

5573

2013-2014 Regular Sessions

I N   A S S E M B L Y

March 1, 2013

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

AN ACT to amend the social services law, in relation to the state assuming all of the costs for the benefits and services administered under the state's Medicaid program, to amend section 1 of part C of chapter 58 of the laws of 2005, authorizing reimbursements for expenditures made by or on behalf of social services districts for medical assistance for needy persons and the administration thereof, in relation to increasing expenditures; and to repeal certain provisions of the social services law relating thereto (Part A); to amend the social services law, in relation to eligibility for temporary assistance for needy persons and counting emergency assistance towards any other assistance a family may be eligible for under the social services law (Part B); to amend the social services law, in relation to simplifying investigation requirements when there are repeated unfounded CPS investigations, to no longer require investigations of education neglect for children over the age of twelve, to allow the county discretion in setting and determining staffing performance and criteria and to create an adoption incentives board and pilot program (Part C); to amend the education law, in relation to requiring that municipal administrative costs be covered by the state for programs operated under section 4410 of the education law and to allow municipalities to require income based financial participation by the parent or guardian of children enrolled in such programs (Part D); to amend the county law, the family court act and the civil practice law and rules, in relation to funding for indigent defense (Part E); to amend the executive law, in relation to authorizing the collection of administrative fees to support probation services; and to amend chapter 55 of the laws of 1992 amending the tax law and other laws relating to taxes, surcharges, fees and funding, in relation to the effectiveness of certain provisions (Part F); to amend the public health law, in relation to the funding for early intervention programs (Part G); to amend the executive law, the navigation law, the penal law, the correction law and the criminal procedure law, in relation to youth

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

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detention and allowing the county greater control of where youths are sent for detention; and to repeal certain provisions of the criminal procedure law, the vehicle and traffic law, and the penal law relating thereto (Part H); and to amend the retirement and social security law, in relation to allowing additional contributions to be made by members who joined the retirement system after July 27, 1976 and to preclude overtime hours from being calculated in retirement allowances (Part I)

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

1 Section 1. This act enacts into law major components of legislation  
2 which are necessary to enact the New York state mandate relief for coun-  
3 ties act. Each component is wholly contained within a Part identified as  
4 Parts A through I. The effective date for each particular provision  
5 contained within such Part is set forth in the last section of such  
6 Part. Any provision in any section contained within a Part, including  
7 the effective date of the Part, which makes reference to a section "of  
8 this act", when used in connection with that particular component, shall  
9 be deemed to mean and refer to the corresponding section of the Part in  
10 which it is found. Section four of this act sets forth the general  
11 effective date of this act.

12 S 2. This act shall be known and may be cited as the "New York state  
13 mandate relief for counties act".

14 PART A

15 Section 1. Section 368-a of the social services law is REPEALED and a  
16 new section 368-a is added to read as follows:

17 S 368-A. STATE REIMBURSEMENT. THE DEPARTMENT SHALL REVIEW THE EXPENDI-  
18 TURES MADE BY SOCIAL SERVICES DISTRICTS FOR MEDICAL ASSISTANCE FOR NEEDY  
19 PERSONS, AND THE ADMINISTRATION THEREOF, BEFORE MAKING REIMBURSEMENT.  
20 BEFORE APPROVING SUCH EXPENDITURES FOR REIMBURSEMENT, THE DEPARTMENT  
21 SHALL GIVE DUE CONSIDERATION TO THE RESULTS OF THE REVIEWS AND AUDITS  
22 CONDUCTED BY THE DEPARTMENT OF HEALTH PURSUANT TO SUBDIVISION TWO OF  
23 SECTION THREE HUNDRED SIXTY-FOUR OF THIS TITLE. IF APPROVED BY THE  
24 DEPARTMENT, SUCH EXPENDITURES SHALL NOT BE SUBJECT TO REIMBURSEMENT BY  
25 THE STATE PURSUANT TO SECTION ONE HUNDRED FIFTY-THREE OF THIS ARTICLE OR  
26 ANY PROVISION OF THIS CHAPTER OTHER THAN THIS SECTION, BUT SHALL BE  
27 SUBJECT TO REIMBURSEMENT BY THE STATE IN ACCORDANCE WITH THIS SECTION  
28 AND THE REGULATIONS OF THE DEPARTMENT, AS FOLLOWS:

29 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, BY JANUARY FIRST, TWO  
30 THOUSAND SEVENTEEN THE STATE SHALL ASSUME ONE HUNDRED PERCENT OF THE  
31 NON-FEDERAL SHARE OF COSTS FOR BENEFITS AND SERVICES PROVIDED UNDER THE  
32 STATE'S MEDICAID PROGRAM PURSUANT TO THE PROVISIONS OF SUBDIVISION THREE  
33 HUNDRED SIXTY-EIGHT-AA OF THIS TITLE.

34 S 2. The social services law is amended by adding a new section 368-aa  
35 to read as follows:

36 S 368-AA. STATE ASSUMPTION OF NON-FEDERAL SHARE MEDICAID COSTS. 1.  
37 NOTWITHSTANDING ANY OTHER PROVISION OF LAW THE STATE SHALL ASSUME ONE  
38 HUNDRED PERCENT OF THE NON-FEDERAL SHARE OF MEDICAID COSTS BY JANUARY  
39 FIRST, TWO THOUSAND SEVENTEEN.

40 2. (A)(I) BEGINNING STATE FISCAL YEAR TWO THOUSAND THIRTEEN THE  
41 MEDICAL ASSISTANCE EXPENDITURE AMOUNT FOR THE SOCIAL SERVICES DISTRICTS

1 SHALL BE CAPPED, FOR A PERIOD OF FIVE YEARS, AT AN AMOUNT EQUAL TO THE  
2 PREVIOUS CALENDAR YEARS' MEDICAL ASSISTANCE EXPENDITURE AMOUNT.

3 (II) THE STATE BY AND THROUGH THE GOVERNOR MAY CHOOSE TO OVERRIDE SUCH  
4 CAP DURING THE YEARS TWO THOUSAND THIRTEEN--TWO THOUSAND EIGHTEEN,  
5 HOWEVER ANY INCREASES TO EXPEDITES APPROVED BY THE GOVERNOR SHALL BE  
6 FUNDED THROUGH THE STATE BUDGET.

7 (B)(I) COMMENCING STATE FISCAL YEAR TWO THOUSAND FOURTEEN THE LOCAL  
8 SHARE/COUNTY SHARE OF MEDICAID COSTS EXPENDED THROUGH THE MEDICAL  
9 ASSISTANCE AMOUNT FOR SOCIAL SERVICES DISTRICTS SHALL BE REDUCED BY TEN  
10 PERCENT UNDER THE PREVIOUS YEARS EXPENDITURE.

11 (II) COMMENCING STATE FISCAL YEAR TWO THOUSAND FOURTEEN THE STATE  
12 SHARE OF MEDICAID COSTS EXPENDED THROUGH THE MEDICAL ASSISTANCE AMOUNT  
13 FOR SOCIAL SERVICES DISTRICTS SHALL BE INCREASED BY TEN PERCENT OVER THE  
14 PREVIOUS YEARS EXPENDITURE.

15 (C)(I) COMMENCING STATE FISCAL YEAR TWO THOUSAND FIFTEEN THE LOCAL  
16 SHARE/COUNTY SHARE OF MEDICAID COSTS EXPENDED THROUGH THE MEDICAL  
17 ASSISTANCE AMOUNT FOR SOCIAL SERVICES DISTRICTS SHALL BE REDUCED BY  
18 TWENTY PERCENT UNDER THE PREVIOUS YEARS EXPENDITURE.

19 (II) COMMENCING STATE FISCAL YEAR TWO THOUSAND FIFTEEN THE STATE SHARE  
20 OF MEDICAID COSTS EXPENDED THROUGH THE MEDICAL ASSISTANCE AMOUNT FOR  
21 SOCIAL SERVICES DISTRICTS SHALL BE INCREASED BY TWENTY PERCENT OVER THE  
22 PREVIOUS YEAR EXPENDITURE.

23 (D)(I) COMMENCING STATE FISCAL YEAR TWO THOUSAND SIXTEEN THE LOCAL  
24 SHARE/COUNTY SHARE OF MEDICAID COSTS EXPENDED THROUGH THE MEDICAL  
25 ASSISTANCE AMOUNT FOR SOCIAL SERVICES DISTRICTS SHALL BE REDUCED BY  
26 FIFTY PERCENT UNDER THE PREVIOUS YEARS EXPENDITURE.

27 (II) COMMENCING STATE FISCAL YEAR TWO THOUSAND SIXTEEN THE STATE SHARE  
28 OF MEDICAID COSTS EXPENDED THROUGH THE MEDICAL ASSISTANCE AMOUNT FOR  
29 SOCIAL SERVICES DISTRICTS SHALL BE INCREASED BY FIFTY PERCENT OVER THE  
30 PREVIOUS YEARS EXPENDITURE.

