

5642--A

2015-2016 Regular Sessions

I N S E N A T E

May 21, 2015

Introduced by Sens. MONTGOMERY, HASSELL-THOMPSON, BRESLIN, COMRIE, DILAN, ESPAILLAT, HAMILTON, KRUEGER, PARKER, PERALTA, PERKINS, RIVERA, SANDERS, SERRANO, SQUADRON -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- recommitted to the Committee on Judiciary in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the family court act, in relation to family court proceedings, jurisdiction of the court, the definition of juvenile delinquent, the definition of a designated felony act, the procedures regarding the adjustment of cases from criminal courts to family court, the age at which children may be tried as an adult for various felonies, and the manner in which courts handle juvenile delinquent cases; to amend the social services law, in relation to state reimbursement for expenditures made by social services districts for various services; to amend the social services law, in relation to the definitions of juvenile delinquent and persons in need of supervision; to amend the penal law, in relation to the definition of infancy and the authorized dispositions, sentences, and periods of post-release supervision for juvenile offenders; to amend the criminal procedure law, in relation to the definition of juvenile offender; to amend the criminal procedure law, in relation to the arrest of a juvenile offender without a warrant; in relation to conditional sealing of certain convictions for offenses committed by a defendant twenty years of age or younger; in relation to removal of certain proceedings to family court; in relation to joinder of offenses and consolidation of indictments; in relation to appearances and hearings for and placements of certain juvenile offenders; in relation to raising the age for juvenile offender status; in relation to creating a youth part for certain proceedings involving juvenile offenders; to amend the correction law, in relation to requiring that no county jail be used for the confinement of persons under the age of eighteen; to amend the education law, in relation to certain contracts with the office of children and family services; to amend the education law, in relation to the possession

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

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of a gun on school grounds by a student; to amend the executive law, in relation to persons in need of supervision or youthful offenders; and to amend the vehicle and traffic law, in relation to convictions; and in relation to suspension, revocation and reissuance of licenses and registrations; and to repeal certain provisions of the correction law relating to the housing of prisoners and other persons in custody

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

1 Section 1. Paragraph (vi) of subdivision (a) of section 115 of the
2 family court act, as amended by chapter 222 of the laws of 1994, is
3 amended to read as follows:

4 (vi) proceedings concerning juvenile delinquency as set forth in arti-
5 cle three OF THIS ACT THAT ARE COMMENCED IN FAMILY COURT.

6 S 2. Subdivision (e) of section 115 of the family court act, as added
7 by chapter 222 of the laws of 1994, is amended to read as follows:

8 (e) The family court has concurrent jurisdiction with the criminal
9 court over all family offenses as defined in article eight of this act
10 AND HAS CONCURRENT JURISDICTION WITH THE YOUTH PART OF A SUPERIOR COURT
11 OVER ANY JUVENILE DELINQUENCY PROCEEDING RESULTING FROM THE REMOVAL OF
12 THE CASE TO THE FAMILY COURT PURSUANT TO ARTICLE SEVEN HUNDRED
13 TWENTY-FIVE OF THE CRIMINAL PROCEDURE LAW.

14 S 3. Subdivision (b) of section 117 of the family court act, as
15 amended by chapter 7 of the laws of 2007, is amended to read as follows:

16 (b) For every juvenile delinquency proceeding under article three OF
17 THIS ACT involving an allegation of an act committed by a person which,
18 if done by an adult, would [be a crime (i) defined in sections 125.27
19 (murder in the first degree); 125.25 (murder in the second degree);
20 135.25 (kidnapping in the first degree); or 150.20 (arson in the first
21 degree) of the penal law committed by a person thirteen, fourteen or
22 fifteen years of age; or such conduct committed as a sexually motivated
23 felony, where authorized pursuant to section 130.91 of the penal law;
24 (ii) defined in sections 120.10 (assault in the first degree); 125.20
25 (manslaughter in the first degree); 130.35 (rape in the first degree);
26 130.50 (criminal sexual act in the first degree); 135.20 (kidnapping in
27 the second degree), but only where the abduction involved the use or
28 threat of use of deadly physical force; 150.15 (arson in the second
29 degree); or 160.15 (robbery in the first degree) of the penal law
30 committed by a person thirteen, fourteen or fifteen years of age; or
31 such conduct committed as a sexually motivated felony, where authorized
32 pursuant to section 130.91 of the penal law; (iii) defined in the penal
33 law as an attempt to commit murder in the first or second degree or
34 kidnapping in the first degree committed by a person thirteen, fourteen
35 or fifteen years of age; or such conduct committed as a sexually moti-
36 vated felony, where authorized pursuant to section 130.91 of the penal
37 law; (iv) defined in section 140.30 (burglary in the first degree);
38 subdivision one of section 140.25 (burglary in the second degree);
39 subdivision two of section 160.10 (robbery in the second degree) of the
40 penal law; or section 265.03 of the penal law, where such machine gun or
41 such firearm is possessed on school grounds, as that phrase is defined
42 in subdivision fourteen of section 220.00 of the penal law committed by
43 a person fourteen or fifteen years of age; or such conduct committed as
44 a sexually motivated felony, where authorized pursuant to section 130.91
45 of the penal law; (v) defined in section 120.05 (assault in the second

1 degree) or 160.10 (robbery in the second degree) of the penal law
2 committed by a person fourteen or fifteen years of age but only where
3 there has been a prior finding by a court that such person has previous-
4 ly committed an act which, if committed by an adult, would be the crime
5 of assault in the second degree, robbery in the second degree or any
6 designated felony act specified in clause (i), (ii) or (iii) of this
7 subdivision regardless of the age of such person at the time of the
8 commission of the prior act; or (vi) other than a misdemeanor, committed
9 by a person at least seven but less than sixteen years of age, but only
10 where there has been two prior findings by the court that such person
11 has committed a prior act which, if committed by an adult would be a
12 felony] CONSTITUTE A DESIGNATED FELONY ACT AS DEFINED IN SUBDIVISION
13 EIGHT OF SECTION 301.2 OF SUCH ARTICLE:

14 (i) There is hereby established in the family court in the city of New
15 York at least one "designated felony act part." Such part or parts shall
16 be held separate from all other proceedings of the court, and shall have
17 jurisdiction over all proceedings involving such an allegation THAT ARE
18 NOT REFERRED TO THE YOUTH PART OF A SUPERIOR COURT. All such proceedings
19 shall be originated in or be transferred to this part from other parts
20 as they are made known to the court.

21 (ii) Outside the city of New York, all proceedings involving such an
22 allegation shall have a hearing preference over every other proceeding
23 in the court, except proceedings under article ten OF THIS ACT.

24 S 4. Subdivision 1 of section 301.2 of the family court act, as added
25 by chapter 920 of the laws of 1982, is amended to read as follows:

26 1. "Juvenile delinquent" means a person [over seven and less than
27 sixteen years of age, who, having committed an act that would constitute
28 a crime if committed by an adult, (a) is not criminally responsible for
29 such conduct by reason of infancy, or (b) is the defendant in an action
30 ordered removed from a criminal court to the family court pursuant to
31 article seven hundred twenty-five of the criminal procedure law]:

32 (A) WHO IS:

33 (I) TEN OR ELEVEN YEARS OF AGE WHO COMMITTED AN ACT THAT WOULD CONSTI-
34 TUTE A CRIME AS DEFINED IN SECTION 125.25 (MURDER IN THE SECOND DEGREE)
35 OF THE PENAL LAW IF COMMITTED BY AN ADULT; OR

36 (II) AT LEAST TWELVE YEARS OF AGE AND LESS THAN EIGHTEEN YEARS OF AGE
37 WHO COMMITTED AN ACT THAT WOULD CONSTITUTE A CRIME IF COMMITTED BY AN
38 ADULT; OR

39 (III) SIXTEEN OR SEVENTEEN YEARS OF AGE WHO COMMITTED A VIOLATION OF
40 PARAGRAPH (A) OF SUBDIVISION TWO OF SECTION SIXTY-FIVE-B OF THE ALCOHOL-
41 IC BEVERAGE CONTROL LAW PROVIDED, HOWEVER, THAT SUCH PERSON SHALL ONLY
42 BE DEEMED TO BE A JUVENILE DELINQUENT FOR THE PURPOSES OF IMPOSING
43 LICENSE SANCTIONS IN ACCORDANCE WITH SUBDIVISION FOUR OF SECTION 352.2
44 OF THIS ARTICLE; AND

45 (B) WHO IS EITHER:

46 (I) NOT CRIMINALLY RESPONSIBLE FOR SUCH CONDUCT BY REASON OF INFANCY;
47 OR

48 (II) THE DEFENDANT IN AN ACTION BASED ON SUCH ACT THAT HAS BEEN
49 ORDERED REMOVED TO THE FAMILY COURT PURSUANT TO ARTICLE SEVEN HUNDRED
50 TWENTY-FIVE OF THE CRIMINAL PROCEDURE LAW.

51 S 5. Subdivisions 8 and 9 of section 301.2 of the family court act,
52 subdivision 8 as amended by chapter 7 of the laws of 2007 and subdivi-
53 sion 9 as added by chapter 920 of the laws of 1982, are amended to read
54 as follows:

55 8. "Designated felony act" means an act which, if done by an adult,
56 would be a crime: (i) defined in sections [125.27 (murder in the first

1 degree);] 125.25 (murder in the second degree); 135.25 (kidnapping in
2 the first degree); or 150.20 (arson in the first degree) of the penal
3 law committed by a person thirteen, fourteen [or], fifteen, SIXTEEN, OR
4 SEVENTEEN years of age; or such conduct committed as a sexually moti-
5 vated felony, where authorized pursuant to section 130.91 of the penal
6 law; (ii) defined in sections 120.10 (assault in the first degree);
7 125.20 (manslaughter in the first degree); 130.35 (rape in the first
8 degree); 130.50 (criminal sexual act in the first degree); 130.70
9 (aggravated sexual abuse in the first degree); 135.20 (kidnapping in the
10 second degree) but only where the abduction involved the use or threat
11 of use of deadly physical force; 150.15 (arson in the second degree) or
12 160.15 (robbery in the first degree) of the penal law committed by a
13 person thirteen, fourteen [or], fifteen, SIXTEEN, OR SEVENTEEN years of
14 age; or such conduct committed as a sexually motivated felony, where
15 authorized pursuant to section 130.91 of the penal law; (iii) defined in
16 the penal law as an attempt to commit murder in the first or second
17 degree or kidnapping in the first degree committed by a person thirteen,
18 fourteen [or], fifteen, SIXTEEN, OR SEVENTEEN years of age; or such
19 conduct committed as a sexually motivated felony, where authorized
20 pursuant to section 130.91 of the penal law; (iv) defined in section
21 140.30 (burglary in the first degree); subdivision one of section 140.25
22 (burglary in the second degree); subdivision two of section 160.10
23 (robbery in the second degree) of the penal law; or section 265.03 of
24 the penal law, where such machine gun or such firearm is possessed on
25 school grounds, as that phrase is defined in subdivision fourteen of
26 section 220.00 of the penal law committed by a person fourteen or
27 fifteen years of age; or such conduct committed as a sexually motivated
28 felony, where authorized pursuant to section 130.91 of the penal law;
29 (v) defined in section 120.05 (assault in the second degree) or 160.10
30 (robbery in the second degree) of the penal law committed by a person
31 fourteen [or], fifteen, SIXTEEN OR SEVENTEEN years of age but only where
32 there has been a prior finding by a court that such person has previous-
33 ly committed an act which, if committed by an adult, would be the crime
34 of assault in the second degree, robbery in the second degree or any
35 designated felony act specified in paragraph (i), (ii), or (iii) of this
36 subdivision regardless of the age of such person at the time of the
37 commission of the prior act; [or] (vi) other than a misdemeanor commit-
38 ted by a person at least [seven] TWELVE but less than [sixteen] EIGHTEEN
39 years of age, but only where there has been two prior findings by the
40 court that such person has committed a prior felony; OR (VII) DEFINED IN
41 SECTION 490.25 (CRIME OF TERRORISM); 490.45 (CRIMINAL POSSESSION OF A
42 CHEMICAL OR BIOLOGICAL WEAPON IN THE FIRST DEGREE); 490.55 (CRIMINAL
43 POSSESSION OF A CHEMICAL OR BIOLOGICAL WEAPON IN THE SECOND DEGREE); OR
44 130.95 (PREDATORY SEXUAL ASSAULT) OF THE PENAL LAW COMMITTED BY A PERSON
45 SIXTEEN OR SEVENTEEN YEARS OLD.

46 9. "Designated class A felony act" means a designated felony act
47 [defined in paragraph (i) of subdivision eight] THAT WOULD CONSTITUTE A
48 CLASS A FELONY IF COMMITTED BY AN ADULT.

49 S 6. Subdivision 1 of section 302.1 of the family court act, as added
50 by chapter 920 of the laws of 1982, is amended to read as follows:

51 1. The family court has exclusive original jurisdiction over any
52 proceeding to determine whether a person is a juvenile delinquent
53 COMMENCED IN FAMILY COURT AND CONCURRENT JURISDICTION WITH THE YOUTH
54 PART OF A SUPERIOR COURT OVER ANY SUCH PROCEEDING REMOVED TO THE FAMILY
55 COURT PURSUANT TO ARTICLE SEVEN HUNDRED TWENTY-FIVE OF THE CRIMINAL
56 PROCEDURE LAW.

1 S 6-a. Section 302.1 of the family court act is amended by adding a
2 new subdivision 3 to read as follows:

3 3. WHENEVER A CRIME AND A TRAFFIC INFRACTION ARISE OUT OF THE SAME
4 TRANSACTION OR OCCURRENCE, A CHARGE ALLEGING BOTH OFFENSES MAY BE MADE
5 RETURNABLE BEFORE THE COURT HAVING JURISDICTION OVER THE CRIME. NOTHING
6 HEREIN PROVIDED SHALL BE CONSTRUED TO PREVENT A COURT, HAVING JURISDIC-
7 TION OVER A CRIMINAL CHARGE RELATING TO TRAFFIC OR A TRAFFIC INFRACTION,
8 FROM LAWFULLY ENTERING A JUDGMENT OF CONVICTION, WHETHER OR NOT BASED ON
9 A PLEA OF GUILTY, FOR AN OFFENSE CLASSIFIED AS A TRAFFIC INFRACTION.

10 S 7. Section 304.1 of the family court act, as added by chapter 920 of
11 the laws of 1982, subdivision 2 as amended by chapter 419 of the laws of
12 1987, is amended to read as follows:

13 S 304.1. Detention. 1. A facility certified by the state [division for
14 youth] OFFICE OF CHILDREN AND FAMILY SERVICES as a juvenile DETENTION
15 facility must be operated in conformity with the regulations of the
16 state [division for youth and shall be subject to the visitation and
17 inspection of the state board of social welfare] OFFICE OF CHILDREN AND
18 FAMILY SERVICES.

19 2. No child to whom the provisions of this article may apply shall be
20 detained in any prison, jail, lockup, or other place used for adults
21 convicted of crime or under arrest and charged with crime without the
22 approval of the state [division for youth] OFFICE OF CHILDREN AND FAMILY
23 SERVICES in the case of each child and the statement of its reasons
24 therefor. The state [division for youth] OFFICE OF CHILDREN AND FAMILY
25 SERVICES shall promulgate and publish the rules which it shall apply in
26 determining whether approval should be granted pursuant to this subdivi-
27 sion.

28 3. [The detention of a child under ten years of age in a secure
29 detention facility shall not be directed under any of the provisions of
30 this article.

31 4.] A detention facility which receives a child under subdivision four
32 of section 305.2 shall immediately notify the child's parent or other
33 person legally responsible for his OR HER care or, if such legally
34 responsible person is unavailable the person with whom the child
35 resides, that he OR SHE has been placed in detention.

36 S 8. Subdivision 1 of section 304.2 of the family court act, as added
37 by chapter 683 of the laws of 1984, is amended to read as follows:

38 (1) Upon application by the presentment agency, OR UPON APPLICATION BY
39 THE PROBATION SERVICE AS PART OF THE ADJUSTMENT OF A CASE, the court may
40 issue a temporary order of protection against a respondent for good
41 cause shown, ex parte or upon notice, at any time after a juvenile is
42 taken into custody, pursuant to section 305.1 or 305.2 or upon the issu-
43 ance of an appearance ticket pursuant to section 307.1 or upon the
44 filing of a petition pursuant to section 310.1.

45 S 9. Subdivision 1 of section 305.1 of the family court act, as added
46 by chapter 920 of the laws of 1982, is amended to read as follows:

47 1. A private person may take a child [under the age of sixteen] WHO
48 MAY BE SUBJECT TO THE PROVISIONS OF THIS ARTICLE FOR COMMITTING AN ACT
49 THAT WOULD BE A CRIME IF COMMITTED BY AN ADULT into custody in cases in
50 which [he] SUCH PRIVATE PERSON may arrest an adult for a crime under
51 section 140.30 of the criminal procedure law.

52 S 10. Subdivision 2 of section 305.2 of the family court act, as added
53 by chapter 920 of the laws of 1982, is amended to read as follows:

54 2. An officer may take a child [under the age of sixteen] WHO MAY BE
55 SUBJECT TO THE PROVISIONS OF THIS ARTICLE FOR COMMITTING AN ACT THAT
56 WOULD BE A CRIME IF COMMITTED BY AN ADULT into custody without a warrant

1 in cases in which [he] THE OFFICER may arrest a person for a crime under
2 article one hundred forty of the criminal procedure law.

3 S 11. Paragraph (b) of subdivision 4 of section 305.2 of the family
4 court act, as amended by chapter 492 of the laws of 1987, is amended to
5 read as follows:

6 (b) forthwith and with all reasonable speed take the child directly,
7 and without his first being taken to the police station house, to the
8 family court located in the county in which the act occasioning the
9 taking into custody allegedly was committed, OR, WHEN THE FAMILY COURT
10 IS NOT IN SESSION, TO THE MOST ACCESSIBLE MAGISTRATE, IF ANY, DESIGNATED
11 BY THE APPELLATE DIVISION OF THE SUPREME COURT IN THE APPLICABLE DEPART-
12 MENT TO CONDUCT A HEARING UNDER SECTION 307.4 OF THIS PART, unless the
13 officer determines that it is necessary to question the child, in which
14 case he OR SHE may take the child to a facility designated by the chief
15 administrator of the courts as a suitable place for the questioning of
16 children or, upon the consent of a parent or other person legally
17 responsible for the care of the child, to the child's residence and
18 there question him OR HER for a reasonable period of time; or

19 S 12. Subdivision 1 of section 306.1 of the family court act, as
20 amended by chapter 645 of the laws of 1996, is amended to read as
21 follows:

22 1. Following the arrest of a child alleged to be a juvenile delin-
23 quent, or the filing of a delinquency petition involving a child who has
24 not been arrested, the arresting officer or other appropriate police
25 officer or agency shall take or cause to be taken fingerprints of such
26 child if:

27 (a) the child is eleven years of age or older and the crime which is
28 the subject of the arrest or which is charged in the petition consti-
29 tutes a class [A or B] A-1 felony; [or]

30 (b) THE CHILD IS TWELVE YEARS OF AGE OR OLDER AND THE CRIME WHICH IS
31 THE SUBJECT OF THE ARREST OR WHICH IS CHARGED IN THE PETITION CONSTI-
32 TUTES A CLASS A OR B FELONY; OR

33 (c) the child is thirteen years of age or older and the crime which is
34 the subject of the arrest or which is charged in the petition consti-
35 tutes a class C, D or E felony.

36 S 13. Section 307.3 of the family court act, as added by chapter 920
37 of the laws of 1982, subdivisions 1 and 2 as amended by chapter 419 of
38 the laws of 1987, is amended to read as follows:

39 S 307.3. Rules of court authorizing release before filing of petition.
40 1. The agency responsible for operating a detention facility pursuant to
41 section two hundred eighteen-a of the county law, five hundred [ten-a]
42 THREE of the executive law or other applicable provisions of law, shall
43 release a child in custody before the filing of a petition to the custo-
44 dy of his OR HER parents or other person legally responsible for his OR
45 HER care, or if such legally responsible person is unavailable, to a
46 person with whom he OR SHE resides, when the events occasioning the
47 taking into custody do not appear to involve allegations that the child
48 committed a delinquent act.

49 2. When practicable such agency may release a child before the filing
50 of a petition to the custody of his OR HER parents or other person
51 legally responsible for his OR HER care, or if such legally responsible
52 person is unavailable, to a person with whom he OR SHE resides, when the
53 events occasioning the taking into custody appear to involve allegations
54 that the child committed a delinquent act; PROVIDED, HOWEVER, THAT SUCH
55 AGENCY MUST RELEASE THE CHILD IF:

1 (A) SUCH EVENTS APPEAR TO INVOLVE ONLY ALLEGATIONS THAT THE CHILD
2 COMMITTED ACTS THAT WOULD CONSTITUTE MORE THAN A VIOLATION BUT NO MORE
3 THAN A MISDEMEANOR IF COMMITTED BY AN ADULT IF:

4 (I) THE ALLEGED ACTS DID NOT RESULT IN ANY PHYSICAL INJURY AS DEFINED
5 IN SUBDIVISION NINE OF SECTION 10.00 OF THE PENAL LAW TO ANOTHER PERSON;
6 AND

7 (II) THE CHILD WAS ASSESSED AT A LOW RISK ON THE APPLICABLE DETENTION
8 RISK ASSESSMENT INSTRUMENT APPROVED BY THE OFFICE OF CHILDREN AND FAMILY
9 SERVICES UNLESS THE AGENCY DETERMINES THAT DETENTION IS NECESSARY
10 BECAUSE THE RESPONDENT OTHERWISE POSES AN IMMINENT RISK TO PUBLIC SAFETY
11 AND STATES THE REASONS FOR SUCH DETERMINATION IN THE CHILD'S RECORD; OR

12 (B) SUCH EVENTS APPEAR TO INVOLVE ALLEGATIONS THAT THE CHILD COMMITTED
13 ACTS THAT WOULD CONSTITUTE A FELONY IF COMMITTED BY AN ADULT IF:

14 (I) THE ALLEGED ACTS DID NOT RESULT IN ANY PHYSICAL INJURY AS DEFINED
15 IN SUBDIVISION NINE OF SECTION 10.00 OF THE PENAL LAW TO ANOTHER PERSON;

16 (II) THE CHILD DOES NOT HAVE ANY PRIOR ADJUDICATIONS FOR AN ACT THAT
17 WOULD CONSTITUTE A FELONY IF COMMITTED BY AN ADULT;

18 (III) THE CHILD HAS NO MORE THAN ONE PRIOR ADJUDICATION FOR AN ACT
19 THAT WOULD CONSTITUTE A MISDEMEANOR IF COMMITTED BY AN ADULT AND THAT
20 ACT ALSO DID NOT RESULT IN ANY PHYSICAL INJURY TO ANOTHER PERSON; AND

21 (IV) THE CHILD WAS ASSESSED AT A LOW RISK ON THE APPLICABLE DETENTION
22 RISK ASSESSMENT INSTRUMENT APPROVED BY THE OFFICE OF CHILDREN AND FAMILY
23 SERVICES UNLESS THE AGENCY DETERMINES THAT DETENTION IS NECESSARY
24 BECAUSE THE RESPONDENT OTHERWISE POSES AN IMMINENT RISK TO PUBLIC SAFETY
25 AND STATES THE REASONS FOR SUCH DETERMINATION IN THE CHILD'S RECORD.

26 3. If a child is released under this section, the child and the person
27 legally responsible for his OR HER care shall be issued a family court
28 appearance ticket in accordance with section 307.1.

29 4. If the agency for any reason does not release a child under this
30 section, such child shall be brought before the appropriate family
31 court, OR WHEN SUCH FAMILY COURT IS NOT IN SESSION, TO THE MOST ACCESSI-
32 BLE MAGISTRATE, IF ANY, DESIGNATED BY THE APPELLATE DIVISION OF THE
33 SUPREME COURT IN THE APPLICABLE DEPARTMENT; PROVIDED, HOWEVER, THAT IF
34 SUCH FAMILY COURT IS NOT IN SESSION AND IF A MAGISTRATE IS NOT AVAIL-
35 ABLE, SUCH YOUTH SHALL BE BROUGHT BEFORE SUCH FAMILY COURT within seven-
36 ty-two hours or the next day the court is in session, whichever is soon-
37 er. Such agency shall thereupon file an application for an order
38 pursuant to section 307.4 and shall forthwith serve a copy of the appli-
39 cation upon the appropriate presentment agency. Nothing in this subdivi-
40 sion shall preclude the adjustment of suitable cases pursuant to section
41 308.1.

42 S 14. Intentionally omitted.

43 S 15. Section 308.1 of the family court act, as added by chapter 920
44 of the laws of 1982, subdivision 2 as amended by section 3 of part V of
45 chapter 55 of the laws of 2012, subdivision 4 as amended by chapter 264
46 of the laws of 2003, subdivisions 5 and 8 as amended by chapter 398 of
47 the laws of 1983, and subdivision 6 as amended by chapter 663 of the
48 laws of 1985, is amended to read as follows:

49 S 308.1. [Rules of court for preliminary] PRELIMINARY procedure;
50 ADJUSTMENT OF CASES. 1. [Rules of court shall authorize and determine
51 the circumstances under which the] THE probation service may confer with
52 any person seeking to have a juvenile delinquency petition filed, the
53 potential respondent and other interested persons concerning the advis-
54 ability of requesting that a petition be filed IN ACCORDANCE WITH THIS
55 SECTION.

1 2. (A) Except as provided in subdivisions three [and], four, AND THIR-
2 TEEN of this section, the probation service [may, in accordance with
3 rules of court,] SHALL ATTEMPT TO adjust [suitable cases] A CASE before
4 a petition is filed. SUCH ATTEMPTS MAY INCLUDE THE USE OF A JUVENILE
5 REVIEW BOARD COMPRISED OF APPROPRIATE COMMUNITY MEMBERS TO WORK WITH THE
6 CHILD AND HIS OR HER FAMILY ON DEVELOPING RECOMMENDED ADJUSTMENT ACTIV-
7 ITIES. THE PROBATION SERVICE MAY STOP ATTEMPTING TO ADJUST SUCH A CASE
8 IF IT DETERMINES THAT THERE IS NO SUBSTANTIAL LIKELIHOOD THAT THE CHILD
9 WILL BENEFIT FROM ATTEMPTS AT ADJUSTMENT IN THE TIME REMAINING FOR
10 ADJUSTMENT OR THE TIME FOR ADJUSTMENT HAS EXPIRED.

11 (B) The inability of the respondent or his or her family to make
12 restitution shall not be a factor in a decision to adjust a case or in a
13 recommendation to the presentment agency pursuant to subdivision six of
14 this section.

15 (C) Nothing in this section shall prohibit the probation service or
16 the court from directing a respondent to obtain employment and to make
17 restitution from the earnings from such employment. Nothing in this
18 section shall prohibit the probation service or the court from directing
19 an eligible person to complete an education reform program in accordance
20 with section four hundred fifty-eight-1 of the social services law.

21 3. The probation service shall not ATTEMPT TO adjust a case THAT
22 COMMENCED IN FAMILY COURT in which the child has allegedly committed a
23 designated felony act THAT INVOLVES ALLEGATIONS THAT THE CHILD CAUSED
24 PHYSICAL INJURY TO A PERSON unless [it] THE PROBATION SERVICE has
25 received the written approval of the court.

26 4. The probation service shall not ATTEMPT TO adjust a case in which
27 the child has allegedly committed a delinquent act which would be a
28 crime defined in section 120.25, (reckless endangerment in the first
29 degree), subdivision one of section 125.15, (manslaughter in the second
30 degree), subdivision one of section 130.25, (rape in the third degree),
31 subdivision one of section 130.40, (criminal sexual act in the third
32 degree), subdivision one or two of section 130.65, (sexual abuse in the
33 first degree), section 135.65, (coercion in the first degree), section
34 140.20, (burglary in the third degree), section 150.10, (arson in the
35 third degree), section 160.05, (robbery in the third degree), subdivi-
36 sion two[,] OR three [or four] of section 265.02, (criminal possession
37 of a weapon in the third degree), section 265.03, (criminal possession
38 of a weapon in the second degree), or section 265.04, (criminal
39 possession of a [dangerous] weapon in the first degree) of the penal law
40 where the child has previously had one or more adjustments of a case in
41 which such child allegedly committed an act which would be a crime spec-
42 ified in this subdivision unless it has received written approval from
43 the court and the appropriate presentment agency.

44 5. The fact that a child is detained prior to the filing of a petition
45 shall not preclude the probation service from adjusting a case; upon
46 adjusting such a case the probation service shall notify the detention
47 facility to release the child.

48 6. The probation service shall not transmit or otherwise communicate
49 to the presentment agency any statement made by the child to a probation
50 officer. However, the probation service may make a recommendation
51 regarding adjustment of the case to the presentment agency and provide
52 such information, including any report made by the arresting officer and
53 record of previous adjustments and arrests, as it shall deem relevant.

54 7. No statement made to the probation service prior to the filing of a
55 petition may be admitted into evidence at a fact-finding hearing or, if

1 the proceeding is transferred to a criminal court, at any time prior to
2 a conviction.

3 8. The probation service may not prevent any person who wishes to
4 request that a petition be filed from having access to the appropriate
5 presentment agency for that purpose.

6 9. Efforts at adjustment [pursuant to rules of court] under this
7 section may not extend for a period of more than two months [without],
8 OR, FOR A PERIOD OF MORE THAN FOUR MONTHS IF THE PROBATION SERVICE
9 DETERMINES THAT ADJUSTMENT BEYOND THE FIRST TWO MONTHS IS WARRANTED
10 BECAUSE DOCUMENTED BARRIERS TO ADJUSTMENT EXIST OR CHANGES NEED TO BE
11 MADE TO THE CHILD'S SERVICES PLAN, EXCEPT UPON leave of the court, which
12 may extend the ADJUSTMENT period for an additional two months.

13 10. If a case is not adjusted by the probation service, such service
14 shall notify the appropriate presentment agency of that fact within
15 forty-eight hours or the next court day, whichever occurs later.

16 11. The probation service may not be authorized under this section to
17 compel any person to appear at any conference, produce any papers, or
18 visit any place.

19 12. The probation service shall certify to the division of criminal
20 justice services and to the appropriate police department or law
21 enforcement agency whenever it adjusts a case in which the potential
22 respondent's fingerprints were taken pursuant to section 306.1 in any
23 manner other than the filing of a petition for juvenile delinquency for
24 an act which, if committed by an adult, would constitute a felony,
25 provided, however, in the case of a child [eleven or] twelve years of
26 age, such certification shall be made only if the act would constitute a
27 class A or B felony, OR, IN THE CASE OF A CHILD ELEVEN YEARS OF AGE,
28 SUCH CERTIFICATION SHALL BE MADE ONLY IF THE ACT WOULD CONSTITUTE A
29 CLASS A-1 FELONY.

30 13. The [provisions of this section] PROBATION SERVICE shall not
31 [apply] ATTEMPT TO ADJUST A CASE where the petition is an order of
32 removal to the family court pursuant to article seven hundred twenty-
33 five of the criminal procedure law UNLESS IT HAS RECEIVED THE WRITTEN
34 APPROVAL OF THE COURT.

35 14. WHERE WRITTEN APPROVAL IS REQUIRED PRIOR TO ADJUSTMENT ATTEMPTS,
36 THE PROBATION DEPARTMENT SHALL SEEK SUCH APPROVAL.

37 S 16. Paragraph (c) of subdivision 3 of section 311.1 of the family
38 court act, as added by chapter 920 of the laws of 1982, is amended to
39 read as follows:

40 (c) the fact that the respondent is a person [under sixteen years of]
41 OF THE NECESSARY age TO BE A JUVENILE DELINQUENT at the time of the
42 alleged act or acts;

43 S 17. Subdivision 1 of section 320.5 of the family court act, as added
44 by chapter 920 of the laws of 1982, is amended to read as follows:

45 1. At the initial appearance, the court in its discretion may (A)
46 release the respondent or (B) direct his detention.

47 S 18. Subdivision 3 of section 320.5 of the family court act is
48 amended by adding a new paragraph (a-1) to read as follows:

49 (A-1) NOTWITHSTANDING PARAGRAPH (A) OF THIS SUBDIVISION, THE COURT
50 SHALL NOT DIRECT DETENTION IF:

51 (I) SUCH EVENTS APPEAR TO INVOLVE ONLY ALLEGATIONS THAT THE CHILD
52 COMMITTED ACTS THAT WOULD CONSTITUTE MORE THAN A VIOLATION BUT NO MORE
53 THAN A MISDEMEANOR IF COMMITTED BY AN ADULT IF:

54 (1) THE ALLEGED ACTS DID NOT RESULT IN ANY PHYSICAL INJURY AS DEFINED
55 IN SUBDIVISION NINE OF SECTION 10.00 OF THE PENAL LAW TO ANOTHER PERSON;
56 AND

1 (2) THE CHILD WAS ASSESSED AT A LOW RISK ON THE APPLICABLE DETENTION
2 RISK ASSESSMENT INSTRUMENT APPROVED BY THE OFFICE OF CHILDREN AND FAMILY
3 SERVICES UNLESS THE AGENCY DETERMINES THAT DETENTION IS NECESSARY
4 BECAUSE THE RESPONDENT OTHERWISE POSES AN IMMINENT RISK TO PUBLIC SAFETY
5 AND STATES THE REASONS FOR SUCH DETERMINATION IN THE CHILD'S RECORD; OR

6 (II) SUCH EVENTS APPEAR TO INVOLVE ALLEGATIONS THAT THE CHILD COMMIT-
7 TED ACTS THAT WOULD CONSTITUTE A FELONY IF COMMITTED BY AN ADULT IF:

8 (1) THE ALLEGED ACTS DID NOT RESULT IN ANY PHYSICAL INJURY AS DEFINED
9 IN SUBDIVISION NINE OF SECTION 10.00 OF THE PENAL LAW TO ANOTHER PERSON;

10 (2) THE CHILD DOES NOT HAVE ANY PRIOR ADJUDICATIONS FOR AN ACT THAT
11 WOULD CONSTITUTE A FELONY IF COMMITTED BY AN ADULT;

12 (3) THE CHILD HAS NO MORE THAN ONE PRIOR ADJUDICATION FOR AN ACT THAT
13 WOULD CONSTITUTE A MISDEMEANOR IF COMMITTED BY AN ADULT AND THAT ACT
14 ALSO DID NOT RESULT IN ANY PHYSICAL INJURY TO ANOTHER PERSON; AND

15 (4) THE CHILD WAS ASSESSED AT A LOW RISK ON THE APPLICABLE DETENTION
16 RISK ASSESSMENT INSTRUMENT APPROVED BY THE OFFICE OF CHILDREN AND FAMILY
17 SERVICES UNLESS THE AGENCY DETERMINES THAT DETENTION IS NECESSARY
18 BECAUSE THE RESPONDENT OTHERWISE POSES AN IMMINENT RISK TO PUBLIC SAFETY
19 AND STATES THE REASONS FOR SUCH DETERMINATION IN THE CHILD'S RECORD.

20 S 19. Subdivision 5 of section 322.2 of the family court act, as added
21 by chapter 920 of the laws of 1982, paragraphs (a) and (d) as amended by
22 chapter 41 of the laws of 2010, is amended to read as follows:

23 5. (a) If the court finds that there is probable cause to believe
24 that the respondent committed a felony, it shall order the respondent
25 committed to the custody of the commissioner of mental health or the
26 commissioner of [mental retardation and] THE OFFICE FOR PEOPLE WITH
27 developmental disabilities for an initial period not to exceed one year
28 from the date of such order. Such period may be extended annually upon
29 further application to the court by the commissioner having custody or
30 his or her designee. Such application must be made not more than sixty
31 days prior to the expiration of such period on forms that have been
32 prescribed by the chief administrator of the courts. At that time, the
33 commissioner must give written notice of the application to the respond-
34 ent, the counsel representing the respondent and the mental hygiene
35 legal service if the respondent is at a residential facility. Upon
36 receipt of such application, the court must conduct a hearing to deter-
37 mine the issue of capacity. If, at the conclusion of a hearing conducted
38 pursuant to this subdivision, the court finds that the respondent is no
39 longer incapacitated, he or she shall be returned to the family court
40 for further proceedings pursuant to this article. If the court is satis-
41 fied that the respondent continues to be incapacitated, the court shall
42 authorize continued custody of the respondent by the commissioner for a
43 period not to exceed one year. Such extensions shall not continue beyond
44 a reasonable period of time necessary to determine whether the respond-
45 ent will attain the capacity to proceed to a fact finding hearing in the
46 foreseeable future but in no event shall continue beyond the respond-
47 ent's eighteenth birthday OR, IF THE RESPONDENT WAS AT LEAST SIXTEEN
48 YEARS OF AGE WHEN THE ACT WAS COMMITTED, BEYOND THE RESPONDENT'S TWEN-
49 TY-FIRST BIRTHDAY.

