

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

S. 2006--A

A. 3006--A

S E N A T E - A S S E M B L Y

January 21, 2015

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to contracts for excellence, apportionment of school aid, the teachers of tomorrow teacher recruitment and retention program and waivers from certain duties; to amend the state finance law, in relation to moneys appropriated from the commercial gaming revenue fund; to amend chapter 756 of the laws of 1992, relating to funding a program for work force education conducted by the consortium for worker education in New York city, in relation to reimbursements for the 2015-2016 school year; to amend chapter 756 of the laws of 1992, relating to funding a program for work force education conducted by the consortium for worker education in New York city, in relation to withholding a portion of employment preparation education aid and in relation to extending the effectiveness of such chapter; to amend chapter 169 of the laws of 1994 relating to certain provisions related to the 1994-95 state operations, aid to localities, capital projects and debt service budgets; to amend chapter 82 of the laws of 1995, amending the education law and other laws relating to state aid to school districts and the appropriation of funds for the support of government; to amend section 7 of chapter 472 of the laws of 1998 amending the education law relating to the lease of school buses by school districts; to amend chapter 147 of the laws of 2001 amending the education law relating to conditional appointment of school district, charter school or BOCES employees; to amend chapter 425 of the laws of 2002 amending the education law relating to the provision of supplemental educational services, attendance at a safe public school and the suspension of pupils who bring a firearm to or possess a firearm at a school, in relation to the effectiveness thereof; to amend chapter 101 of the laws of 2003

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

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amending the education law relating to implementation of the No Child Left Behind Act of 2001, in relation to extending the expiration of certain provisions of such chapters; allocates school bus driver training grants to school districts and boards of cooperative education services; allows for eligible school districts to receive special apportionments for salary expenses; allows for eligible school districts to receive special apportionments for public pension accruals; allows any moneys appropriated to the state education department to be suballocated to other state departments or agencies and/or shall be made available for specific payment of aid; allows the city school district of the city of Rochester to purchase services as a non-component school district; specifies amounts of state funds set aside for each school district for the purpose of the development, maintenance or expansion of magnet schools or magnet school programs; prohibits moneys appropriated for the support of public libraries to be used for library construction (Part A); to amend the education law, in relation to streamlining higher education program approvals (Part B); to amend the education law, in relation to creating the New York state get on your feet loan forgiveness program (Part C); to amend the education law, in relation to eligibility requirements and conditions governing general awards, academic performance awards and student loans; eligibility requirements for assistance under the higher education opportunity programs and the collegiate science and technology entry program; the definition of "resident"; financial aid opportunities for students of the state university of New York, the city university of New York and community colleges; and the program requirements for the New York state college choice tuition savings program; and to repeal subdivision 3 of section 661 of such law relating thereto (Part D); to amend the education law and the tax law, in relation to enacting the "education tax credit act" (Part E); to amend the banking law, in relation to creating a standard financial aid award letter (Part F); to amend the education law, the business corporation law, the partnership law and the limited liability company law, in relation to certified public accountants (Part G); to amend the education law, in relation to the implementation by all colleges and universities in the state of New York of sexual assault, dating violence, domestic violence, and stalking prevention and response policies and procedures (Part H); to amend the social services law, in relation to increasing the standards of monthly need for aged, blind and disabled persons living in the community (Part I); 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

committee 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 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; to amend part K of chapter 57 of the laws of 2012, amending the education law, relating to authorizing the board of cooperative educational services to enter into contracts with the commissioner of children and family services to provide certain services, in relation to making such provisions permanent; to repeal certain sections of the family court act relating to custody and detention of juvenile and youthful offenders; to repeal section 180.75 of the criminal procedure law relating to proceedings upon a felony complaint against a juvenile offender; and to repeal certain provisions of the correction law relating to the housing of prisoners and other persons in custody (Part J); to amend the social services law, in relation to state reimbursement and subsidies for the adoption of children (Part K); to amend the social services law, the family court act, the public health law and the executive law, in relation to implementing provisions required by the federal preventing sex trafficking and strengthening families act (Part L); to utilize reserves in the mortgage insurance fund for various housing purposes (Part M); to amend the labor law, in relation to the minimum wage (Part N); to amend the labor law, in relation to authorized absences by healthcare professionals who volunteer to fight the Ebola virus disease overseas; and providing for the repeal of such provisions upon expiration thereof (Part O); to amend the labor law, the workers' compensation law and chapter 784 of the laws of 1951, constituting the New York state defense emergency act, in relation to eliminating certain fees charged by the department of labor; and to repeal certain provisions of the labor law and the workers' compensation law relating thereto (Part P); to amend the education law, in relation to requiring experiential learning as a requirement for graduation (Part Q); and to amend part U of chapter 57 of the laws of 2005 relating to the New York state higher education capital matching grant program for independent colleges, in relation to the New York state higher education matching grant program for independent colleges and the effectiveness thereof (Part R)

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

1 Section 1. This act enacts into law major components of legislation
2 which are necessary to implement the state fiscal plan for the 2015-2016
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through R. The effective date for each particular
5 provision contained within such Part is set forth in the last section of
6 such Part. Any provision in any section contained within a Part, includ-

1 ing the effective date of the Part, which makes a reference to a section
2 "of this act", when used in connection with that particular component,
3 shall be deemed to mean and refer to the corresponding section of the
4 Part in which it is found. Section three of this act sets forth the
5 general effective date of this act.

6 PART A

7 Section 1. Paragraph e of subdivision 1 of section 211-d of the educa-
8 tion law, as amended by section 1 of part A of chapter 56 of the laws of
9 2014, is amended to read as follows:

10 e. Notwithstanding paragraphs a and b of this subdivision, a school
11 district that submitted a contract for excellence for the two thousand
12 eight--two thousand nine school year shall submit a contract for excel-
13 lence for the two thousand nine--two thousand ten school year in
14 conformity with the requirements of subparagraph (vi) of paragraph a of
15 subdivision two of this section unless all schools in the district are
16 identified as in good standing and provided further that, a school
17 district that submitted a contract for excellence for the two thousand
18 nine--two thousand ten school year, unless all schools in the district
19 are identified as in good standing, shall submit a contract for excel-
20 lence for the two thousand eleven--two thousand twelve school year which
21 shall, notwithstanding the requirements of subparagraph (vi) of para-
22 graph a of subdivision two of this section, provide for the expenditure
23 of an amount which shall be not less than the product of the amount
24 approved by the commissioner in the contract for excellence for the two
25 thousand nine--two thousand ten school year, multiplied by the
26 district's gap elimination adjustment percentage and provided further
27 that, a school district that submitted a contract for excellence for the
28 two thousand eleven--two thousand twelve school year, unless all schools
29 in the district are identified as in good standing, shall submit a
30 contract for excellence for the two thousand twelve--two thousand thir-
31 teen school year which shall, notwithstanding the requirements of
32 subparagraph (vi) of paragraph a of subdivision two of this section,
33 provide for the expenditure of an amount which shall be not less than
34 the amount approved by the commissioner in the contract for excellence
35 for the two thousand eleven--two thousand twelve school year and
36 provided further that, a school district that submitted a contract for
37 excellence for the two thousand twelve--two thousand thirteen school
38 year, unless all schools in the district are identified as in good
39 standing, shall submit a contract for excellence for the two thousand
40 thirteen--two thousand fourteen school year which shall, notwithstanding
41 the requirements of subparagraph (vi) of paragraph a of subdivision two
42 of this section, provide for the expenditure of an amount which shall be
43 not less than the amount approved by the commissioner in the contract
44 for excellence for the two thousand twelve--two thousand thirteen school
45 year and provided further that, a school district that submitted a
46 contract for excellence for the two thousand thirteen--two thousand
47 fourteen school year, unless all schools in the district are identified
48 as in good standing, shall submit a contract for excellence for the two
49 thousand fourteen--two thousand fifteen school year which shall,
50 notwithstanding the requirements of subparagraph (vi) of paragraph a of
51 subdivision two of this section, provide for the expenditure of an
52 amount which shall be not less than the amount approved by the commis-
53 sioner in the contract for excellence for the two thousand thirteen--two
54 thousand fourteen school year; AND PROVIDED FURTHER THAT, A SCHOOL

1 DISTRICT THAT SUBMITTED A CONTRACT FOR EXCELLENCE FOR THE TWO THOUSAND
2 FOURTEEN--TWO THOUSAND FIFTEEN SCHOOL YEAR, UNLESS ALL SCHOOLS IN THE
3 DISTRICT ARE IDENTIFIED AS IN GOOD STANDING, SHALL SUBMIT A CONTRACT FOR
4 EXCELLENCE FOR THE TWO THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN SCHOOL
5 YEAR WHICH SHALL, NOTWITHSTANDING THE REQUIREMENTS OF SUBPARAGRAPH (VI)
6 OF PARAGRAPH A OF SUBDIVISION TWO OF THIS SECTION, PROVIDE FOR THE
7 EXPENDITURE OF AN AMOUNT WHICH SHALL BE NOT LESS THAN THE AMOUNT
8 APPROVED BY THE COMMISSIONER IN THE CONTRACT FOR EXCELLENCE FOR THE TWO
9 THOUSAND FOURTEEN--TWO THOUSAND FIFTEEN SCHOOL YEAR. For purposes of
10 this paragraph, the "gap elimination adjustment percentage" shall be
11 calculated as the sum of one minus the quotient of the sum of the school
12 district's net gap elimination adjustment for two thousand ten--two
13 thousand eleven computed pursuant to chapter fifty-three of the laws of
14 two thousand ten, making appropriations for the support of government,
15 plus the school district's gap elimination adjustment for two thousand
16 eleven--two thousand twelve as computed pursuant to chapter fifty-three
17 of the laws of two thousand eleven, making appropriations for the
18 support of the local assistance budget, including support for general
19 support for public schools, divided by the total aid for adjustment
20 computed pursuant to chapter fifty-three of the laws of two thousand
21 eleven, making appropriations for the local assistance budget, including
22 support for general support for public schools. Provided, further, that
23 such amount shall be expended to support and maintain allowable programs
24 and activities approved in the two thousand nine--two thousand ten
25 school year or to support new or expanded allowable programs and activ-
26 ities in the current year.

27 S 2. The closing paragraph of subdivision 5-a of section 3602 of the
28 education law, as amended by section 8 of part A of chapter 57 of the
29 laws of 2013, is amended to read as follows:

30 For the two thousand eight--two thousand nine school year, each school
31 district shall be entitled to an apportionment equal to the product of
32 fifteen percent and the additional apportionment computed pursuant to
33 this subdivision for the two thousand seven--two thousand eight school
34 year. For the two thousand nine--two thousand ten through two thousand
35 [fourteen] FIFTEEN--two thousand [fifteen] SIXTEEN school years, each
36 school district shall be entitled to an apportionment equal to the
37 amount set forth for such school district as "SUPPLEMENTAL PUB EXCESS
38 COST" under the heading "2008-09 BASE YEAR AIDS" in the school aid
39 computer listing produced by the commissioner in support of the budget
40 for the two thousand nine--two thousand ten school year and entitled
41 "SA0910".

42 S 3. Subdivision 12 of section 3602 of the education law, as amended
43 by section 10 of part A of chapter 57 of the laws of 2013, is amended to
44 read as follows:

45 12. Academic enhancement aid. A school district that as of April first
46 of the base year has been continuously identified as a district in need
47 of improvement for at least five years shall, for the two thousand
48 eight--two thousand nine school year, be entitled to an additional
49 apportionment equal to the positive remainder, if any, of (a) the lesser
50 of fifteen million dollars or the product of the total foundation aid
51 base, as defined by paragraph j of subdivision one of this section,
52 multiplied by ten percent (0.10), less (b) the positive remainder of (i)
53 the sum of the total foundation aid apportioned pursuant to subdivision
54 four of this section and the supplemental educational improvement grants
55 apportioned pursuant to subdivision eight of section thirty-six hundred
56 forty-one of this article, less (ii) the total foundation aid base.

1 For the two thousand nine--two thousand ten through two thousand four-
2 teen--two thousand fifteen school years, each school district shall be
3 entitled to an apportionment equal to the amount set forth for such
4 school district as "EDUCATION GRANTS, ACADEMIC EN" under the heading
5 "2008-09 BASE YEAR AIDS" in the school aid computer listing produced by
6 the commissioner in support of the budget for the two thousand nine--two
7 thousand ten school year and entitled "SA0910", and such apportionment
8 shall be deemed to satisfy the state obligation to provide an apportion-
9 ment pursuant to subdivision eight of section thirty-six hundred forty-
10 one of this article.

11 FOR THE TWO THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN YEAR, EACH SCHOOL
12 DISTRICT SHALL BE ENTITLED TO AN APPORTIONMENT EQUAL TO THE AMOUNT SET
13 FORTH FOR SUCH SCHOOL DISTRICT AS "ACADEMIC ENHANCEMENT" UNDER THE HEAD-
14 ING "2014-15 ESTIMATED AIDS" IN THE SCHOOL AID COMPUTER LISTING PRODUCED
15 BY THE COMMISSIONER IN SUPPORT OF THE BUDGET FOR THE TWO THOUSAND FOUR-
16 TEEN--TWO THOUSAND FIFTEEN SCHOOL YEAR AND ENTITLED "SA141-5", AND SUCH
17 APPORTIONMENT SHALL BE DEEMED TO SATISFY THE STATE OBLIGATION TO PROVIDE
18 AN APPORTIONMENT PURSUANT TO SUBDIVISION EIGHT OF SECTION THIRTY-SIX
19 HUNDRED FORTY-ONE OF THIS ARTICLE.

20 S 4. The opening paragraph of subdivision 16 of section 3602 of the
21 education law, as amended by section 11 of part A of chapter 57 of the
22 laws of 2013, is amended to read as follows:

23 Each school district shall be eligible to receive a high tax aid
24 apportionment in the two thousand eight--two thousand nine school year,
25 which shall equal the greater of (i) the sum of the tier 1 high tax aid
26 apportionment, the tier 2 high tax aid apportionment and the tier 3 high
27 tax aid apportionment or (ii) the product of the apportionment received
28 by the school district pursuant to this subdivision in the two thousand
29 seven--two thousand eight school year, multiplied by the due-minimum
30 factor, which shall equal, for districts with an alternate pupil wealth
31 ratio computed pursuant to paragraph b of subdivision three of this
32 section that is less than two, seventy percent (0.70), and for all other
33 districts, fifty percent (0.50). Each school district shall be eligible
34 to receive a high tax aid apportionment in the two thousand nine--two
35 thousand ten through two thousand twelve--two thousand thirteen school
36 years in the amount set forth for such school district as "HIGH TAX AID"
37 under the heading "2008-09 BASE YEAR AIDS" in the school aid computer
38 listing produced by the commissioner in support of the budget for the
39 two thousand nine--two thousand ten school year and entitled "SA0910".
40 Each school district shall be eligible to receive a high tax aid appor-
41 tionment in the two thousand thirteen--two thousand fourteen [school
42 year and the two thousand fourteen--two thousand fifteen] THROUGH TWO
43 THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN school [year] YEARS equal to the
44 greater of (1) the amount set forth for such school district as "HIGH
45 TAX AID" under the heading "2008-09 BASE YEAR AIDS" in the school aid
46 computer listing produced by the commissioner in support of the budget
47 for the two thousand nine--two thousand ten school year and entitled
48 "SA0910" or (2) the amount set forth for such school district as "HIGH
49 TAX AID" under the heading "2013-14 ESTIMATED AIDS" in the school aid
50 computer listing produced by the commissioner in support of the execu-
51 tive budget for the 2013-14 fiscal year and entitled "BT131-4".

52 S 5. The opening paragraph of subdivision 10 of section 3602-e of the
53 education law, as amended by section 21 of part A of chapter 56 of the
54 laws of 2014, is amended to read as follows:

55 Notwithstanding any provision of law to the contrary, for aid payable
56 in the two thousand eight--two thousand nine school year, the grant to

1 each eligible school district for universal prekindergarten aid shall be
2 computed pursuant to this subdivision, and for the two thousand nine--
3 two thousand ten and two thousand ten--two thousand eleven school years,
4 each school district shall be eligible for a maximum grant equal to the
5 amount computed for such school district for the base year in the elec-
6 tronic data file produced by the commissioner in support of the two
7 thousand nine--two thousand ten education, labor and family assistance
8 budget, provided, however, that in the case of a district implementing
9 programs for the first time or implementing expansion programs in the
10 two thousand eight--two thousand nine school year where such programs
11 operate for a minimum of ninety days in any one school year as provided
12 in section 151-1.4 of the regulations of the commissioner, for the two
13 thousand nine--two thousand ten and two thousand ten--two thousand elev-
14 en school years, such school district shall be eligible for a maximum
15 grant equal to the amount computed pursuant to paragraph a of subdivi-
16 sion nine of this section in the two thousand eight--two thousand nine
17 school year, and for the two thousand eleven--two thousand twelve school
18 year each school district shall be eligible for a maximum grant equal to
19 the amount set forth for such school district as "UNIVERSAL PREKINDER-
20 GARTEN" under the heading "2011-12 ESTIMATED AIDS" in the school aid
21 computer listing produced by the commissioner in support of the enacted
22 budget for the 2011-12 school year and entitled "SA111-2", and for two
23 thousand twelve--two thousand thirteen[, two thousand thirteen--two
24 thousand fourteen and two thousand fourteen--two thousand fifteen]
25 THROUGH TWO THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN school years each
26 school district shall be eligible for a maximum grant equal to the
27 greater of (i) the amount set forth for such school district as
28 "UNIVERSAL PREKINDERGARTEN" under the heading "2010-11 BASE YEAR AIDS"
29 in the school aid computer listing produced by the commissioner in
30 support of the enacted budget for the 2011-12 school year and entitled
31 "SA111-2", or (ii) the amount set forth for such school district as
32 "UNIVERSAL PREKINDERGARTEN" under the heading "2010-11 BASE YEAR AIDS"
33 in the school aid computer listing produced by the commissioner on May
34 fifteenth, two thousand eleven pursuant to paragraph b of subdivision
35 twenty-one of section three hundred five of this chapter, and provided
36 further that the maximum grant shall not exceed the total actual grant
37 expenditures incurred by the school district in the current school year
38 as approved by the commissioner.

39 S 6. The opening paragraph of section 3609-a of the education law, as
40 amended by section 4 of part A of chapter 56 of the laws of 2014, is
41 amended to read as follows:

42 For aid payable in the two thousand seven--two thousand eight school
43 year through the [two thousand thirteen--two thousand fourteen] TWO
44 THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN school year, "moneys apportioned"
45 shall mean the lesser of (i) the sum of one hundred percent of the
46 respective amount set forth for each school district as payable pursuant
47 to this section in the school aid computer listing for the current year
48 produced by the commissioner in support of the budget which includes the
49 appropriation for the general support for public schools for the
50 prescribed payments and individualized payments due prior to April first
51 for the current year plus the apportionment payable during the current
52 school year pursuant to subdivision six-a and subdivision fifteen of
53 section thirty-six hundred two of this part minus any reductions to
54 current year aids pursuant to subdivision seven of section thirty-six
55 hundred four of this part or any deduction from apportionment payable
56 pursuant to this chapter for collection of a school district basic

1 contribution as defined in subdivision eight of section forty-four
2 hundred one of this chapter, less any grants provided pursuant to
3 subparagraph two-a of paragraph b of subdivision four of section nine-
4 ty-two-c of the state finance law, LESS ANY GRANTS PROVIDED PURSUANT TO
5 SUBDIVISION SIX OF SECTION NINETY-SEVEN-NNNN OF THE STATE FINANCE LAW,
6 less any grants provided pursuant to subdivision twelve of section thir-
7 ty-six hundred forty-one of this article, or (ii) the apportionment
8 calculated by the commissioner based on data on file at the time the
9 payment is processed; provided however, that for the purposes of any
10 payments made pursuant to this section prior to the first business day
11 of June of the current year, moneys apportioned shall not include any
12 aids payable pursuant to subdivisions six and fourteen, if applicable,
13 of section thirty-six hundred two of this part as current year aid for
14 debt service on bond anticipation notes and/or bonds first issued in the
15 current year or any aids payable for full-day kindergarten for the
16 current year pursuant to subdivision nine of section thirty-six hundred
17 two of this part. The definitions of "base year" and "current year" as
18 set forth in subdivision one of section thirty-six hundred two of this
19 part shall apply to this section. For aid payable in the two thousand
20 fourteen--two thousand fifteen school year, reference to such "school
21 aid computer listing for the current year" shall mean the printouts
22 entitled "SA141-5".

23 S 7. The education law is amended by adding a new section 3609-h to
24 read as follows:

25 S 3609-H. MONEYS APPORTIONED TO SCHOOL DISTRICTS FOR COMMERCIAL GAMING
26 GRANTS PURSUANT TO SUBDIVISION SIX OF SECTION NINETY-SEVEN-NNNN OF THE
27 STATE FINANCE LAW, WHEN AND HOW PAYABLE COMMENCING JULY FIRST, TWO THOU-
28 SAND FOURTEEN. NOTWITHSTANDING THE PROVISIONS OF SECTION THIRTY-SIX
29 HUNDRED NINE-A OF THIS PART, APPORTIONMENTS PAYABLE PURSUANT TO SUBDIVI-
30 SION SIX OF SECTION NINETY-SEVEN-NNNN OF THE STATE FINANCE LAW SHALL BE
31 PAID PURSUANT TO THIS SECTION. THE DEFINITIONS OF "BASE YEAR" AND
32 "CURRENT YEAR" AS SET FORTH IN SUBDIVISION ONE OF SECTION THIRTY-SIX
33 HUNDRED TWO OF THIS PART SHALL APPLY TO THIS SECTION.

34 1. THE MONEYS APPORTIONED BY THE COMMISSIONER TO SCHOOL DISTRICTS
35 PURSUANT TO SUBDIVISION SIX OF SECTION NINETY-SEVEN-NNNN OF THE STATE
36 FINANCE LAW FOR THE TWO THOUSAND FOURTEEN-TWO THOUSAND FIFTEEN SCHOOL
37 YEAR AND THEREAFTER SHALL BE PAID AS A COMMERCIAL GAMING GRANT, AS
38 COMPUTED PURSUANT TO SUCH SUBDIVISION, AS FOLLOWS:

39 A. FOR THE TWO THOUSAND FOURTEEN--TWO THOUSAND FIFTEEN SCHOOL YEAR,
40 ONE HUNDRED PERCENT OF SUCH GRANT SHALL BE PAID ON THE SAME DATE AS THE
41 PAYMENT COMPUTED PURSUANT TO CLAUSE (V) OF SUBPARAGRAPH THREE OF PARA-
42 GRAPH B OF SUBDIVISION ONE OF SECTION THIRTY-SIX HUNDRED NINE-A OF THIS
43 ARTICLE.

44 B. FOR THE TWO THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN SCHOOL YEAR AND
45 THEREAFTER, SEVENTY PERCENT OF SUCH GRANT SHALL BE PAID ON THE SAME DATE
46 AS THE PAYMENT COMPUTED PURSUANT TO CLAUSE (II) OF SUBPARAGRAPH THREE OF
47 PARAGRAPH B OF SUBDIVISION ONE OF SECTION THIRTY-SIX HUNDRED NINE-A OF
48 THIS ARTICLE, AND THIRTY PERCENT OF SUCH GRANT SHALL BE PAID ON THE SAME
49 DATE AS THE PAYMENT COMPUTED PURSUANT TO CLAUSE (V) OF SUBPARAGRAPH
50 THREE OF PARAGRAPH B OF SUBDIVISION ONE OF SECTION THIRTY-SIX HUNDRED
51 NINE-A OF THIS ARTICLE.

52 2. ANY PAYMENT TO A SCHOOL DISTRICT PURSUANT TO THIS SECTION SHALL BE
53 GENERAL RECEIPTS OF THE DISTRICT AND MAY BE USED FOR ANY LAWFUL PURPOSE
54 OF THE DISTRICT.

1 S 8. Paragraph b of subdivision 2 of section 3612 of the education
2 law, as amended by section 5 of part A of chapter 56 of the laws of
3 2014, is amended to read as follows:

4 b. Such grants shall be awarded to school districts, within the limits
5 of funds appropriated therefor, through a competitive process that takes
6 into consideration the magnitude of any shortage of teachers in the
7 school district, the number of teachers employed in the school district
8 who hold temporary licenses to teach in the public schools of the state,
9 the number of provisionally certified teachers, the fiscal capacity and
10 geographic sparsity of the district, the number of new teachers the
11 school district intends to hire in the coming school year and the number
12 of summer in the city student internships proposed by an eligible school
13 district, if applicable. Grants provided pursuant to this section shall
14 be used only for the purposes enumerated in this section. Notwithstand-
15 ing any other provision of law to the contrary, a city school district
16 in a city having a population of one million or more inhabitants receiv-
17 ing a grant pursuant to this section may use no more than eighty percent
18 of such grant funds for any recruitment, retention and certification
19 costs associated with transitional certification of teacher candidates
20 for the school years two thousand one--two thousand two through [two
21 thousand fourteen--two thousand fifteen] TWO THOUSAND FIFTEEN--TWO THOU-
22 SAND SIXTEEN.

23 S 9. Subdivision 6 of section 4402 of the education law, as amended by
24 section 9 of part A of chapter 56 of the laws of 2014, is amended to
25 read as follows:

26 6. Notwithstanding any other law, rule or regulation to the contrary,
27 the board of education of a city school district with a population of
28 one hundred twenty-five thousand or more inhabitants shall be permitted
29 to establish maximum class sizes for special classes for certain
30 students with disabilities in accordance with the provisions of this
31 subdivision. For the purpose of obtaining relief from any adverse fiscal
32 impact from under-utilization of special education resources due to low
33 student attendance in special education classes at the middle and
34 secondary level as determined by the commissioner, such boards of educa-
35 tion shall, during the school years nineteen hundred ninety-five--nine-
36 ty-six through June thirtieth, two thousand [fifteen] SIXTEEN of the two
37 thousand [fourteen] FIFTEEN--two thousand [fifteen] SIXTEEN school year,
38 be authorized to increase class sizes in special classes containing
39 students with disabilities whose age ranges are equivalent to those of
40 students in middle and secondary schools as defined by the commissioner
41 for purposes of this section by up to but not to exceed one and two
42 tenths times the applicable maximum class size specified in regulations
43 of the commissioner rounded up to the nearest whole number, provided
44 that in a city school district having a population of one million or
45 more, classes that have a maximum class size of fifteen may be increased
46 by no more than one student and provided that the projected average
47 class size shall not exceed the maximum specified in the applicable
48 regulation, provided that such authorization shall terminate on June
49 thirtieth, two thousand. Such authorization shall be granted upon filing
50 of a notice by such a board of education with the commissioner stating
51 the board's intention to increase such class sizes and a certification
52 that the board will conduct a study of attendance problems at the
53 secondary level and will implement a corrective action plan to increase
54 the rate of attendance of students in such classes to at least the rate
55 for students attending regular education classes in secondary schools of
56 the district. Such corrective action plan shall be submitted for

1 approval by the commissioner by a date during the school year in which
2 such board increases class sizes as provided pursuant to this subdivi-
3 sion to be prescribed by the commissioner. Upon at least thirty days
4 notice to the board of education, after conclusion of the school year in
5 which such board increases class sizes as provided pursuant to this
6 subdivision, the commissioner shall be authorized to terminate such
7 authorization upon a finding that the board has failed to develop or
8 implement an approved corrective action plan.

9 S 10. The education law is amended by adding a new section 4403-a to
10 read as follows:

11 S 4403-A. WAIVERS FROM CERTAIN DUTIES. 1. A LOCAL SCHOOL DISTRICT,
12 APPROVED PRIVATE SCHOOL OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES MAY
13 SUBMIT AN APPLICATION FOR A WAIVER FROM ANY REQUIREMENT IMPOSED ON SUCH
14 DISTRICT, SCHOOL OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES PURSUANT
15 TO SECTION FORTY-FOUR HUNDRED TWO OR SECTION FORTY-FOUR HUNDRED THREE OF
16 THIS ARTICLE, AND REGULATIONS PROMULGATED THEREUNDER, FOR A SPECIFIC
17 SCHOOL YEAR. SUCH APPLICATION SHALL BE SUBMITTED AT LEAST SIXTY DAYS IN
18 ADVANCE OF THE PROPOSED DATE ON WHICH THE WAIVER WOULD BE EFFECTIVE AND
19 SHALL BE IN A FORM PRESCRIBED BY THE COMMISSIONER.

20 2. BEFORE SUBMITTING AN APPLICATION FOR A WAIVER, THE LOCAL SCHOOL
21 DISTRICT, APPROVED PRIVATE SCHOOL OR BOARD OF COOPERATIVE EDUCATIONAL
22 SERVICES SHALL PROVIDE NOTICE OF THE PROPOSED WAIVER TO THE PARENTS OR
23 PERSONS IN A PARENTAL RELATIONSHIP TO THE STUDENTS THAT WOULD BE
24 IMPACTED BY THE WAIVER IF GRANTED. SUCH NOTICE SHALL BE IN A FORM AND
25 MANNER THAT WOULD ENSURE THAT SUCH PARENTS OR PERSONS IN A PARENTAL
26 RELATIONSHIP WOULD BE AWARE OF ALL RELEVANT CHANGES THAT WOULD OCCUR
27 UNDER THE WAIVER, AND SHALL INCLUDE INFORMATION ON THE FORM, MANNER AND
28 DATE BY WHICH PARENTS MAY SUBMIT WRITTEN COMMENTS ON THE PROPOSED WAIV-
29 ER. THE LOCAL SCHOOL DISTRICT, APPROVED PRIVATE SCHOOL, OR BOARD OF
30 COOPERATIVE EDUCATIONAL SERVICES SHALL PROVIDE AT LEAST SIXTY DAYS FOR
31 SUCH PARENTS OR PERSONS IN A PARENTAL RELATIONSHIP TO SUBMIT WRITTEN
32 COMMENTS, AND SHALL INCLUDE IN THE WAIVER APPLICATION SUBMITTED TO THE
33 COMMISSIONER PURSUANT TO SUBDIVISION ONE OF THIS SECTION ANY WRITTEN
34 COMMENTS RECEIVED FROM SUCH PARENTS OR PERSONS IN A PARENTAL RELATION TO
35 SUCH STUDENTS.

36 3. THE COMMISSIONER MAY GRANT A WAIVER FROM ANY REQUIREMENT IMPOSED ON
37 A LOCAL SCHOOL DISTRICT, APPROVED PRIVATE SCHOOL OR BOARD OF COOPERATIVE
38 EDUCATIONAL SERVICES PURSUANT TO SECTION FORTY-FOUR HUNDRED TWO OR
39 SECTION FORTY-FOUR HUNDRED THREE OF THIS ARTICLE, UPON A FINDING THAT
40 SUCH WAIVER WOULD ENABLE A LOCAL SCHOOL DISTRICT, APPROVED PRIVATE
41 SCHOOL OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES TO IMPLEMENT AN
42 INNOVATIVE SPECIAL EDUCATION PROGRAM THAT IS CONSISTENT WITH APPLICABLE
43 FEDERAL REQUIREMENTS, AND WOULD ENHANCE STUDENT ACHIEVEMENT AND/OR
44 OPPORTUNITIES FOR PLACEMENT IN REGULAR CLASSES AND PROGRAMS. IN MAKING
45 SUCH DETERMINATION, THE COMMISSIONER SHALL CONSIDER ANY COMMENTS
46 RECEIVED BY THE LOCAL SCHOOL DISTRICT, APPROVED PRIVATE SCHOOL OR BOARD
47 OF COOPERATIVE EDUCATIONAL SERVICES FROM PARENTS OR PERSONS IN A
48 PARENTAL RELATION TO THE STUDENTS THAT WOULD BE DIRECTLY AFFECTED BY THE
49 WAIVER IF GRANTED.

50 4. ANY LOCAL SCHOOL DISTRICT, APPROVED PRIVATE SCHOOL OR BOARD OF
51 COOPERATIVE EDUCATIONAL SERVICES GRANTED A WAIVER SHALL SUBMIT AN ANNUAL
52 REPORT TO THE COMMISSIONER REGARDING THE OPERATION AND EVALUATION OF THE
53 PROGRAM NO LATER THAN THIRTY DAYS AFTER THE END OF EACH SCHOOL YEAR FOR
54 WHICH A WAIVER IS GRANTED.

1 S 11. Subparagraph (i) of paragraph a of subdivision 10 of section
2 4410 of the education law is amended by adding a new clause (C) to read
3 as follows:

4 (C) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR REGULATION TO
5 THE CONTRARY, FOR THE TWO THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN SCHOOL
6 YEAR AND THEREAFTER, TO BE PHASED-IN OVER NO MORE THAN FOUR YEARS START-
7 ING IN THE TWO THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN SCHOOL YEAR, THE
8 COMMISSIONER, SUBJECT TO THE APPROVAL OF THE DIRECTOR OF THE BUDGET,
9 SHALL ESTABLISH REGIONAL TUITION RATES FOR SPECIAL EDUCATION ITINERANT
10 SERVICES BASED ON AVERAGE ACTUAL COSTS IN ACCORDANCE WITH A METHODOLOGY
11 ESTABLISHED PURSUANT TO SUBDIVISION FOUR OF SECTION FORTY-FOUR HUNDRED
12 FIVE OF THIS ARTICLE.

13 S 12. Section 97-nnnn of the state finance law is amended by adding a
14 new subdivision 6 to read as follows:

15 6. A. MONEYS APPROPRIATED FROM THE FUND FOR THE TWO THOUSAND FOUR-
16 TEEN--TWO THOUSAND FIFTEEN AND TWO THOUSAND FIFTEEN--TWO THOUSAND
17 SIXTEEN SCHOOL YEARS, FOR THE PURPOSES OF PROVIDING AID PURSUANT TO
18 PARAGRAPH A OF SUBDIVISION THREE OF THIS SECTION SHALL BE APPORTIONED
19 AND PAID BY THE EDUCATION DEPARTMENT ON OR AFTER APRIL FIRST, TWO THOU-
20 SAND FIFTEEN.

21 B. EACH SCHOOL DISTRICT ELIGIBLE TO RECEIVE TOTAL FOUNDATION AID
22 PURSUANT TO SECTION THIRTY-SIX HUNDRED TWO OF THE EDUCATION LAW SHALL
23 RECEIVE A COMMERCIAL GAMING GRANT IN AN AMOUNT EQUAL TO THE PRODUCT OF
24 THE AMOUNT OF THE APPROPRIATION OF SUCH COMMERCIAL GAMING GRANTS FOR THE
25 CURRENT STATE FISCAL YEAR MULTIPLIED BY THE DISTRICT'S COMMERCIAL GAMING
26 RATIO. THE "COMMERCIAL GAMING RATIO" SHALL BE EQUAL TO THE QUOTIENT OF
27 THE MONEYS APPORTIONED FOR SUCH DISTRICT PURSUANT TO SECTION THIRTY-SIX
28 HUNDRED NINE-A OF THE EDUCATION LAW AS SET FORTH IN THE SCHOOL AID
29 COMPUTER LISTING PRODUCED BY THE COMMISSIONER IN SUPPORT OF THE ENACTED
30 STATE BUDGET FOR THE CURRENT SCHOOL YEAR, DIVIDED BY THE SUM OF SUCH
31 MONEYS APPORTIONED FOR ALL SCHOOL DISTRICTS AS SET FORTH IN SUCH SCHOOL
32 AID COMPUTER LISTING IN SUPPORT OF THE ENACTED STATE BUDGET FOR THE
33 CURRENT SCHOOL YEAR.

34 MONEYS TO BE APPROPRIATED FROM THE FUND IN ANY STATE FISCAL YEAR,
35 COMMENCING ON AND AFTER APRIL FIRST, TWO THOUSAND FIFTEEN, FOR THE
36 PURPOSES OF PROVIDING AID PURSUANT TO THIS SUBPARAGRAPH SHALL BE APPOR-
37 TIONED AND PAID BY THE EDUCATION DEPARTMENT PURSUANT TO SECTION THIRTY-
38 SIX HUNDRED NINE-H OF THE EDUCATION LAW.

39 S 13. Subdivision b of section 2 of chapter 756 of the laws of 1992,
40 relating to funding a program for work force education conducted by the
41 consortium for worker education in New York city, as amended by section
42 12 of part A of chapter 56 of the laws of 2014, is amended to read as
43 follows:

44 b. Reimbursement for programs approved in accordance with subdivision
45 a of this section [for the 2011--2012 school year shall not exceed 62.9
46 percent of the lesser of such approvable costs per contact hour or
47 twelve dollars and fifteen cents per contact hour, reimbursement] for
48 the 2012--2013 school year shall not exceed 63.3 percent of the lesser
49 of such approvable costs per contact hour or twelve dollars and thirty-
50 five cents per contact hour, reimbursement for the 2013--2014 school
51 year shall not exceed 62.3 percent of the lesser of such approvable
52 costs per contact hour or twelve dollars and sixty-five cents per
53 contact hour, [and] reimbursement for the 2014--2015 school year shall
54 not exceed 61.6 percent of the lesser of such approvable costs per
55 contact hour or [eight] THIRTEEN dollars per contact hour, AND
56 REIMBURSEMENT FOR THE 2015--2016 SCHOOL YEAR SHALL NOT EXCEED 60.7

1 PERCENT OF THE LESSER OF SUCH APPROVABLE COSTS PER CONTACT HOUR OR THIR-
2 TEEN DOLLARS AND FORTY CENTS PER CONTACT HOUR where a contact hour
3 represents sixty minutes of instruction services provided to an eligible
4 adult. Notwithstanding any other provision of law to the contrary, [for
5 the 2011--2012 school year such contact hours shall not exceed one
6 million seven hundred one thousand five hundred seventy (1,701,570)
7 hours; whereas] for the 2012--2013 school year such contact hours shall
8 not exceed one million six hundred sixty-four thousand five hundred
9 thirty-two (1,664,532) hours; whereas for the 2013--2014 school year
10 such contact hours shall not exceed one million six hundred forty-nine
11 thousand seven hundred forty-six (1,649,746) hours; whereas for the
12 2014--2015 school year such contact hours shall not exceed one million
13 [six hundred twenty-five thousand (1,625,000)] SIX HUNDRED EIGHTEEN
14 THOUSAND NINE HUNDRED TWENTY-NINE (1,618,929) hours; WHEREAS FOR THE
15 2015--2016 SCHOOL YEAR SUCH CONTACT HOURS SHALL NOT EXCEED ONE MILLION
16 FOUR HUNDRED FOURTEEN THOUSAND FIVE HUNDRED FOURTEEN (1,414,514) HOURS.
17 Notwithstanding any other provision of law to the contrary, the appor-
18 tionment calculated for the city school district of the city of New York
19 pursuant to subdivision 11 of section 3602 of the education law shall be
20 computed as if such contact hours provided by the consortium for worker
21 education, not to exceed the contact hours set forth herein, were eligi-
22 ble for aid in accordance with the provisions of such subdivision 11 of
23 section 3602 of the education law.

24 S 14. Section 4 of chapter 756 of the laws of 1992, relating to fund-
25 ing a program for work force education conducted by the consortium for
26 worker education in New York city, is amended by adding a new subdivi-
27 sion t to read as follows:

28 T. THE PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY AFTER THE
29 COMPLETION OF PAYMENTS FOR THE 2015--2016 SCHOOL YEAR. NOTWITHSTANDING
30 ANY INCONSISTENT PROVISIONS OF LAW, THE COMMISSIONER OF EDUCATION SHALL
31 WITHHOLD A PORTION OF EMPLOYMENT PREPARATION EDUCATION AID DUE TO THE
32 CITY SCHOOL DISTRICT OF THE CITY OF NEW YORK TO SUPPORT A PORTION OF THE
33 COSTS OF THE WORK FORCE EDUCATION PROGRAM. SUCH MONEYS SHALL BE CREDITED
34 TO THE ELEMENTARY AND SECONDARY EDUCATION FUND-LOCAL ASSISTANCE ACCOUNT
35 AND SHALL NOT EXCEED ELEVEN MILLION FIVE HUNDRED THOUSAND DOLLARS (\$11,
36 500,000).

37 S 15. Section 6 of chapter 756 of the laws of 1992, relating to fund-
38 ing a program for work force education conducted by the consortium for
39 worker education in New York city, as amended by section 14 of part A of
40 chapter 56 of the laws of 2014, is amended to read as follows:

41 S 6. This act shall take effect July 1, 1992, and shall be deemed
42 repealed on June 30, [2015] 2016.

43 S 16. Subdivision 1 of section 167 of chapter 169 of the laws of 1994,
44 relating to certain provisions related to the 1994-95 state operations,
45 aid to localities, capital projects and debt service budgets, as amended
46 by section 15 of part A of chapter 56 of the laws of 2014, is amended to
47 read as follows:

48 1. Sections one through seventy of this act shall be deemed to have
49 been in full force and effect as of April 1, 1994 provided, however,
50 that sections one, two, twenty-four, twenty-five and twenty-seven
51 through seventy of this act shall expire and be deemed repealed on March
52 31, 2000; provided, however, that section twenty of this act shall apply
53 only to hearings commenced prior to September 1, 1994, and provided
54 further that section twenty-six of this act shall expire and be deemed
55 repealed on March 31, 1997; and provided further that sections four
56 through fourteen, sixteen, and eighteen, nineteen and twenty-one through

1 twenty-one-a of this act shall expire and be deemed repealed on March
2 31, 1997; and provided further that sections three, fifteen, seventeen,
3 twenty, twenty-two and twenty-three of this act shall expire and be
4 deemed repealed on March 31, [2016] 2017.

5 S 17. Subdivisions 22 and 24 of section 140 of chapter 82 of the laws
6 of 1995, amending the education law and other laws relating to state aid
7 to school districts and the appropriation of funds for the support of
8 government, as amended by section 16 of part A of chapter 56 of the laws
9 of 2014, are amended to read as follows:

10 (22) sections one hundred twelve, one hundred thirteen, one hundred
11 fourteen, one hundred fifteen and one hundred sixteen of this act shall
12 take effect on July 1, 1995; provided, however, that section one hundred
13 thirteen of this act shall remain in full force and effect until July 1,
14 [2015] 2016 at which time it shall be deemed repealed;

15 (24) sections one hundred eighteen through one hundred thirty of this
16 act shall be deemed to have been in full force and effect on and after
17 July 1, 1995; provided further, however, that the amendments made pursu-
18 ant to section one hundred twenty-four of this act shall be deemed to be
19 repealed on and after July 1, [2015] 2016;

20 S 18. Section 7 of chapter 472 of the laws of 1998, amending the
21 education law relating to the lease of school buses by school districts,
22 as amended by section 26 of part A of chapter 57 of the laws of 2013, is
23 amended to read as follows:

24 S 7. This act shall take effect September 1, 1998, and shall expire
25 and be deemed repealed September 1, [2015] 2017.

26 S 19. Section 12 of chapter 147 of the laws of 2001, amending the
27 education law relating to conditional appointment of school district,
28 charter school or BOCES employees, as amended by section 18 of part A of
29 chapter 56 of the laws of 2014, is amended to read as follows:

30 S 12. This act shall take effect on the same date as chapter 180 of
31 the laws of 2000 takes effect, and shall expire July 1, [2015] 2016 when
32 upon such date the provisions of this act shall be deemed repealed.

33 S 20. Section 4 of chapter 425 of the laws of 2002, amending the
34 education law relating to the provision of supplemental educational
35 services, attendance at a safe public school and the suspension of
36 pupils who bring a firearm to or possess a firearm at a school, as
37 amended by section 19 of part A of chapter 56 of the laws of 2014, is
38 amended to read as follows:

39 S 4. This act shall take effect July 1, 2002 and shall expire and be
40 deemed repealed June 30, [2015] 2016.

41 S 21. Section 5 of chapter 101 of the laws of 2003, amending the
42 education law relating to implementation of the No Child Left Behind Act
43 of 2001, as amended by section 20 of part A of chapter 56 of the laws of
44 2014, is amended to read as follows:

45 S 5. This act shall take effect immediately; provided that sections
46 one, two and three of this act shall expire and be deemed repealed on
47 June 30, [2015] 2016.

48 S 22. School bus driver training. In addition to apportionments other-
49 wise provided by section 3602 of the education law, for aid payable in
50 the 2015-2016 school year, the commissioner of education shall allocate
51 school bus driver training grants to school districts and boards of
52 cooperative educational services pursuant to sections 3650-a, 3650-b and
53 3650-c of the education law, or for contracts directly with not-for-pro-
54 fit educational organizations for the purposes of this section. Such
55 payments shall not exceed four hundred thousand dollars (\$400,000) per
56 school year.

1 S 23. Special apportionment for salary expenses. a. Notwithstanding
2 any other provision of law, upon application to the commissioner of
3 education, not sooner than the first day of the second full business
4 week of June 2016 and not later than the last day of the third full
5 business week of June 2016, a school district eligible for an apportion-
6 ment pursuant to section 3602 of the education law shall be eligible to
7 receive an apportionment pursuant to this section, for the school year
8 ending June 30, 2016, for salary expenses incurred between April 1 and
9 June 30, 2015 and such apportionment shall not exceed the sum of (i) the
10 deficit reduction assessment of 1990--1991 as determined by the commis-
11 sioner of education, pursuant to paragraph f of subdivision 1 of section
12 3602 of the education law, as in effect through June 30, 1993, plus (ii)
13 186 percent of such amount for a city school district in a city with a
14 population in excess of 1,000,000 inhabitants, plus (iii) 209 percent of
15 such amount for a city school district in a city with a population of
16 more than 195,000 inhabitants and less than 219,000 inhabitants accord-
17 ing to the latest federal census, plus (iv) the net gap elimination
18 adjustment for 2010--2011, as determined by the commissioner of educa-
19 tion pursuant to chapter 53 of the laws of 2010, plus (v) the gap elimi-
20 nation adjustment for 2011--2012 as determined by the commissioner of
21 education pursuant to subdivision 17 of section 3602 of the education
22 law, and provided further that such apportionment shall not exceed such
23 salary expenses. Such application shall be made by a school district,
24 after the board of education or trustees have adopted a resolution to do
25 so and in the case of a city school district in a city with a population
26 in excess of 125,000 inhabitants, with the approval of the mayor of such
27 city.

28 b. The claim for an apportionment to be paid to a school district
29 pursuant to subdivision a of this section shall be submitted to the
30 commissioner of education on a form prescribed for such purpose, and
31 shall be payable upon determination by such commissioner that the form
32 has been submitted as prescribed. Such approved amounts shall be payable
33 on the same day in September of the school year following the year in
34 which application was made as funds provided pursuant to subparagraph
35 (4) of paragraph b of subdivision 4 of section 92-c of the state finance
36 law, on the audit and warrant of the state comptroller on vouchers
37 certified or approved by the commissioner of education in the manner
38 prescribed by law from moneys in the state lottery fund and from the
39 general fund to the extent that the amount paid to a school district
40 pursuant to this section exceeds the amount, if any, due such school
41 district pursuant to subparagraph (2) of paragraph a of subdivision 1 of
42 section 3609-a of the education law in the school year following the
43 year in which application was made.

44 c. Notwithstanding the provisions of section 3609-a of the education
45 law, an amount equal to the amount paid to a school district pursuant to
46 subdivisions a and b of this section shall first be deducted from the
47 following payments due the school district during the school year
48 following the year in which application was made pursuant to subpara-
49 graphs (1), (2), (3), (4) and (5) of paragraph a of subdivision 1 of
50 section 3609-a of the education law in the following order: the lottery
51 apportionment payable pursuant to subparagraph (2) of such paragraph
52 followed by the fixed fall payments payable pursuant to subparagraph (4)
53 of such paragraph and then followed by the district's payments to the
54 teachers' retirement system pursuant to subparagraph (1) of such para-
55 graph, and any remainder to be deducted from the individualized payments
56 due the district pursuant to paragraph b of such subdivision shall be

deducted on a chronological basis starting with the earliest payment due the district.

S 24. Special apportionment for public pension accruals. a. Notwithstanding any other provision of law, upon application to the commissioner of education, not later than June 30, 2016, a school district eligible for an apportionment pursuant to section 3602 of the education law shall be eligible to receive an apportionment pursuant to this section, for the school year ending June 30, 2016 and such apportionment shall not exceed the additional accruals required to be made by school districts in the 2004--2005 and 2005--2006 school years associated with changes for such public pension liabilities. The amount of such additional accrual shall be certified to the commissioner of education by the president of the board of education or the trustees or, in the case of a city school district in a city with a population in excess of 125,000 inhabitants, the mayor of such city. Such application shall be made by a school district, after the board of education or trustees have adopted a resolution to do so and in the case of a city school district in a city with a population in excess of 125,000 inhabitants, with the approval of the mayor of such city.

b. The claim for an apportionment to be paid to a school district pursuant to subdivision a of this section shall be submitted to the commissioner of education on a form prescribed for such purpose, and shall be payable upon determination by such commissioner that the form has been submitted as prescribed. Such approved amounts shall be payable on the same day in September of the school year following the year in which application was made as funds provided pursuant to subparagraph (4) of paragraph b of subdivision 4 of section 92-c of the state finance law, on the audit and warrant of the state comptroller on vouchers certified or approved by the commissioner of education in the manner prescribed by law from moneys in the state lottery fund and from the general fund to the extent that the amount paid to a school district pursuant to this section exceeds the amount, if any, due such school district pursuant to subparagraph (2) of paragraph a of subdivision 1 of section 3609-a of the education law in the school year following the year in which application was made.

c. Notwithstanding the provisions of section 3609-a of the education law, an amount equal to the amount paid to a school district pursuant to subdivisions a and b of this section shall first be deducted from the following payments due the school district during the school year following the year in which application was made pursuant to subparagraphs (1), (2), (3), (4) and (5) of paragraph a of subdivision 1 of section 3609-a of the education law in the following order: the lottery apportionment payable pursuant to subparagraph (2) of such paragraph followed by the fixed fall payments payable pursuant to subparagraph (4) of such paragraph and then followed by the district's payments to the teachers' retirement system pursuant to subparagraph (1) of such paragraph, and any remainder to be deducted from the individualized payments due the district pursuant to paragraph b of such subdivision shall be deducted on a chronological basis starting with the earliest payment due the district.

S 25. a. Notwithstanding any other law, rule or regulation to the contrary, any moneys appropriated to the state education department may be suballocated to other state departments or agencies, as needed, to accomplish the intent of the specific appropriations contained therein.

b. Notwithstanding any other law, rule or regulation to the contrary, moneys appropriated to the state education department from the general

1 fund/aid to localities, local assistance account-001, shall be for
2 payment of financial assistance, as scheduled, net of disallowances,
3 refunds, reimbursement and credits.

4 c. Notwithstanding any other law, rule or regulation to the contrary,
5 all moneys appropriated to the state education department for aid to
6 localities shall be available for payment of aid heretofore or hereafter
7 to accrue and may be suballocated to other departments and agencies to
8 accomplish the intent of the specific appropriations contained therein.

9 d. Notwithstanding any other law, rule or regulation to the contrary,
10 moneys appropriated to the state education department for general
11 support for public schools may be interchanged with any other item of
12 appropriation for general support for public schools within the general
13 fund local assistance account office of prekindergarten through grade
14 twelve education programs.

15 S 26. Notwithstanding the provision of any law, rule, or regulation to
16 the contrary, the city school district of the city of Rochester, upon
17 the consent of the board of cooperative educational services of the
18 supervisory district serving its geographic region may purchase from
19 such board for the 2015--2016 school year, as a non-component school
20 district, services required by article 19 of the education law.

21 S 27. The amounts specified in this section shall be a set aside from
22 the state funds which each such district is receiving from the total
23 foundation aid: for the purpose of the development, maintenance or
24 expansion of magnet schools or magnet school programs for the 2015--2016
25 school year. To the city school district of the city of New York there
26 shall be paid forty-eight million one hundred seventy-five thousand
27 dollars (\$48,175,000) including five hundred thousand dollars (\$500,000)
28 for the Andrew Jackson High School; to the Buffalo city school district,
29 twenty-one million twenty-five thousand dollars (\$21,025,000); to the
30 Rochester city school district, fifteen million dollars (\$15,000,000);
31 to the Syracuse city school district, thirteen million dollars
32 (\$13,000,000); to the Yonkers city school district, forty-nine million
33 five hundred thousand dollars (\$49,500,000); to the Newburgh city school
34 district, four million six hundred forty-five thousand dollars
35 (\$4,645,000); to the Poughkeepsie city school district, two million four
36 hundred seventy-five thousand dollars (\$2,475,000); to the Mount Vernon
37 city school district, two million dollars (\$2,000,000); to the New
38 Rochelle city school district, one million four hundred ten thousand
39 dollars (\$1,410,000); to the Schenectady city school district, one
40 million eight hundred thousand dollars (\$1,800,000); to the Port Chester
41 city school district, one million one hundred fifty thousand dollars
42 (\$1,150,000); to the White Plains city school district, nine hundred
43 thousand dollars (\$900,000); to the Niagara Falls city school district,
44 six hundred thousand dollars (\$600,000); to the Albany city school
45 district, three million five hundred fifty thousand dollars
46 (\$3,550,000); to the Utica city school district, two million dollars
47 (\$2,000,000); to the Beacon city school district, five hundred sixty-six
48 thousand dollars (\$566,000); to the Middletown city school district,
49 four hundred thousand dollars (\$400,000); to the Freeport union free
50 school district, four hundred thousand dollars (\$400,000); to the Green-
51 burgh central school district, three hundred thousand dollars
52 (\$300,000); to the Amsterdam city school district, eight hundred thou-
53 sand dollars (\$800,000); to the Peekskill city school district, two
54 hundred thousand dollars (\$200,000); and to the Hudson city school
55 district, four hundred thousand dollars (\$400,000). Notwithstanding the
56 provisions of this section, a school district receiving a grant pursuant

1 to this section may use such grant funds for: (i) any instructional or
2 instructional support costs associated with the operation of a magnet
3 school; or (ii) any instructional or instructional support costs associ-
4 ated with implementation of an alternative approach to reduction of
5 racial isolation and/or enhancement of the instructional program and
6 raising of standards in elementary and secondary schools of school
7 districts having substantial concentrations of minority students. The
8 commissioner of education shall not be authorized to withhold magnet
9 grant funds from a school district that used such funds in accordance
10 with this paragraph, notwithstanding any inconsistency with a request
11 for proposals issued by such commissioner. For the purpose of attendance
12 improvement and dropout prevention for the 2015--2016 school year, for
13 any city school district in a city having a population of more than one
14 million, the setaside for attendance improvement and dropout prevention
15 shall equal the amount set aside in the base year. For the 2015--2016
16 school year, it is further provided that any city school district in a
17 city having a population of more than one million shall allocate at
18 least one-third of any increase from base year levels in funds set aside
19 pursuant to the requirements of this subdivision to community-based
20 organizations. Any increase required pursuant to this subdivision to
21 community-based organizations must be in addition to allocations
22 provided to community-based organizations in the base year. For the
23 purpose of teacher support for the 2015--2016 school year: to the city
24 school district of the city of New York, sixty-two million seven hundred
25 seven thousand dollars (\$62,707,000); to the Buffalo city school
26 district, one million seven hundred forty-one thousand dollars
27 (\$1,741,000); to the Rochester city school district, one million seven-
28 ty-six thousand dollars (\$1,076,000); to the Yonkers city school
29 district, one million one hundred forty-seven thousand dollars
30 (\$1,147,000); and to the Syracuse city school district, eight hundred
31 nine thousand dollars (\$809,000). All funds made available to a school
32 district pursuant to this section shall be distributed among teachers
33 including prekindergarten teachers and teachers of adult vocational and
34 academic subjects in accordance with this section and shall be in addi-
35 tion to salaries heretofore or hereafter negotiated or made available;
36 provided, however, that all funds distributed pursuant to this section
37 for the current year shall be deemed to incorporate all funds distrib-
38 uted pursuant to former subdivision 27 of section 3602 of the education
39 law for prior years. In school districts where the teachers are repres-
40 ented by certified or recognized employee organizations, all salary
41 increases funded pursuant to this section shall be determined by sepa-
42 rate collective negotiations conducted pursuant to the provisions and
43 procedures of article 14 of the civil service law, notwithstanding the
44 existence of a negotiated agreement between a school district and a
45 certified or recognized employee organization.

46 S 28. Support of public libraries. The moneys appropriated for the
47 support of public libraries by a chapter of the laws of 2015 enacting
48 the aid to localities budget shall be apportioned for the 2015-2016
49 state fiscal year in accordance with the provisions of sections 271,
50 272, 273, 282, 284, and 285 of the education law as amended by the
51 provisions of this chapter and the provisions of this section, provided
52 that library construction aid pursuant to section 273-a of the educa-
53 tion law shall not be payable from the appropriations for the support of
54 public libraries and provided further that no library, library system or
55 program, as defined by the commissioner of education, shall receive less
56 total system or program aid than it received for the year 2001-2002

except as a result of a reduction adjustment necessary to conform to the appropriations for support of public libraries.

Notwithstanding any other provision of law to the contrary the moneys appropriated for the support of public libraries for the year 2015-2016 by a chapter of the laws of 2015 enacting the education, labor and family assistance budget shall fulfill the state's obligation to provide such aid and, pursuant to a plan developed by the commissioner of education and approved by the director of the budget, the aid payable to libraries and library systems pursuant to such appropriations shall be reduced proportionately to assure that the total amount of aid payable does not exceed the total appropriations for such purpose.

S 29. Severability. The provisions of this act shall be severable, and if the application of any clause, sentence, paragraph, subdivision, section or part of this act to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not necessarily affect, impair or invalidate the application of any such clause, sentence, paragraph, subdivision, section, part of this act or remainder thereof, as the case may be, to any other person or circumstance, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

S 30. This act shall take effect immediately, and shall be deemed to have been in full force and effect on and after April 1, 2015, provided, however, that:

1. Sections one, eight, nine, thirteen, fourteen, twenty-two, twenty-six and twenty-seven of this act shall take effect July 1, 2015.

2. Sections seven and twelve of this act shall take effect April 1, 2014.

3. Section six of this act shall take effect July 1, 2014.

4. Section eleven of this act shall take effect April 1, 2015 and shall first apply to reimbursement for services and programs provided pursuant to section 4410 of the education law in the 2015-16 school year.

5. The amendments to chapter 756 of the laws of 1992, relating to funding a program for work force education conducted by a consortium for worker education in New York City, made by sections thirteen and fourteen of this act shall not affect the repeal of such chapter and shall be deemed repealed therewith.

6. Section seventeen of this act shall take effect immediately and shall be deemed to have been in full force and effect on and after the effective date of section 140 of chapter 82 of the laws of 1995.

PART B

Section 1. The education law is amended by adding a new section 210-a to read as follows:

S 210-A. REGISTRATION OF CURRICULA. NOTWITHSTANDING ANY LAW, RULE, OR REGULATION TO THE CONTRARY, ANY NEW CURRICULUM OR PROGRAM OF STUDY OFFERED BY ANY NOT-FOR-PROFIT COLLEGE OR UNIVERSITY CHARTERED BY THE REGENTS OR INCORPORATED BY SPECIAL ACT OF THE LEGISLATURE THAT DOES NOT REQUIRE A MASTER PLAN AMENDMENT PURSUANT TO SECTION TWO HUNDRED THIRTY-SEVEN OF THIS CHAPTER, OR CHARTER AMENDMENT PURSUANT TO SECTION TWO HUNDRED SIXTEEN OF THIS CHAPTER, OR LEAD TO PROFESSIONAL LICENSURE AND THAT IS APPROVED BY THE STATE UNIVERSITY BOARD OF TRUSTEES, THE CITY UNIVERSITY BOARD OF TRUSTEES, OR THE TRUSTEES OR GOVERNING BODY OF ANY

1 OTHER NOT-FOR-PROFIT COLLEGE OR UNIVERSITY CHARTERED BY THE REGENTS
2 WHICH (1) HAS MAINTAINED A PHYSICAL PRESENCE IN NEW YORK STATE FOR THE
3 IMMEDIATELY PRECEDING TEN YEARS AND HAS BEEN OPERATED CONTINUOUSLY BY
4 THE SAME GOVERNING CORPORATE ENTITY DURING THE SAME IMMEDIATELY PRECED-
5 ING TEN YEAR PERIOD AND (2) IS ACCREDITED AND HAS CONTINUED IN ACCREDI-
6 TATION BY THE MIDDLE STATES COMMISSION ON HIGHER EDUCATION ("MSCHE") OR
7 THE DEPARTMENT FOR THE IMMEDIATELY PRECEDING TEN YEARS, SHALL BE DEEMED
8 REGISTERED WITH THE DEPARTMENT WITHIN THIRTY DAYS OF NOTIFICATION OF
9 APPROVAL. IF THE COLLEGE OR UNIVERSITY IS PLACED ON PROBATION OR HAS ITS
10 ACCREDITATION TERMINATED BY MSCHE, SUCH COLLEGE OR UNIVERSITY SHALL
11 NOTIFY THE REGENTS IN WRITING NO LATER THAN THIRTY DAYS AFTER BEING
12 FORMALLY INFORMED OF ITS PROBATION OR LOSS OF ACCREDITATION BY MSCHE. IF
13 A COLLEGE OR UNIVERSITY HAS ITS ACCREDITATION PLACED ON PROBATION OR
14 TERMINATED BY THE MSCHE OR THE EDUCATION DEPARTMENT THE COLLEGE OR
15 UNIVERSITY SHALL BE SUBJECT TO THE COMMISSIONER'S PROGRAM APPROVAL IT
16 HAD BEEN REMOVED FROM PROBATION OR REGAINED ACCREDITATION BY MSCHE OR
17 THE EDUCATION DEPARTMENT, AND SHALL REMAIN SUBJECT TO SUCH COMMISSION-
18 ER'S PROGRAM APPROVAL UNTIL IT HAS CONTINUED IN ACCREDITATION AND WITH-
19 OUT PROBATION FOR A PERIOD OF NOT LESS THAN SIX YEARS. IF A COLLEGE OR
20 UNIVERSITY SUBJECT TO THIS SECTION INTENDS TO OFFER OR INSTITUTE AN
21 ADDITIONAL DEGREE OR PROGRAM WHICH CONSTITUTES A "SUBSTANTIVE CHANGE,"
22 AS DEFINED AND DETERMINED BY MSCHE, THEN THE COLLEGE OR UNIVERSITY SHALL
23 PROVIDE THE COMMISSIONER WITH COPIES OF ANY REPORTS OR OTHER DOCUMENTS
24 FILED WITH MSCHE AS PART OF MSCHE'S SUBSTANTIVE CHANGE REVIEW PROCESS
25 AND SHALL INFORM THE COMMISSIONER WHEN THE SUBSTANTIVE CHANGE IS
26 APPROVED. ANY SUCH COLLEGE OR UNIVERSITY THAT DOES NOT SATISFY ALL OF
27 THE PROVISIONS OF THIS PARAGRAPH SHALL COMPLY WITH THE PROCEDURES AND
28 CRITERIA ESTABLISHED BY THE REGENTS AND COMMISSIONER FOR ACADEMIC
29 PROGRAM APPROVAL. NOTHING IN THIS SECTION SHALL BE DEEMED TO LIMIT THE
30 DEPARTMENT'S EXISTING AUTHORITY TO ACT ON COMPLAINTS CONCERNING THE
31 INSTITUTION, INCLUDING THE AUTHORITY TO DE-REGISTER THE PROGRAM.
32 S 2. This act shall take effect immediately and shall be deemed to
33 have been in full force and effect on and after April 1, 2015.

34 PART C

35 Section 1. The education law is amended by adding a new section 679-g
36 to read as follows:

37 S 679-G. NEW YORK STATE GET ON YOUR FEET LOAN FORGIVENESS PROGRAM. 1.
38 PURPOSE. THE PRESIDENT SHALL GRANT STUDENT LOAN FORGIVENESS AWARDS FOR
39 THE PURPOSE OF ALLEVIATING THE BURDEN OF FEDERAL STUDENT LOAN DEBT FOR
40 RECENT NEW YORK STATE COLLEGE GRADUATES.

41 2. ELIGIBILITY. TO BE ELIGIBLE FOR AN AWARD PURSUANT TO THIS SECTION,
42 AN APPLICANT SHALL: (A) HAVE GRADUATED FROM A HIGH SCHOOL LOCATED IN NEW
43 YORK STATE OR ATTENDED AN APPROVED NEW YORK STATE PROGRAM FOR A STATE
44 HIGH SCHOOL EQUIVALENCY DIPLOMA AND RECEIVED SUCH HIGH SCHOOL EQUIVALEN-
45 CY DIPLOMA; (B) HAVE GRADUATED AND OBTAINED AN UNDERGRADUATE DEGREE FROM
46 A COLLEGE OR UNIVERSITY WITH ITS HEADQUARTERS LOCATED IN NEW YORK STATE
47 IN OR AFTER THE TWO THOUSAND FOURTEEN--FIFTEEN ACADEMIC YEAR; (C) APPLY
48 FOR THIS PROGRAM WITHIN TWO YEARS OF COLLEGE GRADUATION; (D) BE A
49 PARTICIPANT IN A FEDERAL INCOME-DRIVEN REPAYMENT PLAN WHOSE PAYMENT
50 AMOUNT IS GENERALLY TEN PERCENT OF DISCRETIONARY INCOME; (E) HAVE INCOME
51 OF LESS THAN FIFTY THOUSAND DOLLARS; (F) BE A RESIDENT OF NEW YORK
52 STATE; AND (G) WORK IN NEW YORK STATE, IF EMPLOYED. FOR PURPOSES OF THIS
53 PROGRAM, "INCOME" SHALL BE THE TOTAL ADJUSTED GROSS INCOME OF THE APPLI-
54 CANT AND THE APPLICANT'S SPOUSE, IF APPLICABLE.

1 3. AWARDS. AN APPLICANT WHOSE ANNUAL INCOME IS LESS THAN FIFTY THOU-
2 SAND DOLLARS SHALL BE ELIGIBLE TO RECEIVE AN AWARD EQUAL TO ONE HUNDRED
3 PERCENT OF HIS OR HER MONTHLY FEDERAL INCOME-DRIVEN REPAYMENT PLAN
4 PAYMENTS FOR THE FIRST TWO YEARS OF REPAYMENT UNDER THE FEDERAL PROGRAM.

5 4. RULES AND REGULATIONS. THE CORPORATION IS AUTHORIZED TO PROMULGATE
6 RULES AND REGULATIONS, AND MAY PROMULGATE EMERGENCY REGULATIONS NECES-
7 SARY FOR THE IMPLEMENTATION OF THE PROVISIONS OF THIS SECTION.

8 S 2. This act shall take effect immediately and shall be deemed to
9 have been in full force and effect on and after April 1, 2015.

10 PART D

11 Section 1. This act shall be known and may be cited as the "New York
12 state DREAM Act".

13 S 2. Subdivision 3 of section 661 of the education law is REPEALED.

14 S 3. Paragraph a of subdivision 5 of section 661 of the education law,
15 as amended by chapter 466 of the laws of 1977, is amended to read as
16 follows:

17 a. (I) Except as provided in subdivision two of section six hundred
18 seventy-four OF THIS PART AND SUBPARAGRAPH (II) OF THIS PARAGRAPH, an
19 applicant for an award at the undergraduate level of study must either
20 [(i)] (A) have been a legal resident of the state for at least one year
21 immediately preceding the beginning of the semester, quarter or term of
22 attendance for which application for assistance is made, or [(ii)] (B)
23 be a legal resident of the state and have been a legal resident during
24 his OR HER last two semesters of high school either prior to graduation,
25 or prior to admission to college. Provided further that persons shall be
26 eligible to receive awards under section six hundred sixty-eight or
27 section six hundred sixty-nine OF THIS PART who are currently legal
28 residents of the state and are otherwise qualified.

29 (II) AN APPLICANT WHO IS NOT A LEGAL RESIDENT OF THE STATE ELIGIBLE
30 PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH, BUT IS A UNITED STATES
31 CITIZEN, AN ALIEN LAWFULLY ADMITTED FOR PERMANENT RESIDENCE IN THE
32 UNITED STATES, AN INDIVIDUAL OF A CLASS OF REFUGEES PAROLED BY THE
33 ATTORNEY GENERAL OF THE UNITED STATES UNDER HIS OR HER PAROLE AUTHORITY
34 PERTAINING TO THE ADMISSION OF ALIENS TO THE UNITED STATES, OR AN APPLI-
35 CANT WITHOUT LAWFUL IMMIGRATION STATUS SHALL BE ELIGIBLE FOR AN AWARD AT
36 THE UNDERGRADUATE LEVEL OF STUDY PROVIDED THAT THE STUDENT:

37 (A) ATTENDED A REGISTERED NEW YORK STATE HIGH SCHOOL FOR TWO OR MORE
38 YEARS, GRADUATED FROM A REGISTERED NEW YORK STATE HIGH SCHOOL, LIVED
39 CONTINUOUSLY IN NEW YORK STATE WHILE ATTENDING AN APPROVED NEW YORK
40 STATE HIGH SCHOOL, APPLIED FOR ATTENDANCE AT THE INSTITUTION OF HIGHER
41 EDUCATION FOR THE UNDERGRADUATE STUDY FOR WHICH AN AWARD IS SOUGHT, AND
42 ATTENDED WITHIN FIVE YEARS OF RECEIVING A NEW YORK STATE HIGH SCHOOL
43 DIPLOMA; OR

44 (B) ATTENDED AN APPROVED NEW YORK STATE PROGRAM FOR A STATE HIGH
45 SCHOOL EQUIVALENCY DIPLOMA, LIVED CONTINUOUSLY IN NEW YORK STATE WHILE
46 ATTENDING AN APPROVED NEW YORK STATE PROGRAM FOR A GENERAL EQUIVALENCY
47 DIPLOMA, RECEIVED A STATE HIGH SCHOOL EQUIVALENCY DIPLOMA, SUBSEQUENTLY
48 APPLIED FOR ATTENDANCE AT THE INSTITUTION OF HIGHER EDUCATION FOR THE
49 UNDERGRADUATE STUDY FOR WHICH AN AWARD IS SOUGHT, EARNED ADMISSION BASED
50 ON THAT GENERAL EQUIVALENCY DIPLOMA, AND ATTENDED THE INSTITUTION OF
51 HIGHER EDUCATION FOR THE UNDERGRADUATE STUDY FOR WHICH AN AWARD IS
52 SOUGHT WITHIN FIVE YEARS OF RECEIVING A STATE HIGH SCHOOL EQUIVALENCY
53 DIPLOMA; OR

(C) IS OTHERWISE ELIGIBLE FOR THE PAYMENT OF TUITION AND FEES AT A RATE NO GREATER THAN THAT IMPOSED FOR RESIDENT STUDENTS OF THE STATE UNIVERSITY OF NEW YORK, THE CITY UNIVERSITY OF NEW YORK OR COMMUNITY COLLEGES AS PRESCRIBED IN SUBPARAGRAPH EIGHT OF PARAGRAPH H OF SUBDIVISION TWO OF SECTION THREE HUNDRED FIFTY-FIVE OR PARAGRAPH (A) OF SUBDIVISION SEVEN OF SECTION SIX THOUSAND TWO HUNDRED SIX OF THIS CHAPTER.

PROVIDED, FURTHER, THAT A STUDENT WITHOUT LAWFUL IMMIGRATION STATUS SHALL ALSO BE REQUIRED TO FILE AN AFFIDAVIT WITH SUCH INSTITUTION OF HIGHER EDUCATION STATING THAT THE STUDENT HAS FILED AN APPLICATION TO LEGALIZE HIS OR HER IMMIGRATION STATUS, OR WILL FILE SUCH AN APPLICATION AS SOON AS HE OR SHE IS ELIGIBLE TO DO SO.

S 4. Paragraph b of subdivision 5 of section 661 of the education law, as amended by chapter 466 of the laws of 1977, is amended to read as follows:

b. [An] (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, AN applicant for an award at the graduate level of study must either [(i)] (A) have been a legal resident of the state for at least one year immediately preceding the beginning of the semester, quarter or term of attendance for which application for assistance is made, or [(ii)] (B) be a legal resident of the state and have been a legal resident during his OR HER last academic year of undergraduate study and have continued to be a legal resident until matriculation in the graduate program.

(II) AN APPLICANT WHO IS NOT A LEGAL RESIDENT OF THE STATE ELIGIBLE PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH, BUT IS A UNITED STATES CITIZEN, AN ALIEN LAWFULLY ADMITTED FOR PERMANENT RESIDENCE IN THE UNITED STATES, AN INDIVIDUAL OF A CLASS OF REFUGEES PAROLED BY THE ATTORNEY GENERAL OF THE UNITED STATES UNDER HIS OR HER PAROLE AUTHORITY PERTAINING TO THE ADMISSION OF ALIENS TO THE UNITED STATES, OR AN APPLICANT WITHOUT LAWFUL IMMIGRATION STATUS SHALL BE ELIGIBLE FOR AN AWARD AT THE GRADUATE LEVEL OF STUDY PROVIDED THAT THE STUDENT:

(A) ATTENDED A REGISTERED NEW YORK STATE HIGH SCHOOL FOR TWO OR MORE YEARS, GRADUATED FROM A REGISTERED NEW YORK STATE HIGH SCHOOL, LIVED CONTINUOUSLY IN NEW YORK STATE WHILE ATTENDING AN APPROVED NEW YORK STATE HIGH SCHOOL, APPLIED FOR ATTENDANCE AT THE INSTITUTION OF HIGHER EDUCATION FOR THE GRADUATE STUDY FOR WHICH AN AWARD IS SOUGHT, AND ATTENDED WITHIN TEN YEARS OF RECEIVING A NEW YORK STATE HIGH SCHOOL DIPLOMA; OR

(B) ATTENDED AN APPROVED NEW YORK STATE PROGRAM FOR A STATE HIGH SCHOOL EQUIVALENCY DIPLOMA, LIVED CONTINUOUSLY IN NEW YORK STATE WHILE ATTENDING AN APPROVED NEW YORK STATE PROGRAM FOR A GENERAL EQUIVALENCY DIPLOMA, RECEIVED A STATE HIGH SCHOOL EQUIVALENCY DIPLOMA, SUBSEQUENTLY APPLIED FOR ATTENDANCE AT THE INSTITUTION OF HIGHER EDUCATION FOR THE GRADUATE STUDY FOR WHICH AN AWARD IS SOUGHT, AND ATTENDED THE INSTITUTION OF HIGHER EDUCATION FOR THE GRADUATE STUDY FOR WHICH AN AWARD IS SOUGHT WITHIN TEN YEARS OF RECEIVING A STATE HIGH SCHOOL EQUIVALENCY DIPLOMA; OR

(C) IS OTHERWISE ELIGIBLE FOR THE PAYMENT OF TUITION AND FEES AT A RATE NO GREATER THAN THAT IMPOSED FOR RESIDENT STUDENTS OF THE STATE UNIVERSITY OF NEW YORK, THE CITY UNIVERSITY OF NEW YORK OR COMMUNITY COLLEGES AS PRESCRIBED IN SUBPARAGRAPH EIGHT OF PARAGRAPH H OF SUBDIVISION TWO OF SECTION THREE HUNDRED FIFTY-FIVE OR PARAGRAPH (A) OF SUBDIVISION SEVEN OF SECTION SIX THOUSAND TWO HUNDRED SIX OF THIS CHAPTER.

PROVIDED, FURTHER, THAT A STUDENT WITHOUT LAWFUL IMMIGRATION STATUS SHALL ALSO BE REQUIRED TO FILE AN AFFIDAVIT WITH SUCH INSTITUTION OF HIGHER EDUCATION STATING THAT THE STUDENT HAS FILED AN APPLICATION TO

LEGALIZE HIS OR HER IMMIGRATION STATUS, OR WILL FILE SUCH AN APPLICATION AS SOON AS HE OR SHE IS ELIGIBLE TO DO SO.

S 5. Paragraph d of subdivision 5 of section 661 of the education law, as amended by chapter 844 of the laws of 1975, is amended to read as follows:

d. If an applicant for an award allocated on a geographic basis has more than one residence in this state, his OR HER residence for the purpose of this article shall be his OR HER place of actual residence during the major part of the year while attending school, as determined by the commissioner; AND FURTHER PROVIDED THAT AN APPLICANT WHO DOES NOT HAVE A RESIDENCE IN THIS STATE AND IS ELIGIBLE FOR AN AWARD PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH A OR SUBPARAGRAPH (II) OF PARAGRAPH B OF THIS SUBDIVISION SHALL BE DEEMED TO RESIDE IN THE GEOGRAPHIC AREA OF THE INSTITUTION OF HIGHER EDUCATION IN WHICH HE OR SHE ATTENDS FOR PURPOSES OF AN AWARD ALLOCATED ON A GEOGRAPHIC BASIS.

S 6. Paragraph e of subdivision 5 of section 661 of the education law, as added by chapter 630 of the laws of 2005, is amended to read as follows:

e. Notwithstanding any other provision of this article to the contrary, the New York state [residency] eligibility [requirement] REQUIREMENTS for receipt of awards [is] SET FORTH IN PARAGRAPHS A AND B OF THIS SUBDIVISION ARE waived for a member, or the spouse or dependent of a member, of the armed forces of the United States on full-time active duty and stationed in this state.

