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

S. 2812--C A. 4012--C

S E N A T E - A S S E M B L Y

February 1, 2011

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT relating to constituting chapter 18-A of the consolidated laws in relation to financial services; to amend the insurance law, the banking law, the executive law, the education law, the energy law, the state technology law, the real property law, the general business law, the public authorities law, the public health law, the public service law, the New York state defense emergency act, the state finance law, the criminal procedure law, the tax law, and chapter 784 of the laws of 1951, constituting the New York state defense emergency act, in relation to the creation of the department of financial services; to amend chapter 322 of the laws of 2007, amending the banking law relating to the power of banks, private bankers, trust companies, savings banks, savings and loan associations, credit unions and foreign banking corporations to exercise the rights of national banks, federal savings associations, federal credit unions and federal branches and agencies of foreign banks, in relation to the effectiveness of certain provisions of such chapter; to transfer certain authority with respect to consumer protection from the executive law to the department of state; to amend chapter 3 of the laws of 1997, amending the banking law and the insurance law relating to authorizing the banking board to permit banks and trust companies to exercise the rights of national

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

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banks, in relation to the effectiveness of the provisions of such chapter; and to repeal certain provisions of the banking law, the insurance law, the executive law, the agriculture and markets law, the general business law, the tax law, the criminal procedure law and chapter 610 of the laws of 1995, amending the insurance law relating to investments relating to financial services and to making technical corrections; and providing for the repeal of certain provisions upon expiration thereof (Part A); Intentionally omitted (Part B); to amend the correction law and the executive law, in relation to merging the department of correctional services and division of parole into the department of corrections and community supervision; repealing certain provisions of the executive law relating thereto; and providing for the repeal of certain provisions upon expiration thereof (Subpart A); and to amend the correction law, abandoned property law, alcoholic beverage control law, civil practice law and rules, civil rights law, civil service law, county law, court of claims act, criminal procedure law, education law, election law, environmental conservation law, executive law, facilities development corporation act, family court act, general business law, general municipal law, labor law, legislative law, mental hygiene law, municipal home rule law, penal law, public buildings law, public health law, public officers law, railroad law, retirement and social security law, social services law, state administrative procedure act, state finance law, state technology law, surrogate's court procedure act, tax law, town law, vehicle and traffic law, and the workers' compensation law, in relation to making conforming technical changes; and to repeal certain provisions of the correction law relating thereto (Subpart B) (Part C); to amend the economic development law, in relation to transferring the powers, functions and affairs of the New York state foundation for science, technology and innovation to the division of science, technology and innovation within the department of economic development; and to repeal sections 3151 and 3152 of the public authorities law relating thereto (Part D); and to amend the executive law, in relation to gubernatorial reorganization of governmental agencies and functions; and to amend the legislative law, in relation to formulation of a concurrent resolution; and providing for the repeal of such provisions upon expiration thereof (Part E)

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

Section 1. This act enacts into law major components of legislation which are necessary to implement the state fiscal plan for the 2011-2012 state fiscal year. Each component is wholly contained within a Part identified as Parts A through E. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

Section 1. Chapter 18-A of the consolidated laws is added to read as follows:

CHAPTER 18-A OF THE CONSOLIDATED LAWS
FINANCIAL SERVICES LAW
ARTICLE 1
GENERAL PROVISIONS

Section 101. Short title.
101-a. Legislative findings and determinations.
102. Department of financial services.
103. Explanation of order of provisions.
104. Definitions.

S 101. Short title. This chapter shall be known and may be cited as the "financial services law".

S 101-a. Legislative findings and determinations. The legislature finds and determines that the banking, insurance and financial services industries constitute a critical sector of New York state's economy.

The legislature also finds and determines that responsive, effective, innovative, state banking and insurance regulation is necessary to operate in a global, evolving and competitive market place.

The legislature additionally finds and determines that this legislation is necessary to modernize and transform the present state banking department and state insurance department into a new integrated department of financial services.

S 102. Department of financial services. The legislature hereby declares that the purpose of this chapter is to consolidate the departments of insurance and banking, and provide for the enforcement of the insurance, banking and financial services laws, under the auspices of a single state agency to be known as the "department of financial services" and to accomplish goals including the following:

(a) To encourage, promote and assist banking, insurance and other financial services institutions to effectively and productively locate, operate, employ, grow, remain, and expand in New York state;

(b) To establish a modern system of regulation, rule making and adjudication that is responsive to the needs of the banking and insurance industries and to the needs of the state's consumers and residents;

(c) To provide for the effective and efficient enforcement of the banking and insurance laws;

(d) To expand the attractiveness and competitiveness of the state charter for banking institutions and to promote the conversion of banks to such status;

(e) To promote and provide for the continued, effective state regulation of the insurance industry;

(f) To provide for the regulation of new financial services products;

(g) To promote the prudent and continued availability of credit, insurance and financial products and services at affordable costs to New York citizens, businesses and consumers;

(h) To promote, advance and spur economic development and job creation in New York;

(i) To ensure the continued safety and soundness of New York's banking, insurance and financial services industries, as well as the prudent conduct of the providers of financial products and services, through responsible regulation and supervision;

(j) To protect the public interest and the interests of depositors, creditors, policyholders, underwriters, shareholders and stockholders;

(k) To promote the reduction and elimination of fraud, criminal abuse and unethical conduct by, and with respect to, banking, insurance and other financial services institutions and their customers; and

(l) To educate and protect users of banking, insurance, and financial services products and services through the provision of timely and understandable information.

S 103. Explanation of order of provisions. In this financial services law, the provisions have been divided in descending order of application, with illustrations, as follows:

Article 1
Section 101
Subsection (a)
Paragraph (1)
Subparagraph (A)
Item (i)
Clause (I)
Subitem (aa)
Subclause (aaa)

S 104. Definitions. (a) In this chapter, unless the context otherwise requires:

(1) "Department" shall mean the department of financial services.

(2) "Financial product or service" shall mean: (A) any financial product or financial service offered or provided by any person regulated or required to be regulated by the superintendent pursuant to the banking law or the insurance law or any financial product or service offered or sold to consumers except financial products or services: (i) regulated under the exclusive jurisdiction of a federal agency or authority, (ii) regulated for the purpose of consumer or investor protection by any other state agency, state department or state public authority, or (iii) where rules or regulations promulgated by the superintendent on such financial product or service would be preempted by federal law; and

(B) "Financial product or service" shall also not include the following, when offered or provided by a provider of consumer goods or services: (i) the extension of credit directly to a consumer exclusively for the purpose of enabling that consumer to purchase such consumer good or service directly from the seller, (ii) the collection of debt arising from such credit, or (iii) the sale or conveyance of such debt that is delinquent or otherwise in default.

(2-a) A "financial product or service regulated for the purpose of consumer or investor protection": (A) shall include (i) any product or service for which registration or licensing is required or for which the offeror or provider is required to be registered or licensed by state law, (ii) any product or service as to which provisions for consumer or investor protection are specifically set forth for such product or service by state statute or regulation and (iii) securities, commodities and real property subject to the provisions of article twenty-three-a of the general business law, and (B) shall not include products or services solely subject to other general laws or regulations for the protection of consumers or investors.

(3) "Person" shall mean any individual, partnership, corporation, association or any other entity.

(4) "Regulated person" or "person regulated" shall mean any person (A) operating under or required to operate under a license, registration, certificate or authorization under the insurance law or the banking law, (B) authorized, accredited, chartered or incorporated or possessing or required to possess other similar status under the insurance law or the

banking law, or (C) regulated by the superintendent pursuant to this chapter.

(5) "Superintendent" shall mean the superintendent of financial services of this state.

(b) Whenever the terms "include", "including" or terms of similar import appear in this chapter, unless the context requires otherwise, such terms shall not be construed to imply the exclusion of any person, class or thing not specifically included.

(c) A reference in this chapter to any other law or statute of this state, or of any other jurisdiction, means such law or statute as amended to the effective date of this chapter, and unless the context otherwise requires, as amended thereafter.

ARTICLE 2
ORGANIZATION OF THE DEPARTMENT OF FINANCIAL SERVICES

Section 201. Declaration of policy.
202. Superintendent.
203. Deputies; employees.
204. Offices of the department.
205. Bureaus.
205-a. Report.
205-b. State charter advisory board.
206. Assessments to defray operating expenses of the department.

S 201. Declaration of policy. (a) It is the intent of the legislature that the superintendent shall supervise the business of, and the persons providing, financial products and services, including any persons subject to the provisions of the insurance law and the banking law.

(b) The superintendent shall take such actions as the superintendent believes necessary to:

(1) foster the growth of the financial industry in New York and spur state economic development through judicious regulation and vigilant supervision;

(2) ensure the continued solvency, safety, soundness and prudent conduct of the providers of financial products and services;

(3) ensure fair, timely and equitable fulfillment of the financial obligations of such providers;

(4) protect users of financial products and services from financially impaired or insolvent providers of such services;

(5) encourage high standards of honesty, transparency, fair business practices and public responsibility;

(6) eliminate financial fraud, other criminal abuse and unethical conduct in the industry; and

(7) educate and protect users of financial products and services and ensure that users are provided with timely and understandable information to make responsible decisions about financial products and services.

S 202. Superintendent. (a) The head of the department shall be the superintendent of financial services, who shall be appointed by the governor, by and with the advice and consent of the senate, and who shall hold office at the pleasure of the governor. The superintendent shall possess the rights, powers, and duties in connection with financial services and protection in this state, expressed or reasonably implied by this chapter or any other applicable law of this state.

(b) The superintendent may, in the superintendent's discretion, designate one of the superintendent's deputies to act as superintendent during the superintendent's absence or inability to act. If the office of superintendent is vacant, or if the superintendent's absence or

inability to act continues for a period of more than thirty successive days, the governor may designate a deputy to act as superintendent until the filling of the vacancy or the return or recovery of the superintendent.

(c) Whenever in this chapter, the banking law, the insurance law or any other law the superintendent is authorized but not required to take any action or the superintendent's approval is required as a condition precedent to the doing of any act, the taking of such action and the giving of such approval shall be within the superintendent's sound discretion. In taking any action with respect to any banking organization, and in approving or disapproving any application made by a banking organization, the superintendent shall give due consideration to the policy of the state of New York as set forth in section ten of the banking law.

S 203. Deputies; employees. (a) The superintendent shall appoint a deputy for insurance who shall be the head of the insurance division and a deputy for banking who shall be the head of the banking division. The superintendent may appoint such other deputies as the superintendent deems necessary to fulfill the responsibilities of the department. The superintendent may remove at will any deputy appointed by the superintendent, except as may be otherwise provided by the civil service law.

(b) The superintendent may appoint and remove from time to time, in accordance with law and any applicable rules of the state civil service commission, such employees, under such titles as the superintendent may assign, as the superintendent may deem necessary for the efficient administration of the department. They shall perform such duties as the superintendent shall assign to them. The compensation of such employees shall be determined by the superintendent in accordance with law.

(c) Any action that the superintendent is required or authorized hereinafter by this chapter, the banking law, the insurance law or other laws to take may be taken by a deputy or authorized employee to whom the duty of taking such action has been delegated or assigned by the superintendent.

S 204. Offices of the department. Suitable offices for conducting the business of the department shall be located in the cities of Albany and New York, and such other cities as the superintendent deems necessary. Necessary additional office, filing and storage space that cannot be supplied by the state commissioner of general services may be leased by the superintendent, and rent or expenses incurred pursuant to any such lease shall, unless otherwise provided for, be paid on the certificate of the superintendent and the audit and warrant of the comptroller.

S 205. Bureaus. The superintendent shall establish an insurance division and a banking division. The superintendent may establish such other bureaus, divisions, and other units within the department as may be necessary for the administration and operation of the department and the proper exercise of its powers and the performance of its duties, under this chapter, and may, from time to time, consolidate or abolish such divisions, bureaus or other units within the department. Notwithstanding any inconsistent provision of law, the superintendent may determine the official functions of each division, bureau, or other unit within the department. There shall be a head of each bureau, division or other unit to be appointed by the superintendent, who shall serve at the pleasure of the superintendent, except as may be otherwise provided by the civil service law. The heads of bureaus, divisions or units in the banking and insurance departments who are in office when this chapter takes effect

shall continue in office at the pleasure of the superintendent, except as may be otherwise provided by the civil service law.

S 205-a. Report. The governor shall by June thirtieth, two thousand eleven, create a working group to examine ways to improve the efficiency and effectiveness of banking regulation and insurance regulation, including opportunities to integrate certain regulatory activities prescribed by the banking law and the insurance law. Such working group shall consult, in making its examination, with representatives of the banking, insurance and financial services industries. On or before January first, two thousand twelve, the superintendent shall issue a report on the results of this review to the governor, the speaker of the assembly and the temporary president of the senate.

S 205-b. State charter advisory board. There shall be within the department a state charter advisory board to work with the superintendent in retaining state chartered banking institutions, encouraging federally chartered institutions to convert to a state charter and promoting the state banking system. There shall be nine members of the advisory board who shall be appointed by the superintendent. The membership shall consist of: (a) one representative of credit unions, (b) one representative of consumers, (c) one representative of foreign banks; and (d) representatives of banks which, to the extent practicable, reflect a range of size and geographical location, provided, however, that at least one shall represent institutions of more than three billion dollars in assets; at least two shall represent institutions of less than five hundred million dollars in assets. The superintendent shall make rules to govern the method by which state chartered institutions may nominate persons to the board and the process for selecting such members, provided that the representative of consumers shall be selected by the superintendent. The term of each member of such advisory board shall be three years, or until a successor is appointed and vacancies shall be filled for the unexpired term only. The board shall meet at least three times annually pursuant to the call of the superintendent. Such meetings may be held by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. The members of the advisory board shall receive no compensation nor reimbursement for expenses. The advisory board may:

(1) consider and recommend ways to maintain the state charter as a viable and attractive option, including bringing to the superintendent's attention issues of concern to state chartered banking institutions;

(2) consider and recommend ways to encourage banking institutions to offer a diversity of financial products and services throughout the state;

(3) recommend to the superintendent the establishment of such laws as may be deemed necessary, and the amendment or repeal thereof;

(4) recommend to the superintendent the promulgation of rules and regulations not inconsistent with the law, as may be deemed necessary, and the amendment or repeal thereof; and

(5) report within thirty days after receipt, on any proposed regulations, amendments thereto, or repeal thereof, prior to final action thereon by the superintendent.

The advisory board shall have no executive, administrative or appointive powers or duties.

S 206. Assessments to defray operating expenses of the department. (a) For each fiscal year commencing on or after April first, two thousand twelve, assessments to defray operating expenses, including all

direct and indirect costs, of the department, except expenses incurred in the liquidation of banking organizations, shall be assessed by the superintendent in accordance with this subsection. Persons regulated under the insurance law shall be assessed by the superintendent for the operating expenses of the department that are solely attributable to regulating persons under the insurance law, which shall include any expenses that were permissible to be assessed in fiscal year two thousand nine-two thousand ten, with the assessments allocated pro rata upon all domestic insurers and all licensed United States branches of alien insurers domiciled in this state within the meaning of paragraph four of subsection (b) of section seven thousand four hundred eight of the insurance law, in proportion to the gross direct premiums and other considerations, written or received by them in this state during the calendar year ending December thirty-first immediately preceding the end of the fiscal year for which the assessment is made (less return premiums and considerations thereon) for policies or contracts of insurance covering property or risks resident or located in this state the issuance of which policies or contracts requires a license from the superintendent. Persons regulated under the banking law shall be assessed by the superintendent for the operating expenses of the department that are solely attributable to regulating persons under the banking law in such proportions as the superintendent shall deem just and reasonable. Operating expenses of the department not covered by the assessments set forth above shall be assessed by the superintendent in such proportions as the superintendent shall deem just and reasonable upon all domestic insurers and all licensed United States branches of alien insurers domiciled in this state within the meaning of paragraph four of subsection (b) of section seven thousand four hundred eight of the insurance law, and upon any regulated person under the banking law, other than mortgage loan originators, except as otherwise provided by sections one hundred fifty-one and two hundred twenty-eight of the workers' compensation law and by section sixty of the volunteer firefighters' benefit law. The provisions of this subsection shall not be applicable to a bank holding company, as that term is defined in article three-A of the banking law. Persons regulated under the banking law will not be assessed for expenses that the superintendent deems to benefit solely persons regulated under the insurance law, and persons regulated under the insurance law will not be assessed for expenses that the superintendent deems to benefit solely persons regulated under the banking law.

(b) For each fiscal year commencing on or after April first, two thousand twelve, a partial payment shall be made by each entity subject to this section in a sum equal to twenty-five per centum, or such other per centum or per centums as the superintendent may prescribe, of the annual expenses assessed upon it for the fiscal year as estimated by the superintendent. Such payment shall be made on March tenth of the preceding fiscal year and on June tenth, September tenth and December tenth of each year, or at such other dates as the superintendent may prescribe. The balance of assessments for the fiscal year shall be paid upon determination of the actual amount due in accordance with the provisions of this section. Any overpayment of annual assessment resulting from complying with the requirements of this subsection shall be applied against the next estimated quarterly assessment, if less than or equal to such amount, with any excess refunded to the assessed. As an alternative, if the estimated annual assessment for the fiscal year is equal to or less than the annual minimum assessment set by the superintendent, the superintendent may require full payment to be made on or before

September thirtieth or such other date of the fiscal year as the superintendent may determine.

(c) The expenses incurred in making examinations of, or for special services performed on account of, any bank holding company, as that term is defined in the banking law, or any regulated person under the banking law, shall be assessed provided, however, that the superintendent, in the superintendent's sole discretion, may determine, with respect to expenses incurred in the making of any specific examination or investigation, or the performing of any special services, that any such expense shall be assessed against and paid by the bank holding company or any other regulated person under the banking law for which they were incurred or performed.

(d) The expenses incurred in making an examination of any affiliate of a banking organization pursuant to the banking law, and the expenses incurred in making an examination, pursuant to the banking law, of a non-banking subsidiary of a corporation or any other entity that is an affiliate of a banking organization, shall be assessed against and paid by such banking organization if the affiliate cannot be assessed pursuant to the provisions of the banking law.

(e) The superintendent may, in the superintendent's sole discretion, upon notice, suspend the license, registration, certificate or authority (for purposes of this section, a license) granted to any person pursuant to this chapter, the banking law or insurance law, upon the failure of such person to make any payment required by this section within thirty days after the due date. If the superintendent has suspended any such license, such license may be reinstated if the superintendent determines that such person has made any such payments within ninety days after the date of such notice of suspension. Otherwise, unless the superintendent, in the superintendent's sole discretion, has extended such suspension, the license of such person shall be deemed to be automatically terminated by operation of law at the close of business on such ninetieth day.

(f) (1) The expenses of every examination of the affairs of any regulated person subject to the insurance law, including an appraisal of such regulated person's real property or of any real property on which such regulated person holds a mortgage, made pursuant to the authority conferred by any provision of this chapter, the insurance law or the banking law, shall be borne and paid by the regulated person so examined, but the superintendent, with the approval of the comptroller, may in the superintendent's discretion for good cause shown remit such charges.

(2) (A) For any such examination by the superintendent or a deputy superintendent personally, the charge made shall be only for necessary traveling expenses and other actual expenses. In all other cases, the expenses of examination shall also include reimbursement for the compensation paid for the services of persons employed by the superintendent or by the superintendent's authority to make such examination or appraisal.

(B) Notwithstanding any provisions of this section to the contrary, in case of an examination or appraisal of a domestic insurer made within this state, the traveling and living expense of the person or persons making the examination shall be considered a cost of operation, as referred to in section three hundred thirty-two of the insurance law and not an expense of examination.

(3) All charges, including necessary traveling and other actual expenses, except as hereinabove provided, as audited by the comptroller

and paid on the comptroller's warrant in the usual manner by the comptroller to the person or persons making the examination or appraisal, shall be presented to the insurer, or other person whose duty it is to pay the same, in the form of a copy of the itemized bill therefor as certified and approved by the superintendent or by any deputy superintendent or authorized employee of the department. Upon receiving such certified copy the insurer or other person whose duty it is to pay such charges shall pay the amount thereof to the superintendent, to be paid by the superintendent into the state treasury.

ARTICLE 3

ADMINISTRATIVE AND PROCEDURAL PROVISIONS

Section 301. Powers of the superintendent.
302. Regulations by superintendent.
303. Orders of superintendent; when writing required.
304. Notice; how given.
304-a. Actions of the department subject to the state administrative procedure act.
305. Hearings; conduct; findings and report.
306. Attendance of witnesses; production of documents and records.
307. Intentionally omitted.
308. Judicial review of orders, regulations and decisions of superintendent.
309. Injunction to restrain violation of this chapter.
310. Certificates as evidence; affirmation of documents and testimony.

S 301. Powers of the superintendent. (a) The superintendent shall have such powers as are conferred upon the superintendent by this chapter, the banking law, the insurance law or any other law of this state.

(b) The superintendent shall have the power to conduct investigations, research, studies and analyses of matters affecting the interests of consumers of financial products and services, including tracking and monitoring complaints.

(c) The superintendent shall have the power to protect users of financial products and services, including:

(1) taking such actions as the superintendent deems necessary to educate and protect users of financial products and services;

(2) receiving complaints of consumers of financial products and services, and where appropriate (A) providing assistance to consumers; (B) mediating the resolution of such complaints with providers of financial products and services; or (C) referring such complaints to the appropriate federal, state or local agency authorized by law for appropriate action on such complaints;

(3) studying the operation of laws and advising and making recommendations to the governor on matters affecting consumers of and investors in financial products and services and promoting and encouraging the protection of the legitimate interests of users of such financial products and services;

(4) cooperating with, assisting and, when appropriate, referring matters to the attorney general in the carrying out of the attorney general's legal enforcement responsibilities for the protection of consumers of and investors in financial products and services;

(5) initiating and encouraging consumer financial education programs, and disseminating materials to educate users of financial products and services;

(6) providing technical assistance to local governments and not-for-profits in the development of consumer protection measures with respect to financial products and services; and

(7) continuing and expanding the detection, investigation and prevention of insurance fraud.

S 302. Regulations by superintendent. (a) The superintendent shall have the power to prescribe and from time to time withdraw or amend, in writing, rules and regulations and issue orders and guidance involving financial products and services, not inconsistent with the provisions of this chapter, the banking law, the insurance law and any other law in which the superintendent is given authority:

(1) effectuating any power given to the superintendent under the provisions of this chapter, the insurance law, the banking law, or any other law to prescribe forms or make regulations;

(2) interpreting the provisions of this chapter, the insurance law, the banking law, or any other applicable law; and

(3) governing the procedures to be followed in the practice of the department.

(b) The superintendent may promulgate a list of financial products and services excluded from regulation by the superintendent, provided that such exclusion shall not limit in any way the ability of the superintendent to take any actions with respect to fraud provided for in this chapter, the insurance law, the banking law or any other applicable law.

S 303. Orders of superintendent; when writing required. Whenever by any provision of this chapter, the insurance law, the banking law or any other applicable law the superintendent is authorized to grant any approval, authorization or permission or to make any other order or determination affecting any person subject to the provisions of this chapter, the insurance law, the banking law or any other law, such order or determination shall not be effective unless made in writing and signed by the superintendent or by the superintendent's authority.

S 304. Notice; how given. (a) (1) Except when other notice is required by law, whenever the provisions of this chapter, the insurance law, the banking law or any other applicable law require the superintendent to give notice to any person of any authorized action or proposed action, it shall be sufficient to give such notice in writing either by delivering it to such person or by depositing the same in the United States mail, postage prepaid, registered or certified, and addressed to the last known place of business of such person or if no such address is known to the superintendent, then to the residence address of such person.

(2) Such notice shall refer to the provisions of this chapter, the insurance law, the banking law or any other applicable law pursuant to which the authorized action was taken or is proposed to be taken and the grounds therefor, but failure to make such reference shall not render the notice ineffective if the person to whom it is addressed is thereby or otherwise reasonably apprised of such grounds.

(3) If the person being notified is entitled to a hearing by the provisions of this chapter, the banking law, the insurance law or any other law, the notice of proposed action may specify that such proposed action may be considered, or when authorized, taken on a date specified in the notice unless such person shall notify the superintendent in writing that a hearing is demanded; in such case the superintendent shall give such person a further notice of the time and place of such hearing in the manner stated in this paragraph, and to the address specified by such person if provided.

(b) Whenever the provisions of this chapter, the insurance law, the banking law, or any other law require the superintendent to give to any person a hearing on any proposed action, it shall be sufficient compliance with such requirement if the superintendent gives to such person:

(1) notice of the time and the place at which an opportunity for hearing will be afforded, and

(2) an opportunity for hearing, if the person appears at the time and place specified in the notice or any adjourned date.

(c) Any hearing of which such notice is given may be adjourned from time to time without other notice than the announcement thereof at such hearing.

(d) Whenever any person is entitled to a hearing by the provisions of this chapter, the insurance law, the banking law, or any other law before any proposed action is taken, the notice of such proposed action may, if the superintendent deems it expedient, be in the form of a notice to show cause stating that such proposed action may be taken unless such person shows cause at a hearing to be held at a time and place specified in such notice, why such proposed action should not be taken.

(e) The statement of any regular salaried employee of the department of financial services, subscribed and affirmed by such employee as true under the penalties of perjury, stating facts which show that any notice referred to in this section has been delivered or mailed as hereinbefore provided, shall be presumptive evidence that such notice has been duly delivered or mailed, as the case may be.

S 304-a. Actions of the department subject to the state administrative procedure act. Unless otherwise specifically exempted in this chapter, all rule making and adjudicatory proceedings shall be made in accordance and consistent with the provisions of the state administrative procedure act.

S 305. Hearings; conduct; findings and report. (a) Unless otherwise provided in this chapter, the banking law, the insurance law or any other law, any hearing pursuant to any such law may be held before the superintendent, any deputy superintendent, or any designated salaried employee of the department authorized by the superintendent for such purpose. Any adjudicatory proceeding, including any hearings to assess civil penalties under section four hundred eight of this chapter, held pursuant to the provisions of this chapter, the insurance law or the banking law shall be noticed, conducted and administered in compliance with the state administrative procedure act.

(b) The person conducting such hearing shall have power to administer oaths, examine and cross-examine witnesses and receive documentary evidence, and shall report his or her findings, orally or in writing, to the superintendent with or without recommendation. Such report, if adopted by the superintendent may be the basis of any determination made by the superintendent. One hundred twenty days after the effective date of a determination of liability for a civil penalty pursuant to section four hundred eight of this chapter or four hundred three, one thousand one hundred two, two thousand one hundred two, two thousand one hundred seventeen, two thousand one hundred thirty-three or seven thousand eight hundred sixteen of the insurance law, such determination of liability for a civil penalty may be entered as a judgment and enforced, without court proceedings, in the same manner as the enforcement of a money judgment in civil actions in any court of competent jurisdiction or any other place provided for the entry of civil judgment within this state.

(c) Every such hearing, except for hearings under the banking law, shall be open to the public unless the superintendent or the person authorized by the superintendent to conduct such hearing, shall determine that a private hearing would be in the public interest, in which case the hearing shall be private. Hearings under the banking law shall be as provided for in the banking law.

(d) Every person affected shall be allowed to be present during the giving of all the testimony, and shall be allowed a reasonable opportunity to inspect all adverse documentary proof, to examine and cross-examine witnesses, and to present proof in support of the person's interest.

(e) Nothing herein contained shall require the observance at any such hearing of formal rules of pleading or evidence.

S 306. Attendance of witnesses; production of documents and records. (a) The superintendent or the person authorized by the superintendent to conduct a hearing or investigation shall have power to subpoena witnesses, compel the attendance of witnesses, administer oaths, examine any person under oath, and to compel any person to subscribe to his or her testimony after it has been correctly reduced to writing, and in connection therewith to require the production of any books, papers, records, correspondence or other documents which the superintendent deems relevant to the inquiry. A subpoena issued under this section shall be regulated by the civil practice law and rules.

(b) No person subject to the provisions of this chapter, the insurance law or the banking law whose conduct, condition or practices are being investigated, and no officer, director or employee of any such person, shall be entitled to witness or mileage fees.

(c) In addition to the liabilities and punishment prescribed by the civil practice law and rules, any person who, without just cause fails or refuses to attend and testify or to answer any lawful inquiry or to produce any books, papers or records in obedience to a subpoena issued by the superintendent shall be guilty of a misdemeanor.

(d) Every regulated person under this chapter, the insurance law or the banking law who is given a notice of hearing pursuant to this chapter shall upon the service of a notice to produce books and records, when attached to the notice of hearing or mailed subsequently thereto in the same manner as the notice of hearing, pursuant to such notice, produce at the hearing the books, records and documents enumerated therein.

S 307. Intentionally omitted.

S 308. Judicial review of orders, regulations and decisions of superintendent. (a) Notwithstanding the specific enumerations of the right to judicial review in this chapter, the insurance law or the banking law, any order, regulation or decision of the superintendent is declared to be subject to judicial review in a proceeding under article seventy-eight of the civil practice law and rules, provided that nothing in this section or article seventy-eight of the civil practice law and rules shall affect the time period provided in the banking law or the insurance law for commencing such proceeding.

(b) Except as provided in section two thousand one hundred twenty-four of the insurance law, the commencement of such proceeding shall not affect the enforcement or validity of the superintendent's order, regulation or decision under review unless the court shall determine, after a preliminary hearing of which the superintendent is notified at least forty-eight hours in advance, that a stay of enforcement pending the proceeding or until further direction of the court will not unduly

injure the interests of the people of the state, in which case a stay of execution may be granted.

S 309. Injunction to restrain violation of this chapter. (a) In addition to such other remedies as are provided under this chapter, the superintendent may maintain and prosecute an action against any person subject to this chapter, the insurance law or the banking law, or the person's officers, directors, trustees or agents, for the purpose of obtaining an injunction restraining such person or persons from doing any acts in violation of the provisions of this chapter, the insurance law or the banking law.

(b) In such action if the court finds that a defendant is threatening or is likely to do any act in violation of this chapter, the insurance law or the banking law and that such violation will cause irreparable injury to the interests of the people of this state, the court may grant an injunction restraining such violation. The court may on motion and affidavits grant a preliminary injunction and interlocutory injunction, upon such terms as may be just; but the superintendent shall not be required to give security before the issuance of any such injunction.

S 310. Certificates as evidence; affirmation of documents and testimony. (a) Every certificate, assignment, conveyance or other paper executed by the superintendent or one of the superintendent's deputies pursuant to law and sealed with the official seal of the department shall be received as evidence in any judicial or other proceeding and may be recorded in the proper recording offices.

(b) Any charter, or any certificate or other instrument supplemental to or amendatory of the charter, of any regulated person filed in the office of the superintendent and containing statements of fact required or permitted by law to be contained therein, shall be received in all courts, public offices and official bodies as prima facie evidence of such facts and of the execution of such instrument.

(c) Whenever by the laws of any jurisdiction other than this state, any certificate by any officer in such jurisdiction or a copy of any instruments certified or exemplified by any such officer, may be received as prima facie evidence of the incorporation, existence or capacity of any corporation incorporated in such jurisdiction, or claiming so to be, such certificate when exemplified, or such copy of such instrument when exemplified shall be received in all courts, public offices and official bodies of this state, as prima facie evidence with the same force as in such jurisdiction. Such certificate or certified copy of such instrument shall be so received, without being exemplified, if it is certified by the secretary of state, or official performing the equivalent function as to corporate records of such jurisdiction.

(d) Notwithstanding any provision of this chapter, the insurance law or the banking law requiring an oath as to the proof of a document or the truth of testimony, the affiant may, if the affiant's religious beliefs cause the affiant to object to giving an oath, affirm the document or the affiant's testimony.

ARTICLE 4
FINANCIAL FRAUDS PREVENTION

Section 401. Intentionally omitted.
402. Legislative declaration.
403. Financial frauds and consumer protection unit.
404. Powers of the financial frauds and consumer protection unit.
405. Immunity.

406. Other law enforcement authority, powers and duties not affected or impaired.
407. Intentionally omitted.
408. Civil penalty.
409. Reports.

S 401. Intentionally omitted.

S 402. Legislative declaration. The legislature hereby finds and declares that financial frauds take many forms across multiple industries. The legislature further finds that financial fraud is detrimental to the social and economic well-being of the citizens of this state. In order to more thoroughly uncover, investigate and eliminate the myriad financial frauds that may be perpetrated in, and may involve the people of, New York state, the legislature finds that it is appropriate that the responsibilities of the insurance frauds bureau and the criminal investigations bureau that were administered by the department of insurance and the department of banking, respectively, prior to the enactment of this article, be consolidated into a new financial frauds and consumer protection unit under the supervision of the superintendent.

S 403. Financial frauds and consumer protection unit. (a) The superintendent shall establish a financial frauds and consumer protection unit in the department of financial services.

(b) The financial frauds and consumer protection unit shall be a qualified agency, as defined in section eight hundred thirty-five of the executive law, to enforce the provisions of this article and article four of the insurance law and article II-B of the banking law.

(c) The superintendent shall have the power to designate employees of the unit as peace officers as defined in section 2.10 of the criminal procedure law. Any such designations made by the superintendent of insurance or the superintendent of banks, as they relate to peace officers within the insurance frauds bureau and the criminal investigations bureau, made prior to the effective date of this chapter, shall be deemed continued and will remain effective subject to the discretion of the superintendent.

(d) The superintendent is authorized to establish within the financial frauds and consumer protection unit one or more units designated for the purpose of investigating and preventing fraud and other criminal activity in certain specified areas of the banking, finance and insurance industries, as authorized by this chapter.

S 404. Powers of the financial frauds and consumer protection unit. (a) The superintendent has authority under this article, the banking law, the insurance law and other applicable laws to investigate activities that may constitute violations subject to section four hundred eight of this article or violations of the insurance law or banking law and to develop evidence thereon.

(b) If the financial frauds and consumer protection unit has a reasonable suspicion that a person or entity has engaged, or is engaging, in fraud or misconduct with respect to the banking law, the insurance law, the provisions of this chapter or other laws pursuant to which the superintendent has investigatory or enforcement powers, then the superintendent, in the enforcement of relevant statutes and regulations, may undertake an investigation thereon, provided, however, that the scope of authority set forth in this section shall not be deemed to otherwise limit or impair the ability of the superintendent to assist any other entity in an investigation involving a violation of law, and provided further that the responsibility and power to investigate any specific frauds or misconduct enumerated in this chapter, the banking law, the

insurance law and other laws pursuant to which the superintendent has investigatory or enforcement powers shall be included under the jurisdiction of the financial frauds and consumer protection unit.

(c) Nothing in this chapter shall be construed to grant or authorize the financial frauds and consumer protection unit the specific powers or responsibilities of the consumer protection division of the department of state.

S 405. Immunity. In the absence of fraud or bad faith, no person subject to the provisions of this chapter, the banking law or the insurance law shall be subject to civil liability, and no civil cause of action of any nature shall arise against such person for any: (a) information relating to suspected violations of the banking law or the insurance law furnished to law enforcement officials, their agents and employees; (b) information relating to suspected violations of the banking law or the insurance law furnished to other persons subject to the provisions of this chapter; and (c) information furnished in reports to the financial frauds and consumer protection unit, its agents or employees or any state agency investigating fraud or misconduct relating to financial fraud, its agents or employees. The superintendent or any employee of the financial frauds and consumer protection unit, in the absence of fraud or bad faith, shall not be subject to civil liability and no civil cause of action of any nature shall arise against the superintendent or any such employee by virtue of the publication of any report or bulletin related to the official activities of the financial frauds and consumer protection unit. Nothing herein is intended to abrogate or modify in any way any common law privilege or immunity heretofore enjoyed by any person.

S 406. Other law enforcement authority, powers and duties not affected or impaired. This article shall not:

(a) Preempt the authority or relieve the duty of other law enforcement agencies to investigate and prosecute suspected violations of law;

(b) Prevent or prohibit a person from voluntarily disclosing any information concerning violations of this article, the banking law or the insurance law to any law enforcement agency; or

(c) Limit any of the powers granted elsewhere in the banking law or insurance law or other laws to the superintendent or the department to investigate possible violations of law and take appropriate action.

S 407. Intentionally omitted.

S 408. Civil penalty. (a) In addition to any civil or criminal liability provided by law, the superintendent may, after notice and hearing, levy a civil penalty:

(1) not to exceed five thousand dollars per offense, for:

(A) any intentional fraud or intentional misrepresentation of a material fact with respect to a financial product or service or involving any person offering to provide or providing financial products or services; or

(B) any violation of state or federal fair debt collection practices or federal or state fair lending laws; and

(2) not to exceed one thousand dollars for any other violation of this chapter or the regulations issued thereunder, provided that there shall be no civil penalty under this section for violations of article five of this chapter or the regulations issued thereunder; and

(3) provided, however, that:

(A) penalties for regulated persons under the banking law shall be as provided for in the banking law and penalties for regulated persons

under the insurance law shall be as provided for in the insurance law; and

(B) the superintendent shall not impose or collect any penalty under this section in addition to any penalty or fine for the same act or omission that is imposed under the insurance law or banking law; and

(C) nothing in this section shall affect the construction or interpretation of the term "fraud" as it is used in any other provision of the consolidated or unconsolidated law.

(b) Civil penalties received by the superintendent pursuant to this section shall be applied on an annual basis as follows: funds shall be applied first to reduce the assessments charged on persons regulated under the insurance law and the banking law pursuant to section two hundred six of this chapter up to the full amount paid by persons regulated under the insurance law and banking law for the operating expenses of the financial frauds and consumer protection unit not attributable to regulation under the insurance or banking law for the fiscal year in which such penalties are received, such amount shall be applied to any assessment in the following year, and any remaining funds shall be paid to the general fund. The superintendent shall have discretion to determine how operating expenses which are not solely attributable to regulating persons under either the insurance law or the banking law shall be allocated.

S 409. Reports. (a) Whenever the superintendent is satisfied that a violation subject to section four hundred eight of this article or fraud or other criminal activity under the insurance law or banking law has been committed or attempted, the superintendent shall report any such violation of law, as the superintendent deems appropriate, to the appropriate licensing agency, the district attorney of the county in which such acts were committed, to the attorney general, and where appropriate, to the person who submitted the report of fraudulent activity, as provided by the provisions of this article. Within one hundred twenty days of receipt of the superintendent's report, the attorney general or the district attorney concerned shall inform the superintendent as to the status of the reported violations.

(b) No later than March fifteenth of each year, beginning in two thousand twelve, the superintendent shall furnish to the governor, the speaker of the assembly and the temporary president of the senate a report describing the activities of the financial frauds and consumer protection unit. Such report shall describe (1) the unit's efforts with respect to (A) frauds against entities regulated under the banking and insurance laws; and (B) frauds against consumers; (2) the unit's activities to address consumer complaints; and (3) any recommendations of the superintendent with respect to changes of law that are desirable to address gaps in protection. The report may address such other matters relating to the activities of the financial frauds and consumer protection unit as the superintendent believes will be useful to the governor or the legislature.

(c) No later than March fifteenth of each year beginning in the year two thousand twelve, the superintendent shall submit to the governor, the state comptroller, the attorney general, the temporary president of the senate, the speaker of the assembly, the chairpersons of the senate finance and health committees, and the assembly ways and means and health committees, a report summarizing the department's activities to investigate and combat health insurance fraud including information regarding referrals received, investigations initiated, investigations

completed, and any other material necessary or desirable to evaluate the department's efforts.

ARTICLE 5

RESTRICTIONS ON OFFICERS AND EMPLOYEES OF THE DEPARTMENT

Section 501. Restrictions on officers and employees of the department; penalty.

S 501. Restrictions on officers and employees of the department; penalty. (a) No officer or employee of the department shall obtain a loan or extension of credit from any regulated person or be interested in any such regulated person as a director, partner, owner, officer, attorney, agent, trustee or employee, or own or deal in, either directly or indirectly, the stocks or obligations of any such regulated person. A violation of the provisions of this section by any officer or employee shall constitute sufficient grounds for his or her removal by the superintendent.

(b) Nothing in this section shall be construed to prohibit any officer or employee from obtaining financing from a regulated person upon his or her primary or secondary residence, provided that the premises securing such loan are occupied by such employee, and further provided that such loan is reported to the department, which shall keep a record thereof. The term "residence," for the purposes of this section, shall mean a single family or two family residence, condominium apartment or cooperative apartment, occupied in whole or in part, by the officer or employee. The term "cooperative apartment" means a residence where ownership is evidenced by certificates of stock or other evidence of an ownership interest in, and a proprietary lease from, a corporation or partnership formed for the purpose of the cooperative ownership of real estate.

(c) Nothing in this section shall be construed to prohibit any officer or employee from: (1) obtaining a loan secured by an assignment of his or her deposit in a banking organization, or an assignment or pledge of his or her shares in a savings and loan association or credit union; (2) accepting financing of an automobile, truck or other personal property from a banking organization or a sales finance company; (3) entering into a premium finance agreement with a premium finance agency; or (4) owning shares of an investment company (mutual fund) that may incidentally invest in the securities of any regulated person, provided that the purpose of the investment portfolio of such investment company may not be to invest primarily or exclusively in the securities of banking or insurance entities. For purposes of this section, investment companies include open-end and closed-end investment companies and unit investment trusts as those terms are defined in an Act of Congress entitled "The Investment Company Act of 1940," as amended.

(d) Nothing in this section shall be construed to prevent any officer or employee from becoming a policyholder of any insurer or from taking out a loan under the officer's or employee's insurance policy, or prevent or impair the ability of the superintendent to act as a liquidator, rehabilitator, or conservator pursuant to article seventy-four of the insurance law or article thirteen of the banking law.

(e) The superintendent may promulgate policies and procedures for exempting particular employees, or classes of employees, from investment restrictions in subsection (a) of this section as to regulated persons with which such employee or class of employees has no authority or involvement.

(f) This section shall not apply to investments held in a blind trust approved by the superintendent or the superintendent's designee.

S 2. Article 2-B of the banking law, as added by chapter 321 of the laws of 1992, section 78 as amended by chapter 472 of the laws of 2008, is amended to read as follows:

ARTICLE II-B

FINANCIAL FRAUDS [PREVENTION ACT]

Section [76. Short title.
77. Criminal investigations bureau.]
78. Powers [of the bureau] WITH RESPECT TO CERTAIN CRIMES AND FRAUDS.
[79. Immunity.
80. Other law enforcement authority, powers and duties not affected or impaired.

S 76. Short title. This article shall be known and may be cited as the "financial frauds prevention act".

S 77. Criminal investigations bureau. The superintendent shall establish a criminal investigations bureau in the department.]

S 78. Powers [of the bureau] WITH RESPECT TO CERTAIN CRIMES AND FRAUDS. If the [criminal investigations bureau] SUPERINTENDENT has a reasonable suspicion that a person or entity [subject to the jurisdiction of the department has, in connection with activities authorized by this chapter, engaged in, or is engaging in an activity which is a misdemeanor or felony under this chapter or under] IS ENGAGING IN OR HAS ENGAGED IN FRAUD (AS INTERPRETED UNDER THIS CHAPTER, THE INSURANCE LAW OR THE FINANCIAL SERVICES LAW) OR A MISDEMEANOR OR FELONY UNDER THIS CHAPTER OR ONE OF THE ARTICLES OF THE PENAL LAW ENUMERATED IN THIS SECTION IN CONNECTION WITH ACTIVITIES REGULATED BY THE SUPERINTENDENT PURSUANT TO THIS CHAPTER OR INVOLVING A PRODUCT REGULATED PURSUANT TO THIS CHAPTER, THE SUPERINTENDENT MAY UNDERTAKE SUCH INVESTIGATION AS IS DEEMED NECESSARY, AND IN THE ENFORCEMENT OF THIS CHAPTER, DETERMINE WHETHER ANY SUCH PERSON OR ENTITY HAS VIOLATED OR IS ABOUT TO VIOLATE THIS CHAPTER OR ANY SUCH ENUMERATED ARTICLES. THE APPLICABLE ARTICLES OF THE PENAL LAW ARE article one hundred fifty-five, one hundred seventy, one hundred seventy-five, one hundred seventy-six, one hundred eighty, one hundred eighty-five, one hundred eighty-seven, one hundred ninety, two hundred, two hundred ten or four hundred seventy [of the penal law, the superintendent may undertake such investigation as is deemed necessary, and in the enforcement of this chapter, determine whether any such person or entity has violated or is about to violate any of the above referenced laws or articles. Provided, however, that]. NOTWITHSTANDING THE ABOVE-REFERENCED LAWS OR ARTICLES, the scope of authority set forth in this section shall not be deemed to otherwise limit or impair the ability of the department to assist any other entity in an investigation involving a violation of law.

[S 79. Immunity. In the absence of fraud or bad faith, no person or entity subject to the provisions of this chapter shall be subject to civil liability, and no civil cause of action of any nature shall arise against such person or entity, for providing information to law enforcement officials, including persons assigned to the criminal investigations bureau, relating to suspected criminal violations of this chapter or the affecting entities or persons subject to the jurisdiction of the department.

S 80. Other law enforcement authority, powers and duties not affected or impaired. This article shall not:

1. Preempt the authority or relieve the duty of other law enforcement agencies to investigate and prosecute suspected violations of law.

2. Prevent or prohibit a person from voluntarily disclosing any information concerning violations of this article to any law enforcement agency.

3. Limit any of the powers granted elsewhere in this chapter and other laws to the superintendent or the department to investigate possible violations of law and take appropriate action.]

S 3. Section 401 of the insurance law is amended to read as follows:

S 401. Title; legislative declaration and purpose. This article shall be known and may be cited as the "insurance frauds prevention act".

(a) The legislature finds and declares that the business of insurance directly and indirectly affects all sectors of the public, business and government. It further finds that the business of insurance, including organization and licensing, the issuance of policies, and the adjustment and payment of claims and losses, involve many transactions which have potential for abuse and illegal activities.

(b) [The superintendent and the department have broad authority under this chapter to investigate activities which may be fraudulent and to develop evidence thereon. This article is intended to permit the full utilization of the expertise of the superintendent and the department so that they may more effectively investigate and discover insurance frauds, halt fraudulent activities and assist and receive assistance from federal and state law enforcement agencies in the prosecution of persons who are parties to insurance frauds.

(c)] Arson for insurance fraud is a particularly damaging crime against society, destroying lives, property and neighborhoods. Insurance losses resulting from arson are reflected in higher premiums charged to residents of this state.

[(d)] (C) This article establishes a framework within which the superintendent and the department can more effectively assist in the elimination of arson for insurance fraud. That increased capacity, together with a more effective monitoring of fire loss claims and payments by the insurance industry through centralized reporting and oversight, is intended to make it more difficult to perpetrate the crime of insurance fraud by arson.

S 4. Intentionally omitted.

S 5. Intentionally omitted.

S 6. Subsection (a) of section 404 of the insurance law, as amended by chapter 499 of the laws of 2009, is amended to read as follows:

(a) If the [insurance frauds bureau] SUPERINTENDENT has reason to believe that a person has engaged in, or is engaging in, an act defined in section 155.05 of the penal law, with respect to personal or commercial insurance transactions, the business of life settlements, section 176.05 or section 176.40 of such law, the superintendent may make such investigation within or without this state as the superintendent deems necessary to aid in the enforcement of this chapter or to determine whether any person has violated or is about to violate any such provision of the penal law.

S 7. Section 405 of the insurance law, as amended by chapter 499 of the laws of 2009, paragraph 11 of subsection (d) as amended by chapter 11 of the laws of 2010, is amended to read as follows:

S 405. Reports. (a) Any person licensed or registered pursuant to the provisions of this chapter, and any person engaged in the business of insurance or life settlement in this state who is exempted from compliance with the licensing requirements of this chapter, including the state insurance fund of this state, who has reason to believe that an insurance transaction or life settlement act may be fraudulent, or has

knowledge that a fraudulent insurance transaction or fraudulent life settlement act is about to take place, or has taken place shall, within thirty days after determination by such person that the transaction appears to be fraudulent, send to the [insurance frauds bureau] SUPERINTENDENT on a form prescribed by the superintendent, the information requested by the form and such additional information relative to the factual circumstances of the transaction and the parties involved as the superintendent may require. The [insurance frauds bureau] SUPERINTENDENT shall accept reports of suspected fraudulent insurance transactions or fraudulent life settlement acts from any self insurer, including but not limited to self insurers providing health insurance coverage or those defined in section fifty of the workers' compensation law, and shall treat such reports as any other received pursuant to this section.

(b) The [insurance frauds bureau] SUPERINTENDENT shall review each report and undertake such further investigation as [it] THE SUPERINTENDENT deems necessary and proper to determine the validity of the allegations.

[(c) Whenever the superintendent is satisfied that a material fraud, deceit, or intentional misrepresentation has been committed in an insurance transaction or in the business of life settlements or purported insurance transaction or business of life settlements, he or she shall report any such violation of law to the appropriate licensing agency, the district attorney of the county in which such acts were committed, when authorized by law, to the attorney general, and where appropriate, to the person who submitted the report of fraudulent activity, as provided by the provisions of this article. Within one hundred twenty days of receipt of the superintendent's report, the attorney general or the district attorney concerned shall inform the superintendent as to the status of the reported violations.

(d) No later than March fifteenth of each year, beginning in nineteen hundred ninety-four, the superintendent shall furnish to the governor, the speaker of the assembly and the president pro tem of the senate a report containing:

(1) a comprehensive summary and assessment of the frauds bureau's efforts in discovering, investigating and halting fraudulent activities and assisting in the prosecution of persons who are parties to insurance fraud or life settlement fraud;

(2) the number of reports received from any person or persons engaged in the business of insurance or life settlements, the number of investigations undertaken by the bureau pursuant to any reports received, the number of investigations undertaken not as a result of reports received, the number of investigations that resulted in a referral to a licensing agency, a local prosecutor or the attorney general, the number of such referrals pursued by a licensing agency, a local prosecutor or the attorney general, and the disposition of such cases;

(3) a delineation of the number of reported and investigated cases by line of insurance and those that relate to life settlements;

(4) a comparison of the frauds bureau's experience, with regard to paragraphs two and three of this subsection, to the bureau's experience of years past;

(5) the total number of employees assigned to the frauds bureau delineated by title and location of bureau assigned;

(6) an assessment of the activities of insurance companies and life settlement providers activities in regard to detecting, investigating and reporting fraudulent activities, including a list of companies which maintain special investigative units for the sole purpose of detecting,

investigating and reporting fraudulent activities and the number of investigators assigned to such units per every thirty thousand policies or life settlement contracts in force with such company or provider;

(7) the amount of technical and monetary assistance requested and received by the frauds bureau from any insurance company or companies, any life settlement provider or providers, or any organization funded by insurance companies or life settlement providers;

(8) the amount of money returned by the frauds bureau to insurance companies pursuant to any fraudulent claims that were recouped by the bureau;

(9) the number and amount of civil penalties levied by the frauds bureau pursuant to chapter four hundred eighty of the laws of nineteen hundred ninety-two;

(10) recommendations for further statutory or administrative changes designed to meet the objectives of this article; and

(11) an assessment of law enforcement and insurance company activities to detect and curtail the incidence of operating a motor vehicle without proper insurance coverage as required by this chapter and the incidence of misrepresentation by insureds of the principal place where motor vehicles are garaged and driven.]

S 8. Sections 406, 407-a and 410 of the insurance law are REPEALED.

S 9. Paragraph 1 of subsection (c) of section 409 of the insurance law, as added by chapter 635 of the laws of 1996, is amended to read as follows:

(1) interface of special investigation unit personnel with law enforcement and prosecutorial agencies[, including] AND WITH the [insurance frauds bureau] FINANCIAL FRAUDS AND CONSUMER PROTECTION UNIT of the [state insurance department] DEPARTMENT OF FINANCIAL SERVICES;

S 10. Paragraph 1 of subsection (b) of section 411 of the insurance law, as added by chapter 499 of the laws of 2009, is amended to read as follows:

(1) interface of special investigations unit personnel with law enforcement and prosecutorial agencies, including the [insurance frauds bureau] FINANCIAL FRAUDS AND CONSUMER PROTECTION UNIT in the department;

S 11. Section 11 of the banking law, as amended by chapter 684 of the laws of 1938, the section heading as amended by chapter 777 of the laws of 1939, subdivisions 1 and 4 as amended by chapter 566 of the laws of 2004 and subdivision 3 as amended by chapter 276 of the laws of 1990, is amended to read as follows:

S 11. [Banking department; official] DEPARTMENT OF FINANCIAL SERVICES; OFFICIAL documents; destruction of documents; official communications. 1. The [banking] department shall be charged with the execution of the laws relating to the individuals, partnerships, corporations and other entities to which this chapter is applicable and shall exercise such powers and perform such duties as are conferred and imposed upon it by this chapter, or by any law of this state. [The principal office of the department shall be in the city of Albany.

2. Every paper executed by an officer of the department in pursuance of authority conferred by law and sealed with the official seal of the department shall be received in evidence, and may be recorded in the proper recording offices in the same manner and with the same effect as a deed regularly acknowledged.

3.] 2. (a) Except as specified in paragraph (b) or (c) of this subdivision, any report expressly required to be rendered to the superintendent under any provision of this chapter, any report of an examination made in accordance with any provision of this chapter, and any oath or

declaration of office received by the department shall be retained in such form and for such period as the superintendent finds necessary and proper. After such period the superintendent shall recommend disposal of such material in accordance with the provisions of the arts and cultural affairs law.

(b) Reports made in accordance with section twenty-eight-b of this [chapter] ARTICLE or pursuant to the rules and regulations of the [banking board] SUPERINTENDENT promulgated in connection with assessing a banking organization's record of performance in meeting the credit needs of local communities within the meaning of section twenty-eight-b of this [chapter] ARTICLE, including reports expressly required to be rendered to the superintendent and reports of examinations may be destroyed at the direction of the superintendent and in accordance with the provisions of the arts and cultural affairs law after three years from date of receipt thereof, provided any such report has first been photographed, microphotographed or otherwise reproduced. Each such reproduction shall be retained in the files of the department for a period of at least fifteen years from the date of the last received report, oath or declaration appearing thereon. After the expiration of such period, such reproduction may be destroyed at the direction of the superintendent and in accordance with the provisions of the arts and cultural affairs law. Such reproduction thereof shall be deemed, for any purpose, the equivalent of the original of such report. Any such report not so reproduced shall be retained in the files of the department for a period of at least fifteen years from the date of receipt thereof, after which it may be destroyed at the direction of the superintendent and in accordance with the provisions of the arts and cultural affairs law.

(c) This subdivision shall not apply to any records, documents or correspondence referred to in subdivision four of section six hundred twenty-seven of this chapter.

4. Any communication from the [banking] department to any person, partnership, corporation or other entity may contain a direction that such communication shall be presented to the controlling owners or principal management of such entity, members of such partnership or to the board of directors or trustees of such corporation. A communication containing such direction shall be for the purposes of this chapter an official communication. The superintendent may, in his or her discretion, notify in writing each owner or principal manager of such entity, every member of such partnership and every director or trustee of such corporation of the sending of such a communication and, in that event the notification shall state the date of such communication.

S 12. Section 12 of the banking law is REPEALED.

S 12-a. Sections 204, 302, 303, 304, 305, 313, 326 and 327 of the insurance law are REPEALED.

S 13. Paragraphs 17 and 41 of subsection (a) of section 107 of the insurance law are amended to read as follows:

(17) "Department" means the [insurance] department OF FINANCIAL SERVICES of this state.

(41) "Superintendent" means the superintendent of [insurance] FINANCIAL SERVICES of this state.

S 13-a. Section 2 of the banking law is amended by adding two new subdivisions 28 and 29 to read as follows:

(28) DEPARTMENT. THE TERM "DEPARTMENT" MEANS THE DEPARTMENT OF FINANCIAL SERVICES OF THIS STATE.

(29) SUPERINTENDENT. THE TERM "SUPERINTENDENT" MEANS THE SUPERINTENDENT OF FINANCIAL SERVICES OF THIS STATE.

S 14. Paragraphs (b) and (e) of subdivision 1 of section 169 of the executive law, paragraph (b) as amended by section 1 of part F of chapter 56 of the laws of 2005, and paragraph (e) as separately amended by section 11 of part A-1 and section 10 of part O of chapter 56 of the laws of 2010, are amended to read as follows:

(b) commissioner of labor, chairman of public service commission, commissioner of taxation and finance, superintendent of [banks] FINANCIAL SERVICES, commissioner of criminal justice services, [superintendent of insurance,] and commissioner of parks, recreation and historic preservation;

(e) chairman of state athletic commission, [chairman and executive director of consumer protection board,] director of the office of victim services, chairman of human rights appeal board, chairman of the industrial board of appeals, chairman of the state commission of correction, members of the board of parole, members of the state racing and wagering board, member-chairman of unemployment insurance appeal board, director of veterans' affairs, and vice-chairman of the workers' compensation board;

S 15. Section 332 of the insurance law is REPEALED.

S 16. Section 17 of the banking law is REPEALED.

S 17. Section 13 of the banking law is REPEALED.

S 18. Section 201 of the insurance law is REPEALED.

S 19. Section 202 of the insurance law is REPEALED.

S 20. Article 20 of the executive law is REPEALED.

S 21. The executive law is amended by adding a new section 94-a to read as follows:

S 94-A. CONSUMER PROTECTION DIVISION. 1. LEGISLATIVE DECLARATION. THE LEGISLATURE HEREBY FINDS AND DECLARES THAT THE CONSUMPTION OF GOODS AND SERVICES IS AN ECONOMIC ACTIVITY THAT AFFECTS THE LIFE OF EVERY CITIZEN. THE LEGISLATURE FURTHER FINDS THAT UNSCRUPULOUS AND QUESTIONABLE BUSINESS PRACTICES ARE DETRIMENTAL TO THE ECONOMIC WELL-BEING OF THE CITIZENS OF THIS STATE. IN ORDER TO PROTECT THE PEOPLE OF NEW YORK STATE FROM ECONOMIC HARM THE LEGISLATURE FINDS THAT IT IS APPROPRIATE THAT THE RESPONSIBILITIES OF THE CONSUMER PROTECTION BOARD BE CONSOLIDATED INTO A NEW CONSUMER PROTECTION DIVISION UNDER THE SUPERVISION OF THE SECRETARY.

2. CONSUMER PROTECTION DIVISION. (A) THE SECRETARY SHALL ESTABLISH A CONSUMER PROTECTION DIVISION IN THE DEPARTMENT.

(B) THE SECRETARY IS AUTHORIZED TO ESTABLISH WITHIN THE CONSUMER PROTECTION DIVISION ONE OR MORE UNITS AND ASSIGN APPROPRIATE FUNCTIONS TO ANY SUCH UNIT AND MAY APPOINT SUCH STAFF AS NECESSARY AND PRESCRIBE THEIR DUTIES AND FIX THEIR COMPENSATION WITHIN THE APPROPRIATION PROVIDED BY LAW.

(C) THE SECRETARY SHALL ESTABLISH A PUBLIC EDUCATION AND OUTREACH CAMPAIGN TO PUBLICIZE THE CONSUMER PROTECTION DIVISION SO AS TO MAXIMIZE PUBLIC AWARENESS OF, AND THE SERVICES PROVIDED BY, SUCH DIVISION.

3. POWERS OF THE CONSUMER PROTECTION DIVISION. (A) THE DIVISION SHALL HAVE THE POWER AND DUTY TO:

(1) RECEIVE COMPLAINTS OF CONSUMERS, ATTEMPT TO MEDIATE SUCH COMPLAINTS WHERE APPROPRIATE, AND REFER COMPLAINTS TO THE APPROPRIATE UNIT OF THE DEPARTMENT, OR FEDERAL, STATE OR LOCAL AGENCY AUTHORIZED BY LAW FOR APPROPRIATE ACTION ON SUCH COMPLAINTS;

(2) COORDINATE THE ACTIVITIES OF ALL STATE AGENCIES PERFORMING CONSUMER PROTECTION FUNCTIONS;

(3) INITIATE AND ENCOURAGE CONSUMER EDUCATION PROGRAMS;

(4) CONDUCT INVESTIGATIONS, RESEARCH, STUDIES AND ANALYSES OF MATTERS AFFECTING THE INTERESTS OF CONSUMERS;

(5) COOPERATE WITH AND ASSIST THE ATTORNEY GENERAL AND THE DEPARTMENT OF FINANCIAL SERVICES IN THE CARRYING OUT OF LEGAL ENFORCEMENT RESPONSIBILITIES FOR THE PROTECTION OF CONSUMERS;

(6) IMPLEMENT OTHER POWERS AND DUTIES BY REGULATION AND OTHERWISE AS PRESCRIBED BY ANY PROVISION OF LAW;

(7) (I) ADVISE AND MAKE RECOMMENDATIONS TO THE GOVERNOR ON MATTERS AFFECTING THE CONSUMERS OF THE STATE AND PROMOTE AND ENCOURAGE THE PROTECTION OF THE LEGITIMATE INTERESTS OF CONSUMERS WITHIN THE STATE;

(II) STUDY THE OPERATION OF CONSUMER PROTECTION LAWS AND RECOMMEND TO THE GOVERNOR NEW LAWS AND AMENDMENTS OF LAWS FOR CONSUMER PROTECTION;

(8) REPRESENT THE INTERESTS OF CONSUMERS OF THE STATE BEFORE FEDERAL, STATE AND LOCAL ADMINISTRATIVE AND REGULATORY AGENCIES;

(9) ESTABLISH A PROCESS BY WHICH VICTIMS OF IDENTITY THEFT WILL RECEIVE ASSISTANCE AND INFORMATION TO RESOLVE COMPLAINTS. TO IMPLEMENT THE PROCESS THE SECRETARY SHALL HAVE THE AUTHORITY TO:

(I) PROMULGATE RULES AND REGULATIONS TO ADMINISTER THE IDENTITY THEFT PREVENTION AND MITIGATION PROGRAM; AND

(II) ACT AS A LIAISON BETWEEN THE VICTIM AND ANY STATE AGENCY, PUBLIC AUTHORITY, OR ANY MUNICIPAL DEPARTMENT OR AGENCY, THE DIVISION OF STATE POLICE, AND COUNTY OR MUNICIPAL POLICE DEPARTMENTS, AND ANY NON-GOVERNMENTAL ENTITY, INCLUDING BUT NOT LIMITED TO, CONSUMER CREDIT REPORTING AGENCIES, TO FACILITATE THE VICTIM OBTAINING SUCH ASSISTANCE AND DATA AS WILL ENABLE THE PROGRAM TO CARRY OUT ITS DUTIES TO HELP CONSUMERS RESOLVE THE PROBLEMS THAT HAVE RESULTED FROM THE IDENTITY THEFT. TRADE SECRETS AND PROPRIETARY BUSINESS INFORMATION CONTAINED IN THE DOCUMENTS OR RECORDS THAT MAY BE RECEIVED BY THE DIVISION SHALL BE EXEMPT FROM DISCLOSURE TO THE EXTENT ALLOWED BY ARTICLE SIX OF THE PUBLIC OFFICERS LAW;

(10) UNDERTAKE ACTIVITIES TO ENCOURAGE BUSINESS AND INDUSTRY TO MAINTAIN HIGH STANDARDS OF HONESTY, FAIR BUSINESS PRACTICES, AND PUBLIC RESPONSIBILITY IN THE PRODUCTION, PROMOTION AND SALE OF CONSUMER GOODS AND SERVICES;

(11) CONDUCT PRODUCT RESEARCH AND TESTING AND, WHERE APPROPRIATE, CONTRACT WITH PRIVATE AGENCIES AND FIRMS FOR THE PERFORMANCE OF SUCH SERVICES;

(12) COOPERATE WITH AND ASSIST LOCAL GOVERNMENTS IN THE DEVELOPMENT OF CONSUMER PROTECTION ACTIVITIES;

(13) ESTABLISH ADVISORY COUNCILS TO ASSIST IN POLICY FORMULATION ON SPECIFIC CONSUMER PROBLEMS;

(14) COOPERATE WITH AND ASSIST CONSUMERS IN CLASS ACTIONS IN PROPER CASES; AND

(15) CREATE AN INTERNET WEBSITE OR WEBPAGE PURSUANT TO SECTION THREE HUNDRED NINETY-C OF THE GENERAL BUSINESS LAW.

4. UTILITY INTERVENTION UNIT. (A) THERE IS ESTABLISHED WITHIN THE DIVISION A STATE UTILITY INTERVENTION UNIT.

(B) THE UTILITY INTERVENTION UNIT SHALL HAVE THE POWER AND DUTY TO:

(I) ON BEHALF OF THE SECRETARY, INITIATE, INTERVENE IN, OR PARTICIPATE IN ANY PROCEEDINGS BEFORE THE PUBLIC SERVICE COMMISSION, TO THE EXTENT AUTHORIZED BY SECTIONS TWENTY-FOUR-A, SEVENTY-ONE, EIGHTY-FOUR OR NINETY-SIX OF THE PUBLIC SERVICE LAW OR ANY OTHER APPLICABLE PROVISION OF LAW, WHERE HE OR SHE DEEMS SUCH INITIATION, INTERVENTION OR PARTICIPATION TO BE NECESSARY OR APPROPRIATE; AND

(II) REPRESENT THE INTERESTS OF CONSUMERS OF THE STATE BEFORE FEDERAL, STATE AND LOCAL ADMINISTRATIVE AND REGULATORY AGENCIES ENGAGED IN THE REGULATION OF ENERGY SERVICES.

5. REPORTS. (A) NO LATER THAN MARCH FIFTEENTH OF EACH YEAR, BEGINNING IN TWO THOUSAND TWELVE, THE SECRETARY SHALL FURNISH TO THE GOVERNOR, THE SPEAKER OF THE ASSEMBLY AND THE TEMPORARY PRESIDENT OF THE SENATE A REPORT DESCRIBING THE ACTIVITIES OF THE CONSUMER PROTECTION DIVISION. THE SECRETARY SHALL PREPARE QUARTERLY A REPORT TO THE GOVERNOR, THE SPEAKER OF THE ASSEMBLY AND THE TEMPORARY PRESIDENT OF THE SENATE OF THE CATEGORY AND NUMBER OF COMPLAINTS RECEIVED BY THE DIVISION DURING THE PREVIOUS QUARTER IN SUFFICIENT DETAIL TO ASSIST THE RECIPIENTS IN DETERMINING THE NEED FOR ADDITIONAL LAWS FOR THE PROTECTION OF THE CONSUMER. ADDITIONALLY, ALL SUCH COMPLAINTS RECEIVED BY THE DIVISION SHALL BE MAINTAINED ON A CATEGORY BY CATEGORY BASIS.

(B) NO LATER THAN JANUARY FIRST, TWO THOUSAND TWELVE, THE SECRETARY SHALL FURNISH TO THE GOVERNOR, THE SPEAKER OF THE ASSEMBLY AND THE TEMPORARY PRESIDENT OF THE SENATE A REPORT DESCRIBING THE ACTIVITIES OF THE CONSUMER PROTECTION DIVISION REGARDING THE PUBLIC EDUCATION AND OUTREACH CAMPAIGN REQUIRED PURSUANT TO PARAGRAPH (C) OF SUBDIVISION TWO OF THIS SECTION.

S 21-a. Section 192-d of the agriculture and markets law is REPEALED.

S 22. Section 285 of the agriculture and markets law is REPEALED.

S 23. Subdivision 1 of section 5010 of the education law, as amended by chapter 604 of the laws of 1993, is amended to read as follows:

1. An advisory council for registered business and licensed trade schools is hereby created for the purpose of advising the board of regents and the commissioner as provided herein. The council shall be composed of eleven members appointed by the governor, two of whom shall be upon the recommendation of the temporary president of the senate, two of whom shall be upon the recommendation of the speaker of the assembly, one of whom shall be upon the recommendation of the minority leader of the senate and one of whom shall be upon the recommendation of the minority leader of the assembly. Of the five remaining members, one shall be an owner or director of a school regulated pursuant to this article, one shall be a currently enrolled student at the time of appointment or a graduate of such a school who graduated within three years of appointment and one shall be a student advocate. The governor shall designate a chairperson from such members. The commissioner of education, the president of the higher education services corporation, the [chair of the consumer protection board] SECRETARY OF STATE, the comptroller, the director of the division of the budget, and the executive director of the job training partnership council, or their designees, shall serve as ex-officio, non-voting members of the council.

S 24. Subdivision 1 of section 6-102 of the energy law, as added by chapter 433 of the laws of 2009, is amended to read as follows:

1. There shall be established a state energy planning board, hereinafter referred to as the "board", which shall consist of the chair of the public service commission, the commissioner of environmental conservation, the commissioner of economic development, the commissioner of transportation, the commissioner of labor, the director of the state emergency management office, [the chair of the consumer protection board,] the commissioner of health, the president of the New York state urban development corporation, the secretary of state and the president of the New York state energy research and development authority. The governor, the speaker of the assembly and the temporary president of the senate shall each appoint one representative to serve on the board. The presiding officer of the federally designated electric bulk system operator (BSO) shall serve as a non-voting member of the board. Any decision or action by the board shall be by majority vote. The president of the

New York state energy research and development authority shall serve as chair of the board. Members of the board may designate an executive staff representative to participate on the board on their behalf.

S 25. Section 12-101-a of the energy law, as added by chapter 83 of the laws of 1995, is amended to read as follows:

S 12-101-a. Administration. Notwithstanding any other provision of law, the [state consumer protection board] NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY shall be deemed to have the responsibility and authority to implement the provisions of this article.

S 26. Section 17-102 of the energy law, as added by chapter 83 of the laws of 1995, is amended to read as follows:

S 17-102. Administration. Notwithstanding any other provision of law, the [state consumer protection board] NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY shall be deemed to have the responsibility and authority to implement the provisions of this article.

S 27. Paragraph (a) of subdivision 7 of section 208 of the state technology law, as amended by chapter 491 of the laws of 2005, is amended to read as follows:

(a) In the event that any New York residents are to be notified, the state entity shall notify the state attorney general, [the consumer protection board,] THE DEPARTMENT OF STATE and the state office of cyber security and critical infrastructure coordination as to the timing, content and distribution of the notices and approximate number of affected persons. Such notice shall be made without delaying notice to affected New York residents.

S 28. Article 14-A of the general business law is REPEALED.

S 29. Subdivision 1 of section 442-i of the real property law, as added by chapter 248 of the laws of 1995, is amended to read as follows:

1. There is hereby established within the department of state a state real estate board which shall consist of the secretary of state, [the executive director of the consumer protection board] SUPERINTENDENT OF FINANCIAL SERVICES, and thirteen additional members. At least five of these members shall be "real estate brokers", each of whom, at the time of appointment, shall be licensed and qualified as a real estate broker under the laws of New York state and shall have been engaged in the real estate business in this state for a period of not less than ten years prior to appointment. The remaining members shall be "public members" who shall not be real estate licensees.

S 30. Subdivisions 1 and 4 of section 490-a of the general business law are REPEALED and two new subdivisions 1 and 4 are added to read as follows:

1. "DEPARTMENT" MEANS THE DEPARTMENT OF STATE.

4. "SECRETARY" MEANS THE SECRETARY OF STATE.

S 31. Paragraph (d) of subdivision 1 of section 490-d of the general business law, as added by chapter 553 of the laws of 2008, is amended to read as follows:

(d) Provide notification to the [board] DEPARTMENT of such recall or warning.

All notices under this subdivision must include in a clear and conspicuous fashion a description of the product, the reason for the recall or warning, a picture of the product if available, and instructions on how to return or exchange the recalled product. Such notice shall include only the product recall or warning information and may not include sales or marketing information on that product or any other product, excluding return and exchange policies.

S 32. Paragraph (b) of subdivision 2 of section 490-d of the general business law, as added by chapter 553 of the laws of 2008, is amended to read as follows:

(b) The commercial dealer shall provide to the [board] DEPARTMENT certification of disposition for such recalled products within ninety days after the issuance of the recall, unless upon written application by such dealer the [board] DEPARTMENT determines an extension of time is warranted.

S 33. Sections 490-g and 490-h of the general business law, as added by chapter 553 of the laws of 2008, are amended to read as follows:

S 490-g. Enforcement. 1. Where it is determined after a hearing that any person has violated one or more provisions of this article, the [director] SECRETARY may assess a civil penalty no greater than five thousand dollars for each violation. Any proceeding conducted pursuant to this section shall be subject to the state administrative procedure act. Upon the occasion of a second violation or subsequent violations of this article, a civil penalty no greater than fifty thousand dollars may be assessed.

2. The [board] DEPARTMENT shall provide the attorney general any information on recalled or unsafe products, complaints regarding recalled or unsafe products and violations of this section that are necessary for the purposes of enforcement by the attorney general pursuant to section sixty-three of the executive law.

3. The [director] SECRETARY or his or her designee may administer oaths and take affidavits in relation to any matter or proceeding in the exercise of the powers and duties under this article. The [director] SECRETARY or his or her designee may subpoena and require the attendance of witnesses and the production of books, papers, contracts and any other documents pertaining to any investigation or hearing conducted pursuant to this article.

