

7929

I N S E N A T E

May 24, 2010

Introduced by Sens. GOLDEN, DeFRANCISCO, C. JOHNSON, O. JOHNSON, LARKIN, PADAVAN, VOLKER -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, the civil practice law and rules, the state finance law, the correction law, the education law, the executive law and the mental hygiene law, in relation to defining offenses involving criminal street gangs, creating the criminal street gang prevention fund, enacting the criminal street gang registration act, providing for gang prevention services in schools and creating the office of criminal street gangs and youth violence; and to repeal sections 120.06 and 120.07 of the penal law, relating to offenses of gang assault

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

1 Section 1. Legislative findings and purpose. The legislature hereby
2 finds that New York laws are insufficiently targeted to the prosecution
3 of criminal street gangs and the protection of public order and individ-
4 ual safety against gang-related violence, because they lack programs and
5 activities specifically designed to prevent the growth of criminal
6 street gangs, facilitate prosecution and punishment of members of crimi-
7 nal street gangs, and punish those who solicit others to participate in
8 criminal street gangs and in acts of gang-related violence or who
9 provide support or resources to those who commit or encourage the
10 commission of such acts.

11 The legislature further finds that the threat of violence and the
12 disruption of public order and safety presented by criminal street gangs
13 has reached a crisis point that threatens the right of residents of this
14 state to be secure and protected from fear, intimidation, and physical
15 harm.

16 The legislature therefore finds and declares that it is in every sense
17 in the public interest to establish a comprehensive approach to the
18 protection of public order and individual safety against criminal street
19 gangs and gang-related violence, by severely criminalizing such activ-
20 ities, by creating anti-crime programs that focus on patterns of crimi-

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

LBD17423-02-0

nal gang activity and organization, by expanding education and intervention to prevent the growth of criminal street gangs, and by establishing an ongoing system of tracking criminal gang activity, as provided in this legislation.

S 2. Sections 120.06 and 120.07 of the penal law are REPEALED.

S 3. The penal law is amended by adding a new title Y-2 to read as follows:

TITLE Y-2
OFFENSES INVOLVING CRIMINAL STREET GANGS

ARTICLE 495

CRIMINAL STREET GANGS ENFORCEMENT AND PREVENTION ACT

SECTION 495.01 DEFINITIONS.

495.02 PARTICIPATION IN A CRIMINAL STREET GANG.

495.03 PARTICIPATION IN CRIMINAL STREET GANG ACTIVITY.

495.04 SOLICITATION FOR PARTICIPATION IN A CRIMINAL STREET GANG.

495.05 SOLICITATION OR RECRUITMENT OF MINORS FOR PARTICIPATION
IN A CRIMINAL STREET GANG.

495.06 SOLICITATION OR RECRUITMENT OF MINORS FOR PARTICIPATION
IN A CRIMINAL STREET GANG ON SCHOOL GROUNDS.

495.07 GANG ASSAULT IN THE SECOND DEGREE.

495.08 GANG ASSAULT IN THE FIRST DEGREE.

495.09 ABATEMENT OF PREMISES USED FOR CRIMINAL STREET GANG
ACTIVITY.

495.10 PREEMPTION.

495.11 REGISTRATION REQUIREMENT.

495.12 SENTENCING.

S 495.01 DEFINITIONS.

AS USED IN THIS ARTICLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "CRIMINAL STREET GANG" MEANS ANY FORMAL OR INFORMAL ORGANIZATION, ASSOCIATION, OR GROUP OF THREE OR MORE PERSONS HAVING A COMMON NAME OR IDENTIFYING SIGN OR SYMBOL WHOSE MEMBERS INDIVIDUALLY OR COLLECTIVELY ENGAGE IN OR HAVE ENGAGED IN A PATTERN OF CRIMINAL GANG ACTIVITY.

2. "PATTERN OF CRIMINAL GANG ACTIVITY" MEANS THE COMMISSION OF, ATTEMPTED COMMISSION OF, CONSPIRACY TO COMMIT, SOLICITATION OF, SUSTAINED JUVENILE PETITION FOR, OR CONVICTION OF ANY TWO OR MORE OF ANY SPECIFIED OFFENSES LISTED IN SUBDIVISION THREE OF THIS SECTION BY A PARTICIPANT OR PARTICIPANTS IN A CRIMINAL STREET GANG, PROVIDED THAT THE OFFENSES SHALL HAVE OCCURRED ON SEPARATE OCCASIONS WITHIN THREE YEARS OF EACH OTHER, OR BY TWO OR MORE PERSONS WHO ARE PARTICIPANTS IN A CRIMINAL STREET GANG, AND THAT AT LEAST ONE SUCH OFFENSE SHALL HAVE OCCURRED AFTER THE EFFECTIVE DATE OF THIS ARTICLE.

3. "SPECIFIED OFFENSE" MEANS ANY OFFENSE DEFINED BY ANY OF THE FOLLOWING PROVISIONS OF THIS CHAPTER: OFFENSES CONSTITUTING A SPECIFIED OFFENSE AS DEFINED IN SUBDIVISION THREE OF SECTION 485.05 (HATE CRIMES), ARTICLE ONE HUNDRED FIFTEEN (CRIMINAL FACILITATION), ONE HUNDRED THIRTY-FIVE (KIDNAPPING, COERCION AND RELATED OFFENSE), ONE HUNDRED SEVENTY (FORGERY AND RELATED OFFENSES), ONE HUNDRED SEVENTY-EIGHT (CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS AND PRESCRIPTIONS), TWO HUNDRED TWENTY (CONTROLLED SUBSTANCES OFFENSES), TWO HUNDRED TWENTY-ONE (OFFENSES INVOLVING MARIHUANA), TWO HUNDRED TWENTY-FIVE (GAMBLING OFFENSES), TWO HUNDRED THIRTY (PROSTITUTION OFFENSES), TWO HUNDRED THIRTY-FIVE (OBSCENITY AND RELATED OFFENSES), TWO HUNDRED SIXTY-FIVE (FIREARMS AND OTHER DANGEROUS WEAPONS), TWO HUNDRED SEVENTY (OTHER OFFENSES RELATING TO PUBLIC SAFETY), FOUR HUNDRED (LICENSING AND OTHER

1 PROVISIONS RELATING TO FIREARMS) OR FOUR HUNDRED SEVENTY (MONEY LAUNDER-
2 ING).

3 S 495.02 PARTICIPATION IN A CRIMINAL STREET GANG.

4 A PERSON IS GUILTY OF PARTICIPATION IN A CRIMINAL STREET GANG IF SUCH
5 PERSON PARTICIPATES IN A CRIMINAL STREET GANG WITH KNOWLEDGE THAT ITS
6 MEMBERS ENGAGE IN OR HAVE ENGAGED IN A PATTERN OF CRIMINAL GANG ACTIV-
7 ITY.

8 PARTICIPATION IN A CRIMINAL STREET GANG IS A CLASS A MISDEMEANOR.

9 S 495.03 PARTICIPATION IN CRIMINAL STREET GANG ACTIVITY.

10 A PERSON IS GUILTY OF PARTICIPATION IN CRIMINAL STREET GANG ACTIVITY
11 WHEN HE OR SHE WILLFULLY AND KNOWINGLY PROMOTES, FURTHERS, ASSISTS IN,
12 CONDUCTS, OR PARTICIPATES IN THE AFFAIRS OF A CRIMINAL STREET GANG BY
13 PARTICIPATING IN A PATTERN OF CRIMINAL STREET GANG ACTIVITY, OR KNOWING-
14 LY INVESTS PROCEEDS DERIVED FROM CRIMINAL STREET GANG ACTIVITY, OR
15 PROCEEDS DERIVED FROM THE INVESTMENT OR USE OF THOSE PROCEEDS, IN AN
16 ENTERPRISE. A PERSON MAY BE A PARTICIPANT IN A CRIMINAL STREET GANG
17 IRRESPECTIVE OF THE AMOUNT OF TIME HE OR SHE DEVOTES TO THE CRIMINAL
18 STREET GANG, AS LONG AS SUCH PERSON SHALL HAVE PARTICIPATED IN COMMIT-
19 TING ACTS CONSTITUTING CRIMINAL STREET GANG ACTIVITY WITH ONE OR MORE
20 MEMBERS OF A CRIMINAL STREET GANG.

21 PARTICIPATION IN CRIMINAL STREET GANG ACTIVITY IS A CLASS E FELONY.

22 S 495.04 SOLICITATION FOR PARTICIPATION IN A CRIMINAL STREET GANG.

23 A PERSON IS GUILTY OF SOLICITATION FOR PARTICIPATION IN A CRIMINAL
24 STREET GANG IF SUCH PERSON:

25 1. SOLICITS OR RECRUITS ANOTHER TO ACTIVELY PARTICIPATE IN A CRIMINAL
26 STREET GANG WITH THE INTENT THAT THE PERSON SOLICITED OR RECRUITED
27 PARTICIPATE IN A PATTERN OF CRIMINAL STREET GANG ACTIVITY, OR WITH THE
28 INTENT THAT SUCH PERSON PROMOTE, FURTHER, CONDUCT, OR ASSIST IN ANY
29 PATTERN OF CRIMINAL STREET GANG ACTIVITY BY MEMBERS OF THE CRIMINAL
30 STREET GANG; OR

31 2. THREATENS A PERSON WITH PHYSICAL VIOLENCE WITH THE INTENT TO
32 COERCE, INDUCE, OR SOLICIT SUCH PERSON OR ANOTHER TO PARTICIPATE IN A
33 CRIMINAL STREET GANG; OR

34 3. USES PHYSICAL VIOLENCE TO COERCE, INDUCE, OR SOLICIT ANOTHER PERSON
35 TO PARTICIPATE IN A CRIMINAL STREET GANG.

36 SOLICITATION FOR PARTICIPATION IN A CRIMINAL STREET GANG IS A CLASS E
37 FELONY.

38 S 495.05 SOLICITATION OR RECRUITMENT OF MINORS FOR PARTICIPATION IN A
39 CRIMINAL STREET GANG.

40 A PERSON IS GUILTY OF SOLICITATION OR RECRUITMENT OF MINORS FOR
41 PARTICIPATION IN A CRIMINAL STREET GANG WHEN HE OR SHE COMMITS THE CRIME
42 OF SOLICITATION FOR PARTICIPATION IN A CRIMINAL STREET GANG AND THE
43 PERSON SOLICITED OR RECRUITED IS LESS THAN EIGHTEEN YEARS OF AGE.

44 SOLICITATION OR RECRUITMENT OF MINORS FOR PARTICIPATION IN A CRIMINAL
45 STREET GANG IS A CLASS D FELONY.

46 S 495.06 SOLICITATION OR RECRUITMENT OF MINORS FOR PARTICIPATION IN A
47 CRIMINAL STREET GANG ON SCHOOL GROUNDS.

48 A PERSON IS GUILTY OF SOLICITATION OR RECRUITMENT OF MINORS FOR
49 PARTICIPATION IN A CRIMINAL STREET GANG ON SCHOOL GROUNDS WHEN HE OR SHE
50 COMMITS THE CRIME OF SOLICITATION OR RECRUITMENT OF MINORS FOR PARTIC-
51 IPATION IN A CRIMINAL STREET GANG WHILE ON SCHOOL GROUNDS. FOR PURPOSES
52 OF THIS SECTION, THE TERM "SCHOOL GROUNDS" MEANS "SCHOOL GROUNDS" AS
53 DEFINED IN SUBDIVISION FOURTEEN OF SECTION 220.00 OF THIS CHAPTER.

54 SOLICITATION OR RECRUITMENT OF MINORS FOR PARTICIPATION IN A CRIMINAL
55 STREET GANG ON SCHOOL GROUNDS IS A CLASS C FELONY.

56 S 495.07 GANG ASSAULT IN THE SECOND DEGREE.

1 A PERSON IS GUILTY OF GANG ASSAULT IN THE SECOND DEGREE WHEN, WITH
2 INTENT TO CAUSE PHYSICAL INJURY TO ANOTHER PERSON AND WHEN AIDED BY TWO
3 OR MORE OTHER PERSONS ACTUALLY PRESENT, HE OR SHE CAUSES SERIOUS PHYS-
4 ICAL INJURY TO SUCH PERSON OR TO A THIRD PERSON.

5 GANG ASSAULT IN THE SECOND DEGREE IS A CLASS C FELONY.

6 S 495.08 GANG ASSAULT IN THE FIRST DEGREE.

7 A PERSON IS GUILTY OF GANG ASSAULT IN THE FIRST DEGREE WHEN, WITH
8 INTENT TO CAUSE SERIOUS PHYSICAL INJURY TO ANOTHER PERSON AND WHEN AIDED
9 BY TWO OR MORE OTHER PERSONS ACTUALLY PRESENT, HE OR SHE CAUSES SERIOUS
10 PHYSICAL INJURY TO SUCH PERSON OR TO A THIRD PERSON.

