

6728

2011-2012 Regular Sessions

I N A S S E M B L Y

March 25, 2011

Introduced by M. of A. TENNEY -- read once and referred to the Committee
on Health

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

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

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

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

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1 information under specified circumstances. During a public health emer-
2 gency, state and local officials are authorized to use and appropriate
3 property as necessary for the care, treatment and housing of patients,
4 and to destroy contaminated facilities or materials. They are also
5 empowered to provide care, testing and treatment, and vaccination to
6 persons who are ill or who have been exposed to a contagious disease,
7 and to separate affected individuals from the population at large to
8 interrupt disease transmission.

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

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

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

36 S 2. The executive law is amended by adding two new sections 29-i and
37 29-j to read as follows:

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

54 2. PUBLIC HEALTH EMERGENCY PLAN. (A) CONTENT. THE PUBLIC HEALTH EMER-
55 GENCY PLANNING COMMISSION SHALL WITHIN SIX MONTHS OF ITS APPOINTMENT
56 DELIVER TO THE GOVERNOR, THE LEGISLATURE AND THE GENERAL PUBLIC A PLAN

FOR RESPONDING TO A PUBLIC HEALTH EMERGENCY, WHICH SHALL INCLUDE GUIDELINES FOR:

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

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

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

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

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

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

(7) THE VACCINATION OF PERSONS;

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

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

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

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

(12) ENSURING THAT EACH MUNICIPALITY IDENTIFIES:

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

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

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

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

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

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

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

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

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

S 29-J. DECLARING A STATE OF PUBLIC HEALTH EMERGENCY. 1. DECLARATION. A STATE OF PUBLIC HEALTH EMERGENCY MAY BE DECLARED BY THE GOVERNOR UPON THE OCCURRENCE OF A "PUBLIC HEALTH EMERGENCY" AS DEFINED IN SUBDIVISION THIRTEEN OF SECTION ONE THOUSAND THREE OF THE PUBLIC HEALTH LAW. PRIOR TO SUCH A DECLARATION, THE GOVERNOR SHALL CONSULT WITH THE PUBLIC HEALTH AUTHORITY AND MAY CONSULT WITH ANY ADDITIONAL PUBLIC AND OTHER EXPERTS AS NEEDED. THE GOVERNOR MAY ACT TO DECLARE A PUBLIC HEALTH EMERGENCY WITHOUT CONSULTING WITH THE PUBLIC HEALTH AUTHORITY OR OTHER EXPERTS WHEN THE SITUATION CALLS FOR PROMPT AND TIMELY ACTION.

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

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

4 (B) THE POLITICAL SUBDIVISIONS OR GEOGRAPHIC AREAS SUBJECT TO SUCH
5 DECLARATION;

6 (C) THE CONDITIONS THAT HAVE BROUGHT ABOUT THE PUBLIC HEALTH EMERGEN-
7 CY;

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

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

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

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

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

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

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

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

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

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

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

52 (VII) SUCH SUSPENSIONS SHALL BE EFFECTIVE FROM THE TIME AND IN THE
53 MANNER PRESCRIBED IN SUCH ORDERS AND SHALL BE PUBLISHED AS SOON AS PRAC-
54 TICABLE IN THE STATE BULLETIN;

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

4 (3) TRANSFER THE DIRECTION, PERSONNEL OR FUNCTIONS OF STATE DEPART-
5 MENTS AND AGENCIES TO PERFORM OR FACILITATE RESPONSE AND RECOVERY
6 PROGRAMS REGARDING THE PUBLIC HEALTH EMERGENCY;

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

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

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

15 (B) COORDINATION. THE PUBLIC HEALTH AUTHORITY SHALL COORDINATE ALL
16 MATTERS PERTAINING TO THE PUBLIC HEALTH EMERGENCY RESPONSE OF THE STATE.
17 THE PUBLIC HEALTH AUTHORITY SHALL HAVE PRIMARY JURISDICTION, RESPONSI-
18 BILITY, AND AUTHORITY FOR:

19 (1) PLANNING AND EXECUTING PUBLIC HEALTH EMERGENCY ASSESSMENT, MITI-
20 GATION, PREPAREDNESS RESPONSE AND RECOVERY FOR THE STATE;

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

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

25 (4) COORDINATING RECOVERY OPERATIONS AND MITIGATION INITIATIVES SUBSE-
26 QUENT TO THE PUBLIC HEALTH EMERGENCY; AND

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

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

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

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

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

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

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

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

ARTICLE 10

STATE EMERGENCY HEALTH POWERS ACT

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

TITLE I

FINDINGS, PURPOSES AND DEFINITIONS

- SECTION 1000. SHORT TITLE.
1001. LEGISLATIVE FINDINGS.
1002. PURPOSES.
1003. DEFINITIONS.