50 (b) If a respondent is in the custody of the commissioner upon the
51 respondent's eighteenth birthday, OR IF THE RESPONDENT WAS AT LEAST
52 SIXTEEN YEARS OF AGE WHEN THE ACT RESULTING IN THE RESPONDENT'S PLACE-
53 MENT WAS COMMITTED, BEYOND THE RESPONDENT'S TWENTY-FIRST BIRTHDAY, the
54 commissioner shall notify the clerk of the court that the respondent was
55 in his custody on such date and the court shall dismiss the petition.

1 (c) If the court finds that there is probable cause to believe that
2 the respondent has committed a designated felony act, the court shall
3 require that treatment be provided in a residential facility within the
4 appropriate office of the department of mental hygiene.

5 (d) The commissioner shall review the condition of the respondent
6 within forty-five days after the respondent is committed to the custody
7 of the commissioner. He or she shall make a second review within ninety
8 days after the respondent is committed to his or her custody. Thereaft-
9 er, he or she shall review the condition of the respondent every ninety
10 days. The respondent and the counsel for the respondent, shall be noti-
11 fied of any such review and afforded an opportunity to be heard. The
12 commissioner having custody shall apply to the court for an order
13 dismissing the petition whenever he or she determines that there is a
14 substantial probability that the respondent will continue to be incapac-
15 itated for the foreseeable future. At the time of such application the
16 commissioner must give written notice of the application to the respond-
17 ent, the presentment agency and the mental hygiene legal service if the
18 respondent is at a residential facility. Upon receipt of such applica-
19 tion, the court may on its own motion conduct a hearing to determine
20 whether there is substantial probability that the respondent will
21 continue to be incapacitated for the foreseeable future, and it must
22 conduct such hearing if a demand therefor is made by the respondent or
23 the mental hygiene legal service within ten days from the date that
24 notice of the application was given to them. The respondent may apply to
25 the court for an order of dismissal on the same ground.

26 S 20. Subdivisions 1 and 5 of section 325.1 of the family court act,
27 subdivision 1 as amended by chapter 398 of the laws of 1983, subdivision
28 5 as added by chapter 920 of the laws of 1982, are amended to read as
29 follows:

30 1. At the initial appearance, if the respondent denies a charge
31 contained in the petition and the court determines IN ACCORDANCE WITH
32 THE REQUIREMENTS OF SECTION 320.5 OF THIS PART that [he] THE RESPONDENT
33 shall be detained for more than three days pending a fact-finding hear-
34 ing, the court shall schedule a probable-cause hearing to determine the
35 issues specified in section 325.3 OF THIS PART.

36 5. Where the petition consists of an order of removal pursuant to
37 article seven hundred twenty-five of the criminal procedure law, unless
38 the removal was pursuant to subdivision three of section 725.05 of such
39 law and the respondent was not afforded a probable cause hearing [pursu-
40 ant to subdivision three of section 180.75 of such law for a reason
41 other than his waiver thereof pursuant to subdivision two of section
42 180.75 of such law], the petition shall be deemed to be based upon a
43 determination that probable cause exists to believe the respondent is a
44 juvenile delinquent and the respondent shall not be entitled to any
45 further inquiry on the subject of whether probable cause exists. After
46 the filing of any such petition the court must, however, exercise inde-
47 pendent, de novo discretion with respect to release or detention as set
48 forth in section 320.5.

49 S 21. Subdivisions 1 and 2 of section 340.2 of the family court act,
50 as added by chapter 920 of the laws of 1982, are amended to read as
51 follows:

52 1. [The] EXCEPT WHEN AUTHORIZED IN ACCORDANCE WITH SECTION 346.1 OF
53 THIS PART INVOLVING A CASE REMOVED TO FAMILY COURT PURSUANT TO ARTICLE
54 SEVEN HUNDRED TWENTY-FIVE OF THE CRIMINAL PROCEDURE LAW, THE judge who
55 presides at the commencement of the fact-finding hearing shall continue

1 to preside until such hearing is concluded and an order entered pursuant
2 to section 345.1 OF THIS PART unless a mistrial is declared.

3 2. The judge who presides at the fact-finding hearing or accepts an
4 admission pursuant to section 321.3 OF THIS ARTICLE shall preside at any
5 other subsequent hearing in the proceeding, including but not limited to
6 the dispositional hearing EXCEPT WHERE THE CASE IS REMOVED TO FAMILY
7 COURT PURSUANT TO ARTICLE SEVEN HUNDRED TWENTY-FIVE OF THE CRIMINAL
8 PROCEDURE LAW AFTER A FACT-FINDING HEARING HAS OCCURRED.

9 S 21-a. Subdivision 2 of section 351.1 of the family court act, as
10 amended by chapter 880 of the laws of 1985, is amended to read as
11 follows:

12 2. Following a determination that a respondent committed a crime and
13 prior to the dispositional hearing, the court shall order a probation
14 investigation, A RISK AND NEEDS ASSESSMENT, and may order a diagnostic
15 assessment. BASED UPON THE ASSESSMENT FINDINGS, THE PROBATION DEPARTMENT
16 SHALL RECOMMEND TO THE COURT THAT THE RESPONDENT PARTICIPATE IN ANY
17 SERVICES NECESSARY TO MITIGATE IDENTIFIED RISKS AND ADDRESS INDIVIDUAL
18 NEEDS.

19 S 22. Paragraph (a) of subdivision 2 of section 352.2 of the family
20 court act, as amended by chapter 880 of the laws of 1985, is amended to
21 read as follows:

22 (a) In determining an appropriate order the court shall consider the
23 needs and best interests of the respondent as well as the need for
24 protection of the community. If the respondent has committed a desig-
25 nated felony act the court shall determine the appropriate disposition
26 in accord with section 353.5. In all other cases the court shall order
27 the least restrictive available alternative enumerated in subdivision
28 one OF THIS SECTION which is consistent with the needs and best inter-
29 ests of the respondent and the need for protection of the community;
30 PROVIDED, HOWEVER, THAT THE COURT SHALL NOT DIRECT THE PLACEMENT OF A
31 RESPONDENT WITH A COMMISSIONER OF SOCIAL SERVICES OR THE OFFICE OF CHIL-
32 DREN AND FAMILY SERVICES IF:

33 (I) SUCH EVENTS APPEAR TO INVOLVE ONLY ALLEGATIONS THAT THE CHILD
34 COMMITTED ACTS THAT WOULD CONSTITUTE MORE THAN A VIOLATION BUT NO MORE
35 THAN A MISDEMEANOR IF COMMITTED BY AN ADULT IF:

36 (1) THE ALLEGED ACTS DID NOT RESULT IN ANY PHYSICAL INJURY AS DEFINED
37 IN SUBDIVISION NINE OF SECTION 10.00 OF THE PENAL LAW TO ANOTHER PERSON;
38 AND

39 (2) THE CHILD WAS ASSESSED AT A LOW RISK ON THE APPLICABLE DETENTION
40 RISK ASSESSMENT INSTRUMENT APPROVED BY THE OFFICE OF CHILDREN AND FAMILY
41 SERVICES UNLESS THE AGENCY DETERMINES THAT DETENTION IS NECESSARY
42 BECAUSE THE RESPONDENT OTHERWISE POSES AN IMMINENT RISK TO PUBLIC SAFETY
43 AND STATES THE REASONS FOR SUCH DETERMINATION IN THE CHILD'S RECORD; OR

44 (II) SUCH EVENTS APPEAR TO INVOLVE ALLEGATIONS THAT THE CHILD COMMIT-
45 TED ACTS THAT WOULD CONSTITUTE A FELONY IF COMMITTED BY AN ADULT IF:

46 (1) THE ALLEGED ACTS DID NOT RESULT IN ANY PHYSICAL INJURY AS DEFINED
47 IN SUBDIVISION NINE OF SECTION 10.00 OF THE PENAL LAW TO ANOTHER PERSON;

48 (2) THE CHILD DOES NOT HAVE ANY PRIOR ADJUDICATIONS FOR AN ACT THAT
49 WOULD CONSTITUTE A FELONY IF COMMITTED BY AN ADULT;

50 (3) THE CHILD HAS NO MORE THAN ONE PRIOR ADJUDICATION FOR AN ACT THAT
51 WOULD CONSTITUTE A MISDEMEANOR IF COMMITTED BY AN ADULT AND THAT ACT
52 ALSO DID NOT RESULT IN ANY PHYSICAL INJURY TO ANOTHER PERSON; AND

53 (4) THE CHILD WAS ASSESSED AT A LOW RISK ON THE APPLICABLE DETENTION
54 RISK ASSESSMENT INSTRUMENT APPROVED BY THE OFFICE OF CHILDREN AND FAMILY
55 SERVICES UNLESS THE AGENCY DETERMINES THAT DETENTION IS NECESSARY

1 BECAUSE THE RESPONDENT OTHERWISE POSES AN IMMINENT RISK TO PUBLIC SAFETY
2 AND STATES THE REASONS FOR SUCH DETERMINATION IN THE CHILD'S RECORD.

3 S 22-a. Section 352.2 of the family court act is amended by adding a
4 new subdivision 4 to read as follows:

5 4. WHERE A YOUTH RECEIVES A JUVENILE DELINQUENCY ADJUDICATION FOR
6 CONDUCT COMMITTED WHEN THE YOUTH WAS AGE SIXTEEN OR OLDER THAT WOULD
7 CONSTITUTE A CRIME UNDER THE VEHICLE AND TRAFFIC LAW, OR A VIOLATION OF
8 PARAGRAPH (A) OF SUBDIVISION TWO OF SECTION SIXTY-FIVE-B OF THE ALCOHOL-
9 IC BEVERAGE CONTROL LAW, THE COURT SHALL NOTIFY THE COMMISSIONER OF
10 MOTOR VEHICLES OF SUCH ADJUDICATION. WHERE A YOUTH RECEIVES A JUVENILE
11 DELINQUENCY ADJUDICATION FOR CONDUCT THAT WOULD CONSTITUTE A VIOLATION
12 OF ANY OTHER PROVISION OF LAW WHICH ALLOWS FOR THE IMPOSITION OF A
13 LICENSE AND REGISTRATION SANCTION, THE COURT SHALL NOTIFY THE COMMIS-
14 SIONER OF MOTOR VEHICLES OF SUCH ADJUDICATION. THE COURT SHALL HAVE THE
15 POWER TO IMPOSE ANY SUSPENSION OR REVOCATION OF DRIVING PRIVILEGES,
16 IGNITION INTERLOCK DEVICES, ANY DRUG OR ALCOHOL REHABILITATION PROGRAM,
17 VICTIM IMPACT PROGRAM, DRIVER RESPONSIBILITY ASSESSMENT, VICTIM ASSIST-
18 ANCE FEE, AND SURCHARGE AS IS OTHERWISE REQUIRED UPON A CONVICTION OF A
19 CRIME UNDER THE VEHICLE AND TRAFFIC LAW, OR AN OFFENSE FOR WHICH A
20 LICENSE SANCTION IS REQUIRED, AND, FURTHER, SHALL NOTIFY THE COMMISSION-
21 ER OF MOTOR VEHICLES OF SAID SUSPENSION OR REVOCATION.

22 S 23. Paragraph (a) of subdivision 1 and paragraphs (f) and (h) of
23 subdivision 2 of section 353.2 of the family court act, paragraph (a) of
24 subdivision 1 as added by chapter 920 of the laws of 1982, paragraphs
25 (f) and (h) of subdivision 2 as amended by chapter 124 of the laws of
26 1993, are amended to read as follows:

27 (a) placement of respondent is not or may not be necessary OR ALLOW-
28 ABLE;

29 (f) make restitution or perform services for the public good pursuant
30 to section 353.6, provided the respondent is over [ten] TWELVE years of
31 age;

32 (h) comply with such other reasonable conditions as the court shall
33 determine to be necessary or appropriate to ameliorate the conduct which
34 gave rise to the filing of the petition or to prevent placement with the
35 commissioner of social services or the [division for youth] OFFICE OF
36 CHILDREN AND FAMILY SERVICES.

37 S 23-a. Paragraph (e) of subdivision 2 of section 353.2 of the family
38 court act, as amended by chapter 124 of the laws of 1993, is amended to
39 read as follows:

40 (e) co-operate with a mental health, social services or other appro-
41 priate community facility or agency to which the respondent is referred,
42 INCLUDING A FAMILY SUPPORT CENTER PURSUANT TO TITLE TWELVE OF ARTICLE
43 SIX OF THE SOCIAL SERVICES LAW;

44 S 23-b. Subdivision 3 of section 353.2 of the family court act, as
45 added by chapter 920 of the laws of 1982, paragraph (f) as amended by
46 chapter 465 of the laws of 1992, is amended to read as follows:

47 3. When ordering a period of probation, the court may, as a condition
48 of such order, further require that the respondent:

49 (a) meet with a probation officer when directed to do so by that offi-
50 cer and permit the officer to visit the respondent at home or elsewhere;

51 (b) permit the probation officer to obtain information from any person
52 or agency from whom respondent is receiving or was directed to receive
53 diagnosis, treatment or counseling;

54 (c) permit the probation officer to obtain information from the
55 respondent's school;

1 (d) co-operate with the probation officer in seeking to obtain and in
2 accepting employment, and supply records and reports of earnings to the
3 officer when requested to do so; AND

4 (e) obtain permission from the probation officer for any absence from
5 respondent's residence in excess of two weeks[; and

6 (f) with the consent of the division for youth, spend a specified
7 portion of the probation period, not exceeding one year, in a non-secure
8 facility provided by the division for youth pursuant to article nine-
9 teen-G of the executive law].

10 S 24. The opening paragraph of subparagraph (iii) of paragraph (a) and
11 paragraph (d) of subdivision 4 of section 353.5 of the family court act,
12 as amended by section 6 of subpart A of part G of chapter 57 of the laws
13 of 2012, are amended to read as follows:

14 after the period set under subparagraph (ii) of this paragraph, the
15 respondent shall be placed in a residential facility for a period of
16 twelve months; provided, however, that if the respondent has been placed
17 from a family court in a social services district operating an approved
18 juvenile justice services close to home initiative pursuant to section
19 four hundred four of the social services law FOR AN ACT COMMITTED WHEN
20 THE RESPONDENT WAS UNDER SIXTEEN YEARS OF AGE, once the time frames in
21 subparagraph (ii) of this paragraph are met:

22 (d) Upon the expiration of the initial period of placement, or any
23 extension thereof, the placement may be extended in accordance with
24 section 355.3 on a petition of any party or the office of children and
25 family services, or, if applicable, a social services district operating
26 an approved juvenile justice services close to home initiative pursuant
27 to section four hundred four of the social services law, after a dispo-
28 sitional hearing, for an additional period not to exceed twelve months,
29 but no initial placement or extension of placement under this section
30 may continue beyond the respondent's twenty-first birthday, OR, FOR AN
31 ACT THAT WAS COMMITTED WHEN THE RESPONDENT WAS SIXTEEN YEARS OF AGE OR
32 OLDER, THE RESPONDENT'S TWENTY-THIRD BIRTHDAY.

33 S 25. Paragraph (d) of subdivision 4 of section 353.5 of the family
34 court act, as amended by chapter 398 of the laws of 1983, is amended to
35 read as follows:

36 (d) Upon the expiration of the initial period of placement, or any
37 extension thereof, the placement may be extended in accordance with
38 section 355.3 on a petition of any party or the [division for youth]
39 OFFICE OF CHILDREN AND FAMILY SERVICES after a dispositional hearing,
40 for an additional period not to exceed twelve months, but no initial
41 placement or extension of placement under this section may continue
42 beyond the respondent's twenty-first birthday, OR, FOR AN ACT THAT WAS
43 COMMITTED WHEN THE RESPONDENT WAS SIXTEEN YEARS OF AGE OR OLDER, THE
44 RESPONDENT'S TWENTY-THIRD BIRTHDAY.

45 S 26. The opening paragraph of subdivision 1 of section 353.6 of the
46 family court act, as amended by chapter 877 of the laws of 1983, is
47 amended to read as follows:

48 At the conclusion of the dispositional hearing in cases involving
49 respondents over [ten] TWELVE years of age the court may:

50 S 27. Section 354.1 of the family court act, as added by chapter 920
51 of the laws of 1982, subdivisions 2, 6, and 7 as amended by chapter 645
52 of the laws of 1996, subdivisions 4 and 5 as amended by chapter 398 of
53 the laws of 1983, is amended to read as follows:

54 S 354.1. Retention and destruction of fingerprints of persons alleged
55 to be juvenile delinquents. 1. If a person whose fingerprints, palm-
56 prints or photographs were taken pursuant to section 306.1 or was

1 initially fingerprinted as a juvenile offender and the action is subse-
2 quently removed to a family court pursuant to article seven hundred
3 twenty-five of the criminal procedure law is adjudicated to be a juve-
4 nile delinquent for a felony, the family court shall forward or cause to
5 be forwarded to the division of criminal justice services notification
6 of such adjudication and such related information as may be required by
7 such division, provided, however, in the case of a person eleven [or
8 twelve] years of age such notification shall be provided only if the act
9 upon which the adjudication is based would constitute a class [A or B]
10 A-1 felony OR, IN THE CASE OF A PERSON TWELVE YEARS OF AGE, SUCH NOTIFI-
11 CATION SHALL BE PROVIDED ONLY IF THE ACT UPON WHICH THE ADJUDICATION IS
12 BASED WOULD CONSTITUTE A CLASS A OR B FELONY.

13 2. If a person whose fingerprints, palmprints or photographs were
14 taken pursuant to section 306.1 or was initially fingerprinted as a
15 juvenile offender and the action is subsequently removed to family court
16 pursuant to article seven hundred twenty-five of the criminal procedure
17 law has had all petitions disposed of by the family court in any manner
18 other than an adjudication of juvenile delinquency for a felony, but in
19 the case of acts committed when such person was eleven [or twelve] years
20 of age which would constitute a class [A or B] A-1 felony only, OR, IN
21 THE CASE OF ACTS COMMITTED WHEN SUCH PERSON WAS TWELVE YEARS OF AGE
22 WHICH WOULD CONSTITUTE A CLASS A OR B FELONY ONLY, all such finger-
23 prints, palmprints, photographs, and copies thereof, and all information
24 relating to such allegations obtained by the division of criminal
25 justice services pursuant to section 306.1 shall be destroyed forthwith.
26 The clerk of the court shall notify the commissioner of the division of
27 criminal justice services and the heads of all police departments and
28 law enforcement agencies having copies of such records, who shall
29 destroy such records without unnecessary delay.

30 3. If the appropriate presentment agency does not originate a proceed-
31 ing under section 310.1 for a case in which the potential respondent's
32 fingerprints were taken pursuant to section 306.1, the presentment agen-
33 cy shall serve a certification of such action upon the division of crim-
34 inal justice services, and upon the appropriate police department or law
35 enforcement agency.

36 4. If, following the taking into custody of a person alleged to be a
37 juvenile delinquent and the taking and forwarding to the division of
38 criminal justice services of such person's fingerprints but prior to
39 referral to the probation department or to the family court, an officer
40 or agency, elects not to proceed further, such officer or agency shall
41 serve a certification of such election upon the division of criminal
42 justice services.

43 5. Upon certification pursuant to subdivision twelve of section 308.1
44 or subdivision three or four of this section, the department or agency
45 shall destroy forthwith all fingerprints, palmprints, photographs, and
46 copies thereof, and all other information obtained in the case pursuant
47 to section 306.1. Upon receipt of such certification, the division of
48 criminal justice services and all police departments and law enforcement
49 agencies having copies of such records shall destroy them.

50 6. If a person fingerprinted pursuant to section 306.1 and subsequent-
51 ly adjudicated a juvenile delinquent for a felony, but in the case of
52 acts committed when such a person was eleven [or twelve] years of age
53 which would constitute a class [A or B] A-1 felony only, OR, IN THE CASE
54 OF ACTS COMMITTED WHEN SUCH A PERSON WAS TWELVE YEARS OF AGE WHICH WOULD
55 CONSTITUTE A CLASS A OR B FELONY ONLY, is subsequently convicted of a
56 crime, all fingerprints and related information obtained by the division

1 of criminal justice services pursuant to such section and not destroyed
2 pursuant to subdivisions two, five and seven or subdivision twelve of
3 section 308.1 shall become part of such division's permanent adult crim-
4 inal record for that person, notwithstanding section 381.2 or 381.3.

5 7. When a person fingerprinted pursuant to section 306.1 and subse-
6 quently adjudicated a juvenile delinquent for a felony, but in the case
7 of acts committed when such person was eleven [or twelve] years of age
8 which would constitute a class [A or B] A-1 felony only, OR, IN THE CASE
9 OF ACTS COMMITTED WHEN SUCH A PERSON WAS TWELVE YEARS OF AGE WHICH WOULD
10 CONSTITUTE A CLASS A OR B FELONY ONLY, reaches the age of twenty-one, or
11 has been discharged from placement under this act for at least three
12 years, whichever occurs later, and has no criminal convictions or pend-
13 ing criminal actions which ultimately terminate in a criminal
14 conviction, all fingerprints, palmprints, photographs, and related
15 information and copies thereof obtained pursuant to section 306.1 in the
16 possession of the division of criminal justice services, any police
17 department, law enforcement agency or any other agency shall be
18 destroyed forthwith. The division of criminal justice services shall
19 notify the agency or agencies which forwarded fingerprints to such divi-
20 sion pursuant to section 306.1 of their obligation to destroy those
21 records in their possession. In the case of a pending criminal action
22 which does not terminate in a criminal conviction, such records shall be
23 destroyed forthwith upon such determination.

24 S 28. Subdivisions 1 and 6 of section 355.3 of the family court act,
25 subdivision 1 as amended by chapter 398 of the laws of 1983, subdivision
26 6 as amended by chapter 663 of the laws of 1985, are amended to read as
27 follows:

28 1. In any case in which the respondent has been placed pursuant to
29 section 353.3 the respondent, the person with whom the respondent has
30 been placed, the commissioner of social services, or the [division for
31 youth] OFFICE OF CHILDREN AND FAMILY SERVICES may petition the court to
32 extend such placement. Such petition shall be filed at least sixty days
33 prior to the expiration of the period of placement, except for good
34 cause shown but in no event shall such petition be filed after the
35 original expiration date.

36 6. Successive extensions of placement under this section may be grant-
37 ed, but no placement may be made or continued beyond the respondent's
38 eighteenth birthday without the child's consent FOR ACTS COMMITTED
39 BEFORE THE RESPONDENT'S SIXTEENTH BIRTHDAY and in no event past the
40 child's twenty-first birthday EXCEPT AS PROVIDED FOR IN SUBDIVISION FOUR
41 OF SECTION 353.5.

42 S 29. Subdivision 5 of section 355.4 of the family court act, as added
43 by chapter 479 of the laws of 1992, is amended to read as follows:

44 5. Nothing in this section shall: REQUIRE THAT CONSENT BE OBTAINED
45 FROM THE YOUTH'S PARENT OR LEGAL GUARDIAN TO ANY MEDICAL, DENTAL, OR
46 MENTAL HEALTH SERVICE AND TREATMENT WHEN NO CONSENT IS NECESSARY OR THE
47 YOUTH IS AUTHORIZED BY LAW TO CONSENT ON HIS OR HER OWN BEHALF; preclude
48 a youth from consenting on his or her own behalf to any medical, dental
49 or mental health service and treatment where otherwise authorized by law
50 to do so[, or the division for youth]; OR PRECLUDE THE OFFICER OF CHIL-
51 DREN AND FAMILY SERVICES OR A SOCIAL SERVICES DISTRICT from petitioning
52 the court pursuant to section two hundred thirty-three of this act, as
53 appropriate.

54 S 30. Paragraph (b) of subdivision 3 of section 355.5 of the family
55 court act, as amended by chapter 145 of the laws of 2000, is amended to
56 read as follows:

1 (b) subsequent permanency hearings shall be held no later than every
2 twelve months following the respondent's initial twelve months in place-
3 ment BUT IN NO EVENT PAST THE RESPONDENT'S TWENTY-FIRST BIRTHDAY;
4 provided, however, that they shall be held in conjunction with an exten-
5 sion of placement hearing held pursuant to section 355.3 of this [arti-
6 cle] PART.

7 S 31. Subdivisions 2 and 6 of section 360.3 of the family court act,
8 as added by chapter 920 of the laws of 1982, are amended to read as
9 follows:

10 2. At the time of his OR HER first appearance following the filing of
11 a petition of violation the court must: (a) advise the respondent of the
12 contents of the petition and furnish him OR HER with a copy thereof; (b)
13 determine whether the respondent should be released or detained pursuant
14 to section 320.5, PROVIDED, HOWEVER, THAT NOTHING HEREIN SHALL AUTHORIZE
15 A RESPONDENT TO BE DETAINED FOR A VIOLATION OF A CONDITION THAT WOULD
16 NOT CONSTITUTE A CRIME IF COMMITTED BY AN ADULT UNLESS THE COURT DETER-
17 MINES (I) THAT THE RESPONDENT POSES A SPECIFIC IMMINENT THREAT TO PUBLIC
18 SAFETY AND STATES THE REASONS FOR THE FINDING ON THE RECORD OR (II) THE
19 RESPONDENT IS ON PROBATION FOR AN ACT THAT WOULD CONSTITUTE A VIOLENT
20 FELONY AS DEFINED IN SECTION 70.02 OF THE PENAL LAW IF COMMITTED BY AN
21 ADULT AND THE USE OF GRADUATED SANCTIONS HAVE BEEN EXHAUSTED WITHOUT
22 SUCCESS; and (c) ask the respondent whether he OR SHE wishes to make any
23 statement with respect to the violation. If the respondent makes a
24 statement, the court may accept it and base its decision thereon; the
25 provisions of subdivision two of section 321.3 shall apply in determin-
26 ing whether a statement should be accepted. If the court does not accept
27 such statement or if the respondent does not make a statement, the court
28 shall proceed with the hearing. Upon request, the court shall grant a
29 reasonable adjournment to the respondent to enable him OR HER to prepare
30 for the hearing.

31 6. At the conclusion of the hearing the court may revoke, continue or
32 modify the order of probation or conditional discharge. If the court
33 revokes the order, it shall order a different disposition pursuant to
34 section 352.2, PROVIDED, HOWEVER, THAT NOTHING HEREIN SHALL AUTHORIZE
35 THE PLACEMENT OF A RESPONDENT FOR A VIOLATION OF A CONDITION THAT WOULD
36 NOT CONSTITUTE A CRIME IF COMMITTED BY AN ADULT UNLESS THE COURT DETER-
37 MINES (I) THAT THE RESPONDENT POSES A SPECIFIC IMMINENT THREAT TO PUBLIC
38 SAFETY AND STATES THE REASONS FOR THE FINDING ON THE RECORD OR (II) THE
39 RESPONDENT IS ON PROBATION FOR AN ACT THAT WOULD CONSTITUTE A VIOLENT
40 FELONY AS DEFINED IN SECTION 70.02 OF THE PENAL LAW IF COMMITTED BY AN
41 ADULT AND THE USE OF GRADUATED SANCTIONS HAVE BEEN EXHAUSTED WITHOUT
42 SUCCESS. If the court continues the order of probation or conditional
43 discharge, it shall dismiss the petition of violation.

44 S 32. Intentionally omitted.

45 S 33. Subdivisions (d) and (i) of section 712 of the family court act,
46 subdivision (d) as amended by chapter 920 of the laws of 1982, and
47 subdivision (i) as amended by chapter 38 of the laws of 2014, are
48 amended and two new subdivisions (d-1) and (n) are added to read as
49 follows:

50 (d) "Non-secure detention facility". [A facility characterized by the
51 absence of physically restricting construction, hardware and proce-
52 dures.] A FOSTER CARE PROGRAM CERTIFIED BY THE OFFICE OF CHILDREN AND
53 FAMILY SERVICES OR A CERTIFIED OR APPROVED FAMILY BOARDING HOME, OR IN A
54 CITY HAVING A POPULATION OF FIVE MILLION OR MORE, A FOSTER CARE FACILITY
55 ESTABLISHED AND MAINTAINED PURSUANT TO THE SOCIAL SERVICES LAW.

1 (D-1) "DETENTION FACILITY". A FOSTER CARE PROGRAM CERTIFIED BY THE
2 OFFICE OF CHILDREN AND FAMILY SERVICES OR A CERTIFIED OR APPROVED FAMILY
3 BOARDING HOME, OR IN A CITY HAVING A POPULATION OF FIVE MILLION OR MORE,
4 A FOSTER CARE FACILITY ESTABLISHED AND MAINTAINED PURSUANT TO THE SOCIAL
5 SERVICES LAW.

6 (i) "Diversion services". Services provided to children and families
7 pursuant to section seven hundred thirty-five of this article for the
8 purpose of avoiding the need to file a petition or direct the detention
9 of the child. Diversion services shall include: efforts to adjust cases
10 pursuant to this article before a petition is filed, or by order of the
11 court, [after the petition is filed but before fact-finding is
12 commenced;] AT ANY TIME; and preventive services provided in accordance
13 with section four hundred nine-a of the social services law to avert the
14 placement of the child into foster care, including crisis intervention
15 and respite services. Diversion services may also include, in cases
16 where any person is seeking to file a petition that alleges that the
17 child has a substance use disorder or is in need of immediate detoxifi-
18 cation or substance use disorder services, an assessment for substance
19 use disorder; provided, however, that notwithstanding any other
20 provision of law to the contrary, the designated lead agency shall not
21 be required to pay for all or any portion of the costs of such assess-
22 ment or substance use disorder or detoxification services, except in
23 cases where medical assistance for needy persons may be used to pay for
24 all or any portion of the costs of such assessment or services.

25 (N) "FAMILY SUPPORT CENTER". A PROGRAM ESTABLISHED PURSUANT TO TITLE
26 TWELVE ARTICLE SIX OF THE SOCIAL SERVICES LAW.

27 S 34. Section 720 of the family court act, as amended by chapter 419
28 of the laws of 1987, subdivision 3 as amended by section 9 of subpart B
29 of part Q of chapter 58 of the laws of 2011, subdivision 5 as amended by
30 section 3 of part E of chapter 57 of the laws of 2005, and paragraph (c)
31 of subdivision 5 as added by section 8 of part G of chapter 58 of the
32 laws of 2010, is amended to read as follows:

33 S 720. Detention. 1. No child to whom the provisions of this article
34 may apply, shall be detained in any prison, jail, lockup, or other place
35 used for adults convicted of crime or under arrest and charged with a
36 crime.

37 2. The detention of a child in a secure detention facility shall not
38 be directed under any of the provisions of this article.

39 3. Detention of a person alleged to be or adjudicated as a person in
40 need of supervision shall, except as provided in subdivision four of
41 this section, be authorized only in a foster care program certified by
42 the office of children and family services, or a certified or approved
43 family boarding home, [or a non-secure detention facility certified by
44 the office] and in accordance with section seven hundred thirty-nine of
45 this article. The setting of the detention shall take into account (a)
46 the proximity to the community in which the person alleged to be or
47 adjudicated as a person in need of supervision lives with such person's
48 parents or to which such person will be discharged, and (b) the existing
49 educational setting of such person and the proximity of such setting to
50 the location of the detention setting.

51 4. Whenever detention is authorized and ordered pursuant to this arti-
52 cle, for a person alleged to be or adjudicated as a person in need of
53 supervision, a family court in a city having a population of one million
54 or more shall, notwithstanding any other provision of law, direct
55 detention in a foster care facility established and maintained pursuant
56 to the social services law. In all other respects, the detention of such

1 a person in a foster care facility shall be subject to the identical
2 terms and conditions for detention as are set forth in this article and
3 in section two hundred thirty-five of this act.

4 5. (a) The court shall not order or direct detention under this arti-
5 cle, unless the court determines that there is no substantial likelihood
6 that the youth and his or her family will continue to benefit from
7 diversion services, AND THAT CONTINUATION IN THE HOME WOULD NOT BE
8 APPROPRIATE BECAUSE SUCH CONTINUATION WOULD (A) CONTINUE OR WORSEN THE
9 CIRCUMSTANCES ALLEGED IN THE UNDERLYING PETITION, OR THAT CREATED THE
10 NEED FOR A PETITION TO BE SOUGHT OR (B) CREATE A SAFETY RISK TO THE
11 CHILD OR THE CHILD'S FAMILY and that all OTHER available alternatives to
12 detention have been exhausted; and

13 (b) [Where the youth is sixteen years of age or older, the court shall
14 not order or direct detention under this article, unless the court
15 determines and states in its order that special circumstances exist to
16 warrant such detention.

17 (c) If the respondent may be a sexually exploited child as defined in
18 subdivision one of section four hundred forty-seven-a of the social
19 services law, the court may direct the respondent to an available short-
20 term safe house as defined in subdivision two of section four hundred
21 forty-seven-a of the social services law as an alternative to detention.

22 S 35. Intentionally omitted.

23 S 36. Section 728 of the family court act, subdivision (a) as amended
24 by chapter 41 of the laws of 2010, subdivision (b) as amended by chapter
25 419 of the laws of 1987, subdivision (d) as added by chapter 145 of the
26 laws of 2000, paragraph (i) as added and paragraph (ii) of subdivision
27 (d) as renumbered by section 5 of part E of chapter 57 of the laws of
28 2005, and paragraph (iii) as amended and paragraph (iv) of subdivision
29 (d) as added by section 10 of subpart B of part Q of chapter 58 of the
30 laws of 2011, is amended to read as follows:

31 S 728. Discharge, release or detention by judge after hearing and
32 before filing of petition in custody cases. (a) If a child in custody
33 is brought before a judge of the family court before a petition is
34 filed, the judge shall hold a hearing for the purpose of making a
35 preliminary determination of whether the court appears to have jurisdic-
36 tion over the child. At the commencement of the hearing, the judge shall
37 advise the child of his or her right to remain silent, his or her right
38 to be represented by counsel of his or her own choosing, and of the
39 right to have an attorney assigned in accord with part four of article
40 two of this act. The judge must also allow the child a reasonable time
41 to send for his or her parents or other person or persons legally
42 responsible for his or her care, and for counsel, and adjourn the hear-
43 ing for that purpose.

44 (b) After hearing, the judge shall order the release of the child to
45 the custody of his parent or other person legally responsible for his
46 care if the court does not appear to have jurisdiction.

47 (c) An order of release under this section may, but need not, be
48 conditioned upon the giving of a recognizance in accord with [sections]
49 SECTION seven hundred twenty-four (b) (i).

50 (d) Upon a finding of facts and reasons which support a detention
51 order pursuant to this section, the court shall also determine and state
52 in any order directing detention:

53 (i) that there is no substantial likelihood that the youth and his or
54 her family will continue to benefit from diversion services, THAT
55 CONTINUATION IN THE HOME WOULD NOT BE APPROPRIATE BECAUSE SUCH CONTINUA-
56 TION WOULD (A) CONTINUE OR WORSEN THE CIRCUMSTANCES ALLEGED IN THE

1 UNDERLYING PETITION, OR THAT CREATED THE NEED FOR A PETITION TO BE
2 SOUGHT OR (B) CREATE A SAFETY RISK TO THE CHILD OR THE CHILD'S FAMILY
3 and that all OTHER available alternatives to detention have been
4 exhausted; and

5 (ii) whether continuation of the child in the child's home would be
6 contrary to the best interests of the child based upon, and limited to,
7 the facts and circumstances available to the court at the time of the
8 hearing held in accordance with this section; and

9 (iii) where appropriate, whether reasonable efforts were made prior to
10 the date of the court hearing that resulted in the detention order, to
11 prevent or eliminate the need for removal of the child from his or her
12 home or, if the child had been removed from his or her home prior to the
13 court appearance pursuant to this section, where appropriate, whether
14 reasonable efforts were made to make it possible for the child to safely
15 return home; and

16 (iv) whether the setting of the detention takes into account the prox-
17 imity to the community in which the person alleged to be or adjudicated
18 as a person in need of supervision lives with such person's parents or
19 to which such person will be discharged, and the existing educational
20 setting of such person and the proximity of such setting to the location
21 of the detention setting.

