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

4212

2013-2014 Regular Sessions

I N A S S E M B L Y

February 1, 2013

Introduced by M. of A. CAMARA, GOTTFRIED -- read once and referred to the Committee on Children and Families

AN ACT to amend the executive law, the family court act, the penal law, the education law and the social services law, in relation to the operation of secure, limited secure and non-secure facilities for the placement of adjudicated juvenile delinquents and juvenile offenders

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

Section 1. The executive law is amended by adding a new article 19-I to read as follows:

ARTICLE 19-I

ADJUDICATED JUVENILE DELINQUENTS AND JUVENILE OFFENDERS IN THE CITY OF NEW YORK

SECTION 533. DEFINITIONS.
533-A. FACILITIES.
533-B. INTERVENTION AS OF RIGHT; NOTICE.
533-C. WARRANTS; ABSENCE WITHOUT OFFICIAL AUTHORIZATIONS (AWOL).

S 533. DEFINITIONS. FOR PURPOSES OF THIS ARTICLE THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "DETENTION", "YOUTH", "CONDITIONAL RELEASE", "DISCHARGE" AND "AFTERCARE" SHALL HAVE THE MEANINGS ASCRIBED TO SUCH TERMS IN SECTION FIVE HUNDRED TWO OF THIS CHAPTER.

2. "PLACEMENT AGENCY" MEANS THE AGENCY DESIGNATED BY THE MAYOR OF THE CITY OF NEW YORK TO OVERSEE THE CARE, MAINTENANCE AND SUPERVISION OF ADJUDICATED JUVENILE DELINQUENTS OR JUVENILE OFFENDERS.

3. "PLACEMENT" MEANS THE TRANSFER OF YOUTH TO THE CUSTODY OF THE PLACEMENT AGENCY PURSUANT TO THE FAMILY COURT ACT.

4. "COMMITMENT" MEANS THE TRANSFER OF YOUTH TO THE CUSTODY OF THE PLACEMENT AGENCY PURSUANT TO THE PENAL LAW.

S 533-A. FACILITIES. 1. NOTWITHSTANDING ANY PROVISION OF LAW OR REGULATION TO THE CONTRARY, THE PLACEMENT AGENCY SHALL BE AUTHORIZED TO OPERATE SECURE, LIMITED SECURE AND NON-SECURE FACILITIES FOR THE CARE, MAINTENANCE AND SUPERVISION, INCLUDING BUT NOT LIMITED TO THE CARE, CUSTODY, TREATMENT, HOUSING, EDUCATION, REHABILITATION AND GUIDANCE, OF

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

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YOUTH PLACED WITH THE PLACEMENT AGENCY PURSUANT TO ARTICLE THREE OF THE FAMILY COURT ACT OR JUVENILE OFFENDERS COMMITTED TO SUCH AGENCY PURSUANT TO ARTICLE SEVENTY OF THE PENAL LAW.

2. IN OPERATING AND MAINTAINING SUCH FACILITIES, THE PLACEMENT AGENCY SHALL HAVE THE FOLLOWING FUNCTIONS, POWERS AND DUTIES:

(A) TO ESTABLISH, OPERATE AND MAINTAIN TREATMENT PROGRAMS AND OTHER SERVICES FOR YOUTH PLACED WITH OR COMMITTED TO THE PLACEMENT AGENCY AND PROGRAMS FOR THE CARE OF CONDITIONALLY RELEASED YOUTH.

(B) TO ESTABLISH, OPERATE AND MAINTAIN PLACEMENT AGENCY FACILITIES AND PROGRAMS AND TO ENSURE THAT THE PURPOSES OF EACH FACILITY OR PROGRAM ARE CARRIED INTO EFFECT.

(C) TO PROMULGATE RULES FOR THE ESTABLISHMENT, OPERATION AND MAINTENANCE OF PLACEMENT AGENCY FACILITIES AND PROGRAMS, INCLUDING RULES CONCERNING STANDARDS FOR THE PROTECTION OF YOUTH IN RESIDENTIAL FACILITIES AND PROGRAMS OPERATED BY THE PLACEMENT AGENCY.

(D) TO PROMULGATE RULES FOR THE CERTIFICATION OF PERSONS, FIRMS, CORPORATIONS, NOT-FOR-PROFIT CORPORATIONS AND AUTHORIZED AGENCIES, AS DEFINED IN SECTION THREE HUNDRED SEVENTY-ONE OF THE SOCIAL SERVICES LAW, FOR THE OPERATION AND MAINTENANCE OF SECURE, LIMITED SECURE AND NON-SECURE FACILITIES.

(E) TO ENTER INTO CONTRACTS WITH ANY PERSON, FIRM, CORPORATION, NOT-FOR-PROFIT CORPORATION, AUTHORIZED AGENCY AS DEFINED BY SECTION THREE HUNDRED SEVENTY-ONE OF THE SOCIAL SERVICES LAW, THE STATE, MUNICIPALITY OR OTHER GOVERNMENTAL AGENCY, INCLUDING, BUT NOT LIMITED TO, CONTRACTS WITH ANY PERSON, FIRM, CORPORATION, NOT-FOR-PROFIT CORPORATION OR AUTHORIZED AGENCY CERTIFIED BY THE PLACEMENT AGENCY TO OPERATE AND MAINTAIN SECURE, LIMITED SECURE OR NON-SECURE FACILITIES.