31 (E)(I) COMMENCING STATE FISCAL YEAR TWO THOUSAND SEVENTEEN THE LOCAL  
32 SHARE/COUNTY SHARE OF MEDICAID COSTS EXPENDED THROUGH THE MEDICAL  
33 ASSISTANCE AMOUNT FOR SOCIAL SERVICES DISTRICTS SHALL BE REDUCED BY  
34 SEVENTY-FIVE PERCENT UNDER THE PREVIOUS YEARS EXPENDITURE.

35 (II) COMMENCING STATE FISCAL YEAR TWO THOUSAND SEVENTEEN THE STATE  
36 SHARE OF MEDICAID COSTS EXPENDED THROUGH THE MEDICAL ASSISTANCE AMOUNT  
37 FOR SOCIAL SERVICES DISTRICTS SHALL BE INCREASED BY SEVENTY PERCENT OVER  
38 THE PREVIOUS YEARS EXPENDITURE.

39 (F)(I) COMMENCING STATE FISCAL YEAR TWO THOUSAND EIGHTEEN THE LOCAL  
40 SHARE/COUNTY SHARE OF MEDICAID COSTS EXPENDED THROUGH THE MEDICAL  
41 ASSISTANCE AMOUNT FOR SOCIAL SERVICES DISTRICTS SHALL BE REDUCED BY ONE  
42 HUNDRED PERCENT UNDER THE PREVIOUS YEARS EXPENDITURE.

43 (II) COMMENCING STATE FISCAL YEAR TWO THOUSAND EIGHTEEN THE STATE  
44 SHARE OF MEDICAID COSTS EXPENDED THROUGH THE MEDICAL ASSISTANCE AMOUNT  
45 FOR SOCIAL SERVICES DISTRICTS SHALL BE INCREASED BY ONE HUNDRED PERCENT  
46 OVER THE PREVIOUS YEARS EXPENDITURE RESULTING IN THE ENTIRE EXPENDITURE  
47 FOR MEDICAID COST BEING FUNDED BY THE STATE.

48 (G) THE STATE BY AND THROUGH THE GOVERNOR MAY CHOOSE TO OVERRIDE THE  
49 CAP ESTABLISHED IN THIS SECTION AFTER THE YEAR TWO THOUSAND EIGHTEEN  
50 HOWEVER ANY INCREASES TO EXPENDITURES APPROVED BY THE GOVERNOR SHALL BE  
51 FUNDED THROUGH THE STATE BUDGET.

52 AS USED IN THIS SECTION THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING  
53 MEANINGS: (1) LOCAL SHARE/COUNTY SHARE SHALL MEAN THE PORTION OF ANY  
54 EXPENSES COVERED BY COUNTIES FOR THE ADMINISTRATION, BENEFITS AND  
55 SERVICE PROVIDED UNDER THE STATE'S MEDICAID PROGRAM.

S 3. Subdivision (c-1) of section 1 of part C of chapter 58 of the laws of 2005 authorizing reimbursements for expenditures made by or on behalf of social services districts for medical assistance for needy persons and the administration thereof, as added by section 1 of part F of chapter 56 of the laws of 2012, is amended to read as follows:

(c-1) Notwithstanding any provisions of subdivision (c) of this section to the contrary, effective April 1, 2013, for the period January 1, 2013 through December 31, 2013 and for each calendar year thereafter, the medical assistance expenditure amount for the social services district for such period shall be equal to the previous calendar year's medical assistance expenditure amount[, except that:

(1) for the period January 1, 2013 through December 31, 2013, the previous calendar year medical assistance expenditure amount will be increased by 2%;

(2) for the period January 1, 2014 through December 31, 2014, the previous calendar year medical assistance expenditure amount will be increased by 1%]. ANY INCREASES TO EXPENDITURES REQUIRED AFTER THE YEAR 2013 SHALL BE MADE PURSUANT TO THE PROVISIONS OF SECTION 368-AA OF THE SOCIAL SERVICES LAW.

S 4. This act shall take effect immediately; provided, however, that the amendments made to subdivision (c-1) of section 1 of part C of chapter 58 of the laws of 2005 by section three of this act shall take effect on the same date and in the same manner as section 1 of part F of chapter 56 of the laws of 2012, takes effect.

## PART B

Section 1. Subdivision 1 of section 158 of the social services law, as added by section 44 of part B of chapter 436 of the laws of 1997 and paragraph (f) as amended by chapter 214 of the laws of 1998, is amended to read as follows:

1. A person is eligible for safety net assistance who is financially needy as determined in accordance with title one of this article and the regulations promulgated thereunder, is not in sanction status for a program authorized by this chapter and:

(a) resides in a family which is ineligible for family assistance or other assistance funded by the federal temporary assistance for needy families block grant because an adult in the family has exceeded the maximum durational limits on such assistance contained in section three hundred fifty of this chapter, or

(b) [is an adult who would otherwise be eligible for family assistance except that he or she does not reside with a dependent child, or

(c)] resides in a family that would otherwise be eligible for family assistance except that at least one adult or minor head of household has been determined in accordance with section one hundred thirty-two of this article to be abusing illegal substances or engaging in the habitual and excessive consumption of alcoholic beverages, or

[(d)] (C) is under the age of eighteen, not living with his or her child and has no adult relatives with whom to reside, or

[(e)] (D) resides in a family in which a person required to submit to screening or evaluation for use of illegal drugs or excess alcohol consumption pursuant to section one hundred thirty-two of this article refused to comply, or

[(f)] (E) resides in a family which includes a person disqualified from receiving assistance pursuant to paragraph (f) of subdivision four of section one hundred thirty-two of this article, or

1 [(g)] (F) is a qualified alien who is ineligible to receive assistance  
2 funded under the temporary assistance for needy families block grant  
3 solely because of section four hundred three of the federal personal  
4 responsibility and work opportunity reconciliation act of 1996 (P.L.  
5 104-193) or is an alien who is permanently residing under color of law  
6 but is not a qualified alien.

7 S 2. Section 350-j of the social services law is amended by adding a  
8 new subdivision 6 to read as follows:

9 6. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY ANY  
10 EMERGENCY ASSISTANCE PROVIDED UNDER THIS SECTION SHALL COUNT TOWARDS THE  
11 TOTAL AMOUNT OF ASSISTANCE A FAMILY MAY BE ELIGIBLE FOR UNDER ANY OTHER  
12 PROGRAM IN THIS CHAPTER.

13 S 3. This act shall take effect immediately.

14 PART C

15 Section 1. The social services law is amended by adding a new section  
16 416-a to read as follows:

17 S 416-A. REPEATED UNFOUNDED INVESTIGATIONS. THE COMMISSIONER SHALL  
18 DEVELOP A PROTOCOL FOR EACH COUNTY AND THE CITY OF NEW YORK WHERE THERE  
19 HAVE BEEN REPEATED UNFOUNDED INVESTIGATIONS AGAINST A FAMILY OR INDIVID-  
20 UAL. SUCH PROTOCOL SHALL AIM TO REDUCE THE AMOUNT OF TIME SPENT UNNECES-  
21 SARILY INVESTIGATING SO THAT CASEWORKERS MAY WORK MORE EFFICIENTLY.

22 S 2. Subdivision 8 of section 34-a of the social services law, as  
23 added by chapter 543 of the laws of 2006, is amended to read as follows:

24 8. The commissioner of the office of children and family services  
25 shall, in conjunction with the commissioner of education, develop model  
26 practices and procedures for local social services districts and school  
27 districts regarding the reporting and investigation of educational  
28 neglect. Such model practices and procedures shall be available to  
29 social services districts and school districts and shall be posted on  
30 the office of children and family services website and the state depart-  
31 ment of education website by September first, two thousand seven. Each  
32 social services district shall, in conjunction with local school  
33 districts within its district, submit written policies and procedures  
34 regarding the reporting of educational neglect by each school district  
35 within such social services district and the investigation of educa-  
36 tional neglect allegations by child protective services PROVIDED, HOWEV-  
37 ER, INVESTIGATION SHALL NOT BE REQUIRED WHEN THE CHILD IS OVER THE AGE  
38 OF TWELVE. Such policies and procedures shall be submitted to the  
39 office of children and family services for review by January first, two  
40 thousand eight and the office shall approve or disapprove such local  
41 policies and procedures, based upon the model practices and procedures  
42 established in conjunction with the state department of education, with-  
43 in sixty days of submission.

44 S 3. The social services law is amended by adding a new section 412-b  
45 to read as follows:

46 S 412-B. STAFFING AND PERFORMANCE CRITERIA. COMMENCING JANUARY FIRST,  
47 TWO THOUSAND THIRTEEN THE COUNTIES AND THE CITY OF NEW YORK SHALL BE  
48 ALLOWED TO REEVALUATE AND ESTABLISH THEIR STAFFING AND PERFORMANCE  
49 CRITERIA. THE GOAL OF SUCH REEVALUATION SHALL BE TO ALLOW LOCALS GREATER  
50 FLEXIBILITY AND WORK MORE EFFICIENTLY AND DEVELOP IMPROVED MODELS OF  
51 SERVICE.