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

S 1001. LEGISLATIVE FINDINGS. THE LEGISLATURE FINDS THAT:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 7. "INFECTIOUS WASTE" IS:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 TITLE II

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

33 SECTION 1010. EMERGENCY MEASURES CONCERNING FACILITIES AND MATERIALS.

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

36 1012. SAFE DISPOSAL OF INFECTIOUS WASTE.

37 1013. SAFE DISPOSAL OF HUMAN REMAINS.

38 1014. CONTROL OF HEALTH CARE SUPPLIES.

39 1015. COMPENSATION.

40 1016. DESTRUCTION OF PROPERTY.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TITLE III

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

SECTION 1020. PROTECTION OF PERSONS.

1021. MEDICAL EXAMINATIONS AND TESTING.

1022. VACCINATION AND TREATMENT.

1023. ISOLATION AND QUARANTINE.

1024. PROCEDURES FOR ISOLATION AND QUARANTINE.

1025. COLLECTION OF LABORATORY SPECIMENS; PERFORMANCE OF TESTS.

1026. ACCESS AND DISCLOSURE OF PROTECTED HEALTH INFORMATION.

1027. LICENSING AND APPOINTMENT OF HEALTH PERSONNEL.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. MARKING. ALL SPECIMENS SHALL BE CLEARLY MARKED.

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

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

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

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

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

(B) CONDUCT EPIDEMIOLOGIC RESEARCH; OR

(C) INVESTIGATE THE CAUSES OF TRANSMISSION.

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

(A) DIRECTLY TO THE INDIVIDUAL;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 TITLE IV

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

46 1031. ACCESS TO MENTAL HEALTH SUPPORT PERSONNEL.

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

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

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

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

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

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

10 TITLE V
11 MISCELLANEOUS

12 SECTION 1040. TITLES.

13 1041. RULES AND REGULATIONS.

14 1042. FINANCING AND EXPENSES.

15 1043. LIABILITY.

16 1044. COMPENSATION.

17 1045. SEVERABILITY.

18 1046. SAVING CLAUSE.

19 1047. CONFLICTING LAWS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 ARTICLE 280

14 OFFENSES RELATED TO AGRICULTURE

15 SECTION 280.00 DEFINITIONS.

16 280.05 AGRICULTURAL ADULTERATION IN THE SECOND DEGREE.

17 280.10 AGRICULTURAL ADULTERATION IN THE FIRST DEGREE.

18 280.15 LIMITATIONS OF APPLICATION.

19 S 280.00 DEFINITIONS.

20 THE FOLLOWING DEFINITIONS ARE APPLICABLE TO THIS ARTICLE:

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

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

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

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

35 5. "PLANTS" MEANS TREES, SHRUBS, VINES, ANNUALS, BIENNIALS, PERENNI-
36 ALS, VEGETABLES, FORAGE AND CEREAL PLANTS AND ALL OTHER PLANT CUTTINGS,
37 GRAFTS, SCIONS, BUDS, AND OTHER PARTS OF PLANTS AND FRUIT, VEGETABLES,
38 ROOTS, BULBS, SEEDS, WOOD AND LUMBER.

