

4489

2013-2014 Regular Sessions

I N S E N A T E

April 3, 2013

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

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

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

1 Section 1. Legislative findings. The legislature finds and declares
2 that, each year, roughly 40,000 youths aged 16 and 17 are arrested in
3 New York and prosecuted as adults in its criminal courts, overwhelmingly
4 for non-felony offenses. As many studies over the past decade have
5 shown, however, the adult criminal justice system does not effectively
6 respond to teenage criminal behavior. It is costly and largely ill-suited
7 to the challenges such crime presents. Accordingly, this measure aims
8 to provide a distinctly new, more effective response to teenage criminal
9 behavior.
10 Modern behavioral neuroscience confirms that the brains of teenagers
11 are not yet matured; they lack impulse control and can neither make
12 fully-reasoned judgments nor weigh the risks and consequences of their
13 behavior. It is now understood that teenage offenders should be treated
14 differently from older criminals because their offenses are not as
15 "morally reprehensible as that of an adult." Moreover, as other states
16 nationwide have learned, and as the legislature now recognizes, teenagers
17 are better candidates for rehabilitation and more likely to benefit
18 from alternatives-to-incarceration programs and locally-based services.
19 Experience in other states has shown that recidivism among teenage
20 offenders drops markedly when the latter are treated with appropriate
21 intervention programs and services designed for teenagers rather than
22 with adult criminal sanctions. Indeed, where such programs and services
23 are utilized, all involved can benefit: the affected teenagers, many of

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

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whom can thereby be steered away from a life of crime, and the public, which, where these programs and services succeed, can be spared the consequences and costs of such a life upon the community.

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

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

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

1. The provisions of this chapter apply exclusively to:

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

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

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

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

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

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

2. Insofar as is practicable, the trial of a criminal action must be given preference over civil cases; and the trial of a criminal action

1 where the defendant has been committed to [the] custody [of the sheriff]
2 during the pendency of the criminal action must be given preference over
3 other criminal actions.

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

6 ARTICLE 155

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

9 SECTION 155.00 APPLICABILITY.

10 155.10 PROCEDURES UPON ARREST.

11 155.20 SPECIAL APPEARANCE TICKET.

12 S 155.00 APPLICABILITY.

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

16 S 155.10 PROCEDURES UPON ARREST.

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

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

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

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

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

49 2. AN ARRESTED PERSON SHALL NOT BE QUESTIONED PURSUANT TO THIS SECTION
50 UNLESS HE OR SHE AND A PERSON REQUIRED TO BE NOTIFIED PURSUANT TO THIS
51 SECTION, IF PRESENT, HAVE BEEN ADVISED OF THE ARRESTED PERSON'S RIGHT TO
52 REMAIN SILENT, THAT ANY STATEMENTS MADE BY THE ARRESTED PERSON COULD BE
53 USED IN A COURT OF LAW, THAT THE ARRESTED PERSON HAS THE RIGHT TO HAVE
54 AN ATTORNEY PRESENT AT SUCH QUESTIONING, AND THAT IF THE ARRESTED PERSON
55 CANNOT AFFORD AN ATTORNEY, ONE WILL BE PROVIDED FREE OF CHARGE. IN
56 DETERMINING WHETHER THE ARRESTED PERSON KNOWINGLY AND INTELLIGENTLY

1 WAIVED ANY OF THESE RIGHTS, A COURT MAY CONSIDER, AMONG OTHER RELEVANT
2 FACTORS, THE ARRESTED PERSON'S AGE, THE PRESENCE OR ABSENCE OF HIS OR
3 HER PARENT OR OTHER PERSON LEGALLY RESPONSIBLE FOR HIS OR HER CARE AND
4 WHETHER THERE HAS BEEN NOTIFICATION OF THE PERSON REQUIRED TO BE NOTI-
5 FIED PURSUANT TO THIS SECTION.