11 GANG ASSAULT IN THE FIRST DEGREE IS A CLASS B FELONY.

12 S 495.09 ABATEMENT OF PREMISES USED FOR CRIMINAL STREET GANG ACTIVITY.

13 1. A BUILDING OR PLACE USED BY MEMBERS OF A CRIMINAL STREET GANG FOR
14 THE PURPOSE OF ENGAGING IN A PATTERN OF CRIMINAL GANG ACTIVITY IS A
15 NUISANCE WHICH SHALL BE ENJOINED, ABATED, AND PREVENTED, AND FOR WHICH
16 DAMAGES MAY BE RECOVERED, IRRESPECTIVE OF WHETHER IT CONSTITUTES A
17 PUBLIC OR PRIVATE NUISANCE.

18 2. ANY ACTION FOR AN INJUNCTION OR ABATEMENT FILED PURSUANT TO SUBDI-
19 VISION ONE OF THIS SECTION SHALL PROCEED ACCORDING TO THE PROVISIONS OF
20 THE CIVIL PRACTICE LAW AND RULES, EXCEPT THAT ALL OF THE FOLLOWING SHALL
21 APPLY:

22 (A) THE COURT SHALL NOT ASSESS A CIVIL PENALTY AGAINST ANY PERSON
23 UNLESS THAT PERSON KNEW OR SHOULD HAVE KNOWN OF THE UNLAWFUL ACTS
24 COMMITTED ON OR IN THE PREMISES;

25 (B) NO ORDER OF EVICTION OR CLOSURE MAY BE ENTERED;

26 (C) ALL INJUNCTIONS ISSUED SHALL BE LIMITED TO THOSE NECESSARY TO
27 PROTECT THE HEALTH AND SAFETY OF THE RESIDENTS OR THE PUBLIC OR THOSE
28 NECESSARY TO PREVENT FURTHER CRIMINAL ACTIVITY; AND

29 (D) SUIT MAY NOT BE FILED UNTIL A THIRTY DAY NOTICE PERIOD OF THE
30 UNLAWFUL USE OR CRIMINAL CONDUCT HAS BEEN PROVIDED TO THE OWNER BY MAIL,
31 RETURN RECEIPT REQUESTED, POSTAGE PREPAID, TO THE LAST KNOWN ADDRESS.

32 3. NO NOT-FOR-PROFIT OR CHARITABLE ORGANIZATION WHICH IS CONDUCTING
33 ITS AFFAIRS WITH ORDINARY CARE AND SKILL, AND NO GOVERNMENTAL ENTITY,
34 SHALL BE ABATED PURSUANT TO THE PROVISIONS OF SUBDIVISIONS ONE AND TWO
35 OF THIS SECTION.

36 4. NOTHING IN THIS SECTION SHALL PRECLUDE ANY AGGRIEVED PERSON FROM
37 SEEKING ANY OTHER REMEDY PROVIDED BY LAW.

38 5. WHEN AN INJUNCTION IS ISSUED PURSUANT TO THIS SECTION FOR THE
39 ABATEMENT OF PREMISES USED FOR CRIMINAL STREET GANG ACTIVITIES, THE
40 ATTORNEY GENERAL OR ANY DISTRICT ATTORNEY OR ANY PROSECUTING CITY ATTOR-
41 NEY MAY MAINTAIN AN ACTION FOR MONEY DAMAGES ON BEHALF OF THE COMMUNITY
42 OR NEIGHBORHOOD INJURED BY THE NUISANCE. ANY MONEY DAMAGES AWARDED SHALL
43 BE PAID BY OR COLLECTED FROM ASSETS OF THE CRIMINAL STREET GANG OR ITS
44 MEMBERS THAT WERE DERIVED FROM THE PATTERN OF CRIMINAL STREET GANG
45 ACTIVITY BEING ABATED OR ENJOINED. ONLY PERSONS WHO KNEW OR SHOULD HAVE
46 KNOWN OF THE UNLAWFUL ACTS SHALL BE PERSONALLY LIABLE FOR THE PAYMENT OF
47 THE DAMAGES AWARDED. IN A CIVIL ACTION FOR DAMAGES BROUGHT PURSUANT TO
48 THIS SUBDIVISION, THE ATTORNEY GENERAL, DISTRICT ATTORNEY, OR CITY
49 ATTORNEY MAY USE, BUT IS NOT LIMITED TO THE USE OF, THE TESTIMONY OF
50 EXPERTS TO ESTABLISH DAMAGES SUFFERED BY THE COMMUNITY OR NEIGHBORHOOD
51 INJURED BY THE NUISANCE. DAMAGES RECOVERED PURSUANT TO THIS SUBDIVISION
52 SHALL BE DEPOSITED INTO A SEPARATE SEGREGATED FUND FOR PAYMENT TO THE
53 GOVERNING BODY OF THE CITY OR COUNTY IN WHOSE POLITICAL SUBDIVISION THE
54 COMMUNITY OR NEIGHBORHOOD IS LOCATED, AND THAT GOVERNING BODY SHALL USE
55 THOSE ASSETS FOR THE BENEFIT OF THE COMMUNITY OR NEIGHBORHOOD INJURED BY
56 THE NUISANCE.

1 S 495.10 PREEMPTION.

2 NOTHING IN THIS ARTICLE SHALL PREEMPT AN APPROPRIATE ALTERNATIVE OR
3 ADDITIONAL CHARGE PURSUANT TO THIS CHAPTER.

4 S 495.11 REGISTRATION REQUIREMENT.

5 1. IN ADDITION TO ANY OTHER PENALTY IMPOSED UNDER THIS ARTICLE OR ANY
6 OTHER LAW, A PERSON CONVICTED OF THE CRIME OF PARTICIPATION IN CRIMINAL
7 STREET GANG ACTIVITY WHO IS RELEASED ON PROBATION OR DISCHARGED UPON
8 PAYMENT OF A FINE, CONDITIONAL DISCHARGE OR UNCONDITIONAL DISCHARGE, OR
9 WHO IS TO BE DISCHARGED, PAROLED, RELEASED TO POST-RELEASE SUPERVISION
10 OR RELEASED FROM ANY STATE OR LOCAL CORRECTIONAL FACILITY WHERE HE OR
11 SHE WAS CONFINED, SHALL BE REQUIRED TO PARTICIPATE IN THE CRIMINAL
12 STREET GANG OFFENDER REGISTRATION PROGRAM ESTABLISHED PURSUANT TO ARTI-
13 CLE SIX-D OF THE CORRECTION LAW FOR A PERIOD OF FIVE YEARS; AND

14 2. IN ADDITION TO ANY OTHER PENALTY IMPOSED UNDER THIS ARTICLE OR ANY
15 OTHER LAW, A PERSON CONVICTED OF THE CRIME OF PARTICIPATION IN CRIMINAL
16 STREET GANG ACTIVITY OR THE CRIME OF SOLICITATION FOR PARTICIPATION IN A
17 CRIMINAL STREET GANG WHO IS RELEASED ON PROBATION OR DISCHARGED UPON
18 PAYMENT OF A FINE, CONDITIONAL DISCHARGE OR UNCONDITIONAL DISCHARGE, OR
19 WHO IS TO BE DISCHARGED, PAROLED, RELEASED TO POST-RELEASE SUPERVISION
20 OR RELEASED FROM ANY STATE OR LOCAL CORRECTIONAL FACILITY WHERE HE OR
21 SHE WAS CONFINED, SHALL BE REQUIRED TO PARTICIPATE IN THE CRIMINAL
22 STREET GANG OFFENDER REGISTRATION PROGRAM ESTABLISHED PURSUANT TO ARTI-
23 CLE SIX-D OF THE CORRECTION LAW FOR A PERIOD OF TEN YEARS.

24 S 495.12 SENTENCING.

25 1. WHEN A PERSON IS CONVICTED OF THE CRIME OF PARTICIPATION IN CRIMI-
26 NAL STREET GANG ACTIVITY PURSUANT TO THIS ARTICLE, AND THE SPECIFIED
27 OFFENSE IS A VIOLENT FELONY OFFENSE, AS DEFINED IN SECTION 70.02 OF THIS
28 CHAPTER, THE CRIME OF PARTICIPATION IN CRIMINAL STREET GANG ACTIVITY
29 SHALL BE DEEMED A VIOLENT FELONY OFFENSE.

30 2. WHEN A PERSON IS CONVICTED OF THE CRIME OF PARTICIPATION IN CRIMI-
31 NAL STREET GANG ACTIVITY PURSUANT TO THIS ARTICLE AND THE SPECIFIED
32 OFFENSE IS A MISDEMEANOR OR A CLASS C, D OR E FELONY, THE CRIME OF
33 PARTICIPATION IN CRIMINAL STREET GANG ACTIVITY SHALL BE DEEMED TO BE ONE
34 CATEGORY HIGHER THAN THE SPECIFIED OFFENSE THE DEFENDANT COMMITTED, OR
35 ONE CATEGORY HIGHER THAN THE OFFENSE LEVEL APPLICABLE TO THE DEFENDANT'S
36 CONVICTION FOR AN ATTEMPT OR CONSPIRACY TO COMMIT A SPECIFIED OFFENSE,
37 WHICHEVER IS APPLICABLE.

38 3. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, WHEN A PERSON IS
39 CONVICTED OF THE CRIME OF PARTICIPATION IN CRIMINAL STREET GANG ACTIVITY
40 PURSUANT TO THIS ARTICLE AND THE SPECIFIED OFFENSE IS A CLASS B FELONY:

41 (A) THE MAXIMUM TERM OF THE INDETERMINATE SENTENCE MUST BE AT LEAST
42 SIX YEARS OF IMPRISONMENT IF THE DEFENDANT IS SENTENCED PURSUANT TO
43 SECTION 70.00 OF THIS CHAPTER;

44 (B) THE TERM OF THE DETERMINATE SENTENCE MUST BE AT LEAST EIGHT YEARS
45 OF IMPRISONMENT IF THE DEFENDANT IS SENTENCED PURSUANT TO SECTION 70.02
46 OF THIS CHAPTER;

47 (C) THE TERM OF THE DETERMINATE SENTENCE MUST BE AT LEAST TWELVE YEARS
48 OF IMPRISONMENT IF THE DEFENDANT IS SENTENCED PURSUANT TO SECTION 70.04
49 OF THIS CHAPTER;

50 (D) THE MAXIMUM TERM OF THE INDETERMINATE SENTENCE MUST BE AT LEAST
51 FOUR YEARS OF IMPRISONMENT IF THE DEFENDANT IS SENTENCED PURSUANT TO
52 SECTION 70.05 OF THIS CHAPTER; AND

53 (E) THE MAXIMUM TERM OF THE INDETERMINATE SENTENCE OR THE TERM OF THE
54 DETERMINATE SENTENCE MUST BE AT LEAST TEN YEARS OF IMPRISONMENT IF THE
55 DEFENDANT IS SENTENCED PURSUANT TO SECTION 70.06 OF THIS CHAPTER.

1 4. ANY OTHER PROVISION OF ANY OTHER LAW TO THE CONTRARY NOTWITHSTAND-
2 ING, WHEN A PERSON IS CONVICTED OF THE CRIME OF PARTICIPATION IN CRIMI-
3 NAL STREET GANG ACTIVITY PURSUANT TO THIS ARTICLE AND THE SPECIFIED
4 OFFENSE IS A CLASS A-1 FELONY, THE MINIMUM PERIOD OF THE INDETERMINATE
5 SENTENCE SHALL BE NOT LESS THAN TWENTY YEARS OF IMPRISONMENT.

6 NOTWITHSTANDING ANY OTHER LAW, THE COURT MAY STRIKE THE ADDITIONAL
7 PUNISHMENT FOR THE ENHANCEMENTS PROVIDED IN SUBDIVISIONS ONE THROUGH
8 FOUR OF THIS SECTION OR REFUSE TO IMPOSE THE MINIMUM JAIL SENTENCE FOR
9 MISDEMEANORS IN AN UNUSUAL CASE WHERE THE INTERESTS OF JUSTICE WOULD
10 BEST BE SERVED, IF THE COURT SPECIFIES ON THE RECORD AND ENTERS INTO THE
11 MINUTES THE CIRCUMSTANCES INDICATING THE MANNER IN WHICH THE INTERESTS
12 OF JUSTICE WOULD BEST BE SERVED BY SUCH DISPOSITION.

13 NOTWITHSTANDING THE FOREGOING, IN THE CASE OF A MINOR FOUND TO BE
14 GUILTY OF AN OFFENSE DESCRIBED IN THIS ARTICLE WHO IS A FIRST-TIME
15 OFFENDER, THE COURT MAY ORDER THAT A PARENT OR GUARDIAN RETAIN CUSTODY
16 OF THAT MINOR, AND MAY ORDER THE PARENT OR GUARDIAN TO ATTEND ANTI-GANG
17 VIOLENCE PARENTING CLASSES ESTABLISHED PURSUANT TO STANDARDS OF THE
18 DIVISION OF CRIMINAL JUSTICE SERVICES. THE FATHER, MOTHER, SPOUSE, OR
19 OTHER PERSON LIABLE FOR THE SUPPORT OF THE MINOR, THE ESTATE OF THAT
20 PERSON, AND THE ESTATE OF THE MINOR SHALL BE LIABLE FOR THE COST OF
21 CLASSES ORDERED PURSUANT TO THIS SECTION, UNLESS THE COURT FINDS THAT
22 THE PERSON OR ESTATE DOES NOT HAVE THE FINANCIAL ABILITY TO PAY. IN
23 EVALUATING FINANCIAL ABILITY TO PAY, THE COURT SHALL TAKE INTO CONSIDER-
24 ATION THE COMBINED HOUSEHOLD INCOME, THE NECESSARY OBLIGATIONS OF THE
25 HOUSEHOLD, THE NUMBER OF PERSONS DEPENDENT UPON THIS INCOME, AND WHETHER
26 REDUCED MONTHLY PAYMENTS WOULD OBTAIN THE NEED TO WAIVE LIABILITY FOR
27 THE FULL COSTS.