22 S 37. Intentionally omitted.

23 S 38. Section 735 of the family court act, as added by section 7 of
24 part E of chapter 57 of the laws of 2005, subdivision (b) as amended by
25 chapter 38 of the laws of 2014, paragraph (i) of subdivision (d) as
26 amended by chapter 535 of the laws of 2011, and subdivision (h) as
27 amended by chapter 499 of the laws of 2015, is amended to read as
28 follows:

29 S 735. Preliminary procedure; diversion services. (a) Each county and
30 any city having a population of one million or more shall offer diver-
31 sion services as defined in section seven hundred twelve of this article
32 to youth who are at risk of being the subject of a person in need of
33 supervision petition. Such services shall be designed to provide an
34 immediate response to families in crisis, to identify and utilize appro-
35 priate alternatives to detention and to divert youth from being the
36 subject of a petition in family court. Each county and such city shall
37 designate either the local social services district or the probation
38 department as lead agency for the purposes of providing diversion
39 services.

40 (b) The designated lead agency shall:

41 (i) confer with any person seeking to file a petition, the youth who
42 may be a potential respondent, his or her family, and other interested
43 persons, concerning the provision of diversion services before any peti-
44 tion may be filed; and

45 (ii) diligently attempt to prevent the filing of a petition under this
46 article or, after the petition is filed, to prevent the placement of the
47 youth into foster care IN ACCORDANCE WITH SECTION SEVEN HUNDRED
48 FIFTY-SIX OF THIS ARTICLE; and

49 (iii) assess whether the youth would benefit from residential respite
50 services; and

51 (iv) ASSESS WHETHER THE YOUTH IS A SEXUALLY EXPLOITED CHILD AS DEFINED
52 IN SECTION FOUR HUNDRED FORTY-SEVEN-A OF THE SOCIAL SERVICES LAW AND, IF
53 SO, WHETHER SUCH YOUTH SHOULD BE REFERRED TO A SAFE HOUSE; AND

54 (v) determine whether alternatives to detention are appropriate to
55 avoid remand of the youth to detention;

1 (VI) DETERMINE WHETHER THE YOUTH AND HIS OR HER FAMILY SHOULD BE
2 REFERRED TO AN AVAILABLE FAMILY SUPPORT CENTER; [and]

3 (VII) ASSESS WHETHER REMAINING IN THE HOME WOULD CAUSE THE CONTINUA-
4 TION OR WORSENING OF THE CIRCUMSTANCES THAT CREATED THE NEED FOR A PETI-
5 TION TO BE SOUGHT, OR CREATE A SAFETY RISK TO THE CHILD OR THE CHILD'S
6 FAMILY; AND

7 [(v)] (VIII) determine whether an assessment of the youth for
8 substance use disorder by an office of alcoholism and substance abuse
9 services certified provider is necessary when a person seeking to file a
10 petition alleges in such petition that the youth is suffering from a
11 substance use disorder which could make the youth a danger to himself or
12 herself or others. Provided, however, that notwithstanding any other
13 provision of law to the contrary, the designated lead agency shall not
14 be required to pay for all or any portion of the costs of such assess-
15 ment or for any substance use disorder or detoxification services,
16 except in cases where medical assistance for needy persons may be used
17 to pay for all or any portion of the costs of such assessment or
18 services. The office of alcoholism and substance abuse services shall
19 make a list of its certified providers available to the designated lead
20 agency.

21 (c) Any person or agency seeking to file a petition pursuant to this
22 article which does not have attached thereto the documentation required
23 by subdivision (g) of this section shall be referred by the clerk of the
24 court to the designated lead agency which shall schedule and hold, on
25 reasonable notice to the potential petitioner, the youth and his or her
26 parent or other person legally responsible for his or her care, at least
27 one conference in order to determine the factual circumstances and
28 determine whether the youth and his or her family should receive diver-
29 sion services pursuant to this section. Diversion services shall include
30 clearly documented diligent attempts to provide appropriate services to
31 the youth and his or her family unless it is determined that there is no
32 substantial likelihood that the youth and his or her family will benefit
33 from further diversion attempts. Notwithstanding the provisions of
34 section two hundred sixteen-c of this act, the clerk shall not accept
35 for filing under this part any petition that does not have attached
36 thereto the documentation required by subdivision (g) of this section.

37 (d) Diversion services shall include documented diligent attempts to
38 engage the youth and his or her family in appropriately targeted commu-
39 nity-based services, but shall not be limited to:

40 (i) providing, at the first contact, information on the availability
41 of or a referral to services in the geographic area where the youth and
42 his or her family are located that may be of benefit in avoiding the
43 need to file a petition under this article; including the availability,
44 for up to twenty-one days, of a residential respite program, if the
45 youth and his or her parent or other person legally responsible for his
46 or her care agree, and the availability of other non-residential crisis
47 intervention programs such as A FAMILY SUPPORT CENTER, family crisis
48 counseling or alternative dispute resolution programs or an educational
49 program as defined in section four hundred fifty-eight-1 of the social
50 services law.

51 (ii) scheduling and holding at least one conference with the youth and
52 his or her family and the person or representatives of the entity seek-
53 ing to file a petition under this article concerning alternatives to
54 filing a petition and services that are available. Diversion services
55 shall include clearly documented diligent attempts to provide appropri-
56 ate services to the youth and his or her family before it may be deter-

1 mined that there is no substantial likelihood that the youth and his or
2 her family will benefit from further attempts.

3 (iii) where the entity seeking to file a petition is a school district
4 or local educational agency, the designated lead agency shall review the
5 steps taken by the school district or local educational agency to
6 improve the youth's attendance and/or conduct in school and attempt to
7 engage the school district or local educational agency in further diver-
8 sion attempts, if it appears from review that such attempts will be
9 beneficial to the youth.

10 (e) The designated lead agency shall maintain a written record with
11 respect to each youth and his or her family for whom it considers
12 providing or provides diversion services pursuant to this section. The
13 record shall be made available to the court at or prior to the initial
14 appearance of the youth in any proceeding initiated pursuant to this
15 article.

16 (f) Efforts to prevent the filing of a petition pursuant to this
17 section may extend until the designated lead agency determines that
18 there is no substantial likelihood that the youth and his or her family
19 will benefit from further attempts. Efforts at diversion pursuant to
20 this section may continue after the filing of a petition where the
21 designated lead agency determines that the youth and his or her family
22 will benefit from further attempts to prevent PLACEMENT OF the youth
23 from entering foster care IN ACCORDANCE WITH SECTION SEVEN HUNDRED
24 FIFTY-SIX OF THIS ARTICLE.

25 (g) (i) The designated lead agency shall promptly give written notice
26 to the potential petitioner whenever attempts to prevent the filing of a
27 petition have terminated, and shall indicate in such notice whether
28 efforts were successful. The notice shall also detail the diligent
29 attempts made to divert the case if a determination has been made that
30 there is no substantial likelihood that the youth will benefit from
31 further attempts. No persons in need of supervision petition may be
32 filed pursuant to this article during the period the designated lead
33 agency is providing diversion services. A finding by the designated lead
34 agency that the case has been successfully diverted shall constitute
35 presumptive evidence that the underlying allegations have been success-
36 fully resolved in any petition based upon the same factual allegations.
37 No petition may be filed pursuant to this article by the parent or other
38 person legally responsible for the youth where diversion services have
39 been terminated because of the failure of the parent or other person
40 legally responsible for the youth to consent to or actively participate.

41 (ii) The clerk of the court shall accept a petition for filing only if
42 it has attached thereto the following:

43 (A) if the potential petitioner is the parent or other person legally
44 responsible for the youth, a notice from the designated lead agency
45 indicating there is no bar to the filing of the petition as the poten-
46 tial petitioner consented to and actively participated in diversion
47 services; and

48 (B) a notice from the designated lead agency stating that it has
49 terminated diversion services because it has determined that there is no
50 substantial likelihood that the youth and his or her family will benefit
51 from further attempts, and that the case has not been successfully
52 diverted.

53 (h) No statement made to the designated lead agency or to any agency
54 or organization to which the potential respondent has been referred,
55 prior to the filing of the petition, or if the petition has been filed,
56 prior to the time the respondent has been notified that attempts at

1 diversion will not be made or have been terminated, or prior to the
2 commencement of a fact-finding hearing if attempts at diversion have not
3 terminated previously, may be admitted into evidence at a fact-finding
4 hearing or, if the proceeding is transferred to a criminal court, at any
5 time prior to a conviction.

6 S 38-a. Subdivision (b) of section 742 of the family court act, as
7 amended by section 9 of part E of chapter 57 of the laws of 2005, is
8 amended to read as follows:

9 (b) At the initial appearance of the respondent, the court shall
10 review any termination of diversion services pursuant to such section,
11 and the documentation of diligent attempts to provide appropriate
12 services and determine whether such efforts or services provided are
13 sufficient [and]. THE COURT may, AT ANY TIME, subject to the provisions
14 of section seven hundred forty-eight of this article, order that addi-
15 tional diversion attempts be undertaken by the designated lead agency.
16 The court may order the youth and the parent or other person legally
17 responsible for the youth to participate in diversion services. If the
18 designated lead agency thereafter determines that the case has been
19 successfully resolved, it shall so notify the court, and the court shall
20 dismiss the petition.

21 S 38-b. Subdivision (a) of section 749 of the family court act, as
22 amended by section 4 of part V of chapter 55 of the laws of 2012, is
23 amended to read as follows:

24 (a) (i) Upon or after a fact-finding hearing, the court may, upon its
25 own motion or upon a motion of a party to the proceeding, order that the
26 proceeding be "adjourned in contemplation of dismissal". An adjournment
27 in contemplation of dismissal is an adjournment of the proceeding, for a
28 period not to exceed six months with a view to ultimate dismissal of the
29 petition in furtherance of justice. Upon issuing such an order, upon
30 such permissible terms and conditions as the rules of court shall
31 define, the court must release the individual.

32 (ii) The court may, as a condition of an adjournment in contemplation
33 of dismissal order: (A) in cases where the record indicates that the
34 consumption of alcohol may have been a contributing factor, require the
35 respondent to attend and complete an alcohol awareness program estab-
36 lished pursuant to section 19.25 of the mental hygiene law; or (B) in
37 cases where the record indicates that cyberbullying or sexting was the
38 basis of the petition, require an eligible person to complete an educa-
39 tion reform program in accordance with section four hundred
40 fifty-eight-1 of the social services law; OR (C) PARTICIPATE IN SERVICES
41 INCLUDING BUT NOT LIMITED TO THOSE PROVIDED BY FAMILY SUPPORT CENTERS.

42 (iii) Upon application of the petitioner, or upon the court's own
43 motion, made at any time during the duration of the order, the court may
44 restore the matter to the calendar. If the proceeding is not so
45 restored, the petition is at the expiration of the order, deemed to have
46 been dismissed by the court in furtherance of justice.

47 S 38-c. Section 751 of the family court act, as amended by chapter 100
48 of the laws of 1993, is amended to read as follows:

49 S 751. Order dismissing petition. If the allegations of a petition
50 under this article are not established, the court shall dismiss the
51 petition. The court may in its discretion dismiss a petition under this
52 article, in the interests of justice where attempts have been made to
53 adjust the case as provided for in sections seven hundred thirty-five
54 and seven hundred forty-two of this article and the probation service
55 has exhausted its efforts to successfully adjust such case as a result
56 of the petition's failure to provide reasonable assistance to the

1 probation service. IN DISMISSING A PETITION PURSUANT TO THIS SECTION,
2 THE COURT SHALL CONSIDER WHETHER A REFERRAL OF SERVICES WOULD BE APPRO-
3 PRIATE TO MEET THE NEEDS OF THE RESPONDENT AND HIS OR HER FAMILY.

4 S 39. Section 754 of the family court act, subdivision 1 as designated
5 by chapter 878 of the laws of 1976, paragraph (c) of subdivision 1 as
6 amended by section 4 of part V of chapter 383 of the laws of 2001, the
7 closing paragraph of subdivision 1 as added by section 5 of part V of
8 chapter 55 of the laws of 2012, subdivision 2 as amended by chapter 7 of
9 the laws of 1999, subparagraph (ii) of paragraph (a) of subdivision 2 as
10 amended by section 20 of part L of chapter 56 of the laws of 2015 and
11 the closing paragraph of paragraph (b) of subdivision 2 as amended by
12 section 21 of part L of chapter 56 of the laws of 2015 is amended to
13 read as follows:

14 S 754. Disposition on adjudication of person in need of supervision.
15 1. Upon an adjudication of person in need of supervision, the court
16 shall enter an order of disposition:

17 (a) Discharging the respondent with warning;

18 (b) Suspending judgment in accord with section seven hundred fifty-
19 five OF THIS PART;

20 (c) Continuing the proceeding and placing the respondent in accord
21 with section seven hundred fifty-six OF THIS PART; provided, however,
22 that the court shall not place the respondent in accord with section
23 seven hundred fifty-six where the respondent is sixteen years of age or
24 older, unless the court determines and states in its order that special
25 circumstances exist to warrant such placement; or

26 (d) Putting the respondent on probation in accord with section seven
27 hundred fifty-seven OF THIS PART.

28 The court may order an eligible person to complete an education reform
29 program in accordance with section four hundred fifty-eight-1 of the
30 social services law, as part of a disposition pursuant to paragraph (a),
31 (b) or (d) of this subdivision. THE COURT MAY ALSO ORDER SERVICES,
32 INCLUDING THOSE PROVIDED BY A FAMILY SUPPORT CENTER, AS PART OF A DISPO-
33 SITION PURSUANT TO PARAGRAPH (A), (B) OR (D) OF THIS SUBDIVISION.

34 2. (a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE
35 COURT SHALL NOT ORDER PLACEMENT WITH THE LOCAL COMMISSIONER OF SOCIAL
36 SERVICES PURSUANT TO SECTION SEVEN HUNDRED FIFTY-SIX OF THIS PART UNLESS
37 THE COURT FINDS AND STATES IN WRITING THAT:

38 (I) NO APPROPRIATE SUITABLE RELATIVE OR SUITABLE PRIVATE PERSON IS
39 AVAILABLE FOR PLACEMENT PURSUANT TO SECTION SEVEN HUNDRED FIFTY-SIX OF
40 THIS PART; AND

41 (II) PLACEMENT IN THE CHILD'S HOME WOULD NOT BE APPROPRIATE BECAUSE
42 SUCH PLACEMENT WOULD:

43 (A) CONTINUE OR WORSEN THE CIRCUMSTANCES ALLEGED IN THE UNDERLYING
44 PETITION OR,

45 (B) CREATE A SAFETY RISK TO THE CHILD OR THE CHILD'S FAMILY.

46 (B) The order shall state the court's reasons for the particular
47 disposition. If the court places the child in accordance with section
48 seven hundred fifty-six of this part, the court in its order shall
49 determine: (i) whether continuation in the child's home would be contra-
50 ry to the best interest of the child and where appropriate, that reason-
51 able efforts were made prior to the date of the dispositional hearing
52 held pursuant to this article to prevent or eliminate the need for
53 removal of the child from his or her home and, if the child was removed
54 from his or her home prior to the date of such hearing, that such
55 removal was in the child's best interest and, where appropriate, reason-
56 able efforts were made to make it possible for the child to return safe-

1 ly home. If the court determines that reasonable efforts to prevent or
2 eliminate the need for removal of the child from the home were not made
3 but that the lack of such efforts was appropriate under the circum-
4 stances, the court order shall include such a finding; and (ii) in the
5 case of a child who has attained the age of fourteen, the services need-
6 ed, if any, to assist the child to make the transition from foster care
7 to independent living. Nothing in this subdivision shall be construed to
8 modify the standards for directing detention set forth in section seven
9 hundred thirty-nine of this article.

10 [(b)] (C) For the purpose of this section, reasonable efforts to
11 prevent or eliminate the need for removing the child from the home of
12 the child or to make it possible for the child to return safely to the
13 home of the child shall not be required where the court determines that:

14 (i) the parent of such child has subjected the child to aggravated
15 circumstances, as defined in subdivision (g) of section seven hundred
16 twelve of this article;

17 (ii) the parent of such child has been convicted of (A) murder in the
18 first degree as defined in section 125.27 or murder in the second degree
19 as defined in section 125.25 of the penal law and the victim was another
20 child of the parent; or (B) manslaughter in the first degree as defined
21 in section 125.20 or manslaughter in the second degree as defined in
22 section 125.15 of the penal law and the victim was another child of the
23 parent, provided, however, that the parent must have acted voluntarily
24 in committing such crime;

25 (iii) the parent of such child has been convicted of an attempt to
26 commit any of the crimes set forth in subparagraphs (i) and (ii) of this
27 paragraph, and the victim or intended victim was the child or another
28 child of the parent; or has been convicted of criminal solicitation as
29 defined in article one hundred, conspiracy as defined in article one
30 hundred five or criminal facilitation as defined in article one hundred
31 fifteen of the penal law for conspiring, soliciting or facilitating any
32 of the foregoing crimes, and the victim or intended victim was the child
33 or another child of the parent;

34 (iv) the parent of such child has been convicted of assault in the
35 second degree as defined in section 120.05, assault in the first degree
36 as defined in section 120.10 or aggravated assault upon a person less
37 than eleven years old as defined in section 120.12 of the penal law, and
38 the commission of one of the foregoing crimes resulted in serious phys-
39 ical injury to the child or another child of the parent;

40 (v) the parent of such child has been convicted in any other jurisdic-
41 tion of an offense which includes all of the essential elements of any
42 crime specified in subparagraph (ii), (iii) or (iv) of this paragraph,
43 and the victim of such offense was the child or another child of the
44 parent; or

45 (vi) the parental rights of the parent to a sibling of such child have
46 been involuntarily terminated;
47 unless the court determines that providing reasonable efforts would be
48 in the best interests of the child, not contrary to the health and safe-
49 ty of the child, and would likely result in the reunification of the
50 parent and the child in the foreseeable future. The court shall state
51 such findings in its order.

52 If the court determines that reasonable efforts are not required
53 because of one of the grounds set forth above, a permanency hearing
54 shall be held within thirty days of the finding of the court that such
55 efforts are not required. At the permanency hearing, the court shall
56 determine the appropriateness of the permanency plan prepared by the

1 social services official which shall include whether and when the child:
2 (A) will be returned to the parent; (B) should be placed for adoption
3 with the social services official filing a petition for termination of
4 parental rights; (C) should be referred for legal guardianship; (D)
5 should be placed permanently with a fit and willing relative; or (E)
6 should be placed in another planned permanent living arrangement with a
7 significant connection to an adult willing to be a permanency resource
8 for the child if the child is age sixteen or older and if the require-
9 ments of subparagraph (E) of paragraph (iv) of subdivision (d) of
10 section seven hundred fifty-six-a of this part have been met. The social
11 services official shall thereafter make reasonable efforts to place the
12 child in a timely manner and to complete whatever steps are necessary to
13 finalize the permanent placement of the child as set forth in the
14 permanency plan approved by the court. If reasonable efforts are deter-
15 mined by the court not to be required because of one of the grounds set
16 forth in this paragraph, the social services official may file a peti-
17 tion for termination of parental rights in accordance with section three
18 hundred eighty-four-b of the social services law.

19 [(c)] (D) For the purpose of this section, in determining reasonable
20 efforts to be made with respect to a child, and in making such reason-
21 able efforts, the child's health and safety shall be the paramount
22 concern.

23 [(d)] (E) For the purpose of this section, a sibling shall include a
24 half-sibling.

25 S 40. Section 755 of the family court act, subdivision (a) as amended
26 by chapter 124 of the laws of 1993, is amended to read as follows:

27 S 755. Suspended judgment. (a) Rules of court shall define permissible
28 terms and conditions of a suspended judgment. The court may order as a
29 condition of a suspended judgment restitution, SERVICES, INCLUDING THOSE
30 PROVIDED BY A FAMILY SUPPORT CENTER PURSUANT TO TITLE TWELVE OF ARTICLE
31 SIX OF THE SOCIAL SERVICES LAW or services for public good pursuant to
32 section seven hundred fifty-eight-a, and[, except when the respondent
33 has been assigned to a facility in accordance with subdivision four of
34 section five hundred four of the executive law,] in cases wherein the
35 record indicates that the consumption of alcohol by the respondent may
36 have been a contributing factor, the court may order attendance at and
37 completion of an alcohol awareness program established pursuant to
38 section 19.25 of the mental hygiene law.

39 (b) The maximum duration of any term or condition of a suspended judg-
40 ment is one year, unless the court finds at the conclusion of that peri-
41 od that exceptional circumstances require an additional period of one
42 year.

43 S 41. Section 756 of the family court act, as amended by chapter 920
44 of the laws of 1982, paragraph (i) of subdivision (a) as amended by
45 chapter 309 of the laws of 1996, the opening paragraph of paragraph (ii)
46 of subdivision (a) as amended by section 11 of part G of chapter 58 of
47 the laws of 2010, subdivision (b) as amended by chapter 7 of the laws of
48 1999, and subdivision (c) as amended by section 10 of part E of chapter
49 57 of the laws of 2005, is amended to read as follows:

50 S 756. Placement. (a) (i) For purposes of section seven hundred
51 fifty-four, the court may place the child in its own home or in the
52 custody of a suitable relative or other suitable private person [or a
53 commissioner of social services], subject to the orders of the court.

54 (ii) Where the child is placed with the commissioner of the local
55 social services district, the court may direct the commissioner to place
56 the child with an authorized agency or class of authorized agencies,

1 including, if the court finds that the respondent is a sexually
2 exploited child as defined in subdivision one of section four hundred
3 forty-seven-a of the social services law, an available long-term safe
4 house. Unless the dispositional order provides otherwise, the court so
5 directing shall include one of the following alternatives to apply in
6 the event that the commissioner is unable to so place the child:

7 (1) the commissioner shall apply to the court for an order to stay,
8 modify, set aside, or vacate such directive pursuant to the provisions
9 of section seven hundred sixty-two or seven hundred sixty-three; or

10 (2) the commissioner shall return the child to the family court for a
11 new dispositional hearing and order.

12 (b) Placements under this section may be for an initial period of
13 [twelve months] NINETY DAYS. The court may extend a placement pursuant
14 to section seven hundred fifty-six-a. In its discretion, the court may
15 recommend restitution or require services for public good pursuant to
16 section seven hundred fifty-eight-a in conjunction with an order of
17 placement. [For the purposes of calculating the initial period of
18 placement, such placement shall be deemed to have commenced sixty days
19 after the date the child was removed from his or her home in accordance
20 with the provisions of this article.] If the respondent has been in
21 detention pending disposition, the initial period of placement ordered
22 under this section shall be credited with and diminished by the amount
23 of time spent by the respondent in detention prior to the commencement
24 of the placement unless the court finds that all or part of such credit
25 would not serve the best interests of the respondent.

26 (c) [A placement pursuant to this section with the commissioner of
27 social services shall not be directed in any detention facility, but
28 the] THE court may direct detention pending transfer to a placement
29 authorized and ordered under this section for no more than [than
30 fifteen] TEN days after such order of placement is made. Such direction
31 shall be subject to extension pursuant to subdivision three of section
32 three hundred ninety-eight of the social services law, upon written
33 documentation to the office of children and family services that the
34 youth is in need of specialized treatment or placement and the diligent
35 efforts by the commissioner of social services to locate an appropriate
36 placement.

37 S 42. Section 756-a of the family court act, as added by chapter 604
38 of the laws of 1986, subdivision (a) as amended by chapter 309 of the
39 laws of 1996, subdivisions (b) and (d) as amended by section 4 of part B
40 of chapter 327 of the laws of 2007, paragraph (ii) of subdivision (d) as
41 amended by section 22, paragraphs (iii), (iv) and (v) of subdivision (d)
42 as amended by section 23 and subdivision (d-1) as amended by section 24
43 of part L of chapter 56 of the laws of 2015, and subdivisions (c) and
44 (e) as amended by chapter 7 of the laws of 1999, is amended to read as
45 follows:

46 S 756-a. Extension of placement. (a) In any case in which the child
47 has been placed pursuant to section seven hundred fifty-six, the child,
48 the person with whom the child has been placed or the commissioner of
49 social services may petition the court to extend such placement. Such
50 petition shall be filed at least [sixty] THIRTY days prior to the expi-
51 ration of the period of placement, except for good cause shown, but in
52 no event shall such petition be filed after the original expiration
53 date.

54 (b) The court shall conduct a permanency hearing concerning the need
55 for continuing the placement. The child, the person with whom the child

1 has been placed and the commissioner of social services shall be noti-
2 fied of such hearing and shall have the right to be heard thereat.

3 (c) The provisions of section seven hundred forty-five shall apply at
4 such permanency hearing. If the petition is filed within [sixty] THIRTY
5 days prior to the expiration of the period of placement, the court shall
6 first determine at such permanency hearing whether good cause has been
7 shown. If good cause is not shown, the court shall dismiss the petition.

8 (d) At the conclusion of the permanency hearing the court may, in its
9 discretion, order an extension of the placement for not more than [one
10 year] NINETY DAYS. The court must consider and determine in its order:

11 (i) where appropriate, that reasonable efforts were made to make it
12 possible for the child to safely return to his or her home, or if the
13 permanency plan for the child is adoption, guardianship or some other
14 permanent living arrangement other than reunification with the parent or
15 parents of the child, reasonable efforts are being made to make and
16 finalize such alternate permanent placement including consideration of
17 appropriate in-state and out-of-state placements;

18 (ii) in the case of a child who has attained the age of fourteen, the
19 services needed, if any, to assist the child to make the transition from
20 foster care to independent living;

21 (iii) in the case of a child placed outside New York state, whether
22 the out-of-state placement continues to be appropriate and in the best
23 interests of the child;

24 (iv) whether and when the child: (A) will be returned to the parent;
25 (B) should be placed for adoption with the social services official
26 filing a petition for termination of parental rights; (C) should be
27 referred for legal guardianship; (D) should be placed permanently with a
28 fit and willing relative; or (E) should be placed in another planned
29 permanent living arrangement with a significant connection to an adult
30 willing to be a permanency resource for the child if the child is age
31 sixteen or older and (1) the social services official has documented to
32 the court: (I) intensive, ongoing, and, as of the date of the hearing,
33 unsuccessful efforts made by the social services district to return the
34 child home or secure a placement for the child with a fit and willing
35 relative including adult siblings, a legal guardian, or an adoptive
36 parent, including through efforts that utilize search technology includ-
37 ing social media to find biological family members for children, (II)
38 the steps the social services district is taking to ensure that (A) the
39 child's foster family home or child care facility is following the
40 reasonable and prudent parent standard in accordance with guidance
41 provided by the United States department of health and human services,
42 and (B) the child has regular, ongoing opportunities to engage in age or
43 developmentally appropriate activities including by consulting with the
44 child in an age-appropriate manner about the opportunities of the child
45 to participate in activities; and (2) the social services district has
46 documented to the court and the court has determined that there are
47 compelling reasons for determining that it continues to not be in the
48 best interest of the child to return home, be referred for termination
49 of parental rights and placed for adoption, placed with a fit and will-
50 ing relative, or placed with a legal guardian; and (3) the court has
51 made a determination explaining why, as of the date of the hearing,
52 another planned living arrangement with a significant connection to an
53 adult willing to be a permanency resource for the child is the best
54 permanency plan for the child; and

55 (v) where the child will not be returned home, consideration of appro-
56 priate in-state and out-of-state placements.

1 (d-1) At the permanency hearing, the court shall consult with the
2 respondent in an age-appropriate manner regarding the permanency plan;
3 provided, however, that if the respondent is age sixteen or older and
4 the requested permanency plan for the respondent is placement in another
5 planned permanent living arrangement with a significant connection to an
6 adult willing to be a permanency resource for the respondent, the court
7 must ask the respondent about the desired permanency outcome for the
8 respondent.

9 (e) Pending final determination of a petition to extend such placement
10 filed in accordance with the provisions of this section, the court may,
11 on its own motion or at the request of the petitioner or respondent,
12 enter one or more temporary orders extending a period of placement not
13 to exceed thirty days upon satisfactory proof showing probable cause for
14 continuing such placement and that each temporary order is necessary.
15 The court may order additional temporary extensions, not to exceed a
16 total of fifteen days, if the court is unable to conclude the hearing
17 within the thirty day temporary extension period. In no event shall the
18 aggregate number of days in extensions granted or ordered under this
19 subdivision total more than forty-five days. The petition shall be
20 dismissed if a decision is not rendered within the period of placement
21 or any temporary extension thereof. Notwithstanding any provision of law
22 to the contrary, the initial permanency hearing shall be held within
23 [twelve months of the date the child was placed into care] A REASONABLE
24 PERIOD OF TIME PRIOR TO THE EXPIRATION OF THE INITIAL PERIOD OF PLACE-
25 MENT pursuant to section seven hundred fifty-six [of this article] and
26 no later than every twelve months thereafter. [For the purposes of this
27 section, the date the child was placed into care shall be sixty days
28 after the child was removed from his or her home in accordance with the
29 provisions of this section.]

30 (f) Successive extensions of placement under this section may be
31 granted, but no placement may be made or continued beyond the child's
32 eighteenth birthday without his or her consent and in no event past his
33 or her twenty-first birthday.

34 S 43. Section 757 of the family court act is amended by adding a new
35 subdivision (e) to read as follows:

36 (E) THE COURT MAY ORDER SERVICES DEEMED APPROPRIATE TO ADDRESS THE
37 CIRCUMSTANCES ALLEGED IN THE UNDERLYING PETITION INCLUDING SERVICES
38 PROVIDED BY FAMILY SUPPORT CENTERS.

39 S 44. Section 758-a of the family court act, as amended by chapter 73
40 of the laws of 1979, subdivision 1 as amended by chapter 4 of the laws
41 of 1987, paragraph (b) of subdivision 1 as amended by chapter 575 of the
42 laws of 2007, subdivision 2 as amended by chapter 309 of the laws of
43 1996, and subdivision 3 as separately amended by chapter 568 of the laws
44 of 1979, is amended to read as follows:

45 S 758-a. Restitution. 1. In cases involving acts of [infants] CHILDREN
46 over [ten] TWELVE and less than [sixteen] EIGHTEEN years of age, the
47 court may

48 (a) recommend as a condition of placement, or order as a condition of
49 probation or suspended judgment, restitution in an amount representing a
50 fair and reasonable cost to replace the property or repair the damage
51 caused by the [infant] CHILD, not, however, to exceed one thousand
52 dollars. [In the case of a placement, the court may recommend that the
53 infant pay out of his or her own funds or earnings the amount of
54 replacement or damage, either in a lump sum or in periodic payments in
55 amounts set by the agency with which he is placed, and in the case of
56 probation or suspended judgment, the] THE court may require that the

1 [infant] CHILD pay out of his or her own funds or earnings the amount of
2 replacement or damage, either in a lump sum or in periodic payments in
3 amounts set by the court; and/or

4 (b) order as a condition of placement, probation, or suspended judg-
5 ment, services for the public good including in the case of a crime
6 involving willful, malicious, or unlawful damage or destruction to real
7 or personal property maintained as a cemetery plot, grave, burial place,
8 or other place of interment of human remains, services for the mainte-
9 nance and repair thereof, taking into consideration the age and physical
10 condition of the [infant] CHILD.

11 2. If the court recommends restitution or requires services for the
12 public good in conjunction with an order of placement pursuant to
13 section seven hundred fifty-six, the placement shall be made only to an
14 authorized agency which has adopted rules and regulations for the super-
15 vision of such a program, which rules and regulations shall be subject
16 to the approval of the state department of social services. Such rules
17 and regulations shall include, but not be limited to provisions (i)
18 assuring that the conditions of work, including wages, meet the stand-
19 ards therefor prescribed pursuant to the labor law; (ii) affording
20 coverage to the child under the workers' compensation law as an employee
21 of such agency, department or institution; (iii) assuring that the enti-
22 ty receiving such services shall not utilize the same to replace its
23 regular employees; and (iv) providing for reports to the court not less
24 frequently than every six months, unless the order provides otherwise.

25 3. If the court requires restitution or services for the public good
26 as a condition of probation or suspended judgment, it shall provide that
27 an agency or person supervise the restitution or services and that such
28 agency or person report to the court not less frequently than every six
29 months, unless the order provides otherwise. Upon the written notice
30 sent by a school district to the court and the appropriate probation
31 department or agency which submits probation recommendations or reports
32 to the court, the court may provide that such school district shall
33 supervise the performance of services for the public good.

34 4. The court, upon receipt of the reports provided for in subdivision
35 two or three of this section may, on its own motion or the motion of any
36 party or the agency, hold a hearing to determine whether the placement
37 should be altered or modified.

38 S 45. Subdivision (f) of section 759 of the family court act, as
39 amended by section 11 of part E of chapter 57 of the laws of 2005, is
40 amended to read as follows:

41 (f) to participate in family counseling or other professional coun-
42 seling activities, or other services, including SERVICES PROVIDED BY
43 FAMILY SUPPORT CENTERS, alternative dispute resolution services
44 conducted by an authorized person or an authorized agency to which the
45 youth has been referred or placed, deemed necessary for the rehabili-
46 tation of the youth, provided that such family counseling, other coun-
47 seling activity or other necessary services are not contrary to such
48 person's religious beliefs;

49 S 46. Section 768 of the family court act is amended to read as
50 follows:

51 S 768. Successive petitions. If a petition under section seven hundred
52 sixty-four is denied, it may not be renewed for a period of [ninety]
53 THIRTY days after the denial, unless the order of denial permits renewal
54 at an earlier time.

55 S 47. Section 153-k of the social services law is amended by adding
56 two new subdivisions 2-a and 2-b to read as follows:

1 2-A. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, STATE
 2 REIMBURSEMENT SHALL BE MADE AVAILABLE FOR ONE HUNDRED PERCENT OF EXPEND-
 3 ITURES MADE BY SOCIAL SERVICES DISTRICTS, EXCLUSIVE OF ANY FEDERAL FUNDS
 4 MADE AVAILABLE FOR SUCH PURPOSES, FOR PREVENTIVE SERVICES, AFTERCARE
 5 SERVICES, INDEPENDENT LIVING SERVICES AND FOSTER CARE SERVICES PROVIDED
 6 TO YOUTH AGE SIXTEEN YEARS OF AGE OR OLDER WHEN SUCH SERVICES WOULD NOT
 7 OTHERWISE HAVE BEEN PROVIDED TO SUCH YOUTH ABSENT THE PROVISIONS IN A
 8 CHAPTER OF THE LAWS OF TWO THOUSAND SIXTEEN THAT INCREASED THE AGE OF
 9 JUVENILE JURISDICTION ABOVE FIFTEEN YEARS OF AGE.

10 2-B. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, STATE
 11 REIMBURSEMENT SHALL BE MADE AVAILABLE FOR ONE HUNDRED PERCENT OF EXPEND-
 12 ITURES MADE BY SOCIAL SERVICES DISTRICTS, EXCLUSIVE OF ANY FEDERAL FUNDS
 13 MADE AVAILABLE FOR SUCH PURPOSE, FOR FAMILY SUPPORT CENTERS ESTABLISHED
 14 PURSUANT TO TITLE TWELVE OF THIS ARTICLE.

15 S 48. Intentionally omitted.

16 S 49. Subdivisions 5 and 6 of section 371 of the social services law,
 17 subdivision 5 as added by chapter 690 of the laws of 1962, and subdivi-
 18 sion 6 as amended by chapter 596 of the laws of 2000, are amended to
 19 read as follows:

20 5. "Juvenile delinquent" means a person [over seven and less than
 21 sixteen years of age who does any act which, if done by an adult, would
 22 constitute a crime] AS DEFINED IN SECTION 301.2 OF THE FAMILY COURT ACT.

23 6. "Person in need of supervision" means a person [less than eighteen
 24 years of age who is habitually truant or who is incorrigible, ungovernable
 25 or habitually disobedient and beyond the lawful control of a parent
 26 or other person legally responsible for such child's care, or other
 27 lawful authority] AS DEFINED IN SECTION SEVEN HUNDRED TWELVE OF THE
 28 FAMILY COURT ACT.

29 S 50. Article 6 of the social services law is amended by adding a new
 30 title 12 to read as follows:

31 TITLE 12

32 FAMILY SUPPORT CENTERS

33 SECTION 458-M. FAMILY SUPPORT CENTERS.

34 458-N. FUNDING FOR FAMILY SUPPORT CENTERS.