52 S 4. The social services law is amended by adding a new section 427-b  
53 to read as follows:

1 S 427-B. ADOPTION INCENTIVES BOARD AND PILOT PROGRAM. EACH COUNTY AND  
2 THE CITY OF NEW YORK SHALL DEVELOP AN ADOPTION INCENTIVE BOARD AND PILOT  
3 PROGRAM. SUCH BOARD SHALL MAKE SUGGESTIONS IN THE FORM OF A REPORT TO  
4 THE COMMISSIONER ON VIABLE INCENTIVES TO ENCOURAGE ADOPTION WITHIN THEIR  
5 COUNTY OR THE CITY OF NEW YORK BY MAY FIFTEENTH, TWO THOUSAND THIRTEEN.  
6 THE COMMISSIONER SHALL THEN EVALUATE SUCH SUGGESTIONS AND WORK WITH THE  
7 COUNTIES TO IMPLEMENT SUGGESTIONS THROUGH AN ADOPTION INCENTIVES PILOT  
8 PROGRAM AT A LOCAL LEVEL BY JANUARY FIRST, TWO THOUSAND THIRTEEN.

9 S 5. This act shall take effect immediately.

10 PART D

11 Section 1. Paragraph d of subdivision 10 of section 4410 of the educa-  
12 tion law, as amended by chapter 705 of the laws of 1992, subparagraph  
13 (ii) as amended by section 58 of part H of chapter 83 of the laws of  
14 2002 and subparagraph (iii) as amended by section 63 of part A of chap-  
15 ter 60 of the laws of 2000, is amended to read as follows:

16 d. (i) At the beginning of the school year, the commissioner shall  
17 allocate funds for reimbursement of allowable administrative costs, as  
18 defined in regulations of the commissioner, incurred by a board pursuant  
19 to this section. Such allocation shall be in an amount equal to a school  
20 district's pro rata share of the statewide base year count of preschool  
21 children as a percent of federal funds available for such reimbursement,  
22 as determined by the commissioner. In January of any school year in  
23 which additional federal funds are determined by the commissioner to be  
24 available for such reimbursement, the commissioner shall equitably allo-  
25 cate such funds for reimbursement of allowable administrative costs, in  
26 a manner determined by the commissioner which is consistent with federal  
27 statutes and regulations governing the use of federal funds, to school  
28 districts which have demonstrated a need for such additional funds. At  
29 the close of the school year for which such funds were allocated, each  
30 board shall submit, in a form prescribed by the commissioner, a state-  
31 ment of the allowable administrative costs incurred pursuant to this  
32 section. [A board may, subject to approval of the commissioner, submit  
33 any allowable administrative costs for which federal funds are not allo-  
34 cated to that school district pursuant to this subdivision to the appro-  
35 priate municipality or municipalities for reimbursement pursuant to  
36 subdivision eleven of this section.]

37 (ii) Boards may submit reasonable costs incurred pursuant to para-  
38 graphs a through d of subdivision seven of this section to the [appro-  
39 priate municipality] COMMISSIONER for reimbursement. Boards may also  
40 submit to the [appropriate municipality] COMMISSIONER for reimbursement  
41 of reasonable costs incurred pursuant to paragraph e of subdivision  
42 seven of this section: (A) in an action or proceeding brought by another  
43 party or (B) in an action or proceeding brought by the board, other than  
44 an action or proceeding brought against the state, a department, board  
45 or agency of the state or a state officer, except where such state  
46 defendant is joined as a necessary party to such action or proceeding,  
47 if, upon final disposition of the action or proceeding, the board  
48 receives a judgment in its favor annulling the determination or order of  
49 the state review officer. The municipality shall be reimbursed for  
50 payment of such costs pursuant to subdivision eleven of this section.

51 (iii) On or after July first, nineteen hundred ninety, and annually  
52 thereafter until June thirtieth, two thousand one, municipalities shall  
53 be eligible for reimbursement for administrative costs incurred during  
54 the preceding year of fifty dollars for each eligible preschool child

1 served in such year pursuant to this section. On or after July first,  
2 two thousand one, and annually thereafter, municipalities shall be  
3 eligible for reimbursement for ALL administrative costs incurred during  
4 the preceding year [of seventy-five dollars for each eligible preschool  
5 child served in such year pursuant to this section]. Each municipality  
6 shall submit a claim in a form prescribed by the commissioner. Upon  
7 approval, reimbursement shall be made by the commissioner from appropri-  
8 ations available therefor. Such reimbursement shall be made in the first  
9 instance from any federal funds designated under federal law for local  
10 use, as determined by the commissioner, that are available after satis-  
11 fying the provisions of subparagraph (i) of this paragraph. To the  
12 extent that such federal funds are not sufficient or available to reim-  
13 burse a municipality for such costs, reimbursement shall be made with  
14 state funds.

15 S 2. Paragraph a of subdivision 11 of section 4410 of the education  
16 law, as amended by chapter 474 of the laws of 1996, is amended to read  
17 as follows:

18 a. The approved costs for a preschool child who receives services  
19 pursuant to this section shall be a charge upon the municipality wherein  
20 such child resides. COMMENCING THE BEGINNING OF THE SCHOOL YEAR IN THE  
21 YEAR TWO THOUSAND THIRTEEN THE MUNICIPALITY IS HEREBY AUTHORIZED TO  
22 REQUIRE FINANCIAL PARTICIPATION BY THE PARENT OR LEGAL GUARDIAN OF ANY  
23 CHILD ENROLLED IN A PROGRAM UNDER THIS SECTION. SUCH FINANCIAL PARTIC-  
24 IPATION COLLECTED BY THE MUNICIPALITY SHALL BE UTILIZED TO FUND ONE  
25 HUNDRED PERCENT OF THE MUNICIPALITY'S NON-ADMINISTRATIVE COSTS FOR THE  
26 OPERATION OF PROGRAMS IN THIS SECTION. THE COMMISSIONER IN CONJUNCTION  
27 WITH THE LOCAL BOARDS SHALL DEVELOP AN INCOME BASED FINANCIAL PARTIC-  
28 IPATION SCHEDULE FOR TUITION WHICH SHALL BE PAID BY THE PARENT OR LEGAL  
29 GUARDIAN OF ANY CHILD ENROLLED IN A PROGRAM UNDER THIS SECTION. THE  
30 COMMISSIONER IN CONJUNCTION WITH THE LOCAL BOARDS SHALL ADDITIONALLY  
31 INVESTIGATE THE FEASIBILITY OF ACCEPTING THIRD PARTY INSURANCE PAYMENTS  
32 FOR SERVICES RENDERED UNDER THIS SECTION AND WHERE APPLICABLE BILL SUCH  
33 THIRD PARTY INSURANCE FOR SERVICES RENDERED UNDER THIS SECTION. All  
34 approved costs shall be paid in the first instance and at least quarter-  
35 ly by the appropriate governing body or officer of the municipality upon  
36 vouchers presented and audited in the same manner as the case of other  
37 claims against the municipality. Notwithstanding any inconsistent  
38 provisions of this section, upon notification by the commissioner, a  
39 municipality may withhold payments due any provider for services  
40 rendered to preschool children in a program for which the commissioner  
41 has been unable to establish a tuition rate due to the failure of the  
42 provider to file complete and accurate reports for such purpose, as  
43 required by the commissioner.

44 S 3. This act shall take effect immediately.

45 PART E

46 Section 1. Section 722-e of the county law, as added by chapter 878 of  
47 the laws of 1965, is amended to read as follows:

48 S 722-e. Expenses. 1. EXPENSES. All expenses for providing counsel  
49 and services other than counsel hereunder shall be a county charge or in  
50 the case of a county wholly located within a city a city charge to be  
51 paid out of an appropriation for such purposes.

52 2. RATES. THE RATES PAID TO INDIVIDUALLY ASSIGNED ATTORNEYS PROVIDING  
53 REPRESENTATION UNDER THIS ARTICLE SHALL BE SET BY THE COUNTY AND SHALL  
54 BE EVALUATED PERIODICALLY FOR COST OF LIVING INCREASES.

3. DETERMINING INDIGENCE. THE COUNTY SHALL HAVE THE AUTHORITY TO DETERMINE AND ESTABLISH GUIDELINES FOR DETERMINING THE INDIGENCE STATUS OF PERSONS APPLYING FOR ASSISTANCE UNDER THIS ARTICLE. SUCH GUIDELINES SHALL NOT BE LESS THAN ONE HUNDRED AND TWENTY-FIVE PERCENT OF THE FEDERAL POVERTY GUIDELINES AS DEFINED BY THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES. FURTHER, THE COUNTY SHALL HAVE THE ABILITY TO COLLECT ANY FUNDS EXPENDED UNDER THIS ARTICLE FROM THE FUTURE EARNINGS OF FORMERLY QUALIFYING INDIGENT PERSONS.