4. If any person refuses to comply with a subpoena issued under this section, the [board] DEPARTMENT may petition a court of competent jurisdiction to enforce the subpoena and such sanctions as the court may direct.

5. Nothing in this section shall be construed to restrict any right which any person may have under any other statute or at common law.

S 490-h. Promulgation of rules and regulations. The [board] DEPARTMENT shall promulgate rules and regulations to administer this article.

S 34. Subdivision 9 of section 349-d of the general business law, as added by chapter 416 of the laws of 2010, is amended to read as follows:

9. The attorney general, upon his or her own motion or upon referral from the public service commission, the Long Island power authority or the [state consumer protection board] DEPARTMENT OF STATE, may bring a civil action against any energy services company that violates any provision of this section and may recover (a) a civil penalty not to exceed one thousand dollars per violation; and (b) costs and reasonable attorney's fees. In any such proceeding the court may direct restitution.

S 35. Subdivisions (b) and (c) of section 372 of the general business law, as added by section 6 of part VV of chapter 59 of the laws of 2009, are amended to read as follows:

(b) The department shall, in accordance with regulations promulgated by the commissioner of taxation and finance, produce and make available to taxpayers and tax preparers an informational flier regarding consumers' rights and laws concerning tax preparers to be called a "consumer bill of rights regarding tax preparers". The department shall consult

with the [state consumer protection board] DEPARTMENT OF STATE, to enhance distribution of fliers to consumers. The flier shall also be made available on the department and the [state consumer protection board's] DEPARTMENT OF STATE'S internet site, and shall contain information including, but not limited to, the following:

(1) postings required by state and federal laws, such as price posting and posting of qualifications;

(2) explanations of some of the commonly offered services and industry jargon, such as preparation of short and long federal forms, refund, electronic filing, express mail, direct deposit, refund anticipation check, refund anticipation loan, quick, instant, rapid, fast, fee, and interest;

(3) basic information on what a tax preparer is and is not required to do for a consumer, such as the preparer's responsibility to sign a return, that a tax preparer may not be required to accompany a consumer to an audit but the company may have a voluntary policy to accompany consumers to audits; and

(4) the telephone numbers of the department for information and complaints.

The flier shall be in a form which is easily reproducible by photocopy machine.

(c) The department shall coordinate its response to consumer tax preparer complaints with the [state consumer protection board, pursuant to subdivision (b) of section five hundred fifty-three of the executive law] DEPARTMENT OF STATE, as the department deems appropriate.

S 36. Subdivision (g) of section 380-t of the general business law, as amended by chapter 279 of the laws of 2008, is amended to read as follows:

(g) The [consumer protection board] DEPARTMENT OF STATE shall monitor the state of technology relating to the means available to process requests for the lifting or removal of a security freeze, and shall report to the legislature when it is determined that the technology to process requests for the lifting or removal of a security freeze in a shorter period of time than that set forth in subdivision (e) of this section is available.

S 37. Subdivision 3 of section 390-c of the general business law, as added by chapter 509 of the laws of 2007, is amended to read as follows:

3. The [consumer protection board] DEPARTMENT OF STATE shall establish an internet security website or webpage, that includes, but is not limited to, an explanation of what a firewall is and the importance of other internet security measures.

S 38. Subdivision 2 of section 399-dd of the general business law, as added by chapter 519 of the laws of 2006, is amended to read as follows:

2. The [consumer protection board] DEPARTMENT OF STATE, in consultation with the office of parks, recreation and historic preservation, shall promulgate rules and regulations for the design, installation, inspection and maintenance of playgrounds and playground equipment. Those regulations shall substantially comply with the guidelines and criteria which are contained in the handbook for public playground safety produced by the United States consumer products safety commission or any successor. The rules and regulations shall include special provisions for playgrounds appropriate for children within the range of ages in day care settings.

S 39. Paragraphs a and b of subdivision 1 of section 399-z of the general business law are REPEALED, and two new paragraphs a and b are added to read as follows:

A. "DEPARTMENT" SHALL MEAN THE DEPARTMENT OF STATE.
B. "SECRETARY" SHALL MEAN THE SECRETARY OF STATE.
S 40. Subdivision 4 of section 399-z of the general business law, as amended by chapter 344 of the laws of 2010, is amended to read as follows:
4. a. The [board] DEPARTMENT is authorized to establish, manage, and maintain a no telemarketing sales calls statewide registry which shall contain a list of customers who do not wish to receive unsolicited telemarketing sales calls. The [board] DEPARTMENT may contract with a private vendor to establish, manage and maintain such registry, provided the private vendor has maintained national no telemarketing sales calls registries for more than two years, and the contract requires the vendor to provide the no telemarketing sales calls registry in a printed hard copy format and in any other format as prescribed by the [board] DEPARTMENT.
b. The [board] DEPARTMENT is authorized to have the national "do-not-call" registry established, managed and maintained by the federal trade commission pursuant to 16 C.F.R. Section 310.4 (b) (1) (iii) (B) serve as the New York state no telemarketing sales calls statewide registry provided for by this section. The [board] DEPARTMENT is further authorized to take whatever administrative actions may be necessary or appropriate for such transition including, but not limited to, providing the telephone numbers of New York customers registered on the no telemarketing sales calls statewide registry to the federal trade commission, for inclusion on the national "do-not-call" registry.
S 41. Subdivisions 6, 7 and 8 of section 399-z of the general business law, subdivisions 6 and 8 as amended and subdivision 7 as added by chapter 344 of the laws of 2010, are amended to read as follows:
6. a. The [board] DEPARTMENT shall provide notice to customers of the establishment of the national "do-not-call" registry. Any customer who wishes to be included on such registry shall notify the federal trade commission as directed by relevant federal regulations.
b. Any company that provides local telephone directories to customers in this state shall inform its customers of the provisions of this section by means of publishing a notice in such local telephone directories.
7. When the [board] DEPARTMENT has reason to believe a telemarketer has engaged in repeated unlawful acts in violation of this section, or when a notice of hearing has been issued pursuant to subdivision eight of this section, the [board] DEPARTMENT may request in writing the production of relevant documents and records as part of its investigation. If the person upon whom such request was made fails to produce the documents or records within thirty days after the date of the request, the [board] DEPARTMENT may issue and serve subpoenas to compel the production of such documents and records. If any person shall refuse to comply with a subpoena issued under this section, the [board] DEPARTMENT may petition a court of competent jurisdiction to enforce the subpoena and such sanctions as the court may direct.
8. a. Where it is determined after hearing that any person has violated one or more provisions of this section, the [director] SECRETARY, or any person deputized or so designated by him or her may assess a fine not to exceed eleven thousand dollars for each violation.
b. Any proceeding conducted pursuant to paragraph a of this subdivision shall be subject to the state administrative procedure act.

c. Nothing in this subdivision shall be construed to restrict any right which any person may have under any other statute or at common law.

S 42. Subdivision 1 of section 791 of the general business law, as amended by chapter 133 of the laws of 1999, is amended to read as follows:

1. There is created within the department a hearing aid dispensing advisory board which shall consist of thirteen members to be appointed by the secretary: four of whom shall be non-audiologist hearing aid dispensers who shall have been engaged in the business of dispensing hearing aids primarily in this state for at least five years immediately preceding their appointment, two to be appointed upon the recommendation of the governor, one to be appointed upon the recommendation of the temporary president of the senate and one to be appointed upon the recommendation of the speaker of the assembly; four members shall be audiologists who are engaged in the dispensing of hearing aids for at least five years immediately preceding their appointment, two to be appointed upon the recommendation of the governor, one to be appointed upon the recommendation of the temporary president of the senate and one to be appointed upon the recommendation of the speaker of the assembly; two shall be otolaryngologists; and the remaining three members, none of whom shall derive nor have derived in the past economic benefit from the business of dispensing hearing aids, shall be from the resident lay public of this state who are knowledgeable about issues related to hearing loss. At least one lay member shall be an individual representing adults over the age of fifty. At least one of the lay members shall be a hearing aid user. Of the otolaryngologists and lay members, one shall be appointed by the secretary on the recommendation of the minority leader of the senate and one shall be appointed by the secretary on the recommendation of the minority leader of the assembly and three shall be appointed by the secretary on the recommendation of the governor. Each member of the board shall be appointed for a term of two years. Any member may be appointed for additional terms. In the event that any member shall die or resign during his or her term, a successor shall be appointed in the same manner and with the same qualifications as set forth in this section. A member may be reappointed for successive terms but no member shall serve more than a total of ten years. The secretary or the designee of the secretary shall serve in an ex officio non-voting position. The secretary shall serve as chairperson. The commissioner of education, the commissioner of health, [the chair and executive director of the consumer protection board] and the attorney general or their designees shall serve as non-voting ex officio members.

S 43. Paragraph (a) of subdivision 8 of section 899-aa of the general business law, as amended by chapter 491 of the laws of 2005, is amended to read as follows:

(a) In the event that any New York residents are to be notified, the person or business shall notify the state attorney general, the [consumer protection board,] DEPARTMENT OF STATE and the state office of cyber security and critical infrastructure coordination as to the timing, content and distribution of the notices and approximate number of affected persons. Such notice shall be made without delaying notice to affected New York residents.

S 44. Subdivision (c) of section 3217 of the insurance law is amended to read as follows:

(c) Prior to the issuance of regulations pursuant to this section, the superintendent shall afford the public, including the companies

affected thereby, reasonable opportunity for comment and shall obtain the views, in writing, of the commissioner of health and the [chairman of the consumer protection board] SECRETARY OF STATE.

S 45. Paragraph (a) of subdivision 1 of section 1898 of the public authorities law, as added by chapter 487 of the laws of 2009, is amended to read as follows:

(a) the president of the authority; the secretary of state; the commissioner of housing and community renewal; the commissioner of labor; the commissioner of temporary and disability assistance; [the chair of the consumer protection board;] the chair of the department of public service; the president of the power authority of the state of New York; the president of the Long Island power authority; the commissioner of economic development; the commissioner of environmental conservation; or the designees of such persons; and

S 46. Section 2803-s of the public health law, as added by chapter 539 of the laws of 2010, is amended to read as follows:

S 2803-s. Access to product recall information. The commissioner shall require that every hospital and birth center distribute at the time of pre-booking or admission directly to each maternity patient and, upon request, to the general public an informational leaflet. Such leaflet shall be designed by the commissioner in conjunction with the [executive director of the state consumer protection board, on behalf of the state consumer protection board,] SECRETARY OF STATE and shall contain information detailing how parents or guardians of infants and children can subscribe to the United States consumer product safety commission's e-mail subscription lists to receive consumer product recall and safety news by e-mail from the United States consumer product safety commission and such other material as deemed appropriate by the commissioner. Such leaflet shall be made available to hospitals and birth centers by the department on its website and shall be provided in English, as well as the top six languages other than English spoken in the state according to the latest available data from the United States Bureau of Census.

S 47. Section 24-a of the public service law, as added by chapter 650 of the laws of 1974, is amended to read as follows:

S 24-a. [1.] Notice to be given to [board] DEPARTMENT OF STATE prior to rate increase.

1. Notwithstanding any inconsistent general, special or local law or rule or regulation to the contrary, the commission shall to the extent the [board] DEPARTMENT shall so request in any cases or class of cases, give notice to the [board] DEPARTMENT of any filed statement proposing to modify or increase rates, services, schedule of rates or any other rating rule or to adopt or amend any rate or service rules or regulations within five days after the commission shall have received such statement from any utility subject to its jurisdiction; provided, however, that in lieu of giving such notice, the commission may direct that the utility give such notice to the [board] DEPARTMENT.

2. In any such case in which the [board] DEPARTMENT shall file with the commission a statement of intent to be a party, the [board] DEPARTMENT shall have and in its discretion may exercise all the rights and privileges of a party.

3. For the purposes of this section, [the term "board" shall mean the state consumer protection board,] the term "commission" shall mean the public service commission.

S 48. Section 71 of the public service law, as amended by chapter 217 of the laws of 1978, is amended to read as follows:

S 71. Complaints as to quality and price of gas and electricity; investigation by commission; forms of complaints. Upon the complaint in writing of the mayor of a city, the trustees of a village, the town board of a town or the chief executive officer or the legislative body of a county in which a person or corporation is authorized to manufacture, convey, transport, sell or supply gas or electricity for heat, light or power, or upon the complaint in writing of not less than twenty-five customers or purchasers of such gas or electricity, or upon the complaint in writing of the [state consumer protection board] DEPARTMENT OF STATE, or upon a complaint of a gas corporation or electrical corporation supplying or transmitting said gas or electricity, as to the illuminating or heating power, purity or pressure or the rates, charges or classifications of service of gas, the efficiency of the electric incandescent lamp supply, the voltage of the current supplied for light, heat or power, or the rates charged or classification of service of electricity sold and delivered in such municipality, the commission shall investigate as to the cause for such complaint. When such complaint is made, the commission may, by its agents, examiners and inspectors, inspect the works, system, plant, devices, appliances and methods used by such person or corporation in manufacturing, transmitting and supplying such gas or electricity, and may examine or cause to be examined the books and papers of such person, or corporation pertaining to the manufacture, sale, transmitting and supplying of such gas or electricity. The form and contents of complaints made as provided in this section shall be prescribed by the commission. Such complaints shall be signed by the officers, or by the customers, purchasers or subscribers making them, who must add to their signatures their places of residence, by street and number, if any.

S 49. Section 84 of the public service law, as amended by chapter 650 of the laws of 1974, is amended to read as follows:

S 84. Complaints as to service and price of steam heat; investigation by commission; forms of complaints. Upon the complaint in writing of the mayor of the city, the trustees of a village or the town board of a town in which a person or corporation is authorized to manufacture, sell or supply steam for heat or power, or upon the complaint in writing of not less than fifty customers or purchasers of such steam heat in cities of the first or second class, or of not less than twenty-five in cities of the third class, or of not less than ten elsewhere, or upon the complaint in writing of the [state consumer protection board] DEPARTMENT OF STATE, as to the price, pressure or efficiency of steam supplied for heat or power, sold and delivered in such municipality, the commission shall investigate as to the cause for such complaint. When such complaint is made, the commission may, by its agents, examiners and inspectors, inspect the work, system, plant, devices, appliances and methods used by such person or corporation in manufacturing, transmitting and supplying such steam, and may examine or cause to be examined the books and papers of such person or corporation pertaining to the manufacture, sale, transmitting and supplying of such steam. The form and contents of complaints made as provided in this section shall be prescribed by the commission. Such complaint shall be signed by the officers, or by the customers, purchasers or subscribers making them, who must add to their signatures their place of residence, by street and number, if any.

S 50. Section 89-i of the public service law, as amended by chapter 651 of the laws of 1974, is amended to read as follows:

S 89-i. Complaints as to price of water; investigation by commission; forms of complaints. Upon the complaint in writing of the mayor of a city, the trustees of a village or the town board of a town in which a person or corporation is authorized to supply or distribute water for domestic, commercial or public uses, or upon the complaint in writing of not less than twenty-five customers or purchasers of such water in such municipality or upon complaint of a water-works corporation supplying such water, as to the rates, charges or classifications of service for water sold and delivered in such municipality, or upon the complaint in writing of the [state consumer protection board] DEPARTMENT OF STATE, or as to the methods employed in furnishing such service, the commission shall investigate as to the cause of such complaint. When such complaint is made, the commission may, by its agents, examiners and inspectors, inspect the works, system, plant, devices, appliances and methods used by such water-works corporation in supplying and distributing such water, and may examine or cause to be examined the books and papers of such water-works corporation pertaining to the supplying and distributing of such water. The form and contents of complaints made as provided in this section shall be prescribed by the commission. Such complaints shall be signed by the officers, or by the customers, purchasers or subscribers making them, who must add to their signatures their places of residence, by street and number, if any.

S 51. Subdivision 3 of section 96 of the public service law, as amended by chapter 650 of the laws of 1974, is amended to read as follows:

3. Complaints may be made to the commission by the [state consumer protection board] DEPARTMENT OF STATE or by any person or corporation aggrieved, by petition or complaint in writing, setting forth any act done or omitted to be done by any telegraph corporation or telephone corporation alleged to be in violation of the terms or conditions of its franchise or charter or of any order of the commission. Upon the presentation of such a complaint the commission shall cause a copy thereof to be forwarded to the person or corporation complained of which may be accompanied by an order directed to such person or corporation requiring that the matters complained of be satisfied or that the charges be answered in writing within a time to be specified by the commission. If the person or corporation complained of shall make reparation for any injury alleged and shall cease to commit or permit the violation of law, franchise, charter or order charged in the complaint, if any there be, and shall notify the commission of that fact before the time allowed for answer, the commission need take no further action upon the charges. If, however, the charges contained in such petition be not thus satisfied and it shall appear to the commission that there are reasonable grounds therefor, it shall investigate such charges in such manner and by such means as it shall deem proper and take such action within its powers as the facts in its judgment justify.

S 52. Paragraph 2 of subdivision (n) of section 1817 of the tax law, as amended by section 30 of subpart I of part V-I of chapter 57 of the laws of 2009, is amended to read as follows:

(2) The commissioner[, in cooperation with the state consumer protection board,] shall monitor the prices charged by persons engaged in the retail sale or distribution of motor fuel and diesel motor fuel.

S 53. Section 97-www of the state finance law, as added by chapter 547 of the laws of 2000, is amended to read as follows:

S 97-www. [1.] Consumer protection account. 1. There is hereby established in the joint custody of the state comptroller and the commission-

er of taxation and finance an account within the miscellaneous special revenue fund to be known as the "consumer protection account."

2. Such account shall consist of all [fees and] penalties received by the [state consumer protection board] DEPARTMENT OF STATE pursuant to [article ten-B of the personal property law,] section three hundred ninety-nine-z of the general business law and any additional monies appropriated, credited or transferred to such account by the Legislature. Any interest earned by the investment of monies in such account shall be added to such account, become part of such account, and be used for the purposes of such account.

3. Monies in the account shall be available to the [state consumer protection board for the payment of costs of producing and distributing educational materials and conducting educational activities relating to the promotion of the "unsolicited telemarketing sales call registry" and all related costs and expenditures incurred in the administration of section three hundred ninety-nine-z of the general business law and article ten-B of the personal property law] DEPARTMENT OF STATE FOR ALL COSTS AND EXPENDITURES RELATED TO CONSUMER PROTECTION ACTIVITIES.

4. Monies in the account shall be paid out of the account on the audit and warrant of the state comptroller on vouchers certified or approved by the [state consumer protection board] DEPARTMENT OF STATE or any officer or employee designated by the [executive director] SECRETARY OF STATE.

S 54. Intentionally omitted.

S 55. Paragraph 1 of subsection (c) of section 109 of the insurance law is amended to read as follows:

(1) If the superintendent finds after notice and hearing that any authorized insurer, representative of [such] THE insurer, licensed insurance agent, licensed insurance broker [or], licensed adjuster, OR ANY OTHER PERSON OR ENTITY LICENSED, CERTIFIED, REGISTERED, OR AUTHORIZED PURSUANT TO THIS CHAPTER, has wilfully violated the provisions of this chapter[, he] OR ANY REGULATION PROMULGATED THEREUNDER, THEN THE SUPERINTENDENT may order [such insurer, representative, agent, broker, or adjuster, as the case may be,] THE PERSON OR ENTITY to pay to the people of this state a penalty in a sum not exceeding [five hundred] ONE THOUSAND dollars for each [such] offense.

S 56. Section 203 of the insurance law is REPEALED.

S 57. Section 209 of the insurance law is REPEALED.

S 58. Section 210-a of the insurance law is REPEALED.

S 59. Section 211 of the insurance law is REPEALED.

S 60. Section 212 of the insurance law is REPEALED.

S 61. Section 214 of the insurance law, as added by chapter 77 of the laws of 2008, is amended to read as follows:

S 214. Report on insurance agent licensing examinations. The superintendent shall perform a study of the insurance agent licensure examinations required pursuant to section two thousand one hundred three of this chapter. The study shall, at a minimum, include the total number of examinees, the passing rate of all examinees, and the mean scores on the examination. Additionally, the study shall examine the correlation between these statistics and the applicants' native language, level of education, gender, race and ethnicity. The study shall be completed by [January first] MARCH FIFTEENTH, two thousand [nine] TWELVE, and annually thereafter.

S 62. Subsection (d) of section 308 of the insurance law is REPEALED.

S 63. Sections 498-a and 562 of the banking law are REPEALED.

S 64. Section 337 of the insurance law, as added by chapter 647 of the laws of 1992, is amended to read as follows:

S 337. Annual consumer guide on automobile insurance. (a) [No later than October first of each year, beginning in nineteen hundred ninety-three, the] THE superintendent shall [publish and make available, free of charge to the public,] ISSUE AND UPDATE, AS NECESSARY, a consumer guide on private passenger automobile insurance that shall contain comprehensive [and updated] information written in plain language in a clear and understandable format, including the following:

(1) an annual ranking of automobile insurers: (A) including an analysis of private passenger insurers in the state which provides, in detail, a ranking of such insurers from best to worst based on each insurer's record of consumer complaints during the preceding calendar year, using criteria available to the department, adjusted for volume of insurance written; and (B) taking into consideration the corresponding total of claims improperly denied in whole or in part, consumer complaints found to be valid in whole or in part, and any other pertinent data which would permit the department to objectively determine an insurer's performance; and (C) the superintendent may note, to the extent relevant, actions taken by the department against an insurer for violating any law or regulation;

(2) a list of makes and models of automobiles that generally do not meet underwriting guidelines of automobile insurers or in regard to which consumers can expect to pay higher premiums as a result of an automobile's style, model type or other distinguishing features, except that specific insurers shall not be identified for purposes of such list;

(3) an explanation of all types of automobile insurance required by law and available as optional coverage, including policyholders' rights under these types of coverage and when making claims;

(4) an explanation of and information on the automobile insurance plan established pursuant to article fifty-three of this chapter, including how motorists in such plan should proceed in attempting to obtain insurance in the voluntary market;

(5) [representative information on the availability and costs of automobile insurance from insurers for rating territories in the state, for classes of drivers, including information on premium credit and surcharge practices;

(6)] recommendations as to how best to shop for and compare prices, service and quality of automobile insurance coverage;

[(7)] (6) an explanation of prohibited discriminatory practices applying to insurance companies, agents and brokers; and

[(8)] (7) a department toll free consumer hot-line through which consumers may initiate complaints, and request general information, about automobile insurance.

(b) The [annual] requirements set forth in subsection (a) of this section may be satisfied by separate or supplemental publications and updates.

(c) The superintendent shall [provide for the adequate distribution and availability of] POST the consumer guide on automobile insurance ON THE DEPARTMENT'S WEBSITE. [Appropriate copies of the guide shall be transmitted to the commissioner of motor vehicles for distribution at every department of motor vehicle local and district office in the state and to the commissioner of education for distribution to every public library in the state, where copies of the guide shall be made available free of charge to the public.]

S 65. Section 338 of the insurance law is REPEALED.
S 66. Section 339 of the insurance law is REPEALED.
S 67. Section 402 of the insurance law is REPEALED.
S 68. Intentionally omitted.
S 69. Section 2102 of the insurance law is amended by adding a new subsection (g) to read as follows:
(G) ANY PERSON, FIRM, ASSOCIATION OR CORPORATION WHO OR THAT VIOLATES THIS SECTION SHALL BE SUBJECT TO A PENALTY NOT TO EXCEED FIVE HUNDRED DOLLARS FOR EACH TRANSACTION, EXCEPT AS PROVIDED IN PARAGRAPH TWO OF SUBSECTION (A) OF THIS SECTION.
S 70. Subsection (g) of section 2117 of the insurance law is amended to read as follows:
(g) Any person, firm, association or corporation violating any provision of this section shall, in addition to any other penalty provided by law, forfeit to the people of the state the sum of five hundred dollars for [the first offense, and an additional sum of five hundred dollars for each month during which any such person, firm, association or corporation shall continue to act in violation of this section] EACH TRANSACTION.
S 71. Subsection (b) of section 2402 of the insurance law, as amended by chapter 499 of the laws of 2009, is amended to read as follows:
(b) "Defined violation" means the commission by a person of an act prohibited by: SUBSECTION (A) OF SECTION ONE THOUSAND ONE HUNDRED TWO, section one thousand two hundred fourteen, one thousand two hundred seventeen, one thousand two hundred twenty, one thousand three hundred thirteen, subparagraph (B) of paragraph two of subsection (i) of section one thousand three hundred twenty-two, subparagraph (B) of paragraph two of subsection (i) of section one thousand three hundred twenty-four, TWO THOUSAND ONE HUNDRED TWO, TWO THOUSAND ONE HUNDRED SEVENTEEN, two thousand one hundred twenty-two, two thousand one hundred twenty-three, subsection (p) of section two thousand three hundred thirteen, section two thousand three hundred twenty-four, two thousand five hundred two, two thousand five hundred three, two thousand five hundred four, two thousand six hundred one, two thousand six hundred two, two thousand six hundred three, two thousand six hundred four, two thousand six hundred six, two thousand seven hundred three, three thousand one hundred nine, three thousand two hundred twenty-four-a, three thousand four hundred twenty-nine, three thousand four hundred thirty-three, paragraph seven of subsection (e) of section three thousand four hundred twenty-six, four thousand two hundred twenty-four, four thousand two hundred twenty-five, four thousand two hundred twenty-six, seven thousand eight hundred nine, seven thousand eight hundred ten, seven thousand eight hundred eleven, seven thousand eight hundred thirteen, seven thousand eight hundred fourteen and seven thousand eight hundred fifteen of this chapter; or section 135.60, 135.65, 175.05, 175.45, or 190.20, or article one hundred five of the penal law.
S 72. Section 2706 of the insurance law is REPEALED.
S 73. Intentionally omitted.
S 74. Intentionally omitted.
S 75. Intentionally omitted.
S 76. Section 5514 of the insurance law is REPEALED.
S 77. Subsection (d) of section 7006 of the insurance law is REPEALED.
S 78. Subdivision 47 of section 2.10 of the criminal procedure law, as added by chapter 720 of the laws of 1981, is amended to read as follows:
47. Employees of the [insurance frauds bureau of the state] department of [insurance] FINANCIAL SERVICES when designated as peace officers by

the superintendent of [insurance] FINANCIAL SERVICES and acting pursuant to their special duties AS SET FORTH IN ARTICLE FOUR OF THE FINANCIAL SERVICES LAW; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to section 400.00 of the penal law.

S 78-a. Subdivision 61 of section 2.10 of the criminal procedure law, as added by chapter 321 of the laws of 1992, is REPEALED.

S 79. Subdivision 1 of section 1370-b of the public health law, as amended by section 5 of part A of chapter 58 of the laws of 2009, is amended to read as follows:

1. The New York state advisory council on lead poisoning prevention is hereby established in the department, to consist of the following, or their designees: the commissioner; the commissioner of labor; the commissioner of environmental conservation; the commissioner of housing and community renewal; the commissioner of children and family services; the commissioner of temporary and disability assistance; the secretary of state; [the superintendent of insurance;] and fifteen public members appointed by the governor. The public members shall have a demonstrated expertise or interest in lead poisoning prevention and at least one public member shall be representative of each of the following: local government; community groups; labor unions; real estate; industry; parents; educators; local housing authorities; child health advocates; environmental groups; professional medical organizations and hospitals. The public members of the council shall have fixed terms of three years; except that five of the initial appointments shall be for two years and five shall be for one year. The council shall be chaired by the commissioner or his or her designee.

S 80. Paragraph (b) of subdivision 1 of section 2553 of the public health law, as amended by chapter 231 of the laws of 1993, is amended to read as follows:

(b) The council shall consist of [twenty-seven] TWENTY-SIX members, unless otherwise required by federal law, appointed by the governor. At least five members shall be parents, four of whom shall be parents of children with disabilities aged twelve or younger and one of whom shall be the parent of a child with disabilities aged six or younger; at least five shall be representatives of public or private providers of early intervention services; at least one shall be involved in personnel preparation or training; at least two shall be early intervention officials; at least two shall be members of the legislature; [seven] SIX shall be the commissioner and the commissioners of education, social services, [mental retardation and] PEOPLE WITH developmental disabilities, mental health, alcoholism and substance abuse services [and the superintendent of insurance], or their appropriate designees with sufficient authority to engage in policy planning and implementation on behalf of their agencies.

S 81. The opening paragraph of subdivision 1 of section 4602 of the public health law, as amended by chapter 401 of the laws of 2003, is amended to read as follows:

The continuing care retirement community council is hereby established, to consist of the following, or their designees: the attorney general; the commissioner; [the superintendent of insurance;] the director of the office for the aging; and eight public members appointed by the governor with the advice and consent of the senate. Such public members shall be representative of the public, and have a demonstrated expertise or interest in continuing care retirement communities;

provided that no more than one such member shall be a sponsor, owner, operator, manager, member of a board of directors, or shareholder of a continuing care retirement community. At least two public members shall be residents of a continuing care retirement community. At least one of the public members shall be a representative of an organization with demonstrated experience in representing the interests of senior citizens. The public members of the council shall have fixed terms of four years. The council shall be chaired by the commissioner or his or her designee.

S 82. Paragraph 5 of subdivision (a) of section 11 of the tax law, as amended by section 19 of part A of chapter 63 of the laws of 2005, is amended to read as follows:

(5) "Department" - the department of [insurance] FINANCIAL SERVICES; PROVIDED, HOWEVER, THAT "DEPARTMENT" SHALL MEAN THE DEPARTMENT OF ECONOMIC DEVELOPMENT WITH REGARD TO ANY APPLICATION, CERTIFICATION, REPORT, SUBMISSION, FILING OR OTHER ACTION REQUIRED OR GOVERNED BY THIS SECTION OCCURRING ON OR AFTER AUGUST FIRST, TWO THOUSAND ELEVEN.

S 83. Paragraph 12 of subdivision (a) of section 11 of the tax law, as amended by section 19 of part A of chapter 63 of the laws of 2005, is amended to read as follows:

(12) "Superintendent" - the superintendent of [insurance] FINANCIAL SERVICES; PROVIDED, HOWEVER, THAT "SUPERINTENDENT" SHALL MEAN THE COMMISSIONER OF ECONOMIC DEVELOPMENT WITH REGARD TO ANY APPLICATION, CERTIFICATION, REPORT, SUBMISSION, FILING OR OTHER ACTION REQUIRED OR GOVERNED BY THIS SECTION OCCURRING ON OR AFTER AUGUST FIRST, TWO THOUSAND ELEVEN.

S 84. Subdivision (j) of section 11 of the tax law is REPEALED.

S 85. Subdivision 1 of section 20 of chapter 784 of the laws of 1951, constituting the New York state defense emergency act, as amended by chapter 641 of the laws of 1978, is amended to read as follows:

1. There is hereby continued in the division of military and naval affairs in the executive department a state civil defense commission to consist of the same members as the members of the disaster preparedness commission as established in article two-B of the executive law. In addition, the [superintendents] SUPERINTENDENT of [banking and insurance] FINANCIAL SERVICES, the chairman of the workers' compensation board and the director of the division of veterans' affairs shall be members. The governor shall designate one of the members of the commission to be the chairman thereof. The commission may provide for its division into subcommittees and for action by such subcommittees with the same force and effect as action by the full commission. The members of the commission, except for 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 86. Section 4 of chapter 610 of the laws of 1995 amending the insurance law, relating to investments is REPEALED.

S 87. Section 3 of the banking law is REPEALED.

S 88. Subdivisions 3, 4, 5, 7, 8 and 9 of section 12-a of the banking law, as added by chapter 322 of the laws of 2007, paragraph (a) of subdivision 8 as amended by chapter 295 of the laws of 2008, are amended to read as follows:

3. Except with respect to a federally permitted power approved pursuant to subdivision four of this section, prior to any state chartered banking institution initially exercising any federally permitted power pursuant to this section, such banking institution shall make an appli-

cation individually or with one or more state chartered banking institutions to the superintendent indicating that such institution or institutions intend to exercise such federally permitted power and the basis on which such institution or institutions believe such power is a federally permitted power. [The] IF SUCH APPLICATION MEETS THE REQUIREMENTS OF THIS SECTION, THE superintendent shall post such application upon the bulletin board of the department pursuant to section forty-two of this article. After promptly reviewing such application, the superintendent shall determine, consistent with the standards set forth in subdivision five of this section, whether to [recommend to the banking board approval of] APPROVE such application subject to such terms and conditions as [he or she] THE SUPERINTENDENT may deem appropriate, in [his or her] THE SUPERINTENDENT'S sole discretion. Such determination, [and any recommendation to the banking board to approve an application,] shall be made by the superintendent within forty-five days after the posting of such application by the superintendent, provided however that the superintendent may notify the applicant or applicants that the review of the application shall be extended for an additional period of time not exceeding one hundred twenty days after the posting of such application, and provided further that such period of time may be extended for an additional period of time with the written consent of the applicant or applicants. The [banking board] SUPERINTENDENT shall not act upon the [superintendent's recommendation] APPLICATION prior to thirty days after such application has been posted. If the superintendent shall determine not to [recommend approval] APPROVE of such application, the superintendent shall notify the applicant or applicants in writing that the applicant or applicants may not exercise such federally permitted power. If the superintendent [determines to recommend approval of such application, and the banking board approves such application by adoption of a resolution,] APPROVES SUCH APPLICATION, THE SUPERINTENDENT SHALL NOTIFY THE APPLICANT OR APPLICANTS IN WRITING THEREOF, AND the applicant or applicants may exercise such federally permitted power subject to such terms and conditions as the [banking board] SUPERINTENDENT may have approved. [If the banking board declines to approve such application, the superintendent shall notify the applicant or applicants in writing thereof.] Notwithstanding any other law, the [banking board, upon the recommendation of the] superintendent[,] may[, by resolution,] make the approval of an application under this section applicable to one or more additional state chartered banking institutions that are qualified to exercise the same federally permitted powers as the applicant or applicants pursuant to subdivision two of this section, subject to such terms and conditions as the superintendent shall find necessary and appropriate [and as approved by the banking board].

4. Notwithstanding any other law, the superintendent, in [his or her sole] THE SUPERINTENDENT'S discretion, may, when [he or she] THE SUPERINTENDENT deems it necessary and appropriate after considering the standards set forth in subdivision five of this section, [recommend to the banking board that it adopt a resolution authorizing] BY ORDER, AUTHORIZE one or more state chartered banking institutions to exercise a federally permitted power, subject to such terms and conditions as the superintendent shall find necessary and appropriate [and as approved by the banking board]. Prior to [making any such recommendation to the banking board] ISSUING SUCH ORDER, the superintendent shall post [such recommendation] NOTICE OF THE SUPERINTENDENT'S INTENTION TO ISSUE SUCH ORDER upon the bulletin board of the department pursuant to section forty-two of this article, and [the banking board] shall not act upon

such [recommendation] INTENTION prior to thirty days after such [recommendation] NOTICE has been posted.

5. Prior to approving any [recommendation by the superintendent] APPLICATION OR PROPOSAL pursuant to subdivision three or four of this section, the [banking board] SUPERINTENDENT shall make a finding that the approval of such [recommendation] APPLICATION OR PROPOSAL is:

(i) consistent with the policy of the state of New York as declared in section ten of this article and thereby protects the public interest, including the interests of depositors, creditors, shareholders, stockholders and consumers; and

(ii) necessary to achieve or maintain parity between state chartered banking institutions and their counterpart federally chartered banking institutions with respect to rights, powers, privileges, benefits, activities, loans, investments or transactions.

7. (a) In those instances where state chartered banking institutions are permitted to engage in the business of insurance pursuant to this section, they shall do so subject to [regulation by the department of insurance and pursuant to] all insurance laws, rules, and regulations; provided, however, that the superintendent[, in consultation with the superintendent of insurance,] may exempt state chartered banking institutions from any insurance law, rule or regulation which has been preempted under federal law, rule or regulation for federally chartered banking institutions if such law, rule or regulation has been preempted because it applies to insurance activities of federally chartered banking institutions and not to those of other entities.

(b) In those instances where a federally permitted power authorized pursuant to this section is subject to regulation by an agency, as defined in subdivision one of section one hundred two of the state administrative procedure act, other than the superintendent, [banking board or superintendent of insurance,] then when a state chartered banking institution exercises such federally permitted power, unless it is so authorized by other New York state law, or a rule, regulation or policy adopted pursuant to such other New York state law, or by a judicial decision, it shall do so subject to such regulation to the same extent and in the same manner as such agency regulates entities other than state chartered banking institutions, except to the extent that federally chartered banking institutions are not subject to such regulation.

[(c) Except with respect to a credit unemployment insurance policy, group credit life insurance policy, a group credit health, group credit accident or group credit health and accident policy, or similar group credit insurance covering the person of the insured, state chartered banking institutions, federally chartered banking institutions, and any person soliciting the purchase of or selling insurance on the premises thereof, must disclose or cause to be disclosed in writing, where practicable, in clear and concise language, to their customers and prospective customers who are solicited therefor that any insurance offered or sold:

(i) is not a deposit;

(ii) is not insured by the federal deposit insurance corporation or the national credit union share insurance fund, as applicable; and

(iii) is not guaranteed by the state chartered banking institution or the federally chartered banking institution.

(d) Except with respect to a flood insurance policy, or a credit unemployment insurance policy, group credit life insurance policy, a group credit health, group credit accident or group credit health and accident

policy, or similar group credit insurance covering the person of the insured, when a customer obtains insurance and credit from a state chartered banking institution or a federally chartered banking institution, then the credit and insurance transactions shall be completed through separate documents. The expense of insurance premiums may not be included in the primary credit transaction without the express written consent of the customer.

(e) State chartered banking institutions and federally chartered banking institutions shall not extend credit, lease or sell property of any kind, or furnish any services, or fix or vary the consideration for any of the foregoing, on the condition or requirement that the customer obtain insurance from the state chartered banking institution or federally chartered banking institution, its affiliate or subsidiary, or a particular insurer, agent or broker; provided, however, that this prohibition shall not prevent any state chartered banking institution or federally chartered banking institution from engaging in any activity described in this subdivision that would not violate section 106 of the Bank Holding Company Act Amendments of 1970 (12 USCA S1971 et seq.), as interpreted by the Board of Governors of the Federal Reserve System. This prohibition shall not prevent a state chartered banking institution or federally chartered banking institution from informing a customer that insurance is required in order to obtain a loan or credit, that loan or credit approval is contingent upon the customer's procurement of acceptable insurance, or that insurance is available from the state chartered banking institution or federally chartered banking institution; provided, however, that the state chartered banking institution or federally chartered banking institution shall also inform the customer in writing that his or her choice of insurance provider shall not affect the state chartered banking institution's or federally chartered banking institution's credit decision or credit terms in any way. Such disclosure shall be given prior to or at the time that a state chartered banking institution or federally chartered banking institution or person selling insurance on the premises thereof solicits the purchase of any insurance from a customer who has applied for a loan or extension of credit.

(f) No state chartered banking institution or federally chartered banking institution shall require a debtor, insurer, or insurance agent or broker to pay a separate charge in connection with the handling of insurance that is required in connection with a loan or other extension of credit or the provision of another traditional banking product solely because the insurance is being provided by an insurance agent or broker which is not the state chartered banking institution or federally chartered banking institution or any subsidiary or affiliate thereof.

(g)] (C) Any state chartered banking institution or federally chartered banking institution and any subsidiary or affiliate thereof which is licensed to sell insurance in this state shall maintain separate and distinct books and records relating to its insurance transactions, including all files relating to and reflecting consumer complaints, and such insurance books and records shall be made available to the superintendent [of insurance] for inspection upon reasonable notice.

8. [(a)] On or before June first[, two thousand eight and annually thereafter] OF EACH YEAR, the superintendent shall submit a report to the governor, the speaker of the assembly, the temporary president of the senate, the minority leaders of the senate and assembly, and the chairs and ranking minority members of the senate and assembly banks committees, which shall include, with respect to the authority provided

for in this section, WITH RESPECT TO THE PRECEDING CALENDAR YEAR, (1) a listing of state chartered banking institutions that [have been retained,] WERE established [or that have converted to federally chartered banking institutions or have been acquired by, or merged with and into another state or out-of-state state chartered banking institution or federally chartered banking institution and the total employment of the banking sector in this state], (2) A LISTING OF INSTITUTIONS THAT HAVE CONVERTED TO A FEDERAL CHARTER OR HAVE BEEN ACQUIRED BY, OR MERGED WITH, ANOTHER BANKING INSTITUTION, (3) THE NUMBER OF NEW YORK BANKING INSTITUTIONS EXERCISING THE INSURANCE ACTIVITIES AUTHORIZED BY THIS SECTION, (4) the total number of NEW YORK chartered banking institutions located in this state, [including branches,] and (5) the total amount of assets of such chartered [or licensed] banking institutions by type [of federal, state or out-of-state state charter.

(b) On or before June first, two thousand eight and annually thereafter, the superintendent shall, in conjunction with the superintendent of insurance, submit a report to the governor, the speaker of the assembly, the temporary president of the senate and the minority leaders of the senate and the assembly, which assesses the impact of the provisions of this section which apply to the insurance activities of state chartered banking institutions].

9. Any rules or regulations promulgated by the banking board pursuant to former sections fourteen-g and fourteen-h of this chapter prior to September first, two thousand seven, AND ANY RESOLUTIONS ADOPTED BY THE BANKING BOARD PURSUANT TO THIS SECTION AFTER SEPTEMBER FIRST, TWO THOUSAND SEVEN AND BEFORE THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND ELEVEN WHICH AMENDED THIS SUBDIVISION, including any such rules [and], regulations AND RESOLUTIONS which in whole or in part impose conditions, qualifications or restrictions on any federally permitted powers authorized thereby which exceed the conditions, qualifications or restrictions imposed on the same when exercised by a federally chartered banking institution, shall remain in full force and effect on or after such date, unless any such rule [or], regulation OR RESOLUTION is thereafter superseded, modified, or revoked by the [banking board] SUPERINTENDENT pursuant to the provisions of subdivisions three and four of this section.

S 89. The functions and powers possessed by and all of the obligations and duties of the banking board, as established pursuant to the banking law, shall be transferred and assigned to, assumed by and devolved upon the superintendent.

S 90. Section 14 of the banking law, as amended by chapter 684 of the laws of 1938, the opening paragraph, paragraphs (a), (d), (e), and (f) of subdivision 1 as amended by chapter 315 of the laws of 2008, paragraphs (b) and (c) of subdivision 1 as amended by chapter 652 of the laws of 1988, paragraph (cc) of subdivision 1 as amended by chapter 115 of the laws of 1981, paragraph (g) of subdivision 1 as amended and paragraphs (h), (i), (ii), (k), (m), (n), (o), (p), (q), and (qq) of subdivision 1 as relettered by chapter 360 of the laws of 1984, paragraph (i) of subdivision 1 as amended by chapter 766 of the laws of 1975, paragraph (ii) of subdivision 1 as added by chapter 226 of the laws of 1943, paragraphs (j) and (l) of subdivision 1 as amended by chapter 154 of the laws of 2007, paragraph (s) of subdivision 1 as amended by chapter 613 of the laws of 1993, paragraph (t) of subdivision 1 as separately relettered by chapters 360 and 789 of the laws of 1984 and paragraph (qq) of subdivision 1, as added by chapter 15 of the laws of 1980, is amended to read as follows:

S 14. [Powers of the banking board] ADDITIONAL POWERS OF THE SUPERINTENDENT. 1. For the purpose of effectuating the policy declared in section ten of this article, WITHOUT LIMITING ANY OTHER POWERS THAT THE SUPERINTENDENT IS PERMITTED BY LAW TO EXERCISE, the [banking board] SUPERINTENDENT shall have THE power[, by a three-fifths vote of all its members,] to make, alter and amend [resolutions,] ORDERS, rules and regulations not inconsistent with law. Such ORDERS, rules[,] AND regulations [and resolutions] shall be brought to the attention of those affected thereby in a manner [to be] prescribed by [the board] LAW. Without limiting the foregoing power, [resolutions] ORDERS or rules or regulations may be so adopted for the following specific purposes:

(a) To approve organization certificates and articles of association, private bankers' certificates and applications of foreign corporations for licenses to do business in this state, [submitted to it by the superintendent] as provided in this article.

(b) To determine the purposes for which and the extent to which capital notes or debentures shall be considered and treated as capital stock of corporate banking organizations; but capital notes or debentures shall not be considered or treated as capital stock for the purposes of sections one hundred ten and one hundred eleven of this chapter.

(c) To grant permission to a trust company, including a national bank, to establish one or more common trust funds upon application and after inquiry concerning the qualifications of such trust company to maintain and manage the same, and to regulate the conduct and management of any common trust fund and for such purpose, but not by way of limitation of the foregoing power, to prescribe (1) the records and accounts to be kept of such common trust funds; (2) the procedure to be followed in adding moneys to or withdrawing moneys or investments from any such common trust fund; (3) the methods and standards to be employed in determining the value of such common trust funds and of the assets and investments thereof; (4) the maximum amount of moneys of any estate, trust or fund which may be invested in any common trust fund; and (5) the maximum proportionate share of any such common trust fund which may be apportioned to any estate, trust or fund; and in connection with such powers to classify the corporations maintaining such common trust funds according to the population of the city, town or village in which the principal offices of such corporations are respectively located and to prescribe the minimum total of any such common trust fund and the permissible limits of investment therein in accordance with such classification.

(cc) To approve the incorporation by or on behalf of trust companies and national banks with trust powers of a mutual trust investment company to form a medium for the common investment of funds held by trust companies, including national banks, acting as executors, administrators, guardians, inter-vivos or testamentary trustees or committees or conservators either alone or with individual co-fiduciaries, and any amendments of the certificate of incorporation of such mutual trust investment company, and to regulate the conduct and management of such mutual trust investment company and for such purpose, but not by way of limitation of the foregoing power, to prescribe (1) the records and accounts to be kept by such mutual trust investment company; (2) the procedure to be followed in the sale or redemption of stocks or shares therein; (3) the methods and standards to be employed in determining the value of such shares in the mutual trust investment company and the assets and investments thereof; and (4) the maximum proportionate shares

of any such mutual trust investment company which may be apportioned or sold to any one trust company or national bank.

(d) To authorize a bank or a trust company to invest in the capital stock of, or any other equity interest in, any corporation, partnership, unincorporated association, limited liability company, or other entity not included among the corporations or other entities for which investment in the capital stock or other equity interest is expressly authorized by this chapter.

(e) To authorize a savings bank to invest in the capital stock, capital notes and debentures of a trust company or other corporation, as provided in article six of this chapter.

(f) To authorize a savings and loan association to invest in the capital stock, capital notes and debentures of a trust company or other corporation, as provided in article ten of this chapter.

(g) To prescribe from time to time: (1) the rates of interest which may be paid on deposits with any banking organization and with any branch or agency of a foreign banking corporation; and (2) the rates of dividends which may be paid on shares of any savings and loan association or credit union, and to prohibit the payment of such interest or such dividends by any banking organization or by any branch of a foreign banking corporation. Interest or dividend rates so prescribed need not be uniform.

(h) To limit and regulate withdrawals of deposits or shares from any banking organization, if the [board] SUPERINTENDENT shall find that such limitation and regulation are necessary because of the existence of unusual and extraordinary circumstances. [The board shall enter such finding on its records.]

(i) To prescribe from time to time reserves against deposits to be maintained by banks and trust companies pursuant to article three of this chapter; provided that no reserve requirement imposed [by the board] against either time or demand deposits shall require any bank or trust company to maintain total reserves in an amount greater than it would be required to maintain if it were at the time a member of the federal reserve system; and provided further, however, that a bank or trust company not a member of the federal reserve system may be authorized [by the board] to maintain total reserves against deposits in an amount lower than the reserves required by article three of this chapter to be maintained, either in individual cases or by general regulations [of the board] on such basis as the [board] SUPERINTENDENT may deem reasonable or appropriate in view of the character of the business transacted by such bank or trust company.

[(ii) To exempt from reserve requirements prescribed by or pursuant to this chapter deposits payable to the United States by any banking organization arising solely as a result of subscriptions made by or through any such banking organization for United States government securities issued under the authority of the second liberty bond act as amended.]

(j) To grant permission to officers, directors, clerks or employees of banks and trust companies to engage in the issue, flotation, underwriting, public sale or distribution at wholesale or retail, or through syndicate participation of stocks, bonds or other similar securities, and to revoke such permission, both as provided in this chapter.

(k) To prescribe the methods and standards to be used (1) in making the examinations provided for in this chapter, and (2) in valuing the assets of banking organizations.

(l) To prescribe the form and contents of periodical reports of condition to be rendered to the superintendent by banks, trust companies,

private bankers and branches of foreign banking corporations, and the manner of publication of such reports.

(m) To postpone or omit the calling for and rendering of reports provided for by this chapter if the [board] SUPERINTENDENT shall find that such postponement or omission is necessary because of the existence of unusual and extraordinary circumstances. [The board shall enter such finding on its records.]

(n) To define what is an unsafe manner of conducting the business of banking organizations.

(o) To define what is a safe or unsafe condition of a banking organization.

(p) To make variations from the requirements of this chapter, provided such variations are in harmony with the spirit of the law, if the [board] SUPERINTENDENT shall find that such variations are necessary because of the existence of unusual and extraordinary circumstances. [The board shall enter such finding on its records.]

(q) To establish safe and sound methods of banking and safeguard the interests of depositors, creditors, shareholders and stockholders generally in times of emergency.

(qq) To permit any banking organization, national banking association, federal mutual savings bank, federal savings and loan association and federal credit union to offer graduated payment mortgages which shall conform to the provisions of section two hundred seventy-nine of the real property law.

(s) To permit authorized lenders, as defined by section two hundred eighty or two hundred eighty-a of the real property law, to offer reverse mortgage loans which shall conform to the provisions of section two hundred eighty or two hundred eighty-a of the real property law.

[(t) To exercise any other power conferred upon the board by law.

2. The board shall consider and make recommendations upon any matter which the superintendent may submit to it for recommendations, and pass upon and determine any matter which he shall submit to it for determination.

3. The board shall submit to the superintendent proposals for any amendments to this chapter which it deems desirable.]

S 91. Whenever the term banking board shall appear in any law, regulation, contract or other document other than a section amended in this act, such term shall be deemed to refer to the superintendent. Whenever the banking law authorizes the banking board to act by resolution, with or without a recommendation of the superintendent, the superintendent may act by determination or order.

S 92. Section 15 of the banking law is REPEALED.

S 93. Section 16 of the banking law is REPEALED.

S 94. Section 9-q of the banking law is REPEALED.

S 95. Section 6 of chapter 322 of the laws of 2007, amending the banking law relating to the power of banks, private bankers, trust companies, savings banks, savings and loan associations, credit unions and foreign banking corporations to exercise the rights of national banks, federal savings associations, federal credit unions and federal branches and agencies of foreign banks, as amended by chapter 122 of the laws of 2009, is amended to read as follows:

S 6. This act shall take effect immediately; provided, however that sections one, two, three and four of this act shall take effect September 1, 2007; and provided further that sections one, two, three and four of this act shall expire and be deemed repealed September 10, [2011] 2014; and provided further that any federally permitted powers approved

under section three of this act shall remain in full force and effect on and after such repeal date and shall not be affected by such repeal.

S 95-a. Section 7 of chapter 3 of the laws of 1997, amending the banking law and the insurance law relating to authorizing the banking board to permit banks and trust companies to exercise the rights of national banks, as amended by chapter 122 of the laws of 2009, is amended to read as follows:

S 7. This act shall take effect immediately provided that section two of this act shall take effect on the thirtieth day after it shall have become a law and shall apply to violations prescribed in section 44 of the banking law that occur on or after such date; and provided further that sections one, three, four and five shall expire and be deemed repealed September 10, [2011] 2014; and provided further that any rules and regulations promulgated pursuant to sections one, three, four and five shall remain in full force and effect on and after such expiration date and shall not be affected by such expiration date.

S 96. Subdivision 2 of section 75-g of the banking law is REPEALED.

S 97. Paragraph b of subdivision 19 of section 42 of the banking law, as added by chapter 322 of the laws of 2007, is amended to read as follows:

b. [Every recommendation to be made to the banking board pursuant to subdivision four of section twelve-a of this article, which shall include a description of the recommended federally permitted power, a reference to the state chartered banking institutions which shall be permitted to exercise such power, and the date of the meeting of the banking board at which such recommendation is expected to be considered] THE INTENTION OF THE SUPERINTENDENT TO ISSUE AN ORDER PURSUANT TO SUBDIVISION FOUR OF SECTION TWELVE-A OF THIS ARTICLE, WHICH SHALL INCLUDE A DESCRIPTION OF THE PROPOSED FEDERALLY PERMITTED POWER AND A REFERENCE TO THE STATE-CHARTERED BANKING INSTITUTIONS WHICH SHALL BE PERMITTED TO EXERCISE SUCH POWER.

S 98. Transfer of powers of the banking and insurance departments. The functions and powers possessed by and all of the obligations and duties of the banking and insurance departments, as established pursuant to the insurance law, the banking law and other laws, shall be transferred and assigned to, and assumed by and devolved upon, the department of financial services.

S 99. Abolition of the banking and insurance departments and the consumer protection board. Upon the transfer pursuant to this act of the functions and powers possessed by and all of the obligations and duties of the banking and insurance departments and the consumer protection board, as established pursuant to the banking law, the insurance law and other laws, the banking and insurance departments and the consumer protection board shall be abolished.

S 100. Continuity of authority of the banking and insurance departments. Except as herein otherwise provided, upon the transfer pursuant to this act of the functions and powers possessed by, and all of the obligations and duties of, the banking and insurance departments as established pursuant to the banking law, the insurance law and other laws, to the department of financial services as prescribed by this act, for the purpose of succession, all functions, powers, duties and obligations of the department of financial services shall be deemed and be held to constitute the continuation of such functions, powers, duties and obligations and not a different agency.

S 101. Transfer of records of the banking and insurance departments and the consumer protection board. Upon the transfer pursuant to this

act of the functions and powers possessed by and all of the obligations and duties of the banking and insurance departments and the consumer protection board as established pursuant to the banking law, the insurance law and other laws, to the department of financial services and the department of state, as appropriate, as prescribed by this act, all books, papers, records and property pertaining to the banking and insurance departments and the consumer protection board shall be transferred to and maintained by the department of financial services and the department of state, as appropriate.

S 102. Completion of unfinished business of the banking and insurance departments and the consumer protection board. Upon the transfer pursuant to this act of the functions and powers possessed by and all of the obligations and duties of the banking and insurance departments and the consumer protection board as established pursuant to the banking law, the insurance law and other laws, to the department of financial services and the department of state, as appropriate, as prescribed by this act, any business or other matter undertaken or commenced by the banking and insurance departments and the consumer protection board pertaining to or connected with the functions, powers, obligations and duties so transferred and assigned to the department of financial services and the department of state, as appropriate, may be conducted or completed by the department of financial services and the department of state, as appropriate.

S 103. Terms occurring in laws, contracts or other documents of or pertaining to the banking and insurance departments and the consumer protection board. Upon the transfer pursuant to this act of the functions and powers possessed by and all of the obligations and duties of the banking and insurance departments and the consumer protection board as established pursuant to the banking law, the insurance law and other laws, as prescribed by this act, whenever the banking and insurance departments and the superintendents thereof or the consumer protection board and the chairperson and executive director thereof, the functions, powers, obligations and duties of which are transferred to the department of financial services and the department of state, as appropriate, are referred to or designated in any law, regulation, contract or document pertaining to the functions, powers, obligations and duties transferred and assigned pursuant to this act, such reference or designation shall be deemed to refer to the department of financial services and its superintendent or, as the case may be, the department of state and its secretary. In the case of any boards or other organizations where the superintendents of both the banking department and the insurance department both sit, the references or designations shall be deemed to refer solely to the superintendent of the department of financial services.

S 104. (a) Wherever the terms "insurance department" or "department of insurance" appear in the insurance law, such terms are hereby changed to "department of financial services".

(b) Wherever the terms "banking department" or "department of banking" appear in the banking law, such terms are hereby changed to "department of financial services".

(c) Wherever the terms "insurance department", "department of insurance", "banking department" or "department of banking" appears in the consolidated or unconsolidated laws of this state other than the banking law or the insurance law, such terms are hereby changed to "department of financial services".

(d) Wherever the term "superintendent of insurance" appears in the insurance law, such term is hereby changed to "superintendent of financial services".

(e) Wherever the term "superintendent of banks" appears in the banking law, such term is hereby changed to "superintendent of financial services".

(f) Wherever the terms "superintendent of insurance" or "superintendent of banks" appears in the consolidated or unconsolidated laws of this state other than the banking law or the insurance law, such terms are hereby changed to "superintendent of financial services".

(g) Wherever the term "banking board" appears in the consolidated or unconsolidated laws of this state, such term is hereby changed to "superintendent of financial services".

(h) The legislative bill drafting commission is hereby directed to effectuate this provision, and shall be guided by a memorandum of instruction setting forth the specific provisions of law to be amended. Such memorandum shall be transmitted to the legislative bill drafting commission within sixty days of enactment of this provision. Such memorandum shall be issued jointly by the governor, the temporary president of the senate and the speaker of the assembly, or by the delegate of each.

S 105. Existing rights and remedies of or pertaining to the banking and insurance departments and consumer protection board preserved. Upon the transfer pursuant to this act of the functions and powers possessed by and all of the obligations and duties of the banking and insurance departments and of the consumer protection board as established pursuant to the banking law, the insurance law and other laws, to the department of financial services and the department of state, as appropriate, as prescribed by this act, no existing right or remedy of the state, including the banking and insurance departments and consumer protection board, shall be lost, impaired or affected by reason of this act.

S 106. Pending actions and proceedings of or pertaining to the banking or insurance departments or the consumer protection board. Upon the transfer pursuant to this act of the functions and powers possessed by and all of the obligations and duties of the banking and insurance departments and the consumer protection board as established pursuant to the banking law, the insurance law and other laws, to the department of financial services and the department of state, as appropriate, as prescribed by this act, no action or proceeding pending on the effective date of this act, brought by or against the banking or insurance departments or the superintendents thereof or the consumer protection board and the chairperson and executive director thereof shall be affected by any provision of this act, but the same may be prosecuted or defended in the name of the New York state department of financial services and the department of state, as appropriate. In all such actions and proceedings, the New York state department of financial services and the department of state, as appropriate, upon application to the court, shall be substituted as a party.

S 107. Continuation of rules and regulations of or pertaining to the banking and insurance departments and the consumer protection board. Upon the transfer pursuant to this act of the functions and powers possessed by and all the obligations and duties of the banking and insurance departments and the consumer protection board as established pursuant to the banking law, the insurance law and other laws, to the department of financial services and the department of state, as appropriate, as prescribed by this act, all rules, regulations, acts, orders,

determinations, decisions, licenses, registrations and charters of the banking and insurance departments and the consumer protection board, pertaining to the functions transferred and assigned by this act to the department of financial services and the department of state, as appropriate, in force at the time of such transfer, assignment, assumption or devolution shall continue in force and effect as rules, regulations, acts, determinations and decisions of the department of financial services and department of state, as appropriate, until duly modified or repealed.

S 108. Transfer of appropriations heretofore made to the banking and insurance departments and the consumer protection board. Upon the transfer pursuant to this act of the functions and powers possessed by and all of the obligations and duties of the banking and insurance departments and the consumer protection board as established pursuant to the banking law, the insurance law and other laws, to the department of financial services and the department of state, as appropriate, as prescribed by this act, all appropriations and reappropriations which shall have been made available as of the date of such transfer to the banking department or the insurance department or the consumer protection board or segregated pursuant to law, to the extent of remaining unexpended or unencumbered balances thereof, whether allocated or unallocated and whether obligated or unobligated, shall be transferred to and made available for use and expenditure by the department of financial services and the department of state, as appropriate, and shall be payable on vouchers certified or approved by the commissioner of taxation and finance, on audit and warrant of the comptroller. Payments of liabilities for expenses of personnel services, maintenance and operation which shall have been incurred as of the date of such transfer by the banking and insurance departments or the consumer protection board, and for liabilities incurred and to be incurred in completing its affairs shall also be made on vouchers certified or approved by the superintendent of financial services, and the secretary of state, as appropriate, on audit and warrant of the comptroller.

S 109. Transfer of employees. Upon the transfer pursuant to this act of the functions and powers possessed by and all of the obligations and duties of the banking and insurance departments and the consumer protection board as established pursuant to the banking law, the insurance law and other laws, to the department of financial services and the department of state, as appropriate, as prescribed by this act, provision shall be made for the transfer of all employees from the banking department and the insurance department into the department of financial services, and provision shall be made for the transfer of all employees from the consumer protection board to the department of state. Employees so transferred shall be transferred without further examination or qualification to the same or similar titles and shall remain in the same collective bargaining units and shall retain their respective civil service classifications, status and rights pursuant to their collective bargaining units and collective bargaining agreements.

S 110. No later than the effective date of this section, the director of the budget shall notify the superintendent of the level of the department's expenses that will be incurred for the fiscal year beginning April first, two thousand eleven related to the department's regulation and supervision of the state's banking and insurance industries. Such notification shall separately detail the department's level of expenses to be incurred with respect to the regulation and supervision of the banking industry, the department's level of expenses to be

incurred for regulation and supervision of the insurance industry, and the department's level of general expenses that are allocable to both the insurance and banking industries. The superintendent shall subsequently employ the provisions of section seventeen of the banking law and section three hundred thirty-two of the insurance law to assess the department's incurred costs in order to appropriately charge persons or entities that are licensed, registered, organized, authorized, incorporated or otherwise formed pursuant to the provisions of the banking law or insurance law.

S 111. Coordination of services. In an effort to create greater cost efficiencies and cost savings, the superintendent of financial services shall coordinate administrative, clerical and human resource functions, or any other resources and functions, including but not limited to office space and materials and supplies in accordance with the transfer of powers set forth in this act.

S 112. Provision for nomination of superintendent. Upon or prior to the effective date of section one of this act, the governor shall nominate an individual to serve as superintendent of financial services. If such individual is confirmed by the senate prior to such effective date, he or she shall become the superintendent of financial services as of the effective date of section one of this act. Any individual nominated by the governor to become the first superintendent of financial services may serve as acting superintendent beginning on such effective date, until such time as a vote for confirmation is taken by the senate. No individual nominated to serve as superintendent of financial services shall serve as superintendent, or continue to serve as acting superintendent, if the senate has voted not to confirm such individual's nomination.

S 113. Severability. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

S 114. This act shall take effect April 1, 2011; provided, however, that:

(a) sections one through fourteen, seventeen through nineteen, fifty-six, sixty-three, sixty-seven, seventy-eight through eighty-five, ninety, ninety-one through ninety-three, ninety-eight, one hundred four, one hundred ten and one hundred eleven of this act shall take effect October 3, 2011, except that section 205-a of the financial services law as added by section one of this act shall take effect immediately;

(b) sections fifteen and sixteen of this act shall take effect April 1, 2012;

(c) any officer or employee of the department of financial services whose holdings as of the close of business on March 31, 2011 conflict with section 501 of the financial services law, as added by section one of this act, shall have until October 3, 2012 to dispose of non-conforming holdings or otherwise bring such non-conforming holdings into compliance with such section 501;

(d) the amendments to section 2803-s of the public health law made by section forty-six of this act shall take effect on the same date and in the same manner as chapter 539 of the laws of 2010, takes effect;

(e) section 205-b of the financial services law as added by section one of this act shall expire October 3, 2016, when upon such date the provisions of such section shall be deemed repealed;

(f) the amendments to subdivisions 3, 4, 5, 7, 8 and 9 of section 12-a of the banking law made by section eighty-eight of this act shall not affect the repeal of such section and shall be deemed repealed therewith;

(g) the amendments to paragraph b of subdivision 19 of section 42 of the banking law made by section ninety-seven of this act shall not affect the repeal of such subdivision and shall be deemed repealed therewith;

(h) the memorandum provided for in section one hundred four may be prepared before the effective date of such section, provided that it shall not be implemented until such effective date; and

(i) whenever the term "superintendent of financial services" appears in any provision of this act effective before October 3, 2011, it shall refer to the superintendent of banks.

PART B

Intentionally omitted.

PART C

Section 1. This act enacts into law major components of legislation which are necessary to implement the state fiscal plan for the 2011-2012 state fiscal year. Each component is wholly contained within a Subpart identified as Subparts A and B. The effective date for each particular provision contained within such Subpart is set forth in the last section of such Subpart. Any provision in any section contained within a Subpart, including the effective date of the Subpart, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Subpart in which it is found. Section three of this act sets forth the general effective date of this act.

SUBPART A

Section 1. Legislative intent. In 1996, the legislature changed the penal law to include as an express purpose of imprisonment, the promotion of inmates' successful and productive reentry into society. Toward this end, many new responsibilities have been placed on both corrections officials and parole officials to ready inmates for their release into the community such as: obtaining their birth certificates and social security cards prior to release, preparing Medicaid applications as warranted, securing identification cards from the department of motor vehicles, and providing them with voter registration forms. In addition, transitional services programs have now become mandatory for all inmates. Transition accountability plans will be developed for each inmate, starting with their time in general confinement and culminating with the inmate's successful reintegration into the community. Furthermore, direct linkages with local agencies have been greatly enhanced with the creation of Re-entry Task Forces throughout the state.

As a result of the evolution of the sentencing structure and focus on reentry the historical separation of the department of correctional services and the division of parole is no longer warranted. In view of the commonality of purpose governing the fundamental missions of both agencies, a single new state agency should be created to oversee the combined responsibilities of both and, in effect, provide for a seamless

network for the care, custody, treatment and supervision of a person, from the day a sentence of state imprisonment commences, until the day such person is discharged from supervision in the community. This not only will enhance public safety by achieving better outcomes for the greatest number of individuals being released from prison, but also will allow for greater efficiencies and the elimination of duplicative responsibilities, thus resulting in significant savings for the state.

However, it is not the intent of the legislature in enacting this merger, to diminish in any way the significant roles corrections officers and parole officers serve in the criminal justice system, and it is not to imply that they are interchangeable. The purpose of this legislation is to recognize where the mission of both entities is similar and that by combining the administrations of each, not only can fiscal efficiencies be achieved but also that services can be provided on a continuum rather than an abrupt transfer of responsibility.

It is fundamental that the board of parole retain its authority to make release decisions based on the board members' independent judgment and application of statutory criteria as well as decisions regarding revocations of release. To this end, the legislation makes clear that the board shall continue to exercise its independence when making such decisions. The new agency's provision of administrative support will not undermine the board's independent decision-making authority.

S 1-a. Subdivisions 1, 2 and 18 of section 2 of the correction law, subdivisions 1 and 2 as separately amended by chapters 475 and 476 of the laws of 1970 and subdivision 18 as amended by section 1 of part AAA of chapter 56 of the laws of 2009, are amended and a new subdivision 31 is added to read as follows:

1. "Department" means the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION;

2. "Commissioner" means the state commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION;

18. "Alcohol and substance abuse treatment correctional annex." A medium security correctional facility consisting of one or more residential dormitories, which provide intensive alcohol and substance abuse treatment services to inmates who: (i) are otherwise eligible for temporary release, or (ii) stand convicted of a felony defined in article two hundred twenty or two hundred twenty-one of the penal law, and are within six months of being an eligible inmate as that term is defined in subdivision two of section eight hundred fifty-one of this chapter including such inmates who are participating in such program pursuant to subdivision six of section 60.04 of the penal law. Notwithstanding the foregoing provisions of this subdivision, any inmate to be enrolled in this program pursuant to subdivision six of section 60.04 of the penal law shall be governed by the same rules and regulations promulgated by the department, including without limitation those rules and regulations establishing requirements for completion and those rules and regulations governing discipline and removal from the program. No such period of court ordered corrections based drug abuse treatment pursuant to this subdivision shall be required to extend beyond the defendant's conditional release date. Such treatment services may be provided by one or more outside service providers pursuant to contractual agreements with [both] the department [and the division of parole], provided, however, that any such provider shall be required to continue to provide, either directly or through formal or informal agreement with other providers, alcohol and substance abuse treatment services to inmates who have successfully participated in such provider's incarcerative treatment

services and who have been PRESUMPTIVELY RELEASED, paroled [or], conditionally released OR RELEASED TO POST RELEASE SUPERVISION under the supervision of the [division of parole] DEPARTMENT and who are, as a condition of [their parole or conditional] SUCH release, required to participate in alcohol or substance abuse treatment. Such incarcerative services shall be provided in the facility in accordance with minimum standards promulgated by the department after consultation with the office of alcoholism and substance abuse services. Such services to parolees shall be provided in accordance with standards promulgated by the [division of parole] DEPARTMENT after consultation with the office of alcoholism and substance abuse services. Notwithstanding any other provision of law, any person who has successfully completed no less than six months of intensive alcohol and substance abuse treatment services in one of the department's eight designated alcohol and substance abuse treatment correctional annexes having a combined total capacity of two thousand five hundred fifty beds may be transferred to a program operated by or at a residential treatment facility, provided however, that a person under a determinate sentence as a second felony drug offender for a class B felony offense defined in article two hundred twenty of the penal law, who was sentenced pursuant to section 70.70 of such law, shall not be eligible to be transferred to a program operated at a residential treatment facility until the time served under imprisonment for his or her determinate sentence, including any jail time credited pursuant to subdivision three of section 70.30 of the penal law, shall be at least nine months. The commissioner shall report annually to the temporary president of the senate and the speaker of the assembly commencing January first, [nineteen hundred ninety-two as to the efficacy of such programs including but not limited to a comparative analysis of state-operated and private sector provision of treatment services and recidivism. Such report shall also include] TWO THOUSAND TWELVE the number of inmates received by the department during the reporting period who are subject to a sentence which includes enrollment in substance abuse treatment in accordance with subdivision six of section 60.04 of the penal law, the number of such inmates who are not placed in such treatment program and the reasons for such occurrences.

31. "COMMUNITY SUPERVISION" MEANS THE SUPERVISION OF INDIVIDUALS RELEASED INTO THE COMMUNITY ON TEMPORARY RELEASE, PRESUMPTIVE RELEASE, PAROLE, CONDITIONAL RELEASE, POST RELEASE SUPERVISION OR MEDICAL PAROLE.

S 2. Subdivision 18 of section 2 of the correction law, as amended by chapter 738 of the laws of 2004, is amended to read as follows:

18. "Alcohol and substance abuse treatment correctional annex." A medium security correctional facility consisting of one or more residential dormitories which provide intensive alcohol and substance abuse treatment services to inmates who: (i) are otherwise eligible for temporary release, or (ii) stand convicted of a felony defined in article two hundred twenty or two hundred twenty-one of the penal law, and are within six months of being an eligible inmate as that term is defined in subdivision two of section eight hundred fifty-one of this chapter including such inmates who are participating in such program pursuant to subdivision six of section 60.04 of the penal law. Notwithstanding the foregoing provisions of this subdivision, any inmate to be enrolled in this program pursuant to subdivision six of section 60.04 of the penal law shall be governed by the same rules and regulations promulgated by the department, including without limitation those rules and regulations establishing requirements for completion and those rules and regulations governing discipline and removal from the program. No such period of

court ordered corrections based drug abuse treatment pursuant to this subdivision shall be required to extend beyond the defendant's conditional release date. Such treatment services may be provided by one or more outside service providers pursuant to contractual agreements with [both] the department [and the division of parole], provided, however, that any such provider shall be required to continue to provide, either directly or through formal or informal agreement with other providers, alcohol and substance abuse treatment services to inmates who have successfully participated in such provider's incarcerative treatment services and who have been PRESUMPTIVELY RELEASED, paroled [or], conditionally released OR RELEASED TO POST RELEASE SUPERVISION under the supervision of the [division of parole] DEPARTMENT and who are, as a condition of [their parole or conditional] SUCH release, required to participate in alcohol or substance abuse treatment. Such incarcerative services shall be provided in the facility in accordance with minimum standards promulgated by the department after consultation with the office of alcoholism and substance abuse services. Such services to parolees shall be provided in accordance with standards promulgated by the [division of parole] DEPARTMENT after consultation with the office of alcoholism and substance abuse services. The commissioner shall report annually to the majority leader of the senate and the speaker of the assembly commencing January first, [nineteen hundred ninety-two as to the efficacy of such programs including but not limited to a comparative analysis of state-operated and private sector provision of treatment services and recidivism. Such report shall also include] TWO THOUSAND TWELVE the number of inmates received by the department during the reporting period who are subject to a sentence which includes enrollment in substance abuse treatment in accordance with subdivision six of section 60.04 of the penal law, the number of such inmates who are not placed in such treatment program and the reasons for such occurrences.

