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

7394

I N S E N A T E

May 7, 2012

Introduced by Sen. SALAND -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the criminal procedure law, the executive law, the judiciary law and the penal law, in relation to the age of criminal responsibility

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

Section 1. Legislative findings. The legislature finds and declares that, each year, approximately 50,000 youths aged 16 and 17 are arrested in New York and prosecuted as adults in its criminal courts, overwhelmingly for non-felony offenses. As many studies over the past decade have shown, however, the adult criminal justice system does not effectively respond to teenage criminal behavior. It is costly and largely ill-suited to the challenges such crime presents. Accordingly, this measure aims to provide a distinctly new, more effective response to teenage criminal behavior.

Modern behavioral neuroscience confirms that the brains of teenagers are not yet matured; they lack impulse control and can neither make fully-reasoned judgments nor weigh the risks and consequences of their behavior. It is now understood that teenage offenders should be treated differently from older criminals because their offenses are not as "morally reprehensible as that of an adult." Moreover, as other states nationwide have learned, and as the legislature now recognizes, teenagers are better candidates for rehabilitation and more likely to benefit from alternatives-to-incarceration programs and locally-based services. Experience in other states has shown that recidivism among teenage offenders drops markedly when the latter are treated with appropriate intervention programs and services designed for teenagers rather than with adult criminal sanctions. Indeed, where such programs and services are utilized, all involved can benefit: the affected teenagers, many of whom can thereby be steered away from a life of crime, and the public, which, where these programs and services succeed, can be spared the consequences and costs of such a life upon the community.

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

LBD15292-03-2

This is not to say that 16- and 17-year-old offenders who commit serious offenses should not be held responsible for their actions. While they may not be adults with fully mature minds, they should not be entirely relieved of the potentially serious consequences of their behavior. Echoing this view, the United States Supreme Court has held that, even while young offenders ought not be held to adult criminal justice penalties, they are not to be altogether absolved of responsibility for their actions.

After considering the options available, the legislature finds and declares that, at the present time and given present resources, the most effective way of balancing the limits and needs of non-violent 16- and 17-year-old offenders with community needs and relevant penological considerations is to decriminalize their offenses and to establish a specialized forum within the state's superior courts in which those offenses may be addressed, a forum that blends features of criminal court and family court in a youth division of adult criminal court presided over by judges specially trained in adolescent development, child psychology and therapeutic approaches to child pathology and juvenile crime. In such fashion, young offenders can be afforded benefits ideally suited to their youth and developmental status, benefits that are an integral aspect of juvenile delinquency proceedings to which younger offenders are subject in family court. These benefits include ensuring that 16- and 17-year-old offenders will not be stigmatized with criminal convictions and helping them confront the problems giving rise to their offenses with programmatic intervention outside the traditional criminal justice environment. This measure would establish the youth division of superior court and prescribe the special procedures necessary to its operation.

S 2. Subdivision 1 of section 1.10 of the criminal procedure law is amended to read as follows:

1. The provisions of this chapter apply exclusively to:

(a) All criminal actions and proceedings commenced upon or after the effective date thereof and all appeals and other post-judgment proceedings relating or attaching thereto; [and]

(b) All matters of criminal procedure prescribed in this chapter which do not constitute a part of any particular action or case, occurring upon or after such effective date; AND

(C) ALL ACTIONS AND PROCEEDINGS COMMENCED PURSUANT TO THIS CHAPTER AGAINST PERSONS SIXTEEN OR SEVENTEEN YEARS OF AGE WHO ARE NOT CRIMINALLY RESPONSIBLE FOR THE OFFENSES CHARGED IN SUCH ACTIONS AND PROCEEDINGS.

S 3. Section 1.20 of the criminal procedure law is amended by adding a new subdivision 44 to read as follows:

44. "YOUTH DIVISION OFFENSE" MEANS A FELONY OR MISDEMEANOR, OTHER THAN A VIOLENT FELONY OFFENSE AS DEFINED IN SUBDIVISION ONE OF SECTION 70.02 OF THE PENAL LAW OR ANY OFFENSE LISTED IN PARAGRAPH TWO OF SUBDIVISION EIGHTEEN OF SECTION 10.00 OF SUCH LAW, WHERE SUCH PERSON WAS AT LEAST SIXTEEN YEARS OLD AND LESS THAN EIGHTEEN YEARS OLD AT THE TIME OF THE ALLEGED OFFENSE.

S 4. Subdivision 2 of section 30.20 of the criminal procedure law, as amended by chapter 184 of the laws of 1972, is amended to read as follows:

2. Insofar as is practicable, the trial of a criminal action must be given preference over civil cases; and the trial of a criminal action where the defendant has been committed to [the] custody [of the sheriff] during the pendency of the criminal action must be given preference over other criminal actions.

S 5. The criminal procedure law is amended by adding a new article 155 to read as follows:

ARTICLE 155

ARREST OF PERSONS AGED SIXTEEN OR SEVENTEEN AT THE TIME THE OFFENSE IS COMMITTED

SECTION 155.00 APPLICABILITY.
155.10 PROCEDURES UPON ARREST.
155.20 SPECIAL APPEARANCE TICKET.

S 155.00 APPLICABILITY.

THE PROVISIONS OF THIS ARTICLE SHALL APPLY TO THE ARREST BY AN OFFICER OF A PERSON FOR A YOUTH DIVISION OFFENSE. FOR PURPOSES OF THIS ARTICLE, THE WORD "OFFICER" MEANS A POLICE OFFICER OR PEACE OFFICER.

S 155.10 PROCEDURES UPON ARREST.

1. UPON THE ARREST OF A PERSON FOR A YOUTH DIVISION OFFENSE, THE ARRESTING OFFICER MUST IMMEDIATELY NOTIFY THE PARENT OR OTHER PERSON LEGALLY RESPONSIBLE FOR THE ARRESTED PERSON'S CARE OR, IF SUCH LEGALLY RESPONSIBLE PERSON IS UNAVAILABLE, THE PERSON WITH WHOM THE ARRESTED PERSON RESIDES, OF THE ARREST. AFTER MAKING A REASONABLE EFFORT TO PROVIDE SUCH NOTIFICATION, THE OFFICER MUST:

(A) RELEASE THE ARRESTED PERSON TO THE CUSTODY OF HIS OR HER PARENT OR OTHER PERSON LEGALLY RESPONSIBLE FOR HIS OR HER CARE UPON THE ISSUANCE OF A SPECIAL APPEARANCE TICKET IN ACCORDANCE WITH SECTION 155.20 TO THE ARRESTED PERSON WITH A COPY THEREOF TO THE PERSON TO WHOSE CUSTODY HE OR SHE IS RELEASED; OR

(B) WHERE EFFORTS TO REACH A PARENT OR OTHER PERSON LEGALLY RESPONSIBLE FOR THE ARRESTED PERSON'S CARE HAVE BEEN UNSUCCESSFUL, RELEASE THE ARRESTED PERSON UPON THE ISSUANCE OF A SPECIAL APPEARANCE TICKET, IN WHICH EVENT THE OFFICER SHALL MAIL A COPY OF SUCH APPEARANCE TICKET, WITHIN TWENTY-FOUR HOURS OF ITS ISSUANCE, TO SUCH PARENT OR OTHER PERSON LEGALLY RESPONSIBLE; OR

(C) WITHOUT UNNECESSARY DELAY, TAKE THE ARRESTED PERSON DIRECTLY TO THE YOUTH DIVISION OF SUPERIOR COURT IN THE COUNTY IN WHICH THE ALLEGED OFFENSE WAS COMMITTED UNLESS THE OFFICER DETERMINES THAT IT IS NECESSARY TO QUESTION THE ARRESTED PERSON, IN WHICH CASE THE OFFICER MAY TAKE HIM OR HER TO A FACILITY DESIGNATED BY THE CHIEF ADMINISTRATOR OF THE COURTS AS A SUITABLE PLACE FOR THE QUESTIONING OF CHILDREN OR, UPON THE CONSENT OF A PARENT OR OTHER PERSON LEGALLY RESPONSIBLE FOR THE CARE OF THE ARRESTED PERSON, TO THE ARRESTED PERSON'S RESIDENCE AND THERE QUESTION HIM OR HER FOR A REASONABLE PERIOD OF TIME.