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

31 [All] EXCEPT WITH RESPECT TO A CIRCUMSTANCE TO WHICH PARAGRAPH (I) OF
32 THIS SUBDIVISION APPLIES, ALL moneys remaining after distributions
33 pursuant to paragraphs (a) through (g) of this subdivision shall be
34 distributed as follows:

35 S 5. Subdivision 2 of section 1349 of the civil practice law and rules
36 is amended by adding a new paragraph (i) to read as follows:

37 (I) IF THE DEFENDANT AGAINST WHOM A FORFEITURE ACTION IS COMMENCED IS
38 CONVICTED OF AN OFFENSE LISTED IN ARTICLE FOUR HUNDRED NINETY-FIVE OF
39 THE PENAL LAW, ALL MONEYS REMAINING AFTER DISTRIBUTIONS PURSUANT TO
40 PARAGRAPHS (A) THROUGH (G) OF THIS SUBDIVISION SHALL BE DISTRIBUTED TO
41 THE CRIMINAL STREET GANG PREVENTION FUND, ESTABLISHED PURSUANT TO
42 SECTION NINETY-SEVEN-JJJJ OF THE STATE FINANCE LAW.

43 S 6. The state finance law is amended by adding a new section 97-jjjj
44 to read as follows:

45 S 97-JJJJ. CRIMINAL STREET GANG PREVENTION FUND. 1. THERE IS HEREBY
46 ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE
47 COMMISSIONER OF TAXATION AND FINANCE AN ACCOUNT OF THE MISCELLANEOUS
48 SPECIAL REVENUE FUND TO BE KNOWN AS THE CRIMINAL STREET GANG PREVENTION
49 FUND.

50 2. THE COMPTROLLER IS AUTHORIZED AND DIRECTED TO RECEIVE FOR DEPOSIT
51 TO THE CREDIT OF THE CULTURAL EDUCATION ACCOUNT REVENUES DESIGNATED FOR
52 SUCH DEPOSIT BY LAW OR APPROPRIATION.

53 3. MONEYS OF THE FUND, FOLLOWING APPROPRIATION BY THE LEGISLATURE,
54 SHALL BE AVAILABLE TO SUPPORT THE CRIMINAL STREET GANG AND VIOLENCE
55 PREVENTION PARTNERSHIP PROGRAM ESTABLISHED PURSUANT TO SECTION TWELVE
56 HUNDRED THIRTEEN OF THE EDUCATION LAW.

S 7. The correction law is amended by adding a new article 6-D to read as follows:

ARTICLE 6-D

CRIMINAL STREET GANG OFFENDER REGISTRATION ACT

SECTION 169. SHORT TITLE.

169-A. DEFINITIONS.

169-B. DUTIES OF THE DIVISION; REGISTRATION INFORMATION.

169-C. CRIMINAL STREET GANG DATABASE.

169-D. CRIMINAL STREET GANG OFFENDER; RELOCATION; NOTIFICATION.

169-E. DUTIES OF THE COURT.

169-F. DISCHARGE OF CRIMINAL STREET GANG OFFENDER FROM CORRECTIONAL FACILITY; DUTIES OF OFFICIAL IN CHARGE.

169-G. DUTY TO REGISTER AND TO VERIFY.

169-H. DURATION OF REGISTRATION AND VERIFICATION; REQUIREMENTS.

169-I. NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGE OF ADDRESS.

169-J. REVIEW.

169-K. IMMUNITY FROM LIABILITY.

169-L. ANNUAL REPORT.

169-M. PENALTY.

169-N. UNAUTHORIZED RELEASE OF INFORMATION.

169-O. SEPARABILITY.

S 169. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "CRIMINAL STREET GANG OFFENDER REGISTRATION ACT".

S 169-A. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING DEFINITIONS APPLY:

1. "CRIMINAL STREET GANG OFFENDER" MEANS ANY PERSON CONVICTED OF ANY OFFENSE LISTED IN SUBDIVISION TWO OF THIS SECTION. ANY CONVICTION SET ASIDE PURSUANT TO LAW IS NOT A CONVICTION FOR PURPOSES OF THIS ARTICLE.

2. "CRIMINAL STREET GANG OFFENSE" MEANS A CONVICTION OF OR A CONVICTION FOR AN ATTEMPT TO COMMIT ANY OF THE CRIMES LISTED IN SECTIONS 495.02 AND 495.03 OF THE PENAL LAW RELATING TO PARTICIPATION IN OR SOLICITATION FOR PARTICIPATION IN A CRIMINAL STREET GANG OR CRIMINAL STREET GANG ACTIVITY, UNLESS UPON MOTION BY THE DEFENDANT, THE TRIAL COURT, HAVING REGARD TO THE NATURE AND CIRCUMSTANCES OF THE CRIME AND TO THE HISTORY AND CHARACTER OF THE DEFENDANT, IS OF THE OPINION THAT REGISTRATION WOULD BE UNDULY HARSH AND INAPPROPRIATE.

3. "LAW ENFORCEMENT AGENCY HAVING JURISDICTION" MEANS: (A) (I) THE CHIEF LAW ENFORCEMENT OFFICER IN THE VILLAGE, TOWN OR CITY IN WHICH THE OFFENDER EXPECTS TO RESIDE UPON HIS OR HER DISCHARGE, PROBATION, PAROLE, RELEASE TO POST-RELEASE SUPERVISION OR UPON ANY FORM OF STATE OR LOCAL CONDITIONAL RELEASE; OR (II) IF THERE BE NO CHIEF LAW ENFORCEMENT OFFICER IN SUCH VILLAGE, TOWN OR CITY, THE CHIEF LAW ENFORCEMENT OFFICER OF THE COUNTY IN WHICH THE OFFENDER EXPECTS TO RESIDE; OR (III) IF THERE BE NO CHIEF ENFORCEMENT OFFICER IN SUCH VILLAGE, TOWN, CITY OR COUNTY, THE DIVISION OF STATE POLICE;

(B) IN THE CASE OF A CRIMINAL STREET GANG OFFENDER WHO IS OR EXPECTS TO BE ENROLLED, ATTENDING OR EMPLOYED, WHETHER FOR COMPENSATION OR NOT, AT AN INSTITUTION OF HIGHER EDUCATION: (I) THE CHIEF LAW ENFORCEMENT OFFICER IN THE VILLAGE, TOWN OR CITY IN WHICH SUCH INSTITUTION IS LOCATED; OR (II) IF THERE BE NO CHIEF LAW ENFORCEMENT OFFICER IN SUCH VILLAGE, TOWN OR CITY, THE CHIEF LAW ENFORCEMENT OFFICER OF THE COUNTY IN WHICH SUCH INSTITUTION IS LOCATED; OR (III) IF THERE BE NO CHIEF LAW ENFORCEMENT OFFICER IN SUCH VILLAGE, TOWN, CITY OR COUNTY, THE DIVISION OF STATE POLICE; AND (IV) IF SUCH INSTITUTION OPERATES OR EMPLOYS A CAMPUS LAW ENFORCEMENT OR SECURITY AGENCY, THE CHIEF OF SUCH AGENCY; AND

(C) IN THE CASE OF A CRIMINAL STREET GANG OFFENDER WHO EXPECTS TO RESIDE WITHIN A STATE PARK OR ON OTHER LAND UNDER THE JURISDICTION OF THE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION, THE STATE REGIONAL PARK POLICE.

4. "DIVISION" MEANS THE DIVISION OF CRIMINAL JUSTICE SERVICES AS DEFINED BY SECTION EIGHT HUNDRED THIRTY-SEVEN OF THE EXECUTIVE LAW.

5. "LOCAL CORRECTIONAL FACILITY" MEANS A LOCAL CORRECTIONAL FACILITY AS THAT TERM IS DEFINED IN SUBDIVISION SIXTEEN OF SECTION TWO OF THIS CHAPTER.

6. "PROBATION" MEANS A SENTENCE OF PROBATION IMPOSED PURSUANT TO ARTICLE SIXTY-FIVE OF THE PENAL LAW AND SHALL INCLUDE A SENTENCE OF IMPRISONMENT IMPOSED IN CONJUNCTION WITH A SENTENCE OF PROBATION.

7. "INSTITUTION OF HIGHER EDUCATION" MEANS AN INSTITUTION IN THE STATE PROVIDING HIGHER EDUCATION AS SUCH TERM IS DEFINED IN SUBDIVISION EIGHT OF SECTION TWO OF THE EDUCATION LAW.

S 169-B. DUTIES OF THE DIVISION; REGISTRATION INFORMATION. 1. THE DIVISION SHALL ESTABLISH AND MAINTAIN A FILE OF INDIVIDUALS REQUIRED TO REGISTER PURSUANT TO THE PROVISIONS OF THIS ARTICLE WHICH SHALL INCLUDE THE FOLLOWING INFORMATION OF EACH REGISTRANT:

(A) THE CRIMINAL STREET GANG OFFENDER'S NAME, ALL ALIASES USED, DATE OF BIRTH, SEX, RACE, HEIGHT, WEIGHT, EYE COLOR, DRIVER'S LICENSE NUMBER, HOME ADDRESS AND/OR EXPECTED PLACE OF DOMICILE, ANY INTERNET ACCOUNTS WITH INTERNET ACCESS PROVIDERS BELONGING TO SUCH OFFENDER AND INTERNET IDENTIFIERS THAT SUCH OFFENDER USES.

(B) A PHOTOGRAPH AND SET OF FINGERPRINTS, THE PHOTOGRAPH TO BE UPDATED AS OFTEN AS THE DIVISION SHALL DEEM NECESSARY BUT NOT LESS THAN ONCE EVERY TWO YEARS.

(C) A DESCRIPTION OF THE OFFENSE FOR WHICH THE CRIMINAL STREET GANG OFFENDER WAS CONVICTED, THE DATE OF CONVICTION AND THE SENTENCE IMPOSED.

(D) THE NAME AND ADDRESS OF ANY INSTITUTION OF HIGHER EDUCATION AT WHICH THE CRIMINAL STREET GANG OFFENDER IS OR EXPECTS TO BE ENROLLED, ATTENDING OR EMPLOYED, WHETHER FOR COMPENSATION OR NOT, AND WHETHER SUCH OFFENDER RESIDES IN OR WILL RESIDE IN A FACILITY OWNED OR OPERATED BY SUCH INSTITUTION.

(E) ANY OTHER INFORMATION DEEMED PERTINENT BY THE DIVISION.

2. (A) THE DIVISION IS AUTHORIZED TO MAKE THE REGISTRY AVAILABLE TO ANY REGIONAL OR NATIONAL REGISTRY OF CRIMINAL STREET GANG OFFENDERS, OR REGISTRY THAT HAS A PRINCIPAL, SHARED, OR SIMILAR PURPOSE, HOWEVER NAMED, FOR THE PURPOSE OF SHARING INFORMATION. THE DIVISION SHALL ACCEPT FILES FROM ANY SUCH REGIONAL OR NATIONAL REGISTRY OF CRIMINAL STREET GANG OFFENDERS AND SHALL MAKE SUCH FILES AVAILABLE WHEN REQUESTED PURSUANT TO THE PROVISIONS OF THIS ARTICLE.

(B) NO OFFICIAL, AGENCY, AUTHORIZED PERSON OR ENTITY, WHETHER PUBLIC OR PRIVATE, SHALL BE SUBJECT TO ANY CIVIL OR CRIMINAL LIABILITY FOR DAMAGES FOR ANY DECISION OR ACTION MADE IN THE ORDINARY COURSE OF BUSINESS OF THAT OFFICIAL, AGENCY, AUTHORIZED PERSON OR ENTITY PURSUANT TO THIS SUBDIVISION, PROVIDED THAT SUCH OFFICIAL, AGENCY, AUTHORIZED PERSON OR ENTITY ACTED REASONABLY AND IN GOOD FAITH WITH RESPECT TO SUCH REGISTRY INFORMATION.

(C) THE DIVISION SHALL REQUIRE THAT NO INFORMATION INCLUDED IN THE REGISTRY SHALL BE MADE AVAILABLE EXCEPT IN FURTHERANCE OF THE PROVISIONS OF THIS ARTICLE.

3. THE DIVISION SHALL DEVELOP A STANDARDIZED REGISTRATION FORM TO BE MADE AVAILABLE TO THE APPROPRIATE AUTHORITIES AND PROMULGATE RULES AND REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SECTION. SUCH FORM SHALL BE WRITTEN IN CLEAR AND CONCISE LANGUAGE AND SHALL ADVISE THE CRIMINAL

1 STREET GANG OFFENDER OF HIS OR HER DUTIES AND OBLIGATIONS UNDER THIS
2 ARTICLE.

3 4. THE DIVISION SHALL MAIL A NON-FORWARDABLE VERIFICATION FORM TO THE
4 LAST REPORTED ADDRESS OF THE CRIMINAL STREET GANG OFFENDER FOR ANNUAL
5 VERIFICATION REQUIREMENTS.