39 S 280.05 AGRICULTURAL ADULTERATION IN THE SECOND DEGREE.

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

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

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

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

51 S 280.10 AGRICULTURAL ADULTERATION IN THE FIRST DEGREE.

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

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

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

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

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

11 AGRICULTURAL ADULTERATION IN THE FIRST DEGREE IS A CLASS C FELONY.
12 S 280.15 LIMITATIONS OF APPLICATION.

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

18 1. ANY PURPOSE SPECIFICALLY PERMITTED BY LAW;

19 2. ANY PEACEFUL PURPOSE RELATED TO AN INDUSTRIAL, AGRICULTURAL,
20 RESEARCH, MEDICAL, OR PHARMACEUTICAL ACTIVITY OR OTHER PEACEFUL ACTIV-
21 ITY;

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

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

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

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

32 S 490.27 CRIME OF CYBER-TERRORISM.

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

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

44 CRIME OF CYBER-TERRORISM IS A CLASS D FELONY.

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

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

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

53 S 156.26 Computer tampering in the second degree.

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

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

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

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

13 S 156.27 Computer tampering in the first degree.

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

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

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

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

31 S 10. Paragraph (a) of subdivision 1 of section 460.10 of the penal
32 law, as amended by chapter 405 of the laws of 2010, is amended to read
33 as follows:

34 (a) Any of the felonies set forth in this chapter: sections 120.05,
35 120.10 and 120.11 relating to assault; sections 121.12 and 121.13 relat-
36 ing to strangulation; sections 125.10 to 125.27 relating to homicide;
37 sections 130.25, 130.30 and 130.35 relating to rape; sections 135.20 and
38 135.25 relating to kidnapping; section 135.35 relating to labor traf-
39 ficking; section 135.65 relating to coercion; sections 140.20, 140.25
40 and 140.30 relating to burglary; sections 145.05, 145.10 and 145.12
41 relating to criminal mischief; article one hundred fifty relating to
42 arson; sections 155.30, 155.35, 155.40 and 155.42 relating to grand
43 larceny; sections 177.10, 177.15, 177.20 and 177.25 relating to health
44 care fraud; article one hundred sixty relating to robbery; sections
45 165.45, 165.50, 165.52 and 165.54 relating to criminal possession of
46 stolen property; sections 165.72 and 165.73 relating to trademark coun-
47 terfeiting; sections 170.10, 170.15, 170.25, 170.30, 170.40, 170.65 and
48 170.70 relating to forgery; sections 175.10, 175.25, 175.35, 175.40 and
49 210.40 relating to false statements; sections 176.15, 176.20, 176.25 and
50 176.30 relating to insurance fraud; sections 178.20 and 178.25 relating
51 to criminal diversion of prescription medications and prescriptions;
52 sections 180.03, 180.08, 180.15, 180.25, 180.40, 180.45, 200.00, 200.03,
53 200.04, 200.10, 200.11, 200.12, 200.20, 200.22, 200.25, 200.27, 215.00,
54 215.05 and 215.19 relating to bribery; sections 187.10, 187.15, 187.20
55 and 187.25 relating to residential mortgage fraud, sections 190.40 and
56 190.42 relating to criminal usury; section 190.65 relating to schemes to

1 defraud; sections 205.60 and 205.65 relating to hindering prosecution;
2 sections 210.10, 210.15, and 215.51 relating to perjury and contempt;
3 section 215.40 relating to tampering with physical evidence; sections
4 220.06, 220.09, 220.16, 220.18, 220.21, 220.31, 220.34, 220.39, 220.41,
5 220.43, 220.46, 220.55, 220.60 and 220.77 relating to controlled
6 substances; sections 225.10 and 225.20 relating to gambling; sections
7 230.25, 230.30, and 230.32 relating to promoting prostitution; section
8 230.34 relating to sex trafficking; sections 235.06, 235.07, 235.21 and
9 235.22 relating to obscenity; sections 263.10 and 263.15 relating to
10 promoting a sexual performance by a child; sections 265.02, 265.03,
11 265.04, 265.11, 265.12, 265.13 and the provisions of section 265.10
12 which constitute a felony relating to firearms and other dangerous weap-
13 ons; and sections 265.14 and 265.16 relating to criminal sale of a
14 firearm; and section 275.10, 275.20, 275.30, or 275.40 relating to unau-
15 thorized recordings; and sections 470.05, 470.10, 470.15 and 470.20
16 relating to money laundering; SECTIONS 470.21, 470.22, 470.23 AND 470.24
17 RELATING TO MONEY LAUNDERING IN SUPPORT OF TERRORISM; SECTIONS 470.30
18 AND 470.35 RELATING TO STRUCTURING; AND ARTICLE FOUR HUNDRED NINETY
19 RELATING TO TERRORISM; or