S 2. Section 580-313 of the family court act, as added by chapter 398 of the laws of 1997, is amended to read as follows:

S 580-313. Costs and fees. (a) The petitioner [may not] SHALL be required to pay a filing fee [or other costs] UP TO, BUT NOT MORE THAN, TWENTY-FIVE DOLLARS. SUCH FEE SHALL BE UTILIZED TO SUPPORT INDIGENT DEFENSE SERVICES WITHIN THE COURT.

(b) If an obligee prevails, a responding tribunal may assess against an obligor filing fees, reasonable attorney's fees, other costs, and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal may not assess fees, costs, or expenses against the obligee or the support enforcement agency of either the initiating or the responding state, except as provided by other law. Attorney's fees may be taxed as costs, and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of support owed to the obligee has priority over fees, costs and expenses.

(c) The tribunal shall order the payment of costs and reasonable attorney's fees if it determines that a hearing was requested primarily for delay. In a proceeding under part six of this article (enforcement and modification of support order after registration), a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

S 3. Section 8018 of the civil practice law and rules is amended by adding a new subdivision (e) to read as follows:

(E) THE FAMILY COURT OF ANY JURISDICTION SHALL REQUIRE THE PETITIONER TO PAY A FILING FEE UP TO, BUT NOT MORE THAN TWENTY-FIVE DOLLARS FOR ALL ACTIONS COMMENCED UNDER THE FAMILY COURT'S JURISDICTION. SUCH FEE SHALL BE UTILIZED TO SUPPORT INDIGENT DEFENSE SERVICES WITHIN THE COURT.

S 4. This act shall take effect immediately.

#### PART F

Section 1. Section 257-c of the executive law, as added by chapter 55 of the laws of 1992, subdivision 5 as amended by section 58 of part A of chapter 56 of the laws of 2010, is amended to read as follows:

S 257-c. Probation administrative fee. 1. Notwithstanding any other provision of law, every county and the city of New York, may adopt a local law requiring individuals currently serving or who shall be sentenced to a period of probation upon conviction of any crime under article thirty-one of the vehicle and traffic law to pay to the local probation department with the responsibility of supervising the probationer an administrative fee of thirty dollars per month. The LOCAL PROBATION department shall waive all or part of such fee where, because of the indigence of the offender, the payment of said surcharge 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.



1 2. The provisions of subdivision six of section 420.10 of the criminal  
2 procedure law shall govern for purposes of collection of the administra-  
3 tive fee.

4 3. A. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, EVERY COUNTY AND  
5 THE CITY OF NEW YORK, MAY ADOPT A LOCAL LAW REQUIRING INDIVIDUALS WHO  
6 SHALL BE SENTENCED TO A PERIOD OF PROBATION UPON CONVICTION OF ANY CRIME  
7 TO PAY A TWENTY-FIVE DOLLAR PROBATIONER REGISTRATION FEE. IN ADDITION,  
8 EVERY COUNTY AND THE CITY OF NEW YORK, MAY ADOPT A LOCAL LAW REQUIRING  
9 INDIVIDUALS CURRENTLY SERVING, OR WHO SHALL BE SENTENCED TO A PERIOD OF  
10 PROBATION UPON CONVICTION OF ANY CRIME, AN ADMINISTRATIVE FEE OF THIRTY  
11 DOLLARS A MONTH.

12 B. EVERY COUNTY AND THE CITY OF NEW YORK, MAY ADOPT A LOCAL LAW  
13 REQUIRING INDIVIDUALS THAT UTILIZE, OR ARE REQUIRED TO UTILIZE, CERTAIN  
14 SERVICES AND ARE SENTENCED TO A PERIOD OF PROBATION, TO PAY AN ADDI-  
15 TIONAL MONTHLY FEE OF TEN DOLLARS A MONTH. SUCH SERVICES MAY INCLUDE BUT  
16 NOT BE LIMITED TO AN ALCOHOL AND DRUG TESTING FEE OR AN ELECTRONIC  
17 ENHANCEMENTS BENEFIT FEE. THE LOCAL PROBATION DEPARTMENT SHALL WAIVE ALL  
18 OR PART OF SUCH FEE WHERE, BECAUSE OF THE INDIGENCE OF THE OFFENDER, THE  
19 PAYMENT OF SAID SURCHARGE WOULD WORK AN UNREASONABLE HARDSHIP ON THE  
20 PERSON CONVICTED, HIS OR HER IMMEDIATELY FAMILY, OR ANY OTHER PERSON WHO  
21 IS DEPENDENT ON SUCH PERSON FOR FINANCIAL SUPPORT.

22 [3.] 4. The probation administrative fee authorized by this section  
23 shall not constitute nor be imposed as a condition of probation.

24 [4.] 5. In the event of non-payment of any fees which have not been  
25 waived by the local probation department, the county or the city of New  
26 York may seek to enforce payment in any manner permitted by law for  
27 enforcement of a debt.

28 [5.] 6. Monies collected pursuant to this section shall be utilized  
29 for probation services by the local probation department. Such moneys  
30 shall not be considered by the division when determining state aid  
31 pursuant to section two hundred forty-six of [the executive law] OF THIS  
32 CHAPTER. Monies collected shall not be used to replace federal funds  
33 otherwise utilized for probation services.

34 S 2. Subdivision (aa) of section 427 of chapter 55 of the laws of  
35 1992, amending the tax law and other laws relating to taxes, surcharges,  
36 fees and funding, as amended by section 11 of part A of chapter 57 of  
37 the laws of 2011, is amended to read as follows:

38 (aa) the provisions of sections three hundred eighty-two[, three  
39 hundred eighty-three] and three hundred eighty-four of this act shall  
40 expire on September 1, 2013;

41 S 3. This act shall take effect immediately and any revenue generated  
42 by the administrative fees authorized by this act shall be retained by  
43 every county or the city of New York to support probation services with-  
44 in the jurisdiction.

45 PART G

46 Section 1. Section 2556 of the public health law, as added by chapter  
47 428 of the laws of 1992, is amended to read as follows:

48 S 2556. Administrative costs. On or after July first, nineteen  
49 hundred ninety-four, and annually thereafter, municipalities shall be  
50 eligible for reimbursement for administrative costs exclusive of due  
51 process costs incurred during the preceding year pursuant to this title.  
52 Such reimbursement shall be made in the first instance from any federal  
53 funds available for such purpose, as determined by the commissioner. To  
54 the extent that such federal funds are not sufficient or available to

1 reimburse a municipality for such administrative costs, reimbursement  
2 shall be made with state funds [in an amount up to, but not exceeding,  
3 one hundred dollars] for each eligible child served in such preceding  
4 year.

5 S 2. Subdivision 1 of section 2557 of the public health law, as  
6 amended by section 4 of part C of chapter 1 of the laws of 2002, is  
7 amended to read as follows:

8 1. The approved costs for an eligible child who receives an evaluation  
9 and early intervention services pursuant to this title shall be a charge  
10 upon the municipality wherein the eligible child resides or, where the  
11 services are covered by the medical assistance program, upon the social  
12 services district of fiscal responsibility with respect to those eligi-  
13 ble children who are also eligible for medical assistance OR TO A THIRD  
14 PARTY INSURANCE PLAN THROUGH WHICH THE ELIGIBLE CHILD IS A COVERED  
15 MEMBER. All approved costs shall be paid in the first instance THROUGH  
16 A THIRD PARTY INSURANCE PLAN OF WHICH THE ELIGIBLE CHILD IS A COVERED  
17 MEMBER and at least quarterly, AND THEN by the appropriate governing  
18 body or officer of the municipality upon vouchers presented and audited  
19 in the same manner as the case of other claims against the municipality.  
20 Notwithstanding the insurance law or regulations thereunder relating to  
21 the permissible exclusion of payments for services under governmental  
22 programs, OR PRIVATE THIRD PARTY INSURANCE THROUGH WHICH THE ELIGIBLE  
23 CHILD IS A COVERED MEMBER no such exclusion shall apply with respect to  
24 payments made pursuant to this title. [Notwithstanding the insurance law  
25 or any other law or agreement to the contrary, benefits under this title  
26 shall be considered secondary to any plan of insurance or state govern-  
27 ment benefit program under which an eligible child may have coverage.]  
28 Nothing in this section shall increase or enhance coverages provided for  
29 within an insurance contract subject to the provisions of this title.

30 S 3. Subdivision 2 of section 2557 of the public health law, as added  
31 by chapter 428 of the laws of 1992, is amended to read as follows:

32 2. The department shall reimburse the approved costs paid by a munici-  
33 pality for the purposes of this title, other than those reimbursable by  
34 the medical assistance program or by third party payors, in an amount of  
35 [fifty] ONE HUNDRED percent of the amount expended in accordance with  
36 the rules and regulations of the commissioner. Such state reimbursement  
37 to the municipality shall not be paid prior to April first of the year  
38 in which the approved costs are paid by the municipality.