S 3. The article heading of article 2 of the correction law, as amended by chapter 475 of the laws of 1970, is amended to read as follows:

DEPARTMENT OF [CORRECTIONAL SERVICES; STATE BOARD OF PAROLE]
CORRECTIONS AND
COMMUNITY SUPERVISION

S 4. Section 5 of the correction law, as added by chapter 475 of the laws of 1970, subdivision 4 as added by chapter 547 of the laws of 1995, subdivision 5 as added by chapter 448 of the laws of 2000 and subdivision 6 as added by chapter 7 of the laws of 2007, is amended to read as follows:

S 5. Department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION; commissioner. 1. There shall be in the state government a department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION. The head of the department shall be the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, who shall be appointed by the governor, by and with the advice and consent of the senate, and hold office at the pleasure of the governor by whom he was appointed and until his successor is appointed and has qualified.

2. The commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION shall be the chief executive officer of the department.

3. The principal office of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION shall be in the county of Albany.

4. The commissioner is hereby authorized and empowered to convert the sentence of a person serving an indeterminate sentence of imprisonment, except a person serving a sentence with a maximum term of life imprison-

ment, to a determinate sentence of imprisonment equal to two-thirds of the maximum or aggregate maximum term imposed where such conversion is necessary to make such person eligible for transfer either to federal custody or to foreign countries under treaties that provide for the voluntary transfer of such persons on the execution of penal sentences entered into by the government of the United States with foreign countries.

5. The commissioner upon request, may in his or her discretion, authorize the purchase and presentation of a flag of the state of New York to the person designated to dispose of the remains of a deceased correction officer OR PAROLE OFFICER.

6. The commissioner shall have the discretion to enter into agreements with the commissioner of mental health for the provision of security services relating to article ten of the mental hygiene law.

S 5. Section 7 of the correction law, as amended by chapter 519 of the laws of 1980, and subdivision 4 as added by chapter 35 of the laws of 1984, is amended to read as follows:

S 7. Organization of department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION; officers and employees; delegation by commissioner. 1. The commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION may, from time to time, create, abolish, transfer and consolidate divisions, bureaus and other units within the department not expressly established by law as he OR SHE may determine necessary for the efficient operation of the department, subject to the approval of the director of the budget.

2. The commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION may appoint such deputies, directors, assistants and other officers and employees as may be needed for the performance of his OR HER duties and may prescribe their powers and duties and fix their compensation within the amounts appropriated therefor.

3. The commissioner may by order filed in the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION delegate any of his OR HER powers to or direct any of his OR HER duties to be performed by a deputy commissioner or a head of a division or bureau of such department.

4. The commissioner shall not appoint any person as a correction officer OR PAROLE OFFICER, unless such person has attained his twenty-first birthday.

S 6. Section 8 of the correction law, as added by chapter 887 of the laws of 1983, subdivision 2 as amended by chapter 338 of the laws of 1984, subdivisions 3, 6, and 7 as amended by chapter 354 of the laws of 1986, and subdivision 4 as amended by chapter 205 of the laws of 2002, is amended to read as follows:

S 8. Testing of certain applicants for employment. 1. Any applicant for employment with the department as a correction officer at a facility of the department, shall be tested in accordance with the requirements of this section.

2. The department is hereby authorized to conduct, or to enter into agreements necessary for conducting tests for psychological screening of applicants covered by this section. Any such tests shall consist of at least three independent psychological instruments and shall meet the level of the art for psychological instruments to be used in a validation study developed for selection of such applicants. Such psychological instruments shall be used in testing and selection of applicants for positions referred to in subdivision one of this section. Persons who have been determined by a psychologist licensed under the laws of

this state as suffering from psychotic disorders, serious character disorders, or other disorders which could hinder performance on the job may be deemed ineligible for appointment; provided, however, that other components of the employee selection process may be taken into consideration in reaching the determination as to whether a candidate is deemed eligible or ineligible for certification to a list of eligible candidates. The department's testing program shall include a component consisting of criteria related validity studies or other validity studies acceptable under relevant federal law governing equal employment.

3. The commissioner or his OR HER designee shall advise those candidates who have been deemed ineligible for appointment through psychological screening and shall notify such persons of their right to appeal their disqualification. A person so deemed may apply to the commissioner for a review of the findings within thirty days of the date of notification. The commissioner shall refer the matter to an independent advisory board to review any recommendation. A copy of the advisory board's recommendations shall be promptly forwarded to the parties and to the commissioner. If the advisory board's recommendation is rejected by the commissioner, wholly or in part, the commissioner shall state his OR HER reasons for such rejection in writing.

4. The advisory board shall consist of three members who shall be selected by the president of the civil service commission. The membership of the board shall consist of: A psychologist[,] and a psychiatrist, both of whom shall be licensed under the laws of this state, and a third member who shall be a representative of the department of civil service. The department of civil service shall maintain a list of alternate board members comprised of psychologists and psychiatrists, licensed under the laws of this state, and representatives nominated by the president of the civil service commission, who shall sit on the advisory board in the event a designated member is unable to serve, provided, however, THAT at all times the advisory board must be comprised of a psychiatrist, a psychologist and a representative of the department of civil service. Each of the members of the advisory board and their alternates so selected shall serve at the pleasure of the president of the civil service commission. Each of the members and alternates so selected shall be reimbursed for services and actual costs at a per diem rate not to exceed nine hundred dollars for the psychiatrist, seven hundred dollars for the psychologist and six hundred dollars for the representative of the civil service department; provided, however, that if any member of or alternate to the advisory board is an employee of the state of New York, then such representative shall only receive reimbursement for actual costs incurred.

5. The commissioner or his OR HER designee shall advise the department of civil service of those persons who have been determined under this section as being eligible for appointment from any list of eligible candidates.

6. Notwithstanding any other provision of law, the results of the tests administered pursuant to this section shall be used solely for the qualification of a candidate for correction officer and the validation of the psychological instruments utilized. For all other purposes, the results of the examination shall be confidential and the records sealed by the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, and not be available to any other agency or person except by authorization of the applicant or, upon written notice by order of a court of this state or the United States.

7. Prior to March first of each year, the commissioner of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION will report to the governor, president of the senate and speaker of the assembly on the conduct of the psychological testing program and the results of such program in improving the quality of correction officer candidates.

S 7. Intentionally omitted.

S 8. The correction law is amended by adding a new section 10 to read as follows:

S 10. PAROLE OFFICERS. 1. EMPLOYEES IN THE DEPARTMENT WHO PERFORM THE DUTIES OF SUPERVISING INMATES RELEASED ON COMMUNITY SUPERVISION SHALL BE PAROLE OFFICERS.

2. NO PERSON SHALL BE ELIGIBLE FOR THE POSITION OF PAROLE OFFICER WHO IS UNDER TWENTY-ONE YEARS OF AGE OR WHO DOES NOT POSSESS A BACCALAUREATE DEGREE CONFERRED BY A POST-SECONDARY INSTITUTION ACCREDITED BY AN ACCREDITING AGENCY RECOGNIZED BY THE UNITED STATES OFFICE OF EDUCATION, OR WHO IS NOT FIT PHYSICALLY, MENTALLY AND MORALLY. PAROLE OFFICER SELECTION SHALL BE BASED ON DEFINITE QUALIFICATIONS AS TO CHARACTER, ABILITY AND TRAINING WITH AN EMPHASIS ON CAPACITY AND ABILITY TO PROVIDE A BALANCED APPROACH TO INFLUENCING HUMAN BEHAVIOR AND TO USE JUDGMENT IN THE ENFORCEMENT OF THE RULES AND REGULATIONS OF COMMUNITY SUPERVISION. PAROLE OFFICERS SHALL BE PERSONS LIKELY TO EXERCISE A STRONG AND HELPFUL INFLUENCE UPON PERSONS PLACED UNDER THEIR SUPERVISION WHILE RETAINING THE GOAL OF PROTECTING SOCIETY.

3. THE COMMISSIONER, ACTING IN COOPERATION WITH THE CIVIL SERVICE COMMISSION, SHALL ESTABLISH STANDARDS, PRELIMINARY REQUISITES AND REQUISITES TO GOVERN THE SELECTION AND APPOINTMENT OF PAROLE OFFICERS.

4. A PAROLE OR WARRANT OFFICER, IN PERFORMING OR IN ATTEMPTING TO PERFORM AN ARREST PURSUANT TO AND IN CONFORMANCE WITH THE PROVISIONS OF ARTICLE ONE HUNDRED FORTY OF THE CRIMINAL PROCEDURE LAW, SHALL BE DEEMED TO HAVE PERFORMED SUCH ACTIONS, RELATING TO SUCH ARREST, IN THE COURSE OF EMPLOYMENT IN THE DEPARTMENT FOR PURPOSES OF DISABILITY OR DEATH FROM ANY INJURIES ARISING THEREFROM. THE PROVISIONS OF THIS SUBDIVISION SHALL APPLY WHETHER OR NOT SUCH PAROLE OR WARRANT OFFICER WAS ON DUTY FOR THE DEPARTMENT AT THE TIME OF PERFORMING SUCH ACTIONS OR PERFORMED SUCH ACTIONS OUTSIDE OF HIS OR HER REGULAR OR USUAL DUTIES WITHIN THE DEPARTMENT.

S 9. Intentionally omitted.

S 10. Section 18 of the correction law, as amended by chapter 708 of the laws of 1984 and subdivision 1 as amended by chapter 306 of the laws of 1985, is amended to read as follows:

S 18. Superintendents of correctional facilities. 1. Each correctional facility shall have a superintendent who shall be appointed by the commissioner [of correctional services]. Each such superintendent shall be in the non-competitive-confidential class but shall be appointed from employees of the department who have at least three years of experience in correctional work in the department and (i) who have a permanent civil service appointment of salary grade twenty-seven or higher or who have a salary equivalent to a salary grade of twenty-seven or higher for correctional facilities with an inmate population capacity of four hundred or more inmates, or (ii) who have a permanent civil service appointment of salary grade twenty-three or higher or who have a salary equivalent to a salary grade of twenty-three or higher for correctional facilities with an inmate population capacity of fewer than four hundred inmates; provided that for correctional facilities of either capacity, the employee shall be appointed superintendent at the hiring rate set

forth in section nineteen of this article or such other rate as may be appropriate, subject to the approval of the director of the budget; provided that in no event shall the salary upon appointment exceed the job rate. Such superintendents shall serve at the pleasure of the commissioner and shall have such other qualifications as may be prescribed by the commissioner [of correctional services], based on differences in duties, levels of responsibility, size and character of the correctional facility, knowledge, skills and abilities required, and other factors affecting the position.

2. Subject to the rules and statutory powers of the commissioner [of correctional services], or rules approved by him OR HER, the superintendent of a correctional facility shall have the supervision and management thereof.

3. Subject to the direction of the commissioner [of correctional services], and of the deputy and assistant commissioners in their respective fields of supervision, the superintendent of a correctional facility shall direct the work and define the duties of all officers and subordinates of the facility.

S 11. Subdivision 1 of section 24 of the correction law, as added by chapter 283 of the laws of 1972, is amended to read as follows:

1. No civil action shall be brought in any court of the state, except by the attorney general on behalf of the state, against any officer or employee of the department, WHICH FOR PURPOSES OF THIS SECTION SHALL INCLUDE MEMBERS OF THE STATE BOARD OF PAROLE, in his OR HER personal capacity, for damages arising out of any act done or the failure to perform any act within the scope of the employment and in the discharge of the duties by such officer or employee.

S 12. Section 29 of the correction law, as added by chapter 654 of the laws of 1974, subdivision 1 as amended by chapter 598 of the laws of 1990 and subdivision 4 as amended by section 1 of part R of chapter 56 of the laws of 2005, is amended to read as follows:

S 29. Department statistics. 1. The department shall continue to collect, maintain, and analyze statistical and other information and data with respect to persons subject to the jurisdiction of the department, including but not limited to: (a) the number of such persons: placed in the custody of the department, assigned to a specific department program, accorded [temporary release, paroled or conditionally released, paroled or conditionally released] COMMUNITY SUPERVISION and declared delinquent, recommitted to a state correctional institution upon revocation of [parole or conditional release] COMMUNITY SUPERVISION, or [discharge] DISCHARGED upon maximum expiration of sentence; (b) the criminal history of such persons; (c) the social, educational, and vocational circumstances of any such persons; and, (d) the institutional[, parole and conditional release] AND COMMUNITY SUPERVISION programs and THE behavior of such persons. Provided, however, in the event any statistical information on the ethnic background of the inmate population of a correctional facility or facilities is collected by the department, such statistical information shall contain, but not be limited to, the following ethnic categories: (i) Caucasian; (ii) Asian; (iii) American Indian; (iv) Afro-American/Black; and (v) Spanish speaking/Hispanic which category shall include, but not be limited to, the following subcategories consisting of: (1) Puerto Ricans; (2) Cubans; (3) Dominicans; and (4) other Hispanic nationalities.

2. The commissioner [of correctional services] shall make rules as to the privacy of records, statistics and other information collected, obtained and maintained by the department, its institutions or the board

of parole and information obtained in an official capacity by officers, employees or members thereof.

3. The commissioner [of correctional services] shall have access to records and criminal statistics collected by the division of criminal justice services and the commissioner of criminal justice services shall have access to records and criminal statistics collected by the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, as the [commissioners] COMMISSIONER of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION and THE COMMISSIONER OF criminal justice services shall mutually determine.

4. The commissioner [of the department of correctional services] shall provide an annual report to the legislature on the staffing of correction officers and correction sergeants in state correctional facilities. Such report shall include, but not be limited to the following factors: the number of security posts on the current plot plan for each facility that have been closed on a daily basis, by correctional facility security classification (minimum, medium and maximum); the number of security positions eliminated by correctional facility since two thousand compared to the number of inmates incarcerated in each such facility; a breakdown by correctional facility security classification (minimum, medium, and maximum) of the staff hours of overtime worked, by year since two thousand and the annual aggregate costs related to this overtime. In addition, such report shall be delineated by correctional facility security classification, the annual number of security positions eliminated, the number of closed posts and amount of staff hours of overtime accrued as well as the overall overtime expenditures that resulted. Such report shall be provided to the chairs of the senate finance, assembly ways and means, senate crime and corrections and assembly correction committees by December thirty-first.

S 13. Subdivision 3 of section 40 of the correction law, as amended by chapter 309 of the laws of 1996, is amended to read as follows:

3. "Correctional facility" means any institution operated by the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, any local correctional facility, or any place used, pursuant to a contract with the state or a municipality, for the detention of persons charged with or convicted of a crime, or, for the purpose of this article only, a secure facility operated by the [state division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES.

S 14. Paragraph 5 of subdivision (a) of section 42 of the correction law, as added by chapter 865 of the laws of 1975, is amended to read as follows:

5. No appointed member of the council shall qualify or enter upon the duties of his office, or remain therein, while he is an officer or employee of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or any correctional facility or is in a position where he exercises administrative supervision over any correctional facility. The council shall have such staff as shall be necessary to assist it in the performance of its duties within the amount of the appropriation therefor as determined by the chairman of the commission.

S 15. Subdivision 4 of section 45 of the correction law, as added by chapter 865 of the laws of 1975, is amended to read as follows:

4. Establish procedures to assure effective investigation of grievances of, and conditions affecting, inmates of local correctional facilities. Such procedures shall include but not be limited to receipt of written complaints, interviews of persons, and on-site monitoring of conditions. In addition, the commission shall establish procedures for

the speedy and impartial review of grievances referred to it by the commissioner of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION.

S 16. The opening paragraph of paragraph (a) of subdivision 8 of section 71 of the correction law, as amended by chapter 508 of the laws of 2010, is amended to read as follows:

In each year in which the federal decennial census is taken but in which the United States bureau of the census does not implement a policy of reporting incarcerated persons at each such person's residential address prior to incarceration, the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION shall by September first of that same year deliver to the legislative task force on demographic research and reapportionment the following information for each incarcerated person subject to the jurisdiction of the department and located in this state on the date for which the decennial census reports population:

S 16-a. The correction law is amended by adding a new section 71-a to read as follows:

S 71-A. TRANSITIONAL ACCOUNTABILITY PLAN. UPON ADMISSION OF AN INMATE COMMITTED TO THE CUSTODY OF THE DEPARTMENT UNDER AN INDETERMINATE OR DETERMINATE SENTENCE OF IMPRISONMENT, THE DEPARTMENT SHALL DEVELOP A TRANSITIONAL ACCOUNTABILITY PLAN. SUCH PLAN SHALL BE A COMPREHENSIVE, DYNAMIC AND INDIVIDUALIZED CASE MANAGEMENT PLAN BASED ON THE PROGRAMMING AND TREATMENT NEEDS OF THE INMATE. THE PURPOSE OF SUCH PLAN SHALL BE TO PROMOTE THE REHABILITATION OF THE INMATE AND THEIR SUCCESSFUL AND PRODUCTIVE REENTRY AND REINTEGRATION INTO SOCIETY UPON RELEASE. TO THAT END, SUCH PLAN SHALL BE USED TO PRIORITIZE PROGRAMMING AND TREATMENT SERVICES FOR THE INMATE DURING INCARCERATION AND ANY PERIOD OF COMMUNITY SUPERVISION. THE COMMISSIONER MAY CONSULT WITH THE OFFICE OF MENTAL HEALTH, THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, THE BOARD OF PAROLE, THE DEPARTMENT OF HEALTH, AND OTHER APPROPRIATE AGENCIES IN THE DEVELOPMENT OF TRANSITIONAL CASE MANAGEMENT PLANS.

S 17. Subdivision 2 of section 72-b of the correction law, as added by section 48 of part B of chapter 58 of the laws of 2004, is amended to read as follows:

2. No inmate about to be paroled, conditionally released, transferred, released or discharged shall be referred to any adult home, enriched housing program or residence for adults, as defined in section two of the social services law, where the department of [correctional services or state division of parole] CORRECTIONS AND COMMUNITY SUPERVISION has received written notice that the facility has been placed on the "do not refer list" pursuant to subdivision fifteen of section four hundred sixty-d of the social services law.

S 18. Section 75 of the correction law, as added by section 8 of part OO of chapter 56 of the laws of 2010, is amended to read as follows:

S 75. Notice of voting rights. Upon the discharge from a correctional facility of any person whose maximum sentence of imprisonment has expired OR UPON A PERSON'S DISCHARGE FROM COMMUNITY SUPERVISION, the department shall notify such person of his or her right to vote and provide such person with a form of application for voter registration together with written information distributed by the board of elections on the importance and the mechanics of voting.

S 19. Section 112 of the correction law, as amended by chapter 476 of the laws of 1970, is amended to read as follows:

S 112. Powers and duties of commissioner [of correction] relating to correctional facilities AND COMMUNITY SUPERVISION. 1. The commissioner

of [correction] CORRECTIONS AND COMMUNITY SUPERVISION shall have the superintendence, management and control of the correctional facilities in the department and of the inmates confined therein, and of all matters relating to the government, discipline, policing, contracts and fiscal concerns thereof. He OR SHE shall have the power and it shall be his OR HER duty to inquire into all matters connected with said correctional facilities. He OR SHE shall make such rules and regulations, not in conflict with the statutes of this state, for the government of the officers and other employees of the department assigned to said facilities, and in regard to the duties to be performed by them, and for the government and discipline of each correctional facility, as he OR SHE may deem proper, and shall cause such rules and regulations to be recorded by the superintendent of the facility, and a copy thereof to be furnished to each employee assigned to the facility. He OR SHE shall also prescribe a system of accounts and records to be kept at each correctional facility, which system shall be uniform at all of said facilities, and he OR SHE shall also make rules and regulations for a record of photographs and other means of identifying each inmate received into said facilities. He OR SHE shall appoint and remove, subject to the civil service law and rules, subordinate officers and other employees of the department who are assigned to correctional facilities.

2. THE COMMISSIONER SHALL HAVE THE MANAGEMENT AND CONTROL OF PERSONS RELEASED ON COMMUNITY SUPERVISION AND OF ALL MATTERS RELATING TO SUCH PERSONS' EFFECTIVE REENTRY INTO THE COMMUNITY, AS WELL AS ALL CONTRACTS AND FISCAL CONCERNS THEREOF. THE COMMISSIONER SHALL HAVE THE POWER AND IT SHALL BE HIS OR HER DUTY TO INQUIRE INTO ALL MATTERS CONNECTED WITH SAID COMMUNITY SUPERVISION. THE COMMISSIONER SHALL MAKE SUCH RULES AND REGULATIONS, NOT IN CONFLICT WITH THE STATUTES OF THIS STATE, FOR THE GOVERNANCE OF THE OFFICERS AND OTHER EMPLOYEES OF THE DEPARTMENT ASSIGNED TO SAID COMMUNITY SUPERVISION, AND IN REGARD TO THE DUTIES TO BE PERFORMED BY THEM, AS HE OR SHE DEEMS PROPER AND SHALL CAUSE SUCH RULES AND REGULATIONS TO BE FURNISHED TO EACH EMPLOYEE ASSIGNED TO PERFORM COMMUNITY SUPERVISION. THE COMMISSIONER SHALL ALSO PRESCRIBE A SYSTEM OF ACCOUNTS AND RECORDS TO BE KEPT, WHICH SHALL BE UNIFORM. THE COMMISSIONER SHALL ALSO MAKE RULES AND REGULATIONS FOR A RECORD OF PHOTOGRAPHS AND OTHER MEANS OF IDENTIFYING EACH INMATE RELEASED TO COMMUNITY SUPERVISION. THE COMMISSIONER SHALL APPOINT OFFICERS AND OTHER EMPLOYEES OF THE DEPARTMENT WHO ARE ASSIGNED TO PERFORM COMMUNITY SUPERVISION.

3. The commissioner [of correction] may require reports from the superintendent or any other officer or employee of the department assigned to any correctional facility OR TO PERFORM COMMUNITY SUPERVISION in relation to his OR HER conduct as such officer or employee, and shall have the power to inquire into any improper conduct which may be alleged to have been committed by any person at any correctional facility OR IN THE COURSE OF HIS OR HER PERFORMANCE OF COMMUNITY SUPERVISION, and for that purpose to issue subpoenas to compel the attendance of witnesses, and the production before him OR HER of books, writings and papers. A subpoena issued under this section shall be regulated by the civil practice law and rules. [The commissioner of correction is authorized and empowered to lease the railroad, constructed under and by the authority of the laws of eighteen hundred and seventy-eight, chapter one hundred and forty-eight, for such term of years and upon such terms and conditions as shall be approved of, in writing, by the governor and comptroller of this state.]

4. THE COMMISSIONER AND THE CHAIR OF THE PAROLE BOARD SHALL WORK JOINTLY TO DEVELOP AND IMPLEMENT, AS SOON AS PRACTICABLE, A RISK AND NEEDS ASSESSMENT INSTRUMENT OR INSTRUMENTS, WHICH SHALL BE EMPIRICALLY VALIDATED, THAT WOULD BE ADMINISTERED TO INMATES UPON RECEPTION INTO A CORRECTIONAL FACILITY, AND THROUGHOUT THEIR INCARCERATION AND RELEASE TO COMMUNITY SUPERVISION, TO FACILITATE APPROPRIATE PROGRAMMING BOTH DURING AN INMATE'S INCARCERATION AND COMMUNITY SUPERVISION, AND DESIGNED TO FACILITATE THE SUCCESSFUL INTEGRATION OF INMATES INTO THE COMMUNITY.

S 20. Section 113 of the correction law, as amended by chapter 145 of the laws of 1979, is amended to read as follows:

S 113. Absence of inmate for funeral and deathbed visits [or to report at an induction center for preinduction examination] authorized. The commissioner [of correctional services] may permit any inmate confined by the department except one awaiting the sentence of death to attend the funeral of his or her father, mother, guardian or former guardian, child, brother, sister, husband, wife, grandparent, grandchild, ancestral uncle or ancestral aunt within the state, or to visit such individual during his or her illness if death be imminent [or to report to an induction center for the purpose of being examined for possible induction into the armed forces of the United States]; but the exercise of such power shall be subject to such rules and regulations as the commissioner [of correctional services] shall prescribe, respecting the granting of such permission, duration of absence from the institution, custody, transportation and care of the inmate, and guarding against escape. Any expense incurred under the provisions of this section, with respect to any inmate permitted to attend a funeral or visit a relative during last illness, shall be deemed an expense of maintenance of the institution and be paid from moneys available therefor; but the superintendent, if the rules and regulations of the commissioner [of correctional services] shall so provide, may allow the inmate or anyone in his behalf to reimburse the state for such expense. [Any expense of custodial officers incurred in delivering and returning inmates to and from an induction center shall be deemed an expense of the institution and be paid from moneys available therefor but expenses of such inmates shall not be defrayed by the institution or department or the state.]

S 21. Subdivision 2 of section 125 of the correction law, as amended by chapter 55 of the laws of 1992, is amended to read as follows:

2. The superintendent of each of said facilities shall furnish to each inmate who shall be discharged or released from said facility by pardon, parole, conditional release or otherwise, except such inmates as are released for return for resentence or new trial or upon a certificate of reasonable doubt, and except such inmates who are released to participate in a program outside the facility who are required to return to the facility, suitable clothing adapted to the season in which he OR SHE is discharged not to exceed sixty-five dollars in value and transportation to the county of his OR HER conviction or to such other place as the commissioner [of correctional services] may designate. In addition, the commissioner shall take such steps as are necessary to ensure that inmates have at least forty dollars available upon release.

S 22. Subdivision 6 of section 138 of the correction law, as added by chapter 231 of the laws of 1975, is amended to read as follows:

6. All rules and regulations pertaining to inmates established by the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION and all rules and regulations pertaining to inmates established by any institutional staff at any state correctional facility shall be

reviewed annually by the commissioner of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION.

S 23. Subdivision 1 of section 170 of the correction law, as amended by chapter 166 of the laws of 1991, is amended to read as follows:

1. The commissioner [of correctional services] shall not, nor shall any other authority whatsoever, make any contract by which the labor or time of any inmate in any state or local correctional facility in this state, or the product or profit of his work, shall be contracted, let, farmed out, given or sold to any person, firm, association or corporation; except that the inmates in said correctional institutions may work for, and the products of their labor may be disposed of to, the state or any political subdivision thereof, any public institution owned or managed and controlled by the state, or any political subdivision thereof.

S 24. Subdivision 1 of section 171 of the correction law, as amended by chapter 364 of the laws of 1983, is amended to read as follows:

1. The commissioner [of correctional services] and the superintendents and officials of all penitentiaries in the state may cause inmates in the state correctional facilities and such penitentiaries who are physically capable thereof to be employed for not to exceed eight hours of each day other than Sundays and public holidays. Notwithstanding any other provision of this section, however, the commissioner and superintendents of state correctional facilities may employ inmates on a volunteer basis on Sundays and public holidays in specialized areas of the facility, including kitchen areas, vehicular garages, rubbish pickup and grounds maintenance, providing, however, that inmates so employed shall be allowed an alternative free day within the normal work week.

S 25. Subdivision 3 of section 177 of the correction law, as amended by chapter 166 of the laws of 1991, is amended to read as follows:

3. However, for the purpose of distributing, marketing or sale of the whole or any part of the product of any correctional facility in the state, other than by said state correctional facilities, to the state or to any political subdivisions thereof or to any public institutions owned or managed and controlled by the state, or by any political subdivisions thereof, or to any public corporation, authority, or eleemosynary association funded in whole or in part by any federal, state or local funds, the sheriff of any such local correctional facility and the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION may enter into a contract or contracts which may determine the kinds and qualities of articles to be produced by such institution and the method of distribution and sale thereof by the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or under his OR HER direction, either in separate lots or in combination with the products of other such institutions and with the products produced by inmates in state correctional facilities. Such contracts may fix and determine any and all terms and conditions for the disposition of such products and the disposition of proceeds of sale thereof and any and all other terms and conditions as may be agreed upon, not inconsistent with the constitution. However, no such contract shall be for a period of more than one year and any prices fixed by such contract shall be the prices established pursuant to section one hundred eighty-six of this article for like articles or shall be approved by the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION and the director of the budget on presentation to them of a copy of such contract or proposed contract, and provided further that any distribution or diversification of industries provided for by such contract

shall be in accordance with the rules and regulations established by the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or shall be approved by such department on presentation to it of a copy of such contract or proposed contract.

S 26. Subdivision 1 of section 183 of the correction law, as amended by chapter 464 of the laws of 1981, is amended to read as follows:

1. It shall be the duty of the commissioner [of correctional services] to distribute, among the correctional institutions under his jurisdiction, the labor and industries assigned to said institutions, due regard being had to the location and convenience of the prisons, and of the other institutions to be supplied, the machinery now therein and the number of prisoners, in order to secure the best service and distribution of the labor, and to employ the prisoners, so far as practicable, in occupations in which they will be most likely to obtain employment after their discharge from imprisonment. The commissioner [of correctional services] shall change or dispose of the present plants and machinery in said institutions now used in industries which shall be discontinued, and which can not be used in the industries hereafter to be carried on in said prisons, due effort to be made by full notice to probable purchasers, in case of sales of industries or machinery, to obtain the best price possible for the property sold, and good will of the business to be discontinued.

S 27. Subdivision 2 of section 184 of the correction law, as amended by chapter 166 of the laws of 1991, is amended to read as follows:

2. All such articles manufactured or prepared in the state correctional facilities, or by inmates, and not required for use therein, shall be of the styles, patterns, designs and qualities fixed by the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, except where the same have been or may be fixed by the office of general services in the executive department. Such articles may be furnished to the state, or to any political subdivision thereof, or for or to any public institution owned or managed and controlled by the state, or any political subdivision thereof, government of the United States or to any state of the United States or subdivision thereof or to any public corporation, authority, or eleemosynary association funded in whole or in part by any federal, state or local funds, at and for such prices as shall be fixed and determined as hereinafter provided, upon the requisitions of the proper officials thereof. No article so manufactured or prepared shall be purchased from any other source, for the state or public institutions of the state, or the political subdivisions thereof, or public benefit corporations, authorities or commissions, unless the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION shall certify that the same can not be furnished upon such requisition, and no claim therefor shall be audited or paid without such certificate.

S 28. Section 185 of the correction law, as amended by chapter 166 of the laws of 1991, is amended to read as follows:

S 185. Estimates of articles required to be furnished. On or before July first in each year, the proper officials of the state, and the political subdivisions thereof, and of the institutions of the state, or political subdivisions thereof, shall report to the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION estimates for the ensuing year of the amount of supplies of different kinds required to be purchased by them that can be furnished by the correctional facilities in the state. The commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION is authorized to make

regulations for said reports, to provide for the manner in which requisitions shall be made for supplies, and to provide for the proper diversification of the industries in the correctional facilities.

S 29. Subdivision 2 of section 186 of the correction law, as amended by chapter 166 of the laws of 1991, is amended to read as follows:

2. The prices established by the commissioner shall be based upon costs as determined pursuant to this subdivision, but shall not exceed a reasonable fair market price determined at or within ninety days before the time of sale. Fair market price as used herein means the price at which a vendor of the same or similar product or service who is regularly engaged in the business of selling such product or service offers to sell such a product or service under similar terms in the same market. However, the price established by the commissioner for license plates sold to the New York state department of motor vehicles shall in no event exceed an amount approved by the director of the budget.

First instance appropriations to the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION for correctional industries shall be reimbursed pursuant to an agreement with the director of the budget. In the absence of a first instance appropriation, costs shall be determined in accordance with an agreement between the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION and the director of the budget. Any such agreement shall include, among other provisions deemed necessary by the budget director for the purposes of enabling programmatic overview and fiscal controls, one or more methodologies for the determination of costs attributable to correctional industries or to any product manufactured in the institutions of the department or distributed, marketed or sold by the commissioner pursuant to this section, section one hundred seventy-seven of this article or section one hundred seventy-five of the state finance law.

S 30. Section 187 of the correction law, as amended by chapter 166 of the laws of 1991, is amended to read as follows:

S 187. Earnings of inmates. 1. Every inmate confined in a state correctional facility, subject to the rules and regulations of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, and every inmate confined in a local correctional facility, in the discretion of the sheriff thereof, may receive compensation for work performed during his or her imprisonment. Such compensation shall be graded by the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION with regard to inmates employed in prison industries, based upon the work performed by such prisoners for prisoners confined in state correctional facilities, and by the sheriffs in all local correctional facilities for inmates confined therein.

2. The department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION shall adopt rules, subject to the approval of the director of the budget, for establishing in all of the state correctional facilities a system of compensation for the inmates confined therein. Such rules shall provide for the payment of compensation to each inmate, who shall meet the requirements established by the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, based upon the work performed by such inmates.

3. The department shall prepare graded wage schedules for inmates, which [schedule] SCHEDULES shall be based upon classifications according to the value of work performed by each. Such schedules need not be uniform in all institutions. The rules of the department shall also provide for the establishment of a credit system for each inmate and the

manner in which such earnings shall be paid to the inmate or his OR HER dependents or held in trust for him OR HER until his OR HER release.

4. Any compensation paid to an inmate under this article shall be based on the work performed by such inmate. Compensation may be paid from moneys appropriated to the department and available to facilities for nonpersonal service.

S 31. Section 198 of the correction law, as added by chapter 240 of the laws of 1974, is amended to read as follows:

S 198. Inmate occupational therapy fund. 1. The commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION may authorize the superintendent or director of any correctional institution to establish an inmate occupational therapy fund for the receipt of proceeds from a product sold, as authorized by section one hundred ninety-seven OF THIS ARTICLE, by one or more inmates as incident to an avocational or vocational project approved by the commissioner, including but not limited to, art, music, drama, handicraft, or sports.

2. Pursuant to rules, regulations or directions of the commissioner, moneys of the fund may: (a) be made available to the superintendent or director to be used for the general benefit of the inmates of the correctional institution wherein the product was produced, including but not limited to, furnishing materials and supplies to an inmate or inmates for an avocational or vocational project and the transporting of a product thereof for sale, display or otherwise and for recreational activities; or (b) be disbursed as follows: (i) an amount equal to the proceeds from the sale of a product produced by one inmate may be deposited to the account of such inmate pursuant to section one hundred sixteen of [the correction law] THIS CHAPTER; or (ii) an amount equal to the proceeds from the sale of a product produced by two or more inmates may be divided equally among such inmates and deposited to their respective accounts pursuant to section one hundred sixteen of [the correction law] THIS CHAPTER.

3. In determining the amount of the proceeds from a sale of a product that may be deposited to the account of an inmate, the commissioner [of correctional services] may provide for the deduction from the sum of the proceeds the reasonable expenses of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION incident to the sale, including but not limited to, the value of materials and supplies for the production of the product supplied without financial charge to the inmate and the expenses of transporting the product for sale or display or otherwise.

S 32. The correction law is amended by adding a new article 8 to read as follows:

ARTICLE 8

COMMUNITY SUPERVISION

SECTION 201. AUTHORITY AND RESPONSIBILITY FOR COMMUNITY SUPERVISION.
203. REGULATIONS FOR RELEASE OF CERTAIN SEX OFFENDERS.
205. MERIT TERMINATION OF SENTENCE AND DISCHARGE FROM PRESUMPTIVE RELEASE, PAROLE, CONDITIONAL RELEASE AND RELEASE TO POST-RELEASE SUPERVISION.
206. APPLICATIONS FOR PRESUMPTIVE RELEASE OR CONDITIONAL RELEASE.
207. COOPERATION.
208. DEPUTIZATION OF OUT-OF-STATE OFFICERS.

S 201. AUTHORITY AND RESPONSIBILITY FOR COMMUNITY SUPERVISION. 1. THE DEPARTMENT SHALL HAVE RESPONSIBILITY FOR THE PREPARATION OF REPORTS AND

OTHER DATA REQUIRED BY THE STATE BOARD OF PAROLE IN THE EXERCISE OF ITS INDEPENDENT DECISION MAKING FUNCTIONS.

2. IN ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER, THE DEPARTMENT SHALL SUPERVISE INMATES RELEASED TO COMMUNITY SUPERVISION, EXCEPT THAT THE DEPARTMENT MAY CONSENT TO THE SUPERVISION OF A RELEASED INMATE BY THE UNITED STATES PAROLE COMMISSION PURSUANT TO THE WITNESS SECURITY ACT OF NINETEEN HUNDRED EIGHTY-FOUR.

3. TO FACILITATE THE SUPERVISION OF ALL INMATES RELEASED TO COMMUNITY SUPERVISION, THE COMMISSIONER SHALL CONSIDER THE IMPLEMENTATION OF A PROGRAM OF GRADUATED SANCTIONS, INCLUDING BUT NOT LIMITED TO THE UTILIZATION OF A RISK AND NEEDS ASSESSMENT INSTRUMENT THAT WOULD BE ADMINISTERED TO ALL INMATES ELIGIBLE FOR COMMUNITY SUPERVISION. SUCH A PROGRAM WOULD INCLUDE VARIOUS COMPONENTS INCLUDING APPROACHES THAT CONCENTRATE SUPERVISION ON NEW RELEASES, ALTERNATIVES TO INCARCERATION FOR TECHNICAL PAROLE VIOLATORS AND THE USE OF ENHANCED TECHNOLOGIES.

4. THE DEPARTMENT SHALL CONDUCT SUCH INVESTIGATIONS AS MAY BE NECESSARY IN CONNECTION WITH ALLEGED VIOLATIONS OF COMMUNITY SUPERVISION.

5. THE DEPARTMENT SHALL ASSIST INMATES ELIGIBLE FOR COMMUNITY SUPERVISION AND INMATES WHO ARE ON COMMUNITY SUPERVISION TO SECURE EMPLOYMENT, EDUCATIONAL OR VOCATIONAL TRAINING, AND HOUSING.

6. THE DEPARTMENT SHALL HAVE THE DUTY TO PROVIDE WRITTEN NOTICE TO INMATES PRIOR TO RELEASE TO COMMUNITY SUPERVISION OR PURSUANT TO SUBDIVISION SIX OF SECTION 410.91 OF THE CRIMINAL PROCEDURE LAW OF ANY REQUIREMENT TO REPORT TO THE OFFICE OF VICTIM SERVICES ANY FUNDS OF A CONVICTED PERSON AS DEFINED IN SECTION SIX HUNDRED THIRTY-TWO-A OF THE EXECUTIVE LAW, THE PROCEDURE FOR SUCH REPORTING AND ANY POTENTIAL PENALTY FOR A FAILURE TO COMPLY.

7. THE DEPARTMENT SHALL ENCOURAGE APPRENTICESHIP TRAINING OF SUCH PERSONS THROUGH THE ASSISTANCE AND COOPERATION OF INDUSTRIAL, COMMERCIAL AND LABOR ORGANIZATIONS.

8. THE DEPARTMENT MAY ESTABLISH A COMMUNITY SUPERVISION TRANSITION PROGRAM, WHICH IS HEREBY DEFINED AS COMMUNITY-BASED RESIDENTIAL FACILITIES DESIGNED TO AID COMMUNITY SUPERVISION VIOLATORS TO DEVELOP AN INCREASED CAPACITY FOR ADJUSTMENT TO COMMUNITY LIVING. PRESUMPTIVE RELEASEES, PAROLEES, CONDITIONAL RELEASEES AND THOSE UNDER POST-RELEASE SUPERVISION WHO HAVE EITHER (A) BEEN FOUND PURSUANT TO ARTICLE TWELVE-B OF THE EXECUTIVE LAW TO HAVE VIOLATED ONE OR MORE CONDITIONS OF RELEASE IN AN IMPORTANT RESPECT, OR (B) ALLEGEDLY VIOLATED ONE OR MORE OF SUCH CONDITIONS UPON A FINDING OF PROBABLE CAUSE AT A PRELIMINARY HEARING OR UPON THE WAIVER THEREOF MAY BE PLACED IN A COMMUNITY SUPERVISION TRANSITION FACILITY. PLACEMENT IN SUCH A FACILITY UPON A FINDING OF PROBABLE CAUSE OR THE WAIVER THEREOF SHALL NOT PRECLUDE THE CONDUCT OF A REVOCATION HEARING, NOR, ABSENT A WAIVER, OPERATE TO DENY THE RELEASEE'S RIGHT TO SUCH REVOCATION HEARING.

9. (A) THE DEPARTMENT SHALL COLLECT A FEE OF THIRTY DOLLARS PER MONTH, FROM ALL PERSONS OVER THE AGE OF EIGHTEEN WHO AFTER THE EFFECTIVE DATE OF THIS SUBDIVISION ARE SUPERVISED ON PRESUMPTIVE RELEASE, PAROLE, CONDITIONAL RELEASE OR POST-RELEASE SUPERVISION. THE DEPARTMENT SHALL WAIVE ALL OR PART OF SUCH FEE WHERE, BECAUSE OF THE INDIGENCE OF THE OFFENDER, THE PAYMENT OF SAID FEE WOULD WORK AN UNREASONABLE HARDSHIP ON THE PERSON CONVICTED, HIS OR HER IMMEDIATE FAMILY, OR ANY OTHER PERSON WHO IS DEPENDENT ON SUCH PERSON FOR FINANCIAL SUPPORT.

(B) THE SUPERVISION FEE AUTHORIZED BY THIS SUBDIVISION SHALL NOT CONSTITUTE NOR BE IMPOSED AS A CONDITION OF COMMUNITY SUPERVISION.

(C) IN THE EVENT OF NON-PAYMENT OF ANY FEES THAT HAVE NOT BEEN WAIVED, THE DEPARTMENT MAY SEEK TO ENFORCE PAYMENT IN ANY MANNER PERMITTED BY

LAW FOR ENFORCEMENT OF A DEBT OWED TO THE STATE; PROVIDED, HOWEVER, SUCH ENFORCEMENT SHALL NOT INCLUDE USE OF ANY PRIVATE DEBT COLLECTION AGENCY OR SERVICE.

(D) NOTHING CONTAINED IN THIS SUBDIVISION AFFECTS OR LIMITS THE PROVISIONS OF SECTION TWO HUNDRED FIFTY-NINE-MM OF THE EXECUTIVE LAW, RELATING TO OUT-OF-STATE PAROLE SUPERVISION. PRIOR TO A TRANSFER OF PAROLE SUPERVISION TO ANOTHER STATE, THE DEPARTMENT SHALL ELIMINATE ANY SUPERVISION FEE IMPOSED PURSUANT TO THIS SUBDIVISION. THE DEPARTMENT MAY COLLECT A FEE, PURSUANT TO THIS SUBDIVISION AND REGULATIONS PROMULGATED THEREUNDER, FROM ANY PERSON WHOSE PAROLE SUPERVISION IS TRANSFERRED TO THIS STATE FROM ANOTHER.

10. THE DEPARTMENT SHALL HAVE THE POWER TO GRANT AND REVOKE CERTIFICATES OF RELIEF FROM DISABILITIES AND CERTIFICATES OF GOOD CONDUCT AS PROVIDED FOR BY LAW.

11. IN ANY CASE WHERE A PERSON IS ENTITLED TO JAIL TIME CREDIT UNDER THE PROVISIONS OF PARAGRAPH (C) OF SUBDIVISION THREE OF SECTION 70.40 OF THE PENAL LAW, TO CERTIFY TO THE PERSON IN CHARGE OF THE INSTITUTION IN WHICH SUCH PERSON'S SENTENCE IS BEING SERVED THE AMOUNT OF SUCH CREDIT.

12. THE DEPARTMENT SHALL SUPERVISE ALL PERSONS WHO ARE RELEASED AND SUBJECT TO A REGIMEN OF STRICT AND INTENSIVE SUPERVISION AND TREATMENT PURSUANT TO ARTICLE TEN OF THE MENTAL HYGIENE LAW. THE DEPARTMENT SHALL ISSUE AND PERIODICALLY UPDATE RULES AND REGULATIONS CONCERNING THE SUPERVISION OF SUCH PERSONS IN CONSULTATION WITH THE OFFICE OF SEX OFFENDER MANAGEMENT IN THE DIVISION OF CRIMINAL JUSTICE SERVICES AND THE OFFICE OF MENTAL HEALTH.

13. THE DEPARTMENT SHALL PERFORM SUCH OTHER FUNCTIONS AS ARE NECESSARY AND PROPER IN FURTHERANCE OF THE OBJECTIVE OF MAINTAINING AN EFFECTIVE, EFFICIENT AND FAIR SYSTEM OF COMMUNITY SUPERVISION.

14. THE COMMISSIONER SHALL PROMULGATE SUCH REGULATIONS AS ARE NECESSARY AND PROPER FOR THE EFFICIENT PERFORMANCE OF THE FUNCTIONS SET FORTH IN THIS ARTICLE. HE OR SHE SHALL HAVE THE AUTHORITY TO CONTRACT WITH PUBLIC OR PRIVATE AGENCIES FOR THE PERFORMANCE OF THE FUNCTIONS SET FORTH IN THIS SECTION AS ARE NECESSARY OR APPROPRIATE TO PROMOTE THE EFFICIENT PERFORMANCE OF SUCH RESPONSIBILITIES, EXCEPT THE FUNCTIONS DEFINED IN SUBDIVISIONS ONE, TWO, FOUR, TEN AND TWELVE OF THIS SECTION.

15. THE COMMISSIONER SHALL PROVIDE AN ANNUAL REPORT TO THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE SENATE AND MINORITY LEADER OF THE ASSEMBLY, COMMENCING JANUARY FIRST, TWO THOUSAND TWELVE. SUCH REPORT SHALL INCLUDE BUT NOT BE LIMITED TO THE NUMBER OF PERSONS: RELEASED TO COMMUNITY SUPERVISION AND THE RELEASE TYPE; SUPERVISED ON COMMUNITY SUPERVISION DURING THE PRECEDING YEAR; WHOSE COMMUNITY SUPERVISION WAS REVOKED; RETURNED TO INCARCERATION FOR CONVICTION OF A NEW FELONY COMMITTED WHILE ON COMMUNITY SUPERVISION; TRANSFERRED OUT OF STATE PURSUANT TO THE INTERSTATE COMPACT FOR ADULT SUPERVISION. IN ADDITION, THE COMMISSIONER SHALL PROVIDE OTHER AVAILABLE INFORMATION REGARDING COMMUNITY SUPERVISION TO THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE SENATE AND MINORITY LEADER OF THE ASSEMBLY UPON REQUEST.

S 203. REGULATIONS FOR RELEASE OF CERTAIN SEX OFFENDERS. 1. THE COMMISSIONER SHALL PROMULGATE RULES AND REGULATIONS THAT SHALL INCLUDE GUIDELINES AND PROCEDURES ON THE PLACEMENT OF SEX OFFENDERS DESIGNATED AS LEVEL TWO OR LEVEL THREE OFFENDERS PURSUANT TO ARTICLE SIX-C OF THIS CHAPTER. SUCH REGULATIONS SHALL PROVIDE INSTRUCTION ON CERTAIN FACTORS TO BE CONSIDERED WHEN INVESTIGATING AND APPROVING THE RESIDENCE OF LEVEL TWO OR LEVEL THREE SEX OFFENDERS RELEASED ON PRESUMPTIVE RELEASE,

PAROLE, CONDITIONAL RELEASE OR POST-RELEASE SUPERVISION. SUCH FACTORS SHALL INCLUDE THE FOLLOWING:

(A) THE LOCATION OF OTHER SEX OFFENDERS REQUIRED TO REGISTER UNDER THE SEX OFFENDER REGISTRATION ACT, SPECIFICALLY WHETHER THERE IS A CONCENTRATION OF REGISTERED SEX OFFENDERS IN A CERTAIN RESIDENTIAL AREA OR MUNICIPALITY;

(B) THE NUMBER OF REGISTERED SEX OFFENDERS RESIDING AT A PARTICULAR PROPERTY;

(C) THE PROXIMITY OF ENTITIES WITH VULNERABLE POPULATIONS;

(D) ACCESSIBILITY TO FAMILY MEMBERS, FRIENDS OR OTHER SUPPORTIVE SERVICES, INCLUDING, BUT NOT LIMITED TO, LOCALLY AVAILABLE SEX OFFENDER TREATMENT PROGRAMS WITH PREFERENCE FOR PLACEMENT OF SUCH INDIVIDUALS INTO PROGRAMS THAT HAVE DEMONSTRATED EFFECTIVENESS IN REDUCING SEX OFFENDER RECIDIVISM AND INCREASING PUBLIC SAFETY; AND

(E) THE AVAILABILITY OF PERMANENT, STABLE HOUSING IN ORDER TO REDUCE THE LIKELIHOOD THAT SUCH OFFENDERS WILL BE TRANSIENT.

2. THE DEPARTMENT SHALL HAVE THE DUTY, PRIOR TO THE RELEASE TO COMMUNITY SUPERVISION OF AN INMATE DESIGNATED A LEVEL TWO OR THREE SEX OFFENDER PURSUANT TO THE SEX OFFENDER REGISTRATION ACT, TO PROVIDE NOTIFICATION TO THE LOCAL SOCIAL SERVICES DISTRICT IN THE COUNTY IN WHICH THE INMATE EXPECTS TO RESIDE, WHEN INFORMATION AVAILABLE OR ANY OTHER PRE-RELEASE PROCEDURES INDICATES THAT SUCH INMATE IS LIKELY TO SEEK TO ACCESS LOCAL SOCIAL SERVICES FOR HOMELESS PERSONS. THE DEPARTMENT SHALL PROVIDE SUCH NOTICE, WHEN PRACTICABLE, THIRTY DAYS OR MORE BEFORE SUCH INMATE'S RELEASE, BUT IN ANY EVENT, IN ADVANCE OF SUCH INMATE'S ARRIVAL IN THE JURISDICTION OF SUCH LOCAL SOCIAL SERVICES DISTRICT.

S 205. MERIT TERMINATION OF SENTENCE AND DISCHARGE FROM PRESUMPTIVE RELEASE, PAROLE, CONDITIONAL RELEASE AND RELEASE TO POST-RELEASE SUPERVISION. 1. THE DEPARTMENT MAY GRANT TO ANY PERSON A MERIT TERMINATION OF SENTENCE FROM PRESUMPTIVE RELEASE, PAROLE, CONDITIONAL RELEASE OR RELEASE TO POST-RELEASE SUPERVISION PRIOR TO THE EXPIRATION OF THE FULL TERM OR MAXIMUM TERM, PROVIDED IT IS DETERMINED BY THE DEPARTMENT THAT SUCH MERIT TERMINATION IS IN THE BEST INTERESTS OF SOCIETY, SUCH PERSON IS NOT REQUIRED TO REGISTER AS A SEX OFFENDER PURSUANT TO ARTICLE SIX-C OF THIS CHAPTER, AND SUCH PERSON IS NOT ON PRESUMPTIVE RELEASE, PAROLE, CONDITIONAL RELEASE OR RELEASE TO POST-RELEASE SUPERVISION FROM A TERM OF IMPRISONMENT IMPOSED FOR ANY OF THE FOLLOWING OFFENSES, OR FOR AN ATTEMPT TO COMMIT ANY OF THE FOLLOWING OFFENSES:

(A) A VIOLENT FELONY OFFENSE AS DEFINED IN SECTION 70.02 OF THE PENAL LAW;

(B) MURDER IN THE FIRST DEGREE OR MURDER IN THE SECOND DEGREE;

(C) AN OFFENSE DEFINED IN ARTICLE ONE HUNDRED THIRTY OF THE PENAL LAW;

(D) UNLAWFUL IMPRISONMENT IN THE FIRST DEGREE, KIDNAPPING IN THE FIRST DEGREE, OR KIDNAPPING IN THE SECOND DEGREE, IN WHICH THE VICTIM IS LESS THAN SEVENTEEN YEARS OLD AND THE OFFENDER IS NOT THE PARENT OF THE VICTIM;

(E) AN OFFENSE DEFINED IN ARTICLE TWO HUNDRED THIRTY OF THE PENAL LAW INVOLVING THE PROSTITUTION OF A PERSON LESS THAN NINETEEN YEARS OLD;

(F) DISSEMINATING INDECENT MATERIAL TO MINORS IN THE FIRST DEGREE OR DISSEMINATING INDECENT MATERIAL TO MINORS IN THE SECOND DEGREE;

(G) INCEST;

(H) AN OFFENSE DEFINED IN ARTICLE TWO HUNDRED SIXTY-THREE OF THE PENAL LAW;

(I) A HATE CRIME AS DEFINED IN SECTION 485.05 OF THE PENAL LAW; OR

(J) AN OFFENSE DEFINED IN ARTICLE FOUR HUNDRED NINETY OF THE PENAL LAW.

2. A MERIT TERMINATION GRANTED BY THE DEPARTMENT UNDER THIS SECTION SHALL CONSTITUTE A TERMINATION OF THE SENTENCE WITH RESPECT TO WHICH IT WAS GRANTED. NO SUCH MERIT TERMINATION SHALL BE GRANTED UNLESS THE DEPARTMENT IS SATISFIED THAT TERMINATION OF SENTENCE FROM PRESUMPTIVE RELEASE, PAROLE, CONDITIONAL RELEASE OR POST-RELEASE SUPERVISION IS IN THE BEST INTEREST OF SOCIETY, AND THAT THE PAROLEE OR RELEASEE, OTHERWISE FINANCIALLY ABLE TO COMPLY WITH AN ORDER OF RESTITUTION AND THE PAYMENT OF ANY MANDATORY SURCHARGE PREVIOUSLY IMPOSED BY A COURT OF COMPETENT JURISDICTION, HAS MADE A GOOD FAITH EFFORT TO COMPLY THEREWITH.

3. A MERIT TERMINATION OF SENTENCE MAY BE GRANTED AFTER TWO YEARS OF PRESUMPTIVE RELEASE, PAROLE, CONDITIONAL RELEASE OR RELEASE TO POST-RELEASE SUPERVISION TO A PERSON SERVING A SENTENCE FOR A CLASS A FELONY OFFENSE AS DEFINED IN ARTICLE TWO HUNDRED TWENTY OF THE PENAL LAW. A MERIT TERMINATION OF SENTENCE MAY BE GRANTED TO ALL OTHER ELIGIBLE PERSONS AFTER ONE YEAR OF PRESUMPTIVE RELEASE, PAROLE, CONDITIONAL RELEASE OR RELEASE TO POST-RELEASE SUPERVISION.

4. THE DEPARTMENT MUST GRANT TERMINATION OF SENTENCE AFTER THREE YEARS OF UNREVOKED PRESUMPTIVE RELEASE OR PAROLE TO A PERSON SERVING AN INDETERMINATE SENTENCE FOR A CLASS A FELONY OFFENSE DEFINED IN ARTICLE TWO HUNDRED TWENTY OF THE PENAL LAW, AND MUST GRANT TERMINATION OF SENTENCE AFTER TWO YEARS OF UNREVOKED PRESUMPTIVE RELEASE OR PAROLE TO A PERSON SERVING AN INDETERMINATE SENTENCE FOR ANY OTHER FELONY OFFENSE DEFINED IN ARTICLE TWO HUNDRED TWENTY OR TWO HUNDRED TWENTY-ONE OF THE PENAL LAW.

5. THE COMMISSIONER, IN CONSULTATION WITH THE CHAIRMAN OF THE BOARD OF PAROLE, SHALL PROMULGATE RULES AND REGULATIONS GOVERNING THE ISSUANCE OF MERIT TERMINATIONS OF SENTENCE AND DISCHARGES FROM PRESUMPTIVE RELEASE, PAROLE, CONDITIONAL RELEASE OR POST-RELEASE SUPERVISION TO ASSURE THAT SUCH TERMINATIONS AND DISCHARGES ARE CONSISTENT WITH PUBLIC SAFETY. THE BOARD OF PAROLE SHALL HAVE ACCESS TO MERIT TERMINATION APPLICATION CASE FILES AND CORRESPONDING DECISIONS TO ASSESS THE EFFECTIVENESS OF THE RULES AND REGULATIONS IN ENSURING PUBLIC SAFETY. SUCH REVIEW WILL IN NO MANNER EFFECT THE DECISIONS MADE WITH REGARD TO INDIVIDUAL MERIT TERMINATION DETERMINATIONS.

S 206. APPLICATIONS FOR PRESUMPTIVE RELEASE OR CONDITIONAL RELEASE. 1. ALL REQUESTS FOR PRESUMPTIVE RELEASE OR CONDITIONAL RELEASE SHALL BE MADE IN WRITING ON FORMS PRESCRIBED AND FURNISHED BY THE DEPARTMENT. WITHIN ONE MONTH FROM THE DATE ANY SUCH APPLICATION IS RECEIVED, IF IT APPEARS THAT THE APPLICANT IS ELIGIBLE FOR PRESUMPTIVE RELEASE OR CONDITIONAL RELEASE OR WILL BE ELIGIBLE FOR SUCH RELEASE DURING SUCH MONTH, THE CONDITIONS OF RELEASE SHALL BE FIXED IN ACCORDANCE WITH RULES PRESCRIBED BY THE BOARD OF PAROLE. SUCH CONDITIONS SHALL BE SUBSTANTIALLY THE SAME AS CONDITIONS IMPOSED UPON PAROLEES.

2. NO PERSON SHALL BE PRESUMPTIVELY RELEASED OR CONDITIONALLY RELEASED, UNLESS THE APPLICANT HAS AGREED IN WRITING TO THE CONDITIONS OF RELEASE. THE AGREEMENT SHALL STATE IN PLAIN, EASILY UNDERSTANDABLE LANGUAGE THE CONSEQUENCES OF A VIOLATION OF ONE OR MORE OF THE CONDITIONS OF RELEASE.

S 207. COOPERATION. IT SHALL BE THE DUTY OF THE COMMISSIONER OF CORRECTIONS AND COMMUNITY SUPERVISION TO INSURE THAT ALL OFFICERS AND EMPLOYEES OF THE DEPARTMENT SHALL AT ALL TIMES COOPERATE WITH THE BOARD OF PAROLE AND SHALL FURNISH TO SUCH MEMBERS AND EMPLOYEES OF THE BOARD OF PAROLE SUCH INFORMATION AS MAY BE APPROPRIATE TO ENABLE THEM TO PERFORM THEIR INDEPENDENT DECISION MAKING FUNCTIONS. IT IS ALSO HIS OR HER DUTY TO ENSURE THAT THE FUNCTIONS OF THE BOARD OF PAROLE ARE NOT

HAMPERED IN ANY WAY, INCLUDING BUT NOT LIMITED TO: A RESTRICTION OF RESOURCES INCLUDING STAFF ASSISTANCE; LIMITED ACCESS TO VITAL INFORMATION; AND PRESENTATION OF INMATE INFORMATION IN A MANNER THAT MAY INAPPROPRIATELY INFLUENCE THE BOARD IN ITS DECISION MAKING.

S 208. DEPUTIZATION OF OUT-OF-STATE OFFICERS. THE COMMISSIONER IS HEREBY AUTHORIZED AND EMPOWERED TO DEPUTIZE ANY PAROLE OFFICER OR PEACE OFFICER OF ANOTHER STATE TO ACT AS AN OFFICER AND AGENT OF THIS STATE IN EFFECTING THE RETURN OF ANY PERSON WHO HAS VIOLATED THE TERMS AND CONDITIONS OF PAROLE OR PROBATION AS GRANTED BY THIS STATE.

ANY DEPUTIZATION PURSUANT TO THIS SECTION SHALL BE IN WRITING AND ANY PERSON AUTHORIZED TO ACT AS AN AGENT OF THIS STATE PURSUANT HERETO SHALL CARRY FORMAL EVIDENCE OF HIS OR HER DEPUTIZATION AND SHALL PRODUCE THE SAME UPON DEMAND.

THE COMMISSIONER IS HEREBY AUTHORIZED, SUBJECT TO THE APPROVAL OF THE COMPTROLLER, TO ENTER INTO CONTRACTS WITH SIMILAR OFFICIALS OF ANY OTHER STATE OR STATES FOR THE PURPOSE OF SHARING AN EQUITABLE PORTION OF THE COST OF EFFECTING THE RETURN OF ANY PERSON WHO HAS VIOLATED THE TERMS AND CONDITIONS OF PAROLE OR PROBATION AS GRANTED BY THIS STATE.

S 33. Intentionally omitted.

S 34. Intentionally omitted.

S 35. Subdivision 5 of section 400 of the correction law, as added by chapter 766 of the laws of 1976, is amended to read as follows:

(5) "Inmate" means a person committed to the custody of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, or a person convicted of a crime and committed to the custody of the sheriff, the county jail, or a local department of correction.

S 36. Subparagraph 3 of paragraph c of subdivision 7 of section 500-b of the correction law, as amended by chapter 574 of the laws of 1985, is amended to read as follows:

(3) records, to the extent relevant and known to the chief administrative officer, maintained by the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION and/or any local correctional facility in this state and which are accessible and available to the chief administrative officer; and

S 37. Section 259 of the executive law is REPEALED and a new section 259 is added to read as follows:

S 259. DEFINITIONS. WHEN USED IN THIS ARTICLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "BOARD" MEANS THE STATE BOARD OF PAROLE.

2. "COMMISSIONER" MEANS THE COMMISSIONER OF THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION.

3. "COMMUNITY SUPERVISION" MEANS THE SUPERVISION OF INDIVIDUALS RELEASED INTO THE COMMUNITY ON TEMPORARY RELEASE, PRESUMPTIVE RELEASE, PAROLE, CONDITIONAL RELEASE, POST RELEASE SUPERVISION OR MEDICAL PAROLE.

4. "DEPARTMENT" MEANS THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION.

S 38. Section 259-a of the executive law is REPEALED and a new section 259-a is added to read as follows:

S 259-A. STATE BOARD OF PAROLE; FUNDING. THE ANNUAL BUDGET SUBMITTED BY THE GOVERNOR SHALL SEPARATELY STATE THE RECOMMENDED APPROPRIATIONS FOR THE STATE BOARD OF PAROLE. UPON ENACTMENT, THESE SEPARATELY STATED APPROPRIATIONS FOR THE STATE BOARD OF PAROLE SHALL NOT BE DECREASED BY INTERCHANGE WITH ANY OTHER APPROPRIATION, NOTWITHSTANDING SECTION FIFTY-ONE OF THE STATE FINANCE LAW.

S 38-a. Section 259-b of the executive law, as added by chapter 904 of the laws of 1977, subdivision 1 as amended by chapter 123 of the laws of

1987 and subdivision 2 as amended by chapter 111 of the laws of 1989, is amended to read as follows:

S 259-b. State board of parole; organization. 1. There shall be in the [state division of parole] DEPARTMENT a state board of parole which shall possess the powers and duties hereinafter specified. THE BOARD SHALL FUNCTION INDEPENDENTLY OF THE DEPARTMENT REGARDING ALL OF ITS DECISION-MAKING FUNCTIONS, AS WELL AS ANY OTHER POWERS AND DUTIES SPECIFIED IN THIS ARTICLE, PROVIDED, HOWEVER, THAT ADMINISTRATIVE MATTERS OF GENERAL APPLICABILITY WITHIN THE DEPARTMENT SHALL BE APPLICABLE TO THE BOARD. Such board shall consist of not more than nineteen members appointed by the governor with the advice and consent of the senate. The term of office of each member of such board shall be for six years; provided, however, that any member chosen to fill a vacancy occurring otherwise than by expiration of term shall be appointed for the remainder of the unexpired term of the member whom he is to succeed. In the event of the inability to act of any member, the governor may appoint some competent informed person to act in his stead during the continuance of such disability.

2. Each member of the board shall have been awarded a degree from an accredited four-year college or university or a graduate degree from such college or university or accredited graduate school and shall have had at least five years of experience in one or more of the fields of criminology, administration of criminal justice, law enforcement, sociology, law, social work, corrections, psychology, psychiatry or medicine.

3. The governor shall designate one of the members of the board as chairman to serve in such capacity at the pleasure of the governor or until the member's term of office expires and a successor is designated in accordance with law, whichever first occurs.

4. The members of the [state] board [of parole] shall not hold any other public office; nor shall they, at any time of their appointment nor during their incumbency, serve as a representative of any political party on an executive committee or other governing body thereof, nor as an executive officer or employee of any political committee, organization or association.

5. Each member of the [state] board [of parole] shall receive for his services an annual salary to be fixed by the governor within the amount appropriated therefor. Each member of such board shall also receive his necessary expenses actually incurred in the discharge of his duties.

6. Any member of the [state] board [of parole] may be removed by the governor for cause after an opportunity to be heard.

7. Except as otherwise provided by law, a majority of the [state] board [of parole] shall constitute a quorum for the transaction of all business of the board.

S 38-b. Section 259-c of the executive law, as added by chapter 904 of the laws of 1977, subdivision 1 as amended by section 8 of part J and subdivision 4 as amended by section 2 of part N of chapter 56 of the laws of 2009, subdivisions 2 and 6 as amended by section 7 of part E of chapter 62 of the laws of 2003, subdivision 13 as amended by chapter 1 of the laws of 2000, subdivision 14 as amended by chapter 320 of the laws of 2006, subdivision 15 as added by chapter 67 of the laws of 2008, subdivision 15-a as added by chapter 496 of the laws of 2009, subdivision 16 as amended by section 14 of part A1 of chapter 56 of the laws of 2010 and subdivision 17 as added by chapter 96 of the laws of 2006 and as renumbered by chapter 67 of the laws of 2008, is amended to read as follows:

S 259-c. State board of parole; functions, powers and duties. The state board of parole shall: 1. have the power and duty of determining which inmates serving an indeterminate or determinate sentence of imprisonment may be released on parole, or on medical parole pursuant to section two hundred fifty-nine-r or section two hundred fifty-nine-s of this article, and when and under what conditions;

2. have the power and duty of determining the conditions of release of the person who may be presumptively released, conditionally released or subject to a period of post-release supervision under an indeterminate or determinate sentence of imprisonment;

3. determine, as each inmate is received by the department [of correctional services], the need for further investigation of the background of such inmate [and]. UPON SUCH DETERMINATION, THE DEPARTMENT SHALL cause such investigation as may be necessary to be made as soon as practicable, the results of such investigation together with all other information compiled by the [division pursuant to subdivision one of section two hundred fifty-nine-a] DEPARTMENT and the complete criminal record and family court record of such inmate to be filed so as to be readily available when the parole of such inmate is being considered;

4. establish written [guidelines] PROCEDURES for its use in making parole decisions as required by law[, including the fixing of minimum periods of imprisonment or ranges thereof for different categories of offenders]. Such written [guidelines may consider the use of a] PROCEDURES SHALL INCORPORATE risk and needs [assessment instrument] PRINCIPLES to MEASURE THE REHABILITATION OF PERSONS APPEARING BEFORE THE BOARD, THE LIKELIHOOD OF SUCCESS OF SUCH PERSONS UPON RELEASE, AND assist members of the state board of parole in determining which inmates may be released to parole supervision;

5. through its members, officers and employees, study or cause to be studied the inmates confined in institutions over which the board has jurisdiction, so as to determine their ultimate fitness to be paroled;

6. have the power to revoke the [presumptive release, parole, conditional release or post-release] COMMUNITY supervision status of any person and to authorize the issuance of a warrant for the re-taking of such persons;

[7. have the power to grant and revoke certificates of relief from disabilities and certificates of good conduct as provided for by law;]

8. have the power and perform the duty, when requested by the governor, of reporting to the governor the facts, circumstances, criminal records and social, physical, mental and psychiatric conditions and histories of inmates under consideration by the governor for pardon or commutation of sentence and of applicants for restoration of the rights of citizenship;

9. for the purpose of any investigation in the performance of duties made by it or any member thereof, have the power to issue subpoenas, to compel the attendance of witnesses and the production of books, papers, and other documents pertinent to the subject of its inquiry;

10. have the power to authorize any members thereof and hearing officers to administer oaths and take the testimony of persons under oath;

11. make rules for the conduct of its work, a copy of such rules and of any amendments thereto to be filed by the chairman with the secretary of state;

12. [in any case where a person is entitled to jail time credit under the provisions of paragraph (c) of subdivision three of section 70.40 of the penal law, to certify to the person in charge of the institution in which such person's sentence is being served the amount of such credit]

TO FACILITATE THE SUPERVISION OF ALL INMATES RELEASED ON COMMUNITY SUPERVISION THE CHAIRMAN OF THE STATE BOARD OF PAROLE SHALL CONSIDER THE IMPLEMENTATION OF A PROGRAM OF GRADUATED SANCTIONS, INCLUDING BUT NOT LIMITED TO THE UTILIZATION OF A RISK AND NEEDS ASSESSMENT INSTRUMENT THAT WOULD BE ADMINISTERED TO ALL INMATES ELIGIBLE FOR PAROLE SUPERVISION. SUCH A PROGRAM WOULD INCLUDE VARIOUS COMPONENTS INCLUDING THE USE OF ALTERNATIVES TO INCARCERATION FOR TECHNICAL PAROLE VIOLATIONS;

13. transmit a report of the work of the state board of parole for the preceding calendar year to the governor and the legislature annually;

14. notwithstanding any other provision of law to the contrary, where a person serving a sentence for an offense defined in article one hundred thirty, one hundred thirty-five or two hundred sixty-three of the penal law or section 255.25, 255.26 or 255.27 of the penal law and the victim of such offense was under the age of eighteen at the time of such offense or such person has been designated a level three sex offender pursuant to subdivision six of section one hundred sixty-eight-l of the correction law, is released on parole or conditionally released pursuant to subdivision one or two of this section, the board shall require, as a mandatory condition of such release, that such sentenced offender shall refrain from knowingly entering into or upon any school grounds, as that term is defined in subdivision fourteen of section 220.00 of the penal law, or any other facility or institution primarily used for the care or treatment of persons under the age of eighteen while one or more of such persons under the age of eighteen are present, provided however, that when such sentenced offender is a registered student or participant or an employee of such facility or institution or entity contracting therewith or has a family member enrolled in such facility or institution, such sentenced offender may, with the written authorization of his or her parole officer and the superintendent or chief administrator of such facility, institution or grounds, enter such facility, institution or upon such grounds for the limited purposes authorized by the parole officer and superintendent or chief officer. Nothing in this subdivision shall be construed as restricting any lawful condition of supervision that may be imposed on such sentenced offender.

15. Notwithstanding any other provision of law to the contrary, where a person is serving a sentence for an offense for which registration as a sex offender is required pursuant to subdivision two or three of section one hundred sixty-eight-a of the correction law, and the victim of such offense was under the age of eighteen at the time of such offense or such person has been designated a level three sex offender pursuant to subdivision six of section one hundred sixty-eight-l of the correction law or the internet was used to facilitate the commission of the crime, is released on parole or conditionally released pursuant to subdivision one or two of this section, the board shall require, as mandatory conditions of such release, that such sentenced offender shall be prohibited from using the internet to access pornographic material, access a commercial social networking website, communicate with other individuals or groups for the purpose of promoting sexual relations with persons under the age of eighteen, and communicate with a person under the age of eighteen when such offender is over the age of eighteen, provided that the board may permit an offender to use the internet to communicate with a person under the age of eighteen when such offender is the parent of a minor child and is not otherwise prohibited from communicating with such child. Nothing in this subdivision shall be construed as restricting any other lawful condition of supervision that may be imposed on such sentenced offender. As used in this subdivision,

a "commercial social networking website" shall mean any business, organization or other entity operating a website that permits persons under eighteen years of age to be registered users for the purpose of establishing personal relationships with other users, where such persons under eighteen years of age may: (i) create web pages or profiles that provide information about themselves where such web pages or profiles are available to the public or to other users; (ii) engage in direct or real time communication with other users, such as a chat room or instant messenger; and (iii) communicate with persons over eighteen years of age; provided, however, that, for purposes of this subdivision, a commercial social networking website shall not include a website that permits users to engage in such other activities as are not enumerated herein.

15-a. Notwithstanding any other provision of law, where a person is serving a sentence for a violation of section 120.03, 120.04, 120.04-a, 125.12, 125.13 or 125.14 of the penal law, or a felony as defined in paragraph (c) of subdivision one of section eleven hundred ninety-three of the vehicle and traffic law, if such person is released on parole or conditional release the board shall require as a mandatory condition of such release, that such person install and maintain, in accordance with the provisions of section eleven hundred ninety-eight of the vehicle and traffic law, an ignition interlock device in any motor vehicle owned or operated by such person during the term of such parole or conditional release for such crime. Provided further, however, the board may not otherwise authorize the operation of a motor vehicle by any person whose license or privilege to operate a motor vehicle has been revoked pursuant to the provisions of the vehicle and traffic law.

16. [have the duty to provide written notice to such inmates prior to release on presumptive release, parole, parole supervision, conditional release or post release supervision or pursuant to subdivision six of section 410.91 of the criminal procedure law of any requirement to report to the office of victim services any funds of a convicted person as defined in section six hundred thirty-two-a of this chapter, the procedure for such reporting and any potential penalty for a failure to comply.

17. have the duty, prior to the release, parole or release to post-release supervision of an inmate designated a level two or three sex offender pursuant to the sex offender registration act, to provide notification to the local social services district in the county in which the inmate expects to reside, when information available to the board pursuant to section one hundred sixty-eight-e of the correction law or any other pre-release procedures indicates that such inmate is likely to seek to access local social services for homeless persons. The board shall provide such notice, when practicable, thirty days or more before such inmate's release, but in any event, in advance of such inmate's arrival in the jurisdiction of such local social services district] DETERMINE WHICH INMATES SERVING A DEFINITE SENTENCE OF IMPRISONMENT MAY BE CONDITIONALLY RELEASED FROM AN INSTITUTION IN WHICH HE OR SHE IS CONFINED IN ACCORDANCE WITH SUBDIVISION TWO OF SECTION 70.40 OF THE PENAL LAW.