6 5. THE DIVISION SHALL ESTABLISH AND OPERATE A TELEPHONE NUMBER AS
7 PROVIDED IN THIS ARTICLE.

8 6. THE DIVISION SHALL CHARGE A FEE OF TEN DOLLARS EACH TIME A CRIMINAL
9 STREET GANG OFFENDER REGISTERS ANY CHANGE OF ADDRESS OR ANY CHANGE OF
10 HIS OR HER STATUS OF ENROLLMENT, ATTENDANCE, EMPLOYMENT OR RESIDENCE AT
11 ANY INSTITUTION OF HIGHER EDUCATION AS REQUIRED BY THIS ARTICLE. THE FEE
12 SHALL BE PAID TO THE DIVISION BY THE CRIMINAL STREET GANG OFFENDER. THE
13 STATE COMPTROLLER IS HEREBY AUTHORIZED TO DEPOSIT SUCH FEES INTO THE
14 GENERAL FUND.

15 S 169-C. CRIMINAL STREET GANG DATABASE. IN DEVELOPING AND MAINTAINING
16 THE STATEWIDE REGISTRATION SYSTEM REQUIRED BY THIS ARTICLE, THE DIVISION
17 MAY ESTABLISH A CRIMINAL STREET GANG DATABASE. IN DOING SO, THE DIVISION
18 SHALL:

19 1. CREATE A UNIFORM REPORTING FORMAT FOR THE ENTRY OF PERTINENT INFOR-
20 MATION REGARDING THE REPORT OF AN ARRESTED CRIMINAL STREET GANG MEMBER
21 OR ORGANIZED GANG AFFILIATES INTO THE DATABASE;

22 2. NOTIFY ALL STATE AND LOCAL LAW ENFORCEMENT AGENCIES THAT REPORTS OF
23 ARRESTED CRIMINAL STREET GANG MEMBERS OR ORGANIZED GANG AFFILIATES SHALL
24 BE ENTERED INTO THE STATEWIDE GANG DATABASE AS SOON AS THE MINIMUM LEVEL
25 OF DATA, TO BE SPECIFIED BY THE DIVISION, IS AVAILABLE TO THE REPORTING
26 AGENCY;

27 3. DEVELOP AND IMPLEMENT A POLICY FOR NOTIFYING STATE AND LOCAL LAW
28 ENFORCEMENT AGENCIES OF THE EMERGENCE OF NEW ORGANIZED CRIMINAL STREET
29 GANGS OR THE CHANGE OF A NAME OR OTHER IDENTIFYING INFORMATION SIGN OR
30 SYMBOL OF AN EXISTING ORGANIZED CRIMINAL STREET GANG;

31 4. COMPILE AND RETAIN INFORMATION REGARDING ORGANIZED CRIMINAL STREET
32 GANGS AND THEIR MEMBERS AND AFFILIATES IN A MANNER THAT ALLOWS THE
33 INFORMATION TO BE USED BY STATE AND LOCAL LAW ENFORCEMENT AGENCIES, AND
34 OTHER STATE AGENCIES;

35 5. COMPILE AND MAINTAIN AN HISTORIC DATA REPOSITORY RELATING TO ORGAN-
36 IZED CRIMINAL STREET GANGS AND THEIR MEMBERS AND AFFILIATES IN ORDER TO
37 DEVELOP AND IMPROVE TECHNIQUES UTILIZED BY LAW ENFORCEMENT AGENCIES AND
38 PROSECUTORS IN THE INVESTIGATION, APPREHENSION, AND PROSECUTION OF
39 MEMBERS AND AFFILIATES OF ORGANIZED CRIMINAL STREET GANGS; AND

40 6. CREATE A QUALITY CONTROL PROGRAM REGARDING CONFIRMATION OF ORGAN-
41 IZED CRIMINAL STREET GANG MEMBERSHIP AND ORGANIZED CRIMINAL STREET GANG
42 AFFILIATION DATA, TIMELINESS AND ACCURACY OF INFORMATION ENTERED INTO
43 THE STATEWIDE CRIMINAL STREET GANG DATABASE AND PERFORMANCE AUDITS OF
44 ALL AGENCIES ENTERING INFORMATION.

45 S 169-D. CRIMINAL STREET GANG OFFENDER; RELOCATION; NOTIFICATION. 1.
46 IT SHALL BE THE DUTY OF THE DEPARTMENT OR LOCAL CORRECTIONAL FACILITY,
47 AT LEAST TEN CALENDAR DAYS PRIOR TO THE RELEASE OR DISCHARGE OF ANY
48 CRIMINAL STREET GANG OFFENDER FROM A CORRECTIONAL FACILITY OR LOCAL
49 CORRECTIONAL FACILITY, TO NOTIFY THE DIVISION OF THE CONTEMPLATED
50 RELEASE OR DISCHARGE OF SUCH CRIMINAL STREET GANG OFFENDER, INFORMING
51 THE DIVISION IN WRITING ON A FORM PROVIDED BY THE DIVISION INDICATING
52 THE ADDRESS AT WHICH SUCH CRIMINAL STREET GANG OFFENDER PROPOSES TO
53 RESIDE AND THE NAME AND ADDRESS OF ANY INSTITUTION OF HIGHER EDUCATION
54 AT WHICH HE OR SHE EXPECTS TO BE ENROLLED, ATTENDING OR EMPLOYED, WHETH-
55 ER FOR COMPENSATION OR NOT, AND WHETHER HE OR SHE RESIDES IN OR WILL
56 RESIDE IN A FACILITY OWNED OR OPERATED BY SUCH INSTITUTION. IF SUCH

1 CRIMINAL STREET GANG OFFENDER CHANGES HIS OR HER PLACE OF RESIDENCE
2 WHILE ON PAROLE, SUCH NOTIFICATION OF THE CHANGE OF RESIDENCE SHALL BE
3 SENT BY THE CRIMINAL STREET GANG OFFENDER'S PAROLE OFFICER WITHIN
4 FORTY-EIGHT HOURS TO THE DIVISION ON A FORM PROVIDED BY THE DIVISION. IF
5 SUCH CRIMINAL STREET GANG OFFENDER CHANGES THE STATUS OF HIS OR HER
6 ENROLLMENT, ATTENDANCE, EMPLOYMENT OR RESIDENCE AT ANY INSTITUTION OF
7 HIGHER EDUCATION WHILE ON PAROLE, SUCH NOTIFICATION OF THE CHANGE OF
8 STATUS SHALL BE SENT BY THE CRIMINAL STREET GANG OFFENDER'S PAROLE OFFI-
9 CER WITHIN FORTY-EIGHT HOURS TO THE DIVISION ON A FORM PROVIDED BY THE
10 DIVISION.

11 2. IN THE CASE OF ANY CRIMINAL STREET GANG OFFENDER ON PROBATION, IT
12 SHALL BE THE DUTY OF THE CRIMINAL STREET GANG OFFENDER'S PROBATION OFFI-
13 CER TO NOTIFY THE DIVISION WITHIN FORTY-EIGHT HOURS OF THE NEW PLACE OF
14 RESIDENCE ON A FORM PROVIDED BY THE DIVISION. IF SUCH CRIMINAL STREET
15 GANG OFFENDER CHANGES THE STATUS OF HIS OR HER ENROLLMENT, ATTENDANCE,
16 EMPLOYMENT OR RESIDENCE AT ANY INSTITUTION OF HIGHER EDUCATION WHILE ON
17 PROBATION, SUCH NOTIFICATION OF THE CHANGE OF STATUS SHALL BE SENT BY
18 THE CRIMINAL STREET GANG OFFENDER'S PROBATION OFFICER WITHIN FORTY-EIGHT
19 HOURS TO THE DIVISION ON A FORM PROVIDED BY THE DIVISION.

20 3. WHEN A CRIMINAL STREET GANG OFFENDER ESCAPES FROM A STATE OR LOCAL
21 CORRECTIONAL FACILITY, THE DESIGNATED OFFICIAL OF THE FACILITY WHERE
22 SUCH OFFENDER WAS CONFINED SHALL NOTIFY WITHIN TWENTY-FOUR HOURS THE LAW
23 ENFORCEMENT AGENCY THAT HAD JURISDICTION AT THE TIME OF HIS OR HER
24 CONVICTION, INFORMING SUCH LAW ENFORCEMENT AGENCY OF THE NAME AND ALIAS-
25 ES OF THE PERSON, AND THE ADDRESS AT WHICH HE OR SHE RESIDED AT THE TIME
26 OF HIS OR HER CONVICTION, THE AMOUNT OF TIME REMAINING TO BE SERVED, IF
27 ANY, ON THE FULL TERM FOR WHICH HE OR SHE WAS SENTENCED, AND THE NATURE
28 OF THE CRIME FOR WHICH HE OR SHE WAS SENTENCED, TRANSMITTING AT THE SAME
29 TIME A COPY OF SUCH CRIMINAL STREET GANG OFFENDER'S FINGERPRINTS AND
30 PHOTOGRAPH AND A SUMMARY OF HIS OR HER CRIMINAL RECORD.

31 4. THE DIVISION SHALL PROVIDE GENERAL INFORMATION, IN REGISTRATION
32 MATERIALS AND ANNUAL CORRESPONDENCE, TO REGISTRANTS CONCERNING NOTIFICA-
33 TION AND REGISTRATION PROCEDURES THAT MAY APPLY IF THE REGISTRANT IS
34 AUTHORIZED TO RELOCATE AND RELOCATES TO ANOTHER STATE OR UNITED STATES
35 POSSESSION, OR COMMENCES EMPLOYMENT OR ATTENDANCE AT AN EDUCATIONAL
36 INSTITUTION IN ANOTHER STATE OR UNITED STATES POSSESSION. SUCH INFORMA-
37 TION SHALL INCLUDE ADDRESSES AND TELEPHONE NUMBERS FOR RELEVANT AGENCIES
38 FROM WHICH ADDITIONAL INFORMATION MAY BE OBTAINED.

39 S 169-E. DUTIES OF THE COURT. 1. UPON CONVICTION OF ANY OF THE
40 OFFENSES SET FORTH IN SUBDIVISION TWO OF SECTION ONE HUNDRED
41 SIXTY-NINE-A OF THIS ARTICLE THE COURT SHALL CERTIFY THAT THE PERSON IS
42 A CRIMINAL STREET GANG OFFENDER AND SHALL INCLUDE THE CERTIFICATION IN
43 THE ORDER OF COMMITMENT, IF ANY, AND JUDGMENT OF CONVICTION. THE COURT
44 SHALL ADVISE THE CRIMINAL STREET GANG OFFENDER OF HIS OR HER DUTIES
45 UNDER THIS ARTICLE. FAILURE TO INCLUDE THE CERTIFICATION IN THE ORDER OF
46 COMMITMENT OR THE JUDGMENT OF CONVICTION SHALL NOT RELIEVE A CRIMINAL
47 STREET GANG OFFENDER OF THE OBLIGATIONS IMPOSED BY THIS ARTICLE.

48 2. A CRIMINAL STREET GANG OFFENDER RELEASED ON PROBATION OR DISCHARGED
49 UPON PAYMENT OF A FINE, CONDITIONAL DISCHARGE OR UNCONDITIONAL DISCHARGE
50 SHALL, PRIOR TO SUCH RELEASE OR DISCHARGE, BE INFORMED OF HIS OR HER
51 DUTY TO REGISTER AS REQUIRED BY THIS ARTICLE BY THE COURT IN WHICH HE OR
52 SHE WAS CONVICTED. AT THE TIME SENTENCE IS IMPOSED, SUCH CRIMINAL STREET
53 GANG OFFENDER SHALL REGISTER WITH THE DIVISION ON A FORM PREPARED BY THE
54 DIVISION. THE COURT SHALL REQUIRE THE CRIMINAL STREET GANG OFFENDER TO
55 READ AND SIGN SUCH FORM AND TO COMPLETE THE REGISTRATION PORTION OF SUCH
56 FORM, WHICH SHALL INCLUDE THE ADDRESS WHERE THE CRIMINAL STREET GANG

1 OFFENDER EXPECTS TO RESIDE UPON HIS OR HER RELEASE, AND THE NAME AND
2 ADDRESS OF ANY INSTITUTION OF HIGHER EDUCATION HE OR SHE EXPECTS TO BE
3 EMPLOYED BY OR ENROLLED IN, WHETHER FOR COMPENSATION OR NOT, AND WHETHER
4 HE OR SHE EXPECTS TO RESIDE IN A FACILITY OWNED OR OPERATED BY SUCH AN
5 INSTITUTION, AND SHALL REPORT SUCH INFORMATION TO THE DIVISION. THE
6 COURT SHALL GIVE ONE COPY OF THE FORM TO THE CRIMINAL STREET GANG OFFEN-
7 DER AND SHALL SEND TWO COPIES TO THE DIVISION WHICH SHALL FORWARD THE
8 INFORMATION TO THE LAW ENFORCEMENT AGENCIES HAVING JURISDICTION.