6 S 155.20 SPECIAL APPEARANCE TICKET.

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

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

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

27 4. FAILURE TO APPEAR AT THE PROBATION SERVICE. IF, AFTER RECEIVING A
28 SPECIAL APPEARANCE TICKET, A PERSON FAILS TO APPEAR AT THE PROBATION
29 SERVICE AT THE TIME SUCH SPECIAL APPEARANCE TICKET IS RETURNABLE, OR IF
30 THE COMPLAINANT WHO RECEIVED A COPY OF SUCH SPECIAL APPEARANCE TICKET
31 FAILS TO APPEAR AT SUCH TIME, THE PROBATION SERVICE MAY ATTEMPT TO
32 SECURE THE ATTENDANCE OF SUCH PERSON OR SUCH COMPLAINANT, AS APPROPRI-
33 ATE, THROUGH WRITTEN, TELEPHONIC OR ELECTRONIC NOTIFICATION. IF SUCH
34 NOTIFICATION IS UNSUCCESSFUL, OR IF NO EFFORTS AT NOTIFICATION ARE MADE,
35 THE PROBATION SERVICE, NOT LATER THAN SEVEN DAYS FOLLOWING THE TIME THE
36 SPECIAL APPEARANCE TICKET WAS RETURNABLE, MUST NOTIFY THE DISTRICT
37 ATTORNEY WHO MAY THEREUPON TAKE APPROPRIATE ACTION, WHICH MAY INCLUDE,
38 IN HIS OR HER DISCRETION, THE FILING OF AN ACCUSATORY INSTRUMENT WITH
39 THE YOUTH DIVISION OF THE SUPERIOR COURT. UPON SUCH FILING OF AN ACCUSA-
40 TORY INSTRUMENT, THE YOUTH DIVISION MAY ISSUE A SUMMONS OR A WARRANT OF
41 ARREST TO COMPEL THE ATTENDANCE OF THE PERSON WHO RECEIVED THE SPECIAL
42 APPEARANCE TICKET BEFORE THE COURT AND, WHERE IT DOES SO AND WHERE THE
43 PERSON FAILED TO APPEAR AT THE PROBATION SERVICE AT THE TIME SUCH
44 SPECIAL APPEARANCE TICKET WAS RETURNABLE, THE YOUTH DIVISION SHALL
45 REQUIRE THAT A REPORT BE MADE TO THE YOUTH DIVISION WITHIN THIRTY DAYS
46 ON THE EFFORTS MADE TO SECURE SUCH ATTENDANCE. UPON RECEIPT OF SUCH
47 REPORT, THE COURT SHALL NOTIFY THE PARENT OR OTHER PERSON LEGALLY
48 RESPONSIBLE FOR CARE OF THE PERSON CHARGED IN SUCH ACCUSATORY INSTRUMENT
49 OR, IF SUCH LEGALLY RESPONSIBLE PERSON IS NOT AVAILABLE, A PERSON WITH
50 WHOM THE PERSON CHARGED IN SUCH ACCUSATORY INSTRUMENT RESIDES, AND
51 REQUEST THAT SUCH PERSON OR OTHER LEGALLY RESPONSIBLE PERSON APPEAR
52 BEFORE THE COURT.

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

55 1-A. THE PROVISIONS OF PARAGRAPHS (B) THROUGH (D) OF SUBDIVISION ONE
56 OF THIS SECTION SHALL NOT APPLY WHERE THE ARRESTED PERSON OR DEFENDANT

1 WAS SIXTEEN OR SEVENTEEN YEARS OF AGE AT THE TIME OF THE ALLEGED
2 OFFENSE.

3 S 7. Section 160.20 of the criminal procedure law, as amended by chap-
4 ter 108 of the laws of 1973, is amended to read as follows:

5 S 160.20 Fingerprinting; forwarding of fingerprints.

6 1. Upon the taking of fingerprints of an arrested person or defendant
7 as prescribed in section 160.10, the appropriate police officer or agen-
8 cy must without unnecessary delay forward two copies of such finger-
9 prints to the division of criminal justice services.

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

22 (B) UPON RECEIPT OF SUCH FINGERPRINTS, THE DIVISION OF CRIMINAL
23 JUSTICE SERVICES SHALL CLASSIFY THEM AND SEARCH ITS RECORDS FOR INFORMA-
24 TION CONCERNING A PREVIOUS RECORD OF THE PERSON ARRESTED, INCLUDING ANY
25 FAMILY COURT ADJUDICATION OR PENDING MATTER INVOLVING SUCH PERSON
26 ARRESTED. THE DIVISION OF CRIMINAL JUSTICE SERVICES SHALL PROMPTLY TRAN-
27 SMIT TO SUCH FORWARDING OFFICER OR AGENCY A REPORT CONTAINING ANY INFOR-
28 MATION ON FILE WITH RESPECT TO SUCH PERSON'S PREVIOUS RECORD OR FAMILY
29 COURT ADJUDICATIONS AND PENDING MATTERS OR A REPORT STATING THAT THE
30 PERSON ARRESTED HAS NO PREVIOUS RECORD ACCORDING TO ITS FILES. NOTWITH-
31 STANDING THE FOREGOING, WHERE THE DIVISION OF CRIMINAL JUSTICE SERVICES
32 HAS NOT RECEIVED DISPOSITION INFORMATION WITHIN TWO YEARS OF AN ARREST,
33 IT SHALL, UNTIL SUCH INFORMATION OR UP-TO-DATE STATUS INFORMATION IS
34 RECEIVED, WITHHOLD THE RECORD OF THAT ARREST AND ANY RELATED ACTIVITY IN
35 DISSEMINATING CRIMINAL HISTORY INFORMATION.

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

38 ARTICLE 722

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

42 SECTION 722.00 ADJUSTMENT BY PROBATION SERVICE.

43 722.10 YOUTH DIVISION OF THE SUPERIOR COURT ESTABLISHED.

44 722.20 YOUTH DIVISION; PROCEDURES PRIOR TO A DETERMINATION OF
45 GUILT.

46 722.30 YOUTH DIVISION; SPECIAL PROCEDURES FOLLOWED IN CERTAIN
47 PROCEEDINGS AGAINST CERTAIN OFFENDERS; REMOVAL TO FAMI-
48 LY COURT.

49 722.40 YOUTH DIVISION; SPECIAL PROCEDURES FOLLOWING A DETERMI-
50 NATION OF GUILT FOR CERTAIN PERSONS WHO WERE SIXTEEN OR
51 SEVENTEEN YEARS OLD AT THE TIME OF OFFENSE.