3. THE PLACEMENT AGENCY SHALL CARRY OUT THE POWERS, FUNCTIONS AND DUTIES DESCRIBED IN THIS ARTICLE SUBJECT TO THE PROVISIONS OF SECTIONS FIVE HUNDRED ONE-C, FIVE HUNDRED TWO-A, FIVE HUNDRED THREE-A, FIVE HUNDRED FOUR-A, FIVE HUNDRED SEVEN-A, EXCEPT FOR PARAGRAPH (C) OF SUBDIVISION TWO OF SUCH SECTION, FIVE HUNDRED SEVEN-B, FIVE HUNDRED SEVEN-C, FIVE HUNDRED SEVEN-D, FIVE HUNDRED EIGHT, FIVE HUNDRED NINE, FIVE HUNDRED TEN-A, FIVE HUNDRED TEN-B, FIVE HUNDRED TEN-C, FIVE HUNDRED TWELVE, FIVE HUNDRED TWELVE-A AND FIVE HUNDRED THIRTEEN OF THIS CHAPTER, PROVIDED THAT WHENEVER THE TERM "DIVISION" OR "OFFICE" IS USED THEREIN, THEY SHALL BE DEEMED TO MEAN AND TO READ AS THE "PLACEMENT AGENCY". ANY REFERENCE USED IN SUCH SECTIONS TO "DIVISION OF THE BUDGET" SHALL BE DEEMED TO MEAN AND TO READ AS "NEW YORK CITY OFFICE OF MANAGEMENT AND BUDGET".

S 533-B. INTERVENTION AS OF RIGHT; NOTICE. THE PLACEMENT AGENCY, PURSUANT TO PARAGRAPH ONE OF SUBDIVISION (A) OF SECTION ONE THOUSAND TWELVE OF THE CIVIL PRACTICE LAW AND RULES, SHALL BE PERMITTED TO INTERVENE IN ANY ACTION INVOLVING AN APPEAL FROM A DECISION OF ANY COURT OF THIS STATE THAT RELATES TO PROGRAMS, CONDITIONS OR SERVICES PROVIDED BY THE PLACEMENT AGENCY. WRITTEN NOTICE SHALL BE GIVEN TO THE CORPORATION COUNSEL OF THE CITY OF NEW YORK AND THE COMMISSIONER OF THE PLACEMENT AGENCY BY THE PARTY TAKING THE APPEAL.

S 533-C. WARRANTS; ABSENCE WITHOUT OFFICIAL AUTHORIZATIONS (AWOL). 1. SUBJECT TO THE PROVISIONS OF THIS SECTION, A YOUTH SHALL BE IDENTIFIED AS AWOL UNDER ONE OR MORE OF THE FOLLOWING CIRCUMSTANCES:

(A) THE YOUTH LEAVES A PLACEMENT AGENCY PROGRAM OR FACILITY OR AUTHORIZED AGENCY PROGRAM OR FACILITY WITHOUT PERMISSION;

(B) THE YOUTH FAILS TO ARRIVE AT OR RETURN TO A PLACEMENT AGENCY PROGRAM OR FACILITY OR AUTHORIZED AGENCY PROGRAM OR FACILITY ON AN ASSIGNED DATE;

(C) THE YOUTH FAILS TO COMPLY WITH STIPULATIONS GOVERNING A HOME VISIT;

(D) THE YOUTH LEAVES A STAFF MEMBER WHILE ON A COMMUNITY VISIT (MOVIE, CAMPING, ETC.); OR

(E) WHENEVER A DIRECTOR OF A PLACEMENT AGENCY FACILITY HAS REASON TO BELIEVE THE YOUTH IS AWOL (AS INDICATED BY THE YOUTH'S FAILURE TO BE IN ATTENDANCE AT AN ASSIGNED PROGRAM).

(F) A YOUTH SHALL BE CONSIDERED AS AWOL AS SOON AS HIS/HER ABSENCE (UNDER ONE OR MORE OF THE CIRCUMSTANCES DESCRIBED IN PARAGRAPHS (A) THROUGH (E) OF THIS SUBDIVISION) IS DISCOVERED.

2. WHEN A YOUTH IS CONSIDERED AWOL, FACILITY PERSONNEL SHALL SEARCH THE FACILITY GROUNDS AND THE SURROUNDING COMMUNITY IMMEDIATELY AND NOTIFY THE LOCAL AND STATE POLICE, THE NEW YORK CITY POLICE DEPARTMENT AND THE YOUTH'S PARENTS WITHIN FOUR HOURS.