S 7. Clauses (i) and (ii) of subparagraph 8 of paragraph h of subdivision 2 of section 355 of the education law, as added by chapter 327 of the laws of 2002, are amended to read as follows:

(i) attended an approved New York high school for two or more years, graduated from an approved New York high school, LIVED CONTINUOUSLY IN NEW YORK STATE WHILE ATTENDING AN APPROVED NEW YORK HIGH SCHOOL, and applied for attendance [at] AND ATTENDED an institution or educational unit of the state university within five years of receiving a New York state high school diploma; or

(ii) attended an approved New York state program for general equivalency diploma exam preparation, received a general equivalency diploma issued within New York state, LIVED CONTINUOUSLY IN NEW YORK STATE WHILE ATTENDING AN APPROVED NEW YORK STATE PROGRAM FOR GENERAL EQUIVALENCY DIPLOMA EXAM PREPARATION, and SUBSEQUENTLY applied for attendance [at], EARNED ADMISSION BASED ON THAT GENERAL EQUIVALENCY DIPLOMA, AND ATTENDED an institution or educational unit of the state university within five years of receiving a general equivalency diploma issued within New York state; or

S 8. Subparagraphs (i) and (ii) of paragraph (a-1) of subdivision 7 of section 6206 of the education law, as amended by chapter 260 of the laws of 2011, are amended to read as follows:

(i) attended an approved New York high school for two or more years, graduated from an approved New York high school, LIVED CONTINUOUSLY IN NEW YORK STATE WHILE ATTENDING AN APPROVED NEW YORK HIGH SCHOOL, and applied for attendance [at] AND ATTENDED an institution or educational unit of the city university within five years of receiving a New York state high school diploma; or

(ii) attended an approved New York state program for general equivalency diploma exam preparation, received a general equivalency diploma issued within New York state, LIVED CONTINUOUSLY IN NEW YORK STATE WHILE ATTENDING AN APPROVED NEW YORK STATE PROGRAM FOR GENERAL EQUIVALENCY DIPLOMA EXAM PREPARATION, and SUBSEQUENTLY applied for attendance [at],

1 EARNED ADMISSION BASED ON THAT GENERAL EQUIVALENCY DIPLOMA, AND ATTENDED
2 an institution or educational unit of the city university within five
3 years of receiving a general equivalency diploma issued within New York
4 state; or

5 S 8-a. Paragraph (a) of subdivision 7 of section 6206 of the education
6 law, as amended by chapter 327 of the laws of 2002, the opening para-
7 graph as amended by section 2 of part 0 of chapter 58 of the laws of
8 2006, is amended to read as follows:

9 (a) The board of trustees shall establish positions, departments,
10 divisions and faculties; appoint and in accordance with the provisions
11 of law fix salaries of instructional and non-instructional employees
12 therein; establish and conduct courses and curricula; prescribe condi-
13 tions of student admission, attendance and discharge; and shall have the
14 power to determine in its discretion whether tuition shall be charged
15 and to regulate tuition charges, and other instructional and non-in-
16 structional fees and other fees and charges at the educational units of
17 the city university. The trustees shall review any proposed community
18 college tuition increase and the justification for such increase. The
19 justification provided by the community college for such increase shall
20 include a detailed analysis of ongoing operating costs, capital, debt
21 service expenditures, and all revenues. The trustees shall not impose a
22 differential tuition charge based upon need or income. All students
23 enrolled in programs leading to like degrees at the senior colleges
24 shall be charged a uniform rate of tuition, except for differential
25 tuition rates based on state residency. The trustees shall further
26 provide that the payment of tuition and fees by any student who is not a
27 resident of New York state, other than a non-immigrant alien within the
28 meaning of paragraph (15) of subsection (a) of section 1101 of title 8
29 of the United States Code, shall be paid at a rate or charge no greater
30 than that imposed for students who are residents of the state if such
31 student:

32 (i) attended an approved New York high school for two or more years,
33 graduated from an approved New York high school, LIVED CONTINUOUSLY IN
34 NEW YORK STATE WHILE ATTENDING AN APPROVED NEW YORK HIGH SCHOOL, and
35 applied for attendance [at] AND ATTENDED an institution or educational
36 unit of the city university within five years of receiving a New York
37 state high school diploma; or

38 (ii) attended an approved New York state program for general equiv-
39 alency diploma exam preparation, received a general equivalency diploma
40 issued within New York state, LIVED CONTINUOUSLY IN NEW YORK STATE WHILE
41 ATTENDING AN APPROVED NEW YORK STATE PROGRAM FOR GENERAL EQUIVALENCY
42 DIPLOMA EXAM PREPARATION, and SUBSEQUENTLY applied for attendance [at],
43 EARNED ADMISSION BASED ON THAT GENERAL EQUIVALENCY DIPLOMA, AND ATTENDED
44 an institution or educational unit of the city university within five
45 years of receiving a general equivalency diploma issued within New York
46 state; or

47 (iii) was enrolled in an institution or educational unit of the city
48 university in the fall semester or quarter of the two thousand one--two
49 thousand two academic year and was authorized by such institution or
50 educational unit to pay tuition at the rate or charge imposed for
51 students who are residents of the state.

52 A student without lawful immigration status shall also be required to
53 file an affidavit with such institution or educational unit stating that
54 the student has filed an application to legalize his or her immigration
55 status, or will file such an application as soon as he or she is eligi-
56 ble to do so. The trustees shall not adopt changes in tuition charges

1 prior to the enactment of the annual budget. The board of trustees may
2 accept as partial reimbursement for the education of veterans of the
3 armed forces of the United States who are otherwise qualified such sums
4 as may be authorized by federal legislation to be paid for such educa-
5 tion. The board of trustees may conduct on a fee basis extension courses
6 and courses for adult education appropriate to the field of higher
7 education. In all courses and courses of study it may, in its
8 discretion, require students to pay library, laboratory, locker, break-
9 age and other instructional and non-instructional fees and meet the cost
10 of books and consumable supplies. In addition to the foregoing fees and
11 charges, the board of trustees may impose and collect fees and charges
12 for student government and other student activities and receive and
13 expend them as agent or trustee.

14 S 9. Subdivision 5 of section 6301 of the education law, as amended by
15 chapter 327 of the laws of 2002, is amended to read as follows:

16 5. "Resident." A person who has resided in the state for a period of
17 at least one year and in the county, city, town, intermediate school
18 district, school district or community college region, as the case may
19 be, for a period of at least six months, both immediately preceding the
20 date of such person's registration in a community college or, for the
21 purposes of section sixty-three hundred five of this article, his or her
22 application for a certificate of residence; provided, however, that this
23 term shall include any student who is not a resident of New York state,
24 other than a non-immigrant alien within the meaning of paragraph (15) of
25 subsection (a) of section 1101 of title 8 of the United States Code, if
26 such student:

27 (i) attended an approved New York high school for two or more years,
28 graduated from an approved New York high school, LIVED CONTINUOUSLY IN
29 NEW YORK STATE WHILE ATTENDING AN APPROVED NEW YORK HIGH SCHOOL, and
30 applied for attendance [at an institution or educational unit of the
31 state university] AND ATTENDED A COMMUNITY COLLEGE within five years of
32 receiving a New York state high school diploma; or

33 (ii) attended an approved New York state program for general equiv-
34 alency diploma exam preparation, received a general equivalency diploma
35 issued within New York state, LIVED CONTINUOUSLY IN NEW YORK STATE WHILE
36 ATTENDING AN APPROVED NEW YORK STATE PROGRAM FOR GENERAL EQUIVALENCY
37 DIPLOMA EXAM PREPARATION, and SUBSEQUENTLY applied for attendance [at an
38 institution or educational unit of the state university], EARNED ADMIS-
39 SION BASED ON THAT GENERAL EQUIVALENCY DIPLOMA, AND ATTENDED A COMMUNITY
40 COLLEGE within five years of receiving a general equivalency diploma
41 issued within New York state; or

42 (iii) was enrolled in [an institution or educational unit of the state
43 university] A COMMUNITY COLLEGE in the fall semester or quarter of the
44 two thousand one--two thousand two academic year and was authorized by
45 such [institution or educational unit] COMMUNITY COLLEGE to pay tuition
46 at the rate or charge imposed for students who are residents of the
47 state.

48 Provided, further, that a student without lawful immigration status
49 shall also be required to file an affidavit with such [institution or
50 educational unit] COMMUNITY COLLEGE stating that the student has filed
51 an application to legalize his or her immigration status, or will file
52 such an application as soon as he or she is eligible to do so.

53 In the event that a person qualified as above for state residence, but
54 has been a resident of two or more counties in the state during the six
55 months immediately preceding his OR HER application for a certificate of
56 residence pursuant to section sixty-three hundred five of this chapter,

1 the charges to the counties of residence shall be allocated among the
2 several counties proportional to the number of months, or major fraction
3 thereof, of residence in each county.

4 S 10. Paragraph d of subdivision 3 of section 6451 of the education
5 law, as amended by chapter 149 of the laws of 1972, is amended to read
6 as follows:

7 d. Any necessary supplemental financial assistance, which may include
8 the cost of books and necessary maintenance for such enrolled students,
9 INCLUDING STUDENTS WITHOUT LAWFUL IMMIGRATION STATUS PROVIDED THAT THE
10 STUDENT MEETS THE REQUIREMENTS SET FORTH IN SUBPARAGRAPH (II) OF PARA-
11 GRAPH A OR SUBPARAGRAPH (II) OF PARAGRAPH B OF SUBDIVISION FIVE OF
12 SECTION SIX HUNDRED SIXTY-ONE OF THIS CHAPTER, AS APPLICABLE; provided,
13 however, that such supplemental financial assistance shall be furnished
14 pursuant to criteria promulgated by the commissioner with the approval
15 of the director of the budget.

16 S 11. Subparagraph (v) of paragraph a of subdivision 4 of section 6452
17 of the education law, as added by chapter 917 of the laws of 1970, is
18 amended to read as follows:

19 (v) Any necessary supplemental financial assistance, which may include
20 the cost of books and necessary maintenance for such students, INCLUDING
21 STUDENTS WITHOUT LAWFUL IMMIGRATION STATUS PROVIDED THAT THE STUDENT
22 MEETS THE REQUIREMENTS SET FORTH IN SUBPARAGRAPH (II) OF PARAGRAPH A OR
23 SUBPARAGRAPH (II) OF PARAGRAPH B OF SUBDIVISION FIVE OF SECTION SIX
24 HUNDRED SIXTY-ONE OF THIS CHAPTER, AS APPLICABLE; provided, however,
25 that such supplemental financial assistance shall be furnished pursuant
26 to criteria promulgated by such universities and approved by the regents
27 and the director of the budget.

28 S 12. Paragraph (a) of subdivision 2 of section 6455 of the education
29 law, as added by chapter 285 of the laws of 1986, is amended to read as
30 follows:

31 (a) (I) Undergraduate science and technology entry program moneys may
32 be used for tutoring, counseling, remedial and special summer courses,
33 supplemental financial assistance, program administration, and other
34 activities which the commissioner may deem appropriate. To be eligible
35 for undergraduate collegiate science and technology entry program
36 support, a student must be a resident of New York [who is], OR MEET THE
37 REQUIREMENTS OF SUBPARAGRAPH (II) OF THIS PARAGRAPH, AND MUST BE either
38 economically disadvantaged or from a minority group historically under
39 represented in the scientific, technical, health and health-related
40 professions, and [who demonstrates] MUST DEMONSTRATE interest in and a
41 potential for a professional career if provided special services. Eligi-
42 ble students must be in good academic standing, enrolled full time in an
43 approved, undergraduate level program of study, as defined by the
44 regents.

45 (II) AN APPLICANT WHO IS NOT A LEGAL RESIDENT OF THE STATE ELIGIBLE
46 PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH, BUT IS A UNITED STATES
47 CITIZEN, AN ALIEN LAWFULLY ADMITTED FOR PERMANENT RESIDENCE IN THE
48 UNITED STATES, AN INDIVIDUAL OF A CLASS OF REFUGEES PAROLED BY THE
49 ATTORNEY GENERAL OF THE UNITED STATES UNDER HIS OR HER PAROLE AUTHORITY
50 PERTAINING TO THE ADMISSION OF ALIENS TO THE UNITED STATES, OR AN APPLI-
51 CANT WITHOUT LAWFUL IMMIGRATION STATUS SHALL BE ELIGIBLE FOR AN AWARD AT
52 THE UNDERGRADUATE LEVEL OF STUDY PROVIDED THAT THE STUDENT:

53 (A) ATTENDED A REGISTERED NEW YORK STATE HIGH SCHOOL FOR TWO OR MORE
54 YEARS, GRADUATED FROM A REGISTERED NEW YORK STATE HIGH SCHOOL, LIVED
55 CONTINUOUSLY IN NEW YORK STATE WHILE ATTENDING AN APPROVED NEW YORK
56 STATE HIGH SCHOOL, APPLIED FOR ATTENDANCE AT THE INSTITUTION OF HIGHER

1 EDUCATION FOR THE UNDERGRADUATE STUDY FOR WHICH AN AWARD IS SOUGHT, AND
2 ATTENDED WITHIN FIVE YEARS OF RECEIVING A NEW YORK STATE HIGH SCHOOL
3 DIPLOMA; OR

4 (B) ATTENDED AN APPROVED NEW YORK STATE PROGRAM FOR A STATE HIGH
5 SCHOOL EQUIVALENCY DIPLOMA, LIVED CONTINUOUSLY IN NEW YORK STATE WHILE
6 ATTENDING AN APPROVED NEW YORK STATE PROGRAM FOR A GENERAL EQUIVALENCY
7 DIPLOMA, RECEIVED A STATE HIGH SCHOOL EQUIVALENCY DIPLOMA, SUBSEQUENTLY
8 APPLIED FOR ATTENDANCE AT THE INSTITUTION OF HIGHER EDUCATION FOR THE
9 UNDERGRADUATE STUDY FOR WHICH AN AWARD IS SOUGHT, EARNED ADMISSION BASED
10 ON THAT GENERAL EQUIVALENCY DIPLOMA, AND ATTENDED THE INSTITUTION OF
11 HIGHER EDUCATION FOR THE UNDERGRADUATE STUDY FOR WHICH AN AWARD IS
12 SOUGHT WITHIN FIVE YEARS OF RECEIVING A STATE HIGH SCHOOL EQUIVALENCY
13 DIPLOMA; OR

14 (C) IS OTHERWISE ELIGIBLE FOR THE PAYMENT OF TUITION AND FEES AT A
15 RATE NO GREATER THAN THAT IMPOSED FOR RESIDENT STUDENTS OF THE STATE
16 UNIVERSITY OF NEW YORK, THE CITY UNIVERSITY OF NEW YORK OR COMMUNITY
17 COLLEGES AS PRESCRIBED IN SUBPARAGRAPH EIGHT OF PARAGRAPH H OF SUBDIVI-
18 SION TWO OF SECTION THREE HUNDRED FIFTY-FIVE OR PARAGRAPH (A) OF SUBDI-
19 VISION SEVEN OF SECTION SIX THOUSAND TWO HUNDRED SIX OF THIS CHAPTER.

20 PROVIDED, FURTHER, THAT A STUDENT WITHOUT LAWFUL IMMIGRATION STATUS
21 SHALL ALSO BE REQUIRED TO FILE AN AFFIDAVIT WITH SUCH INSTITUTION OF
22 HIGHER EDUCATION STATING THAT THE STUDENT HAS FILED AN APPLICATION TO
23 LEGALIZE HIS OR HER IMMIGRATION STATUS, OR WILL FILE SUCH AN APPLICATION
24 AS SOON AS HE OR SHE IS ELIGIBLE TO DO SO.

25 S 13. Paragraph (a) of subdivision 3 of section 6455 of the education
26 law, as added by chapter 285 of the laws of 1986, is amended to read as
27 follows:

28 (a) (I) Graduate science and technology entry program moneys may be
29 used for recruitment, academic enrichment, career planning, supplemental
30 financial assistance, review for licensing examinations, program admin-
31 istration, and other activities which the commissioner may deem appro-
32 priate. To be eligible for graduate collegiate science and technology
33 entry program support, a student must be a resident of New York [who
34 is], OR MEET THE REQUIREMENTS OF SUBPARAGRAPH (II) OF THIS PARAGRAPH,
35 AND MUST BE either economically disadvantaged or from a minority group
36 historically underrepresented in the scientific, technical and health-
37 related professions. Eligible students must be in good academic stand-
38 ing, enrolled full time in an approved graduate level program, as
39 defined by the regents.

40 (II) AN APPLICANT WHO IS NOT A LEGAL RESIDENT OF THE STATE ELIGIBLE
41 PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH, BUT IS A UNITED STATES
42 CITIZEN, AN ALIEN LAWFULLY ADMITTED FOR PERMANENT RESIDENCE IN THE
43 UNITED STATES, AN INDIVIDUAL OF A CLASS OF REFUGEES PAROLED BY THE
44 ATTORNEY GENERAL OF THE UNITED STATES UNDER HIS OR HER PAROLE AUTHORITY
45 PERTAINING TO THE ADMISSION OF ALIENS TO THE UNITED STATES, OR AN APPLI-
46 CANT WITHOUT LAWFUL IMMIGRATION STATUS SHALL BE ELIGIBLE FOR AN AWARD AT
47 THE GRADUATE LEVEL OF STUDY PROVIDED THAT THE STUDENT:

48 (A) ATTENDED A REGISTERED NEW YORK STATE HIGH SCHOOL FOR TWO OR MORE
49 YEARS, GRADUATED FROM A REGISTERED NEW YORK STATE HIGH SCHOOL, LIVED
50 CONTINUOUSLY IN NEW YORK STATE WHILE ATTENDING AN APPROVED NEW YORK
51 STATE HIGH SCHOOL, APPLIED FOR ATTENDANCE AT THE INSTITUTION OF HIGHER
52 EDUCATION FOR THE GRADUATE STUDY FOR WHICH AN AWARD IS SOUGHT, AND
53 ATTENDED WITHIN TEN YEARS OF RECEIVING A NEW YORK STATE HIGH SCHOOL
54 DIPLOMA; OR

55 (B) ATTENDED AN APPROVED NEW YORK STATE PROGRAM FOR A STATE HIGH
56 SCHOOL EQUIVALENCY DIPLOMA, LIVED CONTINUOUSLY IN NEW YORK STATE WHILE

1 ATTENDING AN APPROVED NEW YORK STATE PROGRAM FOR A GENERAL EQUIVALENCY
2 DIPLOMA, RECEIVED A STATE HIGH SCHOOL EQUIVALENCY DIPLOMA, SUBSEQUENTLY
3 APPLIED FOR ATTENDANCE AT THE INSTITUTION OF HIGHER EDUCATION FOR THE
4 GRADUATE STUDY FOR WHICH AN AWARD IS SOUGHT, AND ATTENDED THE INSTITU-
5 TION OF HIGHER EDUCATION FOR THE GRADUATE STUDY FOR WHICH AN AWARD IS
6 SOUGHT WITHIN TEN YEARS OF RECEIVING A STATE HIGH SCHOOL EQUIVALENCY
7 DIPLOMA; OR

8 (C) IS OTHERWISE ELIGIBLE FOR THE PAYMENT OF TUITION AND FEES AT A
9 RATE NO GREATER THAN THAT IMPOSED FOR RESIDENT STUDENTS OF THE STATE
10 UNIVERSITY OF NEW YORK, THE CITY UNIVERSITY OF NEW YORK OR COMMUNITY
11 COLLEGE AS PRESCRIBED IN SUBPARAGRAPH EIGHT OF PARAGRAPH H OF SUBDIVI-
12 SION TWO OF SECTION THREE HUNDRED FIFTY-FIVE OR PARAGRAPH (A) OF SUBDI-
13 VISION SEVEN OF SECTION SIX THOUSAND TWO HUNDRED SIX OF THIS CHAPTER.

14 PROVIDED, FURTHER, THAT A STUDENT WITHOUT LAWFUL IMMIGRATION STATUS
15 SHALL ALSO BE REQUIRED TO FILE AN AFFIDAVIT WITH SUCH INSTITUTION OF
16 HIGHER EDUCATION STATING THAT THE STUDENT HAS FILED AN APPLICATION TO
17 LEGALIZE HIS OR HER IMMIGRATION STATUS, OR WILL FILE SUCH AN APPLICATION
18 AS SOON AS HE OR SHE IS ELIGIBLE TO DO SO.

19 S 14. Subparagraph (i) of paragraph a of subdivision 2 of section
20 695-e of the education law, as amended by chapter 593 of the laws of
21 2003, is amended to read as follows:

22 (i) the name, address and social security number [or], employer iden-
23 tification number, OR INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER of the
24 account owner UNLESS A FAMILY TUITION ACCOUNT THAT WAS IN EFFECT PRIOR
25 TO THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND FIFTEEN
26 THAT AMENDED THIS SUBPARAGRAPH DOES NOT ALLOW FOR A TAXPAYER IDENTIFICA-
27 TION NUMBER, IN WHICH CASE A TAXPAYER IDENTIFICATION NUMBER SHALL BE
28 ALLOWED UPON THE EXPIRATION OF THE CONTRACT;

29 S 15. Subparagraph (iii) of paragraph a of subdivision 2 of section
30 695-e of the education law, as amended by chapter 593 of the laws of
31 2003, is amended to read as follows:

32 (iii) the name, address, and social security number, EMPLOYER IDEN-
33 TIFICATION NUMBER, OR INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER of the
34 designated beneficiary, UNLESS A FAMILY TUITION ACCOUNT THAT WAS IN
35 EFFECT PRIOR TO THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO
36 THOUSAND FIFTEEN THAT AMENDED THIS SUBPARAGRAPH DOES NOT ALLOW FOR A
37 TAXPAYER IDENTIFICATION NUMBER, IN WHICH CASE A TAXPAYER IDENTIFICATION
38 NUMBER SHALL BE ALLOWED UPON THE EXPIRATION OF THE CONTRACT; and

39 S 16. The president of the higher education services corporation shall
40 establish an application form and procedures that shall allow a student
41 applicant that meets the requirements set forth in subparagraph (ii) of
42 paragraph a or subparagraph (ii) of paragraph b of subdivision 5 of
43 section 661 of the education law to apply directly to the higher educa-
44 tion services corporation for applicable awards without having to submit
45 information to any other state or federal agency. All information
46 contained with the applications filed with such corporation shall be
47 deemed confidential, except that the corporation shall be entitled to
48 release information to participating institutions as necessary for the
49 administration of financial aid programs and to the extent required
50 pursuant to article six of the public officers law or otherwise required
51 by law.

52 S 17. The higher education services corporation is authorized to
53 promulgate rules and regulations, and may promulgate emergency regu-
54 lations, necessary for the implementation of the provisions of this act.

55 S 18. This act shall take effect on the ninetieth day after the issu-
56 ance of regulations and the development of an application form by the

1 president of the higher education services corporation or on the nineti-
2 eth day after it shall have become a law, whichever shall be later;
3 provided however, notwithstanding the foregoing, this act shall not take
4 effect unless the legislature enacts, by no later than March 31, 2015, a
5 chapter of law identical to legislation submitted by the Governor pursu-
6 ant to Article VII of the New York Constitution as Part E of legislative
7 bill numbers S. 2006 and A. 3006 relating to an education tax credit
8 program that would make available \$100 million in tax credits annually
9 to provide a tax credit incentive to encourage individual and business
10 donations to support public schools' educational improvement programs as
11 well as public and non-public school scholarships for elementary and
12 secondary school students. Provided, that the amendments to paragraph
13 (a) of subdivision 7 of section 6206 of the education law, made by
14 section eight-a of this act, shall take effect upon the expiration and
15 repeal of the amendments to such paragraph made by section 4 of chapter
16 260 of the laws of 2011 pursuant to section 16 of chapter 260 of the
17 laws of 2011, as amended. Provided further, however, that the amend-
18 ments to subparagraphs (i) and (ii) of paragraph (a-1) of subdivision 7
19 of section 6206 of the education law made by section eight of this act
20 shall not affect the expiration of such paragraph and shall be deemed to
21 expire therewith; provided that the president of the higher education
22 services corporation shall notify the legislative bill drafting commis-
23 sion upon the occurrence of the issuance of regulations and the develop-
24 ment of an application form provided for in this section in order that
25 the commission may maintain an accurate and timely effective data base
26 of the official text of the laws of the state of New York in furtherance
27 of effectuating the provisions of section 44 of the legislative law and
28 section 70-b of the public officers law.

29

PART E

30 Section 1. Short title. This act shall be known and may be cited as
31 the "education tax credit act".

32 S 2. The education law is amended by adding a new article 25 to read
33 as follows:

ARTICLE 25

EDUCATION TAX CREDIT PROGRAM

36 SECTION 1209. SHORT TITLE.

37 1210. DEFINITIONS.

38 1211. APPROVAL TO ISSUE CERTIFICATES OF RECEIPT.

39 1212. APPLICATIONS FOR APPROVAL TO ISSUE CERTIFICATES OF
40 RECEIPT.

41 1213. APPLICATION APPROVAL FOR CERTIFICATES OF RECEIPTS.

42 1214. REVOCATION OF APPROVAL TO ISSUE CERTIFICATES OF RECEIPT.

43 1215. REPORTING AND RECORDKEEPING.

44 1216. JOINT ANNUAL REPORT.

45 1217. COMMISSIONER; POWERS.

46 S 1209. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS
47 THE "EDUCATION TAX CREDIT PROGRAM".

48 S 1210. DEFINITIONS. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING
49 TERMS SHALL HAVE THE FOLLOWING MEANINGS:

50 1. "AUTHORIZED CONTRIBUTION" MEANS THE CONTRIBUTION AMOUNT THAT IS
51 LISTED ON THE CONTRIBUTION AUTHORIZATION CERTIFICATE ISSUED TO A TAXPAY-
52 ER.

1 2. "CONTRIBUTION" MEANS A DONATION PAID BY CASH, CHECK, ELECTRONIC
2 FUNDS TRANSFER, DEBIT CARD OR CREDIT CARD THAT IS MADE BY A TAXPAYER
3 DURING THE TAXABLE YEAR.

4 3. "EDUCATIONAL PROGRAM" MEANS AN ACADEMIC OR SIMILAR PROGRAM OF A
5 PUBLIC SCHOOL THAT ENHANCES THE CURRICULUM OR ACADEMIC PROGRAM OF THE
6 PUBLIC SCHOOL, OR PROVIDES A PRE-KINDERGARTEN PROGRAM TO A PUBLIC
7 SCHOOL. FOR PURPOSES OF THIS DEFINITION, THE INSTRUCTION, MATERIALS,
8 PROGRAMS AND OTHER ACTIVITIES OFFERED BY OR THROUGH AN EDUCATIONAL
9 PROGRAM MAY INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING FEATURES: (A)
10 INSTRUCTION OR MATERIALS PROMOTING HEALTH, PHYSICAL EDUCATION, AND FAMI-
11 LY AND CONSUMER SCIENCES; LITERARY, PERFORMING AND VISUAL ARTS; MATH-
12 EMATICS, SOCIAL STUDIES, TECHNOLOGY AND SCIENTIFIC ACHIEVEMENT; (B)
13 INSTRUCTION OR PROGRAMMING TO MEET THE EDUCATION NEEDS OF AT-RISK
14 STUDENTS OR STUDENTS WITH DISABILITIES, INCLUDING TUTORING OR COUN-
15 SELING; OR (C) THE USE OF SPECIALIZED INSTRUCTIONAL MATERIALS, INSTRU-
16 TORS OR INSTRUCTION NOT PROVIDED BY A PUBLIC SCHOOL.

17 4. "EDUCATIONAL SCHOLARSHIP ORGANIZATION" MEANS AN ENTITY THAT: (A) IS
18 EXEMPT FROM TAXATION UNDER PARAGRAPH THREE OF SUBSECTION (C) OF SECTION
19 FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE; (B) USES AT LEAST NINETY
20 PERCENT OF THE QUALIFIED CONTRIBUTIONS RECEIVED DURING THE CALENDAR YEAR
21 AND ANY INCOME DERIVED FROM QUALIFIED CONTRIBUTIONS DURING SUCH YEAR FOR
22 SCHOLARSHIPS; (C) PROVIDES MORE THAN FIFTY PERCENT OF ITS SCHOLARSHIPS
23 DURING A CALENDAR YEAR TO ELIGIBLE PUPILS WHO RESIDE IN A HOUSEHOLD THAT
24 HAS AN INCOME NOT TO EXCEED ONE HUNDRED FIFTY PERCENT OF THE INCOME
25 QUALIFICATION REQUIRED FOR THE REDUCED PRICE SCHOOL LUNCHES UNDER THE
26 NATIONAL SCHOOL LUNCH ACT, PROVIDED HOWEVER FOR THE PURPOSES OF AN
27 EDUCATIONAL SCHOLARSHIP ORGANIZATION FULFILLING SUCH REQUIREMENT, AN
28 EDUCATIONAL SCHOLARSHIP ORGANIZATION MAY ENTER INTO AN AGREEMENT WITH
29 ANOTHER EDUCATIONAL SCHOLARSHIP ORGANIZATION OR ORGANIZATIONS TO JOINTLY
30 REPORT THEIR SCHOLARSHIP INFORMATION TO MEET SUCH REQUIREMENT; (D)
31 DEPOSITS AND HOLDS QUALIFIED CONTRIBUTIONS AND ANY INCOME DERIVED FROM
32 QUALIFIED CONTRIBUTIONS IN AN ACCOUNT THAT IS SEPARATE FROM THE ORGAN-
33 IZATION'S OPERATING OR OTHER FUNDS UNTIL SUCH QUALIFIED CONTRIBUTIONS OR
34 INCOME ARE WITHDRAWN FOR USE; (E) PROVIDES SCHOLARSHIPS TO ELIGIBLE
35 PUPILS FOR USE AT NOT FEWER THAN THREE QUALIFIED SCHOOLS; AND (F) IS
36 APPROVED TO ISSUE CERTIFICATES OF RECEIPT PURSUANT TO THIS ARTICLE.

37 5. "ELIGIBLE PUPIL" MEANS A CHILD WHO IS: (A) A RESIDENT OF THIS
38 STATE; (B) OF SCHOOL AGE IN ACCORDANCE WITH SUBDIVISION ONE OF SECTION
39 THIRTY-TWO HUNDRED TWO OF THIS CHAPTER OR WHO IS FOUR YEARS OF AGE ON OR
40 BEFORE DECEMBER FIRST OF THE YEAR IN WHICH SUCH CHILD IS ENROLLED IN A
41 PRE-KINDERGARTEN PROGRAM; (C) ATTENDS OR IS ABOUT TO ATTEND A QUALIFIED
42 SCHOOL; AND (D) RESIDES IN A HOUSEHOLD WHICH HAS A FEDERAL ADJUSTED
43 GROSS INCOME OF TWO HUNDRED FIFTY THOUSAND DOLLARS OR LESS, PROVIDED
44 HOWEVER, FOR HOUSEHOLDS WITH THREE OR MORE DEPENDENT CHILDREN, SUCH
45 INCOME LEVEL SHALL BE INCREASED BY TEN THOUSAND DOLLARS PER DEPENDENT
46 CHILD, NOT TO EXCEED THREE HUNDRED THOUSAND DOLLARS.

47 6. "LOCAL EDUCATION FUND" MEANS A NOT-FOR-PROFIT ENTITY WHICH: (A) IS
48 EXEMPT FROM TAXATION UNDER PARAGRAPH THREE OF SUBSECTION (C) OF SECTION
49 FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE; (B) IS ESTABLISHED FOR
50 THE PURPOSE OF SUPPORTING AT LEAST ONE PUBLIC SCHOOL OR A PUBLIC SCHOOL
51 DISTRICT LOCATED IN THIS STATE; (C) USES AT LEAST NINETY PERCENT OF THE
52 QUALIFIED CONTRIBUTIONS RECEIVED DURING THE CALENDAR YEAR AND ANY INCOME
53 DERIVED FROM QUALIFIED CONTRIBUTIONS DURING SUCH MONTHS TO SUPPORT THE
54 PUBLIC SCHOOL OR SCHOOLS OR PUBLIC SCHOOL DISTRICT OR DISTRICTS THAT
55 SUCH FUND HAS BEEN ESTABLISHED TO SUPPORT; (D) DEPOSITS AND HOLDS QUALI-
56 FIED CONTRIBUTIONS AND ANY INCOME DERIVED FROM QUALIFIED CONTRIBUTIONS

1 IN AN ACCOUNT THAT IS SEPARATE FROM THE FUND'S OPERATING OR OTHER FUNDS
2 UNTIL SUCH QUALIFIED CONTRIBUTIONS OR INCOME ARE WITHDRAWN FOR USE; AND
3 (E) IS APPROVED TO ISSUE CERTIFICATES OF RECEIPT PURSUANT TO THIS ARTI-
4 CLE.

5 7. "NON-PUBLIC SCHOOL" MEANS ANY NOT-FOR-PROFIT PRE-KINDERGARTEN
6 PROGRAM OR ELEMENTARY OR SECONDARY SECTARIAN OR NONSECTARIAN SCHOOL
7 LOCATED IN THIS STATE, OTHER THAN A PUBLIC SCHOOL, THAT PROVIDES
8 INSTRUCTION AT ONE OR MORE LOCATIONS TO AN ELIGIBLE PUPIL IN ACCORDANCE
9 WITH SUBDIVISION TWO OF SECTION THIRTY-TWO HUNDRED FOUR OF THIS CHAPTER.

10 8. "PUBLIC EDUCATION ENTITY" MEANS A PUBLIC SCHOOL DISTRICT OR A
11 PUBLIC SCHOOL IN THIS STATE, PROVIDED THAT SUCH PUBLIC SCHOOL DISTRICT
12 OR PUBLIC SCHOOL: (A) DEPOSITS AND HOLDS QUALIFIED CONTRIBUTIONS AND ANY
13 INCOME DERIVED FROM SUCH QUALIFIED CONTRIBUTIONS IN AN ACCOUNT THAT IS
14 SEPARATE FROM THE PUBLIC SCHOOL OR PUBLIC SCHOOL DISTRICT'S OPERATING OR
15 OTHER FUNDS UNTIL SUCH QUALIFIED CONTRIBUTIONS OR INCOME ARE WITHDRAWN
16 FOR USE; AND (B) IS APPROVED TO RECEIVE AUTHORIZED CONTRIBUTIONS AND
17 ISSUE CERTIFICATES OF RECEIPT PURSUANT TO THIS ARTICLE.

18 9. "PUBLIC SCHOOL" MEANS ANY FREE ELEMENTARY OR SECONDARY SCHOOL IN
19 THIS STATE PURSUANT TO ARTICLE ELEVEN OF THE CONSTITUTION, BUT SHALL NOT
20 INCLUDE A CHARTER SCHOOL AUTHORIZED BY ARTICLE FIFTY-SIX OF THIS CHAP-
21 TER.

22 10. "QUALIFIED CONTRIBUTION" MEANS THE AUTHORIZED CONTRIBUTION MADE BY
23 A TAXPAYER TO A PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZA-
24 TION, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION
25 LISTED IN THE CONTRIBUTION AUTHORIZATION CERTIFICATE ISSUED TO THE
26 TAXPAYER FOR WHICH THE TAXPAYER HAS RECEIVED A CERTIFICATE OF RECEIPT
27 FROM SUCH ENTITY, FUND OR ORGANIZATION. A CONTRIBUTION DOES NOT QUALIFY
28 IF THE TAXPAYER DESIGNATES THE TAXPAYER'S CONTRIBUTION TO AN ENTITY OR
29 ORGANIZATION FOR THE DIRECT BENEFIT OF ANY PARTICULAR OR SPECIFIED
30 STUDENT.

31 11. "QUALIFIED SCHOOL" MEANS A PUBLIC SCHOOL OR NON-PUBLIC SCHOOL
32 LOCATED IN THIS STATE.

33 12. "SCHOLARSHIP" MEANS AN EDUCATIONAL SCHOLARSHIP OR TUITION GRANT
34 AWARDED TO AN ELIGIBLE PUPIL TO ATTEND A QUALIFIED SCHOOL IN AN AMOUNT
35 NOT TO EXCEED THE TUITION CHARGED TO ATTEND SUCH SCHOOL LESS ANY OTHER
36 EDUCATIONAL SCHOLARSHIP OR TUITION GRANT RECEIVED BY SUCH ELIGIBLE PUPIL
37 OR HIS OR HER PARENT, PARENTS, LEGAL GUARDIAN, OR LEGAL GUARDIANS FOR
38 SUCH ELIGIBLE PUPIL'S TUITION; PROVIDED, HOWEVER, IN THE CASE OF AN
39 ELIGIBLE PUPIL ATTENDING A PUBLIC SCHOOL OF A DISTRICT OF WHICH SUCH
40 PUPIL IS NOT A RESIDENT, THE AMOUNT OF THE EDUCATIONAL SCHOLARSHIP OR
41 TUITION GRANT AWARDED MAY NOT EXCEED THE TUITION CHARGED BY THE PUBLIC
42 SCHOOL PURSUANT TO PARAGRAPH D OF SUBDIVISION FOUR OF SECTION THIRTY-TWO
43 HUNDRED TWO OF THIS CHAPTER, BUT ONLY IF THE SCHOOL DISTRICT OF WHICH
44 SUCH PUPIL IS A RESIDENT IS NOT REQUIRED TO PAY FOR SUCH TUITION.

45 13. "SCHOOL IMPROVEMENT ORGANIZATION" MEANS A NOT-FOR-PROFIT ENTITY
46 WHICH: (A) IS EXEMPT FROM TAXATION UNDER PARAGRAPH THREE OF SUBSECTION
47 (C) OF SECTION FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE; (B) USES
48 AT LEAST NINETY PERCENT OF THE QUALIFIED CONTRIBUTIONS RECEIVED DURING
49 THE CALENDAR YEAR AND ANY INCOME DERIVED FROM QUALIFIED CONTRIBUTIONS
50 DURING SUCH MONTHS TO ASSIST PUBLIC SCHOOLS OR PUBLIC SCHOOL DISTRICTS
51 LOCATED IN THIS STATE IN THEIR PROVISION OF EDUCATIONAL PROGRAMS, EITHER
52 BY MAKING CONTRIBUTIONS TO ONE OR MORE PUBLIC SCHOOLS OR PUBLIC SCHOOL
53 DISTRICTS LOCATED IN THIS STATE OR PROVIDING EDUCATIONAL PROGRAMS TO, OR
54 IN CONJUNCTION WITH, ONE OR MORE PUBLIC SCHOOLS OR PUBLIC SCHOOL
55 DISTRICTS LOCATED IN THIS STATE; (C) DEPOSITS AND HOLDS QUALIFIED
56 CONTRIBUTIONS AND ANY INCOME DERIVED FROM QUALIFIED CONTRIBUTIONS IN AN

ACCOUNT THAT IS SEPARATE FROM THE ORGANIZATION'S OPERATING OR OTHER FUNDS UNTIL SUCH QUALIFIED CONTRIBUTIONS OR INCOME ARE WITHDRAWN FOR USE; AND (D) IS APPROVED TO ISSUE CERTIFICATES OF RECEIPT PURSUANT TO THIS ARTICLE. SUCH TERM INCLUDES A PRE-KINDERGARTEN PROGRAM OR NOT-FOR-PROFIT ENTITY THAT ALLOWS THE TAXPAYER TO CHOOSE TO DONATE TO A PROGRAM, PROJECT OR INITIATIVE FOR USE IN A PUBLIC SCHOOL.

S 1211. APPROVAL TO ISSUE CERTIFICATES OF RECEIPT. 1. PUBLIC SCHOOLS AND PUBLIC SCHOOL DISTRICTS. ALL PUBLIC SCHOOLS AND PUBLIC SCHOOL DISTRICTS SHALL BE APPROVED TO ISSUE CERTIFICATES OF RECEIPT FOR QUALIFIED CONTRIBUTIONS IN ACCORDANCE WITH SECTION FORTY-TWO OF THE TAX LAW, PROVIDED, THAT SUCH PUBLIC SCHOOL OR PUBLIC SCHOOL DISTRICT SHALL NOT BE APPROVED IF EITHER: (A) SUCH PUBLIC SCHOOL OR PUBLIC SCHOOL DISTRICT FAILS TO DEPOSIT AND HOLD QUALIFIED CONTRIBUTIONS AND ANY INCOME DERIVED FROM QUALIFIED CONTRIBUTIONS IN AN ACCOUNT THAT IS SEPARATE FROM THE SCHOOL OR SCHOOL DISTRICT'S OPERATING OR OTHER FUNDS UNTIL SUCH QUALIFIED CONTRIBUTIONS OR INCOME ARE WITHDRAWN FOR USE; OR (B) THE COMMISSIONER HAS REVOKED SUCH APPROVAL FOR SUCH PUBLIC SCHOOL OR PUBLIC SCHOOL DISTRICT PURSUANT TO SECTION TWELVE HUNDRED FOURTEEN OF THIS ARTICLE.

2. SCHOOL IMPROVEMENT ORGANIZATIONS, EDUCATIONAL SCHOLARSHIP ORGANIZATIONS AND LOCAL EDUCATION FUNDS. NO SCHOOL IMPROVEMENT ORGANIZATION, EDUCATIONAL SCHOLARSHIP ORGANIZATION OR LOCAL EDUCATION FUND SHALL ISSUE ANY CERTIFICATES OF RECEIPT WITHOUT FILING AN APPLICATION PURSUANT TO SECTION TWELVE HUNDRED TWELVE OF THIS ARTICLE AND RECEIVING APPROVAL PURSUANT TO SECTION TWELVE HUNDRED THIRTEEN OF THIS ARTICLE.

S 1212. APPLICATIONS FOR APPROVAL TO ISSUE CERTIFICATES OF RECEIPT. EACH SCHOOL IMPROVEMENT ORGANIZATION, EDUCATIONAL SCHOLARSHIP ORGANIZATION AND LOCAL EDUCATION FUND SHALL SUBMIT AN APPLICATION TO THE COMMISSIONER FOR APPROVAL TO ISSUE CERTIFICATES OF RECEIPT IN THE FORM AND MANNER PRESCRIBED BY THE COMMISSIONER, PROVIDED THAT SUCH APPLICATION SHALL INCLUDE: (A) SUBMISSION OF DOCUMENTATION THAT SUCH SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND OR EDUCATIONAL SCHOLARSHIP ORGANIZATION HAS BEEN GRANTED EXEMPTION FROM TAXATION UNDER PARAGRAPH THREE OF SUBSECTION (C) OF SECTION FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE; (B) A LIST OF NAMES AND ADDRESSES OF ALL MEMBERS OF THE GOVERNING BOARD OF THE SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND OR EDUCATIONAL SCHOLARSHIP ORGANIZATION; AND (C) AN EDUCATIONAL SCHOLARSHIP ORGANIZATION SHALL PROVIDE CRITERIA FOR THE AWARDING OF SCHOLARSHIPS TO ELIGIBLE STUDENTS.

S 1213. APPLICATION APPROVAL FOR CERTIFICATES OF RECEIPT. 1. IN GENERAL. THE COMMISSIONER SHALL REVIEW EACH APPLICATION TO ISSUE CERTIFICATES OF RECEIPT PURSUANT TO THIS ARTICLE. THE COMMISSIONER SHALL PUBLISH CRITERIA USED TO DETERMINE SELECTION AND ESTABLISH AN APPEALS PROCESS FOR APPLICATIONS THAT ARE NOT APPROVED.

2. NOTIFICATION. APPLICANTS SHALL BE NOTIFIED OF THE COMMISSIONER'S DETERMINATION WITHIN FIVE BUSINESS DAYS OF THE DETERMINATION.

S 1214. REVOCATION OF APPROVAL TO ISSUE CERTIFICATES OF RECEIPT. THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF TAXATION AND FINANCE, MAY REVOKE THE APPROVAL OF A SCHOOL IMPROVEMENT ORGANIZATION, EDUCATIONAL SCHOLARSHIP ORGANIZATION, LOCAL EDUCATION FUND, PUBLIC SCHOOL OR PUBLIC SCHOOL DISTRICT TO ISSUE CERTIFICATES OF RECEIPT UPON A FINDING THAT SUCH ORGANIZATION, FUND, SCHOOL OR SCHOOL DISTRICT HAS VIOLATED THIS ARTICLE OR SECTION FORTY-TWO OF THE TAX LAW. THESE VIOLATIONS SHALL INCLUDE, BUT NOT BE LIMITED TO, ANY OF THE FOLLOWING: (A) FAILURE TO MEET THE REQUIREMENTS OF THIS ARTICLE OR SECTION FORTY-TWO OF THE TAX LAW; (B) THE FAILURE TO MAINTAIN FULL AND ADEQUATE RECORDS WITH RESPECT TO THE RECEIPT OF QUALIFIED CONTRIBUTIONS; (C) THE

1 FAILURE TO SUPPLY SUCH RECORDS TO THE COMMISSIONER, DEPARTMENT OF TAXA-
2 TION AND FINANCE, OR THE DEPARTMENT WHEN REQUESTED; OR (D) THE FAILURE
3 TO PROVIDE NOTICE TO THE DEPARTMENT OF TAXATION AND FINANCE OF THE ISSU-
4 ANCE OR NON-ISSUANCE OF CERTIFICATES OF RECEIPT PURSUANT TO SECTION
5 FORTY-TWO OF THE TAX LAW; PROVIDED, HOWEVER, THAT THE COMMISSIONER SHALL
6 NOT REVOKE APPROVAL PURSUANT TO THIS SECTION BASED UPON A VIOLATION OF
7 TAX LAW UNLESS THE COMMISSIONER OF TAXATION AND FINANCE AGREES THAT
8 REVOCATION IS WARRANTED; AND PROVIDED FURTHER THAT THE COMMISSIONER
9 SHALL NOT REVOKE APPROVAL PURSUANT TO THIS SECTION WHEN THE FAILURE TO
10 COMPLY IS DUE TO CLERICAL ERROR AND NOT NEGLIGENCE OR INTENTIONAL DISRE-
11 GARD FOR THE LAW. WITHIN FIVE DAYS OF THE DETERMINATION REVOKING
12 APPROVAL, THE COMMISSIONER SHALL PROVIDE NOTICE OF SUCH REVOCATION TO
13 THE EDUCATIONAL SCHOLARSHIP ORGANIZATION, SCHOOL IMPROVEMENT ORGANIZA-
14 TION, LOCAL EDUCATION FUND, PUBLIC SCHOOL, OR PUBLIC SCHOOL DISTRICT AND
15 TO THE DEPARTMENT OF TAXATION AND FINANCE. THE COMMISSIONER SHALL ESTAB-
16 LISH AN APPEALS PROCESS FOR DETERMINATIONS REVOKING APPROVALS.

17 S 1215. REPORTING AND RECORDKEEPING. 1. REPORTING. EACH EDUCATIONAL
18 SCHOLARSHIP ORGANIZATION, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCA-
19 TION FUND, PUBLIC SCHOOL AND PUBLIC SCHOOL DISTRICT THAT RECEIVES QUALI-
20 FIED CONTRIBUTIONS SHALL REPORT TO THE COMMISSIONER AND THE DEPARTMENT
21 OF TAXATION AND FINANCE BY JANUARY THIRTY-FIRST OF EACH CALENDAR YEAR.
22 SUCH REPORT SHALL BE IN THE FORM AND MANNER PRESCRIBED BY THE COMMIS-
23 SIONER IN CONSULTATION WITH THE COMMISSIONER OF TAXATION AND FINANCE.

24 2. RECORDKEEPING. EACH EDUCATIONAL SCHOLARSHIP ORGANIZATION, SCHOOL
25 IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, PUBLIC SCHOOL AND PUBLIC
26 SCHOOL DISTRICT THAT ISSUED AT LEAST ONE CERTIFICATE OF RECEIPT SHALL
27 MAINTAIN RECORDS INCLUDING: (A) NOTIFICATIONS RECEIVED FROM THE DEPART-
28 MENT OF TAXATION AND FINANCE; (B) NOTIFICATIONS MADE TO THE DEPARTMENT
29 OF TAXATION AND FINANCE; (C) COPIES OF QUALIFIED CONTRIBUTIONS RECEIVED;
30 (D) COPIES OF THE DEPOSIT OF SUCH QUALIFIED CONTRIBUTIONS; (E) COPIES OF
31 ISSUED CERTIFICATES OF RECEIPT; (F) ANNUAL FINANCIAL STATEMENTS; (G) IN
32 THE CASE OF SCHOOL IMPROVEMENT ORGANIZATIONS, EDUCATIONAL SCHOLARSHIP
33 ORGANIZATIONS AND LOCAL EDUCATION FUNDS, THE APPLICATION SUBMITTED
34 PURSUANT TO SECTION TWELVE HUNDRED TWELVE OF THIS ARTICLE AND THE
35 APPROVAL ISSUED BY THE COMMISSIONER; AND (H) ANY OTHER INFORMATION
36 PRESCRIBED BY THE COMMISSIONER. SUCH RECORDS SHALL BE MAINTAINED BY THE
37 ENTITY OR ORGANIZATION FOR FIVE YEARS.

38 S 1216. JOINT ANNUAL REPORT. ON OR BEFORE THE LAST DAY OF MAY FOR EACH
39 CALENDAR YEAR, THE COMMISSIONER OF TAXATION AND FINANCE AND THE COMMIS-
40 SIONER, JOINTLY, SHALL SUBMIT A WRITTEN REPORT AS PROVIDED IN SUBDIVI-
41 SION (K) OF SECTION FORTY-TWO OF THE TAX LAW.

42 S 1217. COMMISSIONER; POWERS. THE COMMISSIONER SHALL PROMULGATE ON AN
43 EMERGENCY BASIS REGULATIONS NECESSARY FOR THE IMPLEMENTATION OF THIS
44 SECTION. THE COMMISSIONER SHALL MAKE ANY APPLICATION REQUIRED TO BE
45 FILED PURSUANT TO THIS ARTICLE AVAILABLE TO APPLICANTS WITHIN SIXTY DAYS
46 OF THE EFFECTIVE DATE OF THIS ARTICLE.

47 S 3. The education law is amended by adding a new section 1503-a to
48 read as follows:

49 S 1503-A. POWER TO ACCEPT AND SOLICIT GIFTS AND DONATIONS. 1. THE
50 TRUSTEES OR BOARDS OF EDUCATION OF ALL SCHOOL DISTRICTS ORGANIZED BY
51 SPECIAL LAWS OR PURSUANT TO THE PROVISIONS OF A GENERAL LAW ARE HEREBY
52 AUTHORIZED AND EMPOWERED TO ACCEPT GIFTS, DONATIONS, AND CONTRIBUTIONS
53 TO THE DISTRICT AND TO SOLICIT THE SAME.

54 2. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER OR OF ANY OTHER
55 GENERAL OR SPECIAL LAW TO THE CONTRARY, THE RECEIPT OF SUCH GIFTS,
56 DONATIONS AND CONTRIBUTIONS MADE PURSUANT TO ARTICLE TWENTY-FIVE OF THIS

CHAPTER, AND ANY INCOME DERIVED THEREFROM, SHALL BE DISREGARDED FOR THE PURPOSES OF ALL APPORTIONMENTS, COMPUTATIONS, AND DETERMINATIONS OF STATE AID.

S 4. The tax law is amended by adding a new section 42 to read as follows:

S 42. EDUCATION TAX CREDIT. (A) DEFINITIONS. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING TERMS HAVE THE SAME DEFINITION AS IN SECTION TWELVE HUNDRED TEN OF THE EDUCATION LAW: "AUTHORIZED CONTRIBUTION", "CONTRIBUTION", "EDUCATIONAL PROGRAM", "EDUCATIONAL SCHOLARSHIP ORGANIZATION", "ELIGIBLE PUPIL", "LOCAL EDUCATION FUND", "NON-PUBLIC SCHOOL", "PUBLIC EDUCATION ENTITY", "PUBLIC SCHOOL", "QUALIFIED CONTRIBUTION", "QUALIFIED SCHOOL", "SCHOLARSHIP", AND "SCHOOL IMPROVEMENT ORGANIZATION".

(B) ALLOWANCE OF CREDIT. A TAXPAYER SUBJECT TO TAX UNDER ARTICLE NINE-A OR TWENTY-TWO OF THIS CHAPTER SHALL BE ALLOWED AN EDUCATION TAX CREDIT AGAINST SUCH TAX, PURSUANT TO THE PROVISIONS REFERENCED IN SUBDIVISION (1) OF THIS SECTION, WITH RESPECT TO QUALIFIED CONTRIBUTIONS MADE DURING THE TAXABLE YEAR.

(C) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT SHALL BE THE LESSER OF SEVENTY-FIVE PERCENT OF THE TAXPAYER'S TOTAL QUALIFIED CONTRIBUTIONS OR ONE MILLION DOLLARS. IF THE TAXPAYER IS A PARTNER IN A PARTNERSHIP OR SHAREHOLDER OF A NEW YORK S CORPORATION, THEN THE CAP IMPOSED BY THE PRECEDING SENTENCE SHALL BE APPLIED AT THE ENTITY LEVEL, SO THAT THE AGGREGATE CREDIT ALLOWED TO ALL THE PARTNERS OR SHAREHOLDERS OF EACH SUCH ENTITY IN THE TAXABLE YEAR DOES NOT EXCEED ONE MILLION DOLLARS.

(D) INFORMATION TO BE POSTED ON THE DEPARTMENT'S WEBSITE. BEGINNING ON THE SIXTEENTH DAY OF JANUARY OF EACH YEAR, THE COMMISSIONER SHALL MAINTAIN ON THE DEPARTMENT'S WEBSITE A RUNNING TOTAL OF THE AMOUNT OF AVAILABLE CREDIT FOR WHICH TAXPAYERS MAY APPLY PURSUANT TO THIS SECTION. ADDITIONALLY, THE COMMISSIONER SHALL MAINTAIN ON THE DEPARTMENT'S WEBSITE A LIST OF THE SCHOOL IMPROVEMENT ORGANIZATIONS, LOCAL EDUCATION FUNDS AND EDUCATIONAL SCHOLARSHIP ORGANIZATIONS APPROVED TO ISSUE CERTIFICATES OF RECEIPT PURSUANT TO ARTICLE TWENTY-FIVE OF THE EDUCATION LAW. THE COMMISSIONER SHALL ALSO MAINTAIN ON THE DEPARTMENT'S WEBSITE A LIST OF PUBLIC EDUCATION ENTITIES, SCHOOL IMPROVEMENT ORGANIZATIONS, LOCAL EDUCATION FUNDS AND EDUCATIONAL SCHOLARSHIP ORGANIZATIONS WHOSE APPROVAL TO ISSUE CERTIFICATES OF RECEIPT HAS BEEN REVOKED ALONG WITH THE DATE OF SUCH REVOCATION.

(E) APPLICATIONS FOR CONTRIBUTION AUTHORIZATION CERTIFICATES. PRIOR TO MAKING A CONTRIBUTION TO A PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION, THE TAXPAYER SHALL APPLY TO THE DEPARTMENT FOR A CONTRIBUTION AUTHORIZATION CERTIFICATE FOR SUCH CONTRIBUTION. SUCH APPLICATION SHALL BE IN THE FORM AND MANNER PRESCRIBED BY THE DEPARTMENT. THE DEPARTMENT MAY ALLOW TAXPAYERS TO MAKE MULTIPLE APPLICATIONS ON THE SAME FORM, PROVIDED THAT EACH CONTRIBUTION LISTED ON SUCH APPLICATION SHALL BE TREATED AS A SEPARATE APPLICATION AND THAT THE DEPARTMENT SHALL ISSUE SEPARATE CONTRIBUTION AUTHORIZATION CERTIFICATES FOR EACH SUCH APPLICATION.

(F) CONTRIBUTION AUTHORIZATION CERTIFICATES. 1. ISSUANCE OF CERTIFICATES. THE COMMISSIONER SHALL ISSUE CONTRIBUTION AUTHORIZATION CERTIFICATES IN TWO PHASES. IN PHASE ONE, WHICH BEGINS ON THE FIRST DAY OF JANUARY AND ENDS ON THE FIFTEENTH DAY OF JANUARY, THE COMMISSIONER SHALL ACCEPT APPLICATIONS FOR CONTRIBUTION AUTHORIZATION CERTIFICATES BUT SHALL NOT ISSUE ANY SUCH CERTIFICATES. COMMENCING AFTER THE SIXTEENTH DAY OF JANUARY, THE COMMISSIONER SHALL ISSUE CONTRIBUTION AUTHORIZATION

1 CERTIFICATES FOR APPLICATIONS RECEIVED DURING PHASE ONE, PROVIDED THAT
2 IF THE AGGREGATE TOTAL OF THE CONTRIBUTIONS FOR WHICH APPLICATIONS HAVE
3 BEEN RECEIVED DURING PHASE ONE EXCEEDS THE AMOUNT OF THE CREDIT CAP IN
4 SUBDIVISION (H) OF THIS SECTION, THE AUTHORIZED CONTRIBUTION AMOUNT
5 LISTED ON EACH CONTRIBUTION AUTHORIZATION CERTIFICATE SHALL EQUAL THE
6 PRO-RATA SHARE OF THE CREDIT CAP. IF THE CREDIT CAP IS NOT EXCEEDED,
7 PHASE TWO COMMENCES ON JANUARY SIXTEENTH AND ENDS ON NOVEMBER FIRST. THE
8 COMMISSIONER SHALL ISSUE CONTRIBUTION AUTHORIZATION CERTIFICATES ON A
9 FIRST-COME FIRST SERVE BASIS BASED UPON THE DATE THE DEPARTMENT RECEIVED
10 THE TAXPAYER'S APPLICATION FOR SUCH CERTIFICATE; PROVIDED, HOWEVER, THAT
11 IF ON ANY DAY THE DEPARTMENT RECEIVES APPLICATIONS REQUESTING CONTRIB-
12 UTION AUTHORIZATION CERTIFICATES FOR CONTRIBUTIONS THAT IN THE AGGREGATE
13 EXCEED THE AMOUNT OF THE REMAINING AVAILABLE CREDIT ON SUCH DAY, THE
14 AUTHORIZED CONTRIBUTION AMOUNT LISTED IN EACH CONTRIBUTION AUTHORIZATION
15 CERTIFICATE SHALL BE THE TAXPAYER'S PRO-RATA SHARE OF THE REMAINING
16 AVAILABLE CREDIT. FOR PURPOSES OF DETERMINING A TAXPAYER'S PRO-RATA
17 SHARE OF REMAINING AVAILABLE CREDIT, THE COMMISSIONER SHALL MULTIPLY THE
18 AMOUNT OF REMAINING AVAILABLE CREDIT BY A FRACTION, THE NUMERATOR OF
19 WHICH EQUALS THE TOTAL CONTRIBUTION AMOUNT LISTED ON THE TAXPAYER'S
20 APPLICATION AND THE DENOMINATOR OF WHICH EQUALS THE AGGREGATE AMOUNT OF
21 CONTRIBUTIONS LISTED ON THE APPLICATIONS FOR CONTRIBUTION AUTHORIZATION
22 CERTIFICATES RECEIVED ON SUCH DAY. CONTRIBUTION AUTHORIZATION CERTIF-
23 ICATES FOR APPLICATIONS RECEIVED DURING PHASE ONE SHALL BE MAILED NO
24 LATER THAN THE FIFTH DAY OF FEBRUARY. CONTRIBUTION AUTHORIZATION CERTIF-
25 ICATES FOR APPLICATIONS RECEIVED DURING PHASE TWO SHALL BE MAILED WITHIN
26 TWENTY DAYS OF RECEIPT OF SUCH APPLICATIONS. PROVIDED, HOWEVER, THAT NO
27 CONTRIBUTION AUTHORIZATION CERTIFICATES FOR APPLICATIONS RECEIVED DURING
28 PHASE TWO SHALL BE ISSUED UNTIL ALL OF THE CONTRIBUTION AUTHORIZATION
29 CERTIFICATES FOR APPLICATIONS RECEIVED DURING PHASE ONE HAVE BEEN
30 ISSUED.

31 2. CONTRIBUTION AUTHORIZATION CERTIFICATE CONTENTS. EACH CONTRIBUTION
32 AUTHORIZATION CERTIFICATE SHALL STATE: (I) THE DATE SUCH CERTIFICATE WAS
33 ISSUED; (II) THE DATE BY WHICH THE AUTHORIZED CONTRIBUTIONS LISTED IN
34 THE CERTIFICATE MUST BE MADE, WHICH SHALL BE NO LATER THAN NOVEMBER
35 THIRTIETH OF THE YEAR FOR WHICH THE CONTRIBUTION AUTHORIZATION CERTIF-
36 ICATE WAS ISSUED; (III) THE TAXPAYER'S NAME AND ADDRESS; (IV) THE AMOUNT
37 OF AUTHORIZED CONTRIBUTIONS; (V) THE CONTRIBUTION AUTHORIZATION CERTIF-
38 ICATE'S CERTIFICATE NUMBER; (VI) THE NAME AND ADDRESS OF THE PUBLIC
39 EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND
40 OR EDUCATIONAL SCHOLARSHIP ORGANIZATION FOR WHICH THE TAXPAYER MAY MAKE
41 THE AUTHORIZED CONTRIBUTION; AND (VII) ANY OTHER INFORMATION THAT THE
42 COMMISSIONER DEEMS NECESSARY.

43 3. NOTIFICATION OF THE ISSUANCE OF A CONTRIBUTION AUTHORIZATION
44 CERTIFICATE. UPON ISSUANCE OF A CONTRIBUTION AUTHORIZATION CERTIFICATE,
45 THE COMMISSIONER SHALL NOTIFY THE EDUCATIONAL SCHOLARSHIP ORGANIZATION,
46 PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION OR LOCAL EDUCA-
47 TION FUND OF THE ISSUANCE OF THE CONTRIBUTION AUTHORIZATION CERTIFICATE
48 TO A TAXPAYER. SUCH NOTIFICATION SHALL INCLUDE: (I) THE TAXPAYER'S NAME
49 AND ADDRESS; (II) THE DATE SUCH CERTIFICATE WAS ISSUED; (III) THE DATE
50 BY WHICH THE AUTHORIZED CONTRIBUTION LISTED IN THE NOTIFICATION MUST BE
51 MADE BY THE TAXPAYER; (IV) THE AMOUNT OF THE AUTHORIZED CONTRIBUTION;
52 (V) CONTRIBUTION AUTHORIZATION CERTIFICATE; AND (VI) ANY OTHER INFORMA-
53 TION THAT THE COMMISSIONER DEEMS NECESSARY.

54 (G) CERTIFICATE OF RECEIPT. 1. IN GENERAL. NO PUBLIC EDUCATION ENTITY,
55 SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL
56 SCHOLARSHIP ORGANIZATION SHALL ISSUE A CERTIFICATE OF RECEIPT FOR ANY

1 CONTRIBUTION MADE BY A TAXPAYER UNLESS SUCH PUBLIC EDUCATION ENTITY,
2 SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL
3 SCHOLARSHIP ORGANIZATION HAS BEEN APPROVED TO ISSUE CERTIFICATES OF
4 RECEIPT PURSUANT TO ARTICLE TWENTY-FIVE OF THE EDUCATION LAW. NO PUBLIC
5 EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND,
6 OR EDUCATIONAL SCHOLARSHIP ORGANIZATION SHALL ISSUE A CERTIFICATE OF
7 RECEIPT FOR A CONTRIBUTION MADE BY A TAXPAYER UNLESS SUCH PUBLIC EDUCA-
8 TION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, OR
9 EDUCATIONAL SCHOLARSHIP ORGANIZATION HAS RECEIVED NOTICE FROM THE
10 DEPARTMENT THAT THE DEPARTMENT ISSUED A CREDIT AUTHORIZATION CERTIFICATE
11 TO THE TAXPAYER FOR SUCH CONTRIBUTION.

12 2. TIMELY CONTRIBUTION. IF A TAXPAYER MAKES AN AUTHORIZED CONTRIBUTION
13 TO THE PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL
14 EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION SET FORTH ON THE
15 AUTHORIZATION CERTIFICATE ISSUED TO THE TAXPAYER NO LATER THAN THE DATE
16 BY WHICH SUCH AUTHORIZED CONTRIBUTION IS REQUIRED TO BE MADE, SUCH
17 PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCA-
18 TION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION SHALL, WITHIN THIRTY
19 DAYS OF RECEIPT OF THE AUTHORIZED CONTRIBUTION, ISSUE TO THE TAXPAYER A
20 WRITTEN CERTIFICATE OF RECEIPT; PROVIDED, HOWEVER, THAT IF THE TAXPAYER
21 CONTRIBUTES AN AMOUNT THAT IS LESS THAN THE AMOUNT LISTED ON THE TAXPAY-
22 ER'S CONTRIBUTION AUTHORIZATION CERTIFICATE, THE TAXPAYER SHALL NOT BE
23 ISSUED A CERTIFICATE OF RECEIPT FOR SUCH CONTRIBUTION.

24 3. CERTIFICATE OF RECEIPT CONTENTS. EACH CERTIFICATE OF RECEIPT SHALL
25 STATE: (I) THE NAME AND ADDRESS OF THE ISSUING PUBLIC EDUCATION ENTITY,
26 SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL
27 SCHOLARSHIP ORGANIZATION; (II) THE TAXPAYER'S NAME AND ADDRESS; (III)
28 THE DATE FOR EACH CONTRIBUTION; (IV) THE AMOUNT OF EACH CONTRIBUTION AND
29 THE CORRESPONDING CONTRIBUTION AUTHORIZATION CERTIFICATE NUMBER; (V) THE
30 TOTAL AMOUNT OF CONTRIBUTIONS; AND (VI) ANY OTHER INFORMATION THAT THE
31 COMMISSIONER DEEMS NECESSARY.

32 4. NOTIFICATION TO THE DEPARTMENT FOR THE ISSUANCE OF A CERTIFICATE OF
33 RECEIPT. UPON THE ISSUANCE OF A CERTIFICATE OF RECEIPT, THE ISSUING
34 PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCA-
35 TION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION SHALL, WITHIN THIRTY
36 DAYS OF ISSUING THE CERTIFICATE OF RECEIPT, PROVIDE THE DEPARTMENT WITH
37 NOTIFICATION OF THE ISSUANCE OF SUCH CERTIFICATE IN THE FORM AND MANNER
38 PRESCRIBED BY THE DEPARTMENT.

39 5. NOTIFICATION TO THE DEPARTMENT OF THE NON-ISSUANCE OF A CERTIFICATE
40 OF RECEIPT. EACH PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZA-
41 TION, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION THAT
42 RECEIVED NOTIFICATION FROM THE DEPARTMENT PURSUANT TO SUBDIVISION (D) OF
43 THIS SECTION REGARDING THE ISSUANCE OF A CONTRIBUTION AUTHORIZATION
44 CERTIFICATE TO A TAXPAYER SHALL, WITHIN THIRTY DAYS OF THE EXPIRATION
45 DATE FOR SUCH AUTHORIZED CONTRIBUTION, PROVIDE NOTIFICATION TO THE
46 DEPARTMENT FOR EACH TAXPAYER THAT FAILED TO MAKE THE AUTHORIZED CONTRIB-
47 UTION TO SUCH PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION,
48 LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION IN THE
49 FORM AND MANNER PRESCRIBED BY THE DEPARTMENT.

50 6. FAILURE TO NOTIFY THE DEPARTMENT. WITHIN THIRTY DAYS OF DISCOVERY
51 OF THE FAILURE OF ANY PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGAN-
52 IZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION
53 TO COMPLY WITH THE NOTIFICATION REQUIREMENTS PRESCRIBED BY PARAGRAPHS
54 FOUR AND FIVE OF THIS SUBDIVISION, THE COMMISSIONER SHALL ISSUE A NOTICE
55 OF COMPLIANCE FAILURE TO SUCH ENTITY, PROGRAM FUND OR ORGANIZATION. SUCH
56 ENTITY, PROGRAM FUND OR ORGANIZATION SHALL HAVE THIRTY DAYS FROM THE

DATE OF SUCH NOTICE TO MAKE THE NOTIFICATIONS PRESCRIBED BY PARAGRAPHS FOUR AND FIVE OF THIS SUBDIVISION. SUCH PERIOD MAY BE EXTENDED FOR AN ADDITIONAL THIRTY DAYS UPON THE REQUEST OF THE ENTITY, PROGRAM FUND OR ORGANIZATION. UPON THE EXPIRATION OF THE PERIOD FOR COMPLIANCE SET FORTH IN THE NOTICE PRESCRIBED BY THIS PARAGRAPH, THE COMMISSIONER SHALL NOTIFY THE COMMISSIONER OF EDUCATION THAT SUCH ENTITY, PROGRAM FUND OR ORGANIZATION FAILED TO MAKE THE NOTIFICATIONS PRESCRIBED BY PARAGRAPHS FOUR AND FIVE OF THIS SUBDIVISION.

(H) CREDIT CAP. THE MAXIMUM PERMITTED CREDITS UNDER THIS SECTION AVAILABLE ANNUALLY TO ALL TAXPAYERS FOR QUALIFIED CONTRIBUTIONS FOR CALENDAR YEAR TWO THOUSAND SIXTEEN AND ALL FOLLOWING YEARS SHALL BE ONE HUNDRED MILLION DOLLARS. THE MAXIMUM PERMITTED CREDITS UNDER THIS SECTION FOR QUALIFIED CONTRIBUTIONS SHALL BE ALLOCATED FIFTY PERCENT TO PUBLIC EDUCATION ENTITIES, SCHOOL IMPROVEMENT ORGANIZATIONS, AND LOCAL EDUCATION FUNDS AND FIFTY PERCENT TO EDUCATIONAL SCHOLARSHIP ORGANIZATIONS.

(I) ADDITIONS TO THE CREDIT CAP. UNISSUED CERTIFICATES OF RECEIPT. ANY AMOUNTS FOR WHICH THE DEPARTMENT RECEIVES NOTIFICATION OF NON-ISSUANCE OF A CERTIFICATE OF RECEIPT SHALL BE ADDED TO THE CAP PRESCRIBED IN SUBDIVISION (H) OF THIS SECTION FOR THE IMMEDIATELY FOLLOWING YEAR.

(J) OTHER REQUIREMENTS; MISCELLANEOUS. 1. RECORD KEEPING. EACH TAXPAYER SHALL, FOR EACH TAXABLE YEAR FOR WHICH THE EDUCATION TAX CREDIT PROVIDED FOR UNDER THIS SECTION IS CLAIMED, MAINTAIN RECORDS OF THE FOLLOWING INFORMATION: (I) CONTRIBUTION AUTHORIZATION CERTIFICATES OBTAINED PURSUANT TO SUBDIVISION (F) OF THIS SECTION, AND (II) CERTIFICATES OF RECEIPT OBTAINED PURSUANT TO SUBDIVISION (G) OF THIS SECTION.

2. REGULATIONS. THE COMMISSIONER IS HEREBY AUTHORIZED TO PROMULGATE AND ADOPT ON AN EMERGENCY BASIS REGULATIONS NECESSARY FOR THE IMPLEMENTATION OF THIS SECTION.

(K) JOINT ANNUAL REPORT. ON OR BEFORE THE LAST DAY OF MAY FOR EACH CALENDAR YEAR, FOR THE IMMEDIATELY PRECEDING YEAR, THE COMMISSIONER AND THE COMMISSIONER OF EDUCATION SHALL JOINTLY SUBMIT A WRITTEN REPORT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE CHAIRMAN OF THE SENATE FINANCE COMMITTEE AND THE CHAIRMAN OF THE ASSEMBLY WAYS AND MEANS COMMITTEE REGARDING THE CREDIT. SUCH REPORT SHALL CONTAIN INFORMATION FOR ARTICLES NINE-A AND TWENTY-TWO OF THIS CHAPTER, RESPECTIVELY, REGARDING: (I) THE NUMBER OF APPLICATIONS RECEIVED; (II) THE NUMBER OF AND AGGREGATE VALUE OF THE CONTRIBUTION AUTHORIZATION CERTIFICATES ISSUED FOR CONTRIBUTIONS TO PUBLIC EDUCATION ENTITIES, SCHOOL IMPROVEMENT ORGANIZATIONS, LOCAL EDUCATION FUNDS, AND EDUCATIONAL SCHOLARSHIP ORGANIZATIONS, RESPECTIVELY; (III) THE GEOGRAPHICAL DISTRIBUTION BY COUNTY, TO THE EXTENT FEASIBLE, OF (A) THE APPLICATIONS FOR CONTRIBUTION AUTHORIZATION CERTIFICATES, DISTRIBUTION BY THE COUNTY, TO THE EXTENT FEASIBLE, OF (B) THE PUBLIC EDUCATION ENTITIES, SCHOOL IMPROVEMENT ORGANIZATIONS, LOCAL EDUCATION FUNDS, AND EDUCATIONAL SCHOLARSHIP ORGANIZATIONS LISTED ON THE ISSUED CONTRIBUTION AUTHORIZATION CERTIFICATES; AND (IV) INFORMATION, INCLUDING GEOGRAPHICAL DISTRIBUTION BY COUNTY, TO THE EXTENT FEASIBLE, OF THE NUMBER OF ELIGIBLE PUPILS THAT RECEIVED SCHOLARSHIPS, THE NUMBER OF QUALIFIED SCHOOLS ATTENDED BY ELIGIBLE PUPILS THAT RECEIVED SUCH SCHOLARSHIPS, AND THE AVERAGE VALUE OF SCHOLARSHIPS RECEIVED BY SUCH ELIGIBLE PUPILS. THE COMMISSIONER AND DESIGNATED EMPLOYEES OF THE DEPARTMENT AND THE COMMISSIONER OF EDUCATION AND DESIGNATED EMPLOYEES OF THE DEPARTMENT OF EDUCATION SHALL BE ALLOWED AND ARE DIRECTED TO SHARE AND EXCHANGE INFORMATION REGARDING THE SCHOOL IMPROVEMENT ORGANIZATIONS, LOCAL EDUCATION FUNDS AND EDUCATIONAL SCHOLARSHIP ORGANIZATIONS THAT APPLIED FOR APPROVAL TO

BE AUTHORIZED TO RECEIVE QUALIFIED CONTRIBUTIONS; AND THE PUBLIC EDUCATION ENTITIES, SCHOOL IMPROVEMENT ORGANIZATIONS, LOCAL EDUCATION FUNDS, AND EDUCATIONAL SCHOLARSHIP ORGANIZATIONS AUTHORIZED TO ISSUE CERTIFICATES OF RECEIPT, INCLUDING INFORMATION CONTAINED IN OR DERIVED FROM APPLICATION FORMS AND REPORTS SUBMITTED TO THE DEPARTMENT OF EDUCATION OR THE COMMISSIONER OF EDUCATION.

(L) CROSS REFERENCES. FOR APPLICATION OF THE CREDIT PROVIDED FOR IN THIS SECTION, SEE THE FOLLOWING PROVISIONS OF THIS CHAPTER:

(1) ARTICLE 9-A: SECTION 210-B; SUBDIVISION 50;

(2) ARTICLE 22: SECTION 606, SUBSECTION (CCC);

S 5. Paragraph (b) of subdivision 9 of section 208 of the tax law is amended by adding a new subparagraph 22 to read as follows:

(22) THE AMOUNT OF ANY FEDERAL DEDUCTION FOR CHARITABLE CONTRIBUTIONS ALLOWED UNDER SECTION ONE HUNDRED SEVENTY OF THE INTERNAL REVENUE CODE TO THE EXTENT SUCH CONTRIBUTIONS ARE USED AS THE BASIS OF THE CALCULATION OF THE EDUCATION TAX CREDIT ALLOWED UNDER SUBDIVISION FIFTY OF SECTION TWO HUNDRED TEN-B OF THIS ARTICLE.

S 6. Section 210-B of the tax law is amended by adding a new subdivision 50 to read as follows:

50. EDUCATION TAX CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION FORTY-TWO OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR THAT YEAR TO LESS THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX ON THE FIXED DOLLAR MINIMUM THE EXCESS ALLOWED FOR A TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS FOR UP TO FIVE YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

S 7. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding a new clause (xli) to read as follows:

(XLI) EDUCATION TAX CREDIT	AMOUNT OF CREDIT UNDER
UNDER SUBSECTION (CCC)	SUBDIVISION FIFTY OF SECTION
	TWO HUNDRED TEN-B

S 8. Section 606 of the tax law is amended by adding a new subsection (ccc) to read as follows:

(CCC) EDUCATION TAX CREDIT. ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT TO BE COMPUTED AS PROVIDED IN SECTION FORTY-TWO OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE. IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS ALLOWED FOR A TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS FOR UP TO FIVE YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

S 9. Subsection (g) of section 615 of the tax law is amended by adding a new paragraph 3 to read as follows:

(3) WITH RESPECT TO AN INDIVIDUAL WHO HAS CLAIMED THE EDUCATION TAX CREDIT FOR QUALIFIED CONTRIBUTIONS PURSUANT TO SUBDIVISION (CCC) OF SECTION SIX HUNDRED SIX OF THIS ARTICLE, THE TAXPAYER'S NEW YORK ITEMIZED DEDUCTION SHALL BE REDUCED BY ANY CHARITABLE CONTRIBUTION DEDUCTION ALLOWED UNDER SECTION ONE HUNDRED SEVENTY OF THE INTERNAL REVENUE CODE WITH RESPECT TO SUCH QUALIFIED CONTRIBUTIONS.

1 S 10. Severability. If any provision of this section or the applica-
2 tion thereof to any person or circumstances is held invalid, such inva-
3 lidity shall not affect other provisions or applications of the section
4 which can be given effect without the invalid provision or application,
5 and to this end the provisions of this section are declared to be sever-
6 able.

7 S 11. This act shall take effect immediately and shall apply to taxa-
8 ble years beginning on or after January 1, 2016; provided however,
9 notwithstanding the foregoing, this act shall not take effect unless the
10 legislature enacts, by no later than March 31, 2015, a chapter of law
11 identical to legislation submitted by the Governor pursuant to Article
12 VII of the New York Constitution as Part D of legislative bill numbers
13 S.2006 and A.3006 relating to the establishment by the president of the
14 higher education services corporation of an application form and proce-
15 dures that shall allow a student applicant that meets the requirements
16 set forth in subparagraph (ii) of paragraph (a) or subparagraph (ii) of
17 paragraph b of subdivision 5 of section 661 of the education law to
18 apply directly to the higher education services corporation for applica-
19 ble awards without having to submit information to any other state or
20 federal agency.

21 PART F

22 Section 1. The banking law is amended by adding a new section 9-w to
23 read as follows:

24 S 9-W. STANDARD FINANCIAL AID AWARD LETTER. THE SUPERINTENDENT OF
25 FINANCIAL SERVICES IN CONSULTATION WITH THE PRESIDENT OF THE HIGHER
26 EDUCATION SERVICES CORPORATION SHALL DEVELOP A STANDARD FINANCIAL AID
27 AWARD LETTER WHICH SHALL CLEARLY DELINEATE (A) THE ESTIMATED COST OF
28 ATTENDANCE, (B) ALL FINANCIAL AID OFFERED, WITH AN EXPLANATION AS TO
29 WHICH COMPONENTS WILL REQUIRE REPAYMENT, (C) ANY EXPECTED STUDENT AND/OR
30 FAMILY CONTRIBUTION, (D) CAMPUS-SPECIFIC GRADUATION, MEDIAN BORROWING,
31 AND LOAN DEFAULT RATES, AND (E) ANY OTHER INFORMATION AS DETERMINED BY
32 THE SUPERINTENDENT IN CONSULTATION WITH THE PRESIDENT. THE SUPERINTEN-
33 DENT SHALL PUBLISH AND MAKE AVAILABLE SUCH STANDARD LETTER BY DECEMBER
34 THIRTY-FIRST, TWO THOUSAND FIFTEEN AND THEREAFTER. EACH COLLEGE, VOCA-
35 TIONAL INSTITUTION, AND ANY OTHER INSTITUTION THAT OFFERS AN APPROVED
36 PROGRAM AS DEFINED IN SECTION SIX HUNDRED ONE OF THE EDUCATION LAW SHALL
37 UTILIZE THE STANDARD LETTER ISSUED BY THE DEPARTMENT OF FINANCIAL
38 SERVICES IN RESPONDING TO ALL FINANCIAL AID APPLICANTS FOR THE TWO THOU-
39 SAND SIXTEEN--TWO THOUSAND SEVENTEEN ACADEMIC YEAR AND THEREAFTER. THE
40 SUPERINTENDENT SHALL PROMULGATE REGULATIONS IMPLEMENTING THIS SECTION.

41 S 2. This act shall take effect immediately and shall be deemed to
42 have been in full force and effect on and after April 1, 2015.

43 PART G

44 Section 1. Section 7408 of the education law is amended by adding a
45 new subdivision 6 to read as follows:

46 6. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY FIRM ESTABLISHED TO
47 LAWFULLY ENGAGE IN THE PRACTICE OF PUBLIC ACCOUNTANCY PURSUANT TO ARTI-
48 CLE FIFTEEN OF THE BUSINESS CORPORATION LAW, ARTICLES ONE AND EIGHT-B OF
49 THE PARTNERSHIP LAW, OR ARTICLES TWELVE AND THIRTEEN OF THE LIMITED
50 LIABILITY COMPANY LAW SHALL BE DEEMED AUTHORIZED TO REGISTER PURSUANT TO
51 THIS SECTION.

