REPORT TO THE APPROPRIATE PROBATION SERVICE, two copies of such report to the family court in which the proceeding may be originated and two copies thereof to the presentment agency who shall furnish a copy thereof to counsel for the respondent or to the respondent's law guardian.

S 40. Subdivision 2 of section 308.1 of the family court act, as amended by chapter 252 of the laws of 1988, is amended to read as follows:

2. Except as provided in subdivisions three and four, the probation service may, in accordance with rules of court, adjust suitable cases before a petition is filed.

[The] (A) THE PROBATION SERVICE MAY, AS A CONDITION OF ADJUSTMENT IN A CASE INVOLVING A RESPONDENT OVER TEN YEARS OF AGE, REQUIRE THAT THE RESPONDENT (I) MAKE RESTITUTION OF THE FRUITS OF THE OFFENSE OR REPARATION FOR THE ACTUAL OUT-OF-POCKET LOSS CAUSED THEREBY TO THE VICTIM, PROVIDED THAT THE inability of the respondent or his or her family to make restitution OR REPARATION shall not be a factor in a decision to adjust a case or in a recommendation to the presentment agency pursuant to subdivision six of this section; AND/OR (II) PERFORM SERVICES FOR THE PUBLIC GOOD, TAKING INTO CONSIDERATION THE NATURE OF THE CRIME AND THE AGE AND PHYSICAL CONDITION OF THE RESPONDENT.

Nothing in this section shall prohibit the probation service or the court from directing a respondent to obtain employment and to make restitution OR REPARATION from the earnings from such employment. ANY PAYMENT MADE AS RESTITUTION OR REPARATION PURSUANT TO THIS SECTION SHALL NOT LIMIT, PRECLUDE OR IMPAIR ANY LIABILITY FOR DAMAGES IN ANY CIVIL ACTION OR PROCEEDING FOR AN AMOUNT IN EXCESS OF SUCH PAYMENT. THE PROBATION SERVICE SHALL, WHERE APPROPRIATE, ADVISE THE VICTIM OF HIS OR HER RIGHT TO SEEK DAMAGES IN EXCESS OF SUCH PAYMENTS, PURSUANT TO SECTION 3-112 OF THE GENERAL OBLIGATIONS LAW, FROM A PARENT, LEGAL GUARDIAN OR OTHER PERSON LEGALLY RESPONSIBLE FOR THE RESPONDENT'S CARE.

(B) THE PROBATION SERVICE MAY, AS A CONDITION OF ADJUSTMENT, REQUIRE A PARENT OR OTHER PERSON LEGALLY RESPONSIBLE FOR THE CHILD'S CARE TO COOPERATE WITH THE PROBATION SERVICE AND ANY MENTAL HEALTH, SOCIAL SERVICE OR OTHER APPROPRIATE COMMUNITY FACILITY OR AGENCY TO WHICH THE CHILD MAY BE REFERRED, TO PARTICIPATE IN APPROPRIATE PROGRAMS PROVIDED TO THE CHILD, AND TO ASSIST IN THE CHILD'S COMPLIANCE WITH THE CONDITIONS OF

ADJUSTMENT. THE UNWILLINGNESS OR FAILURE OF THE PARENT OR OTHER LEGALLY RESPONSIBLE PERSON TO FULFILL SUCH REQUIREMENT SHALL BE CONSIDERED IN THE DECISION TO REFER THE CASE TO THE PRESENTMENT AGENCY.

S 41. Subdivision 3 of section 308.1 of the family court act, as added by chapter 920 of the laws of 1982, is amended to read as follows:

3. The probation service shall not adjust a case in which the child has allegedly committed a designated felony act unless it has received the written approval of the court AND THE APPROPRIATE PRESENTMENT AGENCY.

S 42. Subdivision 4 of section 308.1 of the family court act, as amended by chapter 264 of the laws of 2003, is amended to read as follows:

4. The probation service shall not adjust a case in which the child has allegedly committed [a delinquent] AN act which [would be a crime defined in section 120.25, (reckless endangerment in the first degree), subdivision one of section 125.15, (manslaughter in the second degree), subdivision one of section 130.25, (rape in the third degree), subdivision one of section 130.40, (criminal sexual act in the third degree), subdivision one or two of section 130.65, (sexual abuse in the first degree), section 135.65, (coercion in the first degree), section 140.20, (burglary in the third degree), section 150.10, (arson in the third degree), section 160.05, (robbery in the third degree), subdivision two, three or four of section 265.02, (criminal possession of a weapon in the third degree), section 265.03, (criminal possession of a weapon in the second degree), or section 265.04, (criminal possession of a dangerous weapon in the first degree) of the penal law] IF COMMITTED BY AN ADULT WOULD CONSTITUTE A FELONY where the child has previously had [one or more adjustments] AN ADJUSTMENT, ADJOURNMENT IN CONTEMPLATION OF DISMISSAL, OR JUVENILE DELINQUENCY ADJUDICATION of a case in which such child allegedly committed an act which [would be a crime specified in this subdivision] IF COMMITTED BY AN ADULT WOULD CONSTITUTE A FELONY unless it has received written approval from the court and the appropriate presentment agency.

S 43. Subdivision 9 of section 308.1 of the family court act, as added by chapter 920 of the laws of 1982, is amended to read as follows:

9. Efforts at adjustment pursuant to rules of court under this section may not extend for a period of more than [two] THREE months without leave of the court, which may extend the period for an additional [two] THREE months.

S 44. Subdivision 2 of section 311.4 of the family court act, as added by chapter 920 of the laws of 1982, is amended to read as follows:

2. At the conclusion of the dispositional hearing the court, upon motion of the respondent or its own motion, may in its discretion and with the consent of the respondent AND THE PRESENTMENT AGENCY, substitute a finding that the respondent is a person in need of supervision for a finding that the respondent is a juvenile delinquent.

S 45. Subdivisions 1 and 2 of section 312.1 of the family court act, as added by chapter 920 of the laws of 1982, are amended to read as follows:

1. After a petition has been filed, the court may cause a copy thereof and a summons to be issued, requiring the respondent personally and his OR HER parent or other person legally responsible for his OR HER care, or, if such legally responsible person is not available, a person with whom he OR SHE resides, to appear for the initial appearance as defined by section 320.1 at a time and place named. The summons shall be signed by a judge or by the clerk of the court.

2. Service of a summons and petition shall be made by delivery of a true copy thereof to the person summoned at least twenty-four hours before the time stated therein for appearance. SUCH PERSONAL SERVICE SHALL BE REQUIRED ONLY IN THOSE INSTANCES WHEREIN THE RESPONDENT WAS NOT SERVED WITH A FAMILY COURT APPEARANCE TICKET PURSUANT TO SECTION 307.1 OR WHERE THE RESPONDENT WAS NOT TAKEN INTO CUSTODY PURSUANT TO SECTION 305.1-A OR 305.1-B. IN ALL OTHER INSTANCES, SERVICE BY MAIL UPON THE RESPONDENT AND A PERSON LEGALLY RESPONSIBLE FOR SUCH RESPONDENT SHALL BE DEEMED SUFFICIENT.

S 46. Subdivision 1 of section 312.2 of the family court act, as amended by chapter 501 of the laws of 1994, is amended to read as follows:

1. The court may issue a warrant, directing that the respondent personally, ANY PARENT or other person legally responsible for his or her care or, if such legally responsible person is not available, a person with whom he or she resides, be brought before the court, when a petition has been filed and it appears that:

(a) a summons cannot be served; or

(b) such person has refused to obey a summons or family court appearance ticket; or

(c) the respondent or other person is likely to leave the jurisdiction; or

(d) a summons, in the court's opinion, would be ineffectual; or

(e) a respondent has failed to appear.

S 47. Subdivision 1 of section 315.2 of the family court act, as added by chapter 920 of the laws of 1982, is amended to read as follows:

1. A petition or any part or count thereof may [at any time] be dismissed in furtherance of justice PRIOR TO THE ACCEPTANCE OF AN ADMISSION OR TO THE ENTRY OF A FINDING PURSUANT TO SUBDIVISION SEVEN OF SECTION 342.1 when, even though there may be no basis for dismissal as a matter of law, such dismissal is required as a matter of judicial discretion by the existence of some compelling further consideration or circumstances clearly demonstrating that a finding of delinquency or continued proceedings would constitute or result in injustice. In determining whether such compelling further consideration or circumstances exist, the court shall, to the extent applicable, examine and consider, individually and collectively, the following:

(a) the seriousness and circumstances of the crime;

(b) the extent of harm caused by the crime;

(c) any exceptionally serious misconduct of law enforcement personnel in the investigation and arrest of the respondent or in the presentment of the petition;

(d) the history, character and condition of the respondent;

(e) the needs and best interest of the respondent;

(f) the need for protection of the community; [and]

(g) THE NEED FOR JUVENILE ACCOUNTABILITY AND PARENTAL SUPPORT THEREFOR;

(H) THE IMPACT OF THE DISMISSAL UPON THE CONFIDENCE OF THE PUBLIC IN THE JUVENILE JUSTICE SYSTEM;

(I) THE EVIDENCE OF GUILT, WHETHER ADMISSIBLE OR INADMISSIBLE AT A FACT-FINDING HEARING;

(J) WHERE THE COURT DEEMS IT APPROPRIATE, THE ATTITUDE OF THE COMPLAINANT OR VICTIM WITH RESPECT TO THE MOTION; AND

(K) any other relevant fact indicating that a finding would serve no useful purpose.

S 48. Subdivision 1 of section 315.3 of the family court act, as amended by chapter 237 of the laws of 1991, is amended to read as follows:

1. Except where the petition alleges that the respondent has committed a designated felony act, the court may at any time prior to the entering of a finding under section [352.1] 345.1 and with the consent of the respondent AND THE APPROPRIATE PRESENTMENT AGENCY order that the proceeding be "adjourned in contemplation of dismissal". An adjournment in contemplation of dismissal is an adjournment of the proceeding, for a period not to exceed six months FOR A MISDEMEANOR OFFENSE OR TWELVE MONTHS FOR A FELONY OFFENSE, with a view to ultimate dismissal of the petition in furtherance of justice. Upon issuing such an order, providing such terms and conditions as the court deems appropriate, the court must release the respondent TO A PARENT OR PERSON LEGALLY RESPONSIBLE FOR THE RESPONDENT'S CARE. The court may, as a condition of an adjournment in contemplation of dismissal order[,]:

(A) in cases where the record indicates that the consumption of alcohol may have been a contributing factor, require the respondent to attend and complete an alcohol awareness program established pursuant to [paragraph six-a of] subdivision (a) of section 19.07 of the mental hygiene law.

(B) REQUIRE THAT A RESPONDENT, IN CASES INVOLVING RESPONDENTS OVER TEN YEARS OF AGE: (I) MAKE RESTITUTION OF THE FRUITS OF THE OFFENSE OR REPARATION FOR THE ACTUAL OUT-OF-POCKET LOSS CAUSED THEREBY TO THE VICTIM, PROVIDED THAT THE INABILITY OF THE RESPONDENT OR HIS OR HER FAMILY TO MAKE RESTITUTION OR REPARATION SHALL NOT BE A FACTOR IN THE DECISION TO ORDER AN ADJOURNMENT IN CONTEMPLATION OF DISMISSAL; AND/OR (II) PERFORM SERVICES FOR THE PUBLIC GOOD, TAKING INTO CONSIDERATION THE NATURE OF THE CRIME AND AGE AND PHYSICAL CONDITION OF THE RESPONDENT.