35 S 458-M. FAMILY SUPPORT CENTERS. 1. AS USED IN THIS TITLE, THE TERM
 36 "FAMILY SUPPORT CENTER" SHALL MEAN A PROGRAM ESTABLISHED PURSUANT TO
 37 THIS TITLE TO PROVIDE COMMUNITY-BASED SUPPORTIVE SERVICES TO YOUTH AT
 38 RISK OF BEING, OR ALLEGED OR ADJUDICATED TO BE PERSONS IN NEED OF SUPER-
 39 VISION PURSUANT TO ARTICLE SEVEN OF THE FAMILY COURT ACT, AND THEIR
 40 FAMILIES. FAMILY SUPPORT CENTERS MAY ALSO PROVIDE COMMUNITY-BASED
 41 SUPPORTIVE SERVICES TO YOUTH WHO ARE ALLEGED OR ADJUDICATED TO BE JUVE-
 42 NILE DELINQUENTS PURSUANT TO ARTICLE THREE OF THE FAMILY COURT ACT.

43 2. FAMILY SUPPORT CENTERS SHALL PROVIDE COMPREHENSIVE SERVICES TO SUCH
 44 CHILDREN AND THEIR FAMILIES, EITHER DIRECTLY OR THROUGH REFERRALS WITH
 45 PARTNER AGENCIES, INCLUDING, BUT NOT LIMITED TO:

46 (A) RAPID FAMILY ASSESSMENTS AND SCREENINGS;

47 (B) CRISIS INTERVENTION;

48 (C) FAMILY MEDIATION AND SKILLS BUILDING;

49 (D) MENTAL AND BEHAVIORAL HEALTH SERVICES, AS DEFINED IN SUBDIVISION
 50 FIFTY-EIGHT OF SECTION 1.03 OF THE MENTAL HYGIENE LAW, INCLUDING COGNI-
 51 TIVE INTERVENTIONS;

52 (E) CASE MANAGEMENT;

53 (F) RESPITE SERVICES; AND

54 (G) OTHER FAMILY SUPPORT SERVICES.

55 3. TO THE EXTENT PRACTICABLE, THE SERVICES THAT ARE PROVIDED SHALL BE
 56 TRAUMA SENSITIVE, FAMILY FOCUSED, GENDER-RESPONSIVE, WHERE APPROPRIATE,

1 AND EVIDENCE AND/OR STRENGTH BASED AND SHALL BE TAILORED TO THE INDIVID-
2 UALIZED NEEDS OF THE CHILD AND FAMILY BASED ON THE ASSESSMENTS AND
3 SCREENINGS CONDUCTED BY SUCH FAMILY SUPPORT CENTER.

4 4. FAMILY SUPPORT CENTERS SHALL HAVE THE CAPACITY TO SERVE FAMILIES
5 OUTSIDE OF REGULAR BUSINESS HOURS INCLUDING EVENINGS OR WEEKENDS.

6 S 458-N. FUNDING FOR FAMILY SUPPORT CENTERS. 1. NOTWITHSTANDING ANY
7 OTHER PROVISION OF LAW TO THE CONTRARY, STATE REIMBURSEMENT SHALL BE
8 MADE AVAILABLE FOR ONE HUNDRED PERCENT OF EXPENDITURES MADE BY SOCIAL
9 SERVICES DISTRICTS, EXCLUSIVE OF ANY FEDERAL FUNDS MADE AVAILABLE FOR
10 SUCH PURPOSE, FOR FAMILY SUPPORT CENTERS STATEWIDE.

11 2. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, FAMILY
12 SUPPORT CENTERS SHALL BE ESTABLISHED IN EACH SOCIAL SERVICES DISTRICT
13 THROUGHOUT THE STATE WITH THE APPROVAL OF THE OFFICE OF CHILDREN AND
14 FAMILY SERVICES, PROVIDED HOWEVER THAT TWO OR MORE SOCIAL SERVICES
15 DISTRICTS MAY JOIN TOGETHER TO ESTABLISH, OPERATE AND MAINTAIN A FAMILY
16 SUPPORT CENTER AND MAY MAKE AND PERFORM AGREEMENTS IN CONNECTION THERE-
17 WITH.

18 3. SOCIAL SERVICES DISTRICTS MAY CONTRACT WITH NOT-FOR-PROFIT CORPO-
19 RATIONS OR UTILIZE EXISTING PROGRAMS TO OPERATE FAMILY SUPPORT CENTERS
20 IN ACCORDANCE WITH THE PROVISIONS OF THIS TITLE AND THE SPECIFIC PROGRAM
21 REQUIREMENTS ISSUED BY THE OFFICE. FAMILY SUPPORT CENTERS SHALL HAVE
22 SUFFICIENT CAPACITY TO PROVIDE SERVICES TO YOUTH WITHIN THE SOCIAL
23 SERVICES DISTRICT OR DISTRICTS WHO ARE AT RISK OF BECOMING, ALLEGED OR
24 ADJUDICATED TO BE PERSONS IN NEED OF SUPERVISION PURSUANT TO ARTICLE
25 SEVEN OF THE FAMILY COURT ACT, AND THEIR FAMILIES. IN ADDITION, TO THE
26 EXTENT PRACTICABLE, FAMILY SUPPORT CENTERS MAY PROVIDE SERVICES TO YOUTH
27 WHO ARE ALLEGED OR ADJUDICATED UNDER ARTICLE THREE OF THE FAMILY COURT
28 ACT.

29 4. SOCIAL SERVICES DISTRICTS RECEIVING FUNDING UNDER THIS TITLE SHALL
30 REPORT TO THE OFFICE OF CHILDREN AND FAMILY SERVICES, IN THE FORM AND
31 MANNER AND AT SUCH TIMES AS DETERMINED BY THE OFFICE, ON THE PERFORMANCE
32 OUTCOMES OF ANY FAMILY SUPPORT CENTER LOCATED WITHIN SUCH DISTRICT THAT
33 RECEIVES FUNDING UNDER THIS TITLE.

34 S 51. Subdivisions 3 and 11 of section 398 of the social services law,
35 subdivision 3 as amended by chapter 419 of the laws of 1987, paragraph
36 (c) of subdivision 3 as amended by section 19 of part E of chapter 57 of
37 the laws of 2005, subdivision 11 as added by chapter 514 of the laws of
38 1976, are amended to read as follows:

39 3. As to delinquent children and persons in need of supervision:

40 (a) Investigate complaints as to alleged delinquency of a child.

41 (b) Bring such case of alleged delinquency when necessary before the
42 family court.

43 (c) Receive within fifteen days from the order of placement as a
44 public charge any delinquent child committed or placed or IN THE CASE OF
45 A person in need of supervision placed, TEN DAYS, in his or her care by
46 the family court provided, however, that the commissioner of the social
47 services district with whom the child is placed may apply to the state
48 commissioner or his or her designee for approval of an additional
49 fifteen days, OR IN THE CASE OF A PERSON IN NEED OF SUPERVISION, TEN
50 DAYS, upon written documentation to the office of children and family
51 services that the youth is in need of specialized treatment or placement
52 and the diligent efforts by the commissioner of social services to
53 locate an appropriate placement.

54 11. In the case of a child who is adjudicated a person in need of
55 supervision or a juvenile delinquent and is placed by the family court
56 with the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES and

1 who is placed by [the division for youth] SUCH OFFICE with an authorized
2 agency pursuant to court order, the social services official shall make
3 expenditures in accordance with the regulations of the department for
4 the care and maintenance of such child during the term of such placement
5 subject to state reimbursement pursuant to SECTION ONE HUNDRED
6 FIFTY-THREE-K OF this title[, or article nineteen-G of the executive law
7 in applicable cases].

8 S 52. Subdivision 8 of section 404 of the social services law, as
9 added by section 1 of subpart A of part G of chapter 57 of the laws of
10 2012, is amended to read as follows:

11 8. (a) Notwithstanding any other provision of law to the contrary[,]
12 EXCEPT AS PROVIDED FOR IN PARAGRAPH (A-1) OF THIS SUBDIVISION, eligible
13 expenditures during the applicable time periods made by a social
14 services district for an approved juvenile justice services close to
15 home initiative shall, if approved by the department of family assist-
16 ance, be subject to reimbursement with state funds only up to the extent
17 of an annual appropriation made specifically therefor, after first
18 deducting therefrom any federal funds properly received or to be
19 received on account thereof; provided, however, that when such funds
20 have been exhausted, a social services district may receive state
21 reimbursement from other available state appropriations for that state
22 fiscal year for eligible expenditures for services that otherwise would
23 be reimbursable under such funding streams. Any claims submitted by a
24 social services district for reimbursement for a particular state fiscal
25 year for which the social services district does not receive state
26 reimbursement from the annual appropriation for the approved close to
27 home initiative may not be claimed against that district's appropriation
28 for the initiative for the next or any subsequent state fiscal year.

29 (i) State funding for reimbursement shall be, subject to appropri-
30 ation, in the following amounts: for state fiscal year 2013-14,
31 \$35,200,000 adjusted by any changes in such amount required by subpara-
32 graphs (ii) and (iii) of this paragraph; for state fiscal year 2014-15,
33 \$41,400,000 adjusted to include the amount of any changes made to the
34 state fiscal year 2013-14 appropriation under subparagraphs (ii) and
35 (iii) of this paragraph plus any additional changes required by such
36 subparagraphs; and, such reimbursement shall be, subject to appropri-
37 ation, for all subsequent state fiscal years in the amount of the prior
38 year's actual appropriation adjusted by any changes required by subpara-
39 graphs (ii) and (iii) of this paragraph.

40 (ii) The reimbursement amounts set forth in subparagraph (i) of this
41 paragraph shall be increased or decreased by the percentage that the
42 average of the most recently approved maximum state aid rates for group
43 residential foster care programs is higher or lower than the average of
44 the approved maximum state aid rates for group residential foster care
45 programs in existence immediately prior to the most recently approved
46 rates.

47 (iii) The reimbursement amounts set forth in subparagraph (i) of this
48 paragraph shall be increased if either the population of alleged juve-
49 nile delinquents who receive a probation intake or the total population
50 of adjudicated juvenile delinquents placed on probation combined with
51 the population of adjudicated juvenile delinquents placed out of their
52 homes in a setting other than a secure facility pursuant to section
53 352.2 of the family court act, increases by at least ten percent over
54 the respective population in the annual baseline year. The baseline year
55 shall be the period from July first, two thousand ten through June thir-
56 tieth, two thousand eleven or the most recent twelve month period for

1 which there is complete data, whichever is later. In each successive
2 year, the population of the previous July first through June thirtieth
3 period shall be compared to the baseline year for determining any
4 adjustments to a state fiscal year appropriation. When either population
5 increases by ten percent or more, the reimbursement will be adjusted by
6 a percentage equal to the larger of the percentage increase in either
7 the number of probation intakes for alleged juvenile delinquents or the
8 total population of adjudicated juvenile delinquents placed on probation
9 combined with the population of adjudicated juvenile delinquents placed
10 out of their homes in a setting other than a secure facility pursuant to
11 section 352.2 of the family court act.

12 (iv) The social services district and/or the New York city department
13 of probation shall provide an annual report including the data required
14 to calculate the population adjustment to the New York city office of
15 management and budget, the division of criminal justice services and the
16 state division of the budget no later than the first day of September
17 following the close of the previous July first through June thirtieth
18 period.

19 (A-1) STATE REIMBURSEMENT SHALL BE MADE AVAILABLE FOR ONE HUNDRED
20 PERCENT OF ELIGIBLE EXPENDITURES MADE BY A SOCIAL SERVICES DISTRICT,
21 EXCLUSIVE OF ANY FEDERAL FUNDS MADE AVAILABLE FOR SUCH PURPOSES, FOR
22 APPROVED JUVENILE JUSTICE SERVICES UNDER AN APPROVED CLOSE TO HOME
23 INITIATIVE PROVIDED TO YOUTH AGE SIXTEEN YEARS OF AGE OR OLDER WHEN SUCH
24 SERVICES WOULD NOT OTHERWISE HAVE BEEN PROVIDED TO SUCH YOUTH ABSENT THE
25 PROVISIONS IN A CHAPTER OF THE LAWS OF TWO THOUSAND SIXTEEN THAT
26 INCREASED THE AGE OF JUVENILE JURISDICTION ABOVE FIFTEEN YEARS OF AGE.

27 (b) The department of family assistance is authorized, in its
28 discretion, to make advances to a social services district in antic-
29 ipation of the state reimbursement provided for in this section.

30 (c) A social services district shall conduct eligibility determi-
31 nations for federal and state funding and submit claims for reimburse-
32 ment in such form and manner and at such times and for such periods as
33 the department of family assistance shall determine.

34 (d) Notwithstanding any inconsistent provision of law or regulation of
35 the department of family assistance, state reimbursement shall not be
36 made for any expenditure made for the duplication of any grant or allow-
37 ance for any period.

38 (e) Claims submitted by a social services district for reimbursement
39 shall be paid after deducting any expenditures defrayed by fees, third
40 party reimbursement, and any non-tax levy funds including any donated
41 funds.

42 (f) The office of children and family services shall not reimburse any
43 claims for expenditures for residential services that are submitted more
44 than twenty-two months after the calendar quarter in which the expendi-
45 tures were made.

46 (g) Notwithstanding any other provision of law, the state shall not be
47 responsible for reimbursing a social services district and a district
48 shall not seek state reimbursement for any portion of any state disal-
49 lowance or sanction taken against the social services district, or any
50 federal disallowance attributable to final federal agency decisions or
51 to settlements made, when such disallowance or sanction results from the
52 failure of the social services district to comply with federal or state
53 requirements, including, but not limited to, failure to document eligi-
54 bility for the federal or state funds in the case record. To the extent
55 that the social services district has sufficient claims other than those
56 that are subject to disallowance or sanction to draw down the full annu-

1 al appropriation, such disallowance or sanction shall not result in a
2 reduction in payment of state funds to the district unless the district
3 requests that the department use a portion of the appropriation toward
4 meeting the district's responsibility to repay the federal government
5 for the disallowance or sanction and any related interest payments.

6 (h) Rates for residential services. (i) The office shall establish the
7 rates, in accordance with section three hundred ninety-eight-a of this
8 chapter, for any non-secure facilities established under an approved
9 juvenile justice services close to home initiative. For any such non-se-
10 cure facility that will be used primarily by the social services
11 district with an approved close to home initiative, final authority for
12 establishment of such rates and any adjustments thereto shall reside
13 with the office, but such rates and any adjustments thereto shall be
14 established only upon the request of, and in consultation with, such
15 social services district.

16 (ii) A social services district with an approved juvenile justice
17 services close to home initiative for juvenile delinquents placed in
18 limited secure settings shall have the authority to establish and
19 adjust, on an annual or regular basis, maintenance rates for limited
20 secure facilities providing residential services under such initiative.
21 Such rates shall not be subject to the provisions of section three
22 hundred ninety-eight-a of this chapter but shall be subject to maximum
23 cost limits established by the office of children and family services.

24 S 53. Paragraph (a) of subdivision 1 of section 409-a of the social
25 services law, as amended by chapter 87 of the laws of 1993, subparagraph
26 (i) as amended by chapter 342 of the laws of 2010, and subparagraph (ii)
27 as amended by section 22 of part C of chapter 83 of the laws of 2002, is
28 amended to read as follows:

29 (a) A social services official shall provide preventive services to a
30 child and his or her family, in accordance with the family's service
31 plan as required by section four hundred nine-e of this [chapter] ARTI-
32 CLE and the social services district's child welfare services plan
33 submitted and approved pursuant to section four hundred nine-d of this
34 [chapter] ARTICLE, upon a finding by such official that (i) the child
35 will be placed, returned to or continued in foster care unless such
36 services are provided and that it is reasonable to believe that by
37 providing such services the child will be able to remain with or be
38 returned to his or her family, and for a former foster care youth under
39 the age of twenty-one who was previously placed in the care and custody
40 or custody and guardianship of the local commissioner of social services
41 or other officer, board or department authorized to receive children as
42 public charges where it is reasonable to believe that by providing such
43 services the former foster care youth will avoid a return to foster care
44 or (ii) the child is the subject of a petition under article seven of
45 the family court act, [or has been determined by the assessment service
46 established pursuant to section two hundred forty-three-a of the execu-
47 tive law,] or by the probation service where no such assessment service
48 has been designated, to be at risk of being the subject of such a peti-
49 tion, and the social services official determines that the child is at
50 risk of placement into foster care. Such finding shall be entered in the
51 child's uniform case record established and maintained pursuant to
52 section four hundred nine-f of this chapter. The commissioner shall
53 promulgate regulations to assist social services officials in making
54 determinations of eligibility for mandated preventive services pursuant
55 to this [subparagraph] PARAGRAPH.

1 S 54. Section 30.00 of the penal law, as amended by chapter 481 of the
2 laws of 1978, subdivision 2 as amended by chapter 7 of the laws of 2007,
3 is amended to read as follows:

4 S 30.00 Infancy.

5 1. Except as provided in [subdivision] SUBDIVISIONS two AND THREE of
6 this section, a person less than [sixteen] EIGHTEEN years old is not
7 criminally responsible for conduct.

8 2. A person thirteen, fourteen [or], fifteen, SIXTEEN, OR SEVENTEEN
9 years of age is criminally responsible for acts constituting murder in
10 the second degree as defined in subdivisions one and two of section
11 125.25 and in subdivision three of such section provided that the under-
12 lying crime for the murder charge is one for which such person is crimi-
13 nally responsible or for such conduct as a sexually motivated felony,
14 where authorized pursuant to section 130.91 of [the penal law] THIS
15 CHAPTER; and a person fourteen [or], fifteen, SIXTEEN OR SEVENTEEN years
16 of age is criminally responsible for acts constituting the crimes
17 defined in section 135.25 (kidnapping in the first degree); 150.20
18 (arson in the first degree); subdivisions one and two of section 120.10
19 (assault in the first degree); 125.20 (manslaughter in the first
20 degree); subdivisions one and two of section 130.35 (rape in the first
21 degree); subdivisions one and two of section 130.50 (criminal sexual act
22 in the first degree); 130.70 (aggravated sexual abuse in the first
23 degree); 140.30 (burglary in the first degree); subdivision one of
24 section 140.25 (burglary in the second degree); 150.15 (arson in the
25 second degree); 160.15 (robbery in the first degree); subdivision two of
26 section 160.10 (robbery in the second degree) of this chapter; or
27 section 265.03 of this chapter, where such machine gun or such firearm
28 is possessed on school grounds, as that phrase is defined in subdivision
29 fourteen of section 220.00 of this chapter; or defined in this chapter
30 as an attempt to commit murder in the second degree or kidnapping in the
31 first degree, or for such conduct as a sexually motivated felony, where
32 authorized pursuant to section 130.91 of [the penal law] THIS CHAPTER.

33 3. A PERSON SIXTEEN OR SEVENTEEN YEARS OF AGE IS CRIMINALLY RESPONSI-
34 BLE FOR ACTS CONSTITUTING THE CRIMES DEFINED IN SECTION 490.25 (CRIME OF
35 TERRORISM); 490.45 (CRIMINAL POSSESSION OF A CHEMICAL WEAPON OR BIOLG-
36 ICAL WEAPON IN THE FIRST DEGREE); 490.55 (CRIMINAL USE OF A CHEMICAL
37 WEAPON OR BIOLOGICAL WEAPON IN THE FIRST DEGREE); 490.50 (CRIMINAL USE
38 OF A CHEMICAL WEAPON OR BIOLOGICAL WEAPON IN THE SECOND DEGREE); 130.95
39 (PREDATORY SEXUAL ASSAULT) OF THIS CHAPTER.

40 4. In any prosecution for an offense, lack of criminal responsibility
41 by reason of infancy, as defined in this section, is a defense.

42 S 55. Subdivision 2 of section 60.02 of the penal law, as amended by
43 chapter 471 of the laws of 1980, is amended to read as follows:

44 (2) If the sentence is to be imposed upon a youthful offender finding
45 which has been substituted for a conviction for any felony, the court
46 must impose a sentence authorized to be imposed upon a person convicted
47 of a class E felony provided, however, that the court must not impose a
48 sentence of [conditional discharge or] unconditional discharge if the
49 youthful offender finding was substituted for a conviction of a felony
50 defined in article two hundred twenty of this chapter.

51 S 56. Section 60.10 of the penal law, as amended by chapter 411 of the
52 laws of 1979, is amended to read as follows:

53 S 60.10 Authorized disposition; juvenile offender.

54 1. When a juvenile offender is convicted of a crime, the court shall
55 sentence the defendant to imprisonment in accordance with section 70.05

1 or sentence [him] THE DEFENDANT upon a youthful offender finding in
2 accordance with section 60.02 of this chapter.

3 2. Subdivision one of this section shall apply when sentencing a juve-
4 nile offender notwithstanding the provisions of any other law that deals
5 with the authorized sentence for persons who are not juvenile offenders.
6 Provided, however, that the limitation prescribed by this section shall
7 not be deemed or construed to bar use of a conviction of a juvenile
8 offender, other than a juvenile offender who has been adjudicated a
9 youthful offender pursuant to section 720.20 of the criminal procedure
10 law, as a previous or predicate felony offender under section 70.04,
11 70.06, 70.07, 70.08, [or 70.10,], OR 70.80 when sentencing a person who
12 commits a felony after [he] SUCH PERSON has reached the age of [sixteen]
13 EIGHTEEN.

14 S 57. Paragraph (b) of subdivision 2 of section 70.05 of the penal
15 law, as added by chapter 481 of the laws of 1978, is amended and a new
16 paragraph (b-1) is added to read as follows:

17 (b) For [the] A class [A] A-I felony [of arson in the first degree, or
18 for the class A felony of kidnapping in the first degree] OTHER THAN
19 MURDER IN THE SECOND DEGREE, the term shall be fixed by the court, and
20 shall be at least twelve years but shall not exceed fifteen years;

21 (B-1) FOR A CLASS A-II FELONY THE TERM SHALL BE FIXED BY THE COURT AND
22 SHALL BE AT LEAST TEN YEARS BUT SHALL NOT EXCEED FOURTEEN YEARS.

23 S 57-a. Paragraph (b) of subdivision 3 of section 70.05 of the penal
24 law, as added by chapter 481 of the laws of 1978, is amended and a new
25 subdivision (b-1) is added to read as follows:

26 (b) For [the] A class [A] A-I felony [of arson in the first degree, or
27 for the class A felony of kidnapping in the first degree] OTHER THAN
28 MURDER IN THE SECOND DEGREE, the minimum period of imprisonment shall be
29 fixed by the court and shall be not less than four years but shall not
30 exceed six years; and

31 (B-1) FOR A CLASS A-II FELONY, THE MINIMUM PERIOD OF IMPRISONMENT
32 SHALL BE FIXED BY THE COURT AND SHALL BE NOT LESS THAN THREE YEARS BUT
33 SHALL NOT EXCEED FIVE YEARS.

34 S 58. Subdivision 1 of section 70.20 of the penal law, as amended by
35 section 124 of subpart B of part C of chapter 62 of the laws of 2011, is
36 amended to read as follows:

37 1. [(a)] Indeterminate or determinate sentence. Except as provided in
38 subdivision four of this section, when an indeterminate or determinate
39 sentence of imprisonment is imposed, the court shall commit the defend-
40 ant to the custody of the state department of corrections and community
41 supervision for the term of his or her sentence and until released in
42 accordance with the law; provided, however, that a defendant sentenced
43 pursuant to subdivision seven of section 70.06 shall be committed to the
44 custody of the state department of corrections and community supervision
45 for immediate delivery to a reception center operated by the department.

46 [(b)] The court in committing a defendant who is not yet eighteen years
47 of age to the department of corrections and community supervision shall
48 inquire as to whether the parents or legal guardian of the defendant, if
49 present, will grant to the minor the capacity to consent to routine
50 medical, dental and mental health services and treatment.

51 (c) Notwithstanding paragraph (b) of this subdivision, where the court
52 commits a defendant who is not yet eighteen years of age to the custody
53 of the department of corrections and community supervision in accordance
54 with this section and no medical consent has been obtained prior to said
55 commitment, the commitment order shall be deemed to grant the capacity

1 to consent to routine medical, dental and mental health services and
2 treatment to the person so committed.

3 (d) Nothing in this subdivision shall preclude a parent or legal guar-
4 dian of an inmate who is not yet eighteen years of age from making a
5 motion on notice to the department of corrections and community super-
6 vision pursuant to article twenty-two of the civil practice law and
7 rules and section one hundred forty of the correction law, objecting to
8 routine medical, dental or mental health services and treatment being
9 provided to such inmate under the provisions of paragraph (b) of this
10 subdivision.

11 (e) Nothing in this section shall require that consent be obtained
12 from the parent or legal guardian, where no consent is necessary or
13 where the defendant is authorized by law to consent on his or her own
14 behalf to any medical, dental, and mental health service or treatment.]

15 S 59. Subdivision 2 of section 70.20 of the penal law, as amended by
16 chapter 437 of the laws of 2013, is amended to read as follows:

17 2. [(a)] Definite sentence. Except as provided in subdivision four of
18 this section, when a definite sentence of imprisonment is imposed, the
19 court shall commit the defendant to the county or regional correctional
20 institution for the term of his sentence and until released in accord-
21 ance with the law.

22 [(b) The court in committing a defendant who is not yet eighteen years
23 of age to the local correctional facility shall inquire as to whether
24 the parents or legal guardian of the defendant, if present, will grant
25 to the minor the capacity to consent to routine medical, dental and
26 mental health services and treatment.

27 (c) Nothing in this subdivision shall preclude a parent or legal guar-
28 dian of an inmate who is not yet eighteen years of age from making a
29 motion on notice to the local correction facility pursuant to article
30 twenty-two of the civil practice law and rules and section one hundred
31 forty of the correction law, objecting to routine medical, dental or
32 mental health services and treatment being provided to such inmate under
33 the provisions of paragraph (b) of this subdivision.]

34 S 60. Subdivision 4 of section 70.20 of the penal law, as amended by
35 section 124 of subpart B of part C of chapter 62 of the laws of 2011, is
36 amended to read as follows:

37 4. (a) Notwithstanding any other provision of law to the contrary, a
38 juvenile offender[,] or a juvenile offender who is adjudicated a youth-
39 ful offender and given an indeterminate or a definite sentence, AND WHO
40 IS UNDER THE AGE OF TWENTY-ONE AT THE TIME OF SENTENCING, shall be
41 committed to the custody of the commissioner of the office of children
42 and family services who shall arrange for the confinement of such offen-
43 der in [secure] facilities of the office. The release or transfer of
44 such offenders from the office of children and family services shall be
45 governed by section five hundred eight of the executive law. IF THE
46 JUVENILE OFFENDER IS CONVICTED OR ADJUDICATED A YOUTHFUL OFFENDER AND IS
47 TWENTY-ONE YEARS OF AGE OR OLDER AT THE TIME OF SENTENCING, HE OR SHE
48 SHALL BE DELIVERED TO THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPER-
49 VISION.

50 (A-1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, A
51 PERSON WHO IS SENTENCED TO AN INDETERMINATE SENTENCE AS AN ADULT FOR
52 COMMITTING A CRIME WHEN HE OR SHE WAS SIXTEEN OR SEVENTEEN YEARS OF AGE
53 WHO IS SENTENCED ON OR AFTER DECEMBER FIRST, TWO THOUSAND SIXTEEN TO A
54 TERM OF AT LEAST ONE YEAR OF IMPRISONMENT AND WHO IS UNDER THE AGE OF
55 EIGHTEEN AT THE TIME HE OR SHE IS SENTENCED SHALL BE COMMITTED TO THE
56 CUSTODY OF THE COMMISSIONER OF THE OFFICE OF CHILDREN AND FAMILY

1 SERVICES WHO SHALL ARRANGE FOR THE CONFINEMENT OF SUCH OFFENDER IN
2 FACILITIES OF THE OFFICE. THE RELEASE OR TRANSFER OF SUCH OFFENDERS FROM
3 THE OFFICE OF CHILDREN AND FAMILY SERVICES SHALL BE GOVERNED BY SECTION
4 FIVE HUNDRED EIGHT OF THE EXECUTIVE LAW.

5 (b) The court in committing [a juvenile offender and youthful offen-
6 der] AN OFFENDER UNDER EIGHTEEN YEARS OF AGE to the custody of the
7 office of children and family services shall inquire as to whether the
8 parents or legal guardian of the youth, if present, will consent for the
9 office of children and family services to provide routine medical,
10 dental and mental health services and treatment.

11 (c) Notwithstanding paragraph (b) of this subdivision, where the court
12 commits an offender to the custody of the office of children and family
13 services in accordance with this section and no medical consent has been
14 obtained prior to said commitment, the commitment order shall be deemed
15 to grant consent for the office of children and family services to
16 provide for routine medical, dental and mental health services and
17 treatment to the offender so committed.

18 (d) Nothing in this subdivision shall preclude a parent or legal guar-
19 dian of an offender who is not yet eighteen years of age from making a
20 motion on notice to the office of children and family services pursuant
21 to article twenty-two of the civil practice law and rules objecting to
22 routine medical, dental or mental health services and treatment being
23 provided to such offender under the provisions of paragraph (b) of this
24 subdivision.

25 (e) Nothing in this section shall require that consent be obtained
26 from the parent or legal guardian, where no consent is necessary or
27 where the offender is authorized by law to consent on his or her own
28 behalf to any medical, dental and mental health service or treatment.

29 S 60-a. Paragraph (f) of subdivision 1 of section 70.30 of the penal
30 law, as added by chapter 481 of the laws of 1978 and relettered by chap-
31 ter 3 of the laws of 1995, is amended to read as follows:

32 (f) The aggregate maximum term of consecutive sentences imposed upon a
33 juvenile offender for two or more crimes, not including a class A felo-
34 ny, committed before he has reached the age of sixteen, shall, if it
35 exceeds ten years, be deemed to be ten years. If consecutive indetermi-
36 nate sentences imposed upon a juvenile offender include a sentence for
37 [the] A class A felony [of arson in the first degree or for the class A
38 felony of kidnapping in the first degree] OTHER THAN MURDER IN THE
39 SECOND DEGREE, then the aggregate maximum term of such sentences shall,
40 if it exceeds fifteen years, be deemed to be fifteen years. Where the
41 aggregate maximum term of two or more consecutive sentences is reduced
42 by a calculation made pursuant to this paragraph, the aggregate minimum
43 period of imprisonment, if it exceeds one-half of the aggregate maximum
44 term as so reduced, shall be deemed to be one-half of the aggregate
45 maximum term as so reduced.

46 S 61. Intentionally omitted.

47 S 62. Subdivision 18 of section 10.00 of the penal law, as amended by
48 chapter 7 of the laws of 2007, is amended to read as follows:

49 18. "Juvenile offender" means (1) a person thirteen years old who is
50 criminally responsible for acts constituting murder in the second degree
51 as defined in subdivisions one and two of section 125.25 of this chapter
52 or such conduct as a sexually motivated felony, where authorized pursu-
53 ant to section 130.91 of [the penal law; and] THIS CHAPTER;

54 (2) a person fourteen [or], fifteen, SIXTEEN OR SEVENTEEN years old
55 who is criminally responsible for acts constituting the crimes defined
56 in subdivisions one and two of section 125.25 (murder in the second

1 degree) and in subdivision three of such section provided that the
2 underlying crime for the murder charge is one for which such person is
3 criminally responsible; section 135.25 (kidnapping in the first degree);
4 150.20 (arson in the first degree); subdivisions one and two of section
5 120.10 (assault in the first degree); 125.20 (manslaughter in the first
6 degree); subdivisions one and two of section 130.35 (rape in the first
7 degree); subdivisions one and two of section 130.50 (criminal sexual act
8 in the first degree); 130.70 (aggravated sexual abuse in the first
9 degree); 140.30 (burglary in the first degree); subdivision one of
10 section 140.25 (burglary in the second degree); 150.15 (arson in the
11 second degree); 160.15 (robbery in the first degree); subdivision two of
12 section 160.10 (robbery in the second degree) of this chapter; or
13 section 265.03 of this chapter, where such machine gun or such firearm
14 is possessed on school grounds, as that phrase is defined in subdivision
15 fourteen of section 220.00 of this chapter; or defined in this chapter
16 as an attempt to commit murder in the second degree or kidnapping in the
17 first degree, or such conduct as a sexually motivated felony, where
18 authorized pursuant to section 130.91 of [the penal law] THIS CHAPTER;
19 AND

20 (3) A PERSON SIXTEEN OR SEVENTEEN YEARS OF AGE IS CRIMINALLY RESPONSI-
21 BLE FOR ACTS CONSTITUTING THE CRIMES DEFINED IN SECTION 490.25 (CRIME OF
22 TERRORISM); 490.45 (CRIMINAL POSSESSION OF A CHEMICAL WEAPON OR BIOLOG-
23 ICAL WEAPON IN THE FIRST DEGREE); 490.55 (CRIMINAL USE OF A CHEMICAL
24 WEAPON OR BIOLOGICAL WEAPON IN THE FIRST DEGREE); 490.50 (CRIMINAL USE
25 OF A CHEMICAL WEAPON OR BIOLOGICAL WEAPON IN THE SECOND DEGREE); 130.95
26 (PREDATORY SEXUAL ASSAULT) OF THIS CHAPTER.

27 S 63. Subdivision 42 of section 1.20 of the criminal procedure law, as
28 amended by chapter 7 of the laws of 2007, is amended to read as follows:

29 42. "Juvenile offender" means (1) a person, thirteen years old who is
30 criminally responsible for acts constituting murder in the second degree
31 as defined in subdivisions one and two of section 125.25 of the penal
32 law, or such conduct as a sexually motivated felony, where authorized
33 pursuant to section 130.91 of the penal law; [and] (2) a person fourteen
34 [or], fifteen, SIXTEEN OR SEVENTEEN years old who is criminally respon-
35 sible for acts constituting the crimes defined in subdivisions one and
36 two of section 125.25 (murder in the second degree) and in subdivision
37 three of such section provided that the underlying crime for the murder
38 charge is one for which such person is criminally responsible; section
39 135.25 (kidnapping in the first degree); 150.20 (arson in the first
40 degree); subdivisions one and two of section 120.10 (assault in the
41 first degree); 125.20 (manslaughter in the first degree); subdivisions
42 one and two of section 130.35 (rape in the first degree); subdivisions
43 one and two of section 130.50 (criminal sexual act in the first degree);
44 130.70 (aggravated sexual abuse in the first degree); 140.30 (burglary
45 in the first degree); subdivision one of section 140.25 (burglary in the
46 second degree); 150.15 (arson in the second degree); 160.15 (robbery in
47 the first degree); subdivision two of section 160.10 (robbery in the
48 second degree) of the penal law; or section 265.03 of the penal law,
49 where such machine gun or such firearm is possessed on school grounds,
50 as that phrase is defined in subdivision fourteen of section 220.00 of
51 the penal law; or defined in the penal law as an attempt to commit
52 murder in the second degree or kidnapping in the first degree, or such
53 conduct as a sexually motivated felony, where authorized pursuant to
54 section 130.91 of the penal law; AND (3) A PERSON SIXTEEN OR SEVENTEEN
55 YEARS OF AGE IS CRIMINALLY RESPONSIBLE FOR ACTS CONSTITUTING THE CRIMES
56 DEFINED IN SECTION 490.25 (CRIME OF TERRORISM); 490.45 (CRIMINAL

1 POSSESSION OF A CHEMICAL WEAPON OR BIOLOGICAL WEAPON IN THE FIRST
2 DEGREE); 490.55 (CRIMINAL USE OF A CHEMICAL WEAPON OR BIOLOGICAL WEAPON
3 IN THE FIRST DEGREE); 490.50 (CRIMINAL USE OF A CHEMICAL WEAPON OR
4 BIOLOGICAL WEAPON IN THE SECOND DEGREE); 130.95 (PREDATORY SEXUAL
5 ASSAULT) OF THIS CHAPTER.