1 S 2. Section 1503 of the business corporation law is amended by adding
2 a new paragraph (h) to read as follows:

3 (H) ANY FIRM ESTABLISHED FOR THE BUSINESS PURPOSE OF INCORPORATING AS
4 A PROFESSIONAL SERVICE CORPORATION FORMED TO LAWFULLY ENGAGE IN THE
5 PRACTICE OF PUBLIC ACCOUNTANCY, AS SUCH PRACTICE IS RESPECTIVELY DEFINED
6 UNDER ARTICLE ONE HUNDRED FORTY-NINE OF THE EDUCATION LAW SHALL BE
7 REQUIRED TO SHOW (1) THAT A SIMPLE MAJORITY OF THE OWNERSHIP OF THE
8 FIRM, IN TERMS OF FINANCIAL INTERESTS, INCLUDING OWNERSHIP-BASED COMPEN-
9 SATION, AND VOTING RIGHTS HELD BY THE FIRM'S OWNERS, BELONGS TO INDIVID-
10 UALS LICENSED TO PRACTICE PUBLIC ACCOUNTANCY IN SOME STATE, AND (2) THAT
11 ALL SHAREHOLDERS OF A PROFESSIONAL SERVICE CORPORATION WHOSE PRINCIPAL
12 PLACE OF BUSINESS IS IN THIS STATE, AND WHO ARE ENGAGED IN THE PRACTICE
13 OF PUBLIC ACCOUNTANCY IN THIS STATE, HOLD A VALID LICENSE ISSUED UNDER
14 SECTION SEVENTY-FOUR HUNDRED FOUR OF THE EDUCATION LAW OR ARE PUBLIC
15 ACCOUNTANTS LICENSED UNDER SECTION SEVENTY-FOUR HUNDRED FIVE OF THE
16 EDUCATION LAW. ALTHOUGH FIRMS MAY INCLUDE NON-LICENSEE OWNERS, THE FIRM
17 AND ITS OWNERS MUST COMPLY WITH RULES PROMULGATED BY THE STATE BOARD FOR
18 PUBLIC ACCOUNTANCY. NOTWITHSTANDING THE PROVISIONS OF THIS PARAGRAPH, A
19 FIRM INCORPORATED UNDER THIS SECTION MAY NOT HAVE NON-LICENSEE OWNERS IF
20 THE FIRM'S NAME INCLUDES THE WORDS "CERTIFIED PUBLIC ACCOUNTANT," OR
21 "CERTIFIED PUBLIC ACCOUNTANTS," OR THE ABBREVIATIONS "CPA" OR "CPAS".
22 EACH NON-LICENSEE OWNER OF A FIRM THAT IS INCORPORATED UNDER THIS
23 SECTION SHALL BE (1) A NATURAL PERSON WHO ACTIVELY PARTICIPATES IN THE
24 BUSINESS OF THE FIRM OR ITS AFFILIATED ENTITIES, OR (2) AN ENTITY,
25 INCLUDING, BUT NOT LIMITED TO, A PARTNERSHIP OR PROFESSIONAL CORPO-
26 RATION, PROVIDED EACH BENEFICIAL OWNER OF AN EQUITY INTEREST IN SUCH
27 ENTITY IS A NATURAL PERSON WHO ACTIVELY PARTICIPATES IN THE BUSINESS
28 CONDUCTED BY THE FIRM OR ITS AFFILIATED ENTITIES. FOR PURPOSES OF THIS
29 SUBDIVISION, "ACTIVELY PARTICIPATE" MEANS TO PROVIDE SERVICES TO CLIENTS
30 OR TO OTHERWISE INDIVIDUALLY TAKE PART IN THE DAY-TO-DAY BUSINESS OR
31 MANAGEMENT OF THE FIRM. SUCH A FIRM SHALL HAVE ATTACHED TO ITS CERTIF-
32 ICATE OF INCORPORATION A CERTIFICATE OR CERTIFICATES DEMONSTRATING THE
33 FIRM'S COMPLIANCE WITH THIS PARAGRAPH, IN LIEU OF THE CERTIFICATE OR
34 CERTIFICATES REQUIRED BY SUBPARAGRAPH (II) OF PARAGRAPH (B) OF THIS
35 SECTION.

36 S 3. Section 1507 of the business corporation law is amended by adding
37 a new paragraph (c) to read as follows:

38 (C) ANY FIRM ESTABLISHED FOR THE BUSINESS PURPOSE OF INCORPORATING AS
39 A PROFESSIONAL SERVICE CORPORATION PURSUANT TO PARAGRAPH (H) OF SECTION
40 FIFTEEN HUNDRED THREE OF THIS ARTICLE MAY ISSUE SHARES TO INDIVIDUALS
41 WHO ARE AUTHORIZED BY LAW TO PRACTICE IN THIS STATE A PROFESSION WHICH
42 SUCH CORPORATION IS AUTHORIZED TO PRACTICE AND WHO ARE OR HAVE BEEN
43 ENGAGED IN THE PRACTICE OF SUCH PROFESSION IN SUCH CORPORATION OR A
44 PREDECESSOR ENTITY, OR WHO WILL ENGAGE IN THE PRACTICE OF SUCH PROFES-
45 SION IN SUCH CORPORATION WITHIN THIRTY DAYS OF THE DATE SUCH SHARES ARE
46 ISSUED AND MAY ALSO ISSUE SHARES TO EMPLOYEES OF THE CORPORATION NOT
47 LICENSED AS CERTIFIED PUBLIC ACCOUNTANTS, PROVIDED THAT:

48 (I) AT LEAST FIFTY-ONE PERCENT OF THE OUTSTANDING SHARES OF STOCK OF
49 THE CORPORATION ARE OWNED BY CERTIFIED PUBLIC ACCOUNTANTS,

50 (II) AT LEAST FIFTY-ONE PERCENT OF THE DIRECTORS ARE CERTIFIED PUBLIC
51 ACCOUNTANTS,

52 (III) AT LEAST FIFTY-ONE PERCENT OF THE OFFICERS ARE CERTIFIED PUBLIC
53 ACCOUNTANTS,

54 (IV) THE PRESIDENT, THE CHAIRPERSON OF THE BOARD OF DIRECTORS AND THE
55 CHIEF EXECUTIVE OFFICER OR OFFICERS ARE CERTIFIED PUBLIC ACCOUNTANTS.
56 NO SHAREHOLDER OF A FIRM ESTABLISHED FOR THE BUSINESS PURPOSE OF INCOR-

1 PORATING AS A PROFESSIONAL SERVICE CORPORATION PURSUANT TO PARAGRAPH (H)
2 OF SECTION FIFTEEN HUNDRED THREE OF THIS ARTICLE SHALL ENTER INTO A
3 VOTING TRUST AGREEMENT, PROXY OR ANY OTHER TYPE OF AGREEMENT VESTING IN
4 ANOTHER PERSON, OTHER THAN ANOTHER SHAREHOLDER OF THE SAME CORPORATION,
5 THE AUTHORITY TO EXERCISE VOTING POWER OF ANY OR ALL OF HIS OR HER
6 SHARES. ALL SHARES ISSUED, AGREEMENTS MADE OR PROXIES GRANTED IN
7 VIOLATION OF THIS SECTION SHALL BE VOID.

8 S 4. Section 1508 of the business corporation law is amended by adding
9 a new paragraph (c) to read as follows:

10 (C) THE DIRECTORS AND OFFICERS OF ANY FIRM ESTABLISHED FOR THE BUSI-
11 NESS PURPOSE OF INCORPORATING AS A PROFESSIONAL SERVICE CORPORATION
12 PURSUANT TO PARAGRAPH (H) OF SECTION FIFTEEN HUNDRED THREE OF THIS ARTI-
13 CLE MAY INCLUDE INDIVIDUALS WHO ARE NOT LICENSED TO PRACTICE PUBLIC
14 ACCOUNTANCY, PROVIDED HOWEVER THAT AT LEAST FIFTY-ONE PERCENT OF THE
15 DIRECTORS, AT LEAST FIFTY-ONE PERCENT OF THE OFFICERS AND THE PRESIDENT,
16 THE CHAIRPERSON OF THE BOARD OF DIRECTORS AND THE CHIEF EXECUTIVE OFFI-
17 CER OR OFFICERS ARE AUTHORIZED BY LAW TO PRACTICE IN THIS STATE A
18 PROFESSION WHICH SUCH CORPORATION IS AUTHORIZED TO PRACTICE, AND ARE
19 EITHER SHAREHOLDERS OF SUCH CORPORATION OR ENGAGED IN THE PRACTICE OF
20 THEIR PROFESSIONS IN SUCH CORPORATION.

21 S 5. Section 1509 of the business corporation law, as amended by chap-
22 ter 550 of the laws of 2011, is amended to read as follows:

23 S 1509. Disqualification of shareholders, directors, officers and
24 employees.

25 If any shareholder, director, officer or employee of a professional
26 service corporation, including a design professional service corpo-
27 ration, OR ANY FIRM ESTABLISHED FOR THE BUSINESS PURPOSE OF INCORPORAT-
28 ING AS A PROFESSIONAL SERVICE CORPORATION PURSUANT TO PARAGRAPH (H) OF
29 SECTION FIFTEEN HUNDRED THREE OF THIS ARTICLE, who has been rendering
30 professional service to the public becomes legally disqualified to prac-
31 tice his profession within this state, he shall sever all employment
32 with, and financial interests (other than interests as a creditor) in,
33 such corporation forthwith or as otherwise provided in section 1510 of
34 this article. All provisions of law regulating the rendering of profes-
35 sional services by a person elected or appointed to a public office
36 shall be applicable to a shareholder, director, officer and employee of
37 such corporation in the same manner and to the same extent as if fully
38 set forth herein. Such legal disqualification to practice his profession
39 within this state shall be deemed to constitute an irrevocable offer by
40 the disqualified shareholder to sell his shares to the corporation,
41 pursuant to the provisions of section 1510 of this article or of the
42 certificate of incorporation, by-laws or agreement among the corporation
43 and all shareholders, whichever is applicable. Compliance with the terms
44 of such offer shall be specifically enforceable in the courts of this
45 state. A professional service corporation's failure to enforce compli-
46 ance with this provision shall constitute a ground for forfeiture of its
47 certificate of incorporation and its dissolution.

48 S 6. Paragraph (a) of section 1511 of the business corporation law, as
49 amended by chapter 550 of the laws of 2011, is amended and new paragraph
50 (c) is added to read as follows:

51 (a) No shareholder of a professional service corporation [or], INCLUD-
52 ING a design professional service corporation, OR ANY FIRM ESTABLISHED
53 FOR THE BUSINESS PURPOSE OF INCORPORATING AS A PROFESSIONAL SERVICE
54 CORPORATION PURSUANT TO PARAGRAPH (H) OF SECTION FIFTEEN HUNDRED THREE
55 OF THIS ARTICLE, may sell or transfer his shares in such corporation
56 except to another individual who is eligible to have shares issued to

1 him by such corporation or except in trust to another individual who
2 would be eligible to receive shares if he were employed by the corpo-
3 ration. Nothing herein contained shall be construed to prohibit the
4 transfer of shares by operation of law or by court decree. No transfer-
5 ee of shares by operation of law or court decree may vote the shares for
6 any purpose whatsoever except with respect to corporate action under
7 sections 909 and 1001 of this chapter. The restriction in the preceding
8 sentence shall not apply, however, where such transferee would be eligi-
9 ble to have shares issued to him if he were an employee of the corpo-
10 ration and, if there are other shareholders, a majority of such other
11 shareholders shall fail to redeem the shares so transferred, pursuant to
12 section 1510 of this article, within sixty days of receiving written
13 notice of such transfer. Any sale or transfer, except by operation of
14 law or court decree or except for a corporation having only one share-
15 holder, may be made only after the same shall have been approved by the
16 board of directors, or at a shareholders' meeting specially called for
17 such purpose by such proportion, not less than a majority, of the
18 outstanding shares as may be provided in the certificate of incorpo-
19 ration or in the by-laws of such professional service corporation. At
20 such shareholders' meeting the shares held by the shareholder proposing
21 to sell or transfer his shares may not be voted or counted for any
22 purpose, unless all shareholders consent that such shares be voted or
23 counted. The certificate of incorporation or the by-laws of the profes-
24 sional service corporation, or the professional service corporation and
25 the shareholders by private agreement, may provide, in lieu of or in
26 addition to the foregoing provisions, for the alienation of shares and
27 may require the redemption or purchase of such shares by such corpo-
28 ration at prices and in a manner specifically set forth therein. The
29 existence of the restrictions on the sale or transfer of shares, as
30 contained in this article and, if applicable, in the certificate of
31 incorporation, by-laws, stock purchase or stock redemption agreement,
32 shall be noted conspicuously on the face or back of every certificate
33 for shares issued by a professional service corporation. Any sale or
34 transfer in violation of such restrictions shall be void.

35 (C) A FIRM ESTABLISHED FOR THE BUSINESS PURPOSE OF INCORPORATING AS A
36 PROFESSIONAL SERVICE CORPORATION PURSUANT TO PARAGRAPH (H) OF SECTION
37 FIFTEEN HUNDRED THREE OF THIS ARTICLE, SHALL PURCHASE OR REDEEM THE
38 SHARES OF A NON-LICENSED PROFESSIONAL SHAREHOLDER IN THE CASE OF HIS OR
39 HER TERMINATION OF EMPLOYMENT WITHIN THIRTY DAYS AFTER SUCH TERMINATION.
40 A FIRM ESTABLISHED FOR THE BUSINESS PURPOSE OF INCORPORATING AS A
41 PROFESSIONAL SERVICE CORPORATION PURSUANT TO PARAGRAPH (H) OF SECTION
42 FIFTEEN HUNDRED THREE OF THIS ARTICLE, SHALL NOT BE REQUIRED TO PURCHASE
43 OR REDEEM THE SHARES OF A TERMINATED NON-LICENSED PROFESSIONAL SHARE-
44 HOLDER IF SUCH SHARES, WITHIN THIRTY DAYS AFTER SUCH TERMINATION, ARE
45 SOLD OR TRANSFERRED TO ANOTHER EMPLOYEE OF THE CORPORATION PURSUANT TO
46 THIS ARTICLE.

47 S 7. Paragraph (a) of section 1512 of the business corporation law, as
48 amended by chapter 550 of the laws of 2011, is amended to read as
49 follows:

50 (a) Notwithstanding any other provision of law, the name of a profes-
51 sional service corporation, including a design professional service
52 corporation AND ANY FIRM ESTABLISHED FOR THE BUSINESS PURPOSE OF INCOR-
53 PORATING AS A PROFESSIONAL SERVICE CORPORATION PURSUANT TO PARAGRAPH (H)
54 OF SECTION FIFTEEN HUNDRED THREE OF THIS ARTICLE, may contain any word
55 which, at the time of incorporation, could be used in the name of a
56 partnership practicing a profession which the corporation is authorized

1 to practice, and may not contain any word which could not be used by
2 such a partnership. Provided, however, the name of a professional
3 service corporation may not contain the name of a deceased person unless
4 (1) such person's name was part of the corporate name at the time of
5 such person's death; or

6 (2) such person's name was part of the name of an existing partnership
7 and at least two-thirds of such partnership's partners become sharehold-
8 ers of the corporation.

9 S 8. Section 1514 of the business corporation law is amended by adding
10 a new paragraph (c) to read as follows:

11 (C) EACH FIRM ESTABLISHED FOR THE BUSINESS PURPOSE OF INCORPORATING AS
12 A PROFESSIONAL SERVICE CORPORATION PURSUANT TO PARAGRAPH (H) OF SECTION
13 FIFTEEN HUNDRED THREE OF THIS ARTICLE SHALL, AT LEAST ONCE EVERY THREE
14 YEARS ON OR BEFORE THE DATE PRESCRIBED BY THE LICENSING AUTHORITY,
15 FURNISH A STATEMENT TO THE LICENSING AUTHORITY LISTING THE NAMES AND
16 RESIDENCE ADDRESSES OF EACH SHAREHOLDER, DIRECTOR AND OFFICER OF SUCH
17 CORPORATION AND CERTIFY AS THE DATE OF CERTIFICATION AND AT ALL TIMES
18 OVER THE ENTIRE THREE YEAR PERIOD THAT:

19 (I) AT LEAST FIFTY-ONE PERCENT OF THE OUTSTANDING SHARES OF STOCK OF
20 THE CORPORATION ARE AND WERE OWNED BY CERTIFIED PUBLIC ACCOUNTANTS,

21 (II) AT LEAST FIFTY-ONE PERCENT OF THE DIRECTORS ARE AND WERE CERTI-
22 FIED PUBLIC ACCOUNTANTS,

23 (III) AT LEAST FIFTY-ONE PERCENT OF THE OFFICERS ARE AND WERE CERTI-
24 FIED PUBLIC ACCOUNTANTS,

25 (IV) THE PRESIDENT, THE CHAIRPERSON OF THE BOARD OF DIRECTORS AND THE
26 CHIEF EXECUTIVE OFFICER OR OFFICERS ARE AND WERE CERTIFIED PUBLIC
27 ACCOUNTANTS.

28 THE STATEMENT SHALL BE SIGNED BY THE PRESIDENT OR ANY CERTIFIED PUBLIC
29 ACCOUNTANT VICE-PRESIDENT AND ATTESTED TO BY THE SECRETARY OR ANY
30 ASSISTANT SECRETARY OF THE CORPORATION.

31 S 9. Paragraph (d) of section 1525 of the business corporation law, as
32 added by chapter 505 of the laws of 1983, is amended to read as follows:

33 (d) "Foreign professional service corporation" means a professional
34 service corporation, whether or not denominated as such, organized under
35 the laws of a jurisdiction other than this state, all of the sharehold-
36 ers, directors and officers of which are authorized and licensed to
37 practice the profession for which such corporation is licensed to do
38 business; except that all shareholders, directors and officers of a
39 foreign professional service corporation which provides health services
40 in this state shall be licensed in this state. NOTWITHSTANDING ANY OTHER
41 PROVISION OF LAW A FOREIGN PROFESSIONAL SERVICE CORPORATION FORMED TO
42 LAWFULLY ENGAGE IN THE PRACTICE OF PUBLIC ACCOUNTANCY, AS SUCH PRACTICE
43 IS RESPECTIVELY DEFINED UNDER ARTICLE ONE HUNDRED FORTY-NINE OF THE
44 EDUCATION LAW, SHALL BE REQUIRED TO SHOW (1) THAT A SIMPLE MAJORITY OF
45 THE OWNERSHIP OF THE FIRM, IN TERMS OF FINANCIAL INTERESTS, INCLUDING
46 OWNERSHIP-BASED COMPENSATION, AND VOTING RIGHTS HELD BY THE FIRM'S
47 OWNERS, BELONGS TO INDIVIDUALS LICENSED TO PRACTICE PUBLIC ACCOUNTANCY
48 IN SOME STATE, AND (2) THAT ALL SHAREHOLDERS OF A FOREIGN PROFESSIONAL
49 SERVICE CORPORATION WHOSE PRINCIPAL PLACE OF BUSINESS IS IN THIS STATE,
50 AND WHO ARE ENGAGED IN THE PRACTICE OF PUBLIC ACCOUNTANCY IN THIS STATE,
51 HOLD A VALID LICENSE ISSUED UNDER SECTION SEVENTY-FOUR HUNDRED FOUR OF
52 THE EDUCATION LAW OR ARE PUBLIC ACCOUNTANTS LICENSED UNDER SECTION
53 SEVENTY-FOUR HUNDRED FIVE OF THE EDUCATION LAW. ALTHOUGH FIRMS MAY
54 INCLUDE NON-LICENSEE OWNERS, THE FIRM AND ITS OWNERS MUST COMPLY WITH
55 RULES PROMULGATED BY THE STATE BOARD FOR PUBLIC ACCOUNTANCY. NOTWITH-
56 STANDING THE FOREGOING, A FIRM REGISTERED UNDER THIS SECTION MAY NOT

1 HAVE NON-LICENSEE OWNERS IF THE FIRM'S NAME INCLUDES THE WORDS "CERTI-
2 FIED PUBLIC ACCOUNTANT," OR "CERTIFIED PUBLIC ACCOUNTANTS," OR THE
3 ABBREVIATIONS "CPA" OR "CPAS." EACH NON-LICENSEE OWNER OF A FIRM THAT IS
4 INCORPORATED UNDER THIS SECTION SHALL BE (1) A NATURAL PERSON WHO
5 ACTIVELY PARTICIPATES IN THE BUSINESS OF THE FIRM OR ITS AFFILIATED
6 ENTITIES, OR (2) AN ENTITY, INCLUDING, BUT NOT LIMITED TO, A PARTNERSHIP
7 OR PROFESSIONAL CORPORATION, PROVIDED EACH BENEFICIAL OWNER OF AN EQUITY
8 INTEREST IN SUCH ENTITY IS A NATURAL PERSON WHO ACTIVELY PARTICIPATES IN
9 THE BUSINESS CONDUCTED BY THE FIRM OR ITS AFFILIATED ENTITIES. FOR
10 PURPOSES OF THIS SUBDIVISION, "ACTIVELY PARTICIPATE" MEANS TO PROVIDE
11 SERVICES TO CLIENTS OR TO OTHERWISE INDIVIDUALLY TAKE PART IN THE
12 DAY-TO-DAY BUSINESS OR MANAGEMENT OF THE FIRM.

13 S 10. The fourteenth undesignated paragraph of section 2 of the part-
14 nership law, as added by chapter 576 of the laws of 1994, is amended to
15 read as follows:

16 "Professional partnership" means (1) a partnership without limited
17 partners each of whose partners is a professional authorized by law to
18 render a professional service within this state, (2) a partnership with-
19 out limited partners each of whose partners is a professional, at least
20 one of whom is authorized by law to render a professional service within
21 this state or (3) a partnership without limited partners authorized by,
22 or holding a license, certificate, registration or permit issued by the
23 licensing authority pursuant to the education law to render a profes-
24 sional service within this state; except that all partners of a profes-
25 sional partnership that provides medical services in this state must be
26 licensed pursuant to article 131 of the education law to practice medi-
27 cine in this state and all partners of a professional partnership that
28 provides dental services in this state must be licensed pursuant to
29 article 133 of the education law to practice dentistry in this state;
30 [and further] except that all partners of a professional partnership
31 that provides professional engineering, land surveying, architectural
32 and/or landscape architectural services in this state must be licensed
33 pursuant to article 145, article 147 and/or article 148 of the education
34 law to practice one or more of such professions in this state; AND
35 FURTHER EXCEPT THAT ALL PARTNERS OF A PROFESSIONAL PARTNERSHIP THAT
36 PROVIDES PUBLIC ACCOUNTANCY SERVICES, WHOSE PRINCIPAL PLACE OF BUSINESS
37 IS IN THIS STATE AND WHO PROVIDE PUBLIC ACCOUNTANCY SERVICES, MUST BE
38 LICENSED PURSUANT TO ARTICLE 149 OF THE EDUCATION LAW TO PRACTICE PUBLIC
39 ACCOUNTANCY IN THIS STATE. NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW
40 A PROFESSIONAL PARTNERSHIP FORMED TO LAWFULLY ENGAGE IN THE PRACTICE OF
41 PUBLIC ACCOUNTANCY, AS SUCH PRACTICE IS RESPECTIVELY DEFINED UNDER ARTI-
42 CLE 149 OF THE EDUCATION LAW, SHALL BE REQUIRED TO SHOW (1) THAT A
43 SIMPLE MAJORITY OF THE OWNERSHIP OF THE FIRM, IN TERMS OF FINANCIAL
44 INTERESTS, INCLUDING OWNERSHIP-BASED COMPENSATION, AND VOTING RIGHTS
45 HELD BY THE FIRM'S OWNERS, BELONGS TO INDIVIDUALS LICENSED TO PRACTICE
46 PUBLIC ACCOUNTANCY IN SOME STATE, AND (2) THAT ALL SHAREHOLDERS OF A
47 PROFESSIONAL PARTNERSHIP WHOSE PRINCIPAL PLACE OF BUSINESS IS IN THIS
48 STATE, AND WHO ARE ENGAGED IN THE PRACTICE OF PUBLIC ACCOUNTANCY IN THIS
49 STATE, HOLD A VALID LICENSE ISSUED UNDER SECTION 7404 OF THE EDUCATION
50 LAW OR ARE PUBLIC ACCOUNTANTS LICENSED UNDER SECTION 7405 OF THE EDUCA-
51 TION LAW. ALTHOUGH FIRMS MAY INCLUDE NON-LICENSEE OWNERS, THE FIRM AND
52 ITS OWNERS MUST COMPLY WITH RULES PROMULGATED BY THE STATE BOARD FOR
53 PUBLIC ACCOUNTANCY. NOTWITHSTANDING THE FOREGOING, A FIRM REGISTERED
54 UNDER THIS SECTION MAY NOT HAVE NON-LICENSEE OWNERS IF THE FIRM'S NAME
55 INCLUDES THE WORDS "CERTIFIED PUBLIC ACCOUNTANT," OR "CERTIFIED PUBLIC
56 ACCOUNTANTS," OR THE ABBREVIATIONS "CPA" OR "CPAS." EACH NON-LICENSEE

OWNER OF A FIRM THAT IS INCORPORATED UNDER THIS SECTION SHALL BE (1) A NATURAL PERSON WHO ACTIVELY PARTICIPATES IN THE BUSINESS OF THE FIRM OR ITS AFFILIATED ENTITIES, OR (2) AN ENTITY, INCLUDING, BUT NOT LIMITED TO, A PARTNERSHIP OR PROFESSIONAL CORPORATION, PROVIDED EACH BENEFICIAL OWNER OF AN EQUITY INTEREST IN SUCH ENTITY IS A NATURAL PERSON WHO ACTIVELY PARTICIPATES IN THE BUSINESS CONDUCTED BY THE FIRM OR ITS AFFILIATED ENTITIES. FOR PURPOSES OF THIS SUBDIVISION, "ACTIVELY PARTICIPATE" MEANS TO PROVIDE SERVICES TO CLIENTS OR TO OTHERWISE INDIVIDUALLY TAKE PART IN THE DAY-TO-DAY BUSINESS OR MANAGEMENT OF THE FIRM.

S 10-a. The fourteenth undesignated paragraph of section 2 of the partnership law, as amended by chapter 475 of the laws of 2014, is amended to read as follows:

"Professional partnership" means (1) a partnership without limited partners each of whose partners is a professional authorized by law to render a professional service within this state, (2) a partnership without limited partners each of whose partners is a professional, at least one of whom is authorized by law to render a professional service within this state or (3) a partnership without limited partners authorized by, or holding a license, certificate, registration or permit issued by the licensing authority pursuant to the education law to render a professional service within this state; except that all partners of a professional partnership that provides medical services in this state must be licensed pursuant to article 131 of the education law to practice medicine in this state and all partners of a professional partnership that provides dental services in this state must be licensed pursuant to article 133 of the education law to practice dentistry in this state; [and further] except that all partners of a professional partnership that provides professional engineering, land surveying, geologic, architectural and/or landscape architectural services in this state must be licensed pursuant to article 145, article 147 and/or article 148 of the education law to practice one or more of such professions in this state; AND FURTHER EXCEPT THAT ALL PARTNERS OF A PROFESSIONAL PARTNERSHIP THAT PROVIDES PUBLIC ACCOUNTANCY SERVICES, WHOSE PRINCIPAL PLACE OF BUSINESS IS IN THIS STATE AND WHO PROVIDE PUBLIC ACCOUNTANCY SERVICES, MUST BE LICENSED PURSUANT TO ARTICLE 149 OF THE EDUCATION LAW TO PRACTICE PUBLIC ACCOUNTANCY IN THIS STATE. NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW A PROFESSIONAL PARTNERSHIP FORMED TO LAWFULLY ENGAGE IN THE PRACTICE OF PUBLIC ACCOUNTANCY, AS SUCH PRACTICE IS RESPECTIVELY DEFINED UNDER ARTICLE 149 OF THE EDUCATION LAW, SHALL BE REQUIRED TO SHOW (1) THAT A SIMPLE MAJORITY OF THE OWNERSHIP OF THE FIRM, IN TERMS OF FINANCIAL INTERESTS, INCLUDING OWNERSHIP-BASED COMPENSATION, AND VOTING RIGHTS HELD BY THE FIRM'S OWNERS, BELONGS TO INDIVIDUALS LICENSED TO PRACTICE PUBLIC ACCOUNTANCY IN SOME STATE, AND (2) THAT ALL SHAREHOLDERS OF A PROFESSIONAL PARTNERSHIP WHOSE PRINCIPAL PLACE OF BUSINESS IS IN THIS STATE, AND WHO ARE ENGAGED IN THE PRACTICE OF PUBLIC ACCOUNTANCY IN THIS STATE, HOLD A VALID LICENSE ISSUED UNDER SECTION 7404 OF THE EDUCATION LAW OR ARE PUBLIC ACCOUNTANTS LICENSED UNDER SECTION 7405 OF THE EDUCATION LAW. ALTHOUGH FIRMS MAY INCLUDE NON-LICENSEE OWNERS, THE FIRM AND ITS OWNERS MUST COMPLY WITH RULES PROMULGATED BY THE STATE BOARD FOR PUBLIC ACCOUNTANCY. NOTWITHSTANDING THE FOREGOING, A FIRM REGISTERED UNDER THIS SECTION MAY NOT HAVE NON-LICENSEE OWNERS IF THE FIRM'S NAME INCLUDES THE WORDS "CERTIFIED PUBLIC ACCOUNTANT," OR "CERTIFIED PUBLIC ACCOUNTANTS," OR THE ABBREVIATIONS "CPA" OR "CPAS." EACH NON-LICENSEE OWNER OF A FIRM THAT IS INCORPORATED UNDER THIS SECTION SHALL BE (1) A NATURAL PERSON WHO ACTIVELY PARTICIPATES IN THE BUSINESS OF THE FIRM OR ITS AFFILIATED ENTITIES, OR (2) AN ENTITY, INCLUDING, BUT NOT LIMITED

TO, A PARTNERSHIP OR PROFESSIONAL CORPORATION, PROVIDED EACH BENEFICIAL OWNER OF AN EQUITY INTEREST IN SUCH ENTITY IS A NATURAL PERSON WHO ACTIVELY PARTICIPATES IN THE BUSINESS CONDUCTED BY THE FIRM OR ITS AFFILIATED ENTITIES. FOR PURPOSES OF THIS SUBDIVISION, "ACTIVELY PARTICIPATE" MEANS TO PROVIDE SERVICES TO CLIENTS OR TO OTHERWISE INDIVIDUALLY TAKE PART IN THE DAY-TO-DAY BUSINESS OR MANAGEMENT OF THE FIRM.

S 11. Subdivision (q) of section 121-1500 of the partnership law, as amended by chapter 554 of the laws of 2013, is amended to read as follows:

(q) Each partner of a registered limited liability partnership formed to provide medical services in this state must be licensed pursuant to article 131 of the education law to practice medicine in this state and each partner of a registered limited liability partnership formed to provide dental services in this state must be licensed pursuant to article 133 of the education law to practice dentistry in this state. Each partner of a registered limited liability partnership formed to provide veterinary services in this state must be licensed pursuant to article 135 of the education law to practice veterinary medicine in this state. EACH PARTNER OF A REGISTERED LIMITED LIABILITY PARTNERSHIP FORMED TO PROVIDE PUBLIC ACCOUNTANCY SERVICES, WHOSE PRINCIPAL PLACE OF BUSINESS IS IN THIS STATE AND WHO PROVIDES PUBLIC ACCOUNTANCY SERVICES, MUST BE LICENSED PURSUANT TO ARTICLE 149 OF THE EDUCATION LAW TO PRACTICE PUBLIC ACCOUNTANCY IN THIS STATE. Each partner of a registered limited liability partnership formed to provide professional engineering, land surveying, architectural and/or landscape architectural services in this state must be licensed pursuant to article 145, article 147 and/or article 148 of the education law to practice one or more of such professions in this state. Each partner of a registered limited liability partnership formed to provide licensed clinical social work services in this state must be licensed pursuant to article 154 of the education law to practice clinical social work in this state. Each partner of a registered limited liability partnership formed to provide creative arts therapy services in this state must be licensed pursuant to article 163 of the education law to practice creative arts therapy in this state. Each partner of a registered limited liability partnership formed to provide marriage and family therapy services in this state must be licensed pursuant to article 163 of the education law to practice marriage and family therapy in this state. Each partner of a registered limited liability partnership formed to provide mental health counseling services in this state must be licensed pursuant to article 163 of the education law to practice mental health counseling in this state. Each partner of a registered limited liability partnership formed to provide psychoanalysis services in this state must be licensed pursuant to article 163 of the education law to practice psychoanalysis in this state. Each partner of a registered limited liability partnership formed to provide applied behavior analysis service in this state must be licensed or certified pursuant to article 167 of the education law to practice applied behavior analysis in this state. NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW A LIMITED LIABILITY PARTNERSHIP FORMED TO LAWFULLY ENGAGE IN THE PRACTICE OF PUBLIC ACCOUNTANCY, AS SUCH PRACTICE IS RESPECTIVELY DEFINED UNDER ARTICLE 149 OF THE EDUCATION LAW, SHALL BE REQUIRED TO SHOW (1) THAT A SIMPLE MAJORITY OF THE OWNERSHIP OF THE FIRM, IN TERMS OF FINANCIAL INTERESTS, INCLUDING OWNERSHIP-BASED COMPENSATION, AND VOTING RIGHTS HELD BY THE FIRM'S OWNERS, BELONGS TO INDIVIDUALS LICENSED TO PRACTICE PUBLIC ACCOUNTANCY IN SOME STATE, AND (2) THAT ALL PARTNERS OF A LIMITED LIABILITY PARTNERSHIP WHOSE PRINCIPAL PLACE OF BUSINESS IS IN THIS

1 STATE, AND WHO ARE ENGAGED IN THE PRACTICE OF PUBLIC ACCOUNTANCY IN THIS
2 STATE, HOLD A VALID LICENSE ISSUED UNDER SECTION 7404 OF THE EDUCATION
3 LAW OR ARE PUBLIC ACCOUNTANTS LICENSED UNDER SECTION 7405 OF THE EDUCA-
4 TION LAW. ALTHOUGH FIRMS MAY INCLUDE NON-LICENSEE OWNERS, THE FIRM AND
5 ITS OWNERS MUST COMPLY WITH RULES PROMULGATED BY THE STATE BOARD FOR
6 PUBLIC ACCOUNTANCY. NOTWITHSTANDING THE FOREGOING, A FIRM REGISTERED
7 UNDER THIS SECTION MAY NOT HAVE NON-LICENSEE OWNERS IF THE FIRM'S NAME
8 INCLUDES THE WORDS "CERTIFIED PUBLIC ACCOUNTANT," OR "CERTIFIED PUBLIC
9 ACCOUNTANTS," OR THE ABBREVIATIONS "CPA" OR "CPAS." EACH NON-LICENSEE
10 OWNER OF A FIRM THAT IS INCORPORATED UNDER THIS SECTION SHALL BE (1) A
11 NATURAL PERSON WHO ACTIVELY PARTICIPATES IN THE BUSINESS OF THE FIRM OR
12 ITS AFFILIATED ENTITIES, OR (2) AN ENTITY, INCLUDING, BUT NOT LIMITED
13 TO, A PARTNERSHIP OR PROFESSIONAL CORPORATION, PROVIDED EACH BENEFICIAL
14 OWNER OF AN EQUITY INTEREST IN SUCH ENTITY IS A NATURAL PERSON WHO
15 ACTIVELY PARTICIPATES IN THE BUSINESS CONDUCTED BY THE FIRM OR ITS
16 AFFILIATED ENTITIES. FOR PURPOSES OF THIS SUBDIVISION, "ACTIVELY PARTIC-
17 IPATE" MEANS TO PROVIDE SERVICES TO CLIENTS OR TO OTHERWISE INDIVIDUALLY
18 TAKE PART IN THE DAY-TO-DAY BUSINESS OR MANAGEMENT OF THE FIRM.

19 S 11-a. Subdivision (q) of section 121-1500 of the partnership law, as
20 amended by chapter 475 of the laws of 2014, is amended to read as
21 follows:

22 (q) Each partner of a registered limited liability partnership formed
23 to provide medical services in this state must be licensed pursuant to
24 article 131 of the education law to practice medicine in this state and
25 each partner of a registered limited liability partnership formed to
26 provide dental services in this state must be licensed pursuant to arti-
27 cle 133 of the education law to practice dentistry in this state. Each
28 partner of a registered limited liability partnership formed to provide
29 veterinary services in this state must be licensed pursuant to article
30 135 of the education law to practice veterinary medicine in this state.
31 EACH PARTNER OF A REGISTERED LIMITED LIABILITY PARTNERSHIP FORMED TO
32 PROVIDE PUBLIC ACCOUNTANCY SERVICES, WHOSE PRINCIPAL PLACE OF BUSINESS
33 IS IN THIS STATE AND WHO PROVIDES PUBLIC ACCOUNTANCY SERVICES, MUST BE
34 LICENSED PURSUANT TO ARTICLE 149 OF THE EDUCATION LAW TO PRACTICE PUBLIC
35 ACCOUNTANCY IN THIS STATE. Each partner of a registered limited liabil-
36 ity partnership formed to provide professional engineering, land survey-
37 ing, geological services, architectural and/or landscape architectural
38 services in this state must be licensed pursuant to article 145, article
39 147 and/or article 148 of the education law to practice one or more of
40 such professions in this state. Each partner of a registered limited
41 liability partnership formed to provide licensed clinical social work
42 services in this state must be licensed pursuant to article 154 of the
43 education law to practice clinical social work in this state. Each part-
44 ner of a registered limited liability partnership formed to provide
45 creative arts therapy services in this state must be licensed pursuant
46 to article 163 of the education law to practice creative arts therapy in
47 this state. Each partner of a registered limited liability partnership
48 formed to provide marriage and family therapy services in this state
49 must be licensed pursuant to article 163 of the education law to prac-
50 tice marriage and family therapy in this state. Each partner of a regis-
51 tered limited liability partnership formed to provide mental health
52 counseling services in this state must be licensed pursuant to article
53 163 of the education law to practice mental health counseling in this
54 state. Each partner of a registered limited liability partnership formed
55 to provide psychoanalysis services in this state must be licensed pursu-
56 ant to article 163 of the education law to practice psychoanalysis in

1 this state. Each partner of a registered limited liability partnership
2 formed to provide applied behavior analysis service in this state must
3 be licensed or certified pursuant to article 167 of the education law to
4 practice applied behavior analysis in this state. NOTWITHSTANDING ANY
5 OTHER PROVISIONS OF LAW A LIMITED LIABILITY PARTNERSHIP FORMED TO
6 LAWFULLY ENGAGE IN THE PRACTICE OF PUBLIC ACCOUNTANCY, AS SUCH PRACTICE
7 IS RESPECTIVELY DEFINED UNDER ARTICLE 149 OF THE EDUCATION LAW, SHALL BE
8 REQUIRED TO SHOW (1) THAT A SIMPLE MAJORITY OF THE OWNERSHIP OF THE
9 FIRM, IN TERMS OF FINANCIAL INTERESTS, INCLUDING OWNERSHIP-BASED COMPEN-
10 SATION, AND VOTING RIGHTS HELD BY THE FIRM'S OWNERS, BELONGS TO INDIVID-
11 UALS LICENSED TO PRACTICE PUBLIC ACCOUNTANCY IN SOME STATE, AND (2) THAT
12 ALL PARTNERS OF A LIMITED LIABILITY PARTNERSHIP WHOSE PRINCIPAL PLACE OF
13 BUSINESS IS IN THIS STATE, AND WHO ARE ENGAGED IN THE PRACTICE OF PUBLIC
14 ACCOUNTANCY IN THIS STATE, HOLD A VALID LICENSE ISSUED UNDER SECTION
15 7404 OF THE EDUCATION LAW OR ARE PUBLIC ACCOUNTANTS LICENSED UNDER
16 SECTION 7405 OF THE EDUCATION LAW. ALTHOUGH FIRMS MAY INCLUDE NON-LI-
17 CENSEE OWNERS, THE FIRM AND ITS OWNERS MUST COMPLY WITH RULES PROMULGAT-
18 ED BY THE STATE BOARD FOR PUBLIC ACCOUNTANCY. NOTWITHSTANDING THE FORE-
19 GOING, A FIRM REGISTERED UNDER THIS SECTION MAY NOT HAVE NON-LICENSEE
20 OWNERS IF THE FIRM'S NAME INCLUDES THE WORDS "CERTIFIED PUBLIC ACCOUNT-
21 ANT," OR "CERTIFIED PUBLIC ACCOUNTANTS," OR THE ABBREVIATIONS "CPA" OR
22 "CPAS." EACH NON-LICENSEE OWNER OF A FIRM THAT IS INCORPORATED UNDER
23 THIS SECTION SHALL BE (1) A NATURAL PERSON WHO ACTIVELY PARTICIPATES IN
24 THE BUSINESS OF THE FIRM OR ITS AFFILIATED ENTITIES, OR (2) AN ENTITY,
25 INCLUDING, BUT NOT LIMITED TO, A PARTNERSHIP OR PROFESSIONAL CORPO-
26 RATION, PROVIDED EACH BENEFICIAL OWNER OF AN EQUITY INTEREST IN SUCH
27 ENTITY IS A NATURAL PERSON WHO ACTIVELY PARTICIPATES IN THE BUSINESS
28 CONDUCTED BY THE FIRM OR ITS AFFILIATED ENTITIES. FOR PURPOSES OF THIS
29 SUBDIVISION, "ACTIVELY PARTICIPATE" MEANS TO PROVIDE SERVICES TO CLIENTS
30 OR TO OTHERWISE INDIVIDUALLY TAKE PART IN THE DAY-TO-DAY BUSINESS OR
31 MANAGEMENT OF THE FIRM.

32 S 12. Subdivision (q) of section 121-1502 of the partnership law, as
33 amended by chapter 554 of the laws of 2013, is amended to read as
34 follows:

35 (q) Each partner of a foreign limited liability partnership which
36 provides medical services in this state must be licensed pursuant to
37 article 131 of the education law to practice medicine in the state and
38 each partner of a foreign limited liability partnership which provides
39 dental services in the state must be licensed pursuant to article 133 of
40 the education law to practice dentistry in this state. Each partner of a
41 foreign limited liability partnership which provides veterinary service
42 in the state shall be licensed pursuant to article 135 of the education
43 law to practice veterinary medicine in this state. Each partner of a
44 foreign limited liability partnership which provides professional engi-
45 neering, land surveying, architectural and/or landscape architectural
46 services in this state must be licensed pursuant to article 145, article
47 147 and/or article 148 of the education law to practice one or more of
48 such professions. EACH PARTNER OF A FOREIGN REGISTERED LIMITED LIABILITY
49 PARTNERSHIP FORMED TO PROVIDE PUBLIC ACCOUNTANCY SERVICES, WHOSE PRINCI-
50 PAL PLACE OF BUSINESS IS IN THIS STATE AND WHO PROVIDES PUBLIC ACCOUN-
51 TANCY SERVICES, MUST BE LICENSED PURSUANT TO ARTICLE 149 OF THE EDUCA-
52 TION LAW TO PRACTICE PUBLIC ACCOUNTANCY IN THIS STATE. Each partner of a
53 foreign limited liability partnership which provides licensed clinical
54 social work services in this state must be licensed pursuant to article
55 154 of the education law to practice licensed clinical social work in
56 this state. Each partner of a foreign limited liability partnership

1 which provides creative arts therapy services in this state must be
2 licensed pursuant to article 163 of the education law to practice crea-
3 tive arts therapy in this state. Each partner of a foreign limited
4 liability partnership which provides marriage and family therapy
5 services in this state must be licensed pursuant to article 163 of the
6 education law to practice marriage and family therapy in this state.
7 Each partner of a foreign limited liability partnership which provides
8 mental health counseling services in this state must be licensed pursu-
9 ant to article 163 of the education law to practice mental health coun-
10 seling in this state. Each partner of a foreign limited liability part-
11 nership which provides psychoanalysis services in this state must be
12 licensed pursuant to article 163 of the education law to practice
13 psychoanalysis in this state. Each partner of a foreign limited liabil-
14 ity partnership which provides applied behavior analysis services in
15 this state must be licensed or certified pursuant to article 167 of the
16 education law to practice applied behavior analysis in this state.
17 NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW A FOREIGN LIMITED LIABILITY
18 PARTNERSHIP FORMED TO LAWFULLY ENGAGE IN THE PRACTICE OF PUBLIC ACCOUN-
19 TANCY, AS SUCH PRACTICE IS RESPECTIVELY DEFINED UNDER ARTICLE 149 OF THE
20 EDUCATION LAW, SHALL BE REQUIRED TO SHOW (1) THAT A SIMPLE MAJORITY OF
21 THE OWNERSHIP OF THE FIRM, IN TERMS OF FINANCIAL INTERESTS, INCLUDING
22 OWNERSHIP-BASED COMPENSATION, AND VOTING RIGHTS HELD BY THE FIRM'S
23 OWNERS, BELONGS TO INDIVIDUALS LICENSED TO PRACTICE PUBLIC ACCOUNTANCY
24 IN SOME STATE, AND (2) THAT ALL PARTNERS OF A FOREIGN LIMITED LIABILITY
25 PARTNERSHIP WHOSE PRINCIPAL PLACE OF BUSINESS IS IN THIS STATE, AND WHO
26 ARE ENGAGED IN THE PRACTICE OF PUBLIC ACCOUNTANCY IN THIS STATE, HOLD A
27 VALID LICENSE ISSUED UNDER SECTION 7404 OF THE EDUCATION LAW OR ARE
28 PUBLIC ACCOUNTANTS LICENSED UNDER SECTION 7405 OF THE EDUCATION LAW.
29 ALTHOUGH FIRMS MAY INCLUDE NON-LICENSEE OWNERS, THE FIRM AND ITS OWNERS
30 MUST COMPLY WITH RULES PROMULGATED BY THE STATE BOARD FOR PUBLIC ACCOUN-
31 TANCY. NOTWITHSTANDING THE FOREGOING, A FIRM REGISTERED UNDER THIS
32 SECTION MAY NOT HAVE NON-LICENSEE OWNERS IF THE FIRM'S NAME INCLUDES THE
33 WORDS "CERTIFIED PUBLIC ACCOUNTANT," OR "CERTIFIED PUBLIC ACCOUNTANTS,"
34 OR THE ABBREVIATIONS "CPA" OR "CPAS." EACH NON-LICENSEE OWNER OF A FIRM
35 THAT IS INCORPORATED UNDER THIS SECTION SHALL BE (1) A NATURAL PERSON
36 WHO ACTIVELY PARTICIPATES IN THE BUSINESS OF THE FIRM OR ITS AFFILIATED
37 ENTITIES, OR (2) AN ENTITY, INCLUDING, BUT NOT LIMITED TO, A PARTNERSHIP
38 OR PROFESSIONAL CORPORATION, PROVIDED EACH BENEFICIAL OWNER OF AN EQUITY
39 INTEREST IN SUCH ENTITY IS A NATURAL PERSON WHO ACTIVELY PARTICIPATES IN
40 THE BUSINESS CONDUCTED BY THE FIRM OR ITS AFFILIATED ENTITIES. FOR
41 PURPOSES OF THIS SUBDIVISION, "ACTIVELY PARTICIPATE" MEANS TO PROVIDE
42 SERVICES TO CLIENTS OR TO OTHERWISE INDIVIDUALLY TAKE PART IN THE
43 DAY-TO-DAY BUSINESS OR MANAGEMENT OF THE FIRM.

44 S 12-a. Subdivision (q) of section 121-1502 of the partnership law, as
45 amended by chapter 475 of the laws of 2014, is amended to read as
46 follows:

47 (q) Each partner of a foreign limited liability partnership which
48 provides medical services in this state must be licensed pursuant to
49 article 131 of the education law to practice medicine in the state and
50 each partner of a foreign limited liability partnership which provides
51 dental services in the state must be licensed pursuant to article 133 of
52 the education law to practice dentistry in this state. Each partner of
53 a foreign limited liability partnership which provides veterinary
54 service in the state shall be licensed pursuant to article 135 of the
55 education law to practice veterinary medicine in this state. Each part-
56 ner of a foreign limited liability partnership which provides profes-

1 sional engineering, land surveying, geological services, architectural
2 and/or landscape architectural services in this state must be licensed
3 pursuant to article 145, article 147 and/or article 148 of the education
4 law to practice one or more of such professions. EACH PARTNER OF A
5 FOREIGN REGISTERED LIMITED LIABILITY PARTNERSHIP FORMED TO PROVIDE
6 PUBLIC ACCOUNTANCY SERVICES, WHOSE PRINCIPAL PLACE OF BUSINESS IS IN
7 THIS STATE AND WHO PROVIDES PUBLIC ACCOUNTANCY SERVICES, MUST BE
8 LICENSED PURSUANT TO ARTICLE 149 OF THE EDUCATION LAW TO PRACTICE PUBLIC
9 ACCOUNTANCY IN THIS STATE. Each partner of a foreign limited liability
10 partnership which provides licensed clinical social work services in
11 this state must be licensed pursuant to article 154 of the education law
12 to practice licensed clinical social work in this state. Each partner of
13 a foreign limited liability partnership which provides creative arts
14 therapy services in this state must be licensed pursuant to article 163
15 of the education law to practice creative arts therapy in this state.
16 Each partner of a foreign limited liability partnership which provides
17 marriage and family therapy services in this state must be licensed
18 pursuant to article 163 of the education law to practice marriage and
19 family therapy in this state. Each partner of a foreign limited liabil-
20 ity partnership which provides mental health counseling services in this
21 state must be licensed pursuant to article 163 of the education law to
22 practice mental health counseling in this state. Each partner of a
23 foreign limited liability partnership which provides psychoanalysis
24 services in this state must be licensed pursuant to article 163 of the
25 education law to practice psychoanalysis in this state. Each partner of
26 a foreign limited liability partnership which provides applied behavior
27 analysis services in this state must be licensed or certified pursuant
28 to article 167 of the education law to practice applied behavior analy-
29 sis in this state. NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW A FOREIGN
30 LIMITED LIABILITY PARTNERSHIP FORMED TO LAWFULLY ENGAGE IN THE PRACTICE
31 OF PUBLIC ACCOUNTANCY, AS SUCH PRACTICE IS RESPECTIVELY DEFINED UNDER
32 ARTICLE 149 OF THE EDUCATION LAW, SHALL BE REQUIRED TO SHOW (1) THAT A
33 SIMPLE MAJORITY OF THE OWNERSHIP OF THE FIRM, IN TERMS OF FINANCIAL
34 INTERESTS, INCLUDING OWNERSHIP-BASED COMPENSATION, AND VOTING RIGHTS
35 HELD BY THE FIRM'S OWNERS, BELONGS TO INDIVIDUALS LICENSED TO PRACTICE
36 PUBLIC ACCOUNTANCY IN SOME STATE, AND (2) THAT ALL PARTNERS OF A FOREIGN
37 LIMITED LIABILITY PARTNERSHIP WHOSE PRINCIPAL PLACE OF BUSINESS IS IN
38 THIS STATE, AND WHO ARE ENGAGED IN THE PRACTICE OF PUBLIC ACCOUNTANCY IN
39 THIS STATE, HOLD A VALID LICENSE ISSUED UNDER SECTION 7404 OF THE EDUCA-
40 TION LAW OR ARE PUBLIC ACCOUNTANTS LICENSED UNDER SECTION 7405 OF THE
41 EDUCATION LAW. ALTHOUGH FIRMS MAY INCLUDE NON-LICENSEE OWNERS, THE FIRM
42 AND ITS OWNERS MUST COMPLY WITH RULES PROMULGATED BY THE STATE BOARD FOR
43 PUBLIC ACCOUNTANCY. NOTWITHSTANDING THE FOREGOING, A FIRM REGISTERED
44 UNDER THIS SECTION MAY NOT HAVE NON-LICENSEE OWNERS IF THE FIRM'S NAME
45 INCLUDES THE WORDS "CERTIFIED PUBLIC ACCOUNTANT," OR "CERTIFIED PUBLIC
46 ACCOUNTANTS," OR THE ABBREVIATIONS "CPA" OR "CPAS." EACH NON-LICENSEE
47 OWNER OF A FIRM THAT IS INCORPORATED UNDER THIS SECTION SHALL BE (1) A
48 NATURAL PERSON WHO ACTIVELY PARTICIPATES IN THE BUSINESS OF THE FIRM OR
49 ITS AFFILIATED ENTITIES, OR (2) AN ENTITY, INCLUDING, BUT NOT LIMITED
50 TO, A PARTNERSHIP OR PROFESSIONAL CORPORATION, PROVIDED EACH BENEFICIAL
51 OWNER OF AN EQUITY INTEREST IN SUCH ENTITY IS A NATURAL PERSON WHO
52 ACTIVELY PARTICIPATES IN THE BUSINESS CONDUCTED BY THE FIRM OR ITS
53 AFFILIATED ENTITIES. FOR PURPOSES OF THIS SUBDIVISION, "ACTIVELY
54 PARTICIPATE" MEANS TO PROVIDE SERVICES TO CLIENTS OR TO OTHERWISE INDI-
55 VIDUALLY TAKE PART IN THE DAY-TO-DAY BUSINESS OR MANAGEMENT OF THE FIRM.

1 S 13. Subdivision (h) of section 121-101 of the partnership law, as
2 added by chapter 950 of the laws of 1990, is amended to read as follows:

3 (h) "Limited partnership" and "domestic limited partnership" mean,
4 unless the context otherwise requires, a partnership (i) formed by two
5 or more persons pursuant to this article or which complies with subdivi-
6 sion (a) of section 121-1202 of this article and (ii) having one or more
7 general partners and one or more limited partners. NOTWITHSTANDING ANY
8 OTHER PROVISIONS OF LAW A LIMITED PARTNERSHIP OR DOMESTIC LIMITED PART-
9 NERSHIP FORMED TO LAWFULLY ENGAGE IN THE PRACTICE OF PUBLIC ACCOUNTANCY,
10 AS SUCH PRACTICE IS RESPECTIVELY DEFINED UNDER ARTICLE 149 OF THE EDUCA-
11 TION LAW SHALL BE REQUIRED TO SHOW (1) THAT A SIMPLE MAJORITY OF THE
12 OWNERSHIP OF THE FIRM, IN TERMS OF FINANCIAL INTERESTS, INCLUDING OWNER-
13 SHIP-BASED COMPENSATION, AND VOTING RIGHTS HELD BY THE FIRM'S OWNERS,
14 BELONGS TO INDIVIDUALS LICENSED TO PRACTICE PUBLIC ACCOUNTANCY IN SOME
15 STATE, AND (2) THAT ALL PARTNERS OF A LIMITED PARTNERSHIP OR DOMESTIC
16 LIMITED PARTNERSHIP, WHOSE PRINCIPAL PLACE OF BUSINESS IS IN THIS STATE,
17 AND WHO ARE ENGAGED IN THE PRACTICE OF PUBLIC ACCOUNTANCY IN THIS STATE,
18 HOLD A VALID LICENSE ISSUED UNDER SECTION 7404 OF THE EDUCATION LAW OR
19 ARE PUBLIC ACCOUNTANTS LICENSED UNDER SECTION 7405 OF THE EDUCATION LAW.
20 ALTHOUGH FIRMS MAY INCLUDE NON-LICENSEE OWNERS, THE FIRM AND ITS OWNERS
21 MUST COMPLY WITH RULES PROMULGATED BY THE STATE BOARD FOR PUBLIC ACCOUN-
22 TANCY. NOTWITHSTANDING THE FOREGOING, A FIRM REGISTERED UNDER THIS
23 SECTION MAY NOT HAVE NON-LICENSEE OWNERS IF THE FIRM'S NAME INCLUDES THE
24 WORDS "CERTIFIED PUBLIC ACCOUNTANT," OR "CERTIFIED PUBLIC ACCOUNTANTS,"
25 OR THE ABBREVIATIONS "CPA" OR "CPAS." EACH NON-LICENSEE OWNER OF A FIRM
26 THAT IS REGISTERED UNDER THIS SECTION SHALL BE (1) A NATURAL PERSON WHO
27 ACTIVELY PARTICIPATES IN THE BUSINESS OF THE FIRM OR ITS AFFILIATED
28 ENTITIES, OR (2) AN ENTITY, INCLUDING, BUT NOT LIMITED TO, A PARTNERSHIP
29 OR PROFESSIONAL CORPORATION, PROVIDED EACH BENEFICIAL OWNER OF AN EQUITY
30 INTEREST IN SUCH ENTITY IS A NATURAL PERSON WHO ACTIVELY PARTICIPATES IN
31 THE BUSINESS CONDUCTED BY THE FIRM OR ITS AFFILIATED ENTITIES. FOR
32 PURPOSES OF THIS SUBDIVISION, "ACTIVELY PARTICIPATE" MEANS TO PROVIDE
33 SERVICES TO CLIENTS OR TO OTHERWISE INDIVIDUALLY TAKE PART IN THE
34 DAY-TO-DAY BUSINESS OR MANAGEMENT OF THE FIRM.

35 S 14. Subdivision (b) of section 1207 of the limited liability company
36 law, as amended by chapter 554 of the laws of 2013, is amended to read
37 as follows:

38 (b) With respect to a professional service limited liability company
39 formed to provide medical services as such services are defined in arti-
40 cle 131 of the education law, each member of such limited liability
41 company must be licensed pursuant to article 131 of the education law to
42 practice medicine in this state. With respect to a professional service
43 limited liability company formed to provide dental services as such
44 services are defined in article 133 of the education law, each member of
45 such limited liability company must be licensed pursuant to article 133
46 of the education law to practice dentistry in this state. With respect
47 to a professional service limited liability company formed to provide
48 veterinary services as such services are defined in article 135 of the
49 education law, each member of such limited liability company must be
50 licensed pursuant to article 135 of the education law to practice veter-
51 inary medicine in this state. With respect to a professional service
52 limited liability company formed to provide professional engineering,
53 land surveying, architectural and/or landscape architectural services as
54 such services are defined in article 145, article 147 and article 148 of
55 the education law, each member of such limited liability company must be
56 licensed pursuant to article 145, article 147 and/or article 148 of the

1 education law to practice one or more of such professions in this state.
2 WITH RESPECT TO A PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY FORMED
3 TO PROVIDE PUBLIC ACCOUNTANCY SERVICES AS SUCH SERVICES ARE DEFINED IN
4 ARTICLE 149 OF THE EDUCATION LAW EACH MEMBER OF SUCH LIMITED LIABILITY
5 COMPANY WHOSE PRINCIPAL PLACE OF BUSINESS IS IN THIS STATE AND WHO
6 PROVIDES PUBLIC ACCOUNTANCY SERVICES, MUST BE LICENSED PURSUANT TO ARTI-
7 CLE 149 OF THE EDUCATION LAW TO PRACTICE PUBLIC ACCOUNTANCY IN THIS
8 STATE. With respect to a professional service limited liability company
9 formed to provide licensed clinical social work services as such
10 services are defined in article 154 of the education law, each member of
11 such limited liability company shall be licensed pursuant to article 154
12 of the education law to practice licensed clinical social work in this
13 state. With respect to a professional service limited liability company
14 formed to provide creative arts therapy services as such services are
15 defined in article 163 of the education law, each member of such limited
16 liability company must be licensed pursuant to article 163 of the educa-
17 tion law to practice creative arts therapy in this state. With respect
18 to a professional service limited liability company formed to provide
19 marriage and family therapy services as such services are defined in
20 article 163 of the education law, each member of such limited liability
21 company must be licensed pursuant to article 163 of the education law to
22 practice marriage and family therapy in this state. With respect to a
23 professional service limited liability company formed to provide mental
24 health counseling services as such services are defined in article 163
25 of the education law, each member of such limited liability company must
26 be licensed pursuant to article 163 of the education law to practice
27 mental health counseling in this state. With respect to a professional
28 service limited liability company formed to provide psychoanalysis
29 services as such services are defined in article 163 of the education
30 law, each member of such limited liability company must be licensed
31 pursuant to article 163 of the education law to practice psychoanalysis
32 in this state. With respect to a professional service limited liability
33 company formed to provide applied behavior analysis services as such
34 services are defined in article 167 of the education law, each member of
35 such limited liability company must be licensed or certified pursuant to
36 article 167 of the education law to practice applied behavior analysis
37 in this state. NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW A PROFES-
38 SIONAL SERVICE LIMITED LIABILITY COMPANY FORMED TO LAWFULLY ENGAGE IN
39 THE PRACTICE OF PUBLIC ACCOUNTANCY, AS SUCH PRACTICE IS RESPECTIVELY
40 DEFINED UNDER ARTICLE 149 OF THE EDUCATION LAW SHALL BE REQUIRED TO SHOW
41 (1) THAT A SIMPLE MAJORITY OF THE OWNERSHIP OF THE FIRM, IN TERMS OF
42 FINANCIAL INTERESTS, INCLUDING OWNERSHIP-BASED COMPENSATION, AND VOTING
43 RIGHTS HELD BY THE FIRM'S OWNERS, BELONGS TO INDIVIDUALS LICENSED TO
44 PRACTICE PUBLIC ACCOUNTANCY IN SOME STATE, AND (2) THAT ALL MEMBERS OF A
45 LIMITED PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY, WHOSE PRINCIPAL
46 PLACE OF BUSINESS IS IN THIS STATE, AND WHO ARE ENGAGED IN THE PRACTICE
47 OF PUBLIC ACCOUNTANCY IN THIS STATE, HOLD A VALID LICENSE ISSUED UNDER
48 SECTION 7404 OF ARTICLE 149 OF THE EDUCATION LAW OR ARE PUBLIC ACCOUNT-
49 ANTS LICENSED UNDER SECTION 7405 OF ARTICLE 149 OF THE EDUCATION LAW.
50 ALTHOUGH FIRMS MAY INCLUDE NON-LICENSEE OWNERS, THE FIRM AND ITS OWNERS
51 MUST COMPLY WITH RULES PROMULGATED BY THE STATE BOARD FOR PUBLIC ACCOUN-
52 TANCY. NOTWITHSTANDING THE FOREGOING, A FIRM REGISTERED UNDER THIS
53 SECTION MAY NOT HAVE NON-LICENSEE OWNERS IF THE FIRM'S NAME INCLUDES THE
54 WORDS "CERTIFIED PUBLIC ACCOUNTANT," OR "CERTIFIED PUBLIC ACCOUNTANTS,"
55 OR THE ABBREVIATIONS "CPA" OR "CPAS." EACH NON-LICENSEE OWNER OF A FIRM
56 THAT IS REGISTERED UNDER THIS SECTION SHALL BE (1) A NATURAL PERSON WHO

1 ACTIVELY PARTICIPATES IN THE BUSINESS OF THE FIRM OR ITS AFFILIATED
2 ENTITIES, OR (2) AN ENTITY, INCLUDING, BUT NOT LIMITED TO, A PARTNERSHIP
3 OR PROFESSIONAL CORPORATION, PROVIDED EACH BENEFICIAL OWNER OF AN EQUITY
4 INTEREST IN SUCH ENTITY IS A NATURAL PERSON WHO ACTIVELY PARTICIPATES IN
5 THE BUSINESS CONDUCTED BY THE FIRM OR ITS AFFILIATED ENTITIES. FOR
6 PURPOSES OF THIS SUBDIVISION, "ACTIVELY PARTICIPATE" MEANS TO PROVIDE
7 SERVICES TO CLIENTS OR TO OTHERWISE INDIVIDUALLY TAKE PART IN THE
8 DAY-TO-DAY BUSINESS OR MANAGEMENT OF THE FIRM.

9 S 14-a. Subdivision (b) of section 1207 of the limited liability
10 company law, as amended by chapter 475 of the laws of 2014, is amended
11 to read as follows:

12 (b) With respect to a professional service limited liability company
13 formed to provide medical services as such services are defined in arti-
14 cle 131 of the education law, each member of such limited liability
15 company must be licensed pursuant to article 131 of the education law to
16 practice medicine in this state. With respect to a professional service
17 limited liability company formed to provide dental services as such
18 services are defined in article 133 of the education law, each member of
19 such limited liability company must be licensed pursuant to article 133
20 of the education law to practice dentistry in this state. With respect
21 to a professional service limited liability company formed to provide
22 veterinary services as such services are defined in article 135 of the
23 education law, each member of such limited liability company must be
24 licensed pursuant to article 135 of the education law to practice veter-
25 inary medicine in this state. With respect to a professional service
26 limited liability company formed to provide professional engineering,
27 land surveying, architectural, landscape architectural and/or geological
28 services as such services are defined in article 145, article 147 and
29 article 148 of the education law, each member of such limited liability
30 company must be licensed pursuant to article 145, article 147 and/or
31 article 148 of the education law to practice one or more of such
32 professions in this state. WITH RESPECT TO A PROFESSIONAL SERVICE
33 LIMITED LIABILITY COMPANY FORMED TO PROVIDE PUBLIC ACCOUNTANCY SERVICES
34 AS SUCH SERVICES ARE DEFINED IN ARTICLE 149 OF THE EDUCATION LAW EACH
35 MEMBER OF SUCH LIMITED LIABILITY COMPANY WHOSE PRINCIPAL PLACE OF BUSI-
36 NESS IS IN THIS STATE AND WHO PROVIDES PUBLIC ACCOUNTANCY SERVICES, MUST
37 BE LICENSED PURSUANT TO ARTICLE 149 OF THE EDUCATION LAW TO PRACTICE
38 PUBLIC ACCOUNTANCY IN THIS STATE. With respect to a professional service
39 limited liability company formed to provide licensed clinical social
40 work services as such services are defined in article 154 of the educa-
41 tion law, each member of such limited liability company shall be
42 licensed pursuant to article 154 of the education law to practice
43 licensed clinical social work in this state. With respect to a profes-
44 sional service limited liability company formed to provide creative arts
45 therapy services as such services are defined in article 163 of the
46 education law, each member of such limited liability company must be
47 licensed pursuant to article 163 of the education law to practice crea-
48 tive arts therapy in this state. With respect to a professional service
49 limited liability company formed to provide marriage and family therapy
50 services as such services are defined in article 163 of the education
51 law, each member of such limited liability company must be licensed
52 pursuant to article 163 of the education law to practice marriage and
53 family therapy in this state. With respect to a professional service
54 limited liability company formed to provide mental health counseling
55 services as such services are defined in article 163 of the education
56 law, each member of such limited liability company must be licensed

1 pursuant to article 163 of the education law to practice mental health
2 counseling in this state. With respect to a professional service limited
3 liability company formed to provide psychoanalysis services as such
4 services are defined in article 163 of the education law, each member of
5 such limited liability company must be licensed pursuant to article 163
6 of the education law to practice psychoanalysis in this state. With
7 respect to a professional service limited liability company formed to
8 provide applied behavior analysis services as such services are defined
9 in article 167 of the education law, each member of such limited liabil-
10 ity company must be licensed or certified pursuant to article 167 of the
11 education law to practice applied behavior analysis in this state.
12 NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW A PROFESSIONAL SERVICE
13 LIMITED LIABILITY COMPANY FORMED TO LAWFULLY ENGAGE IN THE PRACTICE OF
14 PUBLIC ACCOUNTANCY, AS SUCH PRACTICE IS RESPECTIVELY DEFINED UNDER ARTI-
15 CLE 149 OF THE EDUCATION LAW SHALL BE REQUIRED TO SHOW (1) THAT A SIMPLE
16 MAJORITY OF THE OWNERSHIP OF THE FIRM, IN TERMS OF FINANCIAL INTERESTS,
17 INCLUDING OWNERSHIP-BASED COMPENSATION, AND VOTING RIGHTS HELD BY THE
18 FIRM'S OWNERS, BELONGS TO INDIVIDUALS LICENSED TO PRACTICE PUBLIC
19 ACCOUNTANCY IN SOME STATE, AND (2) THAT ALL MEMBERS OF A LIMITED PROFES-
20 SIONAL SERVICE LIMITED LIABILITY COMPANY, WHOSE PRINCIPAL PLACE OF BUSI-
21 NESS IS IN THIS STATE, AND WHO ARE ENGAGED IN THE PRACTICE OF PUBLIC
22 ACCOUNTANCY IN THIS STATE, HOLD A VALID LICENSE ISSUED UNDER SECTION
23 7404 OF ARTICLE 149 OF THE EDUCATION LAW OR ARE PUBLIC ACCOUNTANTS
24 LICENSED UNDER SECTION 7405 OF ARTICLE 149 OF THE EDUCATION LAW.
25 ALTHOUGH FIRMS MAY INCLUDE NON-LICENSEE OWNERS, THE FIRM AND ITS OWNERS
26 MUST COMPLY WITH RULES PROMULGATED BY THE STATE BOARD FOR PUBLIC ACCOUN-
27 TANCY. NOTWITHSTANDING THE FOREGOING, A FIRM REGISTERED UNDER THIS
28 SECTION MAY NOT HAVE NON-LICENSEE OWNERS IF THE FIRM'S NAME INCLUDES THE
29 WORDS "CERTIFIED PUBLIC ACCOUNTANT," OR "CERTIFIED PUBLIC ACCOUNTANTS,"
30 OR THE ABBREVIATIONS "CPA" OR "CPAS." EACH NON-LICENSEE OWNER OF A FIRM
31 THAT IS REGISTERED UNDER THIS SECTION SHALL BE (1) A NATURAL PERSON WHO
32 ACTIVELY PARTICIPATES IN THE BUSINESS OF THE FIRM OR ITS AFFILIATED
33 ENTITIES, OR (2) AN ENTITY, INCLUDING, BUT NOT LIMITED TO, A PARTNERSHIP
34 OR PROFESSIONAL CORPORATION, PROVIDED EACH BENEFICIAL OWNER OF AN EQUITY
35 INTEREST IN SUCH ENTITY IS A NATURAL PERSON WHO ACTIVELY PARTICIPATES IN
36 THE BUSINESS CONDUCTED BY THE FIRM OR ITS AFFILIATED ENTITIES. FOR
37 PURPOSES OF THIS SUBDIVISION, "ACTIVELY PARTICIPATE" MEANS TO PROVIDE
38 SERVICES TO CLIENTS OR TO OTHERWISE INDIVIDUALLY TAKE PART IN THE
39 DAY-TO-DAY BUSINESS OR MANAGEMENT OF THE FIRM.

40 S 15. Subdivisions (a) and (f) of section 1301 of the limited liabil-
41 ity company law, subdivision (a) as amended by chapter 554 of the laws
42 of 2013 and subdivision (f) as amended by chapter 170 of the laws of
43 1996, are amended to read as follows:

44 (a) "Foreign professional service limited liability company" means a
45 professional service limited liability company, whether or not denomi-
46 nated as such, organized under the laws of a jurisdiction other than
47 this state, (i) each of whose members and managers, if any, is a profes-
48 sional authorized by law to render a professional service within this
49 state and who is or has been engaged in the practice of such profession
50 in such professional service limited liability company or a predecessor
51 entity, or will engage in the practice of such profession in the profes-
52 sional service limited liability company within thirty days of the date
53 such professional becomes a member, or each of whose members and manag-
54 ers, if any, is a professional at least one of such members is author-
55 ized by law to render a professional service within this state and who
56 is or has been engaged in the practice of such profession in such

1 professional service limited liability company or a predecessor entity,
2 or will engage in the practice of such profession in the professional
3 service limited liability company within thirty days of the date such
4 professional becomes a member, or (ii) authorized by, or holding a
5 license, certificate, registration or permit issued by the licensing
6 authority pursuant to, the education law to render a professional
7 service within this state; except that all members and managers, if any,
8 of a foreign professional service limited liability company that
9 provides health services in this state shall be licensed in this state.
10 With respect to a foreign professional service limited liability company
11 which provides veterinary services as such services are defined in arti-
12 cle 135 of the education law, each member of such foreign professional
13 service limited liability company shall be licensed pursuant to article
14 135 of the education law to practice veterinary medicine. With respect
15 to a foreign professional service limited liability company which
16 provides medical services as such services are defined in article 131 of
17 the education law, each member of such foreign professional service
18 limited liability company must be licensed pursuant to article 131 of
19 the education law to practice medicine in this state. With respect to a
20 foreign professional service limited liability company which provides
21 dental services as such services are defined in article 133 of the
22 education law, each member of such foreign professional service limited
23 liability company must be licensed pursuant to article 133 of the educa-
24 tion law to practice dentistry in this state. With respect to a foreign
25 professional service limited liability company which provides profes-
26 sional engineering, land surveying, architectural and/or landscape
27 architectural services as such services are defined in article 145,
28 article 147 and article 148 of the education law, each member of such
29 foreign professional service limited liability company must be licensed
30 pursuant to article 145, article 147 and/or article 148 of the education
31 law to practice one or more of such professions in this state. WITH
32 RESPECT TO A FOREIGN PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY
33 WHICH PROVIDES PUBLIC ACCOUNTANCY SERVICES AS SUCH SERVICES ARE DEFINED
34 IN ARTICLE 149 OF THE EDUCATION LAW, EACH MEMBER OF SUCH FOREIGN PROFES-
35 SIONAL SERVICE LIMITED LIABILITY COMPANY WHOSE PRINCIPAL PLACE OF BUSI-
36 NESS IS IN THIS STATE AND WHO PROVIDES PUBLIC ACCOUNTANCY SERVICES,
37 SHALL BE LICENSED PURSUANT TO ARTICLE 149 OF THE EDUCATION LAW TO PRAC-
38 TICE PUBLIC ACCOUNTANCY IN THIS STATE. With respect to a foreign profes-
39 sional service limited liability company which provides licensed clin-
40 ical social work services as such services are defined in article 154 of
41 the education law, each member of such foreign professional service
42 limited liability company shall be licensed pursuant to article 154 of
43 the education law to practice clinical social work in this state. With
44 respect to a foreign professional service limited liability company
45 which provides creative arts therapy services as such services are
46 defined in article 163 of the education law, each member of such foreign
47 professional service limited liability company must be licensed pursuant
48 to article 163 of the education law to practice creative arts therapy in
49 this state. With respect to a foreign professional service limited
50 liability company which provides marriage and family therapy services as
51 such services are defined in article 163 of the education law, each
52 member of such foreign professional service limited liability company
53 must be licensed pursuant to article 163 of the education law to prac-
54 tice marriage and family therapy in this state. With respect to a
55 foreign professional service limited liability company which provides
56 mental health counseling services as such services are defined in arti-

1 cle 163 of the education law, each member of such foreign professional
2 service limited liability company must be licensed pursuant to article
3 163 of the education law to practice mental health counseling in this
4 state. With respect to a foreign professional service limited liability
5 company which provides psychoanalysis services as such services are
6 defined in article 163 of the education law, each member of such foreign
7 professional service limited liability company must be licensed pursuant
8 to article 163 of the education law to practice psychoanalysis in this
9 state. With respect to a foreign professional service limited liability
10 company which provides applied behavior analysis services as such
11 services are defined in article 167 of the education law, each member of
12 such foreign professional service limited liability company must be
13 licensed or certified pursuant to article 167 of the education law to
14 practice applied behavior analysis in this state. NOTWITHSTANDING ANY
15 OTHER PROVISIONS OF LAW A FOREIGN PROFESSIONAL SERVICE LIMITED LIABILITY
16 COMPANY FORMED TO LAWFULLY ENGAGE IN THE PRACTICE OF PUBLIC ACCOUNTANCY,
17 AS SUCH PRACTICE IS RESPECTIVELY DEFINED UNDER ARTICLE 149 OF THE EDUCA-
18 TION LAW SHALL BE REQUIRED TO SHOW (1) THAT A SIMPLE MAJORITY OF THE
19 OWNERSHIP OF THE FIRM, IN TERMS OF FINANCIAL INTERESTS, INCLUDING OWNER-
20 SHIP-BASED COMPENSATION, AND VOTING RIGHTS HELD BY THE FIRM'S OWNERS,
21 BELONGS TO INDIVIDUALS LICENSED TO PRACTICE PUBLIC ACCOUNTANCY IN SOME
22 STATE, AND (2) THAT ALL MEMBERS OF A FOREIGN LIMITED PROFESSIONAL
23 SERVICE LIMITED LIABILITY COMPANY, WHOSE PRINCIPAL PLACE OF BUSINESS IS
24 IN THIS STATE, AND WHO ARE ENGAGED IN THE PRACTICE OF PUBLIC ACCOUNTANCY
25 IN THIS STATE, HOLD A VALID LICENSE ISSUED UNDER SECTION 7404 OF THE
26 EDUCATION LAW OR ARE PUBLIC ACCOUNTANTS LICENSED UNDER SECTION 7405 OF
27 THE EDUCATION LAW. ALTHOUGH FIRMS MAY INCLUDE NON-LICENSEE OWNERS, THE
28 FIRM AND ITS OWNERS MUST COMPLY WITH RULES PROMULGATED BY THE STATE
29 BOARD FOR PUBLIC ACCOUNTANCY. NOTWITHSTANDING THE FOREGOING, A FIRM
30 REGISTERED UNDER THIS SECTION MAY NOT HAVE NON-LICENSEE OWNERS IF THE
31 FIRM'S NAME INCLUDES THE WORDS "CERTIFIED PUBLIC ACCOUNTANT," OR "CERTI-
32 FIED PUBLIC ACCOUNTANTS," OR THE ABBREVIATIONS "CPA" OR "CPAS." EACH
33 NON-LICENSEE OWNER OF A FIRM THAT IS REGISTERED UNDER THIS SECTION SHALL
34 BE (1) A NATURAL PERSON WHO ACTIVELY PARTICIPATES IN THE BUSINESS OF THE
35 FIRM OR ITS AFFILIATED ENTITIES, OR (2) AN ENTITY, INCLUDING, BUT NOT
36 LIMITED TO, A PARTNERSHIP OR PROFESSIONAL CORPORATION, PROVIDED EACH
37 BENEFICIAL OWNER OF AN EQUITY INTEREST IN SUCH ENTITY IS A NATURAL
38 PERSON WHO ACTIVELY PARTICIPATES IN THE BUSINESS CONDUCTED BY THE FIRM
39 OR ITS AFFILIATED ENTITIES. FOR PURPOSES OF THIS SUBDIVISION, "ACTIVELY
40 PARTICIPATE" MEANS TO PROVIDE SERVICES TO CLIENTS OR TO OTHERWISE INDI-
41 VIDUALLY TAKE PART IN THE DAY-TO-DAY BUSINESS OR MANAGEMENT OF THE FIRM.