NOTHING IN THIS SECTION SHALL PROHIBIT THE COURT FROM DIRECTING A RESPONDENT TO OBTAIN EMPLOYMENT AND TO MAKE RESTITUTION OR REPARATION FROM THE EARNINGS FROM SUCH EMPLOYMENT. ANY PAYMENT MADE AS RESTITUTION OR REPARATION PURSUANT TO THIS SECTION SHALL NOT LIMIT, PRECLUDE OR IMPAIR ANY LIABILITY FOR DAMAGES IN ANY CIVIL ACTION OR PROCEEDING FOR AN AMOUNT IN EXCESS OF SUCH PAYMENT. THE PRESENTMENT AGENCY SHALL, WHERE APPROPRIATE, ADVISE THE VICTIM OF HIS OR HER RIGHT TO SEEK DAMAGES IN EXCESS OF SUCH PAYMENTS, PURSUANT TO SECTION 3-112 OF THE GENERAL OBLIGATIONS LAW, FROM A PARENT, LEGAL GUARDIAN OR OTHER PERSON LEGALLY RESPONSIBLE FOR THE RESPONDENT'S CARE.

IF THE COURT REQUIRES RESTITUTION OR REPARATION OR SERVICES FOR THE PUBLIC GOOD AS A CONDITION OF AN ADJOURNMENT IN CONTEMPLATION OF DISMISSAL, IT SHALL PROVIDE THAT AN AGENCY OR PERSON SUPERVISE THE RESTITUTION OR REPARATION OR SERVICES AND THAT SUCH AGENCY OR PERSON REPORT TO THE COURT NOT LESS FREQUENTLY THAN EVERY SIX MONTHS.

(C) REQUIRE A PARENT OR OTHER PERSON LEGALLY RESPONSIBLE FOR THE RESPONDENT'S CARE TO COOPERATE WITH THE PROBATION SERVICE AND ANY MENTAL HEALTH, SOCIAL SERVICE OR OTHER APPROPRIATE COMMUNITY FACILITY OR AGENCY TO WHICH THE RESPONDENT MAY BE REFERRED, TO PARTICIPATE IN APPROPRIATE PROGRAMS PROVIDED TO THE RESPONDENT, AND TO ASSIST IN THE RESPONDENT'S COMPLIANCE WITH THE CONDITIONS OF THE ORDER. THE UNWILLINGNESS OR FAILURE OF THE PARENT OR OTHER LEGALLY RESPONSIBLE PERSON TO FULFILL SUCH REQUIREMENT MAY BE CONSIDERED IN THE DECISION TO ORDER AN ADJOURNMENT IN CONTEMPLATION OF DISMISSAL OR, WHERE SUCH ADJOURNMENT HAS ALREADY BEEN GRANTED, MAY BE A BASIS FOR RESTORING THE MATTER TO THE CALENDAR.

Upon ex parte motion by the presentment agency, or upon the court's own motion, made at the time the order is issued or at any time during

its duration, the court may restore the matter to the calendar. If the proceeding is not restored, the petition is, at the expiration of the order, deemed to have been dismissed by the court in furtherance of justice.

S 49. Subdivision 2 of section 320.6 of the family court act, as amended by chapter 926 of the laws of 1982, is amended to read as follows:

2. At the initial appearance the court may, with the consent of the victim or complainant and the respondent, refer a case to the probation service for adjustment services. In the case of a designated felony petition OR ANY CASE TO WHICH SUBDIVISION FOUR OF SECTION 308.1 APPLIES, the consent of the presentment agency shall also be required to refer a case to probation services for adjustment services.

S 50. Section 321.3 of the family court act is amended by adding a new subdivision 2-a to read as follows:

2-A. (A) WITH THE PERMISSION OF THE COURT AND THE CONSENT OF THE PRESENTMENT AGENCY, AN ADMISSION, WHETHER TO THE ENTIRE PETITION OR TO PART OF THE PETITION, MAY BE ENTERED AND ACCEPTED UPON THE CONDITION THAT IT CONSTITUTES A COMPLETE DISPOSITION OF ONE OR MORE OTHER PETITIONS PENDING AGAINST THE RESPONDENT.

(B) IF THE OTHER PETITION OR PETITIONS ARE PENDING IN A DIFFERENT COURT OR COURTS, THEY SHALL NOT BE DISPOSED OF UNDER THIS SUBDIVISION UNLESS THE OTHER COURTS AND THE APPROPRIATE PRESENTMENT AGENCIES ALSO TRANSMIT THEIR WRITTEN PERMISSION AND CONSENT; IN SUCH A CASE THE COURT IN WHICH THE ADMISSION IS ENTERED SHALL SO NOTIFY THE OTHER COURTS WHICH, UPON SUCH NOTICE, SHALL DISMISS THE APPROPRIATE PETITIONS PENDING THEREIN.

S 51. Subdivision 2 of section 321.4 of the family court act, as added by chapter 920 of the laws of 1982 and as renumbered by chapter 398 of the laws of 1983, is amended to read as follows:

2. At any time prior to the entry of [a finding] AN ORDER OF DISPOSITION under section [352.1] 352.2 the court in its discretion may permit a respondent who has entered an admission to the entire petition or to part of the petition to withdraw such admission, and in such event the entire petition as it existed at the time of the admission shall be restored.

S 52. Subdivisions 1, 2 and 3 of section 340.1 of the family court act, subdivisions 1 and 2 as amended and subdivision 3 as added by chapter 223 of the laws of 1990, are amended to read as follows:

1. If the respondent is in detention and the highest count in the petition charges the commission of a class A, B, or C felony, the fact-finding hearing shall commence not more than fourteen days after the conclusion of the initial appearance except as provided in subdivision four. If the respondent is in detention and the highest count in such petition is less than a class C felony the fact-finding hearing shall commence no more than [three] SIX days after the conclusion of the initial appearance except as provided in subdivision four. THE FAILURE TO COMMENCE A FACT-FINDING HEARING WITHIN THE TIME PERIOD SPECIFIED IN THIS SUBDIVISION SHALL NOT RESULT IN THE DISMISSAL OF THE PETITION, BUT THE RESPONDENT SHALL BE RELEASED TO HIS OR HER PARENT OR OTHER LEGALLY RESPONSIBLE PERSON UPON SUCH CONDITIONS AS MAY BE JUST AND REASONABLE.

2. If the respondent is not in detention OR HAS BEEN RELEASED FROM DETENTION, the fact-finding hearing shall commence not more than sixty days after the conclusion of the initial appearance except as provided in subdivision four.

3. For the purposes of this section, in any case:

(A) where a proceeding has been removed to the family court pursuant to an order issued pursuant to section 725.05 of the criminal procedure law, the date specified in such order for the defendant's appearance in the family court shall constitute the date of the initial appearance; AND

(B) WHERE THE RESPONDENT IS TO APPEAR FOR A FACT-FINDING HEARING FOLLOWING THE WITHDRAWAL OF AN ADMISSION, A DECLARATION OF A MISTRIAL, AN ORDER FOR A NEW FACT-FINDING HEARING, AN APPEAL OR COLLATERAL ATTACK, THE JUVENILE DELINQUENCY ACTION AND THE DETENTION OR PLACEMENT, IF ANY, SHALL BE DEEMED TO HAVE COMMENCED ON THE DATE OF THE WITHDRAWAL OF THE ADMISSION OR THE DATE THE ORDER OCCASIONING A NEW FACT-FINDING BECOMES FINAL.

S 53. Paragraph (c) of subdivision 4 of section 340.1 of the family court act, as amended by chapter 663 of the laws of 1985 and such subdivision as renumbered by chapter 223 of the laws of 1990, is amended to read as follows:

(c) on its own motion for not more than six months FOR A MISDEMEANOR OFFENSE OR TWELVE MONTHS FOR A FELONY OFFENSE if the proceeding has been adjourned in contemplation of dismissal pursuant to section 315.3.

S 54. Subdivision 7 of section 340.1 of the family court act, as added by chapter 501 of the laws of 1994, is amended to read as follows:

7. [For purposes of this section, if a warrant for the respondent's arrest has been issued pursuant to section 312.2 of this article due to the respondent's failure to appear for a scheduled fact-finding hearing, computation of the time within which such hearing must take place shall exclude the period extending from the date of issuance of the bench warrant for respondent's arrest because of his or her failure to appear to the date the respondent subsequently appears in court pursuant to a bench warrant or appears voluntarily; provided, however, no period of time may be excluded hereunder unless the respondent's location cannot be determined by the exercise of due diligence or, if the respondent's location is known, his or her presence in court cannot be obtained by the exercise of due diligence. In determining whether due diligence has been exercised, the court shall consider, among other factors, the report presented to the court pursuant to subdivision two of section 312.2 of this article.] IN COMPUTING THE TIME WITHIN WHICH THE FACT-FINDING HEARING MUST TAKE PLACE PURSUANT TO SUBDIVISIONS ONE AND TWO OF THIS SECTION, THE FOLLOWING PERIODS MUST BE EXCLUDED:

(A) (I) THE PERIOD OF DELAY RESULTING FROM THE ABSENCE OR UNAVAILABILITY OF THE RESPONDENT. A RESPONDENT MUST BE CONSIDERED ABSENT WHENEVER HIS OR HER LOCATION IS UNKNOWN AND HE OR SHE IS ATTEMPTING TO AVOID APPREHENSION OR COURT PROCEEDINGS, OR HIS OR HER LOCATION CANNOT BE DETERMINED BY DUE DILIGENCE. A RESPONDENT MUST BE CONSIDERED UNAVAILABLE WHENEVER HIS OR HER LOCATION IS KNOWN BUT THE RESPONDENT'S PRESENCE FOR THE FACT-FINDING HEARING CANNOT BE OBTAINED BY DUE DILIGENCE; OR (II) WHERE THE RESPONDENT HAS EITHER ESCAPED FROM CUSTODY OR HAS FAILED TO APPEAR WHEN REQUIRED AFTER HAVING PREVIOUSLY BEEN RELEASED ON BAIL OR ON HIS OR HER OWN RECOGNIZANCE, AND PROVIDED THE RESPONDENT IS NOT IN CUSTODY ON ANOTHER MATTER, THE PERIOD EXTENDING FROM THE DAY THE COURT ISSUES A BENCH WARRANT PURSUANT TO SECTION 312.2 BECAUSE OF THE RESPONDENT'S FAILURE TO APPEAR IN COURT WHEN REQUIRED, TO THE DAY THE RESPONDENT SUBSEQUENTLY APPEARS IN THE COURT PURSUANT TO A BENCH WARRANT OR VOLUNTARILY OR OTHERWISE; OR

(B) A REASONABLE PERIOD OF DELAY RESULTING FROM OTHER PROCEEDINGS CONCERNING THE RESPONDENT, INCLUDING BUT NOT LIMITED TO: PROCEEDINGS FOR THE DETERMINATION OF COMPETENCY AND THE PERIOD DURING WHICH RESPONDENT

IS INCOMPETENT TO PARTICIPATE IN A FACT-FINDING HEARING; DEMAND TO PRODUCE; REQUEST FOR A BILL OF PARTICULARS; PRE-TRIAL MOTIONS; APPEALS; FACT-FINDING HEARING OF OTHER CHARGES; AND THE PERIOD DURING WHICH SUCH MATTERS ARE UNDER CONSIDERATION BY THE COURT; OR