3. A WARRANT SHALL BE REQUESTED AND ISSUED NO LATER THAN TWENTY-FOUR HOURS AFTER A YOUTH IS AWOL.

(A) THE FAMILY COURT SHALL BE NOTIFIED IN WRITING OF A YOUTH'S AWOL STATUS NO LATER THAN THREE BUSINESS DAYS AFTER A YOUTH IS CONSIDERED AWOL.

(B) IN THE CASE OF A YOUTH SCHEDULED FOR A HEARING OR AS A WITNESS IN A HEARING FOR A COURT APPEARANCE, THE OFFICE OF GENERAL COUNSEL OF THE PLACEMENT AGENCY SHALL BE NOTIFIED IN WRITING OR BY TELEPHONE AS SOON AS A YOUTH'S ABSENCE IS DISCOVERED.

(C) OTHER APPROPRIATE PERSONS SHALL BE NOTIFIED OF A YOUTH'S AWOL STATUS NO LATER THAN TWENTY-FOUR HOURS AFTER A YOUTH IS CONSIDERED AWOL.

4. (A) A WARRANT ON SUCH FORMS AS MAY BE DEVELOPED OR REVISED BY THE PLACEMENT AGENCY SHALL BE ISSUED ON:

(1) AN ADJUDICATED JUVENILE DELINQUENT WHO IS UNDER THE CARE AND CUSTODY OF THE PLACEMENT AGENCY;

(2) A YOUTH WHO HAS BEEN PLACED WITH THE PLACEMENT AGENCY AND WHOM SUCH AGENCY HAS PLACED IN AN AUTHORIZED AGENCY; AND

(3) A YOUTH WHO HAS BEEN PLACED IN THE JURISDICTION OF THE PLACEMENT AGENCY FOR PLACEMENT IN AN AUTHORIZED AGENCY, PURSUANT TO ORDER OF THE FAMILY COURT. NOTWITHSTANDING ANYTHING IN THIS SECTION TO THE CONTRARY, IN THESE CASES THE PLACEMENT AGENCY SHALL ONLY BE RESPONSIBLE FOR ISSUING THE NECESSARY WARRANTS. THE AUTHORIZED AGENCY WITH WHOM THE YOUTH IS PLACED SHALL BE RESPONSIBLE FOR FACILITATING THE RETURN TO THE PROGRAM ONCE AN AWOL YOUTH HAS BEEN FOUND.

(B) A WARRANT SHALL NOT BE ISSUED ON:

(1) A YOUTH WHO HAS COME TO THE PLACEMENT AGENCY AS A VOLUNTARY REFERRAL (IN SUCH CASES, THE DIRECTOR OF THE PLACEMENT AGENCY FACILITY SHALL NOTIFY THE RESPONSIBLE YOUTH SERVICE TEAM, PARENTS, POLICE AND ANY KNOWN PROBATION OFFICER BY PHONE WITHIN FOUR HOURS, AND IN WRITING WITHIN TWENTY-FOUR BUSINESS HOURS, OF THE AWOL); AND

(2) A YOUTH WHO IS PLACED WITH OR TRANSFERRED TO THE PLACEMENT AGENCY AS A CONDITION OF PROBATION AND/OR AS A YOUTHFUL OFFENDER (IN SUCH CASES, THE PROGRAM OR FACILITY DIRECTOR SHALL NOTIFY THE RESPONSIBLE YOUTH SERVICE TEAM, PARENTS, POLICE AND ANY KNOWN PROBATION OFFICER BY PHONE WITHIN FOUR HOURS, AND IN WRITING WITHIN TWENTY-FOUR BUSINESS HOURS).

5. A WARRANT SHALL BE ISSUED BY A DIRECTOR OF A PLACEMENT AGENCY FACILITY OR HIS OR HER DESIGNEE IN THE LOCAL COMMUNITY WHEN IT IS REASONABLE TO BELIEVE THAT THE YOUTH IS IN THE VICINITY OF THAT FACILITY.

6. SUBJECT TO FURTHER RULES OF THE COMMISSIONER OF THE PLACEMENT AGENCY, AGENCY PERSONNEL SHALL FOLLOW THESE PROCEDURES WHEN ISSUING A WARRANT:

(A) CALL THE UNIT OR DIVISION WITHIN THE PLACEMENT AGENCY ASSIGNED WARRANT RESPONSIBILITY;

(B) HAVE THE APPROPRIATE PERSON FILL OUT A PLACEMENT AGENCY WARRANT FORM; AND

(C) HAVE THE APPROPRIATE PERSONNEL SEND OR TAKE THE WARRANT TO THE POLICE.

7. (A) IF A YOUTH COMES INTO OR IS BROUGHT TO THE ATTENTION OF THE PLACEMENT AGENCY OR IS LOCATED AT HOME OR ELSEWHERE BY PLACEMENT AGENCY PERSONNEL, A YOUTH WHO IS AN ADJUDICATED JUVENILE DELINQUENT SHALL BE TAKEN PERSONALLY TO THE FACILITY FROM WHICH THE YOUTH ABSCONDED.