42 (f) "Professional partnership" means (1) a partnership without limited
43 partners each of whose partners is a professional authorized by law to
44 render a professional service within this state, (2) a partnership with-
45 out limited partners each of whose partners is a professional, at least
46 one of whom is authorized by law to render a professional service within
47 this state or (3) a partnership without limited partners authorized by,
48 or holding a license, certificate, registration or permit issued by the
49 licensing authority pursuant to the education law to render a profes-
50 sional service within this state; except that all partners of a profes-
51 sional partnership that provides medical services in this state must be
52 licensed pursuant to article 131 of the education law to practice medi-
53 cine in this state and all partners of a professional partnership that
54 provides dental services in this state must be licensed pursuant to
55 article 133 of the education law to practice dentistry in this state;
56 except that all partners of a professional partnership that provides

1 veterinary services in this state must be licensed pursuant to article
2 135 of the education law to practice veterinary medicine in this state;
3 and further except that all partners of a professional partnership that
4 provides professional engineering, land surveying, architectural, and/or
5 landscape architectural services in this state must be licensed pursuant
6 to article 145, article 147 and/or article 148 of the education law to
7 practice one or more of such professions. WITH RESPECT TO A PROFESSIONAL
8 PARTNERSHIP WHICH PROVIDES PUBLIC ACCOUNTANCY SERVICES AS SUCH SERVICES
9 ARE DEFINED IN ARTICLE 149 OF THE EDUCATION LAW, EACH MEMBER OF SUCH
10 PROFESSIONAL PARTNERSHIP WHOSE PRINCIPAL PLACE OF BUSINESS IS IN THIS
11 STATE AND WHO PROVIDES PUBLIC ACCOUNTANCY SERVICES, SHALL BE LICENSED
12 PURSUANT TO ARTICLE 149 OF THE EDUCATION LAW TO PRACTICE PUBLIC ACCOUN-
13 TANCY. NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW A PROFESSIONAL PART-
14 NERSHIP FORMED TO LAWFULLY ENGAGE IN THE PRACTICE OF PUBLIC ACCOUNTANCY,
15 AS SUCH PRACTICE IS RESPECTIVELY DEFINED UNDER ARTICLE 149 OF THE EDUCA-
16 TION LAW SHALL BE REQUIRED TO SHOW (1) THAT A SIMPLE MAJORITY OF THE
17 OWNERSHIP OF THE FIRM, IN TERMS OF FINANCIAL INTERESTS, INCLUDING OWNER-
18 SHIP-BASED COMPENSATION, AND VOTING RIGHTS HELD BY THE FIRM'S OWNERS,
19 BELONGS TO INDIVIDUALS LICENSED TO PRACTICE PUBLIC ACCOUNTANCY IN SOME
20 STATE, AND (2) THAT ALL MEMBERS OF A LIMITED PROFESSIONAL PARTNERSHIP,
21 WHOSE PRINCIPAL PLACE OF BUSINESS IS IN THIS STATE, AND WHO ARE ENGAGED
22 IN THE PRACTICE OF PUBLIC ACCOUNTANCY IN THIS STATE, HOLD A VALID
23 LICENSE ISSUED UNDER SECTION 7404 OF THE EDUCATION LAW OR ARE PUBLIC
24 ACCOUNTANTS LICENSED UNDER SECTION 7405 OF THE EDUCATION LAW. ALTHOUGH
25 FIRMS MAY INCLUDE NON-LICENSEE OWNERS, THE FIRM AND ITS OWNERS MUST
26 COMPLY WITH RULES PROMULGATED BY THE STATE BOARD FOR PUBLIC ACCOUNTANCY.
27 NOTWITHSTANDING THE FOREGOING, A FIRM REGISTERED UNDER THIS SECTION MAY
28 NOT HAVE NON-LICENSEE OWNERS IF THE FIRM'S NAME INCLUDES THE WORDS
29 "CERTIFIED PUBLIC ACCOUNTANT," OR "CERTIFIED PUBLIC ACCOUNTANTS," OR THE
30 ABBREVIATIONS "CPA" OR "CPAS." EACH NON-LICENSEE OWNER OF A FIRM THAT
31 IS REGISTERED UNDER THIS SECTION SHALL BE (1) A NATURAL PERSON WHO
32 ACTIVELY PARTICIPATES IN THE BUSINESS OF THE FIRM OR ITS AFFILIATED
33 ENTITIES, OR (2) AN ENTITY, INCLUDING, BUT NOT LIMITED TO, A PARTNERSHIP
34 OR PROFESSIONAL CORPORATION, PROVIDED EACH BENEFICIAL OWNER OF AN EQUITY
35 INTEREST IN SUCH ENTITY IS A NATURAL PERSON WHO ACTIVELY PARTICIPATES IN
36 THE BUSINESS CONDUCTED BY THE FIRM OR ITS AFFILIATED ENTITIES. FOR
37 PURPOSES OF THIS SUBDIVISION, "ACTIVELY PARTICIPATE" MEANS TO PROVIDE
38 SERVICES TO CLIENTS OR TO OTHERWISE INDIVIDUALLY TAKE PART IN THE
39 DAY-TO-DAY BUSINESS OR MANAGEMENT OF THE FIRM.

40 S 15-a. Subdivisions (a) and (f) of section 1301 of the limited
41 liability company law, as amended by chapter 475 of the laws of 2014,
42 are amended to read as follows:

43 (a) "Foreign professional service limited liability company" means a
44 professional service limited liability company, whether or not denomi-
45 nated as such, organized under the laws of a jurisdiction other than
46 this state, (i) each of whose members and managers, if any, is a profes-
47 sional authorized by law to render a professional service within this
48 state and who is or has been engaged in the practice of such profession
49 in such professional service limited liability company or a predecessor
50 entity, or will engage in the practice of such profession in the profes-
51 sional service limited liability company within thirty days of the date
52 such professional becomes a member, or each of whose members and manag-
53 ers, if any, is a professional at least one of such members is author-
54 ized by law to render a professional service within this state and who
55 is or has been engaged in the practice of such profession in such
56 professional service limited liability company or a predecessor entity,

1 or will engage in the practice of such profession in the professional
2 service limited liability company within thirty days of the date such
3 professional becomes a member, or (ii) authorized by, or holding a
4 license, certificate, registration or permit issued by the licensing
5 authority pursuant to, the education law to render a professional
6 service within this state; except that all members and managers, if any,
7 of a foreign professional service limited liability company that
8 provides health services in this state shall be licensed in this state.
9 With respect to a foreign professional service limited liability company
10 which provides veterinary services as such services are defined in arti-
11 cle 135 of the education law, each member of such foreign professional
12 service limited liability company shall be licensed pursuant to article
13 135 of the education law to practice veterinary medicine. With respect
14 to a foreign professional service limited liability company which
15 provides medical services as such services are defined in article 131 of
16 the education law, each member of such foreign professional service
17 limited liability company must be licensed pursuant to article 131 of
18 the education law to practice medicine in this state. With respect to a
19 foreign professional service limited liability company which provides
20 dental services as such services are defined in article 133 of the
21 education law, each member of such foreign professional service limited
22 liability company must be licensed pursuant to article 133 of the educa-
23 tion law to practice dentistry in this state. With respect to a foreign
24 professional service limited liability company which provides profes-
25 sional engineering, land surveying, geologic, architectural and/or land-
26 scape architectural services as such services are defined in article
27 145, article 147 and article 148 of the education law, each member of
28 such foreign professional service limited liability company must be
29 licensed pursuant to article 145, article 147 and/or article 148 of the
30 education law to practice one or more of such professions in this state.
31 WITH RESPECT TO A FOREIGN PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY
32 WHICH PROVIDES PUBLIC ACCOUNTANCY SERVICES AS SUCH SERVICES ARE DEFINED
33 IN ARTICLE 149 OF THE EDUCATION LAW, EACH MEMBER OF SUCH FOREIGN PROFES-
34 SIONAL SERVICE LIMITED LIABILITY COMPANY WHOSE PRINCIPAL PLACE OF BUSI-
35 NESS IS IN THIS STATE AND WHO PROVIDES PUBLIC ACCOUNTANCY SERVICES,
36 SHALL BE LICENSED PURSUANT TO ARTICLE 149 OF THE EDUCATION LAW TO PRAC-
37 TICE PUBLIC ACCOUNTANCY IN THIS STATE. With respect to a foreign profes-
38 sional service limited liability company which provides licensed clin-
39 ical social work services as such services are defined in article 154 of
40 the education law, each member of such foreign professional service
41 limited liability company shall be licensed pursuant to article 154 of
42 the education law to practice clinical social work in this state. With
43 respect to a foreign professional service limited liability company
44 which provides creative arts therapy services as such services are
45 defined in article 163 of the education law, each member of such foreign
46 professional service limited liability company must be licensed pursuant
47 to article 163 of the education law to practice creative arts therapy in
48 this state. With respect to a foreign professional service limited
49 liability company which provides marriage and family therapy services as
50 such services are defined in article 163 of the education law, each
51 member of such foreign professional service limited liability company
52 must be licensed pursuant to article 163 of the education law to prac-
53 tice marriage and family therapy in this state. With respect to a
54 foreign professional service limited liability company which provides
55 mental health counseling services as such services are defined in arti-
56 cle 163 of the education law, each member of such foreign professional

1 service limited liability company must be licensed pursuant to article
2 163 of the education law to practice mental health counseling in this
3 state. With respect to a foreign professional service limited liability
4 company which provides psychoanalysis services as such services are
5 defined in article 163 of the education law, each member of such foreign
6 professional service limited liability company must be licensed pursuant
7 to article 163 of the education law to practice psychoanalysis in this
8 state. With respect to a foreign professional service limited liability
9 company which provides applied behavior analysis services as such
10 services are defined in article 167 of the education law, each member of
11 such foreign professional service limited liability company must be
12 licensed or certified pursuant to article 167 of the education law to
13 practice applied behavior analysis in this state. NOTWITHSTANDING ANY
14 OTHER PROVISIONS OF LAW A FOREIGN PROFESSIONAL SERVICE LIMITED LIABILITY
15 COMPANY FORMED TO LAWFULLY ENGAGE IN THE PRACTICE OF PUBLIC ACCOUNTANCY,
16 AS SUCH PRACTICE IS RESPECTIVELY DEFINED UNDER ARTICLE 149 OF THE EDUCA-
17 TION LAW SHALL BE REQUIRED TO SHOW (1) THAT A SIMPLE MAJORITY OF THE
18 OWNERSHIP OF THE FIRM, IN TERMS OF FINANCIAL INTERESTS, INCLUDING OWNER-
19 SHIP-BASED COMPENSATION, AND VOTING RIGHTS HELD BY THE FIRM'S OWNERS,
20 BELONGS TO INDIVIDUALS LICENSED TO PRACTICE PUBLIC ACCOUNTANCY IN SOME
21 STATE, AND (2) THAT ALL MEMBERS OF A FOREIGN LIMITED PROFESSIONAL
22 SERVICE LIMITED LIABILITY COMPANY, WHOSE PRINCIPAL PLACE OF BUSINESS IS
23 IN THIS STATE, AND WHO ARE ENGAGED IN THE PRACTICE OF PUBLIC ACCOUNTANCY
24 IN THIS STATE, HOLD A VALID LICENSE ISSUED UNDER SECTION 7404 OF THE
25 EDUCATION LAW OR ARE PUBLIC ACCOUNTANTS LICENSED UNDER SECTION 7405 OF
26 THE EDUCATION LAW. ALTHOUGH FIRMS MAY INCLUDE NON-LICENSEE OWNERS, THE
27 FIRM AND ITS OWNERS MUST COMPLY WITH RULES PROMULGATED BY THE STATE
28 BOARD FOR PUBLIC ACCOUNTANCY. NOTWITHSTANDING THE FOREGOING, A FIRM
29 REGISTERED UNDER THIS SECTION MAY NOT HAVE NON-LICENSEE OWNERS IF THE
30 FIRM'S NAME INCLUDES THE WORDS "CERTIFIED PUBLIC ACCOUNTANT," OR "CERTI-
31 FIED PUBLIC ACCOUNTANTS," OR THE ABBREVIATIONS "CPA" OR "CPAS." EACH
32 NON-LICENSEE OWNER OF A FIRM THAT IS REGISTERED UNDER THIS SECTION SHALL
33 BE (1) A NATURAL PERSON WHO ACTIVELY PARTICIPATES IN THE BUSINESS OF THE
34 FIRM OR ITS AFFILIATED ENTITIES, OR (2) AN ENTITY, INCLUDING, BUT NOT
35 LIMITED TO, A PARTNERSHIP OR PROFESSIONAL CORPORATION, PROVIDED EACH
36 BENEFICIAL OWNER OF AN EQUITY INTEREST IN SUCH ENTITY IS A NATURAL
37 PERSON WHO ACTIVELY PARTICIPATES IN THE BUSINESS CONDUCTED BY THE FIRM
38 OR ITS AFFILIATED ENTITIES. FOR PURPOSES OF THIS SUBDIVISION, "ACTIVELY
39 PARTICIPATE" MEANS TO PROVIDE SERVICES TO CLIENTS OR TO OTHERWISE INDI-
40 VIDUALLY TAKE PART IN THE DAY-TO-DAY BUSINESS OR MANAGEMENT OF THE FIRM.

41 (f) "Professional partnership" means (1) a partnership without limited
42 partners each of whose partners is a professional authorized by law to
43 render a professional service within this state, (2) a partnership with-
44 out limited partners each of whose partners is a professional, at least
45 one of whom is authorized by law to render a professional service within
46 this state or (3) a partnership without limited partners authorized by,
47 or holding a license, certificate, registration or permit issued by the
48 licensing authority pursuant to the education law to render a profes-
49 sional service within this state; except that all partners of a profes-
50 sional partnership that provides medical services in this state must be
51 licensed pursuant to article 131 of the education law to practice medi-
52 cine in this state and all partners of a professional partnership that
53 provides dental services in this state must be licensed pursuant to
54 article 133 of the education law to practice dentistry in this state;
55 except that all partners of a professional partnership that provides
56 veterinary services in this state must be licensed pursuant to article

1 135 of the education law to practice veterinary medicine in this state;
2 and further except that all partners of a professional partnership that
3 provides professional engineering, land surveying, geologic, architec-
4 tural, and/or landscape architectural services in this state must be
5 licensed pursuant to article 145, article 147 and/or article 148 of the
6 education law to practice one or more of such professions. WITH RESPECT
7 TO A PROFESSIONAL PARTNERSHIP WHICH PROVIDES PUBLIC ACCOUNTANCY SERVICES
8 AS SUCH SERVICES ARE DEFINED IN ARTICLE 149 OF THE EDUCATION LAW, EACH
9 MEMBER OF SUCH PROFESSIONAL PARTNERSHIP WHOSE PRINCIPAL PLACE OF BUSI-
10 NESS IS IN THIS STATE AND WHO PROVIDES PUBLIC ACCOUNTANCY SERVICES,
11 SHALL BE LICENSED PURSUANT TO ARTICLE 149 OF THE EDUCATION LAW TO PRAC-
12 TICE PUBLIC ACCOUNTANCY. NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW A
13 PROFESSIONAL PARTNERSHIP FORMED TO LAWFULLY ENGAGE IN THE PRACTICE OF
14 PUBLIC ACCOUNTANCY, AS SUCH PRACTICE IS RESPECTIVELY DEFINED UNDER ARTI-
15 CLE 149 OF THE EDUCATION LAW SHALL BE REQUIRED TO SHOW (1) THAT A SIMPLE
16 MAJORITY OF THE OWNERSHIP OF THE FIRM, IN TERMS OF FINANCIAL INTERESTS,
17 INCLUDING OWNERSHIP-BASED COMPENSATION, AND VOTING RIGHTS HELD BY THE
18 FIRM'S OWNERS, BELONGS TO INDIVIDUALS LICENSED TO PRACTICE PUBLIC
19 ACCOUNTANCY IN SOME STATE, AND (2) THAT ALL MEMBERS OF A LIMITED PROFES-
20 SIONAL PARTNERSHIP, WHOSE PRINCIPAL PLACE OF BUSINESS IS IN THIS STATE,
21 AND WHO ARE ENGAGED IN THE PRACTICE OF PUBLIC ACCOUNTANCY IN THIS STATE,
22 HOLD A VALID LICENSE ISSUED UNDER SECTION 7404 OF THE EDUCATION LAW OR
23 ARE PUBLIC ACCOUNTANTS LICENSED UNDER SECTION 7405 OF THE EDUCATION LAW.
24 ALTHOUGH FIRMS MAY INCLUDE NON-LICENSEE OWNERS, THE FIRM AND ITS OWNERS
25 MUST COMPLY WITH RULES PROMULGATED BY THE STATE BOARD FOR PUBLIC ACCOUN-
26 TANCY. NOTWITHSTANDING THE FOREGOING, A FIRM REGISTERED UNDER THIS
27 SECTION MAY NOT HAVE NON-LICENSEE OWNERS IF THE FIRM'S NAME INCLUDES THE
28 WORDS "CERTIFIED PUBLIC ACCOUNTANT," OR "CERTIFIED PUBLIC ACCOUNTANTS,"
29 OR THE ABBREVIATIONS "CPA" OR "CPAS." EACH NON-LICENSEE OWNER OF A FIRM
30 THAT IS REGISTERED UNDER THIS SECTION SHALL BE (1) A NATURAL PERSON WHO
31 ACTIVELY PARTICIPATES IN THE BUSINESS OF THE FIRM OR ITS AFFILIATED
32 ENTITIES, OR (2) AN ENTITY, INCLUDING, BUT NOT LIMITED TO, A PARTNERSHIP
33 OR PROFESSIONAL CORPORATION, PROVIDED EACH BENEFICIAL OWNER OF AN EQUITY
34 INTEREST IN SUCH ENTITY IS A NATURAL PERSON WHO ACTIVELY PARTICIPATES IN
35 THE BUSINESS CONDUCTED BY THE FIRM OR ITS AFFILIATED ENTITIES. FOR
36 PURPOSES OF THIS SUBDIVISION, "ACTIVELY PARTICIPATE" MEANS TO PROVIDE
37 SERVICES TO CLIENTS OR TO OTHERWISE INDIVIDUALLY TAKE PART IN THE
38 DAY-TO-DAY BUSINESS OR MANAGEMENT OF THE FIRM.

39 S 16. This act shall take effect immediately; provided, however, that
40 sections ten-a, eleven-a, twelve-a, fourteen-a and fifteen-a of this act
41 shall take effect on the same date as sections 25, 26, 27, 22, and 23,
42 respectively, of chapter 475 of the laws of 2014 take effect.

43 PART H

44 Section 1. The education law is amended by adding a new article 129-B
45 to read as follows:

46 ARTICLE 129-B

47 IMPLEMENTATION BY COLLEGES AND UNIVERSITIES OF SEXUAL
48 ASSAULT, DATING VIOLENCE, DOMESTIC VIOLENCE, AND STALKING
49 PREVENTION AND RESPONSE POLICIES AND PROCEDURES

50 SECTION 6439. GENERAL PROVISIONS.

51 6440. DEFINITION OF AFFIRMATIVE CONSENT TO SEXUAL ACTIVITY.

52 6441. POLICY FOR ALCOHOL AND/OR DRUG USE AMNESTY IN SEXUAL VIOLENCE
53 CASES.

6442. VICTIM AND SURVIVOR BILL OF RIGHTS.

6443. RESPONSE TO REPORTS.

6444. CAMPUS CLIMATE ASSESSMENTS.

6445. OPTIONS FOR CONFIDENTIAL DISCLOSURE.

6446. STUDENT ONBOARDING AND ONGOING EDUCATION.

6447. PRIVACY IN LEGAL CHALLENGES TO CONDUCT FINDINGS.

S 6439. GENERAL PROVISIONS. 1. THE TRUSTEES OR OTHER GOVERNING BOARD OF EACH COLLEGE AND UNIVERSITY CHARTERED BY THE REGENTS OR INCORPORATED BY SPECIAL ACT OF THE LEGISLATURE AND WHICH MAINTAINS A CAMPUS, UNLESS OTHERWISE PROVIDED, SHALL ADOPT WRITTEN RULES FOR IMPLEMENTING ALL POLICIES REQUIRED PURSUANT TO THIS ARTICLE AND FOR THE MAINTENANCE OF PUBLIC ORDER ON COLLEGE CAMPUSES AND OTHER COLLEGE PROPERTY USED FOR EDUCATIONAL PURPOSES AND PROVIDE A PROGRAM FOR THE ENFORCEMENT THEREOF. SUCH POLICIES SHALL ALSO APPLY TO CONDUCT THAT HAS A NEXUS TO A COLLEGE OR UNIVERSITY PROGRAM AND/OR TAKES PLACE OUTSIDE OF A COLLEGE OR UNIVERSITY PROPERTY BUT IS IN VIOLATION OF FEDERAL, STATE OR LOCAL LAW.

2. SEXUAL ASSAULT, DOMESTIC VIOLENCE, DATING VIOLENCE AND STALKING AFFECT THOUSANDS OF COLLEGE AND UNIVERSITY STUDENTS IN NEW YORK STATE AND ACROSS THE NATION. IN ADDITION TO THE TRAUMA CAUSED BY SUCH VIOLENCE, MANY VICTIMS AND SURVIVORS DROP OUT OF SCHOOL, EXPERIENCE DIFFICULTY WORKING, AND SEE PROMISING OPPORTUNITIES CUT SHORT. WHILE IT IS NOT JUST COLLEGE OR UNIVERSITY STUDENTS THAT EXPERIENCE THESE CRIMES, THESE INSTITUTIONS HAVE UNIQUE OPPORTUNITIES TO EDUCATE MEMBERS OF THE COLLEGE COMMUNITY ABOUT THESE CRIMES AND INCIDENTS SO THAT WE CAN BETTER SAFEGUARD STUDENTS. THEREFORE, EACH COLLEGE AND UNIVERSITY MUST DEVELOP AND IMPLEMENT THE POLICIES REQUIRED PURSUANT TO THIS ARTICLE.

3. EACH COLLEGE AND UNIVERSITY SHALL ANNUALLY FILE WITH THE DEPARTMENT ON OR BEFORE THE FIRST DAY OF JULY A CERTIFICATE OF COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE.

4. IF A COLLEGE OR UNIVERSITY FAILS TO FILE A CERTIFICATE OF COMPLIANCE PURSUANT TO SUBDIVISION THREE OF THIS SECTION WITHIN SIXTY DAYS OF THE TIME REQUIRED, SUCH COLLEGE OR UNIVERSITY SHALL NOT BE ELIGIBLE TO RECEIVE ANY STATE AID OR ASSISTANCE UNTIL SUCH CERTIFICATE OF COMPLIANCE IS DULY FILED.

5. EACH COLLEGE AND UNIVERSITY SHALL FILE A COPY OF ALL WRITTEN RULES AND POLICIES ADOPTED AS REQUIRED IN THIS ARTICLE WITH THE DEPARTMENT ON OR BEFORE THE FIRST DAY OF JULY, TWO THOUSAND SIXTEEN, AND ONCE EVERY TEN YEARS THEREAFTER, EXCEPT THAT THE SECOND FILING SHALL COINCIDE WITH THE REQUIRED FILING UNDER ARTICLE ONE HUNDRED TWENTY-NINE-A OF THIS CHAPTER, AND CONTINUE ON THE SAME CYCLE THEREAFTER.

6. A COPY OF SUCH RULES AND POLICIES SHALL BE GIVEN BY EACH COLLEGE AND UNIVERSITY TO ALL STUDENTS ENROLLED IN SAID COLLEGE OR UNIVERSITY. EACH COLLEGE AND UNIVERSITY SHALL ALSO POST SUCH RULES AND POLICIES ON ITS WEBSITE IN AN EASILY ACCESSIBLE MANNER TO THE PUBLIC.

7. COLLEGES AND UNIVERSITIES SHALL REFER TO APPLICABLE STATE AND FEDERAL LAW, REGULATIONS AND POLICY GUIDANCE IN DEVELOPING AND IMPLEMENTING THE POLICIES REQUIRED PURSUANT TO THIS ARTICLE, INCLUDING REFERENCE TO STATE AND FEDERAL DEFINITIONS OF TERMS NOT SPECIFICALLY DEFINED HEREIN.

S 6440. DEFINITION OF AFFIRMATIVE CONSENT TO SEXUAL ACTIVITY. EACH COLLEGE AND UNIVERSITY SHALL ADOPT A UNIFORM DEFINITION OF AFFIRMATIVE CONSENT IN THEIR CODE OF STUDENT CONDUCT OR SIMILAR DOCUMENT GOVERNING STUDENT BEHAVIOR. THIS DEFINITION SHALL STATE THAT "AFFIRMATIVE CONSENT IS A CLEAR, UNAMBIGUOUS, KNOWING, INFORMED, AND VOLUNTARY AGREEMENT BETWEEN ALL PARTICIPANTS TO ENGAGE IN SEXUAL ACTIVITY. CONSENT IS ACTIVE, NOT PASSIVE. SILENCE OR LACK OF RESISTANCE CANNOT BE INTERPRETED

1 AS CONSENT. SEEKING AND HAVING CONSENT ACCEPTED IS THE RESPONSIBILITY OF
2 THE PERSON(S) INITIATING EACH SPECIFIC SEXUAL ACT REGARDLESS OF WHETHER
3 THE PERSON INITIATING THE ACT IS UNDER THE INFLUENCE OF DRUGS AND/OR
4 ALCOHOL. CONSENT TO ANY SEXUAL ACT OR PRIOR CONSENSUAL SEXUAL ACTIVITY
5 BETWEEN OR WITH ANY PARTY DOES NOT CONSTITUTE CONSENT TO ANY OTHER SEXU-
6 AL ACT. THE DEFINITION OF CONSENT DOES NOT VARY BASED UPON A PARTIC-
7 IPANT'S SEX, SEXUAL ORIENTATION, GENDER IDENTITY OR GENDER EXPRESSION.
8 CONSENT MAY BE INITIALLY GIVEN BUT WITHDRAWN AT ANY TIME. WHEN CONSENT
9 IS WITHDRAWN OR CANNOT BE GIVEN, SEXUAL ACTIVITY MUST STOP. CONSENT
10 CANNOT BE GIVEN WHEN A PERSON IS INCAPACITATED. INCAPACITATION OCCURS
11 WHEN AN INDIVIDUAL LACKS THE ABILITY TO FULLY AND KNOWINGLY CHOOSE TO
12 PARTICIPATE IN SEXUAL ACTIVITY. INCAPACITATION INCLUDES IMPAIRMENT DUE
13 TO DRUGS OR ALCOHOL (WHETHER SUCH USE IS VOLUNTARY OR INVOLUNTARY), THE
14 LACK OF CONSCIOUSNESS OR BEING ASLEEP, BEING INVOLUNTARILY RESTRAINED,
15 IF ANY OF THE PARTIES ARE UNDER THE AGE OF 17, OR IF AN INDIVIDUAL
16 OTHERWISE CANNOT CONSENT. CONSENT CANNOT BE GIVEN WHEN IT IS THE RESULT
17 OF ANY COERCION, INTIMIDATION, FORCE, OR THREAT OF HARM."

18 S 6441. POLICY FOR ALCOHOL AND/OR DRUG USE AMNESTY IN SEXUAL VIOLENCE
19 CASES. 1. A BYSTANDER WHO REPORTS IN GOOD FAITH OR A VICTIM REPORTING
20 SEXUAL VIOLENCE TO COLLEGE OR UNIVERSITY OFFICIALS OR LAW ENFORCEMENT
21 SHALL NOT BE SUBJECT TO CAMPUS CONDUCT ACTION FOR VIOLATIONS OF ALCOHOL
22 AND DRUG USE POLICIES OCCURRING AT OR NEAR THE TIME OF THE INCIDENT.
23 EACH COLLEGE AND UNIVERSITY SHALL ADOPT AND IMPLEMENT THE FOLLOWING
24 POLICY: "THE HEALTH AND SAFETY OF EVERY STUDENT AT THE
25 (COLLEGE/UNIVERSITY) IS OF UTMOST IMPORTANCE. (COLLEGE/UNIVERSITY)
26 RECOGNIZES THAT STUDENTS WHO HAVE BEEN DRINKING AND/OR USING DRUGS
27 (WHETHER SUCH USE IS VOLUNTARY OR INVOLUNTARY) AT THE TIME A SEXUAL
28 VIOLENCE INCIDENT OCCURS MAY BE HESITANT TO REPORT SUCH INCIDENTS DUE TO
29 FEAR OF POTENTIAL CONSEQUENCES FOR THEIR OWN CONDUCT.
30 (COLLEGE/UNIVERSITY) STRONGLY ENCOURAGES STUDENTS TO REPORT INCIDENTS OF
31 SEXUAL VIOLENCE TO CAMPUS OFFICIALS. A BYSTANDER REPORTING IN GOOD FAITH
32 OR A VICTIM/SURVIVOR REPORTING A SEXUAL VIOLENCE INCIDENT TO
33 (COLLEGE/UNIVERSITY) OFFICIALS OR LAW ENFORCEMENT WILL NOT BE SUBJECT TO
34 CAMPUS CONDUCT ACTION FOR VIOLATIONS OF ALCOHOL AND/OR DRUG USE POLICIES
35 OCCURRING AT OR NEAR THE TIME OF THE SEXUAL VIOLENCE INCIDENT."

36 2. FOR PURPOSES OF THIS ARTICLE, THE TERM "SEXUAL VIOLENCE" SHALL MEAN
37 PHYSICAL SEXUAL ACTS PERPETRATED AGAINST A PERSON'S WILL OR PERPETRATED
38 WHERE A PERSON IS INCAPABLE OF GIVING CONSENT INCLUDING, BUT NOT LIMITED
39 TO, RAPE, SEXUAL ASSAULT, SEXUAL BATTERY, SEXUAL ABUSE, AND SEXUAL COER-
40 CION. THE TERM "BYSTANDER" SHALL MEAN A PERSON WHO OBSERVES A CRIME,
41 IMPENDING CRIME, CONFLICT, UNACCEPTABLE BEHAVIOR, OR CONDUCT THAT IS IN
42 VIOLATION OF RULES OR POLICIES OF A COLLEGE OR UNIVERSITY.

43 S 6442. VICTIM AND SURVIVOR BILL OF RIGHTS. 1. EACH COLLEGE AND
44 UNIVERSITY SHALL ADOPT A VICTIM AND SURVIVOR BILL OF RIGHTS. THIS BILL
45 OF RIGHTS SHALL STATE THE FOLLOWING: "ALL VICTIMS AND SURVIVORS HAVE THE
46 RIGHT TO: (A) MAKE A REPORT TO LOCAL LAW ENFORCEMENT AND/OR STATE
47 POLICE; (B) HAVE DISCLOSURES OF SEXUAL VIOLENCE TREATED SERIOUSLY; (C)
48 MAKE A DECISION ABOUT WHETHER OR NOT TO DISCLOSE A CRIME OR INCIDENT AND
49 PARTICIPATE IN THE CONDUCT OR CRIMINAL JUSTICE PROCESS FREE FROM OUTSIDE
50 PRESSURES FROM COLLEGE/UNIVERSITY OFFICIALS; (D) BE TREATED WITH DIGNITY
51 AND TO RECEIVE FROM COLLEGE/UNIVERSITY OFFICIALS COURTEOUS, FAIR, AND
52 RESPECTFUL HEALTH CARE AND COUNSELING SERVICES; (E) BE FREE FROM ANY
53 SUGGESTION THAT THE VICTIM/SURVIVOR IS AT FAULT WHEN THESE CRIMES AND
54 VIOLATIONS ARE COMMITTED, OR SHOULD HAVE ACTED IN A DIFFERENT MANNER TO
55 AVOID SUCH A CRIME; (F) DESCRIBE THE INCIDENT TO AS FEW INDIVIDUALS AS
56 PRACTICABLE AND NOT TO BE REQUIRED TO UNNECESSARILY REPEAT A DESCRIPTION

1 OF THE INCIDENT; (G) BE FREE FROM RETALIATION BY THE COLLEGE/UNIVERSITY,
2 THE ACCUSED, AND/OR THEIR FRIENDS, FAMILY AND ACQUAINTANCES; AND (H)
3 EXERCISE CIVIL RIGHTS AND PRACTICE OF RELIGION WITHOUT INTERFERENCE BY
4 THE INVESTIGATIVE, CRIMINAL JUSTICE, OR CONDUCT PROCESS OF THE
5 COLLEGE/UNIVERSITY."

6 2. IN ACCORDANCE WITH PROVISIONS OF THIS SECTION, EACH COLLEGE AND
7 UNIVERSITY SHALL LIST THE FOLLOWING OPTIONS IN BRIEF: VICTIMS AND SURVI-
8 VORS HAVE MANY OPTIONS THAT CAN BE PURSUED SIMULTANEOUSLY, INCLUDING ONE
9 OR MORE OF THE FOLLOWING: (A) RECEIVE RESOURCES, SUCH AS COUNSELING AND
10 MEDICAL ATTENTION; (B) CONFIDENTIALLY OR ANONYMOUSLY DISCLOSE A CRIME OR
11 VIOLATION; (C) MAKE A REPORT TO AN EMPLOYEE WITH THE AUTHORITY TO
12 ADDRESS COMPLAINTS, INCLUDING THE TITLE IX COORDINATOR, A STUDENT
13 CONDUCT EMPLOYEE, A HUMAN RESOURCES EMPLOYEE, UNIVERSITY POLICE OR
14 CAMPUS SECURITY, OR FAMILY COURT OR CIVIL COURT; AND (D) MAKE A REPORT
15 TO LOCAL LAW ENFORCEMENT AND/OR STATE POLICE.

16 3. THIS BILL OF RIGHTS SHALL BE DISTRIBUTED ANNUALLY TO STUDENTS, MADE
17 AVAILABLE ON EACH COLLEGE AND UNIVERSITY WEBSITE, AND POSTED IN EACH
18 CAMPUS RESIDENCE HALL, DINING HALL, AND STUDENT UNION OR CAMPUS CENTER
19 AND SHALL INCLUDE LINKS OR INFORMATION TO FILE A REPORT AND SEEK A
20 RESPONSE, PURSUANT TO SECTION SIXTY-FOUR HUNDRED FORTY-THREE OF THIS
21 ARTICLE, AND THE OPTIONS FOR CONFIDENTIAL DISCLOSURE PURSUANT TO SECTION
22 SIXTY-FOUR HUNDRED FORTY-FOUR OF THIS ARTICLE.

23 S 6443. RESPONSE TO REPORTS. 1. IN ACCORDANCE WITH THE VICTIM/SURVIVOR
24 BILL OF RIGHTS SET FORTH IN SECTION SIXTY-FOUR HUNDRED FORTY-TWO OF THIS
25 ARTICLE AND THE RIGHT OF VICTIMS AND SURVIVORS TO MAKE A REPORT TO LOCAL
26 LAW ENFORCEMENT AND/OR STATE POLICE, EACH COLLEGE AND UNIVERSITY SHALL
27 ENSURE THAT VICTIMS AND SURVIVORS ARE PROVIDED WITH THE FOLLOWING INFOR-
28 MATION:

29 A. THE RIGHT TO NOTIFY LOCAL LAW ENFORCEMENT AND/OR STATE POLICE;

30 B. THE RIGHT TO REPORT CONFIDENTIALLY THE INCIDENT TO COLLEGE OR
31 UNIVERSITY OFFICIALS, WHO MAY MAINTAIN CONFIDENTIALITY PURSUANT TO
32 APPLICABLE LAWS, AND CAN ASSIST IN OBTAINING SERVICES FOR THE VICTIMS
33 AND SURVIVORS;

34 C. THE RIGHT TO DISCLOSE CONFIDENTIALLY THE INCIDENT AND OBTAIN
35 SERVICES FROM NEW YORK STATE, NEW YORK CITY, OR COUNTY SERVICES;

36 D. THE RIGHT TO REPORT THE INCIDENT TO COLLEGE OR UNIVERSITY OFFICIALS
37 WHO CAN OFFER PRIVACY AND CAN ASSIST IN OBTAINING RESOURCES;

38 E. THE RIGHT TO FILE A CRIMINAL COMPLAINT WITH UNIVERSITY POLICE
39 AND/OR CAMPUS SECURITY;

40 F. THE RIGHT TO FILE A REPORT OF SEXUAL ASSAULT, DOMESTIC VIOLENCE,
41 DATING VIOLENCE, AND/OR STALKING, AND THE RIGHT TO CONSULT THE TITLE IX
42 COORDINATOR FOR INFORMATION AND ASSISTANCE. REPORTS SHALL BE INVESTI-
43 GATED IN ACCORDANCE WITH COLLEGE OR UNIVERSITY POLICY AND A
44 VICTIM/SURVIVOR'S IDENTITY SHALL REMAIN PRIVATE AT ALL TIMES IF SAID
45 VICTIM/SURVIVOR WISHES TO MAINTAIN CONFIDENTIALITY;

46 G. WHEN THE ACCUSED IS AN EMPLOYEE, THE RIGHT TO REPORT THE INCIDENT
47 TO THE COLLEGE OR UNIVERSITY HUMAN RESOURCES AUTHORITY OR THE RIGHT TO
48 REQUEST THAT A CONFIDENTIAL OR PRIVATE EMPLOYEE ASSIST IN REPORTING TO
49 THE APPROPRIATE HUMAN RESOURCES AUTHORITY. DISCIPLINARY PROCEEDINGS WILL
50 BE CONDUCTED IN ACCORDANCE WITH APPLICABLE COLLECTIVE BARGAINING AGREE-
51 MENTS. WHEN THE ACCUSED IS AN EMPLOYEE OF AN AFFILIATED ENTITY OR VENDOR
52 OF THE COLLEGE, COLLEGE OR UNIVERSITY OFFICIALS WILL, AT THE REQUEST OF
53 THE VICTIM/SURVIVOR, ASSIST IN REPORTING TO THE APPROPRIATE OFFICE OF
54 THE VENDOR OR AFFILIATED ENTITY AND, IF THE RESPONSE OF THE VENDOR OR
55 AFFILIATED ENTITY IS NOT DEEMED SUFFICIENT BY THE COLLEGE OR UNIVERSITY

1 OFFICIALS, ASSIST IN OBTAINING A PERSONA NON GRATA LETTER, SUBJECT TO
2 LEGAL REQUIREMENTS AND COLLEGE POLICY;

3 H. THE RIGHT TO WITHDRAW A COMPLAINT OR INVOLVEMENT FROM THE COLLEGE
4 OR UNIVERSITY PROCESS AT ANY TIME.

5 2. EACH COLLEGE AND UNIVERSITY SHALL ENSURE THAT VICTIMS AND SURVIVORS
6 HAVE INFORMATION ABOUT RESOURCES, INCLUDING INTERVENTION, MENTAL HEALTH
7 COUNSELING, AND MEDICAL. THE POLICY SHALL ALSO PROVIDE INFORMATION ON
8 SEXUALLY TRANSMITTED INFECTIONS, SEXUAL ASSAULT FORENSIC EXAMINATIONS,
9 AND RESOURCES AVAILABLE THROUGH THE OFFICE OF VICTIM SERVICES, ESTAB-
10 LISHED PURSUANT TO SECTION SIX HUNDRED TWENTY-TWO OF THE EXECUTIVE LAW.

11 3. EACH COLLEGE AND UNIVERSITY SHALL ENSURE THAT VICTIMS AND SURVIVORS
12 HAVE THE FOLLOWING PROTECTIONS AND ACCOMMODATIONS:

13 A. WHEN THE ACCUSED IS A STUDENT, TO HAVE THE COLLEGE ISSUE A "NO
14 CONTACT ORDER," WHEREBY CONTINUED CONTACT WITH THE PROTECTED INDIVIDUAL
15 WOULD BE A VIOLATION OF COLLEGE OR UNIVERSITY POLICY SUBJECT TO ADDI-
16 TIONAL CONDUCT CHARGES; IF THE ACCUSED AND A PROTECTED PERSON OBSERVE
17 EACH OTHER IN A PUBLIC PLACE, IT IS THE RESPONSIBILITY OF THE ACCUSED TO
18 LEAVE THE AREA IMMEDIATELY AND WITHOUT DIRECTLY CONTACTING THE PROTECTED
19 PERSON;

20 B. TO HAVE ASSISTANCE FROM UNIVERSITY POLICE OR CAMPUS SECURITY OR
21 OTHER COLLEGE OR UNIVERSITY OFFICIALS IN OBTAINING AN ORDER OF
22 PROTECTION OR, IF OUTSIDE OF NEW YORK STATE, AN EQUIVALENT PROTECTIVE OR
23 RESTRAINING ORDER;

24 C. TO RECEIVE A COPY OF THE ORDER OF PROTECTION OR EQUIVALENT AND HAVE
25 AN OPPORTUNITY TO MEET OR SPEAK WITH A COLLEGE OR UNIVERSITY OFFICIAL
26 WHO CAN EXPLAIN THE ORDER AND ANSWER QUESTIONS ABOUT IT, INCLUDING
27 INFORMATION FROM THE ORDER ABOUT THE ACCUSED'S RESPONSIBILITY TO STAY
28 AWAY FROM THE PROTECTED PERSON OR PERSONS; THAT BURDEN DOES NOT REST ON
29 THE PROTECTED PERSON OR PERSONS;

30 D. A RIGHT TO AN EXPLANATION OF THE CONSEQUENCES FOR VIOLATING THESE
31 ORDERS, INCLUDING BUT NOT LIMITED TO ARREST, ADDITIONAL CONDUCT CHARGES,
32 AND INTERIM SUSPENSION;

33 E. TO RECEIVE ASSISTANCE FROM UNIVERSITY POLICE OR CAMPUS SECURITY IN
34 EFFECTING AN ARREST WHEN AN INDIVIDUAL VIOLATES AN ORDER OF PROTECTION
35 OR, IF UNIVERSITY POLICE OR CAMPUS SECURITY DOES NOT POSSESS ARRESTING
36 POWERS, THEN TO CALL ON AND ASSIST LOCAL LAW ENFORCEMENT IN EFFECTING AN
37 ARREST FOR VIOLATING SUCH AN ORDER;

38 F. WHEN THE ACCUSED IS A STUDENT AND PRESENTS A CONTINUING THREAT TO
39 THE HEALTH AND SAFETY OF THE COMMUNITY, TO SUBJECT THE ACCUSED TO INTER-
40 IM SUSPENSION PENDING THE OUTCOME OF A CONDUCT PROCESS;

41 G. WHEN THE ACCUSED IS NOT A STUDENT BUT IS A MEMBER OF THE COLLEGE
42 COMMUNITY AND PRESENTS A CONTINUING THREAT TO THE HEALTH AND SAFETY OF
43 THE COMMUNITY, TO SUBJECT THE ACCUSED TO INTERIM MEASURES IN ACCORDANCE
44 WITH APPLICABLE COLLECTIVE BARGAINING AGREEMENTS, EMPLOYEE HANDBOOKS,
45 AND RULES AND POLICIES OF THE COLLEGE OR UNIVERSITY;

46 H. WHEN THE ACCUSED IS NOT A MEMBER OF THE COLLEGE COMMUNITY, TO HAVE
47 ASSISTANCE FROM UNIVERSITY POLICE OR CAMPUS SECURITY OR OTHER COLLEGE OR
48 UNIVERSITY OFFICIALS IN OBTAINING A PERSONA NON GRATA LETTER, SUBJECT TO
49 APPLICABLE LEGAL REQUIREMENTS AND POLICIES; AND

50 I. TO OBTAIN REASONABLE AND AVAILABLE INTERIM MEASURES AND ACCOMMO-
51 DATIONS THAT EFFECT A CHANGE IN ACADEMIC, HOUSING, EMPLOYMENT, TRANSPOR-
52 TATION, OR OTHER APPLICABLE ARRANGEMENTS IN ORDER TO ENSURE SAFETY,
53 PREVENT RETALIATION, AND AVOID AN ONGOING HOSTILE ENVIRONMENT.

54 4. EACH COLLEGE AND UNIVERSITY SHALL ENSURE THAT STUDENTS PARTICIPAT-
55 ING IN THE STUDENT CONDUCT OR JUDICIAL PROCESS BE AFFORDED THE FOLLOWING
56 RIGHTS AND RESPONSIBILITIES:

1 A. THE RIGHT TO FILE STUDENT CONDUCT CHARGES AGAINST THE ACCUSED.
2 CONDUCT PROCEEDINGS ARE GOVERNED BY THE PROCEDURES SET FORTH IN COLLEGE
3 OR UNIVERSITY RULES AS WELL AS FEDERAL AND NEW YORK STATE LAW, INCLUD-
4 ING, WHERE APPLICABLE, THE DUE PROCESS PROVISIONS OF THE UNITED STATES
5 CONSTITUTION AND NEW YORK STATE CONSTITUTION.

6 B. THROUGHOUT CONDUCT PROCEEDINGS, THE ACCUSED AND THE VICTIM/SURVIVOR
7 SHALL BE PROVIDED:

8 (1) THE SAME OPPORTUNITY TO HAVE ACCESS TO AN ADVISOR OF THEIR CHOICE,
9 WHERE PARTICIPATION OF THE ADVISOR IN ANY PROCEEDING SHALL BE IN COMPLI-
10 ANCE WITH APPLICABLE FEDERAL LAWS AND THE STUDENT CODE OF CONDUCT.

11 (2) THE RIGHT TO A PROMPT RESPONSE TO ANY COMPLAINT AND TO HAVE THE
12 COMPLAINT INVESTIGATED AND ADJUDICATED IN AN IMPARTIAL, TIMELY, AND
13 THOROUGH MANNER BY INDIVIDUALS WHO RECEIVE ANNUAL TRAINING IN CONDUCTING
14 INVESTIGATIONS OF SEXUAL VIOLENCE, THE EFFECTS OF TRAUMA, AND OTHER
15 ISSUES RELATED TO SEXUAL VIOLENCE INCLUDING BUT NOT LIMITED TO SEXUAL
16 ASSAULT, DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING.

17 (3) THE RIGHT TO AN INVESTIGATION AND PROCESS THAT IS FAIR, IMPARTIAL,
18 AND PROVIDES A MEANINGFUL OPPORTUNITY TO BE HEARD.

19 (4) THE RIGHT TO RECEIVE WRITTEN OR ELECTRONIC NOTICE OF ANY MEETING
20 OR HEARING THEY ARE REQUIRED TO OR ARE ELIGIBLE TO ATTEND.

21 (5) THE RIGHT TO HAVE A CONDUCT PROCESS RUN CONCURRENTLY WITH A CRIMI-
22 NAL JUSTICE INVESTIGATION AND PROCEEDING, EXCEPT FOR TEMPORARY DELAYS AS
23 REQUESTED BY EXTERNAL MUNICIPAL ENTITIES WHILE LAW ENFORCEMENT GATHERS
24 EVIDENCE. TO COMPLY WITH FEDERAL LAW, TEMPORARY DELAYS SHOULD NOT LAST
25 MORE THAN TEN DAYS EXCEPT WHEN LAW ENFORCEMENT SPECIFICALLY REQUESTS AND
26 JUSTIFIES A LONGER DELAY.

27 (6) THE RIGHT TO REVIEW AVAILABLE EVIDENCE IN THE CASE FILE.

28 (7) THE RIGHT TO A RANGE OF OPTIONS FOR PROVIDING TESTIMONY VIA ALTER-
29 NATIVE ARRANGEMENTS, INCLUDING TELEPHONE/VIDEOCONFERENCING OR TESTIFYING
30 WITH A ROOM PARTITION.

31 (8) THE RIGHT TO EXCLUDE PRIOR SEXUAL HISTORY OR PAST MENTAL HEALTH
32 HISTORY FROM ADMITTANCE IN THE COLLEGE DISCIPLINARY STAGE THAT DETER-
33 MINES RESPONSIBILITY. PAST SEXUAL VIOLENCE FINDINGS MAY BE ADMISSIBLE IN
34 THE DISCIPLINARY STAGE THAT DETERMINES SANCTION.

35 (9) THE RIGHT TO ASK QUESTIONS OF THE DECISION MAKER AND VIA THE DECI-
36 SION MAKER INDIRECTLY REQUEST RESPONSES FROM OTHER PARTIES AND ANY OTHER
37 WITNESSES PRESENT.

38 (10) THE RIGHT TO MAKE AN IMPACT STATEMENT DURING THE POINT OF THE
39 PROCEEDING WHERE THE DECISION MAKER IS DELIBERATING ON APPROPRIATE SANC-
40 TIONS.

41 (11) THE RIGHT TO SIMULTANEOUS (AMONG THE PARTIES) WRITTEN OR ELEC-
42 TRONIC NOTIFICATION OF THE OUTCOME OF A CONDUCT PROCEEDING, INCLUDING
43 THE SANCTION OR SANCTIONS.

44 (12) THE RIGHT TO KNOW THE SANCTION OR SANCTIONS THAT MAY BE IMPOSED
45 ON THE ACCUSED BASED UPON THE OUTCOME OF THE CONDUCT PROCEEDING AND THE
46 REASON FOR THE ACTUAL SANCTION IMPOSED. FOR STUDENTS FOUND RESPONSIBLE
47 FOR COMMITTING SEXUAL ASSAULT, THE AVAILABLE SANCTIONS SHALL BE EITHER
48 IMMEDIATE SUSPENSION WITH ADDITIONAL REQUIREMENTS OR EXPULSION.

49 C. THE RIGHT TO CHOOSE WHETHER TO DISCLOSE OR DISCUSS THE OUTCOME OF A
50 CONDUCT HEARING.

51 S 6444. CAMPUS CLIMATE ASSESSMENTS. 1. EACH COLLEGE AND UNIVERSITY
52 SHALL CONDUCT A CAMPUS CLIMATE ASSESSMENT AIMED AT ASCERTAINING GENERAL
53 AWARENESS AND KNOWLEDGE OF PROVISIONS OF THIS ARTICLE, DEVELOPED USING
54 STANDARD AND COMMONLY RECOGNIZED RESEARCH METHODS, AND SHALL CONDUCT
55 SUCH ASSESSMENT NO LESS THAN EVERY OTHER YEAR.

1 2. THE ASSESSMENT SHALL INCLUDE QUESTIONS COVERING AT LEAST THE
2 FOLLOWING TOPICS REGARDING STUDENT AND EMPLOYEE KNOWLEDGE ABOUT (A) THE
3 TITLE IX COORDINATOR'S ROLE; (B) CAMPUS POLICIES AND PROCEDURES ADDRESS-
4 ING SEXUAL ASSAULT; (C) HOW AND WHERE TO REPORT SEXUAL VIOLENCE AS A
5 VICTIM, SURVIVOR OR WITNESS; (D) THE AVAILABILITY OF RESOURCES ON AND
6 OFF CAMPUS, SUCH AS COUNSELING, HEALTH, AND ACADEMIC ASSISTANCE; (E) THE
7 PREVALENCE OF VICTIMIZATION AND PERPETRATION OF SEXUAL ASSAULT, DOMESTIC
8 VIOLENCE, DATING VIOLENCE, AND STALKING ON AND OFF CAMPUS DURING A SET
9 TIME PERIOD; (F) BYSTANDER ATTITUDES AND BEHAVIOR; AND (G) WHETHER
10 VICTIMS AND SURVIVORS REPORTED TO THE COLLEGE OR UNIVERSITY AND/OR
11 POLICE, AND REASONS WHY THEY DID OR DID NOT REPORT.

12 3. EACH COLLEGE AND UNIVERSITY SHALL TAKE STEPS TO ENSURE THAT ANSWERS
13 TO SUCH ASSESSMENTS REMAIN ANONYMOUS AND NO INDIVIDUAL RESPONDENT IS
14 IDENTIFIED.

15 4. EACH COLLEGE AND UNIVERSITY SHALL PUBLISH DETAILED RESULTS OF SUCH
16 SURVEYS ON THEIR INTERNET WEBSITE PROVIDED THAT NO PERSONALLY IDENTIFI-
17 ABLE INFORMATION OR INFORMATION WHICH CAN REASONABLY LEAD A READER TO
18 IDENTIFY AN INDIVIDUAL RESPONDENT SHALL BE SHARED.

19 5. NOTHING IN THIS SECTION SHALL BE SUBJECT TO DISCOVERY OR ADMITTED
20 INTO EVIDENCE IN A FEDERAL OR STATE COURT PROCEEDING OR CONSIDERED FOR
21 OTHER PURPOSES IN ANY ACTION FOR DAMAGES BROUGHT BY A PRIVATE PARTY
22 AGAINST A COLLEGE OR UNIVERSITY.

23 S 6445. OPTIONS FOR CONFIDENTIAL DISCLOSURE. IN ACCORDANCE WITH THE
24 VICTIM/SURVIVOR BILL OF RIGHTS SET FORTH IN SECTION SIXTY-FOUR HUNDRED
25 FORTY-TWO OF THIS ARTICLE, EACH COLLEGE AND UNIVERSITY SHALL ENSURE THAT
26 VICTIMS AND SURVIVORS HAVE THE FOLLOWING INFORMATION: (A) INFORMATION
27 REGARDING PRIVILEGED AND CONFIDENTIAL RESOURCES THEY MAY CONTACT REGARD-
28 ING VIOLENCE; (B) INFORMATION ABOUT NON-PROFESSIONAL COUNSELORS AND
29 ADVOCATES THEY MAY CONTACT REGARDING VIOLENCE; (C) A PLAIN LANGUAGE
30 EXPLANATION OF THE DIFFERENCES BETWEEN PRIVACY AND CONFIDENTIALITY; (D)
31 INFORMATION ABOUT HOW THE COLLEGE OR UNIVERSITY WILL WEIGH A REQUEST FOR
32 CONFIDENTIALITY AND RESPOND TO SUCH A REQUEST. SUCH INFORMATION SHALL AT
33 MINIMUM INCLUDE THAT IF A VICTIM/SURVIVOR DISCLOSES AN INCIDENT TO A
34 COLLEGE OR UNIVERSITY EMPLOYEE WHO IS RESPONSIBLE FOR RESPONDING TO OR
35 REPORTING SEXUAL VIOLENCE OR SEXUAL HARASSMENT, BUT WISHES TO MAINTAIN
36 CONFIDENTIALITY OR DOES NOT CONSENT TO THE INSTITUTION'S REQUEST TO
37 INITIATE AN INVESTIGATION, THE TITLE IX COORDINATOR MUST WEIGH THE
38 REQUEST AGAINST THE COLLEGE OR UNIVERSITY'S OBLIGATION TO PROVIDE A
39 SAFE, NON-DISCRIMINATORY ENVIRONMENT FOR ALL MEMBERS OF ITS COMMUNITY.
40 THE COLLEGE OR UNIVERSITY WILL ASSIST WITH ACADEMIC, HOUSING, TRANSPOR-
41 TATION, EMPLOYMENT, AND OTHER REASONABLE AND AVAILABLE ACCOMMODATIONS
42 REGARDLESS OF REPORTING CHOICES. THE COLLEGE OR UNIVERSITY MAY TAKE
43 PROACTIVE STEPS, SUCH AS TRAINING OR AWARENESS EFFORTS, TO COMBAT SEXUAL
44 VIOLENCE IN A GENERAL WAY THAT DOES NOT IDENTIFY THOSE WHO DISCLOSE OR
45 THE INFORMATION DISCLOSED. THE COLLEGE OR UNIVERSITY MAY SEEK CONSENT
46 FROM THOSE WHO DISCLOSE PRIOR TO CONDUCTING AN INVESTIGATION. DECLINING
47 TO CONSENT TO AN INVESTIGATION WILL BE HONORED UNLESS THE COLLEGE OR
48 UNIVERSITY DETERMINES IN GOOD FAITH THAT FAILURE TO INVESTIGATE DOES NOT
49 ADEQUATELY MITIGATE A POTENTIAL RISK OF HARM TO THE DISCLOSING PERSON OR
50 OTHER MEMBERS OF THE COMMUNITY. HONORING SUCH A REQUEST MAY LIMIT THE
51 COLLEGE OR UNIVERSITY'S ABILITY TO MEANINGFULLY INVESTIGATE AND PURSUE
52 CONDUCT ACTION AGAINST AN ACCUSED INDIVIDUAL. IF THE COLLEGE OR UNIVER-
53 SITY DETERMINES THAT AN INVESTIGATION IS REQUIRED, IT WILL NOTIFY THE
54 DISCLOSING PERSON AND TAKE IMMEDIATE ACTION AS NECESSARY TO PROTECT AND
55 ASSIST THEM. FACTORS USED TO DETERMINE WHETHER TO HONOR A CONFIDENTIALI-
56 TY REQUEST INCLUDE, BUT ARE NOT LIMITED TO: (1) WHETHER THE ACCUSED HAS

1 A HISTORY OF VIOLENT BEHAVIOR OR IS A REPEAT OFFENDER; (2) WHETHER THE
2 INCIDENT REPRESENTS ESCALATION IN UNLAWFUL CONDUCT ON BEHALF OF THE
3 ACCUSED FROM PREVIOUSLY NOTED BEHAVIOR; (3) THE INCREASED RISK THAT THE
4 ACCUSED WILL COMMIT ADDITIONAL ACTS OF VIOLENCE; (4) WHETHER THE ACCUSED
5 USED A WEAPON OR FORCE; (5) WHETHER THE VICTIM/SURVIVOR IS A MINOR; AND
6 (6) WHETHER THE COLLEGE OR UNIVERSITY POSSESSES OTHER MEANS TO OBTAIN
7 EVIDENCE SUCH AS SECURITY FOOTAGE, AND WHETHER AVAILABLE INFORMATION
8 REVEALS A PATTERN OF PERPETRATION AT A GIVEN LOCATION OR BY A PARTICULAR
9 GROUP; (E) INFORMATION ABOUT PUBLIC AWARENESS AND ADVOCACY EVENTS,
10 INCLUDING GUARANTEES THAT IF AN INDIVIDUAL DISCLOSES INFORMATION THROUGH
11 A PUBLIC AWARENESS EVENT SUCH AS CANDLELIGHT VIGILS, PROTESTS, OR OTHER
12 PUBLIC EVENT, THE COLLEGE OR UNIVERSITY IS NOT OBLIGATED TO BEGIN AN
13 INVESTIGATION BASED ON SUCH INFORMATION. THE COLLEGE OR UNIVERSITY MAY
14 USE THE INFORMATION PROVIDED AT SUCH AN EVENT TO INFORM ITS EFFORTS FOR
15 ADDITIONAL EDUCATION AND PREVENTION EFFORTS; (F) INFORMATION ABOUT METH-
16 ODS TO ANONYMOUSLY DISCLOSE INCLUDING BUT NOT LIMITED TO INFORMATION ON
17 RELEVANT CONFIDENTIAL HOTLINES PROVIDED BY NEW YORK STATE AGENCIES AND
18 NOT-FOR-PROFIT ENTITIES; (G) INFORMATION REGARDING INSTITUTIONAL CRIME
19 REPORTING INCLUDING BUT NOT LIMITED TO: REPORTS OF CERTAIN CRIMES OCCUR-
20 RING IN SPECIFIC GEOGRAPHIC LOCATIONS THAT SHALL BE INCLUDED IN THE
21 COLLEGE OR UNIVERSITY ANNUAL SECURITY REPORT PURSUANT TO THE CLERY ACT,
22 20 U.S.C. 1092(F), IN AN ANONYMIZED MANNER THAT NEITHER IDENTIFIES THE
23 SPECIFICS OF THE CRIME OR THE IDENTITY OF THE VICTIM/SURVIVOR; THAT THE
24 COLLEGE OR UNIVERSITY IS OBLIGATED TO ISSUE TIMELY WARNINGS OF CRIMES
25 ENUMERATED IN THE CLERY ACT OCCURRING WITHIN RELEVANT GEOGRAPHY THAT
26 REPRESENT A SERIOUS OR CONTINUING THREAT TO STUDENTS AND EMPLOYEES,
27 EXCEPT IN THOSE CIRCUMSTANCES WHERE ISSUING SUCH A WARNING MAY COMPRO-
28 MISE CURRENT LAW ENFORCEMENT EFFORTS OR WHEN THE WARNING ITSELF COULD
29 POTENTIALLY IDENTIFY THE VICTIM/SURVIVOR; THAT A VICTIM OR SURVIVOR
30 SHALL NOT BE IDENTIFIED IN A TIMELY WARNING; THAT THE FAMILY EDUCATIONAL
31 RIGHTS AND PRIVACY ACT, 20 U.S.C. 1232(G), ALLOWS INSTITUTIONS TO SHARE
32 INFORMATION WITH PARENTS WHEN (1) THERE IS A HEALTH OR SAFETY EMERGENCY,
33 OR (2) WHEN THE STUDENT IS A DEPENDENT ON EITHER PARENT'S PRIOR YEAR
34 FEDERAL INCOME TAX RETURN, AND THAT GENERALLY, THE COLLEGE OR UNIVERSITY
35 SHALL NOT SHARE INFORMATION ABOUT A REPORT OF SEXUAL VIOLENCE WITH
36 PARENTS WITHOUT THE PERMISSION OF THE VICTIM/SURVIVOR.

37 S 6446. STUDENT ONBOARDING AND ONGOING EDUCATION. 1. EACH COLLEGE AND
38 UNIVERSITY SHALL ADOPT A COMPREHENSIVE STUDENT ONBOARDING AND ONGOING
39 EDUCATION CAMPAIGN TO EDUCATE MEMBERS OF THE COLLEGE OR UNIVERSITY
40 COMMUNITY ABOUT SEXUAL ASSAULT, DOMESTIC VIOLENCE, DATING VIOLENCE AND
41 STALKING, IN COMPLIANCE WITH APPLICABLE FEDERAL LAWS, INCLUDING THE
42 CLERY ACT AS AMENDED BY THE VIOLENCE AGAINST WOMEN ACT REAUTHORIZATION
43 OF 2013, 20 U.S.C. 1092(F).

44 2. INCLUDED IN THIS CAMPAIGN IT SHALL BE A REQUIREMENT THAT ALL NEW
45 FIRST-YEAR AND TRANSFER STUDENTS SHALL, DURING THE COURSE OF THEIR
46 ONBOARDING TO THEIR COLLEGE OR UNIVERSITY, RECEIVE TRAINING ON THE
47 FOLLOWING TOPICS, USING A METHOD AND MANNER APPROPRIATE TO THE INSTITU-
48 TIONAL CULTURE OF EACH COLLEGE OR UNIVERSITY: (A) THE COLLEGE OR UNIVER-
49 SITY PROHIBITS SEXUAL HARASSMENT, INCLUDING SEXUAL VIOLENCE, OTHER
50 VIOLENCE OR THREATS OF VIOLENCE, AND WILL OFFER RESOURCES TO ANY VICTIMS
51 AND SURVIVORS OF SUCH VIOLENCE WHILE TAKING ADMINISTRATIVE AND CONDUCT
52 ACTION REGARDING ANY ACCUSED INDIVIDUAL WITHIN THE JURISDICTION OF THE
53 COLLEGE OR UNIVERSITY; (B) RELEVANT DEFINITIONS INCLUDING, BUT NOT
54 LIMITED TO, THE DEFINITIONS OF SEXUAL VIOLENCE AND CONSENT; (C) POLICIES
55 APPLY EQUALLY TO ALL STUDENTS REGARDLESS OF SEXUAL ORIENTATION, GENDER
56 IDENTITY, OR GENDER EXPRESSION; (D) THE ROLE OF THE TITLE IX COORDINA-

TOR, UNIVERSITY POLICE OR CAMPUS SECURITY, AND OTHER RELEVANT OFFICES THAT ADDRESS SEXUAL VIOLENCE PREVENTION AND RESPONSE; (E) AWARENESS OF VIOLENCE, ITS IMPACT ON VICTIMS AND SURVIVORS AND THEIR FRIENDS AND FAMILY, AND ITS LONG-TERM IMPACT; (F) THE POLICIES REQUIRED BY SECTIONS SIXTY-FOUR HUNDRED FORTY-THREE AND SIXTY-FOUR HUNDRED FORTY-FOUR OF THIS ARTICLE, INCLUDING: (1) HOW TO REPORT SEXUAL VIOLENCE AND OTHER CRIMES CONFIDENTIALLY TO COLLEGE OR UNIVERSITY OFFICIALS, CAMPUS LAW ENFORCEMENT AND SECURITY, AND LOCAL LAW ENFORCEMENT; AND (2) HOW TO OBTAIN SERVICES AND SUPPORT; (G) BYSTANDER INTERVENTION AND THE IMPORTANCE OF TAKING ACTION, WHEN ONE CAN SAFELY DO SO, TO PREVENT VIOLENCE; (H) THE PROTECTIONS OF THE POLICY FOR ALCOHOL AND/OR DRUG USE AMNESTY IN SEXUAL VIOLENCE CASES AS OUTLINED IN SECTION SIXTY-FOUR HUNDRED FORTY-ONE OF THIS ARTICLE; (I) RISK ASSESSMENT AND REDUCTION INCLUDING, BUT NOT LIMITED TO, STEPS THAT POTENTIAL VICTIMS AND SURVIVORS AND BYSTANDERS CAN TAKE TO LOWER THE INCIDENCE OF SEXUAL VIOLENCE; AND (J) CONSEQUENCES AND SANCTIONS FOR INDIVIDUALS WHO COMMIT THESE CRIMES.

3. EACH COLLEGE AND UNIVERSITY SHALL CONDUCT THESE TRAININGS FOR ALL NEW STUDENTS, WHETHER FIRST-YEAR OR TRANSFER, UNDERGRADUATE, GRADUATE, OR PROFESSIONAL.

4. EACH COLLEGE AND UNIVERSITY SHALL USE MULTIPLE METHODS TO EDUCATE STUDENTS ABOUT VIOLENCE PREVENTION AND WILL ALSO SHARE INFORMATION ON SEXUAL VIOLENCE PREVENTION WITH PARENTS OF ENROLLING STUDENTS.

5. EACH COLLEGE AND UNIVERSITY SHALL OFFER TO ALL STUDENTS GENERAL AND SPECIALIZED TRAINING IN SEXUAL VIOLENCE PREVENTION. EACH COLLEGE AND UNIVERSITY SHALL CONDUCT A CAMPAIGN, COMPLIANT WITH THE REQUIREMENTS OF THE VIOLENCE AGAINST WOMEN ACT, 20 U.S.C. 1092(F), TO EDUCATE THE STUDENT POPULATION. FURTHER, EACH COLLEGE AND UNIVERSITY SHALL, AS APPROPRIATE, PROVIDE OR EXPAND SPECIFIC TRAINING TO INCLUDE GROUPS SUCH AS INTERNATIONAL STUDENTS, STUDENTS THAT ARE ALSO EMPLOYEES, LEADERS AND OFFICERS OF REGISTERED OR RECOGNIZED STUDENT ORGANIZATIONS, AND ONLINE AND DISTANCE EDUCATION STUDENTS. EACH COLLEGE AND UNIVERSITY SHALL ALSO PROVIDE SPECIFIC TRAINING TO MEMBERS OF GROUPS IDENTIFIED AS LIKELY TO ENGAGE IN HIGH-RISK BEHAVIOR.

6. EACH COLLEGE AND UNIVERSITY SHALL REQUIRE THAT STUDENT LEADERS AND OFFICERS OF STUDENT ORGANIZATIONS RECOGNIZED BY OR REGISTERED WITH THE COLLEGE OR UNIVERSITY, AS WELL AS THOSE SEEKING RECOGNITION BY THE COLLEGE OR UNIVERSITY, COMPLETE TRAINING ON SEXUAL VIOLENCE PREVENTION AS PART OF THE APPROVAL PROCESS, AND EACH COLLEGE AND UNIVERSITY SHALL REQUIRE THAT STUDENT-ATHLETES COMPLETE TRAINING ON SEXUAL VIOLENCE PREVENTION PRIOR TO PARTICIPATING IN INTERCOLLEGIATE ATHLETIC COMPETITION.

7. METHODS OF TRAINING AND EDUCATING STUDENTS MAY INCLUDE, BUT ARE NOT LIMITED TO: (A) PRESIDENT'S WELCOME MESSAGING; (B) PEER THEATER AND PEER EDUCATIONAL PROGRAMS; (C) ONLINE TRAINING; (D) SOCIAL MEDIA OUTREACH; (E) FIRST-YEAR SEMINARS AND TRANSITIONAL COURSES; (F) COURSE SYLLABI; (G) FACULTY TEACH-INS; (H) INSTITUTION-WIDE READING PROGRAMS; (I) POSTERS, BULLETIN BOARDS, AND OTHER TARGETED PRINT AND EMAIL MATERIALS; (J) PROGRAMMING SURROUNDING LARGE RECURRING CAMPUS EVENTS; (K) PARTNERING WITH NEIGHBORING COLLEGES AND UNIVERSITIES TO OFFER TRAINING AND EDUCATION; (L) PARTNERING WITH STATE AND LOCAL COMMUNITY ORGANIZATIONS THAT PROVIDE OUTREACH, SUPPORT, CRISIS INTERVENTION, COUNSELING AND OTHER RESOURCES TO VICTIMS AND SURVIVORS OF CRIMES TO OFFER TRAINING AND EDUCATION; AND (M) OUTREACH AND PARTNERING WITH LOCAL BUSINESSES THAT ATTRACT STUDENTS TO ADVERTISE AND EDUCATE ABOUT THESE POLICIES.

8. EACH COLLEGE AND UNIVERSITY MUST ENGAGE IN AN OCCASIONAL ASSESSMENT OF ITS PROGRAM AND POLICIES ESTABLISHED PURSUANT TO PROVISIONS OF THIS

ARTICLE, IN ORDER TO DETERMINE EFFECTIVENESS AND RELEVANCE FOR STUDENTS, BY EITHER ASSESSING ITS OWN PROGRAMMING OR BY CONDUCTING A REVIEW OF POLICIES OF OTHER COLLEGES AND UNIVERSITIES AND PUBLISHED STUDIES.

S 6447. PRIVACY IN LEGAL CHALLENGES TO CONDUCT FINDINGS. IN ANY PROCEEDING BROUGHT AGAINST A COLLEGE OR UNIVERSITY CHARTERED BY THE REGENTS OR INCORPORATED BY SPECIAL ACT OF THE LEGISLATURE AND WHICH MAINTAINS A CAMPUS, CHALLENGING A FINDING THAT A STUDENT WAS RESPONSIBLE FOR A VIOLATION OF THE COLLEGE OR UNIVERSITY RULES, THE PLEADINGS AND OTHER PAPERS OF SUCH A PROCEEDING SHALL NOT NAME OR PROVIDE IDENTIFYING INFORMATION ABOUT TESTIFYING WITNESSES (INCLUDING A VICTIM OR SURVIVOR OF A CRIME) WITH THE EXCEPTION OF THE PETITIONER, INDIVIDUALS TESTIFYING IN THEIR PROFESSIONAL OR EXPERT CAPACITY, AND WITNESSES WHO WAIVE THIS RIGHT TO PRIVACY IN A NOTARIZED INSTRUMENT PRESENTED TO THE COURT. WITNESSES SHALL BE IDENTIFIED ONLY AS NUMBERED WITNESSES.

S 2. This act shall take effect immediately; provided, however, that sections sixty-four hundred thirty-nine, sixty-four hundred forty, sixty-four hundred forty-one, sixty-four hundred forty-three, sixty-four hundred forty-five, and sixty-four hundred forty-six of article 29-B of the education law, as added by section one of this act, shall take effect on the one hundred eightieth day after it shall have become a law; sections sixty-four hundred forty-two and sixty-four hundred forty-seven of article 29-B of the education law, as added by section one of this act, shall take effect on the sixtieth day after it shall have become a law, and section sixty-four hundred forty-four of article 29-B of the education law, as added by section one of this act, shall take effect on the four hundred twenty-fifth day after it shall have become a law.

PART I

Section 1. Paragraphs (a), (b), (c) and (d) of subdivision 1 of section 131-o of the social services law, as amended by section 1 of part E of chapter 58 of the laws of 2014, are amended to read as follows:

(a) in the case of each individual receiving family care, an amount equal to at least [\$139.00] \$141.00 for each month beginning on or after January first, two thousand [fourteen] FIFTEEN.

(b) in the case of each individual receiving residential care, an amount equal to at least [\$160.00] \$163.00 for each month beginning on or after January first, two thousand [fourteen] FIFTEEN.

(c) in the case of each individual receiving enhanced residential care, an amount equal to at least [\$190.00] \$193.00 for each month beginning on or after January first, two thousand [fourteen] FIFTEEN.

(d) for the period commencing January first, two thousand [fifteen] SIXTEEN, the monthly personal needs allowance shall be an amount equal to the sum of the amounts set forth in subparagraphs one and two of this paragraph:

(1) the amounts specified in paragraphs (a), (b) and (c) of this subdivision; and

(2) the amount in subparagraph one of this paragraph, multiplied by the percentage of any federal supplemental security income cost of living adjustment which becomes effective on or after January first, two thousand [fifteen] SIXTEEN, but prior to June thirtieth, two thousand [fifteen] SIXTEEN, rounded to the nearest whole dollar.

1 S 2. Paragraphs (a), (b), (c), (d), (e) and (f) of subdivision 2 of
2 section 209 of the social services law, as amended by section 2 of part
3 E of chapter 58 of the laws of 2014, are amended to read as follows:

4 (a) On and after January first, two thousand [fourteen] FIFTEEN, for
5 an eligible individual living alone, [\$808.00] \$820.00; and for an
6 eligible couple living alone, [\$1186.00] \$1204.00.

7 (b) On and after January first, two thousand [fourteen] FIFTEEN, for
8 an eligible individual living with others with or without in-kind
9 income, [\$744.00] \$756.00; and for an eligible couple living with others
10 with or without in-kind income, [\$1128.00] \$1146.00.

11 (c) On and after January first, two thousand [fourteen] FIFTEEN, (i)
12 for an eligible individual receiving family care, [\$987.48] \$999.48 if
13 he or she is receiving such care in the city of New York or the county
14 of Nassau, Suffolk, Westchester or Rockland; and (ii) for an eligible
15 couple receiving family care in the city of New York or the county of
16 Nassau, Suffolk, Westchester or Rockland, two times the amount set forth
17 in subparagraph (i) of this paragraph; or (iii) for an eligible individ-
18 ual receiving such care in any other county in the state, [\$949.48]
19 \$961.48; and (iv) for an eligible couple receiving such care in any
20 other county in the state, two times the amount set forth in subpara-
21 graph (iii) of this paragraph.

22 (d) On and after January first, two thousand [fourteen] FIFTEEN, (i)
23 for an eligible individual receiving residential care, [\$1156.00]
24 \$1168.00 if he or she is receiving such care in the city of New York or
25 the county of Nassau, Suffolk, Westchester or Rockland; and (ii) for an
26 eligible couple receiving residential care in the city of New York or
27 the county of Nassau, Suffolk, Westchester or Rockland, two times the
28 amount set forth in subparagraph (i) of this paragraph; or (iii) for an
29 eligible individual receiving such care in any other county in the
30 state, [\$1126.00] \$1138.00; and (iv) for an eligible couple receiving
31 such care in any other county in the state, two times the amount set
32 forth in subparagraph (iii) of this paragraph.

33 (e) (i) On and after January first, two thousand [fourteen] FIFTEEN,
34 for an eligible individual receiving enhanced residential care,
35 [\$1415.00] \$1427.00; and (ii) for an eligible couple receiving enhanced
36 residential care, two times the amount set forth in subparagraph (i) of
37 this paragraph.

38 (f) The amounts set forth in paragraphs (a) through (e) of this subdi-
39 vision shall be increased to reflect any increases in federal supple-
40 mental security income benefits for individuals or couples which become
41 effective on or after January first, two thousand [fifteen] SIXTEEN but
42 prior to June thirtieth, two thousand [fifteen] SIXTEEN.

43 S 3. This act shall take effect December 31, 2015.

44 PART J

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

48 (vi) proceedings concerning juvenile delinquency as set forth in arti-
49 cle three THAT ARE COMMENCED IN FAMILY COURT.

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

52 (e) The family court has concurrent jurisdiction with the criminal
53 court over all family offenses as defined in article eight of this act
54 AND HAS CONCURRENT JURISDICTION WITH THE YOUTH PART OF A SUPERIOR COURT

1 OVER ANY JUVENILE DELINQUENCY PROCEEDING RESULTING FROM THE REMOVAL OF
2 THE CASE TO THE FAMILY COURT PURSUANT TO ARTICLE SEVEN HUNDRED
3 TWENTY-FIVE OF THE CRIMINAL PROCEDURE LAW.