(C) THE PERIOD OF DELAY RESULTING FROM A CONTINUANCE GRANTED BY THE COURT AT THE REQUEST OF, OR WITH THE CONSENT OF, THE RESPONDENT OR HIS OR HER COUNSEL OR LAW GUARDIAN. THE COURT MUST GRANT SUCH A CONTINUANCE ONLY IF IT IS SATISFIED THAT POSTPONEMENT IS IN THE INTEREST OF JUSTICE, TAKING INTO ACCOUNT THE PUBLIC INTEREST IN THE PROMPT DISPOSITIONS OF JUVENILE DELINQUENCY CHARGES; OR

(D) A REASONABLE PERIOD OF DELAY WHEN THE RESPONDENT IS JOINED FOR A FACT-FINDING HEARING WITH A CO-RESPONDENT AS TO WHOM THE TIME FOR A FACT-FINDING HEARING PURSUANT TO THIS SECTION HAS NOT RUN AND GOOD CAUSE IS NOT SHOWN FOR GRANTING A SEVERANCE; OR

(E) THE PERIOD OF DELAY RESULTING FROM DETENTION OF THE RESPONDENT IN ANOTHER JURISDICTION PROVIDED THE PRESENTMENT AGENCY IS AWARE OF SUCH DETENTION AND HAS BEEN DILIGENT AND HAS MADE REASONABLE EFFORTS TO OBTAIN THE PRESENCE OF THE RESPONDENT FOR THE FACT-FINDING HEARING; OR

(F) THE PERIOD DURING WHICH THE RESPONDENT IS WITHOUT A LAW GUARDIAN OR COUNSEL THROUGH NO FAULT OF THE COURT; OR

(G) OTHER PERIODS OF DELAY OCCASIONED BY EXCEPTIONAL CIRCUMSTANCES, INCLUDING BUT NOT LIMITED TO, THE PERIOD OF DELAY RESULTING FROM A CONTINUANCE GRANTED AT THE REQUEST OF A PRESENTMENT AGENCY IF (I) THE CONTINUANCE IS GRANTED BECAUSE OF THE UNAVAILABILITY OF EVIDENCE MATERIAL TO THE PRESENTMENT AGENCY'S CASE, WHEN THE PRESENTMENT AGENCY HAS EXERCISED DUE DILIGENCE TO OBTAIN SUCH EVIDENCE AND THERE ARE REASONABLE GROUNDS TO BELIEVE THAT SUCH EVIDENCE WILL BECOME AVAILABLE IN A REASONABLE PERIOD; OR (II) THE CONTINUANCE IS GRANTED TO ALLOW THE PRESENTMENT AGENCY ADDITIONAL TIME TO PREPARE THE PRESENTMENT AGENCY'S CASE AND ADDITIONAL TIME IS JUSTIFIED BY THE EXCEPTIONAL CIRCUMSTANCES OF THE CASE; OR

(H) THE PERIOD DURING WHICH AN ACTION HAS BEEN ADJOURNED IN CONTEMPLATION OF DISMISSAL PURSUANT TO SECTION 315.3.

S 55. Section 341.1 of the family court act, as added by chapter 920 of the laws of 1982, is amended to read as follows:

S 341.1. [Exclusion of general public] ACCESS TO FAMILY COURT PROCEEDINGS. 1. The general public may NOT be excluded from any proceeding under this article [and only] ABSENT A DETERMINATION BY THE COURT THAT EXCEPTIONAL CIRCUMSTANCES EXIST SUCH THAT AN OPEN PROCEEDING WOULD CAUSE SIGNIFICANT HARM TO A PARTICIPANT OR INTERFERE WITH THE FAIR ADMINISTRATION OF THE LAW. IF THE COURT DETERMINES TO EXCLUDE THE GENERAL PUBLIC FROM ALL OR PART OF A PROCEEDING, IT SHALL ISSUE A WRITTEN ORDER SETTING FORTH THE BASIS FOR ITS DETERMINATION, AND PLACE A COPY OF THE ORDER IN THE FILE OF THE CASE.

2. AN EXCLUSION ORDER PURSUANT TO SUBDIVISION ONE SHALL NOT APPLY TO such persons and the representatives of authorized agencies as have a direct interest in the case [shall be admitted thereto].

S 56. Subdivision 7 of section 342.1 of the family court act, as added by chapter 920 of the laws of 1982, is amended to read as follows:

7. The court must then consider the case and enter a finding WITH RESPECT TO EACH COUNT OF THE PETITION THAT THE RESPONDENT DID OR DID NOT COMMIT THE CRIME CHARGED.

S 57. Subdivision 1 of section 345.1 of the family court act, as added by chapter 920 of the laws of 1982, is amended to read as follows:

1. If the allegations of a petition or specific counts of a petition concerning the commission of a crime or crimes are established, the

court shall FIND THAT THE RESPONDENT IS A JUVENILE DELINQUENT, enter an appropriate order and schedule a dispositional hearing pursuant to section 350.1. The order shall specify the count or counts of the petition upon which such order is based and the section or sections of the penal law or other law under which the act or acts so stated would constitute a crime if committed by an adult. If the respondent or respondents are found to have committed a designated felony act, the order shall so state.

S 58. Section 350.4 of the family court act, as added by chapter 920 of the laws of 1982, subdivision 8 as amended by chapter 398 of the laws of 1983 and subdivision 9 as renumbered by chapter 926 of the laws of 1982, is amended to read as follows:

S 350.4. Order of procedure. The order of the dispositional hearing shall be as follows:

1. The court[, with the consent of the parties,] may direct the probation service to summarize its investigation report [if one has been prepared] and, in its discretion, deliver any further statement concerning the advisability of specific dispositional alternatives.

2. The court may in its discretion call witnesses, including the preparer of A probation [reports] REPORT or A diagnostic [studies] STUDY OR ANY PERSON OR EMPLOYEE OF AN AGENCY AGREEING TO PARTICIPATE IN A DISPOSITIONAL SERVICES PLAN, to offer evidence concerning the advisability of specific dispositional alternatives. Such witnesses may be cross-examined by the presentment agency and the respondent.

3. The presentment agency may call witnesses to offer such evidence, including the preparer of a probation report or a diagnostic study OR ANY PERSON OR EMPLOYEE OF AN AGENCY AGREEING TO PARTICIPATE IN A DISPOSITIONAL SERVICES PLAN.

4. The respondent may call witnesses[,] to offer such evidence, including the preparer of a probation report or a diagnostic study OR ANY PERSON OR EMPLOYEE OF AN AGENCY AGREEING TO PARTICIPATE IN A DISPOSITIONAL SERVICES PLAN.

5. The court may permit the presentment agency or respondent to offer such rebuttal or surrebuttal evidence as it may deem appropriate.

5-A. THE VICTIM MAY DELIVER A STATEMENT PURSUANT TO SECTION 350.5.

6. The presentment agency may deliver a statement concerning the advisability of specific dispositional alternatives.

7. The respondent may deliver such a statement AND RESPOND TO ANY VICTIM STATEMENT.

8. The court shall then permit rebuttal statements by both the presentment agency and the respondent. THE COURT SHALL AFFORD THE RESPONDENT A REASONABLE ADJOURNMENT TO PRESENT INFORMATION TO REBUT ALLEGATIONS BY THE VICTIM WHERE FAIRNESS SO REQUIRES.

9. The court shall then consider the case and enter a dispositional order. IN DOING SO, THE COURT SHALL APPROVE, MODIFY OR REJECT ANY DISPOSITIONAL SERVICES PLAN PREPARED BY THE PROBATION SERVICE. IF APPROVED OR APPROVED AS MODIFIED, SUCH PLAN SHALL BE INCORPORATED INTO THE DISPOSITIONAL ORDER.

S 59. The family court act is amended by adding a new section 350.5 to read as follows:

S 350.5. VICTIM STATEMENT AT DISPOSITIONAL HEARING. 1. FOR THE PURPOSE OF THIS SECTION, THE TERM "VICTIM" SHALL MEAN:

(A) THE VICTIM AS INDICATED IN THE PETITION; OR (B) IF SUCH VICTIM IS A CHILD UNABLE OR UNWILLING TO EXPRESS HIMSELF OR HERSELF BEFORE THE COURT OR A PERSON SO MENTALLY OR PHYSICALLY DISABLED AS TO MAKE IT IMPRACTICABLE TO APPEAR IN COURT IN PERSON OR IF AN ACT ALLEGED IN THE

PETITION WAS ONE OF HOMICIDE, A MEMBER OF THE FAMILY OF SUCH VICTIM, OR THE LEGAL GUARDIAN OR REPRESENTATIVE OF THE LEGAL GUARDIAN OF THE VICTIM WHERE SUCH GUARDIAN OR REPRESENTATIVE HAS PERSONAL KNOWLEDGE OF AND A RELATIONSHIP WITH THE VICTIM, UNLESS THE COURT FINDS THAT IT WOULD BE INAPPROPRIATE FOR SUCH PERSON TO MAKE A STATEMENT ON BEHALF OF THE VICTIM.

2. IF THE DISPOSITIONAL HEARING RELATES TO A CRIME WHICH WOULD HAVE CONSTITUTED A FELONY IF COMMITTED BY AN ADULT, THE COURT, IF REQUESTED AT LEAST THREE DAYS PRIOR TO THE DATE OF THE HEARING, SHALL ACCORD THE VICTIM THE RIGHT TO MAKE A STATEMENT WITH REGARD TO ANY MATTER RELEVANT TO THE QUESTION OF DISPOSITION. THE COURT SHALL NOTIFY THE RESPONDENT NO LESS THAN TWENTY-FOUR HOURS PRIOR TO THE DISPOSITIONAL HEARING OF THE VICTIM'S INTENT TO MAKE A STATEMENT AT THE DISPOSITIONAL HEARING. IF THE RESPONDENT DOES NOT RECEIVE TIMELY NOTICE PURSUANT TO THIS SUBDIVISION, THE RESPONDENT MAY REQUEST A REASONABLE ADJOURNMENT.

S 60. The section heading and subdivisions 1, 2 and 3 of section 351.1 of the family court act, the section heading and subdivision 3 as added by chapter 920 of the laws of 1982, subdivision 1 as amended by chapter 398 of the laws of 1983 and subdivision 2 as amended by chapter 880 of the laws of 1985, are amended to read as follows:

Probation[,] investigation and diagnostic assessment. 1. Following a determination that a respondent has committed a designated felony act and prior to the dispositional hearing, the judge shall order a probation investigation and a diagnostic assessment. For the purposes of this article, the probation investigation shall include, but not be limited to, the history of the juvenile including previous conduct, the family situation, any previous psychological and psychiatric reports, school adjustment, previous social assistance provided by voluntary or public agencies and the response of the juvenile to such assistance. THE PROBATION INVESTIGATION SHALL ALSO INCLUDE A RECOMMENDATION AS TO THE APPROPRIATE DISPOSITION OF THE CASE. WHERE THE RECOMMENDATION IS OTHER THAN PLACEMENT OR WHERE DIRECTED BY THE COURT WHEN THE COURT IS CONSIDERING A DISPOSITION OTHER THAN PLACEMENT, IT SHALL ALSO INCLUDE A DISPOSITIONAL SERVICES PLAN CONTAINING:

(A) A STATEMENT OF GOALS AND OBJECTIVES TO BE ACCOMPLISHED BY THE RESPONDENT WHILE UNDER THE COURT'S JURISDICTION;

(B) THE SPECIFIC PROGRAMS AND SERVICES TO BE MADE AVAILABLE TO THE RESPONDENT AND THE RESPONDENT'S FAMILY OR OTHER PERSONS LEGALLY RESPONSIBLE FOR HIS OR HER CARE TO ACCOMPLISH THE GOALS AND OBJECTIVES OF THE PLAN, AND THE AGENCIES WHICH HAVE AGREED TO ACCEPT RESPONSIBILITY THEREFOR;

(C) THE RESPONSIBILITIES OF THE RESPONDENT'S PARENTS OR OTHER PERSONS LEGALLY RESPONSIBLE FOR HIS OR HER CARE IN FACILITATING THE GOALS AND OBJECTIVES SET FORTH IN THE DISPOSITIONAL SERVICES PLAN; AND

(D) A STATEMENT THAT ALL PARTIES TO THE PLAN UNDERSTAND THAT THE PLAN, IF AGREED TO BY THE COURT, WILL BECOME PART OF THE COURT'S ORDER OF DISPOSITION.