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

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

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

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

53 S 13. The penal law is amended by adding two new sections 470.30 and
54 470.35 to read as follows:

55 S 470.30 STRUCTURING IN THE SECOND DEGREE.

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

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

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

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

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

13 S 470.35 STRUCTURING IN THE FIRST DEGREE.

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

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

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

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

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

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

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

32 S 490.60 CRIMINAL FACILITATION OF TERRORISM.

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

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

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

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

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

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

S 490.65 CONSPIRACY TO COMMIT TERRORISM.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 1. AS USED IN THIS SECTION:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

S 690.05 Search warrants; in general; definition.

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

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

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

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

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

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

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

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

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

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

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

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

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

15 S 690.17 WARRANT OF ANOTHER STATE.

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

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

26 S 690.18 LIABILITY OF PROVIDERS.

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

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

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

50 S 27. Paragraph (b) of subdivision 8 of section 700.05 of the criminal
51 procedure law, as amended by chapter 405 of the laws of 2010, is amended
52 to read as follows:

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

1 ing a suicide attempt as defined in section 120.30 of the penal law,
2 strangulation in the second degree as defined in section 121.12 of the
3 penal law, strangulation in the first degree as defined in section
4 121.13 of the penal law, criminally negligent homicide as defined in
5 section 125.10 of the penal law, manslaughter in the second degree as
6 defined in section 125.15 of the penal law, manslaughter in the first
7 degree as defined in section 125.20 of the penal law, murder in the
8 second degree as defined in section 125.25 of the penal law, murder in
9 the first degree as defined in section 125.27 of the penal law, abortion
10 in the second degree as defined in section 125.40 of the penal law,
11 abortion in the first degree as defined in section 125.45 of the penal
12 law, rape in the third degree as defined in section 130.25 of the penal
13 law, rape in the second degree as defined in section 130.30 of the penal
14 law, rape in the first degree as defined in section 130.35 of the penal
15 law, criminal sexual act in the third degree as defined in section
16 130.40 of the penal law, criminal sexual act in the second degree as
17 defined in section 130.45 of the penal law, criminal sexual act in the
18 first degree as defined in section 130.50 of the penal law, sexual abuse
19 in the first degree as defined in section 130.65 of the penal law,
20 unlawful imprisonment in the first degree as defined in section 135.10
21 of the penal law, kidnapping in the second degree as defined in section
22 135.20 of the penal law, kidnapping in the first degree as defined in
23 section 135.25 of the penal law, labor trafficking as defined in section
24 135.35 of the penal law, custodial interference in the first degree as
25 defined in section 135.50 of the penal law, coercion in the first degree
26 as defined in section 135.65 of the penal law, criminal trespass in the
27 first degree as defined in section 140.17 of the penal law, burglary in
28 the third degree as defined in section 140.20 of the penal law, burglary
29 in the second degree as defined in section 140.25 of the penal law,
30 burglary in the first degree as defined in section 140.30 of the penal
31 law, criminal mischief in the third degree as defined in section 145.05
32 of the penal law, criminal mischief in the second degree as defined in
33 section 145.10 of the penal law, criminal mischief in the first degree
34 as defined in section 145.12 of the penal law, criminal tampering in the
35 first degree as defined in section 145.20 of the penal law, arson in the
36 fourth degree as defined in section 150.05 of the penal law, arson in
37 the third degree as defined in section 150.10 of the penal law, arson in
38 the second degree as defined in section 150.15 of the penal law, arson
39 in the first degree as defined in section 150.20 of the penal law, grand
40 larceny in the fourth degree as defined in section 155.30 of the penal
41 law, grand larceny in the third degree as defined in section 155.35 of
42 the penal law, grand larceny in the second degree as defined in section
43 155.40 of the penal law, grand larceny in the first degree as defined in
44 section 155.42 of the penal law, COMPUTER TAMPERING IN THE THIRD DEGREE
45 AS DEFINED IN SECTION 156.25 OF THE PENAL LAW, COMPUTER TAMPERING IN THE
46 SECOND DEGREE AS DEFINED IN SECTION 156.26 OF THE PENAL LAW, COMPUTER
47 TAMPERING IN THE FIRST DEGREE AS DEFINED IN SECTION 156.27 OF THE PENAL
48 LAW, health care fraud in the fourth degree as defined in section 177.10
49 of the penal law, health care fraud in the third degree as defined in
50 section 177.15 of the penal law, health care fraud in the second degree
51 as defined in section 177.20 of the penal law, health care fraud in the
52 first degree as defined in section 177.25 of the penal law, robbery in
53 the third degree as defined in section 160.05 of the penal law, robbery
54 in the second degree as defined in section 160.10 of the penal law,
55 robbery in the first degree as defined in section 160.15 of the penal
56 law, unlawful use of secret scientific material as defined in section