9 S 169-F. DISCHARGE OF CRIMINAL STREET GANG OFFENDER FROM CORRECTIONAL
10 FACILITY; DUTIES OF OFFICIAL IN CHARGE. 1. A CRIMINAL STREET GANG
11 OFFENDER, TO BE DISCHARGED, PAROLED, RELEASED TO POST-RELEASE SUPER-
12 VISION OR RELEASED FROM ANY STATE OR LOCAL CORRECTIONAL FACILITY WHERE
13 HE OR SHE WAS CONFINED SHALL AT LEAST FIFTEEN CALENDAR DAYS PRIOR TO
14 DISCHARGE, PAROLE OR RELEASE, BE INFORMED OF HIS OR HER DUTY TO REGISTER
15 UNDER THIS ARTICLE BY THE FACILITY IN WHICH HE OR SHE WAS CONFINED OR
16 COMMITTED. THE FACILITY SHALL REQUIRE THE CRIMINAL STREET GANG OFFENDER
17 TO READ AND SIGN SUCH FORM AS MAY BE REQUIRED BY THE DIVISION STATING
18 THE DUTY TO REGISTER AND THE PROCEDURE FOR REGISTRATION HAS BEEN
19 EXPLAINED TO HIM OR HER AND TO COMPLETE THE REGISTRATION PORTION OF SUCH
20 FORM. THE FACILITY SHALL OBTAIN ON SUCH FORM THE ADDRESS WHERE THE CRIM-
21 INAL STREET GANG OFFENDER EXPECTS TO RESIDE UPON HIS OR HER DISCHARGE,
22 PAROLE OR RELEASE AND THE NAME AND ADDRESS OF ANY INSTITUTION OF HIGHER
23 EDUCATION HE OR SHE EXPECTS TO BE EMPLOYED BY OR ENROLLED IN, WHETHER
24 FOR COMPENSATION OR NOT, AND WHETHER HE OR SHE EXPECTS TO RESIDE IN A
25 FACILITY OWNED OR OPERATED BY SUCH AN INSTITUTION, AND SHALL REPORT SUCH
26 INFORMATION TO THE DIVISION. THE FACILITY SHALL GIVE ONE COPY OF THE
27 FORM TO THE CRIMINAL STREET GANG OFFENDER, RETAIN ONE COPY AND SHALL
28 SEND ONE COPY TO THE DIVISION WHICH SHALL PROVIDE THE INFORMATION TO THE
29 LAW ENFORCEMENT AGENCIES HAVING JURISDICTION. THE FACILITY SHALL GIVE
30 THE CRIMINAL STREET GANG OFFENDER A FORM PREPARED BY THE DIVISION, TO
31 REGISTER WITH THE DIVISION AT LEAST FIFTEEN CALENDAR DAYS PRIOR TO
32 RELEASE AND SUCH FORM SHALL BE COMPLETED, SIGNED BY THE CRIMINAL STREET
33 GANG OFFENDER AND SENT TO THE DIVISION BY THE FACILITY AT LEAST TEN DAYS
34 PRIOR TO THE CRIMINAL STREET GANG OFFENDER'S RELEASE OR DISCHARGE.

35 2. THE DIVISION SHALL ALSO IMMEDIATELY TRANSMIT THE CONVICTION DATA
36 AND FINGERPRINTS TO THE FEDERAL BUREAU OF INVESTIGATION, IF NOT ALREADY
37 OBTAINED.

38 S 169-G. DUTY TO REGISTER AND TO VERIFY. 1. ANY CRIMINAL STREET GANG
39 OFFENDER SHALL, (A) AT LEAST TEN CALENDAR DAYS PRIOR TO DISCHARGE,
40 PAROLE, RELEASE TO POST-RELEASE SUPERVISION OR RELEASE FROM ANY STATE OR
41 LOCAL CORRECTIONAL FACILITY WHERE HE OR SHE WAS CONFINED, OR, (B) AT THE
42 TIME SENTENCE IS IMPOSED FOR ANY CRIMINAL STREET GANG OFFENDER RELEASED
43 ON PROBATION OR DISCHARGED UPON PAYMENT OF A FINE, CONDITIONAL DISCHARGE
44 OR UNCONDITIONAL DISCHARGE, REGISTER WITH THE DIVISION ON A FORM
45 PREPARED BY THE DIVISION.

46 2. THE FOLLOWING SHALL APPLY TO ANY CRIMINAL STREET GANG OFFENDER
47 REQUIRED TO REGISTER UNDER THIS ARTICLE ON EACH ANNIVERSARY OF THE CRIM-
48 INAL STREET GANG OFFENDER'S INITIAL REGISTRATION DATE DURING THE PERIOD
49 IN WHICH HE OR SHE IS REQUIRED TO REGISTER UNDER THIS SECTION:

50 (A) THE CRIMINAL STREET GANG OFFENDER SHALL MAIL THE VERIFICATION FORM
51 TO THE DIVISION WITHIN TEN CALENDAR DAYS AFTER RECEIPT OF THE FORM. THE
52 VERIFICATION FORM SHALL BE SIGNED BY THE CRIMINAL STREET GANG OFFENDER,
53 AND SHALL STATE WHETHER HE OR SHE STILL RESIDES AT THE ADDRESS LAST
54 REPORTED TO THE DIVISION, AND STATE WHETHER HE OR SHE IS STILL EMPLOYED
55 AT THE ADDRESS LAST REPORTED TO THE DIVISION.

1 (B) THE CRIMINAL STREET GANG OFFENDER SHALL PERSONALLY APPEAR AT THE
2 LAW ENFORCEMENT AGENCY HAVING JURISDICTION WITHIN TWENTY DAYS OF THE
3 FIRST ANNIVERSARY OF THE CRIMINAL STREET GANG OFFENDER'S INITIAL REGIS-
4 TRATION AND EVERY YEAR THEREAFTER DURING THE PERIOD OF REGISTRATION FOR
5 THE PURPOSE OF PROVIDING A CURRENT PHOTOGRAPH OF SUCH OFFENDER. THE LAW
6 ENFORCEMENT AGENCY HAVING JURISDICTION SHALL PHOTOGRAPH THE CRIMINAL
7 STREET GANG OFFENDER AND SHALL PROMPTLY FORWARD A COPY OF SUCH PHOTO-
8 GRAPH TO THE DIVISION. FOR PURPOSES OF THIS PARAGRAPH, IF SUCH CRIMINAL
9 STREET GANG OFFENDER IS CONFINED IN A STATE OR LOCAL CORRECTIONAL FACIL-
10 ITY, THE LOCAL LAW ENFORCEMENT AGENCY HAVING JURISDICTION SHALL BE THE
11 WARDEN, SUPERINTENDENT, SHERIFF OR OTHER PERSON IN CHARGE OF THE STATE
12 OR LOCAL CORRECTIONAL FACILITY.

13 (C) IF THE CRIMINAL STREET GANG OFFENDER FAILS TO MAIL THE SIGNED
14 VERIFICATION FORM TO THE DIVISION WITHIN TEN CALENDAR DAYS AFTER RECEIPT
15 OF THE FORM, HE OR SHE SHALL BE IN VIOLATION OF THIS SECTION UNLESS HE
16 PROVES THAT HE OR SHE HAS NOT CHANGED HIS OR HER RESIDENCE ADDRESS.

17 (D) THE FOREGOING PROVISIONS OF THIS SECTION TO THE CONTRARY NOTWITH-
18 STANDING, THE DUTY TO PERSONALLY APPEAR FOR AN UPDATED PHOTOGRAPH AS
19 REQUIRED BY THIS SECTION SHALL BE TEMPORARILY SUSPENDED DURING ANY PERI-
20 OD IN WHICH THE CRIMINAL STREET GANG OFFENDER IS CONFINED IN ANY HOSPI-
21 TAL OR INSTITUTION, AND SUCH CRIMINAL STREET GANG OFFENDER SHALL
22 PERSONALLY APPEAR FOR SUCH UPDATED PHOTOGRAPH NO LATER THAN NINETY DAYS
23 AFTER RELEASE FROM SUCH HOSPITAL OR INSTITUTION, OR AN ALTERNATE LATER
24 DATE SCHEDULED BY THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION.

25 3. A CRIMINAL STREET GANG OFFENDER SHALL REGISTER WITH THE DIVISION NO
26 LATER THAN TEN CALENDAR DAYS AFTER ANY CHANGE OF ADDRESS, INTERNET
27 ACCOUNTS WITH INTERNET ACCESS PROVIDERS BELONGING TO SUCH OFFENDER,
28 INTERNET IDENTIFIERS THAT SUCH OFFENDER USES, OR HIS OR HER STATUS OF
29 ENROLLMENT, ATTENDANCE, EMPLOYMENT OR RESIDENCE AT ANY INSTITUTION OF
30 HIGHER EDUCATION. A FEE OF TEN DOLLARS, AS AUTHORIZED BY SUBDIVISION SIX
31 OF SECTION ONE HUNDRED SIXTY-NINE-B OF THIS ARTICLE, SHALL BE SUBMITTED
32 BY THE CRIMINAL STREET GANG OFFENDER EACH TIME SUCH OFFENDER REGISTERS
33 ANY CHANGE OF ADDRESS OR ANY CHANGE OF HIS OR HER STATUS OF ENROLLMENT,
34 ATTENDANCE, EMPLOYMENT OR RESIDENCE AT ANY INSTITUTION OF HIGHER EDUCA-
35 TION. ANY FAILURE OR OMISSION TO SUBMIT THE REQUIRED FEE SHALL NOT
36 AFFECT THE ACCEPTANCE BY THE DIVISION OF THE CHANGE OF ADDRESS OR CHANGE
37 OF STATUS.

38 4. THE DUTY TO REGISTER UNDER THE PROVISIONS OF THIS ARTICLE SHALL NOT
39 BE APPLICABLE TO ANY CRIMINAL STREET GANG OFFENDER WHOSE CONVICTION WAS
40 REVERSED UPON APPEAL OR WHO WAS PARDONED BY THE GOVERNOR.

41 S 169-H. DURATION OF REGISTRATION AND VERIFICATION; REQUIREMENTS. 1.
42 THE DURATION OF REGISTRATION AND VERIFICATION FOR A CRIMINAL STREET GANG
43 OFFENDER SHALL BE ANNUALLY FOR FIVE YEARS FOR A CRIMINAL STREET GANG
44 OFFENDER WHO IS A MISDEMEANOR OFFENDER, AND ANNUALLY FOR TEN YEARS FOR A
45 CRIMINAL STREET GANG OFFENDER WHO IS A FELONY OFFENDER.

46 2. REGISTRATION AND VERIFICATION AS REQUIRED BY THIS ARTICLE SHALL
47 CONSIST OF A STATEMENT IN WRITING SIGNED BY THE CRIMINAL STREET GANG
48 OFFENDER GIVING THE INFORMATION THAT IS REQUIRED BY THE DIVISION AND THE
49 DIVISION SHALL ENTER THE INFORMATION INTO AN APPROPRIATE ELECTRONIC
50 DATABASE OR FILE.

51 S 169-I. NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGE OF
52 ADDRESS. UPON RECEIPT OF A CHANGE OF ADDRESS BY A CRIMINAL STREET GANG
53 OFFENDER REQUIRED TO REGISTER UNDER THIS ARTICLE, THE DIVISION SHALL
54 NOTIFY THE LOCAL LAW ENFORCEMENT AGENCY HAVING JURISDICTION OF THE NEW
55 PLACE OF RESIDENCE AND THE LOCAL LAW ENFORCEMENT AGENCY WHERE THE CRIMI-
56 NAL STREET GANG OFFENDER LAST RESIDED OF THE NEW PLACE OF RESIDENCE. THE

1 DIVISION SHALL, IF THE CRIMINAL STREET GANG OFFENDER CHANGES RESIDENCE
2 TO ANOTHER STATE, NOTIFY THE APPROPRIATE AGENCY WITHIN THAT STATE OF THE
3 NEW PLACE OF RESIDENCE.