6 S 63-a. The article heading of article 100 of the criminal procedure
7 law is amended to read as follows:

8 --COMMENCEMENT OF ACTION IN LOCAL
9 CRIMINAL COURT OR YOUTH PART OF A SUPERIOR COURT--[LOCAL
10 CRIMINAL COURT] ACCUSATORY INSTRUMENTS

11 S 63-b. The first undesignated paragraph of section 100.05 of the
12 criminal procedure law is amended to read as follows:

13 A criminal action is commenced by the filing of an accusatory instru-
14 ment with a criminal court, OR, IN THE CASE OF A JUVENILE OFFENDER, THE
15 YOUTH PART OF THE SUPERIOR COURT, and if more than one such instrument
16 is filed in the course of the same criminal action, such action
17 commences when the first of such instruments is filed. The only way in
18 which a criminal action can be commenced in a superior court is by the
19 filing therewith by a grand jury of an indictment against a defendant
20 who has never been held by a local criminal court for the action of such
21 grand jury with respect to any charge contained in such indictment;
22 PROVIDED, HOWEVER, THAT WHEN THE CRIMINAL ACTION IS COMMENCED AGAINST A
23 JUVENILE OFFENDER, SUCH CRIMINAL ACTION, WHATEVER THE FORM OF COMMENCE-
24 MENT, SHALL BE FILED IN THE YOUTH PART OF THE SUPERIOR COURT OR, IF THE
25 YOUTH PART IS NOT IN SESSION, FILED WITH THE MOST ACCESSIBLE MAGISTRATE
26 DESIGNATED BY THE APPELLATE DIVISION OF THE SUPREME COURT IN THE APPLI-
27 CABLE DEPARTMENT TO ACT AS A YOUTH PART. Otherwise, a criminal action
28 can be commenced only in a local criminal court, by the filing therewith
29 of a local criminal court accusatory instrument, namely:

30 S 63-c. The section heading and subdivision 5 of section 100.10 of the
31 criminal procedure law are amended to read as follows:

32 Local criminal court AND YOUTH PART OF THE SUPERIOR COURT accusatory
33 instruments; definitions thereof.

34 5. A "felony complaint" is a verified written accusation by a person,
35 filed with a local criminal court, OR YOUTH PART OF THE SUPERIOR COURT,
36 charging one or more other persons with the commission of one or more
37 felonies. It serves as a basis for the commencement of a criminal
38 action, but not as a basis for prosecution thereof.

39 S 63-d. The section heading of section 100.40 of the criminal proce-
40 dure law is amended to read as follows:

41 S 100.40 Local criminal court AND YOUTH PART OF THE SUPERIOR COURT accu-
42 satory instruments; sufficiency on face.

43 S 63-e. The criminal procedure law is amended by adding a new section
44 100.60 to read as follows:

45 S 100.60 YOUTH PART OF THE SUPERIOR COURT ACCUSATORY INSTRUMENTS; IN
46 WHAT COURTS FILED.

47 ANY YOUTH PART OF THE SUPERIOR COURT ACCUSATORY INSTRUMENT MAY BE
48 FILED WITH THE YOUTH PART OF THE SUPERIOR COURT OF A PARTICULAR COUNTY
49 WHEN AN OFFENSE CHARGED THEREIN WAS ALLEGEDLY COMMITTED IN SUCH COUNTY
50 OR THAT PART THEREOF OVER WHICH SUCH COURT HAS JURISDICTION.

51 S 63-f. The article heading of article 110 of the criminal procedure
52 law is amended to read as follows:

53 --REQUIRING DEFENDANT'S APPEARANCE
54 IN LOCAL CRIMINAL COURT OR YOUTH PART OF SUPERIOR COURT
55 FOR ARRAIGNMENT

1 S 63-g. The section heading and subdivisions 1 and 2 of section 110.10
2 of the criminal procedure law are amended to read as follows:

3 S 110.10 Methods of requiring defendant's appearance in local criminal
4 court OR YOUTH PART OF THE SUPERIOR COURT for arraignment;
5 in general.

6 1. After a criminal action has been commenced in a local criminal
7 court OR YOUTH PART OF THE SUPERIOR COURT by the filing of an accusatory
8 instrument therewith, a defendant who has not been arraigned in the
9 action and has not come under the control of the court may under certain
10 circumstances be compelled or required to appear for arraignment upon
11 such accusatory instrument by:

12 (a) The issuance and execution of a warrant of arrest, as provided in
13 article one hundred twenty; or

14 (b) The issuance and service upon him of a summons, as provided in
15 article one hundred thirty; or

16 (c) Procedures provided in articles five hundred sixty, five hundred
17 seventy, five hundred eighty, five hundred ninety and six hundred for
18 securing attendance of defendants in criminal actions who are not at
19 liberty within the state.

20 2. Although no criminal action against a person has been commenced in
21 any court, he may under certain circumstances be compelled or required
22 to appear in a local criminal court OR YOUTH PART OF A SUPERIOR COURT
23 for arraignment upon an accusatory instrument to be filed therewith at
24 or before the time of his appearance by:

25 (a) An arrest made without a warrant, as provided in article one
26 hundred forty; or

27 (b) The issuance and service upon him of an appearance ticket, as
28 provided in article one hundred fifty.

29 S 63-h. Section 110.20 of the criminal procedure law, as amended by
30 chapter 843 of the laws of 1980, is amended to read as follows:

31 S 110.20 Local criminal court OR YOUTH PART OF THE SUPERIOR COURT accu-
32 satory instruments; notice thereof to district attorney.

33 When a criminal action in which a crime is charged is commenced in a
34 local criminal court, other than the criminal court of the city of New
35 York, OR YOUTH PART OF THE SUPERIOR COURT a copy of the accusatory
36 instrument shall be promptly transmitted to the appropriate district
37 attorney upon or prior to the arraignment of the defendant on the accu-
38 satory instrument. If a police officer or a peace officer is the
39 complainant or the filer of a simplified information, or has arrested
40 the defendant or brought him before the local criminal court OR YOUTH
41 PART OF THE SUPERIOR COURT on behalf of an arresting person pursuant to
42 subdivision one of section 140.20, such officer or his agency shall
43 transmit the copy of the accusatory instrument to the appropriate
44 district attorney. In all other cases, the clerk of the court in which
45 the defendant is arraigned shall so transmit it.

46 S 63-i. The first undesignated paragraph of subdivision 1 of section
47 120.20 of the criminal procedure law, as amended by chapter 506 of the
48 laws of 2000, is amended to read as follows:

49 When a criminal action has been commenced in a local criminal court OR
50 YOUTH PART OF THE SUPERIOR COURT by the filing therewith of an accusato-
51 ry instrument, other than a simplified traffic information, against a
52 defendant who has not been arraigned upon such accusatory instrument and
53 has not come under the control of the court with respect thereto:

54 S 63-j. Section 120.30 of the criminal procedure law is amended to
55 read as follows:

1 S 120.30 Warrant of arrest; by what courts issuable and in what courts
2 returnable.

3 1. A warrant of arrest may be issued only by the local criminal court
4 OR YOUTH PART OF THE SUPERIOR COURT with which the underlying accusatory
5 instrument has been filed, and it may be made returnable in such issuing
6 court only.

7 2. The particular local criminal court or courts OR YOUTH PART OF
8 SUPERIOR COURT with which any particular local criminal court OR YOUTH
9 PART OF THE SUPERIOR COURT accusatory instrument may be filed for the
10 purpose of obtaining a warrant of arrest are determined, generally, by
11 the provisions of section 100.55 OR 100.60, AS APPLICABLE. If, however,
12 a particular accusatory instrument may pursuant to said section 100.55
13 be filed with a particular town court and such town court is not avail-
14 able at the time such instrument is sought to be filed and a warrant
15 obtained, such accusatory instrument may be filed with the town court of
16 any adjoining town of the same county. If such instrument may be filed
17 pursuant to said section 100.55 with a particular village court and such
18 village court is not available at the time, it may be filed with the
19 town court of the town embracing such village, or if such town court is
20 not available either, with the town court of any adjoining town of the
21 same county.

22 S 63-k. Section 120.55 of the criminal procedure law, as amended by
23 section 71 of subpart B of part C of chapter 62 of the laws of 2011, is
24 amended to read as follows:

25 S 120.55 Warrant of arrest; defendant under parole or probation super-
26 vision.

27 If the defendant named within a warrant of arrest issued by a local
28 criminal court OR YOUTH PART OF THE SUPERIOR COURT pursuant to the
29 provisions of this article, or by a superior court issued pursuant to
30 subdivision three of section 210.10 of this chapter, is under the super-
31 vision of the state department of corrections and community supervision
32 or a local or state probation department, then a warrant for his or her
33 arrest may be executed by a parole officer or probation officer, when
34 authorized by his or her probation director, within his or her geograph-
35 ical area of employment. The execution of the warrant by a parole offi-
36 cer or probation officer shall be upon the same conditions and conducted
37 in the same manner as provided for execution of a warrant by a police
38 officer.

39 S 63-l. Subdivision 1 of section 120.70 of the criminal procedure law
40 is amended to read as follows:

41 1. A warrant of arrest issued by a district court, by the New York
42 City criminal court, THE YOUTH PART OF A SUPERIOR COURT or by a superior
43 court judge sitting as a local criminal court may be executed anywhere
44 in the state.

45 S 63-m. Section 120.90 of the criminal procedure law, as amended by
46 chapter 424 of the laws of 1998, subdivision 8 as amended by chapter 96
47 of the laws of 2010, is amended to read as follows:

48 S 120.90 Warrant of arrest; procedure after arrest.

49 1. Upon arresting a defendant for any offense pursuant to a warrant
50 of arrest in the county in which the warrant is returnable or in any
51 adjoining county, or upon so arresting him for a felony in any other
52 county, a police officer, if he be one to whom the warrant is addressed,
53 must without unnecessary delay bring the defendant before the local
54 criminal court OR YOUTH PART OF THE SUPERIOR COURT in which such warrant
55 is returnable.

1 2. Upon arresting a defendant for any offense pursuant to a warrant
2 of arrest in a county adjoining the county in which the warrant is
3 returnable, or upon so arresting him for a felony in any other county, a
4 police officer, if he be one delegated to execute the warrant pursuant
5 to section 120.60, must without unnecessary delay deliver the defendant
6 or cause him to be delivered to the custody of the officer by whom he
7 was so delegated, and the latter must then proceed as provided in subdivi-
8 sion one.

9 3. Upon arresting a defendant for an offense other than a felony
10 pursuant to a warrant of arrest in a county other than the one in which
11 the warrant is returnable or one adjoining it, a police officer, if he
12 be one to whom the warrant is addressed, must inform the defendant that
13 he has a right to appear before a local criminal court of the county of
14 arrest for the purpose of being released on his own recognizance or
15 having bail fixed. If the defendant does not desire to avail himself of
16 such right, the officer must request him to endorse such fact upon the
17 warrant, and upon such endorsement the officer must without unnecessary
18 delay bring him before the court in which the warrant is returnable. If
19 the defendant does desire to avail himself of such right, or if he
20 refuses to make the aforementioned endorsement, the officer must without
21 unnecessary delay bring him before a local criminal court of the county
22 of arrest. Such court must release the defendant on his own recogni-
23 zance or fix bail for his appearance on a specified date in the court in
24 which the warrant is returnable. If the defendant is in default of
25 bail, the officer must without unnecessary delay bring him before the
26 court in which the warrant is returnable.

27 4. Upon arresting a defendant for an offense other than a felony
28 pursuant to a warrant of arrest in a county other than the one in which
29 the warrant is returnable or one adjoining it, a police officer, if he
30 be one delegated to execute the warrant pursuant to section 120.60, may
31 hold the defendant in custody in the county of arrest for a period not
32 exceeding two hours for the purpose of delivering him to the custody of
33 the officer by whom he was delegated to execute such warrant. If the
34 delegating officer receives custody of the defendant during such period,
35 he must proceed as provided in subdivision three. Otherwise, the deleg-
36 ated officer must inform the defendant that he has a right to appear
37 before a local criminal court for the purpose of being released on his
38 own recognizance or having bail fixed. If the defendant does not desire
39 to avail himself of such right, the officer must request him to make,
40 sign and deliver to him a written statement of such fact, and if the
41 defendant does so, the officer must retain custody of him but must with-
42 out unnecessary delay deliver him or cause him to be delivered to the
43 custody of the delegating police officer. If the defendant does desire
44 to avail himself of such right, or if he refuses to make and deliver the
45 aforementioned statement, the delegated or arresting officer must with-
46 out unnecessary delay bring him before a local criminal court of the
47 county of arrest and must submit to such court a written statement
48 reciting the material facts concerning the issuance of the warrant, the
49 offense involved, and all other essential matters relating thereto.
50 Upon the submission of such statement, such court must release the
51 defendant on his own recognizance or fix bail for his appearance on a
52 specified date in the court in which the warrant is returnable. If the
53 defendant is in default of bail, the officer must retain custody of him
54 but must without unnecessary delay deliver him or cause him to be deliv-
55 ered to the custody of the delegating officer. Upon receiving such

1 custody, the latter must without unnecessary delay bring the defendant
2 before the court in which the warrant is returnable.

3 5. Whenever a police officer is required pursuant to this section to
4 bring an arrested defendant before a town court in which a warrant of
5 arrest is returnable, and if such town court is not available at the
6 time, such officer must, if a copy of the underlying accusatory instru-
7 ment has been attached to the warrant pursuant to section 120.40,
8 instead bring such defendant before any village court embraced, in whole
9 or in part, by such town, or any local criminal court of an adjoining
10 town or city of the same county or any village court embraced, in whole
11 or in part, by such adjoining town. When the court in which the warrant
12 is returnable is a village court which is not available at the time, the
13 officer must in such circumstances bring the defendant before the town
14 court of the town embracing such village or any other village court
15 within such town or, if such town court or village court is not avail-
16 able either, before the local criminal court of any town or city of the
17 same county which adjoins such embracing town or, before the local crim-
18 inal court of any village embraced in whole or in part by such adjoining
19 town. When the court in which the warrant is returnable is a city court
20 which is not available at the time, the officer must in such circum-
21 stances bring the defendant before the local criminal court of any
22 adjoining town or village embraced in whole or in part by such adjoining
23 town of the same county.

24 5-A. WHENEVER A POLICE OFFICER IS REQUIRED, PURSUANT TO THIS SECTION,
25 TO BRING AN ARRESTED DEFENDANT BEFORE A YOUTH PART OF A SUPERIOR COURT
26 IN WHICH A WARRANT OF ARREST IS RETURNABLE, AND IF SUCH COURT IS NOT
27 AVAILABLE AT THE TIME, SUCH OFFICER MUST BRING SUCH DEFENDANT BEFORE THE
28 MOST ACCESSIBLE MAGISTRATE DESIGNATED BY THE APPELLATE DIVISION OF THE
29 SUPREME COURT IN THE APPLICABLE DEPARTMENT TO ACT AS A YOUTH PART.

30 6. Before bringing a defendant arrested pursuant to a warrant before
31 the local criminal court OR YOUTH PART OF A SUPERIOR COURT in which such
32 warrant is returnable, a police officer must without unnecessary delay
33 perform all fingerprinting and other preliminary police duties required
34 in the particular case. In any case in which the defendant is not
35 brought by a police officer before such court but, following his arrest
36 in another county for an offense specified in subdivision one of section
37 160.10, is released by a local criminal court of such other county on
38 his own recognizance or on bail for his appearance on a specified date
39 before the local criminal court before which the warrant is returnable,
40 the latter court must, upon arraignment of the defendant before it,
41 direct that he be fingerprinted by the appropriate officer or agency,
42 and that he appear at an appropriate designated time and place for such
43 purpose.

44 7. Upon arresting a juvenile offender, the police officer shall imme-
45 diately notify the parent or other person legally responsible for his
46 care or the person with whom he is domiciled, that the juvenile offender
47 has been arrested, and the location of the facility where he is being
48 detained.

49 8. Upon arresting a defendant, other than a juvenile offender, for
50 any offense pursuant to a warrant of arrest, a police officer shall,
51 upon the defendant's request, permit the defendant to communicate by
52 telephone provided by the law enforcement facility where the defendant
53 is held to a phone number located anywhere in the United States or Puer-
54 to Rico, for the purposes of obtaining counsel and informing a relative
55 or friend that he or she has been arrested, unless granting the call

1 will compromise an ongoing investigation or the prosecution of the
2 defendant.

3 S 63-n. Subdivision 1 of section 130.10 of the criminal procedure law,
4 as amended by chapter 446 of the laws of 1993, is amended to read as
5 follows:

6 1. A summons is a process issued by a local criminal court directing a
7 defendant designated in an information, a prosecutor's information, a
8 felony complaint or a misdemeanor complaint filed with such court, OR A
9 YOUTH PART OF A SUPERIOR COURT DIRECTING A DEFENDANT DESIGNATED IN A
10 FELONY COMPLAINT, or by a superior court directing a defendant desig-
11 nated in an indictment filed with such court, to appear before it at a
12 designated future time in connection with such accusatory instrument.
13 The sole function of a summons is to achieve a defendant's court appear-
14 ance in a criminal action for the purpose of arraignment upon the accu-
15 satory instrument by which such action was commenced.

16 S 63-o. Section 130.30 of the criminal procedure law, as amended by
17 chapter 506 of the laws of 2000, is amended to read as follows:
18 S 130.30 Summons; when issuable.

19 A local criminal court OR YOUTH PART OF THE SUPERIOR COURT may issue a
20 summons in any case in which, pursuant to section 120.20, it is author-
21 ized to issue a warrant of arrest based upon an information, a
22 prosecutor's information, a felony complaint or a misdemeanor complaint.
23 If such information, prosecutor's information, felony complaint or
24 misdemeanor complaint is not sufficient on its face as prescribed in
25 section 100.40, and if the court is satisfied that on the basis of the
26 available facts or evidence it would be impossible to draw and file an
27 authorized accusatory instrument that is sufficient on its face, the
28 court must dismiss the accusatory instrument. A superior court may issue
29 a summons in any case in which, pursuant to section 210.10, it is
30 authorized to issue a warrant of arrest based upon an indictment.

31 S 63-p. Subdivision 1 of section 140.20 of the criminal procedure law
32 is amended by adding a new paragraph (e) to read as follows:

33 (E) IF THE ARREST IS FOR A PERSON UNDER THE AGE OF EIGHTEEN, SUCH
34 PERSON SHALL BE BROUGHT BEFORE THE YOUTH PART OF THE SUPERIOR COURT. IF
35 THE YOUTH PART IS NOT IN SESSION, SUCH PERSON SHALL BE BROUGHT BEFORE
36 THE MOST ACCESSIBLE MAGISTRATE DESIGNATED BY THE APPELLATE DIVISION OF
37 THE SUPREME COURT IN THE APPLICABLE DEPARTMENT TO ACT AS A YOUTH PART.

38 S 64. Subdivision 6 of section 140.20 of the criminal procedure law,
39 as added by chapter 411 of the laws of 1979, is amended to read as
40 follows:

41 6. Upon arresting a juvenile offender without a warrant, the police
42 officer shall immediately notify the parent or other person legally
43 responsible for his OR HER care or the person with whom he OR SHE is
44 domiciled, that the juvenile offender has been arrested, and the
45 location of the facility where he OR SHE is being detained. IF THE OFFI-
46 CER DETERMINES THAT IT IS NECESSARY TO QUESTION A JUVENILE OFFENDER OR A
47 CHILD UNDER EIGHTEEN YEARS OF AGE WHO FITS WITHIN THE DEFINITION OF A
48 JUVENILE OFFENDER AS DEFINED IN SECTION 30.00 OF THE PENAL LAW, THE
49 OFFICER MUST TAKE THE JUVENILE TO A FACILITY DESIGNATED BY THE CHIEF
50 ADMINISTRATOR OF THE COURTS AS A SUITABLE PLACE FOR THE QUESTIONING OF
51 CHILDREN OR, UPON THE CONSENT OF A PARENT OR OTHER PERSON LEGALLY
52 RESPONSIBLE FOR THE CARE OF THE JUVENILE, TO THE JUVENILE'S RESIDENCE
53 AND THERE QUESTION HIM OR HER FOR A REASONABLE PERIOD OF TIME. A JUVE-
54 NILE SHALL NOT BE QUESTIONED PURSUANT TO THIS SECTION UNLESS THE JUVE-
55 NILE AND A PERSON REQUIRED TO BE NOTIFIED PURSUANT TO THIS SUBDIVISION,
56 IF PRESENT, HAVE BEEN ADVISED:

1 (A) OF THE JUVENILE'S RIGHT TO REMAIN SILENT;

2 (B) THAT THE STATEMENTS MADE BY THE JUVENILE MAY BE USED IN A COURT OF
3 LAW;

4 (C) OF THE JUVENILE'S RIGHT TO HAVE AN ATTORNEY PRESENT AT SUCH QUES-
5 TIONING; AND

6 (D) OF THE JUVENILE'S RIGHT TO HAVE AN ATTORNEY PROVIDED FOR HIM OR
7 HER WITHOUT CHARGE IF HE OR SHE IS INDIGENT.

8 IN DETERMINING THE SUITABILITY OF QUESTIONING AND DETERMINING THE
9 REASONABLE PERIOD OF TIME FOR QUESTIONING SUCH A JUVENILE OFFENDER, THE
10 JUVENILE'S AGE, THE PRESENCE OR ABSENCE OF HIS OR HER PARENTS OR OTHER
11 PERSONS LEGALLY RESPONSIBLE FOR HIS OR HER CARE AND NOTIFICATION PURSU-
12 ANT TO THIS SUBDIVISION SHALL BE INCLUDED AMONG RELEVANT CONSIDERATIONS.

13 S 64-a. Subdivision 2 of section 140.27 of the criminal procedure law,
14 as amended by chapter 843 of the laws of 1980, is amended to read as
15 follows:

16 2. Upon arresting a person without a warrant, a peace officer, except
17 as otherwise provided in subdivision three OR THREE-A, must without
18 unnecessary delay bring him or cause him to be brought before a local
19 criminal court, as provided in section 100.55 and subdivision one of
20 section 140.20, and must without unnecessary delay file or cause to be
21 filed therewith an appropriate accusatory instrument. If the offense
22 which is the subject of the arrest is one of those specified in subdivi-
23 sion one of section 160.10, the arrested person must be fingerprinted
24 and photographed as therein provided. In order to execute the required
25 post-arrest functions, such arresting peace officer may perform such
26 functions himself or he may enlist the aid of a police officer for the
27 performance thereof in the manner provided in subdivision one of section
28 140.20.

29 S 64-b. Section 140.27 of the criminal procedure law is amended by
30 adding a new subdivision 3-a to read as follows:

31 3-A. IF THE ARREST IS FOR A PERSON UNDER THE AGE OF EIGHTEEN, SUCH
32 PERSON SHALL BE BROUGHT BEFORE THE YOUTH PART OF THE SUPERIOR COURT. IF
33 THE YOUTH PART IS NOT IN SESSION, SUCH PERSON SHALL BE BROUGHT BEFORE
34 THE MOST ACCESSIBLE MAGISTRATE DESIGNATED BY THE APPELLATE DIVISION OF
35 THE SUPREME COURT IN THE APPLICABLE DEPARTMENT TO ACT AS A YOUTH PART.

36 S 65. Subdivision 5 of section 140.27 of the criminal procedure law,
37 as added by chapter 411 of the laws of 1979, is amended to read as
38 follows:

39 5. Upon arresting a juvenile offender without a warrant, the peace
40 officer shall immediately notify the parent or other person legally
41 responsible for his care or the person with whom he OR SHE is domiciled,
42 that the juvenile offender has been arrested, and the location of the
43 facility where he OR SHE is being detained. IF THE OFFICER DETERMINES
44 THAT IT IS NECESSARY TO QUESTION A JUVENILE OFFENDER OR A CHILD UNDER
45 EIGHTEEN YEARS OF AGE WHO FITS WITHIN THE DEFINITION OF A JUVENILE
46 OFFENDER AS DEFINED IN SECTION 30.00 OF THE PENAL LAW THE OFFICER MUST
47 TAKE THE JUVENILE TO A FACILITY DESIGNATED BY THE CHIEF ADMINISTRATOR OF
48 THE COURTS AS A SUITABLE PLACE FOR THE QUESTIONING OF CHILDREN OR, UPON
49 THE CONSENT OF A PARENT OR OTHER PERSON LEGALLY RESPONSIBLE FOR THE CARE
50 OF THE JUVENILE, TO THE JUVENILE'S RESIDENCE AND THERE QUESTION HIM OR
51 HER FOR A REASONABLE PERIOD OF TIME. A JUVENILE SHALL NOT BE QUESTIONED
52 PURSUANT TO THIS SECTION UNLESS THE JUVENILE AND A PERSON REQUIRED TO BE
53 NOTIFIED PURSUANT TO THIS SUBDIVISION, IF PRESENT, HAVE BEEN ADVISED:

54 (A) OF THE JUVENILE'S RIGHT TO REMAIN SILENT;

55 (B) THAT THE STATEMENTS MADE BY THE JUVENILE MAY BE USED IN A COURT OF
56 LAW;

1 (C) OF THE JUVENILE'S RIGHT TO HAVE AN ATTORNEY PRESENT AT SUCH QUES-
2 TIONING; AND

3 (D) OF THE JUVENILE'S RIGHT TO HAVE AN ATTORNEY PROVIDED FOR HIM OR
4 HER WITHOUT CHARGE IF HE OR SHE IS INDIGENT.

5 IN DETERMINING THE SUITABILITY OF QUESTIONING AND DETERMINING THE
6 REASONABLE PERIOD OF TIME FOR QUESTIONING SUCH A JUVENILE OFFENDER, THE
7 JUVENILE'S AGE, THE PRESENCE OR ABSENCE OF HIS OR HER PARENTS OR OTHER
8 PERSONS LEGALLY RESPONSIBLE FOR HIS OR HER CARE AND NOTIFICATION PURSU-
9 ANT TO THIS SUBDIVISION SHALL BE INCLUDED AMONG RELEVANT CONSIDERATIONS.

10 S 66. Subdivision 5 of section 140.40 of the criminal procedure law,
11 as added by chapter 411 of the laws of 1979, is amended to read as
12 follows:

13 5. If a police officer takes an arrested juvenile offender into
14 custody, the police officer shall immediately notify the parent or other
15 person legally responsible for his OR HER care or the person with whom
16 he OR SHE is domiciled, that the juvenile offender has been arrested,
17 and the location of the facility where he OR SHE is being detained. IF
18 THE OFFICER DETERMINES THAT IT IS NECESSARY TO QUESTION A JUVENILE
19 OFFENDER OR A CHILD UNDER EIGHTEEN YEARS OF AGE WHO FITS WITHIN THE
20 DEFINITION OF A JUVENILE OFFENDER AS DEFINED IN SECTION 30.00 OF THE
21 PENAL LAW THE OFFICER MUST TAKE THE JUVENILE TO A FACILITY DESIGNATED BY
22 THE CHIEF ADMINISTRATOR OF THE COURTS AS A SUITABLE PLACE FOR THE QUES-
23 TIONING OF CHILDREN OR, UPON THE CONSENT OF A PARENT OR OTHER PERSON
24 LEGALLY RESPONSIBLE FOR THE CARE OF THE JUVENILE, TO THE JUVENILE'S
25 RESIDENCE AND THERE QUESTION HIM OR HER FOR A REASONABLE PERIOD OF TIME.
26 A JUVENILE SHALL NOT BE QUESTIONED PURSUANT TO THIS SECTION UNLESS THE
27 JUVENILE AND A PERSON REQUIRED TO BE NOTIFIED PURSUANT TO THIS SUBDIVI-
28 SION, IF PRESENT, HAVE BEEN ADVISED:

29 (A) OF THE JUVENILE'S RIGHT TO REMAIN SILENT;

30 (B) THAT THE STATEMENTS MADE BY THE JUVENILE MAY BE USED IN A COURT OF
31 LAW;

32 (C) OF THE JUVENILE'S RIGHT TO HAVE AN ATTORNEY PRESENT AT SUCH QUES-
33 TIONING; AND

34 (D) OF THE JUVENILE'S RIGHT TO HAVE AN ATTORNEY PROVIDED FOR HIM OR
35 HER WITHOUT CHARGE IF HE OR SHE IS INDIGENT.

36 IN DETERMINING THE SUITABILITY OF QUESTIONING AND DETERMINING THE
37 REASONABLE PERIOD OF TIME FOR QUESTIONING SUCH A JUVENILE OFFENDER, THE
38 JUVENILE'S AGE, THE PRESENCE OR ABSENCE OF HIS OR HER PARENTS OR OTHER
39 PERSONS LEGALLY RESPONSIBLE FOR HIS OR HER CARE AND NOTIFICATION PURSU-
40 ANT TO THIS SUBDIVISION SHALL BE INCLUDED AMONG RELEVANT CONSIDERATIONS.

41 S 66-a. Section 150.40 of the criminal procedure law is amended by
42 adding a new subdivision 5 to read as follows:

43 5. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, ANY UNIFORM
44 TRAFFIC TICKET ISSUED TO A PERSON SIXTEEN OR SEVENTEEN YEARS OF AGE
45 PURSUANT TO A VIOLATION OF ANY PROVISION OF THE VEHICLE AND TRAFFIC LAW,
46 OR ANY LOCAL LAW, CONSTITUTING A TRAFFIC INFRACTION SHALL BE RETURNABLE
47 TO THE LOCAL CITY, TOWN, OR VILLAGE COURT, OR TRAFFIC VIOLATIONS BUREAU
48 HAVING JURISDICTION.

49 S 67. The criminal procedure law is amended by adding a new section
50 160.56 to read as follows:

51 S 160.56 CONDITIONAL SEALING OF CERTAIN CONVICTIONS FOR OFFENSES COMMIT-
52 TED BY A DEFENDANT TWENTY YEARS OF AGE OR YOUNGER OR BY A
53 DEFENDANT CONVICTED AS A JUVENILE OFFENDER.

54 1. WHEN A DEFENDANT IS CONVICTED ON OR AFTER THE EFFECTIVE DATE OF
55 THIS SECTION, FOR ONE OR MORE ELIGIBLE OFFENSES, ALL OF WHICH WERE
56 COMMITTED AS PART OF THE SAME CRIMINAL TRANSACTION AS DEFINED IN SUBDI-

1 VISION TWO OF SECTION 40.10 OF THIS CHAPTER WHICH OFFENSE OR OFFENSES
2 WERE COMMITTED WHEN HE OR SHE WAS TWENTY YEARS OF AGE OR YOUNGER AND THE
3 DEFENDANT HAD NO PRIOR CRIMINAL CONVICTIONS, THE COURT SHALL CERTIFY
4 UPON CONVICTION THAT THE DEFENDANT IS APPARENTLY ELIGIBLE FOR CONDI-
5 TIONAL SEALING AND SHALL SCHEDULE THE DEFENDANT'S CASE FOR REVIEW AT THE
6 EXPIRATION OF THE TIME PERIOD SET FORTH IN SUBDIVISION TWO OF THIS
7 SECTION. SUCH REVIEW SHALL NOT REQUIRE A MOTION OR APPEARANCE BY A
8 DEFENDANT. UPON THE EXPIRATION OF THE TIME PERIOD SET FORTH IN SUBDIVI-
9 SION TWO OF THIS SECTION, THE COURT SHALL NOTIFY THE DISTRICT ATTORNEY
10 THAT THE CASE IS UNDER REVIEW. IF THE DISTRICT ATTORNEY DOES NOT PROVIDE
11 NOTICE OF OPPOSITION TO SEALING WITHIN FORTY-FIVE DAYS OF RECEIPT OF THE
12 NOTIFICATION AND THE COURT DETERMINES THAT THE DEFENDANT MEETS THE
13 CRITERIA FOR SEALING AS SET FORTH IN THIS SECTION, THE COURT SHALL ORDER
14 THAT THE RECORD BE CONDITIONALLY SEALED. IF THE DISTRICT ATTORNEY
15 OPPOSES SEALING, HE OR SHE SHALL NOTIFY THE COURT AND THE DEFENDANT OF
16 THE REASONS FOR OPPOSITION. IF THE COURT HAS DETERMINED, SUA SPONTE, OR
17 THE DISTRICT ATTORNEY HAS NOTIFIED THE COURT, THAT THE DEFENDANT DOES
18 NOT MEET THE CRITERIA FOR CONDITIONAL SEALING, THE COURT MUST PROVIDE
19 THE DEFENDANT, ON NOTICE TO THE DISTRICT ATTORNEY, WITH NOTICE AND AN
20 OPPORTUNITY TO DISPUTE SUCH FINDING.

21 WHENEVER THE COURT DETERMINES THAT ALL CRITERIA FOR SEALING HAVE BEEN
22 SATISFIED AND ORDERS A RECORD CONDITIONALLY SEALED, THE CLERK OF THE
23 COURT SHALL IMMEDIATELY NOTIFY THE COMMISSIONER OF THE DIVISION OF CRIM-
24 INAL JUSTICE SERVICES THAT THE CONVICTION OR CONVICTIONS SHALL BE CONDI-
25 TIONALLY SEALED. FOR PURPOSES OF THIS SECTION, AN ELIGIBLE OFFENSE IS
26 ANY MISDEMEANOR OR FELONY OTHER THAN A FELONY OFFENSE DEFINED IN ARTICLE
27 ONE HUNDRED TWENTY-FIVE OF THE PENAL LAW, A VIOLENT FELONY OFFENSE
28 DEFINED IN SECTION 70.02 OF THE PENAL LAW, A CLASS A FELONY OFFENSE
29 DEFINED IN THE PENAL LAW, OR AN OFFENSE FOR WHICH REGISTRATION AS A SEX
30 OFFENDER IS REQUIRED PURSUANT TO ARTICLE SIX-C OF THE CORRECTION LAW.

31 2. AN ELIGIBLE OFFENSE MAY BE CONDITIONALLY SEALED ONLY:

32 (A) AFTER THE FOLLOWING TIME PERIODS HAVE ELAPSED:

33 (I) FOR A MISDEMEANOR, AT LEAST ONE YEAR HAS PASSED SINCE: THE ENTRY
34 OF THE JUDGMENT OR, IF THE DEFENDANT WAS SENTENCED TO A CONDITIONAL
35 DISCHARGE OR A PERIOD OF PROBATION, INCLUDING A PERIOD OF INCARCERATION
36 IMPOSED IN CONJUNCTION WITH A SENTENCE OF PROBATION OR CONDITIONAL
37 DISCHARGE, THE COMPLETION OF THE DEFENDANT'S TERM OF PROBATION OR CONDI-
38 TIONAL DISCHARGE, OR IF THE DEFENDANT WAS SENTENCED TO INCARCERATION,
39 THE DEFENDANT'S RELEASE FROM INCARCERATION, WHICHEVER IS THE LONGEST; OR

40 (II) FOR AN ELIGIBLE FELONY, AT LEAST THREE YEARS HAVE PASSED SINCE:
41 THE ENTRY OF THE JUDGMENT OR, IF THE DEFENDANT WAS SENTENCED TO A CONDI-
42 TIONAL DISCHARGE OR A PERIOD OF PROBATION, INCLUDING A PERIOD OF INCAR-
43 CERATION IMPOSED IN CONJUNCTION WITH A SENTENCE OF PROBATION OR CONDI-
44 TIONAL DISCHARGE, THE COMPLETION OF THE DEFENDANT'S TERM OF PROBATION OR
45 CONDITIONAL DISCHARGE, OR IF THE DEFENDANT WAS SENTENCED TO INCARCERA-
46 TION, THE DEFENDANT'S RELEASE FROM INCARCERATION, WHICHEVER IS THE LONG-
47 EST; AND

48 (B) IF THE DEFENDANT HAS NOT BEEN CONVICTED OF ANY OTHER CRIME.

49 (C) FOR THE PURPOSES OF PARAGRAPH (A) OF THIS SUBDIVISION, WHERE THE
50 DEFENDANT IS CONVICTED OF MORE THAN ONE ELIGIBLE OFFENSE, COMMITTED AS
51 PART OF THE SAME CRIMINAL TRANSACTION AS DEFINED IN SUBDIVISION TWO OF
52 SECTION 40.10 OF THIS CHAPTER, THE LONGEST APPLICABLE TIME PERIOD SHALL
53 APPLY.

54 2-A. NO RECORD SHALL BE SEALED PURSUANT TO THIS SECTION WHILE CHARGES
55 ARE PENDING FOR ANY OFFENSE.

1 2-B. NO RECORD SHALL BE SEALED PURSUANT TO THIS SECTION WHILE THE
2 DEFENDANT IS SUBJECT TO SUPERVISION BY THE DEPARTMENT OF CORRECTIONS AND
3 COMMUNITY SUPERVISION OR THE OFFICE OF CHILDREN AND FAMILY SERVICES.
4 UPON THE SUCCESSFUL COMPLETION OF SUCH SUPERVISION, IF THE TIME PERIODS
5 SET FORTH IN PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION HAVE
6 ELAPSED FROM THE DATE OF DEFENDANT'S RELEASE FROM INCARCERATION, THE
7 COURT MAY ORDER THE RECORD CONDITIONALLY SEALED PURSUANT TO THE
8 PROVISIONS OF THIS SECTION.