NOTWITHSTANDING THE FOREGOING, WHERE IT APPEARS THAT THE ARRESTED PERSON IS A SEXUALLY-EXPLOITED CHILD UNDER THE AGE OF EIGHTEEN AS DEFINED IN SUBDIVISION ONE OF SECTION FOUR HUNDRED FORTY-SEVEN-A OF THE SOCIAL SERVICES LAW, THE ARRESTING OFFICER SHALL TAKE THE ARRESTED PERSON TO AN AVAILABLE SHORT-TERM SAFE HOUSE, BUT ONLY IF SUCH PERSON CONSENTS TO BE TAKEN.

2. AN ARRESTED PERSON SHALL NOT BE QUESTIONED PURSUANT TO THIS SECTION UNLESS HE OR SHE AND A PERSON REQUIRED TO BE NOTIFIED PURSUANT TO THIS SECTION, IF PRESENT, HAVE BEEN ADVISED OF THE ARRESTED PERSON'S RIGHT TO REMAIN SILENT, THAT ANY STATEMENTS MADE BY THE ARRESTED PERSON COULD BE USED IN A COURT OF LAW, THAT THE ARRESTED PERSON HAS THE RIGHT TO HAVE AN ATTORNEY PRESENT AT SUCH QUESTIONING, AND THAT IF THE ARRESTED PERSON CANNOT AFFORD AN ATTORNEY, ONE WILL BE PROVIDED FREE OF CHARGE. IN DETERMINING WHETHER THE ARRESTED PERSON KNOWINGLY AND INTELLIGENTLY WAIVED ANY OF THESE RIGHTS, A COURT MAY CONSIDER, AMONG OTHER RELEVANT FACTORS, THE ARRESTED PERSON'S AGE, THE PRESENCE OR ABSENCE OF HIS OR HER PARENT OR OTHER PERSON LEGALLY RESPONSIBLE FOR HIS OR HER CARE AND

WHETHER THERE HAS BEEN NOTIFICATION OF THE PERSON REQUIRED TO BE NOTIFIED PURSUANT TO THIS SECTION.

S 155.20 SPECIAL APPEARANCE TICKET.

1. DEFINITION, FORM AND CONTENT. A SPECIAL APPEARANCE TICKET IS A WRITTEN NOTICE ISSUED AND SUBSCRIBED BY AN OFFICER OR OTHER PUBLIC SERVANT AUTHORIZED BY STATE LAW OR LOCAL LAW ENACTED PURSUANT TO THE PROVISIONS OF THE MUNICIPAL HOME RULE LAW TO ISSUE THE SAME, DIRECTING A DESIGNATED PERSON TO APPEAR AT THE PROBATION SERVICE FOR THE COUNTY IN WHICH THE OFFENSE OR OFFENSES FOR WHICH THE SPECIAL APPEARANCE TICKET IS ISSUED WERE ALLEGEDLY COMMITTED. A SPECIAL APPEARANCE TICKET, THE FORM OF WHICH SHALL BE PRESCRIBED BY RULES OF THE CHIEF ADMINISTRATOR OF THE COURTS, IS NOT AN APPEARANCE TICKET AS PROVIDED IN ARTICLE ONE HUNDRED FIFTY AND THE PROVISIONS OF SUCH ARTICLE DO NOT APPLY TO IT.

2. WHEN AND BY WHOM ISSUED. WHENEVER AN OFFICER MAKES AN ARREST TO WHICH THIS ARTICLE APPLIES, SUCH OFFICER MAY, SUBJECT TO THE PROVISIONS OF THIS ARTICLE, ISSUE AND SERVE A SPECIAL APPEARANCE TICKET UPON THE ARRESTED PERSON.

3. FILING WITH THE PROBATION SERVICE. WHENEVER AN OFFICER ISSUES A SPECIAL APPEARANCE TICKET PURSUANT TO THIS ARTICLE, HE OR SHE, WITHIN TWENTY-FOUR HOURS, MUST FILE OR CAUSE TO BE FILED A COPY WITH THE PROBATION SERVICE TO WHICH THE SPECIAL APPEARANCE TICKET IS RETURNABLE AND SHALL FORWARD A COPY TO THE COMPLAINANT AND THE ARRESTED PERSON'S PARENT.

4. FAILURE TO APPEAR AT THE PROBATION SERVICE. IF, AFTER RECEIVING A SPECIAL APPEARANCE TICKET, A PERSON FAILS TO APPEAR AT THE PROBATION SERVICE AT THE TIME SUCH SPECIAL APPEARANCE TICKET IS RETURNABLE, OR IF THE COMPLAINANT WHO RECEIVED A COPY OF SUCH SPECIAL APPEARANCE TICKET FAILS TO APPEAR AT SUCH TIME, THE PROBATION SERVICE MAY ATTEMPT TO SECURE THE ATTENDANCE OF SUCH PERSON OR SUCH COMPLAINANT, AS APPROPRIATE, THROUGH WRITTEN, TELEPHONIC OR ELECTRONIC NOTIFICATION. IF SUCH NOTIFICATION IS UNSUCCESSFUL, OR IF NO EFFORTS AT NOTIFICATION ARE MADE, THE PROBATION SERVICE, NOT LATER THAN SEVEN DAYS FOLLOWING THE TIME THE SPECIAL APPEARANCE TICKET WAS RETURNABLE, MUST NOTIFY THE DISTRICT ATTORNEY WHO MAY THEREUPON TAKE APPROPRIATE ACTION, WHICH MAY INCLUDE, IN HIS OR HER DISCRETION, THE FILING OF AN ACCUSATORY INSTRUMENT WITH THE YOUTH DIVISION OF THE SUPERIOR COURT. UPON SUCH FILING OF AN ACCUSATORY INSTRUMENT, THE YOUTH DIVISION MAY ISSUE A SUMMONS OR A WARRANT OF ARREST TO COMPEL THE ATTENDANCE OF THE PERSON WHO RECEIVED THE SPECIAL APPEARANCE TICKET BEFORE THE COURT AND, WHERE IT DOES SO AND WHERE THE PERSON FAILED TO APPEAR AT THE PROBATION SERVICE AT THE TIME SUCH SPECIAL APPEARANCE TICKET WAS RETURNABLE, THE YOUTH DIVISION SHALL REQUIRE THAT A REPORT BE MADE TO THE YOUTH DIVISION WITHIN THIRTY DAYS ON THE EFFORTS MADE TO SECURE SUCH ATTENDANCE. UPON RECEIPT OF SUCH REPORT, THE COURT SHALL NOTIFY THE PARENT OR OTHER PERSON LEGALLY RESPONSIBLE FOR CARE OF THE PERSON CHARGED IN SUCH ACCUSATORY INSTRUMENT OR, IF SUCH LEGALLY RESPONSIBLE PERSON IS NOT AVAILABLE, A PERSON WITH WHOM THE PERSON CHARGED IN SUCH ACCUSATORY INSTRUMENT RESIDES, AND REQUEST THAT SUCH PERSON OR OTHER LEGALLY RESPONSIBLE PERSON APPEAR BEFORE THE COURT.

S 6. Section 160.10 of the criminal procedure law is amended by adding a new subdivision 1-a to read as follows:

1-A. THE PROVISIONS OF PARAGRAPHS (B) THROUGH (D) OF SUBDIVISION ONE OF THIS SECTION SHALL NOT APPLY WHERE THE ARRESTED PERSON OR DEFENDANT WAS SIXTEEN OR SEVENTEEN YEARS OF AGE AT THE TIME OF THE ALLEGED OFFENSE.

S 7. Section 160.20 of the criminal procedure law, as amended by chapter 108 of the laws of 1973, is amended to read as follows:

S 160.20 Fingerprinting; forwarding of fingerprints.

1. Upon the taking of fingerprints of an arrested person or defendant as prescribed in section 160.10, the appropriate police officer or agency must without unnecessary delay forward two copies of such fingerprints to the division of criminal justice services.

2. (A) UPON RECEIPT OF FINGERPRINTS TAKEN PURSUANT TO SECTION 160.10 WHERE THE PERSON FROM WHOM THEY WERE TAKEN WAS SIXTEEN OR SEVENTEEN YEARS OF AGE AT THE TIME OF THE ALLEGED OFFENSE OR OFFENSES, ALL OF WHICH ARE YOUTH DIVISION OFFENSES, THE DIVISION OF CRIMINAL JUSTICE SERVICES SHALL RETAIN SUCH FINGERPRINTS DISTINCTLY IDENTIFIABLE FROM ADULT CRIMINAL RECORDS EXCEPT AS PROVIDED IN SECTION 722.50, AND SHALL NOT RELEASE SUCH FINGERPRINTS TO A FEDERAL DEPOSITORY OR TO ANY PERSON EXCEPT AS AUTHORIZED BY THIS CHAPTER. THE COMMISSIONER OF THE DIVISION OF CRIMINAL JUSTICE SERVICES SHALL PROMULGATE REGULATIONS TO PROTECT THE CONFIDENTIALITY OF SUCH FINGERPRINTS AND RELATED INFORMATION AND TO PREVENT ACCESS THERETO, BY, AND THE DISTRIBUTION THEREOF TO, PERSONS NOT AUTHORIZED BY LAW.