17. WITHIN AMOUNTS APPROPRIATED, APPOINT ATTORNEYS TO SERVE AS ITS LEGAL ADVISORS. SUCH ATTORNEYS SHALL REPORT DIRECTLY TO THE BOARD, PROVIDED, HOWEVER, THAT ADMINISTRATIVE MATTERS OF GENERAL APPLICABILITY WITHIN THE DEPARTMENT SHALL BE APPLICABLE TO SUCH ATTORNEYS.

S 38-b-1. Intentionally omitted.

S 38-b-2. Section 259-d of the executive law, as added by chapter 904 of the laws of 1977, subdivision 1 as amended by chapter 166 of the laws of 1991, is amended to read as follows:

S 259-d. Hearing officers. 1. The [chairman of the] state board of parole shall appoint AND SHALL HAVE THE POWER TO REMOVE, IN ACCORDANCE WITH THE PROVISIONS OF THE CIVIL SERVICE LAW, hearing officers who shall be authorized to conduct parole revocation proceedings. HEARING OFFICERS SHALL FUNCTION INDEPENDENTLY OF THE DEPARTMENT REGARDING ALL OF THEIR DECISION-MAKING FUNCTIONS, AND SHALL REPORT DIRECTLY TO THE BOARD, PROVIDED, HOWEVER, THAT ADMINISTRATIVE MATTERS OF GENERAL APPLICABILITY WITHIN THE DEPARTMENT SHALL BE APPLICABLE TO ALL HEARING OFFICERS. A hearing officer conducting such proceedings shall, when delegated such authority by the board in rules adopted by the board, be required to make a written decision in accordance with standards and rules adopted by the board. Nothing in this article shall be deemed to preclude a member of the state board of parole from exercising all of the functions, powers and duties of a hearing officer upon request of the chairman.

2. The [chairman] BOARD, acting in cooperation with the civil service commission, shall establish standards, preliminary requisites and requisites to govern the selection [and], appointment AND REMOVAL of hearing officers. Such standards and requisites shall be designed to assure that persons selected as hearing officers have the ability to conduct parole revocation proceedings fairly and impartially. Such standards shall not require prior experience as a parole officer. THE BOARD SHALL HAVE THE AUTHORITY TO ESTABLISH PROCEDURES NECESSARY TO IMPLEMENT THIS SECTION.

S 38-c. Section 259-e of the executive law, as amended by section 8 of part E of chapter 62 of the laws of 2003, is amended to read as follows:

S 259-e. Institutional parole services. The [division] DEPARTMENT shall provide institutional parole services. [Subject to the authority of the chairman, these] SUCH SERVICES shall include preparation of reports and other data required by the state board of parole in the exercise of its functions with respect to release on presumptive release, parole, conditional release or post-release supervision of inmates. Employees of the [division] DEPARTMENT who collect data, interview inmates and prepare reports for the state board of parole in institutions under the jurisdiction of the department [of correctional services] shall [not] work under the direct [or indirect] supervision of the [head of the institution] DEPUTY COMMISSIONER OF THE DEPARTMENT IN CHARGE OF PROGRAM SERVICES. DATA AND REPORTS SUBMITTED TO THE BOARD SHALL ADDRESS THE STATUTORY FACTORS TO BE CONSIDERED BY THE BOARD PURSUANT TO THE RELEVANT PROVISIONS OF SECTION TWO HUNDRED FIFTY-NINE-I OF THIS ARTICLE.

S 38-d. Section 259-f of the executive law is REPEALED.

S 38-e. Section 259-g of the executive law is REPEALED.

S 38-f. Subdivision 1 of section 259-i of the executive law is REPEALED.

S 38-f-1. Paragraphs (a), (b) and (d) and subparagraph (A) of paragraph (c) of subdivision 2, subparagraphs (i) and (iii) of paragraph (a) of subdivision 3, subparagraph (x) of paragraph (f) of subdivision 3, and paragraph (i) of subdivision 3 of section 259-i of the executive law, paragraph (a) of subdivision 2 as separately amended by section 11 of part E and section 9 of part F of chapter 62 of the laws of 2003, paragraph (b) of subdivision 2, subparagraph (i) of paragraph (a) of subdivision 3 and paragraph (i) of subdivision 3 as amended by section 11 of part E of chapter 62 of the laws of 2003, subparagraph (A) of

paragraph (c) of subdivision 2 as amended by section 12 of part AAA of chapter 56 of the laws of 2009, paragraph (d) of subdivision 2 as amended by chapter 239 of the laws of 2007, subparagraph (iii) of paragraph (a) of subdivision 3, as amended by section 11 of part E of chapter 62 of the laws of 2003 and as renumbered by section 1 of part M of chapter 56 of the laws of 2009, subparagraph (x) of paragraph (f) of subdivision 3 as amended by section 3 of part E of chapter 56 of the laws of 2007, are amended to read as follows:

(a) (i) Except as provided in subparagraph (ii) of this paragraph, at least one month prior to the date on which an inmate may be paroled pursuant to subdivision one of section 70.40 of the penal law, a member or members as determined by the rules of the board shall personally interview such inmate and determine whether he should be paroled in accordance with the guidelines adopted pursuant to subdivision four of section two hundred fifty-nine-c of this article. If parole is not granted upon such review, the inmate shall be informed in writing within two weeks of such appearance of the factors and reasons for such denial of parole. Such reasons shall be given in detail and not in conclusory terms. The board shall specify a date not more than twenty-four months from such determination for reconsideration, and the procedures to be followed upon reconsideration shall be the same. If the inmate is released, he shall be given a copy of the conditions of parole. Such conditions shall where appropriate, include a requirement that the parolee comply with any restitution order, mandatory surcharge, sex offender registration fee and DNA databank fee previously imposed by a court of competent jurisdiction that applies to the parolee. The [board of parole] CONDITIONS shall indicate which restitution collection agency established under subdivision eight of section 420.10 of the criminal procedure law, shall be responsible for collection of restitution, mandatory surcharge, sex offender registration fees and DNA databank fees as provided for in section 60.35 of the penal law and section eighteen hundred nine of the vehicle and traffic law.

(ii) Any inmate who is scheduled for presumptive release pursuant to section eight hundred six of the correction law shall not appear before the [parole] board as provided in subparagraph (i) of this paragraph unless such inmate's scheduled presumptive release is forfeited, canceled, or rescinded subsequently as provided in such law. In such event, the inmate shall appear before the [parole] board for release consideration as provided in subparagraph (i) of this paragraph as soon thereafter as is practicable.

(b) Persons presumptively released, paroled, conditionally released or released to post-release supervision from an institution under the jurisdiction of the department [of correctional services or], the department of mental hygiene OR THE OFFICE OF CHILDREN AND FAMILY SERVICES shall, while on presumptive release, parole, conditional release or post-release supervision, be in the legal custody of the [division of parole] DEPARTMENT until expiration of the maximum term or period of sentence, or expiration of the period of supervision, including any period of post-release supervision, or return to IMPRISONMENT IN the custody of the department [of correctional services], as the case may be.

(A) Discretionary release on parole shall not be granted merely as a reward for good conduct or efficient performance of duties while confined but after considering if there is a reasonable probability that, if such inmate is released, he will live and remain at liberty without violating the law, and that his release is not incompatible with

the welfare of society and will not so deprecate the seriousness of his crime as to undermine respect for law. In making the parole release decision, the [guidelines] PROCEDURES adopted pursuant to subdivision four of section two hundred fifty-nine-c of this article shall require that the following be considered: (i) the institutional record including program goals and accomplishments, academic achievements, vocational education, training or work assignments, therapy and [interpersonal relationships] INTERACTIONS with staff and inmates; (ii) performance, if any, as a participant in a temporary release program; (iii) release plans including community resources, employment, education and training and support services available to the inmate; (iv) any deportation order issued by the federal government against the inmate while in the custody of the department [of correctional services] and any recommendation regarding deportation made by the commissioner of the department [of correctional services] pursuant to section one hundred forty-seven of the correction law; (v) any statement made to the board by the crime victim or the victim's representative, where the crime victim is deceased or is mentally or physically incapacitated; [and] (vi) the length of the determinate sentence to which the inmate would be subject had he or she received a sentence pursuant to section 70.70 or section 70.71 of the penal law for a felony defined in article two hundred twenty or article two hundred twenty-one of the penal law; (VII) THE SERIOUSNESS OF THE OFFENSE WITH DUE CONSIDERATION TO THE TYPE OF SENTENCE, LENGTH OF SENTENCE AND RECOMMENDATIONS OF THE SENTENCING COURT, THE DISTRICT ATTORNEY, THE ATTORNEY FOR THE INMATE, THE PRE-SENTENCE PROBATION REPORT AS WELL AS CONSIDERATION OF ANY MITIGATING AND AGGRAVATING FACTORS, AND ACTIVITIES FOLLOWING ARREST PRIOR TO CONFINEMENT; AND (VIII) PRIOR CRIMINAL RECORD, INCLUDING THE NATURE AND PATTERN OF OFFENSES, ADJUSTMENT TO ANY PREVIOUS PROBATION OR PAROLE SUPERVISION AND INSTITUTIONAL CONFINEMENT. The board shall provide toll free telephone access for crime victims. In the case of an oral statement made in accordance with subdivision one of section 440.50 of the criminal procedure law, the parole board member shall present a written report of the statement to the parole board. A crime victim's representative shall mean the crime victim's closest surviving relative, the committee or guardian of such person, or the legal representative of any such person. Such statement submitted by the victim or victim's representative may include information concerning threatening or intimidating conduct toward the victim, the victim's representative, or the victim's family, made by the person sentenced and occurring after the sentencing. Such information may include, but need not be limited to, the threatening or intimidating conduct of any other person who or which is directed by the person sentenced. [Notwithstanding the provisions of this section, in making the parole release decision for persons whose minimum period of imprisonment was not fixed pursuant to the provisions of subdivision one of this section, in addition to the factors listed in this paragraph the board shall consider the factors listed in paragraph (a) of subdivision one of this section.]

(d) (i) Notwithstanding the provisions of paragraphs (a), (b) and (c) of this subdivision, after the inmate has served his minimum period of imprisonment imposed by the court, or at any time after the inmate's period of imprisonment has commenced for an inmate serving a determinate or indeterminate term of imprisonment, provided that the inmate has had a final order of deportation issued against him and provided further that the inmate is not convicted of either an A-I felony offense other than an A-I felony offense as defined in article two hundred twenty of

the penal law or a violent felony offense as defined in section 70.02 of the penal law, if the inmate is subject to deportation by the United States BUREAU OF Immigration and [Naturalization Service] CUSTOMS ENFORCEMENT, in addition to the criteria set forth in paragraph (c) of this subdivision, the board may consider, as a factor warranting earlier release, the fact that such inmate will be deported, and may grant parole from an indeterminate sentence or release for deportation from a determinate sentence to such inmate conditioned specifically on his prompt deportation. The board may make such conditional grant of early parole from an indeterminate sentence or release for deportation from a determinate sentence only where it has received from the United States BUREAU OF Immigration and [Naturalization Service] CUSTOMS ENFORCEMENT assurance (A) that an order of deportation will be executed or that proceedings will promptly be commenced for the purpose of deportation upon release of the inmate from the custody of the department of correctional services, and (B) that the inmate, if granted parole or release for deportation pursuant to this paragraph, will not be released from the custody of the United States BUREAU OF Immigration and [Naturalization Service] CUSTOMS ENFORCEMENT, unless such release be as a result of deportation without providing the board a reasonable opportunity to arrange for execution of its warrant for the retaking of such person.

(ii) An inmate who has been granted parole from an indeterminate sentence or release for deportation from a determinate sentence pursuant to this paragraph shall be delivered to the custody of the United States BUREAU OF Immigration and [Naturalization Service] CUSTOMS ENFORCEMENT along with the board's warrant for his retaking to be executed in the event of his release from such custody other than by deportation. In the event that such person is not deported, the board shall execute the warrant, effect his return to IMPRISONMENT IN the custody of the department [of correctional services] and within sixty days after such return, provided that the person is serving an indeterminate sentence and the minimum period of imprisonment has been served, personally interview him to determine whether he should be paroled in accordance with the provisions of paragraphs (a), (b) and (c) of this subdivision. The return of a person granted parole from an indeterminate sentence or release for deportation from a determinate sentence pursuant to this paragraph for the reason set forth herein shall not be deemed to be a parole delinquency and the interruptions specified in subdivision three of section 70.40 of the penal law shall not apply, but the time spent in the custody of the United States BUREAU OF Immigration and [Naturalization Service] CUSTOMS ENFORCEMENT shall be credited against the term of the sentence in accordance with the rules specified in paragraph (c) of that subdivision. Notwithstanding any other provision of law, any inmate granted parole from an indeterminate sentence or release for deportation from a determinate sentence pursuant to this paragraph who is subsequently committed to IMPRISONMENT IN the custody of the department [of correctional services] for a felony offense committed after release pursuant to this paragraph shall have his parole eligibility date on the indeterminate sentence for the new felony offense, or his conditional release date on the determinate sentence for the new felony offense, as the case may be, extended by the amount of time between the date on which such inmate was released from IMPRISONMENT IN the custody of the department [of correctional services] pursuant to this paragraph and the date on which such inmate would otherwise have completed service of the minimum period of imprisonment on the prior felony offense.

(i) If the parole officer having charge of a presumptively released, paroled or conditionally released person or a person released to post-release supervision or a person received under the uniform act for out-of-state parolee supervision shall have reasonable cause to believe that such person has lapsed into criminal ways or company, or has violated one or more conditions of his presumptive release, parole, conditional release or post-release supervision, such parole officer shall report such fact to a member of the board [of parole], or to any officer of the [division] DEPARTMENT designated by the board, and thereupon a warrant may be issued for the retaking of such person and for his temporary detention in accordance with the rules of the board. The retaking and detention of any such person may be further regulated by rules and regulations of the [division] DEPARTMENT not inconsistent with this article. A warrant issued pursuant to this section shall constitute sufficient authority to the superintendent or other person in charge of any jail, penitentiary, lockup or detention pen to whom it is delivered to hold in temporary detention the person named therein; except that a warrant issued with respect to a person who has been released on medical parole pursuant to section two hundred fifty-nine-r of this article and whose parole is being revoked pursuant to paragraph (h) of subdivision four of such section shall constitute authority for the immediate placement of the parolee only into IMPRISONMENT IN the custody of the department [of correctional services] to hold in temporary detention. A warrant issued pursuant to this section shall also constitute sufficient authority to the person in charge of a drug treatment campus, as defined in subdivision twenty of section two of the correction law, to hold the person named therein, in accordance with the procedural requirements of this section, for a period of at least ninety days to complete an intensive drug treatment program mandated by the board [of parole] as an alternative to presumptive release or parole or conditional release revocation, or the revocation of post-release supervision, and shall also constitute sufficient authority for return of the person named therein to local custody to hold in temporary detention for further revocation proceedings in the event said person does not successfully complete the intensive drug treatment program. The board's rules shall provide for cancellation of delinquency and restoration to supervision upon the successful completion of the program.

(iii) Where the alleged violator is detained in another state pursuant to such warrant and is not under parole supervision pursuant to the uniform act for out-of-state parolee supervision or where an alleged violator under parole supervision pursuant to the uniform act for out-of-state parolee supervision is detained in a state other than the receiving state, the warrant will not be deemed to be executed until the alleged violator is detained exclusively on the basis of such warrant and the [division of parole] DEPARTMENT has received notification that the alleged violator (A) has formally waived extradition to this state or (B) has been ordered extradited to this state pursuant to a judicial determination. The alleged violator will not be considered to be within the convenience and practical control of the [division of parole] DEPARTMENT until the warrant is deemed to be executed.

(x) If the presiding officer is satisfied that there is a preponderance of evidence that the alleged violator violated one or more conditions of release in an important respect, he or she shall so find. For each violation so found, the presiding officer may (A) direct that the presumptive releasee, parolee, conditional releasee or person serving a period of post-release supervision be restored to supervision; (B) as an

alternative to reincarceration, direct the presumptive releasee, parolee, conditional releasee or person serving a period of post-release supervision be placed in a parole transition facility for a period not to exceed one hundred eighty days and subsequent restoration to supervision; (C) in the case of presumptive releasees, parolees or conditional releasees, direct the violator's reincarceration and fix a date for consideration by the board for re-release on presumptive release, or parole or conditional release, as the case may be; or (D) in the case of persons released to a period of post-release supervision, direct the violator's reincarceration up to the balance of the remaining period of post-release supervision, not to exceed five years; provided, however, that a defendant serving a term of post-release supervision for a conviction of a felony sex offense defined in section 70.80 of the penal law may be subject to a further period of imprisonment up to the balance of the remaining period of post-release supervision. [Where a date has been fixed for the violator's re-release on presumptive release, parole or conditional release, as the case may be, the board or board member may waive the personal interview between a member or members of the board and the violator to determine the suitability for re-release; provided, however, that the board shall retain the authority to suspend the date fixed for re-release and to require a personal interview based on the violator's institutional record or on such other basis as is authorized by the rules and regulations of the board. If an interview is required, the board shall notify the violator of the time of such interview in accordance with the rules and regulations of the board. If the violator is placed in a parole transition facility or restored to supervision, the presiding officer may impose such other conditions of presumptive release, parole, conditional release, or post-release supervision as he or she may deem appropriate, as authorized by rules of the board] FOR THE VIOLATOR SERVING AN INDETERMINATE SENTENCE WHO WHILE RE-INCARCERATED HAS NOT BEEN FOUND BY THE DEPARTMENT TO HAVE COMMITTED A SERIOUS DISCIPLINARY INFRACTION, SUCH VIOLATOR SHALL BE RE-RELEASED ON THE DATE FIXED AT THE REVOCATION HEARING. FOR THE VIOLATOR SERVING AN INDETERMINATE SENTENCE WHO HAS BEEN FOUND BY THE DEPARTMENT TO HAVE COMMITTED A SERIOUS DISCIPLINARY INFRACTION WHILE RE-INCARCERATED, THE DEPARTMENT SHALL REFER THE VIOLATOR TO THE BOARD FOR CONSIDERATION FOR RE-RELEASE TO COMMUNITY SUPERVISION. UPON SUCH REFERRAL THE BOARD MAY WAIVE THE PERSONAL INTERVIEW BETWEEN A MEMBER OR MEMBERS OF THE BOARD AND THE VIOLATOR TO DETERMINE THE SUITABILITY FOR RE-RELEASE WHEN THE BOARD DIRECTS THAT THE VIOLATOR BE RE-RELEASED UPON EXPIRATION OF THE TIME ASSESSMENT. THE BOARD SHALL RETAIN THE AUTHORITY TO SUSPEND THE DATE FIXED FOR RE-RELEASE BASED ON THE VIOLATOR'S COMMISSION OF A SERIOUS DISCIPLINARY INFRACTION AND SHALL IN SUCH CASE REQUIRE A PERSONAL INTERVIEW BE CONDUCTED WITHIN A REASONABLE TIME BETWEEN A PANEL OF MEMBERS OF THE BOARD AND THE VIOLATOR TO DETERMINE SUITABILITY FOR RE-RELEASE. IF AN INTERVIEW IS REQUIRED, THE BOARD SHALL NOTIFY THE VIOLATOR IN ADVANCE OF THE DATE AND TIME OF SUCH INTERVIEW IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE BOARD.

(i) Where there is reasonable cause to believe that a presumptive releasee, parolee, conditional releasee or person under post-release supervision has absconded from supervision the board may declare such person to be delinquent. This paragraph shall not be construed to deny such person a preliminary revocation hearing upon his retaking, nor to relieve the [division of parole] DEPARTMENT of any obligation it may have to exercise due diligence to retake the alleged absconder, nor to

relieve the parolee or releasee of any obligation he may have to comply with the conditions of his release.

S 38-f-2. Paragraph (a) of subdivision 2 of section 259-i of the executive law, as amended by chapter 396 of the laws of 1987, is amended to read as follows:

(a) At least one month prior to the expiration of the minimum period or periods of imprisonment fixed by the court or board, a member or members as determined by the rules of the board shall personally interview an inmate serving an indeterminate sentence and determine whether he should be paroled at the expiration of the minimum period or periods in accordance with the [guidelines] PROCEDURES adopted pursuant to subdivision four of section two hundred fifty-nine-c. If parole is not granted upon such review, the inmate shall be informed in writing within two weeks of such appearance of the factors and reasons for such denial of parole. Such reasons shall be given in detail and not in conclusory terms. The board shall specify a date not more than twenty-four months from such determination for reconsideration, and the procedures to be followed upon reconsideration shall be the same. If the inmate is released, he shall be given a copy of the conditions of parole. Such conditions shall where appropriate, include a requirement that the parolee comply with any restitution order and mandatory surcharge previously imposed by a court of competent jurisdiction that applies to the parolee. The [board of parole] CONDITIONS shall indicate which restitution collection agency established under subdivision eight of section 420.10 of the criminal procedure law, shall be responsible for collection of restitution and mandatory surcharge as provided for in section 60.35 of the penal law and section eighteen hundred nine of the vehicle and traffic law.

S 38-g. Section 259-j of the executive law, as separately amended by section 10 of part F and section 1 of part N of chapter 62 of the laws of 2003, the section heading, subdivisions 1, 3 and 4 as amended by section 13 of part AAA of chapter 56 of the laws of 2009, subdivision 3-a as amended by chapter 486 of the laws of 2008 and subdivision 6 as added by chapter 7 of the laws of 2007, is amended to read as follows:

S 259-j. [Merit termination of sentence and discharge from presumptive release, parole, conditional release and release to post-release supervision. 1. The division of parole may grant to any person a merit termination of sentence from presumptive release, parole, conditional release or release to post-release supervision prior to the expiration of the full term or maximum term, provided it is determined by the division of parole that such merit termination is in the best interests of society, such person is not required to register as a sex offender pursuant to article six-C of the correction law, and such person is not on presumptive release, parole, conditional release or release to post-release supervision from a term of imprisonment imposed for any of the following offenses, or for an attempt to commit any of the following offenses:

(a) a violent felony offense as defined in section 70.02 of the penal law;

(b) murder in the first degree or murder in the second degree;

(c) an offense defined in article one hundred thirty of the penal law;

(d) unlawful imprisonment in the first degree, kidnapping in the first degree, or kidnapping in the second degree, in which the victim is less than seventeen years old and the offender is not the parent of the victim;

(e) an offense defined in article two hundred thirty of the penal law involving the prostitution of a person less than nineteen years old;

(f) disseminating indecent material to minors in the first degree or disseminating indecent material to minors in the second degree;
(g) incest;
(h) an offense defined in article two hundred sixty-three of the penal law;
(i) a hate crime as defined in section 485.05 of the penal law; or
(j) an offense defined in article four hundred ninety of the penal law.
2. A merit termination granted by the division of parole under this section shall constitute a termination of the sentence with respect to which it was granted. No such merit termination shall be granted unless the division of parole is satisfied that termination of sentence from presumptive release, parole or from conditional release is in the best interest of society, and that the parolee or releasee, otherwise financially able to comply with an order of restitution and the payment of any mandatory surcharge previously imposed by a court of competent jurisdiction, has made a good faith effort to comply therewith.
3. A merit termination of sentence may be granted after two years of presumptive release, parole, conditional release or release to post-release supervision to a person serving a sentence for a class A felony offense as defined in article two hundred twenty of the penal law. A merit termination of sentence may be granted to all other eligible persons after one year of presumptive release, parole, conditional release or release to post-release supervision.
3-a. The division of parole must grant termination of sentence after three years of unrevoked presumptive release or parole to a person serving an indeterminate sentence for a class A felony offense defined in article two hundred twenty of the penal law, and must grant termination of sentence after two years of unrevoked presumptive release or parole to a person serving an indeterminate sentence for any other felony offense defined in article two hundred twenty or two hundred twenty-one of the penal law.
4] DISCHARGE OF SENTENCE. 1. Except where a determinate sentence was imposed for a felony other than a felony defined in article two hundred twenty or article two hundred twenty-one of the penal law, if the board of parole is satisfied that an absolute discharge from presumptive release, parole, conditional release or release to a period of post-release supervision is in the best interests of society, the board may grant such a discharge prior to the expiration of the full term or maximum term to any person who has been on unrevoked [presumptive release, parole, conditional release or release to post-release] COMMUNITY supervision for at least three consecutive years. A discharge granted under this section shall constitute a termination of the sentence with respect to which it was granted. No such discharge shall be granted unless the board [of parole] is satisfied that the parolee or releasee, otherwise financially able to comply with an order of restitution and the payment of any mandatory surcharge, sex offender registration fee or DNA databank fee previously imposed by a court of competent jurisdiction, has made a good faith effort to comply therewith.
[5] 2. The chairman of the board of parole shall promulgate rules and regulations governing the issuance of [merit terminations of sentence and] discharges from [presumptive release, parole and conditional release] COMMUNITY SUPERVISION PURSUANT TO THIS SECTION to assure that such [terminations and] discharges are consistent with public safety.
[6.] 3. Notwithstanding any other provision of this section to the contrary, where a term of post-release supervision in excess of five

years has been imposed on a person convicted of a crime defined in article one hundred thirty of the penal law, including a sexually motivated felony, the [division] BOARD of parole may grant a discharge from post-release supervision prior to the expiration of the maximum term of post-release supervision. Such a discharge may be granted only after the person has served at least five years of post-release supervision, and only to a person who has been on unrevoked post-release supervision for at least three consecutive years. No such discharge shall be granted unless the [division] BOARD of parole[: (a)] OR THE DEPARTMENT ACTING PURSUANT TO ITS RESPONSIBILITY UNDER SUBDIVISION ONE OF SECTION TWO HUNDRED ONE OF THE CORRECTION LAW consults with any licensed psychologist, qualified psychiatrist, or other mental health professional who is providing care or treatment to the supervisee; [(b)] AND THE BOARD: (A) determines that a discharge from post-release supervision is in the best interests of society; and [(c)] (B) is satisfied that the supervisee, otherwise financially able to comply with an order of restitution and the payment of any mandatory surcharge, sex offender registration fee, or DNA data bank fee previously imposed by a court of competent jurisdiction, has made a good faith effort to comply therewith. Before making a determination to discharge a person from a period of post-release supervision, the [division] BOARD of parole may request that the commissioner of the office of mental health arrange a psychiatric evaluation of the supervisee. A discharge granted under this section shall constitute a termination of the sentence with respect to which it was granted.

S 38-h. Section 259-jj of the executive law is REPEALED.

S 38-i. Section 259-k of the executive law, as added by chapter 904 of the laws of 1977, subdivision 3 as amended by chapter 230 of the laws of 1986, and subdivision 4 as added by chapter 707 of the laws of 1992, is amended to read as follows:

S 259-k. Access to records and institutions. 1. All case files shall be maintained by the [division of parole] DEPARTMENT for use by the [division] DEPARTMENT and board [of parole]. The [division] DEPARTMENT and board [of parole] and authorized officers and employees thereof shall have complete access to such files and the BOARD OF PAROLE SHALL HAVE THE right to make such entries as the [division or] board of parole shall deem appropriate in accordance with law.

2. The board shall make rules for the purpose of maintaining the confidentiality of records, information contained therein and information obtained in an official capacity by officers, employees or members of the [division or] board of parole.

3. Members of the board and officers and employees of the [division] DEPARTMENT PROVIDING COMMUNITY SUPERVISION SERVICES AND designated by the [chairman] COMMISSIONER shall have free access to all inmates confined in institutions under the jurisdiction of the department [of correctional services], THE OFFICE OF CHILDREN AND FAMILY SERVICES and the department of mental hygiene in order to enable them to perform their functions, provided, however, that the department of mental hygiene may temporarily restrict such access where it determines, for significant clinical reasons, that such access would interfere with its care and treatment of the mentally ill inmate. If under the provisions of this subdivision an inmate is not accessible for release consideration by the board, that inmate shall be scheduled to see the board in the month immediately subsequent to the month within which he was not available.

4. Upon a determination by the [division] DEPARTMENT and board of parole that [its] records regarding an individual presently under the supervision of the [division and board] DEPARTMENT are relevant to an investigation of child abuse or maltreatment conducted by a child protective service pursuant to title six of article six of the social services law, the [division] DEPARTMENT and board shall provide the records determined to be relevant to the child protective service conducting the investigation. The [division,] DEPARTMENT and board shall promulgate rules for the transmission of records required to be provided under this section.

S 38-j. Section 259-l of the executive law, as added by chapter 904 of the laws of 1977, is amended to read as follows:

S 259-l. Cooperation. 1. It shall be the duty of the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION to insure that all officers and employees of the department [of correctional services] shall at all times cooperate with the [division] BOARD of parole and shall furnish to such [division,] members of the board [of parole and officers] and employees of the [division] BOARD such information as may be [necessary] APPROPRIATE to enable them to perform their INDEPENDENT DECISION MAKING functions. IT IS ALSO HIS OR HER DUTY TO ENSURE THAT THE FUNCTIONS OF THE BOARD OF PAROLE ARE NOT HAMPERED IN ANY WAY, INCLUDING BUT NOT LIMITED TO: A RESTRICTION OF RESOURCES INCLUDING STAFF ASSISTANCE; LIMITED ACCESS TO VITAL INFORMATION; AND PRESENTATION OF INMATE INFORMATION IN A MANNER THAT MAY INAPPROPRIATELY INFLUENCE THE BOARD IN ITS DECISION MAKING.

2. The official in charge of each institution wherein any person is confined under a definite sentence of imprisonment, all officers and employees thereof and all other public officials shall at all times cooperate with the board of parole, and shall furnish to such board, its officers and employees such information as may be required by the board to perform its functions hereunder. The members of the board, its officers and employees shall at all times be given free access to all persons confined in any such institution under such sentence and shall be furnished with appropriate working space in such institution for such purpose without charge therefor.

3. It shall be the duty of the clerk of the court, the commissioner of mental hygiene and all probation officers and other appropriate officials to send such information as may be in their possession or under their control to the chairman of the board [of parole] upon request in order to facilitate the work of the board.

S 38-k. Section 259-p of the executive law is REPEALED.

S 38-k-1. Subdivisions 1, 2, 3, paragraph (b) of subdivision 4, and subdivision 6 of section 259-q of the executive law, subdivisions 1, 2 and 6 as added by chapter 904 of the laws of 1977, and subdivision 3 as amended and paragraph (b) of subdivision 4 as added by chapter 466 of the laws of 1978, are amended to read as follows:

1. No civil action shall be brought in any court of the state, except by the attorney general on behalf of the state, against any officer or employee of the [division] BOARD OF PAROLE OR FORMER DIVISION OF PAROLE, in his personal capacity, for damages arising out of any act done or the failure to perform any act within the scope of the employment and in the discharge of the duties by such officer or employee.

2. Any claim for damages arising out of any act done or the failure to perform any act within the scope of the employment and in the discharge of the duties of any officer or employee of the [division] BOARD OF

PAROLE OR FORMER DIVISION OF PAROLE shall be brought and maintained in the court of claims as a claim against the state.

3. The state shall save harmless and indemnify any officer or employee of the [division] BOARD OF PAROLE OR FORMER DIVISION OF PAROLE from financial loss resulting from a claim filed in a court of the United States for damages arising out of an act done or the failure to perform any act that was (a) within the scope of the employment and in the discharge of the duties of such officer or employee, and (b) not done or omitted with the intent to violate any rule or regulation of the division or of any statute or governing case law of the state or of the United States at the time the damages were sustained; provided that the officer or employee shall comply with the provisions of subdivision four of section seventeen of the public officers law.

(b) The provisions of this section shall not be construed in any way to impair, modify or abrogate any immunity available to any officer or employee of the [division] BOARD OF PAROLE OR FORMER DIVISION OF PAROLE under the statutory or decisional law of the state or the United States.

6. The benefits of subdivision three hereof shall inure only to officers and employees of the [division] BOARD OF PAROLE OR FORMER DIVISION OF PAROLE and shall not enlarge or diminish the rights of any other party.

S 38-l. Section 259-r of the executive law, as added by chapter 55 of the laws of 1992, the section heading as amended by section 1, paragraph (b) of subdivision 1 as amended by section 3, subdivision 2 as amended by section 4, and subdivision 4 as amended by section 5 of part J of chapter 56 of the laws of 2009, paragraph (a) of subdivision 1 as amended by section 3 of chapter 495 of the laws of 2009, and subdivision 3 as amended by chapter 503 of the laws of 1994, is amended to read as follows:

S 259-r. Release on medical parole for terminally ill inmates. 1. (a) The board shall have the power to release on medical parole any inmate serving an indeterminate or determinate sentence of imprisonment who, pursuant to subdivision two of this section, has been certified to be suffering from a terminal condition, disease or syndrome and to be so debilitated or incapacitated as to create a reasonable probability that he or she is physically or cognitively incapable of presenting any danger to society, provided, however, that no inmate serving a sentence imposed upon a conviction for murder in the first degree or an attempt or conspiracy to commit murder in the first degree shall be eligible for such release, and provided further that no inmate serving a sentence imposed upon a conviction for any of the following offenses shall be eligible for such release unless in the case of an indeterminate sentence he or she has served at least one-half of the minimum period of the sentence and in the case of a determinate sentence he or she has served at least one-half of the term of his or her determinate sentence: murder in the second degree, manslaughter in the first degree, any offense defined in article one hundred thirty of the penal law or an attempt to commit any of these offenses. Solely for the purpose of determining medical parole eligibility pursuant to this section, such one-half of the minimum period of the indeterminate sentence and one-half of the term of the determinate sentence shall not be credited with any time served under the jurisdiction of the [state] department [of correctional services] prior to the commencement of such sentence pursuant to the opening paragraph of subdivision one of section 70.30 of the penal law or subdivision two-a of section 70.30 of the penal law, except

to the extent authorized by subdivision three of section 70.30 of the penal law.

(b) Such release shall be granted only after the board considers whether, in light of the inmate's medical condition, there is a reasonable probability that the inmate, if released, will live and remain at liberty without violating the law, and that such release is not incompatible with the welfare of society and will not so deprecate the seriousness of the crime as to undermine respect for the law, and shall be subject to the limits and conditions specified in subdivision four of this section. Except as set forth in paragraph (a) of this subdivision, such release may be granted at any time during the term of an inmate's sentence, notwithstanding any other provision of law.

(c) The board shall afford notice to the sentencing court, the district attorney and the attorney for the inmate that the inmate is being considered for release pursuant to this section and the parties receiving notice shall have fifteen days to comment on the release of the inmate. Release on medical parole shall not be granted until the expiration of the comment period provided for in this paragraph.

2. (a) The commissioner [of correctional services], on the commissioner's own initiative or at the request of an inmate, or an inmate's spouse, relative or attorney, may, in the exercise of the commissioner's discretion, direct that an investigation be undertaken to determine whether a diagnosis should be made of an inmate who appears to be suffering from a terminal condition, disease or syndrome. Any such medical diagnosis shall be made by a physician licensed to practice medicine in this state pursuant to section sixty-five hundred twenty-four of the education law. Such physician shall either be employed by the department [of correctional services], shall render professional services at the request of the department [of correctional services], or shall be employed by a hospital or medical facility used by the department [of correctional services] for the medical treatment of inmates. The diagnosis shall be reported to the commissioner [of correctional services] and shall include but shall not be limited to a description of the terminal condition, disease or syndrome suffered by the inmate, a prognosis concerning the likelihood that the inmate will not recover from such terminal condition, disease or syndrome, a description of the inmate's physical or cognitive incapacity which shall include a prediction respecting the likely duration of the incapacity, and a statement by the physician of whether the inmate is so debilitated or incapacitated as to be severely restricted in his or her ability to self-ambulate or to perform significant normal activities of daily living. This report also shall include a recommendation of the type and level of services and treatment the inmate would require if granted medical parole and a recommendation for the types of settings in which the services and treatment should be given.

(b) The commissioner, or the commissioner's designee, shall review the diagnosis and may certify that the inmate is suffering from such terminal condition, disease or syndrome and that the inmate is so debilitated or incapacitated as to create a reasonable probability that he or she is physically or cognitively incapable of presenting any danger to society. If the commissioner does not so certify then the inmate shall not be referred to the board [of parole] for consideration for release on medical parole. If the commissioner does so certify, then the commissioner shall, within seven working days of receipt of such diagnosis, refer the inmate to the board [of parole] for consideration for release on medical parole. However, no such referral of an inmate to the board

[of parole] shall be made unless the inmate has been examined by a physician and diagnosed as having a terminal condition, disease or syndrome as previously described herein at some time subsequent to such inmate's admission to a facility operated by the department of correctional services.

(c) When the commissioner refers an inmate to the board, the commissioner shall provide an appropriate medical discharge plan [jointly] established by the department [of correctional services and the division of parole]. The department [of correctional services and the division of parole are] IS authorized to request assistance from the department of health and from the county in which the inmate resided and committed his or her crime, which shall provide assistance with respect to the development and implementation of a discharge plan, including potential placements of a releasee. The department [of correctional services, the division of parole] and the department of health shall jointly develop standards for the medical discharge plan that are appropriately adapted to the criminal justice setting, based on standards established by the department of health for hospital medical discharge planning. The board may postpone its decision pending completion of an adequate discharge plan, or may deny release based on inadequacy of the discharge plan.

3. Any certification by the commissioner or the commissioner's designee pursuant to this section shall be deemed a judicial function and shall not be reviewable if done in accordance with law.

4. (a) Medical parole granted pursuant to this section shall be for a period of six months.

(b) The board shall require as a condition of release on medical parole that the releasee agree to remain under the care of a physician while on medical parole and in a hospital established pursuant to article twenty-eight of the public health law, a hospice established pursuant to article forty of the public health law or any other placement that can provide appropriate medical care as specified in the medical discharge plan required by subdivision two of this section. The medical discharge plan shall state that the availability of the placement has been confirmed, and by whom. Notwithstanding any other provision of law, when an inmate who qualifies for release under this section is cognitively incapable of signing the requisite documentation to effectuate the medical discharge plan and, after a diligent search no person has been identified who could otherwise be appointed as the inmate's guardian by a court of competent jurisdiction, then, solely for the purpose of implementing the medical discharge plan, the facility health services director at the facility where the inmate is currently incarcerated shall be lawfully empowered to act as the inmate's guardian for the purpose of effectuating the medical discharge.

(c) Where appropriate, the board shall require as a condition of release that medical parolees be supervised on intensive caseloads at reduced supervision ratios.

(d) The board shall require as a condition of release on medical parole that the releasee undergo periodic medical examinations and a medical examination at least one month prior to the expiration of the period of medical parole and, for the purposes of making a decision pursuant to paragraph (e) of this subdivision, that the releasee provide the board with a report, prepared by the treating physician, of the results of such examination. Such report shall specifically state whether or not the parolee continues to suffer from a terminal condition, disease, or syndrome, and to be so debilitated or incapacitated as to be

severely restricted in his or her ability to self-ambulate or to perform significant normal activities of daily living.

(e) Prior to the expiration of the period of medical parole the board shall review the medical examination report required by paragraph (d) of this subdivision and may again grant medical parole pursuant to this section; provided, however, that the provisions of paragraph (c) of subdivision one and subdivision two of this section shall not apply.

(f) If the updated medical report presented to the board states that a parolee released pursuant to this section is no longer so debilitated or incapacitated as to create a reasonable probability that he or she is physically or cognitively incapable of presenting any danger to society or if the releasee fails to submit the updated medical report then the board may not make a new grant of medical parole pursuant to paragraph (e) of this subdivision. Where the board has not granted medical parole pursuant to such paragraph (e) the board shall promptly conduct through one of its members, or cause to be conducted by a hearing officer designated by the board, a hearing to determine whether the releasee is suffering from a terminal condition, disease or syndrome and is so debilitated or incapacitated as to create a reasonable probability that he or she is physically or cognitively incapable of presenting any danger to society and does not present a danger to society. If the board makes such a determination then it may make a new grant of medical parole pursuant to the standards of paragraph (b) of subdivision one of this section. At the hearing, the releasee shall have the right to representation by counsel, including the right, if the releasee is financially unable to retain counsel, to have the appropriate court assign counsel in accordance with the county or city plan for representation placed in operation pursuant to article eighteen-B of the county law.

(g) The hearing and determination provided for by paragraph (f) of this subdivision shall be concluded within the six month period of medical parole. If the board does not renew the grant of medical parole, it shall order that the releasee be returned immediately to the custody of the department [of correctional services].

(h) In addition to the procedures set forth in paragraph (f) of this subdivision, medical parole may be revoked at any time upon any of the grounds specified in paragraph (a) of subdivision three of section two hundred fifty-nine-i of this article, and in accordance with the procedures specified in subdivision three of section two hundred fifty-nine-i of this article.

(i) A releasee who is on medical parole and who becomes eligible for parole pursuant to the provisions of subdivision two of section two hundred fifty-nine-i of this article shall be eligible for parole consideration pursuant to such subdivision.

5. A denial of release on medical parole or expiration of medical parole in accordance with the provisions of paragraph (f) of subdivision four of this section shall not preclude the inmate from reapplying for medical parole or otherwise affect an inmate's eligibility for any other form of release provided for by law.

6. To the extent that any provision of this section requires disclosure of medical information for the purpose of processing an application or making a decision, regarding release on medical parole or renewal of medical parole, or for the purpose of appropriately supervising a person released on medical parole, and that such disclosure would otherwise be prohibited by article twenty-seven-F of the public health law, the provisions of this section shall be controlling.

7. The commissioner [of correctional services] and the chairman of the board [of parole] shall be authorized to promulgate rules and regulations for their respective agencies to implement the provisions of this section.

8. Any decision made by the board pursuant to this section may be appealed pursuant to subdivision four of section two hundred fifty-nine-i of this article.

9. The chairman shall report annually to the governor, the temporary president of the senate and the speaker of the assembly, the chairpersons of the assembly and senate codes committees, the chairperson of the senate crime and corrections committee, and the chairperson of the assembly corrections committee the number of inmates who have applied for medical parole; the number who have been granted medical parole; the nature of the illness of the applicants, the counties to which they have been released and the nature of the placement pursuant to the medical discharge plan; the categories of reasons for denial for those who have been denied; the number of releasees who have been granted an additional period or periods of medical parole and the number of such grants; the number of releasees on medical parole who have been returned to IMPRISONMENT IN the custody of the department [of correctional services] and the reasons for return.

S 38-l-l. Paragraph (a) of subdivision 1 of section 259-r of the executive law, as amended by section 4 of chapter 495 of the laws of 2009, is amended to read as follows:

(a) The board shall have the power to release on medical parole any inmate serving an indeterminate or determinate sentence of imprisonment who, pursuant to subdivision two of this section, has been certified to be suffering from a terminal condition, disease or syndrome and to be so debilitated or incapacitated as to create a reasonable probability that he or she is physically or cognitively incapable of presenting any danger to society, provided, however, that no inmate serving a sentence imposed upon a conviction for murder in the first degree or an attempt or conspiracy to commit murder in the first degree shall be eligible for such release, and provided further that no inmate serving a sentence imposed upon a conviction for any of the following offenses shall be eligible for such release unless in the case of an indeterminate sentence he or she has served at least one-half of the minimum period of the sentence and in the case of a determinate sentence he or she has served at least one-half of the term of his or her determinate sentence: murder in the second degree, manslaughter in the first degree, any offense defined in article one hundred thirty of the penal law or an attempt to commit any of these offenses. Solely for the purpose of determining medical parole eligibility pursuant to this section, such one-half of the minimum period of the indeterminate sentence and one-half of the term of the determinate sentence shall not be credited with any time served under the jurisdiction of the [state] department [of correctional services] prior to the commencement of such sentence pursuant to the opening paragraph of subdivision one of section 70.30 of the penal law or subdivision two-a of section 70.30 of the penal law, except to the extent authorized by subdivision three of section 70.30 of the penal law.

S 38-m. Section 259-s of the executive law, as added by section 6 of part J of chapter 56 of the laws of 2009, paragraph (a) of subdivision 1 as amended by chapter 495 of the laws of 2009, is amended to read as follows:

S 259-s. Release on medical parole for inmates suffering significant debilitating illnesses. 1. (a) The board shall have the power to release on medical parole any inmate serving an indeterminate or determinate sentence of imprisonment who, pursuant to subdivision two of this section, has been certified to be suffering from a significant and permanent non-terminal condition, disease or syndrome that has rendered the inmate so physically or cognitively debilitated or incapacitated as to create a reasonable probability that he or she does not present any danger to society, provided, however, that no inmate serving a sentence imposed upon a conviction for murder in the first degree or an attempt or conspiracy to commit murder in the first degree shall be eligible for such release, and provided further that no inmate serving a sentence imposed upon a conviction for any of the following offenses shall be eligible for such release unless in the case of an indeterminate sentence he or she has served at least one-half of the minimum period of the sentence and in the case of a determinate sentence he or she has served at least one-half of the term of his or her determinate sentence: murder in the second degree, manslaughter in the first degree, any offense defined in article one hundred thirty of the penal law or an attempt to commit any of these offenses. Solely for the purpose of determining medical parole eligibility pursuant to this section, such one-half of the minimum period of the indeterminate sentence and one-half of the term of the determinate sentence shall not be credited with any time served under the jurisdiction of the [state] department [of correctional services] prior to the commencement of such sentence pursuant to the opening paragraph of subdivision one of section 70.30 of the penal law or subdivision two-a of section 70.30 of the penal law, except to the extent authorized by subdivision three of section 70.30 of the penal law.

(b) Such release shall be granted only after the board considers whether, in light of the inmate's medical condition, there is a reasonable probability that the inmate, if released, will live and remain at liberty without violating the law, and that such release is not incompatible with the welfare of society and will not so deprecate the seriousness of the crime as to undermine respect for the law, and shall be subject to the limits and conditions specified in subdivision four of this section. In making this determination, the board shall consider: (i) the nature and seriousness of the inmate's crime; (ii) the inmate's prior criminal record; (iii) the inmate's disciplinary, behavioral and rehabilitative record during the term of his or her incarceration; (iv) the amount of time the inmate must serve before becoming eligible for release pursuant to section two hundred fifty-nine-i of this article; (v) the current age of the inmate and his or her age at the time of the crime; (vi) the recommendations of the sentencing court, the district attorney and the victim or the victim's representative; (vii) the nature of the inmate's medical condition, disease or syndrome and the extent of medical treatment or care that the inmate will require as a result of that condition, disease or syndrome; and (viii) any other relevant factor. Except as set forth in paragraph (a) of this subdivision, such release may be granted at any time during the term of an inmate's sentence, notwithstanding any other provision of law.

(c) The board shall afford notice to the sentencing court, the district attorney, the attorney for the inmate and, where necessary pursuant to subdivision two of section two hundred fifty-nine-i of this article, the crime victim, that the inmate is being considered for release pursuant to this section and the parties receiving notice shall

have thirty days to comment on the release of the inmate. Release on medical parole shall not be granted until the expiration of the comment period provided for in this paragraph.

2. (a) The commissioner [of correctional services], on the commissioner's own initiative or at the request of an inmate, or an inmate's spouse, relative or attorney, may, in the exercise of the commissioner's discretion, direct that an investigation be undertaken to determine whether a diagnosis should be made of an inmate who appears to be suffering from a significant and permanent non-terminal and incapacitating condition, disease or syndrome. Any such medical diagnosis shall be made by a physician licensed to practice medicine in this state pursuant to section sixty-five hundred twenty-four of the education law. Such physician shall either be employed by the department [of correctional services], shall render professional services at the request of the department [of correctional services], or shall be employed by a hospital or medical facility used by the department [of correctional services] for the medical treatment of inmates. The diagnosis shall be reported to the commissioner [of correctional services] and shall include but shall not be limited to a description of the condition, disease or syndrome suffered by the inmate, a prognosis concerning the likelihood that the inmate will not recover from such condition, disease or syndrome, a description of the inmate's physical or cognitive incapacity which shall include a prediction respecting the likely duration of the incapacity, and a statement by the physician of whether the inmate is so debilitated or incapacitated as to be severely restricted in his or her ability to self-ambulate or to perform significant normal activities of daily living. This report also shall include a recommendation of the type and level of services and treatment the inmate would require if granted medical parole and a recommendation for the types of settings in which the services and treatment should be given.

(b) The commissioner, or the commissioner's designee, shall review the diagnosis and may certify that the inmate is suffering from such condition, disease or syndrome and that the inmate is so debilitated or incapacitated as to create a reasonable probability that he or she is physically or cognitively incapable of presenting any danger to society. If the commissioner does not so certify then the inmate shall not be referred to the board [of parole] for consideration for release on medical parole. If the commissioner does so certify, then the commissioner shall, within seven working days of receipt of such diagnosis, refer the inmate to the board [of parole] for consideration for release on medical parole. However, no such referral of an inmate to the board of parole shall be made unless the inmate has been examined by a physician and diagnosed as having a condition, disease or syndrome as previously described herein at some time subsequent to such inmate's admission to a facility operated by the department [of correctional services].

(c) When the commissioner refers an inmate to the board, the commissioner shall provide an appropriate medical discharge plan [jointly] established by the department [of correctional services and the division of parole]. The department [of correctional services and the division of parole are] IS authorized to request assistance from the department of health and from the county in which the inmate resided and committed his or her crime, which shall provide assistance with respect to the development and implementation of a discharge plan, including potential placements of a releasee. The department [of correctional services, the division of parole] and the department of health shall jointly develop

standards for the medical discharge plan that are appropriately adapted to the criminal justice setting, based on standards established by the department of health for hospital medical discharge planning. The board may postpone its decision pending completion of an adequate discharge plan, or may deny release based on inadequacy of the discharge plan.

3. Any certification by the commissioner or the commissioner's designee pursuant to this section shall be deemed a judicial function and shall not be reviewable if done in accordance with law.

4. (a) Medical parole granted pursuant to this section shall be for a period of six months.

(b) The board shall require as a condition of release on medical parole that the releasee agree to remain under the care of a physician while on medical parole and in a hospital established pursuant to article twenty-eight of the public health law, a hospice established pursuant to article forty of the public health law or any other placement, including a residence with family or others, that can provide appropriate medical care as specified in the medical discharge plan required by subdivision two of this section. The medical discharge plan shall state that the availability of the placement has been confirmed, and by whom. Notwithstanding any other provision of law, when an inmate who qualifies for release under this section is cognitively incapable of signing the requisite documentation to effectuate the medical discharge plan and, after a diligent search no person has been identified who could otherwise be appointed as the inmate's guardian by a court of competent jurisdiction, then, solely for the purpose of implementing the medical discharge plan, the facility health services director at the facility where the inmate is currently incarcerated shall be lawfully empowered to act as the inmate's guardian for the purpose of effectuating the medical discharge.

(c) Where appropriate, the board shall require as a condition of release that medical parolees be supervised on intensive caseloads at reduced supervision ratios.

(d) The board shall require as a condition of release on medical parole that the releasee undergo periodic medical examinations and a medical examination at least one month prior to the expiration of the period of medical parole and, for the purposes of making a decision pursuant to paragraph (e) of this subdivision, that the releasee provide the board with a report, prepared by the treating physician, of the results of such examination. Such report shall specifically state whether or not the parolee continues to suffer from a significant and permanent non-terminal and debilitating condition, disease, or syndrome, and to be so debilitated or incapacitated as to be severely restricted in his or her ability to self-ambulate or to perform significant normal activities of daily living.

(e) Prior to the expiration of the period of medical parole the board shall review the medical examination report required by paragraph (d) of this subdivision and may again grant medical parole pursuant to this section; provided, however, that the provisions of paragraph (c) of subdivision one and subdivision two of this section shall not apply.

(f) If the updated medical report presented to the board states that a parolee released pursuant to this section is no longer so debilitated or incapacitated as to create a reasonable probability that he or she is physically or cognitively incapable of presenting any danger to society or if the releasee fails to submit the updated medical report then the board may not make a new grant of medical parole pursuant to paragraph (e) of this subdivision. Where the board has not granted medical parole

pursuant to such paragraph (e) the board shall promptly conduct through one of its members, or cause to be conducted by a hearing officer designated by the board, a hearing to determine whether the releasee is suffering from a significant and permanent non-terminal and incapacitating condition, disease or syndrome and is so debilitated or incapacitated as to create a reasonable probability that he or she is physically or cognitively incapable of presenting any danger to society and does not present a danger to society. If the board makes such a determination then it may make a new grant of medical parole pursuant to the standards of paragraph (b) of subdivision one of this section. At the hearing, the releasee shall have the right to representation by counsel, including the right, if the releasee is financially unable to retain counsel, to have the appropriate court assign counsel in accordance with the county or city plan for representation placed in operation pursuant to article eighteen-B of the county law.

(g) The hearing and determination provided for by paragraph (f) of this subdivision shall be concluded within the six month period of medical parole. If the board does not renew the grant of medical parole, it shall order that the releasee be returned immediately to the custody of the department of correctional services.

(h) In addition to the procedures set forth in paragraph (f) of this subdivision, medical parole may be revoked at any time upon any of the grounds specified in paragraph (a) of subdivision three of section two hundred fifty-nine-i of this article, and in accordance with the procedures specified in subdivision three of section two hundred fifty-nine-i of this article.

(i) A releasee who is on medical parole and who becomes eligible for parole pursuant to the provisions of subdivision two of section two hundred fifty-nine-i of this article shall be eligible for parole consideration pursuant to such subdivision.

5. A denial of release on medical parole or expiration of medical parole in accordance with the provisions of paragraph (f) of subdivision four of this section shall not preclude the inmate from reapplying for medical parole or otherwise affect an inmate's eligibility for any other form of release provided for by law.

6. To the extent that any provision of this section requires disclosure of medical information for the purpose of processing an application or making a decision, regarding release on medical parole or renewal of medical parole, or for the purpose of appropriately supervising a person released on medical parole, and that such disclosure would otherwise be prohibited by article twenty-seven-F of the public health law, the provisions of this section shall be controlling.

7. The commissioner [of correctional services] and the chair of the board [of parole] shall be authorized to promulgate rules and regulations for their respective agencies to implement the provisions of this section.

8. Any decision made by the board pursuant to this section may be appealed pursuant to subdivision four of section two hundred fifty-nine-i of this article.

9. The chair of the board shall report annually to the governor, the temporary president of the senate and the speaker of the assembly, the chairpersons of the assembly and senate codes committees, the chairperson of the senate crime and corrections committee, and the chairperson of the assembly corrections committee the number of inmates who have applied for medical parole under this section; the number who have been granted medical parole; the nature of the illness of the appli-

cants, the counties to which they have been released and the nature of the placement pursuant to the medical discharge plan; the categories of reasons for denial for those who have been denied; the number of releasees who have been granted an additional period or periods of medical parole and the number of such grants; the number of releasees on medical parole who have been returned to IMPRISONMENT IN the custody of the department [of correctional services] and the reasons for return.

S 39. Transfer of employees. Notwithstanding any other provision of law, rule, or regulation to the contrary, upon the transfer of functions from the department of correctional services, the division of parole and the state board of parole pursuant to this act, all employees of the department of correctional services, the division of parole and the state board of parole shall be transferred to the department of corrections and community supervision. Employees transferred pursuant to this section shall be transferred without further examination or qualification and shall retain their respective civil service classifications, status and collective bargaining unit designations and collective bargaining agreements.

S 40. Transfer of records. All books, papers, and property of the department of correctional services, the division of parole and the state board of parole shall be deemed to be in the possession of the commissioner of the department of corrections and community supervision. All books, papers, and property of the department of correctional services, the division of parole and the state board of parole shall continue to be maintained by the department of corrections and community supervision.

S 41. Continuity of authority. For the purpose of succession of all functions, powers, duties and obligations transferred and assigned to, devolved upon and assumed by it pursuant to this act, the department of corrections and community supervision shall be deemed and held to constitute the continuation of the department of correctional services, the division of parole and the state board of parole.

S 42. Completion of unfinished business. Any business or other matter undertaken or commenced by the department of correctional services, the division of parole or the state board of parole pertaining to or connected with the functions, powers, obligations and duties hereby transferred and assigned to the department of corrections and community supervision and pending on the effective date of this act, may be conducted and completed by the department of corrections and community supervision or the board of parole in the same manner and under the same terms and conditions and with the same effect as if conducted and completed by the department of corrections, the division of parole or the state board of parole.

S 43. Continuation of rules and regulations. All rules, regulations, acts, orders, determinations, and decisions of the department of correctional services, the division of parole and the state board of parole pertaining to the functions and powers transferred and assigned pursuant to this act, in force at the time of such transfer and assumption, shall continue in full force and effect as rules, regulations, acts, orders, determinations and decisions of the department of corrections and community supervision or the board of parole until duly modified or abrogated by the commissioner of the department of corrections and community supervision or the chairman of the board of parole, as appropriate.

S 44. Terms occurring in laws, contracts and other documents. Whenever the department of correctional services, the division of parole or the board of parole, or the chairman or commissioner thereof, is referred to

or designated in any law, contract or document pertaining to the functions, powers, obligations and duties hereby transferred to and assigned to the department of corrections and community supervision or the commissioner of the department of corrections and community supervision, such reference or designation shall be deemed to refer to the department of corrections and community supervision or the commissioner of the department of corrections and community supervision, as applicable.

S 45. Existing rights and remedies preserved. No existing right or remedy of any character shall be lost, impaired or affected by any provisions of this act.

S 46. Pending actions and proceedings. No action or proceeding pending at the time when this act shall take effect, brought by or against the department of correctional services, the division of parole or the state board of parole, or the chairman or commissioner thereof, shall be affected by any provision of this act, but the same may be prosecuted or defended in the name of the commissioner of the department of corrections and community supervision or the department of corrections and community supervision. In all such actions and proceedings, the commissioner of the department of corrections and community supervision, upon application of the court, shall be substituted as a party.

S 47. Transfer of appropriations heretofore made. All appropriations or reappropriations heretofore made to the department of correctional services, the division of parole or the state board of parole to the extent of remaining unexpended or unencumbered balance thereof, whether allocated or unallocated and whether obligated or unobligated, are hereby transferred to and made available for use and expenditure by the department of corrections and community supervision subject to the approval of the director of the budget for the same purposes for which originally appropriated or reappropriated and shall be payable on vouchers certified or approved by the commissioner of the department of corrections and community supervision on audit and warrant of the comptroller.

S 48. Transfer of assets and liabilities. All assets and liabilities of the department of correctional services, the division of parole and the state board of parole are hereby transferred to and assumed by the department of corrections and community supervision.

S 49. This act shall take effect immediately, provided, however:

(a) that the amendments to subdivision 18 of section 2 of the correction law made by section one-a of this act shall be subject to the expiration and reversion of such subdivision pursuant to chapter 55 of the laws of 1992, as amended, when upon such date the provisions of section two of this act shall take effect;

(b) that the amendments to section 8 of the correction law made by section six of this act shall not affect the expiration of such section and shall be deemed to expire therewith;

(c) that the amendments to subdivision 9 of section 201 of the correction law as added by section thirty-two of this act shall remain in effect until September 1, 2013, when it shall expire and be deemed repealed;

(d) that the amendments to paragraph c of subdivision 7 of section 500-b of the correction law made by section thirty-six of this act shall not affect the repeal of such section and shall be deemed repealed therewith;

(e) the amendments to subdivision 1 of section 259-c of the executive law made by section thirty-eight-b of this act shall not affect the expiration of such subdivision and shall be deemed to expire therewith;

(f) the amendments to subdivision 4 of section 259-c of the executive law made by section thirty-eight-b of this act shall take effect six months after it shall have become a law;

(g) the amendments to paragraph (a) of subdivision 1 of section 259-r of the executive law made by section thirty-eight-1 of this act shall be subject to the expiration and reversion of such paragraph pursuant to section 74 of chapter 3 of the laws of 1995, as amended, when upon such date the provisions of section thirty-eight-1-1 shall take effect;

(h) section sixteen-a of this act shall take effect six months after it shall have become a law; and

(i) any employee covered by section two hundred fifty-nine-q of the executive law prior to the effective date of section thirty-eight-k-1 of this act shall be entitled to any benefits or rights provided by such section of the executive law arising out of any act or failure to act occurring before such effective date.

SUBPART B

Section 1. Section 15-b of the correction law, as added by chapter 670 of the laws of 1935, is amended to read as follows:

S 15-b. Education. The present director of vocational education shall be the director of education with the powers and duties of the director of education and hereafter shall be appointed by the commissioner. The director of education, at any time appointed, shall be a person whose education, training and experience shall cover fields of penology and of professional education. The educational qualifications shall include the satisfactory completion of three years of graduate work in education, penology, and allied fields. The head of the division of education shall have the direct supervision of all educational work in the department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION and shall have full authority to visit and inspect all institutions of the department to observe, study, organize, and develop the educational activities of such institutions in harmony with the general educational program of the department. He OR SHE shall be responsible to the commissioner and deputy commissioner [of correction] DESIGNATED BY THE COMMISSIONER.

S 2. Intentionally omitted.

S 3. Intentionally omitted.

S 4. Section 20 of the correction law is amended to read as follows:

S 20. Library. A library shall be provided in the department [of correction] containing the leading books on parole, probation and other correctional activities, together with reports and other documents on correlated topics of criminology and social work.

S 5. Section 23 of the correction law, as amended by chapter 476 of the laws of 1970 and as renumbered by chapter 475 of the laws of 1970, is amended to read as follows:

S 23. Transfer of inmates from one correctional facility to another; treatment in outside hospitals. 1. The commissioner [of correction] shall have the power to transfer inmates from one correctional facility to another. Whenever the transfer of inmates from one correctional facility to another shall be ordered by the commissioner [of correction], the superintendent of the facility from which the inmates are transferred shall take immediate steps to make the transfer. The transfer shall be in accordance with rules and regulations promulgated by the department for the safe delivery of such inmates to the designated facility.

2. The commissioner [of correction], in his OR HER discretion, may by written order permit inmates to receive medical diagnosis and treatment in outside hospitals, upon the recommendation of the superintendent or director that such outside treatment or diagnosis is necessary by reason of inadequate facilities within the institution. Such inmates shall remain under the jurisdiction and in the custody of the department while in said outside hospital and said superintendent or director shall enforce proper measures in each case to safely maintain such jurisdiction and custody.

3. The cost of transporting inmates between facilities and to outside hospitals shall be paid from funds appropriated to the department [of correction] for such purpose.

S 6. Paragraph (b) of subdivision 3 and subdivisions 7 and 8 of section 70 of the correction law, paragraph (b) of subdivision 3 as amended by chapter 261 of the laws of 1987, subdivisions 7 and 8 as added by chapter 476 of the laws of 1970, are amended to read as follows:

(b) A correctional camp or a shock incarceration correctional facility may be established by the department (i) upon land controlled and designated by the commissioner [of correctional services], or (ii) on land controlled and designated by the commissioner of parks, recreation and historic preservation or, in the sixth park region, by the commissioner of environmental conservation.

7. The commissioner [of correction] shall have the authority to enter into leases within the amount appropriated therefor, for the purpose of maintaining or establishing any correctional facility or any adjunct thereto.

8. The commissioner [of correction] is authorized to enter into contracts, within the amount appropriated therefor, with any university, social agency or qualified person to render professional services to any correctional facility.

S 7. Section 72-a of the correction law, as added by chapter 554 of the laws of 1986, is amended to read as follows:

S 72-a. Community treatment facilities. 1. Transfer of eligible inmate. Notwithstanding the provisions of section seventy-two of this chapter, any inmate confined in a correctional facility who is an "eligible inmate" as defined by subdivision two of section eight hundred fifty-one of this chapter and has been certified by the division of substance abuse services as being in need of substance abuse treatment and rehabilitation may be transferred by the commissioner to a community treatment facility.

2. Designation of facilities. A community treatment facility shall be designated by the director of the division of substance abuse services and the commissioner. Such facility shall be operated by a provider or sponsoring agency that has provided approved residential substance abuse treatment services for at least two years duration.

3. Operating standards. The commissioner, after consultation with the director of the division of substance abuse services, shall promulgate rules and regulations which provide for minimum standards of operation, including but not limited to the following:

(a) provision for adequate security and protection of the surrounding community;

(b) adequate physical plant standards;

(c) provisions for adequate program services, staffing, and record keeping; and

(d) provision for the general welfare of the inmates.

4. [Parole] COMMUNITY supervision. The department shall [contract with the division of parole] PROVIDE for the provision of [parole] COMMUNITY supervision services. [Pursuant to such contract, all] ALL inmates residing in a community treatment facility shall be assigned to parole officers for supervision. Such parole officers shall be responsible [to the division of parole] for [the purpose of] providing such supervision. [As part of its supervisory functions the division shall be required to provide reports to the department every two months on each inmate under its supervision. Such reports shall include, but not be limited to:

(a) an evaluation of the inmate's participation in such program; and

(b) a statement of any problems relative to an inmate's participation in such program and the manner in which such problems were resolved; and

(c) a recommendation with respect to the inmate's continued participation in the program.]

5. Reports. The department and the division of substance abuse services shall jointly issue quarterly reports including a description of those facilities [which] THAT have been designated as community treatment facilities, the number of inmates confined in each facility, a description of the programs within each facility, and the number of absconders, if any, as well as the nature and number of re-arrests, if any, during the [individuals' parole] INDIVIDUAL'S period OF COMMUNITY SUPERVISION. Copies of such reports, as well as copies of any inspection report issued by the department or the commission [on] OF correction shall be sent to the director of the budget, the chairman of the senate finance [comittee] COMMITTEE, the chairman of the senate crime and correction committee, the chairman of the assembly ways and means [comittee] COMMITTEE and the chairman of the assembly committee on codes.

6. Reimbursement. (a) The commissioner, in consultation with the director of the division of substance abuse services, shall enter into an agreement with the division of substance abuse services whereby the division of substance abuse services will contract with community treatment facilities for provision of services pursuant to this section within amounts made available by the department. Each contract shall provide for frequent visitation, inspection of the facility, and enforcement of the minimum standards and shall authorize the supervision of inmates residing in a community treatment facility by parole officers.

(b) The commissioner shall promulgate rules and regulations specifying those costs related to the general operation of community treatment facilities [which] THAT shall be eligible for reimbursement. Such eligible costs shall not include debt service, whether principal or interest, or costs for which state or federal aid or reimbursement is otherwise available. Such rules and regulations shall be subject to the approval of the director of the budget.

(c) The [division] DEPARTMENT shall not contract for [provisions] PROVISION of services to more than fifty inmates at any one facility.

(d) At least thirty days prior to final approval of any such contract, a copy of the proposed contract shall be sent to the director of the budget, the chairman of the senate finance committee, the chairman of the senate crime and correction committee, the chairman of the assembly ways and means committee, and the chairman of the assembly committee on codes.

S 8. Section 73 of the correction law, as added by chapter 476 of the laws of 1970, subdivision 6 as amended by chapter 843 of the laws of 1980, is amended to read as follows:

S 73. Residential treatment facilities. 1. The commissioner may transfer any inmate of a correctional facility who is eligible for [parole] COMMUNITY SUPERVISION or who will become eligible for [parole] COMMUNITY SUPERVISION within six months after the date of transfer or who has one year or less remaining to be served under his OR HER sentence to a residential treatment facility and such person may be allowed to go outside the facility during reasonable and necessary hours to engage in any activity reasonably related to his OR HER rehabilitation and in accordance with the program established for him OR HER. While outside the facility he OR SHE shall be at all times in the custody of the department [of correction] and under [the] ITS supervision [of the state division of parole].

2. The [division of parole] DEPARTMENT shall be responsible for securing appropriate education, on-the-job training and employment for inmates transferred to residential treatment facilities. The [division] DEPARTMENT also shall supervise such inmates during their participation in activities outside any such facility and at all times while they are outside any such facility.

3. Programs directed toward the rehabilitation and total reintegration into the community of persons transferred to a residential treatment facility shall be established [jointly by the department of correction and the division of parole]. Each inmate shall be assigned a specific program by the superintendent of the facility and a written memorandum of such program shall be delivered to him OR HER.

4. If at any time the superintendent of a residential treatment facility is of the opinion that any aspect of the program assigned to an individual is inconsistent with the welfare or safety of the community or of the facility or its inmates, the superintendent may suspend such program or any part thereof and restrict the inmate's activities in any manner that is necessary and appropriate. Upon taking such action the superintendent shall promptly notify the commissioner [of correction] and pending decision by the commissioner, the superintendent may keep such inmate under such security as may be necessary.

5. The commissioner may at any time and for any reason transfer an inmate from a residential treatment facility to another correctional facility. [The chairman of the state board of parole may request the commissioner of correction to transfer a person out of a residential treatment facility if at any time the chairman is of the opinion that such person should no longer be allowed to follow a program that permits him to engage in activities in the community. Upon receipt of any such request, the commissioner shall forthwith transfer the inmate to a correctional facility other than a residential treatment facility.]

6. Where a person who is an inmate of a residential treatment facility absconds, or fails to return thereto as specified in the program approved for him OR HER, he OR SHE may be arrested and returned by an officer or employee of the department [of correction or the division of parole] or by any peace officer, acting pursuant to his OR HER special duties, or police officer without a warrant; or a member of the board of parole or an officer [of the division of parole] designated by such board may issue a warrant for the retaking of such person. A warrant issued pursuant to this subdivision shall have the same force and effect, and shall be executed in the same manner, as a warrant issued for violation of [parole] COMMUNITY SUPERVISION.

7. The provisions of this chapter relating to good behavior allowances and conditional release shall apply to behavior of inmates while assigned to a residential treatment facility for behavior on the prem-

ises and outside the premises of such facility and good behavior allowances may be granted, withheld, forfeited or cancelled in whole or in part for behavior outside the premises of the facility to the same extent and in the same manner as is provided for inmates within the premises of any facility.

8. The STATE board of parole may grant parole to any inmate of a residential treatment facility at any time after he OR SHE becomes eligible therefor. Such parole shall be in accordance with provisions of law that would apply if the person were still confined in the facility from which he OR SHE was transferred, except that any personal appearance before the board may be at any place designated by the board.

9. The earnings of any inmate of a residential treatment facility shall be dealt with in accordance with the procedure set forth in section eight hundred [fifty-seven] SIXTY of this chapter.

10. The commissioner [of correction and the chairman of the board of parole are] IS authorized to [enter into an agreement for the] use [of] any residential treatment facility as a residence for persons who are on [parole or conditional release, and persons under supervision of the board of parole] COMMUNITY SUPERVISION. PERSONS who reside in such A facility shall be subject to conditions of [parole or release] COMMUNITY SUPERVISION imposed by the board.

S 9. Subdivision 3 of section 90 of the correction law, as added by chapter 478 of the laws of 1970, is amended to read as follows:

3. To expand the use of programs designed to bridge the gap between incarceration and activities in the community, through the use of institutions operated by local government as facilities for residential treatment of persons in the custody of the state department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION.

S 10. Section 91 of the correction law, as added by chapter 478 of the laws of 1970, is amended to read as follows:

S 91. Agreements for custody of definite sentence inmates. 1. The state commissioner of [correction] CORRECTIONS AND COMMUNITY SUPERVISION may enter into an agreement with any county or with the city of New York to provide for custody by the state department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION of persons who receive definite sentences of imprisonment with terms in excess of ninety days who otherwise would serve such sentences in the jail, workhouse, penitentiary or other local correctional institution maintained by such locality.

2. Any such agreement, except one that is made with the city of New York, may be made with the sheriff, warden, superintendent, local commissioner of correction or other person in charge of such county institution and shall be subject to the approval of the chief executive officer of the county. An agreement made with the city of New York may be made with the commissioner of correction of that city and shall be subject to the approval of the mayor.

3. An agreement made under this section shall not require the locality to pay the cost of treatment, maintenance and custody furnished by the state department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION and shall contain at least the following provisions:

(a) A provision specifying the minimum length of the term of imprisonment of persons who may be received by the state department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION under the agreement, which may be any term in excess of ninety days agreed to by the parties and which need not be the same in each agreement;

(b) A provision that no charge will be made to the state or to the state department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION

or to any of its institutions during the pendency of such agreement for delivery of inmates to the state department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION by officers of the locality, and that the provisions of section six hundred two of this chapter or of any similar law shall not apply for delivery of inmates during such time;

(c) A provision that no charge shall be made to or shall be payable by the state during the pendency of such agreement for the expense of maintaining parole violators pursuant to section two hundred sixteen of this chapter, for the expense of maintaining coram nobis prisoners pursuant to section six hundred one-b of this chapter, for the expense of maintaining felony prisoners pursuant to section six hundred one-c of this chapter, or for the expense of maintaining alternative local reformatory inmates pursuant to section eight hundred thirty-five in institutions maintained by the locality;

(d) A provision, approved by the state comptroller, for reimbursement of the state department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION by the locality for expenses incurred under subdivision two or three of section one hundred twenty-five of this chapter relating to clothing, money and transportation furnished upon release or discharge of inmates delivered to the state department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION pursuant to the agreement;

(e) Designation of the correctional facility or facilities to which persons under sentences covered by the agreement are to be delivered;

(f) Any other provision the state commissioner of [correction] CORRECTIONS AND COMMUNITY SUPERVISION may deem necessary or appropriate; and

(g) A provision giving either party the right to cancel the agreement by giving the other party notice in writing, with cancellation to become effective on such date as may be specified in such notice.