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

6 (b) For every juvenile delinquency proceeding under article three OF
7 THIS ACT involving an allegation of an act committed by a person which,
8 if done by an adult, would [be a crime (i) defined in sections 125.27
9 (murder in the first degree); 125.25 (murder in the second degree);
10 135.25 (kidnapping in the first degree); or 150.20 (arson in the first
11 degree) of the penal law committed by a person thirteen, fourteen or
12 fifteen years of age; or such conduct committed as a sexually motivated
13 felony, where authorized pursuant to section 130.91 of the penal law;
14 (ii) defined in sections 120.10 (assault in the first degree); 125.20
15 (manslaughter in the first degree); 130.35 (rape in the first degree);
16 130.50 (criminal sexual act in the first degree); 135.20 (kidnapping in
17 the second degree), but only where the abduction involved the use or
18 threat of use of deadly physical force; 150.15 (arson in the second
19 degree); or 160.15 (robbery in the first degree) of the penal law
20 committed by a person thirteen, fourteen or fifteen years of age; or
21 such conduct committed as a sexually motivated felony, where authorized
22 pursuant to section 130.91 of the penal law; (iii) defined in the penal
23 law as an attempt to commit murder in the first or second degree or
24 kidnapping in the first degree committed by a person thirteen, fourteen
25 or fifteen years of age; or such conduct committed as a sexually moti-
26 vated felony, where authorized pursuant to section 130.91 of the penal
27 law; (iv) defined in section 140.30 (burglary in the first degree);
28 subdivision one of section 140.25 (burglary in the second degree);
29 subdivision two of section 160.10 (robbery in the second degree) of the
30 penal law; or section 265.03 of the penal law, where such machine gun or
31 such firearm is possessed on school grounds, as that phrase is defined
32 in subdivision fourteen of section 220.00 of the penal law committed by
33 a person fourteen or fifteen years of age; or such conduct committed as
34 a sexually motivated felony, where authorized pursuant to section 130.91
35 of the penal law; (v) defined in section 120.05 (assault in the second
36 degree) or 160.10 (robbery in the second degree) of the penal law
37 committed by a person fourteen or fifteen years of age but only where
38 there has been a prior finding by a court that such person has previous-
39 ly committed an act which, if committed by an adult, would be the crime
40 of assault in the second degree, robbery in the second degree or any
41 designated felony act specified in clause (i), (ii) or (iii) of this
42 subdivision regardless of the age of such person at the time of the
43 commission of the prior act; or (vi) other than a misdemeanor, committed
44 by a person at least seven but less than sixteen years of age, but only
45 where there has been two prior findings by the court that such person
46 has committed a prior act which, if committed by an adult would be a
47 felony] CONSTITUTE A DESIGNATED FELONY ACT AS DEFINED IN SUBDIVISION
48 EIGHT OF SECTION 301.2 OF SUCH ARTICLE:

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

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

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

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

(A) WHO IS:

(I) TEN OR ELEVEN YEARS OF AGE WHO COMMITTED AN ACT THAT WOULD CONSTITUTE A CRIME AS DEFINED IN SECTION 125.27 (MURDER IN THE FIRST DEGREE) OR 125.25 (MURDER IN THE SECOND DEGREE) OF THE PENAL LAW IF COMMITTED BY AN ADULT; OR

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

(III) SIXTEEN YEARS OF AGE OR COMMENCING JANUARY FIRST, TWO THOUSAND EIGHTEEN, SIXTEEN OR SEVENTEEN YEARS OF AGE WHO COMMITTED AN ACT THAT WOULD CONSTITUTE A CRIME, OR DISORDERLY CONDUCT AS DEFINED IN SECTION 240.20 OF THE PENAL LAW, OR HARASSMENT IN THE SECOND DEGREE AS DEFINED IN SECTION 240.26 OF THE PENAL LAW IF COMMITTED BY AN ADULT; AND

(B) WHO IS EITHER:

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

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

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

8. "Designated felony act" means an act which, if done by an adult, would be a crime: (i) defined in sections 125.27 (murder in the first degree); 125.25 (murder in the second degree); 135.25 (kidnapping in the first degree); or 150.20 (arson in the first degree) of the penal law committed by a person thirteen, fourteen [or], fifteen, OR SIXTEEN, OR COMMENCING JANUARY 1, 2018, SEVENTEEN years of age; or such conduct committed as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (ii) defined in sections 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); 130.35 (rape in the first degree); 130.50 (criminal sexual act in the first degree); 130.70 (aggravated sexual abuse in the first degree); 135.20 (kidnapping in the second degree) but only where the abduction involved the use or threat of use of deadly physical force; 150.15 (arson in the second degree) or 160.15 (robbery in the first degree) of the penal law committed by a person thirteen, fourteen [or], fifteen, OR SIXTEEN, OR, COMMENCING JANUARY 1, 2018, SEVENTEEN years of age; or such conduct committed as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (iii) defined in the penal law as an attempt to commit murder in the first or second degree or kidnapping in the first degree committed by a person thirteen, fourteen [or], fifteen, OR SIXTEEN, OR COMMENCING JANUARY 1, 2018, SEVENTEEN years of age; or such conduct committed as a sexually moti-

1 vated felony, where authorized pursuant to section 130.91 of the penal
2 law; (iv) defined in section 140.30 (burglary in the first degree);
3 subdivision one of section 140.25 (burglary in the second degree);
4 subdivision two of section 160.10 (robbery in the second degree) of the
5 penal law; or section 265.03 of the penal law, where such machine gun or
6 such firearm is possessed on school grounds, as that phrase is defined
7 in subdivision fourteen of section 220.00 of the penal law committed by
8 a person fourteen or fifteen years of age; or such conduct committed as
9 a sexually motivated felony, where authorized pursuant to section 130.91
10 of the penal law; (v) defined in section 120.05 (assault in the second
11 degree) or 160.10 (robbery in the second degree) of the penal law
12 committed by a person fourteen [or], fifteen, OR SIXTEEN OR, COMMENCING
13 JANUARY 1, 2018, SEVENTEEN years of age but only where there has been a
14 prior finding by a court that such person has previously committed an
15 act which, if committed by an adult, would be the crime of assault in
16 the second degree, robbery in the second degree or any designated felony
17 act specified in paragraph (i), (ii), or (iii) of this subdivision
18 regardless of the age of such person at the time of the commission of
19 the prior act; [or] (vi) other than a misdemeanor committed by a person
20 at least [seven] TWELVE but less than [sixteen] SEVENTEEN years of age,
21 OR COMMENCING JANUARY FIRST, TWO THOUSAND EIGHTEEN A PERSON AT LEAST
22 TWELVE BUT LESS THAN EIGHTEEN YEARS OF AGE, but only where there has
23 been two prior findings by the court that such person has committed a
24 prior felony; OR (VII) THAT CONSTITUTES A VIOLENT FELONY OFFENSE AS
25 DEFINED SECTION 70.02 OF THE PENAL LAW; ANY CRIME IN THE PENAL LAW THAT
26 IS CLASSIFIED AS A CLASS A FELONY, EXCEPTING THOSE WHICH REQUIRE, AS AN
27 ELEMENT OF THE OFFENSE, THAT THE DEFENDANT BE EIGHTEEN YEARS OF AGE OR
28 OLDER; VEHICULAR ASSAULT IN THE SECOND DEGREE AS DEFINED IN SECTION
29 120.03 OF THE PENAL LAW; VEHICULAR ASSAULT IN THE FIRST DEGREE AS
30 DEFINED IN SECTION 120.04 OF THE PENAL LAW; AGGRAVATED VEHICULAR ASSAULT
31 AS DEFINED IN SECTION 120.04-A OF THE PENAL LAW; CRIMINALLY NEGLIGENT
32 HOMICIDE AS DEFINED IN SECTION 125.10 OF THE PENAL LAW; AGGRAVATED
33 CRIMINALLY NEGLIGENT HOMICIDE AS DEFINED IN SECTION 125.11 OF THE PENAL
34 LAW; VEHICULAR MANSLAUGHTER IN THE SECOND DEGREE AS DEFINED IN SECTION
35 125.12 OF THE PENAL LAW; VEHICULAR MANSLAUGHTER IN THE FIRST DEGREE AS
36 DEFINED IN SECTION 125.13 OF THE PENAL LAW; AGGRAVATED VEHICULAR HOMI-
37 CIDE AS DEFINED IN SECTION 125.14 OF THE PENAL LAW; MANSLAUGHTER IN THE
38 SECOND DEGREE AS DEFINED IN SECTION 125.15 OF THE PENAL LAW; MANSLAUGHT-
39 ER IN THE FIRST DEGREE AS DEFINED IN SECTION 125.20 OF THE PENAL LAW;
40 AGGRAVATED MANSLAUGHTER IN THE SECOND DEGREE AS DEFINED IN SECTION
41 125.21; AGGRAVATED MANSLAUGHTER IN THE FIRST DEGREE AS DEFINED IN
42 SECTION 125.22 OF THE PENAL LAW; TAMPERING WITH A WITNESS IN THE THIRD,
43 SECOND, OR FIRST DEGREE AS DEFINED UNDER ARTICLE 215 OF THE PENAL LAW,
44 PROVIDED THAT THE CRIMINAL PROCEEDING IN WHICH THE PERSON IS TAMPERING
45 IS ONE FOR WHICH SUCH PERSON IS RESPONSIBLE; AGGRAVATED CRIMINAL
46 CONTEMPT AS DEFINED IN SECTION 215.52 OF THE PENAL LAW; ACTS CONSTITUT-
47 ING A SPECIFIED OFFENSE DEFINED IN SUBDIVISION THREE OF SECTION 490.05
48 OF THE PENAL LAW WHEN COMMITTED AS AN ACT OF TERRORISM; ACTS CONSTITUT-
49 ING A FELONY DEFINED IN ARTICLE 490 OF THE PENAL LAW; AND ACTS CONSTI-
50 Tuting A CRIME SET FORTH IN SUBDIVISION ONE OF SECTION 105.10 AND
51 SECTION 105.15 OF THE PENAL LAW PROVIDED THAT THE UNDERLYING CRIME FOR
52 THE CONSPIRACY CHARGE IS ONE FOR WHICH SUCH PERSON IS CRIMINALLY RESPON-
53 SIBLE COMMITTED BY A PERSON SIXTEEN YEARS OLD OR, COMMENCING JANUARY
54 FIRST, TWO THOUSAND EIGHTEEN A PERSON SIXTEEN OR SEVENTEEN YEARS OLD.

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

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

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

12 S 7. Section 304.1 of the family court act, as added by chapter 920 of
13 the laws of 1982, subdivision 2 as amended by chapter 419 of the laws of
14 1987, is amended to read as follows:

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

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

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

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

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

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

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

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

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

1 2. An officer may take a child [under the age of sixteen] WHO MAY BE
2 SUBJECT TO THE PROVISIONS OF THIS ARTICLE FOR COMMITTING AN ACT THAT
3 WOULD BE A CRIME IF COMMITTED BY AN ADULT into custody without a warrant
4 in cases in which [he] THE OFFICER may arrest a person for a crime under
5 article one hundred forty of the criminal procedure law.

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

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

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

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

30 (a) the child is eleven 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] A-1 felony; [or]

33 (b) THE CHILD IS TWELVE 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 A OR B FELONY; OR

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

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

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

52 2. When practicable such agency may release a child before the filing
53 of a petition to the custody of his OR HER parents or other person
54 legally responsible for his OR HER care, or if such legally responsible
55 person is unavailable, to a person with whom he OR SHE resides, when the
56 events occasioning the taking into custody appear to involve allegations

1 that the child committed a delinquent act; PROVIDED, HOWEVER, THAT SUCH
2 AGENCY MUST RELEASE THE CHILD IF:

3 (A) SUCH EVENTS APPEAR TO INVOLVE ONLY ALLEGATIONS THAT THE CHILD
4 COMMITTED ACTS THAT WOULD CONSTITUTE NO MORE THAN A VIOLATION IF COMMIT-
5 TED BY AN ADULT; OR

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

9 (I) THE ALLEGED ACTS DID NOT RESULT IN ANY PHYSICAL HARM TO ANOTHER
10 PERSON;

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

13 (III) THE CHILD HAS NO MORE THAN ONE PRIOR ADJUDICATION FOR AN ACT
14 THAT WOULD CONSTITUTE A MISDEMEANOR IF COMMITTED BY AN ADULT AND THAT
15 ACT ALSO DID NOT RESULT IN ANY PHYSICAL INJURY AS DEFINED IN SUBDIVISION
16 NINE OF SECTION 10.00 OF THE PENAL LAW TO ANOTHER PERSON; AND

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

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

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

38 S 14. Paragraph (c) of subdivision 4 of section 307.4 of the family
39 court act, as added by chapter 920 of the laws of 1982, is amended to
40 read as follows:

41 (c) the events occasioning the taking into custody appear to involve
42 acts which constitute juvenile delinquency, unless the court finds and
43 states facts and reasons which would support a detention order pursuant
44 to section 320.5, OR, IN THE CASE OF A JUVENILE WHO IS CHARGED WITH AN
45 ACT ALLEGEDLY COMMITTED WHEN HE OR SHE WAS SIXTEEN YEARS OF AGE OR OLDER
46 THAT WOULD CONSTITUTE A CRIME IF COMMITTED BY AN ADULT, AN ORDER FOR
47 BAIL PURSUANT TO SECTION 320.5 OF THIS ARTICLE.

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

54 S 308.1. [Rules of court for preliminary] PRELIMINARY procedure;
55 ADJUSTMENT OF CASES. 1. [Rules of court shall authorize and determine
56 the circumstances under which the] THE probation service may confer with

1 any person seeking to have a juvenile delinquency petition filed, the
2 potential respondent and other interested persons concerning the advis-
3 ability of requesting that a petition be filed IN ACCORDANCE WITH THIS
4 SECTION.

5 2. (A) Except as provided in subdivisions three [and], four, AND THIR-
6 TEEN of this section, the probation service may[, in accordance with
7 rules of court,] ATTEMPT TO adjust [suitable cases] A CASE before a
8 petition is filed IF THE PROBATION SERVICE DETERMINES THAT THE CASE IS
9 SUITABLE FOR ADJUSTMENT BASED ON THE ASSESSED LEVEL OF RISK THAT THE
10 CHILD WILL COMMIT ANOTHER ACT THAT WOULD CONSTITUTE A CRIME AS DETER-
11 MINED BY A VALIDATED RISK ASSESSMENT INSTRUMENT AND THE EXTENT OF ANY
12 PHYSICAL INJURY TO THE VICTIM.

13 (B) IF A CHILD IS ASSESSED AT A LOW LEVEL OF RISK AND THE EVENTS IN
14 THE CASE APPEAR TO INVOLVE ONLY ALLEGATIONS THAT THE CHILD COMMITTED
15 ACTS THAT WOULD CONSTITUTE A VIOLATION OR A MISDEMEANOR IF COMMITTED BY
16 AN ADULT, THE PROBATION SERVICE MUST DILIGENTLY ATTEMPT TO ADJUST THE
17 CASE. SUCH ATTEMPTS MAY INCLUDE THE USE OF A JUVENILE REVIEW BOARD
18 COMPRISED OF APPROPRIATE COMMUNITY MEMBERS TO WORK WITH THE CHILD AND
19 HIS OR HER FAMILY ON DEVELOPING RECOMMENDED ADJUSTMENT ACTIVITIES. THE
20 PROBATION SERVICE MAY STOP ATTEMPTING TO ADJUST SUCH A CASE IF IT DETER-
21 MINES THAT THERE IS NO SUBSTANTIAL LIKELIHOOD THAT THE CHILD WILL BENE-
22 FIT FROM ATTEMPTS AT ADJUSTMENT IN THE TIME REMAINING FOR ADJUSTMENT OR
23 THE TIME FOR ADJUSTMENT HAS EXPIRED.

24 (C) The inability of the respondent or his or her family to make
25 restitution shall not be a factor in a decision to adjust a case or in a
26 recommendation to the presentment agency pursuant to subdivision six of
27 this section.

28 (D) THE PROBATION SERVICE MAY MAKE AN APPLICATION TO THE COURT FOR A
29 TEMPORARY ORDER OF PROTECTION AS PART OF THE ADJUSTMENT OF A CASE IN
30 ACCORDANCE WITH SECTION 304.2 OF THIS ARTICLE.

31 (E) Nothing in this section shall prohibit the probation service or
32 the court from directing a respondent to obtain employment and to make
33 restitution from the earnings from such employment. Nothing in this
34 section shall prohibit the probation service or the court from directing
35 an eligible person to complete an education reform program in accordance
36 with section four hundred fifty-eight-1 of the social services law.

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

42 4. The probation service shall not ATTEMPT TO adjust a case in which
43 the child has allegedly committed a delinquent act which would be a
44 crime defined in section 120.25, (reckless endangerment in the first
45 degree), subdivision one of section 125.15, (manslaughter in the second
46 degree), subdivision one of section 130.25, (rape in the third degree),
47 subdivision one of section 130.40, (criminal sexual act in the third
48 degree), subdivision one or two of section 130.65, (sexual abuse in the
49 first degree), section 135.65, (coercion in the first degree), section
50 140.20, (burglary in the third degree), section 150.10, (arson in the
51 third degree), section 160.05, (robbery in the third degree), subdivi-
52 sion two, three or four of section 265.02, (criminal possession of a
53 weapon in the third degree), section 265.03, (criminal possession of a
54 weapon in the second degree), or section 265.04, (criminal possession of
55 a [dangerous] weapon in the first degree) of the penal law where the
56 child has previously had one or more adjustments of a case in which such

1 child allegedly committed an act which would be a crime specified in
2 this subdivision unless it has received written approval from the court
3 and the appropriate presentment agency.

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

8 6. The probation service shall not transmit or otherwise communicate
9 to the presentment agency any statement made by the child to a probation
10 officer. However, the probation service may make a recommendation
11 regarding adjustment of the case to the presentment agency and provide
12 such information, including any report made by the arresting officer and
13 record of previous adjustments and arrests, as it shall deem relevant.

14 7. No statement made to the probation service prior to the filing of a
15 petition may be admitted into evidence at a fact-finding hearing or, if
16 the proceeding is transferred to a criminal court, at any time prior to
17 a conviction.

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

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

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

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

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

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

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

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

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

3 1. At the initial appearance, the court in its discretion may (A)
4 release the respondent [or], (B) direct his detention, OR, (C) IN THE
5 CASE OF A RESPONDENT WHO IS CHARGED WITH AN ACT ALLEGEDLY COMMITTED WHEN
6 HE OR SHE WAS SIXTEEN YEARS OF AGE OR OLDER THAT WOULD BE A CRIME IF
7 COMMITTED BY AN ADULT, OR IN THE CASE OF SUCH A RESPONDENT WHOSE CASE
8 HAS BEEN REMOVED TO THE FAMILY COURT PURSUANT TO ARTICLE SEVEN HUNDRED
9 TWENTY-FIVE OF THE CRIMINAL PROCEDURE LAW, FIX BAIL PURSUANT TO PARA-
10 GRAPH (E) OF SUBDIVISION THREE OF THIS SECTION.

11 S 18. Subdivision 3 of section 320.5 of the family court act is
12 amended by adding two new paragraphs (a-1) and (e) to read as follows:

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

15 (I) THE EVENTS UNDERLYING THE INITIAL APPEARANCE APPEAR TO INVOLVE
16 ONLY ALLEGATIONS THAT THE CHILD COMMITTED ACTS THAT WOULD CONSTITUTE NO
17 MORE THAN A VIOLATION IF COMMITTED BY AN ADULT; OR

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

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

23 (2) THE RESPONDENT DOES NOT HAVE ANY PRIOR ADJUDICATIONS FOR AN ACT
24 THAT WOULD CONSTITUTE A FELONY IF COMMITTED BY AN ADULT;

25 (3) THE RESPONDENT HAS NO MORE THAN ONE PRIOR ADJUDICATION FOR AN ACT
26 THAT WOULD CONSTITUTE A MISDEMEANOR IF COMMITTED BY AN ADULT AND THAT
27 ACT DID NOT RESULT IN ANY PHYSICAL HARM TO ANOTHER PERSON; AND

28 (4) THE RESPONDENT WAS ASSESSED AT A LOW RISK ON THE APPLICABLE
29 DETENTION RISK ASSESSMENT INSTRUMENT APPROVED BY THE OFFICE OF CHILDREN
30 AND FAMILY SERVICES UNLESS THE COURT DETERMINES THAT DETENTION IS NECES-
31 SARY BECAUSE THE RESPONDENT OTHERWISE POSES AN IMMINENT RISK TO PUBLIC
32 SAFETY AND STATES THE REASONS FOR SUCH DETERMINATION IN THE COURT ORDER.

33 (E) IN THE CASE OF SUCH A RESPONDENT WHO IS CHARGED WITH AN ACT
34 ALLEGEDLY COMMITTED WHEN HE OR SHE WAS SIXTEEN YEARS OF AGE OR OLDER
35 THAT WOULD BE A CRIME IF COMMITTED BY AN ADULT OR IN THE CASE OF SUCH A
36 RESPONDENT WHOSE CASE HAS BEEN REMOVED TO THE FAMILY COURT PURSUANT TO
37 ARTICLE SEVEN HUNDRED TWENTY-FIVE OF THE CRIMINAL PROCEDURE LAW, IF THE
38 COURT FINDS THAT THE RESPONDENT OTHERWISE MEETS THE CRITERIA FOR PLACE-
39 MENT IN DETENTION AS SET FORTH IN PARAGRAPH (A) OF THIS SECTION AND THAT
40 AVAILABLE ALTERNATIVES TO DETENTION, INCLUDING CONDITIONAL RELEASE,
41 WOULD NOT PREVENT SUCH RISK, THE COURT MAY CONSIDER THE RESPONDENT TO BE
42 A PRINCIPAL UNDER SUBDIVISION ONE OF SECTION 500.10 OF THE CRIMINAL
43 PROCEDURE LAW; FIX BAIL IN ACCORDANCE WITH SECTION 510.30 OF THE CRIMI-
44 NAL PROCEDURE LAW, AND ORDER BAIL IN ACCORDANCE WITH SECTION 530.10 OF
45 THE CRIMINAL PROCEDURE LAW AND THE RESPONDENT MAY POST BAIL IN ACCORD-
46 ANCE WITH, AND OTHERWISE BE SUBJECT TO THE APPLICABLE PROVISIONS OF,
47 TITLE P OF SUCH LAW.

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

51 5. (a) If the court finds that there is probable cause to believe
52 that the respondent committed a felony, it shall order the respondent
53 committed to the custody of the commissioner of mental health or the
54 commissioner of [mental retardation and] PERSONS WITH developmental
55 disabilities for an initial period not to exceed one year from the date
56 of such order. Such period may be extended annually upon further appli-

1 cation to the court by the commissioner having custody or his or her
2 designee. Such application must be made not more than sixty days prior
3 to the expiration of such period on forms that have been prescribed by
4 the chief administrator of the courts. At that time, the commissioner
5 must give written notice of the application to the respondent, the coun-
6 sel representing the respondent and the mental hygiene legal service if
7 the respondent is at a residential facility. Upon receipt of such appli-
8 cation, the court must conduct a hearing to determine the issue of
9 capacity. If, at the conclusion of a hearing conducted pursuant to this
10 subdivision, the court finds that the respondent is no longer incapaci-
11 tated, he or she shall be returned to the family court for further
12 proceedings pursuant to this article. If the court is satisfied that the
13 respondent continues to be incapacitated, the court shall authorize
14 continued custody of the respondent by the commissioner for a period not
15 to exceed one year. Such extensions shall not continue beyond a reason-
16 able period of time necessary to determine whether the respondent will
17 attain the capacity to proceed to a fact finding hearing in the foresee-
18 able future but in no event shall continue beyond the respondent's eigh-
19 teenth birthday OR, IF THE RESPONDENT WAS AT LEAST SIXTEEN YEARS OF AGE
20 WHEN THE ACT WAS COMMITTED, BEYOND THE RESPONDENT'S TWENTY-FIRST BIRTH-
21 DAY.

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

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

32 (d) The commissioner shall review the condition of the respondent
33 within forty-five days after the respondent is committed to the custody
34 of the commissioner. He or she shall make a second review within ninety
35 days after the respondent is committed to his or her custody. Thereaft-
36 er, he or she shall review the condition of the respondent every ninety
37 days. The respondent and the counsel for the respondent, shall be noti-
38 fied of any such review and afforded an opportunity to be heard. The
39 commissioner having custody shall apply to the court for an order
40 dismissing the petition whenever he or she determines that there is a
41 substantial probability that the respondent will continue to be incapac-
42 itated for the foreseeable future. At the time of such application the
43 commissioner must give written notice of the application to the respond-
44 ent, the presentment agency and the mental hygiene legal service if the
45 respondent is at a residential facility. Upon receipt of such applica-
46 tion, the court may on its own motion conduct a hearing to determine
47 whether there is substantial probability that the respondent will
48 continue to be incapacitated for the foreseeable future, and it must
49 conduct such hearing if a demand therefor is made by the respondent or
50 the mental hygiene legal service within ten days from the date that
51 notice of the application was given to them. The respondent may apply to
52 the court for an order of dismissal on the same ground.

53 S 20. Subdivisions 1 and 5 of section 325.1 of the family court act,
54 subdivision 1 as amended by chapter 398 of the laws of 1983, subdivision
55 5 as added by chapter 920 of the laws of 1982, is amended to read as
56 follows:

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

7 5. Where the petition consists of an order of removal pursuant to
8 article seven hundred twenty-five of the criminal procedure law, unless
9 the removal was pursuant to subdivision three of section 725.05 of such
10 law and the respondent was not afforded a probable cause hearing pursu-
11 ant to subdivision [three] TWO of section [180.75] 722.20 of such law
12 [for a reason other than his waiver thereof pursuant to subdivision two
13 of section 180.75 of such law], the petition shall be deemed to be based
14 upon a determination that probable cause exists to believe the respond-
15 ent is a juvenile delinquent and the respondent shall not be entitled to
16 any further inquiry on the subject of whether probable cause exists.
17 After the filing of any such petition the court must, however, exercise
18 independent, de novo discretion with respect to release or detention as
19 set forth in section 320.5.

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

23 1. [The] EXCEPT WHEN AUTHORIZED IN ACCORDANCE WITH SECTION 346.1 OF
24 THIS PART INVOLVING A CASE REMOVED TO FAMILY COURT PURSUANT TO ARTICLE
25 SEVEN HUNDRED TWENTY-FIVE OF THE CRIMINAL PROCEDURE LAW, THE judge who
26 presides at the commencement of the fact-finding hearing shall continue
27 to preside until such hearing is concluded and an order entered pursuant
28 to section 345.1 OF THIS PART unless a mistrial is declared.

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

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

38 (a) In determining an appropriate order the court shall consider the
39 needs and best interests of the respondent as well as the need for
40 protection of the community. If the respondent has committed a desig-
41 nated felony act the court shall determine the appropriate disposition
42 in accord with section 353.5. In all other cases the court shall order
43 the least restrictive available alternative enumerated in subdivision
44 one OF THIS SECTION which is consistent with the needs and best inter-
45 ests of the respondent and the need for protection of the community;
46 PROVIDED, HOWEVER, THAT THE COURT SHALL NOT DIRECT THE PLACEMENT OF A
47 RESPONDENT WITH A COMMISSIONER OF SOCIAL SERVICES OR THE OFFICE OF CHIL-
48 DREN AND FAMILY SERVICES IF:

49 (I) THE RESPONDENT ONLY COMMITTED ACTS THAT WOULD CONSTITUTE NO MORE
50 THAN A VIOLATION IF COMMITTED BY AN ADULT; OR

51 (II) THE RESPONDENT ONLY COMMITTED ACTS THAT WOULD CONSTITUTE MORE
52 THAN A VIOLATION BUT NO MORE THAN A MISDEMEANOR IF COMMITTED BY AN ADULT
53 IF:

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

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

3 (3) THE RESPONDENT HAS NO MORE THAN ONE PRIOR ADJUDICATION FOR AN ACT
4 THAT WOULD CONSTITUTE A MISDEMEANOR IF COMMITTED BY AN ADULT AND THAT
5 ACT DID NOT RESULT IN ANY PHYSICAL HARM TO ANOTHER PERSON; AND

6 (4) THE RESPONDENT WAS ASSESSED AT A LOW RISK ON THE APPLICABLE
7 PRE-DISPOSITIONAL RISK ASSESSMENT INSTRUMENT APPROVED BY THE OFFICE OF
8 CHILDREN AND FAMILY SERVICES UNLESS THE COURT DETERMINES THAT SUCH A
9 PLACEMENT IS NECESSARY BECAUSE THE RESPONDENT OTHERWISE POSES AN IMMI-
10 NENT RISK TO PUBLIC SAFETY AND STATES THE REASONS FOR SUCH DETERMINATION
11 IN THE COURT ORDER.

12 S 23. Paragraph (a) of subdivision 1 and paragraphs (f) and (h) of
13 subdivision 2 of section 353.2 of the family court act, paragraph (a) of
14 subdivision 1 as added by chapter 920 of the laws of 1982, paragraphs
15 (f) and (h) of subdivision 2 as amended by chapter 124 of the laws of
16 1993, are amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

48 S 24. Subparagraph (iii) of paragraph (a) and paragraph (d) of subdi-
49 vision 4 of section 353.5 of the family court act, as amended by section
50 6 of subpart A of part G of chapter 57 of the laws of 2012, is amended
51 to read as follows:

52 (iii) after the period set under subparagraph (ii) of this paragraph,
53 the respondent shall be placed in a residential facility for a period of
54 twelve months; provided, however, that if the respondent has been placed
55 from a family court in a social services district operating an approved
56 juvenile justice services close to home initiative pursuant to section

four hundred four of the social services law FOR AN ACT COMMITTED WHEN THE RESPONDENT WAS UNDER SIXTEEN YEARS OF AGE, once the time frames in subparagraph (ii) of this paragraph are met:

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

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

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

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

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

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

S 354.1. Retention and destruction of fingerprints of persons alleged to be juvenile delinquents. 1. If a person whose fingerprints, palmprints or photographs were taken pursuant to section 306.1 or was initially fingerprinted as a juvenile offender and the action is subsequently removed to a family court pursuant to article seven hundred twenty-five of the criminal procedure law is adjudicated to be a juvenile delinquent for a felony, the family court shall forward or cause to be forwarded to the division of criminal justice services notification of such adjudication and such related information as may be required by such division, provided, however, in the case of a person eleven [or twelve] years of age such notification shall be provided only if the act upon which the adjudication is based would constitute a class [A or B] A-1 felony OR, IN THE CASE OF A PERSON TWELVE YEARS OF AGE, SUCH NOTIFICATION SHALL BE PROVIDED ONLY IF THE ACT UPON WHICH THE ADJUDICATION IS BASED WOULD CONSTITUTE A CLASS A OR B FELONY.

2. If a person whose fingerprints, palmprints or photographs were taken pursuant to section 306.1 or was initially fingerprinted as a juvenile offender and the action is subsequently removed to family court pursuant to article seven hundred twenty-five of the criminal procedure law has had all petitions disposed of by the family court in any manner other than an adjudication of juvenile delinquency for a felony, but in

1 the case of acts committed when such person was eleven [or twelve] years
2 of age which would constitute a class [A or B] A-1 felony only, OR, IN
3 THE CASE OF ACTS COMMITTED WHEN SUCH PERSON WAS TWELVE YEARS OF AGE
4 WHICH WOULD CONSTITUTE A CLASS A OR B FELONY ONLY, all such finger-
5 prints, palmprints, photographs, and copies thereof, and all information
6 relating to such allegations obtained by the division of criminal
7 justice services pursuant to section 306.1 shall be destroyed forthwith.
8 The clerk of the court shall notify the commissioner of the division of
9 criminal justice services and the heads of all police departments and
10 law enforcement agencies having copies of such records, who shall
11 destroy such records without unnecessary delay.

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

18 4. If, following the taking into custody of a person alleged to be a
19 juvenile delinquent and the taking and forwarding to the division of
20 criminal justice services of such person's fingerprints but prior to
21 referral to the probation department or to the family court, an officer
22 or agency, elects not to proceed further, such officer or agency shall
23 serve a certification of such election upon the division of criminal
24 justice services.

25 5. Upon certification pursuant to subdivision twelve of section 308.1
26 or subdivision three or four of this section, the department or agency
27 shall destroy forthwith all fingerprints, palmprints, photographs, and
28 copies thereof, and all other information obtained in the case pursuant
29 to section 306.1. Upon receipt of such certification, the division of
30 criminal justice services and all police departments and law enforcement
31 agencies having copies of such records shall destroy them.

32 6. If a person fingerprinted pursuant to section 306.1 and subsequent-
33 ly adjudicated a juvenile delinquent for a felony, but in the case of
34 acts committed when such a person was eleven [or twelve] years of age
35 which would constitute a class [A or B] A-1 felony only, OR, IN THE CASE
36 OF ACTS COMMITTED WHEN SUCH A PERSON WAS TWELVE YEARS OF AGE WHICH WOULD
37 CONSTITUTE A CLASS A OR B FELONY ONLY, is subsequently convicted of a
38 crime, all fingerprints and related information obtained by the division
39 of criminal justice services pursuant to such section and not destroyed
40 pursuant to subdivisions two, five and seven or subdivision twelve of
41 section 308.1 shall become part of such division's permanent adult crim-
42 inal record for that person, notwithstanding section 381.2 or 381.3.

43 7. When a person fingerprinted pursuant to section 306.1 and subse-
44 quently adjudicated a juvenile delinquent for a felony, but in the case
45 of acts committed when such person was eleven [or twelve] years of age
46 which would constitute a class [A or B] A-1 felony only, OR, IN THE CASE
47 OF ACTS COMMITTED WHEN SUCH A PERSON WAS TWELVE YEARS OF AGE WHICH WOULD
48 CONSTITUTE A CLASS A OR B FELONY ONLY, reaches the age of twenty-one, or
49 has been discharged from placement under this act for at least three
50 years, whichever occurs later, and has no criminal convictions or pend-
51 ing criminal actions which ultimately terminate in a criminal
52 conviction, all fingerprints, palmprints, photographs, and related
53 information and copies thereof obtained pursuant to section 306.1 in the
54 possession of the division of criminal justice services, any police
55 department, law enforcement agency or any other agency shall be
56 destroyed forthwith. The division of criminal justice services shall

1 notify the agency or agencies which forwarded fingerprints to such divi-
2 sion pursuant to section 306.1 of their obligation to destroy those
3 records in their possession. In the case of a pending criminal action
4 which does not terminate in a criminal conviction, such records shall be
5 destroyed forthwith upon such determination.

6 S 28. Subdivisions 1 and 6 of section 355.3 of the family court act,
7 subdivision 1 as amended by chapter 398 of the laws of 1983, subdivision
8 6 as amended by chapter 663 of the laws of 1985, are amended to read as
9 follows:

10 1. In any case in which the respondent has been placed pursuant to
11 section 353.3 the respondent, the person with whom the respondent has
12 been placed, the commissioner of social services, or the [division for
13 youth] OFFICE OF CHILDREN AND FAMILY SERVICES may petition the court to
14 extend such placement. Such petition shall be filed at least sixty days
15 prior to the expiration of the period of placement, except for good
16 cause shown but in no event shall such petition be filed after the
17 original expiration date.

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

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

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

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

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

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

48 2. At the time of his first appearance following the filing of a peti-
49 tion of violation the court must: (a) advise the respondent of the
50 contents of the petition and furnish him with a copy thereof; (b) deter-
51 mine whether the respondent should be released or detained pursuant to
52 section 320.5, PROVIDED, HOWEVER, THAT NOTHING HEREIN SHALL AUTHORIZE A
53 RESPONDENT TO BE DETAINED FOR A VIOLATION OF A CONDITION THAT WOULD NOT
54 CONSTITUTE A CRIME IF COMMITTED BY AN ADULT UNLESS THE COURT DETERMINES
55 (I) THAT THE RESPONDENT POSES A SPECIFIC IMMINENT THREAT TO PUBLIC SAFE-
56 TY AND STATES THE REASONS FOR THE FINDING ON THE RECORD OR (II) THE

1 RESPONDENT IS ON PROBATION FOR AN ACT THAT WOULD CONSTITUTE A VIOLENT
2 FELONY AS DEFINED IN SECTION 70.02 OF THE PENAL LAW IF COMMITTED BY AN
3 ADULT AND THE USE OF GRADUATED SANCTIONS HAVE BEEN EXHAUSTED WITHOUT
4 SUCCESS; and (c) ask the respondent whether he wishes to make any state-
5 ment with respect to the violation. If the respondent makes a statement,
6 the court may accept it and base its decision thereon; the provisions of
7 subdivision two of section 321.3 shall apply in determining whether a
8 statement should be accepted. If the court does not accept such state-
9 ment or if the respondent does not make a statement, the court shall
10 proceed with the hearing. Upon request, the court shall grant a reason-
11 able adjournment to the respondent to enable him to prepare for the
12 hearing.

13 6. At the conclusion of the hearing the court may revoke, continue or
14 modify the order of probation or conditional discharge. If the court
15 revokes the order, it shall order a different disposition pursuant to
16 section 352.2, PROVIDED, HOWEVER, THAT NOTHING HEREIN SHALL AUTHORIZE
17 THE PLACEMENT OF A RESPONDENT FOR A VIOLATION OF A CONDITION THAT WOULD
18 NOT CONSTITUTE A CRIME IF COMMITTED BY AN ADULT UNLESS THE COURT DETER-
19 MINES (I) THAT THE RESPONDENT POSES A SPECIFIC IMMINENT THREAT TO PUBLIC
20 SAFETY AND STATES THE REASONS FOR THE FINDING ON THE RECORD OR (II) THE
21 RESPONDENT IS ON PROBATION FOR AN ACT THAT WOULD CONSTITUTE A VIOLENT
22 FELONY AS DEFINED IN SECTION 70.02 OF THE PENAL LAW IF COMMITTED BY AN
23 ADULT AND THE USE OF GRADUATED SANCTIONS HAVE BEEN EXHAUSTED WITHOUT
24 SUCCESS. If the court continues the order of probation or conditional
25 discharge, it shall dismiss the petition of violation.

26 S 32. Section 712 of the family court act, as amended by chapter 920
27 of the laws of 1982, subdivision (a) as amended by section 7 of part G
28 of chapter 58 of the laws of 2010, subdivision (b) as amended by chapter
29 465 of the laws of 1992, subdivision (g) as amended by section 2 of part
30 B of chapter 3 of the laws of 2005, subdivision (h) as added by chapter
31 7 of the laws of 1999, subdivision (i) as amended and subdivisions (j),
32 (k), (l) and (m) as added by chapter 38 of the laws of 2014, is amended
33 to read as follows:

34 S 712. Definitions. As used in this article, the following terms shall
35 have the following meanings:

36 (a) "Person in need of supervision". A person less than eighteen years
37 of age who does not attend school in accordance with the provisions of
38 part one of article sixty-five of the education law or who is incorrigi-
39 ble, ungovernable or habitually disobedient and beyond the lawful
40 control of a parent or other person legally responsible for such child's
41 care, or other lawful authority, or who violates the provisions of
42 section 221.05 or 230.00 of the penal law, or who appears to be a sexu-
43 ally exploited child as defined in paragraph (a), (c) or (d) of subdivi-
44 sion one of section four hundred forty-seven-a of the social services
45 law, but only if the child consents to the filing of a petition under
46 this article.

47 (b) ["Detention". The temporary care and maintenance of children away
48 from their own homes as defined in section five hundred two of the exec-
49 utive law.

50 (c) "Secure detention facility". A facility characterized by phys-
51 ically restricting construction, hardware and procedures.

52 (d) "Non-secure detention facility". A facility characterized by the
53 absence of physically restricting construction, hardware and procedures.

54 (e) "Fact-finding hearing". A hearing to determine whether the
55 respondent did the acts alleged to show that he OR SHE violated a law or

1 is incorrigible, ungovernable or habitually disobedient and beyond the
2 control of his OR HER parents, guardian or legal custodian.

3 [(f)] (C) "Dispositional hearing". A hearing to determine whether the
4 respondent requires supervision or treatment.

5 [(g)] (D) "Aggravated circumstances". Aggravated circumstances shall
6 have the same meaning as the definition of such term in subdivision (j)
7 of section one thousand twelve of this act.

8 [(h)] (E) "Permanency hearing". A hearing held in accordance with
9 paragraph (b) of subdivision two of section seven hundred fifty-four or
10 section seven hundred fifty-six-a of this article for the purpose of
11 reviewing the foster care status of the respondent and the appropriate-
12 ness of the permanency plan developed by the social services official on
13 behalf of such respondent.

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

33 [(j)] (G) "Substance use disorder". The misuse of, dependence on, or
34 addiction to alcohol and/or legal or illegal drugs leading to effects
35 that are detrimental to the person's physical and mental health or the
36 welfare of others.

37 [(k)] (H) "Assessment for substance use disorder". Assessment by a
38 provider that has been certified by the office of alcoholism and
39 substance abuse services of a person less than eighteen years of age
40 where it is alleged that the youth is suffering from a substance use
41 disorder which could make a youth a danger to himself or herself or
42 others.

43 [(l)] (I) "A substance use disorder which could make a youth a danger
44 to himself or herself or others". A substance use disorder that is
45 accompanied by the dependence on, or the repeated use or abuse of, drugs
46 or alcohol to the point of intoxication such that the person is in need
47 of immediate detoxification or other substance use disorder services.

48 [(m)] (J) "Substance use disorder services". Substance use disorder
49 services shall have the same meaning as provided for in section 1.03 of
50 the mental hygiene law.

51 S 33. The part heading of part 2 of article 7 of the family court act
52 is amended to read as follows:

53 CUSTODY [AND DETENTION]

54 S 34. Section 720 of the family court act, as amended by chapter 419
55 of the laws of 1987, subdivision 3 as amended by section 9 of subpart B
56 of part Q of chapter 58 of the laws of 2011, subdivision 5 as amended by

1 section 3 of part E of chapter 57 of the laws of 2005, and paragraph (c)
2 of subdivision 5 as added by section 8 of part G of chapter 58 of the
3 laws of 2010, is added to read as follows:

4 S 720. Detention PRECLUDED. [1.] THE DETENTION OF A CHILD SHALL NOT BE
5 DIRECTED UNDER ANY OF THE PROVISIONS OF THIS ARTICLE, EXCEPT AS OTHER-
6 WISE AUTHORIZED BY THE INTERSTATE COMPACT ON JUVENILES. No child to whom
7 the provisions of this article may apply, shall be detained in any pris-
8 on, jail, lockup, or other place used for adults convicted of crime or
9 under arrest and charged with a crime.

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

12 3. Detention of a person alleged to be or adjudicated as a person in
13 need of supervision shall, except as provided in subdivision four of
14 this section, be authorized only in a foster care program certified by
15 the office of children and family services, or a certified or approved
16 family boarding home, or a non-secure detention facility certified by
17 the office and in accordance with section seven hundred thirty-nine of
18 this article. The setting of the detention shall take into account (a)
19 the proximity to the community in which the person alleged to be or
20 adjudicated as a person in need of supervision lives with such person's
21 parents or to which such person will be discharged, and (b) the existing
22 educational setting of such person and the proximity of such setting to
23 the location of the detention setting.

24 4. Whenever detention is authorized and ordered pursuant to this arti-
25 cle, for a person alleged to be or adjudicated as a person in need of
26 supervision, a family court in a city having a population of one million
27 or more shall, notwithstanding any other provision of law, direct
28 detention in a foster care facility established and maintained pursuant
29 to the social services law. In all other respects, the detention of such
30 a person in a foster care facility shall be subject to the identical
31 terms and conditions for detention as are set forth in this article and
32 in section two hundred thirty-five of this act.

33 5. (a) The court shall not order or direct detention under this arti-
34 cle, unless the court determines that there is no substantial likelihood
35 that the youth and his or her family will continue to benefit from
36 diversion services and that all available alternatives to detention have
37 been exhausted; and

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

42 (c) If the respondent may be a sexually exploited child as defined in
43 subdivision one of section four hundred forty-seven-a of the social
44 services law, the court may direct the respondent to an available short-
45 term safe house as defined in subdivision two of section four hundred
46 forty-seven-a of the social services law as an alternative to
47 detention.]

48 S 35. Section 727 of the family court act is REPEALED.

49 S 36. Section 728 of the family court act, subdivision (a) as amended
50 by chapter 41 of the laws of 2010, subdivision (b) as amended by chapter
51 419 of the laws of 1987, subdivision (d) as added by chapter 145 of the
52 laws of 2000, paragraph (i) as added and paragraph (ii) of subdivision
53 (d) as renumbered by section 5 of part E of chapter 57 of the laws of
54 2005, and paragraph (iii) as amended and paragraph (iv) of subdivision
55 (d) as added by section 10 of subpart B of part Q of chapter 58 of the
56 laws of 2011, is amended to read as follows:

1 S 728. Discharge[,] OR release [or detention] by judge after hearing
2 and before filing of petition in custody cases. (a) If a child in
3 custody is brought before a judge of the family court before a petition
4 is filed, the judge shall hold a hearing for the purpose of making a
5 preliminary determination of whether the court appears to have jurisdic-
6 tion over the child. At the commencement of the hearing, the judge shall
7 advise the child of his or her right to remain silent, his or her right
8 to be represented by counsel of his or her own choosing, and of the
9 right to have an attorney assigned in accord with part four of article
10 two of this act. The judge must also allow the child a reasonable time
11 to send for his or her parents or other person or persons legally
12 responsible for his or her care, and for counsel, and adjourn the hear-
13 ing for that purpose.

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

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

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

23 (i) that there is no substantial likelihood that the youth and his or
24 her family will continue to benefit from diversion services and that all
25 available alternatives to detention have been exhausted; and

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

30 (iii) where appropriate, whether reasonable efforts were made prior to
31 the date of the court hearing that resulted in the detention order, to
32 prevent or eliminate the need for removal of the child from his or her
33 home or, if the child had been removed from his or her home prior to the
34 court appearance pursuant to this section, where appropriate, whether
35 reasonable efforts were made to make it possible for the child to safely
36 return home; and

37 (iv) whether the setting of the detention takes into account the prox-
38 imity to the community in which the person alleged to be or adjudicated
39 as a person in need of supervision lives with such person's parents or
40 to which such person will be discharged, and the existing educational
41 setting of such person and the proximity of such setting to the location
42 of the detention setting.]

43 S 37. Section 729 of the family court act is REPEALED.

44 S 38. Section 735 of the family court act, as added by section 7 of
45 part E of chapter 57 of the laws of 2005, subdivision (b) as amended by
46 chapter 38 of the laws of 2014, and paragraph (i) of subdivision (d) as
47 amended by chapter 535 of the laws of 2011, is amended to read as
48 follows:

49 S 735. Preliminary procedure; diversion services. (a) Each county and
50 any city having a population of one million or more shall offer diver-
51 sion services as defined in section seven hundred twelve of this article
52 to youth who are at risk of being the subject of a person in need of
53 supervision petition. Such services shall be designed to provide an
54 immediate response to families in crisis[, to identify and utilize
55 appropriate alternatives to detention] and to divert youth from being
56 the subject of a petition in family court. Each county and such city

1 shall designate either the local social services district or the
2 probation department as lead agency for the purposes of providing diver-
3 sion services.

4 (b) The designated lead agency shall:

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

9 (ii) diligently attempt to prevent the filing of a petition under this
10 article or, after the petition is filed, to prevent the placement of the
11 youth [into foster care] IN ACCORDANCE WITH SECTION SEVEN HUNDRED
12 FIFTY-SIX OF THIS ARTICLE; and

13 (iii) assess whether the youth would benefit from residential respite
14 services; and

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

18 (v) determine whether [alternatives to detention are appropriate to
19 avoid remand of the youth to detention] THE YOUTH AND HIS OR HER FAMILY
20 SHOULD BE REFERRED TO AN AVAILABLE FAMILY SUPPORT CENTER; and

21 [(v)] (VI) determine whether an assessment of the youth for substance
22 use disorder by an office of alcoholism and substance abuse services
23 certified provider is necessary when a person seeking to file a petition
24 alleges in such petition that the youth is suffering from a substance
25 use disorder which could make the youth a danger to himself or herself
26 or others. Provided, however, that notwithstanding any other provision
27 of law to the contrary, the designated lead agency shall not be required
28 to pay for all or any portion of the costs of such assessment or for any
29 substance use disorder or detoxification services, except in cases where
30 medical assistance for needy persons may be used to pay for all or any
31 portion of the costs of such assessment or services. The office of alco-
32 holism and substance abuse services shall make a list of its certified
33 providers available to the designated lead agency.

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

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

53 (i) providing, at the first contact, information on the availability
54 of or a referral to services in the geographic area where the youth and
55 his or her family are located that may be of benefit in avoiding the
56 need to file a petition under this article; including the availability,

1 for up to twenty-one days, of a residential respite program, if the
2 youth and his or her parent or other person legally responsible for his
3 or her care agree, and the availability of other non-residential crisis
4 intervention programs such as A FAMILY SUPPORT CENTER, family crisis
5 counseling or alternative dispute resolution programs or an educational
6 program as defined in section four hundred fifty-eight-1 of the social
7 services law.

8 (ii) scheduling and holding at least one conference with the youth and
9 his or her family and the person or representatives of the entity seek-
10 ing to file a petition under this article concerning alternatives to
11 filing a petition and services that are available. Diversion services
12 shall include clearly documented diligent attempts to provide appropri-
13 ate services to the youth and his or her family before it may be deter-
14 mined that there is no substantial likelihood that the youth and his or
15 her family will benefit from further attempts.

16 (iii) where the entity seeking to file a petition is a school district
17 or local educational agency, the designated lead agency shall review the
18 steps taken by the school district or local educational agency to
19 improve the youth's attendance and/or conduct in school and attempt to
20 engage the school district or local educational agency in further diver-
21 sion attempts, if it appears from review that such attempts will be
22 beneficial to the youth.

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

29 (f) Efforts to prevent the filing of a petition pursuant to this
30 section may extend until the designated lead agency determines that
31 there is no substantial likelihood that the youth and his or her family
32 will benefit from further attempts. Efforts at diversion pursuant to
33 this section may continue after the filing of a petition where the
34 designated lead agency determines that the youth and his or her family
35 will benefit from further attempts to prevent PLACEMENT OF the youth
36 [from entering foster care] IN ACCORDANCE WITH SECTION SEVEN HUNDRED
37 FIFTY-SIX OF THIS ARTICLE.

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

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

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

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

11 (h) No statement made to the designated lead agency or to any agency
12 or organization to which the potential respondent, prior to the filing
13 of the petition, or if the petition has been filed, prior to the time
14 the respondent has been notified that attempts at diversion will not be
15 made or have been terminated, or prior to the commencement of a fact-
16 finding hearing if attempts at diversion have not terminated previously,
17 may be admitted into evidence at a fact-finding hearing or, if the
18 proceeding is transferred to a criminal court, at any time prior to a
19 conviction.

20 S 39. Section 739 of the family court act, as amended by chapter 920
21 of the laws of 1982, subdivision (a) as amended by section 10 of part G
22 of chapter 58 of the laws of 2010, subdivision (c) as added by chapter
23 145 of the laws of 2000, is amended to read as follows:

24 S 739. Release or [detention] REFERRAL after filing of petition and
25 prior to order of disposition. [(a)] After the filing of a petition
26 under section seven hundred thirty-two of this part, the court in its
27 discretion may release the respondent [or direct his or her detention].
28 If the respondent may be a sexually exploited child as defined in subdi-
29 vision one of section four hundred forty-seven-a of the social services
30 law, the court may direct the respondent to an available short-term safe
31 house [as an alternative to detention. However, the court shall not
32 direct detention unless it finds and states the facts and reasons for so
33 finding that unless the respondent is detained there is a substantial
34 probability that the respondent will not appear in court on the return
35 date and all available alternatives to detention have been exhausted.

36 (b) Unless the respondent waives a determination that probable cause
37 exists to believe that he is a person in need of supervision, no
38 detention under this section may last more than three days (i) unless
39 the court finds, pursuant to the evidentiary standards applicable to a
40 hearing on a felony complaint in a criminal court, that such probable
41 cause exists, or (ii) unless special circumstances exist, in which cases
42 such detention may be extended not more than an additional three days
43 exclusive of Saturdays, Sundays and public holidays.

44 (c) Upon a finding of facts and reasons which support a detention
45 order pursuant to subdivision (a) of this section, the court shall also
46 determine and state in any order directing detention:

47 (i) whether continuation of the respondent in the respondent's home
48 would be contrary to the best interests of the respondent based upon,
49 and limited to, the facts and circumstance available to the court at the
50 time of the court's determination in accordance with this section; and

51 (ii) where appropriate, whether reasonable efforts were made prior to
52 the date of the court order directing detention in accordance with this
53 section, to prevent or eliminate the need for removal of the respondent
54 from his or her home or, if the respondent had been removed from his or
55 her home prior to the court appearance pursuant to this section, where

1 appropriate, whether reasonable efforts were made to make it possible
2 for the respondent to safely return home].

3 S 40. Section 741-a of the family court act, as amended by section 3
4 of part B of chapter 327 of the laws of 2007, is amended to read as
5 follows:

6 S 741-a. Notice and right to be heard. The foster parent caring for
7 [the child] A SEXUALLY EXPLOITED CHILD PLACED IN ACCORDANCE WITH SECTION
8 SEVEN HUNDRED FIFTY-SIX OF THIS ARTICLE or any pre-adoptive parent or
9 relative providing care for the respondent shall be provided with notice
10 of any permanency hearing held pursuant to this article by the social
11 services official. Such foster parent, pre-adoptive parent or relative
12 shall have the right to be heard at any such hearing; provided, however,
13 no such foster parent, pre-adoptive parent or relative shall be
14 construed to be a party to the hearing solely on the basis of such
15 notice and right to be heard. The failure of the foster parent, pre-a-
16 doptive parent, or relative caring for the child to appear at a perman-
17 ency hearing shall constitute a waiver of the right to be heard and such
18 failure to appear shall not cause a delay of the permanency hearing nor
19 shall such failure to appear be a ground for the invalidation of any
20 order issued by the court pursuant to this section.

21 S 41. Section 747 of the family court act is REPEALED.

22 S 42. Section 748 of the family court act is REPEALED.

23 S 43. Subdivision (b) of section 749 of the family court act, as
24 amended by chapter 806 of the laws of 1973, is amended to read as
25 follows:

26 (b) On its own motion, the court may adjourn the proceedings on
27 conclusion of a fact-finding hearing or during a dispositional hearing
28 to enable it to make inquiry into the surroundings, conditions and
29 capacities of the respondent. An [adjournment on the court's motion may
30 not be for a period of more than ten days if the respondent is detained,
31 in which case not more than a total of two such adjournments may be
32 granted in the absence of special circumstances. If the respondent is
33 not detained, an] adjournment may be for a reasonable time, but the
34 total number of adjourned days may not exceed two months.

35 S 44. Paragraph (a) of subdivision 2 of section 754 of the family
36 court act, as amended by chapter 7 of the laws of 1999, is amended to
37 read as follows:

38 (a) The order shall state the court's reasons for the particular
39 disposition. If the court places the child in accordance with section
40 seven hundred fifty-six of this part, the court in its order shall
41 determine: (i) whether continuation in the child's home would be contra-
42 ry to the best interest of the child and where appropriate, that reason-
43 able efforts were made prior to the date of the dispositional hearing
44 held pursuant to this article to prevent or eliminate the need for
45 removal of the child from his or her home and, if the child was removed
46 from his or her home prior to the date of such hearing, that such
47 removal was in the child's best interest and, where appropriate, reason-
48 able efforts were made to make it possible for the child to return safe-
49 ly home. If the court determines that reasonable efforts to prevent or
50 eliminate the need for removal of the child from the home were not made
51 but that the lack of such efforts was appropriate under the circum-
52 stances, the court order shall include such a finding; and (ii) in the
53 case of a child who has attained the age of sixteen, the services need-
54 ed, if any, to assist the child to make the transition from foster care
55 to independent living. [Nothing in this subdivision shall be construed

1 to modify the standards for directing detention set forth in section
2 seven hundred thirty-nine of this article.]

3 S 45. Section 756 of the family court act, as amended by chapter 920
4 of the laws of 1982, paragraph (i) of subdivision (a) as amended by
5 chapter 309 of the laws of 1996, the opening paragraph of paragraph (ii)
6 of subdivision (a) as amended by section 11 of part G of chapter 58 of
7 the laws of 2010, subdivision (b) as amended by chapter 7 of the laws of
8 1999, and subdivision (c) as amended by section 10 of part E of chapter
9 57 of the laws of 2005, is amended to read as follows:

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

14 (ii) [Where the child is placed] IF THE COURT FINDS THAT THE RESPOND-
15 ENT IS A SEXUALLY EXPLOITED CHILD AS DEFINED IN SUBDIVISION ONE OF
16 SECTION FOUR HUNDRED FORTY-SEVEN-A OF THE SOCIAL SERVICES LAW, THE COURT
17 MAY PLACE THE CHILD with the commissioner of the local social services
18 district[, the court] AND may direct the commissioner to place the child
19 with an authorized agency or class of authorized agencies, including[,
20 if the court finds that the respondent is a sexually exploited child as
21 defined in subdivision one of section four hundred forty-seven-a of the
22 social services law,] an available long-term safe house. Unless the
23 dispositional order provides otherwise, the court so directing shall
24 include one of the following alternatives to apply in the event that the
25 commissioner is unable to so place the child:

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

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

31 (b) Placements under this section may be for an initial period of
32 twelve months. The court may extend a placement pursuant to section
33 seven hundred fifty-six-a. In its discretion, the court may recommend
34 restitution or require services for public good pursuant to section
35 seven hundred fifty-eight-a in conjunction with an order of placement.
36 For the purposes of calculating the initial period of placement, such
37 placement shall be deemed to have commenced sixty days after the date
38 the child was removed from his or her home in accordance with the
39 provisions of this article. [If the respondent has been in detention
40 pending disposition, the initial period of placement ordered under this
41 section shall be credited with and diminished by the amount of time
42 spent by the respondent in detention prior to the commencement of the
43 placement unless the court finds that all or part of such credit would
44 not serve the best interests of the respondent.]

45 (c) A placement pursuant to this section with the commissioner of
46 social services shall not be directed in any detention facility, but the
47 court may direct detention pending transfer to a placement authorized
48 and ordered under this section for no more than fifteen days after
49 such order of placement is made. Such direction shall be subject to
50 extension pursuant to subdivision three of section three hundred nine-
51 ty-eight of the social services law, upon written documentation to the
52 office of children and family services that the youth is in need of
53 specialized treatment or placement and the diligent efforts by the
54 commissioner of social services to locate an appropriate placement.]

55 S 46. Section 758-a of the family court act, as amended by chapter 73
56 of the laws of 1979, subdivision 1 as amended by chapter 4 of the laws

1 of 1987, paragraph (b) of subdivision 1 as amended by chapter 575 of the
2 laws of 2007, subdivision 2 as amended by chapter 309 of the laws of
3 1996, and subdivision 3 as separately amended by chapter 568 of the laws
4 of 1979, is amended to amended to read as follows:

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

8 (a) recommend as a condition of placement, or order as a condition of
9 probation or suspended judgment, restitution in an amount representing a
10 fair and reasonable cost to replace the property or repair the damage
11 caused by the [infant] CHILD, not, however, to exceed one thousand
12 dollars. [In the case of a placement, the court may recommend that the
13 infant pay out of his or her own funds or earnings the amount of
14 replacement or damage, either in a lump sum or in periodic payments in
15 amounts set by the agency with which he is placed, and in the case of
16 probation or suspended judgment, the] THE court may require that the
17 [infant] CHILD pay out of his or her own funds or earnings the amount of
18 replacement or damage, either in a lump sum or in periodic payments in
19 amounts set by the court; and/or

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

27 2. [If the court recommends restitution or requires services for the
28 public good in conjunction with an order of placement pursuant to
29 section seven hundred fifty-six, the placement shall be made only to an
30 authorized agency which has adopted rules and regulations for the super-
31 vision of such a program, which rules and regulations shall be subject
32 to the approval of the state department of social services. Such rules
33 and regulations shall include, but not be limited to provisions (i)
34 assuring that the conditions of work, including wages, meet the stand-
35 ards therefor prescribed pursuant to the labor law; (ii) affording
36 coverage to the child under the workers' compensation law as an employee
37 of such agency, department or institution; (iii) assuring that the enti-
38 ty receiving such services shall not utilize the same to replace its
39 regular employees; and (iv) providing for reports to the court not less
40 frequently than every six months, unless the order provides otherwise.

41 3.] If the court requires restitution or services for the public good
42 [as a condition of probation or suspended judgment], it shall provide
43 that an agency or person supervise the restitution or services and that
44 such agency or person report to the court not less frequently than every
45 six months, unless the order provides otherwise. Upon the written notice
46 sent by a school district to the court and the appropriate probation
47 department or agency which submits probation recommendations or reports
48 to the court, the court may provide that such school district shall
49 supervise the performance of services for the public good.

50 [4.] 3. The court, upon receipt of the reports provided for in subdi-
51 vision two [or three] of this section may, on its own motion or the
52 motion of any party or the agency, hold a hearing to determine whether
53 the [placement] CONDITION should be altered or modified.

54 S 47. Section 774 of the family court act is amended to read as
55 follows:

1 S 774. Action on petition for transfer. On receiving a petition under
2 section seven hundred seventy-three, the court may proceed under
3 sections seven hundred thirty-seven, seven hundred thirty-eight or seven
4 hundred thirty-nine with respect to the issuance of a summons or warrant
5 [and sections seven hundred twenty-seven and seven hundred twenty-nine
6 govern questions of detention and failure to comply with a promise to
7 appear]. Due notice of the petition and a copy of the petition shall
8 also be served personally or by mail upon the office of the locality
9 chargeable for the support of the person involved and upon the person
10 involved and his OR HER parents and other persons.

11 S 48. Section 153-k of the social services law is amended by adding a
12 new subdivision 2-a to read as follows:

13 2-A. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY,
14 COMMENCING JANUARY FIRST, TWO THOUSAND SEVENTEEN, STATE REIMBURSEMENT
15 SHALL BE MADE AVAILABLE FOR ONE HUNDRED PERCENT OF EXPENDITURES MADE BY
16 SOCIAL SERVICES DISTRICTS, EXCLUSIVE OF ANY FEDERAL FUNDS MADE AVAILABLE
17 FOR SUCH PURPOSES, FOR PREVENTIVE SERVICES, AFTERCARE SERVICES, INDE-
18 PENDENT LIVING SERVICES AND FOSTER CARE SERVICES PROVIDED TO YOUTH AGE
19 SIXTEEN YEARS OF AGE OR OLDER WHEN SUCH SERVICES WOULD NOT OTHERWISE
20 HAVE BEEN PROVIDED TO SUCH YOUTH ABSENT THE PROVISIONS IN A CHAPTER OF
21 THE LAWS OF TWO THOUSAND FIFTEEN THAT INCREASED THE AGE OF JUVENILE
22 JURISDICTION ABOVE FIFTEEN YEARS OF AGE.

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

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

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

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

38 TITLE 12

39 FAMILY SUPPORT CENTERS

40 SECTION 458-M. FAMILY SUPPORT CENTERS.

41 458-N. FUNDING FOR FAMILY SUPPORT CENTERS.

42 S 458-M. FAMILY SUPPORT CENTERS. 1. AS USED IN THIS TITLE, THE TERM
43 "FAMILY SUPPORT CENTER" SHALL MEAN A PROGRAM ESTABLISHED PURSUANT TO
44 THIS TITLE TO PROVIDE COMMUNITY-BASED SUPPORTIVE SERVICES TO CHILDREN
45 AND FAMILIES WITH THE GOAL OF PREVENTING A CHILD FROM BEING ADJUDICATED
46 A PERSON IN NEED OF SUPERVISION UNDER ARTICLE SEVEN OF THE FAMILY COURT
47 ACT.

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

51 (A) RAPID FAMILY ASSESSMENTS AND SCREENINGS;

52 (B) CRISIS INTERVENTION;

53 (C) FAMILY MEDIATION AND SKILLS BUILDING;

54 (D) MENTAL AND BEHAVIORAL HEALTH SERVICES INCLUDING COGNITIVE INTER-
55 VENTIONS;

56 (E) CASE MANAGEMENT;

1 (F) RESPITE SERVICES; AND

2 (G) OTHER FAMILY SUPPORT SERVICES.

3 3. TO THE EXTENT PRACTICABLE, THE SERVICES THAT ARE PROVIDED SHALL BE
4 TRAUMA SENSITIVE, FAMILY FOCUSED, GENDER-RESPONSIVE, WHERE APPROPRIATE,
5 AND EVIDENCE AND/OR STRENGTH BASED AND SHALL BE TAILORED TO THE INDIVID-
6 UALIZED NEEDS OF THE CHILD AND FAMILY BASED ON THE ASSESSMENTS AND
7 SCREENINGS CONDUCTED BY SUCH FAMILY SUPPORT CENTER.

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

10 S 458-N. FUNDING FOR FAMILY SUPPORT CENTERS. 1. NOTWITHSTANDING ANY
11 OTHER PROVISION OF LAW TO THE CONTRARY, TO THE EXTENT THAT FUNDS ARE
12 AVAILABLE FOR SUCH PURPOSE, THE OFFICE OF CHILDREN AND FAMILY SERVICES
13 SHALL DISTRIBUTE FUNDING TO THE HIGHEST NEED SOCIAL SERVICES DISTRICTS
14 TO CONTRACT WITH NOT-FOR-PROFIT CORPORATIONS TO OPERATE FAMILY SUPPORT
15 CENTERS IN ACCORDANCE WITH THE PROVISIONS OF THIS TITLE AND THE SPECIFIC
16 PROGRAM MODEL REQUIREMENTS ISSUED BY THE OFFICE.

17 2. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, WHEN
18 DETERMINING THE HIGHEST NEED SOCIAL SERVICES DISTRICTS PURSUANT TO THIS
19 SUBDIVISION, THE OFFICE MAY CONSIDER FACTORS THAT MAY INCLUDE, BUT ARE
20 NOT NECESSARILY LIMITED TO:

21 (A) THE TOTAL AMOUNT OF AVAILABLE FUNDING AND THE AMOUNT OF FUNDING
22 REQUIRED FOR FAMILY SUPPORT CENTERS TO MEET THE OBJECTIVES OUTLINED IN
23 SECTION 458-M OF THIS TITLE;

24 (B) RELEVANT, AVAILABLE STATISTICS REGARDING EACH DISTRICT, WHICH MAY
25 INCLUDE, BUT NOT NECESSARILY BE LIMITED TO:

26 (I) THE AVAILABILITY OF SERVICES WITHIN SUCH DISTRICT TO PREVENT OR
27 REDUCE DETENTION OR RESIDENTIAL PLACEMENT OF YOUTH PURSUANT TO ARTICLE
28 SEVEN OF THE FAMILY COURT ACT;

29 (II) RELATIVE TO THE YOUTH POPULATION OF SUCH SOCIAL SERVICES
30 DISTRICT:

31 (1) THE NUMBER OF PETITIONS FILED PURSUANT TO ARTICLE SEVEN OF THE
32 FAMILY COURT ACT; OR

33 (2) THE NUMBER OF PLACEMENTS OF YOUTH INTO RESIDENTIAL CARE OR
34 DETENTION PURSUANT TO ARTICLE SEVEN OF THE FAMILY COURT ACT;

35 (C) ANY REPORTED PERFORMANCE OUTCOMES REPORTED TO THE OFFICE PURSUANT
36 TO SUBDIVISION THREE OF THIS SECTION FOR PROGRAMS THAT PREVIOUSLY
37 RECEIVED FUNDING PURSUANT TO THIS TITLE; OR

38 (D) OTHER APPROPRIATE FACTORS AS DETERMINED BY THE OFFICE.

39 3. SOCIAL SERVICES DISTRICTS RECEIVING FUNDING UNDER THIS TITLE SHALL
40 REPORT TO THE OFFICE OF CHILDREN AND FAMILY SERVICES, IN THE FORM AND
41 MANNER AND AT SUCH TIMES AS DETERMINED BY THE OFFICE, ON THE PERFORMANCE
42 OUTCOMES OF ANY FAMILY SUPPORT CENTER LOCATED WITHIN SUCH DISTRICT THAT
43 RECEIVES FUNDING UNDER THIS TITLE.

44 S 51. Subdivisions 3, 3-a, 11 and 12 of section 398 of the social
45 services law, subdivision 3 as amended by chapter 419 of the laws of
46 1987, paragraph (c) of subdivision 3 as amended by section 19 of part E
47 of chapter 57 of the laws of 2005, subdivision 3-a as added by section 1
48 of subpart B of part G of chapter 57 of the laws of 2012, subdivision 11
49 as added by chapter 514 of the laws of 1976 and subdivision 12 as
50 amended by section 12 of subpart B of part Q of chapter 58 of the laws
51 of 2011, are amended to read as follows:

52 3. As to delinquent children [and persons in need of supervision]:

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

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

1 (c) Receive within fifteen days from the order of placement as a
2 public charge any delinquent child committed or placed [or person in
3 need of supervision placed] in his or her care by the family court
4 provided, however, that the commissioner of the social services district
5 with whom the child is placed may apply to the state commissioner or his
6 or her designee for approval of an additional fifteen days, upon written
7 documentation to the office of children and family services that the
8 youth is in need of specialized treatment or placement and the diligent
9 efforts by the commissioner of social services to locate an appropriate
10 placement.

11 [3-a. As to delinquent children:

12 (a)] (D) (1) Conditionally release any juvenile delinquent placed with
13 the district to aftercare whenever the district determines conditional
14 release to be consistent with the needs and best interests of such juve-
15 nile delinquent, that suitable care and supervision can be provided, and
16 that there is a reasonable probability that such juvenile delinquent can
17 be conditionally released without endangering public safety; provided,
18 however, that such conditional release shall be made in accordance with
19 the regulations of the office of children and family services, and
20 provided further that no juvenile delinquent while absent from a facili-
21 ty or program without the consent of the director of such facility or
22 program shall be conditionally released by the district solely by reason
23 of the absence.

24 (2) It shall be a condition of such release that a juvenile delinquent
25 so released shall continue to be the responsibility of the social
26 services district for the period provided in the order of placement.

27 (3) The social services district may provide clothing, services and
28 other necessities for any conditionally released juvenile delinquent, as
29 may be required, including medical care and services not provided to
30 such juvenile delinquent as medical assistance for needy persons pursu-
31 ant to title eleven of article five of this chapter.

32 (4) The social services district, pursuant to the regulations of the
33 office of children and family services, may cause a juvenile delinquent
34 to be returned to a facility operated and maintained by the district, or
35 an authorized agency under contract with the district, at any time with-
36 in the period of placement, where there is a violation of the conditions
37 of release or a change of circumstances.

38 (5) Juvenile delinquents conditionally released by a social services
39 district may be provided for as follows:

40 (i) If, in the opinion of the social services district, there is no
41 suitable parent, relative or guardian to whom a juvenile delinquent can
42 be conditionally released, and suitable care cannot otherwise be
43 secured, the district may conditionally release such juvenile delinquent
44 to the care of any other suitable person; provided that where such suit-
45 able person has no legal relationship with the juvenile, the district
46 shall advise such person of the procedures for obtaining custody or
47 guardianship of the juvenile.

48 (ii) If a conditionally released juvenile delinquent is subject to
49 article sixty-five of the education law or elects to participate in an
50 educational program leading to a high school diploma, he or she shall be
51 enrolled in a school or educational program leading to a high school
52 diploma following release, or, if such release occurs during the summer
53 recess, upon the commencement of the next school term. If a condi-
54 tionally released juvenile delinquent is not subject to article sixty-
55 five of the education law, and does not elect to participate in an
56 educational program leading to a high school diploma, steps shall be

1 taken, to the extent possible, to facilitate his or her gainful employ-
2 ment or enrollment in a vocational program following release.

3 [(b)] (E) When a juvenile delinquent placed with the social services
4 district is absent from placement without consent, such absence shall
5 interrupt the calculation of time for his or her placement. Such inter-
6 ruption shall continue until such juvenile delinquent returns to the
7 facility or authorized agency in which he or she was placed. Provided,
8 however, that any time spent by a juvenile delinquent in custody from
9 the date of absence to the date placement resumes shall be credited
10 against the time of such placement provided that such custody:

11 (1) was due to an arrest or surrender based upon the absence; or

12 (2) arose from an arrest or surrender on another charge which did not
13 culminate in a conviction, adjudication or adjustment.

14 [(c)] (F) In addition to the other requirements of this section, no
15 juvenile delinquent placed with a social services district operating an
16 approved juvenile justice services close to home initiative pursuant to
17 section four hundred four of this chapter pursuant to a restrictive
18 placement under the family court act shall be released except pursuant
19 to section 353.5 of the family court act.

20 11. In the case of a child who is adjudicated [a person in need of
21 supervision or] a juvenile delinquent and is placed by the family court
22 with the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES and
23 who is placed by [the division for youth] SUCH OFFICE with an authorized
24 agency pursuant to court order, the social services official shall make
25 expenditures in accordance with the regulations of the department for
26 the care and maintenance of such child during the term of such placement
27 subject to state reimbursement pursuant to SECTION ONE HUNDRED
28 FIFTY-THREE-K OF this title[, or article nineteen-G of the executive law
29 in applicable cases].

30 12. A social services official shall be permitted to place persons
31 adjudicated [in need of supervision or] delinquent[, and alleged persons
32 to be in need of supervision] in detention pending transfer to a place-
33 ment, in the same foster care facilities as are providing care to desti-
34 tute, neglected, abused or abandoned children. Such foster care facili-
35 ties shall not provide care to a youth in the care of a social services
36 official as a convicted juvenile offender.

37 S 52. Subdivision 8 of section 404 of the social services law, as
38 added by section 1 of subpart A of part G of chapter 57 of the laws of
39 2012, is amended to read as follows:

40 8. (a) Notwithstanding any other provision of law to the contrary[,]
41 EXCEPT AS PROVIDED FOR IN PARAGRAPH (A-1) OF THIS SUBDIVISION, eligible
42 expenditures during the applicable time periods made by a social
43 services district for an approved juvenile justice services close to
44 home initiative shall, if approved by the department of family assist-
45 ance, be subject to reimbursement with state funds only up to the extent
46 of an annual appropriation made specifically therefor, after first
47 deducting therefrom any federal funds properly received or to be
48 received on account thereof; provided, however, that when such funds
49 have been exhausted, a social services district may receive state
50 reimbursement from other available state appropriations for that state
51 fiscal year for eligible expenditures for services that otherwise would
52 be reimbursable under such funding streams. Any claims submitted by a
53 social services district for reimbursement for a particular state fiscal
54 year for which the social services district does not receive state
55 reimbursement from the annual appropriation for the approved close to

home initiative may not be claimed against that district's appropriation for the initiative for the next or any subsequent state fiscal year.

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

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

(iii) The reimbursement amounts set forth in subparagraph (i) of this paragraph shall be increased if either the population of alleged juvenile delinquents who receive a probation intake or the total population of adjudicated juvenile delinquents placed on probation combined with the population of adjudicated juvenile delinquents placed out of their homes in a setting other than a secure facility pursuant to section 352.2 of the family court act, increases by at least ten percent over the respective population in the annual baseline year. The baseline year shall be the period from July first, two thousand ten through June thirtieth, two thousand eleven or the most recent twelve month period for which there is complete data, whichever is later. In each successive year, the population of the previous July first through June thirtieth period shall be compared to the baseline year for determining any adjustments to a state fiscal year appropriation. When either population increases by ten percent or more, the reimbursement will be adjusted by a percentage equal to the larger of the percentage increase in either the number of probation intakes for alleged juvenile delinquents or the total population of adjudicated juvenile delinquents placed on probation combined with the population of adjudicated juvenile delinquents placed out of their homes in a setting other than a secure facility pursuant to section 352.2 of the family court act.

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

(A-1) COMMENCING JANUARY FIRST, TWO THOUSAND SEVENTEEN, STATE REIMBURSEMENT SHALL BE MADE AVAILABLE FOR ONE HUNDRED PERCENT OF ELIGIBLE EXPENDITURES MADE BY A SOCIAL SERVICES DISTRICT, EXCLUSIVE OF ANY FEDERAL FUNDS MADE AVAILABLE FOR SUCH PURPOSES, FOR APPROVED JUVENILE JUSTICE SERVICES UNDER AN APPROVED CLOSE TO HOME INITIATIVE PROVIDED TO YOUTH AGE SIXTEEN YEARS OF AGE OR OLDER WHEN SUCH SERVICES WOULD NOT OTHERWISE HAVE BEEN PROVIDED TO SUCH YOUTH ABSENT THE PROVISIONS IN A

1 CHAPTER OF THE LAWS OF TWO THOUSAND FIFTEEN THAT INCREASED THE AGE OF
2 JUVENILE JURISDICTION ABOVE FIFTEEN YEARS OF AGE.

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

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

10 (d) Notwithstanding any inconsistent provision of law or regulation of
11 the department of family assistance, state reimbursement shall not be
12 made for any expenditure made for the duplication of any grant or allow-
13 ance for any period.

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

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

22 (g) Notwithstanding any other provision of law, the state shall not be
23 responsible for reimbursing a social services district and a district
24 shall not seek state reimbursement for any portion of any state disal-
25 lowance or sanction taken against the social services district, or any
26 federal disallowance attributable to final federal agency decisions or
27 to settlements made, when such disallowance or sanction results from the
28 failure of the social services district to comply with federal or state
29 requirements, including, but not limited to, failure to document eligi-
30 bility for the federal or state funds in the case record. To the extent
31 that the social services district has sufficient claims other than those
32 that are subject to disallowance or sanction to draw down the full annu-
33 al appropriation, such disallowance or sanction shall not result in a
34 reduction in payment of state funds to the district unless the district
35 requests that the department use a portion of the appropriation toward
36 meeting the district's responsibility to repay the federal government
37 for the disallowance or sanction and any related interest payments.

38 (h) Rates for residential services. (i) The office shall establish the
39 rates, in accordance with section three hundred ninety-eight-a of this
40 chapter, for any non-secure facilities established under an approved
41 juvenile justice services close to home initiative. For any such non-se-
42 cure facility that will be used primarily by the social services
43 district with an approved close to home initiative, final authority for
44 establishment of such rates and any adjustments thereto shall reside
45 with the office, but such rates and any adjustments thereto shall be
46 established only upon the request of, and in consultation with, such
47 social services district.

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

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

6 (a) A social services official shall provide preventive services to a
7 child and his or her family, in accordance with the family's service
8 plan as required by section four hundred nine-e of this chapter and the
9 social services district's child welfare services plan submitted and
10 approved pursuant to section four hundred nine-d of this chapter, upon a
11 finding by such official that [(i)] the child will be placed, returned
12 to or continued in foster care unless such services are provided and
13 that it is reasonable to believe that by providing such services the
14 child will be able to remain with or be returned to his or her family,
15 and for a former foster care youth under the age of twenty-one who was
16 previously placed in the care and custody or custody and guardianship of
17 the local commissioner of social services or other officer, board or
18 department authorized to receive children as public charges where it is
19 reasonable to believe that by providing such services the former foster
20 care youth will avoid a return to foster care [or (ii) the child is the
21 subject of a petition under article seven of the family court act, or
22 has been determined by the assessment service established pursuant to
23 section two hundred forty-three-a of the executive law, or by the
24 probation service where no such assessment service has been designated,
25 to be at risk of being the subject of such a petition, and the social
26 services official determines that the child is at risk of placement into
27 foster care]. Such finding shall be entered in the child's uniform case
28 record established and maintained pursuant to section four hundred
29 nine-f of this chapter. The commissioner shall promulgate regulations to
30 assist social services officials in making determinations of eligibility
31 for mandated preventive services pursuant to this [subparagraph] PARA-
32 GRAPH.

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

36 S 30.00 Infancy.

37 1. Except as provided in [subdivision] SUBDIVISIONS two AND THREE of
38 this section, a person less than [sixteen] SEVENTEEN years old, OR,
39 COMMENCING JANUARY FIRST, TWO THOUSAND EIGHTEEN, A PERSON LESS THAN
40 EIGHTEEN YEARS OLD is not criminally responsible for conduct.

41 2. A person thirteen, fourteen [or], fifteen, OR SIXTEEN YEARS OF AGE
42 OR, COMMENCING JANUARY FIRST, TWO THOUSAND EIGHTEEN, A PERSON SEVENTEEN
43 years of age is criminally responsible for acts constituting murder in
44 the second degree as defined in subdivisions one and two of section
45 125.25 and in subdivision three of such section provided that the under-
46 lying crime for the murder charge is one for which such person is crimi-
47 nally responsible or for such conduct as a sexually motivated felony,
48 where authorized pursuant to section 130.91 of the penal law; and a
49 person fourteen [or], fifteen, OR SIXTEEN YEARS OF AGE OR, COMMENCING
50 JANUARY FIRST, TWO THOUSAND EIGHTEEN, SEVENTEEN years of age is crimi-
51 nally responsible for acts constituting the crimes defined in section
52 135.25 (kidnapping in the first degree); 150.20 (arson in the first
53 degree); subdivisions one and two of section 120.10 (assault in the
54 first degree); 125.20 (manslaughter in the first degree); subdivisions
55 one and two of section 130.35 (rape in the first degree); subdivisions
56 one and two of section 130.50 (criminal sexual act in the first degree);

1 130.70 (aggravated sexual abuse in the first degree); 140.30 (burglary
2 in the first degree); subdivision one of section 140.25 (burglary in the
3 second degree); 150.15 (arson in the second degree); 160.15 (robbery in
4 the first degree); subdivision two of section 160.10 (robbery in the
5 second degree) of this chapter; or section 265.03 of this chapter, where
6 such machine gun or such firearm is possessed on school grounds, as that
7 phrase is defined in subdivision fourteen of section 220.00 of this
8 chapter; or defined in this chapter as an attempt to commit murder in
9 the second degree or kidnapping in the first degree, or for such conduct
10 as a sexually motivated felony, where authorized pursuant to section
11 130.91 of the penal law.