(B) UPON RECEIPT OF SUCH FINGERPRINTS, THE DIVISION OF CRIMINAL JUSTICE SERVICES SHALL CLASSIFY THEM AND SEARCH ITS RECORDS FOR INFORMATION CONCERNING A PREVIOUS RECORD OF THE PERSON ARRESTED, INCLUDING ANY FAMILY COURT ADJUDICATION OR PENDING MATTER INVOLVING SUCH PERSON ARRESTED. THE DIVISION OF CRIMINAL JUSTICE SERVICES SHALL PROMPTLY TRANSMIT TO SUCH FORWARDING OFFICER OR AGENCY A REPORT CONTAINING ANY INFORMATION ON FILE WITH RESPECT TO SUCH PERSON'S PREVIOUS RECORD OR FAMILY COURT ADJUDICATIONS AND PENDING MATTERS OR A REPORT STATING THAT THE PERSON ARRESTED HAS NO PREVIOUS RECORD ACCORDING TO ITS FILES. NOTWITHSTANDING THE FOREGOING, WHERE THE DIVISION OF CRIMINAL JUSTICE SERVICES HAS NOT RECEIVED DISPOSITION INFORMATION WITHIN TWO YEARS OF AN ARREST, IT SHALL, UNTIL SUCH INFORMATION OR UP-TO-DATE STATUS INFORMATION IS RECEIVED, WITHHOLD THE RECORD OF THAT ARREST AND ANY RELATED ACTIVITY IN DISSEMINATING CRIMINAL HISTORY INFORMATION.

S 8. The criminal procedure law is amended by adding a new article 722 to read as follows:

ARTICLE 722

PROCEEDINGS AGAINST SIXTEEN AND SEVENTEEN YEAR OLDS AND CERTAIN OTHER INDIVIDUALS; ESTABLISHMENT OF YOUTH DIVISION AND RELATED PROCEDURES

SECTION 722.00 ADJUSTMENT BY PROBATION SERVICE.
722.10 YOUTH DIVISION OF THE SUPERIOR COURT ESTABLISHED.
722.20 YOUTH DIVISION; PROCEDURES PRIOR TO A DETERMINATION OF GUILT.
722.30 YOUTH DIVISION; SPECIAL PROCEDURES FOLLOWED IN CERTAIN PROCEEDINGS AGAINST CERTAIN OFFENDERS; REMOVAL TO FAMILY COURT.
722.40 YOUTH DIVISION; SPECIAL PROCEDURES FOLLOWING A DETERMINATION OF GUILT FOR CERTAIN PERSONS WHO WERE SIXTEEN OR SEVENTEEN YEARS OLD AT THE TIME OF OFFENSE.
722.50 YOUTH DIVISION; DISPOSITION OF RECORDS UPON TERMINATION OF ACTIONS OR PROCEEDINGS.
722.60 YOUTH DIVISION; PRIVACY OF RECORDS.

S 722.00 ADJUSTMENT BY PROBATION SERVICE.

1. THE PROBATION SERVICE SHALL MAKE ALL REASONABLE EFFORTS TO ADJUST ANY OFFENSE FOR WHICH A PERSON HAS BEEN ARRESTED:

(A) UPON THE APPEARANCE OF SUCH PERSON BEFORE SUCH PROBATION SERVICE IN COMPLIANCE WITH A SPECIAL APPEARANCE TICKET ISSUED PURSUANT TO ARTICLE ONE HUNDRED FIFTY-FIVE; OR

(B) PRIOR TO THE FILING OF AN ACCUSATORY INSTRUMENT WHERE SUCH PERSON WAS ARRESTED FOR A YOUTH DIVISION OFFENSE, AND (I) NO SPECIAL APPEARANCE TICKET WAS ISSUED PURSUANT TO ARTICLE ONE HUNDRED FIFTY-FIVE OR (II) A SPECIAL APPEARANCE TICKET WAS ISSUED BUT THE PERSON FAILED TO APPEAR AT THE PROBATION SERVICE WHEN REQUIRED TO DO SO; OR

(C) AS ORDERED BY THE COURT.

NOTHING IN THIS SECTION SHALL PREVENT THE COMPLAINANT FROM REQUESTING THAT THE DISTRICT ATTORNEY COMMENCE A CRIMINAL ACTION AGAINST A PERSON WHO HAS BEEN ARRESTED FOR AN OFFENSE OR OFFENSES THAT A PROBATION SERVICE IS ATTEMPTING TO ADJUST PURSUANT TO THIS SECTION WHILE SUCH EFFORTS TO ADJUST ARE ONGOING.

2. (A) IN PURSUIT OF SUCH ADJUSTMENT, THE PROBATION SERVICE SHALL CONFER WITH THE ARRESTED PERSON; HIS OR HER PARENT OR PARENTS OR OTHER PERSON OR PERSONS LEGALLY RESPONSIBLE FOR HIS OR HER CARE; THE COMPLAINANT; AND ANY OTHER INTERESTED PERSONS. THE PROBATION SERVICE ALSO MAY DIRECT THE ARRESTED PERSON TO COMPLY WITH CERTAIN CONDITIONS (WHICH MAY INCLUDE RESTITUTION OR REPARATION, IF APPROPRIATE) AND PARTICIPATE IN DESIGNATED PROGRAMS. IF, FOLLOWING SUCH EFFORTS, THE PROBATION SERVICE DETERMINES THAT THE OFFENSE OR OFFENSES FOR WHICH SUCH PERSON HAS BEEN ARRESTED SHOULD BE ADJUSTED, THE PROBATION SERVICE SHALL ADJUST SUCH OFFENSE OR OFFENSES AND SHALL SO NOTIFY THE ARRESTED PERSON, HIS OR HER PARENT OR PARENTS OR OTHER PERSON OR PERSONS LEGALLY RESPONSIBLE FOR THE ARRESTED PERSON'S CARE, THE COMPLAINANT, THE DISTRICT ATTORNEY AND THE CLERK OF THE YOUTH DIVISION. UPON ADJUSTMENT OF AN OFFENSE HEREUNDER, NO FURTHER ACTION MAY BE TAKEN AGAINST THE ARRESTED PERSON INVOLVED IN RELATION TO SUCH OFFENSE OR OFFENSES PURSUANT TO THIS CHAPTER.

(B) THE FACT THAT A PERSON IS DETAINED SHALL NOT PROHIBIT THE PROBATION SERVICE FROM ADJUSTING AN OFFENSE OR OFFENSES FOR WHICH SUCH PERSON WAS ARRESTED.

3. (A) FOLLOWING EFFORTS TO ADJUST A CRIMINAL OFFENSE OR OFFENSES UNDER THIS SECTION, WHICH SHALL NOT TAKE LONGER THAN TWO MONTHS WITHOUT COURT PERMISSION (OR SUCH GREATER PERIOD AS THE COURT MAY PERMIT, NOT TO EXCEED AN ADDITIONAL TWO MONTHS), THE PROBATION SERVICE MUST:

(I) ADJUST SUCH CRIMINAL OFFENSE OR OFFENSES, IN WHICH EVENT THE PROBATION SERVICE MUST SO NOTIFY THE DISTRICT ATTORNEY, THE YOUTH DIVISION, THE COMMISSIONER OF THE DIVISION OF CRIMINAL JUSTICE SERVICES AND EACH APPROPRIATE POLICE DEPARTMENT AND OTHER LAW ENFORCEMENT AGENCY WHEREUPON THEY SHALL SEAL ALL RECORDS OF THE ARREST FOR SUCH OFFENSE OR OFFENSES, AND DESTROY ANY PALMPRINTS OR FINGERPRINTS IN THEIR POSSESSION OR CONTROL THAT WERE TAKEN FROM THE PERSON WHOSE OFFENSE OR OFFENSES WERE ADJUSTED WHEN HE OR SHE WAS ARRESTED FOR SUCH OFFENSE OR OFFENSES; OR

(II) NOTIFY THE DISTRICT ATTORNEY OF THE COUNTY IN WHICH THE PROBATION SERVICE IS LOCATED, WITHIN FORTY-EIGHT HOURS OR THE NEXT COURT DAY, WHICHEVER IS LATER, THAT EFFORTS TO ADJUST SUCH CRIMINAL OFFENSE OR OFFENSES HAVE FAILED. UPON RECEIPT OF SUCH NOTIFICATION, THE DISTRICT ATTORNEY MAY TAKE APPROPRIATE ACTION, WHICH MAY INCLUDE, IN HIS OR HER DISCRETION, THE FILING OF AN ACCUSATORY INSTRUMENT WITH THE YOUTH DIVISION.