4. A copy of such agreement shall be filed with the secretary of state and with the clerk of each court having jurisdiction to impose sentences covered by the agreement in the county or city to which it applies.

S 11. Section 92 of the correction law, as added by chapter 478 of the laws of 1970, is amended to read as follows:

S 92. Effect of agreement for custody of definite sentence inmates. 1. After a copy of an agreement made under section ninety-one of this article is filed with the secretary of state, all commitments under sentences covered by the agreement by courts in the county or city to which it applies shall be deemed to be to the custody of the state department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION and shall be so construed and interpreted irrespective of the institution or agency to which the commitments are made.

2. Any inmate who is serving a term of imprisonment covered by the agreement imposed prior to the filing of such agreement, and any inmate who is under consecutive definite sentences of imprisonment with an aggregate term of the length covered by the agreement, irrespective of whether one or more of such sentences was imposed prior to the filing of the agreement, may be transferred to the care of the state department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION upon request of the head of the county or city institution and approval of the state commissioner of [correction] CORRECTIONS AND COMMUNITY SUPERVISION.

3. Inmates who are deemed committed to the custody of the state department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION under subdivision one of this section, or who may be transferred to the care of the state department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION under subdivision two of this section, shall be dealt with in all

respects in the same manner as inmates committed to the custody of the state department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION.

4. In the event any such agreement is cancelled, inmates delivered to the state department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION prior to the date of cancellation shall continue to serve their sentences in the custody of such department and the provisions of such agreement shall continue to apply with respect to such inmates. A copy of the notice of cancellation shall be filed with the secretary of state and with the clerks of courts in the manner provided in subdivision four of section ninety-one of this article, and no inmates shall be delivered to the custody of the state department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION under such agreement after the date on which such cancellation becomes effective.

S 12. Section 93 of the correction law, as added by chapter 478 of the laws of 1970, is amended to read as follows:

S 93. Temporary custody of sentenced inmates in emergencies. 1. Whenever a state of emergency shall be declared by the chief executive officer of a local government pursuant to section two hundred nine-m of the general municipal law, the chief executive officer of the county in which such state of emergency is declared, or where a county or counties are wholly within a city the mayor of such city, may request the governor to remove all or any number of sentenced inmates from institutions maintained by such county or city. Upon receipt of such request, if the governor is satisfied that the public interest so requires, the governor may, in his discretion, authorize and direct the state commissioner of [correction] CORRECTIONS AND COMMUNITY SUPERVISION to remove such inmates.

2. Upon receipt of any such direction the state commissioner of [correction] CORRECTIONS AND COMMUNITY SUPERVISION shall transport such inmates to any correctional facility in the department and such inmates shall be retained in the custody of the department, subject to all laws and rules and regulations pertaining to inmates in the custody of the department, until returned to the institution from which they were removed or discharged or released in accordance with the law.

3. In the event that the state department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION does not have space in its correctional facilities to accommodate all or any number of the inmates so removed from a local institution, the commissioner [of correction] shall have the power to lodge any number of such inmates in any county jail, workhouse or penitentiary within the state that has room to receive them and such institution shall be required to receive such inmates. Inmates so lodged shall be subject to all rules and regulations pertaining to inmates committed to such institution until returned to the institution from which they were removed, or removed to a state correctional facility, or discharged or released in accordance with the law; provided, however, that inmates discharged or released from any such local institution shall be entitled to receive clothing, money and transportation from the state department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION to the same extent as inmates discharged or released from a state correctional facility.

4. When sentenced inmates have been removed from a penitentiary pursuant to this section, such penitentiary may be used for the purpose of detention of prisoners awaiting trial or for any other purpose to which a county jail may be put.

5. The original order of commitment and any other case record pertaining to inmates removed pursuant to this section shall be delivered to

the head of any institution in which he OR SHE may be lodged and shall be returned to the institution from which he OR SHE was removed at the time of his return to such institution or upon his OR HER release or discharge in accordance with the law.

6. Inmates removed from a local institution pursuant to a request made under subdivision one of this section may be returned to such institution by the state commissioner of [correction] CORRECTIONS AND COMMUNITY SUPERVISION, subject to the approval of the governor, at any time such commissioner is satisfied that the return of such inmates is not inconsistent with the public interest.

7. The county or city maintaining the institution from which inmates are removed pursuant to subdivision one of this section shall be liable for all damages arising out of any act performed pursuant to this section and for reimbursement for the following items:

(a) The cost of clothing, money and transportation furnished to any inmate who is released or discharged prior to the return of such inmate to the institution from which he OR SHE is removed shall be paid to the state department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION; and

(b) The cost of maintaining any inmate in a county jail, workhouse or penitentiary shall be paid to the local government that maintains such institution. Such cost shall be the actual per capita daily cost, as certified to the state commissioner of [correction] CORRECTIONS AND COMMUNITY SUPERVISION.

S 13. Section 94 of the correction law, as added by chapter 478 of the laws of 1970, is amended to read as follows:

S 94. Use of local government institutions for residential treatment of persons under the custody of the state department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION. 1. The state commissioner of [correction] CORRECTIONS AND COMMUNITY SUPERVISION is hereby authorized to transfer any inmate under the care or custody of the department who is eligible to be transferred to a residential treatment facility under section seventy-three of this chapter to any county jail, workhouse or penitentiary for the purpose of having such inmate engage in a residential treatment facility program; provided, however, that:

(a) Such inmate has resided or was employed or has dependents or parents who reside in the county, or in a county that is contiguous to the county, in which the institution to which he would be transferred is located;

(b) Arrangements have been made for the education, on-the-job training, employment or for some other rehabilitative treatment of such inmate in the county, or in a county that is contiguous to the county, in which the institution to which he would be transferred is located; and

(c) The sheriff, warden, superintendent, local commissioner of correction or other person in charge of the institution to which the inmate would be transferred consents to such transfer.

2. An inmate so transferred shall continue to be in the custody of the state department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION but shall, during the period of such transfer, be in the care of the head of the institution to which he OR SHE is transferred. The provisions of section seventy-three of this chapter shall apply in the case of any such transfer as fully and completely as if the inmate were transferred to a residential treatment facility, and the head of the institution to which the inmate is transferred and the officers and employees thereof shall have and may exercise all of the powers of the

superintendent of a residential treatment facility with respect to the care or custody of such inmate.

In any case where an inmate is employed, however, the provisions of subdivision nine of such section seventy-three shall not apply and the wages or salary of such inmate shall be dealt with under the provisions applicable to a work release program in the type of institution to which he is transferred as provided in sections one hundred fifty-four, eight hundred seventy-two or eight hundred ninety-three as the case may be; and in the event such inmate is returned to a state correctional facility, any balance remaining in the trust fund account shall be paid over to the superintendent of such facility and shall be deposited by him OR HER as inmates' funds pursuant to section one hundred sixteen of this chapter.

3. If at any time the head of a local institution to which an inmate is transferred under this section is of the opinion that continued care of such inmate in such institution is inconsistent with the welfare or safety of the community or of the institution or its inmates, he OR SHE may request the state commissioner to return such inmate to a state correctional facility and, upon the receipt of any such request, the commissioner shall cause such inmate to be so returned promptly and at the expense of the state department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION.

4. The expenses of any such transfer shall be paid by the state department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION and the commissioner is hereby authorized to reimburse the local institution for a sum determined by the head of such institution and agreed to in advance by the [state] commissioner [of correction] to be the cost of food, lodging and clothing within the institution, and the actual and necessary food, travel and other expenses required for a program outside the institution, incurred or advanced by the institution; provided, however, that:

(a) In any case where the [state] commissioner [of correction] has a pending agreement with a locality under section ninety-one of this article, the [commmissioner of correction] COMMISSIONER shall not reimburse the local institution for any cost incurred for food, lodging and clothing within the institution; and

(b) The wages or salary, if any, of such inmate shall be used for such reimbursement and shall be applied to defray any costs authorized to be paid under this section before any amount shall be paid by the commissioner [of correction] hereunder, and any such wages or salary may be so applied irrespective of the provisions of paragraph (a) of this subdivision.

S 14. Section 116 of the correction law, as amended by section 42 of part A-1 of chapter 56 of the laws of 2010, is amended to read as follows:

S 116. Inmates' funds. The warden or superintendent of each of the institutions within the jurisdiction of the department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION shall deposit at least once in each week to his OR HER credit as such warden, or superintendent, in such bank or banks as may be designated by the comptroller, all the moneys received by him OR HER as such warden, or superintendent, as inmates' funds, and send to the comptroller and also to the commissioner [of correction] monthly, a statement showing the amount so received and deposited. Such statement of deposits shall be certified by the proper officer of the bank receiving such deposit or deposits. The warden, or superintendent, shall also verify by his OR HER affidavit that the sum

so deposited is all the money received by him OR HER as inmates' funds during the month. Any bank in which such deposits shall be made shall, before receiving any such deposits, file a bond with the comptroller of the state, subject to his OR HER approval, for such sum as he OR SHE shall deem necessary. Upon a certificate of approval issued by the director of the budget, pursuant to the provisions of section fifty-three of the state finance law, the amount of interest, if any, heretofore accrued and hereafter to accrue on moneys so deposited, heretofore and hereafter credited to the warden, or superintendent, by the bank from time to time, shall be available for expenditure by the warden, or superintendent, subject to the direction of the commissioner, for welfare work among the inmates in his custody. The withdrawal of moneys so deposited by such warden, or superintendent, as inmates' funds, including any interest so credited, shall be subject to his OR HER check. Each warden, or superintendent, shall each month provide the comptroller and also the commissioner with a record of all withdrawals from inmates' funds. As used in this section, the term "inmates' funds" means the funds in the possession of the inmate at the time of his OR HER admission into the institution, funds earned by him OR HER as provided in section one hundred eighty-seven of this chapter and any other funds received by him OR HER or on his OR HER behalf and deposited with such warden or superintendent in accordance with the rules and regulations of the commissioner. Whenever the total unencumbered value of funds in an inmate's account exceeds ten thousand dollars, the superintendent shall give written notice to the office of victim services.

S 15. Subdivision 2 of section 120 of the correction law, as added by chapter 202 of the laws of 2007, is amended to read as follows:

2. Nothing in this section shall limit in any way the authority of the commissioner, or any county or the city of New York, to enter into any contract authorized by subdivision eighteen of section two, section seventy-two-a, section seventy-three, section ninety-five, article five-A or article twenty-six of this chapter, or to limit the responsibility of the [state division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION to supervise inmates or [parolees] PERSONS RELEASED TO COMMUNITY SUPERVISION while away from an institution pursuant to section seventy-two-a, section seventy-three or article twenty-six of this chapter or while confined at a drug treatment campus as defined in subdivision twenty of section two of this chapter.

S 16. Section 140-a of the correction law, as added by section 2 of part UU of chapter 56 of the laws of 2009, is amended to read as follows:

S 140-a. Pilot project for filing medical assistance applications for inmates prior to their release. 1. Subject to the availability of an appropriation of no less than two hundred thousand dollars, the commissioner, after consultation with the chairman of the [division] STATE BOARD of parole, the commissioner of the department of health, and the commissioner of the office of temporary and disability assistance, shall establish a pilot program at a designated correctional facility for the purpose of filing applications for enrollment in the medical assistance program established under title eleven of article five of the social services law for eligible inmates prior to their release to the community; provided, however, that the commissioner shall not establish such pilot program at the Orleans correctional facility. For purposes of this pilot program, eligible inmates shall not include any inmates who were receiving such medical assistance immediately prior to their commitment to the department and whose medical assistance was thereafter suspended

pursuant to the provisions of subdivision one-a of section three hundred sixty-six of the social services law.

2. In determining the facility where the pilot program shall be established, the commissioner shall give due consideration to the following factors, which shall include, but not be limited to: (i) the degree to which pre-release services and re-entry services are either already available at such facility or can be made readily available at such facility; (ii) the proximity of the facility to the communities to which the eligible inmates will be released; (iii) the availability of community linkages which would facilitate the preparation and submission of such medical assistance applications for eligible inmates; and (iv) the recommendations of the commissioner of the office of temporary and disability assistance, the commissioner of the department of health and the chairman of the [division] STATE BOARD of parole.

3. The commissioner may use the appropriation for this pilot program to establish one or more department positions to perform any responsibilities [which] THAT may arise in connection with the preparation and submission of such medical assistance applications. The commissioner may also use the appropriation to enter into any contract with one or more outside individuals or entities to provide any services that may be needed in connection with this pilot program. Further, all or a portion of the funds appropriated for the pilot program may be transferred to another state agency in order to establish positions to perform any responsibilities which may be necessary to operate the pilot program.

4. Applications for medical assistance shall be submitted to the statewide enrollment center established by contract with the department of health pursuant to subdivision twenty-four of section two hundred six of the public health law in sufficient time before the anticipated release, conditional release or discharge of the eligible inmate to permit the enrollment center to process the application prior to such inmate's release from the custody; provided, however, that where the eligible inmate will be released to the same county where the pilot program is established, the application for medical assistance may be filed with the local county department of social services.

5. Upon receipt of an application filed pursuant to this section, the centralized statewide enrollment center shall determine the eligibility of such inmate for enrollment in the medical assistance program established under title eleven of article five of the social services law. Such determination shall be based on whether the inmate, except for his or her status as an inmate, would be eligible to receive medical assistance. Notwithstanding any inconsistent provision of law, enrollment in the medical assistance program shall be effective on the date an eligible inmate is released, conditionally released or discharged from custody in a department facility to the community. The commissioner, the commissioner of the state department of health and the chairman of the state [division] BOARD of parole shall determine the process for issuing the medical assistance identification card so that the applicant will receive appropriate documentation of [his/her] HIS OR HER eligibility of medical assistance either upon release or as soon thereafter as practicable.

6. After the pilot program becomes operational, the commissioner shall periodically monitor all indicators related to the preparation and processing of inmate applications which shall include, but not be limited to: (i) the degree to which all of the requisite information for an application can be obtained while the inmate is incarcerated by the department; (ii) the average processing times to prepare and complete

applications; (iii) the most effective manner for the transmittal of a completed application for an eligibility determination; (iv) the average amount of time required before an eligibility determination can be completed and the necessary medical assistance eligibility card is provided to the eligible individual; and (v) the identification of issues and factors which may prevent, impede, or delay the preparation and submission of applications, which could be ameliorated by modifications to existing laws, rules and regulations, or policies and procedures.

7. After the pilot program has been operational for a period of twelve months, or sooner if determined to be appropriate by the commissioner, a report shall be prepared by the commissioner and submitted to the governor, the temporary president of the senate and the speaker of the assembly on the factors listed in subdivision six of this section. Such report shall also include any recommendations for additional legislative enactments that may be needed, or new appropriations that may be required, to improve, enhance and subsequently expand the program to other correctional facilities as determined to be appropriate by the commissioner, with the ultimate goal to assist as many inmates as feasible to submit applications for medical assistance prior to their release to the community.

8. The [division] STATE BOARD of parole shall assist the department in any manner necessary to assure that the purposes and objective of this section are effectively accomplished.

9. The commissioner and the commissioner of the department of health may promulgate rules and regulations necessary for the uniform and timely preparation, submission, acceptance and processing of applications by eligible inmates prior to their release from custody.

S 17. Section 148 of the correction law, as amended by chapter 81 of the laws of 1964, is amended to read as follows:

S 148. Psychiatric and diagnostic clinics. The commissioner of [correction and the chairman of the board of parole are] CORRECTIONS AND COMMUNITY SUPERVISION IS hereby authorized and directed to assist and cooperate with the commissioner of mental [hygiene] HEALTH in the establishment and conduct of such psychiatric and diagnostic clinics in the institutions and facilities under their jurisdiction as such commissioners [and chairman] may deem necessary within the amount appropriated therefor. The persons conducting the work of such clinics shall determine the physical and mental condition of all inmates serving an indeterminate term, having a minimum of one day and a maximum of natural life, and of such other inmates whose criminal record, behavior or other factors indicate to those in charge of such clinics the need of study and treatment. The work of the clinics shall include scientific study and psychiatric evaluation of each such inmate, including his OR HER career and life history, investigation of the cause of the crime and recommendations for the care, training and employment of such inmates with a view to their reformation and to the protection of society. Each of the different phases of the work of the clinics shall be so coordinated with all the other phases of clinic work as to be a part of a unified and comprehensive scheme in the study and treatment of such inmates. After classification in the clinics the inmate sentenced to state prison shall be certified to the warden and recommendation made to the commissioner of [correction] CORRECTIONS AND COMMUNITY SUPERVISION as to their disposition.

S 18. Section 168-g of the correction law, as added by chapter 192 of the laws of 1995, is amended to read as follows:

S 168-g. Prior convictions; duty to inform and register. 1. The [division of parole] DEPARTMENT or [department] OFFICE of probation and correctional alternatives in accordance with risk factors pursuant to section one hundred sixty-eight-l of this article shall determine the duration of registration and notification for every sex offender who on the effective date of this article is then on [parole] COMMUNITY SUPERVISION or probation for an offense provided for in subdivision two or three of section one hundred sixty-eight-a of this article.

2. Every sex offender who on the effective date of this article is then on [parole] COMMUNITY SUPERVISION or probation for an offense provided for in subdivision two or three of section one hundred sixty-eight-a of this article shall within ten calendar days of such determination register with his parole or probation officer. On each anniversary of the sex offender's initial registration date thereafter, the provisions of section one hundred sixty-eight-f of this article shall apply. Any sex offender who fails or refuses to so comply shall be subject to the same penalties as otherwise provided for in this article which would be imposed upon a sex offender who fails or refuses to so comply with the provisions of this article on or after such effective date.

3. It shall be the duty of the parole or probation officer to inform and register such sex offender according to the requirements imposed by this article. A parole or probation officer shall give one copy of the form to the sex offender and shall, within three calendar days, send two copies electronically or otherwise to the [division] DEPARTMENT which shall forward one copy electronically or otherwise to the law enforcement agency having jurisdiction where the sex offender resides upon his [parole] OR HER COMMUNITY SUPERVISION, probation, or [upon any form of state or] local conditional release.

4. A petition for relief from this section is permitted to any sex offender required to register while released [on parole] TO COMMUNITY SUPERVISION or probation pursuant to section one hundred sixty-eight-o of this article.

S 19. Subdivision 1 of section 168-1 of the correction law, as added by chapter 192 of the laws of 1995, is amended to read as follows:

1. There shall be a board of examiners of sex offenders which shall possess the powers and duties hereinafter specified. Such board shall consist of five members appointed by the governor. [Three members who] ALL MEMBERS SHALL BE EMPLOYEES OF THE DEPARTMENT AND shall be experts in the field of the behavior and treatment of sex offenders [shall be employees of the division of parole and the remaining two members shall be from the department]. The term of office of each member of such board shall be for six years; provided, however, that any member chosen to fill a vacancy occurring otherwise than by expiration of term shall be appointed for the remainder of the unexpired term of the member whom he OR SHE is to succeed. In the event of the inability to act of any member, the governor may appoint some competent informed person to act in his OR HER stead during the continuance of such disability.

S 20. Section 168-m of the correction law, as amended by chapter 453 of the laws of 1999, is amended to read as follows:

S 168-m. Review. Notwithstanding any other provision of law to the contrary, any state or local correctional facility, hospital or institution, district attorney, law enforcement agency, probation department, [division] STATE BOARD of parole, court or child protective agency shall forward relevant information pertaining to a sex offender to be discharged, paroled, released to post-release supervision or released to

the board for review no later than one hundred twenty days prior to the release or discharge and the board shall make recommendations as provided in subdivision six of section one hundred sixty-eight-l of this article within sixty days of receipt of the information. Information may include, but may not be limited to all or a portion of the arrest file, prosecutor's file, probation or parole file, child protective file, court file, commitment file, medical file and treatment file pertaining to such person. Such person shall be permitted to submit to the board any information relevant to the review. Upon application of the sex offender or the district attorney, the court shall seal any portion of the board's file pertaining to the sex offender [which] THAT contains material that is confidential under any state or federal law; provided, however, that in any subsequent proceedings in which the sex offender who is the subject of the sealed record is a party and which requires the board to provide a recommendation to the court pursuant to this article, such sealed record shall be available to the sex offender, the district attorney, the court and the attorney general where the attorney general is a party, or represents a party, in the proceeding.

S 21. Subdivision 1 of section 184 of the correction law, as amended by chapter 166 of the laws of 1991, is amended to read as follows:

1. The commissioner [of correctional services] is authorized and directed to cause to be manufactured or prepared by the inmates in the state correctional facilities, such articles as are needed and used therein, and also, such articles as are required by the state or political subdivisions thereof, and in the buildings, offices and public institutions owned or managed and controlled by the state, including articles and materials to be used in the erection of the buildings, and including material for the construction, improvement or repair of highways, streets and roads.

S 22. Subdivisions 1 and 3 of section 186 of the correction law, subdivision 1 as amended by chapter 166 of the laws of 1991 and subdivision 3 as amended by chapter 83 of the laws of 1995, are amended to read as follows:

1. The commissioner [of correctional services] shall establish the prices at which all services performed, and all articles manufactured in the correctional facilities in this state, and furnished to the state, or the political subdivisions thereof, or to the public institutions thereof, or to public benefit corporations, authorities or commissions. However, prices for goods or services furnished by the local correctional facilities to or for the county in which they are located, or the political subdivisions thereof, shall be fixed by the board of supervisors of such counties, except the counties located within New York city, in which the prices shall be fixed by the commissioner [of correction]. It shall also be the duty of such boards, respectively, to classify the buildings, offices and institutions owned or managed and controlled by the state, and the political subdivisions thereof, and to fix and determine the styles, patterns, designs and qualities of the articles to be manufactured for such buildings, offices and public institutions, except where the same have been fixed or their specifications approved by the office of general services in the executive department. So far as practicable, all supplies used in such buildings, offices and public institutions shall be uniform for each class, and of the styles, patterns, designs and qualities that can be manufactured in the correctional facilities in this state.

3. A purchaser of any such product or services may, at any time prior to or within thirty days of the time of sale, appeal the purchase price

on the basis that it unreasonably exceeds fair market price. Such appeal shall be raised in a form to be provided for by the commissioner pursuant to rule and shall include a verified statement setting forth the basis of an alternative fair market price determined according to the standards for establishing prices set forth in subdivision two of this section.

An appeal brought by such a purchaser as to the reasonableness of the fair market price established pursuant to subdivision two of this section shall be decided by majority vote of a three-member price review board consisting of the director of the budget, the commissioner [of correctional services] and the commissioner of the office of general services or their representatives.

All hearings before such price review board shall be governed by the rules to be adopted and prescribed by such board. The hearings of such board may, in the discretion of a majority of its members, be open to the public, but shall not be bound by the technical rules of evidence. The price review board shall permit the parties to such an appeal to present such evidence, in person or through their attorneys, as the board may deem necessary for its determination. A stenographic record shall be kept of any proceeding before such board and the decision of the board shall be in writing and state the reasons for such decision.

The decision of such board as to the reasonableness of the price established by the commissioner shall be conclusive on all parties. If the board finds that a price unreasonably exceeds the fair market price, it may adjust the sales price with respect to such purchaser. Prices so adjusted shall otherwise apply prospectively to purchases made subsequent to such adjustment until such time as new prices are established pursuant to subdivision two of this section. In the event that payment has been made, upon such adjustment of price, any excess paid to the state shall be refunded to such purchaser on a voucher signed by the commissioner within amounts available therefor or at the option of the purchaser, the commissioner may credit such excess amount toward any future purchase.

S 23. Section 190 of the correction law is amended to read as follows:

S 190. Monthly statement of receipts and expenditures for industries. The warden of each of the state prisons shall, on the first of each month, make a full detailed statement of all materials, machinery or other property procured, and of the cost thereof, and of the expenditures made during the last preceding month for manufacturing purposes, together with a statement of all materials then on hand to be manufactured, or in process of manufacture, or manufactured, and of machinery, fixtures or other appurtenances for the purpose of carrying on the labor of the prisoners, and the amount and kinds of work done, and the earnings realized, and the total amount of moneys coming into his OR HER hands as such warden during such last preceding month as the proceeds of the labor of the prisoners at such prison, which statement shall be verified by the oath of such warden to be just and true, and shall be by him OR HER forwarded to the department [of correction].

S 24. Subdivisions 1 and 2 of section 275 of the correction law, as added by section 1 of part SS of chapter 56 of the laws of 2009, are amended to read as follows:

1. If a person who has been granted conditional release pursuant to this article resides or desires to reside in a place other than the one located within the jurisdiction of the commission which has legal custody of such person, such commission, or any member thereof, may designate any other commission established pursuant to this article, or the

[parole board] DEPARTMENT, to assume custody of such person and may so transfer custody upon the consent of such other commission or the [parole board] DEPARTMENT.

2. Where custody of a person who has been granted conditional release pursuant to this article is transferred pursuant to subdivision one of this section, upon designation and prior to transfer, the commission making the designation shall notify the commission which has been designated to receive custody of such transfer or the [parole board] DEPARTMENT. The commission making the designation shall immediately forward its entire case record regarding such person to the receiving commission or the [parole board] DEPARTMENT. The commission to which legal custody has been transferred, or the [parole board] DEPARTMENT, shall assume the same powers and duties exercised by the designating commission and shall have the sole custody of such person.

S 25. Section 315 of the correction law is REPEALED.

S 26. Article 17 of the correction law is REPEALED.

S 27. Article 18 of the correction law is REPEALED.

S 28. Subdivisions 2 and 3 of section 504 of the correction law, subdivision 2 as amended by section 8 of part Q of chapter 56 of the laws of 2009 and subdivision 3 as amended by chapter 799 of the laws of 1974, are amended to read as follows:

2. Where the jail in a county becomes unfit or unsafe for the confinement of some or all of the inmates due to an inmate disturbance or other extraordinary circumstances, including but not limited to a natural disaster, unanticipated deficiencies in the structural integrity of a facility or the inability to provide one or more inmates with essential services such as medical care, upon the request of the municipal official as defined in subdivision four of section forty of this chapter and no other suitable place within the county nor the jail of any other county is immediately available to house some or all of the inmates, the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION may, in his or her sole discretion, make available, upon such terms and conditions as he OR SHE may deem appropriate, all or any part of a state correctional institution for the confinement of some or all of such inmates as an adjunct to the county jail for a period not to exceed thirty days. However, if the county jail remains unfit or unsafe for the confinement of some or all of such inmates beyond thirty days, the state commission of correction, with the consent of the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, may extend the availability of a state correctional institution for one or more additional thirty day periods. The state commission of correction shall promulgate rules and regulations governing the temporary transfer of inmates to state correctional institutions from county jails, including but not limited to provisions for confinement of such inmates in the nearest correctional facility, to the maximum extent practicable, taking into account necessary security. The commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION may, in his or her sole discretion, based on standards promulgated by the department, determine whether a county shall reimburse the state for any or all of the actual costs of confinement as approved by the director of the division of the budget. On or before the expiration of each thirty day period, the state commission of correction must make an appropriate designation pursuant to subdivision one if the county jail remains unfit or unsafe for the confinement of some or all of the inmates and consent to the continued availability of a state correctional institution as required for herein. The superintendence, management and control of a state correctional

institution or part thereof made available pursuant hereto and the inmates housed therein shall be as directed by the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION.

3. The county clerk must serve a copy of the designation, duly certified by him OR HER, under his OR HER official seal, on the sheriff and keeper of the jail of the county designated. The sheriff of that county must, upon the delivery of the sheriff of the county for which the designation is made, receive into his OR HER jail, and there safely keep, all persons who may be lawfully confined therein, pursuant to this article; and he OR SHE is responsible for their safekeeping, as if he OR SHE was sheriff of the county for which the designation is made.

S 29. The opening paragraph, subdivisions 2, 3, 4 and 6 of section 601-d of the correction law, as added by chapter 141 of the laws of 2008, are amended to read as follows:

This section shall apply only to inmates in the custody of the commissioner, and releasees under the supervision of the [division of parole] DEPARTMENT, upon whom a determinate sentence was imposed between September first, nineteen hundred ninety-eight, and the effective date of this section, which was required by law to include a term of post-release supervision:

2. Whenever it shall appear to the satisfaction of the department that an inmate in its custody[,] or [to the satisfaction of the division of parole] that a releasee under its supervision, is a designated person, [such agency] THE DEPARTMENT shall make notification of that fact to the court that sentenced such person, and to the inmate or releasee.

3. If a sentencing court that has received such notice, after reviewing the sentencing minutes, if available, is or becomes aware that a term of post-release supervision was in fact pronounced at the prior sentencing of such person, it shall issue a superseding commitment order reflecting that fact, accompanied by a written explanation of the basis for that conclusion, and send such order and explanation to the [agency that provided the notice] DEPARTMENT, to the defendant, and to the attorney who appeared for the defendant in connection with the judgment or sentence or, if the defendant is currently represented concerning his or her conviction or sentence or with respect to an appeal from his or her sentence, such present counsel.

4. (a) If the sentencing court shall not have issued a superseding commitment order, reflecting imposition of a term of post-release supervision, within ten days after receiving notice pursuant to subdivision two of this section, then the sentencing court shall appoint counsel pursuant to section seven hundred twenty-two of the county law, provide a copy of the notice pursuant to subdivision two of this section to such counsel, and calendar such person for a court appearance which shall occur no later than twenty days after receipt of said notice. At such court appearance, the court shall furnish a copy of such notice and the proceeding date pursuant to paragraph (c) of this subdivision to the district attorney, the designated person, assigned counsel and the department [or the division of parole].

(b) The court shall promptly seek to obtain sentencing minutes, plea minutes and any other records and shall provide copies to the parties and conduct any reconstruction proceedings that may be necessary to determine whether to resentence such person.

(c) The court shall commence a proceeding to consider resentence no later than thirty days after receiving notice pursuant to subdivision two of this section.

(d) The court shall, no later than forty days after receipt of such notice, issue and enter a written determination and order, copies of which shall be immediately provided to the district attorney, the designated person, his or her counsel and the department [or the division of parole] along with any sentencing minutes pursuant to section 380.70 of the criminal procedure law.

(e) The designated person may, with counsel, knowingly consent to extend the time periods specified in paragraphs (c) and (d) of this subdivision. The people may apply to the court for an extension of ten days on the basis of extraordinary circumstances that preclude final resolution within such period of the question of whether the defendant will be resentenced. The department [or the division of parole] shall be notified by the court of any such extension.

6. In any case in which the department [or division of parole] notifies the court of a designated person, and has not been informed that the court has made a determination in accordance with paragraph (d) of subdivision four of this section (unless extended pursuant to paragraph (e) of such subdivision), [then such agency] THE DEPARTMENT may notify the court that it has not received a determination and, in any event, shall adjust its records with respect to post-release supervision noting that the court has not, in accordance with subdivision four of this section, imposed a sentence of post-release supervision.

S 30. Section 605-a of the correction law, as added by chapter 476 of the laws of 1970, is amended to read as follows:

S 605-a. Transportation of female inmates. Whenever any female inmate is conveyed to an institution [in] UNDER THE JURISDICTION OF the state department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION pursuant to sentence or commitment, such female inmate shall be accompanied by at least one female officer.

S 31. Section 619 of the correction law, as added by chapter 911 of the laws of 1983, is amended to read as follows:

S 619. Cooperation with authorized agencies of the department of social services. It shall be the duty of an official of any institution under the jurisdiction of the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION to cooperate with an authorized agency of the department of social services in making suitable arrangements for an inmate confined therein to visit with his or her child pursuant to subdivision seven of section three hundred eighty-four-b of the social services law.

S 32. Subdivisions 1, 4 and 6 of section 702 of the correction law, subdivisions 1 and 4 as amended by chapter 342 of the laws of 1972 and subdivision 6 as amended by chapter 720 of the laws of 2006, are amended to read as follows:

1. Any court of this state may, in its discretion, issue a certificate of relief from disabilities to an eligible offender for a conviction that occurred in such court, if the court either (a) imposed a [revokable] REVOCABLE sentence or (b) imposed a sentence other than one executed by commitment to an institution under the jurisdiction of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION. Such certificate may be issued (i) at the time sentence is pronounced, in which case it may grant relief from forfeitures, as well as from disabilities, or (ii) at any time thereafter, in which case it shall apply only to disabilities.

4. Where the court has imposed a [revokable] REVOCABLE sentence and the certificate of relief from disabilities is issued prior to the expiration or termination of the time which the court may revoke such

sentence, the certificate shall be deemed to be a temporary certificate until such time as the court's authority to revoke the sentence has expired or is terminated. While temporary, such certificate (a) may be revoked by the court for violation of the conditions of the sentence, and (b) shall be revoked by the court if it revokes the sentence and commits the person to an institution under the jurisdiction of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION. Any such revocation shall be upon notice and after an opportunity to be heard. If the certificate is not so revoked, it shall become a permanent certificate upon expiration or termination of the court's authority to revoke the sentence.

6. Any written report submitted to the court pursuant to this section is confidential and may not be made available to any person or public or private agency except where specifically required or permitted by statute or upon specific authorization of the court. However, upon the court's receipt of such report, the court shall provide a copy of such report, or direct that such report be provided to the applicant's attorney, or the applicant himself, if he OR SHE has no attorney. In its discretion, the court may except from disclosure a part or parts of the report which are not relevant to the granting of a certificate, or sources of information which have been obtained on a promise of confidentiality, or any other portion thereof, disclosure of which would not be in the interest of justice. The action of the court excepting information from disclosure shall be subject to appellate review. The court, in its discretion, may hold a conference in open court or in chambers to afford an applicant an opportunity to controvert or to comment upon any portions of the report. The court may also conduct a summary hearing at the conference on any matter relevant to the granting of the application and may take testimony under oath.

S 33. Intentionally omitted.

S 34. Section 703 of the correction law, as amended by chapter 342 of the laws of 1972, the section heading as amended by chapter 931 of the laws of 1976, subdivision 1 as amended by chapter 475 of the laws of 1974, subdivision 6 as added by chapter 378 of the laws of 1988 and subdivision 7 as added by section 3 of part OO of chapter 56 of the laws of 2010, is amended to read as follows:

S 703. Certificates of relief from disabilities issued by the [board of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION. 1. The [state board of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION shall have the power to issue a certificate of relief from disabilities to:

(a) any eligible offender who has been committed to an institution under the jurisdiction of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION. Such certificate may be issued by the [board] DEPARTMENT at the time the offender is released from such institution under the [board's] DEPARTMENT'S supervision or otherwise or at any time thereafter;

(b) any eligible offender who resides within this state and whose judgment of conviction was rendered by a court in any other jurisdiction.

2. Where the [board of parole] DEPARTMENT has issued a certificate of relief from disabilities, the [board] DEPARTMENT may at any time issue a new certificate enlarging the relief previously granted.

3. The [board of parole] DEPARTMENT shall not issue any certificate of relief from disabilities pursuant to subdivisions one or two, unless the [board] DEPARTMENT is satisfied that:

(a) The person to whom it is to be granted is an eligible offender, as defined in section seven hundred;

(b) The relief to be granted by the certificate is consistent with the rehabilitation of the eligible offender; and

(c) The relief to be granted by the certificate is consistent with the public interest.

4. Any certificate of relief from disabilities issued by the [board of parole] DEPARTMENT to an eligible offender who at time of the issuance of the certificate is under the [board's] DEPARTMENT'S supervision, shall be deemed to be a temporary certificate until such time as the eligible offender is discharged from the [board's] DEPARTMENT'S supervision, and, while temporary, such certificate may be revoked by the [board] DEPARTMENT for violation of the conditions of [parole or release] COMMUNITY SUPERVISION. Revocation shall be upon notice to the [parolee] RELEASEE, who shall be accorded an opportunity to explain the violation prior to decision thereon. If the certificate is not so revoked, it shall become a permanent certificate upon expiration or termination of the [board's] DEPARTMENT'S jurisdiction over the [offender] INDIVIDUAL.

5. In granting or revoking a certificate of relief from disabilities the action of the [board of parole shall be by unanimous vote of the members authorized to grant or revoke parole. Such action] DEPARTMENT shall be deemed a judicial function and shall not be reviewable if done according to law.

6. For the purpose of determining whether such certificate shall be issued, the [board] DEPARTMENT may conduct an investigation of the applicant.

7. Presumption based on federal recommendation. Where a certificate of relief from disabilities is sought pursuant to paragraph (b) of subdivision one of this section on a judgment of conviction rendered by a federal district court in this state and the [board of parole] DEPARTMENT is in receipt of a written recommendation in favor of the issuance of such certificate from the chief probation officer of the district, the [board] DEPARTMENT shall issue the requested certificate, unless it finds that the requirements of paragraphs (a), (b) and (c) of subdivision three of this section have not been satisfied; or that the interests of justice would not be advanced by the issuance of the certificate.

S 35. Section 703-b of the correction law, as added by chapter 931 of the laws of 1976, subdivisions 1 and 3 as amended by, subdivision 2 as added by and subdivisions 4 and 5 as renumbered by chapter 386 of the laws of 1985, is amended to read as follows:

S 703-b. Issuance of certificate of good conduct. 1. The [state board of parole, or any three members thereof by unanimous vote,] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION shall have the power to issue a certificate of good conduct to any person previously convicted of a crime in this state, when the [board] DEPARTMENT is satisfied that:

(a) The applicant has conducted himself OR HERSELF in a manner warranting such issuance for a minimum period in accordance with the provisions of subdivision three of this section;

(b) The relief to be granted by the certificate is consistent with the rehabilitation of the applicant; and

(c) The relief to be granted is consistent with the public interest.

2. The [state board of parole, or any three members thereof by unanimous vote,] DEPARTMENT shall have the power to issue a certificate of

good conduct to any person previously convicted of a crime in any other jurisdiction, when the [board] DEPARTMENT is satisfied that:

(a) The applicant has demonstrated that there exist specific facts and circumstances, and specific sections of New York state law that have an adverse impact on the applicant and warrant the application for relief to be made in New York; and

(b) The provisions of paragraphs (a), (b) and (c) of subdivision one of this section have been met.

3. The minimum period of good conduct by the individual referred to in paragraph (a) of subdivision one of this section, shall be as follows: where the most serious crime of which the individual was convicted is a misdemeanor, the minimum period of good conduct shall be one year; where the most serious crime of which the individual was convicted is a class C, D or E felony, the minimum period of good conduct shall be three years; and, where the most serious crime of which the individual was convicted is a class B or A felony, the minimum period of good conduct shall be five years. Criminal acts committed outside the state shall be classified as acts committed within the state based on the maximum sentence that could have been imposed based upon such conviction pursuant to the laws of such foreign jurisdiction. Such minimum period of good conduct by the individual shall be measured either from the date of the payment of any fine imposed upon him OR HER or the suspension of sentence, or from the date of his OR HER unrevoked release from custody by parole, commutation or termination of his OR HER sentence. The [board] DEPARTMENT shall have power and it shall be its duty to investigate all persons when such application is made and to grant or deny the same within a reasonable time after the making of the application.

4. Where the [board of parole] DEPARTMENT has issued a certificate of good conduct, the [board] DEPARTMENT may at any time issue a new certificate enlarging the relief previously granted.

5. Any certificate of good conduct by the [board of parole] DEPARTMENT to an individual who at time of the issuance of the certificate is under the [board's] DEPARTMENT'S supervision, shall be deemed to be a temporary certificate until such time as the individual is discharged from the [board's] DEPARTMENT'S supervision, and, while temporary, such certificate may be revoked by the [board] DEPARTMENT for violation of the conditions of [parole or release] COMMUNITY SUPERVISION. Revocation shall be upon notice to the [parolee] RELEASEE, who shall be accorded an opportunity to explain the violation prior to decision thereon. If the certificate is not so revoked, it shall become a permanent certificate upon expiration or termination of the [board's] DEPARTMENT'S jurisdiction over the individual.

S 36. Section 705 of the correction law, as added by chapter 654 of the laws of 1966, subdivision 1 as amended by section 49 of part A of chapter 56 of the laws of 2010, is amended to read as follows:

S 705. Forms and filing. 1. All applications, certificates and orders of revocation necessary for the purposes of this article shall be upon forms prescribed pursuant to agreement among the state commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, the chairman of the state board of parole and the administrator of the state judicial conference. Such forms relating to certificates of relief from disabilities shall be distributed by the office of probation and correctional alternatives and forms relating to certificates of good conduct shall be distributed by the [chairman of the board of parole] COMMISSIONER OF THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION.

2. Any court or [board] DEPARTMENT issuing or revoking any certificate pursuant to this article shall immediately file a copy of the certificate, or of the order of revocation, with the New York state identification and intelligence system.

S 37. Paragraphs (a), (b) and (c) of subdivision 1 and subdivisions 3, 4 and 5 of section 803 of the correction law, paragraph (a) of subdivision 1, subdivisions 3, 4 and 5 as amended and paragraphs (b) and (c) of subdivision 1 as added by chapter 3 of the laws of 1995, are amended to read as follows:

(a) Every person confined in an institution of the department or a facility in the department of mental hygiene serving an indeterminate or determinate sentence of imprisonment, except a person serving a sentence with a maximum term of life imprisonment, may receive time allowance against the term or maximum term of his OR HER sentence imposed by the court. Such allowances may be granted for good behavior and efficient and willing performance of duties assigned or progress and achievement in an assigned treatment program, and may be withheld, forfeited or canceled in whole or in part for bad behavior, violation of institutional rules or failure to perform properly in the duties or program assigned.

(b) A person serving an indeterminate sentence of imprisonment may receive time allowance against the maximum term of his OR HER sentence not to exceed one-third of the maximum term imposed by the court.

(c) A person serving a determinate sentence of imprisonment may receive time allowance against the term of his OR HER sentence not to exceed one-seventh of the term imposed by the court.

3. The commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION shall promulgate rules and regulations for the granting, withholding, forfeiture, cancellation and restoration of allowances authorized by this section in accordance with the criteria herein specified. Such rules and regulations shall include provisions designating the person or committee in each correctional institution delegated to make discretionary determinations with respect to the allowances, the books and records to be kept, and a procedure for review of the institutional determinations by the commissioner.

4. No person shall have the right to demand or require the allowances authorized by this section. The decision of the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION as to the granting, withholding, forfeiture, cancellation or restoration of such allowances shall be final and shall not be reviewable if made in accordance with law.

5. Time allowances granted prior to any release [on parole or prior to any conditional release] TO COMMUNITY SUPERVISION shall be forfeited and shall not be restored if the [paroled or conditionally] released person is returned to an institution under the jurisdiction of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION for violation of [parole, violation of the conditions of release] COMMUNITY SUPERVISION or by reason of a conviction for a crime committed while on [parole or conditional release] COMMUNITY SUPERVISION. A person who is so returned may, however, subsequently receive time allowances against the remaining portion of his OR HER term, maximum term or aggregate maximum term pursuant to this section and provided such remaining portion of his OR HER term, maximum term, or aggregate maximum term is more than one year.

S 38. Subdivisions 3, 4 and 5 of section 803 of the correction law, as amended by chapter 126 of the laws of 1987, are amended to read as follows:

3. The commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION shall promulgate rules and regulations for the granting, withholding, forfeiture, cancellation and restoration of allowances authorized by this section in accordance with the criteria herein specified. Such rules and regulations shall include provisions designating the person or committee in each correctional institution delegated to make discretionary determinations with respect to the allowances, the books and records to be kept, and a procedure for review of the institutional determinations by the commissioner.

4. No person shall have the right to demand or require the allowances authorized by this section. The decision of the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION as to the granting, withholding, forfeiture, cancellation or restoration of such allowances shall be final and shall not be reviewable if made in accordance with law.

5. Time allowances granted prior to any release [on parole or prior to any conditional release] TO COMMUNITY SUPERVISION shall be forfeited and shall not be restored if the [paroled or conditionally] released person is returned to an institution under the jurisdiction of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION for violation of [parole, violation of the conditions of release] COMMUNITY SUPERVISION or by reason of a conviction for a crime committed while on [parole or conditional release] COMMUNITY SUPERVISION. A person who is so returned may, however, subsequently receive time allowances against the remaining portion of his maximum or aggregate maximum term or period not to exceed in the aggregate one-third of such portion provided such remaining portion of his OR HER maximum or aggregate maximum term or period is more than one year.

S 39. Subdivision 6 of section 804 of the correction law, as added by chapter 680 of the laws of 1967, is amended to read as follows:

6. Notwithstanding anything to the contrary in this section, in any case where a person is serving a definite sentence in an institution under the jurisdiction of the state department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION, subdivisions three and four of section eight hundred three of this chapter shall apply.

S 40. Subdivisions 3 and 6 of section 806 of the correction law, as added by section 5 of part E of chapter 62 of the laws of 2003, are amended to read as follows:

3. Any inmate eligible for presumptive release pursuant to this section shall be required to apply for such release pursuant to section [two hundred fifty-nine-g of the executive law. Upon release from the department of correctional services, such person shall be in the legal custody of the division of parole as provided in subdivisions two, three, four, five, six and seven of section two hundred fifty-nine-i of the executive law] TWO HUNDRED SIX OF THIS CHAPTER.

6. Any eligible inmate who is not released pursuant to subdivision one or two of this section shall be considered for discretionary release on parole pursuant to the provisions of section eight hundred five of this article or section two hundred [fifty-nine-i] FIFTY-NINE-B of the executive law, whichever is applicable.

S 41. Subdivision 1 of section 851 of the correction law, as amended by chapter 554 of the laws of 1986, is amended to read as follows:

1. "Institution" means any institution under the jurisdiction of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or an institution designated by the commissioner pursuant to section seventy-two-a of this chapter.

S 41-a. Subdivision 1 of section 851 of the correction law, as amended by chapter 691 of the laws of 1977, is amended to read as follows:

1. "Institution" means any institution under the jurisdiction of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION.

S 41-b. Subdivision 1 of section 851 of the correction law, as added by chapter 472 of the laws of 1969, is amended to read as follows:

1. "Institution" means any institution under the jurisdiction of the state department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION.

S 42. The closing paragraph of subdivision 2 of section 851 of the correction law, as added by chapter 3 of the laws of 1995, is amended to read as follows:

The governor, by executive order, may exclude or limit the participation of any class of otherwise eligible inmates from participation in a temporary release program. Nothing in this paragraph shall be construed to affect either the validity of any executive order previously issued limiting the participation of otherwise eligible inmates in such program or the authority of the commissioner [of the department of correctional services] to impose appropriate regulations limiting such participation.

S 43. The closing paragraph of subdivision 2 of section 851 of the correction law, as added by chapter 3 of the laws of 1995, is amended to read as follows:

The governor, by executive order, may exclude or limit the participation of any class of otherwise eligible inmates from participation in a temporary release program. Nothing in this paragraph shall be construed to affect either the validity of any executive order previously issued limiting the participation of otherwise eligible inmates in such program or the authority of the commissioner [of the department of correctional services] to impose appropriate regulations limiting such participation.

S 43-a. Subdivision 5 of section 851 of the correction law, as added by chapter 472 of the laws of 1969, is amended to read as follows:

5. "Work release committee" means the body of persons, which may include members of the public, appointed pursuant to regulations promulgated by the commissioner [of correction] for the purpose of formulating, modifying and revoking work release programs at an institution.

S 44. Subdivision 5 of section 852 of the correction law, as amended by chapter 495 of the laws of 1981, is amended to read as follows:

5. All inmates participating in temporary release programs shall be assigned to parole officers for supervision. [Such parole officers shall be responsible to the division of parole for the purpose of providing such supervision. The division shall provide to the department supervision in accordance with the contract required by subdivision six of this section.] As part of [its] THE PAROLE OFFICER'S supervisory functions [the division] HE OR SHE shall be required to provide reports [to the department] every two months on each inmate under [its] HIS OR HER supervision. Such reports shall include but not be limited to:

(a) an evaluation of the individual's participation in such program;

(b) a statement of any problems and the manner in which such problems were resolved relative to an individual's participation in such programs; and

(c) a recommendation with respect to the individual's continued participation in the program.

S 44-a. Subdivision 6 of section 852 of the correction law is REPEALED.

S 45. Subdivision 2 of section 852 of the correction law, as added by chapter 472 of the laws of 1969, is amended to read as follows:

2. The [division of parole] DEPARTMENT shall be responsible for securing appropriate education, on-the-job training and employment opportunities for [eligbile] ELIGIBLE inmates[. The division also] AND shall supervise inmates during their participation in work release programs outside the premises of institutions.

S 46. Subdivision 2 of section 856 of the correction law, as added by chapter 472 of the laws of 1969, is amended to read as follows:

2. If the inmate violates any provision of the program, or any rule or regulation promulgated by the commissioner of [correction] CORRECTIONS AND COMMUNITY SUPERVISION for conduct of inmates participating in work release programs, he OR SHE shall be subject to disciplinary measures to the same extent as if he OR SHE violated a rule or regulation of the commissioner for conduct of inmates within the premises of the institution.

S 47. Subdivision 6 of section 855 of the correction law, as amended by chapter 843 of the laws of 1980, is amended to read as follows:

6. In order for an applicant to accept a program of temporary release, such inmate shall agree to be bound by all the terms and conditions thereof and shall indicate such agreement by signing the memorandum of the program immediately below a statement reading as follows: "I accept the foregoing program and agree to be bound by the terms and conditions thereof. I understand that I will be under the supervision of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION while I am away from the premises of the institution and I agree to comply with the instructions of any parole officer or other employee of the department assigned to supervise me. I understand that my participation in the program is a privilege which may be revoked at any time, and that if I violate any provision of the program I may be taken into custody by any peace officer or police officer and I will be subject to disciplinary procedures. I further understand that if I intentionally fail to return to the institution at or before the time specified in the memorandum I may be found guilty of a felony." Such agreement shall be placed on file at the institution from which such temporary release is granted.

S 48. Subdivisions 2, 3 and 4 of section 855 of the correction law, as added by chapter 472 of the laws of 1969, are amended to read as follows:

2. If the work release committee determines that a work release program for the applicant is consistent with the safety of the community, is in the best interests of rehabilitation of the applicant, and is consistent with rules and regulations of the commissioner [of correction], the committee[, with the assistance of the division of parole,] shall develop a suitable program of work release for the applicant.

3. The committee shall then prepare a memorandum setting forth the details of the work release program, including the extended bounds of confinement and any other matter required by rules or regulations of the commissioner [of correction]. Such memorandum shall be transmitted to the warden who may approve or reject the program. If the warden approves the program, he OR SHE shall indicate such approval in writing by sign-

ing the memorandum. If the warden rejects the program, such decision shall be reviewed by the commissioner [of correction].

4. In order for an applicant to accept a program of work release, he OR SHE shall agree to be bound by all the terms and conditions thereof and shall indicate such agreement by signing the memorandum of the program immediately below a statement reading as follows: "I accept the foregoing program and agree to be bound by the terms and conditions thereof. I understand that I will be under the supervision of the [State Division of Parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION while I am away from the premises of the institution and I agree to comply with the instructions of any parole officer assigned to supervise me. I will carry a copy of this memorandum on my person at all times while I am away from the premises of the institution and I will exhibit it to any peace officer upon his OR HER request. I understand that my participation in the program is a privilege which may be revoked at any time, and that if I violate any provision of the program I may be taken into custody by any peace officer and I will be subject to disciplinary procedures. I further understand that if I intentionally fail to return to the institution at or before the time specified in the memorandum I may be found guilty of a felony."

S 49. The opening paragraph of subdivision 1 of section 1304 of the abandoned property law, as amended by chapter 471 of the laws of 1980, is amended to read as follows:

The following unclaimed property belonging or credited to a discharged, deceased or escaped person in an institution under the jurisdiction of the department of social services, the department of health, the department of mental hygiene, the executive department, or the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION shall be deemed abandoned property:

S 50. Subdivisions 1, 1-a and 4 of section 126 of the alcoholic beverage control law, subdivisions 1 and 4 as amended by chapter 366 of the laws of 1992 and subdivision 1-a as amended by chapter 367 of the laws of 1992, are amended to read as follows:

1. Except as provided in subdivision one-a of this section, a person who has been convicted of a felony or any of the misdemeanors mentioned in section eleven hundred forty-six of the former penal law as in force and effect immediately prior to September first, nineteen hundred sixty-seven, or of an offense defined in section 230.20 or 230.40 of the penal law, unless subsequent to such conviction such person shall have received an executive pardon therefor removing this disability, a certificate of good conduct granted by the [board of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION, or a certificate of relief from disabilities granted by the [board of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION or a court of this state pursuant to the provisions of article twenty-three of the correction law to remove the disability under this section because of such conviction.

1-a. Notwithstanding the provision of subdivision one of this section, a corporation holding a license to traffic in alcoholic beverages shall not, upon conviction of a felony or any of the misdemeanors or offenses described in subdivision one of this section, be automatically forbidden to traffic in alcoholic beverages, but the application for a license by such a corporation shall be subject to denial, and the license of such a corporation shall be subject to revocation or suspension by the authority pursuant to section one hundred eighteen of this chapter, consistent with the provisions of article twenty-three-A of the correction law. For any felony conviction by a court other than a court of this state, the

authority may request the [board of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION to investigate and review the facts and circumstances concerning such a conviction, and [the board of parole] SUCH DEPARTMENT shall, if so requested, submit its findings to the authority as to whether the corporation has conducted itself in a manner such that discretionary review by the authority would not be inconsistent with the public interest. The [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION may charge the licensee or applicant a fee equivalent to the expenses of an appropriate investigation under this subdivision. For any conviction rendered by a court of this state, the authority may request the corporation, if the corporation is eligible for a certificate of relief from disabilities, to seek such a certificate from the court which rendered the conviction and to submit such a certificate as part of the authority's discretionary review process.

4. A copartnership or a corporation, unless each member of the partnership, or each of the principal officers and directors of the corporation, is a citizen of the United States or an alien lawfully admitted for permanent residence in the United States, not less than twenty-one years of age, and has not been convicted of any felony or any of the misdemeanors, specified in section eleven hundred forty-six of the former penal law as in force and effect immediately prior to September first, nineteen hundred sixty-seven, or of an offense defined in section 230.20 or 230.40 of the penal law, or if so convicted has received, subsequent to such conviction, an executive pardon therefor removing this disability a certificate of good conduct granted by the [board of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION, or a certificate of relief from disabilities granted by the [board of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION or a court of this state pursuant to the provisions of article twenty-three of the correction law to remove the disability under this section because of such conviction; provided however that a corporation which otherwise conforms to the requirements of this section and chapter may be licensed if each of its principal officers and more than one-half of its directors are citizens of the United States or aliens lawfully admitted for permanent residence in the United States; and provided further that a corporation organized under the not-for-profit corporation law or the education law which otherwise conforms to the requirements of this section and chapter may be licensed if each of its principal officers and more than one-half of its directors are not less than twenty-one years of age and none of its directors are less than eighteen years of age; and provided further that a corporation organized under the not-for-profit corporation law or the education law and located on the premises of a college as defined by section two of the education law which otherwise conforms to the requirements of this section and chapter may be licensed if each of its principal officers and each of its directors are not less than eighteen years of age.

S 51. Subparagraph (i) of paragraph 1 and paragraph 3 of subdivision (f) of section 1101 of the civil practice law and rules, as added by section 1 of part D of chapter 412 of the laws of 1999, are amended to read as follows:

(i) in the case of a state inmate who has been transferred from another state correctional facility, the court shall obtain a trust fund account statement for the six month period from the central office of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION in Albany; or

3. The institution at which an inmate is confined, or the central office for the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, whichever is applicable, shall promptly provide the trust fund account statement to the inmate as required by this subdivision.

S 52. Section 5011 of the civil practice law and rules, as amended by section 50 of part A-1 of chapter 56 of the laws of 2010, is amended to read as follows:

S 5011. Definition and content of judgment. A judgment is the determination of the rights of the parties in an action or special proceeding and may be either interlocutory or final. A judgment shall refer to, and state the result of, the verdict or decision, or recite the default upon which it is based. A judgment may direct that property be paid into court when the party would not have the benefit or use or control of such property or where special circumstances make it desirable that payment or delivery to the party entitled to it should be withheld. In any case where damages are awarded to an inmate serving a sentence of imprisonment with the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or to a prisoner confined at a local correctional facility, the court shall give prompt written notice to the office of victim services, and at the same time shall direct that no payment be made to such inmate or prisoner for a period of thirty days following the date of entry of the order containing such direction.

S 53. Subdivision 1 of section 50-a of the civil rights law, as amended by chapter 137 of the laws of 2002, is amended to read as follows:

1. All personnel records[,] used to evaluate performance toward continued employment or promotion, under the control of any police agency or department of the state or any political subdivision thereof including authorities or agencies maintaining police forces of individuals defined as police officers in section 1.20 of the criminal procedure law and such personnel records under the control of a sheriff's department or a department of correction of individuals employed as correction officers and such personnel records under the control of a paid fire department or force of individuals employed as firefighters or firefighter/paramedics and such personnel records under the control of the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION for individuals defined as peace officers pursuant to subdivisions twenty-three and twenty-three-a of section 2.10 of the criminal procedure law shall be considered confidential and not subject to inspection or review without the express written consent of such police officer, firefighter, firefighter/paramedic, correction officer or peace officer within the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION except as may be mandated by lawful court order.

S 54. Subdivision 2 of section 61 of the civil rights law, as amended by chapter 320 of the laws of 2006, is amended to read as follows:

2. If the petitioner stands convicted of a violent felony offense as defined in section 70.02 of the penal law or a felony defined in article one hundred twenty-five of such law or any of the following provisions of such law sections 130.25, 130.30, 130.40, 130.45, 255.25, 255.26, 255.27, article two hundred sixty-three, 135.10, 135.25, 230.05, 230.06, subdivision two of section 230.30 or 230.32, and is currently confined as an inmate in any correctional facility or currently under the supervision of the [state division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION or a county probation department as a result of such conviction, the petition shall for each such conviction specify

such felony conviction, the date of such conviction or convictions, and the court in which such conviction or convictions were entered.

S 55. Subdivision 2 of section 62 of the civil rights law, as amended by chapter 320 of the laws of 2006, is amended to read as follows:

2. If the petition be to change the name of a person currently confined as an inmate in any correctional facility or currently under the supervision of the [state division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION or a county probation department as a result of a conviction for a violent felony offense as defined in section 70.02 of the penal law or a felony defined in article one hundred twenty-five of such law or any of the following provisions of such law sections 130.25, 130.30, 130.40, 130.45, 255.25, 255.26, 255.27, article two hundred sixty-three, 135.10, 135.25, 230.05, 230.06, subdivision two of section 230.30 or 230.32, notice of the time and place when and where the petition will be presented shall be served, in like manner as a notice of a motion upon an attorney in an action, upon the district attorney of every county in which such person has been convicted of such felony and upon the court or courts in which the sentence for such felony was entered. Unless a shorter period of time is ordered by the court, said notice shall be served upon each such district attorney and court or courts not less than sixty days prior to the date on which such petition is noticed to be heard.

S 56. Subdivision 2 and paragraph (a) of subdivision 3 of section 79 of the civil rights law, as amended by chapter 687 of the laws of 1973, are amended to read as follows:

2. A sentence of imprisonment in a state correctional institution for any term less than for life or a sentence of imprisonment in a state correctional institution for an indeterminate term, having a minimum of one day and a maximum of natural life shall not be deemed to suspend the right or capacity of any person so sentenced to commence and prosecute an action or proceeding in any court within this state or before a body or officer exercising judicial, quasi-judicial or administrative functions within this state; provided, however, that where at the time of the commencement and during the prosecution of such action or proceeding such person is an inmate of a state correctional institution, he shall not appear at any place other than within the institution for any purpose related to such action or proceeding unless upon a subpoena issued by the court before whom such action or proceeding is pending or, where such action or proceeding is pending before a body or officer, before a judge to whom a petition for habeas corpus could be made under subdivision (b) of section seven thousand two of the civil practice law and rules upon motion of any party and upon a determination that such person's appearance is essential to the proper and just disposition of the action or proceeding. Unless the court orders otherwise, a motion for such subpoena shall be made on at least two days' notice to the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION.

(a) Except as provided in paragraph (b), the state shall not be liable for any expense of or related to any such action or proceeding, including but not limited to the expense of or related to transporting the inmate to, or lodging or guarding him at any place other than in a state correctional institution. The [Department] DEPARTMENT of [Correctional Services] CORRECTIONS AND COMMUNITY SUPERVISION shall not be required to perform any services related to such action or proceeding, including but not limited to transporting the inmate to or lodging or guarding him at

any place other than a state correctional institution unless and until the [Department] DEPARTMENT has received payment for such services.

S 57. Subdivisions 1 and 2 and paragraph (a) of subdivision 3 of section 79-a of the civil rights law, subdivision 1 as amended by chapter 118 of the laws of 1981 and subdivision 2 and paragraph (a) of subdivision 3 as added by chapter 687 of the laws of 1973, are amended to read as follows:

1. Except as provided in subdivisions two and three, a person sentenced to imprisonment for life is thereafter deemed civilly dead; provided, that such a person may marry while on [parole] COMMUNITY SUPERVISION, or after he OR SHE has been discharged from [parole] COMMUNITY SUPERVISION, if otherwise capable of contracting a valid marriage. A marriage contracted pursuant to this section by a person while he OR SHE is on [parole] COMMUNITY SUPERVISION, without prior written approval of the [board of parole] COMMISSIONER OF CORRECTIONS AND COMMUNITY SUPERVISION, shall be ground for revocation of the [parole] COMMUNITY SUPERVISION. This section shall not be deemed to impair the validity of a marriage between a person sentenced to imprisonment for life and his OR HER spouse.

2. A sentence to imprisonment for life shall not be deemed to suspend the right or capacity of any person so sentenced to commence, prosecute or defend an action or proceeding in any court within this state or before a body or officer exercising judicial, quasi-judicial or administrative functions within this state; provided, however, that where at the time of the commencement and during the prosecution or defense of such action or proceeding such person is an inmate of a state correctional institution, he OR SHE shall not appear at any place other than within the institution for any purpose related to such action or proceeding unless upon a subpoena issued by the court before whom such action or proceeding is pending or, where such action or proceeding is pending before a body or officer, before a judge to whom a petition for habeas corpus could be made under subdivision (b) of section seven thousand two of the civil practice law and rules upon motion of any party and upon a determination that such person's appearance is essential to the proper and just disposition of the action or proceeding. Unless the court orders otherwise, a motion for such subpoena shall be made on at least two days' notice to the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION.

(a) Except as provided in paragraph (b), the state shall not be liable for any expense of or related to any such action or proceeding, including but not limited to the expense of or related to transporting the inmate to, or lodging or guarding him OR HER at any place other than in a state correctional institution. The [Department] DEPARTMENT of [Correctional Services] CORRECTIONS AND COMMUNITY SUPERVISION shall not be required to perform any services related to such action or proceeding, including but not limited to transporting the inmate to or lodging or guarding him OR HER at any place other than a state correctional institution unless and until the [Department] DEPARTMENT has received payment for such services.

S 58. Subparagraphs (ii) and (iv) of paragraph (c) of subdivision 4 of section 58 of the civil service law, as amended by chapter 190 of the laws of 2008, are amended to read as follows:

(ii) Notwithstanding any other provision of law, in any jurisdiction, other than a city with a population of one million or more or the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, which does not administer examinations for designation to detec-

tive or investigator, any person who has received permanent appointment to the position of police officer, correction officer of any rank or deputy sheriff and is temporarily assigned to perform the duties of detective or investigator shall, whenever such assignment to the duties of a detective or investigator exceeds eighteen months, be permanently designated as a detective or investigator and receive the compensation ordinarily paid to persons in such designation.

(iv) Detectives and investigators designated since September twenty-third, nineteen hundred ninety and prior to February twenty-fourth, nineteen hundred ninety-five by any state, county, town, village or city (other than a city with a population of one million or more or the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION) police, correction or sheriffs department, pursuant to the provisions of this paragraph in effect during such period, who continue to serve in such positions, shall retain their detective or investigator status without any right to retroactive financial entitlement.

S 59. Subdivision 2 of section 59-a of the civil service law, as amended by chapter 190 of the laws of 2008, is amended to read as follows:

2. Notwithstanding the provisions of this chapter or any provisions to the contrary contained in any general, special, or local laws, any person holding a permanent competitive class appointment as a police officer, correction officer of any rank or deputy sheriff in a police force, police department or sheriffs department in a jurisdiction other than a city with a population of one million or more or the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, who was serving in a detective or investigator capacity, as designated by such police force, police department or sheriffs department, on the date such position was classified by the local civil service commission having jurisdiction and for at least eighteen months immediately preceding such date, shall receive a permanent appointment to a detective or investigator position, in such title as may be properly classified by the local civil service commission having jurisdiction, without further examination or qualifications and shall have all the rights and privileges of the jurisdictional class to which such position may be allocated.

S 60. Subparagraph 6 of paragraph b and the opening paragraphs of paragraphs g and j of subdivision 1 of section 130 of the civil service law, subparagraph 6 of paragraph b as added by chapter 4 of the laws of 2007, the opening paragraph of paragraph g as added by chapter 214 of the laws of 2009 and the opening paragraph of paragraph j as added by chapter 152 of the laws of 2010, are amended to read as follows:

(6) Effective on the dates indicated in paragraph i of this subdivision, salary grades for positions in the competitive, non-competitive and labor classes of the classified service of the state of New York in the collective negotiating unit designated as the security supervisors unit established pursuant to article fourteen of this chapter who are police officers pursuant to subdivision thirty-four of section 1.20 of the criminal procedure law, except those members designated as police officers pursuant to chapter six hundred ninety-three of the laws of two thousand six, shall be as prescribed in paragraph i of this subdivision. Effective on the dates indicated in paragraph j of this subdivision, salary grades for positions in the competitive, non-competitive and labor classes of the classified service of the state of New York in the collective negotiating unit designated as the security supervisors unit established pursuant to article fourteen of this chapter who are

employed by the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION and are designated as peace officers pursuant to subdivision twenty-five of section 2.10 of the criminal procedure law shall be as prescribed in paragraph j of this subdivision.

Pursuant to the terms of an interest arbitration award issued pursuant to subdivision four of section two hundred nine of this chapter covering members of the security services collective negotiating unit who are employed within the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION and who are designated as peace officers pursuant to section 2.10 of the criminal procedure law, effective on the dates indicated, salary grades for such unit members shall be as follows:

Pursuant to the terms of an agreement between the state and an employee organization entered into pursuant to article fourteen of [the civil service law] THIS CHAPTER covering members of the collective negotiating unit designated as security supervisors who are employed by the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION and are designated as peace officers pursuant to subdivision twenty-five of section 2.10 of the criminal procedure law, effective on the dates indicated, salary grades for such unit members shall be as follows:

S 61. Subdivision 2 of section 134 of the civil service law, as amended by chapter 373 of the laws of 1958, is amended to read as follows:

2. Any person employed by the state in any institution under the jurisdiction of the department of mental hygiene, the department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION, the department of health or the department of social welfare, or in the state barge canal system, or in the New York state school for the blind, Batavia, or in the New York state veterans' rest camp, Mt. McGregor, whose hours of labor are limited to forty hours per week, or six days per week, by law or administrative regulation, who is not allowed time off by the appointing officer, during any fiscal year commencing on or after April first, nineteen hundred forty-six, for any holiday, pass day or vacation period which he was eligible to receive by law or by administrative regulation, shall, upon the approval of the superintendent or other head of such institution or department and the director of the budget, be entitled to compensation therefor at the hourly rate of pay received by such employee, or shall be allowed an equivalent amount of time off in lieu of such compensation.

S 62. Subdivisions 1, 2 and 3 of section 136 of the civil service law, subdivisions 1 and 3 as separately amended by chapters 471 and 474 of the laws of 1980, and subdivision 2 as amended by chapter 74 of the laws of 2000, are amended to read as follows:

1. The term "teacher", for purposes of this section, means any employee of a state facility or institution in the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES in the executive department and in the departments of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, health, mental hygiene and social services holding a position the principal duty of which is the teaching or instruction of patients or inmates, or the direct supervision of such teaching or instruction, including an institution education director, as determined by the department of civil service subject to approval of the director of the budget.

2. The annual salary of a teacher shall be determined in accordance with the provisions of this article. Commencing July first, two thou-

sand, the total salary which a teacher would otherwise be entitled to receive for any year beginning on July first shall be paid over either (a) a period of consecutive months beginning with the first day of the facility's or institution's academic year, as determined by the employer, and ending with the last day of the facility's or institution's academic year, as determined by the employer or, in the case of a teacher in the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, over a period of ten consecutive months designated by the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or (b) a period of twelve months from September first to August thirty-first. Any such teacher who is required to work in his position or in any other position allocated to a salary grade in section one hundred thirty of this chapter in the period of time that is outside the facility's or institution's academic year, as determined by the employer or, in the case of a teacher in the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION in the two month period outside of the ten consecutive months designated by the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION shall receive additional compensation therefor. If such work is performed in his regular position or title or in a position the title of which is allocated to the same salary grade as his regular position, he shall receive additional compensation therefor at the hourly rate of pay received by him in his regular position. If such work is performed in a position having a title allocated to a lower salary grade than the salary grade to which the title of his regular position is allocated, he shall receive additional compensation therefor at the hourly rate of pay of the job rate of the grade of the position in which such work is performed, or at such job rate plus the additional increment or increments of such grade if he would be entitled to such additional increment or increments were he then appointed to such position; provided, however, that when such hourly rate exceeds the hourly rate of pay received by him in his regular position, his additional compensation shall be at the hourly rate of pay of his regular position. When such work is performed in a position allocated to a salary grade higher than the salary grade to which his regular position is allocated, he shall receive additional compensation therefor at the hourly rate of pay of the rate of compensation to which he would be entitled if he were permanently promoted to the position in which such work is performed.

3. Teachers shall not be subject to the rules governing sick leaves, vacations, time allowances and other conditions of employment in the classified service of the state established pursuant to PARAGRAPH (C) OF subdivision one [(c)] of section six of the civil service law. The director of the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES, the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, the commissioner of health, the commissioner of mental [hygiene] HEALTH and the commissioner of social services, respectively, shall adopt regulations for sick leaves, vacations, time allowances and other conditions of employment which shall be applicable to teachers under its or his jurisdiction and, notwithstanding any other provision of law, such rules may provide for cash payment of the monetary value of accumulated and unused vacation and time allowances granted in lieu of overtime compensation standing to the credit of an employee at the time of his separation from service or his entrance into the armed forces of the United States for active duty (other than for training) as defined in title ten of the United States code, whether or not such entrance constitutes a separation from service, and for the payment

of the monetary value of his accumulated and unused time allowances granted in lieu of overtime compensation standing to the credit of an employee at the time of his appointment, promotion or transfer to another department or agency of the state. Such rules shall be subject to approval of the state civil service commission.

S 63. Paragraph (a) of subdivision 1 of section 178 of the civil service law, as added by chapter 390 of the laws of 2005, is amended to read as follows:

(a) "Assailant" means a person arrested and charged with a crime, as defined in section 10.00 of the penal law, or a person committed to, certified to, or placed in the custody of the department of [corrections] CORRECTIONS AND COMMUNITY SUPERVISION or any other correctional facility or county jail.

S 64. Subdivision 2, the opening paragraph and paragraph (f) of subdivision 4 of section 209 of the civil service law, subdivision 2 and the opening paragraph of subdivision 4 as amended by chapter 234 of the laws of 2008, paragraph (f) of subdivision 4 as amended by chapter 179 of the laws of 2008, are amended to read as follows:

2. Public employers are hereby empowered to enter into written agreements with recognized or certified employee organizations setting forth procedures to be invoked in the event of disputes which reach an impasse in the course of collective negotiations. Such agreements may include the undertaking by each party to submit unresolved issues to impartial arbitration. In the absence or upon the failure of such procedures, public employers and employee organizations may request the board to render assistance as provided in this section, or the board may render such assistance on its own motion, as provided in subdivision three of this section, or, in regard to officers or members of any organized fire department, or any unit of the public employer which previously was a part of an organized fire department whose primary mission includes the prevention and control of aircraft fires, police force or police department of any county, city, town, village or fire or police district, or detective-investigators, or rackets investigators employed in the office of a district attorney of a county, or in regard to any organized unit of troopers, commissioned or noncommissioned officers of the division of state police, or in regard to investigators, senior investigators and investigator specialists of the division of state police, or in regard to members of collective negotiating units designated as security services and security supervisors who are police officers, who are forest ranger captains or who are employed by the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION and are designated as peace officers pursuant to subdivision twenty-five of section 2.10 of the criminal procedure law, or in regard to members of the collective negotiating unit designated as the agency law enforcement services unit who are police officers pursuant to subdivision thirty-four of section 1.20 of the criminal procedure law or who are forest rangers, or in regard to organized units of deputy sheriffs who are engaged directly in criminal law enforcement activities that aggregate more than fifty per centum of their service as certified by the county sheriff and are police officers pursuant to subdivision thirty-four of section 1.20 of the criminal procedure law as certified by the municipal police training council or Suffolk county correction officers or Suffolk county park police, as provided in subdivision four of this section.