1 165.07 of the penal law, criminal possession of stolen property in the
2 fourth degree as defined in section 165.45 of the penal law, criminal
3 possession of stolen property in the third degree as defined in section
4 165.50 of the penal law, criminal possession of stolen property in the
5 second degree as defined by section 165.52 of the penal law, criminal
6 possession of stolen property in the first degree as defined by section
7 165.54 of the penal law, trademark counterfeiting in the second degree
8 as defined in section 165.72 of the penal law, trademark counterfeiting
9 in the first degree as defined in section 165.73 of the penal law,
10 forgery in the second degree as defined in section 170.10 of the penal
11 law, forgery in the first degree as defined in section 170.15 of the
12 penal law, criminal possession of a forged instrument in the second
13 degree as defined in section 170.25 of the penal law, criminal
14 possession of a forged instrument in the first degree as defined in
15 section 170.30 of the penal law, criminal possession of forgery devices
16 as defined in section 170.40 of the penal law, falsifying business
17 records in the first degree as defined in section 175.10 of the penal
18 law, tampering with public records in the first degree as defined in
19 section 175.25 of the penal law, offering a false instrument for filing
20 in the first degree as defined in section 175.35 of the penal law, issu-
21 ing a false certificate as defined in section 175.40 of the penal law,
22 criminal diversion of prescription medications and prescriptions in the
23 second degree as defined in section 178.20 of the penal law, criminal
24 diversion of prescription medications and prescriptions in the first
25 degree as defined in section 178.25 of the penal law, residential mort-
26 gage fraud in the fourth degree as defined in section 187.10 of the
27 penal law, residential mortgage fraud in the third degree as defined in
28 section 187.15 of the penal law, residential mortgage fraud in the
29 second degree as defined in section 187.20 of the penal law, residential
30 mortgage fraud in the first degree as defined in section 187.25 of the
31 penal law, escape in the second degree as defined in section 205.10 of
32 the penal law, escape in the first degree as defined in section 205.15
33 of the penal law, absconding from temporary release in the first degree
34 as defined in section 205.17 of the penal law, promoting prison contra-
35 band in the first degree as defined in section 205.25 of the penal law,
36 hindering prosecution in the second degree as defined in section 205.60
37 of the penal law, hindering prosecution in the first degree as defined
38 in section 205.65 of the penal law, sex trafficking as defined in
39 section 230.34 of the penal law, criminal possession of a weapon in the
40 third degree as defined in subdivisions two, three and five of section
41 265.02 of the penal law, criminal possession of a weapon in the second
42 degree as defined in section 265.03 of the penal law, criminal
43 possession of a weapon in the first degree as defined in section 265.04
44 of the penal law, manufacture, transport, disposition and defacement of
45 weapons and dangerous instruments and appliances defined as felonies in
46 subdivisions one, two, and three of section 265.10 of the penal law,
47 sections 265.11, 265.12 and 265.13 of the penal law, or prohibited use
48 of weapons as defined in subdivision two of section 265.35 of the penal
49 law, relating to firearms and other dangerous weapons, or failure to
50 disclose the origin of a recording in the first degree as defined in
51 section 275.40 of the penal law, AGRICULTURAL ADULTERATION IN THE SECOND
52 DEGREE AS DEFINED IN SECTION 280.05 OF THE PENAL LAW, OR AGRICULTURAL
53 ADULTERATION IN THE FIRST DEGREE AS DEFINED IN SECTION 280.10 OF THE
54 PENAL LAW;