4 S 169-J. REVIEW. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE
5 CONTRARY, ANY STATE OR LOCAL CORRECTIONAL FACILITY, HOSPITAL OR INSTITU-
6 TION, DISTRICT ATTORNEY, LAW ENFORCEMENT AGENCY, PROBATION DEPARTMENT,
7 DIVISION OF PAROLE, COURT OR CHILD PROTECTIVE AGENCY SHALL FORWARD RELE-
8 VANT INFORMATION PERTAINING TO A CRIMINAL STREET GANG OFFENDER TO BE
9 DISCHARGED, PAROLED, RELEASED TO POST-RELEASE SUPERVISION OR RELEASED TO
10 THE DIVISION FOR REVIEW NO LATER THAN ONE HUNDRED TWENTY DAYS PRIOR TO
11 THE RELEASE OR DISCHARGE AND THE DIVISION SHALL MAKE RECOMMENDATIONS AS
12 PROVIDED IN SECTION ONE HUNDRED SIXTY-EIGHT-L OF THIS ARTICLE WITHIN
13 SIXTY DAYS OF RECEIPT OF THE INFORMATION. INFORMATION MAY INCLUDE BUT
14 MAY NOT BE LIMITED TO ALL OR A PORTION OF THE ARREST FILE, PROSECUTOR'S
15 FILE, PROBATION OR PAROLE FILE, CHILD PROTECTIVE FILE, COURT FILE,
16 COMMITMENT FILE, MEDICAL FILE AND TREATMENT FILE PERTAINING TO SUCH
17 PERSON. SUCH PERSON SHALL BE PERMITTED TO SUBMIT TO THE BOARD ANY INFOR-
18 MATION RELEVANT TO THE REVIEW. UPON APPLICATION OF THE CRIMINAL STREET
19 GANG OFFENDER OR THE DISTRICT ATTORNEY, THE COURT SHALL SEAL ANY PORTION
20 OF THE BOARD'S FILE PERTAINING TO THE CRIMINAL STREET GANG OFFENDER
21 WHICH CONTAINS MATERIAL THAT IS CONFIDENTIAL UNDER ANY STATE OR FEDERAL
22 LAW; PROVIDED, HOWEVER, THAT IN ANY SUBSEQUENT PROCEEDINGS IN WHICH THE
23 CRIMINAL STREET GANG OFFENDER WHO IS THE SUBJECT OF THE SEALED RECORD IS
24 A PARTY AND WHICH REQUIRES THE BOARD TO PROVIDE A RECOMMENDATION TO THE
25 COURT PURSUANT TO THIS ARTICLE, SUCH SEALED RECORD SHALL BE AVAILABLE TO
26 THE CRIMINAL STREET GANG OFFENDER, THE DISTRICT ATTORNEY, THE COURT AND
27 THE ATTORNEY GENERAL WHERE THE ATTORNEY GENERAL IS A PARTY, OR REPRES-
28 ENTS A PARTY, IN THE PROCEEDING.

29 S 169-K. IMMUNITY FROM LIABILITY. 1. NO OFFICIAL, EMPLOYEE OR AGENCY,
30 WHETHER PUBLIC OR PRIVATE, SHALL BE SUBJECT TO ANY CIVIL OR CRIMINAL
31 LIABILITY FOR DAMAGES FOR ANY DISCRETIONARY DECISION TO RELEASE RELEVANT
32 AND NECESSARY INFORMATION PURSUANT TO THIS SECTION, UNLESS IT IS SHOWN
33 THAT SUCH OFFICIAL, EMPLOYEE OR AGENCY ACTED WITH GROSS NEGLIGENCE OR IN
34 BAD FAITH. THE IMMUNITY PROVIDED UNDER THIS SECTION APPLIES TO THE
35 RELEASE OF RELEVANT INFORMATION TO OTHER EMPLOYEES OR OFFICIALS OR TO
36 THE GENERAL PUBLIC.

37 2. NOTHING IN THIS SECTION SHALL BE DEEMED TO IMPOSE ANY CIVIL OR
38 CRIMINAL LIABILITY UPON OR TO GIVE RISE TO A CAUSE OF ACTION AGAINST ANY
39 OFFICIAL, EMPLOYEE OR AGENCY, WHETHER PUBLIC OR PRIVATE, FOR FAILING TO
40 RELEASE INFORMATION AS AUTHORIZED IN THIS SECTION UNLESS IT IS SHOWN
41 THAT SUCH OFFICIAL, EMPLOYEE OR AGENCY ACTED WITH GROSS NEGLIGENCE OR IN
42 BAD FAITH.

43 S 169-L. ANNUAL REPORT. THE DIVISION SHALL ON OR BEFORE FEBRUARY FIRST
44 IN EACH YEAR FILE A REPORT WITH THE GOVERNOR, AND THE LEGISLATURE
45 DETAILING THE PROGRAM, COMPLIANCE WITH PROVISIONS OF THIS ARTICLE AND
46 EFFECTIVENESS OF THE PROVISIONS OF THIS ARTICLE, TOGETHER WITH ANY
47 RECOMMENDATIONS TO FURTHER ENHANCE THE INTENT OF THIS ARTICLE.

48 S 169-M. PENALTY. ANY CRIMINAL STREET GANG OFFENDER REQUIRED TO REGIS-
49 TER OR TO VERIFY PURSUANT TO THE PROVISIONS OF THIS ARTICLE WHO FAILS TO
50 REGISTER OR VERIFY IN THE MANNER AND WITHIN THE TIME PERIODS PROVIDED
51 FOR IN THIS ARTICLE SHALL BE GUILTY OF A CLASS E FELONY UPON CONVICTION
52 FOR THE FIRST OFFENSE. UPON CONVICTION FOR A SECOND OR SUBSEQUENT
53 OFFENSE SUCH CRIMINAL STREET GANG OFFENDER SHALL BE GUILTY OF A CLASS D
54 FELONY.

1 S 169-N. UNAUTHORIZED RELEASE OF INFORMATION. THE UNAUTHORIZED RELEASE
2 OF ANY INFORMATION REQUIRED TO BE COLLECTED PURSUANT TO THIS ARTICLE
3 SHALL BE A CLASS B MISDEMEANOR.

4 S 169-O. SEPARABILITY. IF ANY SECTION OF THIS ARTICLE, OR PART THEREOF
5 SHALL BE ADJUDGED BY A COURT OF COMPETENT JURISDICTION TO BE INVALID,
6 SUCH JUDGMENT SHALL NOT AFFECT, IMPAIR OR INVALIDATE THE REMAINDER OR
7 ANY OTHER SECTION OR PART THEREOF.

8 S 8. Section 109 of the correction law is renumbered section 110 and
9 a new section 109 is added to read as follows:

10 S 109. THE DEPARTMENT SHALL ESTABLISH A PROGRAM, AFTER CONSULTATION
11 WITH THE DIVISION OF CRIMINAL JUSTICE SERVICES AND WITH CHIEFS AND
12 COMMISSIONERS OF POLICE, UNDER WHICH THE LEADERS OF CRIMINAL STREET
13 GANGS MAY BE SENT TO OTHER STATE INSTITUTIONS PURSUANT TO AGREEMENTS
14 EXECUTED UNDER SECTION ONE HUNDRED THREE OF THIS CHAPTER.

15 S 9. The education law is amended by adding a new article 25 to read
16 as follows:

17 ARTICLE 25
18 GANG PREVENTION

19 SECTION 1210. GANG PREVENTION.

20 1211. MODEL GANG VIOLENCE CURRICULUM; PREVENTION ACTIVITIES.

21 1212. DRESS CODE CONCERNING GANG-RELATED APPAREL.

22 1213. CRIMINAL STREET GANG AND VIOLENCE PREVENTION PARTNERSHIP
23 PROGRAM.

24 S 1210. GANG PREVENTION. THE DEPARTMENT SHALL PREPARE AND DISTRIBUTE
25 TO SCHOOLS GUIDELINES FOR INCORPORATING IN-SERVICE TRAINING IN GANG
26 VIOLENCE FOR TEACHERS, COUNSELORS, ATHLETIC DIRECTORS, SCHOOL BOARD
27 MEMBERS, AND OTHER EDUCATIONAL PERSONNEL INTO THE STAFF DEVELOPMENT
28 PLANS, AND SHALL, UPON REQUEST, ASSIST ANY SCHOOL IN DEVELOPING COMPRE-
29 HENSIVE GANG VIOLENCE IN-SERVICE TRAINING PROGRAMS. SUCH INFORMATION AND
30 GUIDELINES, TO THE MAXIMUM EXTENT POSSIBLE, SHALL ENCOURAGE SCHOOLS TO
31 AVOID DUPLICATION OF EFFORT BY SHARING RESOURCES; ADAPTING OR ADOPTING
32 MODEL IN-SERVICE TRAINING PROGRAMS; DEVELOPING JOINT AND COLLABORATIVE
33 PROGRAMS; AND COORDINATING EFFORTS WITH EXISTING STATE AND LOCAL GANG
34 VIOLENCE STAFF DEVELOPMENT PROGRAMS, COUNTY AND CITY LAW ENFORCEMENT
35 AGENCIES, AND OTHER PUBLIC AND PRIVATE AGENCIES PROVIDING GANG VIOLENCE
36 PREVENTION, OR OTHER RELATED SERVICES AT THE LOCAL LEVEL.

37 THE DEPARTMENT SHALL ADDITIONALLY ASSIST SCHOOLS IN QUALIFYING FOR THE
38 RECEIPT OF FEDERAL AND STATE FUNDS TO SUPPORT THEIR GANG VIOLENCE AND
39 DRUG AND ALCOHOL ABUSE PREVENTION IN-SERVICE TRAINING PROGRAMS. THE
40 DEPARTMENT SHALL CONSULT WITH THE DIVISION OF CRIMINAL JUSTICE SERVICES
41 REGARDING GANG VIOLENCE.

42 THE TERM "GANG VIOLENCE AND DRUG AND ALCOHOL ABUSE PREVENTION IN-SER-
43 VICE TRAINING" AS USED IN THIS SECTION MEANS THE PRESENTATION OF
44 PROGRAMS, INSTRUCTION, AND CURRICULA THAT WILL HELP EDUCATORS DEVELOP
45 COMPETENCIES IN INTERACTING IN A POSITIVE MANNER WITH CHILDREN AND YOUTH
46 TO ASSIST THEM IN DEVELOPING THE POSITIVE VALUES, SELF-ESTEEM, KNOW-
47 LEDGE, AND SKILLS TO LEAD PRODUCTIVE, GANG-FREE, AND DRUG-FREE LIVES,
48 INCLUDING THE DEVELOPMENT OF KNOWLEDGE OF THE CAUSES OF GANG VIOLENCE
49 AND SUBSTANCE ABUSE, AND TRAINING REGARDING AVAILABLE INFORMATION AND
50 RESOURCES CONCERNING GANG VIOLENCE.

51 S 1211. MODEL GANG VIOLENCE CURRICULUM; PREVENTION ACTIVITIES. 1. THE
52 DEPARTMENT, IN COLLABORATION WITH THE DIVISION OF CRIMINAL JUSTICE
53 SERVICES, SHALL DEVELOP A MODEL GANG VIOLENCE PREVENTION CURRICULUM FOR
54 USE IN SCHOOLS, AND SHALL PROVIDE FOR AN INDEPENDENT BIENNIAL EVALUATION
55 OF THE CURRICULUM AND OF PUPIL OUTCOMES.

2. IN DEVELOPING THE CURRICULUM, THE DEPARTMENT, IN CONJUNCTION WITH THE DIVISION OF CRIMINAL JUSTICE SERVICES, SHALL ASSESS THE CURRENT STATUS OF SCHOOL CRIME COMMITTED ON SCHOOL CAMPUSES AND AT SCHOOL-RELATED FUNCTIONS, AND IDENTIFY APPROPRIATE STRATEGIES AND PROGRAMS THAT WILL PROVIDE OR MAINTAIN A HIGH LEVEL OF SCHOOL SAFETY AND ADDRESS THE SCHOOL'S PROCEDURES FOR COMPLYING WITH EXISTING LAWS RELATED TO SCHOOL SAFETY.

3. UPON REQUEST, THE DEPARTMENT SHALL ASSIST SCHOOL DISTRICTS IN DEVELOPING COMPREHENSIVE GANG VIOLENCE AND DRUG AND ALCOHOL ABUSE PREVENTION IN-SERVICE TRAINING PROGRAMS. SUCH GUIDELINES SHALL TO THE MAXIMUM EXTENT POSSIBLE ENCOURAGE SCHOOL DISTRICTS TO SHARE RESOURCES, DEVELOP JOINT AND COLLABORATIVE PROGRAMS, AND COORDINATE EFFORTS WITH OTHER EXISTING STATE AND LOCAL PROGRAMS.

4. THE DEPARTMENT SHALL PREPARE AND DISTRIBUTE TO SCHOOL DISTRICTS GUIDELINES FOR INCORPORATING IN-SERVICE TRAINING IN GANG VIOLENCE AND DRUG AND ALCOHOL ABUSE PREVENTION FOR TEACHERS, COUNSELORS, ATHLETIC DIRECTORS, SCHOOL BOARD MEMBERS, AND OTHER EDUCATIONAL PERSONNEL INTO THE STAFF DEVELOPMENT PLANS OF ALL SCHOOL DISTRICTS AND COUNTY OFFICES OF EDUCATION. SUCH TRAINING SHALL INCLUDE INSTRUCTION TO TEACHERS AND ADMINISTRATORS ON THE SUBTLETIES OF IDENTIFYING CONSTANTLY CHANGING GANG REGALIA AND GANG AFFILIATION.

S 1212. DRESS CODE CONCERNING GANG-RELATED APPAREL. ANY OTHER PROVISION OF ANY OTHER LAW TO THE CONTRARY NOTWITHSTANDING, THE GOVERNING BOARD OF ANY SCHOOL DISTRICT MAY ADOPT OR RESCIND A REASONABLE DRESS CODE POLICY THAT REQUIRES PUPILS TO WEAR A SCHOOLWIDE UNIFORM OR PROHIBITS PUPILS FROM WEARING "GANG-RELATED APPAREL" IF THE GOVERNING BOARD OF THE SCHOOL DISTRICT APPROVES A PLAN THAT MAY BE INITIATED BY AN INDIVIDUAL SCHOOL'S PRINCIPAL, STAFF, AND PARENTS AND DETERMINES THAT THE POLICY IS NECESSARY FOR THE HEALTH AND SAFETY OF THE SCHOOL ENVIRONMENT. INDIVIDUAL SCHOOLS MAY INCLUDE THE REASONABLE DRESS CODE POLICY. THE GOVERNING BOARD SHALL PROVIDE A METHOD WHEREBY PARENTS MAY CHOOSE NOT TO HAVE THEIR CHILDREN COMPLY WITH AN ADOPTED SCHOOL UNIFORM POLICY. NO PUPIL SHALL BE PENALIZED ACADEMICALLY OR OTHERWISE DISCRIMINATED AGAINST NOR DENIED ATTENDANCE TO SCHOOL IF THE PUPIL'S PARENTS CHOSE NOT TO HAVE THE PUPIL COMPLY WITH THE SCHOOL UNIFORM POLICY. THE GOVERNING BOARD SHALL CONTINUE TO HAVE RESPONSIBILITY FOR THE APPROPRIATE EDUCATION OF SUCH PUPILS. THE COMMISSIONER SHALL ADOPT RULES AND REGULATIONS TO CARRY OUT THE INTENT AND PURPOSES OF THIS SECTION.