(B) WHERE THE PROBATION SERVICE ADJUSTS THE OFFENSE OR OFFENSES FOR WHICH A PERSON HAS BEEN ARRESTED PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (A) OF THIS SUBDIVISION, AND SUCH PERSON IS DETAINED AT THE TIME,

THE PROBATION SERVICE SHALL NOTIFY THE FACILITY IN WHICH SUCH PERSON IS DETAINED TO RELEASE SUCH PERSON.

(C) UPON THE FAILURE OF A PERSON TO COMPLY WITH ANY CONDITION IMPOSED BY THE PROBATION SERVICE PURSUANT TO SUBDIVISION ONE OF THIS SECTION, THE PROBATION SERVICE MAY REIMPOSE SUCH CONDITION, IMPOSE NEW CONDITIONS OR DETERMINE THAT ALL REASONABLE EFFORTS TO ADJUST THE OFFENSE OR OFFENSES HAVE FAILED AND PROCEED IN ACCORDANCE WITH SUBPARAGRAPH (II) OF PARAGRAPH (A) OF THIS SUBDIVISION.

4. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE PROBATION SERVICE SHALL NOT TRANSMIT OR OTHERWISE DISCLOSE TO THE DISTRICT ATTORNEY ANY STATEMENT MADE BY AN ARRESTED PERSON TO A PROBATION OFFICER, NOR SHALL ANY STATEMENT OF AN ARRESTED PERSON MADE TO THE PROBATION SERVICE IN THE COURSE OF EFFORTS PURSUANT TO THIS SECTION AT ADJUSTMENT OF A CRIMINAL OFFENSE OR OFFENSES BE ADMITTED INTO EVIDENCE IN ANY CRIMINAL ACTION OR PROCEEDING AGAINST SUCH PERSON OR IN ANY OTHER ACTION OR PROCEEDING AGAINST SUCH PERSON IN THE YOUTH DIVISION. HOWEVER, THE PROBATION SERVICE MAY MAKE A RECOMMENDATION REGARDING ADJUSTMENT OF A CRIMINAL OFFENSE OR OFFENSES TO THE DISTRICT ATTORNEY AND PROVIDE SUCH INFORMATION, INCLUDING ANY REPORT MADE BY THE ARRESTING OFFICER AND RECORD OF PREVIOUS ADJUSTMENTS AND ARRESTS AS IT SHALL DEEM RELEVANT.

5. WHERE THE PROBATION SERVICE ADJUSTS A CRIMINAL OFFENSE OR OFFENSES UNDER THIS SECTION AFTER AN ACCUSATORY INSTRUMENT CHARGING SUCH CRIMINAL OFFENSE OR OFFENSES HAS BEEN FILED WITH OR TRANSFERRED TO THE YOUTH DIVISION, THE YOUTH DIVISION, UPON NOTIFICATION OF SUCH ADJUSTMENT PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (A) OF SUBDIVISION THREE OF THIS SECTION, MUST DISMISS SUCH ACCUSATORY INSTRUMENT PURSUANT TO PARAGRAPH (G) OF SUBDIVISION ONE OF SECTION 170.30 OR PARAGRAPH (I) OF SUBDIVISION ONE OF SECTION 210.20, AS APPROPRIATE, AS IF A MOTION FOR SUCH DISMISSAL HAD BEEN MADE BY DEFENDANT THEREUNDER.

6. THE CHIEF ADMINISTRATOR OF THE COURTS SHALL PROMULGATE PROCEDURES TO BE FOLLOWED BY A PROBATION SERVICE IN DISCHARGE OF ITS RESPONSIBILITIES PURSUANT TO THIS SECTION. SUCH RULES ALSO SHALL PRESCRIBE STANDARDS TO BE FOLLOWED BY A PROBATION SERVICE IN DETERMINING WHETHER TO ADJUST A CRIMINAL OFFENSE OR OFFENSES PURSUANT TO THIS SECTION.

S 722.10 YOUTH DIVISION OF THE SUPERIOR COURT ESTABLISHED.

THE CHIEF ADMINISTRATOR OF THE COURTS IS HEREBY DIRECTED TO ESTABLISH, IN A SUPERIOR COURT IN EACH COUNTY OF THE STATE THAT EXERCISES CRIMINAL JURISDICTION, A PART OF COURT TO BE KNOWN AS THE YOUTH DIVISION OF THE SUPERIOR COURT FOR THE COUNTY IN WHICH SUCH COURT PRESIDES. JUDGES PRESIDING IN THE YOUTH DIVISION SHALL RECEIVE TRAINING IN SPECIALIZED AREAS, INCLUDING, BUT NOT LIMITED TO, JUVENILE JUSTICE, ADOLESCENT DEVELOPMENT AND EFFECTIVE TREATMENT METHODS FOR REDUCING CRIME COMMISSION BY ADOLESCENTS. WHERE THE PROVISIONS OF THE FAMILY COURT ACT ARE INCLUDED OR INCORPORATED BY REFERENCE IN THIS ARTICLE, THE YOUTH DIVISION MAY CONSIDER JUDICIAL INTERPRETATIONS OF SUCH PROVISIONS TO THE EXTENT THAT THEY MAY ASSIST THE YOUTH DIVISION IN INTERPRETING THE PROVISIONS OF THIS CHAPTER. EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION THREE OF SECTION 722.20, THE YOUTH DIVISION SHALL HAVE:

1. EXCLUSIVE PRELIMINARY AND TRIAL JURISDICTION OF ALL YOUTH DIVISION OFFENSES INCLUDED IN AN ACCUSATORY INSTRUMENT;

2. PRELIMINARY AND TRIAL JURISDICTION, CONCURRENT WITH LOCAL CRIMINAL COURTS, OF ALL OFFENSES INCLUDED IN AN ACCUSATORY INSTRUMENT THAT CHARGES A PERSON WITH ONE OR MORE CRIMES AT LEAST ONE OF WHICH IS NOT A YOUTH DIVISION OFFENSE, WHERE SUCH PERSON WAS AT LEAST SIXTEEN YEARS OLD AND LESS THAN EIGHTEEN YEARS OLD AT THE TIME HE OR SHE IS ALLEGED TO HAVE COMMITTED THE OFFENSES CHARGED; AND

3. JURISDICTION OVER ALL PROCEEDINGS IN RELATION TO JUVENILE OFFENDERS REQUIRED BY THIS CHAPTER TO BE CONDUCTED IN SUPERIOR COURT.

S 722.20 YOUTH DIVISION; PROCEDURES PRIOR TO A DETERMINATION OF GUILT.

1. EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, THE PROVISIONS OF THIS CHAPTER SHALL APPLY IN EACH ACTION OR PROCEEDING IN THE YOUTH DIVISION OF SUPERIOR COURT. SOLELY FOR PURPOSES HEREOF, A PROCEEDING IN THE YOUTH DIVISION SHALL BE DEEMED A CRIMINAL PROCEEDING, THE PERSON SUBJECT TO SUCH PROCEEDING SHALL BE DEEMED A DEFENDANT AND THE CHARGES AGAINST SUCH PERSON SHALL BE DEEMED CRIMINAL CHARGES; PROVIDED, HOWEVER, THAT IF SPECIFIC OFFENSES CHARGED AGAINST A DEFENDANT DESCRIBED IN SUBDIVISION ONE OF SECTION 722.40 RESULT IN A PLEA OF GUILTY OR SUCH A DEFENDANT IS OTHERWISE FOUND GUILTY THEREOF, NO CONVICTION THEREOF SHALL BE ENTERED.