52 722.50 YOUTH DIVISION; DISPOSITION OF RECORDS UPON TERMINATION
53 OF ACTIONS OR PROCEEDINGS.

54 722.60 YOUTH DIVISION; PRIVACY OF RECORDS.

55 S 722.00 ADJUSTMENT BY PROBATION SERVICE.

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

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

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

11 (C) AS ORDERED BY THE COURT.

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

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

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

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

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

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

55 (B) WHERE THE PROBATION SERVICE ADJUSTS THE OFFENSE OR OFFENSES FOR
56 WHICH A PERSON HAS BEEN ARRESTED PURSUANT TO SUBPARAGRAPH (I) OF PARA-

1 GRAPH (A) OF THIS SUBDIVISION, AND SUCH PERSON IS DETAINED AT THE TIME,
2 THE PROBATION SERVICE SHALL NOTIFY THE FACILITY IN WHICH SUCH PERSON IS
3 DETAINED TO RELEASE SUCH PERSON.

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

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

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

31 6. THE CHIEF ADMINISTRATOR OF THE COURTS SHALL PROMULGATE PROCEDURES
32 TO BE FOLLOWED BY A PROBATION SERVICE IN DISCHARGE OF ITS RESPONSIBIL-
33 ITIES PURSUANT TO THIS SECTION. SUCH RULES ALSO SHALL PRESCRIBE STAND-
34 ARDS TO BE FOLLOWED IN DETERMINING WHETHER A CRIMINAL OFFENSE OR
35 OFFENSES MAY BE ADJUSTED PURSUANT TO THIS SECTION.

36 S 722.10 YOUTH DIVISION OF THE SUPERIOR COURT ESTABLISHED.

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

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

52 2. PRELIMINARY AND TRIAL JURISDICTION, CONCURRENT WITH LOCAL CRIMINAL
53 COURTS, OF ALL OFFENSES INCLUDED IN AN ACCUSATORY INSTRUMENT THAT CHARG-
54 ES A PERSON WITH ONE OR MORE CRIMES AT LEAST ONE OF WHICH IS NOT A YOUTH
55 DIVISION OFFENSE, WHERE SUCH PERSON WAS AT LEAST SIXTEEN YEARS OLD AND

1 LESS THAN EIGHTEEN YEARS OLD AT THE TIME HE OR SHE IS ALLEGED TO HAVE
2 COMMITTED THE OFFENSES CHARGED; AND

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

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

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

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

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

33 4. (A) UPON ANY OCCASION WHEN THE YOUTH DIVISION (OR A LOCAL CRIMINAL
34 COURT AS PROVIDED HEREUNDER WHEN THE YOUTH DIVISION IS NOT IN SESSION)
35 IS REQUIRED TO ISSUE A SECURING ORDER WITH RESPECT TO A PRINCIPAL WHO
36 WAS SIXTEEN OR SEVENTEEN YEARS OLD AT THE TIME OF HIS OR HER ALLEGED
37 OFFENSE OR OFFENSES, AND SUCH OFFENSE OR OFFENSES ARE EXCLUSIVELY YOUTH
38 DIVISION OFFENSES, THE COURT MAY NOT COMMIT SUCH PRINCIPAL TO CUSTODY
39 UNLESS AVAILABLE LESS RESTRICTIVE ALTERNATIVES THERETO, INCLUDING CONDI-
40 TIONAL RELEASE, WOULD NOT BE APPROPRIATE.

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

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

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

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

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

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

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

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

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

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

(C) THE DISTRICT ATTORNEY CONSENTS THERETO.

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

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

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

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

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

3 (II) NOTWITHSTANDING THE PROVISIONS OF ARTICLE THREE OF THE FAMILY
4 COURT ACT, UPON SUCH REMOVAL, THE FAMILY COURT SHALL HAVE AND SHALL
5 EXERCISE JURISDICTION OVER THE DEFENDANT IN THE PROCEEDING REQUIRED TO
6 BE ORIGINATED IN SUCH COURT PURSUANT TO SUBDIVISION ONE OF SECTION
7 725.10 AS IF THE DEFENDANT WERE OVER SEVEN AND LESS THAN SIXTEEN YEARS
8 OF AGE.

9 4. IN MAKING ITS DETERMINATION PURSUANT TO SUBDIVISION ONE OR THREE OF
10 THIS SECTION, THE YOUTH DIVISION SHALL, TO THE EXTENT APPLICABLE, EXAM-
11 INE INDIVIDUALLY AND COLLECTIVELY, THE FOLLOWING:

12 (A) THE SERIOUSNESS AND CIRCUMSTANCES OF THE OFFENSE;

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

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

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

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

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

23 (G) THE IMPACT THAT PROCEEDING IN ACCORDANCE WITH THE PROVISIONS OF
24 SECTION 722.40 WOULD HAVE UPON THE CONFIDENCE OF THE PUBLIC IN THE CRIM-
25 INAL JUSTICE SYSTEM;