12 3. A PERSON SIXTEEN OR, COMMENCING JANUARY FIRST, TWO THOUSAND EIGH-
13 TEEN, SEVENTEEN YEARS OF AGE IS CRIMINALLY RESPONSIBLE FOR ACTS CONSTI-
14 TUTING A VIOLENT FELONY DEFINED IN SECTION 70.02 OF THIS CHAPTER; ACTS
15 CONSTITUTING ANY CRIME IN THIS CHAPTER THAT IS CLASSIFIED AS A CLASS A
16 FELONY EXCEPTING THOSE CLASS A FELONIES WHICH REQUIRE, AS AN ELEMENT OF
17 THE OFFENSE, THAT THE DEFENDANT BE EIGHTEEN YEARS OF AGE OR OLDER; ACTS
18 CONSTITUTING THE CRIMES DEFINED IN SECTION 120.03 (VEHICULAR ASSAULT IN
19 THE SECOND DEGREE); 120.04 (VEHICULAR ASSAULT IN THE FIRST DEGREE);
20 120.04-A (AGGRAVATED VEHICULAR ASSAULT); 125.10 (CRIMINALLY NEGLIGENT
21 HOMICIDE); 125.11 (AGGRAVATED CRIMINALLY NEGLIGENT HOMICIDE); 125.12
22 (VEHICULAR MANSLAUGHTER IN THE SECOND DEGREE); 125.13 (VEHICULAR
23 MANSLAUGHTER IN THE FIRST DEGREE); 125.14 (AGGRAVATED VEHICULAR HOMI-
24 CIDE); 125.15 (MANSLAUGHTER IN THE SECOND DEGREE); 125.20 (MANSLAUGHTER
25 IN THE FIRST DEGREE); 125.21 (AGGRAVATED MANSLAUGHTER IN THE SECOND
26 DEGREE); 125.22 (AGGRAVATED MANSLAUGHTER IN THE FIRST DEGREE); 215.11
27 (TAMPERING WITH A WITNESS IN THE THIRD DEGREE) PROVIDED THAT THE CRIMI-
28 NAL PROCEEDING IN WHICH THE PERSON IS TAMPERING IS ONE FOR WHICH SUCH
29 PERSON IS CRIMINALLY RESPONSIBLE; 215.12 (TAMPERING WITH A WITNESS IN
30 THE SECOND DEGREE) PROVIDED THAT THE CRIMINAL PROCEEDING IN WHICH THE
31 PERSON IS TAMPERING IS ONE FOR WHICH SUCH PERSON IS CRIMINALLY RESPONSI-
32 BLE; 215.13 (TAMPERING WITH A WITNESS IN THE FIRST DEGREE) PROVIDED THAT
33 THE CRIMINAL PROCEEDING IN WHICH THE PERSON IS TAMPERING IS ONE FOR
34 WHICH SUCH PERSON IS CRIMINALLY RESPONSIBLE; 215.52 (AGGRAVATED CRIMINAL
35 CONTEMPT); ACTS CONSTITUTING A SPECIFIED OFFENSE DEFINED IN SUBDIVISION
36 TWO OF SECTION 130.91 OF THIS CHAPTER WHEN COMMITTED AS A SEXUALLY MOTI-
37 VATED FELONY; ACTS CONSTITUTING A SPECIFIED OFFENSE DEFINED IN SUBDIVI-
38 SION THREE OF SECTION 490.05 OF THIS CHAPTER WHEN COMMITTED AS AN ACT OF
39 TERRORISM; ACTS CONSTITUTING A FELONY DEFINED IN ARTICLE 490 OF THIS
40 CHAPTER; AND ACTS CONSTITUTING A CRIME SET FORTH IN SUBDIVISION ONE OF
41 SECTION 105.10 AND SECTION 105.15 PROVIDED THAT THE UNDERLYING CRIME FOR
42 THE CONSPIRACY CHARGE IS ONE FOR WHICH SUCH PERSON IS CRIMINALLY RESPON-
43 SIBLE. PROVIDED HOWEVER, A PERSON SIXTEEN OR SEVENTEEN YEARS OF AGE IS
44 CRIMINALLY RESPONSIBLE FOR ACTS CONSTITUTING AN OFFENSE SET FORTH IN THE
45 VEHICLE AND TRAFFIC LAW.

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

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

50 (2) If the sentence is to be imposed upon a youthful offender finding
51 which has been substituted for a conviction for any felony, AND THE
52 PERSON IS EIGHTEEN YEARS OF AGE OR YOUNGER, the court must impose a
53 sentence authorized to be imposed upon a person convicted of a class E
54 felony provided, however, that (A) the court must not impose a sentence
55 of [conditional discharge or] unconditional discharge if the youthful
56 offender finding was substituted for a conviction of a felony defined in

1 article two hundred twenty of this chapter; AND (B) NOTWITHSTANDING
2 PARAGRAPH (E) OF SUBDIVISION TWO OF SECTION 70.00 OF THIS TITLE, IF A
3 TERM OF IMPRISONMENT IS IMPOSED, SUCH TERM SHALL BE A DEFINITE SENTENCE
4 OF ONE YEAR OR LESS, OR A DETERMINATE SENTENCE, THE TERM OF WHICH MUST
5 BE AT LEAST ONE YEAR AND MUST NOT EXCEED THREE YEARS, AND MUST INCLUDE,
6 AS A PART THEREOF, A PERIOD OF POST-RELEASE SUPERVISION IN ACCORDANCE
7 WITH SUBDIVISION TWO-B OF SECTION 70.45 OF THIS CHAPTER. IN ANY CASE,
8 WHERE A COURT IMPOSES A SENTENCE OF IMPRISONMENT IN CONJUNCTION WITH A
9 SENTENCE OF PROBATION OR CONDITIONAL DISCHARGE, SUCH IMPRISONMENT TERM
10 SHALL NOT BE IN EXCESS OF SIX MONTHS, OR IN THE CASE OF AN INTERMITTENT
11 TERM, NOT IN EXCESS OF FOUR MONTHS IN ACCORDANCE WITH PARAGRAPH (D) OF
12 SUBDIVISION TWO OF SECTION 60.01 OF THIS ARTICLE.

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

15 S 60.10 Authorized disposition; juvenile offender.

16 1. WHEN A JUVENILE OFFENDER IS CONVICTED OF A CLASS A FELONY, OTHER
17 THAN MURDER IN THE SECOND DEGREE AS DEFINED BY SECTION 125.25, ARSON IN
18 THE FIRST DEGREE AS DEFINED BY SECTION 150.20 OR KIDNAPPING IN THE FIRST
19 DEGREE AS DEFINED BY SECTION 135.25 OF THIS CHAPTER, THE COURT SHALL
20 SENTENCE THE DEFENDANT TO IMPRISONMENT PURSUANT TO THE PROVISIONS OF
21 SECTION 70.00, 70.06, 70.07, 70.08, OR 70.71 OF THIS CHAPTER, AS APPLI-
22 CABLE. When a juvenile offender is convicted of [a] ANY OTHER crime, the
23 court shall sentence the defendant to imprisonment in accordance with
24 section 70.05 or sentence [him] THE DEFENDANT upon a youthful offender
25 finding in accordance with section 60.02 of this chapter.

26 2. Subdivision one of this section shall apply when sentencing a juve-
27 nile offender notwithstanding the provisions of any other law that deals
28 with the authorized sentence for persons who are not juvenile offenders.
29 Provided, however, that the limitation prescribed by this section shall
30 not be deemed or construed to bar use of a conviction of a juvenile
31 offender, other than a juvenile offender who has been adjudicated a
32 youthful offender pursuant to section 720.20 of the criminal procedure
33 law, EXCEPT AS PROVIDED IN SUBDIVISION THREE OF THIS SECTION as a previ-
34 ous or predicate felony offender under section 70.04, 70.06, 70.07,
35 70.08 [or], 70.10, 70.70, 70.71, 70.80, OR 485.10 OF THIS CHAPTER, when
36 sentencing a person who commits a felony after [he] SUCH PERSON has
37 reached the age of [sixteen] SEVENTEEN AS OF JANUARY FIRST, TWO THOUSAND
38 SEVENTEEN, AND EIGHTEEN AS OF JANUARY FIRST, TWO THOUSAND EIGHTEEN.

39 3. THE LIMITATION PRESCRIBED BY THIS SECTION SHALL NOT BE DEEMED OR
40 CONSTRUED TO BAR USE OF A CONVICTION OF A JUVENILE OFFENDER WHO HAS BEEN
41 ADJUDICATED A YOUTHFUL OFFENDER PURSUANT TO SECTION 720.20 OF THE CRIMI-
42 NAL PROCEDURE LAW FOR AN OFFENSE COMMITTED WHEN SUCH PERSON WAS SIXTEEN
43 OR SEVENTEEN YEARS OLD AS A PREVIOUS OR PREDICATE FELONY OFFENDER UNDER
44 SECTION 70.04, 70.06, 70.07, 70.08, 70.10, 70.70, 70.71, 70.80 OR 485.10
45 OF THIS CHAPTER, WHEN SENTENCING A PERSON WHO COMMITS A VIOLENT FELONY
46 AS DEFINED BY SUBDIVISION ONE OF SECTION 70.02 OF THIS TITLE AFTER SUCH
47 PERSON HAS REACHED THE AGE OF SEVENTEEN AS OF JANUARY FIRST, TWO THOU-
48 SAND SEVENTEEN AND EIGHTEEN AS OF JANUARY FIRST, TWO THOUSAND EIGHTEEN.

49 S 57. Section 70.05 of the penal law, as added by chapter 481 of the
50 laws of 1978, subdivision 1 as amended by chapter 615 of the laws of
51 1984, paragraph (e) of subdivision 2 as added and paragraph (c) of
52 subdivision 3 as amended by chapter 435 of the laws of 1998, paragraph
53 (a) of subdivision 3 as amended by chapter 174 of the laws of 2003, is
54 amended to read as follows:

55 S 70.05 Sentence of imprisonment for juvenile offender.

1 1. [Indeterminate sentence] SENTENCE. A sentence of imprisonment for
2 a JUVENILE OFFENDER CONVICTED OF A CLASS A felony OTHER THAN MURDER IN
3 THE SECOND DEGREE AS DEFINED BY SECTION 125.25, ARSON IN THE FIRST
4 DEGREE AS DEFINED BY SECTION 150.20 OR KIDNAPPING IN THE FIRST DEGREE AS
5 DEFINED BY SECTION 135.25 OF THIS CHAPTER, SHALL BE IMPOSED BY THE COURT
6 PURSUANT TO THE PROVISIONS OF SECTION 70.00, 70.06, 70.07, 70.08, OR
7 70.71 OF THIS CHAPTER, AS APPLICABLE. A SENTENCE OF IMPRISONMENT FOR THE
8 CLASS A-1 FELONY OF MURDER IN THE SECOND DEGREE committed by a juvenile
9 offender shall be an indeterminate sentence. When such a sentence is
10 imposed, the court shall impose [a] THE MINIMUM PERIOD OF IMPRISONMENT
11 AND maximum term in accordance with the provisions of subdivision two of
12 this section [and the minimum period of imprisonment shall be as
13 provided in subdivision three of this section]. EXCEPT AS PROVIDED HERE-
14 IN, A SENTENCE OF IMPRISONMENT FOR ANY OTHER FELONY COMMITTED BY A JUVE-
15 NILE OFFENDER SHALL BE A DETERMINATE SENTENCE. WHEN SUCH A SENTENCE IS
16 IMPOSED, THE COURT SHALL IMPOSE A TERM OF IMPRISONMENT IN WHOLE OR HALF
17 YEARS IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION THREE OF THIS
18 SECTION AND A PERIOD OF POST-RELEASE SUPERVISION IN ACCORDANCE WITH THE
19 PROVISIONS OF SUBDIVISION TWO-B OF SECTION 70.45 OF THIS ARTICLE. The
20 court shall further provide that where a juvenile offender is under
21 placement pursuant to article three of the family court act, any
22 sentence imposed pursuant to this section which is to be served consec-
23 utively with such placement shall be served in a facility designated
24 pursuant to subdivision four of section 70.20 of this article prior to
25 service of the placement in any previously designated facility.

26 2. [Maximum term of] INDETERMINATE sentence. [The maximum term of an
27 indeterminate sentence for a juvenile offender shall be at least three
28 years and the term shall be fixed as follows:

29 (a)] For the class A felony of murder in the second degree, the MAXI-
30 MUM term shall be life imprisonment[;], AND THE MINIMUM PERIOD OF IMPRI-
31 SONMENT SHALL BE SPECIFIED IN THE SENTENCE AS FOLLOWS:

32 (A) WHERE THE DEFENDANT WAS THIRTEEN YEARS OLD AT THE TIME OF SUCH
33 OFFENSE, THE MINIMUM PERIOD OF IMPRISONMENT SHALL BE AT LEAST FIVE YEARS
34 BUT SHALL NOT EXCEED NINE YEARS;

35 (B) WHERE THE DEFENDANT WAS AT LEAST FOURTEEN YEARS OLD BUT LESS THAN
36 SEVENTEEN YEARS OLD, AND, COMMENCING JANUARY 1, 2018, WHERE THE DEFEND-
37 ANT WAS AT LEAST FOURTEEN YEARS OLD BUT LESS THAN EIGHTEEN YEARS OLD AT
38 THE TIME OF SUCH OFFENSE, THE MINIMUM PERIOD OF IMPRISONMENT SHALL BE AT
39 LEAST SEVEN AND ONE-HALF YEARS BUT SHALL NOT EXCEED FIFTEEN YEARS.

40 [(b)] 3. DETERMINATE SENTENCE. (A) For the class A felony of arson in
41 the first degree, or for the class A felony of kidnapping in the first
42 degree the DETERMINATE term shall be fixed by the court, and shall be at
43 least [twelve] FOUR years but shall not exceed fifteen years;

44 [(c)] (B) For a class B felony, the DETERMINATE term shall be fixed by
45 the court, and shall BE AT LEAST ONE YEAR BUT SHALL not exceed [ten]
46 SEVEN years; PROVIDED, HOWEVER, THAT WHERE THE DEFENDANT WAS SIXTEEN
47 YEARS OLD, AND, COMMENCING JANUARY 1, 2018, WHERE THE DEFENDANT WAS
48 SIXTEEN OR SEVENTEEN YEARS OLD AT THE TIME OF THE OFFENSE AND THE
49 DEFENDANT IS CONVICTED OF A CLASS B VIOLENT FELONY AND THE COURT FINDS
50 AGGRAVATING CIRCUMSTANCES THAT BEAR DIRECTLY UPON THE MANNER IN WHICH
51 THE CRIME WAS COMMITTED, INCLUDING THE SEVERITY OF INJURY TO THE VICTIM
52 AND THE GRAVITY OF RISK TO PUBLIC SAFETY, THE COURT SHALL SENTENCE THE
53 DEFENDANT PURSUANT TO PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION
54 70.02 OF THIS ARTICLE. THE DEFENDANT AND THE DISTRICT ATTORNEY SHALL
55 HAVE AN OPPORTUNITY TO PRESENT RELEVANT INFORMATION TO ASSIST THE COURT
56 IN MAKING THIS DETERMINATION AND THE COURT MAY, IN ITS DISCRETION,

1 CONDUCT A HEARING WITH RESPECT TO ANY ISSUE BEARING UPON SUCH DETERMI-
2 NATION. IF THE COURT DETERMINES IT IS APPROPRIATE TO SENTENCE THE
3 DEFENDANT PURSUANT TO PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION
4 70.02 OF THIS ARTICLE, IT SHALL MAKE A STATEMENT ON THE RECORD OF THE
5 FACTS AND CIRCUMSTANCES UPON WHICH SUCH DETERMINATION IS BASED;

6 [(d)] (C) For a class C felony, the DETERMINATE term shall be fixed by
7 the court, and shall BE AT LEAST ONE YEAR BUT SHALL not exceed [seven]
8 FIVE years; and

9 [(e)] (D) For a class D felony, the DETERMINATE term shall be fixed by
10 the court, and shall BE AT LEAST ONE YEAR BUT SHALL not exceed [four]
11 THREE years; AND

12 (E) FOR A CLASS E FELONY, WHERE THE DEFENDANT WAS SIXTEEN YEARS OLD,
13 AND COMMENCING JANUARY 1, 2018, WHERE THE DEFENDANT WAS SIXTEEN OR
14 SEVENTEEN YEARS OLD AT THE TIME OF SUCH OFFENSE, THE DETERMINATE TERM
15 SHALL BE FIXED BY THE COURT, AND SHALL BE AT LEAST ONE YEAR BUT SHALL
16 NOT EXCEED TWO YEARS.

17 [3. Minimum period of imprisonment. The minimum period of imprisonment
18 under an indeterminate sentence for a juvenile offender shall be speci-
19 fied in the sentence as follows:

20 (a) For the class A felony of murder in the second degree, the minimum
21 period of imprisonment shall be fixed by the court and shall be not less
22 than five years but shall not exceed nine years provided, however, that
23 where the sentence is for an offense specified in subdivision one or two
24 of section 125.25 of this chapter and the defendant was fourteen or
25 fifteen years old at the time of such offense, the minimum period of
26 imprisonment shall be not less than seven and one-half years but shall
27 not exceed fifteen years;

28 (b) For the class A felony of arson in the first degree, or for the
29 class A felony of kidnapping in the first degree, the minimum period of
30 imprisonment shall be fixed by the court and shall be not less than four
31 years but shall not exceed six years; and

32 (c) For a class B, C or D felony, the minimum period of imprisonment
33 shall be fixed by the court at one-third of the maximum term imposed.]

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

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

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

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

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

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

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

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

33 (f) [The aggregate maximum term of consecutive sentences imposed upon
34 a juvenile offender for two or more crimes, not including a class A
35 felony, committed before he has reached the age of sixteen, shall, if it
36 exceeds ten years, be deemed to be ten years. If consecutive indetermi-
37 nate sentences imposed upon a juvenile offender include a sentence for
38 the class A felony of arson in the first degree or for the class A felo-
39 ny of kidnapping in the first degree, then the aggregate maximum term of
40 such sentences shall, if it exceeds fifteen years, be deemed to be
41 fifteen years. Where the aggregate maximum term of two or more consec-
42 utive sentences is reduced by a calculation made pursuant to this para-
43 graph, the aggregate minimum period of imprisonment, if it exceeds one-
44 half of the aggregate maximum term as so reduced, shall be deemed to be
45 one-half of the aggregate maximum term as so reduced.] (I) IF THE AGGRE-
46 GATE TERM OR MAXIMUM TERM OF CONSECUTIVE SENTENCES IMPOSED UPON A JUVE-
47 NILE OFFENDER FOR TWO OR MORE CRIMES, OTHER THAN TWO OR MORE SENTENCES
48 THAT INCLUDE A SENTENCE FOR A CLASS A FELONY, OR A SENTENCE FOR A CLASS
49 B VIOLENT FELONY IMPOSED PURSUANT TO PARAGRAPH (A) OF SUBDIVISION THREE
50 OF SECTION 70.02 OF THIS ARTICLE, COMMITTED PRIOR TO THE TIME THE PERSON
51 WAS IMPRISONED UNDER ANY OF SUCH SENTENCES EXCEEDS TEN YEARS, THE JUVE-
52 NILE OFFENDER SHALL BE DEEMED TO BE SERVING A DETERMINATE TERM OF TEN
53 YEARS.

54 (II) IF THE AGGREGATE MAXIMUM TERM OF CONSECUTIVE SENTENCES IMPOSED
55 UPON A JUVENILE OFFENDER FOR TWO OR MORE CRIMES, AT LEAST ONE OF WHICH
56 IS THE CLASS A FELONY OF ARSON IN THE FIRST DEGREE AS DEFINED BY SECTION

1 150.20 OR KIDNAPPING IN THE FIRST DEGREE AS DEFINED BY SECTION 135.25 OF
2 THIS CHAPTER BUT NO OTHER CLASS A FELONY, AND DOES NOT INCLUDE A
3 SENTENCE IMPOSED FOR A CLASS B VIOLENT FELONY IMPOSED PURSUANT TO PARA-
4 GRAPH (A) OF SUBDIVISION THREE OF SECTION 70.02 OF THIS ARTICLE, COMMIT-
5 TED PRIOR TO THE TIME THE PERSON WAS IMPRISONED UNDER ANY OF SUCH
6 SENTENCES EXCEEDS FIFTEEN YEARS, THE JUVENILE OFFENDER SHALL BE DEEMED
7 TO BE SERVING A DETERMINATE TERM OF FIFTEEN YEARS.

8 S 61. Section 70.45 of the penal law is amended by adding a new subdi-
9 vision 2-b to read as follows:

10 2-B. PERIODS OF POST-RELEASE SUPERVISION FOR JUVENILE OFFENDERS AND
11 YOUTHFUL OFFENDERS. (A) THE PERIOD OF POST-RELEASE SUPERVISION FOR A
12 DETERMINATE SENTENCE IMPOSED UPON A YOUTHFUL OFFENDER OR A JUVENILE
13 OFFENDER ADJUDICATED A YOUTHFUL OFFENDER MUST BE FIXED BY THE COURT AT
14 ONE YEAR.

15 (B) THE PERIOD OF POST-RELEASE SUPERVISION FOR A DETERMINATE SENTENCE
16 IMPOSED UPON A JUVENILE OFFENDER NOT ADJUDICATED A YOUTHFUL OFFENDER
17 MUST BE FIXED BY THE COURT IN WHOLE OR HALF YEARS AS FOLLOWS:

18 (I) SUCH PERIOD SHALL BE ONE YEAR WHENEVER A DETERMINATE SENTENCE OF
19 IMPRISONMENT IS IMPOSED UPON A CONVICTION OF A CLASS D OR CLASS E FELONY
20 OFFENSE;

21 (II) SUCH PERIOD SHALL BE NOT LESS THAN ONE YEAR NOR MORE THAN TWO
22 YEARS WHENEVER A DETERMINATE SENTENCE OF IMPRISONMENT IS IMPOSED UPON A
23 CONVICTION OF A CLASS C FELONY OFFENSE;

24 (III) SUCH PERIOD SHALL BE NOT LESS THAN ONE YEAR NOR MORE THAN THREE
25 YEARS WHENEVER A DETERMINATE SENTENCE OF IMPRISONMENT IS IMPOSED UPON A
26 CONVICTION OF A CLASS B FELONY OFFENSE; PROVIDED, HOWEVER, THAT SUCH
27 PERIOD SHALL BE IMPOSED PURSUANT TO SUBDIVISION TWO OR TWO-A OF THIS
28 SECTION, AS APPLICABLE, WHENEVER A DETERMINATE SENTENCE IS IMPOSED UPON
29 A CONVICTION OF A CLASS B VIOLENT FELONY OFFENSE PURSUANT TO PARAGRAPH
30 (A) OF SUBDIVISION THREE OF SECTION 70.02 OF THIS ARTICLE; AND

31 (IV) SUCH PERIOD SHALL BE NOT LESS THAN ONE YEAR NOR MORE THAN FIVE
32 YEARS WHENEVER A DETERMINATE SENTENCE OF IMPRISONMENT IS IMPOSED UPON A
33 CONVICTION OF THE CLASS A FELONY OFFENSE OF ARSON IN THE FIRST DEGREE AS
34 DEFINED BY SECTION 150.20 OR KIDNAPPING IN THE FIRST DEGREE AS DEFINED
35 BY SECTION 135.25 OF THIS CHAPTER, AND A FIVE-YEAR PERIOD SHALL BE
36 IMPOSED PURSUANT TO SUBDIVISION TWO OF THIS SECTION WHENEVER A DETERMI-
37 NATE SENTENCE IMPOSED UPON A JUVENILE OFFENDER FOR ANY OTHER CLASS A
38 FELONY.

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

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

46 (2) a person fourteen [or], fifteen OR SIXTEEN YEARS OLD OR COMMENCING
47 JANUARY FIRST, TWO THOUSAND EIGHTEEN, SEVENTEEN years old who is crimi-
48 nally responsible for acts constituting the crimes defined in subdivi-
49 sions one and two of section 125.25 (murder in the second degree) and in
50 subdivision three of such section provided that the underlying crime for
51 the murder charge is one for which such person is criminally responsi-
52 ble; section 135.25 (kidnapping in the first degree); 150.20 (arson in
53 the first degree); subdivisions one and two of section 120.10 (assault
54 in the first degree); 125.20 (manslaughter in the first degree); subdi-
55 visions one and two of section 130.35 (rape in the first degree); subdi-
56 visions one and two of section 130.50 (criminal sexual act in the first

1 degree); 130.70 (aggravated sexual abuse in the first degree); 140.30
2 (burglary in the first degree); subdivision one of section 140.25
3 (burglary in the second degree); 150.15 (arson in the second degree);
4 160.15 (robbery in the first degree); subdivision two of section 160.10
5 (robbery in the second degree) of this chapter; or section 265.03 of
6 this chapter, where such machine gun or such firearm is possessed on
7 school grounds, as that phrase is defined in subdivision fourteen of
8 section 220.00 of this chapter; or defined in this chapter as an attempt
9 to commit murder in the second degree or kidnapping in the first degree,
10 or such conduct as a sexually motivated felony, where authorized pursu-
11 ant to section 130.91 of [the penal law] THIS CHAPTER; AND

12 (3) A PERSON SIXTEEN, OR COMMENCING JANUARY FIRST, TWO THOUSAND EIGH-
13 TEEN, A PERSON SIXTEEN OR SEVENTEEN YEARS OLD WHO IS CRIMINALLY RESPON-
14 SIBLE FOR ACTS CONSTITUTING A VIOLENT FELONY DEFINED IN SECTION 70.02 OF
15 THIS CHAPTER; ACTS CONSTITUTING ANY CRIME IN THIS CHAPTER THAT IS CLAS-
16 SIFIED AS A CLASS A FELONY EXCEPTING THOSE CLASS A FELONIES WHICH
17 REQUIRE, AS AN ELEMENT OF THE OFFENSE, THAT THE DEFENDANT BE EIGHTEEN
18 YEARS OF AGE OR OLDER; ACTS CONSTITUTING THE CRIMES DEFINED IN SECTION
19 120.03 (VEHICULAR ASSAULT IN THE SECOND DEGREE); 120.04 (VEHICULAR
20 ASSAULT IN THE FIRST DEGREE); 120.04-A (AGGRAVATED VEHICULAR ASSAULT);
21 125.10 (CRIMINALLY NEGLIGENT HOMICIDE); 125.11 (AGGRAVATED CRIMINALLY
22 NEGLIGENT HOMICIDE); 125.12 (VEHICULAR MANSLAUGHTER IN THE SECOND
23 DEGREE); 125.13 (VEHICULAR MANSLAUGHTER IN THE FIRST DEGREE); 125.14
24 (AGGRAVATED VEHICULAR HOMICIDE); 125.15 (MANSLAUGHTER IN THE SECOND
25 DEGREE); 125.20 (MANSLAUGHTER IN THE FIRST DEGREE); 125.21 (AGGRAVATED
26 MANSLAUGHTER IN THE SECOND DEGREE); 125.22 (AGGRAVATED MANSLAUGHTER IN
27 THE FIRST DEGREE); 215.11 (TAMPERING WITH A WITNESS IN THE THIRD DEGREE)
28 PROVIDED THAT THE CRIMINAL PROCEEDING IN WHICH THE PERSON IS TAMPERING
29 IS ONE FOR WHICH SUCH PERSON IS CRIMINALLY RESPONSIBLE; 215.12 (TAMPER-
30 ING WITH A WITNESS IN THE SECOND DEGREE) PROVIDED THAT THE CRIMINAL
31 PROCEEDING IN WHICH THE PERSON IS TAMPERING IS ONE FOR WHICH SUCH PERSON
32 IS CRIMINALLY RESPONSIBLE; 215.13 (TAMPERING WITH A WITNESS IN THE FIRST
33 DEGREE) PROVIDED THAT THE CRIMINAL PROCEEDING IN WHICH THE PERSON IS
34 TAMPERING IS ONE FOR WHICH SUCH PERSON IS CRIMINALLY RESPONSIBLE; 215.52
35 (AGGRAVATED CRIMINAL CONTEMPT); ACTS CONSTITUTING A SPECIFIED OFFENSE
36 DEFINED IN SUBDIVISION TWO OF SECTION 130.91 OF THIS CHAPTER WHEN
37 COMMITTED AS A SEXUALLY MOTIVATED FELONY; ACTS CONSTITUTING A SPECIFIED
38 OFFENSE DEFINED IN SUBDIVISION THREE OF SECTION 490.05 OF THIS CHAPTER
39 WHEN COMMITTED AS AN ACT OF TERRORISM; ACTS CONSTITUTING A FELONY
40 DEFINED IN ARTICLE FOUR HUNDRED NINETY OF THIS CHAPTER; AND ACTS CONSTI-
41 TUTING A CRIME SET FORTH IN SUBDIVISION ONE OF SECTION 105.10 AND
42 SECTION 105.15 OF THIS CHAPTER PROVIDED THAT THE UNDERLYING CRIME FOR
43 THE CONSPIRACY CHARGE IS ONE FOR WHICH SUCH PERSON IS CRIMINALLY RESPON-
44 SIBLE.

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

47 42. "Juvenile offender" means (1) a person, thirteen years old who is
48 criminally responsible for acts constituting murder in the second degree
49 as defined in subdivisions one and two of section 125.25 of the penal
50 law, or such conduct as a sexually motivated felony, where authorized
51 pursuant to section 130.91 of the penal law; [and] (2) a person fourteen
52 [or], fifteen OR SIXTEEN YEARS OLD, OR COMMENCING JANUARY FIRST, TWO
53 THOUSAND EIGHTEEN, SEVENTEEN years old who is criminally responsible for
54 acts constituting the crimes defined in subdivisions one and two of
55 section 125.25 (murder in the second degree) and in subdivision three of
56 such section provided that the underlying crime for the murder charge is

1 one for which such person is criminally responsible; section 135.25
2 (kidnapping in the first degree); 150.20 (arson in the first degree);
3 subdivisions one and two of section 120.10 (assault in the first
4 degree); 125.20 (manslaughter in the first degree); subdivisions one and
5 two of section 130.35 (rape in the first degree); subdivisions one and
6 two of section 130.50 (criminal sexual act in the first degree); 130.70
7 (aggravated sexual abuse in the first degree); 140.30 (burglary in the
8 first degree); subdivision one of section 140.25 (burglary in the second
9 degree); 150.15 (arson in the second degree); 160.15 (robbery in the
10 first degree); subdivision two of section 160.10 (robbery in the second
11 degree) of the penal law; or section 265.03 of the penal law, where such
12 machine gun or such firearm is possessed on school grounds, as that
13 phrase is defined in subdivision fourteen of section 220.00 of the penal
14 law; or defined in the penal law as an attempt to commit murder in the
15 second degree or kidnapping in the first degree, or such conduct as a
16 sexually motivated felony, where authorized pursuant to section 130.91
17 of the penal law; AND (3) A PERSON SIXTEEN OR, COMMENCING JANUARY FIRST,
18 TWO THOUSAND EIGHTEEN, A PERSON SIXTEEN OR SEVENTEEN YEARS OLD WHO IS
19 CRIMINALLY RESPONSIBLE FOR ACTS CONSTITUTING A VIOLENT FELONY DEFINED IN
20 SECTION 70.02 OF THE PENAL LAW; ACTS CONSTITUTING ANY CRIME IN THE PENAL
21 LAW THAT IS CLASSIFIED AS A CLASS A FELONY EXCEPTING THOSE CLASS A FELO-
22 NIES WHICH REQUIRE, AS AN ELEMENT OF THE OFFENSE, THAT THE DEFENDANT BE
23 EIGHTEEN YEARS OF AGE OR OLDER; ACTS CONSTITUTING THE CRIMES DEFINED IN
24 SECTION 120.03 (VEHICULAR ASSAULT IN THE SECOND DEGREE); 120.04 (VEHICU-
25 LAR ASSAULT IN THE FIRST DEGREE); 120.04-A (AGGRAVATED VEHICULAR
26 ASSAULT); 125.10 (CRIMINALLY NEGLIGENT HOMICIDE); 125.11 (AGGRAVATED
27 CRIMINALLY NEGLIGENT HOMICIDE); 125.12 (VEHICULAR MANSLAUGHTER IN THE
28 SECOND DEGREE); 125.13 (VEHICULAR MANSLAUGHTER IN THE FIRST DEGREE);
29 125.14 (AGGRAVATED VEHICULAR HOMICIDE); 125.15 (MANSLAUGHTER IN THE
30 SECOND DEGREE); 125.20 (MANSLAUGHTER IN THE FIRST DEGREE); 125.21
31 (AGGRAVATED MANSLAUGHTER IN THE SECOND DEGREE); 125.22 (AGGRAVATED
32 MANSLAUGHTER IN THE FIRST DEGREE); 215.11 (TAMPERING WITH A WITNESS IN
33 THE THIRD DEGREE) PROVIDED THAT THE CRIMINAL PROCEEDING IN WHICH THE
34 PERSON IS TAMPERING IS ONE FOR WHICH SUCH PERSON IS CRIMINALLY RESPONSI-
35 BLE; 215.12 (TAMPERING WITH A WITNESS IN THE SECOND DEGREE) PROVIDED
36 THAT THE CRIMINAL PROCEEDING IN WHICH THE PERSON IS TAMPERING IS ONE FOR
37 WHICH SUCH PERSON IS CRIMINALLY RESPONSIBLE; 215.13 (TAMPERING WITH A
38 WITNESS IN THE FIRST DEGREE) PROVIDED THAT THE CRIMINAL PROCEEDING IN
39 WHICH THE PERSON IS TAMPERING IS ONE FOR WHICH SUCH PERSON IS CRIMINALLY
40 RESPONSIBLE; 215.52 (AGGRAVATED CRIMINAL CONTEMPT); ACTS CONSTITUTING A
41 SPECIFIED OFFENSE DEFINED IN SUBDIVISION TWO OF SECTION 130.91 OF THE
42 PENAL LAW WHEN COMMITTED AS A SEXUALLY MOTIVATED FELONY; ACTS CONSTITUT-
43 ING A SPECIFIED OFFENSE DEFINED IN SUBDIVISION THREE OF SECTION 490.05
44 OF THE PENAL LAW WHEN COMMITTED AS AN ACT OF TERRORISM; ACTS CONSTITUT-
45 ING A FELONY DEFINED IN ARTICLE FOUR HUNDRED NINETY OF THE PENAL LAW;
46 AND ACTS CONSTITUTING A CRIME SET FORTH IN SUBDIVISION ONE OF SECTION
47 105.10 AND SECTION 105.15 OF THE PENAL LAW PROVIDED THAT THE UNDERLYING
48 CRIME FOR THE CONSPIRACY CHARGE IS ONE FOR WHICH SUCH PERSON IS CRIMI-
49 NALLY RESPONSIBLE.

50 S 63-a. The article heading of article 100 of the criminal procedure
51 law, as added by chapter 996 of the laws of 1970, is amended to read as
52 follows:

53 ARTICLE 100--COMMENCEMENT OF ACTION IN LOCAL
54 CRIMINAL COURT OR YOUTH PART OF A SUPERIOR COURT--[LOCAL
55 CRIMINAL COURT] ACCUSATORY INSTRUMENTS

1 S 63-b. The first undesignated paragraph of section 100.05 of the
2 criminal procedure law, as added by chapter 996 of the laws of 1970, is
3 amended to read as follows:

4 A criminal action is commenced by the filing of an accusatory instru-
5 ment with a criminal court, OR, IN THE CASE OF A JUVENILE OFFENDER, THE
6 YOUTH PART OF THE SUPERIOR COURT, and if more than one such instrument
7 is filed in the course of the same criminal action, such action
8 commences when the first of such instruments is filed. The only way in
9 which a criminal action can be commenced in a superior court, OTHER THAN
10 A CRIMINAL ACTION AGAINST A JUVENILE OFFENDER, is by the filing there-
11 with by a grand jury of an indictment against a defendant who has never
12 been held by a local criminal court for the action of such grand jury
13 with respect to any charge contained in such indictment. Otherwise, a
14 criminal action can be commenced only in a local criminal court, by the
15 filing therewith of a local criminal court accusatory instrument, name-
16 ly:

17 S 63-c. The section heading and subdivision 5 of section 100.10 of the
18 criminal procedure law, as added by chapter 996 of the laws of 1970, are
19 amended to read as follows:

20 S 100.10 Local criminal court AND YOUTH PART OF THE SUPERIOR COURT accu-
21 satory instruments; definitions thereof.

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

27 S 63-d. The section heading of section 100.40 of the criminal proce-
28 dure law, as added by chapter 996 of the laws of 1970, is amended to
29 read as follows:

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

32 S 63-e. The criminal procedure law is amended by adding a new section
33 100.60 to read as follows:

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

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

40 S 63-f. The article heading of article 110 of the criminal procedure
41 law, as added by chapter 996 of the laws of 1970, is amended to read as
42 follows:

43 ARTICLE 110--REQUIRING DEFENDANT'S APPEARANCE
44 IN LOCAL CRIMINAL COURT OR YOUTH PART OF SUPERIOR COURT
45 FOR ARRAIGNMENT

46 S 63-g. The section heading of section 110.10 of the criminal proce-
47 dure law, as added by chapter 996 of the laws of 1970, and subdivision 1
48 and subdivision 2, are amended to read as follows:

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

52 1. After a criminal action has been commenced in a local criminal
53 court OR YOUTH PART OF THE SUPERIOR COURT by the filing of an accusatory
54 instrument therewith, a defendant who has not been arraigned in the
55 action and has not come under the control of the court may under certain

1 circumstances be compelled or required to appear for arraignment upon
2 such accusatory instrument by:

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

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

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

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

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

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

20 S 63-h. The section heading of section 110.20 and section 110.20 of
21 the criminal procedure law, as added by chapter 996 of the laws of 1970,
22 are amended to read as follows:

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

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

38 S 63-i. The first undesignated paragraph of subdivision 1 of section
39 120.20 of the criminal procedure law, as added by chapter 996 of the
40 laws of 1970, is amended to read as follows:

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

46 S 63-j. Section 120.30 of the criminal procedure law, as added by
47 chapter 996 of the laws of 1970, is amended to read as follows:

48 S 120.30 Warrant of arrest; by what courts issuable and in what courts
49 returnable.

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

54 2. The particular local criminal court or courts OR YOUTH PART OF
55 SUPERIOR COURT with which any particular local criminal court OR YOUTH
56 PART OF THE SUPERIOR COURT accusatory instrument may be filed for the

1 purpose of obtaining a warrant of arrest are determined, generally, by
2 the provisions of section 100.55 OR 100.60. If, however, a particular
3 accusatory instrument may pursuant to said section 100.55 be filed with
4 a particular town court and such town court is not available at the time
5 such instrument is sought to be filed and a warrant obtained, such accu-
6 satory instrument may be filed with the town court of any adjoining town
7 of the same county. If such instrument may be filed pursuant to said
8 section 100.55 with a particular village court and such village court is
9 not available at the time, it may be filed with the town court of the
10 town embracing such village, or if such town court is not available
11 either, with the town court of any adjoining town of the same county.

12 S 63-k. Section 120.55 of the criminal procedure law, as amended by
13 chapter 62 of the laws of 2011, is amended to read as follows:

14 S 120.55 Warrant of arrest; defendant under parole or probation super-
15 vision.

16 If the defendant named within a warrant of arrest issued by a local
17 criminal court OR YOUTH PART OF THE SUPERIOR COURT pursuant to the
18 provisions of this article, or by a superior court issued pursuant to
19 subdivision three of section 210.10 of this chapter, is under the super-
20 vision of the state department of corrections and community supervision
21 or a local or state probation department, then a warrant for his or her
22 arrest may be executed by a parole officer or probation officer, when
23 authorized by his or her probation director, within his or her geograph-
24 ical area of employment. The execution of the warrant by a parole offi-
25 cer or probation officer shall be upon the same conditions and conducted
26 in the same manner as provided for execution of a warrant by a police
27 officer.

28 S 63-l. Subdivision 1 of section 120.70 of the criminal procedure law,
29 as added by chapter 996 of the laws of 1970, is amended to read as
30 follows:

31 S 120.70 Warrant of arrest; where executable.

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

36 2. A warrant of arrest issued by a city court, a town court or a
37 village court may be executed:

38 (a) In the county of issuance or in any adjoining county; or

39 (b) Anywhere else in the state upon the written endorsement thereon
40 of a local criminal court of the county in which the arrest is to be
41 made. When so endorsed, the warrant is deemed the process of the
42 endorsing court as well as that of the issuing court.

43 S 63-m. Section 120.90 of the criminal procedure law is amended by
44 adding a new subdivision 5-a, and amending subdivision 1 and 6, as added
45 by chapter 996 of the laws of 1970, to read as follows:

46 S 120.90 Warrant of arrest; procedure after arrest.

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

54 2. Upon arresting a defendant for any offense pursuant to a warrant
55 of arrest in a county adjoining the county in which the warrant is
56 returnable, or upon so arresting him for a felony in any other county, a

1 police officer, if he be one delegated to execute the warrant pursuant
2 to section 120.60, must without unnecessary delay deliver the defendant
3 or cause him to be delivered to the custody of the officer by whom he
4 was so delegated, and the latter must then proceed as provided in subdivi-
5 sion one.

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

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

55 5. Whenever a police officer is required pursuant to this section to
56 bring an arrested defendant before a town court in which a warrant of

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

20 5-A. WHENEVER A POLICE OFFICER IS REQUIRED, PURSUANT TO THIS SECTION,
21 TO BRING AN ARRESTED DEFENDANT BEFORE A YOUTH PART OF A SUPERIOR COURT
22 IN WHICH A WARRANT OF ARREST IS RETURNABLE, AND IF SUCH COURT IS NOT
23 AVAILABLE AT THE TIME, SUCH OFFICER MUST BRING SUCH DEFENDANT BEFORE THE
24 MOST ACCESSIBLE MAGISTRATE DESIGNATED BY THE APPELLATE DIVISION OF THE
25 SUPREME COURT IN THE APPLICABLE DEPARTMENT TO ACT AS A YOUTH PART.

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

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

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

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

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

11 S 63-o. Section 130.30 of the criminal procedure law, as amended by
12 chapter 506 of the laws of 2000, is amended to read as follows:

13 S 130.30 Summons; when issuable.

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

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

28 (E) IF THE ARREST IS FOR A PERSON UNDER THE AGE OF SEVENTEEN OR,
29 COMMENCING JANUARY 1, 2018, A PERSON UNDER THE AGE OF EIGHTEEN, SUCH
30 PERSON SHALL BE BROUGHT BEFORE THE YOUTH PART OF THE SUPERIOR COURT. IF
31 THE YOUTH PART IS NOT IN SESSION, SUCH PERSON SHALL BE BROUGHT BEFORE
32 THE MOST ACCESSIBLE MAGISTRATE DESIGNATED BY THE APPELLATE DIVISION OF
33 THE SUPREME COURT IN THE APPLICABLE DEPARTMENT TO ACT AS A YOUTH PART.

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

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

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

54 (B) THAT THE STATEMENTS MADE BY THE JUVENILE MAY BE USED IN A COURT OF
55 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 64-a. Subdivision 2 of section 140.27 of the criminal procedure law,
11 as amended by chapter 843 of the laws of 1980, is amended to read as
12 follows:

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

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

28 3-A. IF THE ARREST IS FOR A PERSON UNDER THE AGE OF SEVENTEEN OR,
29 COMMENCING JANUARY 1, 2018, A PERSON UNDER THE AGE OF EIGHTEEN, SUCH
30 PERSON SHALL BE BROUGHT BEFORE THE YOUTH PART OF THE SUPERIOR COURT. IF
31 THE YOUTH PART IS NOT IN SESSION, SUCH PERSON SHALL BE BROUGHT BEFORE
32 THE MOST ACCESSIBLE MAGISTRATE DESIGNATED BY THE APPELLATE DIVISION OF
33 THE SUPREME COURT IN THE APPLICABLE DEPARTMENT TO ACT AS A YOUTH PART.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 S 67. The criminal procedure law is amended by adding a new section
40 160.56 to read as follows:

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

44 1. WHEN A DEFENDANT IS CONVICTED FOR ONLY ONE ELIGIBLE OFFENSE, ON OR
45 AFTER THE EFFECTIVE DATE OF THIS SECTION, WHICH WAS COMMITTED WHEN HE OR
46 SHE WAS TWENTY YEARS OF AGE OR YOUNGER AND THE DEFENDANT HAS NO PRIOR
47 CRIMINAL CONVICTIONS, THE COURT SHALL CERTIFY UPON CONVICTION THAT THE
48 DEFENDANT IS APPARENTLY ELIGIBLE FOR CONDITIONAL SEALING AND SHALL SCHE-
49 DULE THE DEFENDANT'S CASE FOR REVIEW AT THE EXPIRATION OF THE TIME PERI-
50 OD SET FORTH IN SUBDIVISION TWO OF THIS SECTION. SUCH REVIEW SHALL NOT
51 REQUIRE A MOTION OR APPEARANCE BY A DEFENDANT. UPON THE EXPIRATION OF
52 THE TIME PERIOD SET FORTH IN SUBDIVISION TWO OF THIS SECTION, THE COURT
53 SHALL NOTIFY THE DISTRICT ATTORNEY THAT THE CASE IS UNDER REVIEW. IF THE
54 DISTRICT ATTORNEY DOES NOT PROVIDE NOTICE OF OPPOSITION TO SEALING WITH-
55 IN FORTY-FIVE DAYS OF RECEIPT OF THE NOTIFICATION AND THE COURT DETER-
56 MINES THAT THE DEFENDANT MEETS THE CRITERIA FOR SEALING AS SET FORTH IN

THIS SECTION, THE COURT SHALL ORDER THAT THE RECORD BE CONDITIONALLY SEALED. IF THE DISTRICT ATTORNEY OPPOSES SEALING, HE OR SHE SHALL NOTIFY THE COURT OF THE REASONS FOR OPPOSITION. IF THE COURT HAS DETERMINED, SUA SPONTE, OR THE DISTRICT ATTORNEY HAS NOTIFIED THE COURT, THAT THE DEFENDANT DOES NOT MEET THE CRITERIA FOR CONDITIONAL SEALING, THE COURT MUST PROVIDE THE DEFENDANT, ON NOTICE TO THE DISTRICT ATTORNEY, WITH NOTICE AND AN OPPORTUNITY TO DISPUTE SUCH FINDING.

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

2. AN ELIGIBLE OFFENSE MAY BE CONDITIONALLY SEALED ONLY:

(A) AFTER THE FOLLOWING TIME PERIODS HAVE ELAPSED:

(I) FOR A MISDEMEANOR, AT LEAST TWO YEARS HAVE PASSED SINCE: THE ENTRY OF THE JUDGMENT OR, IF THE DEFENDANT WAS SENTENCED TO A CONDITIONAL DISCHARGE OR A PERIOD OF PROBATION, INCLUDING A PERIOD OF INCARCERATION IMPOSED IN CONJUNCTION WITH A SENTENCE OF PROBATION OR CONDITIONAL DISCHARGE, THE COMPLETION OF THE DEFENDANT'S TERM OF PROBATION OR CONDITIONAL DISCHARGE, OR IF THE DEFENDANT WAS SENTENCED TO INCARCERATION, THE DEFENDANT'S RELEASE FROM INCARCERATION, WHICHEVER IS THE LONGEST; OR

(II) FOR AN ELIGIBLE FELONY, OTHER THAN A FELONY CONVICTION AS A JUVENILE OFFENDER AS DEFINED IN SUBDIVISION FORTY-TWO OF SECTION 1.20 OF THIS CHAPTER, AT LEAST FIVE YEARS HAVE PASSED SINCE: THE ENTRY OF THE JUDGMENT OR, IF THE DEFENDANT WAS SENTENCED TO A CONDITIONAL DISCHARGE OR A PERIOD OF PROBATION, INCLUDING A PERIOD OF INCARCERATION IMPOSED IN CONJUNCTION WITH A SENTENCE OF PROBATION OR CONDITIONAL DISCHARGE, THE COMPLETION OF THE DEFENDANT'S TERM OF PROBATION OR CONDITIONAL DISCHARGE, OR IF THE DEFENDANT WAS SENTENCED TO INCARCERATION, THE DEFENDANT'S RELEASE FROM INCARCERATION, WHICHEVER IS THE LONGEST; OR

(III) FOR A CONVICTION AS A JUVENILE OFFENDER, AS DEFINED IN SUBDIVISION FORTY-TWO OF SECTION 1.20 OF THIS CHAPTER, AT LEAST TEN YEARS HAVE PASSED SINCE: THE ENTRY OF THE JUDGMENT OR, IF THE DEFENDANT WAS SENTENCED TO A CONDITIONAL DISCHARGE OR A PERIOD OF PROBATION, INCLUDING A PERIOD OF INCARCERATION IMPOSED IN CONJUNCTION WITH A SENTENCE OF PROBATION OR CONDITIONAL DISCHARGE, THE COMPLETION OF THE DEFENDANT'S TERM OF PROBATION OR CONDITIONAL DISCHARGE, OR IF THE DEFENDANT WAS SENTENCED TO INCARCERATION, THE DEFENDANT'S RELEASE FROM INCARCERATION, WHICHEVER IS THE LONGEST; AND

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

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

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

1 3. WHEN A CONVICTION IS SEALED PURSUANT TO THIS SECTION, ALL OFFICIAL
2 RECORDS AND PAPERS RELATING TO THE ARREST, PROSECUTION, AND CONVICTION,
3 INCLUDING ALL DUPLICATES AND COPIES THEREOF, ON FILE WITH THE DIVISION
4 OF CRIMINAL JUSTICE SERVICES OR ANY COURT SHALL BE SEALED AND NOT MADE
5 AVAILABLE TO ANY PERSON OR PUBLIC OR PRIVATE AGENCY; PROVIDED, HOWEVER,
6 THE DIVISION SHALL RETAIN ANY FINGERPRINTS, PALMPRINTS AND PHOTOGRAPHS,
7 OR DIGITAL IMAGES OF THE SAME.

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

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

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

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

17 (D) ANY PROSPECTIVE EMPLOYER OF A POLICE OFFICER OR PEACE OFFICER AS
18 THOSE TERMS ARE DEFINED IN SUBDIVISIONS THIRTY-THREE AND THIRTY-FOUR OF
19 SECTION 1.20 OF THIS CHAPTER, IN RELATION TO AN APPLICATION FOR EMPLOY-
20 MENT AS A POLICE OFFICER OR PEACE OFFICER; PROVIDED, HOWEVER, THAT EVERY
21 PERSON WHO IS AN APPLICANT FOR THE POSITION OF POLICE OFFICER OR PEACE
22 OFFICER SHALL BE FURNISHED WITH A COPY OF ALL RECORDS OBTAINED UNDER
23 THIS PARAGRAPH AND AFFORDED AN OPPORTUNITY TO MAKE AN EXPLANATION THERE-
24 TO.

25 5. IF, SUBSEQUENT TO THE SEALING OF RECORDS PURSUANT TO THIS SECTION,
26 THE PERSON WHO IS THE SUBJECT OF SUCH RECORDS IS ARRESTED FOR OR CHARGED
27 WITH ANY MISDEMEANOR OR FELONY OFFENSE, SUCH RECORDS SHALL BE UNSEALED
28 IMMEDIATELY AND REMAIN UNSEALED; PROVIDED, HOWEVER, THAT IF SUCH NEW
29 MISDEMEANOR OR FELONY ARREST RESULTS IN A TERMINATION IN FAVOR OF THE
30 ACCUSED AS DEFINED IN SUBDIVISION THREE OF SECTION 160.50 OF THIS ARTI-
31 CLE OR BY CONVICTION FOR A NON-CRIMINAL OFFENSE AS DESCRIBED IN SECTION
32 160.55 OF THIS ARTICLE, SUCH UNSEALED RECORDS SHALL BE CONDITIONALLY
33 SEALED PURSUANT TO THIS SECTION.

34 6. A DEFENDANT WHO WAS CONVICTED OF ONLY ONE ELIGIBLE OFFENSE PRIOR TO
35 THE EFFECTIVE DATE OF THIS SECTION MAY APPLY TO THE COURT OF CONVICTION,
36 ON AN APPLICATION PROMULGATED BY THE DIVISION OF CRIMINAL JUSTICE
37 SERVICES, FOR THE CONDITIONAL SEALING OF SUCH CONVICTION IF:

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

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

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

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

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

46 7. WHEN AN APPLICATION IS MADE FOR SEALING PURSUANT TO SUBDIVISION SIX
47 OF THIS SECTION, THE COURT SHALL NOTIFY THE DISTRICT ATTORNEY. IF THE
48 DISTRICT ATTORNEY DOES NOT PROVIDE NOTICE OF OPPOSITION TO SEALING WITH-
49 IN FORTY-FIVE DAYS OF RECEIPT OF THE APPLICATION AND THE COURT DETER-
50 MINES THAT THE DEFENDANT MEETS THE CRITERIA FOR SEALING SET FORTH IN
51 THIS SECTION AND THAT SEALING IS IN THE INTEREST OF JUSTICE, THE COURT
52 MAY ORDER THAT THE RECORD BE CONDITIONALLY SEALED IN THE MANNER SET
53 FORTH IN THIS SECTION AND NOTIFY THE DIVISION OF CRIMINAL JUSTICE
54 SERVICES OF THE SAME. IF THE DISTRICT ATTORNEY OPPOSES THE APPLICATION,
55 THE COURT SHALL SCHEDULE A HEARING UPON NOTICE TO ALL PARTIES. IF THE
56 COURT, AT THE CONCLUSION OF THE HEARING DETERMINES BY A PREPONDERANCE OF

1 THE EVIDENCE THAT SUCH CONVICTION SHOULD BE SEALED IN THE INTEREST OF
2 JUSTICE, THE COURT SHALL ORDER THAT THE CONVICTION BE SEALED AND NOTIFY
3 THE COMMISSIONER OF THE DIVISION OF CRIMINAL JUSTICE SERVICES OF THE
4 SAME.

5 S 68. Section 180.75 of the criminal procedure law, as amended by
6 chapter 264 of the laws of 2003, is amended to read as follows:

7 S 180.75 Proceedings upon felony complaint; juvenile offender.

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

14 2. If the defendant waives a hearing upon the felony complaint, the
15 court must [order that the defendant be held for the action of the grand
16 jury of the appropriate superior court with respect to the charge or
17 charges contained in the felony complaint] TRANSFER THE ACTION TO THE
18 YOUTH PART OF THE SUPERIOR COURT. In such case the court must promptly
19 transmit to such YOUTH PART OF THE superior court the order, the felony
20 complaint, the supporting depositions and all other pertinent documents.
21 Until such papers are received by the YOUTH PART OF THE superior court,
22 the action is deemed to be still pending in the [local criminal court]
23 COURT DESIGNATED BY THE APPELLATE DIVISION OF THE SUPREME COURT IN THE
24 APPLICABLE DEPARTMENT TO ACT AS A YOUTH PART.

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

27 (a) If there is reasonable cause to believe that the defendant commit-
28 ted a crime for which a person under the age of [sixteen] 17 OR,
29 COMMENCING JANUARY 1, 2018, A PERSON UNDER THE AGE OF 18 is criminally
30 responsible, the court must [order that the defendant be held for the
31 action of a grand jury of the appropriate superior court] TRANSFER THE
32 ACTION TO THE YOUTH PART OF THE SUPERIOR COURT, and it must promptly
33 transmit to such superior court the order, the felony complaint, the
34 supporting depositions and all other pertinent documents. Until such
35 papers are received by the superior court, the action is deemed to be
36 still pending in the COURT DESIGNATED BY THE APPELLATE DIVISION OF THE
37 SUPREME COURT IN THE APPLICABLE DEPARTMENT TO ACT AS A YOUTH PART [local
38 criminal court]; or

39 (b) If there is not reasonable cause to believe that the defendant
40 committed a crime for which a person under the age of [sixteen] 17, OR
41 COMMENCING JANUARY 1, 2018, A PERSON UNDER THE AGE OF EIGHTEEN, is
42 criminally responsible but there is reasonable cause to believe that the
43 defendant is a "juvenile delinquent" as defined in subdivision one of
44 section 301.2 of the family court act, the court must specify the act or
45 acts it found reasonable cause to believe the defendant did and direct
46 that the action be removed to the family court in accordance with the
47 provisions of article seven hundred twenty-five of this chapter; or

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

52 [4. Notwithstanding the provisions of subdivisions two and three of
53 this section, a local criminal court shall, at the request of the
54 district attorney, order removal of an action against a juvenile offen-
55 der to the family court pursuant to the provisions of article seven
56 hundred twenty-five of this chapter if, upon consideration of the crite-

1 ria specified in subdivision two of section 210.43 of this chapter, it
2 is determined that to do so would be in the interests of justice.
3 Where, however, the felony complaint charges the juvenile offender with
4 murder in the second degree as defined in section 125.25 of the penal
5 law, rape in the first degree as defined in subdivision one of section
6 130.35 of the penal law, criminal sexual act in the first degree as
7 defined in subdivision one of section 130.50 of the penal law, or an
8 armed felony as defined in paragraph (a) of subdivision forty-one of
9 section 1.20 of this chapter, a determination that such action be
10 removed to the family court shall, in addition, be based upon a finding
11 of one or more of the following factors: (i) mitigating circumstances
12 that bear directly upon the manner in which the crime was committed; or
13 (ii) where the defendant was not the sole participant in the crime, the
14 defendant's participation was relatively minor although not so minor as
15 to constitute a defense to the prosecution; or (iii) possible deficiencies
16 in proof of the crime.

17 5. Notwithstanding the provisions of subdivision two, three, or four,
18 if a currently undetermined felony complaint against a juvenile offender
19 is pending in a local criminal court, and the defendant has not waived a
20 hearing pursuant to subdivision two and a hearing pursuant to subdivision
21 three has not commenced, the defendant may move in the superior
22 court which would exercise the trial jurisdiction of the offense or
23 offenses charged were an indictment therefor to result, to remove the
24 action to family court. The procedural rules of subdivisions one and two
25 of section 210.45 of this chapter are applicable to a motion pursuant to
26 this subdivision. Upon such motion, the superior court shall be authorized
27 to sit as a local criminal court to exercise the preliminary jurisdiction
28 specified in subdivisions two and three of this section, and
29 shall proceed and determine the motion as provided in section 210.43 of
30 this chapter; provided, however, that the exception provisions of paragraph
31 (b) of subdivision one of such section 210.43 shall not apply when
32 there is not reasonable cause to believe that the juvenile offender
33 committed one or more of the crimes enumerated therein, and in such
34 event the provisions of paragraph (a) thereof shall apply.

35 6. (a) If the court orders removal of the action to family court, it
36 shall state on the record the factor or factors upon which its determination
37 is based, and the court shall give its reasons for removal in
38 detail and not in conclusory terms.

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

43 (c) For the purpose of making a determination pursuant to subdivision
44 four or five, the court may make such inquiry as it deems necessary. Any
45 evidence which is not legally privileged may be introduced. If the
46 defendant testifies, his testimony may not be introduced against him in
47 any future proceeding, except to impeach his testimony at such future
48 proceeding as inconsistent prior testimony.

49 (d) Where a motion for removal by the defendant pursuant to subdivision
50 five has been denied, no further motion pursuant to this section or
51 section 210.43 of this chapter may be made by the juvenile offender with
52 respect to the same offense or offenses.

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

55 (f) Where a motion by the defendant pursuant to subdivision five has
56 been granted, there shall be no further proceedings against the juvenile

1 offender in any local or superior criminal court for the offense or
2 offenses which were the subject of the removal order.]

3 S 68-a. The first undesignated paragraph of section 180.80 of the
4 criminal procedure law, as amended by chapters 556 and 557 of the laws
5 of 1982, are amended to read as follows:

6 Upon application of a defendant against whom a felony complaint has
7 been filed with a local criminal court OR THE YOUTH PART OF A SUPERIOR
8 COURT, and who, since the time of his arrest or subsequent thereto, has
9 been held in custody pending disposition of such felony complaint, and
10 who has been confined in such custody for a period of more than one
11 hundred twenty hours or, in the event that a Saturday, Sunday or legal
12 holiday occurs during such custody, one hundred forty-four hours, with-
13 out either a disposition of the felony complaint or commencement of a
14 hearing thereon, the [local criminal] court must release him on his own
15 recognizance unless:

16 S 69. Subdivisions (a) and (b) of section 190.71 of the criminal
17 procedure law, subdivision (a) as amended by chapter 7 of the laws of
18 2007, subdivision (b) as added by chapter 481 of the laws of 1978, are
19 amended to read as follows:

20 (a) Except as provided in subdivision six of section 200.20 of this
21 chapter, a grand jury may not indict (i) a person thirteen years of age
22 for any conduct or crime other than conduct constituting a crime defined
23 in subdivisions one and two of section 125.25 (murder in the second
24 degree) or such conduct as a sexually motivated felony, where authorized
25 pursuant to section 130.91 of the penal law; (ii) a person fourteen
26 [or], fifteen, SIXTEEN OR COMMENCING JANUARY FIRST, TWO THOUSAND EIGH-
27 TEEN, SEVENTEEN years of age for any conduct or crime other than conduct
28 constituting a crime defined in subdivisions one and two of section
29 125.25 (murder in the second degree) and in subdivision three of such
30 section provided that the underlying crime for the murder charge is one
31 for which such person is criminally responsible; 135.25 (kidnapping in
32 the first degree); 150.20 (arson in the first degree); subdivisions one
33 and two of section 120.10 (assault in the first degree); 125.20
34 (manslaughter in the first degree); subdivisions one and two of section
35 130.35 (rape in the first degree); subdivisions one and two of section
36 130.50 (criminal sexual act in the first degree); 130.70 (aggravated
37 sexual abuse in the first degree); 140.30 (burglary in the first
38 degree); subdivision one of section 140.25 (burglary in the second
39 degree); 150.15 (arson in the second degree); 160.15 (robbery in the
40 first degree); subdivision two of section 160.10 (robbery in the second
41 degree) of the penal law; subdivision four of section 265.02 of the
42 penal law, where such firearm is possessed on school grounds, as that
43 phrase is defined in subdivision fourteen of section 220.00 of the penal
44 law; or section 265.03 of the penal law, where such machine gun or such
45 firearm is possessed on school grounds, as that phrase is defined in
46 subdivision fourteen of section 220.00 of the penal law; or defined in
47 the penal law as an attempt to commit murder in the second degree or
48 kidnapping in the first degree, or such conduct as a sexually motivated
49 felony, where authorized pursuant to section 130.91 of the penal law;
50 (III) A PERSON SIXTEEN OR COMMENCING JANUARY FIRST, TWO THOUSAND EIGH-
51 TEEN, SEVENTEEN YEARS OF AGE FOR ANY CONDUCT OR CRIME OTHER THAN CONDUCT
52 CONSTITUTING A VIOLENT FELONY DEFINED IN SECTION 70.02 OF THE PENAL LAW;
53 A CRIME THAT IS CLASSIFIED AS A CLASS A FELONY EXCEPTING THOSE CLASS A
54 FELONIES WHICH REQUIRE, AS AN ELEMENT OF THE OFFENSE, THAT THE DEFENDANT
55 BE EIGHTEEN YEARS OF AGE OR OLDER; A CRIME DEFINED IN THE FOLLOWING
56 SECTIONS OF THE PENAL LAW: SECTION 120.03 (VEHICULAR ASSAULT IN THE

1 SECOND DEGREE); 120.04 (VEHICULAR ASSAULT IN THE FIRST DEGREE); 120.04-A
2 (AGGRAVATED VEHICULAR ASSAULT); 125.10 (CRIMINALLY NEGLIGENT HOMICIDE);
3 125.11 (AGGRAVATED CRIMINALLY NEGLIGENT HOMICIDE); 125.12 (VEHICULAR
4 MANSLAUGHTER IN THE SECOND DEGREE); 125.13 (VEHICULAR MANSLAUGHTER IN
5 THE FIRST DEGREE); 125.14 (AGGRAVATED VEHICULAR HOMICIDE); 125.15
6 (MANSLAUGHTER IN THE SECOND DEGREE); 125.20 (MANSLAUGHTER IN THE FIRST
7 DEGREE); 125.21 (AGGRAVATED MANSLAUGHTER IN THE SECOND DEGREE); 125.22
8 (AGGRAVATED MANSLAUGHTER IN THE FIRST DEGREE); 215.11 (TAMPERING WITH A
9 WITNESS IN THE THIRD DEGREE) PROVIDED THAT THE CRIMINAL PROCEEDING IN
10 WHICH THE PERSON IS TAMPERING IS ONE FOR WHICH SUCH PERSON IS CRIMINALLY
11 RESPONSIBLE; 215.12 (TAMPERING WITH A WITNESS IN THE SECOND DEGREE)
12 PROVIDED THAT THE CRIMINAL PROCEEDING IN WHICH THE PERSON IS TAMPERING
13 IS ONE FOR WHICH SUCH PERSON IS CRIMINALLY RESPONSIBLE; 215.13 (TAMPER-
14 ING WITH A WITNESS IN THE FIRST DEGREE) PROVIDED THAT THE CRIMINAL
15 PROCEEDING IN WHICH THE PERSON IS TAMPERING IS ONE FOR WHICH SUCH PERSON
16 IS CRIMINALLY RESPONSIBLE; 215.52 (AGGRAVATED CRIMINAL CONTEMPT); ACTS
17 CONSTITUTING A SPECIFIED OFFENSE DEFINED IN SUBDIVISION TWO OF SECTION
18 130.91 OF THE PENAL LAW WHEN COMMITTED AS A SEXUALLY MOTIVATED FELONY;
19 ACTS CONSTITUTING A SPECIFIED OFFENSE DEFINED IN SUBDIVISION THREE OF
20 SECTION 490.05 OF THE PENAL LAW WHEN COMMITTED AS AN ACT OF TERRORISM;
21 ACTS CONSTITUTING A FELONY DEFINED IN ARTICLE FOUR HUNDRED NINETY OF THE
22 PENAL LAW; AND ACTS CONSTITUTING A CRIME SET FORTH IN SUBDIVISION ONE OF
23 SECTION 105.10 AND SECTION 105.15 OF THE PENAL LAW PROVIDED THAT THE
24 UNDERLYING CRIME FOR THE CONSPIRACY CHARGE IS ONE FOR WHICH SUCH PERSON
25 IS CRIMINALLY RESPONSIBLE.

26 (b) A grand jury may vote to file a request to remove a charge to the
27 family court if it finds that a person [thirteen, fourteen or fifteen]
28 SIXTEEN, OR COMMENCING JANUARY FIRST, TWO THOUSAND EIGHTEEN, SEVENTEEN
29 years of age OR YOUNGER did an act which, if done by a person over the
30 age of sixteen, OR COMMENCING JANUARY FIRST, TWO THOUSAND EIGHTEEN,
31 SEVENTEEN, would constitute a crime provided (1) such act is one for
32 which it may not indict; (2) it does not indict such person for a crime;
33 and (3) the evidence before it is legally sufficient to establish that
34 such person did such act and competent and admissible evidence before it
35 provides reasonable cause to believe that such person did such act.

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

39 6. Where an indictment charges at least one offense against a defend-
40 ant who was under the age of [sixteen] SEVENTEEN, OR COMMENCING JANUARY
41 FIRST, TWO THOUSAND EIGHTEEN, EIGHTEEN at the time of the commission of
42 the crime and who did not lack criminal responsibility for such crime by
43 reason of infancy, the indictment may, in addition, charge in separate
44 counts one or more other offenses for which such person would not have
45 been criminally responsible by reason of infancy, if:

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

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

1 S 71. The opening paragraph of subdivision 1 and subdivision 5 of
2 section 210.43 of the criminal procedure law; as added by chapter 411 of
3 the laws of 1979, are amended to read as follows:

4 After [a motion by a juvenile offender, pursuant to subdivision five
5 of section 180.75 of this chapter, or after] arraignment of a juvenile
6 offender upon an indictment, the superior court may, on motion of any
7 party or on its own motion:

8 [5. a. If the court orders removal of the action to family court, it
9 shall state on the record the factor or factors upon which its determi-
10 nation is based, and, the court shall give its reasons for removal in
11 detail and not in conclusory terms.

12 b. The district attorney shall state upon the record the reasons for
13 his consent to removal of the action to the family court. The reasons
14 shall be stated in detail and not in conclusory terms.]

15 S 72. Paragraph (g) of subdivision 5 of section 220.10 of the criminal
16 procedure law, as amended by chapter 410 of the laws of 1979, subpara-
17 graph (iii) as amended by chapter 264 of the laws of 2003, the second
18 undesignated paragraph as amended by chapter 920 of the laws of the laws
19 of 1982 and the closing paragraph as amended by chapter 411 of the laws
20 of 1979, is amended to read as follows:

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

25 (i) If the indictment charges a person fourteen [or], fifteen OR
26 SIXTEEN, OR COMMENCING JANUARY FIRST, TWO THOUSAND EIGHTEEN, SEVENTEEN
27 years old with the crime of murder in the second degree any plea of
28 guilty entered pursuant to subdivision three or four must be a plea of
29 guilty of a crime for which the defendant is criminally responsible;

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

35 (iii) Where the indictment does not charge a crime specified in
36 subparagraph (i) of this paragraph, the district attorney may recommend
37 removal of the action to the family court. Upon making such recommenda-
38 tion the district attorney shall submit a subscribed memorandum setting
39 forth: (1) a recommendation that the interests of justice would best be
40 served by removal of the action to the family court; and (2) if the
41 indictment charges a thirteen year old with the crime of murder in the
42 second degree, or a fourteen [or], fifteen OR SIXTEEN YEAR OLD, OR
43 COMMENCING JANUARY FIRST TWO THOUSAND EIGHTEEN, SEVENTEEN year old with
44 the crimes of rape in the first degree as defined in subdivision one of
45 section 130.35 of the penal law, or criminal sexual act in the first
46 degree as defined in subdivision one of section 130.50 of the penal law,
47 or an armed felony as defined in paragraph (a) of subdivision forty-one
48 of section 1.20 of this chapter specific factors, one or more of which
49 reasonably supports the recommendation, showing, (i) mitigating circum-
50 stances that bear directly upon the manner in which the crime was
51 committed, or (ii) where the defendant was not the sole participant in
52 the crime, that the defendant's participation was relatively minor
53 although not so minor as to constitute a defense to the prosecution, or
54 (iii) possible deficiencies in proof of the crime, or (iv) where the
55 juvenile offender has no previous adjudications of having committed a
56 designated felony act, as defined in subdivision eight of section 301.2

1 of the family court act, regardless of the age of the offender at the
2 time of commission of the act, that the criminal act was not part of a
3 pattern of criminal behavior and, in view of the history of the offen-
4 der, is not likely to be repeated.

5 If the court is of the opinion based on specific factors set forth in
6 the district attorney's memorandum that the interests of justice would
7 best be served by removal of the action to the family court, a plea of
8 guilty of a crime or act for which the defendant is not criminally
9 responsible may be entered pursuant to subdivision three or four of this
10 section, except that a thirteen year old charged with the crime of
11 murder in the second degree may only plead to a designated felony act,
12 as defined in subdivision eight of section 301.2 of the family court
13 act.

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

22 S 72-a. Subdivision 2 of section 410.40 of the criminal procedure law
23 is amended to read as follows:

24 2. Warrant. (A) Where the probation officer has requested that a
25 probation warrant be issued, the court shall, within seventy-two hours
26 of its receipt of the request, issue or deny the warrant or take any
27 other lawful action including issuance of a notice to appear pursuant to
28 subdivision one of this section. If at any time during the period of a
29 sentence of probation or of conditional discharge the court has reason-
30 able grounds to believe that the defendant has violated a condition of
31 the sentence, the court may issue a warrant to a police officer or to an
32 appropriate peace officer directing him or her to take the defendant
33 into custody and bring the defendant before the court without unneces-
34 sary delay; provided, however, if the court in which the warrant is
35 returnable is a superior court, and such court is not available, and the
36 warrant is addressed to a police officer or appropriate probation offi-
37 cer certified as a peace officer, such executing officer may UNLESS
38 OTHERWISE SPECIFIED UNDER PARAGRAPH (B) OF THIS SECTION, bring the
39 defendant to the local correctional facility of the county in which such
40 court sits, to be detained there until not later than the commencement
41 of the next session of such court occurring on the next business day; or
42 if the court in which the warrant is returnable is a local criminal
43 court, and such court is not available, and the warrant is addressed to
44 a police officer or appropriate probation officer certified as a peace
45 officer, such executing officer must without unnecessary delay bring the
46 defendant before an alternate local criminal court, as provided in
47 subdivision five of section 120.90 of this chapter. A court which issues
48 such a warrant may attach thereto a summary of the basis for the
49 warrant. In any case where a defendant arrested upon the warrant is
50 brought before a local criminal court other than the court in which the
51 warrant is returnable, such local criminal court shall consider such
52 summary before issuing a securing order with respect to the defendant.

53 (B) IF THE COURT IN WHICH THE WARRANT IS RETURNABLE IS A SUPERIOR
54 COURT, AND SUCH COURT IS NOT AVAILABLE, AND THE WARRANT IS ADDRESSED TO
55 A POLICE OFFICER OR APPROPRIATE PROBATION OFFICER CERTIFIED AS A PEACE
56 OFFICER, SUCH EXECUTING OFFICER SHALL, WHERE A DEFENDANT IS SIXTEEN

1 YEARS OF AGE OR YOUNGER WHO ALLEGEDLY COMMITS AN OFFENSE OR A VIOLATION
2 OF HIS OR HER PROBATION OR CONDITIONAL DISCHARGE IMPOSED FOR AN OFFENSE
3 ON OR AFTER JANUARY 1, 2017, OR WHERE A DEFENDANT IS SEVENTEEN YEARS OF
4 AGE OR YOUNGER WHO ALLEGEDLY COMMITS AN OFFENSE OR A VIOLATION OF HIS OR
5 HER PROBATION OR CONDITIONAL DISCHARGE IMPOSED FOR AN OFFENSE ON OR
6 AFTER JANUARY 1, 2018, BRING THE DEFENDANT TO A JUVENILE DETENTION
7 FACILITY, TO BE DETAINED THERE UNTIL NOT LATER THAN THE COMMENCEMENT OF
8 THE NEXT SESSION OF SUCH COURT OCCURRING ON THE NEXT BUSINESS DAY.

9 S 73. Section 410.60 of the criminal procedure law, as amended by
10 chapter 652 of the laws of 2008, is amended to read as follows:

11 S 410.60 Appearance before court.

12 (A) A person who has been taken into custody pursuant to section
13 410.40 or section 410.50 of this article for violation of a condition of
14 a sentence of probation or a sentence of conditional discharge must
15 forthwith be brought before the court that imposed the sentence. Where a
16 violation of probation petition and report has been filed and the person
17 has not been taken into custody nor has a warrant been issued, an
18 initial court appearance shall occur within ten business days of the
19 court's issuance of a notice to appear. If the court has reasonable
20 cause to believe that such person has violated a condition of the
21 sentence, it may commit him OR HER to the custody of the sheriff or fix
22 bail or release such person on his OR HER own recognizance for future
23 appearance at a hearing to be held in accordance with section 410.70 of
24 this article. If the court does not have reasonable cause to believe
25 that such person has violated a condition of the sentence, it must
26 direct that he OR SHE be released.

27 (B) A JUVENILE OFFENDER WHO HAS BEEN TAKEN INTO CUSTODY PURSUANT TO
28 SECTION 410.40 OR SECTION 410.50 OF THIS ARTICLE FOR VIOLATION OF A
29 CONDITION OF A SENTENCE OF PROBATION OR A SENTENCE OF CONDITIONAL
30 DISCHARGE MUST FORTHWITH BE BROUGHT BEFORE THE COURT THAT IMPOSED THE
31 SENTENCE. WHERE A VIOLATION OF PROBATION PETITION AND REPORT HAS BEEN
32 FILED AND THE PERSON HAS NOT BEEN TAKEN INTO CUSTODY NOR HAS A WARRANT
33 BEEN ISSUED, AN INITIAL COURT APPEARANCE SHALL OCCUR WITHIN TEN BUSINESS
34 DAYS OF THE COURT'S ISSUANCE OF A NOTICE TO APPEAR. IF THE COURT HAS
35 REASONABLE CAUSE TO BELIEVE THAT SUCH PERSON HAS VIOLATED A CONDITION OF
36 THE SENTENCE, IT MAY COMMIT HIM OR HER TO THE CUSTODY OF THE SHERIFF OR
37 FIX BAIL OR RELEASE SUCH PERSON ON HIS OR HER OWN RECOGNIZANCE FOR
38 FUTURE APPEARANCE AT A HEARING TO BE HELD IN ACCORDANCE WITH SECTION
39 410.70 OF THIS ARTICLE. PROVIDED, HOWEVER, NOTHING HEREIN SHALL AUTHOR-
40 IZE A JUVENILE TO BE DETAINED FOR A VIOLATION OF A CONDITION THAT WOULD
41 NOT CONSTITUTE A CRIME IF COMMITTED BY AN ADULT UNLESS THE COURT DETER-
42 MINES (I) THAT THE JUVENILE POSES A SPECIFIC IMMINENT THREAT TO PUBLIC
43 SAFETY AND STATES THE REASONS FOR THE FINDING ON THE RECORD OR (II) THE
44 JUVENILE IS ON PROBATION FOR AN ACT THAT WOULD CONSTITUTE A VIOLENT
45 FELONY AS DEFINED IN SECTION 70.02 OF THE PENAL LAW IF COMMITTED BY AN
46 ADULT AND THE USE OF GRADUATED SANCTIONS HAS BEEN EXHAUSTED WITHOUT
47 SUCCESS. IF THE COURT DOES NOT HAVE REASONABLE CAUSE TO BELIEVE THAT
48 SUCH PERSON HAS VIOLATED A CONDITION OF THE SENTENCE, IT MUST DIRECT
49 THAT THE JUVENILE BE RELEASED.

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

53 5. Revocation; modification; continuation. (A) At the conclusion of
54 the hearing the court may revoke, continue or modify the sentence of
55 probation or conditional discharge. Where the court revokes the
56 sentence, it must impose sentence as specified in subdivisions three and

1 four of section 60.01 of the penal law. Where the court continues or
2 modifies the sentence, it must vacate the declaration of delinquency and
3 direct that the defendant be released. If the alleged violation is
4 sustained and the court continues or modifies the sentence, it may
5 extend the sentence up to the period of interruption specified in subdi-
6 vision two of section 65.15 of the penal law, but any time spent in
7 custody in any correctional institution OR JUVENILE DETENTION FACILITY
8 pursuant to section 410.40 OR 410.60 of this article shall be credited
9 against the term of the sentence. Provided further, where the alleged
10 violation is sustained and the court continues or modifies the sentence,
11 the court may also extend the remaining period of probation up to the
12 maximum term authorized by section 65.00 of the penal law. Provided,
13 however, a defendant shall receive credit for the time during which he
14 or she was supervised under the original probation sentence prior to any
15 declaration of delinquency and for any time spent in custody pursuant to
16 this article for an alleged violation of probation.

17 (B) NOTWITHSTANDING PARAGRAPH (A) OF THIS SUBDIVISION, NOTHING HEREIN
18 SHALL AUTHORIZE THE PLACEMENT OF A JUVENILE FOR A VIOLATION OF A CONDI-
19 TION THAT WOULD NOT CONSTITUTE A CRIME IF COMMITTED BY AN ADULT UNLESS
20 THE COURT DETERMINES (I) THAT THE JUVENILE POSES A SPECIFIC IMMINENT
21 THREAT TO PUBLIC SAFETY AND STATES THE REASONS FOR THE FINDING ON THE
22 RECORD OR (II) THE JUVENILE IS ON PROBATION FOR AN ACT THAT WOULD
23 CONSTITUTE A VIOLENT FELONY AS DEFINED IN SECTION 70.02 OF THE PENAL LAW
24 IF COMMITTED BY AN ADULT AND THE USE OF GRADUATED SANCTIONS HAS BEEN
25 EXHAUSTED WITHOUT SUCCESS.