9 3. WHEN A CONVICTION OR CONVICTIONS ARE SEALED PURSUANT TO THIS
10 SECTION, ALL OFFICIAL RECORDS AND PAPERS RELATING TO THE ARREST, PROSE-
11 CUTION, AND CONVICTION, INCLUDING ALL DUPLICATES AND COPIES THEREOF, ON
12 FILE WITH THE DIVISION OF CRIMINAL JUSTICE SERVICES OR ANY COURT SHALL
13 BE SEALED AND NOT MADE AVAILABLE TO ANY PERSON OR PUBLIC OR PRIVATE
14 AGENCY; PROVIDED, HOWEVER, THE DIVISION SHALL RETAIN ANY FINGERPRINTS,
15 PALMPRINTS AND PHOTOGRAPHS, OR DIGITAL IMAGES OF THE SAME.

16 4. RECORDS SEALED PURSUANT TO THIS SECTION SHALL BE MADE AVAILABLE TO:

17 (A) THE DEFENDANT OR THE DEFENDANT'S DESIGNATED AGENT;

18 (B) QUALIFIED AGENCIES, AS DEFINED IN SUBDIVISION NINE OF SECTION
19 EIGHT HUNDRED THIRTY-FIVE OF THE EXECUTIVE LAW, AND FEDERAL AND STATE
20 LAW ENFORCEMENT AGENCIES, WHEN ACTING WITHIN THE SCOPE OF THEIR LAW
21 ENFORCEMENT DUTIES;

22 (C) ANY STATE OR LOCAL OFFICER OR AGENCY WITH RESPONSIBILITY FOR THE
23 ISSUANCE OF LICENSES TO POSSESS GUNS, WHEN THE PERSON HAS MADE APPLICA-
24 TION FOR SUCH A LICENSE; OR

25 (D) ANY PROSPECTIVE EMPLOYER OF A POLICE OFFICER OR PEACE OFFICER AS
26 THOSE TERMS ARE DEFINED IN SUBDIVISIONS THIRTY-THREE AND THIRTY-FOUR OF
27 SECTION 1.20 OF THIS CHAPTER, IN RELATION TO AN APPLICATION FOR EMPLOY-
28 MENT AS A POLICE OFFICER OR PEACE OFFICER; PROVIDED, HOWEVER, THAT EVERY
29 PERSON WHO IS AN APPLICANT FOR THE POSITION OF POLICE OFFICER OR PEACE
30 OFFICER SHALL BE FURNISHED WITH A COPY OF ALL RECORDS OBTAINED UNDER
31 THIS PARAGRAPH AND AFFORDED AN OPPORTUNITY TO MAKE AN EXPLANATION THERE-
32 TO.

33 5. IF, SUBSEQUENT TO THE SEALING OF RECORDS PURSUANT TO THIS SECTION,
34 THE PERSON WHO IS THE SUBJECT OF SUCH RECORDS IS ARRESTED FOR OR CHARGED
35 WITH ANY MISDEMEANOR OR FELONY OFFENSE, SUCH RECORDS SHALL BE UNSEALED
36 IMMEDIATELY AND REMAIN UNSEALED; PROVIDED, HOWEVER, THAT IF SUCH NEW
37 MISDEMEANOR OR FELONY ARREST RESULTS IN A TERMINATION IN FAVOR OF THE
38 ACCUSED AS DEFINED IN SUBDIVISION THREE OF SECTION 160.50 OF THIS ARTI-
39 CLE OR BY CONVICTION FOR A NON-CRIMINAL OFFENSE AS DESCRIBED IN SECTION
40 160.55 OF THIS ARTICLE, SUCH UNSEALED RECORDS SHALL BE CONDITIONALLY
41 SEALED PURSUANT TO THIS SECTION.

42 6. A DEFENDANT WHO WAS CONVICTED OF ONE OR MORE ELIGIBLE OFFENSES,
43 PRIOR TO THE EFFECTIVE DATE OF THIS SECTION, ALL OF WHICH WERE COMMITTED
44 AS PART OF THE SAME CRIMINAL TRANSACTION AS DEFINED IN SUBDIVISION TWO
45 OF SECTION 40.10 OF THIS CHAPTER, MAY APPLY TO THE COURT OF CONVICTION,
46 ON AN APPLICATION PROMULGATED BY THE DIVISION OF CRIMINAL JUSTICE
47 SERVICES, FOR THE CONDITIONAL SEALING OF SUCH CONVICTION OR CONVICTIONS
48 IF:

49 (A) THE OFFENSE WAS COMMITTED WHEN THE DEFENDANT WAS TWENTY YEARS OF
50 AGE OR YOUNGER; AND

51 (B) THE APPLICABLE TIME PERIODS SPECIFIED IN SUBDIVISION TWO OF THIS
52 SECTION HAVE ELAPSED; AND

53 (C) THE DEFENDANT HAS NOT BEEN CONVICTED OF ANY OTHER CRIME; AND

54 (D) NO CHARGES ARE PENDING FOR ANY CRIME.

55 THERE SHALL BE NO FEE ASSOCIATED WITH THIS APPLICATION AND NO PERSONAL
56 APPEARANCE BY THE DEFENDANT IS REQUIRED.

1 7. WHEN AN APPLICATION IS MADE FOR SEALING PURSUANT TO SUBDIVISION SIX
2 OF THIS SECTION, THE COURT SHALL NOTIFY THE DISTRICT ATTORNEY. IF THE
3 DISTRICT ATTORNEY DOES NOT PROVIDE NOTICE OF OPPOSITION TO SEALING WITH-
4 IN FORTY-FIVE DAYS OF RECEIPT OF THE APPLICATION AND THE COURT DETER-
5 MINES THAT THE DEFENDANT MEETS THE CRITERIA FOR SEALING SET FORTH IN
6 THIS SECTION AND THAT SEALING IS IN THE INTEREST OF JUSTICE, THE COURT
7 SHALL ORDER THAT THE RECORD BE CONDITIONALLY SEALED IN THE MANNER SET
8 FORTH IN THIS SECTION AND NOTIFY THE DIVISION OF CRIMINAL JUSTICE
9 SERVICES OF THE SAME. IF THE DISTRICT ATTORNEY OPPOSES SEALING, HE OR
10 SHE SHALL NOTIFY THE COURT AND THE DEFENDANT OF THE REASONS FOR OPPO-
11 SITION. IF THE COURT HAS DETERMINED, SUA SPONTE, OR THE DISTRICT ATTOR-
12 NEY HAS NOTIFIED THE COURT, THAT THE DEFENDANT DOES NOT MEET THE CRITE-
13 RIA FOR CONDITIONAL SEALING, THE COURT MUST PROVIDE THE DEFENDANT, ON
14 NOTICE TO THE DISTRICT ATTORNEY, WITH NOTICE AND AN OPPORTUNITY TO
15 DISPUTE SUCH FINDING.

16 8. NO DEFENDANT SHALL BE REQUIRED OR PERMITTED TO WAIVE ELIGIBILITY
17 FOR CONDITIONAL SEALING PURSUANT TO THIS SECTION AS PART OF A PLEA OF
18 GUILTY, SENTENCE OR ANY AGREEMENT RELATED TO A CONVICTION FOR AN ELIGI-
19 BLE OFFENSE AND ANY SUCH WAIVER SHALL BE DEEMED VOID AND WHOLLY UNEN-
20 FORCEABLE.

21 S 68. Section 180.75 of the criminal procedure law, as added by chap-
22 ter 481 of the laws of 1978, paragraph (b) of subdivision 3 as amended
23 by chapter 920 of the laws of 1982, subdivision 4 as amended by chapter
24 264 of the laws of 2003, and subdivisions 5 and 6 as added by chapter
25 411 of the laws of 1979, is amended to read as follows:

26 S 180.75 Proceedings upon felony complaint; juvenile offender.

27 1. When THE YOUTH PART OF A SUPERIOR COURT IS NOT IN SESSION AND a
28 juvenile offender is arraigned before [a local criminal court] THE MOST
29 ACCESSIBLE MAGISTRATE DESIGNATED BY THE APPELLATE DIVISION OF THE
30 SUPREME COURT IN THE APPLICABLE DEPARTMENT TO ACT AS A YOUTH PART, the
31 provisions of this section shall apply in lieu of the provisions of
32 sections 180.30, 180.50 and 180.70 of this article.

33 2. [If] WHETHER OR NOT the defendant waives a hearing upon the felony
34 complaint, the court must [order that the defendant be held for the
35 action of the grand jury of the appropriate superior court with respect
36 to the charge or charges contained in the felony complaint] TRANSFER THE
37 ACTION TO THE YOUTH PART OF THE SUPERIOR COURT. In such case the court
38 must promptly transmit to such YOUTH PART OF THE superior court the
39 order, the felony complaint, the supporting depositions and all other
40 pertinent documents. Until such papers are received by the YOUTH PART
41 OF THE superior court, the action is deemed to be still pending in the
42 [local criminal court] COURT DESIGNATED BY THE APPELLATE DIVISION OF THE
43 SUPREME COURT IN THE APPLICABLE DEPARTMENT TO ACT AS A YOUTH PART.

44 3. If there be a hearing, then at the conclusion of the hearing, the
45 court must dispose of the felony complaint as follows:

46 (a) If there is reasonable cause to believe that the defendant commit-
47 ted a crime for which a person under the age of [sixteen] EIGHTEEN is
48 criminally responsible, the court must order that the defendant be held
49 for the action of a grand jury of the appropriate superior court; or

50 (b) If there is not reasonable cause to believe that the defendant
51 committed a crime for which a person under the age of [sixteen] EIGH-
52 TEEN, is criminally responsible but there is reasonable cause to believe
53 that the defendant is a "juvenile delinquent" as defined in subdivision
54 one of section 301.2 of the family court act, the court must specify the
55 act or acts it found reasonable cause to believe the defendant did and

1 direct that the action be removed to the family court in accordance with
2 the provisions of article seven hundred twenty-five of this chapter; or

3 (c) If there is not reasonable cause to believe that the defendant
4 committed any criminal act, the court must dismiss the felony complaint
5 and discharge the defendant from custody if he is in custody, or if he
6 is at liberty on bail, it must exonerate the bail.

7 4. Notwithstanding the provisions of subdivisions two and three of
8 this section, [a local criminal] THE court shall, at the request of the
9 district attorney, order removal of an action against a juvenile offen-
10 der to the family court pursuant to the provisions of article seven
11 hundred twenty-five of this chapter if, upon consideration of the crite-
12 ria specified in subdivision two of section 210.43 of this chapter, it
13 is determined that to do so would be in the interests of justice.
14 Where, however, the felony complaint charges the juvenile offender with
15 murder in the second degree as defined in section 125.25 of the penal
16 law, rape in the first degree as defined in subdivision one of section
17 130.35 of the penal law, criminal sexual act in the first degree as
18 defined in subdivision one of section 130.50 of the penal law, or an
19 armed felony as defined in paragraph (a) of subdivision forty-one of
20 section 1.20 of this chapter, a determination that such action be
21 removed to the family court shall, in addition, be based upon a finding
22 of one or more of the following factors: (i) mitigating circumstances
23 that bear directly upon the manner in which the crime was committed; or
24 (ii) where the defendant was not the sole participant in the crime, the
25 defendant's participation was relatively minor although not so minor as
26 to constitute a defense to the prosecution; or (iii) possible deficien-
27 cies in proof of the crime.

28 5. Notwithstanding the provisions of subdivision two, three, or four,
29 if a currently undetermined felony complaint against a juvenile offender
30 is pending [in a local criminal court], and the defendant has not waived
31 a hearing pursuant to subdivision two and a hearing pursuant to subdivi-
32 sion three has not commenced, the defendant may move in the YOUTH PART
33 OF THE superior court which would exercise the trial jurisdiction of the
34 offense or offenses charged were an indictment therefor to result, to
35 remove the action to family court. The procedural rules of subdivisions
36 one and two of section 210.45 of this chapter are applicable to a motion
37 pursuant to this subdivision. Upon such motion, the [superior] court
38 [shall be authorized to sit as a local criminal court to exercise the
39 preliminary jurisdiction specified in subdivisions two and three of this
40 section, and] shall proceed and determine the motion as provided in
41 section 210.43 of this chapter; provided, however, that the exception
42 provisions of paragraph (b) of subdivision one of such section 210.43
43 shall not apply when there is not reasonable cause to believe that the
44 juvenile offender committed one or more of the crimes enumerated there-
45 in, and in such event the provisions of paragraph (a) thereof shall
46 apply.

47 6. (a) If the court orders removal of the action to family court, it
48 shall state on the record the factor or factors upon which its determi-
49 nation is based, and the court shall give its reasons for removal in
50 detail and not in conclusory terms.

51 (b) the district attorney shall state upon the record the reasons for
52 his consent to removal of the action to the family court where such
53 consent is required. The reasons shall be stated in detail and not in
54 conclusory terms.

55 (c) For the purpose of making a determination pursuant to subdivision
56 four or five, the court may make such inquiry as it deems necessary. Any

1 evidence which is not legally privileged may be introduced. If the
2 defendant testifies, his testimony may not be introduced against him in
3 any future proceeding, except to impeach his testimony at such future
4 proceeding as inconsistent prior testimony.

5 (d) Where a motion for removal by the defendant pursuant to subdivi-
6 sion five has been denied, no further motion pursuant to this section or
7 section 210.43 of this chapter may be made by the juvenile offender with
8 respect to the same offense or offenses.

9 (e) Except as provided by paragraph (f), this section shall not be
10 construed to limit the powers of the grand jury.

11 (f) Where a motion by the defendant pursuant to subdivision five has
12 been granted, there shall be no further proceedings against the juvenile
13 offender in any local or superior criminal court INCLUDING THE YOUTH
14 PART OF THE SUPERIOR COURT for the offense or offenses which were the
15 subject of the removal order.

16 S 68-a. The opening paragraph of section 180.80 of the criminal proce-
17 dure law, as amended by chapter 556 of the laws of 1982, is amended to
18 read as follows:

19 Upon application of a defendant against whom a felony complaint has
20 been filed with a local criminal court OR THE YOUTH PART OF A SUPERIOR
21 COURT, and who, since the time of his arrest or subsequent thereto, has
22 been held in custody pending disposition of such felony complaint, and
23 who has been confined in such custody for a period of more than one
24 hundred twenty hours or, in the event that a Saturday, Sunday or legal
25 holiday occurs during such custody, one hundred forty-four hours, with-
26 out either a disposition of the felony complaint or commencement of a
27 hearing thereon, the [local criminal] court must release him on his own
28 recognizance unless:

29 S 69. Subdivisions (a) and (b) of section 190.71 of the criminal
30 procedure law, subdivision (a) as amended by chapter 7 of the laws of
31 2007, subdivision (b) as added by chapter 481 of the laws of 1978, are
32 amended to read as follows:

33 (a) Except as provided in subdivision six of section 200.20 of this
34 chapter, a grand jury may not indict (i) a person thirteen years of age
35 for any conduct or crime other than conduct constituting a crime defined
36 in subdivisions one and two of section 125.25 (murder in the second
37 degree) or such conduct as a sexually motivated felony, where authorized
38 pursuant to section 130.91 of the penal law; (ii) a person fourteen
39 [or], fifteen, SIXTEEN OR SEVENTEEN years of age for any conduct or
40 crime other than conduct constituting a crime defined in subdivisions
41 one and two of section 125.25 (murder in the second degree) and in
42 subdivision three of such section provided that the underlying crime for
43 the murder charge is one for which such person is criminally responsi-
44 ble; 135.25 (kidnapping in the first degree); 150.20 (arson in the first
45 degree); subdivisions one and two of section 120.10 (assault in the
46 first degree); 125.20 (manslaughter in the first degree); subdivisions
47 one and two of section 130.35 (rape in the first degree); subdivisions
48 one and two of section 130.50 (criminal sexual act in the first degree);
49 130.70 (aggravated sexual abuse in the first degree); 140.30 (burglary
50 in the first degree); subdivision one of section 140.25 (burglary in the
51 second degree); 150.15 (arson in the second degree); 160.15 (robbery in
52 the first degree); subdivision two of section 160.10 (robbery in the
53 second degree) of the penal law; subdivision four of section 265.02 of
54 the penal law, where such firearm is possessed on school grounds, as
55 that phrase is defined in subdivision fourteen of section 220.00 of the
56 penal law; or section 265.03 of the penal law, where such machine gun or

1 such firearm is possessed on school grounds, as that phrase is defined
2 in subdivision fourteen of section 220.00 of the penal law; or defined
3 in the penal law as an attempt to commit murder in the second degree or
4 kidnapping in the first degree, or such conduct as a sexually motivated
5 felony, where authorized pursuant to section 130.91 of the penal law;
6 AND (III) A PERSON SIXTEEN OR SEVENTEEN YEARS OF AGE IS CRIMINALLY
7 RESPONSIBLE FOR ACTS CONSTITUTING THE CRIMES DEFINED IN SECTION 490.25
8 (CRIME OF TERRORISM); 490.45 (CRIMINAL POSSESSION OF A CHEMICAL WEAPON
9 OR BIOLOGICAL WEAPON IN THE FIRST DEGREE); 490.55 (CRIMINAL USE OF A
10 CHEMICAL WEAPON OR BIOLOGICAL WEAPON IN THE FIRST DEGREE); 490.50 (CRIM-
11 INAL USE OF A CHEMICAL WEAPON OR BIOLOGICAL WEAPON IN THE SECOND
12 DEGREE); 130.95 (PREDATORY SEXUAL ASSAULT) OF THIS CHAPTER.

13 (b) A grand jury may vote to file a request to remove a charge to the
14 family court if it finds that a person [thirteen, fourteen or fifteen]
15 SEVENTEEN years of age OR YOUNGER did an act which, if done by a person
16 over the age of [sixteen] EIGHTEEN, would constitute a crime provided
17 (1) such act is one for which it may not indict; (2) it does not indict
18 such person for a crime; and (3) the evidence before it is legally
19 sufficient to establish that such person did such act and competent and
20 admissible evidence before it provides reasonable cause to believe that
21 such person did such act.

22 S 70. Subdivision 6 of section 200.20 of the criminal procedure law,
23 as added by chapter 136 of the laws of 1980, is amended to read as
24 follows:

25 6. Where an indictment charges at least one offense against a defend-
26 ant who was under the age of [sixteen] EIGHTEEN at the time of the
27 commission of the crime and who did not lack criminal responsibility for
28 such crime by reason of infancy, the indictment may, in addition, charge
29 in separate counts one or more other offenses for which such person
30 would not have been criminally responsible by reason of infancy, if:

31 (a) the offense for which the defendant is criminally responsible and
32 the one or more other offenses for which he OR SHE would not have been
33 criminally responsible by reason of infancy are based upon the same act
34 or upon the same criminal transaction, as that term is defined in subdi-
35 vision two of section 40.10 of this chapter; or

36 (b) the offenses are of such nature that either proof of the first
37 offense would be material and admissible as evidence in chief upon a
38 trial of the second, or proof of the second would be material and admis-
39 sible as evidence in chief upon a trial of the first.

40 S 71. Intentionally omitted.

41 S 72. Paragraph (g) of subdivision 5 of section 220.10 of the criminal
42 procedure law, as amended by chapter 410 of the laws of 1979, subpara-
43 graph (iii) as amended by chapter 264 of the laws of 2003, the second
44 undesignated paragraph as amended by chapter 920 of the laws of 1982 and
45 the closing paragraph as amended by chapter 411 of the laws of 1979, is
46 amended to read as follows:

47 (g) Where the defendant is a juvenile offender, the provisions of
48 paragraphs (a), (b), (c) and (d) of this subdivision shall not apply and
49 any plea entered pursuant to subdivision three or four of this section,
50 must be as follows:

51 (i) If the indictment charges a person fourteen [or], fifteen, SIXTEEN
52 OR SEVENTEEN years old with the crime of murder in the second degree any
53 plea of guilty entered pursuant to subdivision three or four must be a
54 plea of guilty of a crime for which the defendant is criminally respon-
55 sible;

1 (ii) If the indictment does not charge a crime specified in subpara-
2 graph (i) of this paragraph, then any plea of guilty entered pursuant to
3 subdivision three or four of this section must be a plea of guilty of a
4 crime for which the defendant is criminally responsible unless a plea of
5 guilty is accepted pursuant to subparagraph (iii) of this paragraph;

6 (iii) Where the indictment does not charge a crime specified in
7 subparagraph (i) of this paragraph, the district attorney may recommend
8 removal of the action to the family court. Upon making such recommenda-
9 tion the district attorney [shall] MAY submit a subscribed memorandum
10 setting forth: (1) a recommendation that the interests of justice would
11 best be served by removal of the action to the family court; and (2) if
12 the indictment charges a thirteen year old with the crime of murder in
13 the second degree, or a fourteen [or] fifteen, SIXTEEN OR SEVENTEEN year
14 old with the crimes of rape in the first degree as defined in subdivi-
15 sion one of section 130.35 of the penal law, or criminal sexual act in
16 the first degree as defined in subdivision one of section 130.50 of the
17 penal law, or an armed felony as defined in paragraph (a) of subdivision
18 forty-one of section 1.20 of this chapter specific factors, one or more
19 of which reasonably supports the recommendation, showing, (i) mitigating
20 circumstances that bear directly upon the manner in which the crime was
21 committed, or (ii) where the defendant was not the sole participant in
22 the crime, that the defendant's participation was relatively minor
23 although not so minor as to constitute a defense to the prosecution, or
24 (iii) possible deficiencies in proof of the crime, or (iv) where the
25 juvenile offender has no previous adjudications of having committed a
26 designated felony act, as defined in subdivision eight of section 301.2
27 of the family court act, regardless of the age of the offender at the
28 time of commission of the act, that the criminal act was not part of a
29 pattern of criminal behavior and, in view of the history of the offen-
30 der, is not likely to be repeated.

31 If the court is of the opinion based on specific factors set forth in
32 [the district attorney's memorandum] THIS SUBPARAGRAPH that the inter-
33 ests of justice would best be served by removal of the action to the
34 family court, a plea of guilty of a crime or act for which the defendant
35 is not criminally responsible may be entered pursuant to subdivision
36 three or four of this section, except that a thirteen year old charged
37 with the crime of murder in the second degree may only plead to a desig-
38 nated felony act, as defined in subdivision eight of section 301.2 of
39 the family court act.

40 Upon accepting any such plea, the court must specify upon the record
41 the portion or portions of the district attorney's statement the court
42 is relying upon as the basis of its opinion and that it believes the
43 interests of justice would best be served by removal of the proceeding
44 to the family court. Such plea shall then be deemed to be a juvenile
45 delinquency fact determination and the court upon entry thereof must
46 direct that the action be removed to the family court in accordance with
47 the provisions of article seven hundred twenty-five of this chapter.

48 S 72-a. Section 330.25 of the criminal procedure law, as added by
49 chapter 481 of the laws of 1978, and subdivision 2 as amended by chapter
50 920 of the laws of 1982, is amended to read as follows:

51 S 330.25 Removal after verdict.

52 1. Where a defendant is a juvenile offender who does not stand
53 convicted of murder in the second degree, upon motion and with the
54 consent of the district attorney, the action may be removed to the fami-
55 ly court in the interests of justice pursuant to article seven hundred
56 twenty-five of this chapter notwithstanding the verdict.

1 2. If the district attorney consents to the motion for removal pursu-
2 ant to this section, [he shall file a subscribed memorandum with the
3 court setting forth (1) a recommendation that] THE COURT, IN DETERMINING
4 THE MOTION, SHALL CONSIDER: (1) WHETHER the interests of justice would
5 best be served by removal of the action to the family court; and (2) if
6 the conviction is of an offense set forth in paragraph (b) of subdivi-
7 sion one of section 210.43 of this chapter, WHETHER specific factors
8 EXIST, one or more of which reasonably [support] SUPPORTS the [recommen-
9 dation] MOTION, showing, (i) mitigating circumstances that bear directly
10 upon the manner in which the crime was committed, or (ii) where the
11 defendant was not the sole participant in the crime, that the defend-
12 ant's participation was relatively minor although not so minor as to
13 constitute a defense to prosecution, or (iii) where the juvenile offen-
14 der has no previous adjudications of having committed a designated felo-
15 ny act, as defined in subdivision eight of section 301.2 of the family
16 court act, regardless of the age of the offender at the time of commis-
17 sion of the act, that the criminal act was not part of a pattern of
18 criminal behavior and, in view of the history of the offender, is not
19 likely to be repeated.

20 3. If the court is of the opinion, based upon the specific factors
21 [set forth in the district attorney's memorandum] SHOWN TO THE COURT,
22 that the interests of justice would best be served by removal of the
23 action to the family court, the verdict shall be set aside and a plea of
24 guilty of a crime or act for which the defendant is not criminally
25 responsible may be entered pursuant to subdivision three or four of
26 section 220.10 of this chapter. Upon accepting any such plea, the court
27 must specify upon the record the [portion or portions of the district
28 attorney's statement] FACTORS the court is relying upon as the basis of
29 its opinion and that it believes the interests of justice would best be
30 served by removal of the proceeding to the family court. Such plea
31 shall then be deemed to be a juvenile delinquency fact determination and
32 the court upon entry thereof must direct that the action be removed to
33 the family court in accordance with the provisions of article seven
34 hundred twenty-five of this chapter.

35 S 72-b. Subdivision 2 of section 410.40 of the criminal procedure law,
36 as amended by chapter 652 of the laws of 2008, is amended to read as
37 follows:

38 2. Warrant. (A) Where the probation officer has requested that a
39 probation warrant be issued, the court shall, within seventy-two hours
40 of its receipt of the request, issue or deny the warrant or take any
41 other lawful action including issuance of a notice to appear pursuant to
42 subdivision one of this section. If at any time during the period of a
43 sentence of probation or of conditional discharge the court has reason-
44 able grounds to believe that the defendant has violated a condition of
45 the sentence, the court may issue a warrant to a police officer or to an
46 appropriate peace officer directing him or her to take the defendant
47 into custody and bring the defendant before the court without unneces-
48 sary delay; provided, however, if the court in which the warrant is
49 returnable is a superior court, and such court is not available, and the
50 warrant is addressed to a police officer or appropriate probation offi-
51 cer certified as a peace officer, such executing officer may UNLESS
52 OTHERWISE SPECIFIED UNDER PARAGRAPH (B) OF THIS SECTION, bring the
53 defendant to the local correctional facility of the county in which such
54 court sits, to be detained there until not later than the commencement
55 of the next session of such court occurring on the next business day; or
56 if the court in which the warrant is returnable is a local criminal

1 court, and such court is not available, and the warrant is addressed to
2 a police officer or appropriate probation officer certified as a peace
3 officer, such executing officer must without unnecessary delay bring the
4 defendant before an alternate local criminal court, as provided in
5 subdivision five of section 120.90 of this chapter. A court which issues
6 such a warrant may attach thereto a summary of the basis for the
7 warrant. In any case where a defendant arrested upon the warrant is
8 brought before a local criminal court other than the court in which the
9 warrant is returnable, such local criminal court shall consider such
10 summary before issuing a securing order with respect to the defendant.

11 (B) IF THE COURT IN WHICH THE WARRANT IS RETURNABLE IS A SUPERIOR
12 COURT, AND SUCH COURT AND ITS YOUTH PART IS NOT AVAILABLE, AND THE
13 WARRANT IS ADDRESSED TO A POLICE OFFICER OR APPROPRIATE PROBATION OFFI-
14 CER CERTIFIED AS A PEACE OFFICER, SUCH EXECUTING OFFICER SHALL, WHERE A
15 DEFENDANT IS SEVENTEEN YEARS OF AGE OR YOUNGER WHO ALLEGEDLY COMMITS AN
16 OFFENSE OR A VIOLATION OF HIS OR HER PROBATION OR CONDITIONAL DISCHARGE
17 IMPOSED FOR AN OFFENSE, BRING THE DEFENDANT TO A JUVENILE DETENTION
18 FACILITY, TO BE DETAINED THERE UNTIL BROUGHT WITHOUT UNNECESSARY DELAY
19 BEFORE THE MOST ACCESSIBLE MAGISTRATE DESIGNATED BY THE APPELLATE DIVI-
20 SION OF THE SUPREME COURT IN THE APPLICABLE DEPARTMENT TO ACT AS A YOUTH
21 PART.

22 S 73. Section 410.60 of the criminal procedure law, as amended by
23 chapter 652 of the laws of 2008, is amended to read as follows:
24 S 410.60 Appearance before court.

25 (A) A person who has been taken into custody pursuant to section
26 410.40 or section 410.50 of this article for violation of a condition of
27 a sentence of probation or a sentence of conditional discharge must
28 forthwith be brought before the court that imposed the sentence. Where a
29 violation of probation petition and report has been filed and the person
30 has not been taken into custody nor has a warrant been issued, an
31 initial court appearance shall occur within ten business days of the
32 court's issuance of a notice to appear. If the court has reasonable
33 cause to believe that such person has violated a condition of the
34 sentence, it may commit him OR HER to the custody of the sheriff or fix
35 bail or release such person on his OR HER own recognizance for future
36 appearance at a hearing to be held in accordance with section 410.70 of
37 this article. If the court does not have reasonable cause to believe
38 that such person has violated a condition of the sentence, it must
39 direct that he OR SHE be released.

40 (B) A JUVENILE OFFENDER WHO HAS BEEN TAKEN INTO CUSTODY PURSUANT TO
41 SECTION 410.40 OR SECTION 410.50 OF THIS ARTICLE FOR VIOLATION OF A
42 CONDITION OF A SENTENCE OF PROBATION OR A SENTENCE OF CONDITIONAL
43 DISCHARGE MUST FORTHWITH BE BROUGHT BEFORE THE COURT THAT IMPOSED THE
44 SENTENCE. WHERE A VIOLATION OF PROBATION PETITION AND REPORT HAS BEEN
45 FILED AND THE PERSON HAS NOT BEEN TAKEN INTO CUSTODY NOR HAS A WARRANT
46 BEEN ISSUED, AN INITIAL COURT APPEARANCE SHALL OCCUR WITHIN TEN BUSINESS
47 DAYS OF THE COURT'S ISSUANCE OF A NOTICE TO APPEAR. IF THE COURT HAS
48 REASONABLE CAUSE TO BELIEVE THAT SUCH PERSON HAS VIOLATED A CONDITION OF
49 THE SENTENCE, IT MAY COMMIT HIM OR HER TO THE CUSTODY OF THE SHERIFF OR
50 IN THE CASE OF A JUVENILE OFFENDER LESS THAN EIGHTEEN YEARS OF AGE TO
51 THE CUSTODY OF THE OFFICE OF CHILDREN AND FAMILY SERVICES, OR FIX BAIL
52 OR RELEASE SUCH PERSON ON HIS OR HER OWN RECOGNIZANCE FOR FUTURE APPEAR-
53 ANCE AT A HEARING TO BE HELD IN ACCORDANCE WITH SECTION 410.70 OF THIS
54 ARTICLE. PROVIDED, HOWEVER, NOTHING HEREIN SHALL AUTHORIZE A JUVENILE TO
55 BE DETAINED FOR A VIOLATION OF A CONDITION THAT WOULD NOT CONSTITUTE A
56 CRIME IF COMMITTED BY AN ADULT UNLESS THE COURT DETERMINES (I) THAT THE

1 JUVENILE POSES A SPECIFIC IMMINENT THREAT TO PUBLIC SAFETY AND STATES
2 THE REASONS FOR THE FINDING ON THE RECORD OR (II) THE USE OF GRADUATED
3 SANCTIONS HAS BEEN EXHAUSTED WITHOUT SUCCESS. IF THE COURT DOES NOT HAVE
4 REASONABLE CAUSE TO BELIEVE THAT SUCH PERSON HAS VIOLATED A CONDITION OF
5 THE SENTENCE, IT MUST DIRECT THAT THE JUVENILE BE RELEASED.

6 S 74. Subdivision 5 of section 410.70 of the criminal procedure law,
7 as amended by chapter 17 of the laws of 2014, is amended to read as
8 follows:

9 5. Revocation; modification; continuation. (A) At the conclusion of
10 the hearing the court may revoke, continue or modify the sentence of
11 probation or conditional discharge. Where the court revokes the
12 sentence, it must impose sentence as specified in subdivisions three and
13 four of section 60.01 of the penal law. Where the court continues or
14 modifies the sentence, it must vacate the declaration of delinquency and
15 direct that the defendant be released. If the alleged violation is
16 sustained and the court continues or modifies the sentence, it may
17 extend the sentence up to the period of interruption specified in subdi-
18 vision two of section 65.15 of the penal law, but any time spent in
19 custody in any correctional institution OR JUVENILE DETENTION FACILITY
20 pursuant to section 410.40 OR 410.60 of this article shall be credited
21 against the term of the sentence. Provided further, where the alleged
22 violation is sustained and the court continues or modifies the sentence,
23 the court may also extend the remaining period of probation up to the
24 maximum term authorized by section 65.00 of the penal law. Provided,
25 however, a defendant shall receive credit for the time during which he
26 or she was supervised under the original probation sentence prior to any
27 declaration of delinquency and for any time spent in custody pursuant to
28 this article for an alleged violation of probation.

29 (B) NOTWITHSTANDING PARAGRAPH (A) OF THIS SUBDIVISION, NOTHING HEREIN
30 SHALL AUTHORIZE THE PLACEMENT OF A JUVENILE FOR A VIOLATION OF A CONDI-
31 TION THAT WOULD NOT CONSTITUTE A CRIME IF COMMITTED BY AN ADULT UNLESS
32 THE COURT DETERMINES (I) THAT THE JUVENILE POSES A SPECIFIC IMMINENT
33 THREAT TO PUBLIC SAFETY AND STATES THE REASONS FOR THE FINDING ON THE
34 RECORD OR (II) THE USE OF GRADUATED SANCTIONS HAS BEEN EXHAUSTED WITHOUT
35 SUCCESS.

36 S 75. The criminal procedure law is amended by adding a new section
37 410.90-a to read as follows:

38 S 410.90-A SUPERIOR COURT; YOUTH PART.

39 NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS ARTICLE, ALL PROCEEDINGS
40 RELATING TO A JUVENILE OFFENDER SHALL BE HEARD IN THE YOUTH PART OF THE
41 SUPERIOR COURT HAVING JURISDICTION AND ANY INTRASTATE TRANSFERS UNDER
42 THIS ARTICLE SHALL BE BETWEEN COURTS DESIGNATED AS A YOUTH PART PURSUANT
43 TO ARTICLE SEVEN HUNDRED TWENTY-TWO OF THIS CHAPTER.

44 S 76. Section 510.15 of the criminal procedure law, as amended by
45 chapter 411 of the laws of 1979, subdivision 1 as designated and subdi-
46 vision 2 as added by chapter 359 of the laws of 1980, is amended to read
47 as follows:

48 S 510.15 Commitment of principal under [sixteen] EIGHTEEN.

49 1. When a principal who is under the age of [sixteen] EIGHTEEN, is
50 committed to the custody of the sheriff the court must direct that the
51 principal be taken to and lodged in a place certified by the state
52 [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES as a juve-
53 nile detention facility for the reception of children. Where such a
54 direction is made the sheriff shall deliver the principal in accordance
55 therewith and such person shall although lodged and cared for in a juve-
56 nile detention facility continue to be deemed to be in the custody of

1 the sheriff. No principal under the age [of sixteen] SPECIFIED to whom
2 the provisions of this section may apply shall be detained in any pris-
3 on, jail, lockup, or other place used for adults convicted of a crime or
4 under arrest and charged with the commission of a crime without the
5 approval of the [state division for youth] OFFICE OF CHILDREN AND FAMILY
6 SERVICES in the case of each principal and the statement of its reasons
7 therefor. The sheriff shall not be liable for any acts done to or by
8 such principal resulting from negligence in the detention of and care
9 for such principal, when the principal is not in the actual custody of
10 the sheriff.

11 2. Except upon consent of the defendant or for good cause shown, in
12 any case in which a new securing order is issued for a principal previ-
13 ously committed to the custody of the sheriff pursuant to this section,
14 such order shall further direct the sheriff to deliver the principal
15 from a juvenile detention facility to the person or place specified in
16 the order.

17 S 77. Subdivision 1 of section 720.10 of the criminal procedure law,
18 as amended by chapter 411 of the laws of 1979, is amended to read as
19 follows:

20 1. "Youth" means a person charged with a crime alleged to have been
21 committed when he was at least sixteen years old and less than [nine-
22 teen] TWENTY-ONE years old or a person charged with being a juvenile
23 offender as defined in subdivision forty-two of section 1.20 of this
24 chapter.