For the purposes of this article, the diagnostic assessment shall include, but not be limited to, psychological tests and psychiatric interviews to determine mental capacity and achievement, emotional stability and mental disabilities. It shall include a clinical assessment of the situational factors that may have contributed to the act or acts. When feasible, expert opinion shall be rendered as to the risk presented by the juvenile to others or himself, with a recommendation as to the need for a restrictive placement.

2. Following a determination that a respondent committed a crime OTHER THAN A DESIGNATED FELONY ACT and prior to the dispositional hearing, the court shall order a probation investigation and may order a diagnostic assessment.

3. A [child shall not be placed in accord with section 353.3 unless the court has ordered a probation investigation prior to the dispositional hearing; a] child shall not be placed in accord with section 353.4 unless the court has ordered a diagnostic assessment prior to [such] THE DISPOSITIONAL hearing.

S 61. Section 352.1 of the family court act is REPEALED.

S 62. Paragraph (a) of subdivision 2 of section 352.2 of the family court act, as amended by chapter 880 of the laws of 1985, is amended to read as follows:

(a) In determining an appropriate order the court shall consider the needs and best interests of the respondent [as well as], the need for protection of the community, AND THE NEED FOR JUVENILE ACCOUNTABILITY AND PARENTAL SUPPORT THEREFOR. THE COURT SHALL ALSO CONSIDER THE RECOMMENDATION OF THE PROBATION SERVICE AND ANY DISPOSITIONAL SERVICES PLAN. If the respondent has committed a designated felony act the court shall determine the appropriate disposition in accord with section 353.5. In all other cases the court shall order the least restrictive available alternative enumerated in subdivision one which is consistent with the needs and best interests of the respondent [and], the need for protection of the community, AND THE NEED FOR JUVENILE ACCOUNTABILITY AND PARENTAL SUPPORT THEREFOR.

S 63. Subdivision 2 of section 353.1 of the family court act, as amended by chapter 398 of the laws of 1983, is amended to read as follows:

2. When the court orders a conditional discharge the respondent shall be released with respect to the finding upon which such order is based without placement or probation supervision but subject, during the period of conditional discharge, to such conditions enumerated in [subdivision two] SUBDIVISIONS TWO-A, TWO-B AND TWO-C of section 353.2, as the court may determine. The court shall order the period of conditional discharge authorized by subdivision three and shall specify the conditions to be complied with. The court may modify or enlarge the conditions at any time prior to the expiration or termination of the period of conditional discharge. Such action may not, however, be taken unless the respondent is personally present, except that the respondent need not be present if the modification consists solely of the elimination or relaxation of one or more conditions.

S 64. Subdivision 2 of section 353.2 of the family court act is renumbered subdivision 2-b and two new subdivisions 2-a and 2-c are added to read as follows:

2-A. WHEN ORDERING A PERIOD OF PROBATION OR CONDITIONAL DISCHARGE PURSUANT TO SECTION 353.1, IN CASES INVOLVING RESPONDENTS OVER TEN YEARS OF AGE, THE COURT SHALL, AS A CONDITION OF SUCH ORDER, REQUIRE THAT THE RESPONDENT MAKE RESTITUTION OR REPARATION OR PERFORM SERVICES FOR THE PUBLIC GOOD PURSUANT TO SECTION 353.6.

2-C. WHEN ORDERING A PERIOD OF PROBATION OR A CONDITIONAL DISCHARGE PURSUANT TO SECTION 353.1, THE COURT MAY, AS A CONDITION OF SUCH ORDER, REQUIRE A PARENT OR OTHER PERSON LEGALLY RESPONSIBLE FOR THE RESPONDENT'S CARE TO COOPERATE WITH THE PROBATION SERVICE AND WITH ANY MENTAL HEALTH, SOCIAL SERVICE OR OTHER APPROPRIATE COMMUNITY FACILITY OR AGENCY TO WHICH THE RESPONDENT MAY BE REFERRED, TO PARTICIPATE IN PROGRAMS PROVIDED TO THE RESPONDENT, AND TO ASSIST IN THE RESPONDENT'S COMPLIANCE

WITH THE CONDITIONS OF THE ORDER. IF THE PARENT OR OTHER LEGALLY RESPONSIBLE PERSON FAILS TO FULFILL SUCH REQUIREMENT, THE COURT MAY (I) MODIFY OR REVOKE THE ORDER OF PROBATION OR CONDITIONAL DISCHARGE PURSUANT TO SECTION 360.3, AND/OR (II) CONDUCT A HEARING TO DETERMINE IF SUCH PARENT OR OTHER LEGALLY RESPONSIBLE PERSON IS IN CONTEMPT OF COURT, AND, IF SO, IMPOSE SUCH SANCTIONS AS AUTHORIZED BY LAW. AT ANY TIME DURING THE PENDENCY OF AN ORDER OF PROBATION OR CONDITIONAL DISCHARGE, A PARENT OR OTHER LEGALLY RESPONSIBLE PERSON MAY PETITION THE COURT TO MODIFY OR TERMINATE SUCH CONDITION FOR GOOD CAUSE SHOWN.

S 65. Paragraph (c) of subdivision 3 of section 353.3 of the family court act, as amended by chapter 465 of the laws of 1992, is amended to read as follows:

(c) place the respondent in a non-secure facility. No respondent placed pursuant to this paragraph may be transferred by the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES to a secure facility, EXCEPT THAT A RESPONDENT WHO HAS COMMITTED A DESIGNATED FELONY ACT, AS DEFINED IN SUBDIVISION EIGHT OF SECTION 301.2, MAY BE TRANSFERRED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES TO EITHER A LIMITED SECURE FACILITY OR A SECURE FACILITY PURSUANT TO THE REGULATIONS OF THE OFFICE OF CHILDREN AND FAMILY SERVICES AND WITH WRITTEN APPROVAL OF THE COMMISSIONER OF SUCH OFFICE OR HIS OR HER DESIGNEE.

S 66. Subdivision 5 of section 353.3 of the family court act, as amended by chapter 419 of the laws of 1987, is amended to read as follows:

5. If the respondent has committed a (A) CLASS A felony the initial period of placement shall not exceed [eighteen] FORTY-EIGHT months[. If the respondent has committed a];

(B) CLASS B OR C FELONY THE INITIAL PERIOD OF PLACEMENT SHALL NOT EXCEED THIRTY-SIX MONTHS;

(C) CLASS D OR E FELONY THE INITIAL PERIOD OF PLACEMENT SHALL NOT EXCEED TWENTY-FOUR MONTHS; OR

(D) misdemeanor such initial period of placement shall not exceed twelve months.

If the respondent has been in detention pending disposition, the initial period of placement ordered under this section shall be credited with and diminished by the amount of time spent by the respondent in detention prior to the commencement of the placement unless the court finds that all or part of such credit would not serve the needs and best interests of the respondent or the need for protection of the community.

S 67. Subdivisions 7, 8 and 9 of section 353.3 of the family court act, subdivision 7 as amended by chapter 181 of the laws of 2000 and subdivisions 8 and 9 as added by chapter 920 of the laws of 1982, are amended to read as follows:

7. The place in which or the person with whom the respondent has been placed under this section shall, UNLESS OTHERWISE SPECIFIED IN THE DISPOSITION ORDER, submit [a report] to the court, law guardian or attorney of record, [and] presentment agency [at] AND PARENTS OR PERSONS LEGALLY RESPONSIBLE FOR THE RESPONDENT, NOT LESS THAN ONCE EVERY THREE MONTHS DURING THE PLACEMENT, A REPORT ON THE STATUS, ADJUSTMENT AND PROGRESS OF THE RESPONDENT AND NOT LESS THAN THIRTY DAYS PRIOR TO A RESPONDENT'S CONDITIONAL RELEASE TO AFTERCARE, A COMMUNITY REINTEGRATION AND SERVICES PLAN SHALL BE SUBMITTED FOR THE RESPONDENT INCLUDING: (I) A STATEMENT OF GOALS AND OBJECTIVES TO BE ACCOMPLISHED BY THE RESPONDENT; (II) THE SPECIFIC PROGRAMS AND SERVICES TO BE MADE AVAILABLE TO THE RESPONDENT AND THE RESPONDENT'S FAMILY OR OTHER PERSONS LEGALLY RESPONSIBLE FOR HIS OR HER CARE TO ACCOMPLISH THE GOALS AND OBJECTIVES OF THE

PLAN, AND THE AGENCIES WHICH HAVE AGREED TO ACCEPT RESPONSIBILITY THEREFOR; (III) THE RESPONSIBILITIES OF THE RESPONDENT'S PARENTS OR OTHER PERSONS LEGALLY RESPONSIBLE FOR HIS OR HER CARE IN FACILITATING THE GOALS AND OBJECTIVES SET FORTH IN THE PLAN; AND (IV) A STATEMENT THAT ALL PARTIES TO THE PLAN UNDERSTAND THE RECOMMENDATIONS, TERMS AND CONDITIONS OF THE PLAN. AT the conclusion of the placement period, except as provided in paragraphs (a) and (b) of this subdivision[. Such], A report [shall include] INCLUDING recommendations and such supporting data as is appropriate SHALL BE SUBMITTED. The court may extend a placement pursuant to section 355.3 of this article.

(a) Where the respondent is placed pursuant to subdivision two or three of this section and where the agency is not seeking an extension of the placement pursuant to section 355.3 of this article, such report shall be submitted not later than thirty days prior to the conclusion of the placement.

(b) Where the respondent is placed pursuant to subdivision two or three of this section and where the agency is seeking an extension of the placement pursuant to section 355.3 of this article and a permanency hearing pursuant to section 355.5 of this article, such report shall be submitted not later than sixty days prior to the date on which the permanency hearing must be held and shall be annexed to the petition for a permanency hearing and extension of placement.

(c) Where the respondent is placed pursuant to subdivision two or three of this section, such report shall contain a plan for the release, or conditional release (pursuant to section five hundred ten-a of the executive law), of the respondent to the custody of his or her parent or other person legally responsible, to independent living or to another permanency alternative as provided in paragraph (d) of subdivision seven of section 355.5 of this article. If the respondent is subject to article sixty-five of the education law or elects to participate in an educational program leading to a high school diploma, such plan shall include, but not be limited to, the steps that the agency with which the respondent is placed has taken and will be taking to facilitate the enrollment of the respondent in a school or educational program leading to a high school diploma following release, or, if such release occurs during the summer recess, upon the commencement of the next school term. If the respondent is not subject to article sixty-five of the education law and does not elect to participate in an educational program leading to a high school diploma, such plan shall include, but not be limited to, the steps that the agency with which the respondent is placed has taken and will be taking to assist the respondent to become gainfully employed or enrolled in a vocational program following release.

8. In its discretion, the court may [recommend] REQUIRE restitution or REPARATION AND/OR require services for the public good pursuant to section 353.6 in conjunction with an order of placement.

