

1 OBSCENITY, AS DEFINED IN SUBDIVISION ONE OF SECTION 235.00 OF THE PENAL
2 LAW, OR NUDITY, AS DEFINED IN SUBDIVISION TWO OF SECTION 235.20 OF THE
3 PENAL LAW, WHEN THE SENDER AND THE RECEIVER THEREOF WERE BOTH UNDER THE
4 AGE OF TWENTY AT THE TIME OF SUCH COMMUNICATION, BUT NOT MORE THAN FIVE
5 YEARS APART IN AGE.

6 (C) "PROGRAM" MEANS THE EDUCATION REFORM PROGRAM DEVELOPED PURSUANT TO
7 SUBDIVISION TWO OF THIS SECTION.

8 2. THE OFFICE OF CHILDREN AND FAMILY SERVICES, HEREINAFTER THE
9 "OFFICE," SHALL DEVELOP AND IMPLEMENT, IN CONSULTATION WITH THE DIVISION
10 OF CRIMINAL JUSTICE SERVICES AND THE STATE EDUCATION DEPARTMENT, AN
11 EDUCATION REFORM PROGRAM FOR ELIGIBLE PERSONS WHO HAVE BEEN REQUIRED TO
12 COMPLETE SUCH PROGRAM PURSUANT TO ARTICLE THREE OR SEVEN OF THE FAMILY
13 COURT ACT OR SECTION 60.37 OF THE PENAL LAW.

14 3. THE PROGRAM SHALL BE AVAILABLE IN EVERY JUDICIAL DISTRICT IN THE
15 STATE; PROVIDED THAT IF THE OFFICE DETERMINES THAT THERE IS NOT A SUFFI-
16 CIENT NUMBER OF ELIGIBLE OFFENSES IN A JUDICIAL DISTRICT TO MANDATE THE
17 IMPLEMENTATION OF A PROGRAM, PROVISIONS SHALL BE MADE FOR THE RESIDENTS
18 OF SUCH JUDICIAL DISTRICT TO PARTICIPATE IN A PROGRAM IN ANOTHER JUDI-
19 CIAL DISTRICT WHERE A PROGRAM EXISTS IF PRACTICABLE WITH REGARD TO TRAV-
20 EL AND COST, OR TO COMPLETE THE EDUCATION COURSE ONLINE.

21 4. THE PROGRAM SHALL INVOLVE UP TO EIGHT HOURS OF INSTRUCTION AND
22 SHALL PROVIDE, AT A MINIMUM, INFORMATION CONCERNING:

23 (A) THE LEGAL CONSEQUENCES OF AND POTENTIAL PENALTIES FOR SHARING
24 SEXUALLY SUGGESTIVE MATERIALS, EXPLICIT MATERIALS OR ABUSIVE MATERIALS,
25 INCLUDING SANCTIONS IMPOSED UNDER APPLICABLE FEDERAL AND STATE STATUTES;

26 (B) THE NON-LEGAL CONSEQUENCES OF SHARING SEXUALLY SUGGESTIVE MATERI-
27 ALS, EXPLICIT MATERIALS OR ABUSIVE MATERIALS, INCLUDING, BUT NOT LIMITED
28 TO, THE POSSIBLE EFFECT ON RELATIONSHIPS, LOSS OF EDUCATIONAL AND
29 EMPLOYMENT OPPORTUNITIES, AND THE POTENTIAL FOR BEING BARRED OR REMOVED
30 FROM SCHOOL PROGRAMS AND EXTRACURRICULAR ACTIVITIES;

31 (C) HOW THE UNIQUE CHARACTERISTICS OF CYBERSPACE AND THE INTERNET,
32 INCLUDING THE POTENTIAL ABILITY OF AN INFINITE AUDIENCE TO UTILIZE THE
33 INTERNET TO SEARCH FOR AND REPLICATE MATERIALS, CAN PRODUCE LONG-TERM
34 AND UNFORESEEN CONSEQUENCES FOR SHARING SEXUALLY SUGGESTIVE MATERIALS,
35 EXPLICIT MATERIALS OR ABUSIVE MATERIALS; AND

36 (D) THE POTENTIAL CONNECTION BETWEEN BULLYING AND CYBER-BULLYING AND
37 JUVENILES SHARING SEXUALLY SUGGESTIVE MATERIALS, EXPLICIT MATERIALS OR
38 ABUSIVE MATERIALS.

39 5. UPON RECEIPT OF THE COURT ORDER, PURSUANT TO THE FAMILY COURT ACT
40 OR SECTION 60.37 OF THE PENAL LAW, DIRECTING AN ELIGIBLE PERSON TO
41 ATTEND THE PROGRAM, THE OFFICE, AFTER CONSULTATION WITH THE ELIGIBLE
42 PERSON AND THE ATTORNEY FOR SUCH PERSON, SHALL SCHEDULE THE ELIGIBLE
43 PERSON TO ATTEND THE NEXT AVAILABLE SESSION OF THE PROGRAM AND SHALL
44 SEND WRITTEN NOTICE OF THE SCHEDULING, ALONG WITH THE DATE, TIME AND
45 LOCATION OF THE SESSION OR SESSIONS, TO THE ELIGIBLE PERSON, THE ATTOR-
46 NEY FOR SUCH PERSON AND THE CLERK OF THE REFERRING COURT.

47 6. WITHIN TWENTY DAYS OF THE DATE UPON WHICH THE ELIGIBLE PERSON
48 COMPLETES THE PROGRAM, THE OFFICE SHALL PROVIDE SUCH PERSON WITH A
49 CERTIFICATION THAT HE OR SHE HAS SUCCESSFULLY COMPLETED THE PROGRAM.