25 S 78. Subdivision 3 of section 720.15 of the criminal procedure law,
26 as amended by chapter 774 of the laws of 1985, is amended to read as
27 follows:

28 3. The provisions of subdivisions one and two of this section requir-
29 ing or authorizing the accusatory instrument filed against a youth to be
30 sealed, and the arraignment and all proceedings in the action to be
31 conducted in private shall not apply in connection with a pending charge
32 of committing any [felony] SEX offense as defined in the penal law. [The
33 provisions of subdivision one requiring the accusatory instrument filed
34 against a youth to be sealed shall not apply where such youth has previ-
35 ously been adjudicated a youthful offender or convicted of a crime.]

36 S 79. Subdivision 1 of section 720.20 of the criminal procedure law,
37 as amended by chapter 652 of the laws of 1974, is amended to read as
38 follows:

39 1. Upon conviction of an eligible youth, the court must order a pre-
40 sentence investigation of the defendant. After receipt of a written
41 report of the investigation and at the time of pronouncing sentence the
42 court must determine whether or not the eligible youth is a youthful
43 offender. Such determination shall be in accordance with the following
44 criteria:

45 (a) If in the opinion of the court the interest of justice would be
46 served by relieving the eligible youth from the onus of a criminal
47 record and by not imposing an indeterminate term of imprisonment of more
48 than four years, the court may, in its discretion, find the eligible
49 youth is a youthful offender; [and]

50 (b) Where the conviction is had in a local criminal court and the
51 eligible youth had not prior to commencement of trial or entry of a plea
52 of guilty been convicted of a crime or found a youthful offender, the
53 court must find he is a youthful offender[.]; AND

54 (C) THERE SHALL BE A PRESUMPTION TO GRANT YOUTHFUL OFFENDER STATUS TO
55 AN ELIGIBLE YOUTH WHO HAS NOT PREVIOUSLY BEEN CONVICTED AND SENTENCED OR
56 ADJUDICATED FOR A FELONY, UNLESS THE DISTRICT ATTORNEY UPON MOTION WITH

1 NOT LESS THAN SEVEN DAYS NOTICE TO SUCH PERSON OR HIS OR HER ATTORNEY
2 DEMONSTRATES TO THE SATISFACTION OF THE COURT THAT THE INTERESTS OF
3 JUSTICE REQUIRE OTHERWISE.

4 S 79-a. Subdivision 1 of section 720.35 of the criminal procedure law,
5 as amended by chapter 402 of the laws of 2014, is amended to read as
6 follows:

7 1. [A youthful] YOUTHFUL offender adjudication is not a judgment of
8 conviction for a crime or any other offense, and does not operate as a
9 disqualification of any person so adjudged to hold public office or
10 public employment or to receive any license granted by public authority
11 but shall be deemed a conviction only for the purposes of transfer of
12 supervision and custody pursuant to section [two hundred fifty-nine-m]
13 TWO HUNDRED FIFTY-NINE-MM of the executive law. A defendant for whom a
14 youthful offender adjudication was substituted, who was originally
15 charged with prostitution as defined in section 230.00 of the penal law
16 or loitering for the purposes of prostitution as defined in subdivision
17 two of section 240.37 of the penal law provided that the person does not
18 stand charged with loitering for the purpose of patronizing a prosti-
19 tute, for an offense allegedly committed when he or she was sixteen or
20 seventeen years of age, shall be deemed a "sexually exploited child" as
21 defined in subdivision one of section four hundred forty-seven-a of the
22 social services law and therefore shall not be considered an adult for
23 purposes related to the charges in the youthful offender proceeding or a
24 proceeding under section 170.80 of this chapter.

25 S 80. The criminal procedure law is amended by adding a new article
26 722 to read as follows:

27 ARTICLE 722

28 PROCEEDINGS AGAINST JUVENILE OFFENDERS; ESTABLISHMENT OF YOUTH
29 PART AND RELATED PROCEDURES

30 SECTION 722.00 PROBATION CASE PLANNING AND SERVICES.

31 722.10 YOUTH PART OF THE SUPERIOR COURT ESTABLISHED.

32 722.20 PROCEEDINGS IN A YOUTH PART OF SUPERIOR COURT.

33 S 722.00 PROBATION CASE PLANNING AND SERVICES.

34 1. EVERY PROBATION DEPARTMENT SHALL CONDUCT A RISK AND NEEDS ASSESS-
35 MENT WITH RESPECT TO ANY JUVENILE RELEASED ON RECOGNIZANCE, RELEASED
36 UNDER SUPERVISION, OR POSTING BAIL FOLLOWING ARRAIGNMENT BY A YOUTH PART
37 WITHIN ITS JURISDICTION. THE COURT SHALL ORDER ANY SUCH JUVENILE TO
38 REPORT WITHIN SEVEN CALENDAR DAYS TO THE PROBATION DEPARTMENT FOR
39 PURPOSES OF ASSESSMENT. BASED UPON THE ASSESSMENT FINDINGS, THE
40 PROBATION DEPARTMENT SHALL REFER THE JUVENILE TO AVAILABLE SPECIALIZED
41 AND EVIDENCE-BASED SERVICES TO MITIGATE ANY RISKS IDENTIFIED AND TO
42 ADDRESS INDIVIDUAL NEEDS.

43 2. NOTHING SHALL PRECLUDE THE PROBATION DEPARTMENT AND JUVENILE FROM
44 ENTERING INTO A VOLUNTARY WRITTEN/FORMAL CASE PLAN AS TO TERMS AND
45 CONDITIONS TO BE MET, INCLUDING, BUT NOT LIMITED TO, REPORTING TO THE
46 PROBATION DEPARTMENT AND OTHER PROBATION DEPARTMENT CONTACTS, UNDERGOING
47 ALCOHOL, SUBSTANCE ABUSE, OR MENTAL HEALTH TESTING, PARTICIPATING IN
48 SPECIFIC SERVICES, ADHERING TO SERVICE PROGRAM REQUIREMENTS, AND SCHOOL
49 ATTENDANCE, WHERE APPLICABLE.

50 3. WHEN PREPARING A PRE-SENTENCE INVESTIGATION REPORT OF ANY SUCH
51 YOUTH, THE PROBATION DEPARTMENT SHALL INCORPORATE A SUMMARY OF THE
52 ASSESSMENT FINDINGS, ANY REFERRALS AND PROGRESS WITH RESPECT TO MITIGAT-
53 ING RISK AND ADDRESSING ANY IDENTIFIED JUVENILE NEEDS.

54 S 722.10 YOUTH PART OF THE SUPERIOR COURT ESTABLISHED.

55 1. THE CHIEF ADMINISTRATOR OF THE COURTS IS HEREBY DIRECTED TO ESTAB-
56 LISH, IN A SUPERIOR COURT IN EACH COUNTY OF THE STATE THAT EXERCISES

1 CRIMINAL JURISDICTION, A PART OF COURT TO BE KNOWN AS THE YOUTH PART OF
2 THE SUPERIOR COURT FOR THE COUNTY IN WHICH SUCH COURT PRESIDES. JUDGES
3 PRESIDING IN THE YOUTH PART SHALL RECEIVE TRAINING IN SPECIALIZED AREAS,
4 INCLUDING, BUT NOT LIMITED TO, JUVENILE JUSTICE, ADOLESCENT DEVELOPMENT
5 AND EFFECTIVE TREATMENT METHODS FOR REDUCING CRIME COMMISSION BY ADOLES-
6 CENTS. THE YOUTH PART SHALL HAVE EXCLUSIVE JURISDICTION OF ALL
7 PROCEEDINGS IN RELATION TO JUVENILE OFFENDERS, EXCEPT AS PROVIDED IN
8 SECTION 180.75 OF THIS CHAPTER.

9 2. THE CHIEF ADMINISTRATOR OF THE COURTS SHALL ALSO DIRECT THE PRESID-
10 ING JUSTICE OF THE APPELLATE DIVISION, IN EACH JUDICIAL DEPARTMENT OF
11 THE STATE, TO DESIGNATE MAGISTRATES TO SERVE AS ACCESSIBLE MAGISTRATES,
12 FOR THE PURPOSE OF ACTING AS A YOUTH PART FOR CERTAIN INITIAL
13 PROCEEDINGS INVOLVING YOUTHS, AS PROVIDED BY LAW. MAGISTRATES SO DESIG-
14 NATED SHALL BE SUPERIOR COURT JUDGES AND JUDGES OF OTHER COURTS, IN EACH
15 COUNTY OF THE STATE, THAT EXERCISE CRIMINAL JURISDICTION. A JUDGE
16 PRESIDING AS SUCH A MAGISTRATE SHALL RECEIVE TRAINING IN SPECIALIZED
17 AREAS, INCLUDING, BUT NOT LIMITED TO, JUVENILE JUSTICE, ADOLESCENT
18 DEVELOPMENT AND EFFECTIVE TREATMENT METHODS FOR REDUCING CRIME COMMIS-
19 SION BY ADOLESCENTS.
20 S 722.20 PROCEEDINGS IN A YOUTH PART OF SUPERIOR COURT.

21 1. WHEN A JUVENILE OFFENDER IS ARRAIGNED BEFORE A YOUTH PART OR TRANS-
22 FERRED TO A YOUTH PART PURSUANT TO SECTION 180.75 OF THIS CHAPTER, THE
23 PROVISIONS OF THIS ARTICLE SHALL APPLY.

24 2. IF AN ACTION IS NOT REMOVED TO THE FAMILY COURT PURSUANT TO THE
25 APPLICABLE PROVISIONS OF THIS CHAPTER, THE YOUTH PART SHALL HEAR THE
26 CASE SITTING AS A CRIMINAL COURT OR, IN ITS DISCRETION, WHEN THE DEFEND-
27 ANT IS SIXTEEN OR SEVENTEEN YEARS OF AGE THE YOUTH PART MAY RETAIN IT AS
28 A JUVENILE DELINQUENCY PROCEEDING FOR ALL PURPOSES, AND SHALL MAKE SUCH
29 PROCEEDING FULLY SUBJECT TO THE PROVISIONS AND GRANT ANY RELIEF AVAIL-
30 ABLE UNDER ARTICLE THREE OF THE FAMILY COURT ACT.

31 S 81. The opening paragraph of section 725.05 of the criminal proce-
32 dure law, as added by chapter 481 of the laws of 1978, is amended to
33 read as follows:

34 When a [court] YOUTH PART directs that an action or charge is to be
35 removed to the family court the [court] YOUTH PART must issue an order
36 of removal in accordance with this section. Such order must be as
37 follows:

38 S 82. Section 725.20 of the criminal procedure law, as added by chap-
39 ter 481 of the laws of 1978, subdivisions 1 and 2 as amended by chapter
40 411 of the laws of 1979, is amended to read as follows:

41 S 725.20 Record of certain actions removed.

42 1. The provisions of this section shall apply in any case where an
43 order of removal to the family court is entered pursuant to a direction
44 authorized by subdivision four of section 180.75, or section 210.43, or
45 subparagraph (iii) of paragraph [(h)] (G) of subdivision five of section
46 220.10 of this chapter, or section 330.25 of this chapter.

47 2. When such an action is removed the court that directed the removal
48 must cause the following additional records to be filed with the clerk
49 of the county court or in the city of New York with the clerk of the
50 supreme court of the county wherein the action was pending and with the
51 division of criminal justice services:

52 (a) A certified copy of the order of removal;

53 (b) Where the direction is one authorized by subdivision four of
54 section 180.75 of this chapter, a copy of [the] ANY statement of the
55 district attorney made pursuant to paragraph (b) of subdivision six of
56 section 180.75 of this chapter;

1 (c) Where the direction is authorized by section 180.75, a copy of
2 the portion of the minutes containing the statement by the court pursu-
3 ant to paragraph (a) of subdivision six of such section 180.75;

4 (d) Where the direction is one authorized by subparagraph (iii) of
5 paragraph [(h)] (G) of subdivision five of section 220.10 or section
6 330.25 of this chapter, a copy of the minutes of the plea of guilty,
7 including the minutes of the memorandum submitted by the district attor-
8 ney and the court;

9 (e) Where the direction is one authorized by subdivision one of
10 section 210.43 of this chapter, a copy of that portion of the minutes
11 containing [the] ANY statement by the court pursuant to paragraph (a) of
12 subdivision five of section 210.43 OF THIS CHAPTER;

13 (f) Where the direction is one authorized by paragraph (b) of subdi-
14 vision one of section 210.43 of this chapter, a copy of that portion of
15 the minutes containing [the] ANY statement of the district attorney made
16 pursuant to paragraph (b) of subdivision five of section 210.43 OF THIS
17 CHAPTER; and

18 (g) In addition to the records specified in this subdivision, such
19 further statement or submission of additional information pertaining to
20 the proceeding in criminal court in accordance with standards estab-
21 lished by the commissioner of the division of criminal justice services,
22 subject to the provisions of subdivision three of this section.

23 3. It shall be the duty of said clerk to maintain a separate file for
24 copies of orders and minutes filed pursuant to this section. Upon
25 receipt of such orders and minutes the clerk must promptly delete such
26 portions as would identify the defendant, but the clerk shall neverthe-
27 less maintain a separate confidential system to enable correlation of
28 the documents so filed with identification of the defendant. After
29 making such deletions the orders and minutes shall be placed within the
30 file and must be available for public inspection. Information permit-
31 ting correlation of any such record with the identity of any defendant
32 shall not be divulged to any person except upon order of a justice of
33 the supreme court based upon a finding that the public interest or the
34 interests of justice warrant disclosure in a particular cause for a
35 particular case or for a particular purpose or use.

36 S 83. Subdivision 1 of section 500-a of the correction law is amended
37 by adding a new paragraph (h) to read as follows:

38 (H) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, NO COUNTY JAIL SHALL
39 BE USED FOR THE CONFINEMENT OF ANY PERSON UNDER THE AGE OF EIGHTEEN.
40 PLACEMENT OF ANY PERSON WHO MAY NOT BE CONFINED TO A COUNTY JAIL PURSU-
41 ANT TO THIS SUBDIVISION SHALL BE DETERMINED BY THE OFFICE OF CHILDREN
42 AND FAMILY SERVICES.

43 S 84. Subdivision 4 of section 500-b of the correction law is
44 REPEALED.

45 S 85. Subparagraph 3 of paragraph (c) of subdivision 8 of section
46 500-b of the correction law is REPEALED.

47 S 86. Subdivision 13 of section 500-b of the correction law is
48 REPEALED.

49 S 87. Intentionally omitted.

50 S 87-a. Intentionally omitted.

51 S 88. Subparagraph 1 of paragraph d of subdivision 3 of section 3214
52 of the education law, as amended by chapter 425 of the laws of 2002, is
53 amended to read as follows:

54 (1) Consistent with the federal gun-free schools act, any public
55 school pupil who is determined under this subdivision to have brought a
56 firearm to or possessed a firearm at a public school shall be suspended

1 for a period of not less than one calendar year and any nonpublic school
2 pupil participating in a program operated by a public school district
3 using funds from the elementary and secondary education act of nineteen
4 hundred sixty-five who is determined under this subdivision to have
5 brought a firearm to or possessed a firearm at a public school or other
6 premises used by the school district to provide such programs shall be
7 suspended for a period of not less than one calendar year from partic-
8 ipation in such program. The procedures of this subdivision shall apply
9 to such a suspension of a nonpublic school pupil. A superintendent of
10 schools, district superintendent of schools or community superintendent
11 shall have the authority to modify this suspension requirement for each
12 student on a case-by-case basis. The determination of a superintendent
13 shall be subject to review by the board of education pursuant to para-
14 graph c of this subdivision and the commissioner pursuant to section
15 three hundred ten of this chapter. Nothing in this subdivision shall be
16 deemed to authorize the suspension of a student with a disability in
17 violation of the individuals with disabilities education act or article
18 eighty-nine of this chapter. A superintendent shall refer the pupil
19 under the age of [sixteen] EIGHTEEN who has been determined to have
20 brought a weapon or firearm to school in violation of this subdivision
21 to a presentment agency for a juvenile delinquency proceeding consistent
22 with article three of the family court act except a student [fourteen or
23 fifteen years of age] who qualifies for juvenile offender status under
24 subdivision forty-two of section 1.20 of the criminal procedure law. A
25 superintendent shall refer any pupil [sixteen] EIGHTEEN years of age or
26 older or a student [fourteen or fifteen years of age] who qualifies for
27 juvenile offender status under subdivision forty-two of section 1.20 of
28 the criminal procedure law, who has been determined to have brought a
29 weapon or firearm to school in violation of this subdivision to the
30 appropriate law enforcement officials.

31 S 89. Intentionally omitted.

32 S 90. Paragraph b of subdivision 4 of section 3214 of the education
33 law, as amended by chapter 181 of the laws of 2000, is amended to read
34 as follows:

35 b. The school authorities may institute proceedings before a court
36 having jurisdiction to determine the liability of a person in parental
37 relation to contribute towards the maintenance of a school delinquent
38 under [sixteen] SEVENTEEN years of age ordered to attend upon instruc-
39 tion under confinement. If the court shall find the person in parental
40 relation able to contribute towards the maintenance of such a minor, it
41 may issue an order fixing the amount to be paid weekly.

42 S 91. Subdivisions 3 and 4 of section 246 of the executive law, as
43 amended by section 10 of part D of chapter 56 of the laws of 2010, are
44 amended to read as follows:

45 3. Applications from counties or the city of New York for state aid
46 under this section shall be made by filing with the division of criminal
47 justice services, a detailed plan, including cost estimates covering
48 probation services for the fiscal year or portion thereof for which aid
49 is requested. Included in such estimates shall be clerical costs and
50 maintenance and operation costs as well as salaries of probation person-
51 nel, FAMILY ENGAGEMENT SPECIALISTS and such other pertinent information
52 as the commissioner of the division of criminal justice services may
53 require. Items for which state aid is requested under this section shall
54 be duly designated in the estimates submitted. The commissioner of the
55 division of criminal justice services, after consultation with the state
56 probation commission and the director of the office of probation and

1 correctional alternatives, shall approve such plan if it conforms to
2 standards relating to the administration of probation services as speci-
3 fied in the rules adopted by him or her.

4 4. A. An approved plan and compliance with standards relating to the
5 administration of probation services promulgated by the commissioner of
6 the division of criminal justice services shall be a prerequisite to
7 eligibility for state aid.

8 The commissioner of the division of criminal justice services may take
9 into consideration granting additional state aid from an appropriation
10 made for state aid for county probation services for counties or the
11 city of New York when a county or the city of New York demonstrates that
12 additional probation services were dedicated to intensive supervision
13 programs[,] AND intensive programs for sex offenders [or programs
14 defined as juvenile risk intervention services]. THE COMMISSIONER SHALL
15 GRANT ADDITIONAL STATE AID FROM AN APPROPRIATION DEDICATED TO JUVENILE
16 RISK INTERVENTION SERVICES COORDINATION BY PROBATION DEPARTMENTS WHICH
17 SHALL INCLUDE, BUT NOT BE LIMITED TO, PROBATION SERVICES PERFORMED UNDER
18 ARTICLE THREE OF THE FAMILY COURT ACT OR ARTICLE SEVEN HUNDRED
19 TWENTY-TWO OF THE CRIMINAL PROCEDURE LAW. The administration of such
20 additional grants shall be made according to rules and regulations
21 promulgated by the commissioner of the division of criminal justice
22 services. Each county and the city of New York shall certify the total
23 amount collected pursuant to section two hundred fifty-seven-c of this
24 chapter. The commissioner of the division of criminal justice services
25 shall thereupon certify to the comptroller for payment by the state out
26 of funds appropriated for that purpose, the amount to which the county
27 or the city of New York shall be entitled under this section. THE
28 COMMISSIONER SHALL, SUBJECT TO AN APPROPRIATION MADE AVAILABLE FOR SUCH
29 PURPOSE, ESTABLISH AND PROVIDE FUNDING TO PROBATION DEPARTMENTS FOR A
30 CONTINUUM OF EVIDENCE-BASED INTERVENTION SERVICES FOR YOUTH ALLEGED OR
31 ADJUDICATED JUVENILE DELINQUENTS PURSUANT TO ARTICLE THREE OF THE FAMILY
32 COURT ACT OR FOR ELIGIBLE YOUTH BEFORE OR SENTENCED UNDER THE YOUTH PART
33 IN ACCORDANCE WITH ARTICLE SEVEN HUNDRED TWENTY-TWO OF THE CRIMINAL
34 PROCEDURE LAW.

35 B. ADDITIONAL STATE AID SHALL BE MADE IN AN AMOUNT NECESSARY TO PAY
36 ONE HUNDRED PERCENT OF THE EXPENDITURES FOR EVIDENCE-BASED PRACTICES AND
37 JUVENILE RISK AND EVIDENCE-BASED INTERVENTION SERVICES PROVIDED TO YOUTH
38 AGED SIXTEEN YEARS OF AGE OR OLDER WHEN SUCH SERVICES WOULD NOT OTHER-
39 WISE HAVE BEEN PROVIDED ABSENT THE PROVISIONS OF A CHAPTER OF THE LAWS
40 OF TWO THOUSAND FIFTEEN THAT INCREASED THE AGE OF JUVENILE JURISDICTION.

41 S 91-a. The executive law is amended by adding a new section 259-p to
42 read as follows:

43 S 259-p. INTERSTATE DETENTION. 1. NOTWITHSTANDING ANY OTHER PROVISION
44 OF LAW, A DEFENDANT SUBJECT TO SECTION TWO HUNDRED FIFTY-NINE-MM OF THIS
45 ARTICLE, MAY BE DETAINED AS AUTHORIZED BY THE INTERSTATE COMPACT FOR
46 ADULT OFFENDER SUPERVISION.

47 2. A DEFENDANT SHALL BE DETAINED AT A LOCAL CORRECTIONAL FACILITY,
48 EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION THREE OF THIS SECTION.

49 3. A DEFENDANT SEVENTEEN YEARS OF AGE OR YOUNGER WHO ALLEGEDLY COMMITS
50 A CRIMINAL ACT OR VIOLATION OF HIS OR HER SUPERVISION SHALL BE DETAINED
51 IN A JUVENILE DETENTION FACILITY.

52 S 91-b. Subdivision 16 of section 296 of the executive law, as sepa-
53 rately amended by section 3 of part N and section 14 of part AAA of
54 chapter 56 of the laws of 2009, is amended to read as follows:

55 16. It shall be an unlawful discriminatory practice, unless specif-
56 ically required or permitted by statute, for any person, agency, bureau,

1 corporation or association, including the state and any political subdi-
2 vision thereof, to make any inquiry about, whether in any form of appli-
3 cation or otherwise, or to act upon adversely to the individual
4 involved, any arrest or criminal accusation of such individual not then
5 pending against that individual which was followed by a termination of
6 that criminal action or proceeding in favor of such individual, as
7 defined in subdivision two of section 160.50 of the criminal procedure
8 law, or by a youthful offender adjudication, as defined in subdivision
9 one of section 720.35 of the criminal procedure law, or by a conviction
10 for a violation sealed pursuant to section 160.55 of the criminal proce-
11 dure law or by a conviction which is sealed pursuant to section 160.56
12 OR 160.58 of the criminal procedure law, in connection with the licens-
13 ing, employment or providing of credit or insurance to such individual;
14 provided, further, that no person shall be required to divulge informa-
15 tion pertaining to any arrest or criminal accusation of such individual
16 not then pending against that individual which was followed by a termi-
17 nation of that criminal action or proceeding in favor of such individ-
18 ual, as defined in subdivision two of section 160.50 of the criminal
19 procedure law, or by a youthful offender adjudication, as defined in
20 subdivision one of section 720.35 of the criminal procedure law, or by a
21 conviction for a violation sealed pursuant to section 160.55 of the
22 criminal procedure law, or by a conviction which is sealed pursuant to
23 section 160.56 OR 160.58 of the criminal procedure law. The provisions
24 of this subdivision shall not apply to the licensing activities of
25 governmental bodies in relation to the regulation of guns, firearms and
26 other deadly weapons or in relation to an application for employment as
27 a police officer or peace officer as those terms are defined in subdivi-
28 sions thirty-three and thirty-four of section 1.20 of the criminal
29 procedure law; provided further that the provisions of this subdivision
30 shall not apply to an application for employment or membership in any
31 law enforcement agency with respect to any arrest or criminal accusation
32 which was followed by a youthful offender adjudication, as defined in
33 subdivision one of section 720.35 of the criminal procedure law, or by a
34 conviction for a violation sealed pursuant to section 160.55 of the
35 criminal procedure law, or by a conviction which is sealed pursuant to
36 section 160.56 OR 160.58 of the criminal procedure law.

37 S 92. Section 502 of the executive law, as added by chapter 465 of the
38 laws of 1992, subdivision 3 as amended by section 1 of subpart B of part
39 Q of chapter 58 of the laws of 2011, is amended to read as follows:

40 S 502. Definitions. Unless otherwise specified in this article:

41 1. "Director" means the [director of the division for youth] COMMIS-
42 SIONER OF THE OFFICE OF CHILDREN AND FAMILY SERVICES.

43 2. ["Division] "DIVISION", "OFFICE" OR "DIVISION FOR YOUTH" means the
44 [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES.

45 3. "Detention" means the temporary care and maintenance of youth held
46 away from their homes pursuant to article three or seven of the family
47 court act, or held pending a hearing for alleged violation of the condi-
48 tions of release from an office of children and family services facility
49 or authorized agency, or held pending a hearing for alleged violation of
50 the condition of parole as a juvenile offender, or held pending return
51 to a jurisdiction other than the one in which the youth is held, or held
52 pursuant to a securing order of a criminal court if the youth named
53 therein as principal is charged as a juvenile offender or held pending a
54 hearing on an extension of placement or held pending transfer to a
55 facility upon commitment or placement by a court. Only alleged or
56 convicted juvenile offenders who have not attained their [eighteenth]

1 TWENTY-FIRST birthday shall be subject to detention in a detention
2 facility.

3 4. For purposes of this article, the term "youth" shall [be synonymous
4 with the term "child" and means] MEAN a person not less than [seven] TEN
5 years of age and not more than [twenty] TWENTY-THREE years of age.

6 5. "Placement" means the transfer of a youth to the custody of the
7 [division] OFFICE pursuant to the family court act.

8 6. "Commitment" means the transfer of a youth to the custody of the
9 [division] OFFICE pursuant to the penal law.

10 7. "Conditional release" means the transfer of a youth from facility
11 status to aftercare supervision under the continued custody of the
12 [division] OFFICE.

13 8. "Discharge" means the termination of [division] OFFICE custody of a
14 youth.

15 9. "Aftercare" means supervision of a youth on conditional release
16 status under the continued custody of the division.

17 S 93. Subdivision 7 of section 503 of the executive law, as amended by
18 section 2 of subpart B of part Q of chapter 58 of the laws of 2011, is
19 amended to read as follows:

20 7. The person in charge of each detention facility shall keep a record
21 of all time spent in such facility for each youth in care. The detention
22 facility shall deliver a certified transcript of such record to the
23 office, social services district, or other agency taking custody of the
24 youth pursuant to article three [or seven] of the family court act,
25 before, or at the same time as the youth is delivered to the office,
26 district or other agency, as is appropriate.

27 S 94. Intentionally omitted.

28 S 95. Section 507-a of the executive law, as amended by chapter 465 of
29 the laws of 1992, paragraph (a) of subdivision 1 as amended by chapter
30 309 of the laws of 1996, is amended to read as follows:

31 S 507-a. Placement and commitment; procedures. 1. Youth may be placed
32 in or committed to the custody of the [division] OFFICE OF CHILDREN AND
33 FAMILY SERVICES:

34 (a) for placement, as a juvenile delinquent pursuant to the family
35 court act; or

36 (b) for commitment pursuant to the penal law.

37 2. (a) Consistent with other provisions of law, only those youth who
38 have reached the age of [seven] TEN, but who have not reached the age of
39 twenty-one may be placed in[, committed to or remain in] the [divi-
40 sion's] custody OF THE OFFICE OF CHILDREN AND FAMILY SERVICES. EXCEPT AS
41 PROVIDED FOR IN PARAGRAPH (A-1) OF THIS SUBDIVISION, NO YOUTH WHO HAS
42 REACHED THE AGE OF TWENTY-ONE MAY REMAIN IN CUSTODY OF THE OFFICE OF
43 CHILDREN AND FAMILY SERVICES.

44 (A-1) (I) A YOUTH WHO IS COMMITTED TO THE OFFICE OF CHILDREN AND FAMI-
45 LY SERVICES AS A JUVENILE OFFENDER OR YOUTHFUL OFFENDER MAY REMAIN IN
46 THE CUSTODY OF THE OFFICE DURING THE PERIOD OF HIS OR HER SENTENCE
47 BEYOND THE AGE OF TWENTY-ONE IN ACCORDANCE WITH THE PROVISIONS OF SUBDI-
48 VISION FIVE OF SECTION FIVE HUNDRED EIGHT OF THIS ARTICLE BUT IN NO
49 EVENT MAY SUCH A YOUTH REMAIN IN THE CUSTODY OF THE OFFICE BEYOND HIS OR
50 HER TWENTY-THIRD BIRTHDAY; AND (II) A YOUTH FOUND TO HAVE COMMITTED A
51 DESIGNATED CLASS A FELONY ACT WHO IS RESTRICTIVELY PLACED WITH THE
52 OFFICE UNDER SUBDIVISION FOUR OF SECTION 353.5 OF THE FAMILY COURT ACT
53 FOR COMMITTING AN ACT ON OR AFTER THE YOUTH'S SIXTEENTH BIRTHDAY MAY
54 REMAIN IN THE CUSTODY OF THE OFFICE OF CHILDREN AND FAMILY SERVICES UP
55 TO THE AGE OF TWENTY-THREE IN ACCORDANCE WITH HIS OR HER PLACEMENT
56 ORDER.

1 (A-2) Whenever it shall appear to the satisfaction of the [division]
2 OFFICE OF CHILDREN AND FAMILY SERVICES that any youth placed therewith
3 is not of proper age to be so placed or is not properly placed, or is
4 mentally or physically incapable of being materially benefited by the
5 program of the [division] OFFICE, the [division] OFFICE shall cause the
6 return of such youth to the county from which placement was made.

7 (b) The [division] OFFICE shall deliver such youth to the custody of
8 the placing court, along with the records provided to the [division]
9 OFFICE pursuant to section five hundred seven-b of this article, there
10 to be dealt with by the court in all respects as though no placement had
11 been made.

12 (c) The cost and expense of the care and return of such youth incurred
13 by the [division] OFFICE shall be reimbursed to the state by the social
14 services district from which such youth was placed in the manner
15 provided by section five hundred twenty-nine of this article.

16 3. The [division] OFFICE may photograph any youth in its custody.
17 Such photograph may be used only for the purpose of assisting in the
18 return of conditionally released children and runaways pursuant to
19 section five hundred ten-b of this article. Such photograph shall be
20 destroyed immediately upon the discharge of the youth from [division]
21 OFFICE custody.

22 4. (a) A youth placed with or committed to the [division] OFFICE may,
23 immediately following placement or commitment, be remanded to an appro-
24 priate detention facility.

25 (b) The [division] OFFICE shall admit a [child] YOUTH placed [with the
26 division] UNDER ITS CARE to a facility of the [division] OFFICE within
27 fifteen days of the date of the order of placement with the [division]
28 OFFICE and shall admit a juvenile offender committed to the [division]
29 OFFICE to a facility of the [division] OFFICE within ten days of the
30 date of the order of commitment to the [division] OFFICE, except as
31 provided in section five hundred seven-b of this article.

32 5. Consistent with other provisions of law, in the discretion of the
33 [director, youth] COMMISSIONER OF THE OFFICE OF CHILDREN AND FAMILY
34 SERVICES, YOUTH PLACED WITHIN THE OFFICE UNDER THE FAMILY COURT ACT who
35 attain the age of eighteen while in [division] custody OF THE OFFICE AND
36 WHO ARE NOT REQUIRED TO REMAIN IN THE PLACEMENT WITH THE OFFICE AS A
37 RESULT OF A DISPOSITIONAL ORDER OF THE FAMILY COURT may reside in a
38 non-secure facility until the age of twenty-one, provided that such
39 youth attend a full-time vocational or educational program and are like-
40 ly to benefit from such program.

41 S 96. Section 508 of the executive law, as added by chapter 481 of the
42 laws of 1978 and as renumbered by chapter 465 of the laws of 1992,
43 subdivision 1 as amended by chapter 738 of the laws of 2004, subdivision
44 2 as amended by chapter 572 of the laws of 1985, subdivisions 4, 5, 6
45 and 7 as amended by section 97 of subpart B of part C of chapter 62 of
46 the laws of 2011, subdivision 8 as added by chapter 560 of the laws of
47 1984 and subdivision 9 as added by chapter 7 of the laws of 2007, is
48 amended to read as follows:

49 S 508. Juvenile offender facilities. 1. The office of children and
50 family services shall maintain [secure] facilities for the care and
51 confinement of juvenile offenders committed [for an indeterminate,
52 determinate or definite sentence] TO THE OFFICE pursuant to the sentenc-
53 ing provisions of the penal law. Such facilities shall provide appropri-
54 ate services to juvenile offenders including but not limited to residen-
55 tial care, educational and vocational training, physical and mental
56 health services, and employment counseling.

1 1-A. ANY NEW FACILITIES DEVELOPED BY THE OFFICE OF CHILDREN AND FAMILY
2 SERVICES TO SERVE THE ADDITIONAL YOUTH PLACED WITH THE OFFICE AS A
3 RESULT OF RAISING THE AGE OF JUVENILE JURISDICTION SHALL, TO THE EXTENT
4 PRACTICABLE, CONSIST OF SMALLER, MORE HOME-LIKE FACILITIES LOCATED NEAR
5 THE YOUTHS' HOMES AND FAMILIES THAT PROVIDE GENDER-RESPONSIVE PROGRAM-
6 MING, SERVICES AND TREATMENT IN SMALL, CLOSELY SUPERVISED GROUPS THAT
7 OFFER EXTENSIVE AND ON-GOING INDIVIDUAL ATTENTION AND ENCOURAGE SUPPORT-
8 IVE PEER RELATIONSHIPS.

9 2. Juvenile offenders COMMITTED TO THE OFFICE FOR COMMITTING CRIMES
10 PRIOR TO THE AGE OF SIXTEEN shall be confined in such facilities [until
11 the age of twenty-one] IN ACCORDANCE WITH THEIR SENTENCES, and shall not
12 be released, discharged or permitted home visits except pursuant to the
13 provisions of this section.

14 [(a) The director of the division for youth may authorize the transfer
15 of a juvenile offender in his custody, who has been convicted of
16 burglary or robbery, to a school or center established and operated
17 pursuant to title three of this article at any time after the juvenile
18 offender has been confined in a division for youth secure facility for
19 one year or one-half of his minimum sentence, whichever is greater.

20 (b) The director of the division for youth may authorize the transfer
21 of a juvenile offender in his custody, who has been convicted of
22 burglary or robbery, and who is within ninety days of release as estab-
23 lished by the board of parole, to any facility established and operated
24 pursuant to this article.

25 (c) A juvenile offender may be transferred as provided in paragraphs
26 (a) and (b) herein, only after the director determines that there is no
27 danger to public safety and that the offender shall substantially bene-
28 fit from the programs and services of another division facility. In
29 determining whether there is a danger to public safety the director
30 shall consider: (i) the nature and circumstances of the offense includ-
31 ing whether any physical injury involved was inflicted by the offender
32 or another participant; (ii) the record and background of the offender;
33 and (iii) the adjustment of the offender at division facilities.

34 (d) For a period of six months after a juvenile offender has been
35 transferred pursuant to paragraph (a) or (b) herein, the juvenile offen-
36 der may have only accompanied home visits. After completing six months
37 of confinement following transfer from a secure facility, a juvenile
38 offender may not have an unaccompanied home visit unless two accompanied
39 home visits have already occurred. An "accompanied home visit" shall
40 mean a home visit during which the juvenile offender shall be accompa-
41 nied at all times while outside the facility by appropriate personnel of
42 the division for youth designated pursuant to regulations of the direc-
43 tor of the division.

44 (e) The director of the division for youth shall promulgate rules and
45 regulations including uniform standards and procedures governing the
46 transfer of juvenile offenders from secure facilities to other facili-
47 ties and the return of such offenders to secure facilities. The rules
48 and regulations shall provide a procedure for the referral of proposed
49 transfer cases by the secure facility director, and shall require a
50 determination by the facility director that transfer of a juvenile
51 offender to another facility is in the best interests of the division
52 for youth and the juvenile offender and that there is no danger to
53 public safety.