2. NOTWITHSTANDING THE PROVISIONS OF TITLE H OF THIS CHAPTER, WHERE A DEFENDANT WAS AT LEAST SIXTEEN YEARS OLD AND LESS THAN EIGHTEEN YEARS OLD AT THE TIME HE OR SHE IS ALLEGED TO HAVE COMMITTED THE OFFENSES CHARGED IN AN ACCUSATORY INSTRUMENT, ALL REFERENCES TO A LOCAL CRIMINAL COURT IN SUCH TITLE SHALL BE DEEMED REFERENCES TO THE YOUTH DIVISION. FOR THE PURPOSE OF EXERCISING PRELIMINARY JURISDICTION OVER AN ACTION OR PROCEEDING PURSUANT TO SUCH TITLE, THE YOUTH DIVISION SHALL HAVE ALL THE POWERS OF A LOCAL CRIMINAL COURT THEREUNDER.

3. WHERE THE YOUTH DIVISION IS NOT IN SESSION AND UNABLE TO ARRAIGN A DEFENDANT, SUCH DEFENDANT MAY BE ARRAIGNED BEFORE ANY LOCAL CRIMINAL COURT IN WHICH HE OR SHE COULD BE ARRAIGNED WERE HE OR SHE AT LEAST EIGHTEEN YEARS OF AGE AT THE TIME HE OR SHE IS ALLEGED TO HAVE COMMITTED THE OFFENSE OR OFFENSES CHARGED IN AN ACCUSATORY INSTRUMENT; PROVIDED, HOWEVER, IN SUCH EVENT AND UNLESS THE LOCAL CRIMINAL COURT INTENDS TO DISMISS THE ACTION IMMEDIATELY THEREAFTER, SUCH LOCAL CRIMINAL COURT MUST TRANSFER THE MATTER FORTHWITH TO THE YOUTH DIVISION AND SHALL MAKE THE MATTER RETURNABLE IN THE YOUTH DIVISION ON THE NEXT DAY THE YOUTH DIVISION IS IN SESSION AFTER ARRAIGNMENT IN THE LOCAL CRIMINAL COURT.

4. (A) UPON ANY OCCASION WHEN THE YOUTH DIVISION (OR A LOCAL CRIMINAL COURT AS PROVIDED HEREUNDER WHEN THE YOUTH DIVISION IS NOT IN SESSION) IS REQUIRED TO ISSUE A SECURING ORDER WITH RESPECT TO A PRINCIPAL WHO WAS SIXTEEN OR SEVENTEEN YEARS OLD AT THE TIME OF HIS OR HER ALLEGED OFFENSE OR OFFENSES, AND SUCH OFFENSE OR OFFENSES ARE EXCLUSIVELY YOUTH DIVISION OFFENSES, THE COURT MAY NOT COMMIT SUCH PRINCIPAL TO CUSTODY UNLESS AVAILABLE LESS RESTRICTIVE ALTERNATIVES THERETO, INCLUDING CONDITIONAL RELEASE, WOULD NOT BE APPROPRIATE. IF SUCH COURT DOES COMMIT SUCH PRINCIPAL TO CUSTODY, SUCH COMMITMENT MUST BE IN A DETENTION FACILITY IN WHICH A CHILD SUBJECT TO THE PROVISIONS OF ARTICLE THREE OF THE FAMILY COURT ACT COULD BE DETAINED.

(B) ONCE A PRINCIPAL DESCRIBED IN PARAGRAPH (A) OF THIS SUBDIVISION IS COMMITTED TO CUSTODY, THE COURT SHALL MAKE THE FOLLOWING FINDINGS, WHICH SHALL BE INCLUDED IN A WRITTEN ORDER AS REQUIRED BY FEDERAL LAW:

(I) WHETHER THE CONTINUATION OF THE PRINCIPAL OUTSIDE OF CUSTODY WOULD BE CONTRARY TO HIS OR HER BEST INTERESTS BASED UPON, AND LIMITED TO, THE FACTS AND CIRCUMSTANCES AVAILABLE TO THE COURT AT THE TIME OF THE ARRAIGNMENT; AND

(II) WHERE APPROPRIATE AND CONSISTENT WITH THE NEED FOR PROTECTION OF THE COMMUNITY, WHETHER REASONABLE EFFORTS WERE MADE PRIOR TO THE DATE ON WHICH THE PRINCIPAL WAS COMMITTED TO CUSTODY THAT RESULTED IN THE SECURING ORDER TO PREVENT OR ELIMINATE THE NEED FOR COMMITTING THE PRINCIPAL TO CUSTODY OR, IF THE PRINCIPAL HAD BEEN COMMITTED TO CUSTODY PRIOR TO ARRAIGNMENT, WHERE APPROPRIATE AND CONSISTENT WITH THE NEED FOR PROTECTION OF THE COMMUNITY, WHETHER REASONABLE EFFORTS WERE MADE TO MAKE IT POSSIBLE FOR THE PRINCIPAL TO BE RELEASED FROM CUSTODY.

S 722.30 YOUTH DIVISION; SPECIAL PROCEDURES FOLLOWED IN CERTAIN PROCEEDINGS AGAINST CERTAIN OFFENDERS; REMOVAL TO FAMILY COURT.

1. UPON MOTION OF THE DEFENDANT MADE AFTER FILING OF AN ACCUSATORY INSTRUMENT AND PRIOR TO A JUDGMENT OF CONVICTION, THE YOUTH DIVISION OF THE SUPERIOR COURT MAY DIRECT THAT ALL PROCEEDINGS AGAINST SUCH DEFENDANT IN SUCH YOUTH DIVISION FOLLOWING A PLEA OF GUILTY OR OTHER DETERMINATION OF GUILT, WHETHER OR NOT SUCH PLEA OR OTHER DETERMINATION SHALL HAVE OCCURRED AT THE TIME OF SUCH MOTION, SHALL BE CONDUCTED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 722.40 IN ANY CASE WHERE SUCH DEFENDANT:

(A) IS A JUVENILE OFFENDER AND THE CASE HAS NOT BEEN REMOVED TO FAMILY COURT PURSUANT TO THIS CHAPTER; OR

(B) WAS AT LEAST SIXTEEN YEARS OLD AND LESS THAN EIGHTEEN YEARS OLD AT THE TIME HE OR SHE IS ALLEGED TO HAVE COMMITTED AN OFFENSE OR OFFENSES CHARGED IN THE ACCUSATORY INSTRUMENT AT LEAST ONE OF WHICH IS A VIOLENT FELONY OFFENSE AS DEFINED IN SUBDIVISION ONE OF SECTION 70.02 OF THE PENAL LAW OR AN OFFENSE LISTED IN PARAGRAPH TWO OF SUBDIVISION EIGHTEEN OF SECTION 10.00 OF SUCH LAW.

2. IN DETERMINING A MOTION PURSUANT TO SUBDIVISION ONE OF THIS SECTION, THE YOUTH DIVISION MUST CONSIDER THE FACTORS SET FORTH IN SUBDIVISION FOUR OF THIS SECTION AND MAY NOT GRANT SUCH A MOTION UNLESS IT DETERMINES THAT TO DO SO WOULD BE IN THE INTERESTS OF JUSTICE; PROVIDED, HOWEVER, THE YOUTH DIVISION MAY NOT GRANT SUCH A MOTION UNLESS:

(A) THE YOUTH DIVISION FINDS SPECIFIC FACTORS, ONE OR MORE OF WHICH REASONABLY SUPPORT SUCH MOTION, SHOWING: (I) MITIGATING CIRCUMSTANCES THAT BEAR DIRECTLY UPON THE MANNER IN WHICH THE CRIME WAS COMMITTED; (II) WHERE THE DEFENDANT WAS NOT THE SOLE PARTICIPANT IN THE CRIME, THE DEFENDANT'S PARTICIPATION WAS RELATIVELY MINOR ALTHOUGH NOT SO MINOR AS TO CONSTITUTE A DEFENSE TO THE PROSECUTION; OR (III) POSSIBLE DEFICIENCIES IN THE PROOF OF THE CRIME;

(B) AFTER CONSIDERATION OF THE FACTORS SET FORTH IN SUBDIVISION FOUR OF THIS SECTION, THE YOUTH DIVISION DETERMINES THAT FURTHER PROCEEDINGS IN RELATION TO THE DEFENDANT CONDUCTED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 722.40 WOULD BE IN THE INTERESTS OF JUSTICE; AND

(C) THE DISTRICT ATTORNEY CONSENTS THERETO.