(B) IF A YOUTH IS FOUND BY THE POLICE OR PLACEMENT AGENCY PERSONNEL:

(1) THE DIRECTOR OF THE FACILITY OR PROGRAM FROM WHICH THE YOUTH WAS AWOL SHALL BE NOTIFIED IMMEDIATELY;

(2) A YOUTH WHO IS AN ADJUDICATED JUVENILE DELINQUENT AND PLACED IN A LIMITED SECURE FACILITY OR VOLUNTARY AGENCY SHALL BE TAKEN TO THE LOCAL DETENTION CENTER OR TO THE FACILITY, IF POSSIBLE. IF THE YOUTH IS FOUND IN AN AREA WHICH IS REMOTE FROM A DETENTION CENTER OR THE FACILITY, THE FACILITY DIRECTOR SHALL BE CONTACTED. THE FACILITY DIRECTOR SHALL MAKE ARRANGEMENTS TO PICK UP THE YOUTH; AND

(3) A YOUTH WHO IS AN ADJUDICATED JUVENILE DELINQUENT AND PLACED IN A NON-SECURE FACILITY OR VOLUNTARY AGENCY SHALL BE TAKEN INTO THE CUSTODY OF THE PLACEMENT AGENCY SO THAT ARRANGEMENTS MAY BE MADE FOR THE RETURN OF THE YOUTH TO THE FACILITY FROM WHICH HE OR SHE ABSCONDED. WHENEVER THE YOUTH SERVICE TEAM OFFICE IS CLOSED, THESE YOUTH SHALL BE TAKEN TO THE PLACE DESIGNATED BY THE PLACEMENT AGENCY FOR THE HANDLING OF EMERGENCIES DURING TIMES IN WHICH OFFICES ARE CLOSED.

(C) AFTER A YOUTH HAS BEEN FOUND, WARRANTS SHALL BE WITHDRAWN FROM THE LOCAL OR STATE POLICE OFFICES IN WHICH THEY WERE FILED.

8. THE PLACEMENT AGENCY SHALL KEEP RECORDS OF ALL WARRANTS ISSUED AND THE STATUS OF THOSE WARRANTS. THESE RECORDS SHALL BE AVAILABLE FOR REVIEW AT ANY TIME.

9. ALL WARRANTS ISSUED BY PLACEMENT AGENCY PERSONNEL SHALL BE DELIVERED TO THE NEW YORK CITY POLICE DEPARTMENT FOR EXECUTION.

S 2. Section 529 of the executive law is amended by adding a new subdivision 3 to read as follows:

3. EXPENDITURES MADE BY THE PLACEMENT AGENCY DESCRIBED IN ARTICLE NINETEEN-I OF THIS CHAPTER FOR CARE, MAINTENANCE AND SUPERVISION FURNISHED ADJUDICATED JUVENILE DELINQUENTS OR JUVENILE OFFENDERS, INCLUDING EXPENDITURES FOR SERVICES PROVIDED BY AUTHORIZED AGENCIES THAT ARE CERTIFIED BY SUCH PLACEMENT AGENCY FOR THE PERFORMANCE OF SUCH FUNCTIONS, SHALL BE SUBJECT TO REIMBURSEMENT BY THE STATE, UPON APPROVAL BY THE OFFICE OF CHILDREN AND FAMILY SERVICES AND IN ACCORDANCE WITH ITS REGULATIONS, AS FOLLOWS:

(A) THE FULL AMOUNT EXPENDED BY THE PLACEMENT AGENCY FOR CARE, MAINTENANCE AND SUPERVISION OF STATE CHARGES;

(B) FIFTY PERCENT OF THE AMOUNT EXPENDED BY THE PLACEMENT AGENCY FOR THE CARE, MAINTENANCE AND SUPERVISION OF LOCAL CHARGES.

S 3. Paragraph (b) of subdivision 2 of section 352.2 of the family court act, as amended by chapter 145 of the laws of 2000, is amended to read as follows:

(b) In an order of disposition entered pursuant to section 353.3 or 353.4 of this chapter, or where the court has determined pursuant to section 353.5 of this chapter that restrictive placement is not

required, which order places the respondent [with the commissioner of social services or] with the office of children and family services OR WITH THE PLACEMENT AGENCY DESCRIBED IN ARTICLE NINETEEN-I OF THE EXECUTIVE LAW for placement with an authorized agency or class of authorized agencies or in such facilities designated by the office of children and family services as are eligible for federal reimbursement pursuant to title IV-E of the social security act, the court in its order shall determine (i) that continuation in the respondent's home would be contrary to the best interests of the respondent; or in the case of a respondent for whom the court has determined that continuation in his or her home would not be contrary to the best interests of the respondent, that continuation in the respondent's home would be contrary to the need for protection of the community; (ii) that where appropriate, and where consistent with the need for protection of the community, reasonable efforts were made prior to the date of the dispositional hearing to prevent or eliminate the need for removal of the respondent from his or her home, or if the child was removed from his or her home prior to the dispositional hearing, where appropriate and where consistent with the need for safety of the community, whether reasonable efforts were made to make it possible for the child to safely return home. If the court determines that reasonable efforts to prevent or eliminate the need for removal of the child from the home were not made but that the lack of such efforts was appropriate under the circumstances, or consistent with the need for protection of the community, or both, the court order shall include such a finding; and (iii) in the case of a child who has attained the age of sixteen, the services needed, if any, to assist the child to make the transition from foster care to independent living.