S 1213. CRIMINAL STREET GANG AND VIOLENCE PREVENTION PARTNERSHIP PROGRAM. 1. THE DEPARTMENT, IN COLLABORATION WITH THE DIVISION OF CRIMINAL JUSTICE SERVICES, SHALL EVALUATE REQUESTS FOR FUNDING FOR PROGRAMS FROM THE CRIMINAL STREET GANG PREVENTION FUND, ESTABLISHED PURSUANT TO SECTION NINETY-SEVEN-JJJJ OF THE STATE FINANCE LAW. ALL SUCH FUNDS SHALL BE DISBURSED TO NON-PROFIT AGENCIES THAT COMPLY WITH THE PROGRAM REQUIREMENTS AND WHO MEET FUNDING CRITERIA.

2. GRANTS DISBURSED PURSUANT TO THIS SECTION MAY ENHANCE BUT SHALL NOT SUPPLANT LOCAL, STATE, OR FEDERAL FUNDS THAT WOULD OTHERWISE BE AVAILABLE FOR THE PREVENTION OR INTERVENTION OF YOUTH INVOLVEMENT IN GANGS, CRIME, OR VIOLENCE. GRANTS SHALL BE AWARDED PURSUANT TO A REQUEST FOR PROPOSALS THAT INFORMS APPLICANTS OF THE PURPOSES AND AVAILABILITY OF FUNDS TO BE AWARDED AND SOLICITS PROPOSALS TO PROVIDE SERVICES CONSISTENT WITH THIS ARTICLE. AGENCIES RECEIVING FUNDS PURSUANT TO THIS SECTION SHALL UTILIZE THE FUNDS TO PROVIDE SERVICES AND ACTIVITIES DESIGNED TO PREVENT OR DETER AT-RISK YOUTH FROM PARTICIPATING IN GANGS, CRIMINAL ACTIVITY, OR VIOLENT BEHAVIOR. SUCH FUNDS MAY NOT BE USED FOR SERVICES OR ACTIVITIES RELATED TO SUPPRESSION, LAW ENFORCEMENT, INCARCERATION, OR

1 OTHER PURPOSES NOT RELATED TO THE PREVENTION AND DETERRENCE OF GANGS,
2 CRIME, AND VIOLENCE. NOTHING IN THIS SUBDIVISION SHALL PREVENT FUNDS
3 FROM BEING USED FOR VIOLENCE PREVENTION AND GANG CRIME DETERRENCE
4 SERVICES PROVIDED BY NONPROFIT AGENCIES TO YOUTHS INCARCERATED IN JUVENILE
5 DETENTION FACILITIES. SERVICES AND ACTIVITIES PROVIDED WITH FUNDS
6 UNDER THIS SECTION SHALL BE USED FOR AT-RISK YOUTH WHO ARE DEFINED AS
7 PERSONS FROM AGE FIVE TO TWENTY YEARS OF AGE AND WHO ARE CURRENT OR
8 FORMER GANG MEMBERS, OR WHO HAVE ONE OR MORE FAMILY MEMBERS LIVING AT
9 HOME WHO ARE CURRENT OR FORMER MEMBERS OF A GANG.

10 3. THE DEPARTMENT SHALL CONDUCT AN EVALUATION OF THE CRIMINAL STREET
11 GANG AND VIOLENCE PREVENTION PARTNERSHIP PROGRAM AFTER TWO YEARS OF
12 PROGRAM OPERATION AND EACH YEAR THEREAFTER, TO ASSESS THE EFFECTIVENESS
13 AND RESULTS OF THE PROGRAM. THE EVALUATION SHALL BE CONDUCTED BY STAFF
14 OR AN INDEPENDENT BODY THAT HAS EXPERIENCE IN EVALUATING PROGRAMS OPER-
15 ATED BY COMMUNITY-BASED ORGANIZATIONS OR NONPROFIT AGENCIES. AFTER TWO
16 YEARS OF PROGRAM OPERATION, AND EACH YEAR THEREAFTER, THE DEPARTMENT
17 SHALL PREPARE AND SUBMIT AN ANNUAL REPORT TO THE LEGISLATURE DESCRIBING
18 IN DETAIL THE OPERATION OF THE PROGRAM AND THE RESULTS OBTAINED.

19 S 10. The executive law is amended by adding a new section 837-s to
20 read as follows:

21 S 837-S. OFFICE OF CRIMINAL STREET GANG AND YOUTH VIOLENCE PREVENTION.
22 1. ESTABLISHMENT. THERE IS HEREBY ESTABLISHED WITHIN THE DIVISION OF
23 CRIMINAL JUSTICE SERVICES THE OFFICE OF CRIMINAL STREET GANGS AND YOUTH
24 VIOLENCE (HEREINAFTER IN THIS SECTION, THE "OFFICE"). THE HEAD OF SUCH
25 OFFICE SHALL BE THE DIRECTOR OF CRIMINAL STREET GANG AND YOUTH VIOLENCE
26 PREVENTION (HEREINAFTER IN THIS SECTION, THE "DIRECTOR").

27 2. DUTIES AND RESPONSIBILITIES. THE OFFICE SHALL BE RESPONSIBLE FOR
28 IDENTIFYING AND EVALUATING STATE, LOCAL, AND FEDERAL GANG AND YOUTH
29 VIOLENCE SUPPRESSION, INTERVENTION, AND PREVENTION PROGRAMS AND STRATE-
30 GIES, ALONG WITH FUNDING FOR THOSE EFFORTS. THE DIRECTOR SHALL BE
31 RESPONSIBLE FOR MONITORING, ASSESSING, AND COORDINATING THE STATE'S
32 PROGRAMS, STRATEGIES, AND FUNDING THAT ADDRESS GANG AND YOUTH VIOLENCE
33 IN A MANNER THAT MAXIMIZES THE EFFECTIVENESS AND COORDINATION OF THOSE
34 PROGRAMS, STRATEGIES, AND RESOURCES. THE DIRECTOR SHALL COMMUNICATE WITH
35 LOCAL AGENCIES AND PROGRAMS IN AN EFFORT TO PROMOTE THE BEST PRACTICES
36 FOR ADDRESSING GANG AND YOUTH VIOLENCE THROUGH SUPPRESSION, INTER-
37 VENTION, AND PREVENTION. OFFICE ACTIVITIES AS TO SUCH MATTERS SHALL
38 INCLUDE, BUT NOT BE LIMITED TO:

39 (A) DEVELOPING RECOMMENDATIONS TO DEFINE ITS MISSION, ROLE, AND
40 RESPONSIBILITIES AS A STATEWIDE ENTITY DEDICATED TO REDUCING VIOLENCE
41 AND THE PROLIFERATION OF GANGS AND GANG VIOLENCE PURSUANT TO THIS
42 SECTION. IN DEVELOPING RECOMMENDATIONS, THE OFFICE SHALL COLLABORATE
43 WITH STATE AND LOCAL STAKEHOLDERS, INCLUDING, BUT NOT LIMITED TO,
44 NOT-FOR-PROFIT ORGANIZATIONS SERVING AT-RISK POPULATIONS AND NEIGHBOR-
45 HOODS, LAW ENFORCEMENT, EDUCATORS, THE COURTS, POLICY EXPERTS AND SCHOL-
46 ARS WITH EXPERTISE IN THE AREA OF CRIMINAL STREET GANGS, AND LOCAL POLI-
47 CYMAKERS.

48 (B) IN COLLABORATION WITH STATE AND LOCAL STAKEHOLDERS, DEFINING
49 ACTIVITIES INCLUDING:

50 (I) THE COLLECTION AND ANALYSIS OF DATA ON GANG MEMBERSHIP STATEWIDE
51 AND THE EFFECTIVENESS OF VARIOUS GANG PREVENTION EFFORTS.

52 (II) THE DEVELOPMENT OF RELIABLE AND ACCURATE SOURCES OF DATA TO MEAS-
53 URE THE SCALE AND CHARACTERISTICS OF CRIMINAL STREET GANG PROBLEMS.

54 (III) THE DEVELOPMENT OF A CLEARINGHOUSE FOR RESEARCH ON CRIMINAL
55 STREET GANGS, AT-RISK YOUTH, AND PREVENTION AND INTERVENTION PROGRAMS IN
56 ORDER TO IDENTIFY BEST PRACTICES AND EVIDENCE-BASED PROGRAMMING, AS WELL

1 AS UNSUCCESSFUL PRACTICES, IN ORDER TO PROMOTE EFFECTIVE STRATEGIES FOR
2 REDUCING CRIMINAL STREET GANG INVOLVEMENT AND CRIMINAL STREET GANG
3 VIOLENCE.

4 (IV) THE BEST METHODS TO ASSIST STATE AND LOCAL GOVERNMENTAL AND OTHER
5 ORGANIZATIONS IN DEVELOPING CRIMINAL STREET GANG VIOLENCE AND CRIMINAL
6 STREET GANG PREVENTION STRATEGIES, INCLUDING BUILT-IN EVALUATION COMPO-
7 NENTS.

8 (V) THE DEVELOPMENT OF SUSTAINED COORDINATION MECHANISMS AMONG STATE,
9 LOCAL, AND REGIONAL ENTITIES.

10 (VI) THE IDENTIFICATION OF AVAILABLE OR NEEDED FEDERAL, STATE,
11 REGIONAL, LOCAL, AND PRIVATE FUNDING RESOURCES.

12 (VII) THE BEST MEANS TO PROVIDE AND PROMOTE PUBLIC EDUCATION ON EFFEC-
13 TIVE PROGRAMS, MODELS, AND STRATEGIES FOR THE CONTROL OF VIOLENCE AND
14 SERVING AS A CLEARINGHOUSE FOR INFORMATION ON CRIMINAL STREET GANG
15 VIOLENCE PREVENTION ISSUES, PROGRAMS, RESOURCES, AND RESEARCH.

16 (VIII) MEANS OF PROVIDING OR PROMOTING TRAINING AND TECHNICAL ASSIST-
17 ANCE TO HELP BUILD THE CAPACITY OF ORGANIZATIONS, COMMUNITIES, AND LOCAL
18 GOVERNMENT TO DEVELOP, IMPLEMENT, AND EVALUATE CRIMINAL STREET GANG
19 VIOLENCE PREVENTION PROGRAMS.

20 (IX) PROVIDING INFORMATION AND GUIDANCE TO STATE AND LOCAL GOVERN-
21 MENTAL AND NON-GOVERNMENTAL ENTITIES ON ACCESSING STATE AND FEDERAL
22 RESOURCES TO PREVENT CRIMINAL STREET GANG VIOLENCE.

23 (X) FACILITATING GREATER INTEGRATION BETWEEN EXISTING ENTITIES WITH
24 RESPECT TO CRIMINAL STREET GANG PREVENTION EFFORTS.

25 3. REPORT. THE OFFICE SHALL PUBLISH A REPORT OF ITS POLICY RECOMMENDA-
26 TIONS AND ACTIVITIES, WHICH IT SHALL PROVIDE TO THE LEGISLATURE AND THE
27 GOVERNOR, AND MAKE AVAILABLE TO THE PUBLIC ONLINE. THE OFFICE SHALL
28 ANNUALLY UPDATE SUCH REPORT, AND INCLUDE RECOMMENDATIONS FOR MORE EFFEC-
29 TIVE ACTION, PROGRAM CHANGES, AND STATUTORY CHANGES TO BETTER PREVENT
30 THE PROLIFERATION OF CRIMINAL STREET GANGS AND CRIMINAL STREET GANG
31 VIOLENCE.

32 4. CURRICULUM. THE OFFICE IN COLLABORATION WITH THE DEPARTMENT OF
33 EDUCATION, SHALL ESTABLISH CURRICULUM FOR THE ANTI-GANG VIOLENCE PARENT-
34 ING CLASSES REQUIRED PURSUANT TO THIS SECTION, INCLUDING, BUT NOT LIMIT-
35 ED TO, ALL OF THE FOLLOWING CRITERIA:

36 (A) A MEETING IN WHICH THE FAMILIES OF INNOCENT VICTIMS OF CRIMINAL
37 STREET GANG VIOLENCE SHARE THEIR EXPERIENCES.

38 (B) A MEETING IN WHICH THE SURVIVING PARENTS OF A DECEASED CRIMINAL
39 STREET GANG MEMBER SHARE THEIR EXPERIENCE.