3. (A) UPON MOTION OF THE DEFENDANT MADE AFTER FILING OF AN ACCUSATORY INSTRUMENT AND PRIOR TO A JUDGEMENT OF CONVICTION, THE YOUTH DIVISION, AFTER CONSIDERATION OF THE RELEVANT FACTORS SET FORTH IN SUBDIVISION FOUR OF THIS SECTION AND IF THE YOUTH DIVISION DETERMINES THAT TO DO SO WOULD BE IN THE INTEREST OF JUSTICE, MAY DIRECT THAT THE ACTION AGAINST THE DEFENDANT BE REMOVED TO FAMILY COURT IN ANY CASE WHERE THE DEFENDANT IS CHARGED IN THE YOUTH DIVISION EXCLUSIVELY WITH ONE OR MORE YOUTH DIVISION OFFENSES AND:

(I) THE DEFENDANT IS A PARTY TO OR IS OTHERWISE A SUBJECT OF PENDING PROCEEDINGS IN THE FAMILY COURT UNDER ARTICLE THREE, SEVEN, EIGHT, TEN, TEN-A, TEN-B OR TEN-C OF THE FAMILY COURT ACT; OR

(II) THE COURT DETERMINES THAT THE DEFENDANT IS A SEXUALLY-EXPLOITED CHILD UNDER THE AGE OF EIGHTEEN AS DEFINED IN SUBDIVISION ONE OF SECTION FOUR HUNDRED FORTY-SEVEN-A OF THE SOCIAL SERVICES LAW.

(B) WHERE THE YOUTH DIVISION DIRECTS REMOVAL OF AN ACTION TO FAMILY COURT PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (A) OF THIS SUBDIVISION, THE PROVISIONS OF SUBDIVISIONS SIX THROUGH NINE OF SECTION 725.05 AND SECTIONS 725.10 AND 725.15 OF THIS TITLE SHALL APPLY TO SUCH REMOVAL PROVIDED THAT:

(I) FOR PURPOSES OF SUBDIVISION SIX OF SECTION 725.05, "THE JUVENILE" SHALL REFER TO THE DEFENDANT IN THE ACTION BEING REMOVED; AND

(II) NOTWITHSTANDING THE PROVISIONS OF ARTICLE THREE OF THE FAMILY COURT ACT, UPON SUCH REMOVAL, THE FAMILY COURT SHALL HAVE AND SHALL EXERCISE JURISDICTION OVER THE DEFENDANT IN THE PROCEEDING REQUIRED TO BE ORIGINATED IN SUCH COURT PURSUANT TO SUBDIVISION ONE OF SECTION 725.10 AS IF THE DEFENDANT WERE OVER SEVEN AND LESS THAN SIXTEEN YEARS OF AGE.

4. IN MAKING ITS DETERMINATION PURSUANT TO SUBDIVISION ONE OR THREE OF THIS SECTION, THE YOUTH DIVISION SHALL, TO THE EXTENT APPLICABLE, EXAMINE INDIVIDUALLY AND COLLECTIVELY, THE FOLLOWING:

(A) THE SERIOUSNESS AND CIRCUMSTANCES OF THE OFFENSE;

(B) THE EXTENT OF HARM CAUSED BY THE OFFENSE;

(C) THE EVIDENCE OF GUILT, WHETHER ADMISSIBLE OR INADMISSIBLE AT TRIAL;

(D) THE HISTORY, CHARACTER AND CONDITION OF THE DEFENDANT, INCLUDING HIS OR HER DEVELOPMENTAL AND COGNITIVE LEVELS;

(E) THE PURPOSE AND EFFECT OF IMPOSING UPON THE DEFENDANT A SENTENCE AUTHORIZED FOR THE OFFENSE;

(F) THE IMPACT THAT PROCEEDING IN ACCORDANCE WITH THE PROVISIONS OF SECTION 722.40 MAY HAVE ON THE SAFETY OR WELFARE OF THE COMMUNITY AND THE DEFENDANT'S NEEDS AND BEST INTERESTS;

(G) THE IMPACT THAT PROCEEDING IN ACCORDANCE WITH THE PROVISIONS OF SECTION 722.40 WOULD HAVE UPON THE CONFIDENCE OF THE PUBLIC IN THE CRIMINAL JUSTICE SYSTEM;

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

(I) ANY OTHER RELEVANT FACT INDICATING THAT A JUDGMENT OF CONVICTION IN A CRIMINAL COURT WOULD SERVE NO USEFUL PURPOSE.

5. THE PROVISIONS OF SUBDIVISIONS ONE AND TWO OF SECTION 210.45, GOVERNING PROCEDURE ON A MOTION TO DISMISS AN INDICTMENT, SHALL APPLY TO PROCEDURE UPON A MOTION PURSUANT TO SUBDIVISION ONE OR THREE OF THIS SECTION. AFTER ALL PAPERS OF BOTH PARTIES HAVE BEEN FILED AND AFTER ALL DOCUMENTARY EVIDENCE, IF ANY, HAS BEEN SUBMITTED, THE YOUTH DIVISION MUST CONSIDER THE SAME FOR THE PURPOSE OF DETERMINING WHETHER THE MOTION IS DETERMINABLE ON THE MOTION PAPERS SUBMITTED AND, IF NOT, MAY MAKE SUCH INQUIRY AS IT DEEMS NECESSARY FOR THE PURPOSE OF MAKING A DETERMINATION.

6. FOR THE PURPOSE OF MAKING A DETERMINATION PURSUANT TO THIS SECTION, ANY EVIDENCE WHICH IS NOT LEGALLY PRIVILEGED MAY BE INTRODUCED. IF THE DEFENDANT TESTIFIES, HIS OR HER TESTIMONY MAY NOT BE INTRODUCED AGAINST HIM OR HER IN ANY FUTURE PROCEEDING, EXCEPT TO IMPEACH HIS OR HER TESTIMONY AT SUCH FUTURE PROCEEDING AS INCONSISTENT PRIOR TESTIMONY.

7. (A) IF THE YOUTH DIVISION ORDERS THE PROCEEDINGS TO CONTINUE UNDER THE PROVISIONS OF SECTION 722.40, IT SHALL STATE ON THE RECORD, IN DETAIL AND NOT IN CONCLUSORY TERMS, THE FACTOR OR FACTORS UPON WHICH ITS DETERMINATION IS BASED.

(B) THE DISTRICT ATTORNEY SHALL STATE UPON THE RECORD, IN DETAIL AND NOT IN CONCLUSORY TERMS, THE REASONS FOR HIS OR HER CONSENT TO HAVE THE PROCEEDINGS CONTINUE UNDER THE PROVISIONS OF SECTION 722.40.

S 722.40 YOUTH DIVISION; SPECIAL PROCEDURES FOLLOWING A DETERMINATION OF GUILT FOR CERTAIN PERSONS WHO WERE SIXTEEN OR SEVENTEEN YEARS OLD AT THE TIME OF OFFENSE.

1. IF A DEFENDANT WHO IS CHARGED IN THE YOUTH DIVISION OF A SUPERIOR COURT WITH ONE OR MORE YOUTH DIVISION OFFENSES (OR WHO IS ENTITLED TO PROCEED PURSUANT TO THIS SECTION UPON GRANT OF A MOTION MADE PURSUANT TO

SUBDIVISION ONE OF SECTION 722.30) PLEADS GUILTY TO SUCH OFFENSE OR OFFENSES OR IS OTHERWISE FOUND GUILTY THEREOF, THE COURT SHALL SCHEDULE A DISPOSITIONAL HEARING PURSUANT TO THIS SECTION. A DEFENDANT WHO PLEADS GUILTY TO OR IS OTHERWISE FOUND GUILTY OF A CRIME THAT IS NOT A YOUTH DIVISION OFFENSE SHALL NOT BE DEEMED "A DEFENDANT WHO IS CHARGED IN THE YOUTH DIVISION OF A SUPERIOR COURT WITH ONE OR MORE YOUTH DIVISION OFFENSES" FOR PURPOSES OF THIS SUBDIVISION NOTWITHSTANDING THAT, IN THE SAME ACTION OR PROCEEDING, HE OR SHE PLEADS GUILTY TO OR IS OTHERWISE FOUND GUILTY OF ONE OR MORE OTHER OFFENSES THAT ARE YOUTH DIVISION OFFENSES.