26 S 75. The criminal procedure law is amended by adding a new section
27 410.90-a to read as follows:

28 S 410.90-A SUPERIOR COURT; YOUTH PART.

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

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

38 S 510.15 Commitment of principal under [sixteen] SEVENTEEN OR EIGHTEEN.

39 1. When a principal who is (A) under the age of sixteen; OR (B)
40 COMMENCING JANUARY 1, 2017 A PRINCIPAL WHO IS UNDER THE AGE OF SEVEN-
41 TEEN; OR (C) COMMENCING JANUARY 1, 2018, A PRINCIPAL WHO IS UNDER THE
42 AGE OF EIGHTEEN, is committed to the custody of the sheriff the court
43 must direct that the principal be taken to and lodged in a place certi-
44 fied by the state [division for youth] OFFICE OF CHILDREN AND FAMILY
45 SERVICES as a juvenile detention facility for the reception of children.
46 Where such a direction is made the sheriff shall deliver the principal
47 in accordance therewith and such person shall although lodged and cared
48 for in a juvenile detention facility continue to be deemed to be in the
49 custody of the sheriff. No principal under the age [of sixteen] SPECI-
50 FIED to whom the provisions of this section may apply shall be detained
51 in any prison, jail, lockup, or other place used for adults convicted of
52 a crime or under arrest and charged with the commission of a crime with-
53 out the approval of the [state division for youth] OFFICE OF CHILDREN
54 AND FAMILY SERVICES in the case of each principal and the statement of
55 its reasons therefor. The sheriff shall not be liable for any acts done
56 to or by such principal resulting from negligence in the detention of

1 and care for such principal, when the principal is not in the actual
2 custody of the sheriff.

3 2. Except upon consent of the defendant or for good cause shown, in
4 any case in which a new securing order is issued for a principal previ-
5 ously committed to the custody of the sheriff pursuant to this section,
6 such order shall further direct the sheriff to deliver the principal
7 from a juvenile detention facility to the person or place specified in
8 the order.

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

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

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

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

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

31 1. Upon conviction of an eligible youth, the court must order a pre-
32 sentence investigation of the defendant. After receipt of a written
33 report of the investigation and at the time of pronouncing sentence the
34 court must determine whether or not the eligible youth is a youthful
35 offender. Such determination shall be in accordance with the following
36 criteria:

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

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

46 (C) THERE SHALL BE A PRESUMPTION TO GRANT YOUTHFUL OFFENDER STATUS TO
47 AN ELIGIBLE YOUTH WHO HAS NOT PREVIOUSLY BEEN CONVICTED AND SENTENCED OR
48 ADJUDICATED FOR A FELONY, UNLESS THE DISTRICT ATTORNEY UPON MOTION WITH
49 NOT LESS THAN SEVEN DAYS NOTICE TO SUCH PERSON OR HIS OR HER ATTORNEY
50 DEMONSTRATES TO THE SATISFACTION OF THE COURT THAT THE INTERESTS OF
51 JUSTICE REQUIRE OTHERWISE.

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

55 1. [A] EXCEPT AS PROVIDED IN SUBDIVISION THREE OF SECTION 60.10 OF THE
56 PENAL LAW, A youthful offender adjudication is not a judgment of

conviction for a crime or any other offense, and does not operate as a disqualification of any person so adjudged to hold public office or public employment or to receive any license granted by public authority but shall be deemed a conviction only for the purposes of transfer of supervision and custody pursuant to section two hundred fifty-nine-[m] MM of the executive law. A defendant for whom a youthful offender adjudication was substituted, who was originally charged with prostitution as defined in section 230.00 of the penal law or loitering for the purposes of prostitution as defined in subdivision two of section 240.37 of the penal law provided that the person does not stand charged with loitering for the purpose of patronizing a prostitute, for an offense allegedly committed when he or she was sixteen or seventeen years of age, shall be deemed a "sexually exploited child" as defined in subdivision one of section four hundred forty-seven-a of the social services law and therefore shall not be considered an adult for purposes related to the charges in the youthful offender proceeding or a proceeding under section 170.80 of this chapter.

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

ARTICLE 722

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

SECTION 722.00 PROBATION CASE PLANNING AND SERVICES.

722.10 YOUTH PART OF THE SUPERIOR COURT ESTABLISHED.

722.20 PROCEEDINGS IN A YOUTH PART OF SUPERIOR COURT.

S 722.00 PROBATION CASE PLANNING AND SERVICES.

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

2. ANY JUVENILE UNDERGOING SERVICES SHALL EXECUTE APPROPRIATE AND NECESSARY CONSENT FORMS, WHERE APPLICABLE, TO ENSURE THAT THE PROBATION DEPARTMENT MAY COMMUNICATE WITH ANY SERVICE PROVIDER AND RECEIVE PROGRESS REPORTS WITH RESPECT TO SERVICES OFFERED AND/OR DELIVERED INCLUDING, BUT NOT LIMITED TO, DIAGNOSIS, TREATMENT, PROGNOSIS, TEST RESULTS, JUVENILE ATTENDANCE AND INFORMATION REGARDING JUVENILE COMPLIANCE OR NONCOMPLIANCE WITH PROGRAM SERVICE REQUIREMENTS, IF ANY.

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

4. WHEN PREPARING A PRE-SENTENCE INVESTIGATION REPORT OF ANY SUCH YOUTH, THE PROBATION DEPARTMENT SHALL INCORPORATE A SUMMARY OF THE ASSESSMENT FINDINGS, ANY REFERRALS AND PROGRESS WITH RESPECT TO MITIGATING RISK AND ADDRESSING ANY IDENTIFIED JUVENILE NEEDS.

S 722.10 YOUTH PART OF THE SUPERIOR COURT ESTABLISHED.

THE CHIEF ADMINISTRATOR OF THE COURTS IS HEREBY DIRECTED TO ESTABLISH, IN A SUPERIOR COURT IN EACH COUNTY OF THE STATE THAT EXERCISES CRIMINAL

JURISDICTION, A PART OF COURT TO BE KNOWN AS THE YOUTH PART OF THE SUPERIOR COURT FOR THE COUNTY IN WHICH SUCH COURT PRESIDES. JUDGES PRESIDING IN THE YOUTH PART SHALL RECEIVE TRAINING IN SPECIALIZED AREAS, INCLUDING, BUT NOT LIMITED TO, JUVENILE JUSTICE, ADOLESCENT DEVELOPMENT AND EFFECTIVE TREATMENT METHODS FOR REDUCING CRIME COMMISSION BY ADOLESCENTS. THE YOUTH PART SHALL HAVE EXCLUSIVE JURISDICTION OF ALL PROCEEDINGS IN RELATION TO JUVENILE OFFENDERS, EXCEPT AS PROVIDED IN SECTION 180.75 OF THIS ARTICLE.

S 722.20 PROCEEDINGS IN A YOUTH PART OF SUPERIOR COURT.

1. WHEN A JUVENILE OFFENDER IS ARRAIGNED BEFORE A YOUTH PART OR TRANSFERRED TO A YOUTH PART PURSUANT TO SECTION 180.75 OF THIS CHAPTER, THE PROVISIONS OF THIS SECTION SHALL APPLY.

2. THE YOUTH PART SHALL HOLD A HEARING ON THE COMPLAINT UNLESS THE DEFENDANT WAIVES A HEARING. IF THE DEFENDANT WAIVES A HEARING THE COURT MUST ORDER THAT THE DEFENDANT BE HELD FOR ACTION OF THE GRAND JURY. AT THE CONCLUSION OF THE HEARING, THE COURT MUST DISPOSE OF THE FELONY COMPLAINT AS FOLLOWS:

(A) IF THERE IS REASONABLE CAUSE TO BELIEVE THAT THE DEFENDANT COMMITTED A CRIME FOR WHICH A PERSON UNDER THE AGE OF SEVENTEEN OR, COMMENCING JANUARY 1, 2018, A PERSON UNDER EIGHTEEN IS CRIMINALLY RESPONSIBLE, THE COURT MUST ORDER THAT THE DEFENDANT BE HELD FOR THE ACTION OF A GRAND JURY; OR

(B) IF THERE IS NOT REASONABLE CAUSE TO BELIEVE THAT THE DEFENDANT COMMITTED A CRIME FOR WHICH A PERSON UNDER THE AGE OF SEVENTEEN OR, COMMENCING JANUARY 1, 2018, A PERSON UNDER THE AGE OF EIGHTEEN IS CRIMINALLY RESPONSIBLE BUT THERE IS REASONABLE CAUSE TO BELIEVE THAT THE DEFENDANT IS A "JUVENILE DELINQUENT", AS DEFINED IN SUBDIVISION ONE OF SECTION 301.2 OF THE FAMILY COURT ACT, THE COURT MUST SPECIFY THE ACT OR ACTS IT FOUND REASONABLE CAUSE TO BELIEVE THE DEFENDANT DID AND DIRECT THAT THE ACTION BE REMOVED TO THE FAMILY COURT IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE SEVEN HUNDRED TWENTY-FIVE OF THIS TITLE; OR

(C) IF THERE IS NOT REASONABLE CAUSE TO BELIEVE THAT THE DEFENDANT COMMITTED ANY CRIMINAL ACT, THE COURT MUST DISMISS THE FELONY COMPLAINT AND DISCHARGE THE DEFENDANT FROM CUSTODY IF HE OR SHE IS IN CUSTODY, OR IF HE OR SHE IS AT LIBERTY ON BAIL, IT MUST EXONERATE THE BAIL.

3. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION, A YOUTH PART SHALL, (A) ORDER REMOVAL OF AN ACTION AGAINST A JUVENILE OFFENDER ACCUSED OF ROBBERY IN THE SECOND DEGREE AS DEFINED IN SUBDIVISION TWO OF SECTION 160.10; AND A JUVENILE OFFENDER ACCUSED OF COMMITTING A VIOLENT FELONY OFFENSE AS DEFINED IN SECTION 70.02 OF THE PENAL LAW AT AGE SIXTEEN, OR AFTER JANUARY FIRST, TWO THOUSAND EIGHTEEN, AT AGE SIXTEEN OR SEVENTEEN, FOR WHICH A YOUTH AGE FIFTEEN OR YOUNGER IS NOT CRIMINALLY RESPONSIBLE, TO THE FAMILY COURT PURSUANT TO THE PROVISIONS OF ARTICLE SEVEN HUNDRED TWENTY-FIVE OF THIS CHAPTER IF, AFTER CONSIDERATION OF THE FACTORS SET FORTH IN PARAGRAPH (C) OF THIS SUBDIVISION, THE COURT DETERMINES THAT TO DO SO WOULD BE IN THE INTERESTS OF JUSTICE. PROVIDED, HOWEVER, THAT THE COURT SHALL FIND THAT SUCH REMOVAL IS NOT IN THE INTERESTS OF JUSTICE IF THE DISTRICT ATTORNEY PROVES, BY A PREPONDERANCE OF THE EVIDENCE THAT THE YOUTH PLAYED A PRIMARY ROLE IN COMMISSION OF THE CRIME OR AGGRAVATING CIRCUMSTANCES, INCLUDING BUT NOT LIMITED TO THE YOUTH'S USE OF A WEAPON, ARE PRESENT.

(B) AT THE REQUEST OF THE DISTRICT ATTORNEY, ORDER REMOVAL OF AN ACTION AGAINST A JUVENILE OFFENDER, OTHER THAN AN ACTION SUBJECT TO PARAGRAPH (A) OF THIS SUBDIVISION, TO THE FAMILY COURT PURSUANT TO THE PROVISIONS OF ARTICLE SEVEN HUNDRED TWENTY-FIVE OF THIS CHAPTER IF, UPON CONSIDERATION OF THE CRITERIA SET FORTH IN PARAGRAPH (C) OF THIS SUBDIVISION, IT

1 IS DETERMINED THAT TO DO SO WOULD BE IN THE INTERESTS OF JUSTICE. WHERE,
2 HOWEVER, THE FELONY COMPLAINT CHARGES THE JUVENILE OFFENDER CHARGED WITH
3 MURDER IN THE SECOND DEGREE AS DEFINED IN SECTION 125.25 OF THE PENAL
4 LAW; RAPE IN THE FIRST DEGREE, AS DEFINED IN SUBDIVISION ONE OF SECTION
5 130.35 OF THE PENAL LAW; CRIMINAL SEXUAL ACT IN THE FIRST DEGREE, AS
6 DEFINED IN SUBDIVISION ONE OF SECTION 130.50 OF THE PENAL LAW; OR AN
7 ARMED FELONY AS DEFINED IN PARAGRAPH (A) OF SUBDIVISION FORTY-ONE OF
8 SECTION 1.20 OF THIS CHAPTER, A DETERMINATION THAT SUCH ACTION BE
9 REMOVED TO THE FAMILY COURT SHALL, IN ADDITION, BE BASED UPON A FINDING
10 OF ONE OR MORE OF THE FOLLOWING FACTORS: (I) MITIGATING CIRCUMSTANCES
11 THAT BEAR DIRECTLY UPON THE MANNER IN WHICH THE CRIME WAS COMMITTED;
12 (II) WHERE THE DEFENDANT WAS NOT THE SOLE PARTICIPANT IN THE CRIME, THE
13 DEFENDANT'S PARTICIPATION WAS RELATIVELY MINOR ALTHOUGH NOT SO MINOR AS
14 TO CONSTITUTE A DEFENSE TO THE PROSECUTION; OR (III) POSSIBLE DEFICIEN-
15 CIES IN THE PROOF OF THE CRIME.

16 (C) IN MAKING ITS DETERMINATION PURSUANT TO PARAGRAPH (A) OF THIS
17 SUBDIVISION THE COURT SHALL, TO THE EXTENT APPLICABLE, EXAMINE INDIVID-
18 UALLY AND COLLECTIVELY, THE FOLLOWING:

19 (I) THE SERIOUSNESS AND CIRCUMSTANCES OF THE OFFENSE;

20 (II) THE EXTENT OF HARM CAUSED BY THE OFFENSE;

21 (III) THE EVIDENCE OF GUILT, WHETHER ADMISSIBLE OR INADMISSIBLE AT
22 TRIAL;

23 (IV) THE HISTORY, CHARACTER AND CONDITION OF THE DEFENDANT;

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

26 (VI) THE IMPACT OF A REMOVAL OF THE CASE TO THE FAMILY COURT ON THE
27 SAFETY OR WELFARE OF THE COMMUNITY;

28 (VII) THE IMPACT OF A REMOVAL OF THE CASE TO THE FAMILY COURT UPON THE
29 CONFIDENCE OF THE PUBLIC IN THE CRIMINAL JUSTICE SYSTEM;

30 (VIII) WHERE THE COURT DEEMS IT APPROPRIATE, THE ATTITUDE OF THE
31 COMPLAINANT OR VICTIM WITH RESPECT TO THE MOTION; AND

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

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

39 (E) THIS SECTION SHALL NOT BE CONSTRUED TO LIMIT THE POWERS OF THE
40 GRAND JURY.

41 4. IF AN ACTION IS NOT REMOVED TO THE FAMILY COURT PURSUANT TO SUBDI-
42 VISION THREE OF THIS SECTION, THE YOUTH PART SHALL HEAR THE CASE SITTING
43 AS A CRIMINAL COURT OR, IN ITS DISCRETION, WHEN THE DEFENDANT IS SIXTEEN
44 OR COMMENCING JANUARY FIRST, TWO THOUSAND EIGHTEEN, SEVENTEEN YEARS OF
45 AGE THE YOUTH PART MAY RETAIN IT AS A JUVENILE DELINQUENCY PROCEEDING
46 FOR ALL PURPOSES, AND SHALL MAKE SUCH PROCEEDING FULLY SUBJECT TO THE
47 PROVISIONS AND GRANT ANY RELIEF AVAILABLE UNDER ARTICLE THREE OF THE
48 FAMILY COURT ACT.

49 S 81. The opening paragraph and subdivisions 2 and 3 of section 725.05
50 of the criminal procedure law, as added by chapter 481 of the laws of
51 1978, are amended to read as follows:

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

2. Where the direction is authorized pursuant to paragraph (b) of subdivision [three] TWO of section [180.75] 722.20 of this [chapter] TITLE, it must specify the act or acts it found reasonable cause to believe the defendant did.

3. Where the direction is authorized pursuant to subdivision [four] THREE of section [180.75] 722.20 of this [chapter] TITLE, it must specify the act or acts it found reasonable cause to allege.

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

S 725.20 Record of certain actions removed.

1. The provisions of this section shall apply in any case where an order of removal to the family court is entered pursuant to a direction authorized by subdivision [four] THREE of section [180.75] 722.20 OF THIS TITLE, [or section 210.43,] or subparagraph (iii) of paragraph [(h)] (G) of subdivision five of section 220.10 of this chapter, or section 330.25 of this chapter.

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

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

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

(c) Where the direction is authorized by section 180.75, a copy of the portion of the minutes containing the statement by the court pursuant to paragraph (a) of subdivision six of such section 180.75;

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

[(e) Where the direction is one authorized by subdivision one of section 210.43 of this chapter, a copy of that portion of the minutes containing the statement by the court pursuant to paragraph (a) of subdivision five of section 210.43;

(f) Where the direction is one authorized by paragraph (b) of subdivision one of section 210.43 of this chapter, a copy of that portion of the minutes containing the statement of the district attorney made pursuant to paragraph (b) of subdivision five of section 210.43;] and

[(g)] (C) In addition to the records specified in this subdivision, such further statement or submission of additional information pertaining to the proceeding in criminal court in accordance with standards established by the commissioner of the division of criminal justice services, subject to the provisions of subdivision three of this section.

3. It shall be the duty of said clerk to maintain a separate file for copies of orders and minutes filed pursuant to this section. Upon receipt of such orders and minutes the clerk must promptly delete such portions as would identify the defendant, but the clerk shall nevertheless maintain a separate confidential system to enable correlation of the documents so filed with identification of the defendant. After making such deletions the orders and minutes shall be placed within the

1 file and must be available for public inspection. Information permit-
2 ting correlation of any such record with the identity of any defendant
3 shall not be divulged to any person except upon order of a justice of
4 the supreme court based upon a finding that the public interest or the
5 interests of justice warrant disclosure in a particular cause for a
6 particular case or for a particular purpose or use.

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

9 (H) NOTWITHSTANDING ANY OTHER PROVISION OF LAW COMMENCING JANUARY 1,
10 2017, NO COUNTY JAIL SHALL BE USED FOR THE CONFINEMENT OF ANY PERSON
11 UNDER THE AGE OF SEVENTEEN WHO IS SENTENCED FOR AN OFFENSE ON OR AFTER
12 JANUARY 1, 2017, AND, COMMENCING JANUARY 1, 2018, NO COUNTY JAIL SHALL
13 BE USED FOR THE CONFINEMENT OF ANY PERSON UNDER THE AGE OF EIGHTEEN WHO
14 IS SENTENCED FOR AN OFFENSE ON OR AFTER JANUARY 1, 2018. PLACEMENT OF
15 ANY PERSON WHO MAY NOT BE CONFINED TO A COUNTY JAIL PURSUANT TO THIS
16 SUBDIVISION SHALL BE DETERMINED BY THE OFFICE OF CHILDREN AND FAMILY
17 SERVICES.

18 S 84. Subdivision 4 of section 500-b of the correction law is
19 REPEALED.

20 S 85. Subparagraph 3 of paragraph (c) of subdivision 8 of section
21 500-b of the correction law is REPEALED.

22 S 86. Subdivision 13 of section 500-b of the correction law is
23 REPEALED.

24 S 87. Subparagraph 8 of paragraph h of subdivision 4 of section 1950
25 of the education law, as amended by section 1 of part G of chapter 58 of
26 the laws of 2014, is amended to read as follows:

27 (8) To enter into contracts with the commissioner of the office of
28 children and family services pursuant to subdivision six-a of section
29 thirty-two hundred two of this chapter to provide to such office, for
30 the benefit of youth in its custody, any special education programs,
31 related services [and], career and technical education services AND ANY
32 OTHER PROGRAMS provided by the board of cooperative educational services
33 to component school districts. Any such proposed contract shall be
34 subject to the review and approval of the commissioner to determine that
35 it is an approved cooperative educational service. Services provided
36 pursuant to such contracts shall be provided at cost, and the board of
37 cooperative educational services shall not be authorized to charge any
38 costs incurred in providing such services to its component school
39 districts.

40 S 87-a. Subdivision 6-a of section 3202 of the education law, as
41 amended by part G of chapter 58 of the Laws of 2014, is amended to read
42 as follows:

43 6-a. Notwithstanding subdivision six of this section or any other law
44 to the contrary, the commissioner of the office of children and family
45 services shall be responsible for the secular education of youth under
46 the jurisdiction of the office and may contract for such education with
47 the trustees or board of education of the school district wherein a
48 facility for the residential care of such youth is located or with the
49 board of cooperative educational services at which any such school
50 district is a component district [for special education programs,
51 related services and career and technical education services] IN ACCORD-
52 ANCE WITH SUBPARAGRAPH (8) OF PARAGRAPH (H) OF SUBDIVISION FOUR OF
53 SECTION NINETEEN HUNDRED AND FIFTY OF THIS CHAPTER. A youth attending a
54 local public school while in residence at such facility shall be deemed
55 a resident of the school district where his parent or guardian resides
56 at the commencement of each school year for the purpose of determining

1 which school district shall be responsible for the youth's tuition
2 pursuant to section five hundred four of the executive law.

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

6 (1) Consistent with the federal gun-free schools act, any public
7 school pupil who is determined under this subdivision to have brought a
8 firearm to or possessed a firearm at a public school shall be suspended
9 for a period of not less than one calendar year and any nonpublic school
10 pupil participating in a program operated by a public school district
11 using funds from the elementary and secondary education act of nineteen
12 hundred sixty-five who is determined under this subdivision to have
13 brought a firearm to or possessed a firearm at a public school or other
14 premises used by the school district to provide such programs shall be
15 suspended for a period of not less than one calendar year from partic-
16 ipation in such program. The procedures of this subdivision shall apply
17 to such a suspension of a nonpublic school pupil. A superintendent of
18 schools, district superintendent of schools or community superintendent
19 shall have the authority to modify this suspension requirement for each
20 student on a case-by-case basis. The determination of a superintendent
21 shall be subject to review by the board of education pursuant to para-
22 graph c of this subdivision and the commissioner pursuant to section
23 three hundred ten of this chapter. Nothing in this subdivision shall be
24 deemed to authorize the suspension of a student with a disability in
25 violation of the individuals with disabilities education act or article
26 eighty-nine of this chapter. A superintendent shall refer the pupil
27 under the age of sixteen who has been determined to have brought a weap-
28 on or firearm to school in violation of this subdivision to a present-
29 ment agency for a juvenile delinquency proceeding consistent with arti-
30 cle three of the family court act except a student fourteen or fifteen
31 years of age who qualifies for juvenile offender status under subdivi-
32 sion forty-two of section 1.20 of the criminal procedure law; PROVIDED
33 HOWEVER, THAT COMMENCING ON JANUARY FIRST, TWO THOUSAND SEVENTEEN, A
34 SUPERINTENDENT SHALL REFER THE PUPIL UNDER THE AGE OF SEVENTEEN WHO HAS
35 BEEN DETERMINED TO HAVE BROUGHT A WEAPON OR FIREARM TO SCHOOL IN
36 VIOLATION OF THIS SUBDIVISION TO A PRESENTMENT AGENCY FOR A JUVENILE
37 DELINQUENCY PROCEEDING CONSISTENT WITH ARTICLE THREE OF THE FAMILY COURT
38 ACT EXCEPT A STUDENT WHO QUALIFIES FOR JUVENILE OFFENDER STATUS UNDER
39 SUBDIVISION FORTY-TWO OF SECTION 1.20 OF THE CRIMINAL PROCEDURE LAW; AND
40 PROVIDED FURTHER THAT COMMENCING ON JANUARY FIRST, TWO THOUSAND EIGH-
41 TEEN, A SUPERINTENDENT SHALL REFER THE PUPIL UNDER THE AGE OF EIGHTEEN
42 WHO HAS BEEN DETERMINED TO HAVE BROUGHT A WEAPON OR FIREARM TO SCHOOL IN
43 VIOLATION OF THIS SUBDIVISION TO A PRESENTMENT AGENCY FOR A JUVENILE
44 DELINQUENCY PROCEEDING CONSISTENT WITH ARTICLE THREE OF THE FAMILY COURT
45 ACT EXCEPT A STUDENT WHO QUALIFIES FOR JUVENILE OFFENDER STATUS UNDER
46 SUBDIVISION FORTY-TWO OF SECTION 1.20 OF THE CRIMINAL PROCEDURE LAW. A
47 superintendent shall refer any pupil sixteen years of age or older or a
48 student fourteen or fifteen years of age who qualifies for juvenile
49 offender status under subdivision forty-two of section 1.20 of the crim-
50 inal procedure law, who has been determined to have brought a weapon or
51 firearm to school in violation of this subdivision to the appropriate
52 law enforcement officials.

53 S 89. Paragraph e of subdivision 3 of section 3214 of the education
54 law, as amended by chapter 170 of the laws of 2006, is amended to read
55 as follows:

1 e. Procedure after suspension. Where a pupil has been suspended pursu-
2 ant to this subdivision and said pupil is of compulsory attendance age,
3 immediate steps shall be taken for his or her attendance upon instruc-
4 tion elsewhere or for supervision [or detention] of said pupil pursuant
5 to the provisions of article seven of the family court act. Where a
6 pupil has been suspended for cause, the suspension may be revoked by the
7 board of education whenever it appears to be for the best interest of
8 the school and the pupil to do so. The board of education may also
9 condition a student's early return to school and suspension revocation
10 on the pupil's voluntary participation in counseling or specialized
11 classes, including anger management or dispute resolution, where appli-
12 cable.

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

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

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

26 3. Applications from counties or the city of New York for state aid
27 under this section shall be made by filing with the division of criminal
28 justice services, a detailed plan, including cost estimates covering
29 probation services for the fiscal year or portion thereof for which aid
30 is requested. Included in such estimates shall be clerical costs and
31 maintenance and operation costs as well as salaries of probation person-
32 nel, FAMILY ENGAGEMENT SPECIALISTS and such other pertinent information
33 as the commissioner of the division of criminal justice services may
34 require. Items for which state aid is requested under this section shall
35 be duly designated in the estimates submitted. The commissioner of the
36 division of criminal justice services, after consultation with the state
37 probation commission and the director of the office of probation and
38 correctional alternatives, shall approve such plan if it conforms to
39 standards relating to the administration of probation services as speci-
40 fied in the rules adopted by him or her.

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

45 The commissioner of the division of criminal justice services may take
46 into consideration granting additional state aid from an appropriation
47 made for state aid for county probation services for counties or the
48 city of New York when a county or the city of New York demonstrates that
49 additional probation services were dedicated to intensive supervision
50 programs[,] AND intensive programs for sex offenders [or programs
51 defined as juvenile risk intervention services]. THE COMMISSIONER SHALL
52 GRANT ADDITIONAL STATE AID FROM AN APPROPRIATION DEDICATED TO JUVENILE
53 RISK INTERVENTION SERVICES COORDINATION BY PROBATION DEPARTMENTS WHICH
54 SHALL INCLUDE, BUT NOT BE LIMITED TO, PROBATION SERVICES PERFORMED UNDER
55 ARTICLE THREE OF THE FAMILY COURT ACT OR ARTICLE SEVEN HUNDRED
56 TWENTY-TWO OF THE CRIMINAL PROCEDURE LAW. The administration of such

1 additional grants shall be made according to rules and regulations
2 promulgated by the commissioner of the division of criminal justice
3 services. Each county and the city of New York shall certify the total
4 amount collected pursuant to section two hundred fifty-seven-c of this
5 chapter. The commissioner of the division of criminal justice services
6 shall thereupon certify to the comptroller for payment by the state out
7 of funds appropriated for that purpose, the amount to which the county
8 or the city of New York shall be entitled under this section. THE
9 COMMISSIONER SHALL, SUBJECT TO AN APPROPRIATION MADE AVAILABLE FOR SUCH
10 PURPOSE, ESTABLISH AND PROVIDE FUNDING TO PROBATION DEPARTMENTS FOR A
11 CONTINUUM OF EVIDENCE-BASED INTERVENTION SERVICES FOR YOUTH ALLEGED OR
12 ADJUDICATED JUVENILE DELINQUENTS PURSUANT TO ARTICLE THREE OF THE FAMILY
13 COURT ACT OR FOR ELIGIBLE YOUTH BEFORE OR SENTENCED UNDER THE YOUTH PART
14 IN ACCORDANCE WITH ARTICLE SEVEN HUNDRED TWENTY-TWO OF THE CRIMINAL
15 PROCEDURE LAW.

16 B. COMMENCING JANUARY FIRST, TWO THOUSAND SEVENTEEN, SUCH ADDITIONAL
17 STATE AID SHALL BE MADE IN AN AMOUNT NECESSARY TO PAY ONE HUNDRED
18 PERCENT OF THE EXPENDITURES FOR EVIDENCE-BASED PRACTICES AND JUVENILE
19 RISK AND EVIDENCE-BASED INTERVENTION SERVICES PROVIDED TO YOUTH AGED
20 SIXTEEN YEARS OF AGE OR OLDER WHEN SUCH SERVICES WOULD NOT OTHERWISE
21 HAVE BEEN PROVIDED ABSENT THE PROVISIONS OF A CHAPTER OF THE LAWS OF TWO
22 THOUSAND FIFTEEN THAT INCREASED THE AGE OF JUVENILE JURISDICTION.

23 S 91-a. The Executive Law is amended by adding a new section 259-p to
24 read as follows:

25 S 259-P. INTERSTATE DETENTION. (1) (A) NOTWITHSTANDING ANY OTHER
26 PROVISION OF LAW, A DEFENDANT SUBJECT TO SECTION 259-MM OF THIS CHAPTER,
27 MAY BE DETAINED AS AUTHORIZED BY THE INTERSTATE COMPACT FOR ADULT OFFEN-
28 DER SUPERVISION.

29 (B) A DEFENDANT SHALL BE DETAINED AT A LOCAL CORRECTIONAL FACILITY,
30 EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (C) OF THIS SUBDIVISION.

31 (C) (I) A DEFENDANT SIXTEEN YEARS OF AGE OR YOUNGER, WHO ALLEGEDLY
32 COMMITS A CRIMINAL ACT OR VIOLATION OF HIS OR HER SUPERVISION ON OR
33 AFTER JANUARY 1, 2017 OR (II) A DEFENDANT SEVENTEEN YEARS OF AGE OR
34 YOUNGER WHO ALLEGEDLY COMMITS A CRIMINAL ACT OR VIOLATION OF HIS OR HER
35 SUPERVISION ON OR AFTER JANUARY 1, 2018, SHALL BE DETAINED IN A JUVENILE
36 DETENTION FACILITY.

37 S 91-b. Subdivision 16 of section 296 of the executive law, as amended
38 by chapter 56 of the laws of 2009, is amended to read as follows:

39 16. It shall be an unlawful discriminatory practice, unless specif-
40 ically required or permitted by statute, for any person, agency, bureau,
41 corporation or association, including the state and any political subdi-
42 vision thereof, to make any inquiry about, whether in any form of appli-
43 cation or otherwise, or to act upon adversely to the individual
44 involved, any arrest or criminal accusation of such individual not then
45 pending against that individual which was followed by a termination of
46 that criminal action or proceeding in favor of such individual, as
47 defined in subdivision two of section 160.50 of the criminal procedure
48 law, or by a youthful offender adjudication, as defined in subdivision
49 one of section 720.35 of the criminal procedure law, or by a conviction
50 for a violation sealed pursuant to section 160.55 of the criminal proce-
51 dure law or by a conviction which is sealed pursuant to [section]
52 SECTIONS 160.56 OR 160.58 of the criminal procedure law, in connection
53 with the licensing, employment or providing of credit or insurance to
54 such individual; provided, further, that no person shall be required to
55 divulge information pertaining to any arrest or criminal accusation of
56 such individual not then pending against that individual which was

1 followed by a termination of that criminal action or proceeding in favor
2 of such individual, as defined in subdivision two of section 160.50 of
3 the criminal procedure law, or by a youthful offender adjudication, as
4 defined in subdivision one of section 720.35 of the criminal procedure
5 law, or by a conviction for a violation sealed pursuant to section
6 160.55 of the criminal procedure law, or by a conviction which is sealed
7 pursuant to [section] SECTIONS 160.56 OR 160.58 of the criminal proce-
8 dure law. The provisions of this subdivision shall not apply to the
9 licensing activities of governmental bodies in relation to the regu-
10 lation of guns, firearms and other deadly weapons or in relation to an
11 application for employment as a police officer or peace officer as those
12 terms are defined in subdivisions thirty-three and thirty-four of
13 section 1.20 of the criminal procedure law; provided further that the
14 provisions of this subdivision shall not apply to an application for
15 employment or membership in any law enforcement agency with respect to
16 any arrest or criminal accusation which was followed by a youthful
17 offender adjudication, as defined in subdivision one of section 720.35
18 of the criminal procedure law, or by a conviction for a violation sealed
19 pursuant to section 160.55 of the criminal procedure law, or by a
20 conviction which is sealed pursuant to [section] SECTIONS 160.56 OR
21 160.58 of the criminal procedure law.

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

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

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

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

30 3. "Detention" means the temporary care and maintenance of youth held
31 away from their homes pursuant to article three or seven of the family
32 court act, OR, COMMENCING JANUARY FIRST, TWO THOUSAND EIGHTEEN, PURSUANT
33 TO ARTICLE THREE OF THE FAMILY COURT ACT, or held pending a hearing for
34 alleged violation of the conditions of release from an office of chil-
35 dren and family services facility or authorized agency, or held pending
36 a hearing for alleged violation of the condition of parole OR POST-RE-
37 LEASE SUPERVISION as a juvenile offender, or held pending return to a
38 jurisdiction other than the one in which the youth is held, or held
39 pursuant to a securing order of a criminal court if the youth named
40 therein as principal is charged as a juvenile offender or held pending a
41 hearing on an extension of placement or held pending transfer to a
42 facility upon commitment or placement by a court. Only alleged or
43 convicted juvenile offenders who have not attained their eighteenth OR,
44 COMMENCING JANUARY FIRST, TWO THOUSAND SEVENTEEN, THEIR TWENTY-FIRST
45 birthday shall be subject to detention in a detention facility.

46 4. For purposes of this article, the term "youth" shall [be synonymous
47 with the term "child" and means] MEAN a person not less than [seven] TEN
48 years of age and not more than twenty OR COMMENCING JANUARY FIRST, TWO
49 THOUSAND SEVENTEEN, NOT MORE THAN TWENTY-THREE years of age.

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

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

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

1 8. "Discharge" means the termination of [division] OFFICE custody of a
2 youth.

3 9. "Aftercare" means supervision of a youth on conditional release OR
4 POST-RELEASE status under the continued custody of the division.

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

8 7. The person in charge of each detention facility shall keep a record
9 of all time spent in such facility for each youth in care. The detention
10 facility shall deliver a certified transcript of such record to the
11 office, social services district, or other agency taking custody of the
12 youth pursuant to article three [or seven] of the family court act,
13 before, or at the same time as the youth is delivered to the office,
14 district or other agency, as is appropriate.

15 S 94. Subdivision 1 of section 505 of the executive law, as amended by
16 chapter 465 of the laws of 1992, is amended to read as follows:

17 1. There shall be a facility director of each [division for youth]
18 OFFICE OF CHILDREN AND FAMILY SERVICES OPERATED facility. Such facility
19 director shall be appointed by the [director] COMMISSIONER of the [divi-
20 sion] OFFICE OF CHILDREN AND FAMILY SERVICES and THE POSITION shall be
21 in the noncompetitive class and designated as confidential as defined by
22 subdivision two-a of section forty-two of the civil service law. The
23 facility director shall have [two years] SUCH experience [in appropriate
24 titles in state government. Such facility director shall have such] AND
25 other qualifications as may be prescribed by the director OF CLASSIFICA-
26 TION AND COMPENSATION WITHIN THE DEPARTMENT OF CIVIL SERVICE IN CONSUL-
27 TATION WITH THE COMMISSIONER of the [division,] OFFICE OF CHILDREN AND
28 FAMILY SERVICES based on differences in duties, levels of responsibil-
29 ity, size and character of the facility, knowledge, skills and abilities
30 required, and other factors affecting the position [and]. SUCH FACILITY
31 DIRECTOR shall serve at the pleasure of the [director] COMMISSIONER of
32 the [division] OFFICE OF CHILDREN AND FAMILY SERVICES.

33 S 95. Section 507-a of the executive law, as amended by chapter 465 of
34 the laws of 1992, paragraph (a) of subdivision 1 as amended by chapter
35 309 of the laws of 1996, is amended to read as follows:

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

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

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

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

49 (A-1) (I) A YOUTH WHO IS COMMITTED TO THE OFFICE OF CHILDREN AND FAMI-
50 LY SERVICES AS A JUVENILE OFFENDER OR YOUTHFUL OFFENDER MAY REMAIN IN
51 THE CUSTODY OF THE OFFICE DURING THE PERIOD OF HIS OR HER SENTENCE
52 BEYOND THE AGE OF TWENTY-ONE IN ACCORDANCE WITH THE PROVISIONS OF SUBDI-
53 VISION FIVE OF SECTION FIVE HUNDRED EIGHT OF THIS ARTICLE BUT IN NO
54 EVENT MAY SUCH A YOUTH REMAIN IN THE CUSTODY OF THE OFFICE BEYOND HIS OR
55 HER TWENTY-THIRD BIRTHDAY; AND (II) A YOUTH FOUND TO HAVE COMMITTED A
56 DESIGNATED CLASS A FELONY ACT WHO IS RESTRICTIVELY PLACED WITH THE

OFFICE UNDER SUBDIVISION FOUR OF SECTION 353.5 OF THE FAMILY COURT ACT FOR COMMITTING AN ACT ON OR AFTER THE YOUTH'S SIXTEENTH BIRTHDAY MAY REMAIN IN THE CUSTODY OF THE OFFICE OF CHILDREN AND FAMILY SERVICES UP TO THE AGE OF TWENTY-THREE IN ACCORDANCE WITH HIS OR HER PLACEMENT ORDER.

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

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

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

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

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

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

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

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

S 508. Juvenile offender facilities. 1. The office of children and family services shall maintain [secure] facilities for the care and confinement of juvenile offenders committed [for an indeterminate,

determinate or definite sentence] TO THE OFFICE pursuant to the sentencing provisions of the penal law. Such facilities shall provide appropriate services to juvenile offenders including but not limited to residential care, educational and vocational training, physical and mental health services, and employment counseling.

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

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

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

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

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

(d) For a period of six months after a juvenile offender has been transferred pursuant to paragraph (a) or (b) herein, the juvenile offender may have only accompanied home visits. After completing six months of confinement following transfer from a secure facility, a juvenile offender may not have an unaccompanied home visit unless two accompanied home visits have already occurred. An "accompanied home visit" shall mean a home visit during which the juvenile offender shall be accompanied at all times while outside the facility by appropriate personnel of the division for youth designated pursuant to regulations of the director of the division.

(e) The director of the division for youth shall promulgate rules and regulations including uniform standards and procedures governing the transfer of juvenile offenders from secure facilities to other facilities and the return of such offenders to secure facilities. The rules and regulations shall provide a procedure for the referral of proposed transfer cases by the secure facility director, and shall require a determination by the facility director that transfer of a juvenile offender to another facility is in the best interests of the division

1 for youth and the juvenile offender and that there is no danger to
2 public safety.

3 The rules and regulations shall further provide for the establishment
4 of a division central office transfer committee to review transfer cases
5 referred by the secure facility directors. The committee shall recommend
6 approval of a transfer request to the director of the division only upon
7 a clear showing by the secure facility director that the transfer is in
8 the best interests of the division for youth and the juvenile offender
9 and that there is no danger to public safety. In the case of the denial
10 of the transfer request by the transfer committee, the juvenile offender
11 shall remain at a secure facility. Notwithstanding the recommendation
12 for approval of transfer by the transfer committee, the director of the
13 division may deny the request for transfer if there is a danger to
14 public safety or if the transfer is not in the best interests of the
15 division for youth or the juvenile offender.

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

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

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

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

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

45 [7.] (B) ALL OFFENDERS COMMITTED TO THE OFFICE FOR COMMITTING A CRIME
46 ON OR AFTER THEIR SIXTEENTH BIRTHDAY WHO STILL HAVE TIME LEFT ON THEIR
47 SENTENCES OF IMPRISONMENT SHALL BE TRANSFERRED TO THE CUSTODY OF THE
48 DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION FOR CONFINEMENT
49 PURSUANT TO THE CORRECTION LAW AFTER COMPLETING TWO YEARS OF CARE IN
50 OFFICE OF CHILDREN AND FAMILY SERVICES FACILITIES UNLESS THEY ARE WITHIN
51 FOUR MONTHS OF COMPLETING THE IMPRISONMENT PORTION OF THEIR SENTENCE AND
52 THE OFFICE DETERMINES, IN ITS DISCRETION, ON A CASE-BY-CASE BASIS THAT
53 THE YOUTH SHOULD BE PERMITTED TO REMAIN WITH THE OFFICE FOR THE ADDI-
54 TIONAL SHORT PERIOD OF TIME NECESSARY TO ENABLE THEM TO COMPLETE THEIR
55 SENTENCE. IN MAKING SUCH A DETERMINATION, THE FACTORS THE OFFICE MAY
56 CONSIDER INCLUDE, BUT ARE NOT LIMITED TO, THE AGE OF THE YOUTH, THE

1 AMOUNT OF TIME REMAINING ON THE YOUTH'S SENTENCE OF IMPRISONMENT, THE
2 LEVEL OF THE YOUTH'S PARTICIPATION IN THE PROGRAM, THE YOUTH'S EDUCA-
3 TIONAL AND VOCATIONAL PROGRESS, THE OPPORTUNITIES AVAILABLE TO THE YOUTH
4 THROUGH THE OFFICE AND THROUGH THE DEPARTMENT, AND THE LENGTH OF THE
5 YOUTH'S POST-RELEASE SUPERVISION SENTENCE. NOTHING IN THIS PARAGRAPH
6 SHALL AUTHORIZE A YOUTH TO REMAIN IN AN OFFICE FACILITY BEYOND HIS OR
7 HER TWENTY-THIRD BIRTHDAY.

8 (C) COMMENCING JANUARY 1, 2017, ALL JUVENILE OFFENDERS WHO ARE ELIGI-
9 BLE TO BE RELEASED FROM AN OFFICE OF CHILDREN AND FAMILY SERVICES FACIL-
10 ITY BEFORE THEY ARE REQUIRED TO BE TRANSFERRED TO THE DEPARTMENT OF
11 CORRECTIONS AND COMMUNITY SUPERVISION AND WHO ARE ABLE TO COMPLETE THE
12 FULL-TERM OF THEIR POST-RELEASE SUPERVISION SENTENCES BEFORE THEY TURN
13 TWENTY-THREE YEARS OF AGE SHALL REMAIN WITH THE OFFICE OF CHILDREN AND
14 FAMILY SERVICES FOR POST-RELEASE SUPERVISION.

15 (D) COMMENCING JANUARY 1, 2017, ALL JUVENILE OFFENDERS RELEASED FROM
16 AN OFFICE OF CHILDREN AND FAMILY SERVICES FACILITY BEFORE THEY ARE
17 TRANSFERRED TO THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION
18 WHO ARE UNABLE TO COMPLETE THE FULL-TERM OF THEIR POST-RELEASE SUPER-
19 VISION SENTENCES BEFORE THEY TURN TWENTY-THREE YEARS OF AGE SHALL BE
20 UNDER THE SUPERVISION OF THE DEPARTMENT OF CORRECTIONS AND COMMUNITY
21 SUPERVISION UNTIL EXPIRATION OF THE MAXIMUM TERM OR PERIOD OF SENTENCE,
22 OR EXPIRATION OF SUPERVISION, INCLUDING ANY POST-RELEASE SUPERVISION AS
23 THE CASE MAY BE PROVIDED, HOWEVER, THAT THE OFFICE SHALL ASSIST SUCH
24 DEPARTMENT IN PLANNING FOR THE YOUTH'S POST-RELEASE SUPERVISION.

25 6. While in the custody of the office of children and family services,
26 an offender shall be subject to the rules and regulations of the office,
27 except that his OR HER parole, POST-RELEASE SUPERVISION, temporary
28 release and discharge shall be governed by the laws applicable to
29 inmates of state correctional facilities and his OR HER transfer to
30 state hospitals in the office of mental health shall be governed by
31 section five hundred nine of this chapter. The commissioner of the
32 office of children and family services shall, however, establish and
33 operate temporary release programs at office of children and family
34 services facilities AND PROVIDE POST-RELEASE SUPERVISION for eligible
35 juvenile offenders and [contract with the department of corrections and
36 community supervision for the provision of parole] PROVIDE supervision
37 [services] for temporary releasees AND JUVENILES ON POST-RELEASE SUPER-
38 VISION. The rules and regulations for these programs shall not be
39 inconsistent with the laws for temporary release AND POST-RELEASE SUPER-
40 VISION applicable to inmates of state correctional facilities. For the
41 purposes of temporary release programs for juvenile offenders only, when
42 referred to or defined in article twenty-six of the correction law,
43 "institution" shall mean any facility designated by the commissioner of
44 the office of children and family services, "department" shall mean the
45 office of children and family services, "inmate" shall mean a juvenile
46 offender residing in an office of children and family services facility,
47 and "commissioner" shall mean the [director] COMMISSIONER of the office
48 of children and family services. FOR THE PURPOSES OF SUCH POST-RELEASE
49 SUPERVISION FOR JUVENILE OFFENDERS UNDER PARAGRAPH (C) OF SUBDIVISION
50 FIVE OF THIS SECTION ONLY, WHEN REFERRED TO IN SECTION 70.45 OF THE
51 PENAL LAW OR ARTICLE TWELVE-B OF THE EXECUTIVE LAW, THE TERM "DEPARTMENT
52 OF CORRECTIONS AND COMMUNITY SUPERVISION", "DEPARTMENT", "DIVISION OF
53 PAROLE", "DIVISION", "BOARD OF PAROLE" AND "BOARD" SHALL MEAN THE OFFICE
54 OF CHILDREN AND FAMILY SERVICES, AND THE TERM "COMMISSIONER" SHALL MEAN
55 THE OFFICE OF CHILDREN AND FAMILY SERVICES. Time spent in office of
56 children and family services facilities and in juvenile detention facil-

ities shall be credited towards the sentence imposed in the same manner and to the same extent applicable to inmates of state correctional facilities.

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

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

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

1. Definitions. As used in this section:

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

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

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

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

2. [Expenditures] EXCEPT AS PROVIDED IN SUBDIVISION FIVE OF THIS SECTION, EXPENDITURES made by the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES for care, maintenance and supervision furnished youth, including alleged and adjudicated juvenile delinquents [and persons in need of supervision,] placed or referred, pursuant to titles two or three of this article, and juvenile offenders committed pursuant to section 70.05 of the penal law, in the [division's] OFFICE'S programs and facilities, shall be subject to reimbursement to the state by the social services district from which the youth was placed or by the

1 social services district in which the juvenile offender resided at the
2 time of commitment, in accordance with this section and the regulations
3 of the [division,] OFFICE as follows: fifty percent of the amount
4 expended for care, maintenance and supervision of local charges includ-
5 ing juvenile offenders.

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

15 [5] 4. (a) [Expenditures] EXCEPT AS PROVIDED IN SUBDIVISION FIVE OF
16 THIS SECTION, EXPENDITURES made by the [division for youth] OFFICE OF
17 CHILDREN AND FAMILY SERVICES for aftercare supervision shall be subject
18 to reimbursement to the state by the social services district from which
19 the youth was placed, in accordance with regulations of the [division]
20 OFFICE, as follows: fifty percent of the amount expended for aftercare
21 supervision of local charges.

22 (b) Expenditures made by social services districts for aftercare
23 supervision of adjudicated juvenile delinquents [and persons in need of
24 supervision provided (prior to the expiration of the initial or extended
25 period of placement or commitment) by the aftercare staff of the facili-
26 ty from which the youth has been released or discharged, other than
27 those under the jurisdiction of the division for youth, in which said
28 youth was placed or committed, pursuant to directions of the family
29 court,] shall be subject to reimbursement by the state[, upon approval
30 by the division and in accordance with its regulations, as follows:

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

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

36 (c) Expenditures made by the [division for youth] OFFICE OF CHILDREN
37 AND FAMILY SERVICES for contracted programs and contracted services
38 pursuant to subdivision seven of section five hundred one of this arti-
39 cle, except with respect to urban homes and group homes, shall be
40 subject to reimbursement to the state by the social services district
41 from which the youth was placed, in accordance with this section and the
42 regulations of the [division] OFFICE as follows: fifty percent of the
43 amount expended for the operation and maintenance of such programs and
44 services.

45 5. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, NO
46 REIMBURSEMENT SHALL BE REQUIRED FROM A SOCIAL SERVICES DISTRICT FOR
47 EXPENDITURES MADE BY THE OFFICE OF CHILDREN AND FAMILY SERVICES ON OR
48 AFTER DECEMBER FIRST, TWO THOUSAND FIFTEEN FOR THE CARE, MAINTENANCE,
49 SUPERVISION OR AFTERCARE SUPERVISION OF YOUTH AGE SIXTEEN YEARS OF AGE
50 OR OLDER THAT WOULD NOT OTHERWISE HAVE BEEN MADE ABSENT THE PROVISIONS
51 OF A CHAPTER OF THE LAWS OF TWO THOUSAND FIFTEEN THAT INCREASED THE AGE
52 OF JUVENILE JURISDICTION ABOVE FIFTEEN YEARS OF AGE OR THAT AUTHORIZED
53 THE PLACEMENT IN OFFICE OF CHILDREN AND FAMILY SERVICES FACILITIES OF
54 CERTAIN OTHER YOUTH WHO COMMITTED A CRIME ON OR AFTER THEIR SIXTEENTH
55 BIRTHDAYS.

1 5-a. The social services district responsible for reimbursement to the
2 state shall remain the same if during a period of placement or extension
3 thereof, a child commits a criminal act while in [a division] AN OFFICE
4 OF CHILDREN AND FAMILY SERVICES facility, during an authorized absence
5 therefrom or after absconding therefrom and is returned to the [divi-
6 sion] OFFICE following adjudication or conviction for the act by a court
7 with jurisdiction outside the boundaries of the social services district
8 which was responsible for reimbursement to the state prior to such adju-
9 dication or conviction.

10 S 98. Subdivision 1, the opening paragraph of subdivision 2 and
11 subparagraphs (i) and (iii) of paragraph (a) of subdivision 3 of section
12 529-b of the executive law, as added by section 3 of subpart B of part Q
13 of chapter 58 of the laws of 2011, are amended to read as follows:

14 1. (a) Notwithstanding any provision of law to the contrary, eligible
15 expenditures by an eligible municipality for services to divert youth at
16 risk of, alleged to be, or adjudicated as juvenile delinquents [or
17 persons alleged or adjudicated to be in need of supervision], or youth
18 alleged to be or convicted as juvenile offenders from placement in
19 detention or in residential care OR TO DIVERT PERSONS ALLEGED OR ADJUDI-
20 CATED TO BE IN NEED OF SUPERVISION FROM BEING PLACED AWAY FROM THEIR
21 HOMES, shall be subject to state reimbursement under the supervision and
22 treatment services for juveniles program for up to sixty-two percent of
23 the municipality's expenditures, subject to available appropriations and
24 exclusive of any federal funds made available for such purposes, not to
25 exceed the municipality's distribution under the supervision and treat-
26 ment services for juveniles program.

27 (b) The state funds appropriated for the supervision and treatment
28 services for juveniles program shall be distributed to eligible munici-
29 palities by the office of children and family services based on a plan
30 developed by the office which may consider historical information
31 regarding the number of youth seen at probation intake for an alleged
32 act of delinquency, THE NUMBER OF ALLEGED PERSONS IN NEED OF SUPERVISION
33 RECEIVING DIVERSION SERVICES UNDER SECTION SEVEN HUNDRED THIRTY-FIVE OF
34 THE FAMILY COURT ACT, the number of youth remanded to detention, the
35 number of juvenile delinquents placed with the office, the number of
36 juvenile delinquents [and persons in need of supervision] placed in
37 residential care with the municipality, the municipality's reduction in
38 the use of detention and residential placements, and other factors as
39 determined by the office. Such plan developed by the office shall be
40 subject to the approval of the director of the budget. The office is
41 authorized, in its discretion, to make advance distributions to a muni-
42 cipality in anticipation of state reimbursement.

43 As used in this section, the term "municipality" shall mean a county,
44 or a city having a population of one million or more, and "supervision
45 and treatment services for juveniles" shall mean community-based
46 services or programs designed to safely maintain youth in the community
47 pending a family court disposition or conviction in criminal court and
48 services or programs provided to youth adjudicated as juvenile delin-
49 quents [or persons in need of supervision,] or youth alleged to be juve-
50 nile offenders to prevent residential placement of such youth or a
51 return to placement where such youth have been released to the community
52 from residential placement OR PROGRAMS PROVIDED TO YOUTH ADJUDICATED
53 PERSONS IN NEED OF SUPERVISION TO MAINTAIN SUCH YOUTH IN THEIR HOMES.
54 Supervision and treatment services for juveniles may include but are not
55 limited to services or programs that:

(i) an analysis that identifies the neighborhoods or communities from which the greatest number of juvenile delinquents [and persons in need of supervision] are remanded to detention or residentially placed AND FROM WHICH THE GREATEST NUMBER OF ALLEGED PERSONS IN NEED OF SUPERVISION ARE OFFERED DIVERSION SERVICES;

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

S 99. Subdivisions 2, 4, 5, 6 and 7 of section 530 of the executive law, subdivisions 2 and 4 as amended by section 4 of subpart B of part Q of chapter 58 of the laws of 2011, paragraphs (a) and (d) of subdivision 2 as amended by section 1 of part M of chapter 57 of the laws of 2012, subdivision 5 as amended by chapter 920 of the laws of 1982, subparagraphs 1, 2 and 4 of paragraph (a) and paragraph (b) of subdivision 5 as amended by section 5 of subpart B of part Q of chapter 58 of the laws of 2011, subdivision 6 as amended by chapter 880 of the laws of 1976, and subdivision 7 as amended by section 6 of subpart B of part Q of chapter 58 of the laws of 2011, are amended and a new subdivision 8 is added to read as follows:

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

(a) Notwithstanding any provision of law to the contrary, eligible expenditures by a municipality during a particular program year for the care, maintenance and supervision [in foster care programs certified by the office of children and family services, certified or approved family boarding homes, and non-secure detention facilities certified by the office for those youth alleged to be persons in need of supervision or adjudicated persons in need of supervision held pending transfer to a facility upon placement; and] in secure and non-secure detention facilities certified by the office in accordance with section five hundred three of this article for those youth alleged to be juvenile delinquents; adjudicated juvenile delinquents held pending transfer to a facility upon placement, and juvenile delinquents held at the request of the office of children and family services pending extension of placement hearings or release revocation hearings or while awaiting disposition of such hearings; and youth alleged to be or convicted as juvenile offenders AND, PRIOR TO JANUARY FIRST, TWO THOUSAND EIGHTEEN, YOUTH ALLEGED TO BE PERSONS IN NEED OF SUPERVISION OR ADJUDICATED PERSONS IN NEED OF SUPERVISION HELD PENDING TRANSFER TO A FACILITY UPON PLACEMENT IN FOSTER CARE PROGRAMS CERTIFIED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES, CERTIFIED OR APPROVED FAMILY BOARDING HOMES, AND NON-SECURE DETENTION FACILITIES CERTIFIED BY THE OFFICE, shall be subject to state reimbursement for up to fifty percent of the municipality's expenditures, exclusive of any federal funds made available for such purposes, not to exceed the municipality's distribution from funds that have been appropriated specifically therefor for that program year. Municipalities shall implement the use of detention risk assessment instruments in a manner prescribed by the office so as to inform detention decisions. Notwithstanding any other provision of state law to the contrary, data necessary for completion of a detention risk assessment instrument may

1 be shared among law enforcement, probation, courts, detention adminis-
2 trators, detention providers, and the attorney for the child upon
3 retention or appointment; solely for the purpose of accurate completion
4 of such risk assessment instrument, and a copy of the completed
5 detention risk assessment instrument shall be made available to the
6 applicable detention provider, the attorney for the child and the court.

7 (b) The state funds appropriated for juvenile detention services shall
8 be distributed to eligible municipalities by the office of children and
9 family services based on a plan developed by the office which may
10 consider historical information regarding the number of youth remanded
11 to detention, the municipality's reduction in the use of detention, the
12 municipality's youth population, and other factors as determined by the
13 office. Such plan developed by the office shall be subject to the
14 approval of the director of the budget. The office is authorized, in its
15 discretion, to make advance distributions to a municipality in antic-
16 ipation of state reimbursement.

17 (c) A municipality may also use the funds distributed to it for juve-
18 nile detention services under this section for a particular program year
19 for sixty-two percent of a municipality's eligible expenditures for
20 supervision and treatment services for juveniles programs approved under
21 section five hundred twenty-nine-b of this title for services that were
22 not reimbursed from a municipality's distribution under such program
23 provided to at-risk, alleged or adjudicated juvenile delinquents or
24 persons alleged or adjudicated to be in need of supervision, or alleged
25 to be or convicted as juvenile offenders in community-based non-residen-
26 tial settings. Any claims submitted by a municipality for reimbursement
27 for detention services or supervision and treatment services for juve-
28 niles provided during a particular program year for which the munici-
29 pality does not receive state reimbursement from the municipality's
30 distribution of detention services funds for that program year may not
31 be claimed against the municipality's distribution of funds available
32 under this section for the next applicable program year. The office may
33 require that such claims be submitted to the office electronically at
34 such times and in the manner and format required by the office.

35 [(d)(i)] (2-A)(A) Notwithstanding any provision of law or regulation
36 to the contrary, any information or data necessary for the development,
37 validation or revalidation of the detention risk assessment instrument
38 shall be shared among local probation departments, the office of
39 probation and correctional alternatives and, where authorized by the
40 division of criminal justice services, the entity under contract with
41 the division to provide information technology services related to youth
42 assessment and screening, the office of children and family services,
43 and any entity under contract with the office of children and family
44 services to provide services relating to the development, validation or
45 revalidation of the detention risk assessment instrument. Any such
46 information and data shall not be commingled with any criminal history
47 database. Any information and data used and shared pursuant to this
48 section shall only be used and shared for the purposes of this section
49 and in accordance with this section. Such information shall be shared
50 and received in a manner that protects the confidentiality of such
51 information. The sharing, use, disclosure and redisclosure of such
52 information to any person, office, or other entity not specifically
53 authorized to receive it pursuant to this section or any other law is
54 prohibited.

55 [(ii)] (B) The office of children and family services shall consult
56 with individuals with professional research experience and expertise in

1 criminal justice; social work; juvenile justice; and applied mathemat-
2 ics, psychometrics and/or statistics to assist the office in determining
3 the method it will use to: develop, validate and revalidate such
4 detention risk assessment instrument; and analyze the effectiveness of
5 the use of such detention risk assessment instrument in accomplishing
6 its intended goals; and analyze, to the greatest extent possible any
7 disparate impact on detention outcomes for juveniles based on race, sex,
8 national origin, economic status and any other constitutionally
9 protected class, regarding the use of such instrument. The office shall
10 consult with such individuals regarding whether it is appropriate to
11 attempt to analyze whether there is any such disparate impact based on
12 sexual orientation and, if so, the best methods to conduct such analy-
13 sis. The office shall take into consideration any recommendations given
14 by such individuals involving improvements that could be made to such
15 instrument and process.

16 [(iii)] (C) Data collected for the purposes of completing the
17 detention risk assessment instrument from any source other than an offi-
18 cially documented record shall be confirmed as soon as practicable.
19 Should any data originally utilized in completing the risk assessment
20 instrument be found to conflict with the officially documented record,
21 the risk assessment instrument shall be completed with the officially
22 documented data and any corresponding revision to the risk categori-
23 zation shall be made. The office shall periodically revalidate any
24 approved risk assessment instrument. The office shall conspicuously post
25 any approved detention risk assessment instrument on its website and
26 shall confer with appropriate stakeholders, including but not limited
27 to, attorneys for children, presentment agencies, probation, and the
28 family court, prior to revising any validated risk assessment instru-
29 ment. Any such revised risk assessment instrument shall be subject to
30 periodic empirical validation.

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

36 (b) EXCEPT AS PROVIDED IN SUBDIVISION EIGHT OF THIS SECTION: (I) In
37 computing reimbursement to the municipality pursuant to this section,
38 the office shall insure that the aggregate of state aid under all state
39 aid formulas shall not exceed fifty percent of the cost of care, mainte-
40 nance and supervision provided to detainees eligible for state
41 reimbursement under subdivision two of this section, exclusive of feder-
42 al aid for such purposes not to exceed the amount of the municipality's
43 distribution under the juvenile detention services program.

44 [(c)] (II) Reimbursement for administrative related expenditures as
45 defined by the office of children and family services, for secure and
46 nonsecure detention services shall not exceed seventeen percent of the
47 total approved expenditures for facilities of twenty-five beds or more
48 and shall not exceed twenty-one percent of the total approved expendi-
49 tures for facilities with less than twenty-five beds.

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

53 (1) temporary care, maintenance and supervision provided TO alleged
54 juvenile delinquents and persons in need of supervision in detention
55 facilities certified pursuant to sections seven hundred twenty and 305.2
56 of the family court act by the office of children and family services,

1 pending adjudication of alleged delinquency or alleged need of super-
2 vision by the family court, or pending transfer to institutions to which
3 committed or placed by such court or while awaiting disposition by such
4 court after adjudication or held pursuant to a securing order of a crim-
5 inal court if the person named therein as principal is under [sixteen]
6 SEVENTEEN YEARS OF AGE; or[,]

7 (1-A) COMMENCING ON JANUARY FIRST, TWO THOUSAND EIGHTEEN, TEMPORARY
8 CARE, MAINTENANCE, AND SUPERVISION PROVIDED TO ALLEGED JUVENILE DELIN-
9 QUENTS IN DETENTION FACILITIES CERTIFIED BY THE OFFICE OF CHILDREN AND
10 FAMILY SERVICES, PENDING ADJUDICATION OF ALLEGED DELINQUENCY BY THE
11 FAMILY COURT, OR PENDING TRANSFER TO INSTITUTIONS TO WHICH COMMITTED OR
12 PLACED BY SUCH COURT OR WHILE AWAITING DISPOSITION BY SUCH COURT AFTER
13 ADJUDICATION OR HELD PURSUANT TO A SECURING ORDER OF A CRIMINAL COURT IF
14 THE PERSON NAMED THEREIN AS PRINCIPAL IS UNDER TWENTY-ONE; OR

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

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

23 (4) PRIOR TO JANUARY FIRST, TWO THOUSAND EIGHTEEN, temporary care,
24 maintenance and supervision provided youth detained in foster care
25 facilities or certified or approved family boarding homes pursuant to
26 article seven of the family court act.

27 (b) Payments made for reserved accommodations, whether or not in full
28 time use, approved AND CERTIFIED by the office of children and family
29 services [and certified pursuant to sections seven hundred twenty and
30 305.2 of the family court act], in order to assure that adequate accom-
31 modations will be available for the immediate reception and proper care
32 therein of youth for which detention costs are reimbursable pursuant to
33 paragraph (a) of this subdivision, shall be reimbursed as expenditures
34 for care, maintenance and supervision under the provisions of this
35 section, provided the office shall have given its prior approval for
36 reserving such accommodations.

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

42 7. The agency administering detention for each county and the city of
43 New York shall submit to the office of children and family services, at
44 such times and in such form and manner and containing such information
45 as required by the office of children and family services, an annual
46 report on youth remanded pursuant to article three or seven of the fami-
47 ly court act who are detained during each calendar year including,
48 commencing January first, two thousand twelve, the risk level of each
49 detained youth as assessed by a detention risk assessment instrument
50 approved by the office of children and family services PROVIDED, HOWEV-
51 ER, THAT THE REPORT DUE JANUARY FIRST, TWO THOUSAND NINETEEN AND THERE-
52 AFTER SHALL NOT BE REQUIRED TO CONTAIN ANY INFORMATION ON YOUTH WHO ARE
53 SUBJECT TO ARTICLE SEVEN OF THE FAMILY COURT ACT. The office may
54 require that such data on detention use be submitted to the office elec-
55 tronically. Such report shall include, but not be limited to, the reason
56 for the court's determination in accordance with section 320.5 or seven

1 hundred thirty-nine of the family court act, IF APPLICABLE, to detain
2 the youth; the offense or offenses with which the youth is charged; and
3 all other reasons why the youth remains detained. The office shall
4 submit a compilation of all the separate reports to the governor and the
5 legislature.

6 8. NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW TO THE CONTRARY,
7 COMMENCING JANUARY FIRST, TWO THOUSAND SEVENTEEN, STATE REIMBURSEMENT
8 SHALL BE MADE AVAILABLE FOR ONE HUNDRED PERCENT OF A MUNICIPALITY'S
9 ELIGIBLE EXPENDITURES FOR THE CARE, MAINTENANCE AND SUPERVISION OF YOUTH
10 SIXTEEN YEARS OF AGE OR OLDER IN NON-SECURE AND SECURE DETENTION FACILI-
11 TIES WHEN SUCH DETENTION WOULD NOT OTHERWISE HAVE OCCURRED ABSENT THE
12 PROVISIONS OF A CHAPTER OF THE LAWS OF TWO THOUSAND FIFTEEN THAT
13 INCREASED THE AGE OF JUVENILE JURISDICTION ABOVE FIFTEEN YEARS OF AGE.

14 S 100. Section 4 of part K of chapter 57 of the laws of 2012, amending
15 the education law, relating to authorizing the board of cooperative
16 educational services to enter into contracts with the commissioner of
17 children and family services to provide certain services, is amended to
18 read as follows:

19 S 4. This act shall take effect July 1, 2012 [and shall expire June
20 30, 2015 when upon such date the provisions of this act shall be deemed
21 repealed].

22 S 100-a. Severability. If any clause, sentence, paragraph, subdivi-
23 sion, section or part contained in any part of this act shall be
24 adjudged by any court of competent jurisdiction to be invalid, such
25 judgment shall not affect, impair, or invalidate the remainder thereof,
26 but shall be confined in its operation to the clause, sentence, para-
27 graph, subdivision, section or part contained in any part thereof
28 directly involved in the controversy in which such judgment shall have
29 been rendered. It is hereby declared to be the intent of the legislature
30 that this act would have been enacted even if such invalid provisions
31 had not been included herein.

32 S 101. This act shall take effect immediately; provided, however,
33 that:

34 1. sections 1 through 31, 49, 52, 54 through 57, 60-a through 66, 68
35 through 82, 83, 90, 91-a, 92, 95 and 99 shall take effect on January 1,
36 2017; provided, however, that when the applicability of such provisions
37 is dependent on the age of a youth that is alleged or adjudicated to
38 have committed or is convicted of or pleads to a crime or an act that
39 would constitute a crime if committed by an adult:

40 (a) effective January 1, 2017, such provisions shall be deemed to
41 apply to youth (i) who have been alleged to have committed, adjudicated
42 for, or convicted of an offense that occurred on or after such effective
43 date and who were at least 12 years of age but under the age of 17 at
44 the time such offense occurred, except that (ii) such provisions shall
45 be deemed to apply to persons at least 10 years of age but under the age
46 of 17 if such person is alleged to have committed, adjudicated for, or
47 convicted of an act that would constitute a crime as defined in section
48 125.27 (murder in the first degree) or 125.25 (murder in the second
49 degree) of the penal law if committed by an adult where such act
50 occurred on or after the effective date, and

51 (b) effective January 1, 2018, such provisions shall be deemed to
52 apply to youth who have been alleged to have committed, adjudicated for
53 or convicted of, an offense that occurred on or after such effective
54 date and who were 17 years of age at the time such offense occurred;

55 2. sections 32 through 47, 51, 53, 89, 93 and 98 shall take effect
56 January 1, 2018, provided, however, that:

1 (a) when the applicability of such provisions is dependent on the age
2 of a person, such provisions shall be deemed to apply to youth (i) who
3 have been alleged to have committed, been adjudicated for or convicted
4 of an offense that occurred on or after such effective date and who were
5 at least 12 years of age but under the age of 18 at the time such
6 offense occurred; provided, however that (ii) such provisions shall be
7 deemed to apply to youth at least 10 years of age but under the age of
8 18 if such youth is alleged to have committed, adjudicated for, or
9 convicted of an act that would constitute a crime as defined in section
10 125.27 (murder in the first degree) or 125.25 (murder in the second
11 degree) of the penal law if committed by an adult where such act
12 occurred on or after the effective date; and

13 (b) sections 32 through 47 shall be deemed to be applicable to
14 petitions filed, or attempted to be filed pursuant to Article seven of
15 the Family Court Act on or after such date;

16 3. sections 58 and 60 shall take effect on December 1, 2015;

17 4. sections 59 and 84 through 86 shall take effect January 1, 2019;

18 5. sections 63-a through 63-p; sections 64-a and 64-b; and sections 68
19 and 68-a shall take effect on January 1, 2017.

20 6. sections 67 and 91-b shall take effect 180 days after enactment;
21 and

22 7. section 91 shall take effect April 1, 2016;

23 8. the amendments to subdivision 4 of section 353.5 of the family
24 court act made by section twenty-four of this act shall not affect the
25 expiration and reversion of such subdivision and shall expire and be
26 deemed repealed therewith, when upon such date the provisions of section
27 twenty-five of this act shall take effect;

28 9. the amendments to section 153-k of the social services law made by
29 section forty-eight of this act shall not affect the expiration of such
30 section and shall expire and be deemed repealed therewith;

31 10. the amendments to section 404 of the social services law made by
32 section fifty-two of this act shall not affect the expiration of such
33 section and shall expire and be deemed repealed therewith;

34 11. the amendments to subdivision 1 of section 70.20 of the penal law
35 made by section fifty-eight of this act shall not affect the expiration
36 of such subdivision and shall expire and be deemed repealed therewith;

37 12. the amendments to paragraph (f) of subdivision 1 of section 70.30
38 of the penal law made by section sixty-a of this act shall not affect
39 the expiration of such paragraph and shall be deemed to expire there-
40 with;

41 13. the amendments to subparagraph 8 of paragraph h of subdivision 4
42 of section 1950 of the education law made by section eighty-seven of
43 this act shall not affect the repeal of such subparagraph and shall be
44 deemed repealed therewith;

45 14. the amendments to subparagraph 1 of paragraph d of subdivision 3
46 of section 3214 of the education law made by section eighty-eight of
47 this act shall not affect the expiration of such paragraph and shall be
48 deemed to expire therewith; and

49 15. the amendments to the second undesignated paragraph of subdivision
50 4 of section 246 of the executive law made by section ninety-one of this
51 act shall not affect the expiration of such paragraph and shall expire
52 and be deemed repealed therewith.

1 Section 1. The section heading of section 456 of the social services
2 law, as added by chapter 865 of the laws of 1977, is amended to read as
3 follows:

4 State reimbursement AND PAYMENTS.

5 S 2. Paragraphs (c) and (d) of subdivision 1 of section 456 of the
6 social services law, as amended by chapter 601 of the laws of 1994, are
7 amended to read as follows:

8 [(c) one hundred per centum of such payments after first deducting
9 therefrom any federal funds properly to be received on account of such
10 payments, for children placed out for adoption by a voluntary authorized
11 agency or for children being adopted after being placed out for adoption
12 by a voluntary authorized agency in accordance with the provisions of
13 this title,] or [(d)] (C) one hundred per centum of such payments after
14 first deducting therefrom any federal funds properly to be received on
15 account of such payments, for children placed out for adoption or being
16 adopted after being placed out for adoption by an Indian tribe as refer-
17 enced in subdivision seven of section four hundred fifty-one of this
18 title.

19 S 3. Section 456 of the social services law is amended by adding a new
20 subdivision 3 to read as follows:

21 3. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, FOR A
22 CHILD WHO HAS BEEN PLACED FOR ADOPTION BY A VOLUNTARY AUTHORIZED AGENCY
23 WITH GUARDIANSHIP AND CUSTODY OR CARE AND CUSTODY OF SUCH CHILD, AS
24 REFERENCED IN SUBDIVISION ONE OF SECTION FOUR HUNDRED FIFTY-ONE OF THIS
25 TITLE, PAYMENTS AVAILABLE UNDER SECTION FOUR HUNDRED FIFTY-THREE, FOUR
26 HUNDRED FIFTY-THREE-A OR FOUR HUNDRED FIFTY-FOUR OF THIS TITLE SHALL BE
27 MADE BY THE STATE PURSUANT TO A WRITTEN AGREEMENT BETWEEN AN OFFICIAL OF
28 THE OFFICE OF CHILDREN AND FAMILY SERVICES AND THE PERSONS WHO APPLIED
29 FOR SUCH PAYMENTS PRIOR TO ADOPTION. NOTWITHSTANDING ANY OTHER PROVISION
30 OF LAW TO THE CONTRARY, THE OFFICE OF CHILDREN AND FAMILY SERVICES SHALL
31 NOT ENTER INTO WRITTEN AGREEMENTS FOR, OR ISSUE, ANY SUCH PAYMENTS IN
32 INSTANCES WHERE THE PERSON OR PERSONS APPLYING FOR SUCH PAYMENTS RESIDE
33 OUTSIDE OF THE STATE OF NEW YORK AT THE TIME THE APPLICATION FOR SUCH
34 PAYMENTS IS MADE.

35 S 4. This act shall take effect July 1, 2015 and shall only apply to
36 applications for payments under sections 453, 453-a or 454 of the social
37 services law that are made on or after such effective date; provided,
38 however, that effective immediately the commissioner of the office of
39 children and family services is authorized and directed to promulgate
40 such rules and regulations as he or she deems necessary to implement the
41 provisions of this act on or before its effective date.

42 PART L

43 Section 1. Section 458-a of the social services law is amended by
44 adding three new subdivisions 6, 7 and 8 to read as follows:

45 6. "SUCCESSOR GUARDIAN" SHALL MEAN A PERSON OR PERSONS NAMED IN THE
46 AGREEMENT IN EFFECT BETWEEN THE RELATIVE GUARDIAN AND SOCIAL SERVICES
47 OFFICIAL FOR KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS PURSUANT TO THIS
48 TITLE TO PROVIDE CARE AND GUARDIANSHIP FOR A CHILD IN THE EVENT OF DEATH
49 OR INCAPACITY OF THE RELATIVE GUARDIAN, AS SET FORTH IN SECTION FOUR
50 HUNDRED FIFTY-EIGHT-B OF THIS TITLE, WHO HAS ASSUMED CARE FOR AND IS THE
51 GUARDIAN OR PERMANENT GUARDIAN OF SUCH CHILD, PROVIDED THAT SUCH PERSON
52 WAS APPOINTED GUARDIAN OR PERMANENT GUARDIAN OF SUCH CHILD FOLLOWING, OR
53 DUE TO, THE DEATH OR INCAPACITY OF THE RELATIVE GUARDIAN.

1 7. "PROSPECTIVE SUCCESSOR GUARDIAN" SHALL MEAN A PERSON OR PERSONS
2 WHOM A PROSPECTIVE RELATIVE GUARDIAN OR A RELATIVE GUARDIAN SEEKS TO
3 NAME IN THE ORIGINAL KINSHIP GUARDIANSHIP ASSISTANCE AGREEMENT, OR ANY
4 AMENDMENT THERETO, AS SET FORTH IN SECTION FOUR HUNDRED FIFTY-EIGHT-B OF
5 THIS TITLE, AS THE PERSON OR PERSONS TO PROVIDE CARE AND GUARDIANSHIP
6 FOR A CHILD IN THE EVENT OF THE DEATH OR INCAPACITY OF A RELATIVE GUARD-
7 IAN.

8 8. "INCAPACITY" SHALL MEAN A SUBSTANTIAL INABILITY TO CARE FOR A CHILD
9 AS A RESULT OF: (A) A PHYSICALLY DEBILITATING ILLNESS, DISEASE OR INJU-
10 RY; OR (B) A MENTAL IMPAIRMENT THAT RESULTS IN A SUBSTANTIAL INABILITY
11 TO UNDERSTAND THE NATURE AND CONSEQUENCES OF DECISIONS CONCERNING THE
12 CARE OF A CHILD.

13 S 2. Subdivision 4 of section 458-b of the social services law is
14 amended by adding two new paragraphs (e) and (f) to read as follows:

15 (E) THE ORIGINAL KINSHIP GUARDIANSHIP ASSISTANCE AGREEMENT EXECUTED IN
16 ACCORDANCE WITH THIS SECTION AND ANY AMENDMENTS THERETO MAY NAME AN
17 APPROPRIATE PERSON TO ACT AS A SUCCESSOR GUARDIAN FOR THE PURPOSE OF
18 PROVIDING CARE AND GUARDIANSHIP FOR A CHILD IN THE EVENT OF DEATH OR
19 INCAPACITY OF THE RELATIVE GUARDIAN.

20 (F) A FULLY EXECUTED AGREEMENT BETWEEN A RELATIVE GUARDIAN AND A
21 SOCIAL SERVICES OFFICIAL MAY BE AMENDED TO ADD OR MODIFY TERMS AND
22 CONDITIONS MUTUALLY AGREEABLE TO THE RELATIVE GUARDIAN AND THE SOCIAL
23 SERVICES OFFICIAL, INCLUDING THE NAMING OF AN APPROPRIATE PERSON TO
24 PROVIDE CARE AND GUARDIANSHIP FOR A CHILD IN THE EVENT OF DEATH OR INCA-
25 PACITY OF THE RELATIVE GUARDIAN.

26 S 3. Subdivision 5 of section 458-b of the social services law, as
27 added by section 4 of part F of chapter 58 of the laws of 2010, is
28 amended to read as follows:

29 5. (A) Once the prospective relative guardian with whom a social
30 services official has entered into an agreement under subdivision four
31 of this section has been issued letters of guardianship for the child
32 and the child has been finally discharged from foster care to such rela-
33 tive, a social services official shall make monthly kinship guardianship
34 assistance payments for the care and maintenance of the child.

35 (B) A SOCIAL SERVICES DISTRICT SHALL MAKE MONTHLY KINSHIP GUARDIANSHIP
36 ASSISTANCE PAYMENTS FOR THE CARE AND MAINTENANCE OF A CHILD TO A SUCCE-
37 SSOR GUARDIAN IN THE EVENT OF DEATH OR INCAPACITY OF A RELATIVE GUARDIAN,
38 PROVIDED HOWEVER THAT SUCH PAYMENTS SHALL NOT BE AUTHORIZED UNTIL THE
39 SUCCESSOR GUARDIAN IS GRANTED GUARDIANSHIP OR PERMANENT GUARDIANSHIP OF
40 A CHILD AND ASSUMES CARE OF SUCH CHILD; PROVIDED, FURTHER, HOWEVER, THAT
41 IF THE SUCCESSOR GUARDIAN ASSUMES CARE OF THE CHILD PRIOR TO BEING
42 GRANTED GUARDIANSHIP OR PERMANENT GUARDIANSHIP OF THE CHILD, PAYMENTS
43 UNDER THIS TITLE SHALL BE MADE RETROACTIVELY FROM: (I) IN THE EVENT OF
44 DEATH OF THE RELATIVE GUARDIAN, THE DATE THE SUCCESSOR GUARDIAN ASSUMED
45 CARE OF THE CHILD OR THE DATE OF DEATH OF THE RELATIVE GUARDIAN, WHICH-
46 EVER IS LATER; OR (II) IN THE EVENT OF INCAPACITY OF THE RELATIVE GUARD-
47 IAN, THE DATE THE SUCCESSOR GUARDIAN ASSUMED CARE OF THE CHILD OR THE
48 DATE OF INCAPACITY OF THE RELATIVE GUARDIAN, WHICHEVER IS LATER.