9. If the court places a respondent with the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES pursuant to this section after finding that such child committed:

(A) A DESIGNATED FELONY ACT, THE COURT MAY, IN ITS DISCRETION, FURTHER ORDER THAT SUCH RESPONDENT SHALL BE CONFINED IN A RESIDENTIAL FACILITY FOR A MINIMUM PERIOD SET BY THE ORDER, NOT TO EXCEED ONE-HALF THE INITIAL PERIOD OF PLACEMENT; OR

(B) a felony, OTHER THAN A DESIGNATED FELONY ACT, the court may, in its discretion, further order that such respondent shall be confined in a residential facility for a minimum period set by the order, not to exceed:

(I) TWELVE MONTHS FOR A CLASS A, B OR C FELONY; AND
(II) six months FOR A CLASS D OR E FELONY.

S 68. Subdivision 3 of section 353.5 of the family court act, as added by chapter 920 of the laws of 1982, is amended to read as follows:

3. Notwithstanding the provisions of subdivision two, the court shall order a restrictive placement in any case where the respondent is found to have committed a designated felony act:

(A) in which the respondent inflicted serious physical injury, as that term is defined in subdivision ten of section 10.00 of the penal law, OR DEATH upon another person [who is sixty-two years of age or more.];

(B) AND ANOTHER PERSON COMMITTED ACTS CONSTITUTING A FELONY, FOR WHICH THE RESPONDENT WOULD BE CRIMINALLY RESPONSIBLE PURSUANT TO THE PROVISIONS OF ARTICLE TWENTY OF THE PENAL LAW IF THE RESPONDENT WERE AN ADULT, AN ELEMENT OF WHICH IS CAUSING SERIOUS PHYSICAL INJURY OR DEATH; PROVIDED HOWEVER, THAT THE COURT NEED NOT ORDER A RESTRICTIVE PLACEMENT IF IT FINDS THAT AN ALTERNATIVE ORDER OF DISPOSITION IS CONSISTENT WITH PUBLIC SAFETY AND THE NEED FOR JUVENILE ACCOUNTABILITY AND DOES NOT DEPRECATE THE SERIOUSNESS OF THE OFFENSE, AND THAT ONE OR MORE OF THE FOLLOWING FACTORS EXIST: (I) MITIGATING CIRCUMSTANCES THAT BEAR DIRECTLY UPON THE MANNER IN WHICH THE OFFENSE WAS COMMITTED; OR (II) THE RESPONDENT'S PARTICIPATION WAS RELATIVELY MINOR ALTHOUGH NOT SO MINOR AS TO CONSTITUTE A DEFENSE; OR (III) POSSIBLE DEFICIENCIES IN THE PROOF OF THE RESPONDENT'S COMMISSION OF THE OFFENSE. THE RESPONDENT AND THE PRESENTMENT AGENCY SHALL HAVE AN OPPORTUNITY TO PRESENT RELEVANT INFORMATION TO ASSIST THE COURT IN MAKING A FINDING PURSUANT TO THIS SUBPARAGRAPH. IF THE COURT FINDS THAT A RESTRICTIVE PLACEMENT SHOULD NOT BE ORDERED, IT SHALL MAKE A STATEMENT ON THE RECORD OF THE FACTS AND CIRCUMSTANCES UPON WHICH SUCH FINDING IS BASED. A TRANSCRIPT OF THE COURT'S STATEMENT, WHICH SHALL SET FORTH THE RECOMMENDATION OF THE PRESENTMENT AGENCY, SHALL BE FORWARDED TO THE STATE DIVISION OF CRIMINAL JUSTICE SERVICES ALONG WITH A COPY OF THE PETITION; OR

(C) AND THE RESPONDENT HAS BEEN FOUND BY A COURT TO HAVE COMMITTED A DESIGNATED FELONY ACT ON A PRIOR OCCASION.

S 69. The opening paragraph and subparagraphs (i), (ii) and (iii) of paragraph (a) of subdivision 4 of section 353.5 of the family court act, the opening paragraph and subparagraphs (ii) and (iii) as added by chapter 920 of the laws of 1982 and subparagraph (i) as amended by chapter 419 of the laws of 1987, are amended to read as follows:

When the order is for a restrictive placement [in the case of a youth found to have committed a designated class A felony act],

(i) the respondent shall be placed with the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES for an initial period of:

(A) five years FOR A CLASS A DESIGNATED FELONY ACT;
(B) FOUR YEARS FOR A CLASS B OR C DESIGNATED FELONY ACT; AND
(C) THREE YEARS FOR A CLASS D OR E DESIGNATED FELONY ACT.

If the respondent has been in detention pending disposition, the initial period of placement ordered under this section shall be credited with and diminished by the amount of time spent by the respondent in detention prior to the commencement of the placement unless the court finds that all or part of such credit would not serve the needs and best interests of the respondent or the need for protection of the community.

(ii) the respondent shall initially be confined in a secure facility for a period set by the order, to be:

(A) not less than [twelve] EIGHTEEN nor more than [eighteen] TWENTY-FOUR months FOR A CLASS A DESIGNATED FELONY ACT;

(B) NOT LESS THAN TWELVE NOR MORE THAN EIGHTEEN MONTHS FOR A CLASS B OR C DESIGNATED FELONY ACT; AND

(C) NOT LESS THAN SIX MONTHS NOR MORE THAN TWELVE MONTHS FOR A CLASS D OR E DESIGNATED FELONY ACT; provided, however, where the order of the court INVOLVING A CLASS A DESIGNATED FELONY is made in compliance [with subdivision five] AS OTHERWISE PROVIDED HEREIN the respondent shall initially be confined in a secure facility for [eighteen] TWENTY-FOUR months.

(iii) after the period set under clause (ii), the respondent shall be placed in a residential facility for:

(A) a period of [twelve] TWENTY-FOUR months FOR A CLASS A DESIGNATED FELONY ACT;

(B) A PERIOD OF EIGHTEEN MONTHS FOR A CLASS B OR C DESIGNATED FELONY ACT; AND

(C) A PERIOD TO BE NOT LESS THAN SIX NOR MORE THAN TWELVE MONTHS FOR A CLASS D OR E DESIGNATED FELONY ACT.

S 70. Paragraph (b) of subdivision 4 of section 353.5 of the family court act, as amended by chapter 398 of the laws of 1983, is amended to read as follows:

(b) Notwithstanding any other provision of law, during the [first twelve months of the respondent's placement] PERIOD OF THE RESPONDENT'S INITIAL CONFINEMENT PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (A) OF THIS SUBDIVISION, no motion, hearing or order may be made, held or granted pursuant to section 355.1; provided, however, that during such period a motion to vacate the order may be made pursuant to 355.1, but only upon grounds set forth in section 440.10 of the criminal procedure law.

S 71. Subparagraph (iv) of paragraph (c) of subdivision 4 of section 353.5 of the family court act is REPEALED.

S 72. Subdivision 5 of section 353.5 of the family court act is REPEALED and subdivisions 6 and 7 are renumbered subdivisions 5 and 6 and subdivision 5, as amended by chapter 398 of the laws of 1983, is amended to read as follows:

5. When the order is for a restrictive placement in the case of a youth found to have committed any designated felony act and such youth has been found by a court to have committed a designated felony act on a prior occasion, regardless of the age of such youth at the time of commission of such prior act, the order of the court shall be made [pursuant to subdivision four] AS IF THE RESPONDENT WAS FOUND TO HAVE COMMITTED A CLASS A DESIGNATED FELONY ACT.

S 73. Section 353.5 of the family court act is amended by adding a new subdivision 7 to read as follows:

7. IN ITS DISCRETION, THE COURT MAY REQUIRE RESTITUTION OR REPARATION AND/OR REQUIRE SERVICES FOR THE PUBLIC GOOD PURSUANT TO SECTION 353.6 IN CONJUNCTION WITH AN ORDER OF RESTRICTIVE PLACEMENT.

S 74. Section 353.5 of the family court act is amended by adding a new subdivision 9 to read as follows:

9. THE OFFICE OF CHILDREN AND FAMILY SERVICES SHALL, UNLESS OTHERWISE SPECIFIED IN THE DISPOSITIONAL ORDER, SUBMIT TO THE COURT, LAW GUARDIAN OR ATTORNEY OF RECORD, PRESENTMENT AGENCY, AND PARENTS OR PERSONS LEGALLY RESPONSIBLE FOR THE RESPONDENT:

(A) NOT LESS THAN ONCE EVERY THREE MONTHS DURING THE PLACEMENT A REPORT ON THE STATUS, ADJUSTMENT AND PROGRESS OF THE RESPONDENT;

(B) NOT LESS THAN THIRTY DAYS PRIOR TO A YOUTH'S CONDITIONAL RELEASE TO AFTERCARE, A COMMUNITY REINTEGRATION AND SERVICES PLAN FOR THE YOUTH INCLUDING:

(I) A STATEMENT OF GOALS AND OBJECTIVES TO BE ACCOMPLISHED BY THE RESPONDENT;

(II) THE SPECIFIC PROGRAMS, SERVICES, AND RESOURCES TO BE PROVIDED TO THE RESPONDENT AND THE RESPONDENT'S FAMILY OR OTHER PERSONS LEGALLY RESPONSIBLE FOR HIS OR HER CARE TO ACCOMPLISH THE GOALS AND OBJECTIVES OF THE PLAN, AND THE AGENCIES WHICH HAVE AGREED TO ACCEPT RESPONSIBILITY THEREFOR;

(III) THE RESPONSIBILITIES OF THE RESPONDENT'S PARENTS OR OTHER PERSONS LEGALLY RESPONSIBLE FOR HIS OR HER CARE IN FACILITATING THE GOALS AND OBJECTIVES SET FORTH IN THE PLAN; AND

(IV) A STATEMENT THAT ALL PARTIES TO THE PLAN UNDERSTAND ITS TERMS AND CONDITIONS; AND

(C) AT THE CONCLUSION OF THE PLACEMENT PERIOD, A REPORT INCLUDING RECOMMENDATIONS AND SUCH SUPPORTING DATA AS ARE APPROPRIATE. THE COURT MAY EXTEND A PLACEMENT PURSUANT TO SECTION 355.3.

S 75. The section heading of section 353.6 of the family court act, as added by chapter 920 of the laws of 1982, is amended to read as follows:

Restitution, REPARATION AND SERVICES FOR THE PUBLIC GOOD.