On request of either party or upon its own motion, as provided in subdivision two of this section, and in the event the board determines that an impasse exists in collective negotiations between such employee

organization and a public employer as to the conditions of employment of officers or members of any organized fire department, or any other unit of the public employer which previously was a part of an organized fire department whose primary mission includes the prevention and control of aircraft fires, police force or police department of any county, city, town, village or fire or police district, and detective-investigators, criminal investigators or rackets investigators employed in the office of a district attorney, or as to the conditions of employment of members of any organized unit of troopers, commissioned or noncommissioned officers of the division of state police or as to the conditions of employment of members of any organized unit of investigators, senior investigators and investigator specialists of the division of state police, or as to the terms and conditions of employment of members of collective negotiating units designated as security services and security supervisors, who are police officers, who are forest ranger captains or who are employed by the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION and are designated as peace officers pursuant to subdivision twenty-five of section 2.10 of the criminal procedure law, or in regard to members of the collective negotiating unit designated as the agency law enforcement services unit who are police officers pursuant to subdivision thirty-four of section 1.20 of the criminal procedure law or who are forest rangers, or as to the conditions of employment of any organized unit of deputy sheriffs who are engaged directly in criminal law enforcement activities that aggregate more than fifty per centum of their service as certified by the county sheriff and are police officers pursuant to subdivision thirty-four of section 1.20 of the criminal procedure law as certified by the municipal police training council or Suffolk county correction officers or Suffolk county park police, the board shall render assistance as follows:

(f) With regard to any members of collective negotiating units designated as security services or security supervisors, who are police officers, who are forest ranger captains or who are employed by the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION and are designated as peace officers pursuant to subdivision twenty-five of section 2.10 of the criminal procedure law, or in regard to members of the collective negotiating unit designated as the agency law enforcement services unit who are police officers pursuant to subdivision thirty-four of section 1.20 of the criminal procedure law or who are forest rangers, or in regard to detective-investigators, criminal investigators or rackets investigators employed in the office of a district attorney of a county contained within a city with a population of one million or more, the provisions of this section shall only apply to the terms of collective bargaining agreements directly relating to compensation, including, but not limited to, salary, stipends, location pay, insurance, medical and hospitalization benefits; and shall not apply to non-compensatory issues including, but not limited to, job security, disciplinary procedures and actions, deployment or scheduling, or issues relating to eligibility for overtime compensation which shall be governed by other provisions proscribed by law.

S 65. Section 217-a of the county law, as added by chapter 134 of the laws of 1984, is amended to read as follows:

S 217-a. Qualification for employment as a county correction officer. A county may adopt the provisions contained in section twenty-two-a of the correction law relating to qualifications of its officials who may thereafter be appointed in a law enforcement capacity in any of its penal correctional institutions. Any determination that would otherwise

be made by the commissioner or his OR HER designee of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION under the provisions of section twenty-two-a of the correction law, shall, if such provisions are so adopted, be made by the appointing authority for such officials.

S 66. Subdivision 4 of section 652 of the county law is amended to read as follows:

4. Before the appointment by a sheriff of any person as an undersheriff or a deputy, other than a person deputed to do particular acts, the sheriff shall require such person to, and such person shall, submit to the sheriff fingerprints of [the two hands of] such person, IN THE FORM AND MANNER PRESCRIBED BY THE DIVISION OF CRIMINAL JUSTICE SERVICES, and it shall thereupon be the duty of the sheriff to compare, or cause to be compared such fingerprints with fingerprints filed with the division of criminal [identification of the state department of correction] JUSTICE SERVICES; provided, however, that in any case where the fingerprints of any such person shall once have been submitted pursuant to this section and are on file in the office of the sheriff, no new submission thereof shall be required, nor shall the sheriff be required to make or cause to be made such comparison if such comparison shall have been made previously and certification thereof by such department is on file in his office.

S 67. Subdivision 9 of section 10 of the court of claims act, as added by section 2 of part D of chapter 412 of the laws of 1999, is amended to read as follows:

9. A claim of any inmate in the custody of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION for recovery of damages for injury to or loss of personal property may not be filed unless and until the inmate has exhausted the personal property claims administrative remedy, established for inmates by the department. Such claim must be filed and served within one hundred twenty days after the date on which the inmate has exhausted such remedy.

S 68. Subdivision 6-a of section 20 of the court of claims act, as amended by section 46 of part A-1 of chapter 56 of the laws of 2010, is amended to read as follows:

6-a. Notwithstanding the provisions of subdivisions five, five-a and six of this section, in any case where a judgment or any part thereof is to be paid to an inmate serving a sentence of imprisonment with the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or to a prisoner confined at a local correctional facility, the comptroller shall give written notice, if required pursuant to subdivision two of section six hundred thirty-two-a of the executive law, to the office of victim services that such judgment shall be paid thirty days after the date of such notice.

S 69. Section 20-a of the court of claims act, as amended by chapter 62 of the laws of 2001, is amended to read as follows:

S 20-a. Settlement of claims. Notwithstanding any inconsistent provision of this act or of the state finance law, the comptroller shall examine, audit, and certify for payment the settlement of any claim filed in the court of claims for injuries to personal property, real property, or for personal injuries caused by the tort of an officer or employee of the state while acting as such officer or employee, provided that a stipulation of settlement executed by the parties shall have been approved by order of the court. No such stipulation shall be executed on behalf of the state without, after consultation with the director of the budget, the approval of the head of the department or agency having

supervision of the officer or employee alleged to have caused the injuries and of the attorney general. The attorney general shall cause a review to be made within the department of law of all cases filed in the court of claims to determine which cases are appropriate for possible settlement. Payment of any claim made pursuant to the approval of a settlement by the court shall be made from the funds appropriated for the purpose of payment of judgments against the state pursuant to section twenty of this act. In any case where payment is to be made to an inmate serving a sentence of imprisonment with the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or to a prisoner confined at a local correctional facility, the procedures set forth in subdivision six-a of section twenty of this article shall be followed. On or before January fifteenth the comptroller, in consultation with the department of law and other agencies as may be appropriate, shall submit to the governor and the legislature an annual accounting of settlements paid pursuant to this section during the preceding and current fiscal years. Such accounting shall include, but not be limited to the number, type and amount of claims so paid, as well as an estimate of claims to be paid during the remainder of the current fiscal year and during the following fiscal year.

S 70. Subdivisions 23, 23-a and 25 of section 2.10 of the criminal procedure law, subdivisions 23 and 25 as added by chapter 843 of the laws of 1980, and subdivision 23-a as added by chapter 404 of the laws of 2000, are amended to read as follows:

23. Parole officers or warrant officers in the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION.

23-a. Parole revocation specialists in the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION; provided, however, that nothing in this subdivision shall be deemed to authorize such employee to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to section 400.00 of the penal law.

25. Officials, as designated by the commissioner of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION pursuant to rules of the department, and correction officers of any state correctional facility or of any penal correctional institution.

S 71. Section 120.55 of the criminal procedure law, as amended by chapter 456 of the laws of 1981, is amended to read as follows:

S 120.55 [Warant] WARRANT of arrest; [defendent] DEFENDANT under parole or probation supervision.

If the defendant named within a warrant of arrest issued by a local criminal court pursuant to the provisions of this article, or by a superior court issued pursuant to subdivision three of section 210.10 of [such] THIS chapter, is under the supervision of the state [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION or a local or state probation department, then a warrant for his OR HER arrest may be executed by a parole officer or probation officer, when authorized by his OR HER probation director, within his OR HER geographical area of employment. The execution of the warrant by a parole officer or probation officer shall be upon the same conditions and conducted in the same manner as provided for execution of a warrant by a police officer.

S 72. Subdivisions 1, 2, 3 and 5 of section 140.10 of the criminal procedure law, subdivisions 1, 2 and 3 as amended by chapter 997 of the laws of 1970, paragraph (a) of subdivision 2 as amended by chapter 300 of the laws of 2003, and subdivision 5 as amended by chapter 476 of the laws of 2009, are amended to read as follows:

S 140.10 Arrest without a warrant; by police officer; when and where authorized.

1. Subject to the provisions of subdivision two, a police officer may arrest a person for:

(a) Any offense when he OR SHE has reasonable cause to believe that such person has committed such offense in his OR HER presence; and

(b) A crime when he OR SHE has reasonable cause to believe that such person has committed such crime, whether in his OR HER presence or otherwise.

2. A police officer may arrest a person for a petty offense, pursuant to subdivision one, only when:

(a) Such offense was committed or believed by him or her to have been committed within the geographical area of such police officer's employment or within one hundred yards of such geographical area; and

(b) Such arrest is made in the county in which such offense was committed or believed to have been committed or in an adjoining county; except that the police officer may follow such person in continuous close pursuit, commencing either in the county in which the offense was or is believed to have been committed or in an adjoining county, in and through any county of the state, and may arrest him OR HER in any county in which he OR SHE apprehends him OR HER.

3. A police officer may arrest a person for a crime, pursuant to subdivision one, whether or not such crime was committed within the geographical area of such police officer's employment, and he OR SHE may make such arrest within the state, regardless of the situs of the commission of the crime. In addition, he OR SHE may, if necessary, pursue such person outside the state and may arrest him OR HER in any state the laws of which contain provisions equivalent to those of section 140.55.

5. Upon investigating a report of a crime or offense between members of the same family or household as such terms are defined in section 530.11 of this chapter and section eight hundred twelve of the family court act, a law enforcement officer shall prepare and file a written report of the incident, on a form promulgated pursuant to section eight hundred thirty-seven of the executive law, including statements made by the victim and by any witnesses, and make any additional reports required by local law enforcement policy or regulations. Such report shall be prepared and filed, whether or not an arrest is made as a result of the officers' investigation, and shall be retained by the law enforcement agency for a period of not less than four years. Where the reported incident involved an offense committed against a person who is sixty-five years of age or older a copy of the report required by this subdivision shall be sent to the New York state committee for the coordination of police services to elderly persons established pursuant to section eight hundred forty-four-b of the executive law. Where the reported incident involved an offense committed by an individual known by the law enforcement officer to be under probation or parole supervision, he or she shall transmit a copy of the report as soon as practicable to the supervising probation department or the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION.

S 73. Paragraph (d) of subdivision 1 of section 160.50 of the criminal procedure law, as amended by chapter 169 of the laws of 1994, is amended to read as follows:

(d) such records shall be made available to the person accused or to such person's designated agent, and shall be made available to (i) a prosecutor in any proceeding in which the accused has moved for an order

pursuant to section 170.56 or 210.46 of this chapter, or (ii) a law enforcement agency upon ex parte motion in any superior court, if such agency demonstrates to the satisfaction of the court that justice requires that such records be made available to it, or (iii) any state or local officer or agency with responsibility for the issuance of licenses to possess guns, when the accused has made application for such a license, or (iv) the New York state [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION when the accused is on parole supervision as a result of conditional release or a parole release granted by the New York state board of parole, and the arrest which is the subject of the inquiry is one which occurred while the accused was under such supervision or (v) any prospective employer of a police officer or peace officer as those terms are defined in subdivisions thirty-three and thirty-four of section 1.20 of this chapter, in relation to an application for employment as a police officer or peace officer; provided, however, that every person who is an applicant for the position of police officer or peace officer shall be furnished with a copy of all records obtained under this paragraph and afforded an opportunity to make an explanation thereto, or (vi) the probation department responsible for supervision of the accused when the arrest which is the subject of the inquiry is one which occurred while the accused was under such supervision; and

S 74. Paragraph (d) of subdivision 1 of section 160.55 of the criminal procedure law, as amended by chapter 476 of the laws of 2009, is amended to read as follows:

(d) the records referred to in paragraph (c) of this subdivision shall be made available to the person accused or to such person's designated agent, and shall be made available to (i) a prosecutor in any proceeding in which the accused has moved for an order pursuant to section 170.56 or 210.46 of this chapter, or (ii) a law enforcement agency upon ex parte motion in any superior court, if such agency demonstrates to the satisfaction of the court that justice requires that such records be made available to it, or (iii) any state or local officer or agency with responsibility for the issuance of licenses to possess guns, when the accused has made application for such a license, or (iv) the New York state [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION when the accused is under parole supervision as a result of conditional release or parole release granted by the New York state board of parole and the arrest which is the subject of the inquiry is one which occurred while the accused was under such supervision, or (v) the probation department responsible for supervision of the accused when the arrest which is the subject of the inquiry is one which occurred while the accused was under such supervision, or (vi) a police agency, probation department, sheriff's office, district attorney's office, department of correction of any municipality and parole department, for law enforcement purposes, upon arrest in instances in which the individual stands convicted of harassment in the second degree, as defined in section 240.26 of the penal law, committed against a member of the same family or household as the defendant, as defined in subdivision one of section 530.11 of this chapter, and determined pursuant to subdivision eight-a of section 170.10 of this title; and

S 75. Subdivisions 4 and 5 of section 380.50 of the criminal procedure law, as amended by chapter 7 of the laws of 2007, are amended to read as follows:

4. Regardless of whether the victim requests to make a statement with regard to the defendant's sentence, where the defendant is committed to

the custody of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION upon a sentence of imprisonment for conviction of a violent felony offense as defined in section 70.02 of the penal law or a felony defined in article one hundred twenty-five of such law, or a sex offense as defined in subdivision (p) of section 10.03 of the mental hygiene law, within sixty days of the imposition of sentence the prosecutor shall provide the victim with a form, prepared and distributed by the commissioner of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, on which the victim may indicate a demand to be informed of the escape, absconding, discharge, parole, conditional release, release to post-release supervision, transfer to the custody of the office of mental health pursuant to article ten of the mental hygiene law, or release from confinement under article ten of the mental hygiene law of the person so imprisoned. If the victim submits a completed form to the prosecutor, it shall be the duty of the prosecutor to mail promptly such form to the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION.

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

S 76. Subdivisions 1, 6 and 8 of section 410.91 of the criminal procedure law, subdivision 1 as amended by chapter 121 of the laws of 2010 and subdivisions 6 and 8 as added by chapter 3 of the laws of 1995, are amended to read as follows:

1. A sentence of parole supervision is an indeterminate sentence of imprisonment, or a determinate sentence of imprisonment imposed pursuant to paragraphs (b) and (d) of subdivision three of section 70.70 of the penal law, which may be imposed upon an eligible defendant, as defined in subdivision two of this section. If an indeterminate sentence, such sentence shall have a minimum term and a maximum term within the ranges specified by subdivisions three and four of section 70.06 of the penal law. If a determinate sentence, such sentence shall have a term within the ranges specified by subparagraphs (iii) and (iv) of paragraph (b) of subdivision three of section 70.70 of the penal law. Provided, however, if the court directs that the sentence be executed as a sentence of

parole supervision, it shall remand the defendant for immediate delivery to a reception center operated by the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, in accordance with section 430.20 of this chapter and section six hundred one of the correction law, for a period not to exceed ten days. An individual who receives such a sentence shall be placed under the immediate supervision of the [state division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION and must comply with the conditions of parole, which shall include an initial placement in a drug treatment campus for a period of ninety days at which time the defendant shall be released therefrom.

6. Upon delivery of the defendant to the reception center, he or she shall be given a copy of the conditions of parole by a representative of the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION and shall acknowledge receipt of a copy of the conditions in writing. The conditions shall be established in accordance with article twelve-B of the executive law and the rules and regulations of the [division] BOARD of parole. Thereafter and while the parolee is participating in the intensive drug treatment program provided at the drug treatment campus, the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION shall assess the parolee's special needs and shall develop an intensive program of parole supervision that will address the parolee's substance abuse history and which shall include periodic urinalysis testing. Unless inappropriate, such program shall include the provision of treatment services by a community-based substance abuse service provider which has a contract with the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION.

8. If the parole officer having charge of a person sentenced to parole supervision pursuant to this section has reasonable cause to believe that such person has violated the conditions of his or her parole, the procedures of subdivision three of section two hundred fifty-nine-i of the executive law shall apply to the issuance of a warrant and the conduct of further proceedings; provided, however, that a parole violation warrant issued for a violation committed while the parolee is being supervised at a drug treatment campus shall constitute authority for the immediate placement of the parolee into a correctional facility operated by the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, which to the extent practicable shall be reasonably proximate to the place at which the violation occurred, to hold in temporary detention pending completion of the procedures required by subdivision three of section two hundred fifty-nine-i of the executive law.

S 77. Subdivisions 2 and 4 of section 430.20 of the criminal procedure law, as amended by chapter 3 of the laws of 1995, are amended to read as follows:

2. Indeterminate and determinate sentences. In the case of an indeterminate or determinate sentence of imprisonment, commitment must be to the custody of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION as provided in subdivision one of section 70.20 of the penal law. The order of commitment must direct that the defendant be delivered to an institution designated by the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION in accordance with the provisions of the correction law.

4. Certain resentences. When a sentence of imprisonment that has been imposed on a defendant is vacated and a new sentence is imposed on such defendant for the same offense, or for an offense based upon the same

act, if the term of the new definite or determinate sentence or the maximum term of the new indeterminate sentence so imposed is less than or equal to that of the vacated sentence:

(a) where the time served by the defendant on the vacated sentence is equal to or greater than the term or maximum term of the new sentence, the new sentence shall be deemed to be served in its entirety and the defendant shall not be committed to a correctional facility pursuant to said sentence; and

(b) where the defendant was under the supervision of a local conditional release commission or the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION at the time the sentence was vacated, then the commitment shall direct that said conditional release or parole be recommenced, and the defendant shall not be committed to a correctional facility pursuant to said sentence, except as a result of revocation of parole or of conditional release; and

(c) where the defendant was not under the supervision of the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION at the time the indeterminate or determinate sentence was vacated, but would immediately be eligible for conditional release from the new indeterminate or determinate sentence, the court shall ascertain from the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION whether the defendant has earned a sufficient amount of good time under the vacated sentence so as to require the conditional release of the defendant under the new sentence; in the event the defendant has earned a sufficient amount of good time, the court shall stay execution of sentence until the defendant surrenders at a correctional facility pursuant to the direction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, which shall occur no later than sixty days after imposition of sentence; upon said stay of execution, the court clerk shall immediately mail to the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION a certified copy of the commitment reflecting said stay of execution and the name, mailing address and telephone number of the defendant's legal representative; in the event the defendant fails to surrender as directed by the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, the department shall notify the court which shall thereafter remand the defendant to custody pursuant to section 430.30 of this article; and

(d) upon the resentence of a defendant as described in this subdivision, the court clerk shall immediately mail a certified copy of the commitment to the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION if the vacated sentence or the new sentence is an indeterminate or determinate sentence and no mailing is required by paragraph (c) of this subdivision; additionally, the court clerk shall immediately mail a certified copy of the new commitment to the head of the appropriate local correctional facility if the vacated sentence or the new sentence is a definite sentence.

S 78. Subdivisions 2 and 4 of section 430.20 of the criminal procedure law, subdivision 2 as amended by chapter 788 of the laws of 1971 and subdivision 4 as amended by chapter 370 of the laws of 1994, are amended to read as follows:

2. Indeterminate [and reformatory] sentences. In the case of an indeterminate [or reformatory] sentence of imprisonment, commitment must be to the custody of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION as provided in subdivision one of section 70.20 [and section 75.05] of the penal law. The order of commit-

ment must direct that the defendant be delivered to an institution designated by the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION in accordance with the provisions of the correction law.

4. Certain resentences. When a sentence of imprisonment that has been imposed on a defendant is vacated and a new sentence is imposed on such defendant for the same offense, or for an offense based upon the same act, if the term of the new definite sentence or the maximum term of the new indeterminate sentence so imposed is less than or equal to that of the vacated sentence:

(a) where the time served by the defendant on the vacated sentence is equal to or greater than the term or maximum term of the new sentence, the new sentence shall be deemed to be served in its entirety and the defendant shall not be committed to a correctional facility pursuant to said sentence; and

(b) where the defendant was under the supervision of a local conditional release commission or the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION at the time the sentence was vacated, then the commitment shall direct that said conditional release or parole be recommenced, and the defendant shall not be committed to a correctional facility pursuant to said sentence, except as a result of revocation of parole or of conditional release; and

(c) where the defendant was not under the supervision of the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION at the time the indeterminate sentence was vacated, but would immediately be eligible for conditional release from the new indeterminate sentence, the court shall ascertain from the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION whether the defendant has earned a sufficient amount of good time under the vacated sentence so as to require the conditional release of the defendant under the new sentence; in the event the defendant has earned a sufficient amount of good time, the court shall stay execution of sentence until the defendant surrenders at a correctional facility pursuant to the direction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, which shall occur no later than sixty days after imposition of sentence; upon said stay of execution, the court clerk shall immediately mail to the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION a certified copy of the commitment reflecting said stay of execution and the name, mailing address and telephone number of the defendant's legal representative; in the event the defendant fails to surrender as directed by the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, the department shall notify the court which shall thereafter remand the defendant to custody pursuant to section 430.30 of this article; and

(d) upon the resentence of a defendant as described in this subdivision, the court clerk shall immediately mail a certified copy of the commitment to the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION if the vacated sentence or the new sentence is an indeterminate sentence and no mailing is required by paragraph (c) of this subdivision; additionally, the court clerk shall immediately mail a certified copy of the new commitment to the head of the appropriate local correctional facility if the vacated sentence or the new sentence is a definite sentence.

S 79. Subdivision 1 of section 440.46 of the criminal procedure law, as added by section 9 of part AAA of chapter 56 of the laws of 2009, is amended to read as follows:

1. Any person in the custody of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION convicted of a class B felony offense defined in article two hundred twenty of the penal law which was committed prior to January thirteenth, two thousand five, who is serving an indeterminate sentence with a maximum term of more than three years, may, except as provided in subdivision five of this section, upon notice to the appropriate district attorney, apply to be resentenced to a determinate sentence in accordance with sections 60.04 and 70.70 of the penal law in the court which imposed the sentence.

S 80. Subdivision 1 of section 440.50 of the criminal procedure law, as amended by chapter 186 of the laws of 2005, is amended to read as follows:

1. Upon the request of a victim of a crime, or in any event in all cases in which the final disposition includes a conviction of a violent felony offense as defined in section 70.02 of the penal law or a felony defined in article one hundred twenty-five of such law, the district attorney shall, within sixty days of the final disposition of the case, inform the victim by letter of such final disposition. If such final disposition results in the commitment of the defendant to the custody of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION for an indeterminate sentence, the notice provided to the crime victim shall also inform the victim of his or her right to submit a written, audiotaped, or videotaped victim impact statement to the [state division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION or to meet personally with a member of the state board of parole at a time and place separate from the personal interview between a member or members of the board and the inmate and make such a statement, subject to procedures and limitations contained in rules of the board, both pursuant to subdivision two of section two hundred fifty-nine-i of the executive law. The right of the victim under this subdivision to submit a written victim impact statement or to meet personally with a member of the state board of parole applies to each personal interview between a member or members of the board and the inmate.

S 81. Subdivisions 8 and 9 of section 530.12 of the criminal procedure law, subdivision 8 as amended by section 5 of part D of chapter 56 of the laws of 2008, and subdivision 9 as amended by chapter 530 of the laws of 1980, are amended to read as follows:

8. In any proceeding in which an order of protection or temporary order of protection or a warrant has been issued under this section, the clerk of the court shall issue to the complainant and defendant and defense counsel and to any other person affected by the order a copy of the order of protection or temporary order of protection and ensure that a copy of the order of protection or temporary order of protection be transmitted to the local correctional facility where the individual is or will be detained, the state or local correctional facility where the individual is or will be imprisoned, and the supervising probation department or [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION where the individual is under probation or parole supervision. The presentation of a copy of such order or a warrant to any peace officer acting pursuant to his OR HER special duties or police officer shall constitute authority for him OR HER to arrest a person who has violated the terms of such order and bring such person before the court and, otherwise, so far as lies within his OR HER power, to aid in securing the protection such order was intended to afford.

9. If no warrant, order or temporary order of protection has been issued by the court, and an act alleged to be a family offense as

defined in section 530.11 of this chapter is the basis of the arrest, the magistrate shall permit the complainant to file a petition, information or accusatory instrument and for reasonable cause shown, shall thereupon hold such respondent or defendant, admit to, fix or accept bail, or parole him OR HER for hearing before the family court or appropriate criminal court as the complainant shall choose in accordance with the provisions of section 530.11 of this chapter.

S 82. Subdivision 6 of section 530.13 of the criminal procedure law, as amended by section 6 of part D of chapter 56 of the laws of 2008, is amended to read as follows:

6. In any proceeding in which an order of protection or temporary order of protection or a warrant has been issued under this section, the clerk of the court shall issue to the victim and the defendant and defense counsel and to any other person affected by the order, a copy of the order of protection or temporary order of protection and ensure that a copy of the order of protection or temporary order of protection be transmitted to the local correctional facility where the individual is or will be detained, the state or local correctional facility where the individual is or will be imprisoned, and the supervising probation department or [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION where the individual is under probation or parole supervision. The presentation of a copy of such order or a warrant to any police officer or peace officer acting pursuant to his OR HER special duties shall constitute authority for him OR HER to arrest a person who has violated the terms of such order and bring such person before the court and, otherwise, so far as lies within his OR HER power, to aid in securing the protection such order was intended to afford.

S 83. Subdivisions 4, 5 and 6 of section 530.70 of the criminal procedure law, subdivisions 4 and 5 as added and subdivision 6 as renumbered by chapter 565 of the laws of 1988 and subdivision 6 as amended by chapter 456 of the laws of 1981, are amended to read as follows:

4. The issuing court may authorize the delegation of such warrant. Where the issuing court has so authorized, a police officer to whom a bench warrant is addressed may delegate another police officer to whom it is not addressed to execute such warrant as his OR HER agent when:

(a) He OR SHE has reasonable cause to believe that the defendant is in a particular county other than the one in which the warrant is returnable; and

(b) The geographical area of employment of the delegated police officer embraces the locality where the arrest is to be made.

5. Under circumstances specified in subdivision four, the police officer to whom the bench warrant is addressed may inform the delegated officer, by telecommunication, mail or any other means, of the issuance of the warrant, of the offense charged in the underlying accusatory instrument and of all other pertinent details, and may request him OR HER to act as his OR HER agent in arresting the defendant pursuant to such bench warrant. Upon such request, the delegated police officer is to the same extent as the delegating officer, authorized to make such arrest pursuant to the bench warrant within the geographical area of such delegated officer's employment. Upon so arresting the defendant, he OR SHE must without unnecessary delay deliver the defendant or cause him OR HER to be delivered to the custody of the police officer by whom he OR SHE was so delegated, and the latter must then without unnecessary delay bring the defendant before the court in which such bench warrant is returnable.

6. A bench warrant may be executed by an officer of the state [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION or a probation officer when the person named within the warrant is under the supervision of the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION or a department of probation and the probation officer is authorized by his OR HER probation director, as the case may be. The warrant must be executed upon the same conditions and in the same manner as is otherwise provided for execution by a police officer.

S 84. Section 570.54 of the criminal procedure law, subdivisions 2 and 3 as amended by chapter 2 of the laws of 1980, is amended to read as follows:

S 570.54 Application for issuance of requisition; by whom made; contents.

1. When the return to this state of a person charged with crime in this state is required, the district attorney of the county in which the offense was committed, or, if the offense is one which is cognizable by him OR HER, the attorney general shall present to the governor his OR HER written application for a requisition for the return of the person charged, in which application shall be stated the name of the person so charged, the crime charged against him OR HER, the approximate time, place and circumstances of its commission, the state in which he OR SHE is believed to be, including the location of the accused therein at the time the application is made and certifying that, in the opinion of the said district attorney or attorney general the ends of justice require the arrest and return of the accused to this state for trial and that the proceeding is not instituted to enforce a private claim.

2. When there is required the return to this state of a person who has been convicted of a crime in this state and has escaped from confinement or broken the terms of his OR HER bail, probation or parole, the district attorney of the county in which the offense was committed, [the parole board, or] the warden of the institution or sheriff of the county, from which escape was made, or the commissioner of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or his OR HER designee shall present to the governor a written application for a requisition for the return of such person, in which application shall be stated the name of the person, the crime of which he OR SHE was convicted, the circumstances of his OR HER escape from confinement or of the breach of the terms of his OR HER bail, probation or parole, the state in which he OR SHE is believed to be, including the location of the person therein at the time the application is made.

3. The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two certified copies of the accusatory instrument stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The district attorney, attorney general, [parole board,] warden, sheriff or the commissioner of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or his OR HER designee may also attach such further affidavits and other documents in duplicate as he OR SHE shall deem proper to be submitted with such application. One copy of the application, with the action of the governor indicated by endorsement thereon, and one of the certified copies of the accusatory instrument, or of the judgment of conviction or the sentence shall be filed in the office of the secretary of state to remain of record in that office. The other copies of all papers shall be forwarded with the governor's requisition.

S 85. Section 570.56 of the criminal procedure law, as amended by chapter 193 of the laws of 1995, is amended to read as follows:

S 570.56 Expense of extradition.

The expenses of extradition must be borne by the county from which the application for a requisition comes or, where the application is made by the attorney general, by the county in which the offense was committed. In the case of extradition of a person who has been convicted of a crime in this state and has escaped from a state prison or reformatory, the expense of extradition shall be borne by the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION. Where a person has broken the terms of his OR HER parole from a state prison or reformatory, the expense of extradition shall be borne by the state [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION. Where a person has broken the terms of his OR HER bail or probation, the expense of extradition shall be borne by the county. Where a person has been convicted but not yet confined to a prison, or has been sentenced for a felony to a county jail or penitentiary and escapes, the expenses of extradition shall be charged to the county from whose custody the escape is effected. Nothing in this section shall preclude a county[,] OR the department of [correctional services or the state division of parole] CORRECTIONS AND COMMUNITY SUPERVISION, as the case may be, from collecting the expenses involved in extradition from the person who was extradited.

S 86. Section 650.10 of the criminal procedure law, as amended by chapter 550 of the laws of 1978, is amended to read as follows:

S 650.10 Securing attendance of prisoner in this state as witness in proceeding without the state.

If a judge of a court of record in any other state, which by its laws has made provision for commanding a prisoner within that state to attend and testify in this state, certifies under the seal of that court that there is a criminal prosecution pending in such court or that a grand jury investigation has commenced, and that a person confined in a New York state correctional institution or prison within the department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION, other than a person confined as criminally mentally ill, or as a defective delinquent, or confined in the death house awaiting execution, is a material witness in such prosecution or investigation and that his OR HER presence is required for a specified number of days, upon presentment of such certificate to a judge of a superior court in the county where the person is confined, upon notice to the attorney general, such judge, shall fix a time and place for a hearing and shall make an order directed to the person having custody of the prisoner requiring that such prisoner be produced at the hearing.

If at such hearing the judge determines that the prisoner is a material and necessary witness in the requesting state, the judge shall issue an order directing that the prisoner attend in the court where the prosecution or investigation is pending, upon such terms and conditions as the judge prescribes, including among other things, provision for the return of the prisoner at the conclusion of his OR HER testimony, proper safeguards on his OR HER custody, and proper financial reimbursement or other payment by the demanding jurisdiction for all expenses incurred in the production and return of the prisoner.

The attorney general is authorized as agent for the state of New York, when in his OR HER judgment it is necessary, to enter into such agreements with the appropriate authorities of the demanding jurisdiction as

he OR SHE determines necessary to ensure proper compliance with the order of the court.

S 87. Subdivisions 1, 2 and 4 of section 720.35 of the criminal procedure law, subdivision 1 as amended by chapter 452 of the laws of 1992, subdivision 2 as amended by chapter 412 of the laws of 2001 and subdivision 4 as added by chapter 7 of the laws of 2007, are amended to read as follows:

1. A youthful offender adjudication is not a judgment of conviction for a crime or any other offense, and does not operate as a disqualification of any person so adjudged to hold public office or public employment or to receive any license granted by public authority but shall be deemed a conviction only for the purposes of transfer of supervision and custody pursuant to section two hundred fifty-nine-m of the executive law.

2. Except where specifically required or permitted by statute or upon specific authorization of the court, all official records and papers, whether on file with the court, a police agency or the division of criminal justice services, relating to a case involving a youth who has been adjudicated a youthful offender, are confidential and may not be made available to any person or public or private agency, other than the designated educational official of the public or private elementary or secondary school in which the youth is enrolled as a student provided that such local educational official shall only have made available a notice of such adjudication and shall not have access to any other official records and papers, such youth or such youth's designated agent (but only where the official records and papers sought are on file with a court and request therefor is made to that court or to a clerk thereof), an institution to which such youth has been committed, the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION and a probation department of this state that requires such official records and papers for the purpose of carrying out duties specifically authorized by law; provided, however, that information regarding an order of protection or temporary order of protection issued pursuant to section 530.12 of this chapter or a warrant issued in connection therewith may be maintained on the statewide automated order of protection and warrant registry established pursuant to section two hundred twenty-one-a of the executive law during the period that such order of protection or temporary order of protection is in full force and effect or during which such warrant may be executed. Such confidential information may be made available pursuant to law only for purposes of adjudicating or enforcing such order of protection or temporary order of protection and, where provided to a designated educational official, as defined in section 380.90 of this chapter, for purposes related to the execution of the student's educational plan, where applicable, successful school adjustment and reentry into the community. Such notification shall be kept separate and apart from such student's school records and shall be accessible only by the designated educational official. Such notification shall not be part of such student's permanent school record and shall not be appended to or included in any documentation regarding such student and shall be destroyed at such time as such student is no longer enrolled in the school district. At no time shall such notification be used for any purpose other than those specified in this subdivision.

4. Notwithstanding subdivision two of this section, whenever a person is adjudicated a youthful offender and the conviction that was vacated and replaced by the youthful offender finding was for a sex offense as that term is defined in article ten of the mental hygiene law, all

records pertaining to the youthful offender adjudication shall be included in those records and reports that may be obtained by the commissioner of mental health or the commissioner of [mental retardation and developmental disabilities] DEVELOPMENTAL DISABILITIES, as appropriate; the case review panel; and the attorney general pursuant to section 10.05 of the mental hygiene law.

S 88. Paragraph b of subdivision 1 of section 272 of the education law, as amended by chapter 787 of the laws of 1978, is amended to read as follows:

b. The "area served" by a public library system for the purposes of this article shall mean the area which the public library system proposes to serve in its approved plan of service. In determining the population of the area served by the public library system the population shall be deemed to be that shown by the latest federal census for the political subdivisions in the area served. Such population shall be certified in the same manner as provided by section fifty-four of the state finance law except that such population shall include the reservation and school Indian population and inmates of state institutions under the direction, supervision or control of the state department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION, the state department of mental hygiene and the state department of social welfare. In the event that any of the political subdivisions receiving library service are included within a larger political subdivision which is a part of the public library system the population used for the purposes of computing state aid shall be the population of the larger political subdivision, provided however, that where any political subdivision within a larger political subdivision shall have taken an interim census since the last census taken of the larger political subdivision, the population of the larger political subdivision may be adjusted to reflect such interim census and, as so adjusted, may be used until the next census of such larger political subdivision. In the event that the area served is not coterminous with a political subdivision, the population of which is shown on such census, or the area in square miles of which is available from official sources, such population and area shall be determined, for the purpose of computation of state aid pursuant to section two hundred seventy-three OF THIS PART by applying to the population and area in square miles of such political subdivision, the ratio which exists between the assessed valuation of the portion of such political subdivision included within the area served and the total assessed valuation of such political subdivision.

S 89. Subparagraph 3 of paragraph a of subdivision 9 of section 605 of the education law, as amended by chapter 523 of the laws of 1992, is amended to read as follows:

(3) The applicant must agree to practice medicine in an area in New York state designated as having a shortage of physicians. The regents, after consultation with the commissioners of health, [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, mental health and [mental retardation and] developmental disabilities, shall designate those regions and facilities of New York state which have a shortage of physicians for the purposes of this section and establish relative rankings thereof.

S 90. Subdivision 6 of section 6542 of the education law, as amended by chapter 179 of the laws of 1992, is amended to read as follows:

6. Notwithstanding any other provision of this article, nothing shall prohibit a physician employed by or rendering services to the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION under

contract from supervising no more than four physician assistants or specialist assistants in his practice for the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION.

S 91. Subdivision 16-a of section 3-102 of the election law, as added by section 10 of part OO of chapter 56 of the laws of 2010, is amended to read as follows:

16-a. provide the department of [correctional services and the division of parole] CORRECTIONS AND COMMUNITY SUPERVISION with a sufficient number of voter registration forms to allow the department of [correctional services and the division of parole] CORRECTIONS AND COMMUNITY SUPERVISION to comply with the duty to provide such voter registration forms to persons upon the expiration of their maximum sentence of imprisonment. Such voter registration forms shall be addressed to the state board of elections.

S 92. Subdivision 3 of section 11-0707 of the environmental conservation law, as amended by chapter 319 of the laws of 2003, is amended to read as follows:

3. Any person who is a patient at any facility in this state maintained by the United States Veterans' Administration or at any hospital or sanitorium for treatment of tuberculosis maintained by the state or any municipal corporation thereof or resident patient at any institution of the department of Mental Hygiene, or resident patient at the rehabilitation hospital of the department of Health, or at any rest camp maintained by the state through the Division of Veterans' Affairs in the Executive Department or any inmate of a conservation work camp within the youth rehabilitation facility of the department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION, or any inmate of a youth opportunity or youth rehabilitation center within the Office of Children and Family Services, any resident of a nursing home or residential health care facility as defined in subdivisions two and three of section twenty-eight hundred one of the public health law, or any staff member or volunteer accompanying or assisting one or more residents of such nursing home or residential health care facility on an outing authorized by the administrator of such nursing home or residential health care facility may take fish as if he held a fishing license, except that he may not take bait fish by net or trap, if he has on his person an authorization upon a form furnished by the department containing such identifying information and data as may be required by it, and signed by the superintendent or other head of such facility, institution, hospital, sanitarium, nursing home, residential health care facility or rest camp, as the case may be, or by a staff physician thereat duly authorized so to do by the superintendent or other head thereof. Such authorization with respect to inmates of said conservation work camps shall be limited to areas under the care, custody and control of the department.

S 93. 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] CORRECTIONS AND COMMUNITY SUPERVISION 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 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 94. Paragraph (a) of subdivision 1 of section 169 of the executive law, as amended by section 20 of part B of chapter 56 of the laws of 2010, is amended to read as follows:

(a) commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, commissioner of education, commissioner of health, commissioner of mental health, commissioner of [mental retardation and] developmental disabilities, commissioner of children and family services, commissioner of temporary and disability assistance, chancellor of the state university of New York, commissioner of transportation, commissioner of environmental conservation, superintendent of state police, commissioner of general services and commissioner of the division of homeland security and emergency services;

S 95. Section 354-a of the executive law, as separately amended by sections 34 and 68 of part A of chapter 56 of the laws of 2010, is amended to read as follows:

S 354-a. Information on status of veterans receiving assistance. Departments, divisions, bureaus, boards, commissions and agencies of the state and political subdivisions thereof, which provide assistance, treatment, counseling, care, supervision or custody in service areas involving health, mental health, family services, criminal justice or employment, including but not limited to the office of alcoholism and substance abuse services, office of mental health, office of probation and correctional alternatives, office of children and family services, office of temporary and disability assistance, department of health, department of labor, local workforce investment boards, office [of mental retardation and] FOR PEOPLE WITH developmental disabilities, AND department of [correctional services and division of parole] CORRECTIONS AND COMMUNITY SUPERVISION, shall request assisted persons to provide information with regard to their veteran status and military experiences. Individuals identifying themselves as veterans shall be advised that the division of veterans' affairs and local veterans' service agencies established pursuant to section three hundred fifty-seven of this article provide assistance to veterans regarding benefits under federal and state law. Information regarding veterans status and military service provided by assisted persons solely to implement this section shall be protected as personal confidential information under article six-A of the public officers law against disclosure of confidential material, and used only to assist in the diagnosis, treatment, assess-

ment and handling of the veteran's problems within the agency requesting such information and in referring the veteran to the division of veterans' affairs for information and assistance with regard to benefits and entitlements under federal and state law.

S 96. Paragraph a of subdivision 1 of section 374 of the executive law, as amended by chapter 243 of the laws of 1997, is amended to read as follows:

a. Two members, to be appointed by the governor, from among the commissioners of the departments of economic development, [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, education, health, labor, mental health and social services, office of general services, division of housing and community renewal, and the superintendent of insurance.

S 97. Subdivisions 4, 5, 6 and 7 of section 508 of the executive law, subdivision 4 as amended by chapter 41 of the laws of 2010, subdivisions 5 and 6 as added by chapter 481 of the laws of 1978, subdivision 7 as separately amended by chapters 308 and 316 of the laws of 1983 and such section as renumbered by chapter 465 of the laws of 1992, are amended to read as follows:

4. The [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES may apply to the sentencing court for permission to transfer a youth not less than sixteen nor more than eighteen years of age to the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION. Such application shall be made upon notice to the youth, who shall be entitled to be heard upon the application and to be represented by counsel. The court shall grant the application if it is satisfied that there is no substantial likelihood that the youth will benefit from the programs offered by the [division] OFFICE facilities.

5. The [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES may transfer an offender not less than eighteen nor more than twenty-one years of age to the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION if the [director] COMMISSIONER of the [division] OFFICE certifies to the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION that there is no substantial likelihood that the youth will benefit from the programs offered by [division] OFFICE facilities.

6. At age twenty-one, all juvenile offenders shall be transferred to the custody of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION for confinement pursuant to the correction law.

7. While in the custody of the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES, an offender shall be subject to the rules and regulations of the [division] OFFICE, except that his parole, temporary release and discharge shall be governed by the laws applicable to inmates of state correctional facilities and his transfer to state hospitals in the office of mental health shall be governed by section five hundred [seventeen] NINE of this chapter. The [director] COMMISSIONER of the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES shall, however, establish and operate temporary release programs at [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES facilities for eligible juvenile offenders and contract with the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION for the provision of parole supervision services for temporary releasees. The rules and regulations for these programs shall not be inconsistent with the laws for temporary release applicable to inmates of state correctional facilities. For the purposes of temporary release programs for juvenile offenders only, when referred to or defined in article

twenty-six of the correction law, "institution" shall mean any facility designated by the [director] COMMISSIONER of the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES, "department" shall mean the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES, "inmate" shall mean a juvenile offender residing in [a division for youth] AN OFFICE OF CHILDREN AND FAMILY SERVICES facility, and "commissioner" shall mean the director of the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES. Time spent in [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES facilities and in juvenile detention facilities shall be credited towards the sentence imposed in the same manner and to the same extent applicable to inmates of state correctional facilities.

S 98. Subdivision 2 of section 510-c of the executive law, as amended by chapter 465 of the laws of 1992, is amended to read as follows:

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

S 99. Paragraph (b) of subdivision 4 of section 575 of the executive law, as separately amended by section 69 of part A and section 4 of part A-1 of chapter 56 of the laws of 2010, is amended to read as follows:

(b) The advisory council shall consist of nine members and [fourteen] THIRTEEN ex-officio members. Each member shall be appointed to serve for a term of three years and shall continue in office until a successor appointed member is made. A member appointed to fill a vacancy shall be appointed for the unexpired term of the member he or she is to succeed. All of the members shall be individuals with expertise in the area of domestic violence. Three members shall be appointed by the governor, two members shall be appointed upon the recommendation of the temporary president of the senate, two members shall be appointed upon the recommendation of the speaker of the assembly, one member shall be appointed upon the recommendation of the minority leader of the senate, and one member shall be appointed upon the recommendation of the minority leader of the assembly. The ex-officio members of the advisory board shall consist of one representative from the staff of each of the following state departments and divisions: office of temporary and disability services; department of health; education department; office of mental health; office of alcoholism and substance abuse services; division of criminal justice services; office of probation and correctional alternatives; office of children and family services; office of victim services; office of court administration; department of labor; state office for the aging; AND department of [correctional services; and the division of parole] CORRECTIONS AND COMMUNITY SUPERVISION.

S 100. Paragraph (c) of subdivision 1 of section 632-a of the executive law, as amended by section 24 of part A-1 of chapter 56 of the laws of 2010, is amended to read as follows:

(c) "Funds of a convicted person" means all funds and property received from any source by a person convicted of a specified crime, or by the representative of such person as defined in subdivision six of section six hundred twenty-one of this article excluding child support and earned income, where such person:

(i) is an inmate serving a sentence with the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or a prisoner

confined at a local correctional facility or federal correctional institute, and includes funds that a superintendent, sheriff or municipal official receives on behalf of an inmate or prisoner and deposits in an inmate account to the credit of the inmate pursuant to section one hundred sixteen of the correction law or deposits in a prisoner account to the credit of the prisoner pursuant to section five hundred-c of the correction law; or

(ii) is not an inmate or prisoner but who is serving a sentence of probation or conditional discharge or is presently subject to an undischarged indeterminate, determinate or definite term of imprisonment or period of post-release supervision or term of supervised release, but shall include earned income earned during a period in which such person was not in compliance with the conditions of his or her probation, parole, conditional release, period of post-release supervision by the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION or term of supervised release with the United States probation office or United States parole commission. For purposes of this subparagraph, such period of non-compliance shall be measured, as applicable, from the earliest date of delinquency determined by the [board or division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION, or from the earliest date on which a declaration of delinquency is filed pursuant to section 410.30 of the criminal procedure law and thereafter sustained, or from the earliest date of delinquency determined in accordance with applicable federal law, rules or regulations, and shall continue until a final determination sustaining the violation has been made by the trial court, [board or division of parole] THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION, or appropriate federal authority; or

(iii) is no longer subject to a sentence of probation or conditional discharge or indeterminate, determinate or definite term of imprisonment or period of post-release supervision or term of supervised release, and where within the previous three years: the full or maximum term or period terminated or expired or such person was granted a discharge by [a] THE STATE board of parole OR THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION pursuant to applicable law, or granted a discharge or termination from probation pursuant to applicable law or granted a discharge or termination under applicable federal or state law, rules or regulations prior to the expiration of such full or maximum term or period; and includes only: (A) those funds paid to such person as a result of any interest, right, right of action, asset, share, claim, recovery or benefit of any kind that the person obtained, or that accrued in favor of such person, prior to the expiration of such sentence, term or period; (B) any recovery or award collected in a lawsuit after expiration of such sentence where the right or cause of action accrued prior to the expiration or service of such sentence; and (C) earned income earned during a period in which such person was not in compliance with the conditions of his or her probation, parole, conditional release, period of post-release supervision by the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION or term of supervised release with the United States probation office or United States parole commission. For purposes of this subparagraph, such period of non-compliance shall be measured, as applicable, from the earliest date of delinquency determined by the [board or division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION, or from the earliest date on which a declaration of delinquency is filed pursuant to section 410.30 of the criminal procedure law and thereafter sustained, or from the earliest date of delinquency determined in accordance with applicable federal law, rules

or regulations, and shall continue until a final determination sustaining the violation has been made by the trial court, [board or division of parole] THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION, or appropriate federal authority.

S 101. Paragraph (b) of subdivision 2 of section 632-a of the executive law, as amended by section 24 of part A-1 of chapter 56 of the laws of 2010, is amended to read as follows:

(b) Notwithstanding subparagraph (ii) of paragraph (a) of this subdivision, whenever the payment or obligation to pay involves funds of a convicted person that a superintendent, sheriff or municipal official receives or will receive on behalf of an inmate serving a sentence with the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or prisoner confined at a local correctional facility and deposits or will deposit in an inmate account to the credit of the inmate or in a prisoner account to the credit of the prisoner, and the value, combined value or aggregate value of such funds exceeds or will exceed ten thousand dollars, the superintendent, sheriff or municipal official shall also give written notice to the office.

S 102. Subdivision 9 of section 835 of the executive law, as amended by section 39 of part A of chapter 56 of the laws of 2010, is amended to read as follows:

9. "Qualified agencies" means courts in the unified court system, the administrative board of the judicial conference, probation departments, sheriffs' offices, district attorneys' offices, the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, the department of correction of any municipality, the insurance frauds bureau of the state department of insurance, the office of professional medical conduct of the state department of health for the purposes of section two hundred thirty of the public health law, the child protective services unit of a local social services district when conducting an investigation pursuant to subdivision six of section four hundred twenty-four of the social services law, the office of Medicaid inspector general, the temporary state commission of investigation, the criminal investigations bureau of the banking department, police forces and departments having responsibility for enforcement of the general criminal laws of the state and the Onondaga County Center for Forensic Sciences Laboratory when acting within the scope of its law enforcement duties.

S 103. Paragraph (h) of subdivision 1 of section 840 of the executive law, as amended by chapter 843 of the laws of 1980, is amended to read as follows:

(h) Exemptions from particular provisions of this article in the case of any city having a population of one million or more, or in the case of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION if in its opinion the standards of police officer or peace officer training established and maintained by such city or department are higher than those established pursuant to this article; or revocation in whole or in part of such exemption, if in its opinion the standards of police officer or peace officer training established and maintained by such city or department are lower than those established pursuant to this article.

S 104. Subdivision 4 of section 995-c of the executive law, as amended by section 65 of part A of chapter 56 of the laws of 2010, is amended to read as follows:

4. The commissioner of the division of criminal justice services, in consultation with the commission, the commissioner of health, [the divi-

sion of parole,] the director of the office of probation and correctional alternatives and the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, shall promulgate rules and regulations governing the procedures for notifying designated offenders of the requirements of this section.

S 105. The article heading of article 12-B of the executive law, as added by chapter 904 of the laws of 1977, is amended to read as follows:

STATE [DIVISION] BOARD OF PAROLE

S 106. Section 31 of the executive law, as amended by section 11 of part B of chapter 56 of the laws of 2010, is amended to read as follows:

S 31. Divisions. There shall be in the executive department the following divisions:

1. The division of the budget.
2. The division of military and naval affairs.
3. The office of general services.
4. The division of state police.
5. [The division of parole.
6.] The division of housing.
[7] 6. The division of alcoholic beverage control.
[8] 7. The division of human rights.
[9] 8. The division of veterans' affairs.
[10] 9. The division of homeland security and emergency services.
[11] 10. Office for technology.

The governor may establish, consolidate, or abolish additional divisions and bureaus.

S 107. Subdivision 1 of section 643 of the executive law, as separately amended by section 38 of part A and section 1 of part A-1 of chapter 56 of the laws of 2010, is amended to read as follows:

1. As used in this section, "crime victim-related agency" means any agency of state government which provides services to or deals directly with crime victims, including (a) the office of children and family services, the office for the aging, the division of veterans affairs, THE OFFICE OF PROBATION and correctional alternatives, the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION, THE office of victim services, the department of motor vehicles, the office of vocational rehabilitation, the workers' compensation board, the department of health, the division of criminal justice services, the office of mental health, every transportation authority and the division of state police, and (b) any other agency so designated by the governor within ninety days of the effective date of this section.

S 108. Subdivision 8 of section 837-a of the executive law, as added by section 1 of part L of chapter 56 of the laws of 2006, is amended to read as follows:

8. Present to the governor, temporary president of the senate, minority leader of the senate, speaker of the assembly and the minority leader of the assembly an annual report about the function and effectiveness of the Operation IMPACT program. Such report shall include, but not be limited to, crime data obtained, analyzed and used by each Operation IMPACT partnership in participating counties and affected municipalities including the number of arrests made by law enforcement as a direct result of the Operation IMPACT program including any available demographic information about the persons arrested and prosecuted and the disposition of such matters, and any other information related to the program's effectiveness in reducing crime. Such report shall also include information about crime reduction strategies developed by Operation IMPACT partnerships, the number of state police and [division of

parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION personnel participating in Operation IMPACT activities, and a description of training supplied to local Operation IMPACT participants. The initial report required by this paragraph shall be presented by December thirty-first, two thousand six. Thereafter, an annual report shall be presented no later than December thirty-first of each year.

S 108-a. The sixth undesignated paragraph of section 2 of section 1 of chapter 359 of the laws of 1968, constituting the facilities development corporation act, as amended by chapter 240 of the laws of 1974, is amended to read as follows:

It is hereby found and declared that the acquisition, construction, reconstruction, rehabilitation and improvement of facilities for the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION are public purposes which are essential to enable comprehensive modernization of the state's programs of [correctional services] CORRECTIONS. To assure that such purposes are carried out, it is further found and declared that the facilities development corporation should be empowered in [coorperation] COOPERATION with the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION to provide for the acquisition, construction, reconstruction, rehabilitation and improvement of facilities for the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION.

S 109. Subdivision 3-b of section 3 of section 1 of chapter 359 of the laws of 1968, constituting the facilities development corporation act, as added by chapter 337 of the laws of 1972, is amended to read as follows:

3-b. "Facility for the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION" means real property, a building, a unit within a building, or any structure on or improvement to real property of any kind or description essential, necessary or useful in the program of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, including all usual attendant and related facilities, fixtures, equipment, and connections for utility services or any combinations thereof, designed, acquired, constructed, reconstructed, rehabilitated and improved, or otherwise provided for the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION.

S 110. Subdivision 10 of section 5 of section 1 of chapter 359 of the laws of 1968, constituting the facilities development corporation act, as amended by chapter 337 of the laws of 1972, is amended to read as follows:

10. To design, construct, acquire, reconstruct, rehabilitate and improve health facilities, facilities for the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION and mental hygiene facilities, or cause such facilities to be designed, constructed, acquired, reconstructed, rehabilitated and improved, in accordance with the provisions of this act.

S 111. Subdivision 7 of section 6 of section 1 of chapter 359 of the laws of 1968, constituting the facilities development corporation act, as added by chapter 337 of the laws of 1972, is amended to read as follows:

7. To provide facilities for the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION.

S 112. Section 7-a of section 1 of chapter 359 of the laws of 1968, constituting the facilities development corporation act, as amended by chapter 240 of the laws of 1974, is amended to read as follows:

S 7-a. Relationship with the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION. The corporation, upon the issuance by the director of the budget of a certificate of approval segregating funds to pay for their corporate services, shall design, construct, reconstruct, rehabilitate, improve, and equip facilities for the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or cause facilities to be designed, constructed, reconstructed, rehabilitated, improved, and equipped. The corporation shall also assist and cooperate with and shall make its personnel and services fully available to the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION and the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION in matters relating to their responsibilities for site selection, acquisition of and capital planning relating to facilities for the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION. During the course of construction, acquisition, reconstruction, rehabilitation and improvement of such facilities, the corporation shall consult with the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION and the personnel of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION as the work progresses in matters relating to space requirements, site plans, architectural concept and substantial changes in the plans and specifications therefor and in matters relating to the original furnishings, equipment, machinery, and apparatus needed to furnish and equip such facilities upon the completion of the work. The commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION and the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION shall assist and cooperate with the corporation in such matters.

S 113. Subdivision (b) of section 213 of the family court act is amended to read as follows:

(b) Rules of court shall as soon as practicable implement this section by prescribing appropriate forms for reports and may require such additional information as may be appropriate. The administrative board of the judicial conference may request the state department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION and the state department of social welfare to assist it in the preparation and processing of reports under this section, and those departments, when so requested, shall render such assistance as is possible.

S 114. The sixth undesignated paragraph of section 842 of the family court act, as added by section 8 of part D of chapter 56 of the laws of 2008, is amended to read as follows:

In any proceeding in which an order of protection or temporary order of protection or a warrant has been issued under this section, the clerk of the court shall issue to the petitioner and respondent and his counsel and to any other person affected by the order a copy of the order of protection or temporary order of protection and ensure that a copy of the order of protection or temporary order of protection be transmitted to the local correctional facility where the individual is or will be detained, the state or local correctional facility where the individual is or will be imprisoned, and the supervising probation department or [division of parole] THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION where the individual is under probation or parole supervision.

S 115. The second undesignated paragraph of section 69 of the general business law, as amended by section 1 of part A of chapter 62 of the laws of 2003, is amended to read as follows:

Nothing in this section shall be construed to forbid the sale of parts and components produced by inmate labor in correctional industry programs of the government of the United States or any state of the United States, or any political subdivision thereof, to the department of [correctional services'] CORRECTIONS AND COMMUNITY SUPERVISION'S division of correctional industries for use in its manufacturing operations.

S 116. Section 70 of the general municipal law, as amended by section 40 of part A-1 of chapter 56 of the laws of 2010, is amended to read as follows:

S 70. Payment of judgments against municipal corporation. When a final judgment for a sum of money shall be recovered against a municipal corporation, and the execution thereof shall not be stayed pursuant to law, or the time for such stay shall have expired, the treasurer or other financial officer of such corporation having sufficient moneys in his hands belonging to the corporation not otherwise specifically appropriated, shall pay such judgment upon the production of a certified copy of the docket thereof. Notwithstanding the provisions of any other law to the contrary, in any case where payment for any reason is to be made to an inmate serving a sentence of imprisonment with the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or to a prisoner confined at a local correctional facility, the treasurer or other financial officer shall give written notice, if required pursuant to subdivision two of section six hundred thirty-two-a of the executive law, to the office of victim services that such payment shall be made thirty days after the date of such notice.

S 117. Subdivision 1 of section 168 of the labor law, as amended by chapter 90 of the laws of 1947, is amended to read as follows:

1. This section shall apply to all persons employed by the state in the ward, cottage, colony, kitchen and dining room, and guard service personnel in any hospital, school, prison, reformatory or other institution within or subject to the jurisdiction, supervision, control or visitation of the department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION, the department of health, the department of mental hygiene, the department of social welfare or the division of veterans' affairs in the executive department, and engaged in the performance of such duties as nursing, guarding or attending the inmates, patients, wards or other persons kept or housed in such institutions, or in protecting and guarding the buildings and/or grounds thereof, or in preparing or serving food therein.

S 118. Subdivision 13 of section 83-m of the legislative law, as added by section 2 of part XX of chapter 57 of the laws of 2010, is amended to read as follows:

13. (a) The task force shall specify the form in which the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION shall provide such information required to be reported to the task force pursuant to subdivision eight of section seventy-one of the correction law.

(b) Upon receipt of such information for each incarcerated person subject to the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, the task force shall determine the census block corresponding to the street address of each such person's residential address prior to incarceration (if any), and the census block corresponding to the street address of the correctional facility in which such person was held subject to the jurisdiction of such department. Until such time as the United States bureau of the

census shall implement a policy of reporting each such incarcerated person at such person's residential address prior to incarceration, the task force shall use such data to develop a database in which all incarcerated persons shall be, where possible, allocated for redistricting purposes, such that each geographic unit reflects incarcerated populations at their respective residential addresses prior to incarceration rather than at the addresses of such correctional facilities. For all incarcerated persons whose residential address prior to incarceration was outside of the state, or for whom the task force cannot identify their prior residential address, and for all persons confined in a federal correctional facility on census day, the task force shall consider those persons to have been counted at an address unknown and persons at such unknown address shall not be included in such data set created pursuant to this paragraph. The task force shall develop and maintain such amended population data set and shall make such amended data set available to local governments, as defined in subdivision eight of section two of the municipal home rule law, and for the drawing of assembly and senate districts. The assembly and senate districts shall be drawn using such amended population data set.

(c) Notwithstanding any other provision of law, the information required to be provided pursuant to subdivision eight of section seventy-one of the correction law shall be treated as confidential and shall not be disclosed by the task force except as aggregated by census block for purpose specified in this subdivision.

S 118-a. Subdivisions (a) and (m) of section 10.03 of the mental hygiene law, subdivision (a) as amended by chapter 168 of the laws of 2010 and subdivision (m) as added by chapter 7 of the laws of 2007, are amended to read as follows:

(a) "Agency with jurisdiction" as to a person means that agency which, during the period in question, would be the agency responsible for supervising or releasing such person, and can include the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, the office of mental health, AND the office for people with developmental disabilities[, and the division of parole].

(m) "Release" and "released" means release, conditional release or discharge from confinement, from COMMUNITY supervision by the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION, or from an order of observation, commitment, recommitment or retention.

S 118-b. Subdivisions (a) and (b) of section 10.05 of the mental hygiene law, subdivision (a) as amended by chapter 168 of the laws of 2010 and subdivision (b) as added by chapter 7 of the laws of 2007, are amended to read as follows:

(a) The commissioner of mental health, in consultation with the commissioner of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION and the commissioner of developmental disabilities, shall establish a case review panel consisting of at least fifteen members, any three of whom may sit as a team to review a particular case. At least two members of each team shall be professionals in the field of mental health or the field of developmental disabilities, as appropriate, with experience in the treatment, diagnosis, risk assessment or management of sex offenders. To the extent practicable, the workload of the case review panel should be evenly distributed among its members. Members of the case review panel and psychiatric examiners should be free to exercise independent professional judgment without pressure or retaliation for the exercise of that judgment from any source.

(b) When it appears to an agency with jurisdiction[, other than the division of parole,] that a person who may be a detained sex offender is nearing an anticipated release FROM CONFINEMENT, the agency shall give notice of that fact to the attorney general and to the commissioner of mental health. [When the division of parole is the agency with jurisdiction, it may give such notice.] WHEN IT APPEARS TO THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION THAT A PERSON WHO MAY BE A DETAINED SEX OFFENDER IS NEARING AN ANTICIPATED RELEASE FROM COMMUNITY SUPERVISION, THE AGENCY MAY GIVE SUCH NOTICE. The agency with jurisdiction shall seek to give such notice at least one hundred twenty days prior to the person's anticipated release, but failure to give notice within such time period shall not affect the validity of such notice or any subsequent action, including the filing of a sex offender civil management petition.

S 118-c. Subdivision (k) of section 10.06 of the mental hygiene law, as amended by section 1 of part H of chapter 58 of the laws of 2009, is amended to read as follows:

(k) At the conclusion of the hearing, the court shall determine whether there is probable cause to believe that the respondent is a sex offender requiring civil management. If the court determines that probable cause has not been established, the court shall issue an order dismissing the petition, and the respondent's release shall be in accordance with other applicable provisions of law. If the court determines that probable cause has been established: (i) the court shall order that the respondent be committed to a secure treatment facility designated by the commissioner for care, treatment and control upon his or her release, provided, however, that a respondent who otherwise would be required to be transferred to a secure treatment facility may, upon a written consent signed by the respondent and his or her counsel, consent to remain in the custody of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION pending the outcome of the proceedings under this article, and that such consent may be revoked in writing at any time; (ii) the court shall set a date for trial in accordance with subdivision (a) of section 10.07 of this article; and (iii) the respondent shall not be released pending the completion of such trial.

S 118-d. Subdivisions (c) and (d) of section 10.10 of the mental hygiene law, as added by chapter 7 of the laws of 2007, are amended to read as follows:

(c) The commissioner, or the commissioner of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, or other government entity responsible for the care and custody of respondents, shall be authorized to employ appropriate safety and security measures, as he or she deems necessary to ensure the safety of the public, during court proceedings and in the transport of persons committed or undergoing any proceedings under this article. Such commissioner shall provide training in the use of safe and appropriate security interventions to employees responsible for transporting persons under this article.

(d) The commissioner shall have the discretion to enter into agreements with the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION for the provision of security services relating to this article.

S 118-e. Paragraphs 1 and 2 of subdivision (a), paragraph 1 of subdivision (b), subdivision (c), paragraph 1 of subdivision (d) and subdivision (f) of section 10.11 of the mental hygiene law, as added by chapter 7 of the laws of 2007, are amended to read as follows:

(1) Before ordering the release of a person to a regimen of strict and intensive supervision and treatment pursuant to this article, the court shall order that the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION recommend supervision requirements to the court. These supervision requirements, which shall be developed in consultation with the commissioner, may include but need not be limited to, electronic monitoring or global positioning satellite tracking for an appropriate period of time, polygraph monitoring, specification of residence or type or residence, prohibition of contact with identified past or potential victims, strict and intensive supervision by a parole officer, and any other lawful and necessary conditions that may be imposed by a court. In addition, after consultation with the psychiatrist, psychologist or other professional primarily treating the respondent, the commissioner shall recommend a specific course of treatment. A copy of the recommended requirements for supervision and treatment shall be given to the attorney general and the respondent and his or her counsel a reasonable time before the court issues its written order pursuant to this section.

(2) Before issuing its written order, the court shall afford the parties an opportunity to be heard, and shall consider any additional submissions by the respondent and the attorney general concerning the proposed conditions of the regimen of strict and intensive supervision and treatment. The court shall issue an order specifying the conditions of the regimen of strict and intensive supervision and treatment, which shall include specified supervision requirements and compliance with a specified course of treatment. A written statement of the conditions of the regimen of strict and intensive supervision and treatment shall be given to the respondent and to his or her counsel, any designated service providers or treating professionals, the commissioner, the attorney general and the supervising parole officer. The court shall require the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION to take appropriate actions to implement the supervision plan and assure compliance with the conditions of the regimen of strict and intensive supervision and treatment. A regimen of strict and intensive supervision does not toll the running of any form of supervision in criminal cases, including but not limited to post-release supervision and parole.

(1) Persons ordered into a regimen of strict and intensive supervision and treatment pursuant to this article shall be subject to a minimum of six face-to-face supervision contacts and six collateral contacts per month. Such minimum contact requirements shall continue unless subsequently modified by the court or the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION.

(c) An order for a regimen of strict and intensive supervision and treatment places the person in the custody and control of the [state division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION. A person ordered to undergo a regimen of strict and intensive supervision and treatment pursuant to this article is subject to lawful conditions set by the court and the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION.

(1) A person's regimen of strict and intensive supervision and treatment may be revoked if such a person violates a condition of strict and intensive supervision. If a parole officer has reasonable cause to believe that the person has violated a condition of the regimen of strict and intensive supervision and treatment or, if there is an oral or written evaluation or report by a treating professional indicating

that the person may be a dangerous sex offender requiring confinement, a parole officer authorized in the same manner as provided in subparagraph (i) of paragraph (a) of subdivision three of section two hundred fifty-nine-i of the executive law may take the person into custody and transport the person for lodging in a secure treatment facility or a local correctional facility for an evaluation by a psychiatric examiner, which evaluation shall be conducted within five days. A parole officer may take the person, under custody, to a psychiatric center for prompt evaluation, and at the end of the examination, return the person to the place of lodging. A parole officer, as authorized by this paragraph, may direct a peace officer, acting pursuant to his or her special duties, or a police officer who is a member of an authorized police department or force or of a sheriff's department, to take the person into custody and transport the person as provided in this paragraph. It shall be the duty of such peace officer or police officer to take into custody and transport any such person upon receiving such direction. The [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION shall promptly notify the attorney general and the mental hygiene legal service, when a person is taken into custody pursuant to this paragraph. No provision of this section shall preclude the [division] BOARD of parole from proceeding with a revocation hearing as authorized by subdivision three of section two hundred fifty-nine-i of the executive law.

(f) The court may modify or terminate the conditions of the regimen of strict and intensive supervision and treatment on the petition of the supervising parole officer, the commissioner or the attorney general. Such petition shall be served on the respondent and the respondent's counsel. A person subject to a regimen of strict and intensive supervision and treatment pursuant to this article may petition every two years for modification or termination, commencing no sooner than two years after the regimen of strict and intensive supervision and treatment commenced, with service of such petition on the attorney general, the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION, and the commissioner. Upon receipt of a petition for modification or termination pursuant to this section, the court may require the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION and the commissioner to provide a report concerning the person's conduct while subject to a regimen of strict and intensive supervision and treatment. If more than one petition is filed, the petitions may be considered in a single hearing.

S 118-f. Subdivision (h) of section 19.07 of the mental hygiene law, as added by section 16 of part AAA of chapter 56 of the laws of 2009, is amended to read as follows:

(h) The office of alcoholism and substance abuse services shall monitor programs providing care and treatment to inmates in correctional facilities operated by the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION who have a history of alcohol or substance abuse or dependence. The office shall also develop guidelines for the operation of alcohol and substance abuse treatment programs in such correctional facilities in order to ensure that such programs sufficiently meet the needs of inmates with a history of alcohol or substance abuse or dependence and promote the successful transition to treatment in the community upon release. No later than the first day of December of each year, the office shall submit a report regarding the adequacy and effectiveness of alcohol and substance abuse treatment programs operated by the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION to the governor, the temporary

president of the senate, the speaker of the assembly, the chairman of the senate committee on crime victims, crime and correction, and the chairman of the assembly committee on correction.

S 118-g. Paragraphs 2 and 3 of subdivision (a) of section 19.09 of the mental hygiene law, paragraph 2 as amended by section 45 of part A of chapter 56 of the laws of 2010 and paragraph 3 as amended by chapter 601 of the laws of 2007, are amended to read as follows:

(2) Upon the request of a state agency, including but not limited to the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, the office of probation and correctional alternatives, AND the office of children and family services, [and the board of parole,] the commissioner shall have the power to provide alcoholism, substance abuse, and chemical dependence services either directly or through agreements with local certified or approved providers to persons in the custody or under the jurisdiction of the requesting agency within amounts available and within priorities established through the planning process.

(3) The commissioner may coordinate alcoholism, alcohol abuse, substance abuse, substance dependence and chemical dependence related activities in all departments of the state by convening at regular intervals a coordinating committee of representatives of the departments of health, [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, labor, economic development, education, and motor vehicles, and the office of temporary and disability assistance and any other department or agency having an interest therein.

S 118-h. Subdivisions (e), (f), (g), (i) and (j) of section 29.27 of the mental hygiene law, as added by chapter 766 of the laws of 1976, are amended to read as follows:

(e) When the director of the facility in which the inmate-patient is in custody finds that the inmate-patient is no longer mentally ill or no longer requires hospitalization for care and treatment, he shall so notify the inmate-patient and commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or, in the case of an inmate-patient coming from a jail or correctional institution operated by local government, the officer in charge of the jail or correctional institution from which the inmate-patient was committed. The commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or such officer, as the case may be, shall immediately arrange to take such inmate-patient into custody and return him to a correctional facility or to the jail or correctional institution operated by local government.

(f) Upon delivery of the inmate-patient to the representative of the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or of an officer in charge of a jail or correctional institution operated by local government, the responsibility of the department and its facilities for the custody of the inmate-patient shall terminate. Where the inmate is returned to a state correctional facility, the department shall continue to be responsible for the inmate-patient's psychiatric care if the inmate-patient upon his return is in a program established pursuant to section four hundred one of the correction law.

(g) If an inmate-patient in the custody of the department escapes from custody, immediate notice shall be given to the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or, in the case of an inmate-patient coming from a jail or correctional institution operated by local government, to the officer in charge of such jail or correctional institution. Notice shall also be given to appropriate law enforcement authorities.

(i) Upon release of an inmate-patient from a facility, the director shall forward a copy of all health and psychiatric records to the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or to the officer in charge of a jail or correctional institution operated by local government, as the case may be.

(j) If the sentence for which an inmate-patient is confined expires or is vacated or modified by court order, the director shall so notify the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or such officer in charge of a jail or correctional institution operated by local government, as appropriate.

S 118-i. Paragraph 10 of subdivision (c) of section 33.13 of the mental hygiene law, as amended by chapter 168 of the laws of 2010, is amended to read as follows:

10. to a correctional facility, when the chief administrative officer has requested such information with respect to a named inmate of such correctional facility as defined by subdivision three of section forty of the correction law or to the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION, when the [division] DEPARTMENT has requested such information with respect to a person under its jurisdiction or an inmate of a state correctional facility, when such inmate is within four weeks of release from such institution to [the jurisdiction of the division of parole] COMMUNITY SUPERVISION. Information released pursuant to this paragraph may be limited to a summary of the record, including but not limited to: the basis for referral to the facility; the diagnosis upon admission and discharge; a diagnosis and description of the patient's or client's current mental condition; the current course of treatment, medication and therapies; and the facility's recommendation for future mental hygiene services, if any. Such information may be forwarded to the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION staff in need of such information for the purpose of making a determination regarding an inmate's health care, security, safety or ability to participate in programs. In the event an inmate is transferred, the sending correctional facility shall forward, upon request, such summaries to the chief administrative officer of any correctional facility to which the inmate is subsequently incarcerated. The office of mental health and the office for people with developmental disabilities, in consultation with the commission of correction and the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION, shall promulgate rules and regulations to implement the provisions of this paragraph.