40 (C) HOW TO IDENTIFY CRIMINAL STREET GANG AND DRUG-RELATED ACTIVITY IN
41 CHILDREN.

42 (D) HOW TO COMMUNICATE EFFECTIVELY WITH ADOLESCENTS.

43 (E) AN OVERVIEW OF PERTINENT SUPPORT AGENCIES AND ORGANIZATIONS FOR
44 INTERVENTION, EDUCATION, JOB TRAINING, AND POSITIVE RECREATIONAL ACTIV-
45 ITIES, INCLUDING TELEPHONE NUMBERS, LOCATIONS, AND CONTACT NAMES OF
46 THOSE AGENCIES AND ORGANIZATIONS.

47 (F) THE POTENTIAL FINES AND PERIODS OF INCARCERATION FOR THE COMMIS-
48 SION OF ADDITIONAL CRIMINAL STREET GANG-RELATED OFFENSES.

49 (G) THE POTENTIAL PENALTIES THAT MAY BE IMPOSED UPON PARENTS FOR
50 AIDING AND ABETTING CRIMES COMMITTED BY THEIR CHILDREN.

51 5. CRIMINAL STREET GANG DATABASE. IN DEVELOPING AND MAINTAINING THE
52 STATEWIDE CRIMINAL STREET GANG REGISTRATION SYSTEM REQUIRED PURSUANT TO
53 ARTICLE SIX-D OF THE CORRECTION LAW, THE DIVISION OF CRIMINAL JUSTICE
54 SERVICES, THROUGH THE OFFICE MAY ESTABLISH A CRIMINAL STREET GANG DATA-
55 BASE. IN DOING DO, THE DIVISION OF CRIMINAL JUSTICE SERVICES SHALL:

1 (A) CREATE A UNIFORM REPORTING FORMAT FOR THE ENTRY OF PERTINENT
2 INFORMATION REGARDING THE REPORT OF AN ARRESTED CRIMINAL STREET GANG
3 MEMBER OR ORGANIZED CRIMINAL STREET GANG AFFILIATES INTO THE DATABASE.

4 (B) NOTIFY ALL STATE AND LOCAL LAW ENFORCEMENT AGENCIES THAT REPORTS
5 OF ARRESTED CRIMINAL STREET GANG MEMBERS OR ORGANIZED CRIMINAL STREET
6 GANG AFFILIATES SHALL BE ENTERED INTO THE STATEWIDE CRIMINAL STREET GANG
7 DATABASE AS SOON AS THE MINIMUM LEVEL OF DATA, TO BE SPECIFIED BY THE
8 DIVISION OF CRIMINAL JUSTICE SERVICES, IS AVAILABLE TO THE REPORTING
9 AGENCY.

10 (C) DEVELOP AND IMPLEMENT A POLICY FOR NOTIFYING STATE AND LOCAL LAW
11 ENFORCEMENT AGENCIES OF THE EMERGENCE OF NEW ORGANIZED CRIMINAL STREET
12 GANGS OR THE CHANGE OF A NAME OR OTHER IDENTIFYING INFORMATION SIGN OR
13 SYMBOL OF AN EXISTING ORGANIZED CRIMINAL STREET GANG.

14 (D) COMPILE AND RETAIN INFORMATION REGARDING ORGANIZED CRIMINAL STREET
15 GANGS AND THEIR MEMBERS AND AFFILIATES IN A MANNER THAT ALLOWS THE
16 INFORMATION TO BE USED BY STATE AND LOCAL LAW ENFORCEMENT AGENCIES, AND
17 OTHER STATE AGENCIES.

18 (E) COMPILE AND MAINTAIN AN HISTORIC DATA REPOSITORY RELATING TO
19 ORGANIZED CRIMINAL STREET GANGS AND THEIR MEMBERS AND AFFILIATES IN
20 ORDER TO DEVELOP AND IMPROVE TECHNIQUES UTILIZED BY LAW ENFORCEMENT
21 AGENCIES AND PROSECUTORS IN THE INVESTIGATION, APPREHENSION, AND PROSE-
22 CUTION OF MEMBERS AND AFFILIATES OF ORGANIZED CRIMINAL STREET GANGS.

23 (F) CREATE A QUALITY CONTROL PROGRAM REGARDING CONFIRMATION OF ORGAN-
24 IZED CRIMINAL STREET GANG MEMBERSHIP AND ORGANIZED CRIMINAL STREET GANG
25 AFFILIATION DATA, TIMELINESS AND ACCURACY OF INFORMATION ENTERED INTO
26 THE STATEWIDE CRIMINAL STREET GANG DATABASE AND PERFORMANCE AUDITS OF
27 ALL AGENCIES ENTERING INFORMATION.

28 6. PILOT PROGRAM. THE DIVISION OF CRIMINAL JUSTICE SERVICES THROUGH
29 THE OFFICE, AND IN COOPERATION WITH THE DEPARTMENT OF CORRECTIONAL
30 ALTERNATIVES, SHALL ESTABLISH A PILOT PROGRAM UNDER WHICH LEADERS OF
31 CRIMINAL STREET GANGS MAY BE TRANSFERRED TO PRISONS IN OTHER STATES
32 PURSUANT TO SECTION ONE HUNDRED THREE OF THE CORRECTION LAW. THE DIVI-
33 SION OF CRIMINAL JUSTICE SERVICES SHALL REPORT BIENNIALY ON THE SUCCESS
34 OF SUCH PROGRAM, WITH RECOMMENDATIONS FOR CHANGE, TO THE LEGISLATURE AND
35 THE GOVERNOR.

36 S 11. Subdivision (f) of section 10.03 of the mental hygiene law, as
37 added by chapter 7 of the laws of 2007, is amended to read as follows:

38 (f) "Designated felony" means any felony offense defined by any of the
39 following provisions of the penal law: assault in the second degree as
40 defined in section 120.05, assault in the first degree as defined in
41 section 120.10, gang assault in the second degree as defined in section
42 [120.06] 495.07, gang assault in the first degree as defined in section
43 [120.07] 495.08, stalking in the first degree as defined in section
44 120.60, manslaughter in the second degree as defined in subdivision one
45 of section 125.15, manslaughter in the first degree as defined in
46 section 125.20, murder in the second degree as defined in section
47 125.25, aggravated murder as defined in section 125.26, murder in the
48 first degree as defined in section 125.27, kidnapping in the second
49 degree as defined in section 135.20, kidnapping in the first degree as
50 defined in section 135.25, burglary in the third degree as defined in
51 section 140.20, burglary in the second degree as defined in section
52 140.25, burglary in the first degree as defined in section 140.30, arson
53 in the second degree as defined in section 150.15, arson in the first
54 degree as defined in section 150.20, robbery in the third degree as
55 defined in section 160.05, robbery in the second degree as defined in
56 section 160.10, robbery in the first degree as defined in section

1 160.15, promoting prostitution in the second degree as defined in
2 section 230.30, promoting prostitution in the first degree as defined in
3 section 230.32, compelling prostitution as defined in section 230.33,
4 disseminating indecent material to minors in the first degree as defined
5 in section 235.22, use of a child in a sexual performance as defined in
6 section 263.05, promoting an obscene sexual performance by a child as
7 defined in section 263.10, promoting a sexual performance by a child as
8 defined in section 263.15, or any felony attempt or conspiracy to commit
9 any of the foregoing offenses.

10 S 12. Paragraph (a) of subdivision 2 of section 60.07 of the penal
11 law, as added by chapter 148 of the laws of 2000, is amended to read as
12 follows:

13 (a) the term "specified offense" shall mean an attempt to commit
14 murder in the second degree as defined in section 125.25 of this chap-
15 ter, gang assault in the first degree as defined in section [120.07]
16 495.08 of this chapter, gang assault in the second degree as defined in
17 section [120.06] 495.07 of this chapter, assault in the first degree as
18 defined in section 120.10 of this chapter, manslaughter in the first
19 degree as defined in section 125.20 of this chapter, manslaughter in the
20 second degree as defined in section 125.15 of this chapter, robbery in
21 the first degree as defined in section 160.15 of this chapter, robbery
22 in the second degree as defined in section 160.10 of this chapter, or
23 the attempted commission of any of the following offenses: gang assault
24 in the first degree as defined in section 120.07, assault in the first
25 degree as defined in section 120.10, manslaughter in the first degree as
26 defined in section 125.20 or robbery in the first degree as defined in
27 section 160.15;

28 S 13. Paragraphs (a) and (b) of subdivision 1 of section 70.02 of the
29 penal law, paragraph (a) as amended by chapter 320 of the laws of 2006
30 and paragraph (b) as separately amended by chapters 764 and 765 of the
31 laws of 2005, are amended to read as follows:

32 (a) Class B violent felony offenses: an attempt to commit the class
33 A-I felonies of murder in the second degree as defined in section
34 125.25, kidnapping in the first degree as defined in section 135.25, and
35 arson in the first degree as defined in section 150.20; manslaughter in
36 the first degree as defined in section 125.20, aggravated manslaughter
37 in the first degree as defined in section 125.22, rape in the first
38 degree as defined in section 130.35, criminal sexual act in the first
39 degree as defined in section 130.50, aggravated sexual abuse in the
40 first degree as defined in section 130.70, course of sexual conduct
41 against a child in the first degree as defined in section 130.75;
42 assault in the first degree as defined in section 120.10, kidnapping in
43 the second degree as defined in section 135.20, burglary in the first
44 degree as defined in section 140.30, arson in the second degree as
45 defined in section 150.15, robbery in the first degree as defined in
46 section 160.15, incest in the first degree as defined in section 255.27,
47 criminal possession of a weapon in the first degree as defined in
48 section 265.04, criminal use of a firearm in the first degree as defined
49 in section 265.09, criminal sale of a firearm in the first degree as
50 defined in section 265.13, aggravated assault upon a police officer or a
51 peace officer as defined in section 120.11, gang assault in the first
52 degree as defined in section [120.07] 495.08, intimidating a victim or
53 witness in the first degree as defined in section 215.17, hindering
54 prosecution of terrorism in the first degree as defined in section
55 490.35, criminal possession of a chemical weapon or biological weapon in
56 the second degree as defined in section 490.40, and criminal use of a

1 chemical weapon or biological weapon in the third degree as defined in
2 section 490.47.

3 (b) Class C violent felony offenses: an attempt to commit any of the
4 class B felonies set forth in paragraph (a); aggravated criminally
5 negligent homicide as defined in section 125.11, aggravated manslaughter
6 in the second degree as defined in section 125.21, aggravated sexual
7 abuse in the second degree as defined in section 130.67, assault on a
8 peace officer, police officer, fireman or emergency medical services
9 professional as defined in section 120.08, gang assault in the second
10 degree as defined in section [120.06] 495.07, burglary in the second
11 degree as defined in section 140.25, robbery in the second degree as
12 defined in section 160.10, criminal possession of a weapon in the second
13 degree as defined in section 265.03, criminal use of a firearm in the
14 second degree as defined in section 265.08, criminal sale of a firearm
15 in the second degree as defined in section 265.12, criminal sale of a
16 firearm with the aid of a minor as defined in section 265.14, soliciting
17 or providing support for an act of terrorism in the first degree as
18 defined in section 490.15, hindering prosecution of terrorism in the
19 second degree as defined in section 490.30, and criminal possession of a
20 chemical weapon or biological weapon in the third degree as defined in
21 section 490.37.

22 S 14. Subdivision 2 of section 130.91 of the penal law, as added by
23 chapter 7 of the laws of 2007, is amended to read as follows:

24 2. A "specified offense" is a felony offense defined by any of the
25 following provisions of this chapter: assault in the second degree as
26 defined in section 120.05, assault in the first degree as defined in
27 section 120.10, gang assault in the second degree as defined in section
28 [120.06] 495.07, gang assault in the first degree as defined in section
29 [120.07] 495.08, stalking in the first degree as defined in section
30 120.60, manslaughter in the second degree as defined in subdivision one
31 of section 125.15, manslaughter in the first degree as defined in
32 section 125.20, murder in the second degree as defined in section
33 125.25, aggravated murder as defined in section 125.26, murder in the
34 first degree as defined in section 125.27, kidnapping in the second
35 degree as defined in section 135.20, kidnapping in the first degree as
36 defined in section 135.25, burglary in the third degree as defined in
37 section 140.20, burglary in the second degree as defined in section
38 140.25, burglary in the first degree as defined in section 140.30, arson
39 in the second degree as defined in section 150.15, arson in the first
40 degree as defined in section 150.20, robbery in the third degree as
41 defined in section 160.05, robbery in the second degree as defined in
42 section 160.10, robbery in the first degree as defined in section
43 160.15, promoting prostitution in the second degree as defined in
44 section 230.30, promoting prostitution in the first degree as defined in
45 section 230.32, compelling prostitution as defined in section 230.33,
46 disseminating indecent material to minors in the first degree as defined
47 in section 235.22, use of a child in a sexual performance as defined in
48 section 263.05, promoting an obscene sexual performance by a child as
49 defined in section 263.10, promoting a sexual performance by a child as
50 defined in section 263.15, or any felony attempt or conspiracy to commit
51 any of the foregoing offenses.

52 S 15. This act shall take effect on the first of January next succeed-
53 ing the date on which it shall have become a law.