S 76. Subdivision 1 of section 353.6 of the family court act, as amended by chapter 877 of the laws of 1983, paragraph (a) as amended by chapter 317 of the laws of 2004, and paragraph (b) as amended by chapter 575 of the laws of 2007, is amended to read as follows:

1. At the conclusion of the dispositional hearing in cases involving respondents over ten years of age AND AFTER CONSIDERING ANY VICTIM IMPACT STATEMENT the court may:

(a) [recommend] REQUIRE as a condition of placement, [or order as a condition of] probation or conditional discharge, restitution OF THE FRUITS OF THE OFFENSE OR REPARATION FOR THE ACTUAL OUT-OF-POCKET LOSS CAUSED THEREBY TO THE VICTIM in an amount [representing a fair and reasonable cost to replace the property, repair the damage caused by the respondent or provide the victim with compensation for unreimbursed medical expenses,] THAT THE RESPONDENT CAN AFFORD TO PAY not, however, to exceed [one] FIVE thousand [five hundred] dollars. [In the case of a placement, the] A FINDING AS TO THE DOLLAR AMOUNT OF THE FRUITS OF THE OFFENSE OR THE ACTUAL OUT-OF-POCKET LOSS MUST BE BASED UPON A PREPONDERANCE OF THE EVIDENCE. THE court [may recommend] SHALL REQUIRE that the respondent pay [out of his or her own funds or earnings the amount of replacement, damage or unreimbursed medical expenses,] THE RESTITUTION OR REPARATION ORDERED THE RESPONDENT either in a lump sum or in periodic payments [in]. IN THE CASE OF A PLACEMENT, THE amounts OF PERIODIC PAYMENTS SHALL BE set by the agency with which [he or she] THE RESPONDENT is placed, and in the case of probation or conditional discharge, the [court may require that the respondent pay out of his or her own funds or earnings the amount of replacement, damage or unreimbursed medical expenses, either in a lump sum or in periodic payments in] amounts OF PERIODIC PAYMENTS SHALL BE set by the court. ANY PAYMENT MADE AS RESTITUTION OR REPARATION PURSUANT TO THIS SECTION SHALL NOT LIMIT, PRECLUDE OR IMPAIR ANY LIABILITY FOR DAMAGES IN ANY CIVIL ACTION OR PROCEEDING FOR AN AMOUNT IN EXCESS OF SUCH PAYMENT. THE PRESENTMENT AGENCY SHALL, WHERE APPROPRIATE, ADVISE THE VICTIM OF HIS OR HER RIGHT TO SEEK DAMAGES IN EXCESS OF SUCH PAYMENTS, PURSUANT TO SECTION 3-112 OF THE GENERAL OBLIGATIONS LAW, FROM A PARENT, LEGAL GUARDIAN OR OTHER PERSON LEGALLY RESPONSIBLE FOR THE RESPONDENT'S CARE. IN THE EVENT THAT THE COURT REQUIRES RESTITUTION OR REPARATION TO BE MADE TO A VICTIM WHO DIES PRIOR TO THE COMPLETION OF SAID RESTITUTION OR REPARATION, THE REMAINING PAYMENTS SHALL BE MADE TO THE ESTATE OF THE DECEASED; and/or

(b) order as a condition of placement, probation, or conditional discharge, services for the public good including in the case of a crime involving willful, malicious, or unlawful damage or destruction to real or personal property maintained as a cemetery plot, grave, burial place, or other place of interment of human remains, services for the maintenance and repair thereof, taking into consideration THE NATURE OF THE CRIME AND the age and physical condition of the respondent.

S 77. Subdivision 2 of section 353.6 of the family court act, as added by chapter 920 of the laws of 1982, is amended to read as follows:

2. If the court [recommends] REQUIRES restitution OR REPARATION or requires services for the public good in conjunction with an order of placement pursuant to section 353.3 or 353.5, the placement shall be made only to an authorized agency, including the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES, which has adopted rules and regulations for the supervision of such a program, which rules and regulations, except in the case of the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES, shall be subject to the approval of the state department of [social services] FAMILY ASSISTANCE. Such rules and regulations shall include, but not be limited to provisions: (i) assuring that the conditions of work, including wages, meet the standards therefor prescribed pursuant to the labor law; (ii) affording coverage to the respondent under the workers' compensation law as an employee of such agency, department, [division] OFFICE OF CHILDREN AND FAMILY SERVICES or institution; (iii) assuring that the entity receiving such services shall not utilize the same to replace its regular employees; and (iv) providing for reports to the court not less frequently than every six months.

S 78. Subdivisions 1, 2, 6 and 7 of section 354.1 of the family court act, subdivision 1 as added by chapter 920 of the laws of 1982 and subdivisions 2, 6 and 7 as amended by chapter 645 of the laws of 1996, are amended and a new subdivision 1-a is added to read as follows:

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

1-A. IF A PERSON WHOSE FINGERPRINTS, PALMPRINTS OR PHOTOGRAPHS WERE TAKEN PURSUANT TO SECTION 306.1 OR WAS INITIALLY FINGERPRINTED AS A JUVENILE OFFENDER AND THE ACTION IS SUBSEQUENTLY REMOVED TO A FAMILY COURT PURSUANT TO ARTICLE SEVEN HUNDRED TWENTY-FIVE OF THE CRIMINAL PROCEDURE LAW HAS A PETITION DISMISSED PURSUANT TO SUBDIVISION TWO-A OF SECTION 321.3, THE COURT SHALL FORWARD OR CAUSE TO BE FORWARDED TO THE DIVISION OF CRIMINAL JUSTICE SERVICES NOTIFICATION OF SUCH DISMISSAL AND SUCH RELATED INFORMATION AS MAY BE REQUIRED BY SUCH DIVISION.

2. If a person whose fingerprints, palmprints or photographs were taken pursuant to section 306.1 or was initially fingerprinted as a juvenile offender and the action is subsequently removed to family court pursuant to article seven hundred twenty-five of the criminal procedure law has had all petitions disposed of by the family court in any manner other than an adjudication of juvenile delinquency [for a felony, but in

the case of acts committed when such person was eleven or twelve years of age which would constitute a class A or B felony only,] all such fingerprints, palmprints, photographs, and copies thereof, and all information relating to such allegations obtained by the division of criminal justice services pursuant to section 306.1 shall be destroyed forthwith. The clerk of the court shall notify the commissioner of the division of criminal justice services and the heads of all police departments and law enforcement agencies having copies of such records, who shall destroy such records without unnecessary delay.

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

7. WHEN A PERSON FINGERPRINTED PURSUANT TO SECTION 306.1 AND SUBSEQUENTLY ADJUDICATED A JUVENILE DELINQUENT FOR A MISDEMEANOR REACHES THE AGE OF EIGHTEEN AND HAS NO CRIMINAL CONVICTIONS OR PENDING CRIMINAL ACTIONS WHICH ULTIMATELY TERMINATE IN A CRIMINAL CONVICTION, ALL FINGERPRINTS, PALMPRINTS, PHOTOGRAPHS, AND RELATED INFORMATION AND COPIES THEREOF OBTAINED PURSUANT TO SECTION 306.1 IN THE POSSESSION OF THE DIVISION OF CRIMINAL JUSTICE SERVICES, ANY POLICE DEPARTMENT, LAW ENFORCEMENT AGENCY OR ANY OTHER AGENCY SHALL BE DESTROYED FORTHWITH. When a person fingerprinted pursuant to section 306.1 and subsequently adjudicated a juvenile delinquent for a felony[, but in the case of acts committed when such person was eleven or twelve years of age which would constitute a class A or B felony only,] reaches the age of twenty-one, or has been discharged from placement under this act for at least three years, whichever occurs later, and has no criminal convictions or pending criminal actions which ultimately terminate in a criminal conviction, all fingerprints, palmprints, photographs, and related information and copies thereof obtained pursuant to section 306.1 in the possession of the division of criminal justice services, any police department, law enforcement agency or any other agency shall be destroyed forthwith. The division of criminal justice services shall notify the agency or agencies which forwarded fingerprints to such division pursuant to section 306.1 of their obligation to destroy those records in their possession. In the case of a pending criminal action which does not terminate in a criminal conviction, such records shall be destroyed forthwith upon such determination.

S 79. The opening paragraph of subdivision 1 of section 355.1 of the family court act, as amended by chapter 398 of the laws of 1983, is amended and a new subdivision 4 is added to read as follows:

[Upon] EXCEPT AS PROVIDED IN SUBDIVISION FOUR, UPON a showing of a substantial change of circumstances, the court may on its own motion or on motion of the respondent or his OR HER parent or person responsible for his OR HER care:

4. THE COURT MAY GRANT A NEW FACT-FINDING HEARING ONLY UPON GROUNDS SET FORTH IN SECTION 440.10 OF THE CRIMINAL PROCEDURE LAW.

S 80. Subdivisions 1 and 6 of section 355.3 of the family court act, subdivision 1 as amended by chapter 398 of the laws of 1983 and subdivi-

sion 6 as amended by chapter 663 of the laws of 1985, are amended to read as follows:

1. In any case in which the respondent has been placed pursuant to section 353.3 OR 353.5 the respondent, the person with whom the respondent has been placed, the commissioner of [social services, or the division for youth] THE OFFICE OF CHILDREN AND FAMILY SERVICES may petition the court to extend such placement. Such petition shall be filed at least sixty days prior to the expiration of the period of placement, except for good cause shown but in no event shall such petition be filed after the original expiration date.

6. Successive extensions of placement under this section may be granted, but no placement may be made or continued [beyond the respondent's eighteenth birthday without the child's consent and in no event] past the child's twenty-first birthday.

S 81. Paragraph (f) of subdivision 2 of section 375.1 of the family court act is REPEALED and a new paragraph (f) is added to read as follows:

(F) AFTER THE FILING OF A PETITION, THE COURT REFERS A CASE TO THE PROBATION SERVICE PURSUANT TO SECTION 320.6 AND THE PROBATION SERVICE ADJUSTS THE CASE; OR

S 82. Subdivision 1 of section 375.1 of the family court act, as amended by chapter 645 of the laws of 1996, is amended and a new subdivision 1-a is added to read as follows:

1. [Upon] EXCEPT AS PROVIDED IN SUBDIVISION ONE-A OF THIS SECTION, UPON termination of a delinquency proceeding against a respondent in favor of such respondent, unless the presentment agency upon written motion with not less than eight days notice to such respondent demonstrates to the satisfaction of the court that the interests of justice require otherwise or the court on its own motion with not less than eight days notice to such respondent determines that the interest of justice require otherwise and states the reason for such determination on the record, the clerk of the court shall immediately notify the law guardian or counsel for the child, the director of the appropriate presentment agency, and the heads of the appropriate probation department and police department or other law enforcement agency, that the proceeding has terminated in favor of the respondent and, unless the court has directed otherwise, that the records of such action or proceeding, other than those destroyed pursuant to section 354.1 of this act, shall be sealed. Upon receipt of such notification all official records and papers, including judgments and orders of the court, but not including public court decisions or opinions or records and briefs on appeal, relating to the arrest, the prosecution and the probation service proceedings, including all duplicates or copies thereof, on file with the court, police agency, probation service and presentment agency shall be sealed and not made available to any person or public or private agency. Such records shall remain sealed during the pendency of any motion made pursuant to this subdivision.

1-A. UPON TERMINATION OF A DELINQUENCY PROCEEDING AGAINST A RESPONDENT BASED ON THE ACCEPTANCE OF AN ADMISSION PURSUANT TO SUBDIVISION TWO-A OF SECTION 321.3, THE RECORDS OF SUCH PROCEEDING SHALL NOT BE SEALED.

S 83. Subdivision 3 of section 375.1 of the family court act, as amended by chapter 398 of the laws of 1983, is amended to read as follows:

3. Records sealed pursuant to subdivision one shall be made available to the respondent or [his] THE RESPONDENT'S designated agent [and the]. THE SEALED records and papers of a probation service shall be available

to any probation service for the purpose of DETERMINING WHETHER A CASE IS SUITABLE FOR ADJUSTMENT SERVICES AND PLANNING SUCH SERVICES AND TO THE PRESENTMENT AGENCY AND THE COURT FOR THE PURPOSE OF complying with [subdivision] SUBDIVISIONS THREE AND four of section 308.1.

S 84. Subdivision 1 of section 375.2 of the family court act, as added by chapter 920 of the laws of 1982, is amended to read as follows:

1. If an action has resulted in a finding of delinquency pursuant to subdivision one of section [352.1] 345.1, other than a finding that the respondent committed a designated felony act, the court may, in the interest of justice and upon motion of the respondent, order the sealing of appropriate records pursuant to subdivision one of section 375.1.