50 S 3. Subdivision 1 of section 315.3 of the family court act, as
51 amended by chapter 237 of the laws of 1991, is amended to read as
52 follows:

53 1. Except where the petition alleges that the respondent has committed
54 a designated felony act, the court may at any time prior to the entering
55 of a finding under section 352.1 and with the consent of the respondent
56 order that the proceeding be "adjourned in contemplation of dismissal".

1 An adjournment in contemplation of dismissal is an adjournment of the
2 proceeding, for a period not to exceed six months, with a view to ulti-
3 mate dismissal of the petition in furtherance of justice. Upon issuing
4 such an order, providing such terms and conditions as the court deems
5 appropriate, the court must release the respondent. The court may, as a
6 condition of an adjournment in contemplation of dismissal order, in
7 cases where the record indicates that the consumption of alcohol may
8 have been a contributing factor, require the respondent to attend and
9 complete an alcohol awareness program established pursuant to [paragraph
10 six-a] of subdivision (a) of section 19.07 of the mental hygiene law.
11 THE COURT MAY, AS A CONDITION OF AN ADJOURNMENT IN CONTEMPLATION OF
12 DISMISSAL ORDER, IN CASES WHERE THE RECORD INDICATES THAT THE RESPONDENT
13 IS AN ELIGIBLE PERSON AS DEFINED IN SECTION FOUR HUNDRED FIFTY-EIGHT-L
14 OF THE SOCIAL SERVICES LAW AND HAS ALLEGEDLY COMMITTED AN ELIGIBLE
15 OFFENSE AS DEFINED IN SUCH SECTION, DIRECT THE RESPONDENT TO ATTEND AND
16 COMPLETE AN EDUCATION REFORM PROGRAM ESTABLISHED PURSUANT TO SECTION
17 FOUR HUNDRED FIFTY-EIGHT-L OF THE SOCIAL SERVICES LAW. Upon ex parte
18 motion by the presentment agency, or upon the court's own motion, made
19 at the time the order is issued or at any time during its duration, the
20 court may restore the matter to the calendar. If the proceeding is not
21 restored, the petition is, at the expiration of the order, deemed to
22 have been dismissed by the court in furtherance of justice.

23 S 4. Subdivision 1 of section 353.1 of the family court act, as added
24 by chapter 920 of the laws of 1982, is amended to read as follows:

25 1. The court may conditionally discharge the respondent if the court,
26 having regard for the nature and circumstances of the crime and for the
27 history, character and condition of the respondent, is of the opinion
28 that consistent with subdivision two of section 352.2, neither the
29 public interest nor the ends of justice would be served by a placement
30 and that probation supervision is not appropriate. THE COURT MAY, AS A
31 CONDITION OF A CONDITIONAL DISCHARGE, IN CASES WHERE THE RECORD INDI-
32 CATES THE RESPONDENT QUALIFIES AS AN ELIGIBLE PERSON AND HAS BEEN ADJU-
33 DICATED FOR AN ELIGIBLE OFFENSE AS DEFINED IN SECTION FOUR HUNDRED
34 FIFTY-EIGHT-L OF THE SOCIAL SERVICES LAW, REQUIRE THE RESPONDENT TO
35 ATTEND AND COMPLETE AN EDUCATION REFORM PROGRAM ESTABLISHED PURSUANT TO
36 SECTION FOUR HUNDRED FIFTY-EIGHT-L OF THE SOCIAL SERVICES LAW.

37 S 5. Paragraph (i) of subdivision (d) of section 735 of the family
38 court act, as added by section 7 of part E of chapter 57 of the laws of
39 2005, is amended to read as follows:

40 (i) providing, at the first contact, information on the availability
41 of or a referral to services in the geographic area where the youth and
42 his or her family are located that may be of benefit in avoiding the
43 need to file a petition under this article; including the availability,
44 for up to twenty-one days, of a residential respite program, if the
45 youth and his or her parent or other person legally responsible for his
46 or her care agree, and the availability of other non-residential crisis
47 intervention programs such as family crisis counseling or alternative
48 dispute resolution programs OR AN EDUCATIONAL PROGRAM AS DEFINED IN
49 SECTION FOUR HUNDRED FIFTY-EIGHT-L OF THE SOCIAL SERVICES LAW.

50 S 6. The penal law is amended by adding a new section 60.37 to read as
51 follows:

52 S 60.37 AUTHORIZED DISPOSITION; CERTAIN OFFENSES.

53 WHEN A PERSON HAS BEEN CHARGED WITH AN OFFENSE AND THE ELEMENTS OF
54 SUCH OFFENSE MEET THE CRITERIA OF AN "ELIGIBLE OFFENSE" AND SUCH PERSON
55 QUALIFIES AS AN "ELIGIBLE PERSON" AS SUCH TERMS ARE DEFINED IN SECTION
56 FOUR HUNDRED FIFTY-EIGHT-L OF THE SOCIAL SERVICES LAW, THE COURT MAY, AS

1 A CONDITION OF PROBATION OR A CONDITIONAL DISCHARGE, DIRECT THAT THE
2 DEFENDANT PARTICIPATE IN AN EDUCATION REFORM PROGRAM PURSUANT TO SUBDI-
3 VISION TWO OF SECTION FOUR HUNDRED FIFTY-EIGHT-L OF THE SOCIAL SERVICES
4 LAW.

5 S 7. This act shall take effect on the one hundred eightieth day after
6 it shall have become a law; provided that, effective immediately, the
7 commissioner of the office of children and family services shall promul-
8 gate any rules and regulations and take all other actions necessary to
9 implement the provisions of this act on or before such effective date.