39 S 4. Subdivision 2 of section 2557 of the public health law, as  
40 amended by section 9-a of part A of chapter 56 of the laws of 2012, is  
41 amended to read as follows:

42 2. The department shall reimburse the approved costs paid by a munici-  
43 pality for the purposes of this title, other than those reimbursable by  
44 the medical assistance program or by third party payors, in an amount of  
45 [fifty] ONE HUNDRED percent of the amount expended in accordance with  
46 the rules and regulations of the commissioner[; provided, however, that  
47 in the discretion of the department and with the approval of the direc-  
48 tor of the division of the budget, the department may reimburse munici-  
49 palities in an amount greater than fifty percent of the amount  
50 expended]. Such state reimbursement to the municipality shall not be  
51 paid prior to April first of the year in which the approved costs are  
52 paid by the municipality, provided, however that, subject to the  
53 approval of the director of the budget, the department may pay such  
54 state aid reimbursement to the municipality prior to such date.

55 S 5. Section 2559-a of the public health law, as added by chapter 428  
56 of the laws of 1992, is amended to read as follows:

1 S 2559-a. Transportation. The municipality in which an eligible child  
2 resides shall, beginning with the first day of service, provide either  
3 directly, by contract, or through reimbursement at a mileage rate  
4 authorized by the municipality for the use of a private vehicle or for  
5 other reasonable transportation costs, for suitable transportation  
6 pursuant to section twenty-five hundred forty-five of this title  
7 PROVIDED, HOWEVER, THAT THE MUNICIPALITY SHALL FIRST MAKE EVERY EFFORT  
8 TO COORDINATE TRANSPORTATION SERVICES WITH OTHER HEALTH AND HUMAN  
9 SERVICES PROGRAMS OPERATED WITHIN THE MUNICIPALITY. All contracts for  
10 transportation of such children shall be provided pursuant to the proce-  
11 dures set forth in section two hundred thirty-six of the family court  
12 act, using the date on which the child's IFSP is implemented, in lieu of  
13 the date the court order was issued; provided, however, that the city of  
14 New York shall provide such transportation in accordance with the  
15 provisions of chapter one hundred thirty of the laws of nineteen hundred  
16 ninety-two, if applicable.

17 S 6. This act shall take effect immediately; provided however that the  
18 amendments to subdivision 2 of section 2557 of the public health law  
19 made by section four of this act shall take effect on the same date and  
20 in the same manner as section 9-a of part A of chapter 56 of the laws of  
21 2012, takes effect.

22

## PART H

23 Section 1. Subdivisions 1, 2, 3, 5, 7 and 8 of section 503 of the  
24 executive law, subdivisions 1, 2, 3, 5 and 8 as amended by chapter 465  
25 of the laws of 1992, paragraphs (b) and (c) of subdivision 5 and subdi-  
26 vision 7 as amended by section 2 of subpart B of part Q of chapter 58 of  
27 the laws of 2011, are amended to read as follows:

28 1. The division shall establish regulations for the operation of  
29 secure [and non-secure] detention facilities pursuant to this article  
30 and section two hundred eighteen-a of the county law. DETENTION SHALL  
31 ONLY BE AVAILABLE AS A COURT MANDATED OPTION FOR YOUTH WHO ARE DEEMED TO  
32 BE A DANGER TO THEMSELVES OR OTHERS. IN THE ABSENCE OF SUCH A FINDING  
33 THE YOUTH SHALL BE PLACED WITH A COMMUNITY BASED VOLUNTARY AGENCY, OR  
34 ALLOWED TO REMAIN WITH THEIR PARENT OR GUARDIAN PROVIDED, THE YOUTH IS  
35 ADDITIONALLY ENROLLED IN COUNSELING OR UNDERGOING ADDICTION SERVICES AND  
36 AGREES TO WEAR AN ANKLE MONITORING DEVICE.

37 2. To assure that adequate, suitable and conveniently accessible  
38 accommodations and proper care will be available when required for  
39 detention, the division may contract for or establish, operate, maintain  
40 and certify secure [and non-secure] detention facilities if funds shall  
41 have been made available for the lease or purchase and maintenance and  
42 operation of appropriate facilities.

43 3. Each social services district may establish, operate and maintain  
44 secure [and non-secure] detention facilities for the purposes defined in  
45 section five hundred two of this article. Each such detention facility  
46 shall be established, operated and maintained in compliance with this  
47 article and the regulations of the division for youth.

48 5. No detention facility shall receive or care for children detained  
49 pursuant to [the family court act or] the criminal procedure law unless  
50 certified by the division, which certification shall include a maximum-  
51 capacity which shall not be exceeded. No certification shall be issued  
52 or renewed unless such a facility has developed and implemented a proce-  
53 dure, consistent with appropriate collective bargaining agreements and  
54 applicable provisions of the civil service law, for reviewing and evalu-

1 ating the backgrounds of and the information supplied by any person  
2 applying to be an employee, volunteer or consultant, which shall include  
3 but not be limited to the following requirements: that the applicant set  
4 forth his or her employment history, provide personal and employment  
5 references and sign a sworn statement indicating whether the applicant,  
6 to the best of his or her knowledge, has ever been convicted of a crime  
7 in this state or any other jurisdiction. CHILDREN DETAINED AS JUVENILE  
8 OFFENDERS SHALL BE PLACED AT FACILITIES DEEMED BY THE COUNTY OR CITY OF  
9 NEW YORK TO BE MOST APPROPRIATE TO ACCOMMODATE THE INDIVIDUAL CHILD'S  
10 NEEDS, SUCH AS COMMUNITY BASED VOLUNTARY AGENCIES OR WHERE APPROPRIATE  
11 SECURE DETENTION FACILITIES. COMMUNITY BASED VOLUNTARY AGENCIES OFFERING  
12 PLACEMENT SERVICES MUST BE CERTIFIED BY THE COUNTY PURSUANT TO THE  
13 PROVISIONS OF THIS SECTION PRIOR TO ACCEPTING PLACEMENTS.

14 (a) The division shall promulgate regulations governing procedures for  
15 certification of detention facilities AND COMMUNITY BASED VOLUNTARY  
16 AGENCIES and for renewal, suspension and revocation of such certifi-  
17 cations. Such regulations shall provide for a hearing prior to the  
18 suspension or revocation of a certification.

19 (b) The office of children and family services OR THE COUNTY OR CITY  
20 OF NEW YORK may suspend a certification for good cause shown. [Susten-  
21 sion shall mean that no persons coming within the provisions of article  
22 three or seven of the family court act and no alleged or convicted juve-  
23 nile offender may be received for care in a detention facility, but  
24 persons already in care may remain in care.] The office OR THE COUNTY OR  
25 CITY OF NEW YORK may impose such conditions in the event of a suspension  
26 as it shall deem necessary and proper.

27 (c) Such office OR THE COUNTY OR CITY OF NEW YORK may revoke a certifi-  
28 cation for good cause shown. Revocation shall mean that no persons  
29 [coming within the provisions of article three or seven of the family  
30 court act and no alleged or convicted juvenile offender] may be received  
31 for care nor remain at the detention facility OR COMMUNITY BASED VOLUN-  
32 TARY AGENCY.

33 7. The person in charge of each detention facility OR COMMUNITY BASED  
34 VOLUNTARY AGENCY shall keep a record of all time spent in such facility  
35 for each youth in care. The detention facility shall deliver a certified  
36 transcript of such record to the office, social services district, COUN-  
37 TY OR CITY OF NEW YORK or other agency taking custody of the youth  
38 pursuant to article three or seven of the family court act, before, or  
39 at the same time as the youth is delivered to the office, district or  
40 other agency, as is appropriate.

41 8. The division AND COUNTY OR CITY OF NEW YORK shall list all facili-  
42 ties certified for the detention of children and shall file a copy of  
43 that list periodically with the clerk of the family court in each coun-  
44 ty, the clerk of the criminal court of the city of New York, the clerk  
45 of the supreme court in each county within the city of New York and the  
46 clerk of the county court in each county outside the city of New York.