S 85. Section 380.1 of the family court act is amended by adding a new subdivision 5 to read as follows:

5. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, WHERE A FINDING OF JUVENILE DELINQUENCY HAS BEEN ENTERED, THE RECORDS PERTAINING TO SUCH CASE SHALL BE MADE AVAILABLE TO (A) ANY STATE OR LOCAL OFFICER OR AGENCY WITH RESPONSIBILITY FOR THE ISSUANCE OF LICENSES TO POSSESS GUNS, WHEN THE PERSON HAS MADE APPLICATION FOR SUCH LICENSE; OR (B) ANY PROSPECTIVE EMPLOYER OF A POLICE OFFICER OR PEACE OFFICER AS THOSE TERMS ARE DEFINED IN SUBDIVISIONS THIRTY-THREE AND THIRTY-FOUR OF SECTION 1.20 OF THE CRIMINAL PROCEDURE LAW, IN RELATION TO AN APPLICATION FOR EMPLOYMENT AS A POLICE OFFICER OR PEACE OFFICER; PROVIDED, HOWEVER, THAT EVERY PERSON WHO IS AN APPLICANT FOR THE POSITION OF POLICE OFFICER OR PEACE OFFICER SHALL BE FURNISHED WITH A COPY OF ALL RECORDS OBTAINED UNDER THIS PARAGRAPH AND AFFORDED AN OPPORTUNITY TO MAKE AN EXPLANATION THEREOF.

S 86. Section 381.1 of the family court act, as added by chapter 920 of the laws of 1982, is amended to read as follows:

S 381.1. Transfer of records and information to institutions and agencies. Whenever a person is placed with an institution suitable for placement of a person adjudicated a juvenile delinquent maintained by the state or any subdivision thereof or to an authorized agency including the division for youth, the family court placing such person shall forthwith transmit a copy of the orders of the family court pursuant to sections [352.1] 345.1 and 352.2 and of the probation report and all other relevant evaluative records in the possession of the family court and probation department related to such person, including but not limited to any diagnostic, educational, medical, psychological and psychiatric records with respect to such person to such institution or agency, notwithstanding any contrary provision of law.

S 87. Subdivision 2 of section 381.2 of the family court act, as amended by chapter 926 of the laws of 1982, is amended to read as follows:

2. Notwithstanding the provisions of subdivision one, another court, FOR THE PURPOSE OF MAKING A BAIL, RECOGNIZANCE, OR YOUTHFUL OFFENDER DETERMINATION OR in imposing sentence upon an adult after conviction may receive and consider the records and information on file with the family court, unless such records and information have been sealed pursuant to section 375.1.

S 88. Subdivision 18 of section 10.00 of the penal law, as amended by chapter 7 of the laws of 2007, is amended to read as follows:

18. "Juvenile offender" means (1) a person TWELVE OR thirteen years old who is criminally responsible for acts constituting murder in the second degree as defined in subdivisions one and two of section 125.25 of this chapter or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; and

(2) a person fourteen or fifteen years old who is criminally responsible for acts constituting the crimes defined in subdivisions one and two of section 125.25 (murder in the second degree) and in subdivision three of such section provided that the underlying crime for the murder charge is one for which such person is criminally responsible; section 135.25 (kidnapping in the first degree); 150.20 (arson in the first degree); SUBDIVISION TEN OF SECTION 120.05 (ASSAULT IN THE SECOND DEGREE); 120.07 (GANG ASSAULT IN THE FIRST DEGREE); subdivisions one [and], two AND THREE of section 120.10 (assault in the first degree); 120.11 (AGGRAVATED ASSAULT UPON A POLICE OFFICER OR A PEACE OFFICER); 125.20 (manslaughter in the first degree); subdivisions one and two of section 130.35 (rape in the first degree); subdivisions one and two of section 130.50 (criminal sexual act in the first degree); 130.70 (aggravated sexual abuse in the first degree); 130.75 (COURSE OF SEXUAL CONDUCT AGAINST A CHILD IN THE FIRST DEGREE); 130.67 (AGGRAVATED SEXUAL ABUSE IN THE SECOND DEGREE; 140.30 (burglary in the first degree); subdivision one of section 140.25 (burglary in the second degree); 150.15 (arson in the second degree); 160.15 (robbery in the first degree); subdivision two of section 160.10 (robbery in the second degree) [of this chapter]; 215.17 (INTIMIDATING A VICTIM OR WITNESS IN THE FIRST DEGREE); [or] section 265.03 [of this chapter] (CRIMINAL POSSESSION OF A WEAPON IN THE SECOND DEGREE), where such machine gun or such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 of this chapter; 265.09 (CRIMINAL USE OF A FIREARM IN THE FIRST DEGREE); 265.08 (CRIMINAL USE OF A FIREARM IN THE SECOND DEGREE); OR 485.05 (HATE CRIMES) OF THIS CHAPTER PROVIDED THAT THE SPECIFIED OFFENSE FOR WHICH THE HATE CRIME IS CHARGED IS ONE FOR WHICH SUCH PERSON IS CRIMINALLY RESPONSIBLE; or defined in this chapter as an attempt to commit [murder in the second degree or kidnapping in the first degree, or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law] ANY OF THE FOREGOING CRIMES.

S 89. Subdivision 2 of section 30.00 of the penal law, as amended by chapter 7 of the laws of 2007, is amended to read as follows:

2. A person TWELVE OR thirteen[, fourteen or fifteen] years of age is criminally responsible for acts constituting murder in the second degree as defined in subdivisions one and two of section 125.25 and A PERSON FOURTEEN OR FIFTEEN YEAR OLD IS CRIMINALLY RESPONSIBLE FOR ACTS CONSTITUTING THE CRIMES DEFINED IN SUBDIVISIONS ONE AND TWO OF SECTION 125.25 (MURDER IN THE SECOND DEGREE) AND in subdivision three of such section provided that the underlying crime for the murder charge is one for which such person is criminally responsible or for such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; and a person fourteen or fifteen years of age is criminally responsible for acts constituting the crimes defined in section 135.25 (kidnapping in the first degree); 150.20 (arson in the first degree); SUBDIVISION TEN OF SECTION 120.05 (ASSAULT IN THE SECOND DEGREE); 120.07 (GANG ASSAULT IN THE FIRST DEGREE); subdivisions one and two of section 120.10 (assault in the first degree); 120.11 (AGGRAVATED ASSAULT UPON A POLICE OFFICER OR PEACE OFFICER); 125.20 (manslaughter in the first degree); subdivisions one and two of section 130.35 (rape in the first degree); subdivisions one and two of section 130.50 (criminal sexual act in the first degree); 130.70 (aggravated sexual abuse in the first degree); 130.75 (COURSE OF SEXUAL CONDUCT AGAINST A CHILD IN THE FIRST DEGREE); 130.67 (AGGRAVATED SEXUAL ABUSE IN THE SECOND DEGREE); 140.30 (burglary in the first degree); subdivision one of section 140.25 (burglary in the second degree); 150.15 (arson in the second degree);

160.15 (robbery in the first degree); subdivision two of section 160.10 (robbery in the second degree) [of this chapter]; 215.17 (INTIMIDATING A VICTIM OR WITNESS IN THE FIRST DEGREE); [or] section 265.03 [of this chapter] (CRIMINAL POSSESSION OF A WEAPON IN THE SECOND DEGREE), where such machine gun or such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 of this chapter; 265.09 (CRIMINAL USE OF A FIREARM IN THE FIRST DEGREE); 265.08 (CRIMINAL USE OF A FIREARM IN THE SECOND DEGREE); OR 485.05 (HATE CRIMES) OF THIS CHAPTER PROVIDED THAT THE SPECIFIED OFFENSE FOR WHICH THE HATE CRIME IS CHARGED IS ONE FOR WHICH SUCH PERSON IS CRIMINALLY RESPONSIBLE; or defined in this chapter as an attempt to commit [murder in the second degree or kidnapping in the first degree, or for such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law] ANY OF THE FOREGOING CRIMES.

S 90. Subdivision 2 of section 60.02 of the penal law, as amended by chapter 471 of the laws of 1980, is amended and a new subdivision 2-a is added to read as follows:

(2) If the sentence is to be imposed upon a youthful offender finding which has been substituted for a conviction for any felony OTHER THAN A CLASS B, C, OR D VIOLENT FELONY OFFENSE AS DEFINED IN SECTION 70.02 OF THIS TITLE, the court must impose a sentence authorized to be imposed upon a person convicted of a class E felony provided, however, that the court must not impose a sentence of conditional discharge or unconditional discharge if the youthful offender finding was substituted for a conviction of a felony defined in article two hundred twenty of this chapter.

(2-A) IF THE SENTENCE IS TO BE IMPOSED UPON A YOUTHFUL OFFENDER FINDING WHICH HAS BEEN SUBSTITUTED FOR A CONVICTION FOR A CLASS B, C, OR D VIOLENT FELONY OFFENSE DEFINED IN SECTION 70.02 OF THIS TITLE, THE COURT MUST IMPOSE A SENTENCE AUTHORIZED TO BE IMPOSED UPON A PERSON CONVICTED OF A CLASS D FELONY.

S 91. Subdivision 6 of section 70.00 of the penal law, as amended by chapter 1 of the laws of 1998, is amended to read as follows:

6. Determinate sentence. Except as provided in subdivision four of this section and subdivisions two and four of section 70.02, when a person is sentenced as a violent felony offender pursuant to section 70.02 or as a second violent felony offender pursuant to section 70.04 or as a second felony offender on a conviction for a violent felony offense pursuant to section 70.06 OR WHEN A PERSON IS SENTENCED AS A JUVENILE OFFENDER PURSUANT TO SECTION 70.05, the court must impose a determinate sentence of imprisonment in accordance with the provisions of such sections and such sentence shall include, as a part thereof, a period of post-release supervision in accordance with section 70.45.

S 92. Subdivisions 2 and 3 of section 70.05 of the penal law, as added by chapter 481 of the laws of 1978, paragraph (e) of subdivision 2 as added and paragraph (c) of subdivision 3 as amended by chapter 435 of the laws of 1998 and paragraph (a) of subdivision 3 as amended by chapter 174 of the laws of 2003, are amended to read as follows:

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

(a) For the class A felony of murder in the second degree, the term shall be life imprisonment;

(b) For the class A felony of arson in the first degree, or for the class A felony of kidnapping in the first degree the term shall be fixed

by the court, and shall be at least twelve years but shall not exceed fifteen years;

(c) For a class B felony, the term shall be fixed by the court, and shall not exceed ten years;

(d) For a class C felony, the term shall be fixed by the court, and shall BE AT LEAST FOUR YEARS BUT SHALL not exceed [seven] TEN years; and

(e) For a class D felony, the term shall be fixed by the court and SHALL BE AT LEAST THREE YEARS BUT shall not exceed [four] SEVEN years.

3. Minimum period of imprisonment. The minimum period of imprisonment under an indeterminate sentence for a juvenile offender shall be specified in the sentence as follows:

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

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

(c) For a class B[,] OR C [or D] felony, the minimum period of imprisonment shall be fixed by the court at [one-third] ONE-HALF of the maximum term imposed[.]; AND

(D) FOR A CLASS D FELONY, THE MINIMUM PERIOD OF IMPRISONMENT SHALL BE FIXED BY THE COURT AND SHALL BE NOT LESS THAN ONE AND ONE-HALF YEARS BUT SHALL NOT EXCEED THREE YEARS.