54 The rules and regulations shall further provide for the establishment
55 of a division central office transfer committee to review transfer cases
56 referred by the secure facility directors. The committee shall recommend

1 approval of a transfer request to the director of the division only upon
2 a clear showing by the secure facility director that the transfer is in
3 the best interests of the division for youth and the juvenile offender
4 and that there is no danger to public safety. In the case of the denial
5 of the transfer request by the transfer committee, the juvenile offender
6 shall remain at a secure facility. Notwithstanding the recommendation
7 for approval of transfer by the transfer committee, the director of the
8 division may deny the request for transfer if there is a danger to
9 public safety or if the transfer is not in the best interests of the
10 division for youth or the juvenile offender.

11 The rules and regulations shall further provide a procedure for the
12 immediate return to a secure facility, without a hearing, of a juvenile
13 offender transferred to another facility upon a determination by that
14 facility director that there is a danger to public safety.]

15 3. The [division] OFFICE OF CHILDREN AND FAMILY SERVICES shall report
16 in writing to the sentencing court and district attorney, not less than
17 once every six months during the period of confinement, on the status,
18 adjustment, programs and progress of the offender.

19 4. [The office of children and family services may apply to the
20 sentencing court for permission to transfer a youth not less than
21 sixteen nor more than eighteen years of age to the department of
22 corrections and community supervision. Such application shall be made
23 upon notice to the youth, who shall be entitled to be heard upon the
24 application and to be represented by counsel. The court shall grant the
25 application if it is satisfied that there is no substantial likelihood
26 that the youth will benefit from the programs offered by the office
27 facilities.

28 5.] The office of children and family services may transfer an offen-
29 der not less than eighteen [nor more than twenty-one] years of age to
30 the department of corrections and community supervision if the commis-
31 sioner of the office certifies to the commissioner of corrections and
32 community supervision that there is no substantial likelihood that the
33 youth will benefit from the programs offered by office facilities.

34 [6. At age twenty-one, all] 5. (A) ALL juvenile offenders COMMITTED TO
35 THE OFFICE FOR COMMITTING A CRIME PRIOR TO THE YOUTH'S SIXTEENTH BIRTH-
36 DAY WHO STILL HAVE TIME LEFT ON THEIR SENTENCES OF IMPRISONMENT shall be
37 transferred AT AGE TWENTY-THREE to the custody of the department of
38 corrections and community supervision for confinement pursuant to the
39 correction law.

40 [7.] (B) ALL OFFENDERS COMMITTED TO THE OFFICE FOR COMMITTING A CRIME
41 ON OR AFTER THEIR SIXTEENTH BIRTHDAY WHO STILL HAVE TIME LEFT ON THEIR
42 SENTENCES OF IMPRISONMENT SHALL BE TRANSFERRED TO THE CUSTODY OF THE
43 DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION FOR CONFINEMENT
44 PURSUANT TO THE CORRECTION LAW AFTER COMPLETING TWO YEARS OF CARE IN
45 OFFICE OF CHILDREN AND FAMILY SERVICES FACILITIES UNLESS THEY ARE WITHIN
46 FOUR MONTHS OF COMPLETING THE IMPRISONMENT PORTION OF THEIR SENTENCE AND
47 THE OFFICE DETERMINES, IN ITS DISCRETION, ON A CASE-BY-CASE BASIS THAT
48 THE YOUTH SHOULD BE PERMITTED TO REMAIN WITH THE OFFICE FOR THE ADDI-
49 TIONAL SHORT PERIOD OF TIME NECESSARY TO ENABLE THEM TO COMPLETE THEIR
50 SENTENCE. IN MAKING SUCH A DETERMINATION, THE FACTORS THE OFFICE MAY
51 CONSIDER INCLUDE, BUT ARE NOT LIMITED TO, THE AGE OF THE YOUTH, THE
52 AMOUNT OF TIME REMAINING ON THE YOUTH'S SENTENCE OF IMPRISONMENT, THE
53 LEVEL OF THE YOUTH'S PARTICIPATION IN THE PROGRAM, THE YOUTH'S EDUCA-
54 TIONAL AND VOCATIONAL PROGRESS, THE OPPORTUNITIES AVAILABLE TO THE YOUTH
55 THROUGH THE OFFICE AND THROUGH THE DEPARTMENT. NOTHING IN THIS PARAGRAPH

1 SHALL AUTHORIZE A YOUTH TO REMAIN IN AN OFFICE FACILITY BEYOND HIS OR
2 HER TWENTY-THIRD BIRTHDAY.

3 (C) ALL JUVENILE OFFENDERS WHO ARE ELIGIBLE TO BE RELEASED FROM AN
4 OFFICE OF CHILDREN AND FAMILY SERVICES FACILITY BEFORE THEY ARE REQUIRED
5 TO BE TRANSFERRED TO THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPER-
6 VISION AND WHO ARE ABLE TO COMPLETE THE FULL-TERM OF THEIR COMMUNITY
7 SUPERVISION SENTENCES BEFORE THEY TURN TWENTY-THREE YEARS OF AGE SHALL
8 REMAIN WITH THE OFFICE OF CHILDREN AND FAMILY SERVICES FOR COMMUNITY
9 SUPERVISION.

10 (D) ALL JUVENILE OFFENDERS RELEASED FROM AN OFFICE OF CHILDREN AND
11 FAMILY SERVICES FACILITY BEFORE THEY ARE TRANSFERRED TO THE DEPARTMENT
12 OF CORRECTIONS AND COMMUNITY SUPERVISION WHO ARE UNABLE TO COMPLETE THE
13 FULL-TERM OF THEIR COMMUNITY SUPERVISION BEFORE THEY TURN TWENTY-THREE
14 YEARS OF AGE SHALL BE UNDER THE SUPERVISION OF THE DEPARTMENT OF
15 CORRECTIONS AND COMMUNITY SUPERVISION UNTIL EXPIRATION OF THE MAXIMUM
16 TERM.

17 6. While in the custody of the office of children and family services,
18 an offender shall be subject to the rules and regulations of the office,
19 except that his OR HER parole, temporary release and discharge shall be
20 governed by the laws applicable to inmates of state correctional facili-
21 ties and his OR HER transfer to state hospitals in the office of mental
22 health shall be governed by section five hundred nine of this [chapter]
23 TITLE. The commissioner of the office of children and family services
24 shall, however, establish and operate temporary release programs at
25 office of children and family services facilities for eligible juvenile
26 offenders and [contract with the department of corrections and community
27 supervision for the provision of parole] PROVIDE supervision [services]
28 for temporary releasees. The rules and regulations for these programs
29 shall not be inconsistent with the laws for temporary release applicable
30 to inmates of state correctional facilities. For the purposes of tempo-
31 rary release programs for juvenile offenders only, when referred to or
32 defined in article twenty-six of the correction law, "institution" shall
33 mean any facility designated by the commissioner of the office of chil-
34 dren and family services, "department" shall mean the office of children
35 and family services, "inmate" shall mean a juvenile offender residing in
36 an office of children and family services facility, and "commissioner"
37 shall mean the [director] COMMISSIONER of the office of children and
38 family services. Time spent in office of children and family services
39 facilities and in juvenile detention facilities shall be credited
40 towards the sentence imposed in the same manner and to the same extent
41 applicable to inmates of state correctional facilities.

42 [8] 7. Whenever a juvenile offender or a juvenile offender adjudi-
43 cated a youthful offender shall be delivered to the director of [a divi-
44 sion for youth] AN OFFICE OF CHILDREN AND FAMILY SERVICES facility
45 pursuant to a commitment to the [director of the division for youth]
46 OFFICE OF CHILDREN AND FAMILY SERVICES, the officer so delivering such
47 person shall deliver to such facility director a certified copy of the
48 sentence received by such officer from the clerk of the court by which
49 such person shall have been sentenced, a copy of the report of the
50 probation officer's investigation and report, any other pre-sentence
51 memoranda filed with the court, a copy of the person's fingerprint
52 records, a detailed summary of available medical records, psychiatric
53 records and reports relating to assaults, or other violent acts,
54 attempts at suicide or escape by the person while in the custody of a
55 local detention facility.

1 [9] 8. Notwithstanding any provision of law, including section five
2 hundred one-c of this article, the office of children and family
3 services shall make records pertaining to a person convicted of a sex
4 offense as defined in subdivision (p) of section 10.03 of the mental
5 hygiene law available upon request to the commissioner of mental health
6 or the commissioner of [mental retardation and] THE OFFICE FOR PERSONS
7 WITH developmental disabilities, as appropriate; a case review panel;
8 and the attorney general; in accordance with the provisions of article
9 ten of the mental hygiene law.

10 S 97. Subdivisions 1, 2, 4, 5 and 5-a of section 529 of the executive
11 law, subdivisions 1, 4 and 5 as added by chapter 906 of the laws of
12 1973, paragraph (c) of subdivision 1 as amended and paragraph (d) of
13 subdivision 1 as added by chapter 881 of the laws of 1976, subdivision 2
14 as amended by chapter 430 of the laws of 1991, paragraph (c) of subdivi-
15 sion 5 as amended by chapter 722 of the laws of 1979 and subdivision 5-a
16 as added by chapter 258 of the laws of 1974, are amended to read as
17 follows:

18 1. Definitions. As used in this section:

19 (a) "authorized agency", "certified boarding home", "local charge" and
20 "state charge" shall have the meaning ascribed to such terms by the
21 social services law;

22 (b) "aftercare supervision" shall mean supervision of released or
23 discharged youth, not in foster care; and,

24 (c) "foster care" shall mean residential care, maintenance and super-
25 vision provided TO released or discharged youth, or youth otherwise in
26 the custody of the [division for youth, in a division foster family home
27 certified by the division.

28 (d) "division foster family home" means a service program provided in
29 a home setting available to youth under the jurisdiction of the division
30 for youth] OFFICE OF CHILDREN AND FAMILY SERVICES.

31 2. [Expenditures] EXCEPT AS PROVIDED IN SUBDIVISION FIVE OF THIS
32 SECTION, EXPENDITURES made by the [division for youth] OFFICE OF CHIL-
33 DREN AND FAMILY SERVICES for care, maintenance and supervision furnished
34 youth, including alleged and adjudicated juvenile delinquents and
35 persons in need of supervision, placed or referred, pursuant to titles
36 two or three of this article, and juvenile offenders committed pursuant
37 to section 70.05 of the penal law, in the [division's] OFFICE'S programs
38 and facilities, shall be subject to reimbursement to the state by the
39 social services district from which the youth was placed or by the
40 social services district in which the juvenile offender resided at the
41 time of commitment, in accordance with this section and the regulations
42 of the [division,] OFFICE as follows: fifty percent of the amount
43 expended for care, maintenance and supervision of local charges includ-
44 ing juvenile offenders.

45 [4. Expenditures made by the division for youth] 3. THE COSTS for
46 foster care PROVIDED BY VOLUNTARY AUTHORIZED AGENCIES TO JUVENILE DELIN-
47 QUENTS PLACED IN THE CARE OF THE OFFICE OF CHILDREN AND FAMILY SERVICES
48 shall be [subject to reimbursement to the state by] THE RESPONSIBILITY
49 OF the social services district from which the youth was placed, AND
50 SHALL BE SUBJECT TO REIMBURSEMENT FROM THE STATE in accordance with [the
51 regulations of the division, as follows: fifty percent of the amount
52 expended for care, maintenance and supervision of local charges] SECTION
53 ONE HUNDRED FIFTY-THREE-K OF THE SOCIAL SERVICES LAW.

54 [5] 4. (a) [Expenditures] EXCEPT AS PROVIDED IN SUBDIVISION FIVE OF
55 THIS SECTION, EXPENDITURES made by the [division for youth] OFFICE OF
56 CHILDREN AND FAMILY SERVICES for aftercare supervision shall be subject

1 to reimbursement to the state by the social services district from which
2 the youth was placed, in accordance with regulations of the [division]
3 OFFICE, as follows: fifty percent of the amount expended for aftercare
4 supervision of local charges.

5 (b) Expenditures made by social services districts for aftercare
6 supervision of adjudicated juvenile delinquents and persons in need of
7 supervision [provided (prior to the expiration of the initial or
8 extended period of placement or commitment) by the aftercare staff of
9 the facility from which the youth has been released or discharged, other
10 than those under the jurisdiction of the division for youth, in which
11 said youth was placed or committed, pursuant to directions of the family
12 court,] shall be subject to reimbursement by the state[, upon approval
13 by the division and in accordance with its regulations, as follows:

14 (1) the full amount expended by the district for aftercare supervision
15 of state charges;

16 (2) fifty percent of the amount expended by the district for aftercare
17 supervision of local charges] IN ACCORDANCE WITH SECTION ONE HUNDRED
18 FIFTY-THREE-K OF THE SOCIAL SERVICES LAW.

19 (c) Expenditures made by the [division for youth] OFFICE OF CHILDREN
20 AND FAMILY SERVICES for contracted programs and contracted services
21 pursuant to subdivision seven of section five hundred one of this arti-
22 cle, except with respect to urban homes and group homes, shall be
23 subject to reimbursement to the state by the social services district
24 from which the youth was placed, in accordance with this section and the
25 regulations of the [division] OFFICE as follows: fifty percent of the
26 amount expended for the operation and maintenance of such programs and
27 services.

28 5. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, NO
29 REIMBURSEMENT SHALL BE REQUIRED FROM A SOCIAL SERVICES DISTRICT FOR
30 EXPENDITURES MADE BY THE OFFICE OF CHILDREN AND FAMILY SERVICES ON OR
31 AFTER DECEMBER FIRST, TWO THOUSAND SIXTEEN FOR THE CARE, MAINTENANCE,
32 SUPERVISION OR AFTERCARE SUPERVISION OF YOUTH AGE SIXTEEN YEARS OF AGE
33 OR OLDER THAT WOULD NOT OTHERWISE HAVE BEEN MADE ABSENT THE PROVISIONS
34 OF A CHAPTER OF THE LAWS OF TWO THOUSAND SIXTEEN THAT INCREASED THE AGE
35 OF JUVENILE JURISDICTION ABOVE FIFTEEN YEARS OF AGE OR THAT AUTHORIZED
36 THE PLACEMENT IN OFFICE OF CHILDREN AND FAMILY SERVICES FACILITIES OF
37 CERTAIN OTHER YOUTH WHO COMMITTED A CRIME ON OR AFTER THEIR SIXTEENTH
38 BIRTHDAYS.

39 5-a. The social services district responsible for reimbursement to the
40 state shall remain the same if during a period of placement or extension
41 thereof, a child commits a criminal act while in [a division] AN OFFICE
42 OF CHILDREN AND FAMILY SERVICES facility, during an authorized absence
43 therefrom or after absconding therefrom and is returned to the [divi-
44 sion] OFFICE following adjudication or conviction for the act by a court
45 with jurisdiction outside the boundaries of the social services district
46 which was responsible for reimbursement to the state prior to such adju-
47 dication or conviction.

48 S 98. Subdivision 1 and subparagraph (iii) of paragraph (a) of subdi-
49 vision 3 of section 529-b of the executive law, as added by section 3 of
50 subpart B of part Q of chapter 58 of the laws of 2011, are amended to
51 read as follows:

52 1. (a) Notwithstanding any provision of law to the contrary, eligible
53 expenditures by an eligible municipality for services to divert youth at
54 risk of, alleged to be, or adjudicated as juvenile delinquents or
55 persons alleged or adjudicated to be in need of supervision, or youth
56 alleged to be or convicted as juvenile offenders from placement in

1 detention or in residential care shall be subject to state reimbursement
2 under the supervision and treatment services for juveniles program for
3 up to sixty-two percent of the municipality's expenditures, subject to
4 available appropriations and exclusive of any federal funds made avail-
5 able for such purposes, not to exceed the municipality's distribution
6 under the supervision and treatment services for juveniles program.

7 (b) The state funds appropriated for the supervision and treatment
8 services for juveniles program shall be distributed to eligible munici-
9 palities by the office of children and family services based on a plan
10 developed by the office which may consider historical information
11 regarding the number of youth seen at probation intake for an alleged
12 act of delinquency, THE NUMBER OF ALLEGED PERSONS IN NEED OF SUPERVISION
13 RECEIVING DIVERSION SERVICES UNDER SECTION SEVEN HUNDRED THIRTY-FIVE OF
14 THE FAMILY COURT ACT, the number of youth remanded to detention, the
15 number of juvenile delinquents placed with the office, the number of
16 juvenile delinquents and persons in need of supervision placed in resi-
17 dential care with the municipality, the municipality's reduction in the
18 use of detention and residential placements, and other factors as deter-
19 mined by the office. Such plan developed by the office shall be subject
20 to the approval of the director of the budget. The office is authorized,
21 in its discretion, to make advance distributions to a municipality in
22 anticipation of state reimbursement.

23 (iii) a description of how the services and programs proposed for
24 funding will reduce the number of youth from the municipality who are
25 detained and residentially OR OTHERWISE placed; how such services and
26 programs are family-focused; and whether such services and programs are
27 capable of being replicated across multiple sites;

28 S 99. Subdivisions 2, 4, 5, 6 and 7 of section 530 of the executive
29 law, subdivisions 2 and 4 as amended by section 4 of subpart B of part Q
30 of chapter 58 of the laws of 2011, paragraphs (a) and (d) of subdivision
31 2 as amended by section 1 of part M of chapter 57 of the laws of 2012,
32 subdivision 5 as amended by chapter 920 of the laws of 1982, subpara-
33 graphs 1, 2 and 4 of paragraph (a) and paragraph (b) of subdivision 5 as
34 amended by section 5 of subpart B of part Q of chapter 58 of the laws of
35 2011, subdivision 6 as amended by chapter 880 of the laws of 1976, and
36 subdivision 7 as amended by section 6 of subpart B of part Q of chapter
37 58 of the laws of 2011, are amended and a new subdivision 8 is added to
38 read as follows:

39 2. [Expenditures] EXCEPT AS PROVIDED FOR IN SUBDIVISION EIGHT OF THIS
40 SECTION, EXPENDITURES made by municipalities in providing care, mainte-
41 nance and supervision to youth in detention facilities designated pursu-
42 ant to sections seven hundred twenty and 305.2 of the family court act
43 and certified by [the division for youth] OFFICE OF CHILDREN AND FAMILY
44 SERVICES, shall be subject to reimbursement by the state, as follows:

45 (a) Notwithstanding any provision of law to the contrary, eligible
46 expenditures by a municipality during a particular program year for the
47 care, maintenance and supervision in foster care programs certified by
48 the office of children and family services, certified or approved family
49 boarding homes, and non-secure detention facilities certified by the
50 office for those youth alleged to be persons in need of supervision or
51 adjudicated persons in need of supervision held pending transfer to a
52 facility upon placement; and in secure and non-secure detention facili-
53 ties certified by the office in accordance with section five hundred
54 three of this article for those youth alleged to be juvenile delin-
55 quents; adjudicated juvenile delinquents held pending transfer to a
56 facility upon placement, and juvenile delinquents held at the request of

1 the office of children and family services pending extension of place-
2 ment hearings or release revocation hearings or while awaiting disposi-
3 tion of such hearings; and youth alleged to be or convicted as juvenile
4 offenders AND, YOUTH ALLEGED TO BE PERSONS IN NEED OF SUPERVISION OR
5 ADJUDICATED PERSONS IN NEED OF SUPERVISION HELD PENDING TRANSFER TO A
6 FACILITY UPON PLACEMENT IN FOSTER CARE PROGRAMS CERTIFIED BY THE OFFICE
7 OF CHILDREN AND FAMILY SERVICES, CERTIFIED OR APPROVED FAMILY BOARDING
8 HOMES, shall be subject to state reimbursement for up to fifty percent
9 of the municipality's expenditures, exclusive of any federal funds made
10 available for such purposes, not to exceed the municipality's distrib-
11 ution from funds that have been appropriated specifically therefor for
12 that program year. Municipalities shall implement the use of detention
13 risk assessment instruments in a manner prescribed by the office so as
14 to inform detention decisions. Notwithstanding any other provision of
15 state law to the contrary, data necessary for completion of a detention
16 risk assessment instrument may be shared among law enforcement,
17 probation, courts, detention administrators, detention providers, and
18 the attorney for the child upon retention or appointment; solely for the
19 purpose of accurate completion of such risk assessment instrument, and a
20 copy of the completed detention risk assessment instrument shall be made
21 available to the applicable detention provider, the attorney for the
22 child and the court.

23 (b) The state funds appropriated for juvenile detention services shall
24 be distributed to eligible municipalities by the office of children and
25 family services based on a plan developed by the office which may
26 consider historical information regarding the number of youth remanded
27 to detention, the municipality's reduction in the use of detention, the
28 municipality's youth population, and other factors as determined by the
29 office. Such plan developed by the office shall be subject to the
30 approval of the director of the budget. The office is authorized, in its
31 discretion, to make advance distributions to a municipality in antic-
32 ipation of state reimbursement.

33 (c) A municipality may also use the funds distributed to it for juve-
34 nile detention services under this section for a particular program year
35 for sixty-two percent of a municipality's eligible expenditures for
36 supervision and treatment services for juveniles programs approved under
37 section five hundred twenty-nine-b of this title for services that were
38 not reimbursed from a municipality's distribution under such program
39 provided to at-risk, alleged or adjudicated juvenile delinquents or
40 persons alleged or adjudicated to be in need of supervision, or alleged
41 to be or convicted as juvenile offenders in community-based non-residen-
42 tial settings. Any claims submitted by a municipality for reimbursement
43 for detention services or supervision and treatment services for juve-
44 niles provided during a particular program year for which the munici-
45 pality does not receive state reimbursement from the municipality's
46 distribution of detention services funds for that program year may not
47 be claimed against the municipality's distribution of funds available
48 under this section for the next applicable program year. The office may
49 require that such claims be submitted to the office electronically at
50 such times and in the manner and format required by the office.

51 [(d)(i)] 2-A. (A) Notwithstanding any provision of law or regulation
52 to the contrary, any information or data necessary for the development,
53 validation or revalidation of the detention risk assessment instrument
54 shall be shared among local probation departments, the office of
55 probation and correctional alternatives and, where authorized by the
56 division of criminal justice services, the entity under contract with

1 the division to provide information technology services related to youth
2 assessment and screening, the office of children and family services,
3 and any entity under contract with the office of children and family
4 services to provide services relating to the development, validation or
5 revalidation of the detention risk assessment instrument. Any such
6 information and data shall not be commingled with any criminal history
7 database. Any information and data used and shared pursuant to this
8 section shall only be used and shared for the purposes of this section
9 and in accordance with this section. Such information shall be shared
10 and received in a manner that protects the confidentiality of such
11 information. The sharing, use, disclosure and redisclosure of such
12 information to any person, office, or other entity not specifically
13 authorized to receive it pursuant to this section or any other law is
14 prohibited.

15 [(ii)] (B) The office of children and family services shall consult
16 with individuals with professional research experience and expertise in
17 criminal justice; social work; juvenile justice; and applied mathemat-
18 ics, psychometrics and/or statistics to assist the office in determining
19 the method it will use to: develop, validate and revalidate such
20 detention risk assessment instrument; and analyze the effectiveness of
21 the use of such detention risk assessment instrument in accomplishing
22 its intended goals; and analyze, to the greatest extent possible any
23 disparate impact on detention outcomes for juveniles based on race, sex,
24 national origin, economic status and any other constitutionally
25 protected class, regarding the use of such instrument. The office shall
26 consult with such individuals regarding whether it is appropriate to
27 attempt to analyze whether there is any such disparate impact based on
28 sexual orientation and, if so, the best methods to conduct such analy-
29 sis. The office shall take into consideration any recommendations given
30 by such individuals involving improvements that could be made to such
31 instrument and process.

32 [(iii)] (C) Data collected for the purposes of completing the
33 detention risk assessment instrument from any source other than an offi-
34 cially documented record shall be confirmed as soon as practicable.
35 Should any data originally utilized in completing the risk assessment
36 instrument be found to conflict with the officially documented record,
37 the risk assessment instrument shall be completed with the officially
38 documented data and any corresponding revision to the risk categori-
39 zation shall be made. The office shall periodically revalidate any
40 approved risk assessment instrument. The office shall conspicuously post
41 any approved detention risk assessment instrument on its website and
42 shall confer with appropriate stakeholders, including but not limited
43 to, attorneys for children, presentment agencies, probation, and the
44 family court, prior to revising any validated risk assessment instru-
45 ment. Any such revised risk assessment instrument shall be subject to
46 periodic empirical validation.

47 4. (a) The municipality must notify the office of children and family
48 services of state aid received under other state aid formulas by each
49 detention facility for which the municipality is seeking reimbursement
50 pursuant to this section, including but not limited to, aid for educa-
51 tion, probation and mental health services.

52 (b) EXCEPT AS PROVIDED IN SUBDIVISION EIGHT OF THIS SECTION: (I) In
53 computing reimbursement to the municipality pursuant to this section,
54 the office shall insure that the aggregate of state aid under all state
55 aid formulas shall not exceed fifty percent of the cost of care, mainte-
56 nance and supervision provided to detainees eligible for state

1 reimbursement under subdivision two of this section, exclusive of feder-
2 al aid for such purposes not to exceed the amount of the municipality's
3 distribution under the juvenile detention services program.

4 [(c)] (II) Reimbursement for administrative related expenditures as
5 defined by the office of children and family services, for secure and
6 nonsecure detention services shall not exceed seventeen percent of the
7 total approved expenditures for facilities of twenty-five beds or more
8 and shall not exceed twenty-one percent of the total approved expendi-
9 tures for facilities with less than twenty-five beds.

10 5. (a) Except as provided in paragraph (b) of this subdivision, care,
11 maintenance and supervision for the purpose of this section shall mean
12 and include only:

13 (1) temporary care, maintenance and supervision provided TO alleged
14 juvenile delinquents and persons in need of supervision in detention
15 facilities certified pursuant to sections seven hundred twenty and 305.2
16 of the family court act by the office of children and family services,
17 pending adjudication of alleged delinquency or alleged need of super-
18 vision by the family court, or pending transfer to institutions to which
19 committed or placed by such court or while awaiting disposition by such
20 court after adjudication or held pursuant to a securing order of a crim-
21 inal court if the person named therein as principal is under [sixteen]
22 EIGHTEEN YEARS OF AGE; or[,]

23 (1-A) TEMPORARY CARE, MAINTENANCE, AND SUPERVISION PROVIDED TO ALLEGED
24 JUVENILE DELINQUENTS IN DETENTION FACILITIES CERTIFIED BY THE OFFICE OF
25 CHILDREN AND FAMILY SERVICES, PENDING ADJUDICATION OF ALLEGED DELINQUEN-
26 CY BY THE FAMILY COURT, OR PENDING TRANSFER TO INSTITUTIONS TO WHICH
27 COMMITTED OR PLACED BY SUCH COURT OR WHILE AWAITING DISPOSITION BY SUCH
28 COURT AFTER ADJUDICATION OR HELD PURSUANT TO A SECURING ORDER OF A CRIM-
29 INAL COURT IF THE PERSON NAMED THEREIN AS PRINCIPAL IS UNDER TWENTY-ONE;
30 OR

31 (2) temporary care, maintenance and supervision provided juvenile
32 delinquents in approved detention facilities at the request of the
33 office of children and family services pending release revocation hear-
34 ings or while awaiting disposition after such hearings; or

35 (3) temporary care, maintenance and supervision in approved detention
36 facilities for youth held pursuant to the family court act or the inter-
37 state compact on juveniles, pending return to their place of residence
38 or domicile[.]; OR

39 (4) temporary care, maintenance and supervision provided youth
40 detained in foster care facilities or certified or approved family
41 boarding homes pursuant to article seven of the family court act.

42 (b) Payments made for reserved accommodations, whether or not in full
43 time use, approved AND CERTIFIED by the office of children and family
44 services [and certified pursuant to sections seven hundred twenty and
45 305.2 of the family court act], in order to assure that adequate accom-
46 modations will be available for the immediate reception and proper care
47 therein of youth for which detention costs are reimbursable pursuant to
48 paragraph (a) of this subdivision, shall be reimbursed as expenditures
49 for care, maintenance and supervision under the provisions of this
50 section, provided the office shall have given its prior approval for
51 reserving such accommodations.

52 6. The [director of the division for youth] OFFICE OF CHILDREN AND
53 FAMILY SERVICES may adopt, amend, or rescind all rules and regulations,
54 subject to the approval of the director of the budget and certification
55 to the chairmen of the senate finance and assembly ways and means
56 committees, necessary to carry out the provisions of this section.

1 7. The agency administering detention for each county and the city of
2 New York shall submit to the office of children and family services, at
3 such times and in such form and manner and containing such information
4 as required by the office of children and family services, an annual
5 report on youth remanded pursuant to article three or seven of the fami-
6 ly court act who are detained during each calendar year including,
7 commencing January first, two thousand twelve, the risk level of each
8 detained youth as assessed by a detention risk assessment instrument
9 approved by the office of children and family services. The office may
10 require that such data on detention use be submitted to the office elec-
11 tronically. Such report shall include, but not be limited to, the reason
12 for the court's determination in accordance with section 320.5 or seven
13 hundred thirty-nine of the family court act, IF APPLICABLE, to detain
14 the youth; the offense or offenses with which the youth is charged; and
15 all other reasons why the youth remains detained. The office shall
16 submit a compilation of all the separate reports to the governor and the
17 legislature.

18 8. NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW TO THE CONTRARY, STATE
19 REIMBURSEMENT SHALL BE MADE AVAILABLE FOR ONE HUNDRED PERCENT OF A
20 MUNICIPALITY'S ELIGIBLE EXPENDITURES FOR THE CARE, MAINTENANCE AND
21 SUPERVISION OF YOUTH SIXTEEN YEARS OF AGE OR OLDER IN NON-SECURE AND
22 SECURE DETENTION FACILITIES WHEN SUCH DETENTION WOULD NOT OTHERWISE HAVE
23 OCCURRED ABSENT THE PROVISIONS OF A CHAPTER OF THE LAWS OF TWO THOUSAND
24 SIXTEEN THAT INCREASED THE AGE OF JUVENILE JURISDICTION ABOVE FIFTEEN
25 YEARS OF AGE.

26 S 100. Section 109-c of the vehicle and traffic law, as added by
27 section 1 of part E of chapter 60 of the laws of 2005, is amended to
28 read as follows:

29 S 109-c. Conviction. 1. Any conviction as defined in subdivision
30 thirteen of section 1.20 of the criminal procedure law; provided, howev-
31 er, where a conviction or administrative finding in this state or another
32 state results in a mandatory sanction against a commercial driver's
33 license, as set forth in sections five hundred ten, five hundred ten-a,
34 eleven hundred ninety-two and eleven hundred ninety-four of this chap-
35 ter, conviction shall also mean an unvacated adjudication of guilt, or a
36 determination that a person has violated or failed to comply with the
37 law in a court of original jurisdiction or by an authorized administra-
38 tive tribunal, an unvacated forfeiture of bail or collateral deposited
39 to secure the person's appearance in court, a plea of guilty or nolo
40 contendere accepted by the court, the payment of a fine or court cost,
41 or violation of a condition of release without bail, regardless of
42 whether or not the penalty is rebated, suspended, or probated.

43 2. A CONVICTION SHALL INCLUDE A JUVENILE DELINQUENCY ADJUDICATION FOR
44 THE PURPOSES OF SECTIONS FIVE HUNDRED TEN; SUBDIVISION FIVE OF SECTION
45 FIVE HUNDRED ELEVEN; FIVE HUNDRED FOURTEEN; FIVE HUNDRED TWENTY-THREE-A;
46 SUBPARAGRAPH (II) OF PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION ELEVEN
47 HUNDRED NINETY-THREE; SUBDIVISION TWO OF SECTION ELEVEN HUNDRED NINETY-
48 THREE; ELEVEN HUNDRED NINETY-SIX; ELEVEN HUNDRED NINETY-EIGHT; ELEVEN
49 HUNDRED NINETY-EIGHT-A; ELEVEN HUNDRED NINETY-NINE; EIGHTEEN HUNDRED
50 EIGHT; EIGHTEEN HUNDRED NINE; EIGHTEEN HUNDRED NINE-C; AND EIGHTEEN
51 HUNDRED NINE-E OF THIS CHAPTER AND PARAGRAPH (A) OF SUBDIVISION SIX OF
52 SECTION SIXTY-FIVE-B OF THE ALCOHOLIC BEVERAGE CONTROL LAW ONLY AND
53 SOLELY FOR THE PURPOSES OF ALLOWING THE FAMILY COURT TO IMPOSE LICENSE
54 AND REGISTRATION SANCTIONS, IGNITION INTERLOCK DEVICES, ANY DRUG OR
55 ALCOHOL REHABILITATION PROGRAM, VICTIM IMPACT PROGRAM, DRIVER RESPONSI-
56 BILITY ASSESSMENT, VICTIM ASSISTANCE FEE, SURCHARGE, AND ISSUING A STAY

1 ORDER ON APPEAL. NOTHING IN THIS SUBDIVISION SHALL BE CONSTRUED AS
2 LIMITING OR PRECLUDING THE ENFORCEMENT OF SECTION ELEVEN HUNDRED NINE-
3 TY-TWO-A OF THIS CHAPTER AGAINST A PERSON UNDER THE AGE OF TWENTY-ONE.

4 S 100-a. Subdivision 1 of section 510 of the vehicle and traffic law,
5 as amended by chapter 132 of the laws of 1986, is amended to read as
6 follows:

7 1. Who may suspend or revoke. Any magistrate, justice or judge, in a
8 city, in a town, or in a village, any supreme court justice, any county
9 judge, any judge of a district court, ANY FAMILY COURT JUDGE, the super-
10 intendent of state police and the commissioner of motor vehicles or any
11 person deputized by him, shall have power to revoke or suspend the
12 license to drive a motor vehicle or motorcycle of any person, or in the
13 case of an owner, the registration, as provided herein.

14 S 100-b. Severability. If any clause, sentence, paragraph, subdivi-
15 sion, section or part contained in any part of this act shall be
16 adjudged by any court of competent jurisdiction to be invalid, such
17 judgment shall not affect, impair, or invalidate the remainder thereof,
18 but shall be confined in its operation to the clause, sentence, para-
19 graph, subdivision, section or part contained in any part thereof
20 directly involved in the controversy in which such judgment shall have
21 been rendered. It is hereby declared to be the intent of the legislature
22 that this act would have been enacted even if such invalid provisions
23 had not been included herein.

24 S 101. This act shall take effect immediately; provided, however,
25 that:

26 1. sections one through twenty-four, twenty-six through fifty-nine,
27 sixty-one through sixty-six, sixty-eight through seventy-six, and eighty
28 through one hundred-b of this act shall take effect January 1, 2018;

29 2. sections sixty-seven, seventy-seven, seventy-eight, and seventy-
30 nine of this act shall take effect on the sixtieth day after it shall
31 have become a law;

32 3. the amendments to subparagraph (ii) of paragraph (a) of subdivision
33 1 of section 409-a of the social services law, made by section fifty-
34 three of this act shall not affect the expiration of such subparagraph
35 and shall be deemed expired therewith;

36 4. the amendments to subdivision 4 of section 353.5 of the family
37 court act made by section twenty-four of this act shall not affect the
38 expiration and reversion of such subdivision and shall expire and be
39 deemed repealed therewith, when upon such date the provisions of section
40 twenty-five of this act shall take effect;

41 5. the amendments to section 153-k of the social services law made by
42 section forty-seven of this act shall not affect the repeal of such
43 section and shall expire and be deemed repealed therewith;

44 6. the amendments to section 404 of the social services law made by
45 section fifty-two of this act shall not affect the repeal of such
46 section and shall expire and be deemed repealed therewith;

47 7. the amendments to subdivision 1 of section 70.20 of the penal law
48 made by section fifty-eight of this act shall not affect the expiration
49 of such subdivision and shall expire and be deemed repealed therewith;

50 8. the amendments to paragraph (f) of subdivision 1 of section 70.30
51 of the penal law made by section sixty-a of this act shall not affect
52 the expiration of such paragraph and shall be deemed to expire there-
53 with; and

54 9. the amendments to subparagraph 1 of paragraph d of subdivision 3 of
55 section 3214 of the education law made by section eighty-eight of this

1 act shall not affect the expiration of such paragraph and shall be
2 deemed to expire therewith; and
3 10. the amendments to the second undesignated paragraph of subdivision
4 4 of section 246 of the executive law made by section ninety-one of this
5 act shall not affect the expiration of such paragraph and shall expire
6 and be deemed repealed therewith.