S 118-j. Subdivision (z) of section 45.07 of the mental hygiene law, as added by chapter 1 of the laws of 2008, is amended to read as follows:

(z) Monitor and make recommendations regarding the quality of care provided to inmates with serious mental illness, including those who are in a residential mental health treatment unit or segregated confinement in facilities operated by the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, and oversee compliance with paragraphs (d) and (e) of subdivision six of section one hundred thirty-seven, and section four hundred one, of the correction law. Such responsibilities shall be carried out in accordance with section four hundred one-a of the correction law.

S 119. Clause (c.) of subparagraph 13 of paragraph (a) of subdivision 1 of section 10 of the municipal home rule law, as amended by section 3 of part XX of chapter 57 of the laws of 2010, is amended to read as follows:

(c.) As used in this subparagraph the term "population" shall mean residents, citizens, or registered voters. For such purposes, no person shall be deemed to have gained or lost a residence, or to have become a resident of a local government, as defined in subdivision eight of section two of this chapter, by reason of being subject to the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION and present in a state correctional facility pursuant to such jurisdiction. A population base for such a plan of apportionment shall utilize the latest statistical information obtainable from an official enumeration done at the same time for all the residents, citizens, or registered voters of the local government. Such a plan may allocate, by extrapolation or any other rational method, such latest statistical information to representation areas or units of local government, provided that any plan containing such an allocation shall have annexed thereto as an appendix, a detailed explanation of the allocation.

S 120. Subdivisions 6 and 7 of section 60.04 of the penal law, subdivision 6 as added by chapter 738 of the laws of 2004 and subdivision 7 as added by section 18 of part AAA of chapter 56 of the laws of 2009, are amended to read as follows:

6. Substance abuse treatment. When the court imposes a sentence of imprisonment which requires a commitment to the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION upon a person who stands convicted of a controlled substance or marihuana offense, the court may, upon motion of the defendant in its discretion, issue an order directing that the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION enroll the defendant in the comprehensive alcohol and substance abuse treatment program in an alcohol and substance abuse correctional annex as defined in subdivision eighteen of section two of the correction law, provided that the defendant will satisfy the statutory eligibility criteria for participation in such program. Notwithstanding the foregoing provisions of this subdivision, any defendant to be enrolled in such program pursuant to this subdivision shall be governed by the same rules and regulations promulgated by the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, including without limitation those rules and regulations establishing requirements for completion and those rules and regulations governing discipline and removal from the program. No such period of court ordered corrections based drug abuse treatment pursuant to this subdivision shall be required to extend beyond the defendant's conditional release date.

7. a. Shock incarceration participation. When the court imposes a sentence of imprisonment which requires a commitment to the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION upon a person who stands convicted of a controlled substance or marihuana offense, upon motion of the defendant, the court may issue an order directing that the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION enroll the defendant in the shock incarceration program as defined in article twenty-six-A of the correction law, provided that the defendant is an eligible inmate, as described in subdivision one of section eight hundred sixty-five of the correction law. Notwithstanding the foregoing provisions of this subdivision, any defendant to be enrolled in such program pursuant to this subdivision shall be governed by the same rules and regulations promulgated by the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, including without limitation those rules and regulations estab-

lishing requirements for completion and such rules and regulations governing discipline and removal from the program.

b. (i) In the event that an inmate designated by court order for enrollment in the shock incarceration program requires a degree of medical care or mental health care that cannot be provided at a shock incarceration facility, the department, in writing, shall notify the inmate, provide a proposal describing a proposed alternative-to-shock-incarceration program, and notify him or her that he or she may object in writing to placement in such alternative-to-shock-incarceration program. If the inmate objects in writing to placement in such alternative-to-shock-incarceration program, the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION shall notify the sentencing court, provide such proposal to the court, and arrange for the inmate's prompt appearance before the court. The court shall provide the proposal and notice of a court appearance to the people, the inmate and the appropriate defense attorney. After considering the proposal and any submissions by the parties, and after a reasonable opportunity for the people, the inmate and counsel to be heard, the court may modify its sentencing order accordingly, notwithstanding the provisions of section 430.10 of the criminal procedure law.

(ii) An inmate who successfully completes an alternative-to-shock-incarceration program within the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION shall be treated in the same manner as a person who has successfully completed the shock incarceration program, as set forth in subdivision four of section eight hundred sixty-seven of the correction law.

S 121. Subdivision 8 of section 60.35 of the penal law, as amended by section 1 of part E of chapter 56 of the laws of 2004, is amended to read as follows:

8. Subdivision one of section 130.10 of the criminal procedure law notwithstanding, at the time that the mandatory surcharge, sex offender registration fee or DNA databank fee, crime victim assistance fee or supplemental sex offender victim fee is imposed a town or village court may, and all other courts shall, issue and cause to be served upon the person required to pay the mandatory surcharge, sex offender registration fee or DNA databank fee, crime victim assistance fee or supplemental sex offender victim fee, a summons directing that such person appear before the court regarding the payment of the mandatory surcharge, sex offender registration fee or DNA databank fee, crime victim assistance fee or supplemental sex offender victim fee, if after sixty days from the date it was imposed it remains unpaid. The designated date of appearance on the summons shall be set for the first day court is in session falling after the sixtieth day from the imposition of the mandatory surcharge, sex offender registration fee or DNA databank fee, crime victim assistance fee or supplemental sex offender victim fee. The summons shall contain the information required by subdivision two of section 130.10 of the criminal procedure law except that in substitution for the requirement of paragraph (c) of such subdivision the summons shall state that the person served must appear at a date, time and specific location specified in the summons if after sixty days from the date of issuance the mandatory surcharge, sex offender registration fee or DNA databank fee, crime victim assistance fee or supplemental sex offender victim fee remains unpaid. The court shall not issue a summons under this subdivision to a person who is being sentenced to a term of confinement in excess of sixty days in jail or in the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION. The

mandatory surcharges, sex offender registration fee and DNA databank fees, crime victim assistance fees and supplemental sex offender victim fees for those persons shall be governed by the provisions of section 60.30 of this article.

S 122. Paragraph (b) of subdivision 2 of section 70.02 of the penal law, as separately amended by chapters 764 and 765 of the laws of 2005, is amended to read as follows:

(b) Except as provided in paragraph (b-1) of this subdivision, subdivision six of section 60.05 and subdivision four of this section, the sentence imposed upon a person who stands convicted of a class D violent felony offense, other than the offense of criminal possession of a weapon in the third degree as defined in subdivision [four,] five, seven or eight of section 265.02 or criminal sale of a firearm in the third degree as defined in section 265.11, must be in accordance with the applicable provisions of this chapter relating to sentencing for class D felonies provided, however, that where a sentence of imprisonment is imposed which requires a commitment to the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, such sentence shall be a determinate sentence in accordance with paragraph (c) of subdivision three of this section.

S 123. Subdivision 7 of section 70.06 of the penal law, as amended by chapter 738 of the laws of 2004, is amended to read as follows:

7. Notwithstanding any other provision of law, in the case of a person sentenced for a specified offense or offenses as defined in subdivision five of section 410.91 of the criminal procedure law, who stands convicted of no other felony offense, who has not previously been convicted of either a violent felony offense as defined in section 70.02 of this article, a class A felony offense or a class B felony offense, and is not under the jurisdiction of or awaiting delivery to the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, the court may direct that such sentence be executed as a parole supervision sentence as defined in and pursuant to the procedures prescribed in section 410.91 of the criminal procedure law.

S 124. Section 70.20 of the penal law, as amended by chapter 303 of the laws of 1981, subdivision 1 as separately amended by chapters 3 and 516 of the laws of 1995, paragraphs (b), (c), (d) and (e) of subdivision 1 as added by chapter 516 of the laws of 1995, subdivision 2-a as added by chapter 1 of the laws of 1995, subdivision 3 as amended by chapter 3 of the laws of 1995, subdivision 4 as amended by chapter 479 of the laws of 1992, paragraph (a) of subdivision 4 as separately amended by chapter 465 of the laws of 1992 and paragraphs (d) and (e) of subdivision 4 as relettered and subdivision 5 as designated by chapter 516 of the laws of 1995, is amended to read as follows:

S 70.20 Place of imprisonment.

1. (a) Indeterminate or determinate sentence. Except as provided in subdivision four of this section, when an indeterminate or determinate sentence of imprisonment is imposed, the court shall commit the defendant to the custody of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION for the term of his or her sentence and until released in accordance with the law; provided, however, that a defendant sentenced pursuant to subdivision seven of section 70.06 shall be committed to the custody of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION for immediate delivery to a reception center operated by the department.

(b) The court in committing a defendant who is not yet eighteen years of age to the department of [correctional services] CORRECTIONS AND

COMMUNITY SUPERVISION shall inquire as to whether the parents or legal guardian of the defendant, if present, will grant to the minor the capacity to consent to routine medical, dental and mental health services and treatment.

(c) Notwithstanding paragraph (b) of this subdivision, where the court commits a defendant who is not yet eighteen years of age to the custody of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION in accordance with this section and no medical consent has been obtained prior to said commitment, the commitment order shall be deemed to grant the capacity to consent to routine medical, dental and mental health services and treatment to the person so committed.

(d) Nothing in this subdivision shall preclude a parent or legal guardian of an inmate who is not yet eighteen years of age from making a motion on notice to the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION pursuant to article twenty-two of the civil practice law and rules and section one hundred forty of the correction law, objecting to routine medical, dental or mental health services and treatment being provided to such inmate under the provisions of paragraph (b) of this subdivision.

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

2. Definite sentence. Except as provided in subdivision four of this section, when a definite sentence of imprisonment is imposed, the court shall commit the defendant to the county or regional correctional institution for the term of his sentence and until released in accordance with the law.

2-a. Sentence of life imprisonment without parole. When a sentence of life imprisonment without parole is imposed, the court shall commit the defendant to the custody of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION for the remainder of the life of the defendant.

3. Undischarged imprisonment in other jurisdiction. When a defendant who is subject to an undischarged term of imprisonment, imposed at a previous time by a court of another jurisdiction, is sentenced to an additional term or terms of imprisonment by a court of this state to run concurrently with such undischarged term, as provided in subdivision four of section 70.25, the return of the defendant to the custody of the appropriate official of the other jurisdiction shall be deemed a commitment for such portion of the term or terms of the sentence imposed by the court of this state as shall not exceed the said undischarged term. The defendant shall be committed to the custody of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION if the additional term or terms are indeterminate or determinate or to the appropriate county or regional correctional institution if the said term or terms are definite for such portion of the term or terms of the sentence imposed as shall exceed such undischarged term or until released in accordance with law. If such additional term or terms imposed shall run consecutively to the said undischarged term, the defendant shall be committed as provided in subdivisions one and two of this section.

4. (a) Notwithstanding any other provision of law to the contrary, a juvenile offender, or a juvenile offender who is adjudicated a youthful offender and given an indeterminate or a definite sentence, shall be committed to the custody of the [director of the division for

youth]COMMISSIONER OF THE OFFICE OF CHILDREN AND FAMILY SERVICES who shall arrange for the confinement of such offender in secure facilities of the [division] OFFICE. The release or transfer of such offenders from the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES shall be governed by section five hundred eight of the executive law.

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

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

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

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

5. Subject to regulations of the department of health, routine medical, dental and mental health services and treatment is defined for the purposes of this section to mean any routine diagnosis or treatment, including without limitation the administration of medications or nutrition, the extraction of bodily fluids for analysis, and dental care performed with a local anesthetic. Routine mental health treatment shall not include psychiatric administration of medication unless it is part of an ongoing mental health plan or unless it is otherwise authorized by law.

S 125. Subdivisions 1 and 3 of section 70.20 of the penal law, subdivision 1 as amended by chapter 516 of the laws of 1995 and subdivision 3 as amended by chapter 303 of the laws of 1981, are amended to read as follows:

1. (a) Indeterminate sentence. Except as provided in subdivision four of this section, when an indeterminate sentence of imprisonment is imposed, the court shall commit the defendant to the custody of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION for the term of his or her sentence and until released in accordance with the law.

(b) The court in committing a defendant who is not yet eighteen years of age to the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION shall inquire as to whether the parents or legal guardian of the defendant, if present, will grant to the minor the capacity to consent to routine medical, dental and mental health services and treatment.

(c) Notwithstanding paragraph (b) of this subdivision, where the court commits a defendant who is not yet eighteen years of age to the custody of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION in accordance with this section and no medical consent has been obtained prior to said commitment, the commitment order shall be deemed to grant the capacity to consent to routine medical, dental and mental health services and treatment to the person so committed.

(d) Nothing in this subdivision shall preclude a parent or legal guardian of an inmate who is not yet eighteen years of age from making a motion on notice to the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION pursuant to article twenty-two of the civil practice law and rules and section one hundred forty of the correction law, objecting to routine medical, dental or mental health services and treatment being provided to such inmate under the provisions of paragraph (b) of this subdivision.

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

3. Undischarged imprisonment in other jurisdiction. When a defendant who is subject to an undischarged term of imprisonment, imposed at a previous time by a court of another jurisdiction, is sentenced to an additional term or terms of imprisonment by a court of this state to run concurrently with such undischarged term, as provided in subdivision four of section 70.25, the return of the defendant to the custody of the appropriate official of the other jurisdiction shall be deemed a commitment for such portion of the term or terms of the sentence imposed by the court of this state as shall not exceed the said undischarged term. The defendant shall be committed to the custody of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION if the additional term or terms are indeterminate or to the appropriate county or regional correctional institution if the said term or terms are definite for such portion of the term or terms of the sentence imposed as shall exceed such undischarged term or until released in accordance with law. If such additional term or terms imposed shall run consecutively to the said undischarged term, the defendant shall be committed as provided in subdivisions one and two of this section.

S 126. The opening paragraph of subdivision 1 and subdivisions 6 and 7 of section 70.30 of the penal law, the opening paragraph of subdivision 1 as amended by chapter 3 of the laws of 1995, subdivision 6 as amended by chapter 465 of the laws of 1974 and subdivision 7 as amended by chapter 392 of the laws of 1988, are amended to read as follows:

An indeterminate or determinate sentence of imprisonment commences when the prisoner is received in an institution under the jurisdiction of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION. Where a person is under more than one indeterminate or determinate sentence, the sentences shall be calculated as follows:

6. Escape. When a person who is serving a sentence of imprisonment escapes from custody, the escape shall interrupt the sentence and such interruption shall continue until the return of the person to the institution in which the sentence was being served or, if the sentence was being served in an institution under the jurisdiction of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, to an institution under the jurisdiction of that department. Any time spent by such person in custody from the date of escape to the date

the sentence resumes shall be credited against the term or maximum term of the interrupted sentence, provided:

(a) That such custody was due to an arrest or surrender based upon the escape; or

(b) That such custody arose from an arrest on another charge which culminated in a dismissal or an acquittal; or

(c) That such custody arose from an arrest on another charge which culminated in a conviction, but in such case, if a sentence of imprisonment was imposed, the credit allowed shall be limited to the portion of the time spent in custody that exceeds the period, term or maximum term of imprisonment imposed for such conviction.

7. Absconding from temporary release or furlough program. When a person who is serving a sentence of imprisonment is permitted to leave an institution to participate in a program of work release or furlough program as such term is defined in section six hundred thirty-one of the correction law, or in the case of an institution under the jurisdiction of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or a facility under the jurisdiction of the state [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES to participate in a program of temporary release, fails to return to the institution or facility at or before the time prescribed for his OR HER return, such failure shall interrupt the sentence and such interruption shall continue until the return of the person to the institution in which the sentence was being served or, if the sentence was being served in an institution under the jurisdiction of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or a facility under the jurisdiction of the state [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES to an institution under the jurisdiction of that department or a facility under the jurisdiction of that [division] OFFICE. Any time spent by such person in an institution from the date of his OR HER failure to return to the date his OR HER sentence resumes shall be credited against the term or maximum term of the interrupted sentence, provided:

(a) That such incarceration was due to an arrest or surrender based upon the failure to return; or

(b) That such incarceration arose from an arrest on another charge which culminated in a dismissal or an acquittal; or

(c) That such custody arose from an arrest on another charge which culminated in a conviction, but in such case, if a sentence of imprisonment was imposed, the credit allowed shall be limited to the portion of the time spent in custody that exceeds the period, term or maximum term of imprisonment imposed for such conviction.

S 127. The opening paragraph of subdivision 1 of section 70.30 of the penal law, as amended by chapter 481 of the laws of 1978, is amended to read as follows:

An indeterminate sentence of imprisonment commences when the prisoner is received in an institution under the jurisdiction of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION. Where a person is under more than one indeterminate sentence, the sentences shall be calculated as follows:

S 127-a. Section 70.35 of the penal law, as amended by chapter 3 of the laws of 1995, is amended to read as follows:

S 70.35 Merger of certain definite and indeterminate or determinate sentences.

The service of an indeterminate or determinate sentence of imprisonment shall satisfy any definite sentence of imprisonment imposed on a

person for an offense committed prior to the time the indeterminate or determinate sentence was imposed, except as provided in paragraph (b) of subdivision five of section 70.25 of this article. A person who is serving a definite sentence at the time an indeterminate or determinate sentence is imposed shall be delivered to the custody of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION to commence service of the indeterminate or determinate sentence immediately unless the person is serving a definite sentence pursuant to paragraph (b) of subdivision five of section 70.25 of this article. In any case where the indeterminate or determinate sentence is revoked or vacated, the person shall receive credit against the definite sentence for each day spent in the custody of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION.

S 127-b. Section 70.35 of the penal law, as amended by chapter 527 of the laws of 1989, is amended to read as follows:

S 70.35 Merger of certain definite and indeterminate sentences.

The service of an indeterminate sentence of imprisonment shall satisfy any definite sentence of imprisonment imposed on a person for an offense committed prior to the time the indeterminate sentence was imposed, except as provided in paragraph (b) of subdivision five of section 70.25 of this article. A person who is serving a definite sentence at the time an indeterminate sentence is imposed shall be delivered to the custody of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION to commence service of the indeterminate sentence immediately unless the person is serving a definite sentence pursuant to paragraph (b) of subdivision five of section 70.25 of this article. In any case where the indeterminate sentence is revoked or vacated, the person shall receive credit against the definite sentence for each day spent in the custody of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION.

S 127-c. Paragraph (a) of subdivision 1 of section 70.40 of the penal law, as amended by chapter 3 of the laws of 1995, subparagraph (i) as amended by chapter 435 of the laws of 1997, subparagraph (v) as amended by section 7 of part J of chapter 56 of the laws of 2009, is amended to read as follows:

(a) Release on parole shall be in the discretion of the state board of parole, and such person shall continue service of his OR HER sentence or sentences while on parole, in accordance with and subject to the provisions of the executive law AND THE CORRECTION LAW.

(i) A person who is serving one or more than one indeterminate sentence of imprisonment may be paroled from the institution in which he OR SHE is confined at any time after the expiration of the minimum or the aggregate minimum period of the sentence or sentences or, where applicable, the minimum or aggregate minimum period reduced by the merit time allowance granted pursuant to paragraph (d) of subdivision one of section eight hundred three of the correction law.

(ii) A person who is serving one or more than one determinate sentence of imprisonment shall be ineligible for discretionary release on parole.

(iii) A person who is serving one or more than one indeterminate sentence of imprisonment and one or more than one determinate sentence of imprisonment, which run concurrently may be paroled at any time after the expiration of the minimum period of imprisonment of the indeterminate sentence or sentences, or upon the expiration of six-sevenths of the term of imprisonment of the determinate sentence or sentences, whichever is later.

(iv) A person who is serving one or more than one indeterminate sentence of imprisonment and one or more than one determinate sentence of imprisonment which run consecutively may be paroled at any time after the expiration of the sum of the minimum or aggregate minimum period of the indeterminate sentence or sentences and six-sevenths of the term or aggregate term of imprisonment of the determinate sentence or sentences.

(v) Notwithstanding any other subparagraph of this paragraph, a person may be paroled from the institution in which he OR SHE is confined at any time on medical parole pursuant to section two hundred fifty-nine-r or section two hundred fifty-nine-s of the executive law or for deportation pursuant to paragraph (d) of subdivision two of section two hundred fifty-nine-i of the executive law or after the successful completion of a shock incarceration program pursuant to article twenty-six-A of the correction law.

S 127-d. Paragraph (a) of subdivision 1 of section 70.40 of the penal law, as separately amended by chapter 261 of the laws of 1987 and chapter 55 of the laws of 1992, subparagraph (i) as added by chapter 3 of the laws of 1995, is amended to read as follows:

(a) (I) A person who is serving one or more than one indeterminate sentence of imprisonment may be paroled from the institution in which he OR SHE is confined at any time after the expiration of the minimum or the aggregate minimum period of imprisonment of the sentence or sentences or after the successful completion of a shock incarceration program, as defined in article twenty-six-A of the correction law, whichever is sooner. Release on parole shall be in the discretion of the state board of parole, and such person shall continue service of his OR HER sentence or sentences while on parole, in accordance with and subject to the provisions of the executive law AND THE CORRECTION LAW.

[(i)] (II) A person who is serving one or more than one indeterminate sentence of imprisonment may be paroled from the institution in which he OR SHE is confined at any time after the expiration of the minimum or the aggregate minimum period of the sentence or sentences.

S 127-d-1. Paragraph (b) of subdivision 1 of section 70.40 of the penal law, as amended by chapter 1 of the laws of 1998, is amended to read as follows:

(b) A person who is serving one or more than one indeterminate or determinate sentence of imprisonment shall, if he OR SHE so requests, be conditionally released from the institution in which he OR SHE is confined when the total good behavior time allowed to him OR HER, pursuant to the provisions of the correction law, is equal to the unserved portion of his OR HER term, maximum term or aggregate maximum term; provided, however, that (i) in no event shall a person serving one or more indeterminate sentence of imprisonment and one or more determinate sentence of imprisonment which run concurrently be conditionally released until serving at least six-sevenths of the determinate term of imprisonment which has the longest unexpired time to run and (ii) in no event shall a person be conditionally released prior to the date on which such person is first eligible for discretionary parole release. The conditions of release, including those governing post-release supervision, shall be such as may be imposed by the state board of parole in accordance with the provisions of the executive law.

Every person so released shall be under the supervision of the state [board of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION for a period equal to the unserved portion of the term, maximum term, aggregate maximum term, or period of post-release supervision.

S 127-e. Paragraph (b) of subdivision 1 of section 70.40 of the penal law, as separately amended by chapter 467 of the laws of 1979 and chapter 1 of the laws of 1998, the closing paragraph as separately amended by chapter 148 of the laws of 1975 and chapter 1 of the laws of 1998, is amended to read as follows:

(b) A person who is serving one or more than one indeterminate sentence of imprisonment shall, if he OR SHE so requests, be conditionally released from the institution in which he OR SHE is confined when the total good behavior time allowed to him OR HER, pursuant to the provisions of the correction law, is equal to the unserved portion of his OR HER maximum or aggregate maximum term. The conditions of release, including those governing post-release supervision, shall be such as may be imposed by the state board of parole in accordance with the provisions of the executive law.

Every person so released shall be under the supervision of the [state board of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION for a period equal to the unserved portion of the maximum, aggregate maximum term, or period of post-release supervision.

S 127-f. Paragraph (c) of subdivision 1 of section 70.40 of the penal law, as added by section 13 of part E of chapter 62 of the laws of 2003, is amended to read as follows:

(c) A person who is serving one or more than one indeterminate sentence of imprisonment shall, if he or she so requests, be released from the institution in which he or she is confined if granted presumptive release pursuant to section eight hundred six of the correction law. The conditions of release shall be such as may be imposed by the state board of parole in accordance with the provisions of the executive law. Every person so released shall be under the supervision of the [state board of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION for a period equal to the unserved portion of his or her maximum or aggregate maximum term unless discharged in accordance with law.

S 127-g. Subdivision 2 of section 70.40 of the penal law, as amended by section 4 of part SS of chapter 56 of the laws of 2009, is amended to read as follows:

2. Definite sentence. A person who is serving one or more than one definite sentence of imprisonment with a term or aggregate term in excess of ninety days, and is eligible for release according to the criteria set forth in paragraphs (a), (b) and (c) of subdivision one of section two hundred seventy-three of the correction law, may, if he or she so requests, be conditionally released from the institution in which he or she is confined at any time after service of sixty days of that term, exclusive of credits allowed under subdivisions four and six of section 70.30. In computing service of sixty days, the credit allowed for jail time under subdivision three of section 70.30 shall be calculated as time served. Conditional release from such institution shall be in the discretion of the parole board, or a local conditional release commission established pursuant to article twelve of the correction law, provided, however that where such release is by a local conditional release commission, the person must be serving a definite sentence with a term in excess of one hundred twenty days and may only be released after service of ninety days of such term. In computing service of ninety days, the credit allowed for jail time under subdivision three of section 70.30 of this article shall be calculated as time served. A conditional release granted under this subdivision shall be upon such conditions as may be imposed by the parole board, in accordance with the

provisions of the executive law, or a local conditional release commission in accordance with the provisions of the correction law.

Conditional release shall interrupt service of the sentence or sentences and the remaining portion of the term or aggregate term shall be held in abeyance. Every person so released shall be under the supervision of the [parole board] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION or a local probation department and in the custody of the local conditional release commission in accordance with article twelve of the correction law, for a period of one year. The local probation department shall cause complete records to be kept of every person released to its supervision pursuant to this subdivision. The [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION may supply to a local probation department and the local conditional release commission custody information and records maintained on persons under the supervision of such local probation department to aid in the performance of its supervision responsibilities. Compliance with the conditions of release during the period of supervision shall satisfy the portion of the term or aggregate term that has been held in abeyance.

S 127-h. Paragraphs (a) and (b) of subdivision 3 of section 70.40 of the penal law, paragraph (a) as amended by section 14 of part E of chapter 62 of the laws of 2003, paragraph (b) as amended by section 5 of part SS of chapter 56 of the laws of 2009, are amended to read as follows:

(a) When a person is alleged to have violated the terms of presumptive release or parole and the state board of parole has declared such person to be delinquent, the declaration of delinquency shall interrupt the person's sentence as of the date of the delinquency and such interruption shall continue until the return of the person to an institution under the jurisdiction of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION.

(b) When a person is alleged to have violated the terms of his OR HER conditional release or post-release supervision and has been declared delinquent by the parole board or the local conditional release commission having supervision over such person, the declaration of delinquency shall interrupt the period of supervision or post-release supervision as of the date of the delinquency. For a conditional release, such interruption shall continue until the return of the person to the institution from which he OR SHE was released or, if he OR SHE was released from an institution under the jurisdiction of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, to an institution under the jurisdiction of that department. Upon such return, the person shall resume service of his OR HER sentence. For a person released to post-release supervision, the provisions of section 70.45 shall apply.

S 127-i. Intentionally omitted.

S 127-j. Subdivision 5 of section 70.45 of the penal law, as added by chapter 1 of the laws of 1998, paragraph (d) as amended by section 5 of part E of chapter 56 of the laws of 2007, is amended to read as follows:

5. Calculation of service of period of post-release supervision. A period or periods of post-release supervision shall be calculated and served as follows:

(a) A period of post-release supervision shall commence upon the person's release from imprisonment to supervision by the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION and shall interrupt the running of the determinate sentence or sentences of imprisonment and the indeterminate sentence or sentences of imprisonment, if

any. The remaining portion of any maximum or aggregate maximum term shall then be held in abeyance until the successful completion of the period of post-release supervision or the person's return to the custody of the [department of correctional services] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION, whichever occurs first.

(b) Upon the completion of the period of post-release supervision, the running of such sentence or sentences of imprisonment shall resume and only then shall the remaining portion of any maximum or aggregate maximum term previously held in abeyance be credited with and diminished by such period of post-release supervision. The person shall then be under the jurisdiction of the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION for the remaining portion of such maximum or aggregate maximum term.

(c) When a person is subject to two or more periods of post-release supervision, such periods shall merge with and be satisfied by discharge of the period of post-release supervision having the longest unexpired time to run; provided, however, any time served upon one period of post-release supervision shall not be credited to any other period of post-release supervision except as provided in subdivision five of section 70.30 of this article.

(d) When a person is alleged to have violated a condition of post-release supervision and the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION has declared such person to be delinquent: (i) the declaration of delinquency shall interrupt the period of post-release supervision; (ii) such interruption shall continue until the person is restored to post-release supervision; (iii) if the person is restored to post-release supervision without being returned to the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, any time spent in custody from the date of delinquency until restoration to post-release supervision shall first be credited to the maximum or aggregate maximum term of the sentence or sentences of imprisonment, but only to the extent authorized by subdivision three of section 70.40 of this article. Any time spent in custody solely pursuant to such delinquency after completion of the maximum or aggregate maximum term of the sentence or sentences of imprisonment shall be credited to the period of post-release supervision, if any; and (iv) if the person is ordered returned to the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, the person shall be required to serve the time assessment before being re-released to post-release supervision. In the event the balance of the remaining period of post-release supervision is six months or less, such time assessment may be up to six months unless a longer period is authorized pursuant to subdivision one of this section. The time assessment shall commence upon the issuance of a determination after a final hearing that the person has violated one or more conditions of supervision. While serving such assessment, the person shall not receive any good behavior allowance pursuant to section eight hundred three of the correction law. Any time spent in custody from the date of delinquency until return to the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION shall first be credited to the maximum or aggregate maximum term of the sentence or sentences of imprisonment, but only to the extent authorized by subdivision three of section 70.40 of this article. The maximum or aggregate maximum term of the sentence or sentences of imprisonment shall run while the person is serving such time assessment in the custody of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION. Any time spent in custody solely pursuant to

such delinquency after completion of the maximum or aggregate maximum term of the sentence or sentences of imprisonment shall be credited to the period of post-release supervision, if any.

(e) Notwithstanding paragraph (d) of this subdivision, in the event a person is sentenced to one or more additional indeterminate or determinate term or terms of imprisonment prior to the completion of the period of post-release supervision, such period of post-release supervision shall be held in abeyance and the person shall be committed to the custody of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION in accordance with the requirements of the prior and additional terms of imprisonment.

(f) When a person serving a period of post-release supervision is returned to the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION pursuant to an additional consecutive sentence of imprisonment and without a declaration of delinquency, such period of post-release supervision shall be held in abeyance while the person is in the custody of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION. Such period of post-release supervision shall resume running upon the person's re-release.

S 127-k. Paragraph (d) of subdivision 3 of section 70.70 of the penal law, as added by chapter 738 of the laws of 2004, is amended to read as follows:

(d) Sentence of parole supervision. In the case of a person sentenced for a specified offense or offenses as defined in subdivision five of section 410.91 of the criminal procedure law, who stands convicted of no other felony offense, who has not previously been convicted of either a violent felony offense as defined in section 70.02 of this article, a class A felony offense or a class B felony offense, and is not under the jurisdiction of or awaiting delivery to the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, the court may direct that a determinate sentence imposed pursuant to this subdivision shall be executed as a parole supervision sentence as defined in and pursuant to the procedures prescribed in section 410.91 of the criminal procedure law.

S 127-l. Subdivision 1 of section 85.15 of the penal law, as amended by chapter 3 of the laws of 1995, is amended to read as follows:

1. Indeterminate and determinate sentences. The service of an indeterminate or a determinate sentence of imprisonment shall satisfy any sentence of intermittent imprisonment imposed on a person for an offense committed prior to the time the indeterminate or determinate sentence was imposed. A person who is serving a sentence of intermittent imprisonment at the time an indeterminate or a determinate sentence of imprisonment is imposed shall be delivered to the custody of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION to commence service of the indeterminate or determinate sentence immediately.

S 127-m. Subdivision 1 of section 85.15 of the penal law, as added by chapter 477 of the laws of 1970, is amended to read as follows:

1. Indeterminate and reformatory sentences. The service of an indeterminate or a reformatory sentence of imprisonment shall satisfy any sentence of intermittent imprisonment imposed on a person for an offense committed prior to the time the indeterminate or reformatory sentence was imposed. A person who is serving a sentence of intermittent imprisonment at the time an indeterminate or a reformatory sentence of imprisonment is imposed shall be delivered to the custody of the state department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION to

commence service of the indeterminate or reformatory sentence immediately.

S 127-n. Section 205.17 of the penal law, as amended by chapter 460 of the laws of 1983, is amended to read as follows:

S 205.17 Absconding from temporary release in the first degree.

A person is guilty of absconding from temporary release in the first degree when having been released from confinement in a correctional institution under the jurisdiction of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or a facility under the jurisdiction of the state [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES to participate in a program of temporary release, he OR SHE intentionally fails to return to the institution or facility of his OR HER confinement at or before the time prescribed for his OR HER return.

Absconding from temporary release in the first degree is a class E felony.

S 127-o. Section 205.19 of the penal law, as added by chapter 554 of the laws of 1986, is amended to read as follows:

S 205.19 Absconding from a community treatment facility.

A person is guilty of absconding from a community treatment facility when having been released from confinement from a correctional institution under the jurisdiction of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION by transfer to a community treatment facility, he OR SHE leaves such facility without authorization or he OR SHE intentionally fails to return to the community treatment facility at or before the time prescribed for his OR HER return.

Absconding from a community treatment facility is a class E felony.

S 127-p. Section 240.32 of the penal law, as separately amended by chapters 422 and 441 of the laws of 2000, is amended to read as follows:

S 240.32 Aggravated harassment of an employee by an inmate.

An inmate or respondent is guilty of aggravated harassment of an employee by an inmate when, with intent to harass, annoy, threaten or alarm a person in a facility whom he OR SHE knows or reasonably should know to be an employee of such facility or the [division of] BOARD OF parole or the office of mental health, or a probation department, bureau or unit or a police officer, he OR SHE causes or attempts to cause such employee to come into contact with blood, seminal fluid, urine or feces, by throwing, tossing or expelling such fluid or material.

For purposes of this section, "inmate" means an inmate or detainee in a correctional facility, local correctional facility or a hospital, as such term is defined in subdivision two of section four hundred of the correction law. For purposes of this section, "respondent" means a juvenile in a secure facility operated and maintained by the office of children and family services who is placed with or committed to the office of children and family services. For purposes of this section, "facility" means a correctional facility or local correctional facility, hospital, as such term is defined in subdivision two of section four hundred of the correction law, or a secure facility operated and maintained by the office of children and family services.

Aggravated harassment of an employee by an inmate is a class E felony.

S 127-q. Paragraphs (e) and (f) of subdivision 3 of section 130.05 of the penal law, paragraph (e) as amended by chapter 1 of the laws of 2000, subparagraph (iv) of paragraph (e) as added and paragraph (f) as amended by chapter 335 of the laws of 2007, are amended to read as follows:

(e) committed to the care and custody of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or a hospital, as such term is defined in subdivision two of section four hundred of the correction law, and the actor is an employee, not married to such person, who knows or reasonably should know that such person is committed to the care and custody of such department or hospital. For purposes of this paragraph, "employee" means (i) an employee of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION who performs professional duties: (A) in a state correctional facility consisting of providing custody, medical or mental health services, counseling services, educational programs, or vocational training for inmates; OR

[(ii) an employee of the division of parole who performs professional duties] (B) in a state correctional facility and who provides institutional parole services [pursuant to section two hundred fifty-nine-e of the executive law]; or

[(iii)] (II) an employee of the office of mental health who performs professional duties in a state correctional facility or hospital, as such term is defined in subdivision two of section four hundred of the correction law, consisting of providing custody, or medical or mental health services for such inmates; or

[(iv)] (III) a person, including a volunteer, providing direct services to inmates in the state correctional facility in which the victim is confined at the time of the offense pursuant to a contractual arrangement with the state department of correctional services or, in the case of a volunteer, a written agreement with such department, provided that the person received written notice concerning the provisions of this paragraph; or

(f) committed to the care and custody of a local correctional facility, as such term is defined in subdivision two of section forty of the correction law, and the actor is an employee, not married to such person, who knows or reasonably should know that such person is committed to the care and custody of such facility. For purposes of this paragraph, "employee" means an employee of the local correctional facility where the person is committed who performs professional duties consisting of providing custody, medical or mental health services, counseling services, educational services, or vocational training for inmates. For purposes of this paragraph, "employee" shall also mean a person, including a volunteer or a government employee of the state [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION or a local health, education or probation agency, providing direct services to inmates in the local correctional facility in which the victim is confined at the time of the offense pursuant to a contractual arrangement with the local correctional department or, in the case of such a volunteer or government employee, a written agreement with such department, provided that such person received written notice concerning the provisions of this paragraph; or

S 127-r. Subdivision 1 of section 10 of the public buildings law, as added by chapter 83 of the laws of 1995, is amended to read as follows:

1. Except as provided in subdivision two of this section, whenever the head of any agency, board, division or commission, with the approval of the director of the budget, (a) shall certify to the commissioner of general services that any property on state land or on land under lease to the state and consisting of buildings with or without fixtures attached thereto, and any other improvements upon such lands, are unfit, not adapted or not needed for use by such agency, board, division or

commission and (b) shall recommend for reasons to be stated, that the said property should be disposed of, the commissioner of general services shall, after causing an investigation to be made, dispose of said property by sale or demolition as will best promote the public interest. Public notice of a proposed sale where the value of the property to be sold exceeds five thousand dollars shall be given by advertising at least once in a newspaper published and having a general circulation in the county in which such lands are located and in such other newspaper or newspapers as the commissioner of general services may deem to be necessary. Such advertisement shall give a general description and location of the property and the terms of the sale and the date on which proposals for the same will be received by the commissioner of general services. Should any or all of the offers so received be deemed by the commissioner of general services to be too low, he or she may dispose of such property so advertised at private sale within ninety days of the opening of the bids, provided that no such private sale shall be consummated at a price lower than that submitted as a result of public advertising. The commissioner of general services shall also have the power to demolish such property either by contract or, if such property is located on lands which are under the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, the work of such demolition may be done by the inmates of the institution where such property is located, provided however that the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION shall consent to the employment of the inmates for the work of demolition. The provisions of this subdivision shall be effective notwithstanding the provisions of any other general or special law relating to the disposal of buildings with the fixtures attached thereto or of any improvements upon lands belonging to or under lease to the state, and any such statute or parts thereof relating to such disposal of buildings, fixtures and improvements insofar as they are inconsistent with the provisions of this section are hereby superseded. A record of any such sale shall be filed with the state agency head above referred to and the proceeds of such sale or disposal shall be paid into the treasury of the state to the credit of the capital projects fund.

S 127-s. Subdivision 26 of section 206 of the public health law, as added by section 1 of chapter 419 of the laws of 2009, is amended to read as follows:

26. The commissioner is hereby authorized and directed to review any policy or practice instituted in facilities operated by the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION regarding human immunodeficiency virus (HIV), acquired immunodeficiency syndrome (AIDS), and hepatitis C (HCV) including the prevention of the transmission of HIV and HCV and the treatment of AIDS, HIV and HCV among inmates. Such review shall be performed annually and shall focus on whether such HIV, AIDS or HCV policy or practice is consistent with current, generally accepted medical standards and procedures used to prevent the transmission of HIV and HCV and to treat AIDS, HIV and HCV among the general public. In performing such reviews, in order to determine the quality and adequacy of care and treatment provided, department personnel are authorized to enter correctional facilities and inspect policy and procedure manuals and medical protocols, interview health services providers and inmate-patients, review medical grievances, and inspect a representative sample of medical records of inmates known to be infected with HIV or HCV or have AIDS. Prior to initiating a review of a correctional system, the commissioner shall inform the public,

including patients, their families and patient advocates, of the scheduled review and invite them to provide the commissioner with relevant information. Upon the completion of such review, the department shall, in writing, approve such policy or practice as instituted in facilities operated by the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or, based on specific, written recommendations, direct the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION to prepare and implement a corrective plan to address deficiencies in areas where such policy or practice fails to conform to current, generally accepted medical standards and procedures. The commissioner shall monitor the implementation of such corrective plans and shall conduct such further reviews as the commissioner deems necessary to ensure that identified deficiencies in HIV, AIDS and HCV policies and practices are corrected. All written reports pertaining to reviews provided for in this subdivision shall be maintained, under such conditions as the commissioner shall prescribe, as public information available for public inspection.

S 127-t. Subdivision 26 of section 206 of the public health law, as amended by section 2 of chapter 419 of the laws of 2009, is amended to read as follows:

26. The commissioner is hereby authorized and directed to review any policy or practice instituted in facilities operated by the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, and in all local correctional facilities, as defined in subdivision sixteen of section two of the correction law, regarding human immunodeficiency virus (HIV), acquired immunodeficiency syndrome (AIDS), and hepatitis C (HCV) including the prevention of the transmission of HIV and HCV and the treatment of AIDS, HIV and HCV among inmates. Such review shall be performed annually and shall focus on whether such HIV, AIDS or HCV policy or practice is consistent with current, generally accepted medical standards and procedures used to prevent the transmission of HIV and HCV and to treat AIDS, HIV and HCV among the general public. In performing such reviews, in order to determine the quality and adequacy of care and treatment provided, department personnel are authorized to enter correctional facilities and inspect policy and procedure manuals and medical protocols, interview health services providers and inmate-patients, review medical grievances, and inspect a representative sample of medical records of inmates known to be infected with HIV or HCV or have AIDS. Prior to initiating a review of a correctional system, the commissioner shall inform the public, including patients, their families and patient advocates, of the scheduled review and invite them to provide the commissioner with relevant information. Upon the completion of such review, the department shall, in writing, approve such policy or practice as instituted in facilities operated by the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, and in any local correctional facility, or, based on specific, written recommendations, direct the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, or the authority responsible for the provision of medical care to inmates in local correctional facilities to prepare and implement a corrective plan to address deficiencies in areas where such policy or practice fails to conform to current, generally accepted medical standards and procedures. The commissioner shall monitor the implementation of such corrective plans and shall conduct such further reviews as the commissioner deems necessary to ensure that identified deficiencies in HIV, AIDS and HCV policies and practices are corrected. All written reports pertaining to reviews provided for in

this subdivision shall be maintained, under such conditions as the commissioner shall prescribe, as public information available for public inspection.

S 128. Subdivision 2 of section 579 of the public health law, as added by chapter 436 of the laws of 1993, is amended to read as follows:

2. This title shall not be applicable to and the department shall not have the power to regulate pursuant to this title: (a) any examination performed by a state or local government of materials derived from the human body for use in criminal identification or as evidence in a criminal proceeding or for investigative purposes; (b) any test conducted pursuant to paragraph (c) of subdivision four of section eleven hundred ninety-four of the vehicle and traffic law and paragraph [(b)] (C) of subdivision [four] EIGHT of section 25.24 of the parks, recreation and historic preservation law; (c) any examination performed by a state or local agency of materials derived from the body of an inmate, pretrial releasee, parolee, conditional releasee or probationer to (i) determine, measure or otherwise describe the presence or absence of any substance whose possession, ingestion or use is prohibited by law, the rules of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, the conditions of release established by the board of parole, the conditions of release established by a court or a local conditional release commission or the conditions of any program to which such individuals are referred and (ii) to determine whether there has been a violation thereof; or (d) any examination performed by a coroner or medical examiner for the medical-legal investigation of a death. Nothing herein shall prevent the department from consulting with the division of criminal justice services, the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, the state police, or any other state agency or commission, at the request of the division of criminal justice services, the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, the state police, or such other agency or commission, concerning examination of materials for purposes other than public health.

S 129. Subdivision 8 of section 2780 of the public health law, as amended by chapter 786 of the laws of 1992, is amended to read as follows:

8. "Health or social service" means any public or private care, treatment, clinical laboratory test, counseling or educational service for adults or children, and acute, chronic, custodial, residential, outpatient, home or other health care provided pursuant to this chapter or the social services law; public assistance or care as defined in article one of the social services law; employment-related services, housing services, foster care, shelter, protective services, day care, or preventive services provided pursuant to the social services law; services for the mentally disabled as defined in article one of the mental hygiene law; probation services, provided pursuant to articles twelve and twelve-A of the executive law; parole services, provided pursuant to article [twelve-B of the executive law] EIGHT OF THE CORRECTION LAW; [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, provided pursuant to the correction law; detention and rehabilitative services provided pursuant to article nineteen-G of the executive law; and the activities of the health care worker HIV/HBV advisory panel pursuant to article twenty-seven-DD of this chapter.

S 130. Subdivision 2 of section 2785-a of the public health law, as added by chapter 76 of the laws of 1995, is amended to read as follows:

2. At the time of communicating the test results to the subject or the victim, such public health officer shall directly provide the victim and person tested with (a) counseling or referrals for counseling for the purposes specified in subdivision five of section two thousand seven hundred eighty-one of this article; (b) counseling with regard to HIV disease and HIV testing in accordance with law and consistent with subdivision five of section two thousand seven hundred eighty-one of this article; and (c) appropriate health care and support services, or referrals to such available services. If at the time of communicating the test results, the person tested is in the custody of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES, office of mental health or a local correctional institution, the counseling and services required by this subdivision may be provided by a public health officer associated with the county or facility within which the person tested is confined.

S 131. Subdivision 4 of section 2994-cc of the public health law, as added by chapter 8 of the laws of 2010, is amended to read as follows:

4. (a) When the concurrence of a second physician is sought to fulfill the requirements for the issuance of a nonhospital order not to resuscitate for patients in a correctional facility, such second physician shall be selected by the chief medical officer of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or his or her designee.

(b) When the concurrence of a second physician is sought to fulfill the requirements for the issuance of a nonhospital order not to resuscitate for hospice and home care patients, such second physician shall be selected by the hospice medical director or hospice nurse coordinator designated by the medical director or by the home care services agency director of patient care services, as appropriate to the patient.

S 132. Subdivision 4 of section 4174 of the public health law, as amended by section 6 of part OO of chapter 56 of the laws of 2010, is amended to read as follows:

4. No fee shall be charged for a search, certification, certificate, certified copy or certified transcript of a record to be used for school entrance, employment certificate or for purposes of public relief or when required by the veterans administration to be used in determining the eligibility of any person to participate in the benefits made available by the veterans administration or when required by a board of elections for the purposes of determining voter eligibility or when requested by the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or a local correctional facility as defined in subdivision sixteen of section two of the correction law for the purpose of providing a certified copy or certified transcript of birth to an inmate in anticipation of such inmate's release from custody or when requested by the office of children and family services or an authorized agency for the purpose of providing a certified copy or certified transcript of birth to a youth placed in the custody of the local commissioner of social services or the custody of the office of children and family services pursuant to article three of the family court act in anticipation of such youth's discharge from placement.

S 133. Section 4179 of the public health law, as amended by section 7 part OO of chapter 56 of the laws of 2010, is amended to read as follows:

S 4179. Vital records; fees; city of New York. Notwithstanding the provisions of paragraph one of subdivision a of section 207.13 of the

health code of the city of New York, the department of health shall charge, and the applicant shall pay, for a search of two consecutive calendar years under one name and the issuance of a certificate of birth, death or termination of pregnancy, or a certification of birth or death, or a certification that the record cannot be found, a fee of fifteen dollars for each copy. Provided, however, that no such fee shall be charged when the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or a local correctional facility as defined in subdivision sixteen of section two of the correction law requests a certificate of birth or certification of birth for the purpose of providing such certificate of birth or certification of birth to an inmate in anticipation of such inmate's release from custody or when the office of children and family services or an authorized agency requests a certified copy or certified transcript of birth for a youth placed in the custody of the local commissioner of social services or the custody of the office of children and family services pursuant to article three of the family court act for the purpose of providing such certified copy or certified transcript of birth to such youth in anticipation of discharge from placement.

S 134. Paragraph (l) of subdivision 1 of section 2782 of the public health law, as added by chapter 584 of the laws of 1988, is amended to read as follows:

(l) an employee or agent of the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION, in accordance with paragraph (a) of subdivision two of section twenty-seven hundred eighty-six of this article, to the extent the employee or agent is authorized to access records containing such information in order to carry out the [division's] DEPARTMENT'S functions, powers and duties with respect to the protected individual, pursuant to section two hundred fifty-nine-a of the executive law;

S 135. Subdivision 8 of section 92 of the public officers law, as separately amended by section 40 of part A and section 2 of part A1 of chapter 56 and by chapter 491 of the laws of 2010, is amended to read as follows:

(8) Public safety agency record. The term "public safety agency record" means a record of the state commission of correction, the temporary state commission of investigation, the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, the office of children and family services, [the division of parole,] the office of victim services, the office of probation and correctional alternatives or the division of state police or of any agency or component thereof whose primary function is the enforcement of civil or criminal statutes if such record pertains to investigation, law enforcement, confinement of persons in correctional facilities or supervision of persons pursuant to criminal conviction or court order, and any records maintained by the division of criminal justice services pursuant to sections eight hundred thirty-seven, eight hundred thirty-seven-a, eight hundred thirty-seven-b, eight hundred thirty-seven-c, eight hundred thirty-eight, eight hundred thirty-nine, and eight hundred forty-five of the executive law and by the department of state pursuant to section ninety-nine of the executive law.

S 136. Section 18 of the railroad law, as amended by chapter 840 of the laws of 1984, is amended to read as follows:

S 18. Railroads through public lands. The commissioner of general services may grant to any domestic or foreign railroad corporation land belonging to the people of the state, except the reservation at Niagara

and the Concourse lands on Coney Island, which may be required for the purposes of its road on such terms as may be agreed upon by them; or a domestic railroad corporation may acquire title thereto by condemnation; and the county or town officers having charge of any land belonging to any county or town, required for a domestic railroad corporation for the purposes of its road, may grant such land to the corporation for such compensation as may be agreed upon. In case the land or any right, interest or easement therein, required by a domestic or foreign railroad corporation is used for prison purposes the commissioner of general services may grant such land, or any right, interest or easement therein, provided the plans of such railroad corporation for the use of such prison lands, or such right, interest or easement therein, have the approval of the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION.

S 137. Subdivision 3 and 4 of section 88 of the railroad law, as amended by chapter 247 of the laws of 1964, are amended to read as follows:

3. The corporation, express company or steamboat company making any such application shall cause the fingerprints of each proposed appointee to be taken [by a police agency] IN THE FORM AND MANNER PRESCRIBED BY THE DIVISION OF CRIMINAL JUSTICE SERVICES and [shall cause] one set of such fingerprints [to] SHALL be forwarded to the division of [identification, New York state department of correction, at Albany, New York] CRIMINAL JUSTICE SERVICES, and one set [of such fingerprints to be forwarded to the identification division,] TO THE federal bureau of investigation[, United States department of justice, at Washington, D. C., with the request that such]. SUCH fingerprints shall be searched by each agency against the fingerprint records in its files and be retained in the files of such agencies [and the further request that reports of the results of such searches shall be transmitted to the superintendent of state police].

4. Reports of the results of such searches [of the fingerprint records of the department of correction and of the department of justice] shall be reviewed by the superintendent of state police prior to granting an appointment[,] to determine whether a proposed appointee is thereby shown to have been convicted of a crime in the state of New York or of any offense in any other place which if committed in the state of New York would have been a crime and no person who is determined by such review to have been so convicted shall receive an appointment under this section.

S 138. Subdivision a of section 63-a of the retirement and social security law, as added by chapter 722 of the laws of 1996, is amended to read as follows:

a. Any member in the uniformed personnel in institutions under the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or a security hospital treatment assistant, as those terms are defined in subdivision i of section eighty-nine of this article, who becomes physically or mentally incapacitated for the performance of duties as the natural and proximate result of an injury, sustained in the performance or discharge of his or her duties by, or as the natural and proximate result of an act of any inmate or any person confined in an institution under the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or office of mental health, or by any person who has been committed to such institution by any court shall be paid a performance of duty disability retirement allowance equal to that which is provided in section sixty-

three of this title, subject to the provisions of section sixty-four of this title.

S 139. Section 89 of the retirement and social security law, as amended by chapter 578 of the laws of 1989, subdivision i as amended by chapter 499 of the laws of 2006, is amended to read as follows:

S 89. Retirement of members in the uniformed personnel in institutions under the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or who are security hospital treatment assistants; new plan. a. Any member in the uniformed personnel in institutions under the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, as hereinafter defined, who enters or re-enters service on or after the effective date of this section, or who is a security hospital treatment assistant who enters or reenters service on or after the effective date of the amendment permitting security hospital treatment assistants to be covered by this section, shall contribute on the basis provided for by this section.

b. Any member in the uniformed personnel in institutions under the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, as hereinafter defined, who entered such service prior to the effective date of this section may, on or before September first, nineteen hundred sixty-six, elect to come under the provisions of this section. Such election shall be in writing and shall be duly executed and filed with the comptroller.

c. Any member in the uniformed personnel in institutions under the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, as hereinafter defined, who entered such service prior to the effective date of this section, may, on or before December thirty-first, nineteen hundred sixty-six, elect to come under the provisions of this section. Such election shall be in writing and shall be duly executed and filed with the comptroller. Any such member who has made an election as set forth herein on or before December thirty-first, nineteen hundred sixty-five, shall be permitted to withdraw the same and in like manner make a new election on or before December thirty-first, nineteen hundred sixty-six.

d. A member who elects or is required to contribute in accordance with this section shall contribute, in lieu of the proportion of compensation as provided in section twenty-one of this article, a proportion of his OR HER compensation similarly determined. Such latter proportion shall be computed to provide at the time when he OR SHE shall first become eligible for retirement under this section, an annuity equal to one-one hundredth of his OR HER final average salary for each year of service as a member rendered after May first, nineteen hundred sixty-five, and prior to the attainment of the age when he OR SHE shall first become eligible for retirement. Such member's rate of contribution pursuant to this section shall be appropriately reduced pursuant to section seventy-a of this article for such period of time as his OR HER employer contributes pursuant to such section toward pensions-providing-for-increased-take-home pay. No such member shall be required to continue contributions after completing twenty-five years of such service.

e. A member contributing on the basis of this section at the time of retirement, shall be entitled to retire after the completion of twenty-five years of total creditable service as defined in subdivision i of this section, or upon the attainment of age sixty, by filing an application therefor in a manner similar to that provided in section seventy of

this article. He OR SHE thereupon shall receive, on retirement a retirement allowance consisting of:

1. An annuity, which shall be the actuarial equivalent of his OR HER accumulated contributions at the time of his OR HER retirement, plus,

2. A pension which, together with such annuity and a pension which is the actuarial equivalent of the reserves for-increased-take-home pay to which he OR SHE may then be entitled, if any, shall equal one-fiftieth of his OR HER final average salary for each year of creditable service in the uniformed personnel in institutions under the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or for each year of creditable service as a security hospital treatment assistant under the jurisdiction of the office of mental health, as hereinafter defined. This pension shall not exceed the amount needed to make the total amount of the benefits provided under paragraphs one and two of this subdivision e equal to one-half of his OR HER final average salary.

3. An additional pension equal to the pension for any creditable service rendered while not in the uniformed personnel in institutions under the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION and rendered while not serving as a security hospital treatment assistant under the jurisdiction of the office of mental health, as hereinafter defined, as provided under paragraphs two and three of subdivision a of section seventy-five of this article. This pension shall:

(a) Be payable only if such member has attained age sixty at the time of retirement and has not completed twenty-five years of service for which he receives credits under this article, and

(b) Not increase the total allowance to more than one-half of his OR HER final average salary.

For the purpose only of determining the amount of the pension provided herein, the annuity shall be computed as it would be:

(aa) if not reduced by the actuarial equivalent of any outstanding loan, and

(bb) if not increased by the actuarial equivalent of any additional contributions, and

(cc) if not reduced by reason of the member's election to decrease his OR HER annuity contributions to the retirement system in order to apply the amount of such reduction in payment of his contributions for old-age and survivors insurance coverage.

f. The increased pensions to members of the uniformed personnel in institutions under the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or to members who are security hospital treatment assistants under the jurisdiction of the office of mental health, as provided by this section, shall be paid from additional contributions made by the state on account of such member. The actuary of the retirement system shall compute the additional contribution of each member who elects to receive the special benefits provided under this section. Such additional contributions shall be computed on the basis of contributions during the prospective service of such member which will cover the liability of the retirement system for such extra pensions.

g. In computing the twenty-five years of completed service of a member in the uniformed personnel in institutions under the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or of a member who is a security hospital treatment assistant under the jurisdiction of the office of mental health, as hereinafter

defined, full credit shall be given and full allowance shall be made for service of such member in war after world war 1 as defined in section two of this chapter, provided such member at the time of his OR HER entrance into the armed forces was in state service.

h. The provisions of this section shall be controlling notwithstanding any provision in this article to the contrary.

i. As used in this section, "uniformed persons" or "uniformed personnel" in institutions under the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or "security hospital treatment assistants" under the jurisdiction of the office of mental health mean officers or employees holding the titles hereinafter set forth in institutions under the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or under the jurisdiction of the office of mental health, namely: correction officers, prison guards, correction sergeants, correction lieutenants, correction captains, deputy assistant superintendent or warden, deputy warden or deputy superintendent, superintendents and wardens, assistant director and director of correction reception center, director of correctional program, assistant director of correctional program, director of community correctional center, community correctional center assistant, correction hospital officers, male or female, correction hospital senior officers, correction hospital charge officer, correction hospital supervising officer, correction hospital security supervisor, correction hospital chief officer, correction youth camp officer, correction youth camp supervisor, assistant supervisor, correctional camp superintendent, assistant correctional camp superintendent, director of crisis intervention unit, assistant director of crisis intervention unit, security hospital treatment assistants, security hospital treatment assistants (Spanish speaking), security hospital senior treatment assistants, security hospital supervising treatment assistants and security hospital treatment chiefs. Previous service rendered under the titles by which such positions were formerly designated and previous service rendered as a narcotic addiction control commission officer shall constitute creditable service. Notwithstanding any provision of law to the contrary, any employee of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION who became enrolled under this section by reason of employment as a uniformed person in an institution under the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION shall be entitled to full retirement credit for, and full allowance shall be made under this section for the service of such employee, not to exceed twelve years, while assigned to the training academy or central office, in the following titles, namely: correction officer, correction sergeant, correction lieutenant, correction captain, correctional services investigator, senior correctional services employee investigator, correctional services fire and safety coordinator, director of special housing and inmate disciplinary program, assistant director of special housing and inmate disciplinary program, assistant chief of investigations, director of CERT operations, correctional facility operations specialist, director of security staffing project, correctional security technical services specialist, assistant commissioner and deputy commissioner.

j. Notwithstanding any provisions of subdivision a, b or i of this section to the contrary, a member who is in the collective negotiating unit designated as the security services unit and established pursuant to article fourteen of the civil service law and who has elected or is

required to contribute in accordance with this section may, on or before March thirty-first, nineteen hundred seventy-three, elect to come under the provisions of section seventy-five-h of this article. Such election shall be duly executed and filed with the comptroller.

k. Any member who, on or before the effective date of this provision, is a security hospital treatment assistant under the jurisdiction of the office of mental health may, by filing an election within one year after the effective date of this provision, elect to be subject to the provisions of this section. Such election shall be in writing, shall be duly executed and filed with the comptroller and shall be irrevocable.

S 140. Section 89-n of the retirement and social security law, as added by chapter 573 of the laws of 1991, is amended to read as follows:

S 89-n. Computation of twenty-five years of service; correction officers. a. Notwithstanding any inconsistent provision of law, in computing twenty-five years of completed service by correction officers in all counties, full credit shall be given and full allowance shall be made for service of such member as a correction officer employed by the city of New York, as a uniformed employee in an institution under the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, as a security hospital assistant under the jurisdiction of the office of mental health, or as a correction officer in any county in which he or she was eligible to retire after twenty-five years of total creditable service.

b. Notwithstanding any inconsistent provision of law, in computing twenty-five years of completed service by state correction officers, full credit shall be given and full allowance shall be made for service of such members as a correction officer employed by the city of New York as a uniformed employee in an institution under the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, as a security hospital assistant under the jurisdiction of the office of mental health, or as a correction officer in any county in which he or she was eligible to retire after twenty-five years of total creditable service.

S 141. Subdivision a of section 444 of the retirement and social security law, as amended by chapter 625 of the laws of 2007, is amended to read as follows:

a. Except as provided in subdivision c of section four hundred forty-five-a of this article, subdivision c of section four hundred forty-five-b of this article, subdivision c of section four hundred forty-five-c of this article, subdivision c of section four hundred forty-five-d of this article as added by chapter four hundred seventy-two of the laws of nineteen hundred ninety-five, subdivision c of section four hundred forty-five-e of this article, subdivision c of section four hundred forty-five-f of this article and subdivision c of section four hundred forty-five-h of this article, the maximum retirement benefit computed without optional modification provided to a member of a retirement system who is subject to the provisions of this article, other than a police officer, a firefighter, an investigator member of the New York city employees' retirement system, a member of the uniformed personnel in institutions under the jurisdiction of the New York city department of correction who receives a performance of duty disability retirement allowance, a member of the uniformed personnel in institutions under the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or a security hospital treatment assistant, as those terms are defined in subdivision i of section eighty-nine of this chapter, who receives a performance of duty

disability retirement allowance, a member of a teachers' retirement system, New York city employees' retirement system, New York city board of education retirement system or a member of the New York state and local employees' retirement system or a member of the New York city employees' retirement system or New York city board of education retirement system employed as a special officer, parking control specialist, school safety agent, campus peace officer, taxi and limousine inspector or a police communications member and who receives a performance of duty disability pension, from funds other than those based on a member's own or increased-take-home-pay contributions, shall, before any reduction for early retirement, be sixty per centum of the first fifteen thousand three hundred dollars of final average salary, and fifty per centum of final average salary in excess of fifteen thousand three hundred dollars, and forty per centum of final average salary in excess of twenty-seven thousand three hundred dollars, provided, however, that the benefits provided by subdivision c of section four hundred forty-five-d of this article as added by chapter four hundred seventy-two of the laws of nineteen hundred ninety-five based upon the additional member contributions required by subdivision d of such section four hundred forty-five-d shall be subject to the maximum retirement benefit computations set forth in this section. The maximum retirement benefit computed without optional modification payable to a police officer, an investigator member of the New York city employees' retirement system or a firefighter shall equal that payable upon completion of thirty years of service, except that the maximum service retirement benefit computed without optional modification shall equal that payable upon completion of thirty-two years of service.

S 142. Section 450 of the retirement and social security law, as amended by chapter 489 of the laws of 1998, is amended to read as follows:

S 450. Definitions. For the purposes of this article: (1) the term "correction officer" shall mean members of the New York state and local employees' retirement system who are in a plan limited to uniformed personnel in institutions under the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or members of such system who are also in titles defined in subdivision i of section eighty-nine of this chapter and correction members of the New York city employees' retirement system; (2) the term "police officer or firefighter" shall mean members of the New York state and local police and fire retirement system, the New York city police pension fund, New York city fire department pension fund, and housing police members and transit police members of the New York city employees' retirement system; (3) the term "sanitation man" shall mean sanitation members of the New York city employees' retirement system; and (4) the term "investigator member" shall mean members who are police officers as defined in paragraph (g) of subdivision thirty-four of section 1.20 of the criminal procedure law.

S 143. Subdivision c of section 503 of the retirement and social security law, as amended by chapter 622 of the laws of 2004, is amended to read as follows:

c. A general member shall be eligible for early service retirement at age fifty-five with five years of credited service. A general member in the uniformed correction force of the New York city department of correction, who is not eligible for early service retirement pursuant to subdivision c of section five hundred four-a of this article or subdivision c of section five hundred four-b of this article or subdivision c

of section five hundred four-d of this article, or a general member in the uniformed personnel in institutions under the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, as defined in subdivision i of section eighty-nine of this chapter or serving in institutions who is also in a title defined in such subdivision and who has made an election pursuant to the provisions of article seventeen of this chapter, shall also be eligible for early service retirement after twenty-five years of credited service.

S 144. Subdivisions d and e of section 504 of the retirement and social security law, subdivision d as amended by chapter 622 of the laws of 2004, and subdivision e as amended by chapter 578 of the laws of 1989, is amended to read as follows:

d. The early service retirement benefit for general members in the uniformed correction force of the New York city department of correction, who are not entitled to an early service retirement benefit pursuant to subdivision c of section five hundred four-a of this article or subdivision c of section five hundred four-b of this article or subdivision c of section five hundred four-d of this article, or for general members in the uniformed personnel in institutions under the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, as defined in subdivision i of section eighty-nine of this chapter, shall be a pension equal to one-fiftieth of final average salary times years of credited service at the completion of twenty-five years of service, but not in excess of fifty percent of final average salary.

e. The early service retirement benefit for uniformed personnel in institutions under the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, as defined in subdivision i of section eighty-nine of this chapter, or who are in titles defined in subdivision i of section eighty-nine of this chapter and who have made an election pursuant to the provisions of article seventeen of this chapter, shall be a pension equal to one-fiftieth of final average salary times years of credited service at the completion of twenty-five years of service, but not in excess of fifty percent of final average salary.

S 145. The opening paragraph of subdivision a of section 507-a of the retirement and social security law, as amended by chapter 578 of the laws of 1989, is amended to read as follows:

Application for a disability retirement allowance for a member in the uniformed personnel in institutions under the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION of New York state as defined in subdivision i of section eighty-nine of this chapter or for a member serving in institutions who is also in a title defined in such subdivision and who has made an election pursuant to the provisions of article seventeen of this chapter or the New York city department of correction may be made by:

S 146. Subdivision a of section 507-b of the retirement and social security law, as added by chapter 722 of the laws of 1996, is amended to read as follows:

a. Any member in the uniformed personnel in institutions under the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or a security hospital treatment assistant, as those terms are defined in subdivision i of section eighty-nine of this chapter, who becomes physically or mentally incapacitated for the performance of duties as the natural and proximate result of an injury, sustained in the performance or discharge of his or her duties by, or as

a natural and proximate result of, an act of any inmate or any person confined in an institution under the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or office of mental health, or by any person who has been committed to such institution by any court shall be paid a performance of duty disability retirement allowance equal to that which is provided in section sixty-three of this chapter, subject to the provisions of section sixty-four of this chapter.

S 147. Subdivision f of section 511 of the retirement and social security law, as amended by chapter 667 of the laws of 1996, is amended to read as follows:

f. This section shall not apply to general members in the uniformed correction force of the New York city department of correction or to uniformed personnel in institutions under the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION and security hospital treatment assistants, as those terms are defined in subdivision i of section eighty-nine of this chapter.

S 148. Subdivisions b and d of section 516 of the retirement and social security law, subdivision b as amended by chapter 174 of the laws of 1989 and subdivision d as amended by chapter 622 of the laws of 2004, is amended to read as follows:

b. The deferred vested benefit of general members, except for general members in the uniformed correction force of the New York city department of correction or uniformed personnel in institutions under the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION as defined in subdivision i of section eighty-nine of this chapter, with twenty or more years of credited service shall be a pension commencing at normal retirement age equal to one-fiftieth of final average salary times years of credited service, not in excess of thirty years, less fifty percent of the primary social security retirement benefit, as provided in section five hundred eleven of this article. The deferred vested benefit of general members, except for general members in the uniformed correction force of the New York city department of correction or uniformed personnel in institutions under the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION as defined in subdivision i of section eighty-nine of this chapter, with less than twenty years of credited service shall be a pension commencing at normal retirement age equal to one-sixtieth of final average salary times years of credited service, less fifty percent of the primary social security retirement benefit, as provided in section five hundred eleven of this article. Such deferred vested benefit may be paid in the form of an early service retirement benefit, or may be postponed until after normal retirement age, in which event the benefit will be subject to reduction or escalation as provided in subdivision c of section five hundred four of this article.

d. The deferred vested benefit of general members in the uniformed correction force of the New York city department of correction, who are not entitled to a deferred vested benefit under subdivision d of section five hundred four-a of this article or under subdivision d of section five hundred four-b of this article or under subdivision d of section five hundred four-d of this article, or of general members in the uniformed personnel in institutions under the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, as defined in subdivision i of section eighty-nine of this chapter, with twenty or more years of credited service shall be a pension

commencing at normal retirement age equal to one-fiftieth of final average salary times years of credited service, not in excess of thirty years. The deferred vested benefit of general members in the uniformed correction force of the New York city department of correction, who are not entitled to a deferred vested benefit under subdivision d of section five hundred four-a of this article or under subdivision d of section five hundred four-b of this article or under subdivision d of section five hundred four-d of this article, or of general members in the uniformed personnel in institutions under jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, as defined in subdivision i of section eighty-nine of this chapter, with less than twenty years of credited service shall be a pension commencing at normal retirement age equal to one-sixtieth of final average salary times years of credited service. Such deferred vested benefit may be paid in the form of an early service retirement benefit, or may be postponed until after normal retirement age, in which event the benefit will be subject to reduction or escalation as provided in subdivision c of section five hundred four of this article.

S 149. Paragraph 2 of subdivision a of section 600 of the retirement and social security law, as amended by chapter 421 of the laws of 2006, is amended to read as follows:

2. (a) Members in the uniformed personnel in institutions under the jurisdiction of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION of New York state, other than certain persons as defined in this section or the New York city department of correction.

(b) For purposes of this paragraph, certain persons means either:

(i) a person who is appointed to the title of superintendent, who has had at least seven years of service credited toward the retirement plan established pursuant to this article while employed by the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION and who elects the retirement plan established pursuant to this article within ninety days of his or her appointment. Such election shall be in writing, shall be duly executed and filed with the comptroller and shall be irrevocable as long as such person is in the title of superintendent; or

(ii) a person who serves in the title of superintendent as of April first, two thousand six, who has had at least seven years of service credited toward the retirement plan established pursuant to this article while employed by the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION and who elects the retirement plan established pursuant to this article on or before September thirtieth, two thousand six. Such election shall be in writing, shall be duly executed and filed with the comptroller and shall be irrevocable as long as such person is in the title of superintendent.

(c) Any person in the title of superintendent who is eligible to make an election as described in this section but who does not make such election, shall remain a member of the retirement plan that persons appointed to the title of superintendent join who do not meet the above criteria.

S 150. Subdivision 8 of section 20 of the social services law, as added by chapter 568 of the laws of 2008, is amended to read as follows:

8. (a) The office of temporary and disability assistance shall promulgate rules and regulations for the administration of this subdivision. The rules and regulations shall provide for the conditions under which local social services officials determine the placement of applicants for and recipients of public assistance for whom a notice pursuant to

[subdivision sixteen of] section two hundred [fifty-nine-c] THREE of the [executive] CORRECTION law, has been received and who are:

(i) determined to be in immediate need of shelter; and

(ii) designated a level two or level three sex offender pursuant to article six-C of the correction law.

(b) When making determinations in regard to the placement of such individuals in shelter, local social services officials shall consider the following factors:

(i) the location of other sex offenders required to register pursuant to the sex offender registration act, specifically whether there is a concentration of registered sex offenders in a certain residential area or municipality;

(ii) the number of registered sex offenders residing at a particular property;

(iii) proximity of the entities with vulnerable populations;

(iv) accessibility to family members, friends or other supportive services, including but not limited to locally available sex offender treatment programs with preference for placement of such individuals into programs that have demonstrated effectiveness in reducing sex offender recidivism and increasing public safety; and

(v) investigation and approval of such placement by the [state division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION.

S 151. Paragraph (g) of subdivision 5 of section 62 of the social services law, as added by chapter 55 of the laws of 1992, is amended to read as follows:

(g) (1) When a person applies for medical parole, and is in need of public assistance, including medical assistance, the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION shall cause an application for such assistance to be forwarded to the department of social services.

(2) Upon receipt of an application for public assistance, including medical assistance, forwarded by the [state] department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION for persons meeting the conditions of medical parole, financial eligibility for such assistance and care shall be determined by the New York state department of social services prior to the person's parole.

(3) Determination of continuing eligibility for public assistance, including medical assistance, and care will be the responsibility of the social services district into which such person is released.

(4) Any inconsistent provision of this chapter or other law notwithstanding, when a person is released on medical parole pursuant to section two hundred fifty-nine-r OR TWO HUNDRED FIFTY-NINE-S of the executive law and is in need of public assistance, including medical assistance, the social services district in which such person was convicted and from which he or she was committed to the custody of the [state] department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION shall be responsible for the administrative costs of the initial and any subsequent eligibility determination and the costs of any public assistance, including medical assistance, following such persons release on medical parole for so long as such person is eligible therefor.

S 152. Subdivision 14 of section 131 of the social services law, as added by section 11 of part B of chapter 436 of the laws of 1997, is amended to read as follows:

14. (a) Notwithstanding any provision of this chapter or other law to the contrary, no public assistance shall be given to any individual who

is (i) fleeing to avoid prosecution or custody or conviction under the laws of the place from which the individual flees for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the individual flees or which, in the case of the state of New Jersey, is a high misdemeanor under the laws of such state or (ii) violating a condition of probation or parole imposed under federal or state law.

(b) For purposes of this section, if and to the extent permitted by federal law, a person shall be considered to be violating a condition of probation or parole only if:

(i) he or she is currently an absconder from probation or parole supervision and a warrant alleging such a violation is outstanding; or

(ii) he or she has been found by judicial determination to have violated probation or by administrative adjudication by the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION to have violated parole.

Such person shall be considered to be violating a condition of probation or parole only until he or she is restored to probation or parole supervision or released from custody, or until the expiration of the person's maximum period of imprisonment or supervision, whichever occurs first.