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

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

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

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

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

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

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

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

1 SUBDIVISION ONE OF SECTION 722.30) PLEADS GUILTY TO SUCH OFFENSE OR
2 OFFENSES OR IS OTHERWISE FOUND GUILTY THEREOF, THE COURT SHALL SCHEDULE
3 A DISPOSITIONAL HEARING PURSUANT TO THIS SECTION. A DEFENDANT WHO
4 PLEADS GUILTY TO OR IS OTHERWISE FOUND GUILTY OF A CRIME THAT IS NOT A
5 YOUTH DIVISION OFFENSE SHALL NOT BE DEEMED "A DEFENDANT WHO IS CHARGED
6 IN THE YOUTH DIVISION OF A SUPERIOR COURT WITH ONE OR MORE YOUTH DIVI-
7 SION OFFENSES" FOR PURPOSES OF THIS SUBDIVISION NOTWITHSTANDING THAT, IN
8 THE SAME ACTION OR PROCEEDING, HE OR SHE PLEADS GUILTY TO OR IS OTHER-
9 WISE FOUND GUILTY OF ONE OR MORE OTHER OFFENSES THAT ARE YOUTH DIVISION
10 OFFENSES.

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

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

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

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

26 (D) TO "AN ORDER PURSUANT TO SECTION 315.3" SHALL MEAN TO AN ADJOURN-
27 MENT IN CONTEMPLATION OF DISMISSAL; AND

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

30 NOTWITHSTANDING THE FOREGOING, WHERE THE YOUTH DIVISION ORDERS PLACEMENT
31 OF THE DEFENDANT, SUCH PLACEMENT SHALL BE IN THE CUSTODY OF THE LOCAL OR
32 STATE CORRECTIONAL FACILITY TO WHICH DEFENDANT WOULD HAVE BEEN COMMITTED
33 WERE HE OR SHE TO HAVE BEEN AGE EIGHTEEN OR OLDER AT THE TIME HE OR SHE
34 COMMITTED THE OFFENSE OR OFFENSES OF WHICH HE OR SHE WAS FOUND GUILTY
35 AND SENTENCED TO INCARCERATION THEREFOR.

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

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

43 1. WHERE, IN AN ACTION OR PROCEEDING PURSUANT TO THIS ARTICLE AGAINST
44 A DEFENDANT WHO WAS CHARGED IN THE YOUTH DIVISION OF A SUPERIOR COURT
45 EXCLUSIVELY WITH ONE OR MORE YOUTH DIVISION OFFENSES (OR WHO WAS ENTI-
46 TLED TO PROCEED PURSUANT TO SECTION 722.40 UPON GRANT OF A MOTION MADE
47 PURSUANT TO SUBDIVISION ONE OF SECTION 722.30), THE DEFENDANT PLEADS
48 GUILTY TO THE OFFENSE OR OFFENSES WITH WHICH HE OR SHE WAS CHARGED OR IS
49 OTHERWISE DETERMINED TO BE GUILTY THEREOF, THE PROVISIONS OF SECTIONS
50 375.2, 380.1, 381.2 AND 381.3 OF THE FAMILY COURT ACT SHALL APPLY TO
51 DISPOSITION OF THE RECORDS OF SUCH ACTION OR PROCEEDING. FOR PURPOSES OF
52 THIS SECTION, REFERENCES IN SUCH SECTIONS OF THE FAMILY COURT ACT:

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

55 (B) TO A "DELINQUENCY PROCEEDING" SHALL MEAN TO AN ACTION OR PROCEED-
56 ING IN A YOUTH DIVISION;

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

3 (D) TO A "FINDING OF DELINQUENCY PURSUANT TO SUBDIVISION ONE OF
4 SECTION 352.1" OR TO A "FINDING OF JUVENILE DELINQUENCY" SHALL MEAN TO A
5 PLEA OF GUILTY TO THE OFFENSE OR OFFENSES WITH WHICH A DEFENDANT IS
6 CHARGED OR A VERDICT OF GUILTY THERETO AND TO "PERSON ADJUDICATED A
7 JUVENILE DELINQUENT" SHALL MEAN TO A DEFENDANT WHO HAS MADE SUCH A PLEA
8 OR BEEN SUBJECT TO SUCH A VERDICT;

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

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

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

14 2. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION THREE OF SECTION
15 160.50, TERMINATION OF AN ACTION OR PROCEEDING IN THE YOUTH DIVISION
16 OTHER THAN BY A DEFENDANT'S PLEA OF GUILTY TO THE OFFENSE OR OFFENSES
17 WITH WHICH HE OR SHE WAS CHARGED OR BY A VERDICT OF GUILTY THERETO,
18 WHERE THE DEFENDANT WAS CHARGED WITH ONE OR MORE YOUTH DIVISION OFFENSES
19 (OR WHERE THE DEFENDANT WAS ENTITLED TO PROCEED PURSUANT TO SECTION
20 722.40 UPON GRANT OF A MOTION MADE PURSUANT TO SUBDIVISION ONE OF
21 SECTION 722.30), SHALL BE DEEMED A "TERMINATION OF A CRIMINAL ACTION OR
22 PROCEEDING AGAINST A PERSON IN FAVOR OF SUCH PERSON" FOR PURPOSES OF
23 SUCH SECTION 160.50.