S 4. Paragraph (h) of subdivision 2 of section 353.2 of the family court act, as amended by chapter 124 of the laws of 1993, is amended to read as follows:

(h) comply with such other reasonable conditions as the court shall determine to be necessary or appropriate to ameliorate the conduct which gave rise to the filing of the petition or to prevent placement with the commissioner of social services, THE PLACEMENT AGENCY DESCRIBED IN ARTICLE NINETEEN-I OF THE EXECUTIVE LAW or the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES.

S 5. Paragraph (f) of subdivision 3 of section 353.2 of the family court act, as amended by chapter 465 of the laws of 1992, is amended to read as follows:

(f) with the consent of the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES, spend a specified portion of the probation period, not exceeding one year, in a non-secure facility provided by the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES pursuant to article nineteen-G of the executive law OR BY THE PLACEMENT AGENCY OF THE CITY OF NEW YORK PURSUANT TO ARTICLE NINETEEN-I OF SUCH LAW.

S 6. Subdivisions 1 and 9 of section 353.3 of the family court act, subdivision 1 as amended by section 6 of part G of chapter 58 of the laws of 2010 and subdivision 9 as amended by section 5 of subpart A of part G of chapter 57 of the laws of 2012, are amended and two new subdivisions 3-a and 3-b are added to read as follows:

1. In accordance with section 352.2 of this part, the court may place the respondent in his or her own home or in the custody of a suitable relative or other suitable private person or the commissioner of the local social services district or the office of children and family services pursuant to article nineteen-G of the executive law OR THE

PLACEMENT AGENCY OF THE CITY OF NEW YORK PURSUANT TO ARTICLE NINETEEN-I OF SUCH LAW, subject to the orders of the court.

3-A. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, WHEN ANY COURT WITHIN THE CITY OF NEW YORK HAS DETERMINED THAT A RESPONDENT SHALL BE PLACED WITH THE OFFICE OF CHILDREN AND FAMILY SERVICES, IN LIEU OF SUCH PLACEMENT THE COURT SHALL PLACE SUCH RESPONDENT WITH THE PLACEMENT AGENCY OF THE CITY OF NEW YORK SUBJECT TO THE PROVISIONS OF THIS ARTICLE AND ARTICLE NINETEEN-I OF THE EXECUTIVE LAW. WHERE THE RESPONDENT IS PLACED WITH SUCH PLACEMENT AGENCY PURSUANT TO THIS SUBDIVISION, THE COURT SHALL, UNLESS IT DIRECTS THE PLACEMENT AGENCY TO PLACE HIM OR HER WITH AN AUTHORIZED AGENCY OR CLASS OF AUTHORIZED AGENCIES PURSUANT TO SECTION THREE-B OF THIS SECTION, AUTHORIZE THE PLACEMENT AGENCY TO DO ONE OF THE FOLLOWING:

(A) PLACE THE RESPONDENT IN A SECURE FACILITY WITHOUT A FURTHER HEARING AT ANY TIME OR FROM TIME TO TIME DURING THE FIRST SIXTY DAYS OF RESIDENCY IN PLACEMENT AGENCY FACILITIES. NOTWITHSTANDING THE DISCRETION OF THE PLACEMENT AGENCY TO PLACE THE RESPONDENT IN A SECURE FACILITY AT ANY TIME DURING THE FIRST SIXTY DAYS OF RESIDENCY IN A PLACEMENT AGENCY FACILITY, THE RESPONDENT MAY BE PLACED IN A NON-SECURE FACILITY. IN THE EVENT THAT THE PLACEMENT AGENCY DESIRES TO TRANSFER A RESPONDENT TO A SECURE FACILITY AT ANY TIME AFTER THE FIRST SIXTY DAYS OF RESIDENCY IN PLACEMENT AGENCY FACILITIES, A HEARING SHALL BE HELD PURSUANT TO SUBDIVISION THREE OF SECTION FIVE HUNDRED FOUR-A OF THE EXECUTIVE LAW, PROVIDED THAT THE HEARING DESCRIBED IN SUCH SECTION SHALL BE CONDUCTED BY THE PLACEMENT AGENCY SUBJECT TO ITS RULES AND THE APPROVAL DESCRIBED THEREIN MAY BE ISSUED BY THE COMMISSIONER OF SUCH PLACEMENT AGENCY OR HIS OR HER DESIGNEE; OR