2. FOR PURPOSES OF THIS SECTION, A "DISPOSITIONAL HEARING" MEANS A HEARING TO DETERMINE WHETHER THE DEFENDANT REQUIRES SUPERVISION, TREATMENT OR CONFINEMENT. WHERE THE YOUTH DIVISION ORDERS A DISPOSITIONAL HEARING PURSUANT TO THIS SECTION, ALL FURTHER PROCEEDINGS IN RELATION TO THE DEFENDANT SHALL BE CONDUCTED IN ACCORDANCE WITH THE PROVISIONS OF PARTS FIVE AND SIX OF ARTICLE THREE OF THE FAMILY COURT ACT, PROVIDED THAT REFERENCES THEREIN:

(A) TO A "RESPONDENT" OR TO A "CHILD" SHALL MEAN TO THE DEFENDANT IN PROCEEDINGS IN THE YOUTH DIVISION, AND TO A "PRESENTMENT AGENCY" SHALL MEAN TO THE DISTRICT ATTORNEY;

(B) TO A "DELINQUENCY PROCEEDING" OR TO A "DELINQUENCY CASE" SHALL MEAN TO AN ACTION OR PROCEEDING IN A YOUTH DIVISION, AND TO A "FINDING OF DELINQUENCY" SHALL MEAN TO A DETERMINATION OF GUILT;

(C) TO "SUBDIVISION ONE OF SECTION 345.1" SHALL MEAN SUBDIVISION ONE OF THIS SECTION;

(D) TO "AN ORDER PURSUANT TO SECTION 315.3" SHALL MEAN TO AN ADJOURNMENT IN CONTEMPLATION OF DISMISSAL; AND

(E) TO "THIS ARTICLE" SHALL MEAN TO ARTICLE SEVEN HUNDRED TWENTY-TWO OF THIS CHAPTER.

3. PROVIDED FURTHER THAT, FOR PURPOSES OF THIS SUBDIVISION, REFERENCES CONTAINED IN SUBDIVISION SIX OF SECTION 355.3 OF THE FAMILY COURT ACT TO A "RESPONDENT'S EIGHTEENTH BIRTHDAY" AND TO "THE CHILD'S TWENTY-FIRST BIRTHDAY" SHALL MEAN TO A "DEFENDANT'S TWENTIETH BIRTHDAY" AND TO "THE DEFENDANT'S TWENTY-THIRD BIRTHDAY", RESPECTIVELY.

S 722.50 YOUTH DIVISION; DISPOSITION OF RECORDS UPON TERMINATION OF ACTIONS OR PROCEEDINGS.

1. WHERE, IN AN ACTION OR PROCEEDING PURSUANT TO THIS ARTICLE AGAINST A DEFENDANT WHO WAS CHARGED IN THE YOUTH DIVISION OF A SUPERIOR COURT EXCLUSIVELY WITH ONE OR MORE YOUTH DIVISION OFFENSES (OR WHO WAS ENTITLED TO PROCEED PURSUANT TO SECTION 722.40 UPON GRANT OF A MOTION MADE PURSUANT TO SUBDIVISION ONE OF SECTION 722.30), THE DEFENDANT PLEADS GUILTY TO THE OFFENSE OR OFFENSES WITH WHICH HE OR SHE WAS CHARGED OR IS OTHERWISE DETERMINED TO BE GUILTY THEREOF, THE PROVISIONS OF SECTIONS 375.2, 380.1, 381.2 AND 381.3 OF THE FAMILY COURT ACT SHALL APPLY TO DISPOSITION OF THE RECORDS OF SUCH ACTION OR PROCEEDING. FOR PURPOSES OF THIS SECTION, REFERENCES IN SUCH SECTIONS OF THE FAMILY COURT ACT:

(A) TO A "RESPONDENT" OR TO A "CHILD" SHALL MEAN TO THE DEFENDANT IN PROCEEDINGS IN THE YOUTH DIVISION;

(B) TO A "DELINQUENCY PROCEEDING" SHALL MEAN TO AN ACTION OR PROCEEDING IN A YOUTH DIVISION;

(C) TO A "PRESENTMENT AGENCY" OR THE "DIRECTOR OF THE APPROPRIATE PRESENTMENT AGENCY" SHALL MEAN TO THE DISTRICT ATTORNEY;

(D) TO A "FINDING OF DELINQUENCY PURSUANT TO SUBDIVISION ONE OF SECTION 352.1" OR TO A "FINDING OF JUVENILE DELINQUENCY" SHALL MEAN TO A PLEA OF GUILTY TO THE OFFENSE OR OFFENSES WITH WHICH A DEFENDANT IS CHARGED OR A VERDICT OF GUILTY THERETO AND TO "PERSON ADJUDICATED A

JUVENILE DELINQUENT" SHALL MEAN TO A DEFENDANT WHO HAS MADE SUCH A PLEA OR BEEN SUBJECT TO SUCH A VERDICT;

(E) TO "RESPONDENT'S SIXTEENTH BIRTHDAY" SHALL MEAN TO THE DEFENDANT'S EIGHTEENTH BIRTHDAY;

(F) TO "THIS ARTICLE" SHALL MEAN TO ARTICLE SEVEN HUNDRED TWENTY-TWO OF THIS CHAPTER;

(G) TO "FAMILY COURT" OR "COURT" SHALL MEAN TO THE YOUTH DIVISION.

2. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION THREE OF SECTION 160.50, TERMINATION OF AN ACTION OR PROCEEDING IN THE YOUTH DIVISION OTHER THAN BY A DEFENDANT'S PLEA OF GUILTY TO THE OFFENSE OR OFFENSES WITH WHICH HE OR SHE WAS CHARGED OR BY A VERDICT OF GUILTY THERETO, WHERE THE DEFENDANT WAS CHARGED WITH ONE OR MORE YOUTH DIVISION OFFENSES (OR WHERE THE DEFENDANT WAS ENTITLED TO PROCEED PURSUANT TO SECTION 722.40 UPON GRANT OF A MOTION MADE PURSUANT TO SUBDIVISION ONE OF SECTION 722.30), SHALL BE DEEMED A "TERMINATION OF A CRIMINAL ACTION OR PROCEEDING AGAINST A PERSON IN FAVOR OF SUCH PERSON" FOR PURPOSES OF SUCH SECTION 160.50.

3. WHERE FINGERPRINTS, PALMPRINTS OR PHOTOGRAPHS WERE TAKEN PURSUANT TO SECTION 160.10 AND THE ACTION WAS SUBSEQUENTLY ADJUDICATED IN ACCORDANCE WITH SECTION 722.40, THE CLERK OF THE YOUTH DIVISION SHALL FORWARD OR CAUSE TO BE FORWARDED TO THE COMMISSIONER OF THE DIVISION OF CRIMINAL JUSTICE SERVICES NOTIFICATION OF SUCH ADJUDICATION AND SUCH RELATED INFORMATION AS MAY BE REQUIRED BY SUCH COMMISSIONER. IF A DEFENDANT HAS PLEADED GUILTY OR OTHERWISE BEEN DETERMINED TO HAVE BEEN GUILTY OF OFFENSES OTHER THAN A FELONY, ALL SUCH FINGERPRINTS, PALMPRINTS, PHOTOGRAPHS, AND COPIES THEREOF, AND ALL INFORMATION RELATING TO SUCH ALLEGATIONS OBTAINED BY THE DIVISION OF CRIMINAL JUSTICE SERVICES PURSUANT TO SECTION 160.10 SHALL BE DESTROYED FORTHWITH. IF A DEFENDANT HAS PLEADED GUILTY OR OTHERWISE BEEN DETERMINED TO HAVE BEEN GUILTY OF A FELONY, ALL FINGERPRINTS AND RELATED INFORMATION OBTAINED BY THE DIVISION OF CRIMINAL JUSTICE SERVICES PURSUANT TO SUCH SECTION SHALL BECOME PART OF SUCH DIVISION'S PERMANENT ADULT CRIMINAL RECORD FOR THAT PERSON; PROVIDED, HOWEVER, THAT WHEN SUCH PERSON REACHES THE AGE OF TWENTY-ONE, OR HAS BEEN DISCHARGED FROM ANY PLACEMENT IMPOSED UNDER THIS ARTICLE, WHICHEVER OCCURS LATER, AND HAS NO CRIMINAL CONVICTIONS OR PENDING CRIMINAL ACTIONS WHICH ULTIMATELY TERMINATE IN A CRIMINAL CONVICTION, ALL FINGERPRINTS, PALMPRINTS, PHOTOGRAPHS, AND RELATED INFORMATION AND COPIES THEREOF OBTAINED PURSUANT TO SECTION 160.10 IN THE POSSESSION OF THE DIVISION OF CRIMINAL JUSTICE SERVICES, ANY POLICE DEPARTMENT, LAW ENFORCEMENT AGENCY OR ANY OTHER AGENCY SHALL BE DESTROYED FORTHWITH. THE DIVISION OF CRIMINAL JUSTICE SERVICES SHALL NOTIFY THE AGENCY OR AGENCIES WHICH FORWARDED FINGERPRINTS TO SUCH DIVISION PURSUANT TO SECTION 160.10 OF THEIR OBLIGATION TO DESTROY THOSE RECORDS IN THEIR POSSESSION.