24 3. WHERE FINGERPRINTS, PALMPRINTS OR PHOTOGRAPHS WERE TAKEN PURSUANT
25 TO SECTION 160.10 AND THE ACTION WAS SUBSEQUENTLY ADJUDICATED IN ACCORD-
26 ANCE WITH SECTION 722.40, THE CLERK OF THE YOUTH DIVISION SHALL FORWARD
27 OR CAUSE TO BE FORWARDED TO THE COMMISSIONER OF THE DIVISION OF CRIMINAL
28 JUSTICE SERVICES NOTIFICATION OF SUCH ADJUDICATION AND SUCH RELATED
29 INFORMATION AS MAY BE REQUIRED BY SUCH COMMISSIONER. IF A DEFENDANT HAS
30 PLEADED GUILTY OR OTHERWISE BEEN DETERMINED TO HAVE BEEN GUILTY OF
31 OFFENSES OTHER THAN A FELONY, ALL SUCH FINGERPRINTS, PALMPRINTS, PHOTO-
32 GRAPHS, AND COPIES THEREOF, AND ALL INFORMATION RELATING TO SUCH ALLEGA-
33 TIONS OBTAINED BY THE DIVISION OF CRIMINAL JUSTICE SERVICES PURSUANT TO
34 SECTION 160.10 SHALL BE DESTROYED FORTHWITH. IF A DEFENDANT HAS PLEADED
35 GUILTY OR OTHERWISE BEEN DETERMINED TO HAVE BEEN GUILTY OF A FELONY, ALL
36 FINGERPRINTS AND RELATED INFORMATION OBTAINED BY THE DIVISION OF CRIMI-
37 NAL JUSTICE SERVICES PURSUANT TO SUCH SECTION SHALL BECOME PART OF SUCH
38 DIVISION'S PERMANENT ADULT CRIMINAL RECORD FOR THAT PERSON; PROVIDED,
39 HOWEVER, THAT WHEN SUCH PERSON REACHES THE AGE OF TWENTY-ONE, OR HAS
40 BEEN DISCHARGED FROM ANY PLACEMENT IMPOSED UNDER THIS ARTICLE, WHICHEVER
41 OCCURS LATER, AND HAS NO CRIMINAL CONVICTIONS OR PENDING CRIMINAL
42 ACTIONS WHICH ULTIMATELY TERMINATE IN A CRIMINAL CONVICTION, ALL FINGER-
43 PRINTS, PALMPRINTS, PHOTOGRAPHS, AND RELATED INFORMATION AND COPIES
44 THEREOF OBTAINED PURSUANT TO SECTION 160.10 IN THE POSSESSION OF THE
45 DIVISION OF CRIMINAL JUSTICE SERVICES, ANY POLICE DEPARTMENT, LAW
46 ENFORCEMENT AGENCY OR ANY OTHER AGENCY SHALL BE DESTROYED FORTHWITH.
47 THE DIVISION OF CRIMINAL JUSTICE SERVICES SHALL NOTIFY THE AGENCY OR
48 AGENCIES WHICH FORWARDED FINGERPRINTS TO SUCH DIVISION PURSUANT TO
49 SECTION 160.10 OF THEIR OBLIGATION TO DESTROY THOSE RECORDS IN THEIR
50 POSSESSION.

51 S 722.60 YOUTH DIVISION; PRIVACY OF RECORDS.

52 THE RECORDS OF ANY PROCEEDING IN THE YOUTH DIVISION OF A SUPERIOR
53 COURT AGAINST A DEFENDANT WHO IS CHARGED IN SUCH COURT WITH ONE OR MORE
54 YOUTH DIVISION OFFENSES, UNLESS PERMITTED TO PROCEED IN ACCORDANCE WITH
55 SECTION 722.40 UPON A DETERMINATION MADE PURSUANT TO SECTION 722.30,
56 SHALL NOT BE OPEN TO INDISCRIMINATE PUBLIC INSPECTION. HOWEVER, THE

1 YOUTH DIVISION IN ITS DISCRETION IN ANY SUCH CASE MAY PERMIT THE
2 INSPECTION OF ANY PAPERS OR RECORDS. ANY DULY AUTHORIZED AGENCY, ASSOCI-
3 ATION, SOCIETY OR INSTITUTION TO WHICH A DEFENDANT IN SUCH A CASE IS
4 COMMITTED MAY CAUSE AN INSPECTION OF THE RECORD OF INVESTIGATION TO BE
5 HAD AND MAY IN THE DISCRETION OF THE COURT OBTAIN A COPY OF THE WHOLE OR
6 PART OF SUCH RECORD.