(B) PLACE THE RESPONDENT IN A LIMITED SECURE FACILITY. THE RESPONDENT MAY BE TRANSFERRED BY THE PLACEMENT AGENCY TO A SECURE FACILITY AFTER A HEARING IS HELD PURSUANT TO SECTION FIVE HUNDRED FOUR-A OF THE EXECUTIVE LAW, PROVIDED THAT THE HEARING DESCRIBED IN SUCH SECTION SHALL BE CONDUCTED BY THE PLACEMENT AGENCY SUBJECT TO ITS RULES AND THE APPROVAL DESCRIBED THEREIN MAY BE ISSUED BY THE COMMISSIONER OF SUCH PLACEMENT AGENCY OR HIS OR HER DESIGNEE; AND PROVIDED FURTHER, HOWEVER, THAT DURING THE FIRST TWENTY DAYS OF RESIDENCY IN PLACEMENT AGENCY FACILITIES, THE RESPONDENT SHALL NOT BE TRANSFERRED TO A SECURE FACILITY UNLESS THE RESPONDENT HAS COMMITTED AN ACT OR ACTS WHICH ARE EXCEPTIONALLY DANGEROUS TO THE RESPONDENT OR TO OTHERS; OR

(C) PLACE A RESPONDENT IN A NON-SECURE FACILITY. NO RESPONDENT PLACED PURSUANT TO THIS PARAGRAPH MAY BE TRANSFERRED BY THE PLACEMENT AGENCY TO A SECURE FACILITY.

3-B. WHERE THE RESPONDENT IS PLACED WITH THE PLACEMENT AGENCY, THE COURT MAY DIRECT THE PLACEMENT AGENCY TO PLACE THE RESPONDENT WITH AN AUTHORIZED AGENCY OR CLASS OF AUTHORIZED AGENCIES, OR OTHER AGENCY CERTIFIED BY THE PLACEMENT AGENCY FOR PLACEMENT, AND IN THE EVENT THE PLACEMENT AGENCY IS UNABLE TO SO PLACE THE RESPONDENT, OR DISCONTINUES THE PLACEMENT WITH THE AUTHORIZED AGENCY, THE RESPONDENT SHALL BE DEEMED TO HAVE BEEN PLACED WITH THE PLACEMENT AGENCY PURSUANT TO PARAGRAPH (B) OR (C) OF SUBDIVISION THREE-A OF THIS SECTION. IN SUCH CASES, THE PLACEMENT AGENCY SHALL NOTIFY THE COURT, PRESENTMENT AGENCY, LAW GUARDIAN AND PARENT OR OTHER PERSON RESPONSIBLE FOR THE RESPONDENT'S CARE, OF THE REASON FOR DISCONTINUING THE PLACEMENT WITH THE AUTHORIZED AGENCY AND THE LEVEL AND LOCATION OF THE YOUTH'S PLACEMENT.

9. If the court places a respondent with the office of children and family services, WITH THE PLACEMENT AGENCY OF THE CITY OF NEW YORK, or with a social services district with an approved plan to implement a

juvenile justice services close to home initiative under section four hundred four of the social services law, pursuant to this section after finding that such respondent committed a felony, the court may, in its discretion, further order that such respondent shall be confined in a residential facility for a minimum period set by the order, not to exceed six months.

S 7. Subdivision 9 of section 353.3 of the family court act, as amended by section 6 of part G of chapter 58 of the laws of 2010, is amended to read as follows:

9. If the court places a respondent with the office of children and family services OR THE PLACEMENT AGENCY OF THE CITY OF NEW YORK pursuant to this section after finding that such child committed a felony, the court may, in its discretion, further order that such respondent shall be confined in a residential facility for a minimum period set by the order, not to exceed six months.

S 8. Section 353.4 of the family court act is amended by adding a new subdivision 6 to read as follows:

6. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, FOR DISPOSITIONAL ORDERS ENTERED BY THE COURTS WITHIN THE CITY OF NEW YORK, UPON PLACEMENT WITH THE PLACEMENT AGENCY OF THE CITY OF NEW YORK PURSUANT TO SUBDIVISION THREE-A OR THREE-B OF SECTION 353.3 OF THIS CHAPTER, ALL POWERS, DUTIES AND FUNCTIONS OF THE OFFICE OF CHILDREN AND FAMILY SERVICES DESCRIBED IN THIS SECTION SHALL BE CARRIED OUT BY SUCH PLACEMENT AGENCY AND SUCH PLACEMENT AGENCY SHALL BE AUTHORIZED TO TAKE ANY ACTIONS SUCH OFFICE IS AUTHORIZED TO TAKE PURSUANT TO THIS SECTION.

S 9. Section 353.5 of the family court act is amended by adding a new subdivision 9 to read as follows:

9. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, FOR DISPOSITIONAL ORDERS ENTERED BY COURTS WITHIN THE CITY OF NEW YORK, THE RESTRICTIVE PLACEMENTS DESCRIBED IN THIS SECTION SHALL BE MADE WITH THE PLACEMENT AGENCY OF THE CITY OF NEW YORK, SUBJECT TO THE PROVISIONS OF THIS SECTION, ORDERS OF THE COURT AND THE PROVISIONS OF ARTICLE NINETEEN-I OF THE EXECUTIVE LAW. UPON SUCH PLACEMENT, ALL POWERS, DUTIES AND FUNCTIONS OF THE OFFICE OF CHILDREN AND FAMILY SERVICES DESCRIBED IN THIS SECTION SHALL BE CARRIED OUT BY SUCH PLACEMENT AGENCY. SUCH PLACEMENT AGENCY SHALL BE AUTHORIZED TO TAKE ANY ACTIONS THAT SUCH OFFICE IS AUTHORIZED TO TAKE PURSUANT TO THIS SECTION.