S 722.60 YOUTH DIVISION; PRIVACY OF RECORDS.

THE RECORDS OF ANY PROCEEDING IN THE YOUTH DIVISION OF A SUPERIOR COURT AGAINST A DEFENDANT WHO IS CHARGED IN SUCH COURT WITH ONE OR MORE YOUTH DIVISION OFFENSES, UNLESS PERMITTED TO PROCEED IN ACCORDANCE WITH SECTION 722.40 UPON A DETERMINATION MADE PURSUANT TO SECTION 722.30, SHALL NOT BE OPEN TO INDISCRIMINATE PUBLIC INSPECTION. HOWEVER, THE YOUTH DIVISION IN ITS DISCRETION IN ANY SUCH CASE MAY PERMIT THE INSPECTION OF ANY PAPERS OR RECORDS. ANY DULY AUTHORIZED AGENCY, ASSOCIATION, SOCIETY OR INSTITUTION TO WHICH A DEFENDANT IN SUCH A CASE IS COMMITTED MAY CAUSE AN INSPECTION OF THE RECORD OF INVESTIGATION TO BE HAD AND MAY IN THE DISCRETION OF THE COURT OBTAIN A COPY OF THE WHOLE OR PART OF SUCH RECORD.

S 9. Section 725.00 of the criminal procedure law, as amended by chapter 411 of the laws of 1979, is amended to read as follows:

S 725.00 Applicability.

The provisions of this article apply in any case where a court directs that an action or charge is to be removed to the family court under section 180.75, 190.71, 210.43, 220.10, 310.85 [or], 330.25 OR 722.30 of this chapter.

S 10. Subdivision 1 of section 243 of the executive law, as amended by section 17 of part A of chapter 56 of the laws of 2010, is amended to read as follows:

1. The office shall exercise general supervision over the administration of probation services throughout the state, including probation in family courts AND IN THE YOUTH DIVISIONS OF SUPERIOR COURT and shall collect statistical and other information and make recommendations regarding the administration of probation services in the courts. The office shall endeavor to secure the effective application of the probation system and the enforcement of the probation laws and the laws relating to family courts AND IN THE YOUTH DIVISIONS OF SUPERIOR COURT throughout the state. After consultation with the state probation commission, the office shall recommend to the commissioner general rules which shall regulate methods and procedure in the administration of probation services, including investigation of defendants prior to sentence, and children prior to adjudication, supervision, case work, record keeping, and accounting, program planning and research so as to secure the most effective application of the probation system and the most efficient enforcement of the probation laws throughout the state. Such rules shall provide that the probation investigations ordered by the court in designated felony act cases under subdivision one of section 351.1 of the family court act shall have priority over other cases arising under articles three and seven of such act. When duly adopted by the commissioner, such rules shall be binding upon all probation officers and when duly adopted shall have the force and effect of law, but shall not supersede rules that may be adopted pursuant to the family court act. The office shall keep informed as to the work of all probation officers and shall from time to time inquire into and report upon their conduct and efficiency. The office may investigate the work of any probation bureau or probation officer and shall have access to all records and probation offices. The office may issue subpoenas to compel the attendance of witnesses or the production of books and papers. The office may administer oaths and examine persons under oath. The office may recommend to the appropriate authorities the removal of any probation officer. The office may from time to time publish reports regarding probation including probation in family courts AND IN THE YOUTH DIVISIONS OF SUPERIOR COURT, and the operation of the probation system including probation in family courts AND IN THE YOUTH DIVISIONS OF SUPERIOR COURT, and any other information regarding probation as the office may determine provided expenditures for such purpose are within amounts appropriated therefor.

S 11. Subdivision 3 of section 502 of the executive law, as amended by section 1 of subpart B of part Q of chapter 58 of the laws of 2011, is amended to read as follows:

3. "Detention" means the temporary care and maintenance of A PRINCIPAL DESCRIBED IN SUBDIVISION FOUR OF SECTION 722.20 OF THE CRIMINAL PROCEDURE LAW WHO IS SUBJECT TO A SECURING ORDER PURSUANT TO SUCH LAW OR OF youth held away from their homes pursuant to article three or seven of the family court act, or held pending a hearing for alleged violation of

the conditions of release from an office of children and family services facility or authorized agency, or held pending a hearing for alleged violation of the condition of parole as a juvenile offender, or held pending return to a jurisdiction other than the one in which the youth is held, or held pursuant to a securing order of a criminal court if the youth named therein as principal is charged as a juvenile offender or held pending a hearing on an extension of placement or held pending transfer to a facility upon commitment or placement by a court. Only alleged or convicted juvenile offenders who have not attained their eighteenth birthday shall be subject to detention in a detention facility. ONLY PRINCIPALS DESCRIBED IN SUBDIVISION FOUR OF SECTION 722.20 OF THE CRIMINAL PROCEDURE LAW WHO HAVE NOT ATTAINED THEIR TWENTIETH BIRTHDAY SHALL BE SUBJECT TO DETENTION IN A DETENTION FACILITY.

S 12. Subdivision 2 of section 212 of the judiciary law is amended by adding a new paragraph (s) to read as follows:

(S) ADOPT RULES ESTABLISHING A TRAINING PROGRAM IN SPECIALIZED AREAS INVOLVING YOUTH INCLUDING, BUT NOT LIMITED TO, JUVENILE JUSTICE, ADOLESCENT DEVELOPMENT AND EFFECTIVE TREATMENT METHODS FOR REDUCING CRIME COMMITTED BY ADOLESCENTS; AND PROVIDING THAT, AS REQUIRED BY SECTION 722.10 OF THE CRIMINAL PROCEDURE LAW, EACH JUDGE OR JUSTICE WHO PRESIDES IN THE YOUTH DIVISION OF A SUPERIOR COURT RECEIVE SUCH TRAINING.

S 13. Subdivision 1 of section 30.00 of the penal law, as amended by chapter 481 of the laws of 1978, is amended to read as follows:

1. Except as provided in subdivision two OR TWO-A of this section, a person less than [sixteen] EIGHTEEN years old is not criminally responsible for conduct.

S 14. Section 30.00 of the penal law is amended by adding two new subdivisions 2-a and 4 to read as follows:

2-A. A PERSON SIXTEEN OR SEVENTEEN YEARS OF AGE IS CRIMINALLY RESPONSIBLE FOR ACTS CONSTITUTING A VIOLENT FELONY OFFENSE AS PRESCRIBED IN SUBDIVISION ONE OF SECTION 70.02 OF THIS CHAPTER OR AN OFFENSE LISTED IN PARAGRAPH TWO OF SUBDIVISION EIGHTEEN OF SECTION 10.00 OF THIS CHAPTER.

4. NOTWITHSTANDING SUBDIVISION ONE OF THIS SECTION, A PERSON WHO IS AT LEAST SIXTEEN YEARS OLD AND LESS THAN EIGHTEEN YEARS OLD AT THE TIME HE OR SHE IS ALLEGED TO HAVE COMMITTED AN ACT THAT WOULD CONSTITUTE A CRIME IF COMMITTED BY A PERSON AT LEAST EIGHTEEN YEARS OLD SHALL BE SUBJECT TO THE FILING OF CHARGES AND THE PROSECUTION THEREOF EXCLUSIVELY IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE SEVEN HUNDRED TWENTY-TWO OF THE CRIMINAL PROCEDURE LAW.

S 15. This act shall take effect on the first day of November in the second year following the date on which it shall have become a law and shall apply to all arrests made and all actions and proceedings commenced on or after such effective date; provided, however, at any time on or after the date on which this act shall have become a law, the state office of children and family services and the commissioner of the division of criminal justice services, the latter upon the recommendation of the office of probation and correctional alternatives, may each promulgate such rules and regulations as may be necessary to enable implementation of this act on its effective date and such rules and regulations shall take effect on such date as the promulgating agency shall prescribe. The rules promulgated hereunder by the state office of children and family services may require political subdivisions to submit plans for the approval of secure and non-secure detention, alternatives to detention placement and dispositional alternatives for defendants in the youth division of the superior court.