7 S 9. Section 725.00 of the criminal procedure law, as amended by chap-
8 ter 411 of the laws of 1979, is amended to read as follows:

9 S 725.00 Applicability.

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

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

17 1. The office shall exercise general supervision over the adminis-
18 tration of probation services throughout the state, including probation
19 in family courts AND IN THE YOUTH DIVISIONS OF SUPERIOR COURT and shall
20 collect statistical and other information and make recommendations
21 regarding the administration of probation services in the courts. The
22 office shall endeavor to secure the effective application of the
23 probation system and the enforcement of the probation laws and the laws
24 relating to family courts AND THE YOUTH DIVISIONS OF SUPERIOR COURT
25 throughout the state. After consultation with the state probation
26 commission, the office shall recommend to the commissioner general rules
27 which shall regulate methods and procedure in the administration of
28 probation services, including investigation of defendants prior to
29 sentence, and children prior to adjudication, supervision, case work,
30 record keeping, and accounting, program planning and research so as to
31 secure the most effective application of the probation system and the
32 most efficient enforcement of the probation laws throughout the state.
33 Such rules shall provide that the probation investigations ordered by
34 the court in designated felony act cases under subdivision one of
35 section 351.1 of the family court act shall have priority over other
36 cases arising under articles three and seven of such act. When duly
37 adopted by the commissioner, such rules shall be binding upon all
38 probation officers and when duly adopted shall have the force and effect
39 of law, but shall not supersede rules that may be adopted pursuant to
40 the family court act. The office shall keep informed as to the work of
41 all probation officers and shall from time to time inquire into and
42 report upon their conduct and efficiency. The office may investigate the
43 work of any probation bureau or probation officer and shall have access
44 to all records and probation offices. The office may issue subpoenas to
45 compel the attendance of witnesses or the production of books and
46 papers. The office may administer oaths and examine persons under oath.
47 The office may recommend to the appropriate authorities the removal of
48 any probation officer. The office may from time to time publish reports
49 regarding probation including probation in family courts AND IN THE
50 YOUTH DIVISIONS OF SUPERIOR COURT, and the operation of the probation
51 system including probation in family courts AND IN THE YOUTH DIVISIONS
52 OF SUPERIOR COURT, and any other information regarding probation as the
53 office may determine provided expenditures for such purpose are within
54 amounts appropriated therefor.

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

4 3. "Detention" means the temporary care and maintenance of A PRINCIPAL
5 DESCRIBED IN SUBDIVISION FOUR OF SECTION 722.20 OF THE CRIMINAL PROCE-
6 DURE LAW WHO IS SUBJECT TO A SECURING ORDER PURSUANT TO SUCH LAW OR OF
7 youth held away from their homes pursuant to article three or seven of
8 the family court act, or held pending a hearing for alleged violation of
9 the conditions of release from an office of children and family services
10 facility or authorized agency, or held pending a hearing for alleged
11 violation of the condition of parole as a juvenile offender, or held
12 pending return to a jurisdiction other than the one in which the youth
13 is held, or held pursuant to a securing order of a criminal court if the
14 youth named therein as principal is charged as a juvenile offender or
15 held pending a hearing on an extension of placement or held pending
16 transfer to a facility upon commitment or placement by a court. Only
17 alleged or convicted juvenile offenders who have not attained their
18 eighteenth birthday shall be subject to detention in a detention facili-
19 ty. ONLY PRINCIPALS DESCRIBED IN SUBDIVISION FOUR OF SECTION 722.20 OF
20 THE CRIMINAL PROCEDURE LAW WHO HAVE NOT ATTAINED THEIR TWENTIETH BIRTH-
21 DAY SHALL BE SUBJECT TO DETENTION IN A DETENTION FACILITY.

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

24 (S) ADOPT RULES ESTABLISHING A TRAINING PROGRAM IN SPECIALIZED AREAS
25 INVOLVING YOUTH INCLUDING, BUT NOT LIMITED TO, JUVENILE JUSTICE, ADOLES-
26 CENT DEVELOPMENT AND EFFECTIVE TREATMENT METHODS FOR REDUCING CRIME
27 COMMITTED BY ADOLESCENTS; AND PROVIDING THAT, AS REQUIRED BY SECTION
28 722.10 OF THE CRIMINAL PROCEDURE LAW, EACH JUDGE OR JUSTICE WHO PRESIDES
29 IN THE YOUTH DIVISION OF A SUPERIOR COURT RECEIVE SUCH TRAINING.

30 S 13. The judiciary law is amended by adding a new article 21-C to
31 read as follows:

32 ARTICLE 21-C

33 JUVENILE PROBATION ASSISTANCE PROGRAM

34 SECTION 849-L. ESTABLISHMENT AND ADMINISTRATION OF PROGRAM.

35 849-M. APPLICATION PROCEDURES.

36 849-N. PAYMENT PROCEDURES; AUDITS.

37 849-O. ANNUAL REPORT.

38 S 849-L. ESTABLISHMENT AND ADMINISTRATION OF PROGRAM. 1. THERE IS
39 HEREBY ESTABLISHED A JUVENILE PROBATION ASSISTANCE PROGRAM, HEREINAFTER
40 REFERRED TO IN THIS ARTICLE AS THE "PROGRAM", TO BE ADMINISTERED AND
41 SUPERVISED UNDER THE DIRECTION OF THE CHIEF ADMINISTRATOR OF THE COURTS,
42 TO PROVIDE FUNDS PURSUANT TO THIS ARTICLE TO SUPPORT PROBATION SERVICES
43 PROVIDED BY POLITICAL SUBDIVISIONS TO YOUTHS UNDER THE AGE OF EIGHTEEN.
44 THE CHIEF ADMINISTRATOR SHALL PROMULGATE RULES AND REGULATIONS TO EFFEC-
45 TUATE THE PURPOSES OF THIS SECTION, INCLUDING PROVISIONS FOR PERIODIC
46 MONITORING AND EVALUATION OF THE PROGRAM. EACH POLITICAL SUBDIVISION
47 RECEIVING FUNDS PURSUANT TO THIS ARTICLE SHALL COMPLY WITH ALL SUCH
48 RULES AND REGULATIONS AND WITH ALL PROVISIONS OF THIS ARTICLE.