S 93. Subdivision 4 of section 70.20 of the penal law, as amended by chapter 479 of the laws of 1992, paragraph (a) as separately amended by chapter 465 of the laws of 1992 and paragraphs (d) and (e) as relettered by chapter 516 of the laws of 1995, is amended to read as follows:

4. (a) Notwithstanding any other provision of law to the contrary, a juvenile offender WHO IS SENTENCED AS A JUVENILE OFFENDER AND GIVEN A DETERMINATE OR INDETERMINATE SENTENCE, or a juvenile offender who is adjudicated a youthful offender and given an indeterminate or a definite sentence, shall be committed to the custody of the [director of the division for youth] COMMISSIONER OF THE OFFICE OF CHILDREN AND FAMILY SERVICES who shall arrange for the confinement of such offender in secure facilities of [the division] SUCH OFFICE. The release or transfer of such offenders from the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES shall be governed by section five hundred eight of the executive law.

(b) The court in committing a juvenile offender and youthful offender to the custody of the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES shall inquire as to whether the parents or legal guardian of the youth, if present, will consent for the [division] OFFICE to provide routine medical, dental and mental health services and treatment.

(c) Notwithstanding paragraph (b) of this subdivision, where the court commits an offender to the custody of the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES in accordance with this section and no medical consent has been obtained prior to said commitment, the commitment order shall be deemed to grant consent for the [division for youth] OFFICE to provide for routine medical, dental and mental health services and treatment to the offender so committed.

(d) Nothing in this subdivision shall preclude a parent or legal guardian of an offender who is not yet eighteen years of age from making a motion on notice to the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES pursuant to article twenty-two of the civil practice law and rules objecting to routine medical, dental or mental health services and treatment being provided to such offender under the provisions of paragraph (b) of this subdivision.

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

S 94. Paragraph (f) of subdivision 1 of section 70.30 of the penal law is REPEALED and a new paragraph (f) is added to read as follows:

(F) THE AGGREGATE MAXIMUM TERM OF CONSECUTIVE SENTENCES IMPOSED UPON A JUVENILE OFFENDER FOR TWO OR MORE CRIMES, ALL OF WHICH WERE COMMITTED BEFORE THE JUVENILE OFFENDER REACHED THE AGE OF SIXTEEN AND BEFORE THE JUVENILE OFFENDER WAS IMPRISONED UNDER ANY SUCH SENTENCES, SHALL BE CALCULATED AS FOLLOWS, PROVIDED SUCH JUVENILE OFFENDER IS NOT SUBJECT TO ANY SENTENCE OF IMPRISONMENT FOR THE CLASS A FELONY OF MURDER IN THE SECOND DEGREE:

(I) WHERE THE JUVENILE OFFENDER'S CONSECUTIVE SENTENCES OF IMPRISONMENT ARE ALL INDETERMINATE SENTENCES OF IMPRISONMENT, AND THE AGGREGATE MAXIMUM TERM OF SUCH SENTENCES EXCEEDS FIFTEEN YEARS, IT SHALL BE DEEMED TO BE FIFTEEN YEARS; UNLESS ONE OR MORE SUCH CONSECUTIVE SENTENCES IS IMPOSED FOR THE CLASS A FELONY OF ARSON IN THE FIRST DEGREE OR KIDNAPPING IN THE FIRST DEGREE, THE AGGREGATE MAXIMUM TERM SHALL, IF IT EXCEEDS EIGHTEEN YEARS, BE DEEMED TO BE EIGHTEEN YEARS; AND WHERE THE AGGREGATE MAXIMUM TERM OF SUCH INDETERMINATE CONSECUTIVE SENTENCES IS REDUCED PURSUANT TO THIS PROVISION, THE AGGREGATE MINIMUM PERIOD OF IMPRISONMENT, IF IT EXCEEDS ONE-HALF OF THE AGGREGATE MAXIMUM TERM AS SO REDUCED, SHALL BE DEEMED TO BE ONE-HALF OF THE AGGREGATE MAXIMUM TERM AS SO REDUCED.

(II) WHERE ALL SUCH CONSECUTIVE SENTENCES ARE DETERMINATE SENTENCES OF IMPRISONMENT, AND THE AGGREGATE DETERMINATE TERM EXCEEDS FIFTEEN YEARS, THE JUVENILE OFFENDER IS DEEMED TO BE SERVING AN AGGREGATE DETERMINATE TERM OF FIFTEEN YEARS.

(III) WHERE THE JUVENILE OFFENDER'S CONSECUTIVE SENTENCES OF IMPRISONMENT INCLUDE AT LEAST ONE INDETERMINATE SENTENCE AND ONE DETERMINATE SENTENCE:

(A) IF THE AGGREGATE MAXIMUM TERM OF THE DETERMINATE SENTENCES IS FIFTEEN YEARS OR MORE, THE JUVENILE OFFENDER SHALL BE DEEMED TO BE SERVING A DETERMINATE SENTENCE OF FIFTEEN YEARS. IF, HOWEVER, THE AGGREGATE DETERMINATE TERM IS LESS THAN FIFTEEN YEARS, THE JUVENILE OFFENDER SHALL BE DEEMED TO BE SERVING AN INDETERMINATE SENTENCE WITH AN AGGREGATE MAXIMUM TERM OF FIFTEEN YEARS. IN SUCH EVENT, THE MINIMUM SENTENCE SHALL BE DEEMED TO BE SEVEN AND ONE-HALF YEARS OR SIX-SEVENTHS OF THE AGGREGATE MAXIMUM TERM OF THE DETERMINATE SENTENCE OR SENTENCES, WHICHEVER IS GREATER; UNLESS

(B) IF ONE OR MORE OF SUCH CONSECUTIVE SENTENCES IS IMPOSED FOR A CLASS A FELONY OFFENSE OF ARSON IN THE FIRST DEGREE OR KIDNAPPING IN THE FIRST DEGREE, AND THE DETERMINATE SENTENCES RESULT IN AN AGGREGATE DETERMINATE TERM OF EIGHTEEN YEARS OR MORE, THE JUVENILE OFFENDER SHALL BE DEEMED TO BE SERVING A DETERMINATE SENTENCE OF EIGHTEEN YEARS. IF, HOWEVER, THE DETERMINATE SENTENCES RESULT IN AN AGGREGATE MAXIMUM TERM OF LESS THAN EIGHTEEN YEARS, THE JUVENILE OFFENDER SHALL BE DEEMED TO BE SERVING AN INDETERMINATE SENTENCE WITH A MAXIMUM TERM OF EIGHTEEN YEARS.

IN SUCH EVENT, THE MINIMUM SENTENCE SHALL BE DEEMED TO BE NINE YEARS OR SIX-SEVENTHS OF THE AGGREGATE MAXIMUM TERM OF THE DETERMINATE SENTENCES, WHICHEVER IS GREATER.

S 95. Section 70.45 of the penal law is amended by adding a new subdivision 2-b to read as follows:

2-B. PERIOD OF POST-RELEASE SUPERVISION FOR JUVENILE OFFENDER. THE PERIOD OF POST-RELEASE SUPERVISION FOR A JUVENILE OFFENDER FOR A DETERMINATE SENTENCE SHALL BE FIVE YEARS, EXCEPT THAT SUCH PERIOD SHALL BE THREE YEARS WHENEVER A DETERMINATE SENTENCE OF IMPRISONMENT IS IMPOSED PURSUANT TO SECTION 70.05 OF THIS ARTICLE UPON A CONVICTION FOR A CLASS D FELONY OFFENSE AS DEFINED IN SUBDIVISION EIGHTEEN OF SECTION 10.00; PROVIDED, HOWEVER, THAT WHEN A DETERMINATE SENTENCE IS IMPOSED PURSUANT TO SECTION 70.05 OF THIS ARTICLE, THE COURT, AT THE TIME OF SENTENCE, MAY SPECIFY A SHORTER PERIOD OF POST-RELEASE SUPERVISION OF NOT LESS THAN TWO AND ONE-HALF YEARS UPON A CONVICTION FOR A CLASS B OR CLASS C FELONY OFFENSE AND A SHORTER PERIOD OF POST-RELEASE SUPERVISION OF NOT LESS THAN ONE AND ONE-HALF YEARS UPON A CONVICTION FOR A CLASS D FELONY OFFENSE AS DEFINED IN SUBDIVISION EIGHTEEN OF SECTION 10.00.

S 96. Paragraph (d) of subdivision 3 of section 485.10 of the penal law, as added by chapter 107 of the laws of 2000, is amended to read as follows:

(d) the [maximum] term of the [indeterminate] DETERMINATE sentence must be at least four years if the defendant is sentenced pursuant to section 70.05 of this chapter; and

S 97. Commission on alternatives to placement and community reintegration programs for juvenile delinquents.

1. There is hereby created a commission to study alternatives to placement programs and community reintegration programs for juvenile delinquents. The commission shall consist of seven members appointed as follows:

(a) three members shall be appointed by the governor;

(b) two members shall be appointed by the chief judge of the court of appeals;

(c) one such member shall be appointed by the temporary president of the senate; and

(d) one such member shall be appointed by the speaker of the assembly.

2. The governor shall select a chair of the commission from among the members, who shall serve at the pleasure of the governor. No member of the commission shall be disqualified from holding any public office or employment, nor shall he or she forfeit any such office or employment by virtue of his or her appointment hereunder. Members of the commission shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their functions hereunder. All members of the commission shall serve at the pleasure of the appointing authority and vacancies shall be filled in the same manner as original appointments.

3. The commission shall:

(a) identify and evaluate the types of alternative disposition programs used pursuant to section 352.2 of the family court act and community reintegration programs used pursuant to section 510-a of the executive law;

(b) determine whether additional programs are needed in New York state;

(c) identify alternative disposition and community reintegration programs in other jurisdictions that are worthy of replication in New York state;

(d) examine the probable effect of such programs on out-of-home placements; and

(e) recommend legislative and programmatic changes that will enhance the use of alternative dispositional programs and ensure that community reintegration programs provide juveniles with the support needed upon returning to the community.

4. The commission shall be authorized:

(a) to call upon any agency, department, office, division or public authority of this state to supply it with such information as it deems necessary to discharge its responsibilities. Each agency, department, office, division and public authority of this state shall cooperate with the commission and furnish such information and assistance as is reasonably necessary for it to accomplish its purposes;

(b) to conduct public hearings, hear the testimony of witnesses and request any documents the commission deems necessary to carry out its responsibilities;

(c) to contract with any state or private entity for the provision of such services as the commission determines to be necessary; and

(d) to take such other actions not inconsistent with the purposes of this section as shall enable the commission to carry out the commission's functions.

5. The chair shall be authorized:

(a) to appoint such staff as necessary to carry out the commission's responsibilities; and

(b) to preside at meetings of the commission.

6. The commission shall report to the governor, chief judge of the court of appeals, temporary president of the senate and the speaker of the assembly in accordance with the provisions of this section no later than one year after the date on which this act shall have become a law.

S 98. This act shall take effect on the one hundred twentieth day after it shall have become a law, except that:

(a) sections three, fifteen, nineteen, twenty-three, thirty-three through thirty-eight, seventy-nine, eighty-five, eighty-seven and ninety-seven of this act shall take effect immediately;

(b) sections two, four through ten, twelve, fourteen, sixteen, twenty-eight through thirty-two, forty through forty-four, forty-eight, forty-nine, fifty-three, fifty-seven through fifty-nine, sixty-one through sixty-seven, sections sixty-eight, seventy, seventy-two, seventy-three, seventy-five through seventy-seven, eighty, and eighty-eight through ninety-two of this act shall apply to offenses committed on or after the date on which this act shall have become a law;

(c) sections fifty-two and fifty-four of this act shall apply to cases commenced on or after the date on which this act shall have become a law; and

(d) the amendment to subdivision 6 of section 70.00 of the penal law made by section ninety-one of this act shall not affect the repeal of such subdivision and shall be deemed repealed therewith.