49 (C) IN THE EVENT THAT A SUCCESSOR GUARDIAN ASSUMED CARE AND WAS
50 AWARDED GUARDIANSHIP OR PERMANENT GUARDIANSHIP OF A CHILD DUE TO THE
51 INCAPACITY OF A RELATIVE GUARDIAN AND THE RELATIVE GUARDIAN IS SUBSE-
52 QUENTLY AWARDED OR RESUMES GUARDIANSHIP OR PERMANENT GUARDIANSHIP OF
53 SUCH CHILD AND ASSUMES CARE OF SUCH CHILD AFTER THE INCAPACITY ENDS, A
54 SOCIAL SERVICES OFFICIAL SHALL MAKE MONTHLY KINSHIP GUARDIANSHIP ASSIST-
55 ANCE PAYMENTS FOR THE CARE AND MAINTENANCE OF THE CHILD TO THE RELATIVE

1 GUARDIAN, IN ACCORDANCE WITH THE TERMS OF THE FULLY EXECUTED WRITTEN
2 AGREEMENT.

3 S 4. Paragraph (b) of subdivision 7 of section 458-b of the social
4 services law, as added by section 4 of part F of chapter 58 of the laws
5 of 2010, is amended to read as follows:

6 (b) (I) Notwithstanding paragraph (a) of this subdivision, AND EXCEPT
7 AS PROVIDED FOR IN PARAGRAPH (B) OF SUBDIVISION FIVE OF THIS SECTION, no
8 kinship guardianship assistance payments may be made pursuant to this
9 title if the social services official determines that the relative guar-
10 dian is no longer legally responsible for the support of the child,
11 including if the status of the legal guardian is terminated or the child
12 is no longer receiving any support from such guardian. In accordance
13 with the regulations of the office, a relative guardian who has been
14 receiving kinship guardianship assistance payments on behalf of a child
15 under this title must keep the social services official informed, on an
16 annual basis, of any circumstances that would make the relative guardian
17 ineligible for such payments or eligible for payments in a different
18 amount.

19 (II) NOTWITHSTANDING PARAGRAPH (A) OF THIS SUBDIVISION, AND EXCEPT AS
20 PROVIDED FOR IN PARAGRAPH (C) OF SUBDIVISION FIVE OF THIS SECTION, NO
21 KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS MAY BE MADE PURSUANT TO THIS
22 TITLE TO A SUCCESSOR GUARDIAN IF THE SOCIAL SERVICES OFFICIAL DETERMINES
23 THAT THE SUCCESSOR GUARDIAN IS NO LONGER LEGALLY RESPONSIBLE FOR THE
24 SUPPORT OF THE CHILD, INCLUDING IF THE STATUS OF THE SUCCESSOR GUARDIAN
25 IS TERMINATED OR THE CHILD IS NO LONGER RECEIVING ANY SUPPORT FROM SUCH
26 GUARDIAN. A SUCCESSOR GUARDIAN WHO HAS BEEN RECEIVING KINSHIP GUARDIAN-
27 SHIP ASSISTANCE PAYMENTS ON BEHALF OF A CHILD UNDER THIS TITLE MUST KEEP
28 THE SOCIAL SERVICES OFFICIAL INFORMED, ON AN ANNUAL BASIS, OF ANY
29 CIRCUMSTANCES THAT WOULD MAKE THE SUCCESSOR GUARDIAN INELIGIBLE FOR SUCH
30 PAYMENTS OR ELIGIBLE FOR PAYMENTS IN A DIFFERENT AMOUNT.

31 S 5. Subdivision 8 of section 458-b of the social services law, as
32 added by section 4 of part F of chapter 58 of the laws of 2010, is
33 amended to read as follows:

34 8. The placement of the child with the relative guardian OR SUCCESSOR
35 GUARDIAN and any kinship guardianship assistance payments made on behalf
36 of the child under this section shall be considered never to have been
37 made when determining the eligibility for adoption subsidy payments
38 under title nine of this article of a child in such legal guardianship
39 arrangement.

40 S 6. Subdivision 2 of section 458-d of the social services law, as
41 added by section 4 of part F of chapter 58 of the laws of 2010, is
42 amended to read as follows:

43 2. In addition, a social services official shall make payments for the
44 cost of care, services and supplies payable under the state's program of
45 medical assistance for needy persons provided to any child for whom
46 kinship guardianship assistance payments are being made under this title
47 who is not eligible for medical assistance under subdivision one of this
48 section and for whom the relative OR SUCCESSOR guardian is unable to
49 obtain appropriate and affordable medical coverage through any other
50 available means, regardless of whether the child otherwise qualifies for
51 medical assistance for needy persons. Payments pursuant to this subdivi-
52 sion shall be made only with respect to the cost of care, services, and
53 supplies which are not otherwise covered or subject to payment or
54 reimbursement by insurance, medical assistance or other sources.
55 Payments made pursuant to this subdivision shall only be made if the
56 relative OR SUCCESSOR guardian applies to obtain such medical coverage

1 for the child from all available sources, unless the social services
2 official determines that the relative guardian has good cause for not
3 applying for such coverage; which shall include that appropriate cover-
4 age is not available or affordable.

5 S 7. Subdivisions 1 and 2 of section 458-f of the social services law,
6 as added by section 4 of part F of chapter 58 of the laws of 2010, are
7 amended to read as follows:

8 1. Any person aggrieved by the decision of a social services official
9 not to make a payment or payments pursuant to this title or to make such
10 payment or payments in an inadequate or inappropriate amount or the
11 failure of a social services official to determine an application under
12 this title within thirty days after filing, OR THE FAILURE OF A SOCIAL
13 SERVICES DISTRICT TO APPROVE A PROSPECTIVE SUCCESSOR GUARDIAN, may
14 appeal to the office of children and family services, which shall review
15 the case and give such person an opportunity for a fair hearing thereon
16 and render its decision within thirty days. All decisions of the office
17 of children and family services shall be binding upon the social
18 services district involved and shall be complied with by the social
19 services official thereof.

20 2. The only issues which may be raised in a fair hearing under this
21 section are: (a) whether the social services official has improperly
22 denied an application for payments under this title; (b) whether the
23 social services official has improperly discontinued payments under this
24 title; (c) whether the social services official has determined the
25 amount of the payments made or to be made in violation of the provisions
26 of this title or the regulations of the office of children and family
27 services promulgated hereunder; [or] (d) whether the social services
28 official has failed to determine an application under this title within
29 thirty days; OR (E) WHETHER THE SOCIAL SERVICES OFFICIAL HAS IMPROPERLY
30 DENIED AN APPLICATION TO NAME A PROSPECTIVE SUCCESSOR GUARDIAN IN THE
31 ORIGINAL KINSHIP GUARDIANSHIP ASSISTANCE AGREEMENT FOR PAYMENTS PURSUANT
32 TO THIS TITLE OR ANY AMENDMENTS THERETO.

33 S 8. Paragraph (c) of subdivision 7 of section 353.3 of the family
34 court act, as amended by section 6 of part G of chapter 58 of the laws
35 of 2010, is amended to read as follows:

36 (c) Where the respondent is placed pursuant to subdivision two or
37 three of this section, such report shall contain a plan for the release,
38 or conditional release (pursuant to section five hundred ten-a of the
39 executive law), of the respondent to the custody of his or her parent or
40 other person legally responsible, [to independent living] or to another
41 permanency alternative as provided in paragraph (d) of subdivision seven
42 of section 355.5 of this part. If the respondent is subject to article
43 sixty-five of the education law or elects to participate in an educa-
44 tional program leading to a high school diploma, such plan shall
45 include, but not be limited to, the steps that the agency with which the
46 respondent is placed has taken and will be taking to facilitate the
47 enrollment of the respondent in a school or educational program leading
48 to a high school diploma following release, or, if such release occurs
49 during the summer recess, upon the commencement of the next school term.
50 If the respondent is not subject to article sixty-five of the education
51 law and does not elect to participate in an educational program leading
52 to a high school diploma, such plan shall include, but not be limited
53 to, the steps that the agency with which the respondent is placed has
54 taken and will be taking to assist the respondent to become gainfully
55 employed or enrolled in a vocational program following release.

1 S 9. Paragraph (b) of subdivision 7 of section 355.5 of the family
2 court act, as added by chapter 7 of the laws of 1999, is amended to read
3 as follows:

4 (b) in the case of a respondent who has attained the age of [sixteen]
5 FOURTEEN, the services needed, if any, to assist the respondent to make
6 the transition from foster care to independent living;

7 S 10. Paragraph (d) of subdivision 7 of section 355.5 of the family
8 court act, as amended by chapter 181 of the laws of 2000, is amended to
9 read as follows:

10 (d) with regard to the completion of placement ordered by the court
11 pursuant to section 353.3 or 355.3 of this [article] PART: whether and
12 when the respondent: (i) will be returned to the parent; (ii) should be
13 placed for adoption with the local commissioner of social services
14 filing a petition for termination of parental rights; (iii) should be
15 referred for legal guardianship; (iv) should be placed permanently with
16 a fit and willing relative; or (v) should be placed in another planned
17 permanent living arrangement WITH A SIGNIFICANT CONNECTION TO AN ADULT
18 WILLING TO BE A PERMANENCY RESOURCE FOR THE RESPONDENT if THE RESPONDENT
19 IS AGE SIXTEEN OR OLDER AND (A) the office of children and family
20 services or the local commissioner of social services has documented to
21 the court [a]: (1) THE INTENSIVE, ONGOING, AND, AS OF THE DATE OF THE
22 HEARING, UNSUCCESSFUL EFFORTS MADE TO RETURN THE RESPONDENT HOME OR
23 SECURE A PLACEMENT FOR THE RESPONDENT WITH A FIT AND WILLING RELATIVE
24 INCLUDING ADULT SIBLINGS, A LEGAL GUARDIAN, OR AN ADOPTIVE PARENT,
25 INCLUDING THROUGH EFFORTS THAT UTILIZE SEARCH TECHNOLOGY INCLUDING
26 SOCIAL MEDIA TO FIND BIOLOGICAL FAMILY MEMBERS FOR CHILDREN, (2) THE
27 STEPS BEING TAKEN TO ENSURE THAT (I) THE RESPONDENT'S FOSTER FAMILY HOME
28 OR CHILD CARE FACILITY IS FOLLOWING THE REASONABLE AND PRUDENT PARENT
29 STANDARD IN ACCORDANCE WITH GUIDANCE PROVIDED BY THE UNITED STATES
30 DEPARTMENT OF HEALTH AND HUMAN SERVICES, AND (II) THE RESPONDENT HAS
31 REGULAR, ONGOING OPPORTUNITIES TO ENGAGE IN AGE OR DEVELOPMENTALLY
32 APPROPRIATE ACTIVITIES INCLUDING BY CONSULTING WITH THE RESPONDENT IN AN
33 AGE-APPROPRIATE MANNER ABOUT THE OPPORTUNITIES OF THE RESPONDENT TO
34 PARTICIPATE IN ACTIVITIES; AND (B) THE OFFICE OF CHILDREN AND FAMILY
35 SERVICES OR THE LOCAL COMMISSIONER OF SOCIAL SERVICES HAS DOCUMENTED TO
36 THE COURT AND THE COURT HAS DETERMINED THAT THERE ARE compelling
37 [reason] REASONS for determining that it [would] CONTINUES TO not be in
38 the best interest of the respondent to return home, be referred for
39 termination of parental rights and placed for adoption, placed with a
40 fit and willing relative, or placed with a legal guardian; and (C) THE
41 COURT HAS MADE A DETERMINATION EXPLAINING WHY, AS OF THE DATE OF THIS
42 HEARING, ANOTHER PLANNED LIVING ARRANGEMENT WITH A SIGNIFICANT
43 CONNECTION TO AN ADULT WILLING TO BE A PERMANENCY RESOURCE FOR THE
44 RESPONDENT IS THE BEST PERMANENCY PLAN FOR THE RESPONDENT; AND

45 S 11. Subdivision 8 of section 355.5 of the family court act, as added
46 by section 2 of part B of chapter 327 of the laws of 2007, is amended to
47 read as follows:

48 8. At the permanency hearing, the court shall consult with the
49 respondent in an age-appropriate manner regarding the permanency plan
50 for the respondent; PROVIDED, HOWEVER, THAT IF THE RESPONDENT IS AGE
51 SIXTEEN OR OLDER AND THE REQUESTED PERMANENCY PLAN FOR THE RESPONDENT IS
52 PLACEMENT IN ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT WITH A SIGNIF-
53 ICANT CONNECTION TO AN ADULT WILLING TO BE A PERMANENCY RESOURCE FOR THE
54 RESPONDENT, THE COURT MUST ASK THE RESPONDENT ABOUT THE DESIRED PERMAN-
55 ENCY OUTCOME FOR THE RESPONDENT.

1 S 12. Subparagraph (ii) of paragraph (a) of subdivision 2 of section
2 754 of the family court act, as amended by chapter 7 of the laws of
3 1999, is amended to read as follows:

4 (ii) in the case of a child who has attained the age of [sixteen]
5 FOURTEEN, the services needed, if any, to assist the child to make the
6 transition from foster care to independent living. Nothing in this
7 subdivision shall be construed to modify the standards for directing
8 detention set forth in section seven hundred thirty-nine of this arti-
9 cle.

10 S 13. The closing paragraph of paragraph (b) of subdivision 2 of
11 section 754 of the family court act, as added by chapter 7 of the laws
12 of 1999, is amended to read as follows:

13 If the court determines that reasonable efforts are not required
14 because of one of the grounds set forth above, a permanency hearing
15 shall be held within thirty days of the finding of the court that such
16 efforts are not required. At the permanency hearing, the court shall
17 determine the appropriateness of the permanency plan prepared by the
18 social services official which shall include whether and when the child:
19 (A) will be returned to the parent; (B) should be placed for adoption
20 with the social services official filing a petition for termination of
21 parental rights; (C) should be referred for legal guardianship; (D)
22 should be placed permanently with a fit and willing relative; or (E)
23 should be placed in another planned permanent living arrangement WITH A
24 SIGNIFICANT CONNECTION TO AN ADULT WILLING TO BE A PERMANENCY RESOURCE
25 FOR THE CHILD IF THE CHILD IS AGE SIXTEEN OR OLDER AND if the [social
26 services official has documented to the court a compelling reason for
27 determining that it would not be in the best interest of the child to
28 return home, be referred for termination of parental rights and placed
29 for adoption, placed with a fit and willing relative, or placed with a
30 legal guardian] REQUIREMENTS OF SUBPARAGRAPH (E) OF PARAGRAPH (IV) OF
31 SUBDIVISION (D) OF SECTION SEVEN HUNDRED FIFTY-SIX-A OF THIS PART HAVE
32 BEEN MET. The social services official shall thereafter make reasonable
33 efforts to place the child in a timely manner and to complete whatever
34 steps are necessary to finalize the permanent placement of the child as
35 set forth in the permanency plan approved by the court. If reasonable
36 efforts are determined by the court not to be required because of one of
37 the grounds set forth in this paragraph, the social services official
38 may file a petition for termination of parental rights in accordance
39 with section three hundred eighty-four-b of the social services law.

40 S 14. Paragraph (ii) of subdivision (d) of section 756-a of the family
41 court act, as amended by section 4 of part B of chapter 327 of the laws
42 of 2007, is amended to read as follows:

43 (ii) in the case of a child who has attained the age of [sixteen]
44 FOURTEEN, the services needed, if any, to assist the child to make the
45 transition from foster care to independent living;

46 S 15. Paragraphs (iii) and (iv) of subdivision (d) of section 756-a of
47 the family court act, as amended by section 4 of part B of chapter 327
48 of the laws of 2007, are amended to read as follows:

49 (iii) in the case of a child placed outside New York state, whether
50 the out-of-state placement continues to be appropriate and in the best
51 interests of the child; [and]

52 (iv) whether and when the child: (A) will be returned to the parent;
53 (B) should be placed for adoption with the social services official
54 filing a petition for termination of parental rights; (C) should be
55 referred for legal guardianship; (D) should be placed permanently with a
56 fit and willing relative; or (E) should be placed in another planned

1 permanent living arrangement WITH A SIGNIFICANT CONNECTION TO AN ADULT
2 WILLING TO BE A PERMANENCY RESOURCE FOR THE CHILD if THE CHILD IS AGE
3 SIXTEEN OR OLDER AND (1) the social services official has documented to
4 the court [a]: (I) INTENSIVE, ONGOING, AND, AS OF THE DATE OF THE HEAR-
5 ING, UNSUCCESSFUL EFFORTS MADE BY THE SOCIAL SERVICES DISTRICT TO RETURN
6 THE CHILD HOME OR SECURE A PLACEMENT FOR THE CHILD WITH A FIT AND WILL-
7 ING RELATIVE INCLUDING ADULT SIBLINGS, A LEGAL GUARDIAN, OR AN ADOPTIVE
8 PARENT, INCLUDING THROUGH EFFORTS THAT UTILIZE SEARCH TECHNOLOGY INCLUD-
9 ING SOCIAL MEDIA TO FIND BIOLOGICAL FAMILY MEMBERS FOR CHILDREN, (II)
10 THE STEPS THE SOCIAL SERVICES DISTRICT IS TAKING TO ENSURE THAT (A) THE
11 CHILD'S FOSTER FAMILY HOME OR CHILD CARE FACILITY IS FOLLOWING THE
12 REASONABLE AND PRUDENT PARENT STANDARD IN ACCORDANCE WITH GUIDANCE
13 PROVIDED BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES,
14 AND (B) THE CHILD HAS REGULAR, ONGOING OPPORTUNITIES TO ENGAGE IN AGE OR
15 DEVELOPMENTALLY APPROPRIATE ACTIVITIES INCLUDING BY CONSULTING WITH THE
16 CHILD IN AN AGE-APPROPRIATE MANNER ABOUT THE OPPORTUNITIES OF THE CHILD
17 TO PARTICIPATE IN ACTIVITIES; AND (2) THE SOCIAL SERVICES DISTRICT HAS
18 DOCUMENTED TO THE COURT AND THE COURT HAS DETERMINED THAT THERE ARE
19 compelling [reason] REASONS for determining that it [would] CONTINUES TO
20 not be in the best interest of the child to return home, be referred for
21 termination of parental rights and placed for adoption, placed with a
22 fit and willing relative, or placed with a legal guardian; and (3) THE
23 COURT HAS MADE A DETERMINATION EXPLAINING WHY, AS OF THE DATE OF THE
24 HEARING, ANOTHER PLANNED LIVING ARRANGEMENT WITH A SIGNIFICANT
25 CONNECTION TO AN ADULT WILLING TO BE A PERMANENCY RESOURCE FOR THE CHILD
26 IS THE BEST PERMANENCY PLAN FOR THE CHILD; AND

27 (V) where the child will not be returned home, consideration of appro-
28 priate in-state and out-of-state placements.

29 S 16. Subdivision (d-1) of section 756-a of the family court act, as
30 added by section 4 of part B of chapter 327 of the laws of 2007, is
31 amended to read as follows:

32 (d-1) At the permanency hearing, the court shall consult with the
33 respondent in an age-appropriate manner regarding the permanency plan;
34 PROVIDED, HOWEVER, THAT IF THE RESPONDENT IS AGE SIXTEEN OR OLDER AND
35 THE REQUESTED PERMANENCY PLAN FOR THE RESPONDENT IS PLACEMENT IN ANOTHER
36 PLANNED PERMANENT LIVING ARRANGEMENT WITH A SIGNIFICANT CONNECTION TO AN
37 ADULT WILLING TO BE A PERMANENCY RESOURCE FOR THE RESPONDENT, THE COURT
38 MUST ASK THE RESPONDENT ABOUT THE DESIRED PERMANENCY OUTCOME FOR THE
39 RESPONDENT.

40 S 17. Paragraph (v) of subdivision (c) of section 1039-b of the family
41 court act, as amended by section 5 of part B of chapter 327 of the laws
42 of 2007, is amended to read as follows:

43 (v) should be placed in another planned permanent living arrangement
44 WITH A SIGNIFICANT CONNECTION TO AN ADULT WILLING TO BE A PERMANENCY
45 RESOURCE FOR THE CHILD IF THE CHILD IS AGE SIXTEEN OR OLDER AND if the
46 [social services official has documented to the court a compelling
47 reason for determining that it would not be in the best interests of the
48 child to return home, be referred for termination of parental rights and
49 placed for adoption, placed with a fit and willing relative, or placed
50 with a legal guardian] REQUIREMENTS OF CLAUSE (E) OF SUBPARAGRAPH (I) OF
51 PARAGRAPH TWO OF SUBDIVISION (D) OF SECTION ONE THOUSAND EIGHTY-NINE OF
52 THIS CHAPTER HAVE BEEN MET. The social services official shall there-
53 after make reasonable efforts to place the child in a timely manner,
54 including consideration of appropriate in-state and out-of-state place-
55 ments, and to complete whatever steps are necessary to finalize the
56 permanent placement of the child as set forth in the permanency plan

1 approved by the court. If reasonable efforts are determined by the court
2 not to be required because of one of the grounds set forth in this para-
3 graph, the social services official may file a petition for termination
4 of parental rights in accordance with section three hundred
5 eighty-four-b of the social services law.

6 S 18. Item (v) of clause 7 of subparagraph (A) of paragraph (i) of
7 subdivision (b) of section 1052 of the family court act, as amended by
8 section 7 of part B of chapter 327 of the laws of 2007, is amended to
9 read as follows:

10 (v) should be placed in another planned permanent living arrangement
11 that includes a significant connection to an adult [who is] willing to
12 be a permanency resource for the child, IF THE CHILD IS AGE SIXTEEN OR
13 OLDER AND if the [social services official has documented to the court a
14 compelling reason for determining that it would not be in the best
15 interest of the child to return home, be referred for termination of
16 parental rights and placed for adoption, placed with a fit and willing
17 relative, or placed with a legal guardian] REQUIREMENTS OF CLAUSE (E) OF
18 SUBPARAGRAPH (I) OF PARAGRAPH TWO OF SUBDIVISION (D) OF SECTION ONE
19 THOUSAND EIGHTY-NINE OF THE CHAPTER HAVE BEEN MET. The social services
20 official shall thereafter make reasonable efforts to place the child in
21 a timely manner, including consideration of appropriate in-state and
22 out-of-state placements, and to complete whatever steps are necessary to
23 finalize the permanent placement of the child as set forth in the
24 permanency plan approved by the court. If reasonable efforts are deter-
25 mined by the court not to be required because of one of the grounds set
26 forth in this paragraph, the social services official may file a peti-
27 tion for termination of parental rights in accordance with section three
28 hundred eighty-four-b of the social services law.

29 S 19. Subparagraph (v) of paragraph 1 of subdivision (c) of section
30 1089 of the family court act, as added by section 27 of part A of chap-
31 ter 3 of the laws of 2005, is amended to read as follows:

32 (v) placement in another planned permanent living arrangement that
33 includes a significant connection to an adult who is willing to be a
34 permanency resource for the child IF THE CHILD IS AGE SIXTEEN OR OLDER,
35 including documentation of: (A) INTENSIVE, ONGOING, AND, AS OF THE DATE
36 OF THE HEARING, UNSUCCESSFUL EFFORTS TO RETURN THE CHILD HOME OR SECURE
37 A PLACEMENT FOR THE CHILD WITH A FIT AND WILLING RELATIVE INCLUDING
38 ADULT SIBLINGS, A LEGAL GUARDIAN, OR AN ADOPTIVE PARENT, INCLUDING
39 THROUGH EFFORTS THAT UTILIZE SEARCH TECHNOLOGY INCLUDING SOCIAL MEDIA TO
40 FIND BIOLOGICAL FAMILY MEMBERS FOR CHILDREN, (B) THE STEPS BEING TAKEN
41 TO ENSURE THAT (I) THE CHILD'S FOSTER FAMILY HOME OR CHILD CARE FACILITY
42 IS FOLLOWING THE REASONABLE AND PRUDENT PARENT STANDARD IN ACCORDANCE
43 WITH THE GUIDANCE PROVIDED BY THE UNITED STATES DEPARTMENT OF HEALTH AND
44 HUMAN SERVICES, AND (II) THE CHILD HAS REGULAR, ONGOING OPPORTUNITIES TO
45 ENGAGE IN AGE OR DEVELOPMENTALLY APPROPRIATE ACTIVITIES INCLUDING BY
46 CONSULTING WITH THE CHILD IN AN AGE-APPROPRIATE MANNER ABOUT THE OPPOR-
47 TUNITIES OF THE CHILD TO PARTICIPATE IN ACTIVITIES, AND (C) the compel-
48 ling [reason] REASONS for determining that it [would] CONTINUES TO not
49 be in the best interests of the child to be returned home, placed for
50 adoption, placed with a legal guardian, or placed with a fit and willing
51 relative;

52 S 20. The opening paragraph of subdivision (d) of section 1089 of the
53 family court act, as amended by chapter 334 of the laws of 2009, is
54 amended to read as follows:

55 Evidence, court findings and order. The provisions of subdivisions (a)
56 and (c) of section one thousand forty-six of this act shall apply to all

1 proceedings under this article. THE PERMANENCY HEARING SHALL INCLUDE AN
2 AGE APPROPRIATE CONSULTATION WITH THE CHILD; PROVIDED, HOWEVER THAT IF
3 THE CHILD IS AGE SIXTEEN OR OLDER AND THE REQUESTED PERMANENCY PLAN FOR
4 THE CHILD IS PLACEMENT IN ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT
5 WITH A SIGNIFICANT CONNECTION TO AN ADULT WILLING TO BE A PERMANENCY
6 RESOURCE FOR THE CHILD, THE COURT MUST ASK THE CHILD ABOUT THE DESIRED
7 PERMANENCY OUTCOME FOR THE CHILD. At the conclusion of each permanency
8 hearing, the court shall, upon the proof adduced, [which shall include
9 age-appropriate consultation with the child who is the subject of the
10 permanency hearing,] and in accordance with the best interests and safe-
11 ty of the child, including whether the child would be at risk of abuse
12 or neglect if returned to the parent or other person legally responsi-
13 ble, determine and issue its findings, and enter an order of disposition
14 in writing:

15 S 21. Clause (E) of subparagraph (i) of paragraph 2 of subdivision (d)
16 of section 1089 of the family court act, as added by section 27 of part
17 A of chapter 3 of the laws of 2005, is amended to read as follows:

18 (E) placement in another planned permanent living arrangement that
19 includes a significant connection to an adult willing to be a permanency
20 resource for the child if the [local social services official has docu-
21 mented to] CHILD IS AGE SIXTEEN OR OLDER AND the court [a] HAS DETER-
22 MINED THAT AS OF THE DATE OF THE PERMANENCY HEARING, ANOTHER PLANNED
23 PERMANENCY LIVING ARRANGEMENT WITH A SIGNIFICANT CONNECTION TO AN ADULT
24 WILLING TO BE A PERMANENCY RESOURCE FOR THE CHILD IS THE BEST PERMANENCY
25 PLAN FOR THE CHILD AND THERE ARE compelling [reason] REASONS for deter-
26 mining that it [would] CONTINUES TO not be in the best interests of the
27 child to return home, be referred for termination of parental rights and
28 placed for adoption, placed with a fit and willing relative, or placed
29 with a legal guardian;

30 S 22. Subdivision 2 of section 4173 of the public health law, as
31 amended by chapter 644 of the laws of 1988, is amended to read as
32 follows:

33 2. A certified copy or certified transcript of a birth record shall be
34 issued only upon order of a court of competent jurisdiction or upon a
35 specific request therefor by the person, if eighteen years of age or
36 more, or by a parent or other lawful representative of the person to
37 whom the record of birth relates INCLUDING AN AUTHORIZED REPRESENTATIVE
38 OF THE OFFICE OF CHILDREN AND FAMILY SERVICES OR A LOCAL SOCIAL SERVICES
39 DISTRICT IF THE PERSON IS IN THE CARE AND CUSTODY OR CUSTODY AND GUARDI-
40 ANSHIP OF SUCH ENTITY.

41 S 23. Paragraph (b) of subdivision 1 of section 4174 of the public
42 health law, as amended by chapter 396 of the laws of 1989, is amended to
43 read as follows:

44 (b) issue certified copies or certified transcripts of birth certifi-
45 cates only (1) upon order of a court of competent jurisdiction, or (2)
46 upon specific request therefor by the person, if eighteen years of age
47 or more, or by a parent or other lawful representative of the person, to
48 whom the record of birth relates INCLUDING AUTHORIZED REPRESENTATIVES OF
49 A LOCAL SOCIAL SERVICES DISTRICT IF THE PERSON IS IN THE CARE AND CUSTO-
50 DY OR CUSTODY AND GUARDIANSHIP OF SUCH DISTRICT, or (3) upon specific
51 request therefor by a department of a state or the federal government of
52 the United States;

53 S 24. Subdivision 4 of section 4174 of the public health law, as
54 amended by section 132 of subpart B of part C of chapter 62 of the laws
55 of 2011, is amended to read as follows:

1 4. No fee shall be charged for a search, certification, certificate,
2 certified copy or certified transcript of a record to be used for school
3 entrance, employment certificate or for purposes of public relief or
4 when required by the veterans administration to be used in determining
5 the eligibility of any person to participate in the benefits made avail-
6 able by the veterans administration or when required by a board of
7 elections for the purposes of determining voter eligibility or when
8 requested by the department of corrections and community supervision or
9 a local correctional facility as defined in subdivision sixteen of
10 section two of the correction law for the purpose of providing a certi-
11 fied copy or certified transcript of birth to an inmate in anticipation
12 of such inmate's release from custody or when requested by the office of
13 children and family services or an authorized agency for the purpose of
14 providing a certified copy or certified transcript of birth to a youth
15 placed in the CARE AND custody OR CUSTODY AND GUARDIANSHIP of the local
16 commissioner of social services or the CARE AND custody OR CUSTODY AND
17 GUARDIANSHIP of the office of children and family services [pursuant to
18 article three of the family court act] in anticipation of such youth's
19 discharge from placement OR FOSTER CARE.

20 S 25. Subdivision 1 of section 837-e of the executive law, as amended
21 by chapter 690 of the laws of 1994, is amended to read as follows:

22 1. There is hereby established through electronic data processing and
23 related procedures, a statewide central register for missing children
24 which shall be compatible with the national crime information center
25 register maintained pursuant to the federal missing children act of
26 nineteen hundred eighty-two[, such missing]. AS USED IN THIS ARTICLE,
27 THE TERM MISSING child [hereinafter defined as] SHALL MEAN any person
28 under the age of eighteen years, OR ANY YOUTH, UNDER THE AGE OF TWENTY-
29 ONE YEARS, THAT THE OFFICE OF CHILDREN AND FAMILY SERVICES OR A LOCAL
30 DEPARTMENT OF SOCIAL SERVICES HAS RESPONSIBILITY FOR PLACEMENT, CARE, OR
31 SUPERVISION, OR WHO IS THE SUBJECT CHILD OF A CHILD PROTECTIVE INVESTI-
32 GATION, IS RECEIVING SERVICES UNDER SECTION 477 OF THE SOCIAL SECURITY
33 ACT, OR HAS RUN AWAY FROM FOSTER CARE, WHERE SUCH OFFICE OR DEPARTMENT
34 HAS REASONABLE CAUSE TO BELIEVE THAT SUCH YOUTH IS, OR IS AT RISK OF
35 BEING, A SEX TRAFFICKING VICTIM, WHO IS missing from his or her normal
36 and ordinary place of residence and whose whereabouts cannot be deter-
37 mined by a person responsible for the child's care and any child known
38 to have been taken, enticed or concealed from the custody of his or her
39 lawful guardian by a person who has no legal right to do so.

40 S 26. Severability. If any clause, sentence, paragraph, subdivision,
41 section or part contained in any part of this act shall be adjudged by
42 any court of competent jurisdiction to be invalid, such judgment shall
43 not affect, impair, or invalidate the remainder thereof, but shall be
44 confined in its operation to the clause, sentence, paragraph, subdivi-
45 sion, section or part contained in any part thereof directly involved in
46 the controversy in which such judgment shall have been rendered. It is
47 hereby declared to be the intent of the legislature that this act would
48 have been enacted even if such invalid provisions had not been included
49 herein.

50 S 27. This act shall take effect immediately, provided however that
51 sections eight through twenty-four of this act shall take effect Septem-
52 ber 1, 2015 and section twenty-five of this act shall take effect Janu-
53 ary 1, 2016.

1 Section 1. Notwithstanding any other provision of law, the housing
2 trust fund corporation may provide, for purposes of the rural rental
3 assistance program, a sum not to exceed twenty-one million six hundred
4 forty-two thousand dollars for the fiscal year ending March 31, 2016.
5 Notwithstanding any other provision of law, and subject to the approval
6 of the New York state director of the budget, the board of directors of
7 the state of New York mortgage agency shall authorize the transfer to
8 the housing trust fund corporation, for the purposes of reimbursing any
9 costs associated with rural rental assistance program contracts author-
10 ized by this section, a total sum not to exceed twenty-one million six
11 hundred forty-two thousand dollars, such transfer to be made from (i)
12 the special account of the mortgage insurance fund created pursuant to
13 section 2429-b of the public authorities law, in an amount not to exceed
14 the actual excess balance in the special account of the mortgage insur-
15 ance fund, as determined and certified by the state of New York mortgage
16 agency for the fiscal year 2014-2015 in accordance with section 2429-b
17 of the public authorities law, if any, and/or (ii) provided that the
18 reserves in the project pool insurance account of the mortgage insurance
19 fund created pursuant to section 2429-b of the public authorities law
20 are sufficient to attain and maintain the credit rating (as determined
21 by the state of New York mortgage agency) required to accomplish the
22 purposes of such account, the project pool insurance account of the
23 mortgage insurance fund, such transfer to be made as soon as practicable
24 but no later than June 30, 2015. Notwithstanding any other provision of
25 law, such funds may be used by the corporation in support of contracts
26 scheduled to expire in the fiscal year ending March 31, 2016 for as many
27 as 10 additional years; in support of contracts for new eligible
28 projects for a period not to exceed 5 years; and in support of contracts
29 which reach their 25 year maximum in and/or prior to the fiscal year
30 ending March 31, 2016 for an additional one year period.

31 S 2. Notwithstanding any other provision of law, the housing finance
32 agency may provide, for costs associated with the rehabilitation of
33 Mitchell Lama housing projects, a sum not to exceed forty-two million
34 dollars for the fiscal year ending March 31, 2016. Notwithstanding any
35 other provision of law, and provided that the reserves in the project
36 pool insurance account of the mortgage insurance fund created pursuant
37 to section 2429-b of the public authorities law are sufficient to attain
38 and maintain the credit rating (as determined by the state of New York
39 mortgage agency) required to accomplish the purposes of such account,
40 the board of directors of the state of New York mortgage agency shall
41 authorize the transfer from the project pool insurance account of the
42 mortgage insurance fund to the housing finance agency, for the purposes
43 of reimbursing any costs associated with Mitchell Lama housing projects
44 authorized by this section, a total sum not to exceed forty-two million
45 dollars as soon as practicable but no later than March 31, 2016.

46 S 3. Notwithstanding any other provision of law, the housing trust
47 fund corporation may provide, for purposes of the neighborhood preserva-
48 tion program, a sum not to exceed eight million four hundred seventy-
49 nine thousand dollars for the fiscal year ending March 31, 2016.
50 Notwithstanding any other provision of law, and subject to the approval
51 of the New York state director of the budget, the board of directors of
52 the state of New York mortgage agency shall authorize the transfer to
53 the housing trust fund corporation, for the purposes of reimbursing any
54 costs associated with neighborhood preservation program contracts
55 authorized by this section, a total sum not to exceed eight million four
56 hundred seventy-nine thousand dollars, such transfer to be made from (i)

1 the special account of the mortgage insurance fund created pursuant to
2 section 2429-b of the public authorities law, in an amount not to exceed
3 the actual excess balance in the special account of the mortgage insur-
4 ance fund, as determined and certified by the state of New York mortgage
5 agency for the fiscal year 2014-2015 in accordance with section 2429-b
6 of the public authorities law, if any, and/or (ii) provided that the
7 reserves in the project pool insurance account of the mortgage insurance
8 fund created pursuant to section 2429-b of the public authorities law
9 are sufficient to attain and maintain the credit rating (as determined
10 by the state of New York mortgage agency) required to accomplish the
11 purposes of such account, the project pool insurance account of the
12 mortgage insurance fund, such transfer to be made as soon as practicable
13 but no later than June 30, 2015.

14 S 4. Notwithstanding any other provision of law, the housing trust
15 fund corporation may provide, for purposes of the rural preservation
16 program, a sum not to exceed three million five hundred thirty-nine
17 thousand dollars for the fiscal year ending March 31, 2016. Notwith-
18 standing any other provision of law, and subject to the approval of the
19 New York state director of the budget, the board of directors of the
20 state of New York mortgage agency shall authorize the transfer to the
21 housing trust fund corporation, for the purposes of reimbursing any
22 costs associated with rural preservation program contracts authorized by
23 this section, a total sum not to exceed three million five hundred thir-
24 ty-nine thousand dollars, such transfer to be made from (i) the special
25 account of the mortgage insurance fund created pursuant to section
26 2429-b of the public authorities law, in an amount not to exceed the
27 actual excess balance in the special account of the mortgage insurance
28 fund, as determined and certified by the state of New York mortgage
29 agency for the fiscal year 2014-2015 in accordance with section 2429-b
30 of the public authorities law, if any, and/or (ii) provided that the
31 reserves in the project pool insurance account of the mortgage insurance
32 fund created pursuant to section 2429-b of the public authorities law
33 are sufficient to attain and maintain the credit rating (as determined
34 by the state of New York mortgage agency) required to accomplish the
35 purposes of such account, the project pool insurance account of the
36 mortgage insurance fund, such transfer to be made as soon as practicable
37 but no later than June 30, 2015.

38 S 5. Notwithstanding any other provision of law, the housing trust
39 fund corporation may provide, for purposes of the rural and urban commu-
40 nity investment fund program created pursuant to article XXVII of the
41 private housing finance law, a sum not to exceed seventeen million
42 dollars for the fiscal year ending March 31, 2016. Notwithstanding any
43 other provision of law, and provided that the reserves in the project
44 pool insurance account of the mortgage insurance fund created pursuant
45 to section 2429-b of the public authorities law are sufficient to attain
46 and maintain the credit rating (as determined by the state of New York
47 mortgage agency) required to accomplish the purposes of such account,
48 the board of directors of the state of New York mortgage agency shall
49 authorize the transfer from the project pool insurance account of the
50 mortgage insurance fund to the housing trust fund corporation, for the
51 purposes of reimbursing any costs associated with rural and urban commu-
52 nity investment fund program contracts authorized by this section, a
53 total sum not to exceed seventeen million dollars as soon as practicable
54 but not later than March 31, 2016.

55 S 6. Notwithstanding any other provision of law, the housing trust
56 fund corporation may provide, for the purposes of carrying out the

1 provisions of the low income housing trust fund program created pursuant
2 to article XVIII of the private housing finance law, a sum not to exceed
3 seven million five hundred thousand dollars for the fiscal year ending
4 March 31, 2016. Notwithstanding any other provision of law, and provided
5 that reserves in the project pool insurance account of the mortgage
6 insurance fund created pursuant to section 2429-b of the public authori-
7 ties law are sufficient to attain and maintain the credit rating (as
8 determined by the state of New York mortgage agency) required to accom-
9 plish the purposes of such account, the board of directors of the state
10 of New York mortgage agency shall authorize the transfer from the
11 project pool insurance account of the mortgage insurance fund to the
12 housing trust fund corporation, for the purposes of carrying out the
13 provisions of the low income housing trust fund program created pursuant
14 to article XVIII of the private housing finance law authorized by this
15 section, a total sum not to exceed seven million five hundred thousand
16 dollars as soon as practicable but no later than March 31, 2016.

17 S 7. Notwithstanding any other provision of law, the housing trust
18 fund corporation may provide, for purposes of the homes for working
19 families program for deposit in the housing trust fund created pursuant
20 to section 59-a of the private housing finance law and subject to the
21 provisions of article XVIII of the private housing finance law, a sum
22 not to exceed eight million five hundred thousand dollars for the fiscal
23 year ending March 31, 2016. Notwithstanding any other provision of law,
24 and provided that the reserves in the project pool insurance account of
25 the mortgage insurance fund created pursuant to section 2429-b of the
26 public authorities law are sufficient to attain and maintain the credit
27 rating (as determined by the state of New York mortgage agency) required
28 to accomplish the purposes of such account, the board of directors of
29 the state of New York mortgage agency shall authorize the transfer from
30 the project pool insurance account of the mortgage insurance fund to the
31 housing trust fund corporation, for the purposes of reimbursing any
32 costs associated with homes for working families program contracts
33 authorized by this section, a total sum not to exceed eight million five
34 hundred thousand dollars as soon as practicable but no later than March
35 31, 2016.

36 S 8. Notwithstanding any other provision of law, the homeless housing
37 and assistance corporation may provide, for purposes of the New York
38 state supportive housing program, the solutions to end homelessness
39 program or the operational support for AIDS housing program, or to qual-
40 ified grantees under those programs, in accordance with the requirements
41 of those programs, a sum not to exceed sixteen million three hundred
42 forty thousand dollars for the fiscal year ending March 31, 2016. The
43 homeless housing and assistance corporation may enter into an agreement
44 with the office of temporary and disability assistance to administer
45 such sum in accordance with the requirements of the programs. Notwith-
46 standing any other provision of law, and subject to the approval of the
47 director of the budget, the board of directors of the state of New York
48 mortgage agency shall authorize the transfer to the homeless housing and
49 assistance corporation, a total sum not to exceed sixteen million three
50 hundred forty thousand dollars, such transfer to be made from (i) the
51 special account of the mortgage insurance fund created pursuant to
52 section 2429-b of the public authorities law, in an amount not to exceed
53 the actual excess balance in the special account of the mortgage insur-
54 ance fund, as determined and certified by the state of New York mortgage
55 agency for the fiscal year 2014-2015 in accordance with section 2429-b
56 of the public authorities law, if any, and/or (ii) provided that the

reserves in the project pool insurance account of the mortgage insurance fund created pursuant to section 2429-b of the public authorities law are sufficient to attain and maintain the credit rating (as determined by the state of New York mortgage agency) required to accomplish the purposes of such account, the project pool insurance account of the mortgage insurance fund, such transfer to be made as soon as practicable but no later than March 31, 2016.

S 9. This act shall take effect immediately.

PART N

Section 1. Subdivision 1 of section 652 of the labor law, as amended by section 1 of part P of chapter 57 of the laws of 2013, is amended to read as follows:

1. Statutory. Every employer shall pay to each of its employees for each hour worked a wage of not less than:

\$4.25 on and after April 1, 1991,

\$5.15 on and after March 31, 2000,

\$6.00 on and after January 1, 2005,

\$6.75 on and after January 1, 2006,

\$7.15 on and after January 1, 2007,

\$8.00 on and after December 31, 2013,

\$8.75 on and after December 31, 2014,

\$9.00 on and after December 31, 2015,

\$11.50 IN A CITY WITH A POPULATION IN EXCESS OF ONE MILLION AND \$10.50 IN THE REMAINDER OF THE STATE ON AND AFTER DECEMBER 31, 2016 or, if greater, such other wage as may be established by federal law pursuant to 29 U.S.C. section 206 or its successors or such other wage as may be established in accordance with the provisions of this article.

S 2. The labor law is amended to add a new section 525 to read as follows:

S 525. HIGH QUARTER THRESHOLD. FOR PURPOSES OF THIS ARTICLE, "HIGH QUARTER THRESHOLD" SHALL EQUAL TWO HUNDRED TWENTY-ONE TIMES THE MINIMUM WAGE RATE SPECIFIED BELOW ROUNDED DOWN TO THE NEAREST ONE HUNDRED DOLLARS. THE MINIMUM WAGE RATE REFERENCED ABOVE SHALL BE A SINGLE HOURLY RATE THAT: (I) IS LISTED IN SUBDIVISION ONE OF SECTION SIX HUNDRED FIFTY-TWO OF THIS CHAPTER; (II) IS A GENERAL RATE THAT IS NOT RESTRICTED TO SPECIFIED LOCALITIES, INDUSTRIES, OCCUPATIONS OR EMPLOYMENTS AND; (III) WAS IN EFFECT 18 MONTHS BEFORE THE MONDAY OF THE WEEK THAT THE CLAIM WAS FILED, AS DETERMINED BY THE COMMISSIONER.

S 3. Subdivisions 1 and 2 of section 527 of the labor law, subdivision 1 as amended by section 2 of part O of chapter 57 of the laws of 2013 and subdivision 2 as amended by section 5 of chapter 589 of the laws of 1998, are amended to read as follows:

S 527. Valid original claim. 1. Basic condition. "Valid original claim" is a claim filed by a claimant who meets the following qualifications: (a) is able to work, and available for work; (b) is not subject to any disqualification or suspension under this article; (c) his or her previously established benefit year, if any, has expired; (d) has been paid remuneration by employers liable for contributions or for payments in lieu of contributions under this article, other than employers from whom the claimant lost employment and for which the commissioner makes a determination disqualifying the claimant for misconduct pursuant to subdivisions three and six of section five hundred ninety-three of this article, for employment during at least two calendar quarters of the

1 base period, with remuneration of one and one-half times the high calen-
2 dar quarter remuneration within the base period and with REMUNERATION
3 DURING THE HIGH CALENDAR QUARTER OF NO LESS THAN THE HIGH QUARTER THRES-
4 HOLD [at least two hundred twenty-one times the minimum wage established
5 under subdivision one of section six hundred fifty-two of this chapter
6 rounded down to the nearest one hundred dollars of such remuneration
7 being paid during the high calendar quarter of such base period]. For
8 purposes of this section, the remuneration in the high calendar quarter
9 of the base period used in determining a valid original claim shall not
10 exceed an amount equal to twenty-two times the maximum benefit rate as
11 set forth in subdivision five of section five hundred ninety of this
12 article for all individuals.

13 2. Alternate condition. (a) An individual who is unable to file a
14 valid original claim in accordance with subdivision one of this section,
15 files a valid original claim by meeting the qualifications enumerated in
16 paragraphs (a), (b) and (c) of subdivision one of this section and by
17 having been paid remuneration by employers liable for contributions or
18 for payments in lieu of contributions under this article, other than
19 employers from whom the claimant lost employment and for which the
20 commissioner makes a determination disqualifying the claimant for
21 misconduct pursuant to subdivisions three and six of section five
22 hundred ninety-three of this article, for employment during at least two
23 calendar quarters of the base period, with remuneration of one and one-
24 half times the high calendar quarter remuneration within the base period
25 and with REMUNERATION DURING THE HIGH CALENDAR QUARTER OF NO LESS THAN
26 THE HIGH QUARTER THRESHOLD [at least two hundred twenty-one times the
27 minimum wage established under subdivision one of section six hundred
28 fifty-two of this chapter rounded down to the nearest one hundred
29 dollars of such remuneration being paid during the high calendar quarter
30 of such base period]. For purposes of this section, the remuneration in
31 the high calendar quarter of the base period used in determining a valid
32 original claim shall not exceed an amount equal to twenty-two times the
33 maximum benefit rate as set forth in subdivision five of section five
34 hundred ninety of this article for all individuals.

35 S 4. This act shall take effect immediately provided, however, that
36 sections two and three of this act shall take effect December 31, 2016.

37

PART O

38 Section 1. The labor law is amended by adding a new section 202-m to
39 read as follows:

40 S 202-M. HEALTHCARE PROFESSIONALS WHO VOLUNTEER TO FIGHT THE EBOLA
41 VIRUS DISEASE OVERSEAS. 1. FINDINGS AND POLICY OF THE STATE. IT IS HERE-
42 BY FOUND AND DECLARED THAT THE EBOLA VIRUS DISEASE IS A RARE AND POTEN-
43 Tially DEADLY DISEASE CAUSED BY INFECTION WITH ONE OF FOUR EBOLA VIRUS
44 STRAINS KNOWN TO CAUSE DISEASE IN HUMANS, THAT THE WORLD HEALTH ORGAN-
45 IZATION HAS DECLARED THAT THE CURRENT EBOLA VIRUS DISEASE OUTBREAK IN
46 WEST AFRICA CONSTITUTES A PUBLIC HEALTH EMERGENCY OF INTERNATIONAL
47 CONCERN, AND THAT THE CENTERS FOR DISEASE CONTROL AND PREVENTION OF THE
48 UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES HAS REPORTED THAT
49 THE NUMBER OF FUTURE EBOLA VIRUS DISEASE CASES WILL REACH EXTRAORDINARY
50 LEVELS WITHOUT A SCALE-UP OF INTERVENTIONS. IT IS HEREBY DECLARED TO BE
51 THE POLICY OF THE STATE TO WORK WITH ITS INTERNATIONAL PARTNERS TO HELP
52 ERADICATE THE EBOLA VIRUS DISEASE BY SUPPORTING THE DEDICATED NEW YORK
53 STATE HEALTHCARE PROFESSIONALS WHO SEEK TO PROVIDE INVALUABLE HELP TO
54 THIS EFFORT.

1 2. BILL OF RIGHTS. A HEALTHCARE PROFESSIONAL WHO VOLUNTEERS TO FIGHT
2 EBOLA IS PROTECTED BY EXISTING STATE LAWS THAT PROHIBIT DISCRIMINATION
3 ON THE BASIS OF AN ACTUAL OR PERCEIVED DISABILITY. UPON RETURN FROM
4 FIGHTING EBOLA OVERSEAS, A HEALTHCARE PROFESSIONAL WILL BE PROVIDED WITH
5 A BILL OF RIGHTS OUTLINING THESE EXISTING ANTI-DISCRIMINATION LAWS. IN
6 ADDITION TO THESE EXISTING ANTI-DISCRIMINATION LAWS, AND IN ACCORDANCE
7 WITH THE PROVISIONS OF THIS SECTION, HEALTHCARE PROFESSIONALS SHALL HAVE
8 THE RIGHT TO SEEK A LEAVE OF ABSENCE TO VOLUNTEER TO FIGHT EBOLA OVER-
9 SEAS WITHOUT ADVERSE EMPLOYMENT CONSEQUENCES.

10 3. DEFINITIONS. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING TERMS
11 SHALL HAVE THE FOLLOWING MEANINGS:

12 (A) "EMPLOYEE" MEANS ANY INDIVIDUAL HEALTHCARE PROFESSIONAL WHO
13 PERFORMS SERVICES FOR HIRE FOR AN EMPLOYER BUT SHALL NOT INCLUDE AN
14 INDEPENDENT CONTRACTOR.

15 (B) "EMPLOYER" MEANS A PERSON OR ENTITY THAT EMPLOYS A HEALTHCARE
16 PROFESSIONAL AND INCLUDES AN INDIVIDUAL, CORPORATION, LIMITED LIABILITY
17 COMPANY, PARTNERSHIP, ASSOCIATION, NONPROFIT ORGANIZATION, GROUP OF
18 PERSONS, COUNTY, TOWN, CITY, SCHOOL DISTRICT, PUBLIC AUTHORITY, STATE
19 AGENCY, OR OTHER GOVERNMENTAL SUBDIVISION OF ANY KIND.

20 (C) "FIGHT EBOLA" MEANS TO SERVE AS A HEALTHCARE PROFESSIONAL IN A
21 COUNTRY THAT HAS BEEN CLASSIFIED AS HAVING WIDESPREAD TRANSMISSION OF
22 THE EBOLA VIRUS DISEASE BY THE CENTERS FOR DISEASE CONTROL AND
23 PREVENTION OF THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES.

24 (D) "HEALTHCARE PROFESSIONAL" MEANS:

25 (I) A PHYSICIAN LICENSED PURSUANT TO ARTICLE ONE HUNDRED THIRTY-ONE OF
26 THE EDUCATION LAW;

27 (II) A PHYSICIAN ASSISTANT LICENSED PURSUANT TO ARTICLE ONE HUNDRED
28 THIRTY-ONE-B OF THE EDUCATION LAW;

29 (III) A NURSE PRACTITIONER LICENSED PURSUANT TO ARTICLE ONE HUNDRED
30 THIRTY-NINE OF THE EDUCATION LAW;

31 (IV) A REGISTERED PROFESSIONAL NURSE LICENSED PURSUANT TO ARTICLE ONE
32 HUNDRED THIRTY-NINE OF THE EDUCATION LAW; AND

33 (V) OTHER HEALTHCARE PROFESSIONS AS ADDED BY THE COMMISSIONER.

34 (E) "LEAVE OF ABSENCE" MEANS TIME AWAY FROM WORK THAT IS EXCUSED. SUCH
35 TIME SHALL BE UNPAID, UNLESS THE EMPLOYEE REQUESTS THAT SUCH TIME, OR A
36 PORTION THEREOF, BE PAID PURSUANT TO A CHARGE AGAINST PAID LEAVE THAT
37 HAS ACCRUED TO SUCH EMPLOYEE.

38 (F) "UNDUE HARDSHIP" MEANS AN ABSENCE REQUIRING SIGNIFICANT EXPENSE OR
39 DIFFICULTY, INCLUDING A SIGNIFICANT INTERFERENCE WITH THE SAFE OR EFFI-
40 CIENT OPERATION OF THE WORKPLACE OR A VIOLATION OF A BONA FIDE SENIORITY
41 SYSTEM. FACTORS TO BE CONSIDERED IN DETERMINING WHETHER AN ABSENCE
42 CONSTITUTES AN UNDUE ECONOMIC HARDSHIP SHALL INCLUDE, BUT NOT BE LIMITED
43 TO THE IDENTIFIABLE COST OF THE ABSENCE, INCLUDING THE COSTS OF LOSS OF
44 PRODUCTIVITY AND OF RETRAINING, HIRING OR TRANSFER OF EMPLOYEES, IN
45 RELATION TO THE SIZE AND OPERATING COSTS OF THE EMPLOYER AND OTHER KNOWN
46 OR REASONABLY FORESEEABLE ABSENCES, THE OVERALL FINANCIAL RESOURCES OF
47 THE EMPLOYER, THE NUMBER OF EMPLOYEES AT THE EMPLOYEE'S FACILITY, THE
48 EMPLOYEE'S ROLE WITHIN THE FACILITY, THE TYPE OF OPERATION OF THE
49 EMPLOYER, INCLUDING THE STRUCTURE AND FUNCTIONS OF THE EMPLOYEE WITHIN
50 IT, THE IMPACT ON THE OPERATION OF THE EMPLOYER, AND THE EMPLOYER'S
51 ABILITY TO HIRE TEMPORARY OR NEW EMPLOYEES WITH THE REQUISITE SKILLS TO
52 ENSURE THE EMPLOYER'S CONTINUED OPERATIONS.

53 (G) "VOLUNTEER" MEANS TO FREELY OFFER SERVICES TO FIGHT EBOLA AND
54 INCLUDES SUCH SERVICES WITHOUT REGARD TO WHETHER THEY ARE COMPENSATED.

55 4. LEAVE OF ABSENCE BY HEALTHCARE PROFESSIONALS WHO VOLUNTEER TO FIGHT
56 EBOLA. AN EMPLOYEE COVERED BY THIS SECTION HAS THE RIGHT TO REQUEST A

1 LEAVE OF ABSENCE TO VOLUNTEER TO FIGHT EBOLA FROM HIS OR HER EMPLOYER AS
2 HEREIN PROVIDED. AN EMPLOYER SHALL GRANT SUCH REQUEST FOR A LEAVE OF
3 ABSENCE TO VOLUNTEER TO FIGHT EBOLA, UNLESS THE EMPLOYEE'S ABSENCE
4 IMPOSES AN UNDUE HARDSHIP ON THE EMPLOYER'S BUSINESS OR OPERATIONS.

5 5. DURATION OF THE LEAVE OF ABSENCE. (A) THE DURATION OF THE LEAVE OF
6 ABSENCE SHALL BE THE FULL TIME PERIOD REQUESTED BY THE EMPLOYEE, WHICH
7 SHALL INCLUDE TRAVEL TIME, SERVICE VOLUNTEERING TO FIGHT EBOLA, AND A
8 REASONABLE PERIOD OF REST AND RECOVERY. IF THE EMPLOYER DETERMINES THAT
9 AN ABSENCE FOR THAT FULL PERIOD OF TIME WOULD CONSTITUTE AN UNDUE HARD-
10 SHIP, THE EMPLOYER AND EMPLOYEE SHALL WORK TOGETHER TO DETERMINE WHETHER
11 THERE IS A SHORTER PERIOD OF TIME THAT WOULD NOT CONSTITUTE AN UNDUE
12 HARDSHIP THAT WOULD STILL ALLOW THE EMPLOYEE TO VOLUNTEER TO FIGHT
13 EBOLA. IF THE EMPLOYER AND EMPLOYEE AGREE ON A SHORTER PERIOD, THAT
14 SHALL BE THE DURATION OF THE LEAVE OF ABSENCE UNDER THIS PARAGRAPH.
15 OTHERWISE, IF THEY ARE UNABLE TO AGREE ON A SHORTER PERIOD, THE LEAVE OF
16 ABSENCE SHALL BE DEEMED DENIED.

17 (B) THE DURATION OF LEAVE OF ABSENCE, AS DETERMINED PURSUANT TO PARA-
18 GRAPH (A) OF THIS SUBDIVISION SHALL BE EXTENDED TO INCLUDE ANY ADDI-
19 TIONAL PERIOD OF TIME THAT THE EMPLOYEE BECOMES SUBJECT TO A MANDATORY
20 QUARANTINE PERIOD IMPOSED AT THE END OF THE EMPLOYEE'S VOLUNTARY SERVICE
21 TO FIGHT EBOLA.

22 6. LEAVE OF ABSENCE REQUEST. AN EMPLOYEE'S REQUEST FOR A LEAVE OF
23 ABSENCE PURSUANT TO THIS SECTION SHALL BE MADE, IN WRITING, TO HIS OR
24 HER EMPLOYER AT LEAST TWENTY-ONE DAYS PRIOR TO THE EMPLOYEE'S PROPOSED
25 START DATE OF SUCH LEAVE OF ABSENCE. THE EMPLOYEE'S REQUEST SHALL, AT A
26 MINIMUM:

27 (A) IDENTIFY THE DURATION OF LEAVE SOUGHT, INCLUDING THE ANTICIPATED
28 START AND END DATES OF THE VOLUNTEER SERVICE, TOGETHER WITH ANY ADDI-
29 TIONAL TIME SOUGHT FOR TRANSPORTATION AND FOR REST PRIOR TO RETURNING TO
30 WORK;

31 (B) IDENTIFY THE SERVICE TO BE VOLUNTEERED, INCLUDING THE COUNTRY AND
32 THE ORGANIZATION WITH WHOM THE EMPLOYEE WILL BE VOLUNTEERING; AND

33 (C) CERTIFY THAT SUCH SERVICE CONSTITUTES VOLUNTEERING TO FIGHT EBOLA,
34 WITHIN THE MEANING OF THIS SECTION.

35 7. NOTARIZATION. UPON THE EMPLOYER'S REQUEST, AN EMPLOYEE WHO HAS BEEN
36 GRANTED A LEAVE OF ABSENCE IN ACCORDANCE WITH THIS SECTION SHALL PROVIDE
37 HIS OR HER EMPLOYER WITH A NOTARIZED STATEMENT FROM THE ORGANIZATION OR
38 ENTITY WITH WHOM THE EMPLOYEE WILL BE VOLUNTEERING. THE STATEMENT SHALL:

39 (A) IDENTIFY THE ANTICIPATED START AND END DATES OF THE VOLUNTEER
40 SERVICE AND THE TERMS OF SERVICE, INCLUDING ANY COMPENSATION AND BENE-
41 FITS TO BE PROVIDED;

42 (B) IDENTIFY THE SERVICE TO BE VOLUNTEERED, INCLUDING THE COUNTRY AND
43 THE ORGANIZATION WITH WHOM THE EMPLOYEE WILL BE VOLUNTEERING; AND

44 (C) CERTIFY THAT SUCH SERVICE CONSTITUTES VOLUNTEERING TO FIGHT EBOLA,
45 WITHIN THE MEANING OF THIS SECTION.

46 8. BENEFITS DURING LEAVE. EMPLOYEES WHO TAKE LEAVE UNDER THIS SECTION
47 SHALL BE RESTORED AT THE COMPLETION OF SUCH LEAVE TO THE SAME OR COMPA-
48 RABLE POSITION WITHOUT LOSS OF SENIORITY, SHALL BE ENTITLED TO PARTIC-
49 IPATE IN INSURANCE OR OTHER BENEFITS OFFERED BY THE EMPLOYER PURSUANT TO
50 ESTABLISHED RULES AND PRACTICES RELATING TO EMPLOYEES ON FURLOUGH OR
51 LEAVE OF ABSENCE IN EFFECT WITH THE EMPLOYER AT THE TIME SUCH EMPLOYEE
52 MADE REQUEST TO TAKE LEAVE OF ABSENCE AS PROVIDED IN THIS SECTION.

53 9. RETALIATION PROHIBITED. AN EMPLOYER SHALL NOT RETALIATE AGAINST AN
54 EMPLOYEE FOR REQUESTING OR OBTAINING A LEAVE OF ABSENCE AS PROVIDED BY
55 THIS SECTION.

10. RETENTION OF BENEFITS. THE PROVISIONS OF THIS SECTION SHALL NOT AFFECT OR PREVENT AN EMPLOYER FROM PROVIDING LEAVE IN ADDITION TO LEAVE ALLOWED UNDER ANY OTHER PROVISION OF LAW. THE PROVISIONS OF THIS SECTION SHALL NOT AFFECT AN EMPLOYEE'S RIGHTS WITH RESPECT TO ANY OTHER EMPLOYEE BENEFIT PROVIDED BY LAW, RULE OR REGULATION.

11. COLLECTIVE BARGAINING. NOTHING SET FORTH IN THIS SECTION SHALL BE CONSTRUED TO IMPEDE, INFRINGE, OR DIMINISH THE RIGHTS AND BENEFITS THAT ACCRUE TO EMPLOYEES THROUGH BONA FIDE COLLECTIVE BARGAINING AGREEMENTS, OR OTHERWISE DIMINISH THE INTEGRITY OF AN EXISTING COLLECTIVE BARGAINING AGREEMENT.

12. REVIEW OF DENIAL OF LEAVE. AN EMPLOYEE WHOSE REQUEST FOR LEAVE UNDER THIS SECTION HAS BEEN DENIED MAY PETITION THE COMMISSIONER FOR REVIEW OF SUCH DENIAL, WHICH REVIEW SHALL BE EXPEDITIOUSLY CONDUCTED.

13. RULES AND REGULATIONS. THE COMMISSIONER MAY PROMULGATE SUCH RULES AND REGULATIONS AS MAY BE NECESSARY FOR THE PURPOSES OF CARRYING OUT THE PROVISIONS OF THIS SECTION.

S 2. This act shall take effect on the thirtieth day after it shall have become a law; provided, however, that subdivision four of section 202-m of the labor law, as added by section one of this act, shall expire and be deemed repealed December 1, 2016, and provided, further that this act shall expire and be deemed repealed December 1, 2017.

PART P

Section 1. Subdivision 3 of section 204 of the labor law, as amended by section 2 of part A of chapter 57 of the laws of 2004, is amended to read as follows:

3. Fees. A fee of two hundred dollars shall be charged the owner or lessee of each boiler internally inspected and seventy-five dollars for each boiler externally inspected by the commissioner, provided however, that the external inspection of multiple boilers connected to a common header or of separate systems owned or leased by the same party and located in the same building, with a combined input which is 300,000 BTU/hour or less, shall be charged a single inspection fee, and further provided that, not more than two hundred seventy-five dollars shall be charged for the inspection of any one boiler for any year; except that [in the case] NO FEE SHALL BE CHARGED FOR INTERNAL OR EXTERNAL INSPECTIONS BY THE COMMISSIONER of an antique steam engine maintained as a hobby and displayed at agricultural fairs and other gatherings[, a fee of twenty-five dollars only shall be charged the owner or lessee thereof for each boiler internally inspected by the commissioner and a fee of twenty-five dollars only shall be charged for each boiler externally inspected by the commissioner, but not more than fifty dollars shall be charged for the inspection of any one such boiler for any year, and except that in the case] OR of a miniature boiler [a fee of fifty dollars only shall be charged for the inspection of any one such boiler for any year. Such fee shall be payable within thirty days after inspection].

S 2. Subdivision 1 of section 212-b of the labor law, as amended by section 6 of part A of chapter 57 of the laws of 2004, is amended to read as follows:

1. No person shall operate a farm labor camp commissary, or cause or allow the operation of a farm labor camp commissary, without a permit from the commissioner to do so, and unless such permit is in full force and effect. Application for such permit shall be made on a form

1 prescribed by the commissioner [and shall be accompanied by a non-re-
2 fundable fee of forty dollars].

3 S 3. Subdivision 1 of section 74 of chapter 784 of the laws of 1951,
4 constituting the New York state defense emergency act, as amended by
5 section 12 of part A of chapter 57 of the laws of 2004, is amended to
6 read as follows:

7 1. Employers in defense work may make applications for dispensation
8 pursuant to this article in such manner and upon such forms as the
9 commissioner of labor shall prescribe. [Each application shall be
10 accompanied by a non-refundable fee of forty dollars payable to the
11 commissioner.] The commissioner of labor may, after hearing upon due
12 notice, revoke dispensations not necessary to maintain maximum possible
13 production in defense work.

14 S 4. Subdivision 5 of section 161 of the labor law, as amended by
15 section 1 of part A of chapter 57 of the laws of 2004, is amended to
16 read as follows:

17 5. If there shall be practical difficulties or unnecessary hardship in
18 carrying out the provisions of this section or the rules promulgated
19 hereunder, the commissioner may make a variation therefrom if the spirit
20 of the act be observed and substantial justice done. Such variation
21 shall describe the conditions under which it shall be permitted and
22 shall apply to substantially similar conditions. A properly indexed
23 record of variations shall be kept by the department. [Each application
24 for a variation shall be accompanied by a non-refundable fee of forty
25 dollars.]

26 S 5. Paragraph b of subdivision 4 of section 212-a of the labor law,
27 as amended by section 5 of part A of chapter 57 of the laws of 2004, is
28 amended to read as follows:

29 b. The application for such registration shall be made on a form
30 prescribed by the commissioner, shall contain information on wages,
31 working conditions, housing, and on such other matters as the commis-
32 sioner may prescribe [and shall be accompanied by a non-refundable fee
33 of forty dollars]. Copies of the application, or summaries thereof
34 containing the above information, shall be made available by the commis-
35 sioner to the registrant, and the registrant shall give a copy to each
36 worker, preferably at the time of recruitment, but in no event later
37 than the time of arrival in this state. A copy shall also be kept posted
38 at all times in a conspicuous place in any camp in which such workers
39 are housed.

40 S 6. Paragraph b of subdivision 2 of section 212-a of the labor law,
41 as amended by section 4 of part A of chapter 57 of the laws of 2004, is
42 amended to read as follows:

43 b. The application for such certificate of registration shall be made
44 on a form prescribed by the commissioner, shall contain information on
45 wages, working conditions, housing and on such other matters as the
46 commissioner may prescribe [and shall be accompanied by a non-refundable
47 fee of two hundred dollars]. It shall be countersigned by each grower or
48 processor who utilizes the services of such farm labor contractor, as
49 provided in subdivision three of this section. Copies of the applica-
50 tion, or summaries thereof containing the above information, shall be
51 made available by the commissioner to the registrant, and the registrant
52 shall give a copy to each worker, preferably at the time of recruitment,
53 but in no event later than the time of arrival in this state if the
54 worker comes from outside of the state, or the time of commencement of
55 work if the worker does not come from outside of the state. A copy shall
56 also be kept posted at all times in a conspicuous place in any camp in

1 which such workers are housed. Each applicant shall submit his OR HER
2 fingerprints with his OR HER application for a certificate of registra-
3 tion. Such fingerprints shall be submitted to the division of criminal
4 justice services for a state criminal history record check, as defined
5 in subdivision one of section three thousand thirty-five of the educa-
6 tion law, and may be submitted to the federal bureau of investigation
7 for a national criminal history record check.

8 S 7. Subdivision 2 of section 352 of the labor law is REPEALED.

9 S 8. Subdivisions 5 and 6 of section 919 of the labor law, as added by
10 chapter 565 of the laws of 2002, are amended to read as follows:

11 5. A professional employer organization shall be exempt from the
12 registration requirements specified in this section [and from the fees
13 specified in section nine hundred twenty of this article] if such
14 professional employer organization:

15 (a) submits a properly executed request for registration and exemption
16 on a form provided by the department;

17 (b) is domiciled outside this state and is licensed or registered as a
18 professional employer organization in another state that has the same or
19 greater requirements as this article;

20 (c) does not maintain an office in this state or solicit in any manner
21 clients located or domiciled within this state; and

22 (d) does not have more than twenty-five worksite employees in this
23 state.

24 6. The registration and exemption of a professional employer organiza-
25 tion under subdivision five of this section shall be valid for one year.
26 [Each de minimis registrant shall pay to the department upon initial
27 registration, and upon each annual renewal thereafter, a registration
28 fee in the amount of two hundred fifty dollars.]

29 S 9. Section 920 of the labor law is REPEALED.

30 S 10. Subdivision 4 of section 134 of the workers' compensation law,
31 as amended by chapter 6 of the laws of 2007, is amended to read as
32 follows:

33 4. Employers required to participate in the workplace safety and loss
34 prevention program established by this section shall be permitted to
35 utilize the services of either the department of labor, or a private
36 safety and loss consultant which has been certified by the department of
37 labor [and has paid the appropriate certification fee prescribed by
38 rules and regulations promulgated under this section]. Private safety
39 and loss consultants may charge employers a fee for their services[, and
40 where employers elect to have the services provided by the department of
41 labor, they shall pay for such services in accordance with fee schedules
42 established by the department of labor's rules and regulations].

43 S 11. Subdivision 5 of section 134 of the workers' compensation law is
44 REPEALED.

45 S 12. Subdivision 10 of section 134 of the workers' compensation law,
46 as amended by chapter 6 of the laws of 2007 and as further amended by
47 section 104 of part A of chapter 62 of the laws of 2011, is amended to
48 read as follows:

49 10. The commissioner of labor, in consultation with the superintendent
50 of financial services, shall promulgate rules and regulations for the
51 certification of safety and loss management specialists. Such rules and
52 regulations shall include provisions that outline the minimum qualifica-
53 tions for safety and loss management specialists, procedures for certifi-
54 cation, causes for revocation or suspension of certification and appro-
55 priate administrative and judicial review procedures, AND violations and
56 penalties for misuse of certification by certified safety and loss

1 management specialists[, and fees for certificate and certificate
2 renewal].

3 S 13. Subdivision 2 of section 345-a of the labor law, as added by
4 chapter 503 of the laws of 1998, is amended to read as follows:

5 2. For the purposes of this section, the exercise of reasonable care
6 or diligence by a manufacturer or contractor shall be presumed if, prior
7 to the execution of such contract or subcontract, and annually thereaft-
8 er, such manufacturer or contractor receives from the department written
9 assurance of compliance with section three hundred forty-one of this
10 article. [The department may charge a reasonable fee for providing such
11 assurance to a manufacturer or contractor.]

12 S 14. Subdivisions 6 and 7 of section 819 of the labor law are
13 REPEALED and subdivision 5, as amended by chapter 319 of the laws of
14 2004, is amended to read as follows:

15 5. The entity possesses a tag issued by the department with an iden-
16 tification number affixed and identifying each machine[;].

17 S 15. Section 204-a of the labor law is REPEALED.

18 S 16. This act shall take effect immediately.

19 PART Q

20 Section 1. Subdivision 2 of section 355 of the education law is
21 amended by adding a new paragraph f-1 to read as follows:

22 F-1. NOTWITHSTANDING ANY LAW, RULE OR REGULATION TO THE CONTRARY, THE
23 STATE UNIVERSITY OF NEW YORK BOARD OF TRUSTEES SHALL PASS A RESOLUTION
24 BY DECEMBER THIRTY-FIRST, TWO THOUSAND FIFTEEN, PROVIDING THAT STUDENTS
25 ENROLLED IN AN ACADEMIC PROGRAM OF THE STATE UNIVERSITY OF NEW YORK
26 SHALL BE REQUIRED TO PARTICIPATE IN AN APPROVED EXPERIENTIAL OR APPLIED
27 LEARNING ACTIVITY AS A DEGREE REQUIREMENT. SUCH RESOLUTION SHALL DEFINE
28 APPROVED EXPERIENTIAL OR APPLIED LEARNING ACTIVITIES, METHODS OF FACULTY
29 OVERSIGHT AND ASSESSMENT, RESPONSIBILITIES OF BUSINESS, CORPORATE, NON-
30 PROFIT OR OTHER ENTITIES HOSTING STUDENTS, AND A PLAN FOR FULL IMPLEMEN-
31 TATION OF THIS REQUIREMENT.

32 S 2. Section 6206 of the education law is amended by adding a new
33 subdivision 18 to read as follows:

34 18. NOTWITHSTANDING ANY LAW, RULE OR REGULATION TO THE CONTRARY, THE
35 CITY UNIVERSITY OF NEW YORK BOARD OF TRUSTEES SHALL PASS A RESOLUTION BY
36 DECEMBER THIRTY-FIRST, TWO THOUSAND FIFTEEN, PROVIDING THAT STUDENTS
37 ENROLLED IN AN ACADEMIC PROGRAM OF THE CITY UNIVERSITY OF NEW YORK SHALL
38 BE REQUIRED TO PARTICIPATE IN AN APPROVED EXPERIENTIAL OR APPLIED LEARN-
39 ING ACTIVITY AS A DEGREE REQUIREMENT. SUCH RESOLUTION SHALL DEFINE
40 APPROVED EXPERIENTIAL OR APPLIED LEARNING ACTIVITIES, METHODS OF FACULTY
41 OVERSIGHT AND ASSESSMENT, RESPONSIBILITIES OF BUSINESS, CORPORATE, NON-
42 PROFIT OR OTHER ENTITIES HOSTING STUDENTS, AND A PLAN FOR FULL IMPLEMEN-
43 TATION OF THIS REQUIREMENT.

44 S 3. This act shall take effect immediately and shall be deemed to
45 have been in full force and effect on and after April 1, 2015.

46 PART R

47 Section 1. Paragraph (a) of subdivision 1 of section 1 of part U of
48 chapter 57 of the laws of 2005, relating to the New York state higher
49 education capital matching grant program for independent colleges, as
50 amended by section 1 of part H of chapter 56 of the laws of 2014, is
51 amended to read as follows:

1 (a) The New York state higher education capital matching grant board
2 is hereby created to have and exercise the powers, duties and preroga-
3 tives provided by the provisions of this section and any other provision
4 of law. The board shall remain in existence during the period of the New
5 York state higher education capital matching grant program from the
6 effective date of this section through [March 31, 2017, or] the date on
7 which the last of the funds available for grants under this section
8 shall have been disbursed[, whichever is earlier]; provided, however,
9 that the termination of the existence of the board shall not affect the
10 power and authority of the dormitory authority to perform its obli-
11 gations with respect to any bonds, notes, or other indebtedness issued
12 or incurred pursuant to authority granted in this section.

13 S 2. Paragraph (h) of subdivision 4 of section 1 of part U of chapter
14 57 of the laws of 2005, relating to the New York state higher education
15 capital matching grant program for independent colleges, as amended by
16 section 2 of part H of chapter 56 of the laws of 2014, is amended to
17 read as follows:

18 (h) In the event that any colleges do not apply for higher education
19 capital matching grants by March 31, 2009, or in the event they apply
20 for and are awarded, but do not use the full amount of such grants, the
21 unused funds associated with such grants and any additional funds that
22 become available shall thereafter be awarded to colleges on a compet-
23 itive basis. The dormitory authority shall develop a request for
24 proposals and application process, in consultation with the board, for
25 higher education capital matching grants awarded pursuant to this para-
26 graph, and shall develop criteria, subject to review by the board, for
27 the awarding of such grants. Such criteria may include, but not be
28 limited to the matching criteria contained in paragraph (c) of this
29 subdivision, and application criteria set forth in paragraph (e) of this
30 subdivision. [The dormitory authority shall require all applications in
31 response to the request for proposals to be submitted by September 1,
32 2014, and the board shall act on each application for such matching
33 grants by November 1, 2014.]

34 S 3. Subclause (A) of clause (ii) of paragraph (j) of subdivision 4 of
35 section 1 of part U of chapter 57 of the laws of 2005, relating to the
36 New York state higher education capital matching grant program for inde-
37 pendent colleges, as amended by section 3 of part H of chapter 56 of the
38 laws of 2014, is amended to read as follows:

39 (A) Notwithstanding the provision of any general or special law to the
40 contrary, and subject to the provisions of chapter 59 of the laws of
41 2000 and to the making of annual appropriations therefor by the legisla-
42 ture, in order to assist the dormitory authority in providing such high-
43 er education capital matching grants, the director of the budget is
44 authorized in any state fiscal year commencing April 1, 2005 or any
45 state fiscal year thereafter [for a period ending on March 31, 2017], to
46 enter into one or more service contracts, none of which shall exceed 30
47 years in duration, with the dormitory authority, upon such terms as the
48 director of the budget and the dormitory authority agree.

49 S 4. Paragraph (b) of subdivision 7 of section 1 of part U of chapter
50 57 of the laws of 2005, relating to the New York state higher education
51 capital matching grant program for independent colleges, as amended by
52 section 4 of part H of chapter 56 of the laws of 2014, is amended to
53 read as follows:

54 (b) Any eligible institution receiving a grant pursuant to this arti-
55 cle shall report to the dormitory authority [no later than June 1,
56 2018,] on the use of funding received and its programmatic and economic

1 impact NO LATER THAN TWELVE MONTHS AFTER THE COMPLETION OF THE PROJECT.
2 The dormitory authority shall submit a report [no later than November 1,
3 2018] to the governor, the director of the budget, the temporary presi-
4 dent of the senate, and the speaker of the assembly on the aggregate
5 impact of the higher education [matching] capital MATCHING grant program
6 NO LATER THAN EIGHTEEN MONTHS AFTER THE COMPLETION OF THE LAST PROJECT.
7 Such report shall provide information on the progress and economic
8 impact of such [project] PROJECTS.
9 S 5. This act shall take effect immediately and shall be deemed to
10 have been in full force and effect on and after April 1, 2015.
11 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
12 sion, section or part of this act shall be adjudged by any court of
13 competent jurisdiction to be invalid, such judgment shall not affect,
14 impair, or invalidate the remainder thereof, but shall be confined in
15 its operation to the clause, sentence, paragraph, subdivision, section
16 or part thereof directly involved in the controversy in which such judg-
17 ment shall have been rendered. It is hereby declared to be the intent of
18 the legislature that this act would have been enacted even if such
19 invalid provisions had not been included herein.
20 S 3. This act shall take effect immediately provided, however, that
21 the applicable effective date of Parts A through R of this act shall be
22 as specifically set forth in the last section of such Parts.