(c) A person considered to be violating a condition of probation or parole under this section shall include a person who is violating a condition of probation or parole imposed under federal law.

(d) For purposes of this section, probation or parole shall include conditional release, wherever applicable.

S 153. Subparagraph (k) of paragraph (A) of subdivision 4 of section 422 of the social services law, as amended by chapter 12 of the laws of 1996, is amended to read as follows:

(k) a probation service conducting an investigation pursuant to article three or seven or section six hundred fifty-three of the family court act where there is reason to suspect the child or the child's sibling may have been abused or maltreated and such child or sibling, parent, guardian or other person legally responsible for the child is a person named in an indicated report of child abuse or maltreatment and that such information is necessary for the making of a determination or recommendation to the court; or a probation service regarding a person about whom it is conducting an investigation pursuant to article three hundred ninety of the criminal procedure law, or a probation service or the [state division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION regarding a person to whom the service or [division] DEPARTMENT is providing supervision pursuant to article sixty of the penal law or [section two hundred fifty-nine-a of the executive law] ARTICLE EIGHT OF THE CORRECTION LAW, where the subject of investigation or supervision has been convicted of a felony under article one hundred twenty, one hundred twenty-five or one hundred thirty-five of the penal law or any felony or misdemeanor under article one hundred thirty, two hundred thirty-five, two hundred forty-five, two hundred sixty or two hundred sixty-three of the penal law, or has been indicted for any such felony and, as a result, has been convicted of a crime under the penal law, where the service or [division] DEPARTMENT requests the information upon a certification that such information is necessary to conduct its investigation, that there is reasonable cause to believe that the subject of an investigation is the subject of an indicated report and that there is reasonable cause to believe that such records are necessary to the investigation by the probation service or the [state division of parole]

DEPARTMENT, provided, however, that only indicated reports shall be furnished pursuant to this subdivision;

S 154. Subdivision 11 of section 460-d of the social services law, as amended by section 42 of part B of chapter 58 of the laws of 2004, is amended to read as follows:

11. On or before issuance by the department to an adult care facility operator of official written notice of: the proposed revocation, suspension or denial of the operator's operating certificate; the limitation of the operating certificate with respect to new admissions; the issuance of a department order or commissioner's order; the seeking of equitable relief pursuant to this section; the proposed assessment of civil penalties for violations of the provisions of subparagraph two of paragraph (b) of subdivision seven of this section or placement on the "do not refer list" pursuant to subdivision fifteen of this section, written notice also shall be given to the appropriate office of the department of mental hygiene, department of [correctional services, state division of parole] CORRECTIONS AND COMMUNITY SUPERVISION and local social services districts, and provided further that the department of health shall notify hospitals in the locality in which such facility is located that such notice has been issued. Upon resolution of such enforcement action the department shall notify the appropriate office of the department of mental hygiene, department of [correctional services, state division of parole] CORRECTIONS AND COMMUNITY SUPERVISION, local social services districts and hospitals.

S 155. Subdivision 1 of section 102 of the state administrative procedure act, as amended by chapter 635 of the laws of 1995, is amended to read as follows:

1. "Agency" means any department, board, bureau, commission, division, office, council, committee or officer of the state, or a public benefit corporation or public authority at least one of whose members is appointed by the governor, authorized by law to make rules or to make final decisions in adjudicatory proceedings but shall not include the governor, agencies in the legislative and judicial branches, agencies created by interstate compact or international agreement, the division of military and naval affairs to the extent it exercises its responsibility for military and naval affairs, the division of state police, the identification and intelligence unit of the division of criminal justice services, the state insurance fund, the unemployment insurance appeal board, and except for purposes of subdivision one of section two hundred two-d of this chapter, the workers' compensation board and except for purposes of article two of this chapter, the [state division of parole and the] department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION.

S 156. Subdivision 12 of section 8 of the state finance law, as separately amended by chapters 305 and 477 of the laws of 1985, is amended to read as follows:

12. Notwithstanding any inconsistent provision of the court of claims act, examine, audit and certify for payment any claim submitted and approved by the head of any institution in the department of mental hygiene, the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, the department of health or the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES for personal property damaged or destroyed by any inmate thereof, or for personal property of an employee damaged or destroyed without fault on his part, by a fire in said institution; or any claim submitted and approved by the head of any institution in the department of mental hygiene or the [division for

youth] OFFICE OF CHILDREN AND FAMILY SERVICES for real or personal property damaged or destroyed or for personal injuries caused by any patient during thirty days from the date of his escape from such institution; or any claim submitted and approved by the [chairman of the board of parole] COMMISSIONER OF THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION for personal property of an employee damaged or destroyed without fault on his part as a result of actions unique to the performance of his official duties in accordance with rules and regulations promulgated by the [chairman] COMMISSIONER OF THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION with the approval of the comptroller; or any claim submitted and approved by the chief administrator of the courts for personal property of any judge or justice of the unified court system or of any nonjudicial officer or employee thereof damaged or destroyed, without fault on his part, by any party, witness, juror or bystander to court proceedings, provided no such claim may be certified for payment to a nonjudicial officer or employee who is in a collective negotiating unit until the chief administrator shall deliver to the comptroller a certificate that there is in effect with respect to such negotiating unit a written collective bargaining agreement with the state pursuant to article fourteen of the civil service law which provides therefor; or any claim submitted and approved by the superintendent of state police for personal property of a member of the state police damaged or destroyed without fault on his part as a result of actions unique to the performance of police duties in accordance with rules and regulations promulgated by the superintendent with the approval of the comptroller; or any claim submitted and approved by the head of a state department or agency having employees in the security services unit or the security supervisors unit for personal property of a member of such units damaged or destroyed without fault on his part as a result of actions unique to the performance of law enforcement duties in accordance with rules and regulations promulgated by the department or agency head, after consultation with the employee organization representing such units and with the approval of the comptroller and payment of any such claim shall not exceed the sum of three hundred fifty dollars. Where an agreement between the state and an employee organization reached pursuant to the provisions of article fourteen of the civil service law provides for payments to be made to employees by an institution, such payments for claims not in excess of seventy-five dollars, or one hundred fifty dollars if otherwise provided in accordance with the terms of such agreement, may be made from a petty cash account established pursuant to section one hundred fifteen of this chapter, and in the manner prescribed therein.

S 157. Subdivision 12-g of section 8 of the state finance law, as amended by section 37 of part A-1 of chapter 56 of the laws of 2010, is amended to read as follows:

12-g. Notwithstanding any other provision of the court of claims act or any other law to the contrary, thirty days before the comptroller issues a check for payment to an inmate serving a sentence of imprisonment with the [state] department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or to a prisoner confined at a local correctional facility for any reason, including a payment made in satisfaction of any damage award in connection with any lawsuit brought by or on behalf of such inmate or prisoner against the state or any of its employees in federal court or any other court, the comptroller shall give written notice, if required pursuant to subdivision two of section six hundred thirty-two-a of the executive law, to the office of victim

services that such payment shall be made thirty days after the date of such notice.

S 158. Subparagraph 4 of paragraph a of subdivision 1 of section 54 of the state finance law, as added by chapter 430 of the laws of 1997, is amended to read as follows:

(4) Population excludes the reservation and school Indian population and inmates of [state] institutions under the direction, supervision or control of the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION and the state department of mental hygiene and the inmates of state institutions operated and maintained by the [state division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES.

S 159. Subdivisions 3 and 4 of section 97-cc of the state finance law, as added by chapter 338 of the laws of 1989, are amended to read as follows:

3. Moneys within the rehabilitative alcohol and substance abuse treatment fund, upon appropriation by the legislature, shall be available [to the division of parole and] to the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION for the operation of alcohol and substance abuse treatment facilities, alcohol and substance abuse correctional annexes and residential treatment facilities, including, but not limited to, the payment of private sector treatment providers and for providing alcohol and substance abuse treatment services to persons under the supervision of the [division] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION.

4. Moneys, shall be payable from the fund on the audit and warrant of the comptroller on vouchers approved and certified by the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION.

S 160. Section 97-ooo of the state finance law, as added by section 10 of part B of chapter 57 of the laws of 1998, is amended to read as follows:

S 97-ooo. [Division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION asset forfeiture account. 1. There is hereby established in the joint custody of the state comptroller and the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION a special account within the miscellaneous special revenue fund to be known as the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION asset forfeiture account. Such account shall consist, subject to necessary federal approval, of moneys received by the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION through the equitable sharing that is authorized in federal forfeiture actions.

2. The moneys of the account shall be available for purposes of developing additional resources such as, but not limited to, obtaining equipment, establishing training programs, or accessing existing technology or databases.

3. The [chairman of the board] COMMISSIONER of [parole] THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION shall report to the commissioner of the division of criminal justice services, the director of the budget, the chairman of the senate finance committee and the chairman of the assembly ways and means committee by October first, nineteen hundred ninety-eight and every six months thereafter, on the source and amounts of moneys in the account. Such report shall describe the amount of moneys received by the federal government and the [division of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION from the joint activities of the [division] DEPARTMENT and federal law enforcement agencies, the law enforcement activities which led to such forfeiture and the value of the assets so seized.

4. The moneys of such account shall be made available on the audit and warrant of the comptroller on vouchers certified or approved by the [chairman] COMMISSIONER of the [board of parole] DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION.

S 161. Paragraphs (a) and (b) of subdivision 3 of section 99-m of the state finance law, as added by section 2 of part E of chapter 56 of the laws of 2005, are amended to read as follows:

(a) An individual or entity ("administrator"), appointed by the governor in consultation with the temporary president of the senate, the speaker of the assembly, and representatives of eligible claimants, shall develop the compensation payment plan. Such administrator shall not be entitled to salary or remuneration for his/her services; however, reasonable expenses directly connected to the conduct of the administrator's duties shall be paid through the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION.

(b) The administrator shall receive from each claimant an accounting of the injuries suffered by the state employee victim during the course of the Attica riots. The administrator shall determine and promulgate to potential claimants through the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION the means and dates by which said accountings of injuries shall be submitted and determined. To the extent any inconsistency or discrepancy in accounts of injuries suffered is identified, the administrator may rely upon the assistance of the report, research, and documentation regarding the Attica riots compiled by the Attica task force created in March of two thousand one.

S 162. Section 125 of the state finance law, as amended by chapter 37 of the laws of 1962, is amended to read as follows:

S 125. Fiscal supervision of certain institutions. Notwithstanding any other provision of law relative to the supervision and control by departments of any of the institutions under the jurisdiction and control of the [department of social welfare] OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE, the department of health, the department of mental hygiene and the department of [correction] CORRECTIONS AND COMMUNITY SUPERVISION on the first day of January, nineteen hundred thirty-nine and of any institution which shall hereafter be under the jurisdiction of such departments, such department shall have the powers and duties prescribed by this article with respect to such institution. This section shall not impair or affect the powers of the commissioner of general services under the provisions of article eleven of this chapter with respect to estimates made pursuant to this section so far as they constitute a requisition for material, equipment or supplies.

S 163. Subdivision 1 of section 128 of the state finance law, as amended by chapter 471 of the laws of 1980, is amended to read as follows:

1. Any personal property, and any interest or increments accruing thereon, belonging or credited to a person in any institution under the jurisdiction of the [department of social services] OFFICE OF CHILDREN AND FAMILY SERVICES, the department of health, the department of mental hygiene, the executive department, or the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION who shall have been discharged from such institution or who shall have died or escaped before discharge or before termination of sentence, which is in the custody of the proper officer of such institution, shall, if unclaimed by such discharged or escaped person or by the legal representative of such deceased person for a period of six months after the discharge, decease or escape of such person, be fully inventoried and a copy of

such inventory shall be filed with the commissioner of such department having jurisdiction over such institution and with the state comptroller.

S 164. Paragraph a of subdivision 2, paragraphs a and b of subdivision 3, subparagraph (i) of paragraph a of subdivision 4, subdivision 5 and paragraphs a and d of subdivision 6 of section 162 of the state finance law, as added by chapter 83 of the laws of 1995 and paragraph a of subdivision 2 as amended by chapter 501 of the laws of 2002, are amended to read as follows:

a. Commodities produced by the [department of correctional services'] correctional industries program OF THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION and provided to the state pursuant to subdivision two of section one hundred eighty-four of the correction law;

[fa] A. By December thirty-first, nineteen hundred ninety-five, the commissioner, in consultation with the commissioners of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, [social services] THE OFFICE OF CHILDREN AND FAMILY SERVICES, THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE, mental health and education, shall prepare a list of all commodities and services that are available and are being provided as of said date, for purchase by state agencies, public benefit corporations or political subdivisions from those entities accorded preference or priority status under this section. Such list may include references to catalogs and other descriptive literature which are available directly from any provider accorded preferred status under this section. The commissioner shall make this list available to prospective vendors, state agencies, public benefit corporations, political subdivisions and other interested parties. Thereafter, new or substantially different commodities or services may only be made available by preferred sources for purchase by more than one state agency, public benefit corporation or political subdivision after addition to said list.

b. After January first, nineteen hundred ninety-six, upon the application of the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, the commissioner of [social services] THE OFFICE OF CHILDREN AND FAMILY SERVICES, THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE, the commissioner of mental health or the commissioner of education, or a non-profit-making facilitating agency designated by one of the said commissioners pursuant to paragraph e of subdivision six of this section, the state procurement council may recommend that the commissioner: (i) add commodities or services to, or (ii) in order to insure that such list reflects current production and/or availability of commodities and services, delete at the request of a preferred source, commodities or services from, the list established by paragraph a of this subdivision. The council may make a non-binding recommendation to the relevant preferred source to delete a commodity or service from such list. Additions may be made only for new services or commodities, or for services or commodities that are substantially different from those reflected on said list for that provider. The decision to recommend the addition of services or commodities shall be based upon a review of relevant factors as determined by the council including costs and benefits to be derived from such addition and shall include an analysis by the office of general services conducted pursuant to subdivision six of this section. Unless the state procurement council shall make a recommendation to the commissioner on any such application within one hundred twenty days of receipt thereof, such application shall be deemed recommended. In the event that the state procurement council shall deny any

such application, the commissioner or non-profit-making agency which submitted such application may, within thirty days of such denial, appeal such denial to the commissioner of general services who shall review all materials submitted to the state procurement council with respect to such application and who may request such further information or material as is deemed necessary. Within sixty days of receipt of all information or materials deemed necessary, the commissioner shall render a written final decision on the application which shall be binding upon the applicant and upon the state procurement council.

(i) When commodities are available, in the form, function and utility required by a state agency, public authority, commission, public benefit corporation or political subdivision, said commodities must be purchased first from the [department of correctional services'] correctional industries program OF THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION;

5. Prices charged by the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION. The prices to be charged for commodities produced by the [department of correctional services'] correctional industries program OF THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION shall be established by the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION in accordance with section one hundred eighty-six of the correction law.

a. The prices established by the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION shall be based upon costs as determined pursuant to this subdivision, but shall not exceed a reasonable fair market price determined at or within ninety days before the time of sale. Fair market price as used herein means the price at which a vendor of the same or similar product or service who is regularly engaged in the business of selling such product or service offers to sell such product or service under similar terms in the same market. Costs shall be determined in accordance with an agreement between the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION and the director of the budget.

b. A purchaser of any such product or service may, at any time prior to or within thirty days of the time of sale, appeal the purchase price in accordance with section one hundred eighty-six of the correction law, on the basis that it unreasonably exceeds fair market price. Such an appeal shall be decided by a majority vote of a three-member price review board consisting of the director of the budget, the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION and the commissioner or their representatives. The decision of the review board shall be final.

a. Except with respect to the [department of correctional services'] correctional industries program OF THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION, it shall be the duty of the commissioner to determine, and from time to time review, the prices of all commodities and to approve the price of all services provided by preferred sources as specified in this section offered to state agencies, political subdivisions or public benefit corporations having their own purchasing office.

d. Such qualified charitable non-profit-making agencies for the blind and other severely disabled may make purchases of materials, equipment and supplies [from the department of correctional services' correctional industries program,] directly from the correctional industries program administered by the commissioner of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, subject to such rules as may be established

from time to time pursuant to the correction law; provided that the qualified charitable non-profit-making agency for the blind or other severely disabled shall accept sole responsibility for any payment due the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION.

S 165. Subparagraph (viii) of paragraph a of subdivision 3 of section 163 of the state finance law, as added by chapter 83 of the laws of 1995, is amended to read as follows:

(viii) The commissioner may permit and prescribe the conditions for, (A) any association, consortium or group of privately owned or municipal, federal or state owned or operated hospitals, medical schools, other health related facilities or voluntary ambulance services, which have entered into a contract and made mutual arrangements for the joint purchase of commodities pursuant to section twenty-eight hundred three-a of the public health law; (B) any institution for the instruction of the deaf or of the blind listed in section forty-two hundred one of the education law; (C) any qualified non-profit-making agency for the blind approved by the commissioner of [social services] THE OFFICE OF CHILDREN AND FAMILY SERVICES OR THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE; (D) any qualified charitable non-profit-making agency for the severely disabled approved by the commissioner of education; (E) any hospital or residential health care facility as defined in section twenty-eight hundred one of the public health law; (F) any private not-for-profit mental hygiene facility as defined in section 1.03 of the mental hygiene law; and (G) any public authority or public benefit corporation of the state, including the port authority of New York and New Jersey and the interstate environmental commission, to make purchases using centralized contracts for commodities. Such qualified non-profit-making agencies for the blind and severely disabled may make purchases from the [department of correctional services'] correctional industries program OF THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION subject to rules pursuant to the correction law.

S 166. Section 401 of the state technology law, as added by section 1 of part E of chapter 1 of the laws of 2004, and as renumbered by chapter 741 of the laws of 2005, is amended to read as follows:

S 401. Statewide wireless network advisory council. There is hereby established within the office for technology a statewide wireless network advisory council. The advisory council shall consist of twenty-seven members. The governor shall appoint two members and the temporary president of the senate and the speaker of the assembly shall each appoint four members. One of the governor's appointments and three of the appointments of the temporary president of the senate and of the speaker of the assembly shall be a member, officer, or employee of a first responder organization that serves a municipal corporation. One each of the appointments of the temporary president of the senate and of the speaker of the assembly shall possess expertise in the field of communications technology but no appointee shall be the owner, principal, or employee of an entity that has a contract with the state of New York or that vends communications products to any state or local government. An organization shall be considered a first responder organization if it provides policing, firefighting, or emergency medical services, as defined in subdivision eleven of section three hundred two of the retirement and social security law, subdivision two of section one hundred of the general municipal law, subdivisions one, two, three, four, five, six, and seven of section three thousand one of the public health law, and section six hundred fifty of the county law. In addi-

tion, the temporary president of the senate and the speaker of the assembly shall each designate one member of their respective houses to serve on the advisory council. Ex officio members of the council shall be the director of the office of homeland security, the superintendent of the state police, the director of the office for technology, the commissioner of the department of health, the commissioner of the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, the commissioner of the department of transportation, the commissioner of the department of environmental conservation, the chairperson of the thruway authority, the state fire administrator of the office of fire prevention and control, the chief judge of the state, the commissioner of the division of criminal justice services, the chairperson of the metropolitan transportation authority, a designee of the law enforcement council and the designee of the mayor of the city of New York, or their designees. The chief information officer of New York state shall be the chair of the advisory council.

S 167. Section 2222-a of the surrogate's court procedure act, as amended by section 45 of part A-1 of chapter 56 of the laws of 2010, is amended to read as follows:

S 2222-a. Notice of legacy or distributive share payable to inmate or prisoner

Where the legatee, distributee or beneficiary is an inmate serving a sentence of imprisonment with the state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION or a prisoner confined at a local correctional facility, the court shall give prompt written notice to the office of victim services, and at the same time direct that no payment be made to such inmate or prisoner for a period of thirty days following the date of entry of the order containing such direction.

S 168. Subdivision (d) of section 484 of the tax law, as added by chapter 860 of the laws of 1987, is amended to read as follows:

(d) The provisions of this article shall not be applicable to any sale as to which the tax imposed by section four hundred seventy-one of this chapter is not applicable or to a sale to the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION of this state for sale to or use by inmates in institutions under the jurisdiction of such department.

S 169. Subdivision (c) of section 1846 of the tax law, as added by chapter 65 of the laws of 1985, is amended to read as follows:

(c) In the alternative, if the tax commission concludes that any cigarettes seized pursuant to this section, when offered at public sale, will bring a price less than the reasonably estimated price which the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION would have to pay for the purchase of such cigarettes for sale to or use by inmates in institutions under the jurisdiction of such department, the tax commission may dispose of such cigarettes by transferring them to the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION for sale to or use by inmates in such institutions.

S 170. Subdivision (c) of section 1846-a of the tax law, as added by chapter 61 of the laws of 1989, is amended to read as follows:

(c) In the alternative, if the commissioner concludes that any tobacco products seized pursuant to this section, when offered at public sale, will bring a price less than the reasonably estimated price which the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION would have to pay for the purchase of such tobacco products for sale to or use by inmates in institutions under the jurisdiction of such

department, the commissioner may dispose of such tobacco products by transferring them to the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION for sale to or use by inmates in such institutions.

S 171. Section 25-a of the town law, as added by chapter 295 of the laws of 1949, is amended to read as follows:

S 25-a. Fingerprints of persons before appointment as town policemen, or as constables possessing powers in criminal matters. No person shall be appointed or reappointed a member of the police department, or a special policeman, or a constable not limited to powers and duties in civil actions and proceedings only, in any town, who shall not previously, for the purposes of this section, have submitted fingerprints [of his two hands] IN THE FORM AND MANNER PRESCRIBED BY THE DIVISION OF CRIMINAL JUSTICE SERVICES to the town board or other board or officer of the town empowered by law to make such appointment or reappointment, and it shall be the duty of such board or officer, before making such appointment or reappointment, to compare or cause to be compared such fingerprints with fingerprints filed with the division of criminal [identification of the state department of correction] JUSTICE SERVICES; provided, however, that in any case where the fingerprints of any such person shall once have been submitted pursuant to this section and are on file with the board empowered to make the appointment or reappointment, no new submission thereof shall be required, nor shall such board be required to make or cause to be made such comparison if such comparison shall have been made previously pursuant to this section and certification thereof by such department is on file with such board.

S 172. Section 109-a of the vehicle and traffic law, as amended by chapter 370 of the laws of 2000, is amended to read as follows:

S 109-a. Correction vehicle. Every vehicle operated in the city of New York by the New York city department of correction or the New York state department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION while engaged in an emergency operation.

S 173. Subdivision 3 of section 10 of the workers' compensation law, as amended by chapter 244 of the laws of 2002, is amended to read as follows:

3. Notwithstanding any other provisions of this chapter, where a public safety worker, including but not limited to a firefighter, emergency medical technician, police officer, correction officer, civilian employee of the department of corrections AND COMMUNITY SUPERVISION or other person employed by the state to work within a correctional facility maintained by the department of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION, driver and medical observer, in the course of performing his or her duties, is exposed to the blood or other bodily fluids of another individual or individuals, the executive officer of the appropriate ambulance, fire or police district may authorize such public safety worker to obtain the care and treatment, including diagnosis, recommended medicine and other medical care needed to ascertain whether such individual was exposed to or contracted any communicable disease and such care and treatment shall be the responsibility of the insurance carrier of the appropriate ambulance, fire or police district or, if a public safety worker was not so exposed in the course of performing his or her duties for such a district, then such person shall be covered for the treatment provided for in this subdivision by the carrier of his or her employer when such person is acting in the scope of his or her employment. For the purpose of this subdivision, the term "public safety worker" shall include persons who act for payment or who

act as volunteers in an organized group such as a rescue squad, police department, correctional facility, ambulance corps, fire department, or fire company.

S 174. This act shall take effect immediately, provided that:

1. the amendments to section 72-a of the correction law made by section seven of this act shall not affect the expiration of such section and shall expire and be deemed repealed therewith;

2. the amendments to section 91 of the correction law made by section ten of this act shall take effect on the same date as the reversion of such section as provided in section 8 of part H of chapter 56 of the laws of 2009, as amended;

3. the amendments to section 92 of the correction law made by section eleven of this act shall take effect on the same date as the reversion of such section as provided in section 8 of part H of chapter 56 of the laws of 2009, as amended;

4. the amendments to section 140-a of the correction law made by section sixteen of this act shall not affect the repeal of such section and shall be deemed repealed therewith;

5. the amendments to section 803 of the correction law made by section thirty-seven of this act shall be subject to the expiration of such section and shall expire and be deemed repealed therewith;

6. the amendments to section 803 of the correction law made by section thirty-eight of this act shall take effect on the same date as the reversion of such section as provided in section 74 of chapter 3 of the laws of 1995, as amended;

7. the amendments to section 806 of the correction law made by section forty of this act shall not affect the repeal of such section and shall expire and be deemed repealed therewith;

8. the amendments to subdivision 1 of section 851 of the correction law made by section forty-one of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 5 of chapter 554 of the laws of 1986, as amended, when upon such date the provisions of section forty-one-a of this act shall take effect;

9. the amendments to subdivision 1 of section 851 of the correction law made by section forty-one-a of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 10 of chapter 339 of the laws of 1972, as amended, when upon such date the provisions of section forty-one-b of this act shall take effect;

10. the amendments to the closing paragraph of subdivision 2 of section 851 of the correction law made by section forty-two of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 46 of chapter 60 of the laws of 1994, as amended, when upon such date the provisions of section forty-three of this act shall take effect;

10-a. the amendments to subdivision 5 of section 851 of the correction law made by section forty-three-a of this act shall take effect upon the expirations of section 42 of chapter 60 of the laws of 1994, section 10 of chapter 339 of the laws of 1972 and section 3 of chapter 554 of laws of 1986;

11. the amendments to subdivision 5 of section 852 of the correction law made by section forty-four of this act shall not affect the expiration and reversion of such section and shall expire and be deemed repealed therewith;

12. the amendments to subdivision 2 of section 852 of the correction law made by section forty-five of this act shall take effect on the same

date as the reversion of such section as provided in section 10 of chapter 339 of the laws of 1972, as amended;

13. the amendments to subdivision 2 of section 856 of the correction law made by section forty-six of this act shall take effect on the same date as the reversion of section 856 as provided in section 10 of chapter 339 of the laws of 1972, as amended;

14. the amendments to subdivision 6 of section 855 of the correction law made by section forty-seven of this act shall be subject to the expiration and reversion of such section pursuant to section 10 of chapter 339 of the laws of 1972, as amended, when upon such date the provisions of section forty-eight of this act shall take effect;

15. the amendments to subdivision (f) of section 1101 of the civil practice law and rules made by section fifty-one of this act shall not affect the expiration and reversion of such subdivision and shall expire and be deemed repealed therewith;

16. the amendments to subdivisions 2 and 4 of section 209 of the civil service law made by section sixty-four of this act shall not affect the expiration of such subdivisions and shall expire and be deemed repealed therewith;

17. the amendments to subdivision 9 of section 10 of the court of claims act made by section sixty-seven of this act shall not affect the expiration of such subdivision and shall expire and be deemed repealed therewith;

18. the amendments to section 410.91 of the criminal procedure law made by section seventy-six of this act shall not affect the repeal of such section and shall expire and be deemed repealed therewith;

19. the amendments to subdivisions 2 and 4 of section 430.20 of the criminal procedure law made by section seventy-seven of this act shall be subject to the expiration and reversion of such subdivisions pursuant to section 74 of chapter 3 of the laws of 1995, as amended, when upon such date the provisions of section seventy-eight of this act shall take effect;

20. the amendments to section 83-m of the legislative law made by section one hundred eighteen of this act shall not affect the repeal of such section and shall expire and be deemed repealed therewith;

21. the amendments to subdivision 7 of section 70.06 of the penal law made by section one hundred twenty-three of this act shall not affect the repeal of such subdivision and shall expire and be deemed repealed therewith;

22. the amendments to subdivisions 1 and 3 of section 70.20 of the penal law made by section one hundred twenty-four of this act shall be subject to the expiration and reversion of such subdivisions pursuant to section 74 of chapter 3 of the laws of 1995, as amended, when upon such date the provisions of section one hundred twenty-five of this act shall take effect;

23. the amendments to the opening paragraph of subdivision 1 of section 70.30 of the penal law made by section one hundred twenty-six of this act shall be subject to the expiration and reversion of such paragraph pursuant to section 74 of chapter 3 of the laws of 1995, as amended, when upon such date the provisions of section one hundred twenty-seven of this act shall take effect;

24. the amendments to subdivision 7 of section 70.30 of the penal law made by section one hundred twenty-six of this act shall not affect the expiration of such subdivision and shall expire and be deemed repealed therewith;

25. the amendments to section 70.35 of the penal law made by section one hundred twenty-seven-a of this act shall be subject to the expiration and reversion of such section pursuant to section 74 of chapter 3 of the laws of 1995, as amended, when upon such date the provisions of section one hundred twenty-seven-b of this act shall take effect;

26. the amendments to paragraph (a) of subdivision 1 of section 70.40 of the penal law made by section one hundred twenty-seven-c of this act shall be subject to the expiration and reversion of such paragraph, when upon such date the provisions of section one hundred twenty-seven-d of this act shall take effect;

27. the amendments to paragraph (b) of subdivision 1 of section 70.40 of the penal law made by section one hundred twenty-seven-d-1 of this act shall be subject to the expiration and reversion of such paragraph pursuant to section 74 of chapter 3 of the laws of 1995, as amended, when upon such date the provisions of section one hundred twenty-seven-e of this act shall take effect;

28. the amendments to paragraph (c) of subdivision 1 of section 70.40 of the penal law made by section one hundred twenty-seven-f of this act shall not affect the repeal of such paragraph and shall expire and be deemed repealed therewith;

29. the amendments to subdivision 1 of section 85.15 of the penal law made by section one hundred twenty-seven-1 of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 74 of chapter 3 of the laws of 1995, as amended, when upon such date the provisions of section one hundred twenty-seven-m of this act shall take effect;

30. the amendments to section 205.17 of the penal law made by section one hundred twenty-seven-n of this act shall not affect the expiration of such section and shall expire therewith;

31. the amendments to section 205.19 of the penal law made by section one hundred twenty-seven-o of this act shall not affect the expiration of such section and shall expire therewith;

32. the amendments to subdivision 26 of section 206 of the public health law made by section one hundred twenty-seven-t of this act shall take effect on the same date and in the same manner as section 2 of chapter 419 of the laws of 2009 takes effect;

33. the amendments to section 99-m of the state finance law made by section one hundred sixty-one of this act shall not affect the repeal of such section and shall expire and be deemed repealed therewith; and

34. the amendments to section 163 of the state finance law made by section one hundred sixty-five of this act shall not affect the repeal of such section and shall expire and be deemed repealed therewith.

S 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 3. This act shall take effect immediately provided, however, that the applicable effective date of Subparts A and B of this act shall be as specifically set forth in the last section of such Subparts.

PART D

Section 1. The economic development law is amended by adding a new article 18 to read as follows:

ARTICLE 18

DIVISION OF SCIENCE, TECHNOLOGY AND INNOVATION

SECTION 360. DIVISION OF SCIENCE, TECHNOLOGY AND INNOVATION.

S 360. DIVISION OF SCIENCE, TECHNOLOGY AND INNOVATION. 1. ECONOMIC DEVELOPMENT EFFICIENCY. IN ORDER TO PROMOTE ECONOMIC DEVELOPMENT EFFICIENCY IN THE STATE OF NEW YORK, THE TRANSFER OF POWERS, FUNCTIONS AND AFFAIRS OF THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION IS HEREBY AUTHORIZED AND THERE IS HEREBY CREATED WITHIN THE DEPARTMENT THE DIVISION OF SCIENCE, TECHNOLOGY AND INNOVATION. NOTWITHSTANDING THE FOREGOING, THE SMALL BUSINESS TECHNOLOGY INVESTMENT FUND AND CASH ASSETS OF THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION SHALL BE TRANSFERRED TO THE URBAN DEVELOPMENT CORPORATION PURSUANT TO SUBDIVISION TWELVE OF THIS SECTION.

2. TRANSFER OF POWERS OF THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION. THE FUNCTIONS AND POWERS POSSESSED BY AND ALL OF THE OBLIGATIONS AND DUTIES OF THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION, AS ESTABLISHED PURSUANT TO ARTICLE TEN-A OF THE PUBLIC AUTHORITIES LAW AND ARTICLE TEN-B OF THE EXECUTIVE LAW, WITH THE EXCEPTION OF THE SMALL BUSINESS TECHNOLOGY INVESTMENT FUND AND CASH ASSETS OF THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION SHALL BE TRANSFERRED AND ASSIGNED TO, AND ASSUMED BY AND DEVOLVED UPON, THE DEPARTMENT. NOTWITHSTANDING THE FOREGOING, ANY PROGRAMS SPECIFIED IN LAW TO BE ADMINISTERED BY THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION SHALL BE ADMINISTERED BY THE DEPARTMENT ONLY TO THE EXTENT OF AVAILABLE APPROPRIATIONS.

3. ABOLITION OF THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION. UPON THE TRANSFER PURSUANT TO SUBDIVISIONS TWO AND TWELVE OF THIS SECTION OF THE FUNCTIONS AND POWERS POSSESSED BY AND ALL OF THE OBLIGATIONS AND DUTIES OF THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION, AS ESTABLISHED PURSUANT TO ARTICLE TEN-A OF THE PUBLIC AUTHORITIES LAW AND ARTICLE TEN-B OF THE EXECUTIVE LAW, THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION SHALL BE ABOLISHED.

3-A. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE, OR REGULATION TO THE CONTRARY, UPON THE TRANSFER OF FUNCTIONS FROM THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION PURSUANT TO THIS SECTION, EMPLOYEES OF THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION, AS DETERMINED BY THE COMMISSIONER IN HIS OR HER DISCRETION, WHO ARE NECESSARY TO THE CONTINUATION OF THE TRANSFERRED FUNCTIONS AND SUBSTANTIALLY ENGAGED IN THE PERFORMANCE OF THE TRANSFERRED FUNCTIONS SHALL BE TRANSFERRED TO THE DEPARTMENT. EMPLOYEES TRANSFERRED PURSUANT TO THIS SECTION SHALL BE TRANSFERRED WITHOUT FURTHER EXAMINATION OR QUALIFICATION AND SHALL RETAIN THEIR RESPECTIVE CIVIL SERVICE CLASSIFICATIONS OR THE EQUIVALENT THEREOF.

4. CONTINUITY OF AUTHORITY OF THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION. EXCEPT AS HEREIN OTHERWISE PROVIDED, UPON THE TRANSFER PURSUANT TO SUBDIVISIONS TWO AND TWELVE OF THIS SECTION OF THE FUNCTIONS AND POWERS POSSESSED BY AND ALL OF THE OBLIGATIONS AND DUTIES OF THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION AS ESTABLISHED PURSUANT TO SUCH PROVISIONS OF THE EXECUTIVE LAW AND THE PUBLIC AUTHORITIES LAW TO THE DEPARTMENT AS PRESCRIBED BY SUBDIVISION TWO OF THIS SECTION AND TO THE URBAN DEVELOPMENT CORPORATION PURSUANT TO SUBDIVISION TWELVE OF THIS SECTION FOR THE PURPOSE OF SUCCESSION OF ALL FUNCTIONS, POWERS, DUTIES AND OBLIGATIONS

OF THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION, THE DEPARTMENT AND THE URBAN DEVELOPMENT CORPORATION, AS APPROPRIATE SHALL BE DEEMED TO AND BE HELD TO CONSTITUTE THE CONTINUATION OF SUCH FUNCTIONS, POWERS, DUTIES AND OBLIGATIONS AND NOT A DIFFERENT AGENCY OR AUTHORITY.

5. TRANSFER OF RECORDS OF THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION. UPON THE TRANSFER PURSUANT TO SUBDIVISIONS TWO AND TWELVE OF THIS SECTION OF THE FUNCTIONS AND POWERS POSSESSED BY AND ALL OF THE OBLIGATIONS AND DUTIES OF THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION AS ESTABLISHED PURSUANT TO SUCH PROVISIONS OF THE EXECUTIVE LAW AND THE PUBLIC AUTHORITIES LAW TO THE DEPARTMENT AS PRESCRIBED BY SUBDIVISION TWO OF THIS SECTION AND TO THE URBAN DEVELOPMENT CORPORATION PURSUANT TO SUBDIVISION TWELVE OF THIS SECTION, ALL BOOKS, PAPERS, RECORDS AND PROPERTY PERTAINING TO THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION SHALL BE TRANSFERRED TO AND MAINTAINED BY THE DEPARTMENT AND THE URBAN DEVELOPMENT CORPORATION, AS APPROPRIATE.

6. COMPLETION OF UNFINISHED BUSINESS OF THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION. UPON THE TRANSFER PURSUANT TO SUBDIVISIONS TWO AND TWELVE OF THIS SECTION OF THE FUNCTIONS AND POWERS POSSESSED BY AND ALL OF THE OBLIGATIONS AND DUTIES OF THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION AS ESTABLISHED PURSUANT TO SUCH PROVISIONS OF THE EXECUTIVE LAW AND THE PUBLIC AUTHORITIES LAW TO THE DEPARTMENT AS PRESCRIBED BY SUBDIVISION TWO OF THIS SECTION AND TO THE URBAN DEVELOPMENT CORPORATION PURSUANT TO SUBDIVISION TWELVE OF THIS SECTION, ANY BUSINESS OR OTHER MATTER UNDERTAKEN OR COMMENCED BY THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION PERTAINING TO OR CONNECTED WITH THE FUNCTIONS, POWERS, OBLIGATIONS AND DUTIES SO TRANSFERRED AND ASSIGNED TO THE DEPARTMENT MAY BE CONDUCTED OR COMPLETED BY THE DEPARTMENT AND THE URBAN DEVELOPMENT CORPORATION, AS APPROPRIATE.

7. TERMS OCCURRING IN LAWS, CONTRACTS OR OTHER DOCUMENTS OF OR PERTAINING TO THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION. UPON THE TRANSFER PURSUANT TO SUBDIVISIONS TWO AND TWELVE OF THIS SECTION OF THE FUNCTIONS AND POWERS POSSESSED BY AND ALL OF THE OBLIGATIONS AND DUTIES OF THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION AS ESTABLISHED PURSUANT TO SUCH PROVISIONS OF THE EXECUTIVE LAW AND THE PUBLIC AUTHORITIES LAW, WHENEVER THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION AND THE EXECUTIVE DIRECTOR THEREOF, THE FUNCTIONS, POWERS, OBLIGATIONS AND DUTIES OF WHICH ARE TRANSFERRED TO THE DEPARTMENT AND THE URBAN DEVELOPMENT CORPORATION ARE REFERRED TO OR DESIGNATED IN ANY LAW, CONTRACT OR DOCUMENT PERTAINING TO THE FUNCTIONS, POWERS, OBLIGATIONS AND DUTIES TRANSFERRED AND ASSIGNED PURSUANT TO THIS SECTION, SUCH REFERENCE OR DESIGNATION SHALL BE DEEMED TO REFER TO THE DEPARTMENT AND ITS COMMISSIONER OR THE URBAN DEVELOPMENT CORPORATION AND ITS PRESIDENT AND CHIEF EXECUTIVE OFFICER, AS APPROPRIATE, OR HIS OR HER DESIGNEE.

8. EXISTING RIGHTS AND REMEDIES OF OR PERTAINING TO THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION PRESERVED. UPON THE TRANSFER PURSUANT TO SUBDIVISIONS TWO AND TWELVE OF THIS SECTION OF THE FUNCTIONS AND POWERS POSSESSED BY AND ALL OF THE OBLIGATIONS AND DUTIES OF THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION AS ESTABLISHED PURSUANT TO THE EXECUTIVE LAW AND THE PUBLIC AUTHORITIES LAW TO THE DEPARTMENT AS PRESCRIBED BY SUBDIVISION TWO OF THIS SECTION AND TO THE URBAN DEVELOPMENT CORPORATION PURSUANT TO SUBDIVISION TWELVE OF THIS SECTION, NO EXISTING RIGHT OR REMEDY OF THE STATE, INCLUDING THE

NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION, SHALL BE LOST, IMPAIRED OR AFFECTED BY REASON OF THIS SECTION.

9. PENDING ACTIONS AND PROCEEDINGS OF OR PERTAINING TO THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION. UPON THE TRANSFER PURSUANT TO SUBDIVISIONS TWO AND TWELVE OF THIS SECTION OF THE FUNCTIONS AND POWERS POSSESSED BY AND ALL OF THE OBLIGATIONS AND DUTIES OF THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION AS ESTABLISHED PURSUANT TO SUCH PROVISIONS OF THE EXECUTIVE LAW AND THE PUBLIC AUTHORITIES LAW TRANSFER TO THE DEPARTMENT AS PRESCRIBED BY SUBDIVISION TWO OF THIS SECTION AND TO THE URBAN DEVELOPMENT CORPORATION PURSUANT TO SUBDIVISION TWELVE OF THIS SECTION, NO ACTION OR PROCEEDING PENDING ON THE EFFECTIVE DATE OF THIS SECTION, BROUGHT BY OR AGAINST THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION OR EXECUTIVE DIRECTOR THEREOF SHALL BE AFFECTED BY ANY PROVISION OF THIS SECTION, BUT THE SAME MAY BE PROSECUTED OR DEFENDED IN THE NAME OF THE DEPARTMENT OR THE URBAN DEVELOPMENT CORPORATION, AS APPROPRIATE. IN ALL SUCH ACTIONS AND PROCEEDINGS, THE DEPARTMENT AND THE URBAN DEVELOPMENT CORPORATION, AS APPROPRIATE, UPON APPLICATION TO THE COURT, SHALL BE SUBSTITUTED AS A PARTY.

10. CONTINUATION OF RULES AND REGULATIONS OF OR PERTAINING TO THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION. UPON THE TRANSFER PURSUANT TO SUBDIVISIONS TWO AND TWELVE OF THIS SECTION OF THE FUNCTIONS AND POWERS POSSESSED BY AND ALL THE OBLIGATIONS AND DUTIES OF THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION AS ESTABLISHED PURSUANT TO SUCH PROVISIONS OF THE EXECUTIVE LAW AND THE PUBLIC AUTHORITIES LAW TRANSFER TO THE DEPARTMENT AS PRESCRIBED BY SUBDIVISION TWO OF THIS SECTION AND TO THE URBAN DEVELOPMENT CORPORATION PURSUANT TO SUBDIVISION TWELVE OF THIS SECTION, ALL RULES, REGULATIONS, ACTS, DETERMINATIONS AND DECISIONS OF THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION, PERTAINING TO THE FUNCTIONS TRANSFERRED AND ASSIGNED BY THIS SECTION TO THE DEPARTMENT AND THE URBAN DEVELOPMENT CORPORATION, AS APPROPRIATE, IN FORCE AT THE TIME OF SUCH TRANSFER, ASSIGNMENT, ASSUMPTION AND DEVOLUTION SHALL CONTINUE IN FORCE AND EFFECT AS RULES, REGULATIONS, ACTS, DETERMINATIONS AND DECISIONS OF THE DEPARTMENT AND THE URBAN DEVELOPMENT CORPORATION, AS APPROPRIATE, UNTIL DULY MODIFIED OR REPEALED.

11. TRANSFER OF APPROPRIATIONS HERETOFORE MADE TO THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION. UPON THE TRANSFER PURSUANT TO SUBDIVISIONS TWO AND TWELVE OF THIS SECTION OF THE FUNCTIONS AND POWERS POSSESSED BY AND ALL OF THE OBLIGATIONS AND DUTIES OF THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION AS ESTABLISHED PURSUANT TO SUCH PROVISIONS OF THE EXECUTIVE LAW AND THE PUBLIC AUTHORITIES LAW TO THE DEPARTMENT AS PRESCRIBED BY SUBDIVISION TWO OF THIS SECTION AND TO THE URBAN DEVELOPMENT CORPORATION PURSUANT TO SUBDIVISION TWELVE OF THIS SECTION, ALL APPROPRIATIONS AND REAPPROPRIATIONS WHICH SHALL HAVE BEEN MADE AVAILABLE AS OF THE DATE OF SUCH TRANSFER TO THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION OR SEGREGATED PURSUANT TO LAW, TO THE EXTENT OF REMAINING UNEXPENDED OR UNENCUMBERED BALANCES THEREOF, WHETHER ALLOCATED OR UNALLOCATED AND WHETHER OBLIGATED OR UNOBLIGATED, SHALL BE TRANSFERRED TO AND MADE AVAILABLE FOR USE AND EXPENDITURE BY THE DEPARTMENT OR THE URBAN DEVELOPMENT CORPORATION AS DEEMED APPROPRIATE BY THE COMMISSIONER AND SHALL BE PAYABLE ON VOUCHERS CERTIFIED OR APPROVED BY THE COMMISSIONER OF TAXATION AND FINANCE, ON AUDIT AND WARRANT OF THE COMPTROLLER. PAYMENTS OF LIABILITIES FOR EXPENSES OF PERSONAL SERVICES, MAINTENANCE AND OPERATION WHICH SHALL HAVE BEEN INCURRED AS OF THE DATE OF SUCH TRANSFER BY

THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION, AND FOR LIABILITIES INCURRED AND TO BE INCURRED IN COMPLETING ITS AFFAIRS SHALL ALSO BE MADE ON VOUCHERS CERTIFIED OR APPROVED BY THE COMMISSIONER, ON AUDIT AND WARRANT OF THE COMPTROLLER.

12. TRANSFER OF CERTAIN ASSETS AND LIABILITIES. UPON THE TRANSFER PURSUANT TO SUBDIVISION TWO OF THIS SECTION OF THE FUNCTIONS AND POWERS POSSESSED BY AND ALL THE OBLIGATIONS AND DUTIES OF THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION, AS ESTABLISHED PURSUANT TO ARTICLE TEN-A OF THE PUBLIC AUTHORITIES LAW AND ARTICLE TEN-B OF THE EXECUTIVE LAW AS PRESCRIBED BY SUBDIVISION TWO OF THIS SECTION, ALL CASH ASSETS OF THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION, AND ALL ASSETS, RECORDS, AND LIABILITIES OF THE SMALL BUSINESS TECHNOLOGY INVESTMENT FUND (SBTIF) ESTABLISHED PURSUANT TO APPROPRIATIONS MADE BY VARIOUS CHAPTERS OF THE LAW INCLUDING, BUT NOT LIMITED TO CHAPTER FIFTY-THREE OF THE LAWS OF NINETEEN HUNDRED EIGHTY-ONE, CHAPTER FIFTY-THREE OF THE LAWS OF NINETEEN HUNDRED EIGHTY-FIVE, CHAPTER FIFTY-THREE OF THE LAWS OF NINETEEN HUNDRED EIGHTY-SIX, CHAPTER FIFTY-THREE OF THE LAWS OF NINETEEN HUNDRED EIGHTY-SEVEN, CHAPTER FIFTY-THREE OF THE LAWS OF NINETEEN HUNDRED EIGHTY-EIGHT, CHAPTER FIFTY-THREE OF THE LAWS OF NINETEEN HUNDRED EIGHTY-NINE, CHAPTER FIFTY-THREE OF THE LAWS OF NINETEEN HUNDRED NINETY, CHAPTER FIFTY-THREE OF THE LAWS OF NINETEEN HUNDRED NINETY-ONE, CHAPTER FIFTY-THREE OF THE LAWS OF NINETEEN HUNDRED NINETY-TWO, CHAPTER FIFTY-THREE OF THE LAWS OF NINETEEN HUNDRED NINETY-THREE, CHAPTER FIFTY-THREE OF THE LAWS OF NINETEEN HUNDRED NINETY-FOUR, AND CHAPTER FIFTY-THREE OF THE LAWS OF NINETEEN HUNDRED NINETY-FIVE SHALL BE TRANSFERRED TO THE URBAN DEVELOPMENT CORPORATION.

13. SEVERABILITY. IF ANY CLAUSE, SENTENCE, PARAGRAPH OR PART OF THIS SECTION SHALL BE ADJUDGED BY ANY COURT OF COMPETENT JURISDICTION TO BE INVALID, SUCH JUDGMENT SHALL NOT AFFECT, IMPAIR OR INVALIDATE THE REMAINDER THEREOF, BUT SHALL BE CONFINED IN ITS OPERATION TO THE CLAUSE, SENTENCE, PARAGRAPH OR PART THEREOF DIRECTLY INVOLVED IN THE CONTROVERSY IN WHICH SUCH JUDGMENT SHALL HAVE BEEN RENDERED.

S 2. Sections 3151 and 3152 of the public authorities law are REPEALED.

S 3. This act shall take effect May 1, 2011.

PART E

Section 1. The executive law is amended by adding a new article 3-A to read as follows:

ARTICLE 3-A
EXECUTIVE REORGANIZATION ACT OF 2011

SECTION 33. SHORT TITLE.
34. DUTY OF GOVERNOR TO EXAMINE AGENCIES; LEGISLATIVE PURPOSE.
35. DEFINITIONS.
36. FINDINGS BY GOVERNOR; ISSUANCE OF REORGANIZATION PLAN.
37. CONTENTS OF REORGANIZATION PLAN.
38. PROVISIONS NOT TO BE INCLUDED IN A REORGANIZATION PLAN.
39. EFFECTIVE DATE OF REORGANIZATION PLAN.
39-A. EFFECT ON ACTIONS OR PROCEEDINGS.
39-B. SEVERABILITY.

S 33. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "EXECUTIVE REORGANIZATION ACT OF 2011".

S 34. DUTY OF GOVERNOR TO EXAMINE AGENCIES; LEGISLATIVE PURPOSE. 1. THE GOVERNOR, FROM TIME TO TIME, SHALL EXAMINE THE ORGANIZATION OF ALL

AGENCIES AND SHALL DETERMINE WHAT CHANGES THEREIN ARE NECESSARY TO ACCOMPLISH ONE OR MORE OF THE FOLLOWING PURPOSES:

(A) TO PROMOTE THE BETTER EXECUTION OF THE LAWS, THE MORE EFFECTIVE MANAGEMENT OF THE GOVERNMENT AND OF ITS AGENCIES AND FUNCTIONS, AND THE EXPEDITIOUS ADMINISTRATION OF PUBLIC BUSINESS;

(B) TO REDUCE EXPENDITURES AND PROMOTE ECONOMY TO THE FULLEST EXTENT CONSISTENT WITH THE EFFICIENT OPERATION OF THE GOVERNMENT;

(C) TO INCREASE THE EFFICIENCY OF THE OPERATIONS OF THE GOVERNMENT TO THE FULLEST EXTENT PRACTICABLE;

(D) TO GROUP, CONSOLIDATE, COORDINATE AND MERGE AGENCIES AND FUNCTIONS OF THE GOVERNMENT;

(E) TO REDUCE THE NUMBER OF AGENCIES BY CONSOLIDATING THOSE HAVING SIMILAR FUNCTIONS, AND TO ABOLISH SUCH AGENCIES OR FUNCTIONS THEREOF AS MAY NOT BE NECESSARY FOR THE EFFICIENT CONDUCT OF THE GOVERNMENT; AND

(F) TO ELIMINATE OVERLAP AND DUPLICATION OF EFFORT.

2. THE LEGISLATURE DECLARES THAT THE PUBLIC INTEREST IS BEST SERVED BY FULFILLING THE PURPOSES SET FORTH IN THIS SECTION AND THAT SUCH PURPOSES MAY BE ACCOMPLISHED MORE SPEEDILY AND EFFECTIVELY UNDER THIS ARTICLE.

S 35. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "AGENCY" MEANS:

(A) ANY ADMINISTRATIVE UNIT OF STATE GOVERNMENT, INCLUDING, BUT NOT LIMITED TO, ANY AGENCY, BOARD, BUREAU, COMMISSION, DEPARTMENT, DIVISION, INSTITUTION, OFFICE, STATE PUBLIC AUTHORITY, STATE TASK FORCE, OR OTHER BODY, OR PARTS THEREOF, HOWEVER DESIGNATED, WHETHER OR NOT IT RECEIVES LEGISLATIVE APPROPRIATIONS, BUT DOES NOT INCLUDE ANY ENTITY WHOSE PRIMARY FUNCTION IS SERVICE TO THE LEGISLATIVE OR JUDICIAL BRANCHES OF STATE GOVERNMENT, THE DEPARTMENT OF LAW, THE DEPARTMENT OF AUDIT AND CONTROL OR THE BOARD OF REGENTS;

(B) ANY OFFICE OR OFFICER IN ANY AGENCY, EXCEPT THE DEPARTMENT OF LAW AND DEPARTMENT OF AUDIT AND CONTROL; AND

(C) ANY STATE PUBLIC AUTHORITY OR PUBLIC BENEFIT CORPORATION CREATED BY OR EXISTING UNDER ANY STATE LAW, OR PARTS THEREOF, HOWEVER DESIGNATED, WITH ONE OR MORE OF ITS MEMBERS APPOINTED BY THE GOVERNOR OR WHO SERVE AS MEMBERS BY VIRTUE OF HOLDING A CIVIL OFFICE OF THE STATE, OTHER THAN AN INTERSTATE OR INTERNATIONAL AUTHORITY OR PUBLIC BENEFIT CORPORATION, INCLUDING ANY SUBSIDIARIES OF SUCH PUBLIC AUTHORITY OR PUBLIC BENEFIT CORPORATION.

PROVIDED THAT "AGENCY" SHALL NOT INCLUDE ANY DEPARTMENT, BOARD, BUREAU, COMMISSION, DIVISION, OFFICE, COUNCIL, COMMITTEE OR OFFICER OF A MUNICIPALITY OR A LOCAL INDUSTRIAL DEVELOPMENT AGENCY OR LOCAL PUBLIC AUTHORITY OR LOCAL PUBLIC BENEFIT CORPORATION AS THAT TERM IS DEFINED IN SECTION SIXTY-SIX OF THE GENERAL CONSTRUCTION LAW.

2. "ASSEMBLY" MEANS THE NEW YORK STATE ASSEMBLY.

3. "FUNCTION" MEANS ANY ACTIVITY, ASSIGNMENT, DUTY, POWER, RESPONSIBILITY, RIGHT, SET OF OPERATIONS OR OTHER ACTIVITY.

4. "GOVERNOR" MEANS THE GOVERNOR OF THE STATE OF NEW YORK.

5. "LEGISLATURE" MEANS THE LEGISLATURE OF THE STATE OF NEW YORK.

6. "OFFICER" MEANS EVERY OFFICER APPOINTED BY ONE OR MORE STATE OFFICERS, OR BY THE LEGISLATURE, AND AUTHORIZED TO EXERCISE THEIR OFFICIAL FUNCTIONS THROUGHOUT THE ENTIRE STATE, OR WITHOUT LIMITATION TO ANY POLITICAL SUBDIVISION OF THE STATE, AND IS NOT LIMITED TO PERSONS RECEIVING COMPENSATION FOR THEIR SERVICES.

7. "REGULATION OR OTHER ACTION" MEANS ANY REGULATION, RULE, ORDER, POLICY, DETERMINATION, DIRECTIVE, AUTHORIZATION, PERMIT, PRIVILEGE, REQUIREMENT, DESIGNATION, OR OTHER ACTION.

8. "REORGANIZATION" OR "REORGANIZE" MEANS:
(A) THE TRANSFER OF THE WHOLE OR ANY PART OF ANY AGENCY, OR OF THE WHOLE OR ANY PART OF THE FUNCTIONS THEREOF, TO THE JURISDICTION AND CONTROL OF ANY OTHER AGENCY;
(B) THE ABOLITION OF ALL OR ANY PART OF THE FUNCTIONS OF ANY AGENCY;
(C) THE CONSOLIDATION, COORDINATION OR MERGER OF THE WHOLE OR ANY PART OF ANY AGENCY, OR OF THE WHOLE OR ANY PART OF THE FUNCTIONS THEREOF, WITH THE WHOLE OR ANY PART OF ANY OTHER AGENCY OR THE FUNCTIONS THEREOF;
(D) THE CONSOLIDATION, COORDINATION OR MERGER, OF ANY PART OF ANY AGENCY OR THE FUNCTIONS THEREOF WITH ANY OTHER PART OF THE SAME AGENCY OR THE FUNCTIONS THEREOF;
(E) THE AUTHORIZATION OF ANY NON-ELECTIVE OFFICER TO DELEGATE ANY OF THEIR FUNCTIONS;
(F) THE ABOLITION OF THE WHOLE OR ANY PART OF ANY AGENCY WHICH DOES NOT HAVE, OR UPON THE TAKING EFFECT OF REORGANIZATION WILL NOT HAVE, ANY FUNCTIONS; OR
(G) THE ESTABLISHMENT OF A NEW AGENCY TO PERFORM THE WHOLE OR ANY PART OF THE FUNCTIONS OF ANY EXISTING AGENCY OR AGENCIES.
9. "REORGANIZATION PLAN" OR "PLAN" SHALL MEAN THE BILL PREPARED BY THE GOVERNOR, AND SUBMITTED TO THE LEGISLATURE AS A PROGRAM BILL, THAT CONTAINS TERMS AND INFORMATION REGARDING THE REORGANIZATION OF ONE OR MORE AGENCIES PURSUANT TO THIS ARTICLE WHICH, WHEN ENACTED, SHALL ACCOMPLISH SUCH REORGANIZATION.
10. "SENATE" MEANS THE NEW YORK STATE SENATE.
S 36. FINDINGS BY GOVERNOR; ISSUANCE OF REORGANIZATION PLAN. 1. WHENEVER THE GOVERNOR FINDS IT IN THE PUBLIC INTEREST, HE OR SHE MAY REORGANIZE ONE OR MORE AGENCIES.
2. NOTHING IN THIS ARTICLE SHALL PROHIBIT OR LIMIT THE AUTHORITY OF THE GOVERNOR OR LEGISLATURE TO IMPLEMENT OR ENACT A REORGANIZATION PLAN PURSUANT TO ANY OTHER LAWFUL PROCESS.
S 37. CONTENTS OF REORGANIZATION PLAN. 1. A REORGANIZATION PLAN SHALL:
(A) SET FORTH AS FINDINGS IN SUCH PLAN, A DESCRIPTION OF THE NATURE AND PURPOSES OF THE REORGANIZATION, TOGETHER WITH AN EXPLANATION OF THE ADVANTAGES THAT WILL RESULT FROM ITS IMPLEMENTATION, INCLUDING:
(I) ANTICIPATED SAVINGS AND COSTS ASSOCIATED WITH EACH SIGNIFICANT MODIFICATION OF ANY AGENCY FUNCTIONS OR OPERATIONS;
(II) THE PRODUCTIVITY GAINS MEASURED IN NUMBERS OF FULL-TIME EMPLOYEES AND THE TYPES OF POSITIONS, IF ANY, THAT MAY BE CREATED OR ELIMINATED AS A RESULT OF THE REORGANIZATION PLAN;
(III) ESTIMATED IMPROVEMENTS AND OTHER IMPACTS, INCLUDING FISCAL AND SERVICE IMPACTS, ON PROGRAMS OR SERVICES RECIPIENTS, IF THE REORGANIZATION PLAN IS ADOPTED; AND
(IV) ESTIMATED LONG-TERM PROJECTED FISCAL IMPACT OF THE REORGANIZATION PLAN;
(B) SPECIFY WITH RESPECT TO EACH FUNCTION THAT IS EITHER ABOLISHED OR MERGED WITH ANOTHER FUNCTION INCLUDED IN THE PLAN THE STATUTORY AUTHORITY FOR THE EXERCISE OF THE FUNCTION;
(C) PROVIDE FOR THE UNINTERRUPTED CONDUCT OF THE GOVERNMENTAL SERVICES AND FUNCTIONS AFFECTED BY BUT NOT ABSORBED BY THE PLAN;
(D) PROVIDE FOR THE TRANSFER, ASSUMPTION OR OTHER DISPOSITION OF THE RECORDS, PROPERTY, AND PERSONNEL AFFECTED BY A REORGANIZATION, FURTHER PROVIDED, SHOULD ANY EMPLOYEES BE TRANSFERRED FROM ONE AGENCY TO ANOTHER, THAT SUCH TRANSFER WILL BE WITHOUT FURTHER EXAMINATION OR QUALIFICATION AND SUCH EMPLOYEES SHALL RETAIN THEIR RESPECTIVE CIVIL SERVICE

CLASSIFICATIONS, STATUS AND COLLECTIVE BARGAINING UNIT DESIGNATIONS AND BE GOVERNED BY APPLICABLE COLLECTIVE BARGAINING AGREEMENTS;

(E) PROVIDE FOR TERMINATING THE AFFAIRS OF AN AGENCY ABOLISHED;

(F) SET FORTH EVERY LAW AND CHAPTER THAT WILL BE DIRECTLY IMPACTED PURSUANT TO THE REORGANIZATION PLAN;

(G) PROVIDE FOR THE TRANSFER OF SUCH UNEXPENDED BALANCES OF APPROPRIATIONS AND REAPPROPRIATION OF REMAINING EXPENDED OR UNEXPENDED FUNDS WHETHER ALLOCATED OR UNALLOCATED AND WHETHER OBLIGATED OR UNOBLIGATED, AVAILABLE FOR USE IN CONNECTION WITH A FUNCTION OR AGENCY AFFECTED BY A REORGANIZATION, AS NECESSARY BY REASON OF THE REORGANIZATION FOR USE IN CONNECTION WITH THE FUNCTIONS AFFECTED BY THE REORGANIZATION, OR FOR THE USE OF THE AGENCY WHICH SHALL HAVE THE FUNCTIONS AFTER THE REORGANIZATION PLAN IS EFFECTIVE. HOWEVER, THE UNEXPENDED BALANCES SO TRANSFERRED MAY BE USED ONLY FOR THE PURPOSES FOR WHICH THE APPROPRIATION WAS ORIGINALLY MADE. SUCH REORGANIZATION PLAN MAY NOT CONTAIN APPROPRIATIONS FOR A REORGANIZED AGENCY. ANY SUCH APPROPRIATION AS MAY BE NEEDED MAY ONLY BE CONSIDERED PURSUANT TO A SINGLE APPROPRIATION IN LEGISLATION OUTSIDE OF THE REORGANIZATION PLAN OR IN THE EXECUTIVE BUDGET SUBMITTED IN THE FISCAL YEAR FOLLOWING THE ENACTMENT OF THE REORGANIZATION PLAN;

(H) PROVIDE THAT NO EXISTING RIGHT OR REMEDY SHALL BE LOST, IMPAIRED OR AFFECTED BY ANY REORGANIZATION PLAN;

(I) PROVIDE THAT NO ACTION OR PROCEEDING PENDING AT ANY TIME WHEN SUCH REORGANIZATION PLAN TAKES EFFECT, BROUGHT BY OR AGAINST ANY AGENCY WHICH IS SUBJECT TO SUCH PLAN, SHALL BE AFFECTED BY ANY PROVISION OF THE PLAN, BUT THE SAME MAY BE PROSECUTED OR DEFENDED IN THE NAME OF SUCH AGENCY. IN ALL SUCH ACTIONS AND PROCEEDINGS, IF AN AGENCY IS ELIMINATED AND ITS FUNCTIONS AND RESPONSIBILITIES ARE TRANSFERRED, THEN THE HEAD OF THE SURVIVING AGENCY, UPON APPLICATION OF THE COURT, SHALL BE SUBSTITUTED AS A PARTY;

(J) DESCRIBE IN DETAIL:

(I) OTHER ACTIONS, IF ANY, NECESSARY TO PLAN TO COMPLETE THE REORGANIZATION;

(II) THE ANTICIPATED NATURE AND SUBSTANCE OF ANY ORDERS, DIRECTIVES, AND OTHER ADMINISTRATIVE AND OPERATIONAL ACTIONS WHICH ARE EXPECTED TO BE REQUIRED FOR COMPLETING OR IMPLEMENTING THE REORGANIZATION; AND

(III) ANY PRELIMINARY ACTIONS WHICH HAVE BEEN TAKEN IN THE IMPLEMENTATION PROCESS;

(K) PROVIDE A PROJECTED TIMETABLE FOR COMPLETION OF THE IMPLEMENTATION PROCESS; AND

(L) INCLUDE PROVISIONS FOR THE APPOINTMENT AND COMPENSATION OF THE HEAD AND ONE OR MORE OFFICERS OF AN AGENCY (INCLUDING AN AGENCY RESULTING FROM A CONSOLIDATION OR OTHER TYPE OF REORGANIZATION) IF THE GOVERNOR FINDS AND DECLARES THAT BY REASON OF A REORGANIZATION MADE BY THE PLAN THE PROVISIONS ARE IN THE PUBLIC INTEREST. THE AGENCY HEAD MAY BE AN INDIVIDUAL OR MAY BE A COMMISSION OR BOARD WITH MORE THAN ONE MEMBER. IN ANY CASE, THE TERM OF OFFICE MAY NOT BE FIXED FOR A PERIOD IN EXCESS OF THE TERM REMAINING TO BE SERVED BY THE THEN GOVERNOR, THE PAY MAY NOT BE AT A RATE IN EXCESS OF THAT FOUND BY THE GOVERNOR TO BE APPLICABLE TO COMPARABLE OFFICERS IN THE STATE GOVERNMENT, AND, IF THE APPOINTMENT IS NOT TO A POSITION IN THE COMPETITIVE SERVICE, IT SHALL BE MADE BY THE COMMISSIONER OR OTHER CHIEF EXECUTIVE OFFICER, BOARD OR COMMISSION OF THE AGENCY AFFECTED. IF THE REORGANIZATION PLAN CREATES A NEW AGENCY THAT INCLUDES THE FUNCTION OF AN AGENCY WHOSE HEAD WAS CONFIRMED WITH THE ADVICE AND CONSENT OF THE SENATE, OR SUBSTANTIALLY MODIFIES THE FUNCTIONS OF AN EXISTING AGENCY WHOSE HEAD WAS CONFIRMED WITH THE ADVICE AND CONSENT OF THE SENATE, THEN THE HEAD OR HEADS OF SUCH NEW OR MODI-

FIED AGENCY SHALL BE APPOINTED WITH THE ADVICE AND CONSENT OF THE SENATE.

2. A REORGANIZATION PLAN MAY CHANGE THE NAME OF AN AGENCY AFFECTED BY A REORGANIZATION AND THE TITLE OF ITS HEAD, AND SHALL DESIGNATE THE NAME OF AN AGENCY RESULTING FROM A REORGANIZATION AND THE TITLE OF ITS HEAD.

S 38. PROVISIONS NOT TO BE INCLUDED IN A REORGANIZATION PLAN. 1. NO REORGANIZATION PLAN SHALL PROVIDE FOR, AND NO REORGANIZATION UNDER THIS ARTICLE SHALL HAVE THE EFFECT OF:

(A) ABOLISHING OR MODIFYING ANY AGENCY OR ENTITY CREATED OR ESTABLISHED BY THE NEW YORK STATE CONSTITUTION, INCLUDING WITHOUT LIMITATION, THE BOARD OF REGENTS, LEGISLATURE, JUDICIARY, COMPTROLLER AND ATTORNEY GENERAL, OR ABOLISHING OR MODIFYING ANY AGENCY OR ENTITY ADMINISTERED BY SUCH CONSTITUTIONALLY ESTABLISHED AGENCY OR ENTITY THAT IS NOT SUBJECT TO DIRECT GUBERNATORIAL CONTROL, OR ABOLISHING OR TRANSFERRING TO OR FROM THE JURISDICTION AND CONTROL OF ANY SUCH AGENCY ANY FUNCTION CONFERRED BY THE NEW YORK STATE CONSTITUTION ON AN AGENCY AUTHORIZED BY SUCH CONSTITUTION, OR AFFECTING OR CHANGING ANY IMPLEMENTING STATUTES RELATED TO SUCH AGENCIES OR ENTITIES;

(B) ABOLISHING ANY FUNCTION REQUIRED BY FEDERAL LAW OR INTERSTATE COMPACTS;

(C) VIOLATING ANY COVENANT WITH BONDHOLDERS; OR

(D) ABOLISHING STATUTORILY PRESCRIBED FUNCTIONS, PROVIDED THAT SUCH FUNCTIONS MAY BE ASSIGNED TO A DIFFERENT AGENCY THAN THE ONE TO WHICH THEY WERE ORIGINALLY ASSIGNED BY THE STATUTE.

2. NO REORGANIZATION PLAN SHALL HAVE THE EFFECT OF LIMITING IN ANY WAY THE VALIDITY OF ANY STATUTE ENACTED, OR ANY REGULATION OR OTHER ACTION MADE, PRESCRIBED, ISSUED, GRANTED OR PERFORMED IN RESPECT TO OR BY ANY AGENCY BEFORE THE EFFECTIVE DATE OF THE PLAN EXCEPT TO THE EXTENT THAT THE PLAN SPECIFICALLY SO PROVIDES NOR SHALL SUCH PLAN HAVE THE EFFECT OF LIMITING OR ALTERING THE ADVICE AND CONSENT POWERS OF THE SENATE.

S 39. EFFECTIVE DATE OF REORGANIZATION PLAN. 1. A REORGANIZATION PLAN SHALL BE VOTED ON BY EACH HOUSE OF THE LEGISLATURE, WITHOUT AMENDMENT AS SUBMITTED BY THE GOVERNOR, WITHIN THIRTY DAYS AFTER SUCH SUBMISSION. THE GOVERNOR MAY SUBMIT ONLY ONE SUCH PLAN ANNUALLY AND MAY AMEND THAT PLAN ONE TIME WITHIN SUCH THIRTY DAY PERIOD. BOTH HOUSES OF THE LEGISLATURE SHALL THEN HAVE THIRTY DAYS FROM THE SUBMISSION OF SUCH AMENDMENT TO VOTE ON THE AMENDED REORGANIZATION PLAN. WITHOUT THE CONSENT OF BOTH HOUSES OF THE LEGISLATURE, NEITHER A PLAN NOR AN AMENDMENT MAY BE SUBMITTED BY THE GOVERNOR AFTER THE THIRTIETH DAY OF MAY IN ANY YEAR.

2. UNDER PROVISIONS CONTAINED IN A REORGANIZATION PLAN, A PROVISION OF THE PLAN MAY BE EFFECTIVE AT A TIME LATER THAN THE DATE ON WHICH THE PLAN OTHERWISE IS EFFECTIVE.

S 39-A. EFFECT ON ACTIONS OR PROCEEDINGS. THIS ARTICLE SHALL NOT AFFECT ACTIONS OR PROCEEDINGS, CIVIL OR CRIMINAL, BROUGHT BY OR AGAINST ANY AGENCY OR OFFICER, THE FUNCTIONS, POWERS AND DUTIES OF WHICH HAVE BEEN TRANSFERRED OR ABOLISHED PURSUANT TO THIS ARTICLE; NOR SHALL ANY REORGANIZATION AFFECT ANY ORDER OR RECOMMENDATION MADE BY, OR OTHER MATTERS OR PROCEEDINGS BEFORE, ANY AGENCY OR OFFICER, THE FUNCTIONS, POWERS AND DUTIES OF WHICH HAVE BEEN TRANSFERRED OR ABOLISHED PURSUANT TO A REORGANIZATION PLAN UNDER THIS ARTICLE.

S 39-B. SEVERABILITY. IF ANY CLAUSE, SENTENCE, PARAGRAPH, SUBDIVISION, SECTION OR PART OF THIS ARTICLE SHALL BE ADJUDGED BY ANY COURT OF COMPETENT JURISDICTION TO BE INVALID, SUCH JUDGMENT SHALL NOT AFFECT, IMPAIR, OR INVALIDATE THE REMAINDER THEREOF, BUT SHALL BE CONFINED IN ITS OPERATION TO THE CLAUSE, SENTENCE, PARAGRAPH, SUBDIVISION, SECTION OR PART THEREOF DIRECTLY INVOLVED IN THE CONTROVERSY IN WHICH SUCH JUDG-

MENT SHALL HAVE BEEN RENDERED. IT IS HEREBY DECLARED TO BE THE INTENT OF THE LEGISLATURE THAT THIS ARTICLE WOULD HAVE BEEN ENACTED EVEN IF SUCH INVALID PROVISIONS HAD NOT BEEN INCLUDED IN THIS SECTION.

S 2. The legislative law is amended by adding a new section 54-b to read as follows:

S 54-B. REORGANIZATION PLAN. THE LEGISLATURE MAY BY CONCURRENT RESOLUTION PRESCRIBE RULES FOR THE CONSIDERATION AND DISPOSITION OF A REORGANIZATION PLAN, AS DEFINED IN ARTICLE THREE-A OF THE EXECUTIVE LAW.

S 3. This act shall take effect immediately and shall be deemed repealed May 31, 2014.

S 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 3. This act shall take effect immediately provided, however, that the applicable effective date of Parts A through E of this act shall be as specifically set forth in the last section of such Parts.