S 10. The family court act is amended by adding a new section 355.6 to read as follows:

S 355.6. CERTAIN DISPOSITIONAL PROCEDURES IN THE COURTS WITHIN THE CITY OF NEW YORK. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, FOR DISPOSITIONAL ORDERS ENTERED BY COURTS WITHIN THE CITY OF NEW YORK PLACING RESPONDENTS WITH THE PLACEMENT AGENCY OF THE CITY OF NEW YORK PURSUANT TO SUBDIVISION THREE-A OR THREE-B OF SECTION 353.3 OR SECTION 353.5 OF THIS ARTICLE, ALL POWERS, FUNCTIONS AND DUTIES OF THE OFFICE OF CHILDREN AND FAMILY SERVICES DESCRIBED IN SECTIONS 355.1, 355.2, 355.3, 355.4 AND 355.5 OF THIS ARTICLE SHALL BE CARRIED OUT BY SUCH PLACEMENT AGENCY. SUCH PLACEMENT AGENCY SHALL BE AUTHORIZED TO TAKE ANY ACTIONS THAT SUCH OFFICE IS AUTHORIZED TO TAKE PURSUANT TO SUCH SECTIONS.

S 11. Paragraphs (a), (b), (c) and (d) of subdivision 4 of section 70.20 of the penal law, as amended by section 124 of subpart B of part C of chapter 62 of the laws of 2011, are amended to read as follows:

(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 commissioner of the office of children and family services OR, IN THE CASE OF COMMITMENTS MADE BY COURTS OF THE CITY OF NEW YORK, TO THE CUSTODY OF THE PLACEMENT AGENCY OF THE CITY OF NEW YORK who shall arrange for the confinement of such offender in secure facilities of the office OR PLACEMENT AGENCY. The release or transfer of such offenders from the office of children and family services shall be governed by section five hundred eight of the executive law AND THE RELEASE OR TRANSFER OF SUCH OFFENDERS FROM SUCH PLACEMENT AGENCY SHALL BE GOVERNED BY ARTICLE NINETEEN-I OF SUCH LAW.

(b) The court in committing a juvenile offender and youthful offender to the custody of the office of children and family services OR THE PLACEMENT AGENCY OF THE CITY OF NEW YORK shall inquire as to whether the parents or legal guardian of the youth, if present, will consent for the office of children and family services OR PLACEMENT AGENCY 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 office of children and family services OR THE PLACEMENT AGENCY OF THE CITY OF NEW YORK 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 office of children and family services OR SUCH PLACEMENT AGENCY 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 office of children and family services OR SUCH PLACEMENT AGENCY 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.

S 12. Section 4005 of the education law is amended by adding a new subdivision 6 to read as follows:

6. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, IN THE CASES OF CHILDREN PLACED WITH THE PLACEMENT AGENCY OF THE CITY OF NEW YORK PURSUANT TO SUBDIVISIONS THREE-A OR THREE-B OF SECTION 353.3 OR SECTION 353.5 OF THE FAMILY COURT ACT, ALL OF THE POWERS, FUNCTIONS AND DUTIES OF THE OFFICE OF CHILDREN AND FAMILY SERVICES DESCRIBED IN THIS SECTION SHALL BE CARRIED OUT BY SUCH PLACEMENT AGENCY. SUCH PLACEMENT AGENCY SHALL BE AUTHORIZED TO TAKE ANY ACTIONS THE OFFICE IS AUTHORIZED TO TAKE PURSUANT TO THIS SECTION.

S 13. Paragraph (a) of subdivision 2 of section 153-k of the social services law, as added by section 15 of part C of chapter 83 of the laws of 2002, is amended to read as follows:

(a) Notwithstanding the provisions of this chapter or of any other law to the contrary, eligible expenditures by a social services district for foster care services shall be subject to reimbursement with state funds only to the extent of annual appropriations to the state foster care block grant. Such foster care services shall include expenditures for the provision and administration of: care, maintenance, supervision and tuition; AND supervision of foster children placed in federally funded job corps programs[; and care, maintenance, supervision and tuition for adjudicated juvenile delinquents and persons in need of supervision placed in residential programs operated by authorized agencies and in out-of-state residential programs]. Social services districts must develop and implement children and family services delivery systems that are designed to reduce the need for and the length of foster care place-

ments and must document their efforts in the multi-year consolidated services plan and the annual implementation reports submitted pursuant to section thirty-four-a of this chapter.