47 S 2. Article 720 of the criminal procedure law is REPEALED.

48 S 3. Subdivision 16 of section 296 of the executive law, as separately  
49 amended by section 3 of part N and section 14 of part AAA of chapter 56  
50 of the laws of 2009, is amended to read as follows:

51 16. It shall be an unlawful discriminatory practice, unless specif-  
52 ically required or permitted by statute, for any person, agency, bureau,  
53 corporation or association, including the state and any political subdivi-  
54 sion thereof, to make any inquiry about, whether in any form of appli-  
55 cation or otherwise, or to act upon adversely to the individual  
56 involved, any arrest or criminal accusation of such individual not then

1 pending against that individual which was followed by a termination of  
2 that criminal action or proceeding in favor of such individual, as  
3 defined in subdivision two of section 160.50 of the criminal procedure  
4 law, [or by a youthful offender adjudication, as defined in subdivision  
5 one of section 720.35 of the criminal procedure law,] or by a conviction  
6 for a violation sealed pursuant to section 160.55 of the criminal proce-  
7 dure law or by a conviction which is sealed pursuant to section 160.58  
8 of the criminal procedure law, in connection with the licensing, employ-  
9 ment or providing of credit or insurance to such individual; provided,  
10 further, that no person shall be required to divulge information  
11 pertaining to any arrest or criminal accusation of such individual not  
12 then pending against that individual which was followed by a termination  
13 of that criminal action or proceeding in favor of such individual, as  
14 defined in subdivision two of section 160.50 of the criminal procedure  
15 law, or by a youthful offender adjudication, as defined in subdivision  
16 one of section 720.35 of the criminal procedure law, or by a conviction  
17 for a violation sealed pursuant to section 160.55 of the criminal proce-  
18 dure law, or by a conviction which is sealed pursuant to section 160.58  
19 of the criminal procedure law. The provisions of this subdivision shall  
20 not apply to the licensing activities of governmental bodies in relation  
21 to the regulation of guns, firearms and other deadly weapons or in  
22 relation to an application for employment as a police officer or peace  
23 officer as those terms are defined in subdivisions thirty-three and  
24 thirty-four of section 1.20 of the criminal procedure law; [provided  
25 further that the provisions of this subdivision shall not apply to an  
26 application for employment or membership in any law enforcement agency  
27 with respect to any arrest or criminal accusation which was followed by  
28 a youthful offender adjudication, as defined in subdivision one of  
29 section 720.35 of the criminal procedure law,] or by a conviction for a  
30 violation sealed pursuant to section 160.55 of the criminal procedure  
31 law, or by a conviction which is sealed pursuant to section 160.58 of  
32 the criminal procedure law.

33 S 4. Subdivision 8 of section 508 of the executive law, as added by  
34 chapter 560 of the laws of 1984 and such section as renumbered by chap-  
35 ter 465 of the laws of 1992, is amended to read as follows:

36 8. Whenever a juvenile offender [or a juvenile offender adjudicated a  
37 youthful offender] shall be delivered to the director of a division for  
38 youth facility pursuant to a commitment to the director of the division  
39 for youth, the officer so delivering such person shall deliver to such  
40 facility director a certified copy of the sentence received by such  
41 officer from the clerk of the court by which such person shall have been  
42 sentenced, a copy of the report of the probation officer's investigation  
43 and report, any other pre-sentence memoranda filed with the court, a  
44 copy of the person's fingerprint records, a detailed summary of avail-  
45 able medical records, psychiatric records and reports relating to  
46 assaults, or other violent acts, attempts at suicide or escape by the  
47 person while in the custody of a local detention facility.

48 S 5. Subdivisions 2 and 3 of section 510-c of the executive law,  
49 subdivision 2 as amended by section 98 of subpart B of part C of chapter  
50 62 of the laws of 2011 and subdivision 3 as amended by chapter 465 of  
51 the laws of 1992, are amended to read as follows:

52 2. Except as provided in subdivision three of this section, any child  
53 who has been placed with the office of children and family services  
54 shall be deemed to have been discharged therefrom if, during the period  
55 provided in the order of placement or extension thereof, the child is  
56 convicted of a crime [or adjudicated a youthful offender,] and is

1 committed to an institution in the department of corrections and commu-  
2 nity supervision or department of mental hygiene, or receives a one year  
3 sentence in a local correctional facility.

4 3. A child placed with the division pursuant to a restrictive place-  
5 ment under the family court act shall not be discharged solely by reason  
6 of conviction for a crime [or adjudication as a juvenile delinquent or  
7 youthful offender], nor shall any such child be discharged except pursu-  
8 ant to section 353.5 of the family court act.

9 S 6. Subdivision 4 of section 837-a of the executive law, as added by  
10 chapter 481 of the laws of 1978, is amended to read as follows:

11 4. Collect, analyze and maintain all reports, statements and tran-  
12 scripts forwarded to the division concerning the reasons for imposition  
13 of a sentence other than an indeterminate sentence of imprisonment upon  
14 an armed felony offender as defined in subdivision forty-one of section  
15 1.20 of the criminal procedure law; the reasons for the removal of an  
16 action involving a juvenile offender, as defined in subdivision forty-  
17 two of section 1.20 of the criminal procedure law, AND to the family  
18 court[; and the reasons for a finding that a youth who has been  
19 convicted of an armed felony offense is to be treated as a youthful  
20 offender]. Such reports, statements and transcripts shall be made avail-  
21 able for public inspection except that in the case of a juvenile offen-  
22 der [or a youthful offender], those portions which identify the offender  
23 shall be deleted. The commissioner may promulgate such rules and regu-  
24 lations with respect to the form of such reports, statements and tran-  
25 scripts.

26 S 7. Subparagraph 1 of paragraph (d) of subdivision 7 of section 49-a  
27 of the navigation law, as amended by chapter 391 of the laws of 1998, is  
28 amended to read as follows:

29 (1) Any privilege to operate a vessel which has been suspended pursu-  
30 ant to paragraph (c) of this subdivision shall not be restored for six  
31 months after such suspension. However, no such privilege shall be  
32 restored for at least one year after such suspension in any case where  
33 the person was under the age of twenty-one at the time of the offense,  
34 has had a prior suspension resulting from refusal to submit to a chemi-  
35 cal test pursuant to this subdivision or subdivision six of section  
36 forty-nine-b of this article, or has been convicted of a violation of  
37 any paragraph of subdivision two of this section not arising out of the  
38 same incident, within the five years immediately preceding the date of  
39 such suspension; provided, however, a prior finding that a person under  
40 the age of twenty-one has refused to submit to a chemical test pursuant  
41 to such subdivision six of section forty-nine-b of this article shall  
42 have the same effect as a prior finding of a refusal pursuant to this  
43 subdivision solely for the purpose of determining the length of any  
44 suspension required to be imposed under any provision of this article,  
45 provided that the subsequent offense or refusal is committed or occurred  
46 prior to the expiration of the retention period for such prior refusal  
47 as set forth in paragraph (k) of subdivision one of section two hundred  
48 one of the vehicle and traffic law. Notwithstanding any provision of  
49 this paragraph to the contrary, any privilege to operate a vessel which  
50 has been suspended pursuant to paragraph (c) of this subdivision, where  
51 the person was under the age of twenty-one at the time of the refusal,  
52 and such person under the age of twenty-one has a prior finding[, ] OR  
53 conviction [or youthful offender adjudication] resulting from a  
54 violation of this section or section forty-nine-b of this article, not  
55 arising from the same incident, shall not be restored for at least one

1 year or until such person reaches the age of twenty-one years, whichever  
2 is the greater period of time.

3 S 8. Paragraph (d) of subdivision 6 and paragraph (b) of subdivision 9  
4 of section 49-b of the navigation law, as added by chapter 391 of the  
5 laws of 1998, are amended to read as follows:

6 (d) Any privilege which has been suspended pursuant to paragraph (c)  
7 of this subdivision shall not be restored for one year after such  
8 suspension. Where such person under the age of twenty-one years has a  
9 prior finding, conviction [or youthful offender adjudication] resulting  
10 from a violation of this section or section forty-nine-a of this arti-  
11 cle, not arising from the same incident, such privilege shall not be  
12 restored for at least one year or until such person reaches the age of  
13 twenty-one years, whichever is the greater period of time.

14 (b) The suspension of operating privileges pursuant to this subdivi-  
15 sion shall be for one year or until such person reaches the age of twen-  
16 ty-one, whichever is the greater period of time, where such person has  
17 been found to have operated a vessel after having consumed alcohol in  
18 violation of this section, and has previously been found to have oper-  
19 ated a vessel after having consumed alcohol in violation of this section  
20 or has previously been convicted of, [or adjudicated a youthful offender  
21 for] any violation of section forty-nine-a of this article not arising  
22 out of the same incident.

23 S 9. Subdivision 7 of section 201 of the vehicle and traffic law is  
24 REPEALED.

25 S 10. Section 60.02 of the penal law is REPEALED.

26 S 11. Section 60.10 of the penal law, as amended by chapter 411 of the  
27 laws of 1979, is amended to read as follows:

28 S 60.10 Authorized disposition; juvenile offender.

29 1. When a juvenile offender is convicted of a crime, the court shall  
30 sentence the defendant to imprisonment in accordance with section 70.05  
31 [or sentence him upon a youthful offender finding in accordance with  
32 section 60.02] of this chapter.

33 2. Subdivision one of this section shall apply when sentencing a juve-  
34 nile offender notwithstanding the provisions of any other law that deals  
35 with the authorized sentence for persons who are not juvenile offenders.  
36 Provided, however, that the limitation prescribed by this section shall  
37 not be deemed or construed to bar use of a conviction of a juvenile  
38 offender, [other than a juvenile offender who has been adjudicated a  
39 youthful offender pursuant to section 720.20 of the criminal procedure  
40 law,] as a previous or predicate felony offender under section 70.04,  
41 70.06, 70.08 or 70.10, when sentencing a person who commits a felony  
42 [after he has reached the age of sixteen].