49 2. FUNDS TO BE PROVIDED PURSUANT TO THIS SECTION MAY BE USED FOR ANY
50 PURPOSE RELATING TO THE DELIVERY OF PROBATION SERVICES IN THE COURTS OF
51 A POLITICAL SUBDIVISION FOR YOUTHS UNDER THE AGE OF EIGHTEEN, INCLUDING
52 THE OPERATIONAL COSTS OF LOCAL PROBATION DEPARTMENTS AND ENHANCED LOCAL
53 VOCATIONAL, EDUCATIONAL AND THERAPEUTIC SERVICES IN AID OF THE
54 PROBATION. FUNDS MAY NOT BE USED AS A MEANS OF REDUCING FUNDING ALREADY
55 PROVIDED BY A POLITICAL SUBDIVISION FOR THESE PURPOSES.

1 S 849-M. APPLICATION PROCEDURES. 1. THE CITY OF NEW YORK AND EACH
2 COUNTY OUTSIDE SUCH CITY MAY MAKE AN INDIVIDUAL APPLICATION FOR FUNDS
3 AVAILABLE PURSUANT TO THIS ARTICLE, OR TWO OR MORE SUCH POLITICAL SUBDI-
4 VISIONS MAY MAKE A JOINT APPLICATION FOR SUCH FUNDS. ALL APPLICATIONS
5 SHALL BE SUBMITTED TO THE CHIEF ADMINISTRATOR FOR HIS OR HER APPROVAL.

6 2. THE CHIEF ADMINISTRATOR SHALL REQUIRE THAT APPLICATIONS SUBMITTED
7 FOR FUNDING PROVIDE SUCH INFORMATION AS HE OR SHE DEEMS NECESSARY,
8 INCLUDING AT LEAST THE AMOUNT OF FUNDING SOUGHT AND A DETAILED
9 DESCRIPTION OF THE PURPOSE OR PURPOSES TO WHICH THE FUNDING WILL BE
10 APPLIED.

11 3. IN DETERMINING WHETHER TO APPROVE AN APPLICATION, THE CHIEF ADMIN-
12 ISTRATOR SHALL CONSIDER:

13 (A) WHETHER THE APPLICANT HAS COMPLIED WITH ALL RULES AND REGULATIONS
14 GOVERNING THE PROGRAM AND ALL PERTINENT PROVISIONS OF THIS ARTICLE;

15 (B) THE LIKELY IMPACT OF APPROVING SUCH APPLICATION UPON THE DELIVERY
16 OF PROBATION SERVICES IN THE COURT OR COURTS OF THE POLITICAL SUBDIVI-
17 SION OR SUBDIVISIONS MAKING SUCH APPLICATION, UPON THE COMMUNITIES
18 SERVED, AND UPON THE JUDICIARY GENERALLY;

19 (C) THE AVAILABILITY OF OTHER SOURCES OF FUNDING TO PAY SOME OR ALL OF
20 THE COSTS FOR WHICH THE APPLICATION SEEKS FUNDING UNDER THE PROGRAM;

21 (D) THE NUMBER AND CONTENT OF ALL OTHER APPLICATIONS FOR FUNDING THEN
22 AVAILABLE UNDER THE PROGRAM;

23 (E) THE EXTENT OF FUNDING ALREADY RECEIVED UNDER THE PROGRAM BY THE
24 APPLICANT (OR JOINT APPLICANTS) PURSUANT TO PAST APPLICATIONS; AND

25 (F) THE MAGNITUDE OF THE FUNDING APPROPRIATED FOR THE PURPOSES OF THIS
26 ARTICLE.

27 S 849-N. PAYMENT PROCEDURES; AUDITS. 1. UPON APPROVAL OF AN APPLICA-
28 TION, THE CHIEF ADMINISTRATOR, WITHIN AVAILABLE APPROPRIATIONS, MAY
29 AUTHORIZE DISBURSEMENT OF FUNDS IN ANY AMOUNT UP TO THE AMOUNT SOUGHT BY
30 THE APPLICATION. SUCH DISBURSEMENT MAY BE BY ADVANCE PAYMENT TO THE
31 APPLICANT, OR APPLICANTS, AS APPROPRIATE, BEFORE IT INCURS THE COST FOR
32 WHICH ITS APPLICATION SOUGHT FUNDING, BY REIMBURSEMENT TO THE APPLICANT
33 AFTER IT INCURS AND PAYS SUCH COSTS IN THE FIRST INSTANCE, OR BY SOME
34 COMBINATION THEREOF, AS THE CHIEF ADMINISTRATOR DETERMINES IS APPROPRI-
35 ATE UNDER THE CIRCUMSTANCES.