S 14. (a) Notwithstanding the provisions of paragraph (c) of subdivision 15 of section 501 of the executive law, or any other law to the contrary, the commissioner of children and family services is authorized to close facilities operated by the office of children and family services, and make significant service reductions, public employee staffing reductions and/or transfer operations to a private or not-for-profit entity according to this section as shall be determined by the commissioner to be necessary for the cost-effective and efficient operation of such facilities.

(b) At least sixty days prior to the anticipated closure of any such facility, or any significant service reductions, public employee staffing reductions and/or transfer of operations to a private or not-for-profit entity, the commissioner of the office of children and family services shall provide notice of such action to the speaker of the assembly and the temporary president of the senate and shall post such notice upon its public website. The commissioner shall be authorized to conduct any and all preparatory actions which may be required to effectuate such closures or significant service or staffing reductions or transfers of operations during such sixty day period. In assessing which of such facilities to close, or at which to implement any significant service reductions, public employee staffing reductions and/or transfer of operations to a private or not-for-profit entity, the commissioner shall consider the following factors: (1) ability to provide a safe, humane and therapeutic environment for placed youth; (2) ability to meet the educational, mental health, substance abuse and behavioral health treatment needs of placed youth; (3) community networks and partnerships that promote the social, mental, economic and behavioral development of placed youth; (4) future capacity requirements for the effective operation of youth facilities; (5) the physical characteristics, condition and costs of operation of the facility; and (6) the location of the facility in regards to costs and ease of transportation for the placed youth and their families.

(c) Any transfers of capacity or any resulting transfer of functions shall be authorized to be made by the commissioner of children and family services and any transfer of personnel upon such transfer of capacity or transfer of functions shall be accomplished in accordance with the provisions of section 70 of the civil service law.

S 15. Notwithstanding any other provision of law to the contrary, the state shall be authorized to sell, transfer, or lease to the city of New York any real property utilized for the care, maintenance and supervision of adjudicated juvenile delinquents or juvenile offenders for use by the placement agency of the city of New York for the purpose of carrying out any powers, functions or duties described in article 19-I of the executive law or any other provision of this act. Neither (a) any conveyance or other grant of real property by the state; nor (b) the acceptance by the city of New York of such real property; nor (c) the design, construction, reconstruction, improvement, rehabilitation, maintaining, furnishing, repairing, equipping or use of any such facility by the placement agency of the city of New York for the care, maintenance and supervision of adjudicated juvenile delinquents or juvenile offenders shall be subject to the provisions of any general, special or local law, city charter, administrative code, ordinance or resolution governing uniform land use review procedures, any other land use planning

review and approvals, historic preservation procedures, architectural reviews, franchise approvals and other state or local review and approval procedures governing the use of land and the improvements thereon within the city.

S 16. Notwithstanding any other provision of law to the contrary, within 6 months of the effective date of sections one through six and eight through thirteen of this act relating to non-secure facilities, the office of children and family services shall transfer any youth placed in such facilities by a dispositional order of a family court in the city of New York to the custody of the placement agency of the city of New York for placement in a non-secure facility operated by such agency. Notwithstanding any other provision of law to the contrary, within 6 months of the effective date of such sections relating to secure and limited secure facilities, such office shall transfer any youth placed in such facilities by a dispositional order of a family court in the city of New York to the custody of the placement agency of the city of New York for placement in a secure or limited secure facility operated by such agency.

S 17. Notwithstanding any other provision of law to the contrary, upon the effective date of sections one through six and eight through thirteen of this act relating to non-secure facilities but prior to the effective date of such sections relating to secure and limited secure facilities, in the event any respondent placed in a secure or limited secure facility operated by the office of children and family services is to be transferred to a non-secure facility, such transfer shall be made to a non-secure facility operated by the placement agency of the city of New York; and in the event any respondent in a non-secure facility operated by such placement agency is to be transferred to a secure or limited secure facility, such transfer shall be made to a secure or limited secure facility operated by such office.

S 18. This act shall take effect immediately; provided, that the amendments to subdivision 9 of section 353.3 of the family court act, made by section six of this act, shall not affect the expiration and repeal of such subdivision and shall expire therewith, when upon such date section seven of this act shall take effect; provided, further, that the amendments to paragraph (a) of subdivision 2 of section 153-k of the social services law made by section thirteen of this act shall not affect the repeal of such section and shall be deemed repealed therewith; provided, however, that with respect to dispositions of placement with the placement agency of the city of New York in non-secure facilities, sections one through six and eight through thirteen of this act shall only apply 90 days after such placement agency provides the office of children and family services and the office of court administration with official notice that such agency has opened for operation facilities for such non-secure placements, and with respect to dispositions of placement with the placement agency in secure or limited secure facilities, such sections shall only apply 90 days after such placement agency provides such offices with official notice that such agency has opened for operation facilities for secure and limited secure placements; and provided further that such placement agency and the office of children and family services may take any steps necessary to implement this act prior to the effective date of any provision of this act, including the promulgation of any regulation or rule; and provided further that section fourteen of this act shall take effect April 1, 2014.