43 S 12. Subdivision 10 of section 60.35 of the penal law is REPEALED.

44 S 13. Paragraph (h) of subdivision 2 of section 65.10 of the penal  
45 law, as amended by chapter 508 of the laws of 2001, is amended to read  
46 as follows:

47 (h) Perform services for a public or not-for-profit corporation, asso-  
48 ciation, institution or agency, including but not limited to services  
49 for the division of substance abuse services, services in an appropriate  
50 community program for removal of graffiti from public or private proper-  
51 ty, including any property damaged in the underlying offense, or  
52 services for the maintenance and repair of real or personal property  
53 maintained as a cemetery plot, grave, burial place or other place of  
54 interment of human remains. Provided however, that the performance of  
55 any such services shall not result in the displacement of employed work-  
56 ers or in the impairment of existing contracts for services, nor shall

1 the performance of any such services be required or permitted in any  
2 establishment involved in any labor strike or lockout. The court may  
3 establish provisions for the early termination of a sentence of  
4 probation or conditional discharge pursuant to the provisions of subdi-  
5 vision three of section 410.90 of the criminal procedure law after such  
6 services have been completed. Such sentence may only be imposed upon  
7 conviction of a misdemeanor, violation, or class D or class E felony,  
8 [or a youthful offender finding replacing any such conviction,] where  
9 the defendant has consented to the amount and conditions of such  
10 service;

11 S 14. Paragraphs (a) and (b) of subdivision 4 of section 70.20 of the  
12 penal law, as amended by section 124 of subpart B of part C of chapter  
13 62 of the laws of 2011, are amended to read as follows:

14 (a) Notwithstanding any other provision of law to the contrary, a  
15 juvenile offender[, or a juvenile offender who is adjudicated a youthful  
16 offender and] given an indeterminate or a definite sentence, shall be  
17 committed to the custody of the commissioner of the office of children  
18 and family services who shall arrange for the confinement of such offen-  
19 der in secure facilities of the office. The release or transfer of such  
20 offenders from the office of children and family services shall be  
21 governed by section five hundred eight of the executive law.

22 (b) The court in committing a juvenile offender [and youthful offen-  
23 der] to the custody of the office of children and family services shall  
24 inquire as to whether the parents or legal guardian of the youth, if  
25 present, will consent for the office of children and family services to  
26 provide routine medical, dental and mental health services and treat-  
27 ment.

28 S 15. Subdivision 1 of section 205.00 of the penal law, as amended by  
29 chapter 207 of the laws of 1972, is amended to read as follows:

30 1. "Detention Facility" means any place used for the confinement,  
31 pursuant to an order of a court, of a person (a) charged with or  
32 convicted of an offense, or (b) charged with being or adjudicated a  
33 [youthful offender,] person in need of supervision or juvenile delin-  
34 quent, or (c) held for extradition or as a material witness, or (d)  
35 otherwise confined pursuant to an order of a court.

36 S 16. Subdivision 3 of section 205.10 of the penal law is REPEALED.

37 S 17. Subdivision 3 of section 205.15 of the penal law is REPEALED.

38 S 18. Subdivision 1 of section 402 of the correction law, as added by  
39 chapter 766 of the laws of 1976, is amended to read as follows:

40 1. Whenever the physician of any correctional facility, any county  
41 penitentiary, county jail or workhouse, any reformatory for women, or of  
42 any other correctional institution, shall report in writing to the  
43 superintendent that any person undergoing a sentence of imprisonment [or  
44 adjudicated to be a youthful offender] or juvenile delinquent confined  
45 therein is, in his opinion, mentally ill, such superintendent shall  
46 apply to a judge of the county court or justice of the supreme court in  
47 the county to cause an examination to be made of such person by two  
48 examining physicians. Such physicians shall be designated by the judge  
49 to whom the application is made. Each such physician, if satisfied,  
50 after a personal examination, that such inmate is mentally ill and in  
51 need of care and treatment, shall make a certificate to such effect.  
52 Before making such certificate, however, he shall consider alternative  
53 forms of care and treatment available during confinement in such correc-  
54 tional facility, penitentiary, jail, reformatory or correctional insti-  
55 tution that might be adequate to provide for such inmate's needs without  
56 requiring hospitalization. If the examining physician knows that the



1 person he is examining has been under prior treatment, he shall, insofar  
2 as possible, consult with the physician or psychologist furnishing such  
3 prior treatment prior to making his certificate.

4 S 19. Subdivision 1 of section 160.30 of the criminal procedure law,  
5 as amended by chapter 920 of the laws of 1982, is amended to read as  
6 follows:

7 1. Upon receiving fingerprints from a police officer or agency pursu-  
8 ant to section 160.20 of this chapter, the division of criminal justice  
9 services must, except as provided in subdivision two of this section,  
10 classify them and search its records for information concerning a previ-  
11 ous record of the defendant, including any adjudication as a juvenile  
12 delinquent pursuant to article three of the family court act, [or as a  
13 youthful offender pursuant to article seven hundred twenty of this chap-  
14 ter,] and promptly transmit to such forwarding police officer or agency  
15 a report containing all information on file with respect to such defend-  
16 ant's previous record, if any, or stating that the defendant has no  
17 previous record according to its files. Such a report, if certified,  
18 constitutes presumptive evidence of the facts so certified.

19 S 20. Subdivision 1 of section 170.56 of the criminal procedure law,  
20 as amended by chapter 360 of the laws of 1977, is amended to read as  
21 follows:

22 1. Upon or after arraignment in a local criminal court upon an infor-  
23 mation, a prosecutor's information or a misdemeanor complaint, where the  
24 sole remaining count or counts charge a violation or violations of  
25 section 221.05, 221.10, 221.15, 221.35 or 221.40 of the penal law and  
26 before the entry of a plea of guilty thereto or commencement of a trial  
27 thereof, the court, upon motion of a defendant, may order that all  
28 proceedings be suspended and the action adjourned in contemplation of  
29 dismissal, or upon a finding that adjournment would not be necessary or  
30 appropriate and the setting forth in the record of the reasons for such  
31 findings, may dismiss in furtherance of justice the accusatory instru-  
32 ment; provided, however, that the court may not order such adjournment  
33 in contemplation of dismissal or dismiss the accusatory instrument if:  
34 (a) the defendant has previously been granted such adjournment in  
35 contemplation of dismissal, or (b) the defendant has previously been  
36 granted a dismissal under this section, or (c) the defendant has previ-  
37 ously been convicted of any offense involving controlled substances, or  
38 (d) the defendant has previously been convicted of a crime and the  
39 district attorney does not consent [or (e) the defendant has previously  
40 been adjudicated a youthful offender on the basis of any act or acts  
41 involving controlled substances and the district attorney does not  
42 consent].

43 S 21. Subparagraph (i) of paragraph (a) of subdivision 3 of section  
44 216.05 of the criminal procedure law is REPEALED.

45 S 22. Subparagraph (i) of paragraph (b) of subdivision 3 of section  
46 220.30 of the criminal procedure law, as amended by chapter 410 of the  
47 laws of 1979, is amended to read as follows:

48 (i) A plea of guilty, whether to the entire indictment or to part of  
49 the indictment for any crime other than a class A felony, may not be  
50 accepted on the condition that it constitutes a complete disposition of  
51 one or more other indictments against the defendant wherein is charged a  
52 class A-I felony as defined in article two hundred twenty of the penal  
53 law or the attempt to commit any such class A-I felony[, except that an  
54 eligible youth, as defined in subdivision two of section 720.10, may  
55 plea to a class B felony, upon consent of the district attorney, for  
56 purposes of adjudication as a youthful offender].

1 S 23. Subdivision 7 of section 340.40 of the criminal procedure law is  
2 REPEALED.

3 S 24. Paragraph (b) of subdivision 1 of section 390.15 of the criminal  
4 procedure law, as amended by chapter 264 of the laws of 2003, is amended  
5 to read as follows:

6 (b) For the purposes of this section, the terms "defendant",  
7 "conviction" and "sentence" mean and include, respectively, [an "eligi-  
8 ble youth," a "youthful offender finding" and a "youthful offender  
9 sentence" as those terms are defined in section 720.10 of this chapter].  
10 The term "victim" means the person with whom the defendant engaged in an  
11 act of "sexual intercourse", "oral sexual conduct" or "anal sexual  
12 conduct", as those terms are defined in section 130.00 of the penal law,  
13 where such conduct with such victim was the basis for the defendant's  
14 conviction of an offense specified in paragraph (a) of this subdivision.