36 2. THE STATE COMPTROLLER, THE CHIEF ADMINISTRATOR AND THEIR AUTHORIZED
37 REPRESENTATIVES SHALL HAVE THE POWER TO INSPECT, EXAMINE AND AUDIT THE
38 FISCAL AFFAIRS OF THE APPLICANT, OR APPLICANTS, TO AN APPROVED APPLICA-
39 TION GRANTED PURSUANT TO THIS SECTION TO THE EXTENT NECESSARY TO DETER-
40 MINE WHETHER FUNDING RECEIVED UNDER THE PROGRAM HAS BEEN USED IN ACCORD-
41 ANCE WITH THE PURPOSE OR PURPOSES FOR WHICH IT WAS SOUGHT IN THE
42 APPLICATION, AND WHETHER THERE HAS BEEN COMPLIANCE WITH ALL RULES AND
43 REGULATIONS GOVERNING THE PROGRAM AND THE PROVISIONS OF THIS ARTICLE.

44 3. IN DISCHARGE OF HIS OR HER DUTIES UNDER THIS ARTICLE, THE CHIEF
45 ADMINISTRATOR SHALL CONSULT, AS APPROPRIATE AND NECESSARY, WITH ANY
46 AGENCY OF THE STATE, INCLUDING BUT NOT LIMITED TO THE OFFICE OF ALCOHOL-
47 ISM AND SUBSTANCE ABUSE SERVICES, THE OFFICE OF CHILDREN AND FAMILY
48 SERVICES, THE OFFICE OF MENTAL HEALTH AND THE EDUCATION DEPARTMENT.

49 S 849-O. ANNUAL REPORT. THE CHIEF ADMINISTRATOR SHALL REPORT ANNUALLY
50 TO THE GOVERNOR AND THE LEGISLATURE REGARDING THE OPERATION AND SUCCESS
51 OF THE PROGRAM ESTABLISHED BY THIS ARTICLE.

52 S 14. Subdivision 1 of section 30.00 of the penal law, as amended by
53 chapter 481 of the laws of 1978, is amended to read as follows:

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

1 S 15. Section 30.00 of the penal law is amended by adding two new
2 subdivisions 2-a and 4 to read as follows:

3 2-A. A PERSON SIXTEEN OR SEVENTEEN YEARS OF AGE IS CRIMINALLY RESPON-
4 SIBLE FOR ACTS CONSTITUTING A VIOLENT FELONY OFFENSE AS PRESCRIBED IN
5 SUBDIVISION ONE OF SECTION 70.02 OF THIS CHAPTER OR AN OFFENSE LISTED IN
6 PARAGRAPH TWO OF SUBDIVISION EIGHTEEN OF SECTION 10.00 OF THIS CHAPTER.

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

14 S 16. (a) On December first immediately following the effective date
15 of this act, and on December first of each year thereafter, the chief
16 administrator of the courts, following consultation with the chair of
17 the senate finance committee, the chair of the assembly ways and means
18 committee and the director of the division of the budget, shall certify
19 to the state comptroller, for the city of New York and each county
20 outside such city: (1) the projected reasonable and appropriate increase
21 in local probation cost for such political subdivision on account of
22 this act in the state fiscal year commencing the preceding April first,
23 and (2) beginning December first in the calendar year following the
24 effective date of this act, the actual reasonable and appropriate
25 increase in local probation cost for such political subdivision on
26 account of this act during the state fiscal year ending the preceding
27 March thirty-first.

28 (b) On April thirtieth in each year beginning April thirtieth imme-
29 diately following the effective date of this act, the chief administra-
30 tor, from appropriations available to the judiciary in such fiscal year,
31 shall pay to the city of New York and each county outside such city the
32 amount certified the preceding December first for such political subdivi-
33 sion by the chief administrator pursuant to paragraph one of subdivi-
34 sion (a) of this section; provided, however, each April thirtieth,
35 beginning April thirtieth of the second calendar year next following the
36 effective date of this act, the amount payable to a political subdivi-
37 sion pursuant to this subdivision shall be increased by the difference
38 between (i) the amount certified on the preceding December first for
39 such political subdivision pursuant to paragraph two of subdivision (a)
40 of this section and (ii) the amount certified on December first of the
41 year prior thereto for such political subdivision pursuant to paragraph
42 one of subdivision (a) of this section, where (i) is greater than (ii),
43 or decreased by the difference between (i) and (ii), where (i) is less
44 than (ii).

45 S 17. This act shall take effect on the first day of November in the
46 second year following the date on which it shall have become a law and
47 shall apply to all arrests made and all actions and proceedings
48 commenced on or after such effective date; provided, however, at any
49 time on or after the date on which this act shall have become a law, the
50 commissioner of the division of criminal justice services, upon the
51 recommendation of the office of probation and correctional alternatives,
52 may promulgate such rules and regulations as may be necessary to enable
53 implementation of this act on its effective date and such rules and
54 regulations shall take effect on such date as the commissioner of the
55 division of criminal justice services shall prescribe.