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

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

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

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

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

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

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

53 9. A person who has been previously prosecuted for racketeering pursu-
54 ant to federal law, or any comparable offense pursuant to the law of
55 another state may not be subsequently prosecuted for enterprise
56 corruption based upon a pattern of criminal activity that specifically

includes a criminal act that was also specifically included in the pattern of racketeering activity upon which the prior charge of racketeering was based; provided, however, that this section shall not be construed to prohibit the subsequent prosecution of any other offense specifically included in or otherwise a part of a pattern of racketeering activity alleged in any such prior prosecution for racketeering or other comparable offense, AND SHALL NOT PROHIBIT THE SUBSEQUENT PROSECUTION OF ANY OFFENSE UNDER ARTICLE FOUR HUNDRED NINETY OF THE PENAL LAW.

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

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

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

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

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

S 700.75 ROVING INTERCEPTIONS.

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

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

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

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

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

3. INTERCEPTION OF COMMUNICATIONS UNDER AN ORDER ISSUED PURSUANT TO THIS SECTION SHALL NOT BEGIN UNTIL THE FACILITIES FROM WHICH, OR THE PLACE WHERE, THE COMMUNICATION IS TO BE INTERCEPTED IS ASCERTAINED BY THE PERSON IMPLEMENTING THE INTERCEPTION ORDER. A PROVIDER OF WIRE OR ELECTRONIC COMMUNICATIONS SERVICE THAT HAS RECEIVED AN ORDER AS PROVIDED FOR IN SUBDIVISION TWO OF THIS SECTION MAY MOVE THE COURT TO MODIFY OR QUASH THE ORDER ON THE GROUNDS THAT ITS ASSISTANCE WITH RESPECT TO THE INTERCEPTION CANNOT BE PERFORMED IN A TIMELY OR REASONABLE FASHION. THE

1 COURT, UPON NOTICE TO THE APPLICANT, SHALL DECIDE SUCH MOTION EXPE-
2 DITIOUSLY.

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

6 6. "Pre-conviction forfeiture crime" means only a felony defined in
7 article two hundred twenty or section 221.30 [or], 221.55, 470.21,
8 470.22, 470.23, OR 470.24 of the penal law.

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

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

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

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

27 S 38. The tax law is amended by adding a new section 30-A to read as
28 follows:

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

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

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

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

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

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

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

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

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

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

S 39. Section 1825 of the tax law, as amended by section 2 of part E of chapter 25 of the laws of 2009, is amended to read as follows:

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

subdivision (a) of section fourteen hundred eighteen, subsection (a) of section fourteen hundred sixty-seven, subdivision (a) of section fifteen hundred eighteen, subdivision (a) of section fifteen hundred fifty-five of this chapter, and subdivision (e) of section 11-1797 of the administrative code of the city of New York shall be guilty of a misdemeanor.

S 40. Subdivision 1 of section 21 of the executive law, as amended by section 2 of part B of chapter 56 of the laws of 2010, is amended to read as follows:

1. There is hereby created in the executive department a disaster preparedness commission consisting of the commissioners of transportation, health, division of criminal justice services, education, social services, economic development, agriculture and markets, housing and community renewal, general services, labor, environmental conservation, mental health, parks, recreation and historic preservation, correctional services and children and family services, the president of the New York state energy research and development authority, the superintendents of state police, insurance, banking, the secretary of state, the state fire administrator, the chair of the public service commission, the adjutant general, the directors of the offices within the division of homeland security and emergency services, the office for technology, and the office of victim services, the chairs of the thruway authority, THE DIRECTOR OF THE OFFICE OF HOMELAND SECURITY, the metropolitan transportation authority, the port authority of New York and New Jersey, the chief professional officer of the state coordinating chapter of the American Red Cross and three additional members, to be appointed by the governor, two of whom shall be chief executives. Each member agency may designate an officer of that agency, with responsibility for disaster preparedness matters, who may represent that agency on the commission. The commissioner of the division of homeland security and emergency services shall serve as chair of the commission, and the governor shall designate the vice chair of the commission. The members of the commission, except those who serve ex officio, shall be allowed their actual and necessary expenses incurred in the performance of their duties under this article but shall receive no additional compensation for services rendered pursuant to this article.

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

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