15 S 25. Subparagraph (v) of paragraph (a) of subdivision 2 of section  
16 510.30 of the criminal procedure law, as amended by chapter 920 of the  
17 laws of 1982, is amended to read as follows:

18 (v) His record of previous adjudication as a juvenile delinquent, as  
19 retained pursuant to section 354.2 of the family court act, or, of pend-  
20 ing cases where fingerprints are retained pursuant to section 306.1 of  
21 such act[, or a youthful offender, if any]; and

22 S 26. The opening paragraph of subdivision 5 of section 530.12 of the  
23 criminal procedure law, as amended by section 1 of chapter 9 of the laws  
24 of 2011, is amended to read as follows:

25 Upon sentencing on a conviction for any crime or violation between  
26 spouses, between a parent and child, or between members of the same  
27 family or household as defined in subdivision one of section 530.11 of  
28 this article, the court may in addition to any other disposition,  
29 including a conditional discharge [or youthful offender adjudication,]  
30 enter an order of protection. Where a temporary order of protection was  
31 issued, the court shall state on the record the reasons for issuing or  
32 not issuing an order of protection. The duration of such an order shall  
33 be fixed by the court and: (A) in the case of a felony conviction, shall  
34 not exceed the greater of: (i) eight years from the date of such  
35 sentencing, or (ii) eight years from the date of the expiration of the  
36 maximum term of an indeterminate or the term of a determinate sentence  
37 of imprisonment actually imposed; or (B) in the case of a conviction for  
38 a class A misdemeanor, shall not exceed the greater of: (i) five years  
39 from the date of such sentencing, or (ii) five years from the date of  
40 the expiration of the maximum term of a definite or intermittent term  
41 actually imposed; or (C) in the case of a conviction for any other  
42 offense, shall not exceed the greater of: (i) two years from the date of  
43 sentencing, or (ii) two years from the date of the expiration of the  
44 maximum term of a definite or intermittent term actually imposed. [For  
45 purposes of determining the duration of an order of protection entered  
46 pursuant to this subdivision, a conviction shall be deemed to include a  
47 conviction that has been replaced by a youthful offender adjudication.]  
48 In addition to any other conditions, such an order may require the  
49 defendant:

50 S 27. The opening paragraph of subdivision 5 of section 530.12 of the  
51 criminal procedure law, as amended by section 2 of chapter 9 of the laws  
52 of 2011, is amended to read as follows:

53 Upon sentencing on a conviction for any crime or violation between  
54 spouses, between a parent and child, or between members of the same  
55 family or household as defined in subdivision one of section 530.11 of  
56 this article, the court may in addition to any other disposition,

1 [including a conditional discharge or youthful offender adjudication,]  
2 enter an order of protection. Where a temporary order of protection was  
3 issued, the court shall state on the record the reasons for issuing or  
4 not issuing an order of protection. The duration of such an order shall  
5 be fixed by the court and, in the case of a felony conviction, shall not  
6 exceed the greater of: (i) five years from the date of such sentencing,  
7 or (ii) three years from the date of the expiration of the maximum term  
8 of an indeterminate sentence of imprisonment actually imposed; or in the  
9 case of a conviction for a class A misdemeanor, shall not exceed three  
10 years from the date of such sentencing; or in the case of a conviction  
11 for any other offense, shall not exceed one year from the date of  
12 sentencing. [For purposes of determining the duration of an order of  
13 protection entered pursuant to this subdivision, a conviction shall be  
14 deemed to include a conviction that has been replaced by a youthful  
15 offender adjudication.] In addition to any other conditions, such an  
16 order may require the defendant:

17 S 28. The opening paragraph of subdivision 4 of section 530.13 of the  
18 criminal procedure law, as amended by section 3 of chapter 9 of the laws  
19 of 2011, is amended to read as follows:

20 Upon sentencing on a conviction for any offense, where the court has  
21 not issued an order of protection pursuant to section 530.12 of this  
22 article, the court may, in addition to any other disposition, [including  
23 a conditional discharge or youthful offender adjudication,] enter an  
24 order of protection. Where a temporary order of protection was issued,  
25 the court shall state on the record the reasons for issuing or not issu-  
26 ing an order of protection. The duration of such an order shall be fixed  
27 by the court and; (A) in the case of a felony conviction, shall not  
28 exceed the greater of: (i) eight years from the date of such sentencing,  
29 or (ii) eight years from the date of the expiration of the maximum term  
30 of an indeterminate or the term of a determinate sentence of imprison-  
31 ment actually imposed; or (B) in the case of a conviction for a class A  
32 misdemeanor, shall not exceed the greater of: (i) five years from the  
33 date of such sentencing, or (ii) five years from the date of the expira-  
34 tion of the maximum term of a definite or intermittent term actually  
35 imposed; or (C) in the case of a conviction for any other offense, shall  
36 not exceed the greater of: (i) two years from the date of sentencing, or  
37 (ii) two years from the date of the expiration of the maximum term of a  
38 definite or intermittent term actually imposed. [For purposes of deter-  
39 mining the duration of an order of protection entered pursuant to this  
40 subdivision, a conviction shall be deemed to include a conviction that  
41 has been replaced by a youthful offender adjudication.] In addition to  
42 any other conditions such an order may require that the defendant:

43 S 29. The opening paragraph of subdivision 4 of section 530.13 of the  
44 criminal procedure law, as amended by section 4 of chapter 9 of the laws  
45 of 2011, is amended to read as follows:

46 Upon sentencing on a conviction for any offense, where the court has  
47 not issued an order of protection pursuant to section 530.12 of this  
48 article, the court may, in addition to any other disposition, [including  
49 a conditional discharge or youthful offender adjudication,] enter an  
50 order of protection. Where a temporary order of protection was issued,  
51 the court shall state on the record the reasons for issuing or not issu-  
52 ing an order of protection. The duration of such an order shall be fixed  
53 by the court and, in the case of a felony conviction, shall not exceed  
54 the greater of: (i) five years from the date of such sentencing, or (ii)  
55 three years from the date of the expiration of the maximum term of an  
56 indeterminate sentence of imprisonment actually imposed; or in the case

1 of a conviction for a class A misdemeanor, shall not exceed three years  
2 from the date of such sentencing; or in the case of a conviction for any  
3 other offense, shall not exceed one year from the date of sentencing.  
4 [For purposes of determining the duration of an order of protection  
5 entered pursuant to this subdivision, a conviction shall be deemed to  
6 include a conviction that has been replaced by a youthful offender adju-  
7 dication.] In addition to any other conditions such an order may require  
8 that the defendant:

9 S 30. This act shall take effect immediately, provided that the amend-  
10 ments to the opening paragraph of subdivision 5 of section 530.12 of the  
11 criminal procedure law made by section twenty-six of this act shall be  
12 subject to the expiration and reversion of such paragraph pursuant to  
13 subdivision d of section 74 of chapter 3 of the laws of 1995, as  
14 amended, when upon such date the provisions of section twenty-seven of  
15 this act shall take effect; provided further, that, the amendments to  
16 the opening paragraph of subdivision 4 of section 530.13 of the criminal  
17 procedure law made by section twenty-eight of this act shall be subject  
18 to the expiration and reversion of such paragraph pursuant to subdivi-  
19 sion d of section 74 of chapter 3 of the laws of 1995, as amended, when  
20 upon such date the provisions of section twenty-nine of this act shall  
21 take effect.

22 PART I

23 Section 1. Section 1323 of the retirement and social security law, as  
24 added by chapter 18 of the laws of 2012, is amended to read as follows:

25 S 1323. Additional member contributions. A. Upon election by the city  
26 of New York, the retirement system shall require additional member  
27 contributions to be paid by all eligible employees. The additional  
28 member contributions to be paid by eligible employees shall be of a  
29 level so that no additional contributions shall be paid by the city of  
30 New York to cover the cost of such additional benefits. Additional  
31 member contributions made pursuant to this section shall be in addition  
32 to member contributions paid pursuant to other provisions of this chap-  
33 ter. B. ANY MEMBER WHO BECAME A MEMBER ON OR AFTER JULY TWENTY-SEVENTH,  
34 NINETEEN HUNDRED SEVENTY-SIX, MAY ELECT TO MAKE ADDITIONAL CONTRIBUTIONS  
35 OVER THE THREE PERCENT REQUIREMENT.

36 S 2. Section 100 of the retirement and social security law is amended  
37 to read as follows:

38 S 100. Payment of retirement allowances. A. Retirement allowances  
39 shall be payable on the first day of each and every month beginning on  
40 the first day of the month following the effective date of retirement.  
41 Upon the death of a retired member, however, the retirement allowance  
42 due for that part of the month prior to his death shall be paid forth-  
43 with. B. RETIREMENT ALLOWANCES SHALL ONLY BE BASED UPON THE SALARY OF A  
44 MEMBER. MEMBERS WHO ARE ALLOWED TO WORK OVERTIME HOURS WILL NOT BE  
45 ELIGIBLE TO APPLY ANY OF THE OVERTIME HOURS WORKED TOWARDS THEIR RETIRE-  
46 MENT.

47 S 3. This act shall take effect immediately.

48 S 3. Severability clause. If any clause, sentence, paragraph, subdi-  
49 vision, section or part of this act shall be adjudged by any court of  
50 competent jurisdiction to be invalid, such judgment shall not affect,  
51 impair, or invalidate the remainder thereof, but shall be confined in  
52 its operation to the clause, sentence, paragraph, subdivision, section  
53 or part thereof directly involved in the controversy in which such judg-  
54 ment shall have been rendered. It is hereby declared to be the intent of

1 the legislature that this act would have been enacted even if such  
2 invalid provisions had not been included herein.  
3 S 4. This act shall take effect immediately provided, however, that  
4 the applicable effective dates of Parts A through I of this act shall be  
5 as specifically set forth in the last section of such Parts.